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48



ARTICLES

- 28 | HARD TIME** Is Massachusetts ready to rethink the tough-on-crime approach? **BY MICHAEL JONAS**
- 40 | BETTING THE MORTGAGE** Lawrence Mayor Dan Rivera is keeping his promise to be a change agent for the city, but at what cost to the city? **BY BRUCE MOHL**
- 48 | NO SHORE THING** Plum Island is at risk, but the consequences of storms and sea level rise are subjects few want to contemplate. **BY GABRIELLE GURLEY**
- 56 | DCR 2.0** The state Department of Conservation and Recreation is struggling to bring its broken land leasing system into the current century. **BY COLMAN M. HERMAN**

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DEPARTMENTS

- 7 | EDITOR'S NOTE**
- 9 | INQUIRIES**
- 15 | ONE ON ONE** Brockton Rox owner Chris English views baseball as a civic trust. **BY JACK SULLIVAN**
- 17 | STATISTICALLY SIGNIFICANT** The EPA's Clean Power Plan is drawing a lot of attention to the local cap-and-trade system for carbon emissions. **BY BRUCE MOHL**
- 19 | WASHINGTON NOTEBOOK** US Rep. Katherine Clark is raising money for Democrats and most (but not all) of the time blasting the GOP. **BY SHAWN ZELLER**
- 23 | GATEWAY CITIES** Other states have many economically successful regions within their borders. Why doesn't Massachusetts? **BY BENJAMIN FORMAN**
- 25 | MASS.MEDIA** Every media outlet on Beacon Hill but one gets free State House office space and parking. **BY COLMAN M. HERMAN**

DISCUSSION

- 62 | CONVERSATION** John Grossman develops pay-for-success projects by playing the role of intermediary. **BY BRUCE MOHL**
- 71 | PERSPECTIVES** The failure of public assistance. **BY RAYMOND MARIANO** Instant runoff voting could help invigorate Boston's lackluster municipal elections. **BY JAMES SUTHERLAND**
- 77 | ARGUMENT & COUNTERPOINT** Stephen Regan of the Massachusetts Regional Taxi Advisory Group says Uber is not just an app, while Cathy Zhou of Uber says regulators must protect ridesharing choices.

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House Speaker Robert A. DeLeo (left), recipient of the Massachusetts Bar Association's 2015 President's Award, with MBA Chief Legal Counsel and Chief Operating Officer Martin W. Healy



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Full disclosure

OUR SUMMER ISSUE includes stories and analysis on a wide variety of topics, everything from criminal justice reform and climate change to Uber and the incomprehensible medical bills we receive in the mail. Some of these stories deal with subjects and individuals with connections to our parent organization, MassINC—a relationship worth exploring in a bit more detail.

MassINC was established nearly 20 years ago as a nonpartisan think tank focused on research, events, and journalism to explore a broad range of issues affecting life in Massachusetts. In recent years, MassINC has added new elements to the mix, creating a polling group subsidiary and a Gateway Cities Innovation Institute. MassINC also helped form the Criminal Justice Reform Initiative, which is pushing for a number of changes in the state's criminal justice system.

CommonWealth strives to be an independent voice, but that doesn't mean we don't interact with other employees at MassINC or share an interest in the issues with which they are involved. Indeed, the founders of MassINC envisioned a think tank that would examine many of the same issues through the different prisms of research, events, and journalism.

The magazine is also a forum for ideas of all types, and MassINC employees occasionally participate. Pollster Steve Koczela often writes about polling and data issues for *CommonWealth*. MassINC research director Ben Forman is a frequent contributor on Gateway Cities issues. Indeed, Forman's piece on Gateway Cities in this issue came about because I heard him give a presentation on the dreary economic data emanating from Gateway Cities at a MassINC board meeting.

Our cover story by Michael Jonas is focused on criminal justice reform, particularly the debate over mandatory minimum sentences. Michael's story includes the voices of people on all sides of the issue, including those who served time in prison under a mandatory minimum sentence and those who lost their driver's license because of a

drug conviction. The story captures the high-stakes debate raging on Beacon Hill in all of its personal and political dimensions.

I have two stories in this issue that have connections to MassINC. One is a conversation with John Grossman of Third Sector Capital, a company developing pay-for-success projects for government agencies here in Massachusetts and across the country. With pay-for-success, private groups put up the money for a program to address a specific social ill and get paid back (plus a profit) if the initiative is a verifiable success. I've always been fascinated with the concept,

MassINC-CommonWealth connection explored.

but never fully understood it because it's so complicated. The conversation allowed me (and hopefully you, too) to learn more. Yet it's worth noting that Grossman serves on the Criminal Justice Reform Coalition and his big project in Massachusetts centers on Roca, a Chelsea nonprofit that is trying to help those released from prison stay on the outside. MassINC's president, Greg Torres, previously served as chairman of the Roca board.

I also wrote a feature story on Lawrence Mayor Dan Rivera, and his handling of a problematic School Department office lease. What I found fascinating is that Rivera is trying to address problems in Lawrence that his predecessors ignored, but his sometimes heavy-handed approach utilizes some questionable tactics that his predecessors might have employed.

Rivera is a co-chair of the Gateway Cities Institute and MassDevelopment, a state authority that figures in the story, has been a MassINC sponsor. Neither Rivera nor MassDevelopment used their connections to MassINC to attempt to influence the story, nor did I pull any punches because of their involvement.

Enjoy the magazine.



BRUCE MOHL

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Luck's run out

When the six New England state lotteries started the Lucky for Life game, with the grand prize of \$1,000 a day for the rest of your life, good fortune didn't exactly fill government coffers. In the first four months, five people picked the right combination to win the jackpot, which is a minimum of \$7.2 million over 20 years or a one-time cash payout of \$5.75 million. The high number of winners meant the big-stakes game lost \$5 million region-wide.

But after that early rough stretch the odds started working in favor of the lottery commissions and Lucky for Life became a cash cow. No one has hit the top prize in two years. Over that period, the state lottery commissions have paid out in prize money less than half of what they have taken in in sales. The typical cash prize payout percentage for other games is 70 percent or higher. And unlike MegaMillions and Powerball, which have unclaimed jackpots that roll over from week to week, the top prize in the Lucky for Life game remains the same regardless of how long there is no winner. No wonder 12 more state lottery commissions have joined the game.

The lotteries tweaked the Lucky for Life game in January, making it statistically easier to win the grand prize but doubling the odds for winning the second prize of \$25,000 a year for life. Since then, there have been no grand prize winners (the odds of winning are still 31-million-to-1) while the number of second-prize winners has fallen. In 2014, there were 15 second-prize winners in Massachusetts alone. Through the first six months of this year, there have been three. The house always wins.

► JACK SULLIVAN

Dealing with sticker shock

► JACK SULLIVAN

I HAD a minor stroke in April. Then I saw the bill and nearly had a heart attack.

For a trip to the emergency room, admission to the hospital for about a 36-hour stay, multiple imaging studies of my brain and nervous system, and a couple follow-up visits with my primary care physician and a specialist, the total came to more than \$20,000. But that price is only the suggested retail price. My health insurer agreed to pay about half that, with my responsibility being \$2,000.

The incident offers a unique opportunity to drill down into the opaque process of billing and cost-sharing in health care among all the involved parties — provider, payer, and patient—without worrying about permission or confidentiality because the information is mine. The goal was to decipher bills that seem designed to confuse with charges, allowed charges, bundle pricing, and deductibles.

"We've been talking about the perplexity of medical pricing since we were all able to talk," says Barbara Anthony, the Pioneer Institute's senior fellow in health care and a former state consumer affairs undersecretary. "The provider and the carrier have their own language in communicating. We're on the outside of that circle. We should be in the center of that circle."

My episode began on Saturday, April 18, when after dinner my wife and I sat down to watch the movie *Olympus has Fallen*. Throughout the two-hour takeover of the White House by North Korean terrorists, I had

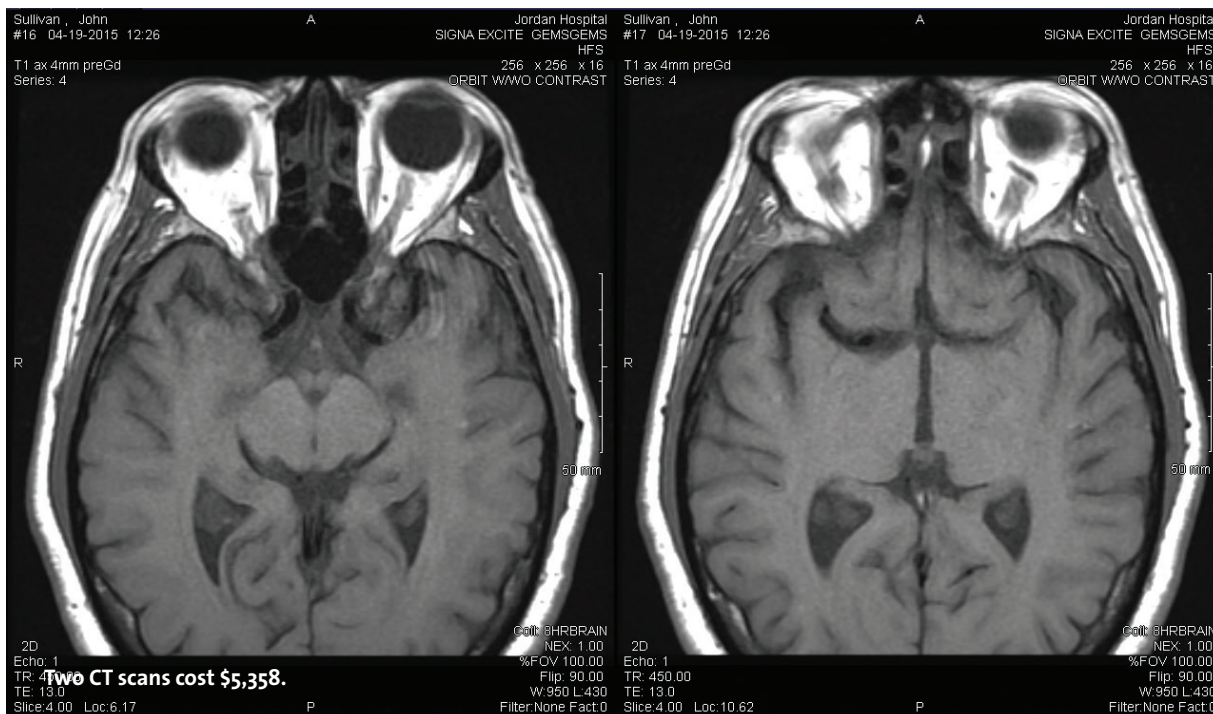
trouble focusing my eyes and alternately shrugged it off to new glasses I wasn't used to yet or the angle I was watching the TV from on the couch.

STROKE TESTING PROTOCOL

At the end of the movie, I stood up and immediately knew something was seriously wrong. I was seeing double, experiencing dizziness, and feeling disoriented. I told my wife she needed to take me to the hospital. Once we arrived at Beth Israel Deaconess Hospital–Plymouth, I explained the symptoms and was immediately wheeled into the emergency room to begin the testing protocols used to determine whether a patient is having a stroke and whether it is ischemic—caused by a blood clot that needed to be quickly dissolved—or hemorrhagic—caused by a burst blood vessel that ceases blood flow to various parts of the brain.

About 800,000 people a year are admitted to hospitals for strokes. About one in five people who have strokes die. Research and treatment have advanced to the point that if medical care, including clot-dissolving drugs, can be administered at the onset of a stroke, the effects can be minimized and patients have a much better chance of recovery.

Within an hour of checking in, two CT scans, an X-ray, and physician tests determined I did not have a detectable clot, so a clot-dissolving drug



was not given. The doctor determined, however, my left eye was not “tracking,” meaning while my right eye was able to follow his finger, my left eye barely moved, thus causing the double vision. He determined further tests and observation were required and I was admitted to the hospital. Thus began the \$20,000 odyssey.

On Sunday morning, I was taken for an MRI and then, several hours later, brought for a second MRI, with an injection of dye to study the contrast and find the source of the problem. That meant that within 16 hours of being admitted to the emergency room, I had undergone an X-ray (\$176), two CT scans (\$5,358), and two MRIs (\$3,807), according to billing data I later received.

The neurologist overseeing my care came to my room after the last MRI to say she and the imaging technicians thought they saw an “anomaly” in the test indicating a “small stroke.” She said she wanted to order a third magnetic resonance imaging test to confirm what they saw but I declined. The doctor took my refusal as concern over radiation exposure and assured me the MRI used magnets, as the name implies, not radiation. But when I told her my concern was the expense and the impact on health care costs overall, her response was one that providers have offered for years. “You don’t have to worry about that,” she said. “Your insurance pays for it.”

Several weeks later, the bill I received from the hospital did not provide detail for the stay, just a general breakdown of the services by category. I called the billing

department and was sent an itemization similar to what is submitted to my health plan, a breakdown not given to patients unless they request it.

According to the hospital, the total cost of the treatment between emergency room and in-patient care was \$13,797, including \$295 for pharmacy and \$429 for the room. In addition, the doctors, who are not employed directly by BID-Plymouth but rather contracted through a Harvard physicians’ network, billed separately for another \$3,953. Another \$2,687 was paid in aftercare visits to my primary care physician; a neuro-ophthalmologist he referred me to; and Massachusetts General Hospital for another X-ray, bringing the total to \$20,437.

I SAID NO TO MRI

The providers appear to be forced to eat about half of their charges. My insurer, Harvard Pilgrim Health Care, allowed a total of \$10,511 to be paid to the hospital and various physicians. Because I had not been to a doctor or hospital at that point in the year, I still had my full deductible to pay, which meant I was responsible for \$2,000, with Harvard Pilgrim sending checks for the remainder.

Harvard Pilgrim’s explanation of benefits was impossible to decipher. The bill from BID-Plymouth equaled the Harvard Pilgrim total, but the details on specific service charges did not reconcile. In the line next to room and board, for instance, Harvard entered the hospital charge of \$429. Then, under pharmacy, the carrier entered \$13,368.

The entire pharmacy charge was denied but a charge for \$6,542 was entered for the room, meaning, to the uninformed consumer, that the health plan paid 15 times what the hospital billed for the room and nothing for pharmaceutical items.

Harvard Pilgrim officials say they pay a contracted bundled price for all the hospital services associated with stroke care—\$6,543 for cases such as mine—and then enter that amount for a single service, in this case the room and board charge. The remaining \$3,500 was the contracted price for the various physician and imaging technician services. For instance, the emergency room doctor billed \$531 but was paid \$348 by Harvard Pilgrim, while the technician administering the electrocardiogram submitted a bill for \$50 but was paid the contracted price of \$11.49.

There are a few things I learned through this endeavor that could be helpful to future patients. The bundled price for my episode was set and whatever care I declined in an effort to save my plan—and in turn, me—money, such as refusing the third MRI, did not affect my costs or the bundled-price reimbursement of Harvard Pilgrim.

In addition, comparison shopping for health care while being rushed into the emergency room is impossible. “You got your life in your hands. I don’t think you can really be the consumer at that point,” says Jason Radzevich, chief financial officer for BID-Plymouth.

Second, the billing and payment process is mired in byzantine methods that do little to help consumers understand what is being paid for and why. Part of the shock comes in seeing the enormous disparity between what the hospital bills and what insurance pays. “You can’t make apples to apples,” says Radzevich. “For you to sit there and try to make sense of it, you never will.”

Radzevich says hospitals are required by law to bill everyone their list price even though reimbursement is based on individual contracts between hospitals and health plans. The list price is collected in less than 3 percent of cases, he says, typically when the patient has an out-of-state insurer and Beth Israel is not part of their network.

There was a glimmer of hope, though, as Harvard Pilgrim officials, after meeting with me, agreed their explanation of benefits needs to be more accessible to customers, especially as more and more of them are required to cut a check beyond their premium payments. It’s no longer enough, they admitted, to expect people with deductibles to just pay their share based on what the health plans say.

Joan Fallon, Harvard Pilgrim’s director of communications, says change is coming as more consumers “with skin in the game” start to calculate where their deductible goes and as the state steps in to make the system more uniform. “This sort of billing is not unique to Harvard Pilgrim or to Beth Israel,” she says. “It’s just sort of how it’s done.”

Lastly, it’s fair to ask if an informed consumer really matters, especially when bringing up the rear in the fight against spiraling costs. Anthony, the former consumer affairs undersecretary, says knowing the costs upfront and controlling them beforehand is the optimal approach. Nevertheless, she says, it is the patient’s right to know how much he is being charged. The idea that bills are incomprehensible and it’s always been that way is, to her, is unacceptable.

“The market should be driving this. I don’t see health care taking the leadership. Do we have to have a law to do that?” she asks. “Why do I even have to defend a consumer’s right to know what they are paying? I don’t have to argue with any other industry that consumers have a right to information about cost.”

Kennedy fights federal data breach law

► SHAWN ZELLER

AFTER HACKERS STOLE data from Target, Home Depot, and other companies in recent years, President Obama called on Congress to enact legislation setting a national standard governing what companies must do if their networks are breached.

Both Republicans and Democrats in the capital want to do something to improve cybersecurity, but getting to a final product is proving difficult. A federal law would probably preempt state laws to avoid making companies have to comply with a patchwork of rules, but for Massachusetts and other states that would mean reducing consumer protections.

Forty-seven states, including Massachusetts, already have laws on the books governing data breaches and the Massachusetts statute is one of the strongest.

US Rep. Joe Kennedy of Brookline is among those in Congress fighting to slow down or kill the federal legislation. When the House Energy and Commerce Committee voted to approve a bill by Texas Republican Michael Burgess aimed at addressing the problem in April, Kennedy voted no. Kennedy’s protest has slowed the bill’s progress and raised questions about whether it can get through the Senate and be signed into law.

At the subcommittee markup of the bill, Kennedy took a leading role in criticizing it. “I understand why some want to create a single national standard for breach



Kennedy: Federal move could undermine state protections.

notification. Reducing the burdens on businesses, particularly businesses that were the victims of criminal breaches, is a sensible and laudable goal,” he says. “But we must also ensure that consumers, who are also the victims of breaches, do not lose protections that they currently have in place.”

As is the case across the country, Massachusetts companies are regular victims of hackers. According to the state attorney general’s office, Massachusetts firms reported 8,665 breaches between January 2008 and July 2014 in which consumer data belonging to nearly 5 million people were stolen. Hackers typically want the data so they can steal identities, take out credit lines, or raid bank accounts.

The federal bill would require companies to have reasonable security measures in place and to investigate breaches of their networks. If they determine that consumer data that puts customers at risk of financial fraud was stolen, they must inform those customers within 30 days of stopping the breach.

The consumer notice would have to include a description of the information that was stolen and the approximate date of the breach. The notice would also include telephone numbers to obtain more information on the breach, to reach a credit reporting agency, and to contact the Federal Trade Commission where consumers could get more information about identity theft.

The bill would task the Federal Trade Commission with enforcing violations of the law under its authority to

police unfair or deceptive business practices. State attorneys general could also enforce the federal law.

Most Democrats in Congress think the bill is too weak because it doesn’t require companies to do anything if non-financial information, such as health records, is stolen, and denies the FTC the power to update the rules going forward.

Kennedy followed up his critique at markup by offering two amendments aimed at limiting the bill’s preemption of state laws, so that state consumer protection laws and common laws enforced by the courts remain in force. Both were defeated on party-line votes. He tried again before the full committee. Again, defeat.

Most of the incursions that have occurred in Massachusetts are small—affecting on average 77 people—and as such the Burgess bill would not require companies to report them to federal law enforcement agencies. A breach would have to affect 10,000 consumers in order to trigger that provision. The bill, theoretically, gives state attorneys general the authority to seek civil fines against companies that don’t abide by the federal rules, but it would require them to step aside if the Federal Trade Commission wanted to handle the case. The bill does not require companies to report breaches to state attorneys general, leaving them a step behind the FTC.

That prompted Sara Cable, an assistant attorney general in the consumer protection division under Attorney General Maura Healey, to write to Burgess earlier this year. “The absence of a requirement to provide notice to state attorneys general of data breaches, even for those breaches that impact a significant number of their residents, frustrates their ability to protect their residents,” she wrote.

The federal bill also would deny consumers a right to seek restitution on their own from a company that lost control of their personal information. The Massachusetts law allows them to sue.

FED VS. STATE

Cable, who testified before Burgess’s committee in March, said that one of her biggest concerns is the preemption of state rules governing what companies must do to protect consumer data. The federal bill sets an ambiguous standard—reasonable security measures and practices—that would leave the courts to decide if a company had done enough.

The Massachusetts law, in place since 2010, is more prescriptive. It requires companies to restrict the access of their own employees to consumer data while blocking former employees’ passwords. It also requires standard security protocols such as firewalls, antivirus protection, and software patches.

Cable also notes that the penalties Burgess would impose

aren't that onerous for big firms. The FTC and state attorneys general could levy fines up to \$11,000 per stolen record, with a cap of \$2.5 million. First time offenders would pay a maximum of \$1,000 per record. That, she told Burgess's committee, could be treated as a "cost of doing business," rather than a deterrent.

Mass. 1 of 11 states without ticket tax

► JACK SULLIVAN

LAST YEAR, NEARLY 3 million people walked through the gates of Fenway Park to watch the Red Sox, as bad as they were. More than 720,000 fans spun the turnstiles at TD Garden to watch in frustration as the Bruins failed to make the playoffs, while about the same number cheered the Celtics on to a seventh-place finish. Down in Foxborough, 550,000 spectators jammed Gillette

Stadium for the Patriots' eight home games for the 2014 season, and that doesn't include preseason or postseason.

The Boston area has some of the country's most loyal sports fans. It is the only region in the nation that played last year to 95 percent or higher capacity in all four major sports. Over the years, the fans' faith in their teams is often taxed, but never their tickets. According to the Federation of Tax Administrators, Massachusetts is one of 11 states that does not levy a tax or surcharge on sporting events. In fact, a special exemption is written into state law barring taxes on tickets for sporting events, theater showings, and other amusements.

Some states subject sporting events to the sales tax, others have a separate amusement tax, and a handful levy a flat surcharge ranging from \$1 to \$3.50 per ticket.

If professional sports tickets in Massachusetts were subject to the state's 6.25 percent sales tax, the state could reap more than \$21 million a year from the nearly 5 million fans who went to major professional games during the last season, based on average ticket price.

The ticket tax exemption has been part of the law for decades. A spokeswoman for the Department of Revenue confirmed the agency has repeatedly affirmed the exemption for sporting events in rulings dating back as far as 1981.

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Even tax-averse states such as Texas, Arizona, and Florida hit ticket-buyers with a tax. Delaware, which has no major sports franchise, levies a .384 percent tax on gross ticket receipts of \$50,000 or more a month. The highest ticket tax is in Maryland, which hits fans with a 10 percent tax on the ticket price, though much of the revenue is dedicated to paying the debt service on the Baltimore Orioles stadium at Camden Yards. Nevada also has a 10 percent tax, but that applies to venues that seat up to 7,500 people;

it drops to 5 percent for larger venues and there is an exemption for NASCAR events and minor league baseball games played in a stadium.

