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EVALUATE YOUR RESPONSE TEAM.

Make key executives, risk management, finance, operations, communications, public affairs and legal staff part of the response team.

KEEP DATA ON A SECURE NETWORK.

To properly safeguard information, sensitive data should be stored on a secure government network — not on end-user devices.

BUDGET APPROPRIATELY FOR CYBER-DEFENSE.

Work with CIOs and CISOs to identify top cybersecurity priorities and collaborate with them and fiscal staff to determine an appropriate budget.

ENCOURAGE JOINT EFFORTS WITH OTHER AGENCIES.

Outsource some security functions to fill skills gaps and work with other agencies to improve your security posture.

CONSIDER YOUR DEVELOPMENT OPTIONS.

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TAKE A RISK-BASED APPROACH.

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PROMOTE CYBER-AWARENESS TRAINING.

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Where the Money Is

In her story this month on state and local governments’ use of tax incentives for economic development, Liz Farmer quotes Reverend Carlyle, a Washington state senator who has pushed for greater transparency and analysis of his state’s development deals. Transparency, Carlyle says, forces policymakers to deal with a simple question: “Does the damn thing work?”

We know, of course, that too many of these tax deals haven’t worked, leaving little or nothing to show for all the money states spent on them. What does work, as evidenced by decades of rigorous research, is investment in education and infrastructure, two areas that are vastly underfunded. The extent of underfunding in infrastructure is fairly well known: $3.6 trillion, according to the American Society of Civil Engineers.

There is no equivalent estimate for education, but consider this crude approximation of what it might cost to fund a truly superior public education system. The tuition at Sidwell Friends, an elite private school in Washington, D.C., that has been attended by the children of some U.S. presidents, is $39,360. The average amount we spend per pupil on public education every year is $10,700. The difference, when multiplied by the $10 million children in our public schools, is $4.4 trillion. Annually.

These huge sums represent investments that must, and I believe will come from the people who run America’s corporations. Simply put, that’s where the money is.

Earlier this year, Farmer reported that corporate profits have doubled in the last two decades. And according to the AFL-CIO, the average pay for an S&P 500 CEO was $12.4 million in 2015. But the share of state governments’ tax receipts from corporations declined from 4 percent in 1980 to 2 percent in 2013. And the top rate of the wealthiest individuals pay in federal income taxes has declined from just over 49 percent in 1968 to 37 percent.

I am optimistic that enlightened self-interest—and a significant amount of social pressure—will reverse these trends. Just as many of the people who run America’s corporations have come to see support for mitigating climate change and for gay and transgender rights as both morally correct and good for the bottom line, they will come to see taxes as investments that are, as Oliver Wendell Holmes put it, the price we pay for civilized society.

And dare I dream that we will stop giving them billions of dollars in tax incentives?
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The Reinventors Respond

Nearly 25 years ago, governments across the nation embarked on ambitious efforts to use performance measures to “reinvent” government. These initiatives were largely inspired by the bestselling 1992 book Reinventing Government: How the Entrepreneurial Spirit Is Transforming the Public Sector. In our September cover story “The Reinventors,” correspondent John Buntin looked back at the impact of the book on state and local government. The article prompted a response from the book’s authors.

We appreciate John’s honest effort to assess the legacy of our book. Unfortunately, he made a mistake common to journalists, who often simplify, given their space and time constraints. He focused on one of 10 principles we laid out in our book.

“To evaluate the reinventing government movement primarily by assessing performance-based budgeting might seem a bit narrow,” John wrote. Indeed. Performance measurement and budgeting, though important, are one-tenth of what we advocated and what many public organizations embraced. Equally important was “decentralized government”—pushing control down through the hierarchy and empowering public employees. In that chapter, Reinventing Government praised Total Quality Management, which has morphed over the years into Lean. It was bizarre to see John present Lean as a “different approach,” “a move away from the familiar top-down concept of reinventing government and toward its opposite.” Nothing could be further from the truth.

We believe reinventing government is an inevitable process of adjustment to the new realities of the Information Age, and we think it will unfold gradually over about 60 years. Last time we did it, when bureaucratic government became the norm (between 1885 and 1945), it took about 60 years, so we expect it will take that long this time. Today we’re about 38 years into the process, which began with [California’s] Prop. 13 in 1978.

Transforming Industrial Era bureaucracies is difficult, as John acknowledges. It doesn’t work if one only changes one or two pieces of organizational DNA. David and Peter Plastrik laid out the key pieces of governmental DNA in Reinventing Government’s sequels, Banishing Bureaucracy and The Reinventor’s Fieldbook: purpose, incentives, accountability, power and culture. In bureaucracies, these are coded to produce bureaucratic behavior. If you want to change that behavior, you have to recode all five. If all you do is create a StateStat or GMAP system, the results are bound to be disappointing.

Legislatures are an obstacle, as John rightly points out, but to imply that we were blind to that reality is a bit unfair. David personally tried to convince President Clinton and Vice President Gore to create their National Performance Review (which David helped launch) under the aegis of a congressional commission so that Congress would feel some ownership. But alas, the president didn’t want to share credit with Congress.

—David Osborne and Ted Gaebler

Home Sharing Makes Housing Affordable

In his September Public Money column “Home Economies,” Frank Shafroth wrote that home-sharing services like Airbnb could hurt affordable housing efforts. Citing a study about New York, Shafroth noted that home-sharing services take apartments off the long-term rental market and drive up rents to unaffordable levels. So while cities enjoy the economic boost these companies provide, he argued, they may come at too great a cost to those in need of housing.

Cities that have embraced Airbnb aren’t “ignoring . . . the issue of affordable housing.” To the contrary, leaders of these communities understand that responsible home sharing is a boon to their residents, businesses and neighborhoods.

Home sharing provides a critical source of supplemental income for millions of working-class people in an era of stagnant wages and rising costs of living. In New York, 78 percent of Airbnb hosts earn low, moderate or middle incomes, and 72 percent use the money they earn sharing their space to stay in their homes.

Cities across the country have worked with Airbnb to craft thoughtful, comprehensive regulations that distinguish between illegal hotels that hurt communities by taking permanent housing off the rental market and middle-class families who occasionally share their homes to make ends meet.

These municipalities and others like them recognize that embracing home sharing and fighting for affordable housing are not at odds. Rather, home sharing is one tool that can and should be used to combat the affordable housing crisis gripping many of America’s cities.

—Andrew L. Kalloch, policy manager, Airbnb
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THE FEDERAL GOVERNMENT is getting out of the private prison business. The U.S. Department of Justice said this summer that it would phase out its practice of outsourcing some inmates. Currently, nearly 20 percent of federal prisoners are housed in private facilities. The Department of Homeland Security similarly announced that it would review whether to discontinue using private prisons to house violators of immigration law.

The moves came on the heels of a critical report from the Justice Department’s inspector general, which found that safety and security incidents occurred at a higher rate in private prisons. (Private prison companies dispute the findings.) “Much of the state criminal justice reform movement has been fueled by a desire to get better public safety results at lower costs,” says Adam Gelb, who heads the public safety project at the Pew Charitable Trusts. “So when the U.S. Justice Department says its private prisons aren’t providing superior service or saving money, that’s going to reverberate in capitals across the country.”

But that doesn’t necessarily mean states will follow suit. The number of state prisoners housed in private facilities has already been declining. After peaking at just under 9 percent in 2012, the share of prisoners in private facilities is now under 7 percent. Still, there are some states that continue to rely heavily on private prisons, whether because of capacity issues or ideological preference. Hawaii, Montana, New Mexico and Oklahoma all keep a quarter or more of their prisoners in private facilities. The federal moves are unlikely to change that.

Kentucky decided to stop using private prisons back in 2013. In August, however, right around the time the feds were announcing their phase-out, Kentucky said it was looking into reopening two private prisons in order to deal with overcrowding. Transferring about 1,600 prisoners to private facilities would take some of the pressure off. “This doesn’t represent a change in philosophy,” John Tilley, Kentucky’s secretary of justice and public safety, told the Louisville Courier-Journal. “This is simply a pragmatic approach to a problem of capacity that we have at the moment.”

Some policymakers think private prisons are a bad idea, while others are supportive. But the declining private prison population, it seems, may have less to do with the policy debate than the drop in the overall number of incarcerated criminals. The recent decline in private prison populations, for the most part, tracks recent declines in criminal sentencing. Fewer prisoners are bad for business. But private prison companies may have spotted a few opportunities as states shift their approach to criminal justice. “As the federal government phases out its private prison contracts, people should be watchful of where private prison companies may be going next,” says Nicole Porter, advocacy director for the progressive Sentencing Project. “There have been new efforts by well-known private prison companies to enter into contracts with government at the state and federal level over re-entry services and electronic monitoring of people under alternative sentences.”
GIACOMO CIMINELLO HAD a pretty good idea: projecting massive versions of old video games onto blighted buildings. It draws people into neighborhoods they might not otherwise visit and highlights structures in need of an overhaul.

The way Ciminello got the funding to execute his plan wasn’t a bad idea, either. The Haile U.S. Bank Foundation is a leading philanthropy in Cincinnati, routinely writing seven-figure checks to support civic functions such as schools, parks and streetcars. But lately, it’s been trying a different approach, giving money not to nonprofits, but to individuals like Ciminello.

It’s done through a spinoff of the foundation called People’s Liberty. The organization provides fellowships to a couple of people who present good ideas for making life better in and around the city; the fellowships allow recipients to take a year off to try to make their idea happen. Other grantees receive five-figure sums to carry out local initiatives that are innovative and achievable within a set time frame.

The aim is to reach beyond the usual pool of nonprofit groups and potentially tap creativity from anywhere within the community. Plenty of people bat around good ideas for revitalizing empty storefronts or overgrown lots, says Jake Hodesh, vice president of People’s Liberty. The foundation not only gives them cash, but also helps them get set up.

It’s an experiment in philanthropy that’s drawing attention from groups around the country curious about the potential upside of spreading money through unusual channels. Giving money directly to individuals carries risks, as Hodesh acknowledges. Working out the kinks with the IRS took time, and there’s clearly less accountability than dealing with a standard-issue nonprofit.

But working with individuals opens up lots of new ideas—an indoor urban gardening project, say, or educational popups teaching kids about science and music. People’s Liberty is funding an apprentice program that links retired trade workers with younger homeowners looking to rehab properties.

Ciminello says he never would have been able to afford a projector big enough to light up an entire building if not for the unexpected grant he received. “I can’t tell you how many people you come across who have a great idea but don’t know where the money can come from,” Ciminello says. Now, “the local preservation groups are constantly calling us to light up a block on a weekend night to highlight some activities they’ve got going on.”
WHO SHOULD JUDGE THE JUDGES?

That age-old debate is getting a fresh hearing in Georgia.

This month, voters will decide whether to change the way the state judicial qualifications commission is set up via a proposed constitutional amendment. The independent agency is tasked with going after judges for unethical behavior. Over the past decade, more than five dozen Georgia judges have been removed or stepped down in the face of an agency investigation.

One of those judges is now a sitting legislator. State Rep. Johnnie Caldwell resigned as a superior court judge in 2010 amid sexual harassment allegations. He co-sponsored legislation to put the question of the makeup of the judicial commission before voters. Caldwell has said this has nothing to do with his own history with the commission, which he maintains is all in the past.

Instead, along with his co-sponsors, Caldwell cites the commission’s treatment of former Superior Court Judge Cynthia Becker as his reason for pushing the initiative. Becker was indicted last year for lying to the commission, but the case was so weak that it was thrown out just days later, with a judge scolding the prosecutor. “They sit as a completely autonomous group under the Georgia Constitution, so they’re really answerable to no one,” says Wendell Willard, who chairs the state House Judiciary Committee.

Currently, commissioners are selected by the state bar, the Supreme Court and the governor. If the measure passes, the legislature would pick a majority of the commissioners. Supporters of the current commission say the new system would have the effect of eroding the agency’s independence by making its members answerable to the political class.

Even if there have been questions about how the commission has treated certain cases, that’s not a good reason to change its structure and give the legislature effective control over it, says Billy Corriher, an expert on state courts at the liberal Center for American Progress in Washington, D.C. “It’s important to have independent watchdogs in states where they elect judges,” he says. “The commission they have in Georgia, as currently constituted, seems to have worked pretty well.”

