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## INSTANT RUNOFF VOTING NOT WORKING IN CAMBRIDGE

James Sutherland's article on Instant Runoff Voting ("A Democracy Worth Paying For," Summer '15) points out that turnouts in Cambridge run higher than in Boston, but that's not particularly useful information. A comparison with teeth is Cambridge's 72-year history of IRV-style voting, where you will find decades-long, steadily declining turnout, with occasional spikes due mainly to the electorate's level of interest in the issues and stakes in a given election cycle.

Sutherland says that Cambridge's council mirrors the city's racial make-up. He is correct. The current council, elected in 2013, has one black councilor out of nine, which tracks closely with Cambridge's 12 percent black population. But implying that there is a connection between IRV voting and proportional racial representation is a risky business. How is it that two black councilors were elected from 2001 through 2011 when the population during those years was the same as in 2013?

In case nobody noticed, Sutherland's example of electing four at-large Boston councilors using IRV would disenfranchise 9,996 voters (50,000 — [10,001 x 4]). That's 20 percent of the electorate. Those votes will end up in the "exhausted" pile. They will not be credited to any candidate because the winners and losers will have already been decided without their participation. Contrast this to plurality elections in which every vote is credited as it was intended, even if it gives a candidate more than enough to win, a situation Sutherland

disparages as vote wasting.

Sutherland measures democracy by how many people go to the polls. He obsesses over statistics such as per-vote costs when the overall cost of running an election probably won't change no matter how many or how few people turn out. He proposes new strategies to increase election turnouts — presumably to increase the number of votes that get cast — only to then endorse a system that will put limits on the number of votes that actually do the electing. This is not a vision of a better democracy but of a democracy in name only.

*Rick Snedeker  
Cambridge*

## UBER-TAXI DEBATE SHOULDN'T BE BINARY

Thank you for a great back and forth on Uber and other ride-sharing applications. Both articles in the Argument & Counterpoint feature — "Uber is not just an app" and "Ridesharing choices must be protected" — bring up many good points. However, I've found the coverage on ride-sharing apps to be very binary. Arguments typically fall into one of two categories, either excoriating Uber and saying it is destroying the jobs of hardworking taxi drivers and flouting local regulations, or claiming it's an amazing new development and that politicians trying to get in its way don't understand the sharing economy.

What I think these apps really show us is that existing regulations, including those that have supported entrenched taxi monopolies around the country for decades, don't work in the new, borderless, hyper-con-

nected world we're now in.

I've been a casual Uber user for a few years now, and it has provided consistently better service than I typically get from a taxi and the same quality of service no matter where I am.

The first point is easy to understand. Uber has high standards for its drivers and for their cars. Poor reviews quickly take bad drivers off the road. And because drivers are self-employed, they're motivated to offer a quality product that meets Uber's standards. This is an area where medallion owners could compete, but without an easy outlet for passengers to summon a "good" taxi (besides Uber), it's hard for medallion owners to differentiate themselves. (Do you ever pay attention to the cab company operating your taxi? I don't.)

As for the second point — the consistency of the quality of service — no matter where I am in the world (Boston, Cambridge, or Brookline, or New York, San Francisco, London, or suburban northern Virginia), I can always get an Uber that will take me where I need to go. When dealing with taxis, because they're regulated municipally, they're often reluctant to cross town lines because they'll have to drive back before they can get another fare. And because each town licenses taxis separately, you could have the best service with clean cars



and courteous drivers picking you up in one town, and then receive abysmal service on the return leg from another town. Why in this modern day and age, when I go to Brookline for dinner with friends and then Cambridge to see a show before returning home to Boston, are the taxis all licensed and regulated differently in each town? Uber makes it simple and I always get exemplary service.

So should Uber and other ride-sharing apps be regulated like taxis currently are? In part. But maybe our taxis should also be regulated like Uber.

We should reconsider many aspects of our taxi licensing. Does it make

sense for each town and city to license and regulate its taxis separately? Not really. Taxis in our metro region should all follow the same rules. Should Uber drivers face more stringent background checks? Possibly. So let's have the State Police do background checks for all taxi, livery, and ride-share drivers.

Does it make sense to have medalion owners collude with local politicians to keep an artificial cap on how many taxis serve each town? Probably not. Let's scrap the medalions and allow owner-operators to pay a flat annual fee each year for the privilege of being licensed by the state. What about fares? Set them at the regional level — a taxi around

Boston shouldn't be priced the same as a taxi around Amherst, but a taxi in Boston, Brookline, Cambridge, or Somerville probably should be.

This shouldn't be a binary choice — Uber or taxi. We should allow the disruptive aspects of Uber to let us see how municipal regulation of what's now a regional business doesn't make any sense and set up a process where the taxi industry and Uber can compete on a level playing field. Each may lose out a bit, but it gives consumers the choice they demand with the protections they deserve.

*Patrick Starling  
Boston*

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## The opportunity/sports gap

**ONE OF THE** greatest joys of my life has been watching my son play sports. Over the years, he's played soccer, lacrosse, baseball, and basketball on organized teams, and football, kickball, whiffle ball, swimming, volleyball, and countless other games with his pals. I've been to most of his games, sometimes helping to coach on the sidelines. As he's gotten older and become more serious about sports, I've driven him all over the region to play.

I've never really thought about sports in a public policy sense until the past month or so, when a couple of stories for this issue began to take shape. Freelance writer Hari Patel began analyzing the sports participation numbers assembled by the Massachusetts Interscholastic Athletic Association and discovered that the sports scene that I've taken for granted in my community is not the same everywhere.

The data indicate that sports participation in high schools across the state is tied fairly closely to the income level of the communities in which the schools are located. Youth in higher-income communities play a lot of sports, while kids in lower-income communities are far less likely to participate in school athletics at all.

Educators in some of the lower-income communities are deeply troubled by what might be called the sports gap. They say sports, as well as other extracurricular activities such as band, speech, and theater, teach students valuable life skills, including strong work habits, self-discipline, teamwork, leadership, and civic engagement.

Jeff Riley, the state receiver in charge of the Lawrence Public Schools, says he views sports as an integral part of his effort to improve the city's school system. "Fundamentally, this is about fairness," he says. "We talk about the achievement gap. What about the opportunity gap? Our kids have to have the same access to the American Dream as suburban kids do."

Riley could have been reading straight out of a book titled *Our Kids: The American Dream in Crisis*, written

by Harvard political science professor Robert Putnam. Putnam says one of the most important issues facing the country is the disparate opportunities of American children based on their parents' background. Those opportunities range from growing up in two-parent households to engaging in extracurricular activities such as sports and drama.

As Putnam, the subject of this issue's Conversation, tells Michael Jonas, "When it comes to opportunity for kids today, the gap has just gotten way out of hand, and it's

### Join a conversation with *CommonWealth*.

growing so fast that if we don't do something it's going to get worse. It's a little bit like global warming in the sense that if you don't start now it's going to get worse and worse and it's going to be harder and harder to fix."

With Putnam's comment in mind, I'd like to invite you to join a conversation with *CommonWealth* about this opportunity gap. The conversation can take many forms. We may host an event or we can host a forum of ideas on the *CommonWealth* website. I'm open to anything, but let's start by getting on the same page, reading the stories in this issue and locating and sharing other resources.

Then share your thoughts. Do you think an opportunity gap exists? If so, how should it be addressed? Regarding sports, I'd like to hear what's going on in your community. Does your community charge students fees to participate in sports? What's the level of sports participation in your community and why? Do you think there's too much emphasis on sports?

I'd also like to hear your personal stories about the role extracurricular activities such as sports, chorus, and debate club have played in your life and the lives of your children. You can reach me at [bmohl@massinc.org](mailto:bmohl@massinc.org).



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# inquiries

## State down to one elder ombudsman

The Massachusetts Elder Affairs office, which had been using two ombudsmen to respond to complaints from the 14,000 people in the state's 237 assisted living facilities, is now down to one.

One ombudsman took a buyout offered by the Baker administration this summer and Elder Affairs is not currently planning to fill the vacancy because of a hiring freeze.

Alice Bonner, the secretary of Elder Affairs, indicated she would work with the branch of the federal government that provides funding to her agency on how to structure the ombudsman program going forward.

State law requires Elder Affairs to run a statewide network of trained ombudsmen to investigate and resolve complaints filed by assisted living residents. The state operates that type of network for nursing homes, but not for assisted living residences because residents are perceived as being better able to represent themselves.

Laura Shufelt, whose mother died under mysterious circumstances at an assisted living facility in Centerville, is troubled by the reduction.

"Even two ombudsmen is far from sufficient," she says. "After all, people's health and safety are at stake and should not have to take a back seat to any hiring freeze."

Rebecca Benson, a Boston-based elder law attorney, says the single ombudsman is not enough. "Until there's a real horror story, no one's going to do anything to fix things," she says. "And then, of course, everyone's going to be rushing around crying we have to do something."

► COLMAN M. HERMAN

## Don't tax my yogurt

► JACK SULLIVAN

**FOR MANY, THE** new Roche Bros. supermarket in the old Filene's building at Boston's Downtown Crossing is manna from heaven. There is a large full-service grocery store in the old Filene's Basement, and at street level, Roche Bros. has opened a ready-to-eat section for breakfast, lunch, and dinner featuring a salad bar, a hot food bar, and cases full of beverages, yogurt, snacks, and cut fruit.

But there's an odd upstairs/downstairs disconnect on taxes at Roche Bros. A 5.3-ounce single-serve container of Chobani yogurt purchased downstairs costs \$1.99. Upstairs, a short escalator ride away, the same Chobani yogurt costs \$1.99 plus 14 cents in added meals tax.

Similarly, a bag of Farmer's Crate Baked Coconut Thins costs \$3.99 downstairs, while upstairs the same bag goes for \$3.99 plus 27 cents tax.

Overall, the price tag for five items purchased downstairs came to \$10.33. Upstairs, the five items cost exactly the same, but an extra 72 cents was assessed in taxes. Even the nickel deposit on a bottle of Poland Spring Sparkling Water was added into the taxable total upstairs, despite state regulations that exempt sealed beverages and bottle deposits from taxation.

Another Roche Bros. customer says she stopped by the store on the way home one evening and was in line downstairs when an employee helpfully suggested people could bring their items upstairs where there was no line at that time. She brought her items upstairs, where the cashier told customers

**BOTTLE DEPOSITS TAXED** that everything, including staples such as bread and milk, would be charged tax because that's how the registers upstairs were set up.

Roche Bros. officials say most items sold upstairs at their ready-to-eat section are taxed to comply with state regulations requiring the collection of meals taxes on any prepared foods to be consumed as part of a meal. The state meals tax is 6.125 percent and Boston adds a .75 percent local option tax.

"The meals tax regulations are fairly complex and a little ambiguous at the same time," says Paul McGillivray, the Roche Bros. vice president of sales and marketing. "It is the responsibility of the retailer to apply them."

According to state tax regulations, grocery stores, convenience stores, and supermarkets have to charge meals tax "if the items are sold in a manner that constitutes a meal." Among those items deemed taxable are hot meals, prepared foods, and entrees, even if refrigerated, if the store has a microwave or oven for reheating. Also taxable are beverages such as coffee or soda that are poured, and unpackaged snacks or baked goods.

Among some of the items deemed nontaxable are unopened beverages in a container if consumed off-premises; unopened, manufacturer-sealed

snacks; or six or more of a baked good item.

Roche Bros. at Downtown Crossing appears to be taxing items based more on where they are sold rather than what they are. The reasoning behind that approach appears to be that people using the upstairs Roche Bros. are there to purchase ready-to-eat items.

Fashioning a supermarket tax policy isn't easy. Many stores, for example, have salad bars. Customers who scoop up cut fruit at the salad bar will pay tax on the purchase because it's considered a meal. But purchasing cut fruit in a container in the produce aisle won't result in added tax. Supermarket delis sell sliced meats that are not taxed, but they also can use sliced meats to make a sandwich, which is taxable.

McGillivray acknowledged the tax on the bottle deposit was an error and said that while the employee downstairs engaged in "well-intentioned customer service" in shepherding people to where there were no lines, the store will begin posting signs to inform people that meals taxes will be charged on all items rung up at the street level.

McGillivray, who has worked at Roche Bros. for 40 years, says tax laws have evolved over the years. Initially, he says, there were no taxes on food sold at supermarkets but then the rules were changed so taxes were levied on items that resembled meals. He says supermarkets have also shifted more to items that can be consumed on the spot, making the line between what is and what is not taxable somewhat blurry.

"I think it's more that the supermarket has changed over the years," he says. "There is a larger element of stores offering prepared foods than there were 20, 25 years ago."

## Students, schools play cat and mouse online

► COLMAN M. HERMAN

**AS COLLEGES OFFER** more and more courses online, school officials are scrambling to come up with innovative ways to prevent cheating by students taking tests and other assessments remotely.

It's often a game of cat and mouse. One undergraduate student at Northeastern University says he took an online marketing course from a professor who tried to thwart cheaters by requiring his students to use browsers that locked them on to the test-taking website.

"You couldn't go to any other website," says the student. "But what you could do is have a laptop or an iPad or a smartphone with Internet capability right next to you to look up stuff and no one would know."

Another student who took online courses at Northeastern says he frequently cheated, often by staggering test-taking times with other students in the class so questions and answers could be shared. "My thinking was that if everybody else is doing this, then I should be taking advantage of it as well," he says. "I know that's bad to do, but if a professor isn't doing anything to prevent it and if everybody's taking advantage of it, then it seems like I'm at a disadvantage for being honest."

University officials say such rationalizations occur both in the classroom and online, but they are more common-

place online. "The danger of online education is that you and I don't see each other," says Boston University professor Jay Halfond. "And the more impersonal the relationship between student and professor is, the more the student will rationalize cheating."

Trevor Harding, a professor at California Polytechnic State University who has researched student cheating in engineering, even has a term for it — "technological detachment phenomenon."

Online students can cheat on their own or they can hire others to do their online work. Some even hire others to take



Roche Bros. charges the same price for these items upstairs and downstairs at the Downtown Crossing store but adds tax to everything purchased upstairs.

the entire course for them. Websites, with names such as [acemyassignment.com](http://acemyassignment.com), [wetakeyourclass.com](http://wetakeyourclass.com), [noneed-tostudy.com](http://noneed-tostudy.com), and [boostmygrade.com](http://boostmygrade.com), offer to take online classes for students. They do their best to make it seem as if cheating is a perfectly acceptable thing to do.

[Acemyassignment.com](http://Acemyassignment.com), for example, refers to its course-takers on its website as “tutors” and says hiring a tutor “is not ethically wrong as we merely help you achieve your objective. Throughout history, those who have put a premium on efficiency and expediency are the ones who have survived, taking on far greater foes and triumphing over them.”

[Wetakeyourclass.com](http://Wetakeyourclass.com) promises an “A” in the course 99 percent of the time. “When you’re in a serious time crunch or working full time, the last thing you want to do when you get home is deal with your online class work for a class you have no interest in. We get that,” the website says. “Your class will be on cruise control the moment you sign up with us.”

Students can similarly turn to Craigslist for class-takers. One person advertising on Craigslist offered to take an online history course for \$750 (others offered to do it for as little as \$200) and said he has taken online courses for students at both UMass and Boston University. Asked

about confidentiality, the person says by email, “Don’t worry about it. You’re safe with me.”

*CommonWealth* placed an ad on Craigslist offering to take online courses for students and received several responses, including one from a UMass Boston student looking for someone to take his online course in political science.

Schools are increasing their efforts to detect and deter online cheating, including giving different questions to test takers; not giving so many high-stakes exams; not giving tests at all; and using recognition technology — keystroke verification and fingerprint, facial, eye, and voice biometrics — to make certain that the person taking the test is actually the student who signed up for the online course.

## FOILING ONLINE CHEATING

Jeffrey Pokorak, a vice provost and a professor of law at Suffolk University, favors reducing the stress students feel when they have to take big tests that count for a large portion of their grade.

“We recommend to our faculty that instead of giving mid-terms and end-of-semester exams that they consider doing things like giving many mini-assessments, quizzes, and pop questions instead,” Pokorak says. “So you spread

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out the grade over a period of time. Reducing the stress reduces the cheating.”

One of the ways Lesley University reduces online cheating is by not giving many tests. “Most of our online courses don’t have exams,” says Heather Tillberg-Webb, associate provost of academic technology at the school. “We have other ways that students demonstrate their learning such as with projects and robust discussion.”

Officials at the University of Massachusetts declined to say what they do to detect and deter online cheating, other than to say they use “best practices.”

Christopher Mallett, Northeastern’s vice president of online programs, says faculty are vigilant regarding cheating, but the school is nevertheless testing new methods to detect and deter the practice. He also said he thinks a small number of students attempt to engage in cheating at the school.

Some schools are trying to use technology to make sure students are not cheating. One of the things Halfond did when he was dean of BU’s Metropolitan College — the university’s professional and continuing education school — was to help develop a remote proctoring system to watch students as they take their tests, which Boston University requires for many of its online graduate programs.

“The quid pro quo for students,” says Halfond, “is that it’s very convenient and if you do subject yourself to it, you’ll be in a fairer environment in which you’re not going to feel like you have to cheat because everyone else is cheating.... It’s really not that big a deal. It’s not as Orwellian as it seems.”

BU hires an outside company to do the remote proctoring using a webcam and screen-sharing software for closed-book exams. “So both the students themselves and the rooms that they’re in are monitored closely,” says Eric Friedman, BU’s director of the office of distance education. The entire proctoring session is recorded.

At the beginning of each session, a student is required to show a government-issued picture ID to the proctor, who verifies the person is actually registered for the course. Students are also required to scan their webcam around the room in which they are taking the test before starting the test to reveal everything that’s there.

Rebecca Monachelli, a student at the State University of New York at Binghamton who has taken a number of online courses, says she feels the online proctoring is very intrusive. “At the beginning, the monitor said something to me like, ‘I’m going to watch you throughout your exam.’ And I had to take my computer and scan the room to make sure that there was no information, no notebooks near me, no sheets of paper, no nothing.” Monachelli also says she even had to hold a mirror up to her keyboard to show that she had nothing just below the webcam.

As a result of the extremely close surveillance, Monachelli says she was not at her best. “I don’t think that I did as well as I could have because of being watched like a hawk,” she says. “It was very, very nerve racking.”

With cheating one’s way to an ‘A’ in an online course is a bit too tempting — and often too easy — the measures schools are putting in place to block it seem understandable. But even those in charge of trying to thwart would-be cheaters admit to feeling funny about it. Friedman of BU says the process smacks a bit of Big Brother.

“I find it a little bit strange that we are going into these people’s living rooms and bedrooms and watching them,” he says. “I’m not sure how I would feel about that.”

## Lexington lawmaker looks to the people for tax boost

► GABRIELLE GURLEY

**REP. JAY KAUFMAN** has been a reliable member of the House Democratic caucus’s progressive wing for more than 20 years.

In the 1990s, he was part of a small band of liberal lawmakers who clashed regularly with then-Speaker Tom Finneran — and found themselves relegated to legislative Siberia as a result.

But Kaufman found his way back in from the cold, working his way into the good graces of Finneran’s successor, Sal DiMasi, who tapped him to co-chair the Joint Committee on Revenue, a post that he has continued to hold for the last seven years under Speaker Robert DeLeo.

Unlike many state lawmakers, Kaufman doesn’t have an aversion to talk of new taxes. He scoffs at the “Taxachusetts” moniker as outdated and has no qualms about opposing popular measures like the annual sales tax holiday, which he worries drains valuable revenue from state coffers.

Despite what may seem like the ideal perch for advancing his views, at the helm of the Revenue Committee, Kaufman has not been able to mount much of a drive for new taxes under the fiscally moderate DeLeo, who tends to tamp down any talk of new levies on taxpayers.

But for the Lexington liberal and fellow House members who veer left on fiscal policy, their revenue ship may have come in. If the Legislature won’t make a big move to

### TAX HIKE AGENT



raise taxes, maybe the voters will.

That's the hope of Raise Up Massachusetts, the coalition of unions and other activists pushing for a constitutional amendment that would raise the state income tax on those earning more than \$1 million per year. The so-called "millionaire's tax" is aimed at bringing more money into state coffers to fund services, while also blunting, at least a little, rising income inequality that has seen high earners in the US race ahead as real income has stagnated for most everyone else.

Kaufman has emerged as a point man in the Legislature for the Raise Up Massachusetts ballot question campaign.

"We've gotten kind of used to thinking of us and them," says Kaufman. "There are plenty of good reasons to think that it is as much in the interest of the wealthiest among us not to have this wealth and income divide."

In 2014, Kaufman co-chaired with Sen. Michael Rodrigues, his revenue committee cochairman, a Tax Fairness Commission that explored ideas for bringing greater equity to the tax code. Its lead recommendation was a constitutional amendment to have upper earners pay higher income tax rates.

The measure now being pushed would tack 4 percentage points onto the 5.15 percent income tax rate for those



Rep. Jay Kaufman, the Legislature's point man on the millionaire's tax.

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in the million-dollar-plus bracket. Supporters estimate it would affect about 14,000 taxpayers and generate an additional \$1.3 to \$1.4 billion a year in tax revenue.

Associated Industries of Massachusetts, a major voice of business in the state, says the proposed constitutional amendment would be a major blow to businesses such as subchapter S corporations that are taxed at the individual rate. AIM also says the measure shouldn't have been allowed on the ballot because it usurps the Legislature's power by effectively appropriating money for education and transportation.

An initiative petition to change the state constitution faces a longer road to the ballot than one designed simply to enact or change a state law. In addition to gathering signatures from about 65,000 voters, advocates must win the support of 50 of the 200 representatives and senators in two separate sessions of the Legislature in order to get the measure onto the ballot. That means the earliest it could go before voters is 2018.

Though it's unclear how much support the measure will receive from House leaders, liberal supporters of the initiative say they are merely allowing voters to be heard on the issue by advancing the measure to the ballot.

Kaufman sees a "growing will" in the House to let voters decide, so he is glad-handing as many of his 160 House colleagues as he can. "We are not going to tell the public how to do this," he says. "The public is going to tell us how we are going to do this."

Kaufman "really understands the benefit of having fair revenue, meaning fair and adequate revenue," says Harris Gruman, executive director of the SEIU Massachusetts State Council and co-chairman of Raise Up Massachusetts. The coalition of community, religious, business, and labor union leaders spearheaded the successful 2014 initiative petition drive for earned sick time, which passed by an overwhelming margin.

"What the public has been telling the advocacy community and the Raise Up folks is that people understand the need for money, especially for education and transportation," Kaufman says. "There is no implicit opposition to being wealthy. It is just a requirement that if you are that wealthy, you pay your fair share."

Kaufman and his allies are hoping that heightened awareness of the growth in income inequality — and the fact that the measure only raises taxes on the millionaires' club — will mean a different outcome than past efforts to enact a graduated state income tax.

Though the federal tax code imposes higher tax rates on higher earners, Massachusetts voters have resisted calls to get rid of its flat tax rate five times, the last in 1994, the year Kaufman was first elected to the Legislature. **CW**

# The T's chief tweeter

Lisa Battison works center stage inside the MBTA's operations center interacting (along with two coworkers) with the agency's 138,000 Twitter followers.

BY BRUCE MOHL | PHOTOGRAPH BY FRANK CURRAN

**When did you start at the T and where did you come from?**

I started in November 2011. I came from outside the authority. I had just gotten my masters in fine arts from Emerson in creative writing.

**Are you a whiz at social media?** As adept as most 20-somethings are at social media. I didn't take any classes in it. But they needed a communications person, so here I am.