TAX ON SPORTS FANS

Several states permit counties or municipalities to levy a ticket tax, often to pay for bonds that were issued to build a stadium. In Arlington, Texas, for instance, voters approved a 10 percent ticket tax on baseball and football games to pay for the city's \$325 million portion of the \$1.2 billion Cowboys stadium. That tax was on top of the statewide 6.25 percent sales tax that has no exemption for tickets and which goes to the general fund.

Most states have an exemption for sporting events put on by nonprofits. Florida has an exemption on Super Bowl tickets if the game is held in the state.

Of the other states that exempt sporting events, only two—Maine and Rhode Island—do not have major sports franchises. States that do not tax tickets include New York, California, Illinois, Indiana, Colorado, Michigan, Pennsylvania, and Ohio. **CW**

A GAME WITH TAXES

TEAM	ATTENDANCE	AVG TICKET PRICE	TAX*	ESTIMATED REVENUE
Red Sox	2,956,089**	\$52.32	\$3.27	\$9,666,411.03
Patriots	550,048**	\$122.00	\$7.63	\$4,194,116.00
Celtics	721,350***	\$88.70	\$5.54	\$3,998,984.06
Bruins	720,165***	\$70.79	\$4.42	\$3,186,280.02
Total	4,947,652			\$21,045,791.11

*Based on 6.25 percent Massachusetts state sales tax

**2014 season

***2014-15 season

SOURCE: Attendance figures from NHL, NBA, NFL, MLB; average ticket price from Team Marketing Report Fan Cost Index



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Field of Dreams

Brockton Rox owner Chris English, a former hedge fund manager, wants to turn the team into a winner on the field and a money-maker off the diamond. Sound familiar?

BY JACK SULLIVAN | PHOTOGRAPH BY FRANK CURRAN

You've owned several minor league professional teams in the Northeast. What about owning a team of college players in the Futures League in Brockton interested you when the previous owners, who included high-profile people like Bill Murray, couldn't make the Rox work with professional players? We have a very disciplined business model. We know how to run professional baseball teams. The former Rox team had a \$3 million budget. Our annual operating budget is about \$500,000 a year so we need only about 1,200 [fans] a night to break even.

What did you see going on in Brockton that made you think you could succeed? Brockton is a city that has had its challenges. We looked at Brockton, we saw a lot of development coming and there was strong leadership in City Hall. We view baseball as a civic trust. But we're not a nonprofit; we're in this to make money.

You're in a baseball hotbed in this region, with the Red Sox and the Cape League. Is there a point of saturation? We don't compete with the Red Sox, we compete with the movie theater. I'll go to a couple Red Sox games a year but it's expensive, let's face it. A family of four going to a Sox game is like \$300. Coming to our game for a family of four is about \$50.

A casino is being proposed for across the street. How would that affect your plans? Whether or not the casino gets built — we hope it does — we're trying to create an entertainment center for the South Shore. When the casino comes to town, we'll become sort of this destination complex where you can come for all your entertainment needs.

The casino plan includes convention space, which could undercut the Shaw Center [part of the baseball stadium complex]. What would that do to your business model? There is a highest and best use for that facility. It might very well make sense to tear that down and build a smaller boutique hotel. The Shaw Center is an underutilized asset. We view it as a very valuable appendage.

Your season goes from June to August. What's the plan for cashing in the rest of the year?

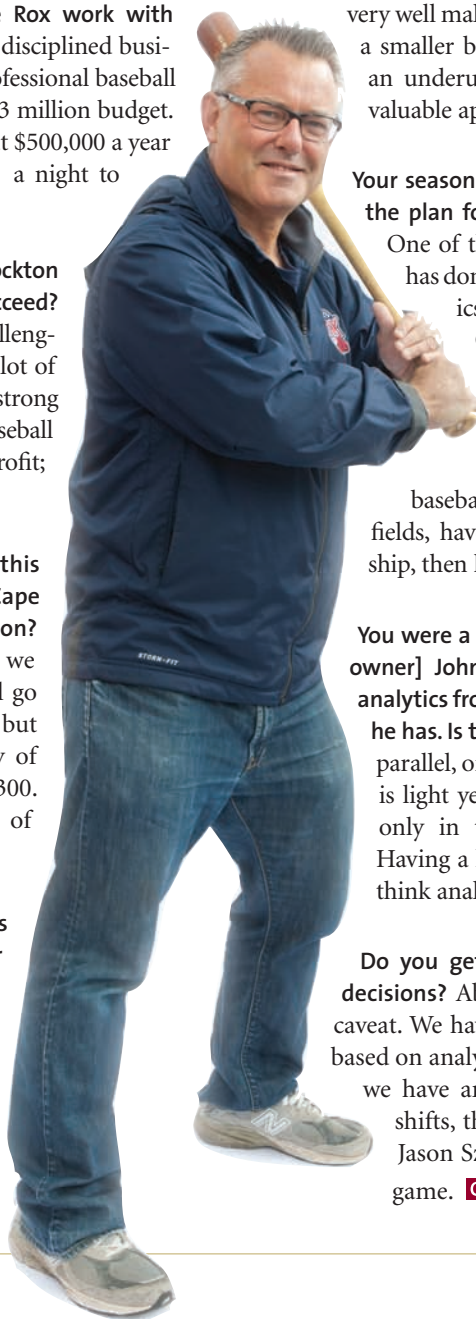
One of the things we did here that nobody has done was we looked at our demographics and saw we had a big Haitian and Cape Verdean population and none of them are ever coming here.

So we asked why not? We put together a couple of really fun events. We're going to turn our

baseball field into two six-on-six soccer fields, have a tournament and a championship, then hold a Caribbean festival.

You were a hedge fund manager, like [Red Sox owner] John Henry. You talk about applying analytics from that field to the game, much like he has. Is there a parallel? There's absolutely a parallel, on a microscopic scale. What they do is light years ahead of where we're at. We're only in the second-inning of moneyball. Having a hedge fund background where you think analytically is really a commodity.

Do you get involved in day-to-day baseball decisions? Absolutely. But let me give you the caveat. We have an operating philosophy that is based on analytics. We don't steal, we don't bunt, we have an eight-man rotation, we employ shifts, then the lineup card is [head coach Jason Szafarski's.] I second guess after the game. **CW**



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Cap and trade picks up steam

The EPA's proposed plan on power plant emissions is drawing attention to the Regional Greenhouse Gas Initiative. **BY BRUCE MOHL**

THE ENVIRONMENTAL PROTECTION AGENCY'S proposed Clean Power Plan is drawing a lot of attention to the carbon cap-and-trade program run by nine Northeast and mid-Atlantic states, including Massachusetts.

The Clean Power Plan, if it survives legal challenges, will require each state to reduce its power plant carbon-dioxide emissions to a target level set by the EPA. The goal for the country as a whole is a 30 percent reduction by 2030 compared to 2005 levels. Power plants are the focus of the plan because they account for the largest share of the nation's carbon dioxide emissions — 31 percent as of 2013, according to the EPA.

Ken Kimmell, president of the Union of Concerned Scientists and an environmental official in the administration of former governor Deval Patrick, says he expects many states to either join the Northeast's cap-and-trade program, called the Regional Greenhouse Gas Initiative (RGGI), or set up their own because such initiatives make it easier to comply with the EPA plan.

"RGGI is an excellent fit for compliance with the Clean Power Plan," Kimmell says. "Cap and trade is also starting to spring back to life, not just in the US but across the world."

Kimmell says the RGGI is attractive because it targets the same power plant emissions that are the focus of the EPA plan and because the program is regional, transparent, and enforceable. He said a regional approach is more cost-effective from a regulatory standpoint because electricity tends to cross state lines. He said the hard cap on carbon emissions makes it easy to demonstrate compliance. And he said a cap-and-trade program offers states some flexibility on what they do to meet the EPA's goal while putting the onus of compliance on power generators, which are already tightly regulated.

The whole push to rein in carbon dioxide emissions by the EPA is rekindling interest in cap and

trade, a mechanism that most observers had written off after the US Senate defeated a nationwide emissions trading plan in 2009. The Canadian province of Ontario announced in April it intended to join a cap-and-trade system on greenhouse gas emissions with Quebec and California. China is also testing a cap-and-trade program in seven different cities. Both of those initiatives extend beyond emissions from power plants.

Coal states and coal producers in the United States are trying to block the EPA rules from taking effect, with many of them predicting the goals for carbon dioxide reduction at power plants will drive up electricity costs dramatically. But that hasn't happened yet with the Regional Greenhouse Gas Initiative, perhaps because the region has never been as dependent on coal-fired power as other parts of the country.

Here's how RGGI works: Power plants in the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont are required to purchase allowances for every ton of carbon dioxide they emit. Allowances are sold at auction every three months. The total number of allowances put up for sale each year is capped and the cap is reduced annually by 2.5 percent. Money raised from the sale of allowances is funneled back to the states, which tend to use the funds for energy efficiency or renewable energy programs.

The goal of the program is two-fold: Put a price on carbon dioxide emitted from power plants, spurring plant owners to invest in cleaner technologies, and use the proceeds from the sale of allowances to fund measures that reduce energy demand.

RGGI says carbon dioxide power plant emissions in the nine-state region have already been cut 40 percent from 2005 levels and are projected to decline 50 percent by 2020. Those numbers don't mean RGGI is already in compliance with

STATISTICALLY SIGNIFICANT

the EPA's plan because RGGI and the EPA calculate carbon reductions differently. RGGI measures overall power plant carbon dioxide emissions, while the EPA measures carbon emissions per unit of energy generated.

The regional cap-and-trade program is regarded as a success because it has demonstrated that a price can be established for carbon without crippling the economy or driving electricity prices sky-high. Since 2008, when RGGI was launched, electricity prices across the nine states have fallen an average of 8 percent and the state economies have grown faster than the nation as a whole, according to the Acadia Center, a clean energy advocacy group. A total of 28 carbon allowance auctions have been held since September 2008, generating more than \$2 billion in revenue for the participating states. Massachusetts's share of the total is \$345 million.

But the cap-and-trade program hasn't worked exactly the way it was drawn up on paper. It works — auctions are held, allowances are sold, and the proceeds are invested — but the cap-and-trade program has not been the driving force behind efforts to address climate change. It's been just one tool in the tool box, and a very quiet one at that. "This is the biggest success you've never heard of," says Peter Shattuck, Massachusetts director of the Acadia Center.

In 2008, when the program was launched, the cap was set at 165 million tons. But the launch of the program coincided with the shale gas boom, which drove down the price of natural gas and prompted power plants to drop oil and gas as their fuels and shift to gas. Demand for electricity also ebbed because of state energy efficiency efforts, the development of renewable energy, and a downturn in the economy.

During RGGI's first five years, the region's power plants were emitting about 91 million tons of carbon dioxide a year, about 55 percent of the cap. At the carbon allowance auctions, demand never exceeded supply, so prices stayed below \$2 per ton until 2013, when the states began laying plans to tighten up the market.

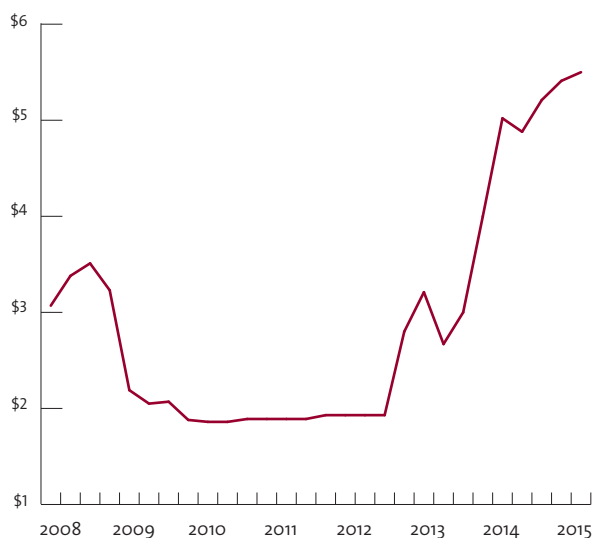
In February 2013, the states agreed to set a new cap of 91 million tons starting in 2014 and pledged to reduce the cap by 2.5 percent a year. Programs were also put in place to begin retiring allowances purchased in previous years when they were plentiful. The auction price of carbon dioxide allowances responded, rising initially to \$4, then \$5, and to \$5.50 at the most recent auction on June 3. At the more recent auctions, every allowance has sold out.

"That's simply supply and demand. The trend right now is within the range we projected in our model," says David Littell, a commissioner of the Department of Public Utilities in Maine who sits on the RGGI board. He said the impact on electricity bills remains small, an estimated .5 to 1 percent of the typical bill.

Littell says auction prices shouldn't spike, because of safeguards that put more allowances up for sale if auction prices rise too quickly. He predicts allowance prices should remain below \$10 a ton in 2020.

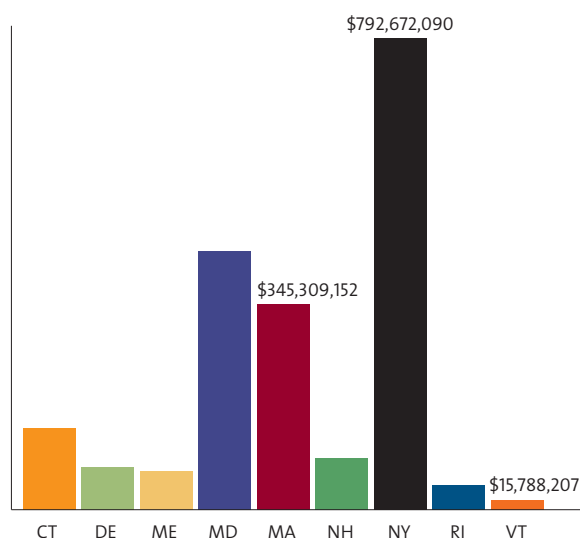
Market pressures are also likely to keep allowance prices in check. Even with the cap reduction in 2014, the actual emissions in 2013 were nearly 5 percent lower than 2014's 91 million-ton cap. That trend may continue as the shift toward cleaner energy continues. The coal-fired Brayton Point power plant in Somerset, one of the largest carbon dioxide emitters in the nine-state region at 2.7 million tons a year, is expected to shut down in 2017. **CW**

CLEARING PRICE FOR CO2 ALLOWANCES



SOURCE: Regional Greenhouse Gas Initiative.

CO2 ALLOWANCE PROCEEDS BY STATE (2008-2015)



SOURCE: Regional Greenhouse Gas Initiative.



A rookie on Pelosi's team

Clark is raising money for Democrats and most (but not all) of the time blasting the GOP. **BY SHAWN ZELLER**

WHEN SENATORS AND representatives gathered in the House chamber in January to hear President Obama's State of the Union address, Katherine Clark, the Melrose representative who is now serving her first full term, strode up to Mitch McConnell, grabbed his hand, and wouldn't let go.

Her aim was to convince the Kentucky Republican, who is the Senate majority leader, to work with her on legislation to combat heroin addiction in infants. Though the tactic may have been presumptuous, it worked. McConnell, whose state has a big problem with heroin, agreed. "I literally grabbed him on his way down the center aisle," says Clark, who won a special election in December 2013 to take Ed Markey's 5th District seat. "I did the famous politician double-grip, where you kind of grab the forearm, and I just wouldn't let go of him."

Clark's other priority bill, to provide federal grants to allow victims of domestic violence to bring their pets with them to temporary housing, has more than a dozen Republican co-sponsors. She met the lead GOP sponsor, Florida's Ileana Ros-Lehtinen, by going out for the House's softball team last year. Clark says she's not even particularly good at softball. "I really joined it for that opportunity — to be able to meet people," she says.

In a Congress riven by partisanship, Clark is trying to find common ground with Republicans on issues that few would regard as controversial. At the same time, she's trying to rise in the Democratic ranks, which means raising money for Democrats and blasting Republicans with regularity for their stingy funding of the social safety net and for policies she believes hurt women.

In the last few months, she's criticized House

Republicans for passing a law to ban abortions after 20 weeks of gestation and for trying to reverse a District of Columbia law barring employers from firing women for having abortions. She has also been a leading critic of the Republican plan for reauthorizing the No Child Left Behind Act, which would lock in cuts from the 2011 budget sequestration.

Her strategy seems to be working. In a Massachusetts delegation diminished by the losses of Ted Kennedy, John Kerry, and Barney Frank, Clark has begun to climb the leadership ladder. House Democratic Leader Nancy Pelosi named her to the Democrats' Steering and Policy Committee, giving her a say in the party's policy goals and input on which representatives sit on which committees. She also landed an assistant's spot on Maryland Democrat Steny Hoyer's whip team, a job that requires her to ask fellow Democrats how they plan to vote on key bills and to lobby them to support the party leadership's position.

Other than two first-term representatives assigned to fill slots set aside for the freshman class, Clark is the most junior member on the steering committee. She is among those picked for the job by Pelosi, with whom Clark has struck up a friendship. Pelosi campaigned for her after she won a competitive Democratic primary in 2013, even though Clark had no real challenger in the general election. When Clark arrived in Washington, Pelosi showed her around. They snapped pictures together and shared stories about Massachusetts political legends Thomas P. "Tip" O'Neill Jr. and John F. Kennedy.

Their rapport is notable, given the critical comments about Pelosi that Clark's fellow Massachusetts US Reps. Stephen Lynch and

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Michael Capuano made to WGBH's Jim Braude earlier this year. Lynch and Capuano said they thought the Democrats needed new leadership to get them back to the majority. Clark says she doesn't think Pelosi is to blame for the Democrats' woes. Pelosi "brings her 'A' game every day," she says. "I don't see Nancy Pelosi as the reason the Democrats are in the minority."

Fundraising skills are crucial in leadership and Clark proved herself capable, raising more than \$2.4 million for her special election and 2014 re-election campaign—nearly 40 percent more than the average House member over the same period. In a safe Democratic district, Clark's in a good position to share with other Democrats and win friends across the country. And her district offers plenty of opportunity. It includes wealthy Boston suburbs such as Lexington and Weston.

When Pelosi came to Massachusetts in May for a fundraiser for high rollers at the home of Alan Solomont, dean of the College of Citizenship and Public Service at Tufts University and an elite Democratic Party fundraiser, Clark helped round up donors. In so doing, she helped raise big bucks for the Democratic Congressional Campaign Committee, the House Democrats' fundraising arm.

Clark and Pelosi are in step on women's issues and both are committed to winning more seats for women in Congress. Clark is part of a growing cadre of powerful women politicians in Massachusetts, including Sen. Elizabeth Warren and Attorney General Maura Healey. She's also tight with the former attorney general, Martha Coakley, for whom she worked for a time as policy director.

With women voting now at greater rates than men and leaning increasingly Democratic, they are a crucial constituency for the party. Democrats' effort to paint Republican leadership officials in Washington as being at war with women was a major campaign theme in 2014.

Clark, only the fifth woman to represent Massachusetts in the House, has done her part to push the theme. She's spoken on the House floor for the Paycheck Fairness Act, a bill to require equal pay for women workers that has no chance of passing in the GOP House. "It was the very first bill that I cosponsored," she said on the House floor this spring. "We shouldn't have to wait until our children are ready to retire before women are finally paid what they are worth."

She has also advocated for more federal funding for childcare and is pressuring the Justice Department to direct more attention to cyberstalking. Hoyer says Clark's attention to women's issues is the reason she's on the whip team. She's "a champion for women and families," he says.

Clark has seats on the Education and Workforce Committee, which authorizes funding for the Education and Labor departments, and the Science, Space and Technology Committee, which oversees federal grant-

making agencies, including NASA and the National Science Foundation.

The former assignment gives her a say in the No Child law's future. A former Melrose School Committee member, Clark is well briefed on the issues. One of her main priorities is to promote an idea that President Obama has proposed—universal public preschool. At a committee markup of the No Child law this winter, she offered an amendment to establish a new federal-state partnership to provide 4-year-old children from families with income less than twice the poverty level access to pre-kindergarten. It was voted down, but it's not a hopeless cause. A number of Republican states across the South are ramping up pre-K programs.

Last year Congress reauthorized, with little dissent, a \$5.2 billion block grant program to help states pay for daycare for poor families. Clark authored provisions in the reauthorization law that allow states to spend some of the money on training and technical assistance to improve the quality of the care.

"As a working mom of three, I understand that parents want nothing more than when their children are in child care, they are happy, learning, safe, and healthy," she said on the House floor.

Her Science Committee seat, not normally considered a plum post, is more appealing when you're from Massachusetts. Clark has used it to defend federal funding for basic research and for science, technology, engineering, and mathematics education.

Clark grew up in Connecticut and acquired the political bug at her maternal grandmother's table, where the family would gather on Sundays to discuss politics. Her mother and grandmother shared a concern for women's rights and issues affecting the working class. Clark's father was a diehard Republican, but his views changed when her brother came out of the closet, and George W. Bush waged war in Iraq. The elder Clark switched his voter registration.

Still, Clark learned from her father how to talk the language of Republicans. In lining up Republican sponsors for her heroin bill, for instance, she notes that babies exposed to opiates in utero are prone to birth complications. "This bill will save us money," she says, noting that such births are five times more expensive than those of healthy babies and that Medicaid is paying for them in three out of four cases.

"She's part of a new generation in Democratic Party politics," says Peter Ubertaccio, a political science professor at Stonehill College. "Massachusetts has a reputation for having a hard-charging partisan liberal political culture. But she is really trying to work across the aisle, and to do that you are going to start with smaller, more pragmatic bills." **CW**

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Moving beyond Boston

Other states have many successful regions within their borders.

Why doesn't Massachusetts? **BY BENJAMIN FORMAN**

SPRINGFIELD WAS ONCE synonymous with innovation. Today the city that produced the first tire, the first car, the first motorcycle, and the first commercial radio station is counting on a casino to drive growth. Springfield's lost industrial prowess comes at a cost to the entire Pioneer Valley economy. Gateway Cities in other parts of the state have much the same story to tell, with similar consequences for their regions. Some of them are also competing for casinos, the most enticing hand-up the state has offered. Until a better economic development policy is found, the neglect and subsequent collapse of these historic urban centers will continue to feed a pattern of slower, geographically unbalanced, and more inequitable growth for Massachusetts.

The clearest indicator of this challenge is metro area per capita GDP, a region's economic output divided by its population. On this basic measure of regional competitiveness, Massachusetts can hold up Greater Boston, the fifth-most-productive region in the nation excluding a pair of oil-boom towns. But beyond Boston, the state has very little to show. The Bureau of Economic Analysis provides data for three other Bay State regions: Pittsfield ranks 167th and Worcester comes in at 211th; Springfield falls well below the middle of the pack, 225th out of 381 US metro areas.