But Willard argues that commissioners act as investigators going after judges, serving—in effect—as the judges and juries in the same cases. “One of the concerns we’ve raised is the due process issue,” Willard says. “There is no way to really modify the makeup of the commission,” short of a constitutional amendment.

JUDGING JUDGES

THE BREAKDOWN

$1 billion

Amount by which Philadelphia could reduce its $6 billion in pension debt if every eligible employee takes a pension buyout that the city may offer. Illinois is considering a similar move.

1,375%

Rise in health insurers’ spending from 2011 to 2015 on patients with a diagnosis of opioid dependence or abuse. Patients cost insurers $3,435 a year on average, while opioid patients cost them $19,333.

35,092

People who died driving on highways last year, which represents a 7.2 percent increase from the previous year and a reversal of the decades-long trend of declining traffic fatalities.

22,500

Number of migrants from Puerto Rico in 2013 to just three states—Florida, Ohio and Pennsylvania—all of which are considered important swing states in the presidential race this month.
ST. LOUIS IS FINALLY READY to do something with the site of the old Pruitt-Igoe housing complex. What goes in there may say a lot about what cities have learned from the development mistakes of the past century.

Pruitt-Igoe was a huge public housing complex made up of 33 separate 11-story buildings that were built not long after World War II. Almost immediately, the complex had serious problems. What was meant to be mixed-race housing quickly was dominated by poor blacks, who had reason to complain about poor maintenance and serious crime. “Pruitt-Igoe became a byword for dysfunctional urban abyss,” the British newspaper The Guardian recounted last year. “If you propose a high-rise public housing project in America, your opponents will almost certainly use Pruitt-Igoe as a rhetorical weapon against you—and defeat you with it.”

The city began demolishing the complex in 1972—one building was imploded on live television—with the last tower coming down 40 years ago. The site, just two miles north of the Gateway Arch, has been vacant for so long that acres of it have grown back into forest. During that time, there’s been no shortage of ideas about what to do with the space. “A golf course, a vineyard, a new city park—we haven’t lacked for ideas,” says Alex Ihnen, owner and editor of nextSTL.com, a website covering the city. “But actually getting something built is another story.”

Now a developer named Paul McKee has exercised his option to buy the land. Having a single developer responsible for the parcel should finally lead to action. What’s more, the site will be close to a new $1.75 billion campus housing the Western headquarters for the National Geospatial-Intelligence Agency (NGA). City officials convinced the agency to stay in the city, rather than moving across the river into Illinois, in part with the promise of making the campus the centerpiece of a dense urban development north of downtown.

Having a major anchor tenant has been a huge factor in the revival of many urban neighborhoods in recent years, including some in St. Louis. But it’s not a guarantee of success. As Ihnen points out, Wells Fargo Advisors has its corporate campus about two miles west of downtown St. Louis. The financial services firm employs almost twice as many people as the NGA will have at its new site. Yet there’s very little retail or commercial development around its headquarters.

Pruitt-Igoe poses special challenges as a redevelopment site, even putting aside its long and tainted history. It’s vacant land that’s surrounded by even more vacant land. What McKee and St. Louis have to remember is that Pruitt-Igoe failed, in part, because it was an island within the city, says Michael Allen, director of the independent Preservation Research Office. The block after block of housing towers just didn’t fit in an area that was otherwise filled with low-slung houses. “Pruitt-Igoe taught us to look at financial and geographic contexts,” Allen says. McKee has said he’ll use the site as part of a larger redevelopment effort in the area, with offices, retail and a medical campus. So far, his plans aren’t terribly specific. And there are questions about how much development the city can support, given that St. Louis is half the size it was back when Pruitt-Igoe came down.

Nevertheless, the fact that something—anything—will be going in at one of the most troubled parcels in the city is generally being hailed as good news. “These developments aren’t often catalytic in the way they’re sold, so the NGA-adjacent development and the redevelopment of the Pruitt-Igoe site are almost certainly overpromised,” Ihnen says. “However, that does not make the coming changes any less important for the city. What we’re about to see is how a large, vacant, pre-automobile urban landscape is redeveloped [today].”
IF YOUR CITY USES THESE

YOU’RE REQUIRED TO KEEP RECORDS FOR UP TO 10 YEARS.

BUT DON’T WORRY. WE GOT YOUR BACK.
Nearly half of America’s 100 biggest cities are electing mayors this month, and most of the winners will come floating into office on a tide of promises, some of them achievable and some so ambitious that the candidates themselves don’t have a clue how to pull them off.

Many will have vowed to be “education mayors”—school reformers who will generate test results so much improved as to make their communities magnets for the affluent residents they are competing to attract. Candidates make these vows despite decades’ worth of evidence that there is little a mayor can do to produce dramatic educational improvement over the course of a term in office.

But that’s the way it is with political promises. To attract attention—and votes—you’re better off promising to do something difficult. Nobody runs for mayor of a big city vowing to become the “sanitation mayor.” Picking up the garbage is something everyone expects you to do. Being exceptionally good at it scores no political points. It’s a task that gets noticed only when it’s botched.

The smartest political candidates understand this. They make promises that stand somewhere between the grandiose and the trivial. They look for challenges that, with the requisite amount of intelligence, energy and luck, might be met in a meaningful way. In the words of George Latimer, who was a highly effective three-term mayor of St. Paul, Minn., these candidates don’t chase problems. They chase opportunities.

For many candidates in 2016 who would like to be as successful as Latimer, the question of what to chase is fairly obvious: economic development. Promise to lure in the corporations that will provide massive numbers of new jobs and restore (or preserve) the city’s economic vitality. Push through tax incentives and other economic subsidies that will make your city look more attractive than the other jurisdictions competing for the same prizes. Land a few big fish, and you will leave office with the satisfaction that you have done something important.

It’s an appealing strategy, and it’s one that, in much of urban America, is hard to resist. But how successful is it likely to be? How often does any set of public policies deserve credit for a city’s economic revival? When a city’s economic fortunes improve in a relatively short time, does that mean the mayor was smart—or does it just mean that he or she was lucky?

Richard Schragger, a law professor at the University of Virginia, has taken a look at mayors and economic development strategies in cities all over the country and has come up with a sobering but compelling conclusion: When the strategies work, it’s mostly luck. “Any claim that a specific policy will foster growth or decline,” Schragger says in his new book, City Power: “should be treated with a great deal of caution. ... Confident predictions that economic growth is attainable if city leaders would just get with the program are seriously oversold.”

Schragger’s skepticism about economic development politics is grounded in a conviction that most political actors misunderstand what cities are fundamentally about. In his view; they subscribe to the market-driven ideology that envisions cities as products, vying with each other to present the most enticing offers and attract the most desirable collection of customers—or corporations. Schragger, on the other hand, is a disciple of the late Jane Jacobs, and shares the renowned urbanist’s long-held conviction that a city is a bundle of organic processes interacting with each other in myriad ways and much too complex to be understood in simplistic
free-market terms. “We talk about cities as if they were businesses,” he writes, “when that is not what cities are at all.”

If cities were businesses or products in competition with each other for sales, Schragger points out, it would be reasonable to expect that over the past couple of decades, the good cities—those that prospered—certainly would have been the ones offering customers the best deals—specifically, the juiciest array of tax breaks. But as we all know, that isn’t what happened. Boston, New York and Seattle are all high-tax cities, and they are all thriving. Meanwhile, dozens of struggling Rust Belt cities have thrown elaborate tax break bouquets at businesses and are worse off than they were in 1970.

The most impressive economic development coup in the past couple of years is probably Boston’s success at enticing General Electric Corp. to move its headquarters from suburban Connecticut to its downtown waterfront. Of course, this wasn’t accomplished without subsidies. The city of Boston and the state of Massachusetts offered nearly $175 million in grants and property tax relief. But it was far from the best deal on the table. If GE had chosen a new location based only on the financial incentives being offered, it would have done better moving to the suburbs of New York, or perhaps even staying in Connecticut.

S
o what are we to make of the resurgent big cities of the 21st century? What did they do to earn that distinction? If they didn’t succeed through economic development bribery, maybe they did it by electing leaders who were simply better at management than the competition. Schragger acknowledges a grain of truth to this argument, but not much more than that. Looking back over the past generation, it’s certainly true that Pittsburgh has benefited from having more capable stewardship than Detroit has had. Pittsburgh’s mayors worked hard to nurture the city’s combination of good universities and advanced medical research, rather than making foolish investment decisions and staying yoked to a declining industry. But when you add up all the factors that led to Detroit’s bankruptcy in 2013, it’s difficult to say that bad management—or any particular set of policies—was the primary culprit. The decline of Detroit was much more complicated and multifaceted than that. It was, in a certain sense, organic.

Education might best be looked at in a similar way. Every mayor wants to talk about creating better school systems, but as Schragger points out, there hasn’t been much of a detectable correlation in recent years between educational improvement and broader economic revival. Chicago and Philadelphia have been burdened for several decades now by dysfunctional school systems, but both have experienced central city comebacks that have spread beyond the immediate downtown area into an ever-expanding network of surrounding communities.

Reduced crime is often cited as a fundamental ingredient of urban recovery, and I would assign it more importance than Schragger does in explaining the success of Boston, New York and, until the last couple of years, Chicago. The fact remains, however, that crime has declined significantly just about everywhere in America since the 1990s. If safe streets were the secret ingredient of comeback cities, there would be many more of them. Controlling crime may be a necessary condition for urban revival, but it clearly isn’t a sufficient one.

It’s tempting at this point to invoke some sort of amenity thesis, such as Richard Florida’s much-discussed argument that the successful cities are those that do best at attracting the “creative class” of highly educated young professionals. General Electric is, indeed, moving to Boston because of some combination of intangible amenities that young talent is looking for; the company’s executives have made this very plain. There seems to exist a mixture of demographics, technology and culture that can constitute a winning formula for cities. But knowing this is not the same as knowing how to create it. In the 15 years since Florida first advanced his ideas, it is hard to think of a city that has set out purposefully to become a creative-class mecca and actually become one. Urban histories unfold for reasons that are very difficult to understand, as Jane Jacobs knew well and as Schragger argues persuasively.

So what should this year’s crop of eager new mayors set out to achieve? Schragger has a simple answer to that question, although it is not one that all of them will wish to embrace. He believes, among other ideas, that they should set a goal of tempering the inequality that has become endemic to even the most fortunate American cities in recent years. He wants them to fight for a higher minimum wage, one that would rise in graduated steps to $15 an hour and then beyond it. Raising the minimum wage, he says, is a concrete step that most cities can take and then measure the consequences. In Schragger’s view, the consequences will be overwhelmingly positive: If a small number of jobs are lost in the process, they will be more than compensated for by tangible gains for most of the workforce.

That isn’t a practical strategy everywhere. More than a dozen states now restrict the ability of their localities to raise the minimum wage. In those states, Schragger recommends the expanded use of “community benefits agreements”—deals with developers that extract concessions on jobs, housing and community services in exchange for land use allowances over which the local government has control.

By no means is this a comprehensive agenda. It’s barely a beginning. But it’s built on a recognition that cities would be better off in the long run if mayors and other leaders looked at their capacities more realistically. “Cities,” Schragger says, “should do less of what they cannot do … and more of what they can—provide quality basic services to their residents.”

Abandoning local economic development policies is almost politically impossible for local leaders. But it is the right thing to do.”
Chief Concerns

Police chiefs are stepping down across the country. That could be a good thing.

My favorite top cop in the nation has just bowed out. Bill Bratton, arguably America’s most effective big-city police chief, retired in September, ending one of the most successful careers in law enforcement in the nation’s history. Bratton’s record wherever he served, including Boston, Los Angeles and two stints in New York City, was impressive. Crime of all sorts, especially violent crime, fell precipitously in each one on his watch.

About the time Bratton was wrapping up his last day on the job in New York, Washington, D.C.’s police chief, Cathy Lanier, was starting a new job in the private sector, as head of security for the National Football League. Almost a decade ago, she took control of a department that was viewed as largely dysfunctional and remade it, strengthening ties between officers and the community they serve. Crime fell substantially during her tenure.

We live in a time of intense concern about the relations between police and their communities. Every day, the media is boiling over with horrifying stories about violent crime, unwarranted police attacks on citizens—usually minorities and often very young—and recent suicidal counterattacks against the police. If you had no context, you’d think the country was coming apart at the seams. But it isn’t. The rate of violent crime is about half what it was 25 years ago, including fatalities among on-duty police.