**What do you do?** They needed someone who was dedicated to delivering information to customers via the website, in-station announcements, or whatever. Twitter was something we had a presence on, but we weren't really engaging with people. After a while, I started realizing that I knew the answer to a lot of the questions people were asking. So I got permission from my bosses to start talking back to people. I figured that if I give them information, I could really affect their commute. Once I got approval to go ahead and start doing that, it became the bulk of what I do.

**A lot of your tweets let people know about problems with the system. But you also respond to a lot of customer tweets. Do you just pass along the comments to others at the T or do you try to resolve the problems?** If it's a bigger sort of issue, we obviously have to investigate it and that's going to take more time. If it's something like the AC is out on my bus, I would call the bus supervisor and ask him if he can check it out. Sometimes it's as simple as the bus operator didn't realize he didn't have the AC on. Even the people tweeting will tweet back and say, oh my gosh, I can feel it, the AC's working again.

**Do you ever see tweets that could be perceived as threats and have to alert the police?** We haven't gotten anything too crazy, thank God. But that's one of the reasons we've got the Twitter account. It's also

one of the reasons we never block or mute any account. If we block their account and don't see [an ominous tweet], that would be bad.

**What do you do with the guy who tweeted recently that "your regular service sucks balls?"** We don't have a policy that we

have to respond to everybody, so if something is just blatantly negative we don't necessarily need to respond to that. But if they've got something specific, we're happy to look into that.

**Why does the T do it?** This is a small way we can affect things for the better by taking something negative and turning it into a positive. We're trying to show people that we're paying attention.

**What social media is the T on?** Primarily Twitter. We don't have a Facebook presence right now, but we have an up and coming Instagram account. Our Twitter following is always rising. It just keeps getting busier and busier. And it seems like older folks are starting to use Twitter, too. In some cases, we are the only thing they follow. It's definitely where our customers are.

**Are you still pursuing writing?** I've written a couple of nonfiction things that always get rejected by agents. Some day, we'll see.

**Any plots that revolve around the T?** No, when I leave here I leave it here. **CW**





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## Public sector turnarounds

State administrators tend to seek incremental change, but in the 1970s, Jerry Miller showed that destroying an agency may be the best route to reform. **BY EDWARD M. MURPHY**

**JERRY MILLER DIED** in August in Virginia after a long illness. He was 83. Few people in Massachusetts now remember his name, but for several years in the early 1970s he was a controversial public official in the news nearly every day. Some saw him as an innovative reformer; others thought him irresponsible and dangerous to the public. There was evidence for both views.

In 1969, Miller was appointed the first commissioner of the newly created Department of Youth Services by Gov. Frank Sargent. The department was created in response to persistent abuse scandals in the Commonwealth's reform schools, where juvenile offenders had been sent for more than a century.

The need for change was widely accepted. Many delinquent boys and girls were held for long periods on minor charges in large 19th century facilities. Throughout the 1960s, an escalating series of crises gripped these institutions as credible reports emerged of physical and emotional abuse by staff, excessive use of solitary confinement, and the absence of any rehabilitation programs, all in the context of a repressive regimen of rules designed to serve the needs of the institutions rather than to treat the children in their care. Advocacy groups, the press, the Legislature, the public, and the governor saw the situation as a Dickensian nightmare embarrassing the Commonwealth.

As the new commissioner, Jerome Miller's job was to lead the reform. Miller, a former seminarian, was a professor at Ohio State University when he was interviewed for the commissioner's job. He had little administrative experience but he was passionate about reform and able to articulate a vision of a humane juvenile corrections system. Once in office, he promulgated new policies, reduced isolation, shortened lengths of stay, did

away with prison-like uniforms, and attempted to introduce small-scale therapeutic communities into each of the facilities.

After about a year, Miller concluded that his efforts were not working. Many employees undermined his reforms. They were determined to wait him out on the assumption that the changes would not last. Real reform was not taking hold in the institutions. This realization led Miller to a fateful decision: If the reform schools would not change, he would destroy them.

Commissioner Miller abandoned his effort at incremental reform and declared war on the institutions within his department. He led a media campaign to publicize highly charged, sometimes lurid, stories of abuse and exploitation of children. He put himself in a position unheard of for a government manager: he was a highly public, no-holds-barred critic attacking his own organization. He became increasingly adamant and the DYS community became increasingly polarized. The tension mounted and it led to one of the most dramatic moments in the history of public administration.

On the morning of January 15, 1972, Miller led a long caravan of cars down Route 9 in Westborough and on to the grounds of the Lyman School which had been there since 1848 and was the first public reform school in the United States. Miller ordered the release of the children and packed them into cars for a drive to the University of Massachusetts in Amherst. There, Miller and his team spent several weeks deciding which kids to send home, which to place in foster care or new group homes. Some of them ran away. This event created an enormous burst of energy for what came to be called "deinstitutionalization." Advocates for reform urged more of the same in the Department's

other institutions. The emptying of Lyman School also created enormous backlash among police officers, prosecutors, judges, and legislators who were appalled by the prospect of previously institutionalized delinquents roaming the streets. There was also the highly irregular reality of state employees being paid to work at an empty institution.

Miller's dramatic action splintered the consensus supporting institutional reform. Opposition grew but, in the face of criticism, he doubled down. Without legislative authorization, Miller quickly closed down the Commonwealth's other large reform schools, putting more than 700 juvenile offenders back into their communities. He also ramped up the rhetoric in support of his policy, dismissing his critics as bigoted reactionaries who could not accept an innovative community-based system of care for young offenders. Miller was unmoved by the critics' argument that such an alternative system existed only in skeletal form, if at all. His plainly expressed view was that "anything, including nothing, is better than the institutions."

In January 1973, after 38 months in office, Miller resigned as commissioner and left the state. The *Boston Globe*, in a generally favorable review of his tenure, recognized the ambiguity: "He cut corners and he hurt feelings and he ignored conventional practices and civil service regulations." DYS was on the defensive but, ironically, Miller's reforms had captured wide attention and the "Massachusetts Experiment" became the focus of policy makers and researchers across the nation. No state had tried to run a juvenile justice system without institutions. The prospect of doing away with them appealed to many experts and alarmed others. Practitioners often applauded the move away from reform schools, but decried the loss of organizational competence arising from Miller's impulsive, take-no-prisoners style.

I was among this last group when I became commissioner of DYS in 1979. The new community-based system had continued to develop, but had not yet attained the size and stability needed to cope with the number and complexity of young people sent to DYS by the courts. Worse, the department had little credibility with important constituencies in the Legislature, law enforcement, and judiciary who saw DYS as a revolving door, indifferent to the public safety risks presented by juvenile offenders.

I met Miller when we were on a panel together 10 years after the closing of the Lyman School. I praised his goals but criticized his methods which, I thought, had left an enormous vacuum in the ability of DYS to serve its mission. Miller was disdainful of me. It was clear he thought I was a dull bureaucrat unable to grasp his high

purpose and his historic achievement. I didn't much like him.

But the system continued to evolve. By the time a dozen years passed, DYS had built a new, credible, non-institutional array of juvenile corrections programs that have endured. The "Massachusetts Model" was studied extensively and became recognized as the most effective and humane approach that exists in the United States. It was a quick, radical, and successful departure from a policy that had lasted more than a century.

Miller's death prompts a host of questions: Could reorganization have been done without him? Could it have happened in a more orderly way? These are questions of real import in the world of public policy. What is the right approach when a large public organization ceases to serve the goals for which it was created? By training and impulse, public administrators seek change

**It was clear he thought I was a dull bureaucrat, unable to grasp his high purpose and his historic achievement.**

incrementally. They are builders, not destroyers. Miller was not an administrator. He was a bomb-thrower whom fate vested with great administrative power.

The Massachusetts juvenile justice system was destroyed and recreated in not much more than a decade. It all happened 40 years ago. Since that time, how many other large public organizations have struggled fitfully to implement and sustain obviously needed change? Our institutions housing individuals with developmental disabilities have lasted way too long. The mental health system is a persistent embarrassment. Generations of children have passed through ineffective urban public schools. What should happen to public institutions that persistently fail? What would Miller do? He would have no patience for it. I now think he was right. **CW**

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*Edward M. Murphy was commissioner of the Department of Youth Services from 1979 to 1985, commissioner of the Department of Mental Health from 1985 to 1989, and head of the Massachusetts Health and Educational Facilities Authority from 1989 to 1995. He has been in the private sector ever since, currently serving as executive chairman of the board of Civitas Solutions, one of the country's largest providers of services to people with disabilities.*



## The politics of patents

Universities, biotech, and pharma square off against high-tech firms over legislation making patent suits more risky. **BY SHAWN ZELLER**

**THE WAY BOSTON** University president Bob Brown sees it, the Massachusetts economy is fueled by a pipeline of innovation running from the state's great research universities to start-up companies. University professors discover something and patent it. They then license their idea to firms that can bring it to market. Even if no one gets rich, it's a noble pursuit and one that gives Brown's faculty the incentive to think of the real world as they invent.

"This is the way business is done in Massachusetts, and it's fantastic," Brown says.

But Brown worries that Congress could be on the verge of upending the innovation apple cart. In both the House and Senate, legislation is pending that would make it more difficult for patent owners to sue others for infringement. For Massachusetts, with three universities among the world's top 100 at producing patented technology — MIT, Harvard, and the University of Massachusetts — and others such as BU trying to rise in the ranks, he says any legislation making it tougher to defend a patent would be a significant blow. The biotechnology and pharmaceutical industries, which rely heavily on patent protection, are especially threatened, he says.

University patents "move into the entrepreneurial domain through startups and small companies," Brown says. "Unless there is a firm base for that patent, you are going to really shut down the system of innovation."

The patent bills, sponsored by the Republican chairmen of the House and Senate judiciary committees, Robert W. Goodlatte of Virginia and Charles E. Grassley of Iowa, would require plaintiffs in patent cases to pay the attorney fees of defendants if a judge thinks their case isn't reasonable. The bills would also require plaintiffs to provide more detail in their initial pleadings and

allow defendants to delay the discovery process until after initial motions are dispensed with. And the bills would bar plaintiffs from suing companies that are merely using an infringing technology, requiring they first go after the manufacturer.

The idea is to rein in so-called patent trolls, which buy up dormant patents left behind by failed companies, then sue others for infringement, often with little evidence. The trolls take advantage of the high cost of patent litigation to try to extort settlements. The problem, as Brown sees it, is that the bill's mechanism for reining the trolls in also affects every legitimate patent holder who rightfully wants to defend his invention.

He's not alone in his fears. "Any change in legislation that casts a shadow over intellectual property rights and their strength and how seriously they're taken in the market is a problem," says Fred Reinhart, who is a senior advisor in the Technology Transfer Office at the University of Massachusetts Amherst.

Universities face a threat to the bottom line as well. Under the bills' terms, if one of their licensees brings a frivolous suit but can't afford to pay the defendant's court costs, the patent holder could be forced to pay.

Massachusetts universities are lobbying against the bill. BU, Brandeis, MIT, North-eastern, and UMass were among the signers of a letter sent earlier this year to Congress arguing that the legislation under consideration "goes well beyond what is needed to address the bad actions of a small number of patent holders, and would instead make it more difficult and expensive for patent holders to defend their rights in good faith."

The state's biotech leaders are also pushing back. "In biotech, one single patent can be the dif-

ference, providing the potential to recoup millions of dollars of development costs and 10 to 12 years of research,” says Bart Newland, chief intellectual property counsel for Biogen in Cambridge. If passed, the legislation, will prompt “shareholders to invest elsewhere, which would inhibit future innovation for patients,” he says.

National trade groups for the universities and the biotechnology and pharmaceutical industries are making the same case, yet the bills moved with ease through the judiciary committees in June. In the Senate, the vote was 16-4. In the House, 24-8. And when the House considered a similar bill two years ago, it passed 325-91. The bills aren’t partisan, but Democratic objections sunk similar legislation in the Senate in 2014. Still, opponents can’t count on a Democratic majority there anymore.

Massachusetts lawmakers have had little say in the patent debate so far. The state has not a single representative or senator on the Judiciary committees. In the 2013 vote, the state’s House delegation was split. Five representatives, Niki Tsongas, John Tierney, Michael Capuano, Stephen Lynch, and William Keating, voted no. Three, Joseph Kennedy III, Jim McGovern, and Richard Neal, voted yes. The 5th District seat was vacant at the time.

A recent letter to House leaders raising concerns

about the legislation was signed, again, by five members: Capuano, Lynch, Keating and the two newest members, Katherine Clark and Seth Moulton.

Critics of the legislation have made some headway. House leaders planned to bring the bill to the floor over the summer but, sensing growing opposition, pulled it and tasked Goodlatte, the House judiciary chairman, with building more support.

What’s emerged since is a battle between the high tech industry, which finds patents more hassle than boon, and an odd-bedfellows coalition comprised of the universities, pharmaceutical and biotech industries, and conservatives who view themselves as defenders of the small inventor. Groups including the American Conservative Union, Eagle Forum, and Heritage Foundation have all come out in opposition to the legislation.

Republican Rep. Thomas Massie of Kentucky, an MIT-trained inventor, has led a campaign to convince House Republicans to vote no. The bill, he says, would “gut the underpinnings of what has made our country great.”

Also working in the opponents’ favor is the fact that the troll problem is being dealt with in the courts. After steadily rising for years, the number of new patent suits declined in 2014 by 18 percent to 5,012. One explanation: the



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Supreme Court last year ruled in a patent case that judges could award attorney fees to defendants when plaintiffs bring frivolous suits. The federal courts are also speeding up the expensive discovery process in patent cases.

Still, the proponents are well organized and diverse. They note that the 5,012 patent suits filed in 2014 is still much higher than the 2,758 filed in 2007. The United for Patent Reform Coalition is led by high tech firms such as Google and Facebook, but also includes advocates for the retail, hotel, and restaurant industries.

For the tech firms, patents are of limited utility. They take years to be approved by the Patent and Trademark Office, at which time the state of the art has often moved on. Unlike the pharmaceutical and biotech industries, which spend years developing products and must receive government approval to sell them, tech products have lifespans of a year or two. The proliferation of patents also opens up the firms to attack by trolls.

Engine, an advocacy group for high tech start-ups, is a strong supporter of the legislation. Julie P. Samuels, the group's executive director, told senators this spring that the "troll problem is an acute and growing menace that adversely impacts the operations and viability of companies who can least afford these threats."

High tech's allies on Main Street don't hold patents at all but patent trolls have targeted them, often on the flimsiest grounds. Coffee shops have been sued for offering free wireless Internet access, retailers for including store locators on their Web sites. Still, patent litigation is expensive and it sometimes is cheaper for them to settle.

One possible compromise is pending House legislation that would take a narrower approach. It would permit the Federal Trade Commission to sanction trolls that send out lots of threatening — albeit fraudulent — demand letters in the hopes that a few recipients will cough up a settlement.

For Brown, the fight is personal. In his decade as Boston University's president, Brown has focused on bringing the school into the top echelon of national research institutions. It's not yet among the top 100 patent-producing universities in the world — MIT was No. 2 with 275 patents in 2014 — but BU is getting there. In 2012, the Association of American Universities, which counts the top 62 US research universities among its members, invited BU to join. Now Brown is co-chairing the AAU working group that's focused on technology transfer, or the licensing of university patents to companies.

For the universities, protecting the patent system is not so much about the money. Brown says that BU can make several million dollars in any given year but just as likely could lose money. More important, he says, is the incentive it provides for faculty and students. "It drives their research from the bench to the free market on the other side," he says. "That's a very major thing in the culture of the university." **CW**



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Stephen Tocco,  
William (Mo) Cowan,  
and William F. Weld.

# All bases covered

ML Strategies, the lobbying arm of the Mintz Levin law firm, features an all-star cast of former government officials including an ex-governor, an ex-US senator, and an ex-state senator.

BY BRUCE MOHL | PHOTOGRAPHS BY FRANK CURRAN

**IT WAS CRUNCH** time in the battle for a Greater Boston casino license potentially worth billions of dollars. The Massachusetts Gaming Commission was seeking some final feedback from the two finalists, Wynn Resorts and Mohegan Sun, and their approaches couldn't have been more different. Mohegan Sun put forward Mitchell Etess, the CEO of the company, and Doug Pardon, a partner at financial backer Brigade Capital. Wynn countered with Kim Sinatra, the company's flamboyant legal counsel, and Bill Weld, the former twice-elected governor of Massachusetts.

Etess and Pardon gave a fairly dry, 20-minute presentation focusing on the preferred and common equity in their deal and marketing zones for the proposed casino. Sinatra put on a hard sell, underscoring

her company's strong financial position and noting that Wynn's nongaming revenues make it more than just a casino company. She also walked back a defiant letter from her boss Steve Wynn about the design of his hotel and tried to ease concerns about the Las Vegas company's rocky relationship with the city of Boston. "I will tell you that sometimes discipline and passion are taken for unfriendliness or lack of collaboration, but that is not our intent," she said.

With Wynn's time allotment running out, Sinatra turned the microphone over to Weld, her closer. "The company has something of a reputation as a blue-chip within the industry. I think it's earned," the former governor said of Wynn. "In dealing with these folks, you take a bite of sirloin, you take another bite, it's still



sirloin. It doesn't vary."

Weld's sirloin blessing didn't come free. The former governor works as an attorney at Mintz Levin Cohn Ferris Glovsky and Popeo and as a lobbyist at its wholly owned subsidiary, ML Strategies. Both firms are employed by Wynn Resorts, which has relied heavily on the two companies for advice and access to key officials in its nearly six-year quest to open a casino in Massachusetts. In the process, Wynn Resorts has become ML Strategies' biggest client, and the high-stakes casino fight has thrust the lobbying firm out of the shadows and into the spotlight.

Many see ML Strategies as a firm with every base covered on Beacon Hill. In addition to Weld, ML Strategies employs a former US senator, a former state senator, and a host of former government officials with connections inside federal, state, and local government. The company has very close ties to Gov. Charlie Baker and his administration, House Speaker Robert DeLeo, and key leaders in the Senate. Those ties are what attract clients, but officials at ML Strategies say their role is more problem-solver than influence peddler, that what they know is as important as who they know.

Lobbying competitors are of two minds. Some say (on background, of course) that ML Strategies is fat and slow and survives on crumbs from the parent law firm. Others say the firm is slow yet smart and scary-powerful in an understated sort of way, as Weld demonstrated a year ago before the Gaming Commission.

Weld says he was talking that day as Wynn's legal counsel and not as its lobbyist. Whichever hat he was wearing, he was someone every member of the Gaming Commission knew, some better than others. One of the commissioners worked in Weld's Office of Business Development. Another knew Weld from their days as libel lawyers in Boston.

Sinatra says the former governor's endorsement was important. "I think the people of Massachusetts think he's a straight shooter and they believe that he wouldn't put his credibility on the line for something he didn't believe in, even if it's his job. He's a guy with a higher ethical compass than that," she says.

"Pure persuasion," Weld says when asked about his role that day. "That's what I saw my role being at that hearing, to persuade them that my client should get the award." In the end, the closer got his save, as the commission voted 3-1 in favor of Wynn's \$1.7 billion casino proposal.

### IT'S PART OF THE DNA

Most law firms don't do politics well, but politics has been a big part of Mintz Levin Cohn Ferris Glovsky and Popeo right from the start. The law firm was founded during the Great Depression when two Jewish lawyers who knew



"It's a complicated place to get things done," says Stephen Tocco, CEO of ML Strategies, regarding Massachusetts.

they were never going to make partner at old-line (and WASPy) Hale and Dorr opened their own firm. Over time, Mintz Levin has grown to become one of Boston's biggest law firms, with eight offices and more than 500 attorneys.

In 1991, Mintz Levin moved directly into politics, opening ML Strategies, a subsidiary focused on government relations work. Mintz Levin wasn't the first big Boston law firm to open its own lobbying shop, but it's the only one to succeed long-term at it. Many credit the law firm's chairman, Robert Popeo, for that. Popeo is a Boston institution, a rainmaker who combines East Boston street-smarts with stunning legal skills. He's a guy who feels just as comfortable moderating a panel discussion with General Electric CEO Jeffrey Immelt, a long-time client of the firm, as he is playing hardball with federal prosecutors.

While many of his fellow Boston attorneys disdain politics, Popeo embraces it. "I don't find it messy," he says. "Look, we're in the problem-solving business, whether it's legal, public relations, government relations, permitting, or whatever. It's all part of being a full-service firm."

Mintz Levin regularly hosts fundraisers for politicians, where members of the law firm, ML Strategies, and their clients schmooze with elected officials. The firm held a fundraiser for House Speaker DeLeo on March 12 that raised more than \$25,000 and a fundraiser for Baker on





**“Pure persuasion,” former governor Bill Weld says when asked about his role before the Massachusetts Gaming Commission.**

May 26 that raised close to \$30,000. All of the top Mintz Levin and ML Strategies employees contributed, with one exception: William (Mo) Cowan, the chief operating officer of ML Strategies and the former chief of staff to governor Deval Patrick, didn't donate to Baker. Cowan says he attended and supported the Baker fundraiser, but chose

## Mintz Levin often holds fundraisers for politicians and invites its clients to schmooze with them.

not to contribute because of how a donation to Baker from a Democrat might be viewed. “I have to be thoughtful about that,” he says.

Mintz Levin and ML Strategies officials also get involved more directly with politicians. Popeo represented DeLeo when the US Attorney's office came hunting for his scalp in the Probation corruption scandal; no

charges were ever filed against the Speaker. Meanwhile, Steve Tocco, the president and chief executive of ML Strategies, has played a pro bono, behind-the-scenes role in a number of leadership fights on Beacon Hill.

Cowan says the openness to politics at Mintz Levin is what attracted him to the firm in the first place, even though he had to apply three times before he was hired. “One of the reasons I came to Mintz Levin as a lawyer years ago was because they were one of the firms who demonstrated by word and deed that they understood and appreciated the marriage, the merger, between law and government and politics,” he says. “It's part of the Mintz Levin DNA.”

Cowan left Mintz Levin in 2009 to become then-Gov. Deval Patrick's legal counsel and later his chief of staff. In January 2013, Patrick appointed him an interim US senator, filling John Kerry's seat until after the 2014 election. After his brief stint in Washington, Cowan came back to Mintz Levin, this time as the COO of ML Strategies.

The 70-year-old Weld, who joined Mintz Levin and ML Strategies in 2012, likes the vibe. “In many law firms, most of the senior lawyers think that politics is kind of like poison and if you touch it, you'll get cancer. Most of them resist any notion of deep involvement in political and civic affairs. Mintz Levin is just the opposite. You want somebody to take a table, you call 542-6000,” he says, rattling off the firm's phone number and using shorthand lingo for sponsoring a table at a charity dinner. “The philosophy of Bob Popeo and Steve Tocco is you have to play at the civic level in order to be a real force in this town.”

Tocco, the 68-year-old leader of ML Strategies, has an unusual back story. He got a pharmacy degree in the 1970s, but found his way into politics working on the first congressional campaign of his Malden neighbor Ed Markey. That campaign work morphed into a job in Markey's Washington office and a close, odd-couple friendship between the conservative Tocco and the liberal Markey. “He used to call me his conservative conscience,” says Tocco.

Tocco eventually left Markey's office to run a controversial nonunion contracting group called Associated Builders and Contractors. Shortly before the Republican state convention in 1986, ABC revealed that it had fired GOP gubernatorial candidate Greg Hyatt as a consultant because of erratic behavior that included staring into space, talking on the phone when no one was on the other end, and twice appearing naked in the office. One of the all-time-great press conferences in Massachusetts history was Tocco in front of a roomful of reporters explaining Hyatt's degree of undress.