This in-state disparity is not necessarily the norm. Many of the states with whom we compete have highly productive regions scattered within their borders. Virginia, for instance, claims a large chunk of the tenth-ranked DC metro, but it still manages to place Harrisonburg, Richmond, Virginia Beach, Charlottesville, and Roanoke well ahead of our second-tier regions. Indiana and Wisconsin, two states similar in size to Massachusetts, have six and seven metro areas in the top 100, respectively.

A strong core city is not the defining feature contributing to the productivity of these regions in every instance, but it is certainly an important differentia-

tor. A region with a competitive urban core tends to have healthier institutions (i.e., local banks, hospitals, and universities), more effective chambers of commerce and economic development organizations, and amenities that attract visitors and young professionals. Outside of Massachusetts, there are many examples of midsize cities such as Harrisonburg, Virginia, capitalizing on their small-town quality of life and cost of living, proximity to major markets, local universities, and attractive urban fabric to power regional economic development.

A key difference between Massachusetts and these other states is the amount of power given to local cities to raise revenues. Massachusetts, with its limited home rule, basically tied the hands of Gateway Cities as disinvestment took hold. In Virginia and many other states, counties and incorporated cities were given the power to raise revenue and shape their own destiny.

While Massachusetts doesn't offer its cities and towns revenue tools to make economic development investments, it does provide more generous assistance in the form of transfer payments for poverty alleviation than most other states. These transfers support thousands of jobs that would not otherwise exist and partially obscure the extent to which the economies of Gateway Cities are in decline. In Brockton, for example, approximately \$430 million in Medicaid spending equates to roughly a third of total payroll for private employers in the city.

Take out the growth in health and human service employment financed by state funding to support high poverty populations and Gateway City job growth over the last decade disappears. Instead of holding steady, Worcester sheds 5 percent of its jobs, Brockton and New Bedford drop 7 percent, and Springfield falls 10 percent. Fall River's difficult 10 percent job loss becomes a much more severe 18 percent pounding.

With the Massachusetts economy increasingly

centered around human capital, prospects for the future in Gateway Cities are tempered by the economic struggles of their residents. The number of Gateway City residents living in concentrated poverty (areas with poverty rates over 40 percent) has grown by 140 percent, from about 50,000 in 2000 to 127,000 in the latest Census figures. New research by Harvard economist Raj Chetty provides powerful confirmation that growing up in these circumstances is damaging; children randomly moved out of high-poverty neighborhoods as part of a federal study in the 1990s are already earning incomes 30 percent higher than their peers who stayed behind.

In a similar way, social science research indicates that attending a high poverty school has a deleterious effect on an individual's future economic wellbeing. With the percentage of students in Gateway Cities who are low-income rising from less than half in 1994 to over two-thirds in 2014, nearly all students in these communities are now in schools where poor students make up more than 40 percent of enrollment.

The damage that concentrated disadvantage is inflicting on human potential is particularly problematic because Gateway City youth make up a very significant percentage of the future workforce in regions outside of Boston. Currently, fewer than one in five Gateway City students graduate high school and go on to complete a post-secondary degree. This low yield is especially disconcerting for Western Massachusetts, where well-educated workers are aging. Between now and 2030, forecasts suggest the number of working-age residents with college degrees will slip by nearly 10 percent in the Berkshires and more than 25 percent in the Pioneer Valley.

Gateway City leaders are putting considerable effort into initiatives to better prepare students for the demands of today's workforce, but these models call for a higher dose of learning, which comes with a price tag that is increasingly out of reach. Gateway City fiscal challenges put them \$45 million below the minimum education spending floor under the state's local Foundation Budget formula in FY 2014. And fiscal conditions are likely to get more difficult as aging municipal workers enter retirement.

Gateway Cities are already spending a sizeable share of their limited revenues trying to meet obligations to municipal workers, according to the Massachusetts Taxpayers Foundation. Covering municipal retiree health insurance, for instance, takes one out of every four dollars that Fall River generates locally. With pension balances hovering around 40 percent of obligations (well below the 70 percent average for Massachusetts municipalities), Gateway Cities are also on the hook for very significant unfunded pension liabilities.

Driving regional growth across the state will require

the resolution of two complex puzzles simultaneously. We will need to shake up public education systems so that successful models for educating disadvantaged students can be brought to scale. At the same time, we must devote a larger share of the state's capital budget to repair the physical fabric of Gateway Cities with the aim of drawing private investment back into the downtowns and residential neighborhoods, building up the tax base of these urban centers.

Leaders have a mandate to pursue this agenda. Recent surveys conducted by the MassINC Polling Group indicate the majority of Massachusetts residents favor efforts to produce more balanced economic growth even if it means slower economic development overall. MassINC polling also suggests Gateway City voters are eager to see more transformative change to their local public education systems.

With Boston's high-flying economy hungry for state resources, public support may not be the deciding factor. Whether it is hosting a Boston-based Olympics, transferring MBTA debt to the state, or expanding the Boston Convention Center, well-healed interests are pushing every day for state commitments that could crowd out investments in Gateway Cities.

Fortunately, Gateway Cities have a powerful response to this political challenge: the energy of a growing stable of dynamic leaders with the vision to address unmet needs and unlock untapped potential. These leaders include up-and-coming mayors such as Dan Rivera in Lawrence and Kim Driscoll in Salem and innovative educators such as Monty Tech's award-winning principal Sheila Harritty and Northern Essex Community College President Lane Glenn.

These leaders have access to a growing reservoir of outside support. Concerned by unbalanced regional growth, Eastern Bank, MassMutual, and other private companies are engaging in a big way, with assistance from the Federal Reserve Bank of Boston and the Massachusetts Competitive Partnership. Philanthropic leaders with a traditional focus on Boston are also beginning to look beyond Route 128. From Springfield's freshman senator Eric Lesser to Lynn's freshman representative Brendan Creighton, there is new energy in both branches of the Legislature. And Secretary Ash has built a talented team of economic development leaders with strong ties to regions across the state.

Working together, this impressive array of state and local leaders can take Gateway Cities from a conceptual problem to an effective strategy for more balanced regional growth throughout our Commonwealth. **CW**

Benjamin Forman is the research director of MassINC, the publisher of CommonWealth magazine.

Press pass

Every media outlet on Beacon Hill but one gets free State House office space and parking. In a quirk of political history, the *Boston Herald* pays rent of \$4,500 a year. **BY COLMAN M. HERMAN**

THE MEN AND women who are elected to state office are provided office and parking space at the State House when they arrive for work on Beacon Hill. The same holds true for the individuals who work in the media and are assigned to Beacon Hill to cover the officials.

With media retrenchment and the decline in State House coverage, the number of reporters working on Beacon Hill has dropped significantly over the last 15 years. But those still remaining occupy a fair amount of office space.

The *Boston Globe*, which is owned by Red Sox owner John Henry, has its office on the fourth floor at the front of the State House. The *Boston Herald*, owned by Patrick Purcell, has its own office up on the fifth floor. The State House News Service, which sells news coverage of the State House to clients, has its office on the fourth floor, next to the general press room, which is called the Press Gallery. The Press Gallery has desks for reporters from the Associated Press, the *Lowell Sun*, the *Springfield Republican*, Bloomberg, the *Cape Cod Times*, a few radio stations, and Community Newspaper Holdings, which publishes newspapers in Lawrence, Salem, Gloucester, and Newburyport.

According to state officials, all of the news organizations except one—the *Boston Herald*—pay nothing for their space. The *Herald*, which used to occupy free space in the general press room, decided about 20 years ago that it wanted its own private office for competitive reasons and is paying \$4,500 a year for it.

In addition to the office space, the city of Boston allows reporters to park for free on Beacon Street next to Boston Common, a short walk down the hill from the State House. Parking at the nearby Boston Common Garage is \$28 for 3 to 10 hours.

It's unclear how the State House arrangements with the press corps first originated, but they ap-

pear to be long-standing policy. A joint legislative rule first adopted in 1911 says the gatekeepers for press space on Beacon Hill are the Massachusetts State House Press Association and the State House Broadcasters Association, which appears to be defunct.

In order to qualify for free office space and parking, media outlets must first join the press association. The organization used to charge its members annual dues of \$60, but stopped that practice several years ago.

Brendan Moss, a spokesman for the Baker administration's Executive Office of Administration and Finance, confirmed that no press groups pay rent except for the *Herald*. He knew little about how the space was allotted. Moss says other groups



Massachusetts Taxpayers Foundation President Eileen McAnneny is surrounded by the State House press corps.

that receive free office space at the State House are private veterans groups and the United States Postal Service.

"We are reviewing all spaces used by outside groups at the State House," he says, declining to explain what the review would entail.

Steve LeBlanc, an Associated Press reporter who heads up the press association, says he has no first-hand knowledge of the original press arrangements. "Historically, this is the way it's been set up like forever," he says.

Robert Rosenthal, chairman of the department of communication and journalism at Suffolk University, says the free office space and parking for the press is justified.

"The reason why it's important to have members of the press with offices at the State House is that they're the eyes and ears of the public," he says. "The only way we know what's happening on a day-to-day basis at the State House is because we have journalists there who can inform us."

Fred Bayles, an associate professor of journalism at Boston University, says free office space for reporters is not unusual. "All of the state houses I have visited or worked in had open space for journalists," he says.

The story of why the *Herald* alone pays rent for its space goes back to 1996, when the paper shared space in the press room. Joe Sciacca, who was the paper's State House bureau chief at the time and is now its editor, says he wanted a private space where he and the paper's other State House reporter could work on their stories without worrying about being overheard.

The *Herald* decided to pay rent to avoid an appearance of conflict.

"We decided that we wanted to operate out of our own [office] the same way that our colleagues at the *Globe* were," he says.

The *Herald* asked then-governor William Weld's office to help it find private office space at the State House, which ended up being on the fifth floor. At the time, Weld was challenging US Sen. John Kerry for his seat, a race the *Herald* was covering on a daily basis.

"In an abundance of caution," Sciacca says, "we felt it was prudent that we pay rent for the space to avoid any appear-

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ance of a conflict of interest.” The *Herald* has no plans to stop paying rent for its space, according to Sciacca.

Frank Phillips, the *Globe*’s State House bureau chief, says he has been told the *Globe* acquired its office in the early 1870s. At the time, Charles H. Taylor was working as the House clerk and frequently met with *Globe* reporters in what is now the newspaper’s office. In 1873, Taylor left the State House to go to work at the *Globe* and quickly became publisher and the paper’s owner. The cloak room where he had met reporters became the *Globe*’s office, Phillips says he was told.

The *Globe* and the *Herald* also receive free office space at Boston City Hall “in order to increase access and transparency in city government,” says Bonnie McGilpin, press secretary to Mayor Marty Walsh. Free parking is not provided.

Peter Lucas, a long-time State House reporter and columnist who currently writes columns for the *Lowell Sun*, says reporters have an important role to play on Beacon Hill the same way lawmakers do.

“The press is like part of the United States Constitution,” he says. “The public relies on information. You cover the budget. You cover this, that, and the other thing. It’s all in the public interest. That’s what you do.” **CW**



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Hard time

Is Massachusetts ready to
rethink the tough-on-crime
approach to public safety?

BY MICHAEL JONAS

PHOTOGRAPHS BY MARK OSTOW

BONNIE DITORO DOESN'T try to hide from her past. She was a heavy-duty cocaine user, a newly widowed mother of two whose life in the mid-1990s was spiraling out of control. But she's equally clear about what she was not. DiToro says she was no drug kingpin.

In fact, she says she wasn't directly involved in the drug trade at all. But she hooked up with a dealer who was. He was a reliable source of cocaine for her, but a dreadful choice for a boyfriend. She was with him when



he showed up at a house in Billerica to make a big drug deal that turned out to be a State Police sting operation.

With a DUI and one earlier drug charge on her record, DiToro thought she might get probation. Instead, police tried to get her to help set up big dealers in exchange for five years in prison. "I didn't know any kingpins. I knew people like me," she says of the circle of users she hung out with. Just before she went to trial, prosecutors offered DiToro three years, but her lawyer convinced her she

could beat the charges or win on appeal. He was wrong on both accounts, and the consequences for her and for her family were severe.

DiToro was sentenced under the state's tough mandatory minimum drug laws to 15 years in Framingham State Prison. Her parents, then in their 60s, were thrust into the role of parents to two teenagers, who struggled and had their own falls during the decade and half their mother was in prison.

"It was a nightmare for everyone," says DiToro.

Abigail Forrester was no bystander in the drug trade. But he didn't qualify as much of a drug overlord, either. He says he fell into dealing in his teens while growing up in a tough Dorchester neighborhood. At age 20, Forrester got lured by someone he knew into making a bigger deal than usual. It turned out his contact was working with police in order to lighten a drug charge he was facing, a common technique used by law enforcement. The amount of cocaine in the transaction was enough to trigger a 10-year mandatory prison sentence, and Forrester spent all of his 20s behind bars.

DiToro and Forrester both carry felony records branding them perpetrators of serious crimes. Their past is nothing of which either one of them is proud.

But by another reckoning they can also be considered casualties. They are two of the millions of people who have been swept into the net of the criminal justice system during a 40-year era of tough-on-crime policies that has seen incarceration rates quadruple in the US. With only 5 percent of the world's population, the nation now claims nearly 25 percent of its prisoners.

There are 2.2 million people behind bars in the country, an unprecedented level of incarceration that is taking a heavy toll on state budgets and on entire communities, especially poor, minority neighborhoods where a disproportionate share of those being locked up come from.

"We went on a punitiveness binge," says David Kennedy, a professor at John Jay College of Criminal Justice in New York. "We subscribed to policing and criminal justice theories that made a virtue out of applying as much sanction as we could manage, and all of those, collectively, turn out to be incredibly destructive."

JUSTICE RECONSIDERED

A major reassessment of those policies is now taking place nationally as well as in Massachusetts. Some of the rethinking is being led by unlikely figures.

The arch-conservative Koch brothers have teamed up with the ACLU and other liberal-leaning groups to form a new alliance calling for a turn away from policies that drove the huge growth in incarceration. The Coalition for Public Safety says the country is spending \$80 billion

LOST YEARS

ABRIGAL FORRESTER remembers the day he climbed out of the prison van delivering him to state prison in Walpole. "I felt like I was walking into a pressure cooker of death. Everything just felt dismal," he says of the morning in 1991 that he landed behind bars on cocaine trafficking charges.

He was 20 years old. "I hadn't even been an adult in society yet really," he says. Forrester grew up in prison, where he spent the next 10 years on a mandatory drug sentence.

It's not a place generally conducive to positive growth, but Forrester managed to find his bearings. Today, he has a family, a college degree, and a job directing community programs for Madison Park Development Corporation, a Roxbury nonprofit that builds affordable housing.

"I've been able to come home and go to school, and reconnect with the truth of who I am to be a better person. But it didn't take 10 years to do that," he says of the decade he served in prison. "What I needed were the right people and right opportunities."

Instead, the state spent the equivalent of more than \$500,000 in current dollars to confine him.

Forrester says he was an honor roll student in elementary school. And he tested into Boston Latin Academy, one of the city's prestigious exam schools. But he had no older brothers or a father in his life as he hit his teen years in Dorchester's tough Codman Square neighborhood during the height of the crime and drug wave of the late 1980s and early 1990s. "We had older characters who became our guiding mentors, so to speak, on how to survive and navigate this environment," he says.

Those "mentors" guided him into the drug world, and, before long, it led to prison. The undercover agent he made his fateful sale to arranged several buys until he got Forrester to do a deal with more than 100 grams of cocaine, the threshold that triggered the 10-year mandatory sentence.

Though it was his first offense and he had no violent charges in his background, Forrester says the criminal justice system seemed determined to send him away for

a long time. "The question should be, how did this person go astray?" he says. "What can we do, yes, to punish him, but also to get him back on track? There is a role for punishment, but also for restoring."

BONNIE DITORO sums up her case in a way that is not uncommon among women who end up facing serious drug charges. "I wasn't making the drug deal; I was the girlfriend," she says.

But DiToro was there when the deal went down, and found herself facing the same high-level trafficking charge as her then-boyfriend.

"I shouldn't have been dating that guy. I shouldn't have been doing coke. I shouldn't have been in that car," says DiToro, who went into a cocaine-fueled descent following her husband's 1994 suicide.

But she's not the only one who exercised questionable judgment.

Her lawyer gave her horrible advice in suggesting they go to trial—the three years prosecutors laid out as their final

a year to support an “overcriminalization problem and overincarceration problem” that has a strong racial dimension and is exacerbating the cycle of poverty.

Meanwhile, 30 states have now taken part in a Department of Justice-sponsored effort to examine their criminal justice policies across the board, with an eye toward reducing corrections costs and recidivism rates, while enhancing public safety.

Massachusetts, which spends \$1.2 billion a year on criminal justice costs, has yet to sign on to the federally-funded initiative, but is considering doing so.

The state occupies a curious spot in this national rethinking of criminal justice policies, sitting both ahead of the curve and behind it.


We’ve already taken some reform

offer in exchange for a guilty plea was as good as it was going to get. But the decision by the district attorney’s office to then charge her under the state’s mandatory minimum drug trafficking statute underscores why critics say the sentences are a blunt instrument not always wielded with discretion by prosecutors.

Her 15-year mandatory sentence didn’t just upend DiToro’s life, it also rippled through her family. Her mother, then 65, and her father, 68, took custody of DiToro’s adolescent son and daughter. Both kids wound up dropping out of school. Toward the end of DiToro’s sentence, her mother was also struggling to care for DiToro’s father, who had developed Alzheimer’s disease.

“It did a lot of damage,” DiToro, 57, says of the nightmarish ordeal. Thinking about it during her years in prison, she says, “I beat myself up bad.”

She was released three years ago. Her children, now 29 and 31 and parents themselves, are slowly getting back on



Abridal Forrester vowed to get his life back on track, “but it didn’t take 10 years to do that,” he says of the decade he spent behind bars, starting when he was 20.

track. And DiToro, who says she was always a diligent worker, landed a job near her Lunenberg home at a plastics manufacturer, where she’s already received several raises and regularly puts in 50 to 60 hours a week.

Carol Ball, who retired earlier this year after 19 years as a superior court judge, testified at the June hearing on criminal justice reform legislation. “These horror stories are rare, but they certainly happen,” she said of cases like DiToro’s.

The state’s district attorneys say they target mandatory sentences to repeat major

drug offenders and those also committing violent acts. They say a recent review of all those serving state prison sentences on a “governing” drug charge showed 73 percent had violent backgrounds.

A 2012 reform reduced the length of many mandatory drug sentences—the charge DiToro was convicted on went from 15 years to 12½ years. Since she had already served 14 years, it meant she was able to get out 11 months early, in August of that year. “14 years, 26 days,” she says of her time in prison time. “I’ll never forget.”

—MICHAEL JONAS

steps. In 2010, Massachusetts adopted one of the country's more far-reaching changes to laws governing employer access to criminal records, a measure aimed at easing the barriers to employment faced by ex-offenders. The reforms also made some of those given lower-level mandatory drug sentences in the state's county jails eligible for parole after serving half their time.

A 2012 bill—which stirred debate because of a “three-strikes” provision that mandates life sentences for certain violent offenders—lowered the length of many more mandatory minimum drug sentences by about one-third. It also reduced the area covered by the state's school zone statute, which brings a mandatory two-year sentence for drug distribution arrests close to a school or park.

About 20,000 people are behind bars in Massachusetts jails and prisons, roughly 10,000 in state prisons and 10,000 in the houses of correction run by county sheriffs, where sentences can run no longer than 30 months. The big run-up in the state's incarceration rate occurred in the 1980s and early 1990s. Each system held about 2,700 inmates in 1980. Both nearly quadrupled by 1995.

New “commitments” to the state system since 1990 have actually fallen by 20 percent, but the average length of prison stay has increased by roughly one-third, according to a 2013 report by MassINC, the policy think tank that publishes *CommonWealth*.

By national standards, Massachusetts is hardly a haven of incarceration. Indeed, our incarceration rate ranks 45th or 48th in the country, depending on how it is measured. But critics say that only makes Massachusetts one of the best of the worst. The state's incarceration rate is still about three times that of most Western European nations, and if Massachusetts were a country, its imprisonment rate would only be exceeded by a handful of countries, a rogue's gallery that includes Russia and Cuba.



Shane Bradwell got out of prison and faced a new hurdle: A suspended driver's license and a \$500 fee to reinstate it, sanctions that are automatically triggered by any drug conviction in Massachusetts.

The comparatively low overall Massachusetts incarceration rate also masks very high rates for minorities. The rate for blacks is six times that of whites. Meanwhile, the state's incarceration rate for Hispanics is higher than the national average.

If we've balked so far at taking on the kind of whole-sale examination of our system that some other states have carried out, some of it may be because we have not gone as far down the incarceration road as other states. But it also may reflect a particular Massachusetts skittishness about looking soft on crime. We are the state that brought the country Willie Horton, the furloughed murderer who helped sink Michael Dukakis's 1988 presi-

DRIVING POLICY OFF COURSE

Sen. Will Brownsberger, who co-chairs the Legislature's Joint Committee on the Judiciary, thinks the state should pull back the entire "footprint" of the criminal justice system, not only the length of many prison sentences but also various sanctions and fees that hit people once they're out of prison. Rather than help ease offenders back toward productive pursuits, Brownsberger says, these often seem more like tripwires setting ex-prisoners up to fail.

One of the most questionable policies of the get-tough era is a 1989 statute that mandates an automatic one-to-five year suspension of the driver's license of anyone convicted of a drug crime. In 2014, that meant 2,275 people in Massachusetts lost their license. Reinstatement comes with a hefty \$500 fee.

It has been one huge hurdle for Shane Bradwell.

The lifelong Worcester resident has had more than his share of run-ins with the law, starting when he was just 16. "I was using drugs and selling," says Bradwell, who is now 32. He's served five years in prison over the course of several stints, including a felony heroin distribution charge. After getting released three-and-a-half years ago, Bradwell vowed to stay out. But he sometimes wonders if the system wants him to make it.

A painting contractor that Bradwell knew gave him a shot at honest work. "I was just cleaning up the floor and vacuuming at first," he says. "I really didn't have no trade — except selling drugs." Bradwell says it might have been easier to go back to that, "but I know where that would go at the end of the day."

The \$500 he needed to scrape together to get his driver's license back, however, might as well have been \$5,000. So he rode his bike to painting jobs or, in the winter, sometimes walked as far as 45 minutes.

He got a small apartment and was trying to spend time with his daughter, who was born while he was in prison. He shares custody of his daughter with her mother, and picks her up from an after-school program four days a week. Some days he had to turn down painting work because the jobs were outside Worcester and he couldn't be sure of getting a ride back into town to pick her up by 6 pm, when the afterschool program closes.

