

**Promoting Civility in Political Campaigns: Will Campaigners Ever Leave the
“Gloves” On?**

Sharon Schulman, Executive Director
William J. Hughes Center for Public Policy
The Richard Stockton College of NJ
PO Box 195, Jimmie Leeds Road
Pomona, NJ 08240
609.626.3541
Sharon.Schulman@stockton.edu

Jason D. Rivera, Research Associate
William J. Hughes Center for Public Policy
The Richard Stockton College of NJ
PO Box 195, Jimmie Leeds Road
Pomona, NJ 08240
609.626.3626
Jason.Rivera@stockton.edu

December 2009

Working Paper No. 2 for the William J. Hughes Center for Public Policy

The authors would like to thank Alan Arcuri, Marilyn Vito, Linda Wharton, and Megan Kesselman for their help in the development of this manuscript.

Promoting Civility in Political Campaigns: Will Campaigners Ever Leave the “Gloves” On?

Introduction

The use of negative campaign tactics in electoral campaigns is something that commonly occurs not only within the American political landscape, but also in other democratic nations throughout the world. Utilization of negative campaign tactics has been studied through a variety of lenses: from the standpoint of their effectiveness in getting the endorsing individual elected to whether or not negative political advertising decreases voter turnout and gives the general public a negative impression of the political process. Alternatively, there has been very little research done on the actual mechanisms employed to discourage the usage of negative campaign ads, and promote using more policy-stance driven advertisements. Negative campaign advertisements are not new phenomena, but within the last few years, the frequency and intensity of ads have increased. Moreover, the issue in question is not whether or not negative advertisements have an impact on a candidate’s electoral outcome, but how the usage of campaign ads can be augmented to reflect the important policy issues of an election as opposed to the personal behaviors or indiscretions of an individual.

George Washington, in his book *Rules of Civility and Decent Behavior*, wrote about adhering to a conduct, represented in “persons of quality,” that avoided dishonoring political competitors (Cmiel, 1990; Whitman, 2000), noting the use of negative campaign devices even at the founding of the United States. Democratic nations throughout the world also experience political campaigns that have the tendency to utilize negative campaign advertisements. By observing international and domestic methods that attempt to discourage negative campaigning, recommendations are offered in reference to how political campaigns can become more civil. It is the intention of the authors to intensify the discussion by offering recommendations to the public, policy makers, and political consultants so that formal steps towards encouraging civil campaigning can be made.

Negative Campaigning

To understand the difference between negative campaign ads, and ads that can be *perceived* by the general public as being negative toward one individual or another, an understanding of terminology must be presented. According to Stevens et al. (2008), comparative or contrast ads are advertisements that offer legitimate critiques, qualifications, and other substantive materials about a candidate or pair of candidates in order to disseminate the information to the general public. The intension of these ads is not to shed a negative light on either of the candidates, but to factually inform the public as to why one individual should be voted for over another. These types of ads also educate the public in reference to the candidates' policy stances on issues that are important during the course of a specific election. Ads compare and contrast the candidates for the public so that the voters can construct a more educated opinion about each individual and develop their own opinions, whether positive or negative, in reference to the policies and issues that matter to them most. In so doing, the individual voter chooses a candidate as a direct result of whether the candidate supports similar items. This type of advertisement is not intended to be positive or negative, but reflect reality and past professional actions of a candidate. An exception to this type of ad is if it uses innuendo on top of facts to affect the voters' choice of candidate. Innuendo may take the form of inciting photographs, verbiage, or color, and may subsequently make the ad negative. A negative issue ad, then, can be defined as an ad about the issues that is seen as unfair or false.

Negative campaigning directly criticizes some aspect of a political candidate's stance or behavior, and is usually sponsored by an opponent, an opponent's political party, and/or supporting group (e.g. the National Rifle Association). Negative campaigning can also be broken down into two categories: negative issue or negative image. Negative issue ads, as defined above, usually benefit the sponsor, because they are more liked (Johnson-Cartee and Copeland, 1989) by the public because they use substantiated statements; however, they add a negative "spin." Negative image advertisements usually focus on an individual's personal characteristics,

which may or may not be substantiated, and usually make judgmental statements about an individual's past or motivation behind past political actions (Roddy and Garramone, 1988). Negative campaigning maybe an effective tool, depending on the situation, that is used by strong challengers whose name recognition is given less weight than the incumbent (Hale et al., 1996; Haynes and Rhine, 1998; Sigelman and Buell, 2003; Skaperdas and Grofman, 1995; Theilmann and Wilhite, 1998). In this regard challengers utilize negative campaigning in order to reduce support for the incumbent by creating feelings of doubt about their opponent, theoretically lessening the field of support. In Presidential primaries, when candidates have similar positions on policies, negative issue campaigning is likely to occur specifically in this regard (Damore, 2002; Krebs and Holian 2007).

Negative campaigning is so commonly used because psychological studies have observed that humans demonstrate a *negativity bias*, which means that negative information that is presented to them is given more cognitive significance than positive information in terms of memory and thought processes (Ito et al., 1998). This would indicate that consumers of negative campaign advertisements are more likely to remember, and subsequently recall on voting day, negative ads over comparative ones (Shapiro and Rieger, 1992), which can be explained by the *figure-ground hypothesis* (Lau, 1985). According to the figure-ground hypothesis, negative information is perceptually more salient, more easily noticed, and therefore more readily processed (Reyes et al., 1980; Smith and Miller, 1979) because the original context against which information is evaluated by individuals is often positive. In this context, negative advertisements seem extreme, and therefore memorable because individuals evaluate positive stimuli as the norm (Dermer et al. 1979; Lau, 1985).