True, the rate has spiked in some cities, notably Chicago and Milwaukee, but it remains steady in many others. The number of murders this year in Chicago, our third-largest city, is greater than that in Los Angeles and New York, the two largest, put together.

What does seem different is the level of police misconduct. Reliable statistics are hard to come by, but a study funded by the U.S. Justice Department covering part of 2005 through 2011 showed that on average police officers are arrested around 1,100 times a year, most often for crimes involving assault, drunken driving and sexual misconduct, with almost 60 percent occurring off-duty. These numbers are worrisome, but taken in context, they’re not startling. The Justice Department estimates there are somewhere around 750,000 state and local law enforcement officers across the country, so their crime rate is minuscule compared with society at large.

Still, the seemingly daily scenes of police shooting unarmed civilians, often without a warranted reason, are deeply disturbing. They breed more anger, increased resentment and a widening gap between cops and their communities. “It’s not a police issue; it’s a society issue,” Chicago Police Superintendent Eddie Johnson told reporters in September. “People without hope do these kinds of things.”

That may be true, but the sudden spike in crime in cities like Baltimore, Chicago, Memphis and Milwaukee—and the preponderance of police misconduct in many other places—demands a hard look not only at police leadership and management systems, but also the quality of our entire criminal justice system.

Justice Department investigations in Baltimore and other cities over the past several years have revealed inadequate or even nonexistent early intervention systems for identifying officers at high risk for serious misbehavior. One study estimated that 22 percent of officers who’d been arrested for misconduct previously had been defendants in federal civil rights cases. More than half the arrested officers were allowed to resign voluntarily and move on to another police force. There is
little coordination among state and local agencies and almost no federal oversight, so problem cops can wander from one job to another. In one infamous case, an officer in a small Oregon town was dismissed from the force for kissing a 10-year-old girl on the mouth, but was hired only three months later as the chief in a town in Kansas—even though the court in Oregon had ordered that he never serve as a policeman again.

For cops, the frustrations focus on the waves of illegal firearms flowing into cities and what can be a nonsensical pattern of sentencing in which officers find themselves arresting the same people over and over again, often for serious crimes. Meanwhile, marginal offenders are shipped off to prison, sticking taxpayers with big bills for minimal results.

City and county councils, state legislatures and the U.S. Congress all are eager to pass reforms, which worries chiefs like New York’s Bratton. “There are police reformers from outside the profession who think that changing police culture is a matter of passing regulations, establishing oversight bodies and more or less legislating a new order,” he wrote in a farewell column in The New York Times. “It is not. Such oversight usually has only marginal impact. What changes police culture is leadership from within.”

Lanier is more forceful in her frustration, particularly about the unwillingness of federal agencies to monitor suspects. That’s a level of government with whom the chief must work since D.C.’s the nation’s capital. “The criminal justice system in this city is broken. It is beyond broken,” she told The Washington Post before she stepped down. “Where the hell is the outrage?”

The good news is that, with so many new agencies and almost no federal oversight, turning the tide of policing will have to come from the cops themselves. But in the end, meaningful reform will have to come from the cops themselves.

The good news is that, with so many new chiefs on the job in cities across the country, it’s a prime opportunity to start those conversations now.

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**POLITICS WATCH**

By Alan Greenblatt

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**Don’t Sweat the Primaries**

Most politicians have no problem being renominated.

Right now, it’s crunch time for politicians up for re-election on Nov. 8—just weeks, in some cases, after winning their party primaries. In a polarized age, legislators worry a lot about surviving primaries. It turns out most have no reason to.

This year, a grand total of 122 state legislators were defeated in primaries, according to the politics tracking site Ballotpedia. That’s out of more than 4,000 who sought re-election. “Incumbent legislators win over 90 percent of their primaries,” says Steven Rogers, a political scientist at Saint Louis University. “This trend appears to be relatively consistent over the last 20 years.”

If it’s nearly impossible to lose a primary, then what gets a politician booted out? Most of the time, a legislator being perceived as too moderate by her base won’t do it. She might well be challenged in a primary, but she’s still highly unlikely to lose. Often it’s because the losers had clear personal failings, such as having been arrested for drunk driving or embezzlement.

Because of polarization, there’s actually less room for ideological disagreement within parties these days. Fewer legislators position themselves in the center. Party-line voting is common on key issues in most legislative chambers, so challengers are left with few chances to exploit an opening. They have a hard time gaining attention or campaign donations when incumbents are in sync with the activists and donors of their party. “That may reduce the area on the political spectrum where [opposing] candidates can position themselves,” says Robert Hogan, a Louisiana State University political scientist.

There have been some notable exceptions. In Kansas, where moderate and conservative Republicans have been at odds for years, about a dozen hardline Republicans aligned with Gov. Sam Brownback were defeated in the August primaries by a state that had the backing of a bipartisan group of former governors. In Rhode Island, six Democratic legislators were unseated in September by more progressive challengers, including state House Majority Leader John DeSimone.

But such examples are few and far between. A far number of state House speakers and other legislative leaders faced primary challenges, but in most cases turned them back easily. Delaware House Speaker Pete Schwartzkopf, for instance, was renominated in September with 74 percent of the vote. “No incumbent of either party who sought re-election in the face of primary opposition lost,” noted the Wilmington News Journal. “In fact, none of their races were even very close.”

Incumbents have always enjoyed big advantages. But those advantages may be even greater now. Because of polarization, there’s actually less room for ideological disagreement within parties. Legislators tend to have easier access to big donors when incumbents are in sync with the activists and donors of their party. “That may reduce the area on the political spectrum where [opposing] candidates can position themselves,” says Robert Hogan, a Louisiana State University political scientist.

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Incumbents have always enjoyed big advantages. But those advantages may be even greater now, simply because of the amount of money sloshing around state politics. Legislators tend to have easier access to big donors than their challengers. “Incumbents build up those connections,” says Jaclyn Kettler, a political scientist at Boise State University. “A lot of these ideological challengers are not always the most well-known or most well-funded candidates.”

More legislators will be defeated on Nov. 8 than during the whole of the primary season. But most can rest easy. In more than 40 percent of districts, the other party didn’t bother to field a candidate.

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Speeding Up Baby’s First Test
A push to bring newborn screening online is showing some early successes.

For the most part, the days of file cabinets crammed with patients’ paper health records are gone, especially in hospitals. Electronic health records are taking their place. While electronic health records are imperfect, they’re beginning to help doctors treat patients more comprehensively. But as the public health community is well aware, there’s one area that’s been left behind: screening tests for newborns.

Created in the 1960s, the newborn screening program is used to check a baby’s hearing, test for congenital heart disease and, with a few drops of blood from the infant’s toe, look for a range of serious genetic disorders. The bloodspot is put on a card alongside handwritten information about the infant, including time of birth and when the child was first fed. The card is then sent off to a laboratory where a technician enters the data and tests the blood sample.

There are many problems that can arise from this process, which include entering incorrect information or simply taking too long to process the blood sample. In 2013, the Milwaukee Journal Sentinel reported that over the previous year at least 160,000 blood samples had arrived late at labs across the country—an occurrence for which hospital staff were rarely reprimanded. The paper also found that many labs were closed over the weekend, so the parents and doctors of babies born later in the week often had to wait longer for results. For a newborn with an undetected disorder, a delay of even a day can be a matter of life and death.

The Journal Sentinel’s investigation has spurred many who work in pediatrics to action, with several states and hospital systems working to streamline the screening process and bring it online. While every hospital has a different approach, one state that has made considerable progress is Minnesota. Its health department’s public health laboratory has focused on implementing a system that pulls the newborn’s demographic information from an electronic health record. The next phase of the project is enabling test results to be sent directly to the health record. “We’re trying to eliminate the manual-entry side of the process,” says Amy Gaviglio, a supervisor at the state’s public health laboratory.

So far, 75 of the state’s 89 hospitals have adopted the new electronic system. It hasn’t been an easy process, however. While hospitals were excited about the system, says Gaviglio, “nursing time is valuable, and the only real time we could train them on these new devices was during shift changes, which occur at really inconvenient times like 5 a.m.”

So why were newborn screenings left behind in the push to go online? “There are hundreds of workflows that are not out-of-the-box ready for electronic health vendors,” says Joe Schneider, a pediatrician who recently retired as chief health information officer at Indiana University Health. “And if you’re a health executive dealing with diabetes, hypertension and cardiac problems, newborn screenings are relatively small when you’re thinking about dollar impact.”

Pediatricians have to push state health departments to step in to streamline the process, says Schneider, who now consults with Indiana University Health on its efforts to bring newborn screenings online. The university is currently focused on consolidating 31 workflow steps into 14.

Gaviglio is optimistic about the progress that’s being made. “We’re starting to see what implementation looks like, and there’s this spirit of collaboration from people in this field,” she says. “We’re on the cusp of things finally coming together.”

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Minerva, the Roman goddess of wisdom and sponsor of the arts, trade, and strategy, found on the Great Seal of the State of California as well as on the state capitol.
Breaking It Down
The demand for composting programs is steadily growing. Can cities keep up?

Adam Ortiz gets asked a lot about composting. As director of the Department of the Environment for Prince George’s County, Md., he says residents ask him all the time if the county can provide curbside pickup. “When I tell them we’re working on it but aren’t quite there yet, they respond, ‘OK, we’ll do it ourselves,’” Ortiz says. “People are paying an extra $20 to $30 a month to have a private contractor come and pick up their little bucket of food scraps.”

Prince George’s County, just outside Washington, D.C., is no stranger to composting. It runs one of the biggest food scrap operations in the country. For 25 years now, the county has been collecting leaves and grass clippings that it then processes into a trademarked mulch product called Leafgro. In just the last three years, the county has expanded the program to include food scraps. But the public clamor for composting has grown so rapidly that Ortiz says he can’t set up a curbside program fast enough. “We cannot meet the demand,” he says. Referring to the county’s current composting program, Ortiz adds, “We already have a waitlist of 30 communities and institutions.”

Ortiz’s story is familiar to many city and county officials across the country. Curbside composting programs have doubled in the last five years, from around 100 communities in 2011 to at least 198 across 19 states today. Indeed, according to the U.S. Composting Council, those numbers don’t even tell the whole story. In lieu of curbside composting, dozens of municipalities have formalized drop-off programs for residential food scraps, and entrepreneurs offer curbside subscription services that, in some cases, have grown as large as 4,000 households.

Responding to that existing public demand is important, says Ortiz. People clearly “want to live a ‘closed loop’ or more sustainable way of life,” he says. But government is driving demand, too. Last year, the U.S. Department of Agriculture and the Environmental Protection Agency set a national goal of reducing food waste by 50 percent by 2030. (Right now, 95 percent of the food disposed of in the U.S. ends up in a landfill, where it emits methane and contributes to global warming.) Many cities have also set waste diversion goals. Austin, for example, wants to reduce the material sent to landfills by 90 percent by 2040, and Milwaukee has a goal of diverting 40 percent of its waste from landfills by 2020. What’s more, several states and cities either ban food scraps and yard waste from landfills or mandate that they be recycled.

With so many policies in effect calling for composting, curbside programs and drop-off centers are expected to continue growing steadily. The structure of these programs will undoubtedly vary from city to city. Challenges such as upfront costs, siting and permitting new facilities, and resident resistance can shape what a composting program looks like.

Frank Franciosi, executive director of the U.S. Composting Council, says all these barriers can be eliminated by developing a detailed and concise plan with “a good public relations program showing the benefits of using compost from both a horticultural view as well as an environmental view,” he wrote in an email. To that end, the council has developed a toolkit with guidelines for local governments on how to set up a composting program, from building awareness to managing program logistics. The council also offers model legislation to help states upgrade their current rules regarding siting and permitting. “Zoning is one of the biggest obstacles when private commercial compost manufacturers want to site and build a facility,” says Franciosi.

As for the added costs for outreach, source separation, signage and additional containers, Franciosi says, “Cities should look at this as an investment for future growth and sustainability. One must calculate the cost of doing nothing against the cost savings of valuable landfill space. What are the costs for increasing methane in our atmosphere?”

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The Urban Future We Can’t See
No one knows what forces will shape struggling cities. But there are things to do now.