Over the winter, he bought a used van with the idea of getting his own painting business going. But he had to have his brother register and insure it. And when he landed jobs, Bradwell had to make sure he could hire someone to work the job with him who had a license and could drive. He often wound up springing for cab fare just to get the helper to his house to drive the van.

"I'm not trying to get rich. I'm just trying to have something I can call my own — the business, the apartment, basically anything," he says. "My whole life I really never had anything."

"I went to jail and I served time for the crime I did. Then I come out and I have to pay another penalty to get my license back," says Bradwell, who finally saved up enough to get his license in May. "Anything they can do to keep me down," is how he feels the system is operating. "It's not about trying to help people restore their life. It's roadblocks."

"If we wanted to create a mechanism to push people back to illegal drug use and into trouble, this is it," says state Rep. Liz Malia, cosponsor of a bill that would repeal the license revocation statute. "It's insane. It's totally counterproductive. It's terrible public policy."

The suspension numbers have fallen considerably in recent years, after regularly hitting 6,000 or 7,000 per year through the 1990s and 2000s. Prosecutors say they are diverting more low-level drug cases

to pre-trial probation or state drug courts, which doesn't trigger a license suspension.

Repealing the suspension law is one area of criminal justice reform where there might be broad agreement.

Attorney General Maura Healey supports repeal of the law, as does Senate President Stan Rosenberg and a number of the state's sheriffs. "We want them to do well, but we then won't allow them to do well," Suffolk County Sheriff Steven Tompkins says about the effect of the law on ex-inmates.

Suffolk County District Attorney Dan Conley said at the Beacon Hill hearing in June that he would support lifting the sanction for "low-level drug offenders who have served their sentences." Cape and Islands DA Michael O'Keefe says he favors repeal. Gov. Charlie Baker's office says he wants to see the specifics of any bill but is open to the idea of ending the policy.

Brownsberger thinks the state should also examine the policy that requires the more than 50,000 people under probation supervision, which includes many just released from prison, to pay a monthly fee of \$50 to \$65.

"You're collecting fees from people who have the most limited ability to pay," says Brownsberger. He thinks it contributes to the resentment and mistrust of the criminal justice system in poor and minority communities, and the sense that the deck is stacked even against those trying to redeem themselves.

The criminal justice system has become "a tar pit," he says. "You just cannot get out of it once you get into it and you have all these strings on you. We need to cut as many of those strings as possible, so that once somebody's out of jail, we're really doing the things that help them get back on their feet."

— MICHAEL JONAS

dential campaign, and there has been an uneasiness ever since about dialing back criminal sanctions.

BUSTING ROCKS

The tough-on-crime era took hold in the 1980s, as the country reacted to rising crime rates and the growing scourge of drugs. Eric Sterling had a front-row seat in Washington as assistant counsel to the House Judiciary subcommittee on crime from 1979 to 1989.

Congress passed a series of tough new federal drug laws during that time, including a sweeping anti-drug bill in 1986 that had a tragic Massachusetts connection.

In June of that year, two days after the Boston Celtics made Len Bias the second overall pick in the NBA draft, the star forward from the University of Maryland died of a cocaine overdose. His death sent shockwaves about the rising tide of drug use across the country, and registered particularly hard in Boston.

Republicans made crime an effective issue in the 1984 election, and Sterling says alarm over Bias's death helped fuel an effort by congressional Democrats, under the leadership of Speaker Tip O'Neill, to draw up a drug bill that would keep pace with the GOP clamp down on crime. The Anti-Drug Abuse Act of 1986 contained a host of new sanctions, including stiff new federal mandatory minimum prison sentences.

"The mandatory sentences were among the least carefully considered of all the features of a very hastily concocted bill," says Sterling. "There was never any kind of evidence basis for the length of a sentence. The numbers were picked out of the air."

States followed the federal lead in enacting tough new drug laws. Following the 1988 presidential campaign, where he was pummeled over the Willie Horton case, Dukakis signed several tough mandatory minimum sentencing bills. In 1989, the Legislature adopted school zone laws, which included mandatory sentences for drug crimes within 1,000 feet of a school or public park.

Bill Weld, in campaigning for governor in 1990, made his get-tough credentials clear, famously declaring that it was time to "reintroduce inmates to the joys of busting rocks."

Bill Clinton rode into the White House in 1992 as a different sort of Democrat, repositioning the party to adopt a harder line on a number of issues, including criminal justice. He paused during the midst of the campaign to return to Arkansas, where he was governor, to oversee the execution of a mentally-impaired prisoner. In 1994, Clinton signed a sweeping federal crime bill that, among other things, gave states financial incentives to ratchet up sentences for crimes and reduced funding for prison education.

If the tough-on-crime era had strong bipartisan backing, so does the reappraisal now taking place. Rand Paul and Ted Cruz are calling for a turn away from the policies that have driven prison populations to historic heights. Meanwhile, Hillary Clinton is speaking out against the "mass incarceration" policies that her husband played a central role in shaping.

"We know after two decades of policies that were just tough on crime, we're just going in the wrong direction, both fiscally and in terms of the human impact," says Christine Leonard, executive director of the Coalition for Public Safety, the new national organization bringing together leading groups from the right and left.

"The policies have been a disaster," says Sterling, the former judiciary committee counsel, who now heads the Criminal Justice Policy Foundation, a Washington organization working to reverse what he regards as damaging and

Boston neighborhoods were the victims of the 'revolving door of justice,' said Conley.

counterproductive drug laws. There was "partisan gamesmanship in trying to position one's party as to be tough on drugs and tough on crime. What we have now is a very different situation," he says of the current climate. "We are, fortunately, turning the corner. I'm enormously hopeful."

RUN-ON SENTENCES

In the Massachusetts debate over criminal justice reform, mandatory minimum drug sentences like those handed to Bonnie DiToro and Abridal Forrester have assumed center stage. Mandatory minimums have been the trump card of the tough-on-crime era, the most powerful lever used by law enforcement and prosecutors to combat the drug trade and the violence that often accompanies it.

A growing chorus of critics, however, is now questioning whether mandatory minimums make sense and actually have the impact we want.

"I was part of that war," says Wayne Budd, US attorney for Massachusetts from 1989 to 1992, about the effort to ratchet up penalties in the battle against drugs. "We've seen many of the harsh sanctions simply haven't accomplished the ends they intended. For big players, they should be hit hard. For minor players, we should be looking at alternatives."

Ralph Gants, the chief justice of the state's Supreme

Judicial Court, set off the debate in Massachusetts last year when he called for abolition of mandatory sentences for drug offenses in a speech to the Massachusetts Bar Association.

If prosecutors elect to charge a defendant with a crime carrying a mandatory minimum sentence, the judge's traditional role in determining an appropriate sanction following a conviction is effectively taken away. Gants argues mandatory minimums have been harmful because they remove this judicial discretion to consider the particular circumstances of a case and a defendant's background.

The state's district attorneys, led by Suffolk County's Dan Conley, have strongly defended mandatory minimums and say they have been instrumental to the lowering of crime rates over the past two decades. Boston neighborhoods were victims of the "revolving door of justice" that was the result of the "unfettered judicial discretion visited upon our communities in the 1980s and early 1990s," Conley wrote earlier this year in *Massachusetts Lawyers Weekly*.

In June, Gants testified before the Legislature's judiciary committee in favor of a bill to repeal mandatory minimums. He argued that mandatory minimums have

resulted in disparate sentencing of racial minorities to long drug sentences and that unduly lengthy sentences have added unnecessary costs to corrections spending that could be better used for drug treatment or other services.

In 2013, 44 percent of all those convicted of drug offenses in the state were minorities, Gants said, but minorities accounted for 75 percent of those convicted under a mandatory minimum sentence. "If you do not abolish mandatory minimum sentences for drug offenses, you must accept the tragic fact that this disparate treatment of persons of color will be allowed to continue," Gants told the committee.

Gants also argued that mandatory minimums have not been reserved, as prosecutors maintain, for the most dangerous or violent offenders. He said that in fiscal year

2013 slightly over half of those sentenced to drug mandatory minimums had no criminal record, a minor record, or a moderate record. Mandatory minimum sentences are "neither individualized nor evidence-based," he testified. "They are based on the principle that one size fits all, but one size does not fit all with respect to drug crimes."

About 1,200 of the roughly 20,000 people held in county jails and state prisons were sentenced under mandatory minimum drug statutes. The number of people sentenced annually to drug mandatory minimums has dropped significantly since peaking at 949 in fiscal year 2008. There were only 450 people given mandatory minimum drug sentences in 2013, the last full year for which data are available. That decline coincided with the 2012 changes to



Bonnie DiToro and her 81-year-old mother, Bernice, who cared for her children during her 14 years in prison.

the mandatory minimum drug law that reduced the school zone size from 1,000 feet to 300 feet.

Gants argued that if the state repealed mandatory minimums, it would hardly lead to big drug dealers being let go by judges. “Most drug offenders will still be incarcerated, but their sentences, on average, would be modestly lower,” he said. Gants gave recent figures showing that those sent to state prison under mandatory minimum statutes received median sentences of 42 months to 60 months, while the median sentence for non-mandatory offenses was 36 months to 48 months. He also pointed out that states like Rhode Island, Michigan, and New York have eliminated or “substantially limited” mandatory minimum sentences in recent years while continuing to experience decreases in crime.

The actual number of people convicted under mandatory minimum sentences doesn’t explain the full reach of the law. Prosecutors can use the threat of stiff mandatory minimums as leverage to get defendants to plead guilty to other charges and accept a reduced sentence.

“The threat of the [mandatory] sentences hanging over people’s heads gets them to plead to cases,” says Anthony Benedetti, chief of the Committee for Public Counsel Services, the state-funded agency in charge of legal representation for indigent defendants. “It warps the whole system as soon as people are charged with those.”

Thousands of people have faced initial arraignment in recent years on school zone drug charges that carry a mandatory minimum sentence of two years. But Benedetti says less than 5 percent of such arraignments since 2008 have resulted in mandatory minimum convictions, with almost all cases ending in a plea deal to a lesser charge.

Benedetti and other critics say mandatory sentences have shifted the entire system toward longer sentences—for those receiving the mandated terms, but also for those trying to avoid them.

But where opponents of the laws see mandatory minimums used as unfair leverage, Conley offers a different take. “That’s how we exercise discretion,” he said at the June hearing in arguing the vast disparity between initial charges using the school zone statute and eventual convictions shows the restraint prosecutors use.

CRIME DECLINE

One of the big questions that has loomed over the debate on criminal justice reforms in general and mandatory minimum sentences in particular is the relationship of heightened incarceration rates to the steep decline in crime that the US has experienced over the last 25 years. Crime rates are roughly half what they were in 1990, a

remarkable decline that has prompted a lot of research but can’t be clearly tied to any single factor.

Along with higher incarceration rates, everything from an increase in police officers to demographic shifts toward an older population and legalization of abortion has been cited as a potential factor in the decline in crime.

Conley maintains that tougher sentencing statutes have played an important role. “People were voting with their feet. People were leaving the city in droves,” he said at the June hearing in describing the impact of crime in Boston in the late 1980s and early 1990s. Mandatory minimum sentences, he said, were “among the tools that brought us back from the brink.”

The Brennan Center for Justice at New York University Law School, in a report released earlier this year, concluded that incarceration has had a “negligible crime control benefit.” Other studies, however, have suggested that as much as one-third of the decrease in crime in the

‘Our country has gone off track by the overuse of prison as a response to crime.’

1990s may have been due to increased incarceration.

Some criminal justice researchers say inmates “age out” after a certain point and are far less likely to reoffend, meaning there are diminishing public safety returns from lengthy incarceration.

Jeremy Travis, the president of John Jay College of Criminal Justice, chaired a National Research Council committee that issued a report last year examining the huge growth in US incarceration rates. It found that the “expansion of the prison population has had only a modest effect on public safety,” he says.

What’s clear, says Travis, is that policies leading to longer sentences went far beyond any benefit to public safety that comes from incapacitating offenders. “Our country has gone off track by the overuse of prison as a response to crime,” he says.

EMBRACING CHANGE

In early May, more than 1,800 people filled Boston’s Trinity Church for a meeting of the Greater Boston Interfaith Organization. The coalition of religious congregations invited the state’s top political leaders to address a set of issues the group identified as priorities, including comprehensive criminal justice reform.

Donnell Wright, a 50-year-old Springfield resident who served a mandatory minimum drug sentence for cocaine trafficking, delivered a stirring speech on the difficulty he has faced landing a job despite his extraordinary efforts to turn his life around. Those included receiving a bachelor's degree from a Boston University program for inmates in the state prison system.

After Wright's speech, Gov. Charlie Baker, seated on the dais with the other political leaders, joined in a standing ovation for him and then pulled Wright in for a hug. It was not an altogether surprising reaction from Baker, who often seems genuinely moved by stories of adversity and persistence. Whether he and other state leaders are equally willing to embrace broad changes to criminal justice policies, however, is now the question.

Baker has not taken a firm stand on the mandatory minimum drug sentence issue. He has been outspoken on the need to address the state's burgeoning opioid addiction crisis. He wrote last year on a candidate questionnaire for the advocacy group Families Against Mandatory Minimums that he "believe[s] reforming mandatory minimum sentences could be part of an overall strategy to rethink how those with substance abuse issues are treated."

What steps, if any, the Legislature will take on man-

datory minimum drug sentencing is also unclear. While Sen. Will Brownsberger, cochair of the Joint Committee on the Judiciary, and Senate President Stan Rosenberg favor repeal, the House chairman of the committee, Rep. John Fernandes, and House Speaker Robert DeLeo have yet to stake out a position on the issue.

Both Brownsberger and Fernandes say the opioid crisis complicates the debate. "Does eliminating minimum mandatory sentences send an appropriate message to those who are engaged in trafficking these deadly drugs," asks Fernandes.

Attorney General Maura Healey, in a letter to the judiciary committee, said she supports repeal of mandatory minimum drug sentences for offenses that "fall short of trafficking" and do not involve minors. Trafficking charges are triggered by the weight of drugs in a case. Healey seems to have taken a step back from the position she outlined during last year's campaign, when she said she favored an end to mandatory minimums "for non-violent drug offenses," without any mention of an exception for trafficking cases.

An omnibus criminal justice reform bill, cosponsored by Sen. Sonia Chang-Diaz of Boston and Rep. Mary Keefe of Worcester, would repeal mandatory minimum drug

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sentences and end the automatic driver's license revocation for anyone convicted of a drug crime. The bill also calls for redirecting savings from the criminal justice system to job training and programs that target at-risk youth and those who have dropped out of school.

A long-dormant state Sentencing Commission was revived last year, with the charge of reviewing sentencing practices and offering recommendations. And the Legislature formed a special criminal justice commission in 2011 to study potential reforms. It issued a report in June which included a set of nearly two dozen recommendations, including repeal of mandatory minimum drug sentencing laws and changes to parole eligibility.

There is also now growing support for having Massachusetts join the 30 other states that have undergone a rigorous outside evaluation of their criminal justice policies by the federally-sponsored Justice Reinvestment Initiative.

The initiative requires a formal request from a state's governor and legislative leaders. DeLeo and Rosenberg have signaled an interest in having the analysis done. Baker's office has been more non-committal, saying the conversations about such an outside review are ongoing.

Launched in 2010 by the Department of Justice and the Pew Charitable Trusts, and carried out in collaboration with the Council of State Governments, the initiative uses a heavily data-focused analysis of criminal justice practices to help states devise cost-effective practices that reduce corrections costs and redeploy some of that spending toward measures to reduce recidivism.

"It's a soup to nuts analysis of all aspects of crimi-

Recidivism among offenders is 60 percent over 6 years, not a passing grade by any standard.

nal justice," says Marc Pelka of the Council of State Governments, which would undertake the Massachusetts evaluation if the state approves the project.

The policy prescriptions that have been adopted based on the outside analyses have led to significant decreases in prison populations in Kentucky and North Carolina,



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and Texas was able to reduce its criminal justice budget by \$450 million while steering \$200 million in new funding to drug and mental health treatment.

"I've been at this work a long time, and I've never seen anything like this," says Travis, the John Jay College of Criminal Justice president. "There's this fundamental rethinking underway about how best to respond to crime. People on the left and right are recognizing that the overinvestment in prison has been a misallocation of scarce resources and an enormous deprivation of human liberty, with little benefit."

Beyond the state's sentencing practices, an outside evaluation would include a close look at policies on parole and probation. Fernandes says that is exactly what's needed. If the focus is limited to mandatory minimums, he said at the State House hearing in June, "we're not going to solve the problem." Issues like "reentry on the backside" when inmates are released, he said, are just as important.

The clamp down on parole in recent years and other practices meant to get tough on crime have had unintended consequences, with many of those serving sentences for serious crimes being released directly to the streets with no period of post-release supervision.

Meanwhile, the state's Probation Department, rocked

by the corruption scandal over patronage hiring, is trying to refocus on its mission.

Recidivism rates in the state have remained stubbornly high, with 60 percent of all offenders released from state prison or county jails convicted on new charges within six years. Some might call that the failure rate of the state's criminal justice system, not a passing grade by any standard.

"We're behind the national curve in using the approach," Rosenberg says of the data-driven evaluation that states are welcoming. "We've been nibbling around the edges of this movement, both in terms of policies and also in terms of using this approach to evaluate our own performance and get smart on crime, not just tough on crime."

We may not have the policing problems of Ferguson, Missouri, or the astronomical incarceration rates that Texas and other southern states are now trying to pull back from, says Brownsberger, "but we definitely have issues in Massachusetts, and we need to focus on them." **CW**

Former US attorney Wayne Budd, who is quoted in the story, is cochairman of the Massachusetts Criminal Justice Reform Coalition, which MassINC, the publisher of CommonWealth, is working with.



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Betting the mortgage money

Lawrence Mayor Dan Rivera is living up to his promise to be a change agent, but at what cost to the city?

BY BRUCE MOHL

AT DANIEL RIVERA'S inauguration as mayor of Lawrence in January 2014, he was hailed as the guy who would take the city in a new direction. Even though he squeaked into office by just 81 votes over the scandal-plagued incumbent, William Lantigua, Rivera was toasted as the politician who would get the city back on track. Sen. Elizabeth Warren said her former campaign aide represented a fresh start for the city. US Rep. Niki Tsongas called Rivera a change agent. Rivera, a former city councilor and veteran, vowed to restore Lawrence's pride, rehabilitate its image, and repair the damage done by the Lantigua administration. Embracing his role, he printed up business cards that identified himself as the mayor and CEO of Lawrence.

No one said turning Lawrence around would be easy. Back in 2012, *Boston* magazine famously called Lawrence "the most godforsaken place in Massachusetts" in a story under the headline "City of the damned." Lawrence has long been plagued by poverty, corruption, and rival political cliques that often combine to create paralysis. Problems tend to get swept under the rug until the rug becomes so bumpy they can no longer





Carmine DiAdamo (left) and his son, William, atop their building in Lawrence. The tower of City Hall, which is next door, looms behind them.

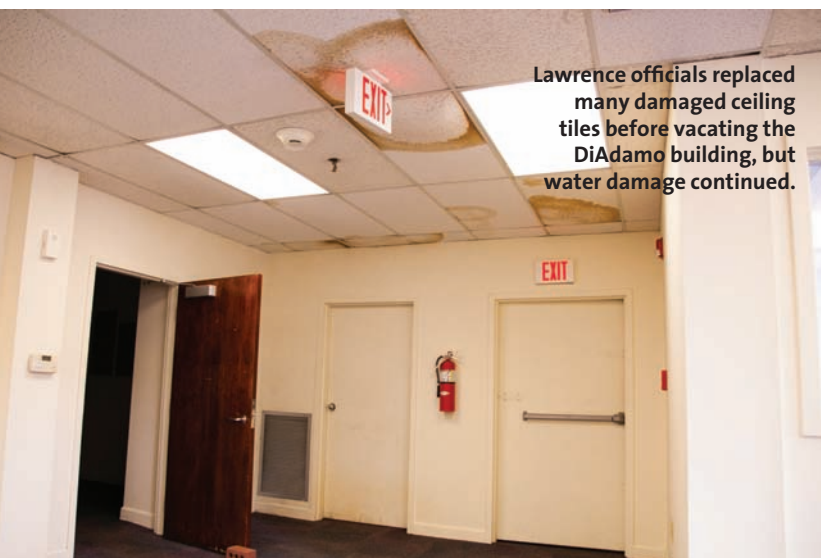
be ignored. The state regularly finds itself stepping in to rescue Lawrence from itself: The schools are under state receivership and the city's finances are monitored by a state overseer.

One of the first bumps in the rug that caught Rivera's attention was a lease between the city's School Department and the owner of the building a few feet behind City Hall. The 10-year lease, signed in 2003 with an effective date of Jan. 1, 2005, committed the city to paying rent as well as maintenance, upkeep, and any new taxes assessed on the building, which housed the school department's administrative offices. The lease was written that way because the city, when it negotiated the agreement, planned to buy the building in a year or two at most. But Lawrence officials never followed through. They kept paying rent—which added up to \$3.8 million over the next 10 years—and neglected to maintain the building properly. The bump in the rug became even more pronounced when the state receiver for the school system cut his central office staff by 30 percent and shifted resources to the schools themselves. When Rivera came into office, the city was paying a hefty rent for a dilapidated building that was only partially full.

"It was wicked expensive," Rivera says. "We really just looked at that number we were paying on the lease on top of what we were paying for maintenance and for utilities and taxes and water—all the things that property owners usually pay in leases—and we were paying all of it. It was just too expensive for us."

Rivera could have looked the other way, as his predecessors had done, but instead he jumped on the problem. Eight days after his inauguration, he invited Carmine DiAdamo, the landlord of the School Department's building, to his office. According to those present at the meeting, Rivera told DiAdamo his building had \$3 million worth of code violations and structural problems and it would take a total of \$6 million to turn it into a building the city could use. He suggested the landlord donate the building to the city or to a nonprofit linked to the city, and take a tax deduction.

It was a fuzzy, poorly thought out proposal and DiAdamo, a retired trial attorney, was not amused. He says he heard the mayor's remark about \$3 million in code violations and feared his tenants were in danger. Under the terms of the lease, it was the city's job to maintain



Lawrence officials replaced many damaged ceiling tiles before vacating the DiAdamo building, but water damage continued.

the building in proper working order, so it seemed to DiAdamo as if the newly elected mayor was trying to shift responsibility for the city's failure to maintain the building to him. DiAdamo wrote the mayor and other city officials, asking them for details on the code violations. He pointedly noted in his letters that the lease held them legally responsible for the upkeep of the building. They didn't respond.

Rivera says he didn't like the tone of DiAdamo's letters and the legal threats they contained. In an interview at the time, he made clear he would not be intimidated. "He should not expect we're old Lawrence and roll over just because he threatens to file a lawsuit," he said, referring to the corrupt ways of his predecessors.

More than a year later, Rivera has done what he set out to do. He moved the School Department out of DiAdamo's building when the lease expired at the end of

Rivera says the School Department's new building will give a lift to the area and save the city money.

