POLITICAL CAMPAIGN BOUNDARIES IN THE PRESIDENTIAL ELECTION — DO THEY EXIST?

Presidential election season is well underway, and that means a brutal stream of negative advertisements aimed at each of the candidates in the race. Although negative attacks on presidential candidates have become standard procedure, it’s easy to wonder if a political campaign has any boundaries on what can and can’t be said.

Allie Jorgenson, a consultant at Maurice Bonamigo & Associates, says there aren’t really any rules surrounding negative political campaign ads in the presidential election.

“When creating negative ads you always have to be careful not to cross the line into slander, but even if that does happen — or the line gets blurred — rarely does one candidate take legal action against another,” Jorgenson says.

Often times, a political action committee (PAC) will create the negative ad, so the presidential candidates can stay away from any potentially off-putting marketing tactics, Jorgenson says.

“We see this all the time — even in the current presidential election,” Jorgenson says. “By having the PAC run the ad, the candidate can honestly say they had nothing to do with it.”

If presidential candidates violate campaign rules with negative ads, Jorgenson says the opponent can sue for slander, but that’s not too common.

“More often than not, the opponent will take to the media and say how terrible and tacky the ad is, and try to gain public support that way,” Jorgenson says.

Use of Negative Ads in Presidential Elections

“Many people feel that negative advertising has increased over the years, and many people feel that negative advertising has increased because it does work to influence the voters,” says Adam Pincus, a Legal instructor at South University, Online Programs. “I think that candidates are more likely to use negative advertisements if they are in a close race or if they are a challenger to an established or incumbent candidate.”

Pincus says there are also different levels of negative advertising.

“Some negative ads may be viewed as being negative but relevant to the campaign,” Pincus says. “However, if the negative ads touch on something that people find offensive or if the negative ads cross a line that should not have been crossed, then the negative advertisement could have an adverse effect.”

While negative ads can help presidential candidates, Pincus says there is a calculated risk to using them, as presidential candidates have to be careful not to cross the line and offend voters.

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Pincus believes voters have gotten used to the negative ads that go along with a political campaign, and have even deemed them as acceptable in recent years.

“I think that most voters have become accustomed to negative advertisements being used and they only react negatively if the advertisement crosses a line that it should not have,” Pincus says.
Jorgenson agrees that while voters claim to dislike negative political ads, they do work.

“When running a campaign it’s important to tell the voters why they should vote for Candidate X over Candidate Y,” Jorgenson says. “Of course each candidate will do the feel-good ad that states their accomplishments and values, but each will likely also run ads that contrast them to their opponent. Pointing out their opponent’s flaws creates doubt in the voter’s minds and opening up a discussion of why Candidate X is better than Candidate Y.”

Negative Campaigning Not New For Presidential Candidates

Negative campaigning is nothing new — it has pretty much been around since the beginning of the country, says Rosemarie Ostler, author of “Slinging Mud: Rude Nicknames, Scurrilous Slogans, and Insulting Slang from Two Centuries of American Politics.”

“A lot of Americans have the idea that campaigns were more gentlemanly in the past, but they really weren’t,” Ostler says.

She says the 1800 presidential election between John Adams and Thomas Jefferson is still one of the dirtiest in history, although the presidential candidates themselves didn’t actually campaign.

“The Jefferson people claimed that Adams was a secret royalist who wanted to marry one of his sons to King George III’s daughter,” Ostler says. “They said he was planning to go to war with France. Adams supporters accused Jefferson of being an atheist and a radical anarchist and warned that he would confiscate people’s Bibles if he was elected.”

Ostler says many of the same topics that we hear about now in negative political ads — such as corruption, weakness, stupidity, elitism, age, and lack of experience — have always been popular attack topics in campaigns.

“In earlier times, people were also attacked for things that couldn’t be said openly now, at least not by a mainstream campaign, (such as having the) wrong religion, unsavory sex life, physical unattractiveness,” Ostler says. “Lincoln was insulted in the newspapers for being ugly and also for having low social origins. These issues are still out there, but references have to be heavily coded now. So in some ways, you could even say that campaigning has gotten a little tamer.”

Ostler says the main difference in negative campaigning today versus in the past is the immediacy of the attacks and the saturation coverage by the media.

“These are both the result of everyone having access to the Internet, 24-hour news coverage, Twitter, YouTube, and so on,” Ostler says. “As soon as an incident occurs, it goes viral. We now even have ‘pre-buttals,’ where a candidate will respond to an attack that hasn’t happened yet, but that he or she expects.”

Ostler believes that while the content of the attacks isn’t much different now than in the past, they feel much more intense because of the constant bombardment from news sources.

Throughout the years there have been many extreme examples of negative campaigning, but Ostler says the one that stands out to her the most occurred during the 1938 Al Smith versus Herbert Hoover presidential election campaign, simply because Smith was attacked in so many different ways.

Hoover didn’t attack Smith directly, Ostler says, but his supporters did.

“One big issue was Smith’s Catholicism. There were wild rumors that the pope was planning to move to New York if Smith was elected, (and) that non-Catholics would be persecuted,” Ostler says. “The KKK burned crosses along the tracks when Smith traveled by train.”

That’s not all Hoover supporters attacked Smith for.

“Republicans also attacked Smith because he came from a working-class Irish background, (saying) the White House would smell like corned beef and cabbage, and because he opposed Prohibition — they falsely claimed he had been seen drunk in public.”
In more recent times, Ostler says many people thought the Willie Horton ads that George H.W. Bush ran against Michael Dukakis the 1988 presidential election reached a new low in mudslinging.