At the contracting group, Tocco drifted in the orbit of a lot of the state's top Republicans, including Paul Cellucci. Tocco says he suggested to Cellucci that he and Weld

should team up in the 1990 race for governor, which they did. Tocco, somewhat radioactive in political circles because of his nonunion contracting ties, says he became a behind-the-scenes campaign advisor to Weld and Cellucci. When they won the election, Tocco moved out of the shadows, becoming a senior advisor to Weld and Cellucci and later Weld's secretary of economic affairs. From 1993 to 1997, he was the CEO of Massport, where he opened a series of state offices abroad and ran a strong patronage operation at home.

Popeo came calling after Tocco's exit from Massport. Tocco initially resisted but then came aboard at ML Strategies, taking command of the company in 1999. He did away with hourly billing and shifted to set retainers that start at \$6,000 a month. He says the retainer approach grew out of his experience at Massport, where consultants were everywhere. "That always drove me crazy at the Port Authority," he says. "You pay these people by the hour and it's fricking ridiculous."

Tocco also brought with him a hustler mentality and a personal touch for business. He likes to wine and dine clients at Limoncello in the North End, where he lives. Even though many of his competitors say most of his clients come through the law firm, Tocco says three-quarters of them are unique to ML Strategies. He says his strength is his ability to understand the needs of business and government and find common ground between them.

"The clients we serve the best are the ones who come in from out of state," he says in his office on the 42d floor of One Financial Center. "They look at what goes on [in Massachusetts] and they, like, roll their eyes. They say, 'You've got to be kidding me.' So they really need someone to help them walk through this maze of whether it be regulation, public relations, regulatory challenges, legislative challenges. It's a complicated place to get things done. And that's sort of the role I like to play."

## RARELY ON BEACON HILL

Tocco, Cowan, and Weld are lobbyists who say they almost never go to the State House.

"The business has changed," says Tocco. "I don't think relationship lobbying is effective anymore. I don't think it works. But that doesn't mean you don't have relationships. Relationships, quite frankly, are what build the trust factor. We will bring credibility to a client because people have come to trust us. But you also have to have breadth and depth in the subject matter. You know, 10 to 15 years ago, you could go to [former state senator] Biff MacLean and he'd get an amendment in there without ever reading it. You can't do that anymore."

Cowan is on the same page. "Two things matter in this very competitive business," he says. "One, and this used to be the dominant thing, what relationships do you have, and can they afford your client the opportunity to get in front of the right people to make their case and ask the right question? The other is domain or subject matter expertise. It's not enough to just have one. You've got to have both."

ML Strategies is built around relationships and expertise. The Washington office has eight staffers who all have experience in government or trade groups. The office is led by David Leiter, who previously worked at the Department of Energy and as chief of staff to John Kerry when he was a US senator.

In Boston, there are 12 staffers. Two, Julie Cox and George Atanasov, monitor Beacon Hill. There are five specialists in public relations (Nancy Sterling), energy (David O'Connor, who headed the state's Division of Energy Resources from 1995 through 2007; environmental and permitting issues (Richard J. Lyman, an official in the Weld and Cellucci administrations); development (Robert Ryan, a former head of the Boston Redevelopment Authority); and transportation (Stephen Silveira, a veteran of the

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### 2014

1. Rasky Baerlein .....	\$2,028,500
2. O'Neill & Assoc. ....	\$1,979,388
3. Murphy Donoghue Partners .....	\$1,770,455
4. Kearney Donovan McGee .....	\$1,763,880
5. The Brennan Group .....	\$1,607,592
6. ML Strategies .....	\$1,567,006
7. Dewey Square Group .....	\$1,531,503
8. Bay State Strategies .....	\$1,489,000
9. Shanley Fleming Boksanski & Cahill .....	\$1,458,900
10. Serlin Haley LLP .....	\$1,383,009

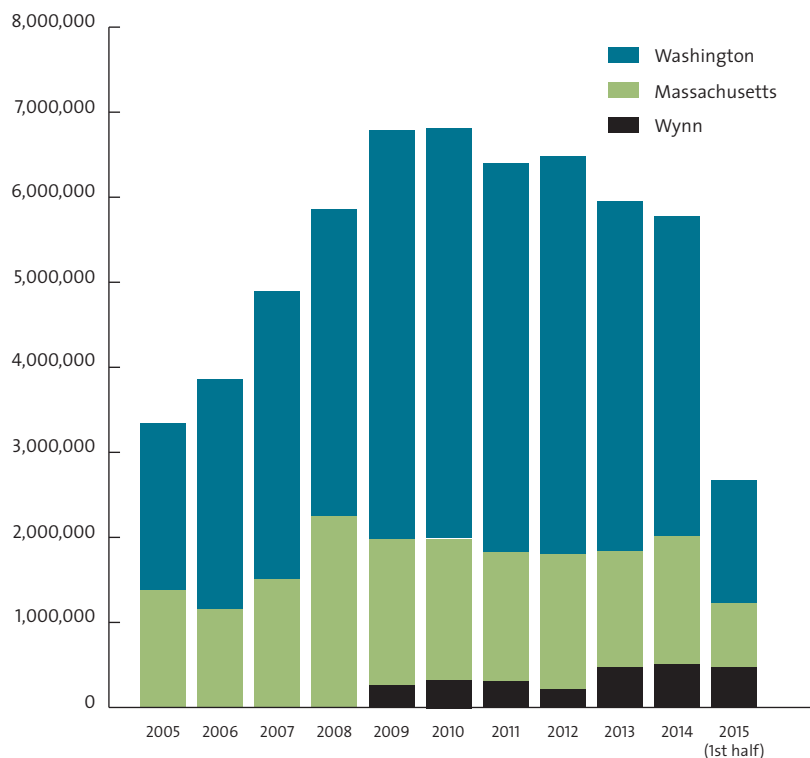
### 2015 (FIRST SIX MONTHS)

1. ML Strategies .....	\$1,178,606
2. O'Neill & Assoc. ....	\$1,128,144
3. Murphy Donoghue Partners .....	\$888,108
4. Rasky Baerlein .....	\$850,160
5. Kearney Donovan McGee .....	\$803,482
6. Bay State Strategies .....	\$776,500
7. Shanley Fleming Boksanski & Cahill .....	\$771,700
8. Dewey Square Group .....	\$689,002
9. Travaglini, Eisenberg, Kiley .....	\$657,289
10. The Brennan Group .....	\$636,237

NOTE: Includes lobbying payments only and not expenses.

SOURCE: Secretary of State, Massachusetts

## ML STRATEGIES REVENUE 2005 THROUGH 2015



SOURCE: Massachusetts Secretary of State, OpenSecrets.org.

MBTA and the former head of the state Transportation Finance Commission.)

Despite being a lobbyist, Silveira is so well known for his transportation expertise that he was appointed in 2013 to the state's Project Selection Advisory Council, which generated a report in July on developing criteria for prioritizing transportation investments. That sort of access undoubtedly is attractive to clients.

The five remaining people in the Boston office — Tocco, Cowan, Weld, former state senator Steven Baddour of Methuen, and former Senate Ways and Means Committee staffer Daniel Connelly — are there because of their contacts and knowledge of how government works.

The client list at ML Strategies centers around energy, transportation, health care, development, and telecommunications, but there are a host of customers who don't fit neatly in those categories, including Boston University, Johnson & Johnson, and the Boston Symphony Orchestra. The hiring of Baddour brings in a bunch of new clients, including Steward Health Care, State Street Bank, Staples, athenahealth, and AT&T.

Sometimes, ML Strategies ends up representing clients with potentially competing interests. On Beacon Hill, for example, advocates for different types of power are clamoring to be included in the region's energy mix. Some environmentalists fear it's a zero-sum game —

that more natural gas will mean less solar and wind. ML Strategies is representing clients on all sides of the issue, including solar, wind, biomass, Canadian hydropower, oil, and natural gas.

When he was governor, Weld says he welcomed lobbyists to his office. "I was always happy to see lobbyists because they might give me some information that was relevant to the decision we had to make," he says. "I could spot the phonies. They wouldn't come back a second time."

But Weld and Tocco say they don't try to meet with Baker on behalf of their clients, in part because the relationship between the three of them is so close. Tocco and Baker served as cabinet secretaries under Weld and Weld is Baker's political mentor, going so far as to appear in commercials with Baker during his successful run for governor last year.

"We just try to stay away from Charlie," says Tocco. "I haven't talked with Charlie about an issue since he's

been governor, and neither has Weld. We don't want to put him in that position. Now, if we're working on something, do they think we have good judgment and high integrity? They probably do. They probably know us better than they know some other people."

Weld did meet with Baker along with former governor Michael Dukakis in September. The three talked about a North-South rail link, a policy priority of the two former governors.

Some of Baker's energy views track closely with those of ML Strategies clients. For example, Baker wants to import hydropower from Canada and he favors expanding existing natural gas pipeline capacity in the region. His administration is exploring having electric utility customers pay for these types of energy projects.

"We have a view, which happens to coincide with Gov. Baker's view, on how we're going to make up for the fact that Massachusetts is at the end of the pipeline," says Weld. "The current battleground is gas. Five years ago, gas was the favorite child of the environmental movement because it wasn't coal and it wasn't oil. Those days are over. Now it's a member of the hated fossil fuel community. Some in the environmental movement think everything is going to be wind and solar before long. It reminds me of the 1960s and all my fellow hippies in Cambridge saying, if only we could all love each other. I do think hydro is going



to play a major role and soon.”

Weld also notes that ML Strategies represents Spectra Energy, which wants to expand its Algonquin pipeline. “That’s a pretty easy sell,” he says. “There are issues with it, but conceptually it’s a fairly easy sell except for the people who now suddenly don’t like natural gas because it’s a member of the fossil club, which I think is not a well-taken position. It’s going to be a long time before that point of view becomes relevant.”

In discussing Wynn’s success in landing a long-delayed environmental certificate from the Baker administration, Weld says the key was a letter written by state Transportation Secretary Stephanie Pollack that concluded the Las Vegas developer had met its traffic mitigation obligations. “Once Secretary Pollack filed her letter, the die was pretty much cast. I was actually the person who recommended Stephanie Pollack to Charlie,” Weld says. The ex-governor then adds a detail that goes a ways toward explaining the power of networks and circles of influence. Weld says he never personally met Pollack, but recommended her “with a pretty good sendoff” because Doug Foy had recommended her. Foy runs an environmental consulting firm and previously worked as a top aide to former governor Mitt Romney.

### WYNN THE LONG-SHOT

When the scramble for casino licenses began in Massachusetts, nearly every political insider thought Sterling Suffolk Racecourse, the owner of Suffolk Downs, had the Greater Boston license in the bag. The primary owners of the track, Joe O’Donnell and Richard Fields, had former mayor Thomas Menino on their side and a fleet of lobbyists on the payroll. In an interview in early 2014, Steve Wynn told *CommonWealth* that O’Donnell had told him several times he was never going to win the license. Wynn said another Suffolk Downs investor, Steve Roth, told him “we’re going to kick your ass.”

Interestingly, ML Strategies was part of the Suffolk Downs team in 2007 and 2008. Lobbying records indicate the company did some traffic analysis and community relations work for Suffolk Downs in East Boston, before the two companies parted ways in 2008. The company then signed on with Wynn Resorts. “We had choices [in the casino sweepstakes],” says Popeo, “but we thought they were the best.”

Popeo says he represented Steve Wynn himself on a personal matter some 35 years before. He also knew Sinatra, Wynn’s legal counsel, from her work at other gaming companies prior to joining Wynn. Sinatra says she had hired Tocco sometime between 2001 and 2003 when she was working at a company that would later morph into Caesar’s Entertainment Corp. (Caesar’s later went on to partner with Suffolk Downs before being tossed aside amid

concerns about its shaky finances and Russian mob ties.)

Given what Steve Wynn was hearing from his competitors in Massachusetts, one of Wynn’s biggest concerns was whether his company even had a chance of landing the Greater Boston casino license. Sinatra says Tocco kept reassuring Wynn officials that the selection process



in Massachusetts wasn’t rigged. “He was among the few who believed that it wasn’t,” she says. “He believed that it was straight. I will tell you that I didn’t know.”

Says Tocco: “I was absolutely convinced there was going to be a level playing field. I didn’t say they were going to win it, but I said the fix was not in. It took a lot of convincing periodically.”

The push for the license and then the right to begin construction would turn out to be one of the most complicated, costly, and controversial lobbying campaigns in Massachusetts history, and it’s still not over. Menino seemed determined to block Wynn’s casino ambitions and help Suffolk Downs, but current Mayor Marty Walsh has taken the battle to a new level, suing the Gaming Commission to block Wynn’s license award, suing Wynn to revoke a state environmental permit, and accusing Wynn officials of knowingly dealing with underworld figures in the purchase of land in Everett.

Wynn is both a dream-come-true and a nightmare for a behind-the-scenes fixer like Tocco. A legend in the



casino business, Wynn is capable of charming just about anyone when he's in the mood. His company has a strong balance sheet and a track record of success. He was masterful at belittling Mohegan Sun, his chief rival for the license, ridiculing the company's proposed "three-star" hotel and suggesting the gaming company was only interested in Massachusetts to protect its casino in Connecticut.

But Wynn can also be his own worst enemy. When the Gaming Commission said it didn't like Wynn's design for his hotel, he responded with a snide letter basically telling it to pound sand. Tired of suggestions from Boston officials that his company knew about criminal involvement in the Everett land deal, Wynn brought in a private attorney and threatened to sue Walsh. Neither move was part of the ML Strategies game plan. Each time, cooler heads eventually prevailed, and Wynn backed off.

Wynn Resorts also seems to ride a roller-coaster with state regulators, but the company always seems to land on its feet, perhaps because of the ability of ML Strategies to smooth things over. Wynn negotiated a \$6 million deal to buy MBTA land for a preferred entrance to the casino, only to have the deal put on hold because the land was transferred improperly. Wynn won a state environmental certificate for its casino project, but only after three attempts. Perhaps the most embarrassing revelation of all was that Wynn purchased its Everett property from a company in which convicted criminals allegedly held a hidden interest.

Through every up and down, Tocco and ML Strategies kept on pulling strings from behind the scenes and collecting monthly retainers. Initially, those retainers bounced around in the neighborhood of \$25,000 a month before hitting a peak of nearly \$71,000 a month during the first half of this year. Wynn Resorts is far and away the biggest client of ML Strategies, bringing in about 3 to 4 percent of the firm's revenues until last year, when the percentage rose to 8 percent and then doubled to 16 percent during the first half of this year.

Still, the hefty lobbying bills submitted by ML Strategies may be a bargain. Looking at just 2009 through 2015, Sterling Suffolk Racecourse spent \$400,000 more on lobbying than Wynn, and that figure doesn't include separate lobbying expenditures by Suffolk Downs's casino partner Mohegan Sun. Of course, the lobbying expenditures of ML Strategies don't include what Wynn Resorts pays Mintz Levin in legal fees. Popeo won't reveal how ML Strategies has done financially, but he seems satisfied. "It holds its own and serves the total needs of the law firm," he says. **CW**

*Note: The chairman of the MassINC board of directors is an attorney at Mintz Levin Cohn Ferris Glovsky and Popeo. MassINC is the corporate parent of CommonWealth magazine.*



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The boys cross country teams of Fitchburg High School and Wachusett Regional High School take off at a recent meet, with the Fitchburg team outnumbered.

# Sports inequality

Data reveal a rich-poor divide in high school sports participation in Massachusetts communities, with kids missing out on more than just games.

BY HARI PATEL AND BRUCE MOHL

**EACH YEAR, THE** Massachusetts Interscholastic Athletic Association compiles athletic participation data from public, charter, and parochial high schools across the state. In nine out of the past 10 years, the publicized narrative about the data has been the same: that athletic participation is increasing.

But below the surface, the data reveal some alarming trends about how athletic participation is distributed town by town and city by city. While youth in high-income school districts are playing as many sports as ever, students in low-income communities are far less likely to participate in school athletics at all.

In the state's 10 poorest communities, the data show sports participation is 43 percent below the statewide average. By contrast, sports participation in the 10 wealthiest communities is 32 percent above the average. The rich-poor divide is troubling because many educators and analysts believe that participation in extracurricular activities such as sports plays a key role in academic success.

Harvard political science professor Robert Putnam, in his book *Our Kids: The American Dream in Crisis*, says extra-

See page  
64 for  
interview with  
Putnam

curricular activities teach students valuable soft skills such as strong work habits, self-discipline, teamwork, leadership, and a sense of civic engagement. Students engaged in sports tend to have higher grade-point averages, better work habits, and lower dropout rates, he says.

“Fifty years ago,” Putnam writes in his book, “offering opportunities for all kids to take part in extracurricular activities was recognized as an important part of a public school’s responsibilities to its students, their parents, and the wider community. No one talked then about soft skills, but voters and school administrators understood that football, chorus, and the debate club taught valuable lessons that should be open to all kids, regardless of their family background.”

Now, as the MIAA data reveal, sports inequality is a fact of life in Massachusetts. Kids who grow up in poorer communities tend to have far less exposure to sports than their counterparts in wealthier communities, and play far fewer sports in high school. Educators from poorer communities don’t view lackluster sports participation as a trifling matter. They say sports and other extracurriculars are critical to a child’s development and see the lack of participation in poorer communities as another measure of the growing divide between America’s haves and have-nots.

## Girl sports participation lags boys

Girls participate in sports at the high school level much less than boys, according to data compiled by the Massachusetts Interscholastic Athletic Association.

Even in the era of Title IX, and amidst the widely publicized success of the Women’s National Soccer team at this summer’s FIFA Women’s World Cup, athletic participation by girls across the state lags well behind boys. The statewide participation average for both sexes is 78 percent, but it’s 86 percent for boys and 70 percent for girls, a differential of 16 points. The MIAA data covers 17 boys’ sports and 16 girls’ sports.

The impact of a community’s per capita income level on the gender gap in sports participation was less clear. The state’s 10 poorest communities had a sports participation rate of 36 percent for girls and 51 percent for boys, a differential of 15 points. The participation rate for girls was 71 percent that of boys.

The differential was 25 points in the state’s 10 wealthiest communities — 116 percent for boys compared to 91 percent for girls. Yet more students overall participated in sports in the wealthier communities, where the participation rate for girls was 78 percent that of boys, slightly higher than it was in the poorest communities.

## CRUNCHING THE NUMBERS

The MIAA’s athletic participation data is less than ideal but still revealing. The association collects from 376 schools across the state the number of students participating in each sport, but doesn’t account for students playing multiple sports. So the data don’t tell how many students actually played sports, only how many sports seasons were completed by students. Still, by tracking the number of seasons completed — one completed season is counted for each athlete in a sport — the MIAA provides a useful tool to analyze the level of physical activity and sports involvement at high schools around the state.

The average sports participation rate statewide during the 2014-15 school year was 78 percent for all 376 schools, meaning there were an average of 78 sport seasons completed for every 100 students. Examining the sports participation data through the lens of a community’s per capita income yields interesting patterns.

In the state’s 10 wealthiest communities, the average sports participation rate was 103 percent, or slightly more than one sport season per student. Only three of the 10 communities had sports participation rates less than 100 percent, with the lowest being 65 percent in Lexington. The rate in Weston, the state’s wealthiest community, was 115 percent. The Dover-Sherborn district, a combination of two of the state’s wealthiest communities, had the highest participation rate at 147 percent.

Six communities with per capita incomes that rank halfway between the state’s high and low extremes had a collective sports participation rate of 82 percent, four points higher than the statewide average. Within the group, however, there was wide variation, ranging from a low of 53 percent in Weymouth to a high of 147 percent in East Bridgewater.

The state’s 10 poorest communities had an overall sports participation rate of 44 percent. Only one of the 10, the Ralph Mahar Regional High School in Orange, topped 100 percent. None of the others cracked 80 percent; Chelsea High School was the lowest at 29 percent.

Low participation is also pervasive in the state’s 11 major Gateway Cities, mid-size urban centers around the state that face stubborn socioeconomic challenges. The group includes Brockton, Fall River, Fitchburg, Haverhill, Holyoke, Lawrence, Lowell, New Bedford, Pittsfield, Springfield, and Worcester. The average sports participation rate in the 11 communities was 48 percent. The highest participation rate was 65 percent in Haverhill; the lowest was Brockton, at 23 percent.

In most of the Gateway Cities, participation has barely grown at all since 2010. In Brockton and Lowell, the average number of sport seasons completed has actually declined over the past five years.

In the Boston Public Schools, sports participation is



35 percent, but this reflects very different rates at the city's regular district high schools and its exam schools. At the city's three exam schools, Boston Latin School, Boston Latin Academy, and O'Bryant High School, the participation rates were 69 percent, 53 percent, and 46 percent, respectively. At the city's other public high

## Educators say poverty is the real cause of declining sports participation at high schools.

schools, the participation rates were markedly lower, generally in the mid-20 percent range.

Municipal funding plays a key role in the level of participation in sports and other extracurriculars. Many communities, faced with budget deficits, have cut funding for sports or started charging fees to play sports, both

of which reduce participation. Brockton, which has a low sports participation rate, pared back its sports spending during the 2014-2015 school year to deal with a \$5.7 million deficit. Marlborough last year eliminated freshman sports to deal with a budget shortfall. Nationally, some reports have suggested that 40 percent of public schools impose fees to participate in sports.

But educators say poverty is the real cause of declining sports participation in many communities. In wealthy towns, sports are an important part of community life. Parents sign their children up for sports leagues at very early ages and often take time off from work to coach. Businesses sponsor leagues and teams. As children get older, parents sign their children up for summer travel teams or special AAU teams. It's not uncommon for children to play their favorite sport year-round.

At high schools in wealthy communities, most sports have freshman, junior varsity, and varsity squads. Competition for varsity positions can be intense, with parents often grumbling about lack of playing time. Many parents see sports success as a key asset as their children apply to colleges.

The situation is very different in poorer communities. Parents in these communities often don't have the money or the time for sports. Ray Cosenza, the athletic

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director at Fitchburg High School, recalls a time when the city had three youth baseball leagues, each with at least six teams. Now, he says, there is one league with a handful of teams. The lack of a feeder system may explain why the high school's varsity baseball program had some problems fielding a team two years ago, even though the school has 1,250 students.

Football and basketball still attract large numbers of participants in poorer communities, but other sports don't fare as well. Most schools have varsity teams, but junior varsity and freshman squads are less common. There just aren't enough athletes, and those students that do try out for teams often have a lot of catching up to do in learning about the sports.

"A lot of kids we deal with come to high school and have never played a sport before," says Brad Schoonmaker, director of athletics programming for Boston Scholar Athletes, which supports athletes in the Boston Public Schools.

#### PROMOTING SCHOOL SPORTS

Six years ago, Andre Ravenelle saw sports participation at Fitchburg High School slipping. The band's numbers were also down. Looking around the community, says

the longtime superintendent of the city's school system, it was clear that parents were struggling to make ends meet and lacking the resources to send their kids off to play on sports teams or take music lessons.

"I realized that if kids were going to learn to play sports, they were only going to learn it from us in school," says Ravenelle. "If we didn't do it, it wasn't going to happen."

So Ravenelle launched sports in middle school at a cost of \$70,000 a year. At the high school, he waives the \$50-per-sport fee for 70 percent of the school's athletes. He is also expanding art and music offerings, while pushing more rigorous academic programs and standards. "These are not individual initiatives," he says of the academic and extracurricular programs. "These are parallel initiatives."

Ravenelle, who has a son who pitches for a Detroit Tigers minor league team, says playing a sport is about more than just exercise. He says sports boost a school's morale, encourage civic pride, and teach students all sorts of skills they need in life. Sports also expose students to coaches who can become mentors, says Ravenelle, who is the president of the Massachusetts Association of School Superintendents.