Negative Campaigning and Effects on Voters

Campaign advertising is intended to build supportive sentiments among voters for the candidates that sponsor the ads; however, when negative campaign tactics are used voters' responses are not easily predictable. Advocates of negative campaign tactics, such as political

consultants and some candidates, believe that negative ad usage works to the sponsor's advantage because it places a negative image of a competitor in the minds of the voters, which is easily recalled (Lau et al., 1999). Conversely, negative political advertising is also seen as detrimental to the electoral process (West, 1993) because it repulses a significant portion of voters (Lau et al., 1999). According to Laczniak and Caywood (1987), when negative campaigning occurs voters observe the candidates attempting to discredit each other, and therefore both of them look "bad." In this situation, voters are left with a disgruntled sentiment because one of the candidates has to win, and by the time the election actually takes place both candidates are viewed with bias and negativity. Other academic studies have indicated that the usage of negative campaign ads can have a detrimental effect on the sponsor.

"Negative political advertising may achieve its intended effects, but it may also produce boomerang effects. A strong attack on a candidate, if perceived by the audience as untruthful, undocumented, or in any way unjustified, may create more negative feelings toward the sponsor, rather than the target. Similarly, an attack perceived as unjustified may generate more positive feelings toward the target" (Garramone, 1984, p. 251 as cited in King and McConnell, 2003, p. 845).

With these contradicting views and outcomes of negative campaign tactics, it is difficult to accurately predict the actions of voters after viewing a negative advertisement. For example, in the 2008 presidential election, the use of advertisements depicting Barack Obama's relationship with William Ayers, which was intended to depict Obama as a "friend" of domestic terrorists, backfired, making the McCain Campaign seem desperate.

The effects of negative campaigning on voters' perceptions of candidates, in addition to whether or not tactics stimulate or hinder voter turnout, is contradictory. One of the more influential works on the subject was done by Ansolabehere and Iyengar (1995) in which they found that a campaign's tone reduces voter turnout. More specifically, they concluded that on average voter turnout during an issue oriented campaign is nearly five percent higher than in campaigns where there is significant usage of negative advertising (Ansolabehere et al. 1999, p. 906). Mutz and Reeves (2005) explain that decreased voter turnout is the result of the trend that

uncivil political debate adversely affects political trust within the public and subsequently the entire political process. Lau and Pomper (2000; 2001), contend that there was a varying effect on Independent voters that depended on the amount of exposure they had to negative advertisements.

“Independents who were exposed to a campaign which contained a moderate amount of negative ads showed no statistically significant evidence of such influence, but exposure to high levels of negative advertising...*was* significantly related to a decline in predicted voter turnout for Independents” (Stevens et al., 2008, p. 527-528).

Jamieson’s (2000) research that examines the different effects that negative and contrast advertisements have on voter turnout also supports the notion that negative campaigning is detrimental to turnout. She found that exposure to highly negative campaign ads not only decreased voter turnout, but also reduced the sponsoring candidate’s vote share. Alternatively, Jamieson (2000) found that when contrast ads are utilized, even when they are critical of an opponent candidate, there is an increase in voter turnout and the sponsoring candidate’s vote share. Therefore, there is a potential that the use of ads that affect voter turnout may be used as a deliberate campaign tactic.

Even though there are studies that point to the detrimental impact of negative campaigning in reference to voter turnout, there are also a number of studies that have observed the opposite. In a recent study by Stevens et al. (2008), it was found that in some situations negative campaigning has the tendency to mobilize voters against the candidate that sponsors negative ads. Kahn and Kenney (1999; 2004) maintain that negative advertisements in conjunction with negative news coverage increases voter turnout; however, this tendency is negated with decreased voter turnout if “mudslinging” becomes prevalent throughout a campaign. According to Goldstein and Freedman (2002), negative campaigning stimulates voter turnout by engaging voters, by raising interests and by communicating the notion that something is at stake in an election. Moreover, they found that voter turnout is stimulated without regard to partisanship, information, or attention to a campaign because the more citizens are exposed to

negative advertisements the higher the probability they will vote on the day of the election, which maybe one reason for the high turnout of voters within the 2008 presidential election.

Although there is research that supports the notions that negative campaigning has a detrimental or a stimulating effect on voter turnout, there is also research that suggests that negative advertising has little to no effect at all. Kahn and Kenney (1999) suggest that those individuals that have strong connections to the political world consistently participate in elections and are unaffected by the presence of negative campaigning. A study done by Clinton and Lapinski (2004) also found that there was no support for a demobilizing effect, and that there was rather a null effect created by the presence of negative campaigning. Brooks' (2006, p. 693) work seems to also support the notion of a marginal effect on turnout and maintains that Americans are more resilient to negative campaigning than supporters of more civil campaigns may be inclined to believe. Moreover, Lau et al. (1999) found in a meta-analysis conducted of all studies on the topic of voter turnout and negative campaigning that there are no clear effects of campaign tone on voter turnout.

The Role of the Media

Negative campaign tactics are inevitably linked to the media because the media provides the forums through which candidates are capable of spreading their message, whether it is negative, positive, or comparative. According to Mayer (1996), the less candidates talk about the deficiencies of their opponents, the more discretion is left to reporters and editors to determine what matters deserve public attention. The media also has the ability and tendency to “police” an election campaign based on the media’s own norms of objectivity and nonpartisanship that are supposed to govern American news outlets (Mayer, 1996). Although the media has the ability to “police” campaigns through an objective lens, they rarely engage in the activity proactively. According to Robinson and Sheehan (1983), the media frequently performs their “policing” function by reporting on the evaluations and opinions of other candidates or authorities, as opposed to their own observations. Mayer (1996) notes that this tendency of the media is not as

prevalent when issues can be clearly and unambiguously labeled as matters of fact. For example, if candidates make factual errors by misquoting items, adding items to their resume that never actually occurred, or make statements that are in clear conflict with positions they had taken at an earlier time, the media *may* call attention to the contradiction or ethical violation; however, it must be stressed that because they are not exceedingly proactive watchdogs they have the ability to miss certain instances or just choose not to report on something.