2014 and relocated its offices to temporary space. He is in the process of purchasing a rundown building downtown and plans to gut and rehab it for the School Department. He insists the School Department's new home will give a lift to the struggling downtown area and ultimately save the city money.

But to pull the deal together, Rivera had to engage in

what some might call "old Lawrence" tactics. He sidestepped public bidding laws by partnering with a state authority to purchase the new building. Using questionable cost comparisons, he then convinced the City Council to approve a plan to borrow \$8 million to fix up the structure. The deal also carries significant risks. The School Department move will give life to a downtown eyesore, but it leaves behind a vacant building at the city's core. DiAdamo is also suing the city, alleging it violated the terms of the lease. If Rivera loses in court, he could be on the hook for not only rehabbing the School Department's new building but also its old one. It could turn out to be an expensive way to make a point.

FROM DIPLOMACY TO ALL-OUT WAR

Rivera acknowledges his suggestion that DiAdamo donate his building to the city was not fully formed, that it was more of a creative idea than a concrete proposal. Yet he thought it could be a starting point for further discussion. He says that became impossible when DiAdamo put on his lawyer's hat and began writing letters to the city. By the end of March 2014, two months after the men originally met in the mayor's office, DiAdamo was suing the city and there was no turning back for either side.

Rivera decided he was going to move the School Department out of its existing office space when the lease ended at the end of 2014. The question was: Where would the agency go, both short-term and long-term? Short-term, the mayor decided to move the School Department into the basement of the old high school building, converting abandoned classrooms into offices. Long-term was more problematic. The mayor wanted to consolidate several agencies renting space around the city into one location downtown. He issued two very similar requests for proposals looking for a solution, but neither yielded the results he wanted. DiAdamo responded to both RFPs.

Under state law, municipalities are required to engage in a public bid process for any purchase of supplies, services, or property or for the disposal of property. But Rivera found a way around that restriction by joining forces with the Massachusetts Development Finance Agency, a quasi-public authority that promotes development around the state.

"They really are the state's economic development ninjas," Rivera says of MassDevelopment. "They're really versatile. For a community like ours, where we're not Boston with the Boston Redevelopment Authority or Newton that can pay for all sorts of stuff, we Gateway Cities rely on



The city is borrowing \$8 million to gut and rehab the new School Department headquarters.



A side view of the new building at 370 Essex Street.

them to help out.”

MassDevelopment helped out by finding a downtown building for the School Department. Through an affiliated limited liability company called Frost Properties LLC, MassDevelopment negotiated a deal with the Spanish Free Methodist Church of Methuen to purchase an ugly, rundown building at 370 Essex Street in downtown Lawrence for \$505,000. Officials say MassDevelopment often uses the limited liability company to conceal its involvement because building owners tend to jack up their prices if a government agency is involved.

Mark Sternman, a spokesman for MassDevelopment, says the arrangement does not violate the public bidding law because of an exception written into the law covering transactions with state government. The exception presumably was created so municipalities could purchase surplus state land without going through a public bid process. Whether the law envisioned a state authority acting as Lawrence’s agent in a land purchase is unclear. The state Inspector General, who monitors compliance with the law, declined comment.

Sternman says it was not clear at the time Frost Properties LLC made an offer for the building at 370 Essex Street whether the LLC would go on to develop the property and lease it to the city. He says the city ultimately decided to buy the building, so MassDevelopment purchased the property on June 9 and will sell it to the city and supervise the rehab on behalf of the city.

Rivera says there was no intent to circumvent the public bid process. “This actually helped us enhance at

the end of the day the public’s bang for the buck,” Rivera says. “It allowed us to act like a private entity, to do something to get the lowest price on a property, which we would not have been able to do ourselves. If we had done a bid process, we would have probably paid more for it.”

Once MassDevelopment secured a purchase option on the building, the next step for the city was to find a way to pay for the building and its rehab. Rivera and his staff developed a presentation for a City Council hearing on May 5 showing that the purchase and renovation of the building at 370 Essex Street would save money for the city in the long run, which convinced the councilors to vote 8-0 for the proposal.

Rivera proposed issuing \$8 million worth of bonds to pay the \$505,000 purchase price and the \$7.5 million rehab. The debt service on the bonds would be \$422,418 a year for 30 years, or a total cost of \$12.7 million. At the end of the 30-year period, the bonds would be paid off and the city would own the property free and clear.

The key slides in the presentation compared the cost of buying the new building to leasing DiAdamo’s building. Initially, the slides show the DiAdamo lease costs less (\$384,000 vs. \$422,418) but with inflation adjustments it begins to exceed the purchase option around 2021. Over a 30-year period, the lease cost totals \$16.3 million compared to \$12.7 million for the purchase. The difference is even more dramatic when projected utility and maintenance expenses are included: \$24.8 million for leasing over 30 years versus \$16.5 million for buying.

Sean Cronin, the state fiscal overseer for Lawrence,



The DiAdamo building is twice the size of the new School Department headquarters.

says the mayor's presentation was convincing. "My concern was that it at least break even, if not save money," he says. "I think this is a positive thing for the city."

But the mayor's analysis is faulty on two fronts. First, it's unfair to compare the bond cost of purchasing the new building to the DiAdamo lease. The lease was written more than a decade ago on the assumption the city was going to buy the building, which it never did. Moreover, Rivera had already canceled the lease, so it would have made more sense to compare the purchase of the new building to the purchase of another building. What if, for example, the city purchased a much larger building and was able to consolidate all city offices in one location, thus cutting down on other lease costs?

Second, Rivera's presentation fails to note that DiAdamo's building is twice the size of the building the city is purchasing. That's why costs such as heat and electricity are so much higher at the DiAdamo building; there's more space to heat and light. On a square-foot basis, the DiAdamo building is actually a lot cheaper than the building the city is purchasing. The city also estimated annual maintenance costs of \$131,165 a year at the DiAdamo building, with no explanation how that amount was calculated. Court records indicate the city spent \$168,692 for outside maintenance services for the building from 2008 through 2014, or about \$28,000 a year, on average.

Rivera says he thinks the comparisons the city used were fair. "It's what we were paying versus what we will be paying," he says.

THE BIG RISK

The big risk with Rivera's decision to buy a new School Department building is how much the city is going to have to pay to resolve the lawsuit with DiAdamo. The lease is clear that the city is responsible for maintenance and upkeep of the building, and Rivera said in January 2014 that the building had \$3 million worth of code violations.

At a deposition of the mayor on December 4, 2014, DiAdamo asked him where his numbers on code violations came from.

"I don't recall," Rivera said.

"You just made them up?" DiAdamo asked.

"No," the mayor said, as his lawyer objected. "I know we talked about numbers but I don't remember what the exact number was."

As the deposition went on, the mayor seemed unclear about the terms of the lease and dodged questions about comments he had made that the lease was "crazy" and the city had been "duped" into signing it. "All I know is the city is in an agreement that is not favorable to the city financially and I wouldn't have signed the lease," Rivera said.

Mary Bergeron, the assistant superintendent of the Lawrence School Department, who was at the meeting in the mayor's office with DiAdamo, said in a separate deposition that Rivera's \$3 million estimate of code violations was a surprise to her. She said she reported the number to her boss and the facilities manager for the school system, and pointedly asked the facilities manager if he knew anything about \$3 million in code violations. "He looked at me and said, 'I have no idea,'" she said.

City officials apparently tried to fix many of the building's problems as the lease wound down at the end of last year. Dozens of crumbling ceiling tiles have been replaced, their bright whiteness contrasting with the faded color of their neighbors. Other work was also done as the mayor vowed to return the building to DiAdamo in the shape the city received it.

Yet William DiAdamo, Carmine's 50-year-old son, who runs his own legal practice out of his father's building, says the city only scratched the surface. He says he and his father brought in a number of specialists to check the building out. He says the specialists have identified a number of concerns, including a labyrinth of electrical wiring snaking across the top of the ceiling tiles; a roof that needs replacing; air conditioning systems that don't work properly; a water line located in the main electrical room; ceiling tiles that have suffered severe water damage since the city vacated the premises; and lots of structural and electrical work for which no building permits could be found.

William DiAdamo estimates the cost to fix the problems could run as high as \$5 million, and possibly more if walls need to be taken down to review work for which no permit was obtained. "Everything's got to be gutted," he says.

Carmine DiAdamo, now 73, says he got into the real estate business at the request of city officials. He says former mayor John Buckley approached him in 1984 about buying the building at 237 Essex Street, which is behind City Hall and across from the District Court. DiAdamo says Buckley was worried that federal officials would withhold historic preservation money for a brick and cobblestone plaza outside the building unless the façade of the structure was restored to its original form. The owner at the time wasn't willing to spend the money. So DiAdamo bought the building, rehabbed it, and moved his law firm in and rented space to a number of other businesses.

In 1988, DiAdamo says, he bought the building next door at 255 Essex Street, again at the urging of city officials who wanted the School Department to move in. DiAdamo joined his two buildings together and, over time, the School Department expanded to fill nearly all of the combined space.

By 2002, DiAdamo says, the market for downtown office space had improved and he wanted to sell. He says city officials told him they wanted to buy the building but couldn't swing the purchase immediately, so in November 2003 he negotiated a lease with then-mayor Michael Sullivan and then-school superintendent Wilfredo Laboy that in many ways was the equivalent of a sale.

The city was given an option to purchase the building and a right-of-first refusal if any other buyer stepped

forward. The city agreed to make lease payments, plus "pay all the expenses of building maintenance, repair, and replacement." The annual lease payment was set at \$344,300 minus \$72,000 in credits for utilities (\$58,896) and building maintenance (\$13,200) for which the city would be responsible. The net lease payment was \$272,300, adjusted annually for inflation.

"Our general intent was to grant a tenancy to the School Department at no additional cost, but not expose me to future, unpredictable increases in the future," DiAdamo wrote to two officials at the Lawrence School Department in October 2003.

The city had an independent appraisal done on the building in 2004 that indicated all systems were in good working order. The value of the building at that time was estimated at \$3.1 million.

Carmine DiAdamo says he didn't spend a lot of time

William DiAdamo says he thinks the genesis of the fight with Rivera is political.

thinking about the building after the lease was signed, but he remembers that Laboy was making lots of changes. DiAdamo says Laboy had a new office built and ripped up the existing carpeting because he didn't like the color (he preferred purple). Laboy also put up a number of new walls and installed a massive printing press in the basement.

In 2009, Laboy was suspended from his post and later found guilty on five counts of fraud and embezzlement and one count of possessing alcohol on school grounds. Evidence indicated he directed school employees to run personal errands for him in school vehicles on school time. He also used the printing press in the basement to run off materials for an association he belonged to and his son's pizza shop.

POLITICAL UNDERCURRENTS

The dispute over the DiAdamo lease appears to be about money, but, like most happenings in Lawrence, everything is viewed through a political lens.

Carmine and William DiAdamo say they are not political players in town, but they know plenty of people and have made enemies. William has done legal work for the city in the past, including a handful of civil rights cases for the administration of former mayor Lantigua, the man

Rivera defeated by 81 votes.

"I had a good relationship with Willie. I like him. It was clear to me after Rivera was elected that I was persona non grata," says William DiAdamo. "I do think the genesis of a lot of this is political. There wasn't an enemies list, per se, but we were associated with the enemy."

Rivera denies that. "I don't have any personal issue with these folks. All I'm trying to do is solve a problem," he says. "The problem we had was that we were paying too much for office space, much of which we didn't need any more. We tried to get the best deal possible. Because there's a lawsuit, I can't really get into how the risk for the city is not as great as some people are saying. But there's no vendetta. We're just trying to get the city the best deal possible, and owning a property is way more advantageous for the city than the leasing process."

Most officials in Lawrence are siding with the mayor on this issue. The state fiscal overseer, Cronin, gives Rivera credit for changing the political dynamic on issues. "He's certainly willing to have discussions and get away from the old 'this is how we do things,'" he says.

Modesto Maldonado, the president of the Lawrence City Council, defends the mayor's decision on the School Department building, but he wishes there had been more

time to review the deal. The mayor pressed for quick action to avoid an interest-rate hike that could drive up bonding costs.

Maldonado says he has noticed that the mayor sometimes acts before he has all the facts. He noted that the mayor fired a number of city employees immediately after taking office, including the girlfriend of Lantigua. The firings were good politically for Rivera, but most of the dismissed employees are challenging their dismissals in court.

A Superior Court judge ruled in mid-June that Rivera must reinstate one of the individuals because he was denied the chance to appeal his firing to the City Council. The employee is entitled to back pay and benefits—costs the city could have at least partly avoided if the mayor had negotiated with the employee rather than firing him, Maldonado says. Decisions on the other firings are expected soon.

Maldonado says the firings were in violation of City Charter rules. In fact, he and the rest of the City Council invited the mayor to attend a meeting so the councilors could share their concerns, but the mayor declined.

"Like any mayor, he wants to show that he's different from the others," says the City Council president. "Sometimes, when you act differently, you have to be careful that you don't do the same thing or worse." **CW**

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No shore



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Plum Island is at risk, but the possible consequences of storms and sea level rise are subjects few want to contemplate

BY GABRIELLE GURLEY

PHOTOGRAPHS BY MARK MORELLI

PLUM ISLAND IS one of the most spectacular places to live in Massachusetts. With high dunes and rolling beaches on the lip of the Atlantic Ocean, people move to this barrier island north of Cape Ann for a deep blue slice of paradise.

But paradise can quickly turn to hell when the ocean's full fury is unleashed, something that scientists say is likely to happen with increasing frequency. In the most recent major hit to the island, a 2013 nor'easter claimed six homes. But once the big storms blow over, difficult conversations about the future of Plum Island don't tend to rise to the top of the agenda.

Plum Island in many ways is a case study of climate change paralysis. Local municipal leaders, wary of tangling with beachfront property owners who provide a significant chunk of town property tax revenue, careen from crisis to crisis and the tough conversations about the future move to the back burner. State officials are also conflicted, sometimes asserting their power to address serious issues, but other times hanging back to avoid the fray when their voices might be needed. Meanwhile, competing groups of homeowners and residents push and pull the powers that be in different directions.

It's easy to see why inertia often becomes the easiest course. Homes and lives are at risk, but so, too, are public dollars tied up in infrastructure, property taxes, and commerce. "The economy is totally dependent on the ecology," says Douglas Zook, a Boston University global ecologist. Plum Islanders have to plan not just for the potential of a life-altering weather

event, but also for the potential economic dislocations that would result.

All of it is much easier to ignore on a perfect summer beach day.

SLIPPING AWAY

Plum Island is a barrier island about 11 miles long, dangling off the northeast corner of Massachusetts where the Merrimack River meets the Atlantic Ocean. The Parker River National Wildlife Refuge, created by the federal government in 1941, takes up about two-thirds of the island. Newbury and Newburyport divide the tightly packed northern end of about 1,200 homes, roughly 800 in Newbury and 400 in Newburyport. Parts of the undeveloped southern stretch of the island are located in Ipswich and Rowley.

In a geological sense, Plum Island is stable. It hasn't moved in thousands of years, according to Christopher Hein, a coastal geologist at the Virginia Institute of Marine Science at the College of William and Mary. Where some barrier islands, so-named because they protect the mainland from storms, have moved landward several miles over eons—think of the Outer Banks of North Carolina—Plum Island has stayed put. It has also not been completely washed over by storms in a very long time.

Although the land mass has not moved in thousands of years, the visible landmarks like beaches and dunes have. The summer shores that people enjoy lying on are in a continuous process of shifting, disappearing, and reforming as wind, waves, and storms chisel and sculpt them.

The tall sand dunes are shifting toward the mainland as sand gets redeposited on the back of the island among the small trees, shrubs, and other plant life that help stabilize the island. The fast-flowing Merrimack River, the second-largest river in New England, influences where the sand moves. Man-made structures such as the two jetties at the mouth of the Merrimack, as well as seawalls and groins (smaller seawalls) elsewhere, also influence the island processes. Scientists do not yet fully understand how all these factors interact. No model exists of how sand distributes itself around and on the barrier island. What is known is that the erosion on Plum Island, which seems to come and go every 25 to 40 years, is now slowly shifting southward, Hein says.

The rate of erosion depends on location. Some areas of Plum Island have seen 50 to 100 feet of erosion, according to Newburyport's Plum Island beach management plan. "The barrier island has changed so much that it's really hard to talk about what it will look like in 10



Doug Packer, the Newbury conservation agent (left), with Ron Barrett, president of the Plum Island Taxpayers and Associates.

years, 15 years, 25 to 50 years," says Newburyport Mayor Donna Holaday.

Both summer and winter storms influence the island's topography. Hurricanes tend to be fast-moving and short-lived, with Plum Island protected to some degree by Cape Ann to the south. Nor'easters are a different story. They can hit Plum Island head on from the northeast-facing open ocean and can linger and spin longer. Combine the deep erosion of the kind seen on Plum Island today with a long-lasting nor'easter and you get the dramatic spectacle of homes falling into the ocean as they did in March 2013.

Climate change has thrown in a new twist. Stronger, more frequent storms and rising sea levels heighten Plum Island's precariousness. Homes further back from the ocean-facing dune have some protection. But houses perched on the dune that meets the shore are in a risky place. Peter Shelley, the interim president of the Conservation Law Foundation, says the future of the island is bleak. "We have this oceanic freight train bearing down on us over the next 50 or 60 years that humans have never seen before if predictions are right," he says.



Houses along the Plum Island shore—plus a lot where a home once stood.

TAX BOON

Nature makes life difficult on Plum Island, but humans have complicated the picture even more. The major players on the island—lawmakers, state agencies, municipal officials and various factions of residents—weave in and out of controversy so regularly that trying to chart any type of forward motion has been difficult.

Money is often a prime motivator. Like most Massachusetts cities and towns, Newburyport and Newbury are

Property taxes generated by homes on Plum Island are vital to Newbury and Newburyport.

heavily dependent on property taxes. And Plum Island residents know they are sitting on a valuable part of that equation. That subtext underlines many aspects of the debate over how to manage the island and plan for its future.

Plum Island generates about \$7 million in property tax revenue annually. Newbury takes in about \$4 million, accounting for nearly a third of the town's total real estate taxes. Much larger Newburyport takes in about \$3 million from Plum Island properties, representing about 6 percent of the city's \$48 million annual tax levy.

Ron Barrett, the president of a local civic group, Plum Island Taxpayers and Associates, who owns property in Newburyport and Newbury, calls Plum Island "an industrial park" as a way of describing the property tax windfall it generates for the communities.

From time to time over the years, islanders have raised the idea of forming an independent town, but it quickly gets snuffed out, Barrett says, because the Plum Island tax base is just too valuable to the two communities. "The mayors and the selectmen go, 'Oh no, we can't lose that,'" he says.

Multi-million dollar beachfront homes generate tens of thousands of dollars in property taxes. But what the beachfront gives, it can also take away. When storms smash homes into the sea, municipal tax revenues take a hit. "You're saying a house, depending on size, averages about \$5,000 [in property taxes] a year," says Robert Cronin, a Newburyport city councilor. "You lose six houses, that's \$30,000. That's half a teacher, half a fireman."

According to Federal Emergency Management Agency

data, there are 18 residential or commercial buildings in Newburyport and 17 in Newbury that have accumulated a total of 89 repetitive loss claims roughly over a 10-year period.

“Plum Island has been losing houses for 60 or 70 years,” says David McFarlane, a retired engineer and former Newburyport city councilor. What’s changed, he says, is the building boom in recent years that brought lots of high-end homes. Years ago, it was beach shacks being lost to storms; today it is luxury manses.

“Coastal property, particularly in a small town like Newbury, is a significant part of the [tax] base,” says Sen. Bruce Tarr, a Gloucester Republican who represents Newbury. “If [a home’s] value gets diminished, then what strategy does the town have to replace that value? Do you issue more building permits to let building occur in other parts of the town? Maybe allow more commercial development? The point is, the revenue to run the town has to come from somewhere.”

FUTURE SHOCK

The state has an important role to play in the ongoing debate over Plum Island’s future, but it has seemed ambivalent about getting pulled too deeply into the fray. The Department of Environmental Protection has tussled with residents, particularly in Newbury, standing behind regulations to prohibit homeowners from employing temporary beach engineering techniques that the agency says make matters worse. Those tensions have strained the relationship between the agency and communities, making department officials leery of plunging into unforeseen problems.

DEP was nonetheless the force behind one of the biggest changes to come to the island in decades. As summer-only shacks on Plum Island gave way to large homes, the septic systems that the island relied on came into conflict with state sanitary regulations. Because of small lot sizes, one person’s septic system might be near another person’s well, leading to contamination.

Concerned about the public health risks to water sources, the Department of Environmental Protection ordered Newburyport to install a water and sewer system to serve both communities. Plum Island homeowners were assessed as much as \$22,000 each to pay for the \$22.9 million water and sewer system that was installed in 2006.

The tensions between the DEP and Plum Island homeowners have made the state leery of intervening.

The brutal winter of 2015, however, proved to be too much for the system and various components of it froze, leaving some Newburyport homes without running water—and an ability to dispose waste into the system—for several weeks. More than 600 homes were affected. The city had to pay for 70 hotel rooms to house residents. Plum Island Hall, the headquarters of Plum Island Taxpayers and Associates, wasn’t hit by the outage and stayed open 24/7 so people could use restrooms and get updates.

But the system had already malfunctioned several times



Man-made structures like the miniature seawall, or groin, influence how sand moves.

since its installation, and Newburyport and Newbury don't have the funds to repair the problems without state assistance. Newburyport Mayor Donna Holaday says that between this winter's repairs and past sewer issues and water main breaks, the system has already cost the city nearly \$1 million in fixes. City officials are working with Attorney General Maura Healey's office and the Department of Environmental Protection to reach a settlement with CDM Smith, the Boston-based firm that installed the system. The state also put \$30,000 into a grant for repairs and \$50,000

same budgets it was supposed to help. And while the state set things in motion by ordering the switch to a costly sewer system, it has had little to say about the problems that have ensued. The DEP declined to comment on the record on the sewer failure, or other Plum Island matters.

The ongoing problems with Newburyport's multi-million investment underneath the sands of Plum Island weigh heavily on Cronin, who sits on the city council's budget and finance committee. "What's the cost of the fix?" Cronin says. "What if there's a major storm and

the storm breaches the systems? The entire Plum Island issue is the gorilla in the room when we are sitting there talking about budgets and infrastructure."

THREE VISIONS

The pros and cons of alternative visions for Plum Island boil down to three options, all of them controversial. Restoring the entire island to its natural state like the neighboring wildlife refuge is an option favored by some environmentalists. Not surprisingly, it also prompts the most passionate local opposition and is a nonstarter.