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learn leadership, and have role models,” he says. “For a lot of our kids, sports is where they’re going to succeed.”

Officials at other schools and foundations are also pitching in. Boston Scholar Athletes, founded by Suffolk Construction chief John Fish, raises money to provide tutors and other academic supports to help student athletes in Boston and Springfield maintain their academic eligibility.

“There’s a lot of talented athletes who can’t get on the course because they don’t have the grades,” says Schoonmaker of Boston Scholar Athletes.

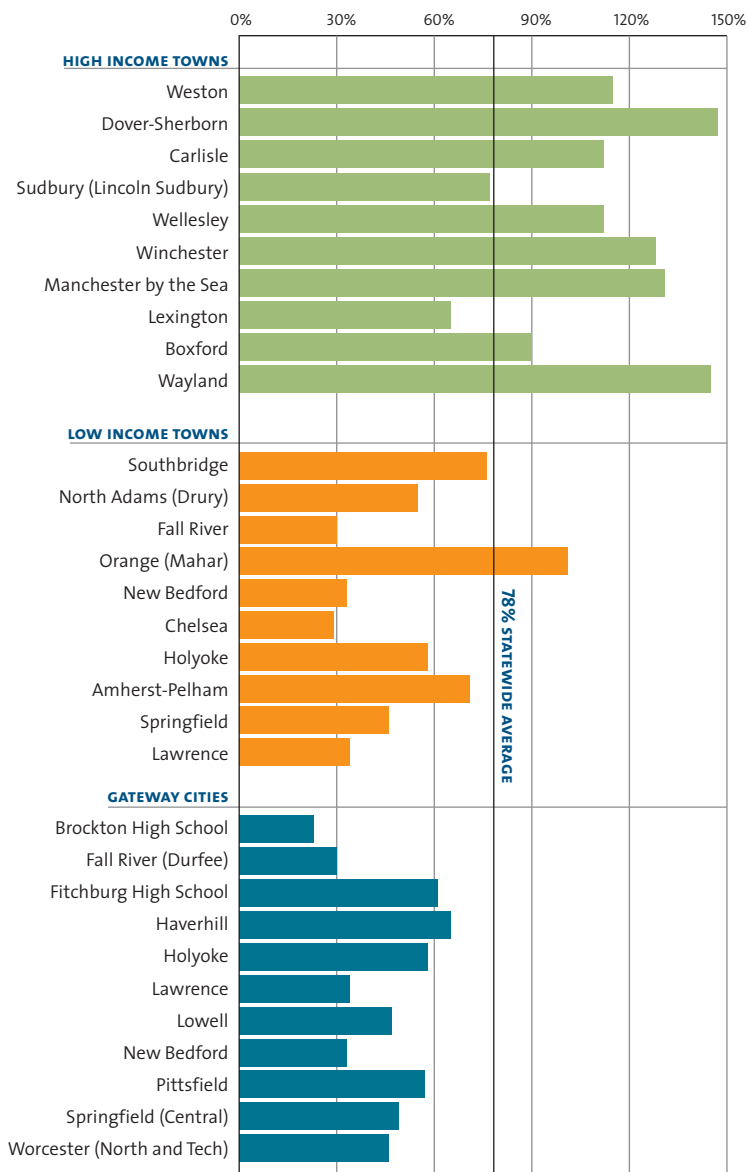
Marquis Taylor, co-founder of Boston-based Coaching4Change, is using sports in a different way to help high school students. His program targets high school students interested in sports but who aren’t playing on a team. They receive mentoring help on organization skills and then use those skills to coach teams at the elementary and middle school level.

By challenging high school students to lead a team of kids, and do the organizational work behind it, Taylor’s organization has had success in improving the grades of participants. In Brockton, 80 percent of students participating in the program improved their grade point average by at least a half a point on a 4-point scale during their time with C4C, Taylor says.

Jeff Riley, who became receiver of the Lawrence public schools three years ago, says his primary focus is on improving the quality of education. But he says sports and other extracurricular activities are a key part of that effort. “I can tell you anecdotally that kids need to have these kinds of opportunities,” he says. “Sports are a huge part of a child’s development.”

Riley launched sports intramural programs at the middle school level when he took over and is taking advantage of an expanded school day to send elementary school students to learn to swim at the YMCA and get exercise at the Boys and Girls Clubs. He

## SPORTS PARTICIPATION VARIES WITH PER CAPITA INCOME



SOURCE: Massachusetts Interscholastic Athletic Association. Participation rates calculated by dividing the number of students on sports teams at each school by the school’s total enrollment for what the association calls the 2013-14 to 2016-17 alignment.

is also exploring whether the Play Ball foundation, which funds middle school sports programs in Boston, could do similar work in Lawrence.

“Fundamentally, this is about fairness. We talk about the achievement gap. What about the opportunity gap?” Riley asks. “Our kids have to have the same access to the American Dream as suburban kids do.” **CW**

## Share your sports story

The numbers don’t tell the whole story. We’d like to hear your thoughts and stories on unequal sports participation. Call 617-224-1705 or email [bmohl@massinc.org](mailto:bmohl@massinc.org)

*Hari Patel is a freelance writer currently attending Columbia University.*

# No guarantees

A bidding system that puts public construction contractors on the hook for overruns isn't saving taxpayers money — and might actually be driving up the price of projects.

BY JACK SULLIVAN | PHOTOGRAPHS BY MARK MORELLI

**IT SOUNDED LIKE** a good idea at the time. Stung by the enormous cost overruns of the Big Dig and other open-spigot public projects, officials on Beacon Hill wanted to put more of the risk associated with excess spending on contractors. They came up with a system in 2004 that seemed to fit the bill. Instead of the usual process of having a building or a public works project designed and then awarding the construction contract to the lowest bidder, the new system called for selecting the contractor up front and then negotiating the construction price as the full scope of the project emerged.

The new approach brought the contractor into the design process at a much earlier stage, offering the chance to work out any conflicts between design and construction early on, a key cause of past overruns and delays in getting work started. The most attractive feature of the new contracting system was a “guaranteed maximum price,” above which any cost overruns would be the responsibility of the contractor and not the public.





The future of the new Lechmere Station in Cambridge is unclear as MBTA officials try to salvage the Green Line extension project after a cost estimate came in as much as \$1 billion higher than expected.



Some government agencies say the contracting approach is working, primarily by reducing the length of the construction schedule. But a growing body of evidence suggests the new method is not living up to expectations. The ballooning cost of the Green Line extension to Somerville and Medford is the latest, but not the only, example. A *CommonWealth* review of 110 state and municipal projects green-lighted by the state Inspector General's office for the contracting approach indicates costs have nearly doubled from initial estimates. The initial estimated cost of all the projects combined was \$5.3 billion, but the tally is now nearly \$10 billion and the tab continues to rise with about 40 percent of the buildings still under construction and final costs not tabulated for many more.

Critics of the contracting approach say it has given contractors an incentive to inflate prices to reduce the risk of their responsibility for cost overruns. Others say the contractors allowed to do these types of projects have essentially hijacked the process, and have been able to get away with it because government agencies lack the engineers and managers needed to keep them in line. State law also limits the number of contractors who can

do these type of projects to those who have done them before, which restricts competition.

Perhaps the biggest blow to the contracting approach came in early September when the state's Supreme Judicial Court ruled that a guaranteed maximum price isn't really guaranteed. The decision, overruling a lower court decision, will probably mean that the state must fork over \$5 million more to a subcontractor who spent more than the supposed ceiling price under the guaranteed maximum.

The Baker administration, which has been diving into all sorts of sticky problems in its first year on the job, seems wary of tackling this one even though the governor's vaunted MBTA reform bill included expanded use of the alternative procurement process. Transportation Secretary Stephanie Pollack is taking a wait-and-see approach in assessing blame for the cost overruns on the Green Line extension. Perhaps more telling, the state's Division of Capital Asset Management and Maintenance, which deals with contracting procedures across state government on a daily basis, took several months to respond to questions about the contracting procedures and then issued a "no comment."



Site preparation work on the new Lechmere Station in Cambridge, part of the Green Line extension, is already underway.

Charles Chieppo, who was part of a group inside the Romney administration that pushed for the new contracting approach more than a decade ago, says it hasn't worked out the way the group planned. "What you've ended up with is, instead of more competition, which is the driving force, you've ended up with less competition," says Chieppo, a senior fellow at the Pioneer Institute. "The anecdotal information is it's not saving money."

## LEARNING THE CODE

Understanding the ins and outs of the controversy first requires a knowledge of the jargon spoken in the construction business.

The government's long-standing approach with public construction is called design-bid-build, which is fairly self-explanatory. The state hires a firm to design the project, then puts the construction work out to bid, and hires a contractor to build it, usually the lowest bidder. Problems inevitably crop up when the contractor discovers flaws in the design, which spur design changes that lead to cost overruns and the potential for a process that can spiral out of control.

In 2004, the Legislature approved a couple of different approaches that call for the contractor to be selected up front. One is called design-build, where the contractor works with the design team right from the start and at some point a guaranteed maximum price is agreed to. This process is mainly used by state agencies and is aimed

the contractor.

The CM at-risk approach is limited to projects such as school or public safety buildings with a project cost of more than \$5 million. Some state agencies, including the University of Massachusetts Building Authority, the Massachusetts Water Resources Authority, and other independent authorities, are exempted from many of the restrictions.

Finally, there is an approach called construction manager-general contractor, which was approved by the Legislature in 2012 as a pilot program specifically for the Green Line extension. Under that program, the MBTA hires a contractor, a designer, and an independent cost estimator. The three parties each develop cost estimates as the design advances. Once design is completed, the MBTA and the contractor agree on a guaranteed maximum price. By law, if the contractor's estimate is greater than 110 percent of the independent cost estimator's, as is the case with the Green Line extension, the MBTA can try to bargain the price down or, if unable to reach an agreement, put the contract back out to bid under the traditional lowest-bidder method. In that scenario, the original construction manager-general contractor — in the case of the Green Line, White Skanska Kiewit Joint Venture — is prohibited from entering into the bidding.

In 2010, the cost of the Green Line extension was estimated at \$953 million, but by January of this year the tab had risen to nearly \$2 billion. T officials secured \$1 billion from the federal government for the project, ensuring the state could keep its cost close to the original projections. But in May, when White Skanska Kiewit submitted a cost estimate to build the first phase of the project, the price was more than double what T officials had penciled in. The cost of the extension's later phases also spiraled upward, making the price for the entire project between \$700 million to \$1 billion higher than originally estimated.

MBTA and state transportation officials told the T's Fiscal and Management Control Board that one of the disadvantages of the new contracting process is that the contractor, on the hook for any cost overruns, has an incentive to inflate the price. "Possible reasons for higher than expected bids include...CM/GC 'padding' costs with high ratio of management to craft staff, due in part to avoid costs above guaranteed maximum price," officials wrote in a presentation to the board.

The recent renovations at Logan Airport's Terminal B, which used the CM at-risk approach, also came in far above the initial estimate. Targeted for \$92.5 million, the project's cost was initially reduced to \$82 million but then ballooned to \$143 million even after some elements were eliminated. A spokesman for Massport says the changes that increased cost came at the request of airlines and Transportation Security Administration officials,

## The most attractive feature of the new contracting system was a "guaranteed maximum price."

at public works projects such as roads, bridges, turbines, and garages.

The other approach is called construction manager at-risk — commonly referred to as CM at-risk. The public agency selects a construction manager who works with the designer from the outset of the project or at least very early on in the design stage. Once the design work on a project is 60 percent done, an initial price is agreed upon based on the proposed completed design work. Once the entire design is finished, a guaranteed maximum price is set. The public agency involved in the project is required to have an "owner's representative," often a private independent construction expert who serves as a liaison with



which he says will be recovered from federal reimbursements and increased baggage fee revenues.

Among those items cut were expanded ticketing and security checkpoint areas that were eliminated from the original design at the request of the contractor to save money, according to a Boston-based architect familiar with the project who asked not to be identified. The architect says the changes compromised the project. “When it is crowded, the concourse is almost impassable,” the architect says. “There is not enough queuing and space at the new security checkpoint. A new checkpoint should not be too crowded on day one.”

CM at-risk is the most commonly used contracting method because, in part, state lawmakers gave municipalities an incentive to use it in building new schools. Each community that uses CM at-risk receives an extra point from the state on its reimbursement rate, which ranges from 31 to 80 percent of the cost of a project. Depending on the size of a school project, an extra point is worth anywhere from hundreds of thousands to millions of dollars.

Newton North High School, built using the CM at-risk process, saw its cost skyrocket from \$109 million when it was first proposed in 2003 to nearly \$200 million by the time it was completed in 2010. It is the most expensive school ever built in the state.

Quincy built a new high school using CM at-risk and saw the \$126 million project come in about \$7 million over the guaranteed maximum price despite a four-inch stack of change orders that cut out many amenities to save money.

When it came time to build Quincy’s new Central Middle School, officials opted to go back to the old lowest-bid procedure, which they say saved money because they used what is termed a “model school design.” Model schools are buildings that have been constructed in other communities that can be used as a template and reduce costs because all the bugs are already worked out. James Timmins, Quincy’s city solicitor, who dealt with both projects, said the city opted for the traditional method on the advice of the school building authority.

“We were going to get very competitive bids using design-bid-build so there was little benefit derived out of going CM at-risk,” he says.

In fact, a study by the Associated Builders and Contractors of Massachusetts, a group of nonunion construction firms, found that in 2009-2010 communities that built schools using the lowest-bidder method had nearly four times the savings of projects that used CM at-risk. Of the 12 projects using CM at-risk, the final cost came in 5 percent below the estimated price. For the 18 school

projects that went to the lowest bidder, the average savings was 21 percent.

“I think the name is part of the attraction for communities,” says Greg Beeman, ABC’s president and CEO. “When you look at the numbers, though, it’s kind of hard to come to the conclusion that communities are less at risk than communities who use the traditional model.”

Beeman says part of the problem is the small pool of contractors eligible to do CM at-risk jobs. State law requires that only contractors who have prior experience with the construction approach can compete for projects, which excludes a broader pool of contractors who have built schools as lowest bidder but have not been able to get their foot in the door for CM at-risk projects. All of the companies qualified to do CM at-risk work are union firms, Beeman says.

“One of the ideas of the law was to create an opportunity to get more private sector contractors in the public market,” says Beeman. “As it turned out, it’s really a method where the playing field is only a handful of contractors. It’s one of the unintended consequences. They gobbled up the early experience and that handful of companies became

## State law says only contractors who have experience with the CM at-risk approach can compete for projects.

the only contractors who built a school with the CM at-risk model and now they’re the only ones who can be hired for them. It’s a Catch-22.”

### NO GUARANTEES

One of the biggest setbacks for the alternative contracting method was a SJC decision that said the guaranteed maximum price isn’t really guaranteed. The court ruled in a case filed by Gilbane Construction, which was hired to build a 320-bed state psychiatric hospital in Worcester. One of Gilbane’s subcontractors, Coghlin Electrical, submitted a bill for an additional \$5 million because the walls and ceilings in the building lacked sufficient space to accommodate electrical wiring.

Gilbane initially rejected the invoice, but later submitted it to the state’s Division of Capital Asset Management and Maintenance, claiming the extra work was caused by a faulty design approved by the agency. State officials



Passengers back up at a security checkpoint at Logan Airport's Terminal B, which remained congested even after a \$143 million renovation.

refused to pay the invoice and Gilbane, which was being sued for payment by Coghlin, sued the state, saying the initial design was faulty. DCAMM argued Gilbane was liable because the company was fully aware of the original design when it agreed to a guaranteed maximum price on the project and could have made the changes then.

Last fall, Worcester Superior Court Judge Brian Davis sided with the state, dismissing Gilbane's claim because he felt the risk of delays and extra cost were the responsibility of the contractor. "As implied in its name, a [CM at-risk] contract shifts most of the design review, management responsibility, and financial risk associated with the underlying public construction project — including the risk of cost overruns within the original project scope — to the designated 'construction manager' in return for a 'guaranteed maximum price,'" Davis wrote.

Court transcripts indicate Davis and Gilbane attorney John DiNicola engaged in an interesting exchange on whether DCAMM was responsible for a "change in scope" on the project, which would have been the financial responsibility of the government.

"It was always expected there would be walls, for example, right?" Davis asked.

"Yes," DiNicola replied.

"And ceilings?" Davis asked.

"There was a design change in the wall framing," DiNicola responded.

"True," said Davis. "But there was always an expectation that there would be walls?"

"Yes, I don't think you can have a building without walls," said DiNicola. "I would agree with that statement."

"Great," said Davis. "So no change in scope because they had walls, and no change in scope because they had ceilings on top of the walls."

But in September, the SJC, which took the case directly on appeal because of the public policy implications, vacated Davis's ruling and remanded the case back to him for trial on Gilbane's claims against the state. The SJC ruled that there is an "implied warranty" from the state for cost overruns despite agreement on a guaranteed maximum price.

In a decision written by Chief Justice Ralph Gants, the SJC acknowledged that public agencies bore the risk under the old lowest-bidder method because they oversaw the design and approved the final

drawings that then went out to bid. But the justices said that even though the CM at-risk was involved in the process early in the design phase and has input, it is still up to the public owner to get designs right.

"As significant as these differences in relationship are, we are not persuaded that the relationships are so different that no implied warranty of the designer's plans and specifications should apply in construction management at-risk contracts...and that the [CM at-risk] should bear all the additional costs caused by design defects," Gants wrote.

## NO GOOD DATA

A fierce debate on construction policy is now taking place behind the scenes on Beacon Hill, but the discussions are hampered by a lack of data. Since 2005, more than 75 schools have been built using the CM at-risk method, state records show. But while more than half of those projects have been completed, the final reconciliation of costs is still not done. In Belmont, for instance, the \$39 million Wellington Elementary School was opened in 2011 but the final costs still have not been submitted, according to state records.

The Legislature authorized the Inspector General's office to perform a review five years after the law was enacted. But that 2009 report, the only one performed by the state, was thin on conclusions because few projects had been completed by then.

The MBTA is also supposed to file a report every two years on the construction approach being used on the Green Line extension project. The first report was due last year, but it was merely a summation of what the intent of the contracting method was and explanation of what the benefits could be. The report also includes a recap of the

selection process, which shows White Skanska Kiewit was ranked second in technical score and qualifications of the three finalists, and, incredibly, won the contract with its price proposal, which did not ask for an estimated maximum price as intended by the law but rather was focused on overhead costs and profit margins.

The law also required the administration to file a report with the Legislature and the Inspector General when the first \$100 million on the project was expended, detailing the results to date and certifying the use of the process going forward. So far, the MBTA has awarded more than \$206 million in contracts but no reports have been filed to certify the method, according to a spokesman for the Inspector General.

Supporters say CM at-risk and its cousins were never intended to be seen as cost savers, their value instead lying in the streamlined process, cost-certainty, and a better-built product. Joel Lewin, head of the construction law division at the firm Hinckley, Allen & Snyder LLP, which represents several of the certified CM at-risk firms, including Suffolk Construction and Gilbane, says a dollars-and-cents analysis won't yield a clear picture of which construction approach is a better use of public money.

CM at-risk "gives the owner the opportunity to take

advantage of the input and expertise of a contractor prior to the start of construction," says Lewin. "That's invaluable. You can't take a survey of what final cost is and be able to compare them apples to apples with CM at-risk. I think that's impossible. No two schools are exactly the same at the end of the day. You can't compare the original bid price on a project with the final cost. There are changes in design, unexpected decisions, changes made by the owner [public agency]. No two projects are exactly like."

Massport says the ability to work collaboratively with the contractor from the outset helps reduce the construction timeline by months, if not years, and brings about price stability. "We find CM@risk helpful in many cases because the time to completion is much faster than design-bid-build [the traditional method]," Massport director of communication Matthew Brelis says in an email. "That is exceedingly helpful in the dynamic environment in which we operate with airline mergers, growth, and consolidation. All of that stimulates the economy and fosters economic growth... If it was design-bid-build, it would not yet be open and we do not believe there would have been a difference in cost."

Jack McCarthy, executive director of the state School



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Building Authority, says CM at-risk isn't chosen for its cost-savings. "It's easier to manage [a project] because there's less people to deal with," says McCarthy, who worked at the Inspector General's office when the CM at-risk law was first passed and when the office issued its five-year report on the new contracting approach in 2009. "One of the reasons you do CM at-risk is for something unexpected. It's the things you don't know that drive up the cost."

## **"This method was not only chosen but specifically authorized by the Legislature to have it move along faster."**

Transportation Secretary Stephanie Pollack says the T is in the process of determining if any contracting method can salvage the Green Line extension. Pollack says the initial cost estimates were formulated when the project design was 60 percent complete, as required by law. By the time the final drawings were done, she says, a more precise price estimate was possible. Pollack says the hired designers on the project, as well as the independent cost estimator, came up with divergent estimates as well.

"We're still in the diagnostic phase in understanding why this bid has come in so high," Pollack says. She says officials are trying to determine if the contracting method affected the price or if other factors are to blame. "This method was not only chosen but specifically authorized by the Legislature to have it move along faster. There is no guarantee if we went out to bid that we would actually save any money," she says.

Some early supporters of the alternative contracting approaches say they are sound in concept, but faulty in practice because public agencies lack the in-house expertise needed to make them work. Chieppo, who was part of the Romney team pushing for the changes a decade ago, says there is nothing underhanded going on.

"The owners on these cases, they're not doing anything criminal or anything nefarious," he says. "They're just not particularly sophisticated at what they're doing. They're not having to sharpen their pencils."

Gregory Sullivan was the Inspector General when that office did the legislatively mandated review of the CM at-risk process in 2009. While his report praised the approach as pumping new life into the state's construction process with cost-certainty and on-time delivery, he

has since modified his view because, he says, the lack of public employees with construction expertise means private contractors can take advantage of the system.

"CM at-risk can be very good when run by *bona fide* public construction agencies, but is vulnerable to abuse at places like the MBTA where the work of professional engineers and architects can be effectively disregarded," says Sullivan, now a research director at the Pioneer Institute.

Former governor Michael Dukakis, a strong transportation advocate, says state agencies have let go their in-house experts in construction, design, and planning, placing the agencies at the mercy of outside vendors who look at state government through the prism of private industry.

"Where's the Frank Kevilles at the T?"

Dukakis asks, invoking the name of a legendary official who rode herd over the Red Line extension to Alewife and other transit projects in the late 1970s and early 80s. "There's no one like Frank Keville anymore who knows what's what."

But there is growing concern that the system itself doesn't work. The Boston-area architect who is critical of the contracting approaches says CM at-risk, in particular, has made for costly projects that don't always result in better products. The architect says part of the failure of the law is including contractors in any portion of design because their expertise is in construction and their goal is profit. He says few, if any, have the training or expertise to gauge what is the best approach and what is needed for safety when it comes to design.

Pointing to the Massport Terminal B renovation as an example, he says many contractors will push to reduce and exclude segments of a design as well as substitute cheaper materials in order to maintain their profit margin with the guaranteed maximum price.

"Typically the CM will want to strip the building down and remove expensive materials," he says. "They often go too far and hold projects hostage after their award and say that if these items or these areas do not get cut, they cannot guarantee the final price even though these items were included in their good-faith estimates when they were awarded the project."

The architect says a return to the traditional lowest-bid method would be best for taxpayers, noting his profession would not necessarily be affected by either approach. "This delivery method is another bogus approach that leaves the taxpayer totally vulnerable," he says of the CM at-risk model. "When you sign a contractor up based on qualifications and on conceptual drawings, and they own the contract. When the final drawings are available, the contractor has no competition and can name their price. This is completely ridiculous and utter foolishness for the taxpayers." **CW**





Donna Colorio is leading the effort to put a question on the state ballot to repeal the Common Core education standards. “I don’t like the fact that we’ve got this elitist 1 percent in this country controlling education,” she says.