Even though the media has both a role in facilitating negative campaigning and the ability to act as a watchdog, some voters may view the support, or lack thereof, on the behalf of the media as an extension of the political agenda of parties. According to a study done by Pentony (1998), the public views any positive or negative coverage of candidates as a reflection of the media's political bias. This perception by the general public limits the media's ability to actively report on a candidate's deficiencies because it is the perception that the media is itself actively engaging in negative campaign tactics, especially if the candidate that is the subject of discussion is not perceived to be "inline" with the liberal or conservative ideologies of the specific medium.

International Attempts at Encouraging Campaign Civility

Negative advertising is not only a concern in American politics, but also throughout the world's democratic governments. This observation seems to be consistent throughout a variety of countries that have attempted to regulate political campaign advertisements at the national level. Australia is one nation that has attempted to regulate the usage of negative campaign advertisements. One attempt is observed in the *Broadcasting Services Act of 1992*, which places some requirements on the broadcasters of political advertisements. Of these requirements, one of the most significant restricts political advertisements to be aired three days prior to the day of the election. According to Collins (1992), the point of this clause is to require what is called a "blackout," which is intended to give voters the ability to consider their own stances on the political issues inherent in the election without the influence of advertising. Additionally, the

“blackout” is also an attempt to prevent parties from making claims late in campaigns that can not be scrutinized before election day because of time constraints (Miskin and Grant, 2004).

¹ The Australia Electoral Commission (2004) also mandates that any electoral advertisements must clearly state who authorized the ad to ensure that anonymity does not become a shield for irresponsible or defamatory statements.

The United Kingdom is also very concerned with the usage of negative advertising as a common tactic in political campaigns. According to the United Kingdom Electoral Commission (2004), the established system of self-regulation for non-broadcast advertising was based on a code written by the broadcasting industry through the Committee of Advertising Practice, which has been interpreted and applied by the Advertising Standards Authority. The code, which is totally self-regulated and applicable to all advertisements, political and commercial, states that advertisements should be “legal, decent, honest and truthful, and prepared with a sense of responsibility to consumers and to society” (United Kingdom Electoral Commission, 2004 as cited in Miskin and Grant, 2004, p. 12). The lack of effectiveness of this “code of ethics” was observed in the 1997 general elections, during which time the Advertising Standards Authority was incapable of responding to violation complaints at the speed necessary within the midst of an election; therefore, it was decided that political advertising was to be exempt from the code, and that political parties should adopt a new code of practice that attempted to stem the usage of negative campaigning (United Kingdom Electoral Commission, 2004).

In general, most European nations attempt to discourage the use of negative campaigning through regulations they place on their public media stations. One way negative ads are discouraged is by limiting the amount of free air time to only political parties as opposed to individuals (Jones, 2004). According to Kaid and Holtz-Bacha (1995) and Kaid (1999), the UK and some European Union (EU) nations also attempt to limit negative advertisements through their media stations in three ways. One way they do this is by limiting the number of permissible spots that any candidate can have during an election campaign. For example, in the UK the

number of spots is limited to five Party Election Broadcasts (PEBs);² however, the number can also be limited in proportion to the strength of the party, as it is in France and Germany, or by giving parties an equal number of spots as is done in Denmark (Jones, 2004). According to Jones (2004), most European countries do not allow the purchase of unlimited air time and do not allow the purchase of additional air time beyond the decided portion. Lastly, most European nations prohibit political parties and individuals from purchasing air time on private stations; however, those that do allow purchase through private media limit the amount of time purchased according to party strength or some other criteria (Jones, 2004). Although the limiting of air time does have the ability to restrict parties' abilities to get their message out, it also promotes advertising that is more issue based as opposed to individual "mudslinging" because of the lack of ads endorsing specific individuals.

Attempts at Encouraging Campaign Civility in the United States

In the United States, regulations of political advertising often take the form of regulation of the fundraising process for election campaigns (Jones, 2004). The motivation behind this method of regulation stems from the emphasis placed on the idea of free speech within American society.

"State regulation of political speech is subject to strict scrutiny...The first Amendment offers the broadest protection of free speech during political campaigns; therefore, any laws that regulate negative campaigning are subject to scrutiny" (Ferguson, 1995, p. 466) (see also *Burson v. Freeman* and *Buckley v. Valeo*).

The most fundamental purpose of the First Amendment is to protect people's ability to discuss governmental affairs, whether the discussions involve negative criticism or not (Mills v. Alabama, 1966; Rushing, 2002). Further, a "mere show of disrespect" toward another individual or the government is not punishable in the United States unless the act provokes an immediate threat of violent breach of the peace (*R.A.V. v. City of St. Paul*, 1992; Whitman, 2000, p. 1279). According to the case *New York Times Co. v. Sullivan* (1964 as cited in Ferguson, 1995, p. 466), justification of regulating political speech must fall under certain criteria: the proscribed

statements must be 1) false, 2) must be made with actual malice, and 3) parties that challenge the statements satisfy a “clear and convincing” evidentiary standard. Moreover, the government can not restrain the time, place and manner of speech, without such a law not being ruled as unconstitutional (*Thornhill v. Alabama*, 1940). Although the courts have found that regulation of speech is unconstitutional, the U.S. Supreme Court has stated that each state should have an interest in their own elections (*Oregon v. Mitchell*, 1970; see also *Storer v. Brown*, 1974). To this end, any laws that attempt to regulate the speech of candidates during elections must be narrowly tailored to serve a compelling governmental interest (*Police Dept. of Chicago v. Mosley*, 1972; *Austin v. Michigan Chamber of Commerce*, 1990; Ferguson, 1995).

In order to protect people’s right to free speech, there have been Supreme Court cases that have ruled in favor of regulating the ability of special interest groups and corporations to directly influence the voting practices of the citizenry. *Buckley v. Valeo* specifically requires that communications on the behalf of a candidate that is sponsored by some other group in support of an issue can not use language such as, “vote for,” “elect,” “support,” “cast your ballot for,” “Smith for Congress,” “vote against,” “defeat,” and “reject” in order to express advocacy for a specific candidate (Briffault, 1999). Although these words and phrases are not exhaustive of the type of language that is restricted, it does point to the government’s attitude toward limiting the direct influence of special interests on elections. An example of this is illustrated in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.* (1982) in which an anti-abortion group’s newsletter listed state and federal candidates running for election that had one hundred percent favorable voting records, and encouraged readers to vote for the anti-abortion candidates; however, no candidates were listed that were pro-abortion or that had a less than perfect voting record in favor of anti-abortion legislation. Although the newsletter did not explicitly tell readers to vote for a specific candidate, it could not also be regarded a discussion of public issues that simply raised names of certain politicians. Therefore, the newsletter was ruled to be explicitly directive to vote for the mentioned candidates.

