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## **The death penalty has lost its power**

By Peter Loge

Michael Dukakis's strong opposition to the death penalty was considered a major blow to his 1988 presidential campaign. In 1992, then-Arkansas Gov. Bill Clinton left the presidential campaign trail to oversee the execution of a mentally retarded man.

In the wake of the 2005 gubernatorial elections in New Jersey and Virginia, it is fascinating to witness the death penalty's decidedly different impact - or lack thereof - on the outcome of these races.

New Jersey and Virginia both elected governors who oppose capital punishment. In New Jersey, capital punishment was never an issue. In a bitter campaign that even featured attacks from an ex-wife, the historically divisive issue of the death penalty was never raised by winner Jon Corzines (D) opponent, death-penalty supporter Douglas Forrester (R). In Virginia, former Attorney General Jerry Kilgore (R) ran what are best described as "aggressive" ads hitting winner Tim Kaine for his opposition to capital punishment, alleging that "Tim Kaine says that Adolf Hitler doesn't qualify for the death penalty." The consensus is that, if anything, the ads backfired.

The lack of saliency of the death penalty is not new to 2005. The 2004 presidential election was the most expensive, and among the most vicious in American history. Yet Senator John Kerry's opposition to the death penalty was never used by President Bush - who as governor of Texas approved more executions than any other state in the nation.

To observers of the evolving politics of the death penalty, this is not a surprise.

Both newspaper and proprietary public opinion polls in recent years have shown that voters do not consider capital punishment a reason to vote for or against a candidate. If anything, opposing capital punishment helps pick up votes among the most partisan.

Since about 2000, the American people have gotten a much more nuanced understanding of the death penalty. They have learned about the costs. New York, for example, has spent about \$200 million over the past 10 years on a capital-punishment system recently ruled invalid by a state court, and the state hasn't executed anyone.

Americans have heard from murder-victim family members who oppose the death penalty. They have learned about the mistakes that are far too often made, mistakes that have sent at least 121 people to death row who did not belong there, according to the Death Penalty Information Center.

Many Americans have concluded that whatever their private moral positions on capital punishment, it is pretty clearly a deeply flawed system that may not be worth all the time, energy and money. And in the past several years, voters have not been supporting candidates who promise to be the executioner in chief, and they have not been punishing candidates who think the death penalty is a policy whose time has come and gone.

The elections of 2004 and 2005 - those mentioned above and the countless other state and local races in which death-penalty support was used as a reason to vote against someone or in which capital punishment simply played no role - hold important lessons for candidates in 2006.

Some candidates in the 12 states without the death penalty have promised to make support for bringing the death penalty back a key of their campaigns. Such candidates do so at their own peril. At best, they will be wasting precious campaign dollars - and at worst - it could cost them votes.

Other candidates in crowded primary fields may be tempted to use death-penalty support as a way to separate themselves from their opponents; while the tactic may result in separation, it may not be the way the candidates hope for.

As someone who advises candidates and advocacy groups, including many working to reform or abolish the death penalty, I am not suggesting candidates rush out and run based on their opposition to capital punishment. Its not because it is a third-rail issue but rather because it would be like running a campaign based on a promise to change the motto on state license plates. Voters just don't care that much.

Candidates who try to exploit capital punishment might even get punished, as Kilgore was in Virginia. Candidates who tell voters their honest opinion about the death penalty when asked and then move on to issues that matter - schools, healthcare, roads - will be rewarded.

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