# Core debate

The looming decision on whether to scrap the MCAS test in favor of the new PARCC assessment comes loaded with lots of other issues, including the still controversial adoption of Common Core standards in Massachusetts

BY MICHAEL JONAS | PHOTOGRAPHS BY KATHLEEN DOOHER

**IN 2010, WHEN** the Massachusetts Board of Elementary and Secondary Education voted to adopt the Common Core State Standards, it marked a big moment for the effort to get states to sign on to a common set of academic benchmarks for public school students.

The existing Massachusetts standards were widely regarded as among the strongest in the country, and Bay State students placed first in the country on achievement measures in math and English. Having the state agree to the newly-crafted Common Core standards represented a crucial seal of approval.

“Supporters of the Common Core were very interested in getting Massachusetts to come on board,” says Michael Petrilli, president of the Thomas B. Fordham Institute, a Washington-based education policy think tank. Because the state’s standards were rated so highly, he says, the thinking on Common Core was, “if leaders of Massachusetts said these standards were even better, that would be a real coup and a signal to other states.”

Five years later, with Common Core now adopted by 42 states, all eyes are again on Massachusetts.

In November, the state education board will vote on whether the state should trade MCAS for the new PARCC test that is aligned with the Common Core standards. It will be another signal that registers loudly in the national education debate.

Is PARCC a better overall assessment of achievement and does it provide better information on how prepared students are for college or career-training programs?

Those may be the main questions the state board is wrestling with. But the PARCC debate comes freighted with much more.

Swirling in the mix is criticism that the Common Core standards, strongly backed by the Obama administration, represent an unwarranted federal intrusion into local education policy. There has also been resentment of the heavy-handed influence of the Bill and Melinda Gates Foundation, which has spent millions of dollars backing the Common Core effort.

Fanning the flames at the margins have been right-wing ranters like Glenn Beck, joined occasionally by a few on the left, claiming the whole enterprise represents a takeover of education by shadowy corporate elites set on molding today's children into a servile worker class of tomorrow.

"The public has lots of misinformation and misperceptions about what Common Core does or doesn't do," says Patrick McGuinn, a political scientist at Drew University who specializes in education policy. "A lot of the debate is not about the substance of Common Core and the standards themselves. It's about other issues that have gotten connected to Common Core and to tests like PARCC."

That said, there are legitimate questions about PARCC and Common Core, especially in Massachusetts, where it was not as clear that the new standards represented the leap forward that they clearly bring to many other states.

A grassroots campaign is working to put a question on the 2016 state ballot that would repeal Common Core and go back to the previous Massachusetts standards.

Meanwhile, the PARCC test has run into problems of its own. Most of the 26 states that originally joined a consortium to use the test have abandoned it, leaving just seven states and the District of Columbia in the PARCC network. Some states have cited cost concerns. Others encountered technology problems with the test, which is designed to be administered online. In lots of cases it had less to do with the test itself than with a backlash against the new standards it is based on.

Common Core has become the education bogeyman of the Republican presidential campaign, with candidates Chris Christie and Bobby Jindal, who once embraced the standards, sprinting to catch up with their primary rivals in denouncing Common Core as a dangerous federal overreach into schools.

The number of states now signed on to use the PARCC test "is reaching a dangerously low level," says Tom Loveless, an education policy expert at the Brookings Institution in Washington. "Massachusetts is a high profile state when it comes to Common Core, and if it withdrew from PARCC, I think that would be a serious blow."

#### PARCC TEST DRIVE

The Common Core standards were developed by a bipartisan group of governors through the National Governors Association and a national organization of state education commissioners. The two groups were concerned about the uneven rigor of standards across the 50 states and the fact that far too many students seem unprepared for the demands of college and the work world in an increasingly knowledge-based economy.

Many states had weak standards. And they had widely

varying definitions of "proficiency," with the bar set far lower in some states than any honest reckoning would ever arrive at.

The Massachusetts curriculum standards, which were developed following passage of the state's landmark education reform law in 1993, were viewed as among the strongest of any state. They are credited with helping the state rise to the top spot among all states in math and in English on the National Assessment of Educational Progress, a test often termed "the nation's report card."

The Massachusetts standards were due for updating and committees of educators were working on those revisions at the same time that the Common Core effort was getting underway in 2008. Massachusetts education officials redirected the state standards review with an eye toward adopting the new Common Core standards, which the state ultimately did in July 2010.

As Massachusetts and other states were weighing the Common Core decision, the Fordham Institute issued a report comparing the Common Core standards to those in all 50 states.

Unlike with most of states, where their analysis suggested Common Core was an unequivocal improvement, Fordham said the case for Massachusetts was much less clear. Fordham deemed the decision "too close to call," giving the Massachusetts English standards a slightly higher grade than Common Core, while saying the Common Core standards for math were slightly stronger

## There is a lot of 'misinformation and misperceptions about what Common Core does or doesn't do.'

than the existing state benchmarks.

"My own view was Massachusetts couldn't have made a wrong decision," says Petrilli, the Fordham president. "It chose to go ahead [and adopt Common Core]. Of course that has been controversial, and some of our friends there in Massachusetts continue to dispute the wisdom of that."

The "friends" Petrilli refers to are the staff at the Pioneer Institute. The conservative-leaning Boston think tank has emerged as the strongest policy and advocacy voice in the country against Common Core — and often a shiv-wielding critic of Fordham and other organizations that have endorsed the new standards.

Pioneer has issued lengthy reports critiquing the stan-



dards and its leaders have barnstormed the state — and country — speaking out on the issue. The group has faulted everything from the standards' focus on non-fiction reading over traditional literature to the rigor of Common Core math, which Pioneer says pulls up short of what students need to pursue math-rich college majors.

Pioneer and others have also criticized the strong hand of the Obama administration in prodding states to adopt the standards. Although Common Core was a state-led effort of governors and state school leaders, the Obama administration has pushed the effort on multiple fronts, including through grants to the developers of the Common Core tests.

In 2009, the administration dangled the prospect of money from the \$4.3 billion Race to the Top school grant project to states that adopted rigorous new “college and career ready” standards, a clear reference to Common Core.

The Obama administration viewed Massachusetts as a prize catch in the bid to get states to join Common Core. The Patrick administration wound up a Race to the Top winner, getting \$250 million in funds from the initiative, and pushed for the state's adoption of Common Core.

“There were a lot of politics involved,” says Loveless, the Brookings Institution education expert. “The Democratic governor did not want to upset the apple cart when it came to Common Core in those early days,” he says of then-Gov. Deval Patrick.

The next step was development of new tests based on the Common Core standards. Two big consortia of states have collaborated in these efforts. Massachusetts joined with states crafting the PARCC test. Pearson, the world's largest education publishing company, was contracted to develop the assessment and the computer platform to administer it.

Massachusetts embarked on what state officials called a two-year “test drive” of PARCC, which stands for



Pioneer Institute's Jim Stergios calls the state's embrace of Common Core “a real step down.”

Partnership for Readiness for College and Careers. Some 81,000 students were given the test in 2014, and a bigger tryout was conducted in 2015, with about half of all districts in the state volunteering to give PARCC to students in grades 3-8 in place of MCAS. (Regardless of the ultimate PARCC decision, the state plans to continue using the 10th grade MCAS test, which students must pass to graduate from high school, at least through the class of 2019.)

PARCC established a “meeting expectations” scoring benchmark that test officials believe signals that students are on track to be “college- and career-ready” by the time they graduate.

In September, the state released PARCC results from

Dianne Kelly, superintendent of the Revere schools, says Common Core and the new PARCC test that is aligned with it are raising expectations and the rigor of learning in Massachusetts schools.



the schools that gave the test online last spring. (About 40 percent of schools used a paper-and-pencil version of the test.) Fewer Massachusetts students taking PARCC met the test's meeting expectations standard than met the MCAS proficiency standard in schools that gave the state test.

For sixth-grade students, for example, proficiency rates for those taking MCAS were 71 percent for English language arts and 62 percent for math. For PARCC, 54 percent of sixth graders taking the new test reached the "meeting expectations" level for English and 49 percent did so for math.

PARCC proponents say the lower scores are not surprising, as the test was designed to provide a more honest appraisal of student achievement than most existing state tests. But it's not possible on that basis alone to say PARCC offers a more rigorous assessment of critical thinking

and reasoning than MCAS, since the results only reflect the cutpoints used by the two tests to mark a minimally adequate score.

#### **STANDARDS STAND-OFF**

Common Core proponents say the standards bring a new level of rigor to schooling and demand from students more of the critical thinking skills they will need to succeed in college and the work world.

Standards don't prescribe a detailed curriculum. They describe a set of skills students should master and content they should be exposed to as they progress through the K-12 system. The Common Core authors say the standards are aimed at having students ready to do credit-bearing college work by the time they graduate from high school.

That has become an important goal in US schools because many students, even in states like Massachusetts that have high standards and high achievement, still graduate from high school without the skills needed for higher education.

About one-third of Massachusetts public high school graduates who enroll in a state college or university have to take at least one remedial, non-credit bearing course based on placement exams used by the schools. For those enrolling at two-year community colleges, the figure is 55 percent.

“We know that MCAS has not served as a good gauge of college readiness,” says Linda Noonan, executive director of the Massachusetts Business Alliance for Education, which was involved in the 1993 education reform effort and supports Common Core and a switch to the new PARCC exam. The group released a report in February that concluded that MCAS fails to identify students who are college- and career-ready and lacks the right content to do so. It offered a “cautious and conditional ‘yes’” to the question of whether PARCC delivers on those goals, acknowledging that the new exams are, at this early stage, promising but unproven.

While supporters say Common Core will bring all participating states up to a high bar that prepares students for college, Pioneer Institute maintains they are a bad deal for Massachusetts. “My best guess is that Common Core is probably better than the standards in about 20 states,” says Jim Stergios, Pioneer’s executive director. In perhaps another dozen states, he says, “it’s a mixed bag.” But for those states that had very strong standards

of meaning and nuance, understanding what’s sarcastic, what’s irony, what’s true and what’s not true — that all comes from literature. It does not come from vacuuming information from a nonfiction text,” he says.

The Common Core standards say there should be a 50-50 split between fiction and nonfiction reading in the early grades, a breakdown that should move to 70-30 in favor of nonfiction reading by high school.

Pioneer officials have lashed out at the reading standards, penning newspaper op-eds claiming that the standards cut classic fiction reading in Massachusetts schools by 60 percent.

But the standards don’t actually call for such reduction. Common Core says the breakdown between fiction and nonfiction applies to reading done across the entire range of the school curriculum, not just in English classes. For high school students, that means the goal of 70 percent of reading being nonfiction includes assignments in history and social studies classes as well as in science courses.

“We have not abandoned literature, we have not abandoned poetry,” says Mitchell Chester, the state education commissioner. “Informational text” was given “short shrift compared to reading literature and stories” in the previous standards and Common Core brings some balance to that, he says.

The math standards have also drawn criticism, with some parents puzzling over new methods they lay out for teaching younger grades basic computation skills.

A bigger critique has come from the fact that Common Core’s standard for having students college- and career-ready ends with a second-year algebra course. Critics say that level of math would not/ equip a student to pursue a college degree in a so-called STEM field — science, technology, engineering, and math. A Pioneer report argues that the Common Core standards will lead to lower high school enrollment in advanced classes beyond Algebra II.

Stergios says schools will not be motivated to go beyond the Algebra II material that PARCC tests on. “The only places where they will go beyond Common Core,” he says, “is if they’re Wellesley or Westwood or Weston, who don’t give two hoots really about [test] scores and are aiming to get kids into Ivy League schools.”

Dianne Kelly, the superintendent of schools in Revere, thinks Common Core is, in fact better preparing students for more advanced math. Kelly, a former math teacher who was on a statewide committee that reviewed the new standards when Massachusetts was considering adopting them, says Common Core exposes students earlier to algebraic concepts and puts an emphasis on

## Students don’t become sophisticated readers by ‘vacuuming up information from a nonfiction text.’

— he puts Massachusetts at the top of this list — Stergios says Common Core is “a real step down.”

In English, Pioneer has been particularly critical of Common Core’s call for students to read more nonfiction, or “informational text.” Authors of the standards say students are arriving at college without the skills needed to understand and analyze complex “informational” nonfiction that makes up the bulk of what they’re asked to read in college — in science courses, history, or psychology — and in the work world afterwards.

Stergios says Common Core is wrong about what it takes to educate students to be sophisticated readers in college. “The acquisition of vocabulary, the understanding



“mathematical practice” that helps “apply the concepts they’re using to real world situations.”

Since 2010, the Revere schools, where about three-quarters of students come from low-income households, have more than doubled the share of students taking Algebra 1 in 8th grade rather than 9th, which makes it easier for students to reach advanced math classes such as calculus by their senior year. Enrollment at Revere High School’s calculus courses is up by 50 percent over that time.

“I don’t want to say that’s only because of Common Core, but understanding the curriculum these kids have been exposed to over the last four years is telling,” says Kelly.

“The idea that schools are just going to abandon all this advanced coursework because the Common Core didn’t prescribe the standards for them is crazy,” says Kelly. She points out that MCAS only tests students through geometry, typically a sophomore-year course, and that hasn’t prompted schools to abandon math beyond that level.

As for the Common Core-aligned PARCC test, reaction has been mixed. The test includes lots of open response questions and tests more types of writing than MCAS. In math, it goes much further than MCAS in asking students to show how they arrived at an answer, a step designed to encourage development of analytical reasoning skills, not just knowledge of formulas.

Last fall, Teach Plus, a Boston-based nonprofit, convened 350 Massachusetts teachers who reviewed and discussed the test. While 72 percent of the teachers rated PARCC a better overall assessment than MCAS, views were mixed on whether it was always grade-appropriate.

Some teachers have complained that the test isn’t developmentally appropriate in the earlier grades, particularly the English language arts section.

Katy Shander-Reynolds, a fourth-grade teacher at Barbieri Elementary School in Framingham, calls the Common Core literacy standards “pretty reasonable.” But based on her review of sample PARCC questions, Shander-Reynolds says they were “abominably out of synch with what these kids are able to do,” including even the phrasing of questions, which she says were hard to understand and seemed to set students up to fail. “It’s frustrating to those of us whose whole career is aimed at helping children succeed,” she says.

Teachers from the high-performing Match charter schools Boston, on the other hand, give the test very good reviews. Stig Leschly, executive director of Match Education, which runs four charter schools, told a board of education hearing in June that PARCC tests “set out for our students and our staff a clear ladder to AP level work in late high school.”

Ryan Holmes, a teacher who helped design the Match curriculum for math, told the board Common Core and

PARCC have improved instruction among math teachers at Match. Holmes cited a test question on volume as an example, saying PARCC demands that students show a more sophisticated understanding of the concept than MCAS.

PARCC “requires students to have a deep understanding of the material they’re learning, so teaching to the test is not an effective strategy to get them to do well,” he said. “If you don’t like teaching to the test, then you should embrace the PARCC assessments.”

## STRANGE BEDFELLOWS

When Donna Colorio ran for a seat on the Worcester School Committee in 2011, she says she didn’t even know what the Common Core standards were, even though the state had adopted them the previous year. That, she says, is part of the problem.

The more Colorio learned about the standards, the more convinced she became that Massachusetts had hastily abandoned its own high-quality standards and the more upset she became that the state had shifted to the new benchmarks without an extensive public review process.

Colorio organized a forum on Common Core in the spring of 2012. “I’m thinking 20 people are going to show up,” she says. “We had 135 people show up. It was packed. I became pretty much the pioneer of this in Worcester.”

Colorio is now the leader of Common Core opposition statewide. She is spearheading an effort to have a question that would repeal the standards placed on the 2016 statewide ballot. Organizers must gather nearly 65,000 signatures by late November.

The issue has “awakened a sleeping dragon,” says Colorio. “I have never met as many people engaged in their children’s education as they are now.” Colorio says what bothers her most about the switch to Common Core is the loss of control at the state level over school standards. “We have lost our independence,” she says.

Colorio says she also resents the influence of Bill Gates, whose foundation played a pivotal role in funding efforts to get states to adopt Common Core and has funded many organizations that have produced research studies backing Common Core and the new Common Core-aligned tests. She also questions the motives of Pearson, the giant education publishing company that has developed the PARCC test.

“I don’t like the fact that we’ve got this elitist 1 percent in this country controlling education,” she says, evincing some of the tea party-flavored antipathy to Common Core that has led opponents to brand the new standards “Obamacore,” much as critics of national health care reform have derided it as “Obamacare.”

The Gates Foundation has spent more than \$200

million on Common Core efforts, funneling money to consultants who helped states, including Massachusetts, with their federal Race to the Top grant applications. The foundation also funded Common Core research and advocacy by groups spanning the ideological spectrum from national teachers unions to the US Chamber of Commerce and right-leaning think tanks like Fordham.

Teach Plus and the Massachusetts Business Alliance for Education have also received Gates funding.

“They’ve given out so much money on Common Core that you’d have to really dance daintily around not to bump into somebody who’s been funded by Gates,” says Stergios. “They’re sort of judge and jury in their own case,” he says of the foundation.

Petrilli, the Fordham Institute president, says his organization has been entirely transparent about funding it receives. “We are glad that we got support from Gates. We have common cause on this,” he says. As for any idea that Gates has influenced Fordham to shift its views, Petrilli says, “We have been in favor of high standards and been in favor of national standards much longer than the Gates Foundation has been interested in this.”

The Gates strategy of funding groups across the political spectrum, the *Washington Post* reported last year, was part of a strategy to avoid “the usual collision between states’ rights and national interests” that had undermined efforts dating back to the 1950s to bring uniform education standards to the country.

The Gates efforts helped get 45 states to adopt Common Core. (Three have since repealed the standards.) But the same strong push for Common Core by Gates that united groups usually not on the same page has now seeded an alliance of equally strange political

new evaluation systems — ushered in through the same Race to the Top program that encouraged adoption of Common Core — that tie educators’ evaluations to student performance on standardized tests.

The Massachusetts Teachers Association and the state affiliate of the American Federation of Teachers have both come out against moving to the PARCC exam, which MTA president Barbara Madeloni referred to in a recent email to her members as part of the ongoing “testing madness.”

Martin West, a professor at the Harvard Graduate School of Education, calls the left-right attacks on Common Core and PARCC a “temporary convergence of interests.”

West is part of a team of researchers who conduct an annual nationwide poll for the journal *Education Next*. Their latest survey showed a big drop in teacher support for Common Core nationally, from 76 percent in 2013 to 40 percent in 2015.

West thinks a lot of that is because the transition to Common Core has happened alongside the rollout of the new teacher performance reviews incorporating student test scores. “Teachers are experiencing the implementation of the Common Core and new teacher evaluation systems as a package deal,” he says.

#### FILLING IN THE ANSWER

State officials at the center of the decision on whether to adopt the PARCC test say they’re committed to basing their recommendation on the best available evidence.

To aid that effort, the state education secretary, Jim Peyser, has convened an informal group of advisors that includes education experts from area universities.

Fordham Institute is also planning to share findings with state officials by late October of an analysis it is conducting comparing MCAS and PARCC.

Peyser’s office has gone a step further and set out to try to test directly what the two assessments say about students’ readiness for college.

Last spring, his office recruited 866 students who were finishing their freshman year at eight public higher education campuses in the state, both two-year and four-year schools. The students, all of whom graduated from Massachusetts public high schools and took the MCAS graduation test in 10th grade, were randomly assigned to take the English or math sections of the current 10th grade MCAS test or math or English sections of the 10th and 11th grade PARCC exams.

Researchers from the consulting firm Mathematica analyzed the results in conjunction with the students’ SAT scores, college placement test results, and grades from their first year in college. The goal was to test the idea that

## ‘If you don’t like teaching to the test, then you should embrace the PARCC assessments.’

bedfellows that is hostile to the new standards and the tests being used to assess them.

Though Common Core and the new assessments are not federal programs, the heavy prod from the Obama administration for states to adopt them has set off states’ rights cries from activists like Colorio.

Meanwhile, teachers’ unions have turned against the Common Core tests as part of the overall backlash taking place against standardized tests. Anti-testing views have taken on particular intensity among teachers because of

PARCC offers a better measure of college readiness. The analysis found that scores on PARCC and MCAS were equally well correlated with college success.

As a gauge of college readiness, the results suggest PARCC is “equally as good as MCAS,” says Peyser. “But it’s not better.”

While higher scores on either high school test were correlated with higher scores on the other tests and performance in students’ first year in college, simply clearing the passing bar set by the two assessments did not put students on a similar trajectory.

PARCC’s “meeting expectations” benchmark was a better gauge of who is likely to fare well in college than the MCAS “proficiency” hurdle. That is not surprising, however. For earlier grade levels, the MCAS bar denoting proficiency has been raised over the years as overall student test performance has risen. But that adjustment has not been made for the 10th grade test used as a high-stakes graduation requirement.

“The MCAS proficiency standard has degraded quite a bit over the years,” says Peyser. In other words, it has become easier for students to pass the MCAS test required for graduation.

If Massachusetts switches to PARCC, the goal is to eventually have an 11th grade test that would be used as the state’s high-stakes graduation requirement. If the state sticks with MCAS, even those on opposite sides of the Common Core and PARCC debate agree that it needs to be retooled and the 10th grade graduation requirement bar should be raised.

There are lots of other factors the state education board will weigh in its upcoming decision. State officials say about three-quarters of Massachusetts districts have the capacity to give the PARCC test online this coming spring. There is a paper-and-pencil version of the test, but the goal of a switch to the new assessment would be to have all students taking it online. There are lots of questions about the cost of needed technology upgrades in districts and the sources of funding for those improvements.

The board is also waiting for more information on the estimated annual cost of PARCC, as there is concern that this will now increase with fewer states in the testing consortium.

As the decision date nears, there’s also plenty of intrigue generated by the crosscurrents involving the history of some central figures in the decision.

In 2010, during his unsuccessful first run for governor, Charlie Baker stood on the steps of the State House alongside Stergios, the Pioneer Institute executive director, to denounce the state education board’s move to adopt the Common Core standards. Baker testified against the move before the board. He said the Common Core standards may be comparable with the existing Massachusetts standards, but he worried in an op-ed for the Lowell *Sun* that switching standards would require switching to a new test and “effectively invite the

federal government” into state policy decisions.

Today, Baker says he’s not inclined to weigh in on the PARCC decision and will likely leave it in the hands of the 11-member education board. But his past doubts about Common Core are not gone.

“I’m open-minded on this,” Baker says of the decision on which test to use. “But I worry a lot about turning something as important as this over to the national government,” he says, echoing his language of five years ago when he made clear he didn’t buy the idea that the effort is entirely under state control.

Baker says he’s not ready to offer a view on the campaign to put a Common Core repeal question on the state ballot. “But as I’ve said many times, I’m a big believer in the initiative petition process,” he says.

If the Common Core repeal makes it onto the 2016 ballot and is passed, it would throw a big wrench into the state testing system if the board votes this fall to adopt the Common Core-aligned PARCC test.

Meanwhile, Peyser is a past executive director of Pioneer, but he went on to work for a decade for the New Schools Venture Fund, a nonprofit that has received Gates Foundation support and has funded projects involving Common Core. “My history is way too checkered” to be pigeonholed on the pending decision, says Peyser. “I have many relationships on both sides of this issue. I’ll have friends and enemies no matter what happens.”

For his part, Chester has drawn heat for his dual roles as the state education commissioner, who will make a recommendation to the education board on whether to switch to PARCC, and chairman of the PARCC governing board of state education commissioners, which has made him a national spokesman for the test consortium.