As a result of these court rulings, direct efforts of regulating negative campaign ads are extremely difficult. At the federal level, the Bipartisan Campaign Finance Reform Act of 2002 (P.L. 107-155, 116 Stat. 81) serves as an attempt to restore ethical behavior to the campaigning process. The provisions included in the act ban the usage of nonfederal funds by federal candidates, officer holders, or their agents from spending nonfederal funds on a public communication that refers to a clearly-identified federal candidate that promotes, supports, attacks or opposes a federal candidate (Scott and Kort, 2002, p. 8). In this way, the act is intended to decrease the usage of the media by restricting how funds can be spent during a campaign, as opposed to attempting to regulate speech or placing regulations on the media. Although this ought to curb negative advertising in theory, attack ads are still prevalent. According to the Center for Responsive Politics (2008), 527 organizations³ are under-regulated by the Federal Elections Committee, and these organizations often issue their own advertisements (positive and/or negative) about candidates running for office. These 527 organizations are not required to report or disclose their spending in reference to a campaign if their “contribution” is in the form of issue advocacy advertisements; however, they must adhere to the *Buckley v. Valeo* (1976) ruling as stated above. Adding to the confusion is the fact that these ads are increasingly undistinguishable from campaign ads sponsored by the candidates themselves (Beck et al., 1997), which causes voters to believe that the candidates themselves are endorsing the ads even though the advertisement does not say that it has been endorsed by a specific candidate.

Arizona is one state that has taken steps in an attempt to limit negative campaigning; however it is done in an indirect manner. The state has placed restrictions on the amount of funding that can be used by a candidate during an election that originates from interest groups or the candidate’s personal resources if that candidate is enrolled in the state’s clean election project, which is regulated under the Citizens Clean Election Act (A.R.S. §§ 16-940 – 16-961). The Citizens Clean Election Act was initially implemented due to the government’s observance of an increase in the influence of special-interest money within campaigns, the advantage that the prior

election-financing system gave to incumbents, the way the prior system hindered communication between voters and many “qualified” candidates, and the subsequent undermining of public confidence in public officials that the system generated (A.R.S. §§ 16-940. A. and §§ 16-940. B). In an effort to counteract these trends, the act stipulates that no more than \$500 of an enrolled candidate’s personal monies can be used toward their campaign if they are running for the legislature (A.R.S. §§ 16-941. A(2)).⁴ Additionally, enrolled candidates can not accept contributions from individuals or organizations beyond a certain amount (A.R.S. §§ 16-941. B(1)), which is also determined by the type of office the candidate is running for (A.R.S. §§ 16-905. A-G). As a supplement to using private contributions and personal resources, the act subsidizes enrolled candidates’ campaign funds by matching their resources with that of their competitors that are not enrolled in the program (Christie, 2008a). Enrolled candidates that violate regulations, in addition to individuals that act on the behalf of an enrolled candidate, are subject to civil penalties and are guilty of a Class 1 Misdemeanor (A.R.S. §§ 16-942 – 16-943). By restricting the amount that an enrolled candidate can personally contribute or be given in a campaign and matching funds used by private competitors, candidates spend more time speaking about the issues in advertisements as opposed to catering to interest groups that would have been financial supporters. Moreover, the state has also made an effort to level the campaign playing-field between wealthy and less affluent candidates; thereby avoiding a situation where the wealthier individual places a number of negative ads in the media and the less affluent candidate is incapable of responding in the same media.

Another state that has passed legislation in an effort to minimize negative campaigning and the influence of special interests is Maine. Maine passed The Maine Clean Election Act in 1996, but the statutes did not take effect until the 2000 elections. The legislation restricts the amount of money that can be used during an election campaign by candidates enrolled in the program in addition to sets up a public fund that finances enrolled candidates’ campaigns. Although the fund does not finance campaigns at the municipal, county, or congressional level, it

does fund legislative and gubernatorial campaigns. The act's success can be observed in the number of primary candidates that have signed up for the clean elections program and funding. In 2002, 51 percent of primary candidates were a part of the program, and in 2004, 72 percent were signed up (Carrier, 2008). Moreover, in 2006, 81 percent of legislative candidates were publically funded (Carrier, 2008), which has brought a significantly high level of financial transparency to the campaigning process. The act has also resulted in individuals that would normally not run for office, due to personal and contributor financial constraints, running, and in some cases incumbents have been beaten by relatively unknown candidates (Klein, 2001). Public funding for campaigns allows enrolled candidates to spend more time on the issues important in a campaign as opposed to seeking financial resources from private sources and interest groups (Klein, 2001). According to Klein (2001), the influences of finances in a campaign have been decreased; however, they are by no means eliminated from the electoral process. The financial influence of interest groups, which was reduced by the act has prompted them to spend even greater amounts of money on "issue ads" that are usually attacks at specific candidates (Klein, 2001).

In New Jersey, the members of the State Legislature have created the New Jersey Citizens' Clean Elections Committee in an attempt to off-set negative campaigning. Participating candidates receive state funding to finance their campaigns, and in exchange must abide by the restrictions set forth by the New Jersey Fair and Clean Elections Pilot Project (P.L.2004, c.121). Included in this is the requirement that a "certified candidate must include in any campaign advertisement... a statement, in the candidate's own voice, that he or she approves the message" (Parisi, 2005, p.3), which has been in place for years. This practice, which is similar to those in other nations, attempts to hold candidates accountable for any message made publicly available in reference to the campaign. The Commission can also assess civil penalties or criminal charges to candidates who violate the provisions of the act (Parisi, 2005, p 3-4); however, this requires constant oversight and the time to properly respond, which is sometimes lacking due to the time

restraints created during a campaign. In 2006, the program was recommended for continuation with twenty-two further stipulations that included adding more voting districts to the scope of the program.