The unpleasant reality for many struggling postindustrial cities and regions is that there isn’t an obvious turnaround in sight. For some whose lives are tied up in these communities, that’s a truth they simply cannot confront, instead turning to politician after politician promising magic-bullet solutions. For others, that’s a reason to give up hope and just write these communities off. But there’s a better way, one that acknowledges reality while recognizing that the future may hold possibilities that we can’t see or imagine.

Let’s look back at a place once left for dead. New York City. In the 1970s, it was failing and nearly went bankrupt. Films like Death Wish and Taxi Driver portrayed an urban dystopia. The city’s population was falling, and some argued that there was nothing left to do but implement a strategy of planned shrinkage.

Yet today New York is a gleaming, booming city at all-time population and job highs, one where public angst often focuses not on civic failure but on problems brought on by success, such as high rents and overcrowded subways.

How could such an unexpected transformation have occurred? New York certainly benefitted over the past two decades from the fantastic leadership of two mayors, Rudolph Giuliani and Michael Bloomberg. But this can obscure larger forces that played a major role in the city’s transformation.

The reality is that many cities around the world—Boston, London, Seattle, Tokyo, Washington, D.C.—have radically transformed themselves for the better over the same period. This suggests that common factors have been at work.

Those common factors are changes in the macroeconomy and culture. Today’s globalized, technology-powered economy rewards deep pools of specialized, highly skilled talent. It rewards access to global networks, both physical, like international airports, and those linking human capital. What’s more, the talent needed in these industries is attracted to “thick” labor markets—those with both many job openings and a deep labor pool to compete for them—to high-amenity environments and increasingly, though not exclusively, to dynamic urban neighborhoods.

All of these play to the advantage of cities like New York. That doesn’t mean good leadership isn’t critical. The difference in the track of New York versus that of Chicago is in part due to a leadership gap, but recent leaders of both cities faced more favorable circumstances than did those of the 1960s and ’70s.

We can see this play out in the differences between Detroit, which is seeing something of a central city revival post-bankruptcy, and Flint, Mich. Detroit is the center of a large region with a thick labor market, has a big pool of engineering and other educated talent, is home to several major corporations, and still dominates the North American auto industry. It has true big-city amenities and a major international airport, and it is the biggest trade gateway to Canada.

Flint lacks all of these. Does that mean that the future is hopeless for Flint or for other similarly struggling cities and regions? No. Just as we didn’t know that New York City could turn around, we also don’t know what the future holds for Flint—and that could be a good thing.

What we can say is that, as with New York, macroeconomic and other changes will need to occur to bring Flint and places like it back into favor before they will really be able to transform.
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The honest truth, however, is that these changes don’t seem to be anywhere on the near horizon. But we need to set policy now to pave the way for them, and that means realizing that we can’t restore these economies by government fiat. Expensive build-it-and-they-will-come endeavors, like the now-infamous Detroit People Mover or a $750 million state subsidy for an Elon Musk solar panel factory in Buffalo, N.Y., only breed cynicism when they don’t live up to the hype.

Instead, we need to focus first on helping people, through improving education and making sure they are connected to opportunities. Where needed, create something like the “Mobility Bank” proposed by the Brookings Institution’s Hamilton Project to assist people who want to move but don’t have the money. But we can’t ignore places. Government has a role to play, not in trying to engage in central economic planning but in setting the stage to profit from any future change in the economic winds. This can start with the painful process of dealing with legacy problems: addressing underfunded public employee pensions whose growing costs threaten to crowd out other essential expenditures; repairing old sewer and water pipes to comply with modern environmental standards; remediating Superfund sites to make land available for development; and rebuilding core public services.

This is what New York did when it started cleaning up its subway system (literally, by eliminating graffiti). The Bryant Park Restoration Corp. was a successful public-private partnership that transformed what used to be called “Needle Park.” Policing was vastly improved to begin both reducing crime and professionalizing the department. Detroit has embarked on its own painful cleanup.

In other words, severely struggling cities should focus on taking care of the basics and problems that can be solved, realizing that they are still in some sense wandering in the wilderness, instead of believing that they can simply subsidize their way back to prosperity.

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Unlikely Neighbors

They may share a border, but these cities look completely different.

The cities along the Texas and Mexico border differ dramatically. Those in Texas are sprawling, while those in Mexico are buzzing with urban vibrancy. This is odd considering that many of these border cities have shared histories and cultures.

U.S. cities like Brownsville, McAllen, Laredo and El Paso are demographically similar to their counterparts in Mexico, yet look like classic American Sun Belt cities. Their downtowns are quiet, with automobiles outnumbering pedestrians; interior neighborhoods have single-family homes; and strip malls sprawl into the peripheries. But walking across the bridges from these cities into Mexico is like entering another world. In cities such as Matamoros, Reynosa, Nuevo Laredo, Acuña and Juárez, suburban sterility gives way to an urban bonanza. Downtown areas, already far more compact, are dominated by public squares, pedestrian malls and commercial alleyways. Nearby residential density brings throngs of people into these spaces daily, generating an electric street vibe, as performers entertain large audiences, food stands line the sidewalks and Latin dance music thumps from storefronts.

These design contrasts result from both nations’ differing planning policies. While similar for centuries, a splintering largely occurred during the 20th century, says Daniel Arreola, an Arizona State University professor of urban planning. Before then, there were common threads that tied together Mexican and Texas cities. Many of these areas were settled by indigenous peoples and later colonized by the Spanish, who imported European design standards. Mexico’s border cities preserved their European architectural features primarily, says Arreola, because they remained too poor to fund major redevelopments. But in Texas, the European influences were wiped out. Growing American wealth and a rising Anglo elite inspired urban “modernization,” both through top-down projects and code changes.

San Antonio, which is 63 percent Hispanic and a two-hour drive north of the border, is a prime example. Throughout the 20th century, new developments were added and old ones retrofitted to mirror common American planning guidelines—the zoning code enforced separated uses; federal money helped the city replace old-style barrios with generic public housing; streets were widened and building setbacks enforced; and urban renewal money was used to raze neighborhoods for roads, parks and convention centers. Today, San Antonio looks nothing like a Mexican city, nor do other cities in Texas.

Interestingly, Mexico and the U.S. may invert these differences throughout the 21st century. Although the preservationist instinct “is beginning to seep into Mexico,” Arreola says, the country’s growing wealth will inevitably bring calls for American-style modernization. This has already happened in wealthy Mexico City, with its many highways and suburban developments. Meanwhile, U.S. cities, having already endured this demolition mentality, are experiencing renewed appreciation for dense, walkable neighborhoods. In this respect, the U.S. is rediscovering great designs that never disappeared south of the border.

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Falling Apart at the Polls

Obsolete voting machines are impeding the election process. But there’s no cheap solution to the problem.

By J.B. Wogan
The upkeep of voting equipment doesn’t usually figure into a candidate’s campaign rhetoric. But when Nellie Gorbea ran for secretary of state in Rhode Island in 2014, she pledged to make her state’s elections “fair, fast and accurate.” That meant replacing machines purchased in the late 1990s that were breaking down from age and years of use.

“We had equipment that was literally falling apart at polling locations,” Gorbea says. “People would try to put their ballot in the ballot tabulator and it would stop working.” In the presidential primaries and special elections. Even so, repairing machines caused a 45-minute delay before officials could wheel in another one.

This month on Election Day, however, voters in Rhode Island won’t encounter obsolete equipment, because Gorbea did what few election officials have been able to do in recent years: She convinced her legislature to pay for new voting technology. With a $9.3 million contract, she leased 590 up-to-date tabulators and scanners, and secured an eight-year maintenance agreement with the vendor.

The entire voting experience in Rhode Island has improved since Gorbea’s election. Electronic poll books allow staff to check voters in faster, and wireless modems help precincts report results on election night. Unfortunately, Rhode Island is the exception when it comes to modernizing election equipment. Across the country, voting machines are reaching the end of their expected lifespan. Despite warnings of an “impending crisis” from federal officials and independent election experts, it has been years since the last significant update to the nation’s election infrastructure. Congress took action on the problem in 2002 by passing the Help America Vote Act (HAVA), but has done nothing to follow up since then.

Meanwhile, the machines HAVA paid for a decade and a half ago are starting to fall apart.

States and localities have always been responsible for election management in America, but most are now finding it difficult to replace their equipment without an infusion of federal money. This has troubling long-term implications. Elections increasingly reflect inequality in public resources, with wealthier counties and townships buying state-of-the-art voting tablets, scanners and high-speed printers, while places with less money are squeaking by on unreliable machines built a generation ago.

The current state of voting equipment has its roots in the Bush-Gore presidential election of 2000, which cast a national spotlight on 20-year-old punch-card devices and lever machines that hadn’t kept up with advancements in computer technology. The Bush-Gore fracas was directly responsible for HAVA, which distributed about $3 billion to more than 8,000 counties and townships buying state-of-the-art voting tablets, scanners and secured an eight-year maintenance agreement with the vendor.

The election results got creative. In Connecticut, Merrill convinced the legislature there to invest up to $30 million in leftover funds from HAVA to replace equipment that has been in use for at least eight years. In most cases, states would then disburse the money to counties and townships. But the bill lacks bipartisan support, hasn’t received a hearing and will likely die in committee at the end of this year.

In the absence of federal financial assistance, some jurisdictions have gotten creative. In Connecticut, Merrill convinced the legislature there to invest up to $30 million in leftover funds from HAVA to replace equipment that has been in use for at least eight years. In most cases, states would then disburse the money to counties and townships. But the bill lacks bipartisan support, hasn’t received a hearing and will likely die in committee at the end of this year.

As the computer cards or scanners are breaking down, they’re being replaced piecemeal,” says Connecticut Secretary of State Denise Merrill. It’s possible in the short term to keep plugging the leaks and not worry about a sudden, widespread collapse of voting technology. However, “it’s a looming problem,” Merrill says. “We absolutely need to be planning ahead.”

The long-term solution obviously isn’t spare parts—it’s new machines. But as Rhode Island’s experience illustrates, replacing election infrastructure can cost millions of dollars, and most jurisdictions don’t know where to find that much funding. By the Brennan Center’s estimates, the initial national cost of replacing outdated equipment over the next few years could exceed $1 billion.

No one in Congress has proposed that the federal government foot the bill for such an extensive overhaul of election technology. U.S. Rep. Hank Johnson of Georgia has introduced a bill that would go part of the way toward addressing the problem. His legislation would distribute to states up to $125 million in leftover funds from HAVA to replace equipment that has been in use for at least eight years. In most cases, states would then disburse the money to counties and townships. But the bill lacks bipartisan support, hasn’t received a hearing and will likely die in committee at the end of this year.

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Another case in point: Arkansas. Last year, Secretary of State Mark Martin convinced the legislature there to invest up to $30 million in new voting machines. But during budget negotiations, lawmakers did not set aside money for the appropriation. “We’ve made it clear that we think it’s a priority, but not everything gets funded every year,” explains Chris Powell, a spokesperson for Martin. “It’s the course of legislative business.” In lieu of state funds,
FALLING APART AT THE POLLS

At the ballot box, c. 1920
the Secretary of State’s office has used some savings to replace technology in 11 of the state’s 75 counties, with plans to pay for more machines as money becomes available.

Some local officials are modernizing their election infrastructure by finding ways to reduce the cost. Five years ago, when Denver looked for a new voting system, Elections Director Amber McReynolds wasn’t satisfied with existing options on the market. Denver wanted commercial off-the-shelf parts that could be integrated with proprietary voting software. Working with a vendor, McReynolds and her team were able to develop a new system that uses commercial scanners, printers and touch-screen tablets. Whereas a full-scale voting machine can cost $4,000 per unit, commercial tablets are available for about one-tenth of the price. And commercial products are more familiar and more intuitive to most voters. “People are on their smartphones and they’re using tablets in their everyday lives,” she says. “When they saw the tablets, it probably took away some of their anxiety and made it easier to use.” In general, vendors have been slow to offer proprietary systems that use some commercial parts, but now that such a hybrid exists, election experts expect it to spread to other parts of the country.

Denver is unusual in that it didn’t have to ask for outside money. The elections division had savings set aside for the upgrade. This was partly because the Colorado General Assembly decided in 2013 to allow residents to vote by mail, an option that used to be available only for people who couldn’t visit a polling location on election day. Now voters receive ballots in the mail that they can send back or drop off at a voting center. In Denver, elections staff count mail ballots at a central location, reducing some of the time and manpower necessary to tally votes.

