

## Baker's half-baked and pricey support for capital punishment

By James Alan Fox | July 30, 2009

"No new taxes," pledged gubernatorial hopeful Charlie Baker, a political position likely to resonate with countless Massachusetts voters mired in their own financial crises. In the next breath, the Republican candidate, regarded by many as a fiscal wizard, declared his support for capital punishment, a posture also guaranteed to appeal to those citizens who yearn for seeing the state's death penalty restored. Leaving aside the many compelling arguments against capital punishment, reinstating the supreme penalty would be rather difficult without raising taxes.

Notwithstanding my hesitancy to judge justice purely in terms of dollars and cents, there is one absolute truth about capital punishment: it costs a state millions to establish and manage the process. When a prosecutor chooses to seek the death penalty, the state incurs unusually large expenses not so much related to the punishment itself, but associated with the trial and appellate review. For example, an analysis of capital trial costs in Maryland published last year by the [Urban Institute](#) estimated the average expense of a successful death penalty prosecution to be about \$3 million, triple the lifetime cost of a capital-eligible case in which prosecutors did not ask for death.

The last Massachusetts [capital punishment bill](#) that died on Beacon Hill in 2007 called for layer-upon-layer of procedural safeguards in an attempt to make the system "foolproof." Its strongest backer, then Governor Mitt Romney, called it the "gold standard" for the administering the death penalty. Romney's words were never more prophetic and true. Apparently, price was no object.

Had Romney been successful on his own campaign pledge to reinstate capital punishment, the Commonwealth's economic burden would have been considerably higher than Maryland's. Under the failed Massachusetts proposal, taxpayers would have been obliged to pay for defense counsel chosen from a list of particularly experienced attorneys and given wide latitude in hiring consultants and expert witnesses, for a jury trial lengthier than most, for a sentencing process involving a separate jury to determine if there was "no doubt" with regard to a defendant's guilt, for a review by a group of independent forensic scientists with oversight from a death penalty review commission, and for several rounds of state and federal appeals also with superior legal representation. Each capital prosecution would have been the new MassMillions.

Charlie Baker, given his many years heading up Harvard-Pilgrim, knows a lot about the high cost of health care and how that can impact the state budget. If he were at all familiar with the capital punishment landscape, he would know that in recent years [several states](#)—including New Jersey, New Mexico and New Hampshire—have abandoned or abolished the death penalty precisely because of the exorbitant price tag. Baker would also know that the Massachusetts murder rate ranks 14th from the lowest nationally and is just about half the rate for the United States as a whole.

At least in terms of murder prosecution, the Massachusetts justice system is hardly broken. But if Charlie Baker has his way, the state could go broke trying to fix it.

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