Recently a U.S. District Court ruled that Arizona's provision of public campaign financing is a violation of free speech and therefore unconstitutional (Christie, 2008a; Christie 2008b; Fischer 2008; *McComish v. Brewer* 2008). The reason that the act was ruled to be a violation of free speech was because the act provided additional funds, "rescue funds", to enrolled candidates so that they could respond to attack ads by independent groups (The Press of Atlantic City, 2008). Moreover, the act places indirect caps on the spending of candidates, which has been ruled unconstitutional by the U.S. Supreme Court (*McComish v. Brewer* 2008). Due to this ruling, New Jersey has suspended its clean elections financing program for the time being due to its similarities with Arizona's program (Ryan, 2008). However, for enrolled candidates in Arizona the judge that made the ruling, U.S. District Judge Roslyn Silvers, has decided to hold off on filing an injunction that would keep enrolled candidates so late in the election season from receiving financial support. According to Silvers, filing an injunction would place those candidates enrolled in the program at a severe disadvantage to private candidates who have the financial resources that are not dependent on the public system (Christie, 2008b).

Recommendations for Increasing Civility in Politics

There are a number of ways in which civility can be promoted in political campaigns, but creating a viable mechanism for encouraging change requires the support of a number of actors. Without the support of public stakeholders in addition to the politicians who would utilize more civil tactics, recommendations on any level would be overlooked. It is through the support of the media, general public, politicians, and political parties that recommendations can be adopted to promote civility.

Media Opportunities

It has been discussed above that the media has an extensively significant influence on the viewing and issuance of negative campaign ads and rhetoric to the general public. Because of politicians' need to utilize the media for distributing their messages to the general public, the media has a significant opportunity for involvement in the promotion of civil campaigning. Moreover, ads are typically short and deceptively simplistic, which normally demand expansion and clarification. Making matters worse there is little potential for dialogue with the sponsors of ads, and, in modern society, ads are exceedingly impersonal (Powe, 1983, p. 244). The media commonly engages in reporting on the contradictions and falsities of politicians' statements over time, in addition to the morality of their own personal behaviors. The media's ability to observe and report on the actions and words of politicians makes them the prime facilitator for unbiased campaign "policing." In this way, the media would act as *truth squads*, making sure that what is stated in campaigns by candidates is substantiated. Timely recognition and response along with prominent placement would be paramount in making this successful. Although, input from the candidates would be needed, especially when discussing their opinion on policy or a political platform, objective opinions on a candidate's competition can be diminished by focusing on policy issues and efficiency and/or effectiveness.

In this regard the media acts as the "gate keepers" of information to the general public. During the time of an election, truth squad findings could be disseminated through the use of public service announcements (PSAs), print and the internet. The continued airing and publications of political information or *contrasting information* with the intent of pointing out the differences between the candidates should be encouraged. Media should assume the responsibility of separating fact from "spin" that leads the reader or viewer to an incorrect conclusion. The media are capable of observing the occurrence of negative campaign advertisements and direct mail, and pointing to its usage as an uncivil technique.

Regulating Campaign Spending

Attempting to control how much funding comes from certain types of sources, and how certain funding can be utilized during the campaign is a mechanism that is already in existence. Campaign spending can be further equalized by passing legislation that would restrict the usage of campaign dollars beyond a specific amount on political advertising that did not focus on policy or platforms. In pursuance of this recommendation, an equation can be developed that delineates a dollar amount that can be used on campaign media and direct mail by candidates that are proportional to the size of the election. For example, there would be different amounts for municipal, state, and national elections based on the number of constituents that the candidate must reach to lead an effective campaign. By equalizing spending in this regard, all candidates would be more capable of competing with one another. Personal wealth becomes less relevant because of spending restrictions that would be imposed on the candidates. In pursuit of this outcome, the cost of surrogate ads sponsored by individual interest groups or any other organizations would also count against an individual candidate's campaign allotment.

Watchdog Groups

Another possible way campaign civility can be promoted is through oversight by watchdog groups. Similar to other watchdog groups, a group would actively watch the political campaigns that take place, and evaluate the campaigns' usage of negative campaigning; however, in order to ensure nonbiased opinions, the group needs to be nonpartisan and not aligned to any specific special interests. The group would call attention to the use of negative campaign tactics whenever it was observed. Candidates should be provided the opportunity to authenticate statements that are made during a campaign that were viewed as negative in nature; timeliness will be important and responses should be within 24 hours of the initial report. By bringing misstatements and/or negative "spin" to the public's attention, misperceptions about the subject of the ad are minimized and highlight the usage of negative tactics by candidates.

The usage of watchdog groups has been successful across many different interests. They have helped ensure the accountability of government and political figures to stay consistent and

ethical in matters of public concern. The difference between normal watchdog groups and the type being proposed here is that watchdog groups actively observing campaigns could not be controlled by any specific interests beyond encouraging and promoting civility; moreover, they would have to be guided by designated and standardized criteria.

Civility Boards

Regardless of whether the media, campaign spending limitations, or watchdog groups take the lead in promoting campaign civility, there needs to be some authority that is capable of setting up the “rules” for campaign civility. Civility boards have the potential of overseeing the progress and tactics of a campaign at the same time as regulating the occurrence of negative ad placement. To do this a state legislature would have to create and enable a state-wide civility board to setup guidelines to be followed by candidates during an election. The first responsibility of the state-wide civility board would be to define and standardize the distinction between negative campaign tactics and factual political statements. Similar to some of the other recommendations, the civility board could be the agent that determined the amount of spending that would be dedicated to advertisements and the criteria for determining the existence of a negative ad.