Denver first used the new equipment in a municipal election last year. Its smooth rollout convinced the state to pilot the same technology in other counties, and then mandate its adoption across Colorado. This month, nearly 20 counties—or one-third of the state’s local election jurisdictions—will use the commercial tablets, scanners and printers pioneered in Denver. In the next two years, they will appear in the rest of the state.

Four years ago, President Obama acknowledged the long wait times voters were encountering at some polling locations, adding, “We have to fix that.” Two years later, a presidential study group on election administration reported back about the “impending crisis in voting technology,” along with recommendations on how to avoid such a crisis in the future. Since that 2014 report, some things have gotten better.

One noticeable effect of the report is the revival of the Election Assistance Commission. When Congress passed HAVA in 2002, it created the commission as an independent agency with bipartisan leadership that would test and certify new election equipment. But by 2014, the commission had become a victim of partisan gridlock, which prevented it from vetting and approving new products by vendors. Without the commission, vendors had less incentive to develop new equipment, essentially putting any advancement in American election technology on pause.

Even the mere existence of the Election Assistance Commission had become the subject of congressional debate, with one Republican member introducing a bill to eliminate the agency altogether. While Democrats put forward nominees for the vacant
positions, Republicans did not, and the commission lacked a quorum to conduct official business for four years. It wasn’t until December 2014 that the Senate finally confirmed three nominees—enough for a quorum.

The reconstituted Election Assistance Commission has been doing everything short of granting large sums of money for new technology. Last year, it published a short guide for state and local officials on ways to extend the lifespan of their voting equipment. The tips covered everything from proper storage in a climate-controlled room to the stress-testing of power sources that are usually the first components to fail. The commission also has created an online repository of requests for proposal from state and local election jurisdictions, allowing officials to learn from one another and borrow best practices.

In the absence of congressional action, the commission has provided the next best thing: a central information source to facilitate conversations among election officials. In addition to Denver’s recent experiment with commercial components, the city and county of Los Angeles and Travis County, Texas, are designing new election systems that could include interchangeable commercial parts and open source software that could be shared with other public agencies. All three localities have sought to design systems that would be less expensive, easier to maintain and more intuitive for voters. It’s a recipe that appeals to officials in other parts of the country as well.

The question for governments going forward is whether, despite the innovations being tried in places such as Colorado and Rhode Island, the lack of federal support will worsen the divide in the quality and capacity of election systems across the country. Will less wealthy places be able to adopt the systems that Denver and Los Angeles develop?

Some counties are using special purpose sales taxes to raise money for ongoing election infrastructure costs, says Merle King, executive director of the Center for Election Systems in Kennesaw, Ga. But that’s an option only where local residents are willing to tax themselves for election capital costs. In rural counties and other places with low median incomes, continued fundraising won’t be feasible. “Ultimately, we’ll go back to what existed prior to HAVA,” King says. “ Wealthy counties will have the best systems and the best trained employees using them, and the poorer counties will have to do the best with what they have.”

Even the places that can afford upgrades on their own are in favor of a national solution. “We had to do it ourselves because our back was against the wall,” says Gorbea. She thinks that Congress ought to be investing in the maintenance and modernization of equipment across the country. “Voting machines are democracy’s infrastructure,” she says. “Updating our election systems should be a federally supported ongoing activity.”
Cities spend millions on claims and lawsuits from citizens. Some are trying hard to rein in those costs.

By Mike Maciag
**PRICEY PAyOUTS**

There’s a big silver dome in the corner of Union Square Park in New York City. Kids love to scramble up the six-foot-high stainless steel structure, called the Mountain, and then slide back down. The only problem is, the thing gets hot in the sun. Really hot. One afternoon in 2012, the metal surface was so warm that a young girl climbing on it suffered severe burns to her hand from the scorching hot steel. Her father filed a claim against the city, which was later settled for $24,500. (The city has since added a shade structure to shield the dome from the sun.) But that wasn’t the only injury in Union Square Park that year. City records show three other families also filed claims in 2012 holding the government liable for injuries on the playground—one of the highest tallies in the city’s parks system.

The next year, a falling tree struck a man in the park, resulting in a $15,000 payout from the city. A few months after that, a police tow truck allegedly hit a teenage boy crossing an intersection near the north end of the park, prompting another filing.

Claims and lawsuits are an everyday occurrence in the Big Apple, where about 9,500 cases were filed against the city last fiscal year. In all, New York paid out $720 million in judgments and claims in fiscal 2016, which amounts to about $84 per resident. That’s only about 1 percent of the city’s total expenditures, and claims in fiscal 2016, which amounts to about $84 per resident. That’s only about 1 percent of the city’s total expenditures, but it represents much-needed funding that could be directed elsewhere. For instance, it’s more than the combined budgets of the Parks and Recreation Department and the Department of Buildings.

Steep legal bills aren’t just an issue in New York. In large cities across the country, court challenges can be a drain on municipal coffers. To gauge the fiscal impact of claims and lawsuits, Governing requested financial data from the two dozen largest cities in the U.S., the first such national review of comprehensive legal costs. Twenty cities responded, and their combined financial information paints a picture of just how significant these claims costs can be. All totaled, the cities paid out more than $1.2 billion in their last fiscal year.

It’s a big problem, and it’s not getting any better. These days, local governments face a whole host of potential liabilities. Heightened tensions around accusations of police misconduct have led to multimillion-dollar settlements. Outdated infrastructure, from crumbling sidewalks to antiquated water and sewer systems, may result in injuries or property damage. Some cities have taken on new responsibilities in recent years or expanded existing efforts, such as offering additional health services. Those added public services inevitably bring extra risks. Moreover, claims and lawsuits are constantly coming up with new theories of litigation and new ways to sue. On top of all that is a culture that many people say has shifted away from taking personal responsibility, leading to a litigious—and costly—reality for cities.

“The acceptance of personal responsibility seems to be dying out somewhat,” says Terri Evans, president of the Public Risk Management Association. “Somebody has to pay for [lawsuits], and that somebody is everyone.”

While lawsuits and their associated expenses can be costly, they also represent a vital opportunity for cities to fix problems and improve public services. A few jurisdictions are starting to analyze their claims data or strengthen risk management practices aimed at reducing the types of incidents likely to cost cities money down the road. But in cities that do nothing, the costs associated with lawsuits could eat up a bigger share of the budgetary pie in the years to come.

**New York's Union Square Park.**

**A sun shade has been installed over the Mountain in New York's Union Square Park.**
**BIG BILLS**

All the costs associated with claims and lawsuits filed against local governments take a toll on a city’s budget. To approximate the fiscal impact that these claims have, we requested financial data from the 25 largest U.S. cities, 20 of which responded. Costs compiled included the following:

- **PAYOUTS**: Payments made resulting from lawsuit settlements, judgments or claims settled prior to litigation. Figures do not reflect costs related to worker’s compensation claims and employment matters unless noted.
- **INSURANCE**: Costs paid for liability or excess liability insurance. Most larger cities are either primarily or entirely self-insured.
- **LITIGATION**: Expenses reflect total compensation for internal staff, outside counsel and any other costs associated with lawsuits unless otherwise noted.

<table>
<thead>
<tr>
<th>JURISDICTION</th>
<th>YEAR</th>
<th>PAYOUTS</th>
<th>LITIGATION</th>
<th>INSURANCE</th>
<th>AVERAGE TOTAL COSTS</th>
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Cities reviewed collectively paid out $1.2 billion in judgments and settle-
ments over their last fiscal year. Jurisdictions’ varying sizes, types of public services provided, state laws dictating what a government can be held liable for, and limits on damages awarded are among factors influencing the totals.

Expenses often fluctuate widely from year to year as major cases are settled, so we’ve calculated each city’s average costs over the past three fiscal years. The following tables summarize median costs using cities’ three-year averages:

<table>
<thead>
<tr>
<th>CITY</th>
<th>AVERAGE TOTAL COSTS</th>
<th>PAYOUTS</th>
<th>LITIGATION</th>
<th>INSURANCE</th>
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<td>San Diego</td>
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<td>$13,550,892</td>
<td>$13,550,892</td>
<td>$13,550,892</td>
</tr>
</tbody>
</table>

The following jurisdictions did not respond to requests for information at the time of publication: Boston, Denver, Detroit, Memphis, San Antonio.

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Notes for individual cities:

1) LITIGATION costs do not include compensation for city employees.

2) FY 2016 totals are preliminary before the fiscal year ended.

View the full report with additional data and notes for each city at governing.com/lawsuitscosts
for example, two of the more frequent claims filed against the city, amounted to $85 million in judgments and settlements in fiscal 2015. Water infrastructure can be a problem too. Some cities are frequently hit with claims from sewer overflows. A few, like Chicago and Philadelphia, have been the subject of class action lawsuits alleging lead contamination in drinking water.

As Governing’s analysis shows, cities’ legal bills vary widely. While average annual payouts over the past three years exceed $35 million in seven cities, nine others averaged less than $5 million. The lowest total spenders were Port Worth and Columbus, Ohio, whose total yearly costs were less than $3 million.

A number of factors can drive up cities’ costs, some of which are out of their control.

Local governments that operate public hospitals, housing authorities, airports, utilities and other higher-risk entities can expect to face bigger payouts. Cities vulnerable to natural disasters also incur greater risks. Hosting large-scale events—festivals, concerts, conventions—can add to the bottom line. Densely populated urban centers tend to face much higher liability costs simply because they maintain services or infrastructure that are more fraught with risks. Things like subway accidents are not an issue for smaller towns. When smaller jurisdictions do get hit with a big lawsuit, however, it can be devastating. The town of Hillview, Ky., filed for bankruptcy last year after it was slammed with a big lawsuit, however, it can be devastating. The town of Hillview, Ky., filed for bankruptcy last year after it was slammed with a big lawsuit.

Costs can fluctuate a lot from one year to the next, as even a single major settlement can spike expenses significantly. San Jose, Calif., is currently appealing an $11 million police excessive force single major settlement can spike expenses significantly. San Jose, with interest.

with a judgment over a property deal that amounted to $15 million Hillview, Ky., filed for bankruptcy last year after it was slammed. The town of Hillview, Ky., filed for bankruptcy last year after it was slammed with a big lawsuit.

The vast majority of localities nationwide participate in government risk pools, viewed as a more cost-effective alternative to private insurance companies. Costs per individual risk generally haven’t increased, but total costs of insuring localities have climbed over the longer term, says Ann Gergen, executive director of the Association of Governmental Risk Pools. That might be, in some cases, because governments expanded services, or tort caps were increased or lifted.

Payout amounts depend a great deal on state law. States maintain different tort laws around what’s known as sovereign immunity, prohibiting all or certain types of lawsuits from being levied against governments. The type of trial venue also matters: Citizen juries tend to award higher damages than judges do. States also may set a cap on damages. In one Philadelphia suburb, for instance, a jury in 2011 awarded $14 million to a high school student who had lost her leg after being run over by a school bus. But the award was later reduced to $500,000, the maximum permitted under a Pennsylvania law that hadn’t been revised in over three decades. As of 2015, according to the National Conference of State Legislatures, 34 states limit the total damages recoverable from judgments against states, with many of those laws also applying to local governments.

Paying out claims is expensive, but so is fighting them in court. Los Angeles, for instance, spent $40 million on litigation costs last fiscal year, while much smaller San Jose spent $7.5 million.

New York’s current budget includes $7 million for hiring expert consultants for major cases set to go to trial.

Then there are insurance costs. Large cities typically don’t purchase liability insurance, with the exception of excess insurance or limited policies for select public authorities. Most cities reviewed reported no more than a few million dollars in annual insurance costs. Of course, these that do purchase more comprehensive policies won’t pay as much in payouts. San Diego spends the most of any city reviewed, averaging $8.4 million a year.