Chester is widely expected to recommend a switch to PARCC, but he insists he’s still weighing the evidence and plans to do what’s best for the state. “I will not recommend something that does not advance our educational program in Massachusetts,” he says. “I am not conflicted in that regard.”

Kelly, the Revere schools superintendent, worries that the debate has been overtaken by politics and lots of issues that don’t belong on the table. “We shouldn’t decide we don’t like this because Bill Gates is funding it or because critics of PARCC say it’s all about money for Pearson,” she says. All that should matter is “whether it’s better for kids.”

Kelly says the issue needs to get settled by taking a cue from a goal of the Common Core standards themselves — to boost students’ critical thinking skills. The decision should come, she says, from “taking information from multiple sources and fashioning it into a reasoned argument.”

That high-stakes test is one the adults in charge now face. **CW**





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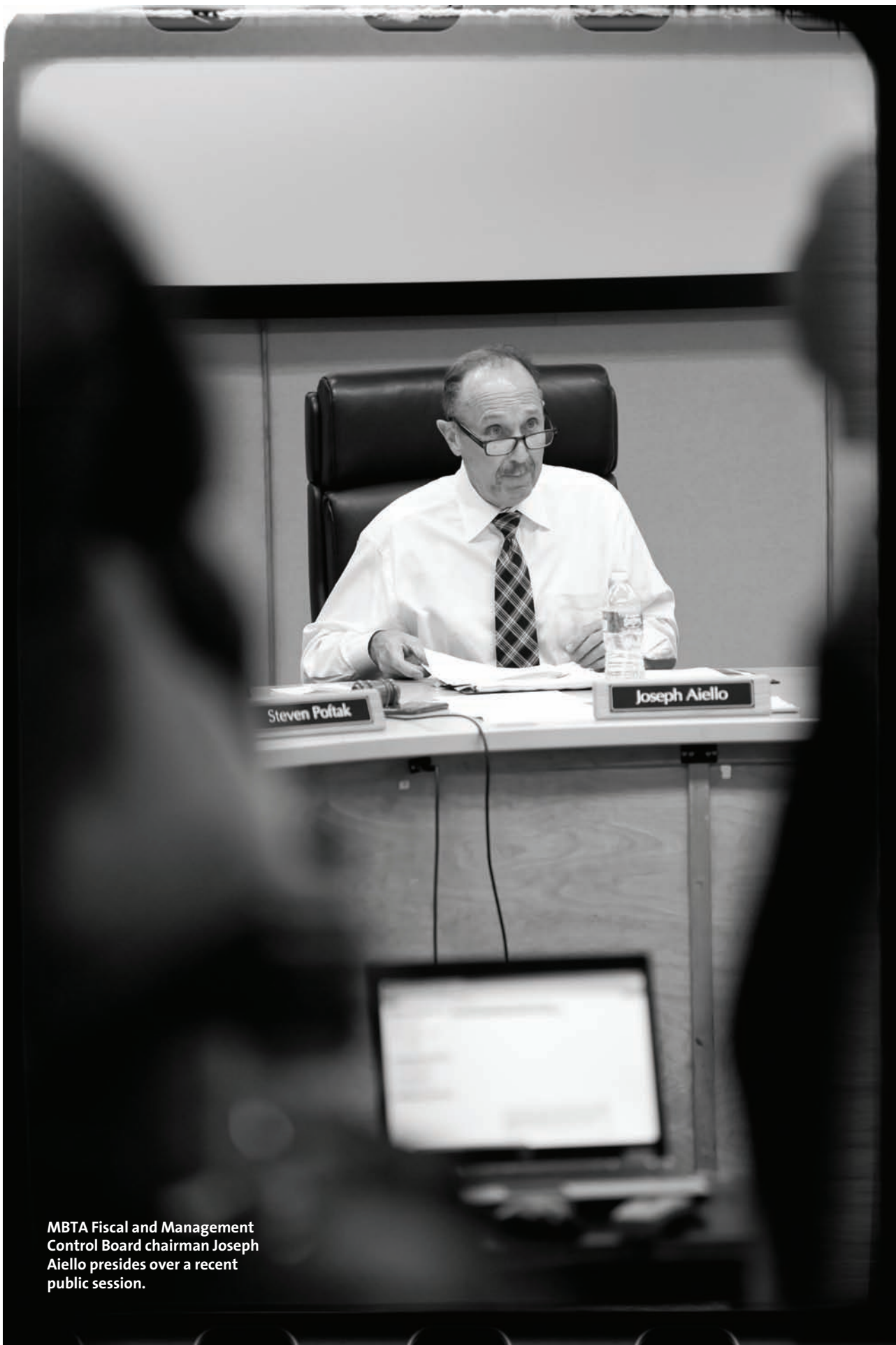
# Overlords of the MBTA

The T's Fiscal and Management Control Board knows its stuff, but the biggest hurdles are the ones that five sharp people won't see coming

BY GABRIELLE GURLEY | PHOTOGRAPHS BY MICHAEL MANNING

**THE NAME JOSEPH** Aiello probably means nothing to most MBTA riders. But the first major snowstorm might change that. Aiello is the chairman of the five-member MBTA Fiscal and Management Control Board that has the job that has overwhelmed governors, transportation secretaries, and the system's general managers for more than a decade: Molding the MBTA into a reliable transit system run by people who have a handle on what they are doing, especially when it snows.

Aiello and the four other members of the MBTA control board have embraced the chore with a rigor that the MBTA hasn't seen in years. They are holding meetings, issuing reports, grilling staff, and generally upending business as usual at the woebegone MBTA. Calling on five experts in various fields to work part-time



**MBTA Fiscal and Management Control Board chairman Joseph Aiello presides over a recent public session.**



to clear out the miasma hanging over the country's fifth-largest transit system is an unusual tack to take. Yet it was a similar type of control board that recently brought the city of Springfield back from the brink of financial disaster. Gov. Charlie Baker is hoping the same can be done at the MBTA.

The T was never at the top of candidate Baker's to-do list. If Mother Nature had not forced Baker's hand, the MBTA would have continued to plod along with the delays and other idiosyncrasies that bus, subway, and commuter rail riders grin and bear. However, the snows of 2015 presented a not-to-be-ignored opportunity to confront the crisis and wrestle with the problems.

Bereft of original ideas and unwilling to expend any more political capital on the MBTA, state legislative leaders stepped back and let governor have at it by authorizing the control board. The decision to fight for a control board carries some political risk for Baker, who is now tethered to its successes and failures. A decision about the control board's future will have to be made in 2018, a gubernatorial election year, when it's widely assumed that Baker will run for reelection.

Yet no sooner had Baker moved on to other priorities than the MBTA work got more complicated. In August, MBTA General Manager Frank DePaola announced that the Green Line extension to Somerville and West Medford had incurred cost overruns of as much as \$1 billion. "It just doesn't compute in my brain that it was possible to happen," Aiello says.

But it did happen. And how the control board deals with this latest crisis, one that sums up many of the MBTA's bureaucratic pathologies, may determine the outcome of this latest turnaround exercise.

"To have a governor that is hands-on and taken responsibility for fixing this problem, to have both House and Senate leadership be very, very clear that they want this problem fixed and that they are prepared to be complicit in this, is a highly unusual alignment of interests," says Aiello.

## BIG GUNS

In 2006, Joseph Aiello made it onto former governor Deval Patrick's short list for secretary of transportation along with Jim Aloisi (who served as one of Patrick's transportation secretaries) and Stephanie Pollack, the current secretary appointed by Baker. Aiello did not get the top job, but he has returned to the state transportation sector in a more challenging role.

He has long been a player in transportation circles, working as a deputy to Fred Salvucci, former governor Michael Dukakis's transportation czar. Currently, he is a partner and North America CEO at Meridiam, an inter-

national infrastructure firm.

Aiello is well-suited to cope with the challenge of the T, including the Green Line cost shocker, the first big crisis to land in the board's lap. As an expert on public-private partnerships, he has had deep experience in project management over the course of his career. He has overseen mega-projects such as the Port of Miami Tunnel, which opened last year; the Greater San Juan subway system in Puerto Rico, the first in the Caribbean; and the redevelopment of South Station, which faces another transformation.

"Joe has a good sense of what is going on around the nation and knows the right questions to ask to get at some of the core issues that are facing the MBTA," says Jeffrey Mullan, who succeeded Aloisi as transportation secretary.

Aiello, an unassuming East Boston native, came of age riding the Blue Line. "You realize from a very, very early age how central the MBTA is to people's lives," he says. "For me, it was a door opener: you'd ride the T, pop up on the other side of East Boston, and there is this whole world you only knew existed because you could look across the harbor."

Aiello went on to work at the MBTA for 10 years as a planning and budget and construction and finance official.

He commutes to his New York City office during the week from his home in Winthrop and uses the Blue Line on weekends. "He cares about the average person using the T," says Aloisi, who is a close friend and also grew up in East Boston.

Aiello devotes one day a week in Boston to MBTA issues. He meets with Pollack, attends briefings, and presides over the control board's public sessions. He admits that "glamorizing the good old days" is a hazard for someone who has been gone from the T for some time and now is back on a more difficult mission.

He says people who work on large transit construction operations typically think in billions of dollars. Sometimes they forget that "the savings on a \$2 billion





**MBTA Control Board members, starting from left of overhead screen: Steve Poftak, Joseph Aiello (in white shirt), Monica Tibbits-Nutt, Brian Lang, and Lisa Calise.**

project could be passed on to an opioid clinic to save kids' lives," he says. "The preciousness of that dollar was really evident when I was there. I hope that we can get back to that point."

The physical deterioration of the system and the state of mind of MBTA employees troubles him. "The place feels sort of beat up," Aiello says. "There doesn't seem to be a culture of excellence that you want an organization to have."

His control board colleague Monica Tibbits-Nutt, the executive director of the 128 Business Council, agrees. "Anyone who has had a crappy job with a crappy culture [knows] that it trickles down," says Tibbits-Nutt, whose organization provides transportation strategies and solutions, such as shuttle services, for businesses, institutions, and communities. "You are not rewarded for doing good work, you are not rewarded for being innovative or trying to actually make a change because the culture doesn't care. You take great professionals and basically make

them irrelevant."

The control board held its first meeting in July and divided its work into seven areas, each overseen by one member of the control board and a designated MBTA staff person, according to their areas of expertise. Aiello examines procurement and contracting issues. Tibbits-Nutt handles performance standards, and customer survey improvements and planning. Lisa Calise, the former administration and finance director for the city of Boston and the current chief financial officer at Watertown's Perkins School for the Blind, is tackling the capital and operating budget. That has her working closely with Brian Shortsleeve, Baker's hand-picked finance guru, who holds the new title of MBTA chief administrator, a position suggested by a special panel that Baker appointed after the winter collapse to study the MBTA's deficiencies and come up with new strategies to cope with them.

While the panel called for the chief administrator



**MBTA General Manager Frank DePaola briefs the Fiscal and Management Control Board.**

to take over the duties of the general manager, Pollack announced that those responsibilities would be divided between Shortsleeve and DePaola. The arrangement enables DePaola, who inherited the title of general manager, to concentrate on buses, subways, commuter rail, and other daily operations issues. That frees up Shortsleeve, a General Catalyst Partners and Bain & Company veteran, to focus on stabilizing the authority's capital and operations budgets.

Steve Poftak, the executive director of Harvard's Rappaport Institute for Greater Boston, dissects capital planning and system maintenance and considers what to do about system expansion. Brian Lang, the head of Unite Here Local 26, the Boston hotel and service workers union, studies how to modernize the MBTA workplace and implement best workplace practices. The entire control board works together on safety and security and winter preparedness.

Three of the control board members — Aiello, Poftak, and Tibbitts-Nutt — have some history with the MBTA. Poftak, was a former research director at the Pioneer Institute, which has been a persistent critic of the MBTA, particularly on labor issues. Tibbitts-Nutt served as a consultant to the MBTA Advisory Board which, provides over-

sight of the MBTA on behalf of 175 cities and towns. Poftak, Tibbitts-Nutt, and Calise also sit on the MassDOT board that oversees the rest of the state transportation sector.

No one has given up their day job to serve on the control board, so that translates into lots of night and weekend work for the five volunteers, who are eligible for annual reimbursements of up to \$6,000 for certain expenses.

The control board represents “the last, best chance for the T to finally succeed,” says Pollack. “The history of the T has been to address whatever the most current big problem is in the hope of going back to the way things always were. This is not a group of people that is interested in letting the T go back and operate the way it always has.”

## **MAKING HEADWAY**

The special panel Baker appointed last winter carried out a seven-week “rapid diagnostic” review. It confirmed that the MBTA is ailing badly, providing a rationale for the control board, whose mandate is to figure out the cure. Under the terms of the authorizing legislation, the control board has three years to overhaul the T's operations, finances, and management. If the MBTA still needs more work after June 2018, the board can ask the Legislature to grant it two additional years.

The control board is well into a multi-pronged probe of more than a dozen distinct areas of the MBTA: procurement and contracting practices, infrastructure maintenance backlog, debt, capital planning, operations budgeting, workforce productivity, and more. The goal is a complete overhaul and turnaround to produce a solvent transit system, an efficient people-mover, and a better-functioning work environment.

The control board delivered its first major report in September, a 60-day “baseline” evaluation of the system's major challenges. The MBTA had dribbled out the bad news over several weeks, so the report landed with more of a thud than a bang. Though the control board announced that some problems were “more serious and deep-seated” than the governor's special panel found earlier in the year, their conclusions were also in sync with the dismal downward trajectory for the transit authority that previous administrations had identified.

The report focused on operating, capital, and workforce issues. The authority has a \$ 7.3 billion deferred maintenance and capital investment backlog; an operat-



ing deficit of \$242 million in fiscal 2017 that rockets up to \$427 million by fiscal 2020; and flat ridership and revenue. The report indicated operating expenses are rising at a rate that is three times the rate of revenue growth, numbers that surprised Shortsleeve when he arrived at the MBTA.

The MBTA faces additional pressures from the Green Line cost overruns and federally-mandated safety mandates such as installing positive train control systems. These systems track train speeds and movements to avoid collisions and will cost the MBTA about \$500 million.

The data that the five members churn through during board meetings provide a window into what it takes to decode the complex MBTA bureaucracy. They know how to mine the transit authority's data and pose tough questions to MBTA staff during public sessions. Understanding that material will help the board guard against being viewed by MBTA staff members as another group of outsiders that they can maneuver around if they wait long enough.

"We've been trying to make sure that we really do give a good scrub of those numbers," Aiello says. "All we can

Massachusetts Bay Commuter Rail executive, or Beverly Scott, the one-time head of the metro Atlanta transit system who took over from Davey when he was promoted to transportation secretary, had any better success with taming the T.

Some transportation observers such as former governor Dukakis support a shorter oversight period control board, for a year or two. He would then prefer to see the authority turned over to a CEO who could install deputies to head key areas, such as maintenance, operations, and planning and construction. The CEO "doesn't need to be a transit person but must be an excellent public manager," says Dukakis.

The view from the state transportation building is that the MBTA needs as much hands-on attention as it can get for as long as possible. "It's a three- to five-year effort," says Pollack, the state transportation secretary. "No one thinks that fixing the T is a six- or nine- or 12-month effort."

Given what the T is now up against, a general manager on his or her own, without the new chief administrative officer slot Shortsleeve fills and without the efforts of the five-member control board, would have been "work-

ing 100 to 110 hours per week," says Tibbits-Nutt. Even then, the attitude would have been "let's just keep it going, just keep it running," she says. "But it gives you no room to actually fix any of the problems."

To manage her slice of the MBTA pie, Tibbits-Nutt is in almost constant communication with the MBTA, speaking to staff members and getting reports every day. She sits down with them one to two days per week and averages about 35 hours each week reading materials and researching best practices in

other large urban transit system that can be adapted for use at the MBTA.

While the big issues are systemic, there are easy fixes that can be implemented right away, too. One of her first moves was to find ways to better use the MBTA Twitter account, which has been criticized for not providing timely information about delays and other system problems. She has directed the three people who currently monitor the feed to follow trending hash tags closely.

"If someone is tweeting that a subway car is super-hot and super-crowded, we can start tracking that," Tibbits-Nutt says. Data that a rider provides can be matched with specific vehicles to determine where problems lie.

The control board wants to see more accountability in subway operations. The board proposed that the MBTA return to a single "chief of the line," akin to an executive director for each subway line, a position the MBTA dispensed with years ago. Currently, there are managers for subway signals, fleet maintenance, and the like. But

## Seven people now oversee functions that had been the responsibility of one person overseeing a team of senior staff.

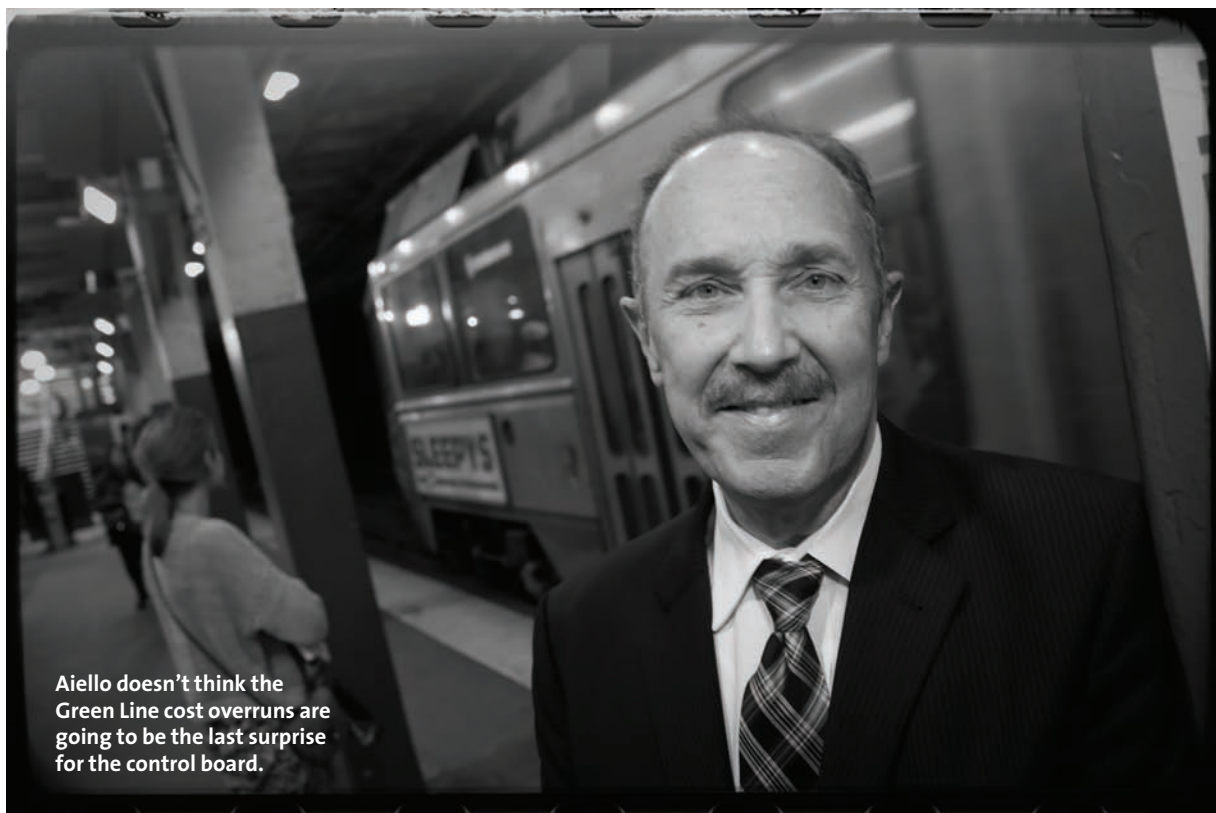
do is lay out the facts."

In fact, however, the board is doing much more than just laying out facts. Its members are rolling up their sleeves and taking on the job of problem fixers. Unlike traditional boards, they're digging into operations and giving marching orders for new policies and procedures.

To understand why problems at the MBTA have been so difficult to tackle, consider that, between the five-member control board and the management duties that have been split between Shortsleeve and DePaola, seven people now oversee functions that had been the responsibility of one person overseeing a team of senior staff.

Dan Grabauskas, who ran the system as general manager from 2005 to 2009, was hailed as the man who would duplicate his successful overhaul of the Registry of Motor Vehicles at the MBTA. He stepped down after coming out on the losing end of Patrick administration infighting over safety issues and the mounting fiscal crisis.

Neither of his successors, Rich Davey, a former



Aiello doesn't think the Green Line cost overruns are going to be the last surprise for the control board.

there is no one, in the words of Aiello, who had the job of “having nightmares” about the Red Line. The new heads should be in place before the winter.

When it comes to the T workforce, figuring out who works where is not easy. Brian Lang is working on a master list of all the MBTA job classifications, such as machinist or customer service agent, with the goal of totaling up how many people work in those positions and how many of the positions are currently vacant.

On the financial side of the ledger, recent boards of directors and general managers have not been able to plug growing deficits, so perhaps the most surprising thing about the board is its optimism on that score.

Calise, the former city of Boston finance director, believes that the group has an opening to provide stronger controls in areas like hiring, which can provide longer-term savings. She says that during the Menino era, the city had strong, central administrative controls on expenditures.

In July, she was surprised to learn that the MBTA had not placed a moratorium on one practice that has been widely criticized: paying employees through the capital budget rather than the operating budget.

“We don’t necessarily have controls in place to make sure that we aren’t adding to our problem,” she says. According to a MBTA spokesman, the practice of putting brand new employees on the capital budget has since ended.

The control board has kicked transparency up a notch with meeting minutes and reports promptly posted to the MBTA web site, a modest if long-overdue move. Even so, a T Riders Union representative questioned that commit-

ment at a September meeting (where the board discussed a downgrade of the MBTA’s credit rating): The meeting notice had not been posted in the usual news media outlets.

The key difference for the control board is not just more bodies, but more power. With the exceptions of fares and binding arbitration, the five members have latitude to operate in areas that previous MBTA general managers did not have. The three-year suspension for the MBTA of the Pacheco law regulating the privatizing of services is the most important and controversial of these powers.

The control board aims to hire private firms to run late night, express, and moderately-used bus routes. Some MBTA union leaders were put off by how quickly those discussions moved. Robert Gittlen, who sits on the state Department of Transportation board and is the New England area director of the International Association of Machinists and Aerospace Workers, the T’s second largest union, claimed he had been left out of the talks. Although the MBTA says that bus drivers now on those routes would be transferred to busier ones, union members view the move as an attempt to chip away at the workforce. Gittlen later met with DePaola and Shortleeve and downplayed the earlier discord. Baker jumped into the mix to emphasize that the MBTA would have to get bids that save money or it would abandon the plan.

## LAST STOP

There had been chatter in transportation circles for months before the news broke that the Green Line exten-

sion was over budget. Cost overruns on large projects are not unusual. But the size of the budget bust floored everyone. The price tag surged from \$1.9 billion in January, when Federal Transit Administration formally agreed to provide about half of the funding for the train line, to nearly \$3 billion in mid-year. “I can’t think of anything in my private sector experience where you’ve seen a cost overrun of that magnitude in that short a period of time,” says Shortsleeve.

Somerville and Medford leaders have indicated that they would be willing to accept a scaled-back train line rather than none at all. Shaving off a few million here and there, however, won’t get the MBTA to the \$1 billion needed to close the gap. The control board will bring on an outside firm, which they can do under the legislation that established the board, to investigate the Green Line overruns.

The Green Line issue undermines the MBTA’s ability to make a case for new state funding. However, the sad state of the T has not tempered calls for transit expansion. Planning for the future is always good, but conversations about the South Coast Rail project and the North-South Rail Link only amplify the MBTA’s distress.