To give civility boards’ legitimacy, in the eyes of the public but more importantly candidates, subject matter experts, such as those in the areas of the economy, development/growth, education, etc..., would need to have an active participatory role. For each election, a specific and local civility board would be convened and follow the guidelines of the state-wide board. Candidates would be asked to sign a pledge to abide by the regulations of the board throughout the course of an election. This would directly discourage individuals from utilizing negative campaign tactics. The “crossing of the line” drawn by the civility board after signing a pledge would be actively communicated to voters by the civility board. Even if the candidate does not like the finding, having to be put on the defensive publicly will deter getting too close – or crossing – the line.

Conclusion

The proliferation of negative campaigning is an issue that needs to be addressed. Although the usage of these tactics has the potential of benefiting a sponsoring candidate, this is not always the case (Lau et al., 1999). Additionally, research shows that the usage of negative political advertisements during an election has mixed effects on the turnout of voters, which, if the ads depress voter turnout, is detrimental to the entire election process in general. Some of the strategies employed by states have been successful in making campaign financing more transparent and less influenced by interest groups; however, the continuation of these methods are questionable.

In November of 2008, a week after the presidential election, a panel discussion on this topic took place at The Richard Stockton College of New Jersey. The panel consisted of a political science professor, a New Jersey assemblywoman, a mayor, a New Jersey senator, and the coordinator for the McCain 2008 New Jersey Campaign, and discussed the place of negative campaign ads within politics. Senator James Whelan (2008) pointed out that although negative advertisements may work in the short-run for relatively unknown candidates, if individuals are interested in being in politics for the “long-haul” they should be cognizant of the fact that “low blows” are lasting in the mind of the public. In this regard the usage of negative ads can possibly hurt not only the individuals at which the ads are directed, but also the sponsors well beyond the intended scope of a campaign. New Jersey Assemblywoman Linda Greenstein and Richard Mroz, Esq. (2008), who served as the coordinator for the McCain 2008 New Jersey Campaign, agreed that methods such as the “fact checker” that were utilized during the presidential election are important for aiding the public distinguish facts from “spin,” but more importantly to make sure truthful information is provided to the public. According to Mroz (2008), fact checking is a good technique to discourage the use of the negative ads, especially false ones; however, it is the responsibility of the general public to demand methods like this because political consultants want to win an election, and they will utilize negative advertising if they believe they can win.

Underlying the entire issue of negative campaigning was the notion presented by Dr. Alan Arcuri (2008), that negative campaigning damages the political process in the eyes of the voters, and that its continuance has the potential of causing voters to become disillusioned with the entire process. Despite some differences in opinion, all members of the panel concurred that controlling the funding of campaigns is probably the best way to control negativity; however, the obvious question is how.

The recommendations presented here attempt to promote discussion of negative campaigning in such a way that policies can be crafted to help minimize its usage. Negative campaign tactics have been used for years, and will probably continue to be utilized by candidates in the foreseeable future; however, this trend can be changed if the public, candidates, media, and other organizations make an effort to encourage the usage of unbiased comparative political advertisements over negative issue and image ads. As seen in the recent Arizona ruling, methods need to be devised so that although civility in campaigns is enhanced, it is not at the cost of violating The Constitution.

References

- Ansolabehere, Stephen and Shanto Iyengar. (1995). *Going Negative: How Political Advertisements Shrink and Polarize the Electorate*. New York, NY: The Free Press.
- Ansolabehere, Stephen, Shanto Iyengar and Adam Simon. (1999). "Replicating Experiments Using Aggregate and Survey Data: The Case of Negative Advertising and Turnout." *American Political Science Review*. 94(4). 901-909.
- Ansolabehere, Stephen, Roy Behr and Shanto Iyengar. (1993). *The Media Game*. New York, NY: Macmillan.
- Arcuri, Alan. (2008). *Can Campaigners Ever Leave the Gloves On?: A Panel on Civility in Political Campaigns*. William J. Hughes Center for Public Policy at Richard Stockton College of New Jersey. November 13.
- Austin v. Michigan Chamber of Commerce*. (1990). 494 U.S. 652, 666.
- Australian Electoral Commission (AEC). (2004). "Electoral Advertising." *Electoral Backgrounder No. 15*. August.
- Beck, Deborah, Paul Taylor, Jeffrey Stanger, and Douglas Rivlin. (1997). *Issue Advocacy Advertising During the 1996 Campaign*. Annenberg Public Policy Center, University of Pennsylvania.
http://www.annenbergpublicpolicycenter.org/Downloads/Political_Communication/Advertising_Research_1997/REP16.PDF. (Retrieved 12/5/08).