The vast majority of localities nationwide participate in government risk pools, viewed as a more cost-effective alternative to private insurance companies. Costs per individual risk generally haven’t increased, but total costs of insuring localities have climbed over the longer term, says Ann Gergen, executive director of the Association of Governmental Risk Pools. That might be, in some cases, because governments expanded services, or tort caps were increased or lifted.

ricey payouts are an issue for many cities across the country, but New York is the epicenter. Its payouts topped $720 million in fiscal 2015, more than all the other 19 cities combined. Its law department employs an army of more than 700 attorneys, and the city currently faces more than 21,000 pending cases. There are several reasons why New York attracts so many lawsuits. Obviously, it’s a dense urban environment with a population that dwarfs other cities. But the city also happens to be in a state with several laws that can drive up cities’ legal costs. For one thing, there’s the issue of trial venue: Injury and property damage cases brought against the state are held in claims courts where judges render verdicts, but cases brought against New York’s cities are typically
New York’s claim filings are up in recent years, as are payout expenses. Below: The ClaimStat program maps filings throughout the city.

Being the nation’s payout capital isn’t a distinction that New York City relishes. That’s why, over the past few years, it has launched an aggressive approach to cut those costs. Part of that means pushing back against what the city sees as meritless lawsuits. In past years, New York often agreed to pay out small settlements just to make cases go away. Elizabeth Duitz, who heads the police department’s legal unit, says it got to the point where protesters would taunt police officers at rallies, telling them about settlements they’d received and threatening to sue again. One settlement in early 2015 drew particular ire from officials. A man wielding a machete had threatened police officers and was shot in the leg during an altercation; the man then accused the police of wrongdoing. The city agreed to a $5,000 settlement, even though the man had plead guilty to menacing an officer. Mayor Bill de Blasio vowed to make changes. “Unfortunately, the reality is, if we stand and fight, we will be spending a lot of time in court, using up a lot of lawyers, and it will cost a lot of money,” he told reporters after the settlement was announced. “But it’s worth it to end the madness of these frivolous lawsuits, which are not fair to the city, and not fair to the officers involved.”

Indeed, New York has devoted new resources to fighting these types of suits. The tort division of the city’s law department budgeted for nearly 200 additional positions this year. The police department similarly created a new unit in early 2015 of roughly 40 attorneys and investigators to respond to claims. But it’s not just about fighting penny-ante payouts. New York has engaged in a major effort to get smarter about the kinds of risks that lead to lawsuits in the first place. In 2014, City Comptroller Scott Stringer launched ClaimStat, a data-driven initiative intended to serve as an early warning system for city agencies by detecting patterns in claim filings. By mapping sewer overflow claims, for example, Stringer’s team found several blocks in Queens prone to flooding. The office has now issued a series of alerts drawing attention to problems such as potholes, playground injuries and traffic accidents involving pedestrians.

ClaimStat staff are also working with the police department to better respond to and address claims. Now, when a new claim is filed, police investigators immediately start working to assess its merits, searching for witnesses and surveillance video. They analyze claims data in real time, attempting to pinpoint recurring issues in precincts throughout the city. Early results of the new initiative are encouraging: Police misconduct filings dipped 13 percent in fiscal 2015, the first year-over-year decline in at least a decade. Local advocacy groups are supportive, but say the city could still do more to address underlying concerns. “The city should be focused less on lawyering,” says the New York Civil Liberties Union’s Christopher Dunn, “and more on trying to focus on the [police] misconduct that produces lawsuits.”

held before citizen juries, generally a less favorable venue for government. Then there are things like the “scaffold law,” which holds contractors and property owners 100 percent liable when workers fall from ladders or scaffolds at construction sites. New York is the lone remaining state with such a law on the books, and it can significantly raise costs. Consider bridge projects that span from New York to New Jersey: According to the Port Authority of New York and New Jersey, total claim amounts between 2002 and 2012 were more than twice as high on the New York side.

“We have the most permissive courts in the nation, and it’s not even close,” says Tom Stobbs, executive director of the Lawsuit Reform Alliance of New York. The state, home to the most lawyers per capita, has resisted legislative proposals to modify its tort laws. Many people attribute that to the influence of the New York State Reform Alliance of New York. The state, home to the most lawyers even close,” says Tom Stebbins, executive director of the Lawsuit Reform Alliance of New York. The state, home to the most lawyers
PRICED PAYOUTS

It will take years for New York to realize the full effects of the changes. Cases may linger for decades; three of the city’s top settlements in fiscal 2015 were from cases dating back to the 1980s. But the initiatives are expected to cut costs. Accordingly, the city’s latest budget cut the law department’s allotment for claims and judgments by 11 percent over the next five years. On the whole, says Daitz, New York will no longer be known as a place to file a claim and make a quick buck. “The attorneys on the plaintiff’s side are getting the message that this is not a lottery ticket. The days of an easy payday are long gone.”

While New York’s initiatives may prove effective, not every city is in a position to hire a phalanx of new attorneys and build a whole new data-analysis system. But there are a number of other things a city can do to bring down its claims costs. For one, it’s important to establish a hardline reputation for taking on frivolous lawsuits, says Darren McKinney, communications director for the American Tort Reform Association. “The plaintiff’s lawyers will file meritless lawsuits in cities where there will be little resistance,” he says. “The impulse is to settle early on.” Chicago and Los Angeles, he says, are viewed as easier targets relative to other cities.

Cities could also incentivize individual departments to help cut down on risks. Comptroller Stringer has suggested New York consider holding individual departments more responsible for the claims filed against them. Departmental budgets would have to share in paying for settlements, but they’d also get a share of any savings attained from implementing better risk management practices. One of the few jurisdictions where claim and judgement payouts come directly out of individual departments’ budgets is Los Angeles County. “It certainly makes them pay attention to it,” says Steven Robles, the county’s risk manager. In most cities, settlements and judgments come out of the general fund. The lone exception in New York is NYC Health and Hospitals, the agency that operates the city’s public hospitals. It saw a noticeable decline in medical malpractice filings when it began shouldering some of the costs of medical malpractice liabilities in 2008, followed by another drop once it took over management of its cases in 2006.

Cities will never be able to tame costs if they don’t address the underlying problems that prompt lawsuits, says Joanne Doroshow, who heads the New York-based Center for Justice and Democracy. “Cities will pay out money but will ignore the root cause in some cases.”

Even well-meaning actions can have unintended consequences down the road. Evans of the Public Risk Management Association cites how, years ago, cities started planting more trees as part of Tree City USA campaigns. Now that those trees have matured, their roots have in some cases damaged sewer lines or destroyed sidewalks. Shifts in budget allocations may also produce dramatic effects: With limited funding for tree pruning, New York saw a steady rise in the number of tree-related claims starting around 2006. The city then roughly doubled its tree pruning budget starting in 2013; claims since then have dropped to near historic lows.

In general, says Evans, cities must focus more on considering risk when launching new initiatives, and they should involve risk management personnel early in the planning stages of any new projects. “We’re trying to communicate more to upper-level management how important it is to involve risk management on the front end rather than the back end,” Evans says. “It’s much more difficult to know something is happening until after there’s been a tragedy.”

That’s a direction cities seem to be moving toward. In Chicago, the inspector general this year called for the city to adopt a comprehensive risk management program to mitigate its claim costs. And in one 2013 study by the Rockefeller College of Public Affairs

Injuries on New York City sidewalks or roadways led to $55 million in judgments and settlements in fiscal 2015.
PRICYY PAYOUTS

will need to focus on the underlying causes of lawsuits, not just the suits themselves. And they may need to think about better incorporating risk management practices across their departments. If they don’t take steps like those, cities will almost certainly face an ever-rising tide of claims.

Email mmaciag@erepublic.com

and Policy at the State University of New York at Albany, municipal officials said they were devoting more resources to risk management activities and protections than they had in the past.

If cities really want to get serious about chipping away at that $1.2 billion number, it likely will require an all-of-the-above approach. They’ll need to fight lawsuits rather than just settle out of court—and they must telegraph that to would-be claimants. Cities will need to focus on the underlying causes of lawsuits, not just the suits themselves. And they may need to think about better incorporating risk management practices across their departments.

If they don’t take steps like those, cities will almost certainly face an ever-rising tide of claims.

MALPRACTICE CLAIMS FOR NEW YORK PUBLIC HOSPITALS DROP

NYC Health + Hospitals (HHC) recorded a decline in malpractice filings once it assumed financial responsibility for paying its legal costs, followed by another decline after the agency hired staff to begin handling its own cases.


780 816 858 889 824 701 655 684 651 623 605 587 628 798 779 773 720 651

2001: HHC becomes responsible for judgment and settlement costs
2006: HHC begins managing its own cases

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(Required by 39 U.S.C. 3685)


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T12 19,502

I certify that all information furnished on this form is true and complete.

Elizabeth Daigneau, Managing Editor

I certify that all information furnished on this form is true and complete.

Elizabeth Daigneau, Managing Editor
Caught Between Reform and a Hard Place

Dallas Police Chief David Brown was hailed as a national leader. So why did his own cops want him to quit?

By John Buntin
Dallas Police Chief David Brown rose to national attention on a hot night in July, after a sniper at a protest against police violence killed five officers and wounded nine more. In the aftermath of the shooting, Brown’s no-nonsense presence, words of support and emphatic actions comforted his police department and the city of Dallas while also respecting the constitutional rights of the hundreds of people who had come out that evening to protest the police killing of an unarmed man in Minneapolis the previous day.

Two months later, when Brown announced he would retire, he spoke of his role as a local hero, and not just for his masterful handling of the sniper shootings. As chief, Brown had embraced social media, using Facebook to release unprecedented amounts of information on officer-involved shootings. He also accelerated efforts to rethink one of the most basic tenets of policing—how officers respond to incidents that involve the potential use of force. Brown’s push toward reforms of the Dallas Police Department attracted praise from the likes of former New York Police Department Commissioner Bill Bratton, who had described Brown as a “consummate professional who represents some of the best progressive police leadership today.”

Not everyone saw it that way. Many people believed that Brown’s reforms, along with low salaries and extended hours for cops on the beat, had decimated morale on the force. Scores of officers had quit over the past year. The exodus was so great—more than 40 officers resigned in the month of May—that the department reportedly couldn’t process the paperwork quickly enough, and cops were being told they had to wait to quit.

Worse, Brown’s critics said, his reforms were curtailing cops’ ability to do their job at a crucial time for the city: Homicides have nearly doubled in Dallas in the past two years. The Dallas Police Association, the city’s major police union, had called on Brown to step down from his job, as had the local and national Fraternal Order of Police and the local chapter of the Black Police Association.

What Brown’s career—and his surprise resignation—shows is that it’s extremely difficult to get it right when it comes to police reform. Homicides in many cities are rising again. At the same time, a string of questionable and, in some cases, horrifying police shootings has made police reform a necessity. Brown’s story is about how one police department facing a rising homicide rate has sought to change the way its officers use force. It’s a story about real accomplishments, difficult tradeoffs and pushback from many sides. And as in so many American cities, it’s a story that begins with a shooting.

At 5 p.m. on July 24, 2012, dispatchers sent three officers to a house in the Dixon Circle neighborhood of south Dallas. A kidnapping had been reported. When they arrived, they heard yelling inside the house. They pushed in a window-mounted air conditioning unit to see into the house, where one of the officers spotted a drug bag on the kitchen table. He then saw four black males running out of the back of the house. One of them grabbed the gun.

The officers chased the suspects. When an officer wrestled one of the men, James Harper, to the ground and tried to cuff him, Harper swung a knife. The officer then saw something in Harper’s front pocket. Fearing it might be a gun, he shot Harper three times.

It wasn’t a gun. Harper was unarmed.

It was a sweltering summer evening, the kind that brought everyone in Dixon Circle out from their stifling homes. Rumors spread that Harper had been shot in the back. The mood of the neighborhood turned angry. Police officers in riot gear began to deploy. Civic leaders and local clergy rushed to the scene. So did Chief Brown. At a press conference that evening, Brown explained the circumstances around the shooting and promised an independent grand jury investigation. By most accounts, Brown’s presence and promises played a role in dispersing the crowd and maintaining calm in Dallas.

Three weeks later, Brown announced a sweeping overhaul of how the department would interact with the public. He pledged to enlist the assistance of the FBI’s Civil Rights Office in officer-involved shootings and require more detailed information from officers “resisting arrests reports.” Brown said the department would develop a foot patrol policy to reduce the likelihood of dangerous chases. He promised to enhance Taser training and actively identify national best practices. Finally, the department did something it had never done before: It released a complete list of every officer-involved shooting in Dallas going back to 2002.

To say this represented a break with the past would be an understatement. “He took us to the creek and held us under water and made us drink,” says Deputy Chief Jeff Cotner.