Aiello doesn’t think the Green Line cost overruns are going to be the last surprise for the control board. The situation is an unwelcome development, since it will hinder the control board’s ability to make any future case for new revenues. In the current political climate, it is not surprising that all five members of the control board

## Control board officials are not talking about new revenue now, but many believe T needs more funds.

deflected questions about new revenues. “It’s not a topic that we have looked at now,” says Poftak.

“We have to demonstrate to the governor, the Legislature, and the taxpayer that if they give the MBTA a dollar, it will spend that dollar wisely and efficiently,” says Aiello. “I don’t think we are there today.”

Baker was even more definitive on the subject at a September news conference designed to showcase the system’s winter preparations. “I’m not talking taxes, period,” Baker told reporters. He said the T has “a long way to go here to demonstrate to the public, to each other, and to everybody else that this is a grade-A, super-functioning

machine that’s doing all the things it should be doing.”

Rep. William Straus, the House chairman of the Legislature’s Joint Transportation Committee, says that the Green Line procurement issues are just more evidence that the MBTA should be folded into the state Department of Transportation. To him, money problems are old hat, especially after the Legislature looked at the problems in depth two years ago. “To do all these things, they are going to need more money than they have coming in now,” Straus says.

The authority is staring at a structural deficit of \$242 million next year. The control board and Shortsleeve, the chief administrator, believe that the MBTA can squeeze extra dollars from current revenues streams such as advertising, and selling real estate to help balance the authority’s fiscal 2017 without having to go to Beacon Hill for extra funds as the authority has had to do in the past.

Not everyone believes that. “The discussions that we are having now are not new; they took place when Dan Grabauskas was here, when Bev Scott was here, when Rich Davey was here,” says Paul Regan, executive director of the MBTA Advisory Board, the T’s municipal oversight group. “Unless somebody is going to get way outside the box, there are no ways to tweak the revenue streams that the MBTA currently enjoys to the tune of quarter of a billion dollars.”

Despite 10 years of focused attention from state lawmakers, transportation officials, and advocates, poor planning, procurement, management, and oversight practices remain embedded in the authority. No state lawmaker of sound mind would vote for new funding as long as the perception persists that MBTA construction projects will go \$1 billion over estimates in a matter of months.

The changing Boston skyline is just one marker of a growing and expanding city. But the region is yoked to a transit system that cannot keep up. Aiello understands that there are limits to the patience of the governor, state lawmakers, and the T-riding public. There will be deep and grave consequences if [the MBTA] can’t be fixed,” he says. “If we can’t straighten it out to the satisfaction of [the stakeholders], there is a danger that it could be constituted in a radically different form.”

The Green Line extension snafu was a there-you-go-again moment for the MBTA. Seeking to disrupt old ways of doing business, the fiscal and management control board came face to face with the fallout from the old ways of doing business. “The T has to earn the right to have a conversation about revenue,” says Shortsleeve, the chief administrator. “When the system runs better, we can talk.”

The control board is the last chance for the MBTA. If these five people cannot break the system down and build it back up, it is looking very unlikely that anyone or any other management fix-it strategy can. **CW**







# Opportunity gap

Robert Putnam says a growing divide in everything from stable home lives to access to extracurricular activities is cutting poor children off from the American dream.

PHOTOGRAPHS BY FRANK CURRAN

The *New York Times* recently called Robert Putnam the “poet laureate of civil society.” One of a handful of academics known for bringing social science out of the ivory tower, the longtime Harvard political science professor puts research findings on big trends in American life into layman’s language, telling stories that shed light on our times in ways that have resonated widely.

He did this most notably with *Bowling Alone*, his 2000 book that chronicled the decline in civic engagement that Putnam said marked a fraying

of the social fabric that once gave communities cohesion. Putnam’s latest research has taken on perhaps the defining domestic issue of our time: inequality. But the focus of his newest book, *Our Kids: The American Dream in Crisis*, is not growing disparities in income. His concern is the yawning gap in the opportunities American children have based on their parents’ background.

Putnam says an enormous gulf has emerged between poor children and better-off children on all sorts of measures — from the chances of grow-

ing up in two-parent households to access to mentors and extracurricular activities.

The cumulative toll of all these differences, he says, is putting American kids on widely different trajectories, which are likely to translate to big differences in income and economic security throughout adulthood. Putnam says there will always be inequality of outcomes in society. But he says inequality of opportunity has grown substantially over the last several decades, threatening a bedrock principle of the American Dream — that there is opportunity for all regardless of social class.

*Our Kids* takes readers to communities across the country, including Port Clinton, Ohio, the small town on Lake Erie where Putnam grew up. It's a place he scarcely recognizes today, with an enormous class divide marking the kinds of lives young people experience. He says that divide did not define kids' paths in the Port Clinton of the 1950s. He interweaves the tales of young people and their families (who are all given pseudonyms) — we meet Mary Sue, Stephanie and her kids, and many others — with data and graphs that document the large-scale trends that their stories illustrate.

Putnam has an ambitious goal when it comes to addressing the growing opportunity gap facing American children: He wants to make it “the most important domestic issue in the presidential election of 2016.” Putnam has had the ear of the last four US presidents, who have each turned to him to discuss problems facing the country.

Putnam insists that the problems demand “purple” solutions that mix elements of liberal and conservative thought, and he is out to make the opportunity crisis a bipartisan cause. It's a noble enough effort, but it also is where he has run into the most criticism. In his bid to get everyone under “the tent,” as he puts it, Putnam steers clear of the causes of income inequality, saying his concern is its consequences for kids. That has drawn criticism from the left. Meanwhile, some on the right have said he gives short shrift to the role values have played in eroding the family in working class and poor communities.

Plenty of conservatives have been cheered by the attention he does give to the value of two-parent households and stable families. But Putnam concedes that public policy has had limited reach in those areas. His list of policy prescriptions to tackle the opportunity gap includes universal preschool; more robust vocational ed programs; greater funding of schools educating poor children; the elimination of fees for extracurricular activities; and expansion of the earned income tax credit and child tax credit for poorer families. Most of these initiatives require tax money, where buy-in from the right seems unlikely.

The current picture may look grim, but Putnam says

the country faced a similar coming apart in the Gilded Age of a century ago. The reforms of the Progressive Era then followed.

Putnam is a high-energy evangelist. There is a rapid-fire cadence to his sermonizing when he gets going. The 74-year-old professor is on his first cup of coffee when we sit down to talk on an August morning at his getaway home in Jaffrey, New Hampshire, where Putnam did much of the work on his book. Putnam says he'll often go through as many as eight cups of espresso in a day when he's writing. Over the course of an hour and a quarter, Putnam's voice frequently rises in indignation over the forces working against poor kids, and his fist meets the table more than once as he makes a point. “If I'd been interviewed while I was awake I would have been more animated,” he says with a smile when we're done.

What follows is an edited transcript of our conversation.

— MICHAEL JONAS

**COMMONWEALTH:** The subtitle of your book is “The American Dream in crisis.” What do you mean by that?

**ROBERT PUTNAM:** I wanted to frame this issue in terms of equality of opportunity, that is, how well you do in life should depend on your hard work and your skills, not on what your parents did or didn't do. Americans have never been, as a country, very big on absolute equality of outcome, but we've always been very big, since the very first sentence of the Declaration of Independence, on the idea that everybody gets an equal start — all men are created equal. It's such a core part of our national belief that when people have called attention to discrepancies between that core principle and the realities, that's had a great deal of moral and rhetorical power. And when it comes to opportunity for kids today, the gap has just gotten way out of hand, and it's growing so fast that if we don't do something it's going to get worse.

**CW:** You're saying that the basic idea of everyone having an equal shot in life is in crisis now in a way that it wasn't 40 or 50 years ago?

**PUTNAM:** Exactly. The standard way in which social scientists have measured this idea of inequality is to correlate a child's income at age 40, say, with their parents income when their parents were age 40. If they're strongly correlated, that means rich kids have an advantage that poor kids don't, and if they're completely uncorrelated, that's equality of opportunity. That means the changes that I am describing in this book have not yet shown up in the conventional ways of measuring social mobility, and won't until 2035 or something like that. The





approach I've taken here is to try to get a peek at what's going to be happening by looking at the trends affecting these kids when they're kids.

**CW:** Your book uses a lot of what you call scissor graphs, which show trend-lines on all sorts of measures that are growing farther apart for kids with parents who graduated from college compared to kids whose parents went no further than high school. You simplify things and call these the rich kids and poor kids, and say they are roughly the top third and bottom third of American society. The scissors are opening wider and wider.

of kids growing up in college-educated homes have two parents there. Meanwhile, at the bottom of the economic spectrum, roughly two-thirds of all kids born in America to high school-educated parents are living in a single-parent family. That's really a big deal. That's probably the widest of all these scissors.

**CW:** You layer on top of that a remarkable piece of data on race: For blacks born in that lower third, half will also have had a parent who was in prison.

**PUTNAM:** The collapse of the family, I think, is mostly about social class. The imprisonment epidemic is mostly about

**PUTNAM:** We're seeing how the twig is being bent at an earlier stage, and the twig for poor kids is being bent down and the twig for rich kids is being bent up. That's why the graphs are so important.

**CW:** You start out talking about families. The data on changes in the patterns of family formation are just overwhelming.

**PUTNAM:** The core facts are that in the 1950s and even into 1960s, basically, America had one fundamental family structure: mom, dad, and the kids. Dad worked and mom didn't. Ozzie and Harriet represented that, and it was true of all social classes. The divorce rate was low and the out-of-wedlock birth rate was very low. Then we went to the 60s and 70s and everything was in turbulence. There was the sexual revolution. A whole bunch of things changed. Some people thought marriage was falling apart. It wasn't. But the family structure was surely in flux. Out of that, in the 80s and 90s and up to now, two really different family structures have emerged. Among college-educated Americans, basically, what we have now is kind of Ozzie and Harriet with an asterisk, because now Harriet's got a job as a lawyer or a social worker, so the two parents are working, and Ozzie's helping out more with the dishes than used to be the case. But other than that, it looks the same: 90-plus percent

race. So poor black kids are getting the worst of both worlds.

**CW:** Is the breakdown of the family causing this fall into poverty or is it a consequence of it?

**PUTNAM:** It's both. In general, hard times and high levels of unemployment discourage family formation. So that's the arrow that runs from the economics to family formation. We saw that in the Great Depression in the 1930s. The Great Depression massively lowered the marriage rate in America. It also lowered the birth rate and therefore did not affect the rate of kids living in single-parent homes. People were not getting married, but they also weren't having kids. The difference now is very hard economic times have disrupted family formation but they haven't disrupted having kids. And the evidence is pretty clear that it's easier to raise kids when there are two parents.

**CW:** In your discussion of parenting, there's a section that profiles three black families of different social classes in Atlanta. The college-educated couple is almost out of central casting. The mother puts together workbooks during the summer for the kids to keep up with academics. They do flashcards when they're on car trips.

**PUTNAM:** And when they're going off to Amsterdam they read Anne Frank.

**CW:** Right. And they have family dinners together, another thing that you show is more common among better-off families. Then there is a family headed by a single mom, Stephanie, who is working hard to raise her kids. But she's doing that with a very tough love that contrasts sharply with the parenting style of the college-educated couple. She says at one point, "I'm not kissing and hugging my kids" and being "mushy" with them. She's saying you've really got to steel yourself and your kids against the world out there.

**PUTNAM:** Right.

**CW:** But your argument, in a way, based on the way college-educated parents rear their kids and what that



does for them, is that being "mushy" would actually put her kids on a stronger path.

**PUTNAM:** Yes and no. I think the story is a little more complicated than that. If I were Stephanie, given her portfolio, given the neighborhood in which she lives, given the realities she's living around — other kids in the neighborhood being killed — my first priority would be to try to keep my kids away from that surrounding, pervasive violence. The point of the story, from my point of view, is it's not like she's making the wrong decision given her circumstances. She's working hard to try to get together enough money to move her kids a little bit away from the worst district.

She says, when talking about family dinners, "We ain't got time, honey, for any of that 'how's your day' stuff." I know the data show having family dinners helps kids, and so it's a shame her kids are not getting family dinners. On the other hand, what's she doing? She's working extra hours to earn money to try to help her kids move away from the worst of the violence. We can't try to "teach" Stephanie to leave work early and come home and fix a nice dinner. The economics are just overpowering whatever she might like to do.

**CW:** One other extension of this is what you call "*Goodnight Moon* time" versus "diaper time." *Goodnight Moon* time is the hours spent not on basic needs for young children, but the stuff beyond that, nurturing and reading to kids. You have data showing diverging lines when it comes to *Goodnight Moon* time, with better-off kids getting 45 minutes more of this per day than poor kids.



**PUTNAM:** That's a case where what we've learned in the last 10, 15 years about brain development among kids has really changed a lot our notion of what's going on when we read to kids. The brain develops through social interaction. The child says, "goo-goo," and some nearby adult says, "isn't that sweet," a kind of serve-and-response or verbal ping-pong between adults and infants. We now know our brains are biologically programmed to learn from that kind of experience. So we now recognize in a way that we didn't even 15 years ago that the *Goodnight Moon* time is actually powerfully influencing the brain.

**CW:** You also talk a lot about the positive impact on kids of extracurricular activities — and show that the rates of participation have more or less held steady for better-off kids but fallen dramatically for poor kids. You spotlight one factor helping to drive this divergence: the fact that more and more school districts are charging fees — pay-to-play — to take part in these activities. You write that the roots of extracurricular activities in schools have to do with careful thought given decades ago to the benefits they would confer on kids going forward into adulthood. The thinking was they would help kids with so-called soft skills — grit, perseverance, and so on. It's fascinating that this was being thought of way back then. Those sorts of skills are ones that are talked about even more today as being crucial to succeed in the knowledge-based economy.

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## The collapse of the family, I think, is mostly about social class.

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**PUTNAM:** Absolutely. This is historical amnesia. Most people in America think that God invented high school football. High school football was invented by educational reformers. All these things — football, band, chorus, French club, and so on — the reason we have those in our schools was precisely because of the ideas of education reformers at the beginning of the 20th century. They didn't have terms like non-cognitive skills or soft skills — they talked about grit and teamwork. But they intuited at the time without much experimental evidence — now we know they were right — that taking part in sports or band or chorus, all of those things teach character. I played trombone in the band in Port Clinton. I was a lousy trombonist, but what I learned was I had to practice every day with that damn trombone in order to be in the band, and so I did. I was learning what my mom

called stick-to-it-iveness. I'm trying to make real why the extracurricular activities are, in fact, such an important part of developing these soft skills. People tease me about getting so passionate about extracurricular activities. But the fact of the matter is this is a very clear case in which by privatizing those opportunities, that is, requiring kids now in high schools across America to pay to play in the band or to play football or whatever, we have intentionally kept poor kids from having the same opportunities that rich kids do. That's evil.

**CW:** There is a bar graph at the end of the chapter on education that, I think, in some ways is the most stunning single image in the whole book. This has to do with test scores of eighth graders and their likelihood of graduating from college based on those test scores and family background or socioeconomic status. The upshot of it is that the lowest-scoring rich kids actually have a slightly greater likelihood of getting a college degree than the highest-scoring poor kids.

**PUTNAM:** That is the most damning graph in the whole book. What that means is what your parents do or have acquired is actually more important for how you're going to do in life than your own skills, your own God-given skills, and the hard work that's embodied in and whatever else is required to have done well on those eighth grade tests. I'm not so upset about 30 percent of rich dumb kids getting a college education. I'm upset about the fact that only 29 percent of the smartest poor kids get a college education.

**CW:** You also write about this two-tier world emerging in which the kids in the upper third have so much they can lean on, so many more supports there, both formal and informal kinds of mentoring. You refer to the sociologist Mark Granovetter and his idea of "the strength of weak ties." Because of the power of those informal networks, even in areas like summer jobs or internships, there is a rich-get-richer, poor-get-poorer phenomenon. Kids from very advantaged backgrounds are the ones who have connections to get the summer job working in a lab, where they get a leg up in learning what scientists do.

**PUTNAM:** It hasn't always been this way. It used to be that there were lots of social supports for kids in working-class neighborhoods. I don't want to romanticize it, but there were ties of mutual support. People looked out for one another's kids. It used to be there were lots of people in the neighborhood looking out for everybody's kid. The collapse of the sort of sociological safety net in working class neighborhoods across America has meant that it's much truer than it used to be that the rich get richer. The



most important single thing to say about poor kids in America today is, they are on their own.

**CW:** To borrow a phrase, is it fair to say the poor are doing much more bowling alone, while those who are better off, in various different ways, are not?

**PUTNAM:** Yes, that's right. Another way of putting the same point is that kids are the most vulnerable part of our society to the plague of bowling alone. That is to say, though kids of all sorts are much more vulnerable to a collapse of the social fabric, parents of rich kids can, in a way, buy their kids out of the absence of community. It's also true that the community has not collapsed as much in Wellesley and other rich suburbs. And the kids in Wellesley, even if the social fabric does get a little threadbare, their parents can save them from that. Whereas if you're living in Dorchester or Southie you don't have that capacity. We didn't do it on our own, our kids are not doing it on their own, and we can't expect these poor kids to do it on their own. We've got to be part of the solution.

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## This is as American as apple pie — to worry about other people's kids.

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**CW:** You say that these problems that seem really overwhelming call for purple solutions. What do you mean by that?

**PUTNAM:** There are parts of this problem that you can understand most clearly through blue, progressive lenses, which are the ones that I habitually use. If you look at Port Clinton, you can see those closing factories, and you can see the fact that Mary Sue's parents never had a steady job, and then you see how that affected Mary Sue. But there are parts of the larger national problem that you can actually more clearly see through red, conservative lenses. You see the fact that Mary Sue's parents never got married, that they changed partners every year or two, and you can see how that bears on the kids.

**CW:** So that part has more to do with choices and values?

**PUTNAM:** I'd use the term "family values" except that term has been expropriated by a particular political view. But the fact is there are responsibilities of families here, and conservatives have historically been more attentive to that. And there are, for sure, economic, structural causes,

and progressives have been much more attentive to those. I'm not trying to exactly describe what's the mixture of red and blue, but it's clearly a purple problem and it needs purple solutions. That is, we need to think both about how to help the families but also how to change the economic structure.

**CW:** You say that the evidence so far is that there's no way to impose a fix on the huge changes that have occurred in family formation and marriage decisions.

**PUTNAM:** George W. Bush, who believed that this was an important part of the issue, spent a lot of time trying to have marriage promotion programs and [spent] a lot of money. To his credit, he also carefully evaluated those programs and we know that, I'm simplifying, they didn't work.

**CW:** Getting rid of the pay-to-play policies is probably the most tangible solution you lay out. You tell people to get up, walk down to your town hall, pound your fist, and insist that it's one thing we can change today. Given the magnitude of these huge problems of growing inequality of opportunity, that feels a little underwhelming.

**PUTNAM:** Look, there are big things that need to be done that would be really hard. Getting national early childhood education — Obama's tried that and it's not going to happen easily. The most important thing we could do would be to end this long wage stagnation for the working class. But nobody knows quite how to do that. Any of these big, big powerful things are going to be a heavy lift. If you put down this book, you, yourself, are not going to be able to change the wage level of the working class in America, or even ensure that every kid in America has an early childhood education. You could put down this book and go to your local school board and get them to abolish pay-to-play. Is that going to change all of America? Of course not. But I didn't want people to put down this book and say, well, that's a big problem, somebody else ought to solve that one for us. I want to say, come on, you, too, can do things.

**CW:** You said that conservatives have been pleasantly surprised by some things in the book. Or maybe you've been pleasantly surprised by the reaction of conservatives. But some on the left have been critical. A few reviews have latched on to a line in the book where you say there are no upper class villains here. Nobody thinks that the family giving their kid the best summer camp and music and extracurriculars is the villain, but they would say the economic underpinnings that have played such a role in this falling apart of the family are not God-given or acts of nature. We've had tax poli-

cies, trade policies, they would argue, that accelerated the coming apart of the working class economy in Port Clinton and elsewhere. Yet those aren't really addressed in your book.

**PUTNAM:** There are a lot of really good polemic books on the causes of the income gap in America. I didn't think I could add to that literature. I wanted to focus on the effects on kids. I wanted to ask, what are the consequences of that growing income inequality for kids? A few years ago, a quite smart political analyst in America told me, Bob, in politics you have to have an enemy. If you don't have an enemy, you're not going to succeed. That guy was Ralph Reed, a notable right-wing religious conservative, and skilled practitioner of the politics of polarization. And some people on the left — it's only two of the reviews, but two of the high-profile reviews — have focused on that, one in the *New Yorker* and one in the *New York Times*. They want me to preach to the choir. They have the same view that Ralph Reed has, which is, without enemies you don't make progress. I'm not just trying to preach to the choir. Unless we get more people in the tent, we're not going to make progress on the kids. What can we do as soon as possible to stop losing generation after generation of poor

kids in America? Would it have increased the likelihood that the country would actually do something about it if I had complained about the Koch brothers or about Ronald Reagan or whoever else is responsible?

**CW:** If you go from *Bowling Alone* 15 years ago to *Our Kids* today, with its subtitle about the American Dream in crisis, some people might say, Bob Putnam tells a pretty depressing story of American life. But you say you're more sanguine than pessimistic.

**PUTNAM:** Well, sanguine isn't quite the word. I think I'm hopeful and optimistic because of American history. I think if you look at American history it's not one long down trend. This is not the first time this happened in American history. We had very much the same set of problems at the beginning of the 20th century, the end of the 19th century. That was the last Gilded Age in America. It was a period of great political corruption and great political stagnation and great political angst and alienation. The public philosophy at the time was social Darwinism, which was this pseudoscientific idea that America would be better off if we all were selfish and let the devil take the hindmost.

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**CW:** At the very ground level, things like making kids pay to participate in extracurricular activities looks like a return to some of that thinking.

**PUTNAM:** Exactly. So there are deep parallels. This is the point of that comparison: In a historically short period of time, in about 10 or 15 years, people on the upside, or at least some people on the upside, gradually recognized the problem. Now some of the rich folks at that point [in the Gilded Age] said, yeah, that's fine, it's their problem, let them worry about it. But other people said, no, no, we've got to do more. We've got to pay higher taxes, so that those living in tenements can have clean water and sewage systems. That was the beginning of the recognition of the problem. But of all the things that happened in that Progressive Era, the most interesting one was the invention of high schools. It was the first time in world history that any community had said all the kids in town are going to get a free publicly provided secondary education. In no place else in the world did we have that. And it came from small towns in the Midwest, in Kansas and Nebraska and so on. And the reformers who wanted to create free secondary high schools in those towns had to say to the local rich banker and local rich lawyer, your kids have already had a secondary education. You paid for them to go off someplace to get a private school education. And they're now off making lots of money in Chicago. But you should also pay higher taxes so that other people's kids here in town can get a free secondary education. It was a hard pitch. It's sort of the pitch that I'm making now to Americans.

**CW:** That's the "our kids" message of the book title.

**PUTNAM:** Absolutely. But here's the point: It turned out to be the best public policy decision America has ever made. That single decision was responsible for most of the economic growth in America in the 20th century. It increased the productivity of the American labor force for most of the 20th century. So it helped everybody, including the bankers and lawyers in town. But it also leveled the playing field. Now what is exactly the 21st century equivalent of high school? There's debate about that. I think that universal early childhood education has that same potential. That's what the evidence, I think, overwhelmingly shows. But there are a lot of things. I go back to the point that this is a purple problem. There's not just one solution, and it won't happen overnight. I'm not saying look to what the Danes do. I'm saying, look to our history. This is as American as apple pie — to worry about other people's kids. **CW**





## Dealing fairly with pretrial detainees

Using risk-based assessments, Massachusetts could improve justice, lower crime, and save taxpayers money. **BY JANE WISEMAN**

**IT SOUNDS TOO** good to be true, but there is a tested way to improve the fairness of our justice system while saving taxpayers money and lowering crime. The solution is to make data-driven decisions about individuals who get arrested to determine which ones should remain in jail while awaiting trial and which ones should be released.