A middle-ground position is held by those who favor an idea termed a "managed retreat." That approach would focus on protecting the inhabited parts of the island that can be saved,

converting the others into parks or other recreational spaces, and beefing up services that produce revenue, such as visitor parking. "If we don't act proactively to do these things, nature is going to do it for us in a very unpleasant manner," says Ipswich resident William Sargent, a science writer and son of former governor Frank Sargent, who frequently writes about Plum Island environmental issues in the *Daily News* of Newburyport and the *Boston Globe*.

A transition strategy under "managed retreat" would aim to provide compensation to owners of the most vulnerable properties. Some state lawmakers believe the enactment of a voluntary buyback program would persuade owners of the properties at greatest risk or owners who've already experienced multiple losses to move on. "It can be unfair for municipalities to disproportionately have to deal with certain residential properties," says Sen. Marc Pacheco, a Taunton Democrat, who has proposed



Newburyport Mayor Donna Holaday says the Plum Island sewer system has already cost the city nearly \$1 million for repairs.

into a study to figure out why the system does not work properly. Officials have to figure out a way to "protect the sewer and water infrastructure investment," says Doug Packer, Newbury's conservation agent.

McFarlane, the former Newburyport city councilor and retired engineer, was a member of a citizens group, supported by the Conservation Law Foundation and Mass Audubon, that tried to block the installation of the sewer system. He continues to argue that an eroding barrier island with high water tables is not suited to conventional water and sewer infrastructure. He says development pressure was behind the ill-considered move. "You could not build a lot more houses out here if you didn't have water and sewer," says McFarlane.

What the sewer repair costs all mean is that expensive housing development that held the promise of boosting municipal tax revenue payments has led to strain on the



Peter Shelley of the Conservation Law Foundation says Plum Island residents are focused more on homeowner rights, while on Cape Cod the focus is on municipalities.



Candy-cane-style air vents are part of Plum Island's sewer infrastructure.

a climate change adaptation management plan currently pending in the Legislature.

Some vocal homeowners support a third option. They believe that if local, state, and federal governments won't use tax dollars to protect lives and property, residents should be able to use any means necessary to protect their homes. Newbury resident Bob Connors has been engaged in a long-running war of words with the Department of Environmental Protection over the measures he's used and paid for to shore up the dune in front of his beachfront home, including bringing in large boulders and scraping the beach.

Connors is a co-founder of the nonprofit Plum Island Foundation, another citizens group on the island. The Pacific Legal Foundation, a California public interest law group that "challenges government hubris in the enforcement of state environmental regulations," according to the group's website, has often backstopped the Plum Island organization in its battles with the state. Connors says the government shouldn't be allowed to make decisions about personal property based on what-if environmental scenarios. "You can't collect our taxes and deny us the very basic services that you provide everybody else," he says.

Concern for homeowner property rights are factors influencing state and local policy decisions about all vulnerable coastal areas. However, elsewhere on the Massachusetts coastline, officials say a focus on community concerns takes precedence. Cape Cod municipalities

"understand that these changes to the shoreline and these coastal erosion issues aren't personal property issues," says Kristy Senatori, deputy director of the Cape Cod Commission, the region's planning organization.

Shelley, of the Conservation Law Foundation, is more blunt. "The Cape has got a culture of awareness of the situation that Plum Island doesn't," he says. McFarlane, the former Newburyport city councilor, chalks up the impasse to politics. "It's against the law, but they are allowed to do it anyway—beach scrape, put rocks in front of the houses which makes [erosion] worse," he says of homeowners who have taken steps on their own to protect their homes. "When people have a lot of money, politicians say, go ahead and do it."

STARTING TO DIVE IN

Earlier this year, Newburyport surveyed residents to get input as part of its master planning process update. Respondents were asked to weigh in on whether the city should "prioritize and plan" for sea level rise and asked how serious they feel the problem will be over the next 50 years.

One question asks residents to rank what party should be most responsible for actively preparing for sea level rise—local government, state government, federal government, or the affected property owners. All of the above is not an option, but the question gets at one of the



main stumbling blocks to long-term planning for Plum Island. Government at all levels has an important role to play, in conjunction with residents, but no one has seemed too eager to take the lead.

Some gaps, however, are slowly beginning to be filled. The Merrimack River Beach Alliance, founded in 2008, has emerged as the most trusted convener that can get residents, local, state, and federal agencies in the same room to constructively discuss the erosion issues in Newbury, Newburyport, and Salisbury, which has many of the same erosion problems as its neighbors. In recent comments on the draft report of the state-sponsored Coastal Erosion Commission, the alliance noted that Massachusetts should avoid coastal policies that require the removal or abandonment of any public or private buildings and infrastructure. Relocation should only be mandated when all other options have been exhausted, the group said.

Co-chaired by Tarr, the state senator, the group has successfully pursued a number of major erosion-fighting projects, including convincing the US Army Corps of Engineers to undertake more than \$15 million in repairs to the jetties at the mouth of the Merrimack River. Many locals believe that the crumbling jetties, which had not been repaired since the 1970s, are largely responsible for Plum Island's severe erosion issues.

The Coastal Erosion Commission, established by the Legislature in 2013 to study and collect data on

the impact of erosion on the state's coastline, may help communities understand the costs and benefits of their beach-related activities and how best to maximize and protect them. There's limited information available state-wide or in places like Newburyport and Newbury. Last year, about 250,000 people visited the Parker River refuge. Newburyport takes in about \$75,000 annually from its beach parking lots and the Mass Audubon's winter Merrimack River Eagle Festival, which marks the return of bald eagles to the area.

Under a \$3 million federal Hurricane Sandy grant, the National Wildlife Federation, the Ipswich River Watershed Association, and others are spearheading conversations with Essex, Ipswich, Newburyport, Newbury, Rowley, and Salisbury to catalog local assets and study how to protect them from flooding, storm surge, and sea level rise.

Yet the question of what, if any, big steps should be taken on Plum Island, such as the talk of "managed retreat," continues to hang in the air. State officials publicly won't touch the subject. Tarr says that discussions between the Department of Environmental Protection, residents, and municipal officials "have not always been positive." That's led to agency officials being "at the table sometimes but not all the time," he says. In addition to the DEP, the Office of Coastal Zone Management declined to comment for the record. The National Wildlife Federation, which coordinates the Hurricane Sandy grant process, citing "strong and diverse feelings" on the subject, closed press access to an initial task force meeting this spring.

Behind the allure of a Plum Island house on dune with an ocean view is a harsh reality. Last winter, it was sewage. Two years ago, it was the loss of homes. However sensible it might seem to the risk-averse denizens of inland Massachusetts, a "managed retreat" that involves some people giving up their homes is not a popular talking point on Plum Island. But it is one that nature's fury and slim financial resources at all levels of government may wind up demanding. "Unpredictability is a very difficult thing for municipal planners," says Tarr. "We are trying to make them proactive...the difficult thing is that we are going to have to make some difficult decisions," he says.

Many scientists say that it is inevitable that Plum Island will undergo a catastrophic climate-change fueled event. But inevitable is not a month and date on a calendar. Plum Islanders are fatalistic about a how a potent combination of natural erosion and more frequent, severe storms could upend their way of life. Ron Barrett, the Plum Island citizens' group leader, stays grounded in the present, enjoying the sunsets and sweeping ocean views. "I love where I live, and this is my home," he says. "You pay a price for paradise." **CW**



Carol Sanchez, commissioner
of the Department of
Conservation and Recreation.

DCR 2.0

The state's recreation agency is struggling to bring its system for leasing land into the current century

BY COLMAN M. HERMAN

IN LATE 2011, the commissioner of the state Department of Conservation and Recreation said the agency's system for leasing public land was in disrepair, with many tenants enjoying sweetheart deals, rents going uncollected, and the expiration dates of many leases ignored. Then-commissioner Ed Lambert called the lease situation a significant problem, one that needed to be addressed over the next year.

Lambert called in state Auditor Suzanne Bump to conduct a review, which set in motion a process that ultimately led to hiring a consultant to develop an automated system that would tell state officials everything about a lease, including whether the account is current or past due and when the lease

is about to expire.

And he also committed to getting tough on those who try to skate by without paying the state what they owe. "If you have to pay, you have to pay," he said. "The rules are the rules."

Now, more than three years later, the lease system is still very much a work in progress. Agency officials are trying to put systems in place to keep track of existing leases even as they juggle how to deal with new leases or agreements about to expire.

The state auditor made 12 recommendations in her report and DCR officials say three of the suggestions have been fully implemented, seven are being worked on, and two haven't been addressed yet.

A consultant was hired in April last year to

DCR threatened the Wollaston Yacht Club with eviction, and now the two sides may be near an agreement on back rent.



develop the automated lease monitoring system, but agency officials say they don't know when it will be finished.

The latest development is the Baker administration's hiring of Carol Sanchez as the agency's commissioner. Sanchez is a certified public account who for the last decade has been running her own firm in Marlborough. Her background in accounting and business suggests her focus will be on getting the agency's finances in order.

In June, after five weeks on the job, a cautious Sanchez sat down for a brief interview in her office on Causeway Street in Boston. Dressed in an olive green DCR polo shirt, she chose her words very carefully and provided little hint of her own views on the state's leasing system.

"The Baker-Polito administration is looking forward to partnering with people around the state that can do public/private partnerships," she says. "But, obviously, they need to be structured in a way that both sides are getting what they need."

THE AUDITOR

DCR officials appear to be following the state auditor's playbook on how to get the agency's leasing operation in order, but so far progress has been limited.

Bump's report, issued in July 2013, indicated the understaffed DCR was a terrible landlord, often failing to collect rental fees and late payments and failing to charge market rates for its properties. Money went uncollected

largely because DCR officials failed to enforce the agency's agreements or weren't even aware that the agency was owed any money.

In about a fifth of the property agreements checked by the auditor, DCR failed to execute a lease with its tenants. A similar number of agreements had expired although the tenants continued to occupy the premises and pay the old rent.

The findings of the audit mirrored what *Common Wealth*

Baker administration hired a CPA to put the finances and leasing systems of DCR in order.

reported in a 2012 cover story on the agency's lax oversight of its leases and permits ("Freeloading," Winter '12). The magazine noted that DCR's records were in terrible shape, too few employees were keeping track of the leases, and oversight of the leases was often chaotically split between DCR and the state Department of Capital Asset Management and Maintenance, the real-estate manage-



After a bid process, Boston Duck Tours is paying significantly more to use a boat ramp on DCR property.

firm is being paid \$514,000 to straighten out DCR's record-keeping problems and develop a system to monitor lease agreements going forward.

DCR officials say the new system will feature a computer map of Massachusetts with all of DCR properties highlighted. By hovering a cursor over a property, the user will be able to call up or link to detailed information about the property, including any lease agreements. The system would automatically alert state officials when a lease is about to expire.

It may sound like a simple task to keep track of leases, but with more than 1,000 agreements in effect and many of them buried or lost in DCR files, the

ment arm of the state.

Among the changes implemented is the requirement that any third parties that lease DCR property pay their fees directly to DCR. The auditor had noted that a number of companies had rented space from DCR for telecommunications towers and then rented space on the towers to other companies. In some instances, the companies renting space on the towers had not paid their rent to DCR's tenant, so DCR failed to recover money it was owed.

The auditor also raised two concerns about the agency's failure to collect rents from employees who were living in DCR facilities. DCR dealt with those concerns by abolishing its employee housing program, which affected 13 employees.

Agency officials also say they have made no progress yet on two of the auditor's recommendations, one involving the collection of late payment charges and the other dealing with inspections of rental properties.

The officials say the agency has begun but not finished work on the auditor's seven other recommendations, including the development of written policies and procedures on user fees, a new rent program for yacht and boat clubs on DCR property, and a new system for inventorying and tracking lease agreements.

The new electronic, lease-tracking system is being developed by TR Advisors, a Boston consulting firm hired last April by then-DCR commissioner Jack Murray. The

task has not been easy. As a result, the agency is often left flying blind in its dealing with tenants.

In February, *CommonWealth* asked DCR for detailed information on how a lease with a skating rink operator is calculated. A spokesman for the agency provided the lease payment, but could not answer exactly how it was calculated. "We are unable to answer the question about how the rent is calculated," said Bill Hickey, the agency's former spokesman, in an email.

The auditor's report also identified 20 cases in which renters were using DCR property to operate a skating rink or a concession without an executed agreement. "Without a properly executed legal agreement, the legal rights and responsibilities of all parties remain ambiguous and may not be enforceable," the audit stated. A DCR official could not say whether these problems have been corrected.

CURRENT ISSUES

While DCR is struggling to get its house in order to monitor existing leases, the agency is also trying to negotiate new agreements. Four employees are currently working on leases at the agency, a significant increase over staffing levels that existed as recently as three years ago. Still, the number of workers is not enough to implement major changes rapidly.

A good example is the new leases for the 30 yacht

and boat clubs that rent land from DCR. In 2010, the Legislature approved a law requiring DCR to grant leases of up to 30 years to the yacht and boat clubs at a “fair rental payment.” For years, the clubs had been using state land under annual permits and paying low rent.

DCR officials say a rental methodology has been approved and they are in negotiation with eight clubs to begin implementing the new rates. The agency hopes to have its first lease in place in July, yet the five-year delay means significant lost revenue for the state. Officials declined to estimate when the program will be fully implemented.

For educational institutions such as Harvard and Boston University that are renting land for their boat clubs and sailing pavilions along the Charles River, the increases will be the most dramatic. The schools are currently paying \$5,000 a year in rent (Harvard was only paying \$1 a year for its sailing pavilion until recently), but payments will initially jump to \$18,000 the first year under the new plan and increase every year thereafter. The rents will double by the fifth year and max out at \$100,000 a year in 30 years.

The new system allows all of the clubs to deduct dollar-for-dollar the value of in-kind contributions from their rental payments starting in the sixth year of the lease, with possibilities including providing picnic tables, public restrooms, bike racks, boating instruction, and local scholarships. It is unclear how the in-kind contributions would be monitored and valued. The clubs will also be required to make repairs and improvements to their facilities, the cost of which cannot be deducted from the rent.

DCR has had success in the past when it puts leases out to bid. Two parking lots on state land along and under Storrow Drive in Boston operated for 20 years under a lease with the Massachusetts Eye and Ear Infirmary. When the lease expired in 2009, the state took no notice, letting the arrangement continue uninterrupted. Finally, management of the parking lots was put out to bid in 2012. A new operator agreed to pay more than \$1 million a year, a sharp increase over the \$120,000 a year collected from Mass Eye and Ear.

Earlier this year, DCR officials put a duck boat ramp leading into the Charles River out to bid. Boston Duck Tours helped finance and build the ramp on DCR land near the Science Museum more than a decade ago under a lease that required the company to pay the agency 1 percent of its gross revenues each year and contribute \$25,000 into a parks trust. The company’s annual payments to DCR averaged about \$175,000 a year, officials say.

The lease expired several years ago and DCR extended it several times before deciding to put it out to bid earlier this year. Officials say they required a minimum bid of \$400,000 a year for the first three years of the lease and

\$500,000 for the remaining two years.

The officials say three companies showed interest in the boat ramp, but only Boston Duck Tours submitted a bid, which came in at the minimum level. The lease took effect at the end of March.

THE COMMISSIONER

Sanchez, the new DCR commissioner, is difficult to read on how she will oversee the state’s leases of public land. She talks about getting the biggest bang for the taxpayer’s buck and improving the quality of services delivered by the agency, but she is vague about how she is going to go about doing that.

She downplays the notion of pressing for more funding, although she says she expects the Legislature to approve a measure that will allow the agency to retain for its own operations more of the money it takes in from leases and other programs each year. She says the agency currently is allowed to pocket \$17 million, and expects that number to increase to \$20 million.

Sanchez most recently headed up her own accounting

New commissioner Carol Sanchez hopes to adopt a friendly tone in dealings with leaseholders.

firm called Sanchez & Santiago in Marlborough. Prior to that she says she did internal audit work for a wide variety of Fortune 100 and Main Street businesses, including Staples, Timberland, Verizon, and KPMG. She does not have any conservation or recreation experience; she says she was brought in to run DCR because of her business acumen.

Sanchez equates her job of running DCR to “managing a bunch of little subsidiaries.... My vision of what the job is and what I believe the Baker-Polito administration wants me to do is to unite [the agency], move it forward, make it efficient, and improve internal controls.”

She says she met Gov. Charlie Baker when he was at Harvard Pilgrim Health Care. She says the executive vice president of human resources at the health insurer was a mentor of hers. “He was very supportive of this mentoring program for Latino professionals,” she says, referring to Baker.

Asked what tone she wants the agency to adopt in

negotiations with leaseholders, she says, “I think it can be a friendly tone.” She balks at a suggestion the agency might need to get tough. “I wouldn’t say tough,” she says. “We are going to make sure that our partnership agreements are honored, and that we do the most that we can with private/public partnerships to get funding for all of our properties and do the best that we can with taxpayer dollars.”

One of the most vexing problems hanging over Sanchez’s head is the Wollaston Yacht Club, which owes DCR about \$30,000 in back rent for use of beach-front property in Quincy. The club’s rent is \$5,000 a year. It has paid the annual rent each of the last four years, but it hasn’t made much of a dent in what is owed from before.

DCR officials have repeatedly threatened the yacht club with the loss of its permit, all to no avail. Part of the problem with the permit is how to enforce it. The club owns the facility, which sits on pilings that rest on the beach, which is state land. If DCR evicts the club, what does it do with the facility itself? Does it spend money to knock it down or just leave it there?

This year the club sent DCR its annual permit fee of \$5,000 plus another \$500 to be applied to its debt. DCR instead applied the entire \$5,500 to the club’s debt, leav-

ing a balance of \$25,000.

“You are hereby put on notice that you have 90 days from receipt of this letter to resolve this outstanding debt,” DCR’s general counsel, Douglas Rice, wrote in an April 2015 letter to the club’s commodore, Brian Ford. Rice also informed Ford that the club will not be issued a permit to operate this year until the matter is settled.

“Failure to resolve this matter within the 90-day period will result in the club being ordered to vacate Wollaston Beach,” Rice warned in his letter. “Should the club fail to vacate, this matter will be referred to the Attorney General’s Office with a request to initiate a trespass action.”

Despite Rice’s tough talk, DCR subsequently granted a permit to the yacht club to operate this year, and the agency is now negotiating with the club to come to a resolution on the back debt. Ford declined comment.

It’s unclear whether Rice’s tough letter and the threat of a referral to the attorney general brought the club around, or whether something else spurred the negotiations over the back debt. Either way, Sanchez says she is optimistic all will be resolved.

“We’re very close,” she says. “This is not a negotiation that’s going to go on for months. We’re very close.” **CW**



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Man in the middle

John Grossman at Third Sector Capital develops pay-for-success projects by bringing together government, social service, philanthropic, and Wall Street officials.

PHOTOGRAPHS BY FRANK CURRAN

JOHN GROSSMAN CALLS himself an intermediary. It's an unusual job description, but it's one that captures what he does putting together complex deals that leverage money from the private sector to fund social service work for government. Grossman is the man in the middle, trying to address social ills by bringing together government bureaucrats, social service agencies, philanthropists, and corporate titans from major Wall Street firms.

The 48-year-old Grossman is the co-president

and general counsel at Third Sector Capital Partners, a nonprofit company on the rise in the emerging field of social impact investing. Social impact investing is a catchall term that applies to investments designed to yield a profit as well as some form of social or environmental benefit. Third Sector's niche is pay-for-success projects, where private groups put up the money for a program to address a specific social problem and get paid back by the government if the initiative is a verifiable success.

The approach is similar to what's going on in health care. Instead of paying doctors and other health providers for each test or service they provide, insurers are starting to pay for successful outcomes. Health providers and insurers agree ahead of time on what it costs to care for various types of patients. If the providers can successfully treat their patients at less cost than the agreed-upon reimbursement, they pocket the difference. If providers fail to attain the desired outcomes — a patient gets an infection while being treated or has to return to the hospital for emergency care because of avoidable complications — they have to absorb the extra cost.

Third Sector's initial venture is focused on criminal offender recidivism in Massachusetts. The goal is to prevent young men just out of prison from getting into trouble and going back. The deal has three major players: the state, which is willing to pay as much as \$28 million for a program that works; Roca, a Chelsea-based nonprofit that helps young men and women get off the streets, stay out of jail, and find jobs; and a group of investors led by Goldman Sachs and several foundations that provides the up-front capital for the project. The investor group stands to gain financially if the project is a success, but runs the risk of losing its seed capital if the program fails to deliver results.

Grossman helped pull the deal together, coaxing all of the parties to agreement on a whole host of complicated issues. For example, the parties had to come up with a mutually agreeable way of defining recidivism success. They also had to put a dollar value on it. And they had to work out an arrangement for who would profit and how much.

Grossman is well-suited for the job. He's a lawyer (BU), a finance guy (MIT's Sloan School), and a veteran of state government, both at the attorney general's office and at the Executive Office of Public Safety. He's a good listener and a good communicator, both skills that come in handy when trying to bring diverse parties together.

When Grossman joined Third Sector in 2012, he was the fifth employee and worked part-time. Now he works full-time alongside 32 other people who are spread between offices in Boston and San Francisco. The employees are working on 37 projects as consultants, intermediaries, or a combination of both.

The business is growing quickly because of a convergence of interests. Government officials want concrete results for the taxpayer money they are spending. Social service providers are increasingly confident they can produce the desired results. And even though the profits aren't spectacular, big players in finance are jumping into



social impact investing because their clients are demanding it. The latest convert, Bain Capital, hired former Massachusetts governor Deval Patrick to head up a social investing arm of the company.

While in office, Patrick helped launch three pay-for-success ventures: the Roca project on recidivism, a homelessness project developed by the Massachusetts Housing and Shelter Alliance, and a Jewish Vocational Service initiative on adult education. The federal government is also investing in pay-for-success ventures, last year awarding Third Sector a \$1.9 million, three-year grant to offer consulting services to state and local governments at discounted prices. Thirty-nine government agencies responded to Third Sector's consulting offer.

"We were only able to choose seven of the applicants, so that speaks a little to the demand and increasing awareness of this," says Grossman. "Several years ago we were knocking on people's doors."

I met Grossman in Third Sector's offices on the 29th floor of the John Hancock Tower in space it rents from New Profit, a venture philanthropy fund and one of the investors in the Roca project. What follows is an edited transcript of our conversation.

BRUCE MOHL

COMMONWELATH: How do you define pay for success?

JOHN GROSSMAN: Pay for success is a contracting mechanism and it's existed in some capacity or another for a long time. If you go back to Clinton-Gore, they talk about reinventing government, about paying for success. What's changed is the availability of data. Until you start administering robust administrative databases, it's hard to measure outcomes and hard to measure success. I believe we're at a tipping point in government. Over the next five to ten years, we're gathering all this data in government and trying to figure out what to do with it. Pay for success may well be the killer app for what we're going to do with it. We're going to pay for actual success or some proxy measures of success. That's the concept behind pay for success.

CW: Government doesn't do that already?