But those reforms were just beginning. During this same period, the department moved forward with perhaps its most ambitious initiative: an overhaul of the way officers respond to service calls. The usual approach of modern-day policing is command and control, in which police officers are trained to exercise immediate authority over an incident—to issue orders and make sure those orders are obeyed. Brown wanted to move ahead with a different method known as de-escalation, which trains officers to use tools that can give them more time to assess the danger of a situation before taking action.

De-escalation may sound mundane. But what it amounts to in practice is nothing less than an attempt to change a century of police practice.

The best way to see de-escalation at work in Dallas is to visit the Lamar School, an old building half a mile away from Dallas police headquarters that’s now used as a training facility. On the first floor of the school one morning in September, a startling scene unfolds.

“I want my money back. Give me my money back!” one man yells.

“What the f--- man,” the other says, as the first man moves toward him, looking as threatening as he sounds.

Two police officers, alerted to the altercation, approach hurriedly, hands reaching toward their handguns. When the officers are about 12 feet from the two men, the man who wants his money spins toward them, a knife raised in his hand. Both officers yell at him to drop the knife. When he doesn’t, they open fire. The would-be assaulter crumples to the ground.

“Whoa!” yells a bystander who has pulled out his cellphone to capture the scene.

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The heated argument is, of course, staged. It’s part of an effort to change the way officers respond to dangerous incidents. Law enforcement officers in Texas are required to complete 40 hours of training every two years. Beginning in the late 1990s, Dallas included a reality-based training program as part of its core inservice education curriculum. Three years ago, the department revamped reality-based training to incorporate two newer concepts: de-escalation and procedural justice.

The officers’ response to the first scenario—shooting the man with the knife—was appropriate, says Sgt. Anthony Greer, one of the sergeants supervising the Lamar School training. When police undergo training, most talk about a 30-foot zone of safety. Within that zone, officers who face a potential assailant wielding a knife or other blunt weapon are justified in using force, including lethal force.

More recently, however, policing experts have begun to discourage departments from thinking about using the 30-foot rule to determine whether the use of force is reasonable. One of the goals of de-escalation training is to provide ways for officers to make a decision about how or even whether to enter this danger zone. The tools they can use are time, distance and, if necessary, cover to de-escalate a situation.

If officers can be given more time, says Greer, then they have more opportunities to make good decisions. Distance works too. “If the suspect is over there, hey, we don’t necessarily need to cover to de-escalate a situation.

The training sergeant praises the officers for explaining why they were questioning the man. That part of the encounter—stopping to explain—is a critical part of an approach to engagement known as procedural justice. It’s rooted in research about people’s encounters with the court system. That research found that satisfaction and compliance with a court proceeding depended not on the outcome (did they win or lose?) but on whether the process was explained and whether participants felt they had had their say. In recent years, police departments have sought to bring similar techniques to police work. “It used to be, ‘Hey, I am the police. You are going to do what I tell you to do, and if you don’t, I am going to ask you one more time and then I am going to make you do it,’” says Greer.
What the Dallas Police Department is teaching now is a dramatic break with past practice. The time/distance/cover approach allows police officers to dictate what they are going to do. “What we are looking for,” Greer says, “is a peaceful solution to the situation. It’s not necessarily, ‘You do what I want you to do.’ Instead, ‘it’s, ‘I want this to end peacefully.’ That’s what we are emphasizing.”

Brown’s reforms achieved some significant successes. Over the past three years, officer-involved shootings in Dallas have fallen sharply—from 10 in 2014 to five in 2015 to none in the first half of 2016. Complaints fell too, by more than 80 percent between 2005 and 2015. Despite these successes, Brown was not a popular chief. Dallas’ powerful police union, the Dallas Police Association, complained about Brown’s management style—part of the basis for their call for his resignation. The local Black Police Association echoed these complaints. Brown’s reforms also had unintended consequences. Telling officers to take greater care to prevent or defuse possible confrontations means officers will take more time. That, in turn, delays police response times in high-crime neighborhoods, which feeds the perception that police don’t care about communities of color. Critics argue that Brown’s initiatives, along with his unwillingness to press the city council for more officers, has contributed to the “de-policing” of the city.

“There has been a ‘Ferguson effect’” in Dallas, says Deput Chief Malik Aziz, referring to the 2014 killing of Michael Brown in Ferguson, Mo. Aziz, who is chairman of the national Black Police Association, says that police officers in Dallas “don’t patrol as aggressively as they once did. They don’t tend to engage themselves in situations where they once did.”

But Brown wasn’t just vilified by those who said his reforms went too far. He was also attacked by others who said he didn’t do nearly enough. Brown attracted staunch criticism from a new generation of activists loosely affiliated with the Black Lives Matter movement. One of the most outspoken groups has been Mothers Against Police Brutality. It’s led by Collette Flanagan, whose 25-year-old son was shot and killed by police in 2013. She notes what she sees as a failure of reform: Since 2001, 60 unarmed men have been killed by Dallas police officers, yet not a single officer has been indicted.

For John Fullinwider, a leading Dallas figure in the ongoing protests about police brutality, Brown “has a reputation as a reformer. But this police department has not been reformed.” He points to two fatal shootings in August—one of a white kid who was acting in an aberrant way but was unarmed, the other of a Latino kid in a domestic dispute who had a knife and was shot when he didn’t follow police orders to put it down.

Activists in Dallas want deeper policy changes. At the top of their list is a special independent prosecutor, appointed by the local U.S. attorney, to investigate fatal police shootings. They also want regular drug testing and psychological evaluations for officers, compensation for victims, body cameras for all officers, deadly force training approved and authorized by the U.S. Department of Justice, federal investigations of civil rights violations by police officers, and a federal database of problem officers.

Attorney Kim Cole, who works with the activist group Next Generation Action Network, sees Brown’s reforms as little more than window dressing. Consider a recent decision by Brown to end the policy that allowed police officers involved in a fatal shooting to wait 72 hours before giving a statement to police investigators. Most saw this as another win for reform. Cole sees it in a different light—as a way for police to avoid testifying at all. “As long as there is no accountability, there will never be any responsibility,” says Cole. “The African-American community is being terrorized by law enforcement because we know there are times when we can’t reach for our wallets without the risk of dying.”

It would be easy to conclude that being attacked simultaneously for going too far on accountability and transparency and for not going far enough is a sign that you’re actually doing something right. But Brown’s struggles suggest another lesson as well: Police reform is hard. Often, it entails unintended consequences. De-escalation
and relationship-building take time. That requires more resources. And in Dallas, as in most every other city, additional resources aren’t easy to come by. During the recession of 2008, Dallas allowed its police force to shrink by attrition and retirement. That seemed like a reasonable decision when crime was falling. But in 2014, homicides started to rise, and that has continued. The department has attempted to compensate by moving officers from desks back onto the streets. But it’s telling that in the aftermath of the July sniper shootings, Brown sought to use his new popularity for one thing: He asked the city to approve funding to hire 549 additional officers as quickly as possible.

The request stemmed in part from the effectiveness of having more officers do basic police work. New York City’s crime reduction “miracle” in the early 1990s was made possible by the roughly 6,000 new officers Mayor David Dinkins was able to hire through the state-supported “Safe Streets” program. The crime decline in Los Angeles in the mid-aughts likewise followed the hiring of hundreds of new police officers.

But Brown’s request also reflected the additional hours his reforms require. He found few backers. Union officials argued that the city should focus instead on retaining existing officers by increasing pay. City council members questioned whether the city of Dallas could afford to spend more than it already does on public safety. Eventually, the city committed to increasing the size of the force by just 100 officers.

On Sept. 1, Brown, who had been with the force for 33 years and its chief for six, stunned Dallas by announcing via Twitter that he was retiring. He would do so without securing the additional officers he so clearly wanted for his department. “Chief Brown, we are sure going to miss you,” Dallas regional Chamber of Commerce President Dale Petroskey told him and the crowd of civic and business leaders at a luncheon later that month. “Thanks for being a rock and a rock star. We needed you.”

In fact, Dallas—and other cities contending with rising homicides and protests against police brutality—do need someone who can make the case that Brown, ultimately, could not. Reform is vital. But the real solution to the problem of police, paradoxically, may well be more police.
Sick Transit

The problems of Washington, D.C.’s Metro are many and daunting. But the biggest one may be a lack of public commitment.

By Daniel C. Vock

Photographs by David Kidd
One cool Friday afternoon this fall, in the middle of rush hour on the Washington, D.C., Metro system, a third-rail insulator failed, releasing stray electrical current and sending black clouds of smoke up from the tracks at Metro Center, one of the system’s busiest stations. Because of the fire, service was suspended on three subway lines—half the lines in the entire system. Thousands of commuters who had already braced for delays because of scheduled repairs now faced even more harrowing trips home, many of which stretched for hours.

It was an alarming experience, but it was the sort of thing that weary Metro passengers have come to anticipate. Electrical fires are a persistent problem for the Washington Metropolitan Area Transit Authority (WMATA), and the consequences in some cases have been far more serious than chaotic rush hours. The worst came in January 2015, when a smoke-filled train got trapped in a tunnel; one woman died and 91 other people were injured. This March, an eerily similar fire prompted Metro officials to shut down the entire subway system for a day to perform systemwide inspections and repair.

There are more than 100,000 insulators along Metro’s tracks, and one of them fails, on average, twice a month. Not all of those incidents are as serious as the one in September, but many are even worse. In 2013, an arcing insulator forced two trains to stop in a tunnel, stranding 250 passengers for an hour, including a woman who was having a seizure. Several passengers defied orders and left one of the trains. They climbed out of the tunnel through a vent shaft that led to an open field, where they were met by a police helicopter. Metro is working to replace old insulators, but it seems it can’t move fast enough. Two days after the Friday fire in September, another arcing insulator in the same station interrupted service again.

Fires are only the beginning of Metro’s troubles. The 40-year-old system, which is the second busiest subway network in the country after the one in New York, faces not just one crisis, but several. It is trying to upgrade its aging and failing infrastructure; to convince the federal government it is safe to run; to reverse recent ridership declines; to keep better track of how it spends its money; and ultimately, to find a dedicated revenue source so it can plan for its future more than just a few years at a time.

“It’s brick-and-mortar stuff, and it’s people stuff,” says Leif Dormsjo, the director of Washington, D.C.’s transportation department and an alternate on the WMATA board. “A lot of transit agencies are dealing with one or the other. But to be dealing with both, I think that is why WMATA is in such a tough spot right now.”

Metro’s troubles are unique in some ways, but they are not unfamiliar to those who run transit systems elsewhere in the country. “In a system that is aging like WMATA’s, this is the new reality,” Dorval Carter, the president of the Chicago Transit Authority (CTA) warned a few months ago. “It is part of what you have to do to properly maintain the system. The Washington, D.C., area got kind of spoiled by the fact that the maintenance that needed to be done wasn’t done, but now you’re experiencing what other systems around the country are going through.”

Single tracking or partial line shutdowns happen on most typical weekends in Chicago. The CTA shut down the southern half of one of its lines for nearly a year to overhaul it. New York City is planning on shutting down a subway tunnel connecting Manhattan and Brooklyn that was damaged by Hurricane Sandy. The project will take a year and a half, leaving the 225,000 riders who take the L line under the East River every day scrambling for new routes. In the San Francisco region, the Bay Area Rapid Transit rail system, which opened a few years before the Washington Metro, also has shut down lines for weekend work, and its riders have encountered unexpected delays because of mechanical failures. After one particularly frustrating experience back in March, an agency spokesman posted a blunt message to riders on its @SFBART Twitter account: “BART was built to transport far fewer people, and much of our system has reached the end of its useful life. This is our reality.”

Earlier closing times and long delays have meant fewer customers.
Transit executives who have brought back struggling systems emphasize the need for both time and money to make the turn-around possible. Andy Byford, the CEO of Toronto’s transit system, whose subway is slightly larger than Metro’s, told his board that he needed five years to turn his agency around. Metro’s general manager, Paul Wiedefeld, predicts it will be a year or two before Metro passengers notice improved service.

Wiedefeld, who at different times has headed both Baltimore’s airport and its transit system, took over at Metro less than a year ago. The search that ended with his hiring had taken more than a year, and it exposed deep divisions on Metro’s unwieldy multi-jurisdictional governing board. Board members from Maryland and the District of Columbia wanted a financial expert; representatives from Virginia and the federal government wanted a more conventional transit executive. The in-fighting and seemingly intractable problems at the agency scared off many candidates. So when the board finally settled on Wiedefeld, the news was a relief. His appointment was roundly cheered.