- Bipartisan Campaign Finance Reform Act of 2002. P.L. 107-155, 166 Stat. 81.
- Briffault, Richard. (1999). "Issue Advocacy: Redrawing the Elections/Politics Line." *Texas Law Review*. 77(7). 1751-1802.
- Brooks, Deborah Jordan. (2006). "The Resilient Voter: Moving Toward Closure in the Debate over Negative Campaigning and Turnout." *The Journal of Politics*. 68(3). 684-696.
- Buckley v. Valeo*. (1976). 424 U.S. 1, 14.
- Burson v. Freeman*. (1992). 504 U.S. 191, 197. n. 3.
- Carrier, Paul. (2008). "Use of Maine's Clean Election Fund Leveling Off: As demand for the public campaign money stabilizes, the program gets easier to manage." *Portland Press Herald/Maine Sunday Telegram*. May 5. http://pressherald.maintoday.com/story_pf.php?id=185586&ac=PHnws. (Retrieved 8/11/08).
- Center for Responsive Politics. (2008). *527s: Advocacy Group Spending in the 2008 Elections*. <http://www.opensecrets.org/527s/index.php>. (Retrieved 7/23/08).
- Christie, Bob. (2008a). "Part of Clean Elections law found unconstitutional." *Rocky Mountain News*. August 30. <http://www.rockymountainnews.com/news/2008/aug/30/part-of-clean-elections-law-found-cvn/>. (Retrieved 9/8/08).
- (2008b). "Judge rules on Clean Elections provision." *The Arizona Republic*. August 31. <http://www.azcentral.com/arizonarepublic/local/articles/2008/08/31/20080831cleanelections0831.html>. (Retrieved 9/9/08).
- Citizens Clean Elections Act. A.R.S. §§ 16-940 – 16-961
- Clinton, Joshua and John Lapinski. (2004). "'Targeted' Advertising and Voter Turnout: An Experimental Study of the 2000 Presidential Election." *The Journal of Politics*. 66(1). 69-96.
- Cmiel, Kenneth. (1990). *Democratic Eloquence: the Fight Over Popular Speech in Nineteenth-Century America*. New York, NY: William Morrow.
- Collins, Sen. Bob. (1992). *Transport and Communications Legislation Amendment Bill (No. 3) 1992: Explanatory Memorandum*.
- Damore, D. F. (2002). "Candidate Strategy and the Decision to Go Negative." *Political Research Quarterly*. 55(3). 669-685.
- Dermer, Marshall, Sidney J. Cohen, Elaine Jacobsen, and Erling A. Anderson. (1979). "Evaluative Judgments of Aspects of Life as a Function of Vicarious Exposure to Hedonic Extremes." *Journal of Personality and Social Psychology*. Vol. 37. 247-260.
- Federal Election Commission v. Massachusetts Citizens for Life, Inc.* (1986). 479 U.S. 238.
- Ferguson, Cleveland, III. (1997). "The Politics of Ethics and Elections: Can Negative Campaign Advertising Be Regulated in Florida?" *Florida State University Law Review*. 24(2). 463-504.
- Fischer, Howard. (2008). "Suit over Clean Elections law could affect '08 race." *Arizona Daily Star*. August 25. <http://www.azstarnet.com/sn/printDS/254339>. (Retrieved 9/8/08).
- Garramone, Gina M. (1984). "Voter Responses to Negative Political Ads." *Journalism Quarterly*. Vol. 61. 250-259.
- Goldstein, Ken and Paul Freedman. (2002). "Campaign Advertising and Voter Turnout: New Evidence for a Stimulation Effect." *Journal of Politics*. 64(3). 721-740.
- Greenstein, Linda. (2008). *Can Campaigners Ever Leave the Gloves On?: A Panel on Civility in Political Campaigns*. William J. Hughes Center for Public Policy at Richard Stockton College of New Jersey. November 13.

- Hale, J. F., J. C. Fox, and R. Farmer. (1996). "Negative Advertisements in U.S. Senate Campaigns: The Influence of Campaign Context." *Social Science Quarterly*. 77(2). 329-343.
- Haynes, A. A. and S. L. Rhine. (1998). "Attack Politics in Presidential Nomination Campaigns: An Examination of the Frequency and Determinants of Intermediated Negative Messages Against Opponents." *Political Research Quarterly*. 51(3). 691-721.
- Ito, Tiffany A., Jeff T. Larsen, N. Kyle Smith, and John T. Cacioppo. (1998). "Negative Information Weighs More Heavily on the Brain: The Negativity Bias in Evaluative Categorizations." *Journal of Personality and Social Psychology*. 75(4). 887-900.
- Jamieson, Kathleen Hall. (2000). *Everything You Think You Know about Politics...And Why You're Wrong*. New York, NY: Basic Books.
- Johnson, Karen S. and Gary Copeland. (1989). "Southern Voters' Reaction to Negative Political Ads in 1986 Election." *Journalism Quarterly*. 66(4). 888-893.
- Jones, Clifford A. (2004). "Regulating Political Advertising in the EU and USA: A Human Rights Perspective." *Journal of Public Affairs*. 4(3). 244-255.
- Kahn, Kim Fridkin and Patrick J. Kenney. (1999). "Do Negative Campaigns Mobilize or Suppress Turnout? Clarifying the Relationship Between Negativity and Participation." *American Political Science Review*. 93(4). 877-889.
- (2004). *No Holds Barred: Negativity in U.S. Senate Campaigns*. Upper Saddle River, NJ: Pearson Education, Inc.
- Kaid, L. L. (1999). *Television and Politics in Evolving European Democracies*. Commack, NY: Nova Science.
- Kaid, L. L. and C. Holtz-Bacha. (1995). *Political Advertising in Western Democracies*. Thousand Oaks, CA: Sage.
- King, James D. and Jason B. McConnell. (2003). "The Effect of Negative Campaign Advertising on Vote Choice: The Mediating Influence of Gender." *Social Science Quarterly*. 84(4). 843-857.
- Klein, Rick. (2001). "Clean Elections Act Alters Terrain in Maine." *Boston Globe*. February 26. <http://www.commondreams.org/cgi-bin/print.cgi?file=/headlines01/0226-02.htm>. (Retrieved 8/11/08).
- Krebs, Timothy B. and David B. Holian. (2007). "Competitive Positioning, Deracialization, and Attack Speech: A Study of Negative Campaigning in the 2001 Los Angeles Mayoral Election." *American Politics Research*. 35(1). 123-149.
- Laczniak, Gene R. and Clarke L. Caywood. (1987). "The Case For and Against Televised Political Advertising: Implications for Research and Public Policy." *Journal of Public Policy and Marketing*. Vol. 6. 16-32.
- Lau, Richard R. (1985). "Two Explanations for Negativity Effects in Political Behavior." *American Journal of Political Science*. 29(1). 119-138.
- Lau, Richard and Gerald Pomper. (2000). "Accentuate the Negative? Effectiveness of Negative Campaigning in the U.S. Senate Elections." Presented at the annual meeting of the American Political Science Association. Washington.
- (2001). "Effects of Negative Campaigning on Turnout in U.S. Senate Elections, 1988-1998." *Journal of Politics*. 63(3). 804-819.
- Lau, Richard R., Lee Sigelman, Caroline Heldman, and Paul Babbitt. (1999). "The Effects of Negative Political Advertisements: A Meta-Analytic Assessment." *American Political Science Review*. 93(1). 1-15.
- Mayer, William G. (1996). "In Defense of Negative Campaigning." *Political Science Quarterly*. 111(3). 437-455.
- McComish v. Brewer*. D. Ariz., CV-08-1550-PHX-ROS. Order Issued 8/29/08.
- Mills v. Alabama*. (1966). 384 U.S. 214, 218.
- Miskin, Sarah and Richard Grant. (2004). *Political Advertising in Australia*. Research