GROSSMAN: We certainly haven't been measuring to date, and I would argue in many cases we haven't been improving the lives of the people most in need. The war on cancer and the war on poverty were declared at the same time roughly. We've made phenomenal progress in the war on cancer; there are cancers that are now completely treatable and there are other cancers where we've extended life

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remarkably. The war on poverty by almost any measure we haven't done much with. Our big picture hypothesis here is that the difference between those two is that we had a feedback loop in the war on cancer. We had experimental methodology where you could set out to do something, test it, and get an outcome. If it worked, you could develop it further. If it didn't work, you try something else. In social programs, we basically fail to have that feedback. We do programs and we have no idea whether they work.

CW: But it seems like government is always testing a program with a pilot project.

GROSSMAN: We did it with Head Start in 1974 in Ypsilanti, Michigan [in the well-known Perry Preschool project]. But because it was government, we said everybody has to do it the way we did it in 1974, as opposed to constantly testing and iterating, which is what medicine does, which

is what the private sector does. We've largely failed to do that in the social sector. Some people say when you test existing social programs now, only one in 10 are effective. If we could get that to 1.5 out of 10, that would be a 50 percent improvement. That's an unbelievable change for the people receiving those programs and for taxpayers. I'm not telling you that pay for success is going to do that, but it is part of a larger movement that is asking about outcomes and seriously looking at performance measures. That's the big picture for why we're doing this.

CW: Why can't government do that on its own?

GROSSMAN: Governing the state is hugely complicated and there's only a certain amount of bandwidth that's left for discretionary work. The state has made a lot of progress. Before the Romney administration came along, there was no reporting around performance. The Romney administration started something called Mass Goals, where each agency had a report card and three or four specific goals that they had to report on both to the chief executive — the governor — and to the public on a quarterly basis. Then the Patrick administration comes in and, like most new administrations, it said, well, that's good, but we can do it better so we'll start again. And that takes a while. The Patrick administration made some progress and did some good things, but I don't think [the use of data] ever really got imbued in the system. I don't think everybody at every level of management thought this was something of value to them. It became sort of a compliance thing rather than a management tool.

CW: But you need data to make pay-for-success work, right?

GROSSMAN: Roca, the provider we're working with on this project, created a performance management system down to the level of the youth worker. They think the data they're gathering helps them do their job better, so they're not reporting because thou shalt. I mean there's an element of that. If they don't report it, their boss is going to say, where is it? But Roca thinks getting those performance metrics will make them better at doing their jobs. That's the holy grail around any evidence-based management system. And they've done that really well. State government, I don't think we have done that very well.

CW: How complicated was the Roca deal to put together?

GROSSMAN: It was complicated in the sense that there were only two other projects in the United States before us, one just by three weeks and the other by a year-and-a-half. So we had no go-bys. None of the details of those projects was public, so it was very complicated figuring

out how we were going to do the project. We were also acutely aware that what we were doing was a model for future projects. We were setting a precedent, not just here in the Commonwealth but around the country. We were also doing something that's complicated. It's complicated to talk about measuring success and to attach financial consequences to that and to contract for that, none of which had been done before. Even if you and I were just to whiteboard the problem out without having to negotiate with someone, there's a lot of thorny issues that you have to work through. Then you think about the strange bedfellows a project like this brings together – the funders include Goldman Sachs, the Kresge Foundation, Living Cities, the Laura and John Arnold Foundation, the Boston Foundation, and New Profit. And then there's Roca, this Chelsea-based, sophisticated nonprofit; the Executive Office of Administration and Finance; and the Probation Department. Those are some serious cats that have to be herded to get to a consensus.

CW: When you negotiated the deal, wasn't the Probation Department going through a federal corruption probe?

GROSSMAN: Yes. It was a sub-optimal time to try to do a project with the Probation Department.

CW: What was your role as intermediary?

GROSSMAN: While there was unanimity about wanting to build a good project, everybody speaks a different language and has somewhat different needs and different masters to whom they answer. It was our job to sit in the middle of all of those people and understand the needs of each of the parties and try to come up with solutions or solicit ideas for solutions and build consensus around them. It was very much an iterative process. It started without the funders at the table, building out the shell of a project with the government and with Roca. Then we tried to figure out what the funders needed. Our job was to play the other side's role on almost every occasion. So I'd have one-on-one negotiations with the government and say that makes sense, I understand why you want that, but is it going to be fundable? And then you say to the funders, that makes sense, I understand why you want that, but is it going to be acceptable to the government or Roca, and how do we fix that? So that was our job.

CW: What makes you suited for that job?

GROSSMAN: At some point at the attorney general's office I realized that what I was really doing was being an intermediary. My ability to succeed as the head of the computer crime division was really because I was not a technologist,

not a detective, not a judge, not the attorney general, not a businessman. But I could speak and understand enough of each of their languages to be the connective tissue and bring them all together and explain one to another. At the time of the Big Dig tunnel collapse, they said we need somebody who can run the scientific side of this investigation and we need someone who understands criminal prosecution. I'm not a medical examiner, but I understand enough, ask questions, and seem to be able to translate and play that intermediary role, which sort of logically led me to end up in this job.

CW: What did the Patrick administration want out of the Roca deal?

GROSSMAN: The enabling legislation said the government could spend up to \$50 million on pay-for-success projects. They ultimately decided to do three projects with the maximum exposure being \$50 million, and maybe more depending on how the third project fleshed out. We had two other drivers on the Roca project. We needed to reach a critical mass of young people so that the outcomes would be statistically significant. That was one of the govern-

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ment's non-negotiables. And we needed to figure out how much the state would save if Roca kept people coming out of jail from going back in. You come up with a ballpark figure that you start negotiations with.

CW: What is the state government's exposure on the Roca project?

GROSSMAN: The max exposure from the government is \$28 million.

CW: How do you measure success in terms of keeping people out of jail?

GROSSMAN: It relies on a control group. Roca gets more than 1,300 young people referred to it and it takes 929 into its programs. Then there's a separate control group made up of young people who are leaving prison and are not referred to Roca. It's a different population of young people but it looks like the people being served by Roca. You compare the Roca group to the control group. The premise is you'll be able to say, but for Roca this result

wouldn't have happened. You're controlling for all of the other circumstances in society, positive or negative, that might affect recidivism.

CW: How do the government payouts work?

GROSSMAN: The project gets paid in three ways. The first and primary way is based on a reduction in bed days, which is our term for prison days. So we look at how many days the young people in the control group are incarcerated for and we compare that to the number of days that young people who are in Roca's programming are incarcerated for. The government will pay out based on that comparison for the reduction in bed days. It's a sliding scale that's tied to the amount of government savings that occurs as a result of that reduction in bed days. The second way the project gets paid is based on quarters of employment. For every quarter that the young people in the Roca programming are employed, when compared to the counterfactual, there's a payment the government will make for that. The third way is based on completion of certain tasks among the young people in the Roca population that prepare them to enter the job market.

CW: What do you mean by counterfactual?

GROSSMAN: That's what happens in the absence of the intervention. In the case of Roca, the control group is the counterfactual.

CW: Does the government pay a fee for every avoided bed day?

GROSSMAN: No, there has to be a baseline level of impact, enough so that the government is comfortable that it's statistically significant. After that, the government pays about \$55 a day for each day and that number goes up until the point where it realizes the full potential of savings the government gets when someone isn't incarcerated, which is about \$145 a day. And that's if we could close the wing of a prison or forego the building of a new prison. After that, if Roca continues to reduce the number of bed days among the young people assigned to it, the government shares in some of the savings, but not all of the savings. Ultimately, if the government hits the \$28 million cap on success fees, the government will keep all of the savings and not pay any more to the project.

CW: How are those bed day fees calculated?

GROSSMAN: It's a pretty complicated algorithm that was developed by the folks at the Kennedy School.

CW: What is the baseline impact that's required before the government has to start paying?

GROSSMAN: It's about 27,000 foregone bed days before the government pays anything.

CW: Do avoided bed days mean actual savings?

GROSSMAN: It's important to realize it's the opportunity for savings. I never want to oversell this. I'm reluctant to say this is going to redound to money in the taxpayer's pocket. I think it's going to make the taxes we all pay more effective, and stop at that.

CW: So you argue that basically any quantified outcome is a success?

GROSSMAN: I would argue that any quantified outcome is better than what we're doing now, because now we don't know what we're getting. If you know what outcome you're getting, you can decide if it's worth it or not from a policy point of view.

CW: Does Roca get paid no matter what?



Roca youth worker Santos Mejia (left) and Roca participant Kevin Sanchez.

GROSSMAN: This project is unique in that Roca has what bankers would call skin in the game. Roca, if it costs a dollar to provide its service, gets paid 85 cents. They've agreed to put 15 cents at risk. It's a total of \$3 to \$3.5 million that is at risk and they'll only be paid that money if the project is successful. But they'll also get some additional returns, some upside on that \$3.5 million. There are not a lot of providers that are willing or can afford to do that. It sets a very high bar. There aren't a lot of Rocas in the world.

CW: What quarter is the project in now?

GROSSMAN: The project is currently in quarter seven.

CW: Is Roca on track?

GROSSMAN: It's really too early to say. I have no insight into what is going on in the counterfactual. What I do know is the management metrics that Roca uses, whether in this project or others, are primarily around attrition. I do know that the attrition numbers are at or below historic performance levels for Roca.

CW: How are people referred to the Roca program?

GROSSMAN: When we started, we were getting referrals from Probation and the Division of Youth Services (DYS). It turned out that there weren't enough young people coming out of Probation and DHS who were eligible for the program. So we added six additional referral sources, which are Parole, the Department of Correction, and the Houses of Correction in the counties we're operating in – Middlesex, Essex, Suffolk, Hampden. That took a fair bit of work by everyone to bring in those other referral sources.

CW: Why weren't there enough referrals from Probation and DHS?

GROSSMAN: We don't entirely know. The good news is that fewer people are going to jail in the Commonwealth, and that's a reflection of a national trend. I don't think we adequately weighted that trend when we did the 10-year look-back on incarceration rates. Also, the juveniles from DHS have to consent to be in the program. So DHS couldn't give names directly to Roca. The consent has proven more difficult than we expected, so we're not getting the referrals we expected from DHS.

CW: So the people coming out of prison are given no incentive to work with Roca? Roca has to convince them to participate?

GROSSMAN: The Roca model is that they go find young people and persuade them that they want to participate in Roca. Roca is given their name and date of birth and where they live, that's all. For people who are coming from the prisons and the houses of correction, Roca is actually introduced to the people behind the walls so that they're building a relationship with the people behind the walls.

CW: But the inmates are not required to join Roca?

GROSSMAN: It is voluntary. They have some people who are sent to Roca as a condition of incarceration, but the core model is that it's voluntary.

CW: Why is Goldman Sachs, which is known for earning enormous returns on its deals, involved in this project?

GROSSMAN: There are seven pay-for-success projects in the United States, and Goldman is involved in four of them. They have a group called the Urban Investment Group, which invests both firm capital as well as money raised from clients to do double-bottom-line investment. Our project was the first where they invested client money. The projects they did before always involved firm capital.

CW: What's a double-bottom-line investment?

GROSSMAN: Double-bottom-line is financial returns and social returns. People sometimes talk about triple-bottom-line, which would also involve environmental benefits.

CW: What type of people invest in these funds?

GROSSMAN: I think it's a mix. The generation that is now coming into control of significant wealth wants to align their investing with their social goals. I think there's a market opportunity for that, which is one of the reasons why a lot of banks are interested in impact investing in one way or another. Goldman has found a sweet spot, if you will, with pay-for-success contracts. They have clients who say they want to invest this way. I think there's also definitely an element of publicity for Goldman. They want to be known as people who brought financial sophistication to bear for social good.

CW: Goldman is putting an \$8 million loan into the Roca project. How does the firm get paid?

GROSSMAN: Money is drawn down from Goldman over a four-year period and over that period they are paid 5 percent on the loan on a quarterly basis. So they get 5 percent on their money, but they may not get the principal back. The \$8 million is at risk. The first time some of that can be

paid back is around quarter 18 — 4.5 years after launch. But it may take as long as the full six years before they get paid back, in whole or in part. And they may never get paid back.

CW: Does Goldman make anything else, like fees?

GROSSMAN: They do not get any fees.

CW: It seems hard to believe that Goldman Sachs is satisfied with a 5 percent return.

GROSSMAN: They get the 5 percent, plus they have the possibility of success payments at the end of the project.

CW: How do the success payments work?

GROSSMAN: After all the costs have been paid, after the senior and junior lenders are paid back, then the balance of the success payments are split using a complex formula between the senior lenders, the junior lenders, Roca, and the philanthropy and a little bit to Third Sector. There's a negotiated formula that shares out that money.

CW: I understand the federal government invested \$12 million in the project. What role does that money play?

GROSSMAN: The \$28 million that the state could pay, the first \$12 million of that could come from the feds. From a project point of view, that allows us to examine, in a couple of quarters if the project is going well, whether to extend it a couple years. The state still has \$28 million. It could be \$40 million if you include the federal money.

CW: Do you think the federal money and philanthropic money will be needed in the future as pay-for-success gains traction. In other words, will pay-for-success become more of a business proposition than a philanthropic proposition?

GROSSMAN: The hope is that the philanthropy will go away, but this is early days. This is the third project launched in the United States and the first statewide project.

CW: What does private sector involvement in these projects bring to the table?

GROSSMAN: The idea of this model is that the fiscal disci-

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pline that the private sector brings — the questions about outcomes, the due diligence, the rigor — is to the benefit of the public. It forces government, it forces providers, it forces all of us to ask whether we're getting value for our dollar. What do we value as a society? What do we want to pay for? What is it that we're paying for? And are we getting that? All questions that I could make a pretty good argument that we should be asking anyway, whether we're doing a pay-for-success transaction or not. Ultimately, if we get good at this we'll have less and less philanthropy in there and more and more pure commercial interests. But we may decide that some other project makes sense with philanthropy.

CW: How does it work for the philanthropies?

GROSSMAN: From a philanthropic point of view, if you did \$5.5 million of philanthropy it would run 300-odd people through the Roca program. Here you take the \$5.5 million and leverage it up so you're running 929 people through the program. If nothing else ever happens, you're getting triple the social return just from the people you're running through Roca. You're getting three times the benefits.

CW: Do the philanthropies get their money back if the project is a success?

GROSSMAN: They do in a way. They won't get back money in their pocket. But they do get to redirect it, so at the end of the project if there is \$5 million left, that \$5 million will be allocated based on the instructions of the philanthropists when they first gave the money. Let's assume they get half their money back and do another one of these programs. Now they run 460 people through the program. They get half of that money back and they run 240 people through the program. And then 115. All of a sudden, for the initial \$5 million, which would have run 300-odd people through the program, you've run 2,000 young people through the program. So as a philanthropic proposition, it's amazing.

CW: Have you ever thought about doing a pay-for-success venture with the MBTA?

GROSSMAN: [Laughs] No, pay for success is not a panacea.

CW

Disclosure: Greg Torres, the publisher of Commonwealth and head of MassINC, is currently an honorary board member at Roca and a former board chairman. The Boston Foundation, which provided money for the Roca project, has also contributed money to MassINC. John Grossman is a member of the Massachusetts Criminal Justice Reform Coalition, an initiative that MassINC helped launch.



The failure of public assistance

A system designed as a temporary helping hand has become a permanent way of life. **BY RAYMOND V. MARIANO**

DEMOCRATS AND REPUBLICANS alike have fought for and voted to support programs and funding to provide assistance to our most vulnerable citizens. The intention of this support was always to provide those in need with a temporary helping hand. For citizens who found themselves out of work, temporary unemployment benefits were provided. For those who needed help feeding their families, food assistance was provided. Additionally, low-cost public housing and free health care were provided for those in need. Each time a clear need has been demonstrated, government has stepped in to help. But what are the results of this assistance?

Congress and state legislatures across the country have allocated trillions of dollars to provide citizens in need with food, housing, health care, and other basic necessities. In the process of providing our fellow citizens with support, our government has built a behemoth of a bureaucracy which costs billions of dollars to operate before a single dollar of support is given to a citizen. The federal government currently runs approximately 70 different anti-poverty programs. Unfortunately, the bureaucracy, aided by Congress and state legislatures, has compiled a set of rules that provides little incentive for a citizen to move beyond government handouts. Worse, these rules have served as a disincentive to work, which ultimately has created a barrier to self-sufficiency.

I believe our country is headed in the wrong direction. By increasing numbers, our poorest families are becoming less educated, less employed, and more reliant on government services and support. A system of assistance that was designed as a temporary helping hand has become a permanent way of life. Alarming, reliance on public assis-

tance has become a sort of perverse legacy handed down from one generation to the next. In the same way that children repeat the behavior of their role models, children who know only public assistance follow the path shown to them.

If you look at the most vexing problems facing our nation, you will find, at least in part, that our system of public assistance has contributed to the problem. By almost any measure, our system of providing government assistance has been an abject failure.



First, the costs associated with welfare are unsustainable. The War on Poverty launched by President Lyndon Johnson in 1964 consumed 1.2 percent of the gross domestic product (GDP). By 2013, that spending consumed 6 percent of GDP. A 2010 report prepared by The Heritage Foundation noted that the fiscal 2011 cost for welfare was \$953 billion, representing a whopping 42 percent increase from welfare spending in fiscal 2008. That same report predicted that the average cost for welfare spending, over the next 10 years, will exceed \$1 trillion a year. Over the last 40 years, the number of people receiving food stamps jumped from 4.3 million to more than 40 million. While there is some debate about the definition of welfare and what costs should be included in these numbers, there can be no debate that these costs are simply unsustainable. Further, the money spent on these programs is not solving the problem. Not only are these programs not working, the programs and the growing reliance on them are making the problem worse.

As we consider the America that our chil-

dren will inherit, it is critically important that every American citizen understand the long-term impact that government policies have on those citizens who rely on government assistance. The greatest threat to America's future comes not from Islamic extremists but from the hopelessness of Americans who live on a dead-end street.

PUBLIC SCHOOLS: Most residents receiving public assistance come from families with limited formal education and where education is not a priority. While there are many reasons for the poor performance of our schools, certainly having generations of children whose families do not place great importance on success in the classroom has had a negative impact on overall results.

CRIME: The costs associated with crime are staggering both in terms of dollars spent and psychological impact, especially in urban areas. While scholars will disagree about the extent to which poverty is a causal factor in crime, virtually everyone agrees that it plays a major role. The failure of public assistance to move people out of poverty should be seen as a contributing factor as well.

FERGUSON: Recent civil unrest in some American cities has as contributing factors poverty, unemployment, lack of education, and loss of hope for a better future. I do not mean to gloss over the issues that initially caused the unrest. However, I believe that it is undeniable that some of the frustration expressed violently by local residents has its roots in poverty and helplessness.

I am convinced that our system of providing public benefits is actually hurting the families who receive them. As executive director of the Worcester Housing Authority, I set out to change the system. With the generous financial support of the Health Foundation of Central Massachusetts, we designed and tested an intensive case-management program that we call A Better Life. The goal of A Better Life is to break a resident's reliance on public assistance by changing behaviors that have existed, in many cases, for generations. Ultimately, the program is intended to help families become self-sufficient by requiring that they go to work or attend school.

The program initially worked with 30 families, who volunteered to participate. We have learned several important lessons. First, we can change the lives of those who are willing to work with us. In just a few short months, for those first families who were willing to stay in the program, we have doubled the number of residents attending school and more than doubled the number working. Our residents are improving their credit scores and have already saved thousands of dollars that can be used to improve their lives.

Second, most residents will not seek out the help we offer. They are willing to stay right where they are. We have marketed our new program to approximately 1,200 families, yet we have struggled to find 30 willing to do the hard work necessary to participate in the program.

Unless we have a way to hold residents accountable, we have little chance of helping more than a handful of residents achieve self-sufficiency.

Third, the only way this program will work is if the government requires families to participate. Yes, it is hard and in many cases the odds are stacked against those residents willing to do the difficult work required to become self-sufficient. But it should not be acceptable for people to say that they won't even try. The current system not only lets them sit on the sidelines, it encourages it.

In Worcester, the challenges that we face are most acute in our family developments, where nearly 80 percent of adults are unemployed and more than 40 percent of residents between the ages of 18 and 24 have not graduated from high school.

Based on the results of our voluntary program, we expanded the initiative by moving any applicant family willing to participate to the top of the waiting list for housing. But this new approach also required participants to meet the demands of the program or face a loss of housing benefits.

Our program encourages, motivates, and requires residents either to go back to school, go into the work force on a full-time basis, or some combination of school and work equal to full-time. For each family, the first step in the program is to undergo a comprehensive five-part assessment that forms the basis for a family development plan. They must also participate in a life skills training program designed to help them gain the skills they need to improve their lives focusing on financial literacy, work readiness, domestic violence, conflict resolution, parenting skills, and other topics. The program's requirements apply to every able-bodied adult member of a family under the age of 55. Any resident unable to find work is offered community service work at the housing authority while their job search continues.

The Worcester Housing Authority has thousands of applicants on its waiting lists. With 3,000 public housing units available, the wait to receive a unit is often several years long, or longer. Many of these applicants are homeless. Yet fewer than 7 percent of those on the wait list have been willing to sign up for the program and go to the head of the line. Their actions indicate they would rather remain homeless than meet the requirements of the program.

Nevertheless, because our waiting lists are so long, we ended up with several hundred applicants who agreed to accept the requirements to go to work or school. The results were dramatic. Of the more than 100 families that entered the program to date, employment levels rose from 35 percent to 75 percent, personal income tripled, and the number in academic programs more than doubled.

Like so many issues facing our government, the answer to dealing with those who need a helping hand lies somewhere between the traditional Democratic and Republican

responses. The money that we invest in our fellow citizens should be focused on efforts to attain self-sufficiency. To that end, we need to acknowledge that self-sufficiency can never be attained unless the person is willing to work hard to achieve that goal. Our current system has required next to nothing from those receiving benefits. It is time for recipients of public assistance to be required to participate in their own futures.

The pillars of our A Better Life program guide our work. They start with believing in the ability of residents, then setting high standards, holding recipients responsible, and helping recipients reach their goals.

Part of helping recipients succeed is developing a system that provides them with financial incentives to move toward self-sufficiency. Incentives need to be applied to all public assistance so that someone willing to go to work doesn't end up actually losing money or working for almost nothing once benefits are removed. Benefits should be removed gradually.

It won't be easy reforming public assistance. The easiest thing for Congress and the President to do is to add money or take money away from public assistance programs. It takes no courage to treat them as a simple line item within the budget. A solution to the growing problem of how to provide public assistance can only be solved with hard work. Recipients of public assistance need to work hard to

help lift themselves out of the poverty that has faced their families for generations. At the same time, these recipients need to be aided by equally hard-working case managers who will guide recipients along a path which, for them, has been wholly uncharted.