Massachusetts currently has no standard way to assess the risk a defendant poses while awaiting trial – either the risk of not returning for the scheduled court date, or the risk of committing a crime while out on bail. Instead of being based on risk, the system is based on the affordability of bail. As a result, many low-risk pretrial defendants are spending unnecessary time in jail, typically because they are too poor to afford their bail amount, even when it's as low as \$300. Higher-risk defendants, meanwhile, get released even when they are a danger to society, simply because they can afford their bail.

The lack of data-driven decision-making in the pretrial process is a national problem. Across the United States, 90 percent of jurisdictions operate without a risk-based bail system, leaving judges to set bail using their gut instincts or by following a schedule setting bail amounts for specific crimes. The ramifications are enormous. It costs an estimated \$14 billion every year to jail the 7.4 million pretrial detainees who have been arrested and are awaiting their day in court. Pretrial detainees account for 95 percent of the growth in the jail population over the last 15 years, and represent 62 percent of all inmates held in local jails.

Kalief Browder was a victim of this system. Accused at age 16 of stealing a backpack but insisting on his innocence, Browder could not pay his \$3,000 bail and was jailed at Rikers Island in New

York City. He stayed there for 1,111 days, from the time he was 16 until he was 19, without his case ever coming to trial. The charges against him were eventually dropped, but he lost three years of his youth and he ended up taking his own life this past summer at the age of 22. Taxpayers funded the \$510,545 cost of his pretrial incarceration.



Dangerous repeat offenders often get out when decisions are based on dollars instead of data. In November 2009, four police officers in Lakewood, Washington, were sitting at a café, working at their laptops when they were killed, execution-style, by a man who had been released from jail not once but twice while awaiting trial on rape charges involving a 12-year-old girl. During his short stay in jail, he threatened to kill jail guards, and a psychological evaluation deemed him a threat to the community. But he paid his bail and was allowed back on the streets again.

One of the national leaders in using data to make pretrial detention decisions is Washington, DC.

All those arrested in DC are assessed for their risk and that's what determines whether they are detained in jail or released while awaiting trial. The risk assessment tool gathers 38 data points, which are then verified by interviewing the defendant. Judges, who have access to this rich data profile before meeting the defendant, can more effectively balance community safety and the individual's liberty in making detention decisions.

Some of the types of data included in the risk assessment include the defendant's commu-

nity ties, criminal history, prior court appearance rate, citizenship status, physical and mental health status, substance abuse status, and any existing requirements for probation or parole. Each element in the risk analysis is based on research and scientific evidence. The best risk assessment tools are locally-validated, and the DC one is. In fact, the DC tools have been updated since they were first created to reflect improvement in the precision of prediction of risk.

Based on the quantitative risk score, a defendant is classified as either high risk, medium risk, or low risk. For high-risk defendants, jail is typically the best option. For low-risk defendants, many can be released on their own recognizance. Medium-risk defendants can be supervised in the community in a number of ways to improve the likelihood they will return to court and remain crime-free in the interim. Pretrial supervision can include living in a half-way house and/or wearing an electronic monitoring device.

The results are impressive — 85 percent of defendants are released before trial, either on their own recognizance or with supervision. Of those, 11 percent were rearrested while out on bail and 11 percent failed to appear for their court date; the national re-arrest rate for those released before trial is 29 percent, while 17 percent fail to appear in court.

Other states and cities using risk-based tools to set bail have had similar results. Kentucky now releases 70 percent of defendants pretrial, yet defendants are twice as likely to return to court and remain arrest-free as those in other jurisdictions. In New Orleans, a study found that 95 percent of those released under a risk-based bail system show up for court and 96 percent remain arrest-free while awaiting their trial date.

Maine estimates it saves \$2 million a year using its risk-based bail system. New Jersey, where at one point 73 percent of those in jail were awaiting trial, is moving to a risk-based bail system next year. A study there indicates “the greatest opportunities to responsibly reduce New Jersey’s jail population are related to more efficiently and effectively managing the pretrial population.”

Massachusetts lags far behind these other states. It has no accurate data on the number of pretrial detainees and the cost to hold them. There is also next to no information on how many detainees released on bail return for their court dates or are arrested while out on bail. In short, there’s not enough data to hold a fact-based debate about what we are doing now and whether the outcomes are acceptable.

A report issued last year in Middlesex County was a step in the right direction. It said the average daily pretri-

al population at the Middlesex County Jail increased 30 percent between 2008 and 2013, rising from 593 to 772. The increase is not surprising, as pretrial detention rates are increasing across the country. The Middlesex report indicated 25 percent of pretrial detainees were being held on drug and property charges and 23 percent were being held for \$1,000 cash bail or less.

“The nature of these charges and bail amounts suggest that these defendants are ‘release-able’ in a general sense,” said the report, which called for broader use of “validated risk assessment instruments” capable of distinguishing between “low and high-risk persons in terms of pretrial risk, domestic violence risk, and recidivism risk.”

## The state could probably save \$60m with risk-based system.

The Middlesex County report was amended in April after some of the data in it was criticized. The amended report lamented the poor quality of data available on jail operations but said the conclusions reached in the original report remained valid, particularly the call for risk-based, bail-release decisions.

A good guess of how much money the state could save by moving to a risk-based bail system is \$60 million a year. It’s only a guess because the data are so poor, but I came up with it by assuming that 60 percent of the state’s jail inmates are being held pretrial at a cost of roughly \$300 million a year. Based on other jurisdictions reducing their jail population by 20 to 67 percent with pretrial reform, I conservatively estimate Massachusetts could reduce its pretrial population by 20 percent with a risk-based bail system, leading to savings of \$60 million.

Any cost savings would be achieved only over time because of the high fixed costs in corrections (facilities, collective bargaining agreements, etc.). There would be additional costs to supervise released pretrial detainees, but those costs would be significantly lower than the cost to incarcerate. Nationally, the cost of supervising someone on pretrial release is 90 percent lower than the cost to incarcerate them (\$7.17 per day for supervision versus \$74.61 to detain).

In addition to the cost-savings benefits, a data-driven approach to pretrial decisions would have other intangible benefits, including:

**FAIRNESS** Using data from a risk-assessment tool means that there is fairness across the system from city to city and from courtroom to courtroom. This levels out subtle biases that may affect the fairness of the administration of justice. Research shows that defendants who already have advantages (higher income, employment)

are released more often than less-advantaged (lower income, minority) peers, for the same crime.

**TRANSPARENCY** By using data instead of opinion to guide decision-making, and by having data to document decisions, public trust in the system may increase.

**HUMANITY** Pretrial release of low-risk defendants would allow people who pose little risk to the community (and who are supposed to be considered innocent until proven guilty), to show up at work, have dinner with their families, and stay on track with their responsibilities.

The origins of the statute governing bail and the pre-trial process in Massachusetts date to 1836, when Andrew Jackson was president, the railroad was new, slavery was legal, and the Boston Police Department did not exist. While a hodgepodge of updates have been made over

the years, the law is ready for a comprehensive overhaul. An ambitious bill crafted by Rep. Tom Sannicandro of Ashland and Sen. Ken Donnelly of Arlington aims to bring Massachusetts into the 21st century, leveraging best practice research on what works. The bill would establish a long-overdue data-driven approach to the pretrial process. Its passage would represent a long overdue change from the status quo.

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*Jane Wiseman is the founder of the Institute for Excellence in Government, a nonprofit consulting firm based in Boston devoted to improving government. She worked previously as the assistant secretary of public safety in Massachusetts and special assistant at the National Institute of Justice, US Justice Department.*

## No time to go wobbling on One Care

The state's effort to provide better health care for the neediest, most complicated patients has hit hurdles — but we need to stay the course. **BY JOHN MCDONOUGH**

**BACK IN 2008**, when I was working in the US Senate on national health reform, a delegation of 20 business leaders from the New England Council visited Capitol Hill to offer advice. The group's leader was Charlie Baker, then Harvard Pilgrim Health Care's CEO. I recall his one recommendation: "You have to do something about dual eligibles because they are one of the most important and expensive pieces of the puzzle."

As Massachusetts now struggles to sustain One Care, its nationally significant dual-eligibles demonstration project that launched in October 2013, Gov. Baker's hope is happening. Given the project's rocky and difficult first

18 months, he could be forgiven for wondering if he could rewrite that wish.



Today, Massachusetts is a leader among 13 states in a three-year Affordable Care Act demonstration to provide coordinated care for "duals" — those eligible both for Medicare because they are elderly or disabled and for Medicaid because they are poor. If there's an improvement opportunity in US health care, this is it. There are some 10 million American duals, about 200,000 in Massachusetts.


### One Care Plan Financial Results (October 1, 2013 – March 31, 2015)

	FALLON TOTAL CARE	COMMONWEALTH CARE ALLIANCE	TUFTS HEALTH UNIFY
Total Revenue	\$123,530,333	\$337,029,651	\$41,768,946
Total Spending	\$136,425,571	\$377,432,582	\$42,745,829
Net Income/(Losses)*	(\$12,895,238)	(\$40,402,930)	(\$976,883)
Net Gain/Loss	-10.4%	-12.0%	-2.3%
Enrollees (8-1-2015)	5,085**	10,683	1,750

\* Plan losses are shared with the federal and state governments

\*\* Fallon withdrew on September 30, 2015.



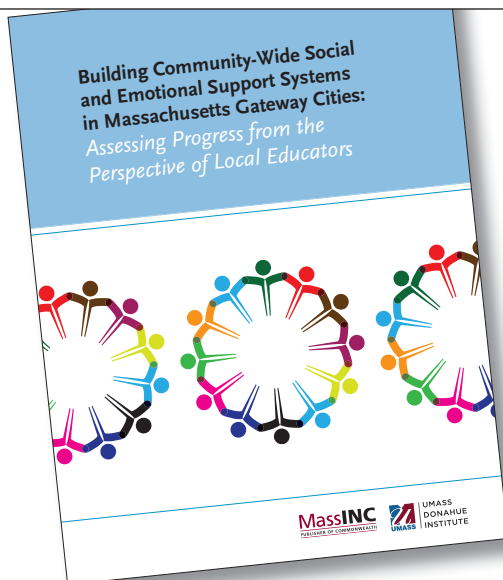


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## PERSPECTIVES

Compared with non-dual Medicare enrollees, duals are twice as likely to have three or more chronic conditions and three times as likely to have a mental illness. Care and services for them are chronically uncoordinated, mismanaged, inappropriate, inadequate, and expensive, estimated at \$34,000 annually per individual in 2009, and \$100,000-plus for the most expensive 10 percent.

All has not been well with One Care. With 17,500 enrollees on August 1, the project's three participating health plans reported \$54 million in losses during its first 18 months. The losses, split between the three plans and the federal and state governments, have resulted in the scrapping of projected savings to Medicare and Medicaid, a withdrawal from the project by Fallon Health Plan that left most of its 5,400 enrollees with no plan as of September 30, and other challenges that landed the program on the front page of the *Boston Globe*. In late September, state officials announced a new agreement involving MassHealth, the US Centers for Medicare and Medicaid Services, and the two remaining health plans to infuse an additional \$47.6 million into One Care (\$29.8 million for Medicaid and \$17.8 million for Medicare) for 2015 and 2016. Some worry that One Care, launched by former governor Deval Patrick's administration, may follow the Massachusetts Health Connector's troubled website rollout as another example of good intentions gone awry.

These concerns are understandable — and misguided. My interviews with federal, state, and health plan officials, advocates, and others make clear that idiosyncratic features of One Care put the program more at risk than its peers in other states. One Care is tackling our health system's starkest shortcomings, and officials with whom I spoke on background see financial stabilization and future success on cost and quality ahead. As British Prime Minister Margaret Thatcher told President George H.W. Bush during the 1990 Kuwait crisis: "This is no time to go wobbly."

Key to understanding the One Care dilemma is that dual eligibles include two distinct populations. One group is duals over age 65, seniors who worked most of their lives and now qualify because of low income. The other is duals under age 65 characterized by serious and often lifelong physical disabilities, significant mental illness, substance abuse, and homelessness. The first group stopped working at 65, and the latter, disproportionately, has limited work histories. Both account for huge costs to Medicare and Medicaid for medical and long-term services and support needs — \$300 billion in total.

Prior to One Care, Massachusetts was already a national leader in using private health plans to organize better, less costly care for duals by combining Medicare and Medicaid funding into a single financing stream. In 2004,

the state launched its Senior Care Options program to provide coordinated care for 95,000 over-65 duals. Today, about 38,000 patients, or 40 percent of eligible seniors, are enrolled in one of five participating Senior Care plans. The plans receive an annual, risk-adjusted payment from state and federal governments to cover all care for each enrollee, replacing uncoordinated and dysfunctional fee-for-service payments for each visit or procedure. A 2013 evaluation found that Senior Care enrollees had a 17 percent lower risk of death after six months compared with non-enrollees and 16 percent fewer nursing home stays. Senior Care is judged a success with enrollees and plans, so much so that in its January budget cutting, the Baker Administration was able to reduce excess Senior Care pay-

and community-based crisis stabilization units.”

Because of federal requirements that demonstration programs must show cost savings and quality improvements, One Care architects projected savings between 0.5 to 2 percent after six months — a provision that left many experts shaking their heads. Blue Cross and Blue Shield of Massachusetts and the Massachusetts Behavioral Health Partnership, for example, refused to participate because they viewed the projections as unrealistic.

Three plans joined: Tufts Health Plan, Fallon Health Plan in Central Massachusetts — which in June announced its withdrawal — and Commonwealth Care Alliance. Of the three, Commonwealth Care Alliance receives national attention because of its unorthodox mission as a health plan

only for duals. Dr. Bob Master, the company’s founder, has been honing this model since the 1980s, when he served as medical director of the Massachusetts Medicaid program. While dual demonstrations in other states include large

## Massachusetts is the only state with a program targeted at under-65 dual eligibles.

ments to participating plans.

Given Massachusetts’s Senior Care success, it made sense to launch a parallel program called One Care for under-65 duals, a group with far more expensive and complex needs. This population includes some who suffer, for example, from bipolar illness and HIV complications, and also have experienced long periods of homelessness. Others have profound physical disabilities, such as quadriplegia and require a feeding tube.

Massachusetts is the only state with a program targeted exclusively for this group. All of the other 12 states taking part in the ACA’s “Coordinated Care” demonstration enroll over-65 patients, a much more stable patient population.

The One Care plan with the most enrollees — and losses — is Commonwealth Care Alliance, a Boston-based nonprofit established in 2003 to coordinate and provide care for duals — and nobody else. For One Care, the organization established two “crisis stabilization units” in Boston’s Brighton and Dorchester neighborhoods for mental health patients that provide team-based, short-term care at half the cost of psychiatric hospitals. To deal with primary care gaps, new facilities were opened in Boston, Lawrence, and Springfield.

Lois Simon, Commonwealth Care Alliance’s president, says One Care holds unprecedented challenges. “The overarching system pieces were not together for the under-65 group,” she says. “We found great providers but no unifying system pre-One Care to which we could connect for disability competent care management and long-term services and supports. We found a lack of meaningful primary care relationships for many enrollees, and insufficient alternatives to inpatient psychiatric hospitalization

for-profit insurers such as United, Anthem, and Aetna, the nonprofit Commonwealth Care Alliance stands out for its consumer/patient engagement, its team-based care model, and its mission. While big Massachusetts plans stayed out or entered with tight enrollment limits, Commonwealth Care Alliance went all in — a gamble that could still sink its ship. Its One Care tagline: “Healthy is harder for some. That’s why we’re here.”

“Tufts Health Unify,” which entered One Care cautiously, experienced growing pains, but sees stabilization and growth opportunity ahead. Dr. Kit Gorton, who oversees the Tufts effort, says his plan’s experience demonstrates the need for a longer time curve to incorporate new One Care members than typical managed-care enrollees. “I don’t think people appreciated how different the under-65 population is,” he says. “They take at least a year to get engaged and plugged into a care plan, to meet unmet needs, and to reach the expense curve’s far side.”

Among One Care members, satisfaction is high. A May survey shows more than 80 percent “extremely” or “somewhat” satisfied, with 83 percent intending to stay. Noteworthy has been expansive, disciplined advocacy associated with the effort. A new coalition, Disability Advocates Advancing Our Health Care Rights, has fostered unprecedented consumer engagement. One established advocacy group, Community Catalyst, says that One Care and the national demonstration represent “the first time in our nation’s history that the care of our most marginalized populations, such as those who experience serious mental illness, substance abuse challenges, homelessness, and HIV/AIDS, has been made a national policy priority.” Bill Henning, the co-chair of the new disability advocates

coalition, says, “A hidden success of One Care is that over 25 percent of enrollees have been moved into higher-need categories. Under the prior fee-for-service system, significant needs were unrecognized or unaddressed, with substantially poorer health outcomes.” In approving the new funding for One Care, state officials emphasized that “strong support from the disability community was a critical consideration in the deliberations” with the federal government.

Federal officials at the US Centers for Medicare and Medicaid Services recently permitted all demonstration states to extend their participation from three to five years, an option Massachusetts will take. They have held meetings with state and plan officials to sustain the project. The Commonwealth Care Alliance-One Care experience is “really eye opening,” says Melanie Bella, the first and now former director of the federal Medicare and Medicaid Coordination Office. “They are the only ones in the heart of trying to figure out how to care for those with serious mental illness,” Bella told me. She called the Commonwealth Care Alliance “the poster child for investing in community-based mental health services and moving people from costly inpatient facilities — the

epitome of what we want to happen.”

Massachusetts officials say they are not anticipating a One Care retreat. Health and Human Services Secretary Marylou Sudders says that although One Care has been “a painful innovation lab,” it is “a promising model starting to show signs of success. The financials are challenging, everyone knows that, and they are starting to improve.” As for Gov. Baker, Sudders says, “Charlie is with the program.”

## Sudders says One Care is a promising model starting to show signs of success.

As Massachusetts looks to broader transformation of its Medicaid program, One Care’s focus on the state’s most medically complex and most neglected population should form a critical part of that vision. It has been harder than predicted. But positive returns are appearing and going backwards makes no sense. No time to get wobbly, let’s stay the course.

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*John McDonough teaches at the Harvard T.H. Chan School of Public Health and blogs at [healthstew.com](http://healthstew.com).*

## Helping those with brain injuries

Long-term housing and fitness programs offer promise of a better, more independent life. **BY PETER J. NOONAN**

**MASSACHUSETTS IS A** world leader in emergency, acute, and acute rehabilitation medical care. Our colleges and universities conduct advanced research on cognition and intelligence, and are home to some of the greatest thinkers in their fields. Our physicians, hospitals, and medical institutions are on the leading edge of disease research and treatment.

Yet until recently, the Commonwealth had never taken a data-intensive look at the many causes of injury to the brain, the most important and complex organ we have. That changed last March with release of an epidemiological report called “Acquired Brain Injury in Massachusetts.”

Developed for the state’s Brain Injury Commission, the report tapped the expertise of the Department of Public Health and Massachusetts Rehabilitation Commission to draw the most detailed portrait yet of the causes of brain

injuries, the numbers of people affected, and treatment outcomes.

The findings are alarming. Between 2008 and 2010, more than 65,000 Massachusetts residents sought emergency



room services — and about 40,000 had hospital stays — for brain injuries, classified collectively as Acquired Brain Injury (ABI). Based upon the data, the report concludes that “Acquired Brain Injury... is a substantial public health problem in Massachusetts.”

Many people don’t understand how broad the ABI population is. The leading cause of ABI remains traumatic injuries from automobile accidents, followed by falls and strokes. Injuries can also be caused by infectious diseases, metabolic problems, and tumors of the brain or central nervous system.



The causes of ABI, and how injuries express themselves in people's function and lives, are as varied as humans. And those who have survived and are living with a severe brain injury often face the most challenging future.

The report goes on to say that a portion of individuals who have suffered an ABI are covered by public health insurance payers. The Commonwealth is addressing the need of these individuals through a number of programs created specifically for brain injury; however, the resources are not nearly enough to reach the much larger affected population.

The report points out that survivors of brain injury are sometimes released from the hospital to go home, often without access to the rehabilitation needed. Lack of access to post-acute rehabilitation can lead to a worsening of the condition, impacting the individual immediately and over time. Even for those discharged to nursing homes and other long-term rehabilitation hospitals, the specialized rehabilitation needs for this population are not being met.

It is estimated that thousands of individuals living with brain injury are in nursing homes or other settings without appropriate care. It is even harder to estimate how many are living in the community on their own without sufficient help.

Over the past 20 years, those in the brain injury field and those living with a brain injury have seen, and now have evidence, that many of the functions once thought lost forever due to brain injury can be regained. But it takes longer-term rehabilitation, and in some cases a lifetime of ongoing rehab for physical, cognitive, and social fitness.

There is a sad irony in brain injury. Advances in medical care now keep many people alive who, not long ago, would have died from their injury. This is great. However, many of those individuals will need life-long care and, unfortunately, we have not created a solution

should communities house, treat, and support those with ABI? How many tax dollars are needed, and how should they be spent? What models work? What metrics can best measure success?

At Supportive Living, partnering with our long-term service provider, Advocates Inc., we provide supportive housing to 45 individuals with moderate-to-severe brain injury. Together we have seen the complex medical challenges, and the wonderful improvements experienced by our residents.

At our Brain Injury Wellness Center we offer physical, cognitive, and social fitness programs, helping residents and other brain-injured individuals in the community maintain and often improve functionality, leading to greater engagement in life. The work we do, in combination with the findings of our Wellness Center Research Council, illustrate the reality that the brain can heal after injury. Unfortunately, individuals in our programs only represent a tiny percentage of the thousands across Massachusetts who are living with ABI.

We cannot claim the answer to this major public health problem, but we can point to promising avenues for treatment and research. How that information plays out politically, and how much it reshapes public policy, cannot yet be known.

This much is clear: As our collective understanding of ABI grows, so too does our appreciation for the neuroplasticity of the brain and its ability to recover from trauma of many kinds. That is why Supportive Living maintains a Research Council that includes faculty, clinicians, and researchers from leading area academic and medical institutions. These professionals seek to assess the effectiveness of long-term services and fitness programs. Their mission speaks directly to the recommendations contained in the Brain Injury Commission's 2011 report, which stressed the importance of "development of long-term

community-based support services for both adults and children living with acquired brain injury."

That language holds the promise that Massachusetts can someday provide to survivors of brain injury

the kind of care that makes possible something we all hope for — an independent and fulfilling lifestyle.

A revolution in thinking about brain injury is occurring. We must acknowledge the science, leverage our resources, collaborate with our peers, and fulfill the promise of true independence and dignity for individuals living with the devastating effects of brain injury.

## The brain has an ability to recover from various trauma.

for that — yet. Not only is the person faced with the enormous challenge of life ahead; in most cases, the person also remembers the value of their life before. It hurts.

Fortunately, we do know that life after a severe brain injury can have meaning. Research and practice are proving that under the appropriate conditions, and with the right supports, many brain-injured individuals, even those with severe injuries, can improve.

Together, the epidemiology report and our advancing science are challenging policy makers to consider: What are our civic responsibilities to survivors of ABI? How

*Peter J. Noonan is executive director of Supportive Living Inc., a nonprofit that provides housing and physical, cognitive, and social fitness programs to survivors of brain injury.*



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