- Brief No. 5 2004-2005. November 29. <http://www.aph.gov.au/library/pubs/rb/2004-05/05rb05.htm>. (Retrieved 7/17/08).
- Morz, Richard, Esq. (2008). *Can Campaigners Ever Leave the Gloves On?: A Panel on Civility in Political Campaigns*. William J. Hughes Center for Public Policy at Richard Stockton College of New Jersey. November 13.
- Mutz, Diana C. and Byron Reeves. (2005). "The New Videomalaise: Effects of Televised Incivility on Political Trust." *American Political Science Review*. 99(1). 1-15.
- New York Times Co. v. Sullivan*. (1964). 376 U.S. 254, 280.
- Oregon v. Mitchell*. (1970). 400 U.S. 112, 124-125.
- Parisi, Frank J. (2005). *Memorandum: Explanation of P.L.2004, c.121, The "New Jersey Fair and Clean Elections Pilot Project"*. New Jersey Office of Legislative Services. March 2.
- Pentony, Joseph F. (1998). "Effects of Negative Campaigning on Vote, Semantic Differential, and Thought Listing." *Journal of Applied Social Psychology*. 28(23). 2131-2149.
- Powe, L.A., Jr. (1983). "Mass Speech and the Newer First Amendment." *The Supreme Court Review*. Vol. 1982. 243-284.
- Police Dept. of Chicago v. Mosley*. (1972). 408 U.S. 92, 101.
- R.A.V. v. City of St. Paul*. (1992). 505 U.S. 377.
- Reyes, Robert M., William C. Thompson, and Gordon H. Bower. (1980). "Judgmental Biases Resulting from Differing Availability of Arguments." *Journal of Personality and Social Psychology*. Vol. 39. 2-12.
- Robinson, Michael J. and Margaret A. Sheehan. (1983). *Over the Wire and On TV*. New York, NY: Sage.
- Roddy, Brian and Gina Garramone. (1988). *Negative Political Advertising: Appeals and Strategies*. Paper presented at the Annual Conference of International Communication Association. New Orleans, LA.
- Rushing, John M. (2002). "Vote Swapping and Free Speech: Voice, Politics, and Choice." *Texas Journal on Civil Liberties & Civil Rights*. 7(1). 73-90.
- Ryan, Lisa G. (2008). "Roberts: N.J. Clean Elections put on shelf by judge." *Courier-Post*. September 3.
<http://www.courierpostonline.com/apps/pbcs.dll/article?AID=/20080903/NEWS01/809030373/1006>. (Retrieved 9/9/08).
- Scott, Greg J. and Amy Kort. (2002). *Record Newsletter*. Federal Election Commission. 28(9).
- Whelan, Jim, Sen. (2008). *Can Campaigners Ever Leave the Gloves On?: A Panel on Civility in Political Campaigns*. William J. Hughes Center for Public Policy at Richard Stockton College of New Jersey. November 13.
- Shapiro, Michael A., and Robert H. Rieger. (1992). "Comparing Positive and Negative Political Advertising on Radio." *Journalism Quarterly*, 69(1). 135-145.
- Sigelman, L. and E.H. Buell Jr. (2003). "You Take the High Road and I'll Take the Low Road? The Interplay of Attack Strategies and Tactics in Presidential Campaigns." *Journal of Politics*. 65(2). 518-531.
- Skaperdas, S. and B. Grofman. (1995). "Modeling Negative Campaigning". *American Political Science Review*. Vol. 89. 49-61.
- Smith, Eliot R. and Frederick D. Miller. (1979). "Salience and the Cognitive Mediation of Attribution." *Journal of Personal and Social Psychology*. Vol. 37. 2240-2252.
- Stevens, Daniel, John Sullivan, Barbara Allen, and Dean Alger. (2008). "What's Good for the Goose is Bad for the Gander: Negative Political Advertising, Partisanship, and Turnout." *The Journal of Politics*. 70(2). 527-541.
- Storer v. Brown*. (1974). 415 U.S. 724, 730.

- Theilmann, J. and A. Wilhite. (1998). "Campaign Tactics and the Decision to Attack." *Journal of Politics*. 60(4). 1050-1062.
- The Press of Atlantic City. (2008). "N.J.'s clean-elections program/Scrapped for now." *The Press of Atlantic City*. September 11. <http://www.pressofatlanticcity.com/146/v-print/story/254469.html>. (Retrieved 9/11/08).
- Thornhill v. Alabama*. (1940). 310 U.S. 88.
- United Kingdom Electoral Commission. (2004). *Political Advertising: Report and Recommendations*. June. <http://www.electoralcommission.org.uk/about-us/politicaladvertising.cfm>.
- West, Darrell F. (1993). *Air Wars: Television Advertising in Election Campaigns, 1952-1992*. Washington, D.C.: CQ Press.
- Whitman, James Q. (2000). "Enforcing Civility and Respect: Three Societies." *The Yale Law Journal*. 109(6). 1279-1398.

¹ This practice is also followed in New Zealand, but it is limited to two days before elections as opposed to three (Miskin and Grant, 2004).

² A party election broadcast is a political advertisement given to a political party, not an individual, which is restricted to a certain day and time, usually five minutes in length.

³ These 527 organizations are advocacy groups that have a variety of positions on a myriad of issues that attempt to influence the way voters view candidates. These organizations do not explicitly tell voters whom to vote for, but they do directly state the candidates' stances on the organization's own issue of interest.

⁴ This amount is increased to \$1000 if the candidate is running for a statewide office (A.R.S. §§ 16-941. A(2).)