
REMAPPING DEBATE

Asking "Why" and "Why Not"

Never select a political reporter for jury duty

Press Criticism | By Craig Gurian | Media, Politics

Oct. 10, 2012 — Or to do detective work, for that matter.

There are honorable exceptions, of course, but the rule holds true: most political reporters are either unable or unwilling to harness the cognitive and analytic effort involved in grasping basic evidentiary principles. Plausibility? Credibility? Inference? You might as well be speaking a foreign language.

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I'm not analogizing reporting to the task faced by a juror in a *criminal* case (where the burden is proof beyond a reasonable doubt). Rather, it is the *civil* case that is instructive. Every day, in courtrooms throughout the United States, jurors make decisions about civil matters small and large. They only have to satisfy themselves that a fact or element of a case is *more likely than not*. And they often do so largely or entirely based on circumstantial evidence.

So how come we keep hearing that it is impossible to assess a variety of Gov. Romney's plans because of a lack of detail?

In essence, Mr. Romney's position comes down to something like this: "My plans will work miracles in cutting taxes and increasing defense spending while reducing the deficit. I'll be able to create jobs as I reject a federal role in generating economic stimulus. Don't worry about the social benefits I'm changing: just because the government will spend less doesn't mean that you'll get less. You don't need the details, just trust me."

And the kicker: "And anybody who comes out with a negative analysis should not be believed because that analyst doesn't have enough information to draw a conclusion."

A jury wouldn't have any trouble concluding that Mr. Romney was, in fact, trying to cover his tracks. In the first instance, the question of whether Mr. Romney was trying to cover his tracks would be of interest to the jury. (That consideration doesn't trouble a reporter, whose task, whether editor-directed or self-appointed, is to look at the tactical impact of the most recently uttered words, throwing history and context to the wind.)

Why would it be quick work for a jury? The details-add-up-but-I-don't-want-to-share-them theory lacks basic plausibility. A candidate who *has* evidence that his plans will work better than the other guy's will generally want to *use* that evidence.

There is an alternative to be considered — but it's hardly exculpatory. That's the circumstance where the candidate knows that the details wouldn't go over well with a large segment of the public and so wants to conceal those details. Wouldn't this kind of secrecy and evasion lead a juror to treat the witness as less credible? But for the members of the media pack, the absence of a signed confession stating "I lied," means there's no evidence at all.

The notion that the lack of detail is a bar to any independent analysis is particularly absurd, though it has even attracted [usually clear-eyed reporters like Michael Cooper of The New York Times](#).

Gov. Romney's plans for changing Medicare to a voucher system cannot be said to cost recipients up to an additional \$6,400 per year because that analysis is based on "an old proposal by Mr. Romney's running mate, Representative Paul D. Ryan, that has since been revised," nor is it possible "to assign a dollar value to the cost" without "knowing the size of the subsidies or how fast they would grow."

Nonsense. The fundamental premise of Messrs. Ryan and Romney remains what it was: eliminate the government's obligation to meet the actual costs of health care. *That's the whole point of the exercise.* If you were to allow vouchers to rise in tandem with medical costs, *you wouldn't be saving money — the raison d'être of the plan.*

Isn't it perhaps more likely that the shift away from the original plan has more to do with packaging what is politically less unpalatable than with an abandonment of the "tough love" (also known as "structural adjustments") that Mr. Romney and his fellow consultants first perfected in the consultants' paradise of corporate downsizing in the 1980s and 1990s?

And shouldn't estimates — whether independent or generated by an opposition campaign — first be assessed as to whether they make realistic assumptions or not, and then be a spur to demand from the campaign that has not put its cards on the table — in this case, Mr. Romney's — actual evidence that the analyses of others are incorrect?

Yet the just-report-the-last-charge school keeps on going. Just this week, a Times article [reported](#) that a Romney campaign ad "says Obama distorts tax cut claim." In Trip Gabriel's rendition, all the brouhaha generated by the Tax Policy Center's finding that the Romney tax plan would cost the federal treasury \$5 trillion over 10 years is as much "semantics" as it is "math." How is the math of the Tax Policy Center countered? Well, silly, Mr. Romney says he's not looking for a \$5 trillion tax cut.

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That's not semantics. That's meeting evidence with nothing. Even if one were to credit the proposition that the Romney tax plan would "spur economic growth" and "add [an unspecified amount] to tax collections" as Gabriel does, a reporter looking for truth-value would write, "Leaving aside the unspecified tax revenues that Mr. Romney asserts would be generated by his tax plan, an assertion about which economists strongly disagree, his plan would yield a revenue loss estimated at \$5 trillion over 10 years." Or, "Despite findings that his tax plan would mean the loss of \$5 trillion in revenue, Mr. Romney, without putting forward evidence to the contrary, continued to assert that his plan would be revenue-neutral."

But Mr. Gabriel's powerful conclusion? "The issue is not going away."

And then there is Mr. Romney's "move to the center." Neither a juror nor even the most junior detective would readily accept the notion that the views expressed in connection with the New Romney genuinely reflect the candidate's thinking.

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The more varied and varying a party's statements or justifications come to be over time, the more vigorous the scrutiny that the statements deserve. Which statements are to be discounted as covering up the candidate's unvarnished views? Does the candidate have an incentive to cover up his actual views? Which are consistent with the candidate's underlying philosophy? Does the candidate *have* an underlying philosophy?

Those are very different inquiries from "has the candidate successfully recalibrated his course?" and "has the candidate successfully reset the dynamic of the race?"

All of the basic evaluative techniques familiar to jurors, of course, apply just as much to statements made by President Obama. After he said at the debate, "I suspect that on Social Security, we've got a somewhat similar position," the main lines of reporting concerned whether the statement was a gaffe and the consternation the remark caused among his supporters?

But why *shouldn't* the President be believed on this point? He has repeatedly placed Social Security into the mix in connection with the supposedly "tough-minded" decisions that "must" be made on entitlement programs. He has consistently failed to address the simple long-term tweak to Social Security — elimination of the cap on the earnings that are subject to payroll tax — that even the Wall Street Journal has acknowledged (in its news reports, not its editorial page) would ensure the full solvency of the program for 75 years. It makes no sense simply to treat the statement as a gaffe and move on.

So why is it so hard for so many reporters — including those who insist, apparently sincerely, that they don't think that truth is irrelevant — to use the tools of jurors? Maybe because they fail to understand what kind of case they're trying.

Like civil case jurors, all they need to do is to decide what is more likely true. Even if reporters can't bring themselves to say, "He lied," maybe they can start saying, "It seems more likely than not that the candidate actually believes something other than what he's now telling you."

Or maybe they still think it was ok when their predecessors in 1968, docile and compliant, transmitted to the nation the news that Richard Nixon had a secret plan to end the war.

This content originally appeared at <http://www.remappingdebate.org/node/1469>