A few years back, I made a presentation to a large group of students attending Harvard Law School. I debated an instructor who specialized in the area of housing. During the presentation, the professor spent all of her speaking time criticizing my program but did not spend a minute proposing ways to change a system that, by almost every measure, has been a complete and total failure.

In response to her comments, I said: "We know that the current system is a complete failure. If you have an idea as to how we can change this system and make it work for the people who receive these benefits, let me know what it is and I will abandon my plans and support yours. But if you don't have a plan to improve the system, then get out of my way and let me make a difference in the lives of these families. For me, the only thing that is unacceptable is to continue doing what we know is already a failure."

Raymond V. Mariano is the executive director of the Worcester Housing Authority and a former mayor of the city. He spent nearly 20 years growing up in the same public housing developments he now manages.

A democracy worth paying for

Instant runoff voting could invigorate Boston's lackluster municipal elections.

BY JAMES SUTHERLAND

ACROSS THE COUNTRY, voter turnout in local elections has steadily dropped. Electorates for local elections are a shell of what they once were — and of what they could be, given the more robust turnout for state and national elections. This fall, voters in Boston will go to the polls to elect members of the City Council. There are 13 seats up for grabs — four elected at-large and nine elected in districts. Yet, like most of the recent off-year elections with no mayor's race, only 1 in 6 registered voters will likely cast a ballot.

That low turnout amplifies the significant costs associated with running an election. The Boston Election Department estimates that the average cost of running an election in the city is just over \$700,000. In low-turnout contests, the cost-per-actual voter is jarring. The last off-year City Council general election, in 2011, saw just 63,009 of roughly 350,000 total registered voters come to the polls, an overall election cost of \$11.13 per vote.

The preliminary election—held six weeks prior in only three of the nine council districts—cost the city almost a quarter million dollars, or \$14.45 for each of the 16,556 voters that showed up at the polls.

Two years ago, the open race for mayor drew 12 candidates in the preliminary election, while two at-large council openings prompted 19 candidates to vie for one of the four citywide council seats. The race saw a much higher turnout, resulting in an estimated cost of \$6.19 per voter in the preliminary election and \$4.94 per voter in the final election, the lowest per-voter cost for a city election in many years.

This year, it appears that only five candidates will be on the ballot for the four at-large council seats, far fewer than the nine needed to force a





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PERSPECTIVES

preliminary election that would narrow the field to eight. Meanwhile, seven of the nine City Council districts will not hold a preliminary election this September due to a lack of more than two candidates. This dearth of candidates will save money for city coffers, but it is hardly good for the health of our electoral democracy.

There are all sorts of reasons for the falloff in local political activity and ideas for what might reverse it. But the dismal state of affairs raises one practical question: Can we hold smarter elections? Instead of lamenting the plummeting voter turnout and the waning interest in local elections, city governments should be experimenting with electoral reforms aimed at stimulating turnout, producing greater voter engagement, and increasing the overall interest in how city government operates. We need a democracy worth paying for.

There will not be a single catch-all reform to cure what ails our cities' democracies. But there are a number of changes that should be given serious consideration. Expanded early voting, absentee voting, and same-day registration are all long overdue. The city could also consider abandoning off-year elections altogether by establishing four-year City Council terms aligned with mayoral elections. Local elections could also be brought to coincide with even-year state and federal elections.

One more fundamental reform to the actual voting process merits consideration: adoption of an instant runoff voting electoral system — also known as preferential voting or ranked-choice voting. Such a system holds the promise of both cutting costs and producing greater satisfaction with the city's electoral system.

Under our current plurality vote system, the candidate with the most votes in a race for a seat wins, regardless of whether he or she garners a majority. Under an instant runoff voting system, voters rank their preferences within each contest, marking the candidate that is their first choice, second choice, and so on.

For a district City Council race, where a single seat is being filled, the process to count the final vote tally in an instant runoff voting system is very similar to that which is already in use. After the polls close, all of the votes for the candidates that were ranked first on each ballot are counted. If a single candidate has a majority of first-rank votes, they will be elected. If no single candidate has a majority, a second round of counting occurs. This second round of counting begins with the elimination of the candidate that received the fewest first-rank votes. The ballots of the eliminated candidate's supporters are then reviewed, and their second choice becomes their first choice in the second round. With each subsequent round, the least-favored candidate is eliminated and the next choice of his or her supporters becomes their first choice until a candidate receives a majority. In essence,

with each round of counting, each voter casts a ballot for their most preferred candidate *still in the contest* until a winning candidate emerges.

The process is a bit different for a multimember contest such as Boston's at-large council race, in which four seats are at stake. Under the current system, those going to the polls may vote for up to four candidates, and the four candidates winning the most votes are elected. Under an instant runoff approach, a ballot threshold is required to be elected. The threshold is typically calculated by dividing the total number of ballots cast by one more than the total number of seats to be won, and then adding one to that result. For example, in a Boston at-large race in which 50,000 voters turn out, 10,001 votes would be needed to win a seat, rather than the simple majority needed in a single-seat instant runoff election. Once such a threshold is set, ballots are counted in a similar manner as a single-member district election until four candidates meet the threshold for election.

Instant runoff voting would provide the city and its residents many more benefits than our current electoral system provides. First, because it uses a single election rather than the current system of separate preliminary and general elections just weeks apart, instant runoff elec-

tions would yield cost savings. Although the actual process of counting votes on election night will become more involved and costly, the city will only need to oversee one election each municipal cycle. Likewise, voters will only need to trek to the polling booth once each election cycle.

But the benefits of instant runoff voting extend beyond just a cost analysis. Allowing voters to rank their candidates is beneficial to the health of our democracy in three notable ways. First, when voters are able to rank their electoral choices, they are empowered to make more thoughtful and well-defined choices about who they want to represent them. Ranked ballots eliminate "vote wasting," or situations where a vote cast does not end up helping any candidate on the ballot get elected. By eliminating vote wasting, voter detachment from government is reduced. Even if a voter's third-ranked candidate is the one eventually elected, that voter still played a role in that candidate's election. This, in turn, promotes a higher degree of voter satisfaction and negates complaints that one's vote does not matter. Instant runoff voting also prevents candidates from playing a spoiler role. (Think Ralph Nader's role in taking votes away from Al Gore in the 2000 presidential race, which was eventually won by George W. Bush. Instant runoff voting in that race would have taken

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the second-choice votes of Nader supporters and applied them to the tally of the remaining top two candidates.)

Secondly, instant runoff elections also impact candidates and the types of campaigns they run. With an instant runoff system, candidates are campaigning for more than first-choice votes, thus they need to appeal to a broader voter base and avoid alienating parts of the electorate. Because voting decisions with instant runoff elections are not “all-or-nothing” affairs, candidates within this type of system must run more positive, issue-based campaigns. Additionally, the elimination of a preliminary election ensures that there are more candidates throughout the campaign cycle. This can generate a greater discussion of issues, greater mobilization of voters, and higher turnout. The elimination of preliminary elections with an instant runoff system also lowers the campaign-cost burden for first-time candidates who then have more time to appeal to voters and make the case for why they should be elected.

Finally, the end result of instant runoff voting elections produces a democracy which matches the philosophy of the modern voter. The quality of today’s electoral democracy is measured by its ability to include numerous and diverse voices, to promote inclusiveness — racial, gender, and ideological — within the policymaking process, and to promote both transparency and accountability. Researchers have consistently shown that the electorate in low-turnout elections tends to skew toward wealthier, older, and whiter voters. Instant runoff voting has produced an uptick in voter participation in many American cities. And by lowering some of the barriers to candidacy, instant runoff cities can also create a political environment conducive to the election of those typically outside the realms of political power. Women, ethnic minorities, and members of the LGBTQ community have all seen success in instant runoff cities.

Different forms of instant runoff voting have been approved in cities across the country, from smaller cities such as Portland, Maine; Santa Fe, New Mexico; and Telluride, Colorado, to moderate-sized cities such as Berkeley, California, and larger cities, including San Francisco, Oakland, Memphis, Minneapolis, and St. Paul.

But Boston doesn’t need to look farther than across the Charles River to see the effects of instant runoff voting in practice. Cambridge has used a form of instant runoff voting in its multimember at-large municipal elections since 1941. Any comparison between electoral systems is not perfect, given other differences between the locations, but it’s still worth looking at local elections in Cambridge and Boston. Boston uses a strong-mayor governing system and — like other cities across the country that use this system — experiences an increased turnout when a contested mayoral race is at the top of the ballot. Since the residents of Cambridge do not directly elect their mayor, it is best to compare their electoral system to Boston’s off-year City

Council elections when a mayoral race is not occurring. Over the past 15 years, the average turnout among registered voters in City Council elections has been 50 percent higher in Cambridge (31 percent) than Boston (20 percent). Cambridge also spends less money per vote on its elections. The last two Cambridge City Council elections averaged to about \$10 per vote cast. In contrast, the last two Boston City Council elections averaged just over \$32 per vote cast.

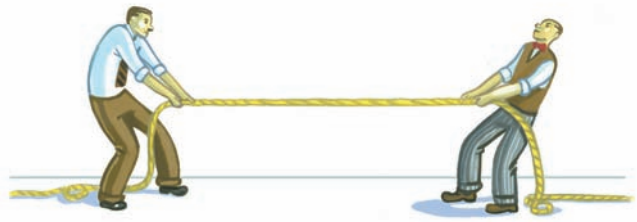
In part due to its electoral system, the political arena in Cambridge has been more diverse than Boston. The Cambridge City Council has been more successful in incorporating different racial groups than the Boston City Council, even as Boston became a minority-majority city at the turn of

Cambridge turnout is higher than Boston’s.

the century. The current nine-member at-large Cambridge City Council in essence mirrors the city’s racial makeup. Until recently, Boston has struggled to elect more than one non-white, at-large city councilor despite its sizeable black, Hispanic, and Asian communities. Because instant runoff voting in multimember districts — like that utilized in Cambridge — uses a ballot threshold, the required number of votes needed to win an election can be lower than what would be required in a traditional first-past-the-post elections. Critics would argue that this allows for candidates to win an election with a narrow base of support, be it geographic, demographic, or based on some policy interest. Yet at the same time, this perceived flaw has allowed for Cambridge’s council to become more diverse and to serve as a better reflection of various constituencies throughout the city. Across the country, non-white candidates historically have had great difficulty in winning at-large seats where first-past-the-post election systems are in place. That is not the case in Cambridge, where the ballot threshold in instant runoff voting has contributed to a better record of racial diversity.

With another low-turnout election on the horizon this fall, Boston should consider the numerous ways it can benefit from adopting a more modern electoral system based on the principles of ranked-choice voting. Other cities across the country are taking proactive steps to address the falloff in municipal election voter participation. Instant runoff voting is one option in the city’s reform toolbox that would not only reduce the operational cost of running an election by almost half, but could also improve the overall quality of our democracy. **CW**

James Sutherland is research director for Boston City Councilor Ayanna Pressley, and an instructor and PhD candidate in the Department of Political Science at Northeastern University. The views expressed here are his alone.



Uber is not just an app

Should popularity trump statutes and regulations? **BY STEPHEN REGAN**

THIS LEGISLATIVE SESSION, the Massachusetts House and Senate will most certainly take up debate on the controversial issue of so-called “rideshare” companies. These are companies that use an app to connect customers with drivers, most using their own personal vehicle. The largest of these companies by far is Uber, whose business plan and actions to date should send a shiver down the spine of every elected and regulatory official.

For if Uber is successful in jamming their square peg into the round hole of transportation-for-hire laws and regulations by claiming they are “just an app” and not a transportation company, then why should any industry care about existing law, or more importantly those who enact and enforce them? Will popularity and customer support trump state statutes and regulations and the opinions of elected and regulatory officials?

What happens when an app is developed to bring those who offer plumbing and electrical vendors into contact with consumers, but the workers are not licensed plumbers and electricians? Will the banking industry no longer be required to follow banking regulations for customers who use an app for banking purposes? I use an app for travel, but I am fairly certain that the airlines and hotels are licensed and insured. Why should Uber’s drivers be any different?

Uber began operations in the Boston area in the fall of 2011. As was the case in cities throughout the world, it was questionable to some and certain for others that Uber’s business model was in violation of existing state and municipal statutes. It may come as a surprise that the one who knew that best of all was, well, Uber.

That’s right. Uber knowingly enters into markets in violation of existing laws. This “disruptive” business model is nothing new. Think Napster,

which facilitated the illegal sharing of music in violation of copyright laws. Disruptive business philosophy is based primarily upon the concepts of Ayn Rand and Clayton Christensen, who Uber CEO Travis Kalanick cites as early influencers of his business philosophy. The approach is to employ strategies that disregard both current business models and governmental regulation.

For instance, even if the government requires you to carry a certain level of insurance to conduct business as a ride-for-hire entity, you simply don’t do it. If drivers in the industry are required to have criminal background checks sufficient to ensure the safety of passengers, you simply don’t do it. Other examples are available, but you get the picture. These companies simply ignore the law and hope product popularity will cause elected officials and regulators to balk at shutting them down. When officials do take action, Uber’s response is to continue with business as usual, as evidenced by their refusal to comply with cease and desist orders and court orders across the country and internationally that are too many to track.

But the manner in which Kalanick and his senior executives have conducted themselves in bringing this “disruptive” model to the transportation-for-hire industry has a new twist. It includes an elitist and arrogant attitude toward anyone who dares question their behavior. Uber’s senior vice president, Emil Michael, once suggested Uber would spend “a million dollars” to hire four top opposition researchers and four journalists to help Uber fight back against the press. Focusing on a particular reporter—Sarah Lacy, the editor of the Silicon Valley website PandoDaily—he said they would look into “your personal lives, your families,” and give the media a taste of its own medicine. Shockingly, he still works at Uber.

Let's also consider the following quote from Kalanick in an article in *Re/Code* by Liz Gannes. He was discussing his approach to competing with the taxi and livery industries. "We're in a political campaign, and the candidate is Uber and the opponent is an asshole named Taxi," Kalanick said. Later, he added, his intention was to "kill" the taxi industry and hire seasoned political operatives to do so. So much for Ayn Rand. He also suggested renaming the company "boober" in response to a question on whether or not his success has enhanced his love life.

Uber's behavior might not be so troublesome if the consequences were not so personal and real. In the last 12 months, there have been reports of 25 sexual assault or rape charges brought against Uber drivers, including two in the Boston area this year alone. On one night, the Boston Police Hackney Unit had to issue a consumer alert due to three alleged assaults that took place within a three-hour period on a Saturday night in January. There have also been assault, kidnapping, robbery, and other allegations and convictions, all due mainly to Uber's demand that the company, and the company alone, should decide the level of a background check administered to those who drive for the firm.

The consequences of government officials not holding Uber accountable are easily seen by searching local and national media stories. Uber and other so-called transportation network companies that use app technology to facilitate a ride are violating ride-for-hire statutes, abusing employees, harming customers through predatory pricing practices, refusing to comply with state and municipal cease and desist orders, contracting with driver partners who lack appropriate insurance, and threatening reporters who write negative or critical stories about them.

These actions have placed them in a situation where they are currently being sued by their competitors, their driver partners, their customers, dozens of governmental bodies, and the taxi and livery industry for everything from overcharging, wage issues, insurance fraud, regulatory violations, and unfair trade practices, to cite just a few. Elected officials would normally return campaign contributions from executives at companies like this.

So the real question is, why does Uber even have a seat at the table, never mind two hands on the wheel when shaping transportation legislation? And what caused this sudden transformation from "disruptor" to a company willingly working with government to create laws allowing transportation network companies, albeit in a manner separate and distinct from the current market, while retaining the existing regulatory hurdles on taxi and livery companies.

If Uber really just disagrees with—and wants changes to—old laws that bar competition, then the taxi and

livery industries are willing to work with the company. Let's make all companies providing ride-for-hire subject to identical background checks, insurance requirements, vehicle inspection, driver licensing requirements, and business permits. Let's have a true level playing field.

Stephen Regan is the spokesman for the Massachusetts Regional Taxi Advisory Group (MRTA), which is managed by The Nolan Group. The MRTA is comprised of a growing list of taxi and livery owner/operators, industry vendors, stakeholders, and consumers who seek fairness in competition.

COUNTERPOINT

Ridesharing choices must be protected

Uber supports rules that support safety and innovation. **BY CATHY ZHOU**

UBER IS A technology platform that allows people in Massachusetts, and in more than 310 cities worldwide, to find rides from available drivers. In many of these cities, Uber offers a ridesharing service called uberX, where drivers use their personal cars to pick up passengers.

This type of peer-to-peer transportation system, comprised largely of part-time drivers, has expanded opportunities for consumers, bolstered incomes for thousands of drivers, and broadened transportation options to supplement the MBTA and traditional taxi services.

Gov. Charlie Baker's legislation proposes a common-sense regulatory system for ridesharing in Massachusetts, providing the Legislature an opportunity to ensure that the Commonwealth is home to an innovative transportation ecosystem, as well as robust consumer protections for a new and growing industry. This legislation would help protect both the livelihoods of thousands of drivers and the transportation options of hundreds of thousands of riders, while also offering a real alternative to the monopoly enshrined by the archaic taxi medallion system used in some Massachusetts cities.

After considering input from the public and other stakeholders last December, then-Gov. Deval Patrick issued temporary ridesharing rules for transportation network companies, or TNCs, such as Uber. The Patrick administration was committed to supporting both public safety and technological innovation to ensure that the

state would benefit from the new opportunities available. Accordingly, the plan requires transportation network companies to maintain liability insurance and perform background checks on drivers, and we fully support these provisions.

Massachusetts is not the only state that has produced new regulations for ridesharing—an industry that did not exist just over five years ago. In less than two years, nearly 50 jurisdictions around the country have passed new laws to account for TNCs. From California to Illinois, from Dallas to Washington, DC, lawmakers have heeded the calls of their constituents and enacted common-sense legislation that gives people the freedom to earn a flexible living and provides them access to a safe way to get around.

But while Patrick's rules for ridesharing have provided temporary clarity for Massachusetts, we firmly believe that a long-term solution must be established to protect these choices for future generations. Fortunately, Baker's proposed legislation creates a regulatory framework that ensures Massachusetts can continue to take advantage of transportation network platforms and protect both riders and drivers. We know that no business can be successful without meeting the test for public accountability, and so we welcome this chance to continue working with elected

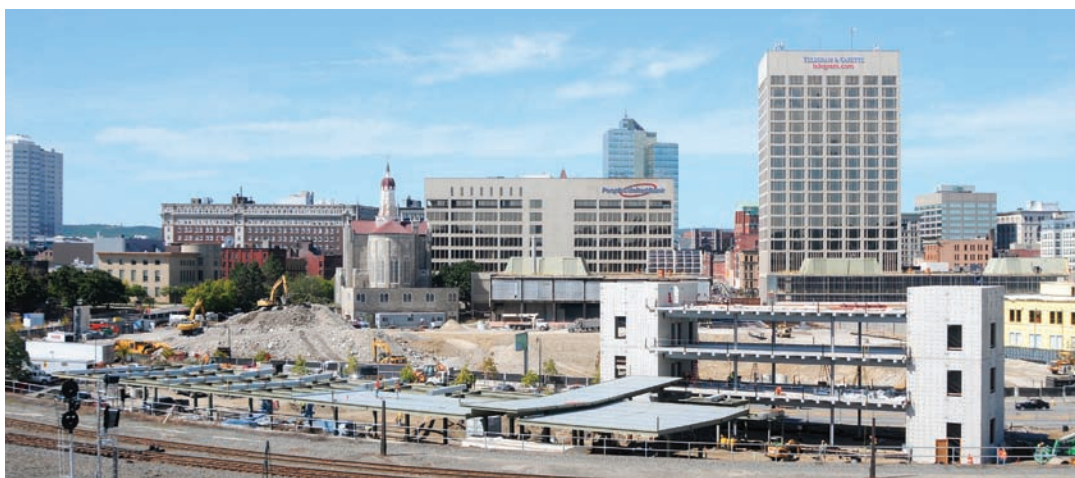
officials to see statewide regulations put in place.

We strongly support the language referring to both insurance standards and rigorous driver background checks, which we already provide and perform, respectively. Importantly, our current background check process is more rigorous than what is required for Boston taxis by covering a longer period of time, and current Boston taxi drivers who apply to partner with Uber often fail the test. Furthermore, our commercial liability insurance provides \$1 million of primary coverage, which is 50 times the amount offered during a trip in most taxis.

While others will try to instill fear in their efforts to protect the status quo, we're focused on seeing the passage of rules that make sense for a modern Massachusetts and truly address the need for innovation, public safety, and choice for riders and drivers. Moreover, we're by no means alone in our call for enhanced regulations to support transportation network companies in Massachusetts. Within two weeks of Baker's bill being proposed, our petition [<http://petition.uber.org/mass>] garnered more than 32,000 signatures in support of statewide ridesharing regulations, which is just a fraction of the hundreds of thousands of riders who use Uber in Massachusetts every day. When petition signers were asked why they support

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ARGUMENT & COUNTERPOINT

Uber, the most commonly repeated terms were safety, reliability, and convenience.

For every single safe ride requested via Uber, there is also a driver using our app and providing that ride to earn an honest living. More than 10,000 drivers have partnered with us to take advantage of this entirely new income opportunity, which often yields earnings greater than \$20 per hour. From retirees to students to single parents to former taxi drivers, our partners are as diverse as Boston's own population. Because drivers choose when and where to work, the Uber platform provides them the opportunity to flexibly earn extra income while utilizing their own assets, all without having to pay for the privilege to drive by leasing a medallion—as many would have under the existing Boston taxi system. In what other line of work can you press a button to start earning and tap that button again when you feel like heading home? Imagine the freedom that gives people to take care of their families, to pursue other passions, and to work when is best for them.

Massachusetts and Boston's continued adoption of Uber has been staggering, and speaks as testament to the appetite for innovation that lives in the state. In fact, no city in the nation has embraced Uber more than Greater Boston, as a greater proportion of residents use Uber than in any other American city.

We take tremendous pride in the role our company has played in transforming one of America's oldest cities in a short period of time, and we're dedicated to finding new and creative ways to leverage our technology to better serve our users and improve the lives and communities of riders and drivers in Massachusetts. In the past year, we've partnered with Harvard Medical School, Goodwill International, and the American Red Cross to help people order flu shots, donate their clothing, or support disaster relief efforts, all through the Uber app. Massachusetts has always supported these kinds of innovations, and at Uber we're only just getting started.

We believe the market for moving people from place to place is rapidly changing and expanding, which is exactly why the Commonwealth's lawmakers must work to pass comprehensive regulations to ensure this pie can continue to grow and the state's transportation system can continue to evolve. We look forward to working with the governor and the Legislature in creating and adopting regulations that ensure competition and innovation in the market, preserve transportation and economic choice for thousands of drivers and riders, and provide safe, reliable, and convenient transportation for Massachusetts' residents and visitors for years to come. **CW**

Cathy Zhou is Uber's general manager for Massachusetts and Rhode Island.

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