Wiedefeld vowed to make safety his top priority. The first indication that he meant that as more than just a platitudinous came when a blizzard hit the capital region in January of 2016. The new Metro executive shut the entire system down for a day. Although not unprecedented, the closure was noteworthy for a system that stayed open even on the day of the 2001 terrorist attacks that hit the Pentagon.

Then Wiedefeld shut down Metro rail service a second time, just two months later. This time, though, the concern was for the safety of Metro’s own equipment. A fire on Monday, March 14, had caused extensive rush hour delays. Disturbingly, the fire started in a similar fashion as the one in 2015 that resulted in a fatality. Both were caused by faulty jumper cables, which carry electricity between separated segments of the third rail that powers Metro’s trains. The day after the March fire, Wiedefeld took the drastic step of ordering a system shutdown without giving riders even a day’s notice. Metro used that closure to inspect 600 jumper cables throughout its system. “When I say safety is our highest priority, I mean it,” Wiedefeld said at the time. “That sometimes means making tough, unpopular decisions, and this is one of those; for sure: I fully recognize the hardship this will cause.”

Looking back, Wiedefeld says he made the decision, in part, because he couldn’t get reliable information about the condition of the other jumper cables. “It wasn’t that people weren’t trying to give me the information or were hiding the information;” he says. “In some cases we just didn’t have the information, and I just wasn’t comfortable with that.”

A few months later, Wiedefeld made clear that the daylong shutdown was just the beginning. He unveiled a plan, called SafeTrack, that seeks to cram three years’ worth of track maintenance into a single year. Since June, Metro crews have been using shutdown time on the tracks to replace rails, rail ties, insulators, fasteners, studs, grout pad, power cables, switches and signals. They have welded joints, repaired platform lights, inspected fiber-optic cables, and cleared trash and weeds.

For riders, the program has meant earlier nightly closing times, long delays and fewer customers. Ridership declined during the first three months of SafeTrack by 15 percent compared to a year earlier, a far steeper drop than the 1 percent average in the years since 2010, and something the cash-poor system definitely does not need right now.

Even when the “safety surges” are complete next spring, the subway system will still have a long list of maintenance and repairs left to tackle. Large-scale work, such as fixing a leaky tunnel 200 feet underground near the Dupont Circle station, will still be needed. “We are not back in 1976 [when Metro opened]. We’re a 40-year-old system,” Wiedefeld says. “Track is just one of the issues we have to deal with. We have system issues. We have power issues. We have lighting issues. Those are just ongoing issues that we will have to deal with. But we had slipped so far on one of the primary elements of infrastructure—on the track—that we have to do something to get it to a state where we can just maintain it.”

Once SafeTrack is completed, Wiedefeld wants to cut back Metro’s hours for an indefinite time, most likely by reducing late-night 200 feet underground near the Dupont Circle station, will still be needed. “We are not back in 1976 [when Metro opened]. We’re a 40-year-old system,” Wiedefeld says. “Track is just one of the issues we have to deal with. We have system issues. We have power issues. We have lighting issues. Those are just ongoing issues that we will have to deal with. But we had slipped so far on one of the primary elements of infrastructure—on the track—that we have to do something to get it to a state where we can just maintain it.”

Once SafeTrack is completed, Wiedefeld wants to cut back Metro’s hours for an indefinite time, most likely by reducing late-
night service. His goal is to give crews an additional eight hours a week to work on the tracks. It might not sound like a lot, but Wiedefeld hopes the extra time will generate more productivity. Currently, when Metro is closed for five hours a night, workers spend most of their time moving trains back to the rail yards and moving heavy equipment to the areas where it’s needed. Then, they have to move everything out of the way before service starts again in the morning. With all of that activity, a work crew sometimes gets as little as 90 minutes of actual repair time. So an extra hour or two could actually have a big impact, or so Wiedefeld argues.

Shrinking Metro’s schedule, though, has not been an easy sell. It would essentially mean rolling back the subway system’s hours to what they were in 1998. The following year, Metro extended weekend service until 1 a.m. In 2007, it started running weekend trains until 3 a.m. The move was popular with passengers and with restaurants and bars that catered to the D.C. nightlife scene. The longer hours helped revelers stay out later, but they also helped service workers get home after a late night at work. A local business group says scaling back service could cost 2,000 to 4,000 jobs in the District alone, and could reduce sales tax revenues to the city by $8 million to $12 million a year.

A group of elected officials from two suburban Maryland counties wrote a letter to Wiedefeld opposing any permanent shortening of hours. They raised the needs of service workers to get home and the public safety benefits of keeping drunken drivers off the road. But they also noted the potential impact on their region’s economy. The letter pointed out that many developments had sprouted up near Metro stations. “For those transit-oriented developments to reach their potential,” they wrote, “the transit ... cannot just be a commuter system to get workers to and from office buildings for 9-5 jobs, but a ‘lifestyle system’ that allows for reliable transportation for recreation and nontraditional work hours.”

Dormsjo, the District’s transportation director, also questions the need for so much closure time. Wiedefeld wants Metro to be closed 41 hours a week, which is more than similar agencies in San Francisco (34 hours), Atlanta (30), Boston (28) and Los Angeles (22.3). “What is the state of WMATA’s track and rail infrastructure that necessitates much more overnight maintenance activity than not only other big city subway systems, but subway systems built in the same era?” Dormsjo asks, pointing to the systems in Atlanta and San Francisco. “They have similar technology. They have similar rail cars. They have similar operating requirements.”

The debate over service hours offers a glimpse into the one factor that makes Metro different from all of its urban transit counterparts: management by a hodgepodge of competing jurisdictions that have been far more interested in expanding the system than in spending money on routine maintenance. Metro was conceived in large part as a way to get federal workers from the Maryland and Virginia suburbs to their jobs in the District. That is still a core responsibility. But the system has expanded to 91 stations and 116 miles of track (with another extension to Virginia’s Dulles International Airport under construc...
The tension between growth and maintenance, of course, is not new. It has been a recurring issue at Metro for decades. Metro’s safety record—which has long been criticized by safety inspectors—came under especially heavy scrutiny after two of its trains collided in June 2009, killing nine people, including one of the operators. In its investigation of the crash, the National Transportation Safety Board determined that the immediate cause of the accident was a faulty circuit in the system that controls the trains. But a contributing factor, the investigators said, was the longtime “lack of a safety culture” at Metro.

The devastating accident and the damning conclusions led to major changes at the agency. Wiedefeld’s predecessor, Richard Sarles, launched a five-year effort to fix up the subway system’s dilapidated infrastructure. Congress pledged to spend $1.5 billion over a decade on capital improvements, with Metro’s local jurisdictions matching that money. The money helped Metro start replacing older subway cars, like those in the crash, that were part of its original fleet. It also paid for more track improvements. That work required reduced service on nights and weekends, and WMATA’s ridership, which had been steadily increasing for years, began seeing declines. Still, it seemed that Metro’s fortunes were improving.

Then, just days before Sarles stepped down, came the disaster. The accident was a faulty circuit in the system that controls the trains in the system once they heard reports of smoke, and then were unable to move the smoke-filled trains for more than half an hour. Train operators didn’t know how to turn off the onboard fans that were bringing smoke from outside into their cars. First responders didn’t know where to go when they arrived on the scene, and the fire department’s radios didn’t work in the tunnel. The safety turnover that so many people thought was taking place at Metro seemed not to have taken place at all.

“What the heck was going on from 2010 to 2015?” asks Dormsjø. “Where did all that time and money go? The customers have been experiencing a lot of service outages for repairs, so what was going on? The management has been a little circumventing about that, other than to say the low-hanging fruit was being plucked.”

If six years of service disruptions failed to improve much at the agency, there’s real reason to question whether a year of safety surges and indefinite early closures will do the trick.

B ut is the fundamental issue sloppy maintenance practices, or is Metro’s dysfunction ultimately a question of money and governance?

“This region was not making the investment that WMATA needed going back 15 to 20 years. Now we’re paying for it,” says Chuck Bean, executive director of the Metropolitan Washington Council of Governments. Bean is hopeful that Wiedefeld can provide the needed management changes, and the board members can focus on regional needs rather than parochial issues. Then Metro can generate support for new funding by emphasizing its role in economic development and improving residents’ quality of life. “Funding Metro will be seen as a good return on investment,” he says.

Christopher Zimmerman, a former Metro board chair, is less optimistic. He says the agency repeatedly asked its participating jurisdictions for money to fund upkeep and improvements that would make its operations run more smoothly. But local officials balked at the price. Years ago, after Metro completed building its original 100-mile plan, the jurisdictions objected to making the improvements necessary for Metro to preserve its share of commuters over the next few decades. “There was never a clear intention to even maintain the share of Metro in the region with growth, and there are consequences to that,” Zimmerman says. “These are the consequences. The biggest problem we have as a region is that we want the easy way out, so we are forever blaming whoever is the general manager now. Our real problems aren’t there. They’re shared by lots of people in the region, ultimately everyone in the region.”

Citizens and elected officials often hear about Metro’s problems and then decide that the system shouldn’t get more money until it gets its act together. Zimmerman doesn’t buy that. “It’s like not giving the patient any medicine until they get better,” he says. “It’s the disconnect between the service we all say we want; he adds, and the “political will to pay for something.”

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Earlier this year, Washington state lawmakers got a wake-up call. A tax incentive package they’d approved in 2013 for aerospace giant Boeing—largely regarded as the most expensive incentive deal in history—was actually on pace to surpass its estimated $8.7 billion cost. According to a Department of Revenue report, the deal, which extends to 2040, had already amounted to half a billion dollars in giveaways in just the first two years alone. In other words, the state was losing out on a whole lot more money than it had planned.

And the kicker? Just months earlier, Boeing had announced plans to cut roughly 4,000 jobs in Washington. The year before, the company had transferred thousands more jobs out of the state. Some lawmakers were livid, openly contemplating whether the state should consider revoking the tax breaks if the company didn’t add back some jobs. (Boeing, for its part, says it has continued to invest in the state, including $1 billion last year for a plant to build its new 777X aircraft.) But on the whole, response from officials and local media was measured. Most lawmakers said that in the bigger picture, the company was still good for Washington. While “deeply disappointed” in the job losses, state Sen. Reuven Carlyle, who has long pushed for greater transparency in the state’s incentive deals, says he still stands behind the Boeing agreement. “The overall return on investment for taxpayers, including ensuring the future of aviation in our state,” he says, “is overwhelmingly strong by any standard or definition or criteria.”

The fact that Washington lawmakers can even have this conversation puts them at an advantage over most other states’ legislators. In the vast majority of states, officials simply do not know how well their tax incentives programs are working, or how much the deals are actually costing them. They don’t have the data. Washington does, thanks to a tax preference auditing program, already one of the most robust in the nation, that was made even more transparent with the passage of a 2013 law. For the first time, lawmakers and citizens know just how much individual companies receive...
in tax benefits—in other words, how much the state gives up in foregone tax revenue from them.

Some other states have begun to take a harder look at the incentives they give out. Delaware has initiated a biennial tax preference evaluation. Louisiana takes a yearly look at key incentive programs. Most states, however, just haven’t reported that kind of information with any sort of regularity.

But that’s about to change. New nationwide accounting rules now require state and local governments to report all economic development incentives programs—like Boeing’s—as foregone tax revenue. Beginning with fiscal 2017’s annual financial reports, the Governmental Accounting Standards Board (GASB) is requiring governments to report things like the total number and value of tax abatements that year, the criteria that businesses must meet, and how the government will get that money back if the goals aren’t achieved (commonly referred to as clawback provisions). Reporting the annual value of these abatements will clearly show their effect on governments’ bottom lines.

In terms of transparency, the impact of this accounting shift will be seismic. One reason Washington’s discussion about tax breaks is so intense is because it has an incredibly high number of them compared to other states: nearly 700 separate incentives programs, up from just over 500 a decade ago. But every state has plenty of its own programs. One prominent estimate, calculated by The New York Times in 2012, figured that state and local governments give up more than $80 billion annually in corporate tax breaks. While that estimate includes some measurements that the new accounting rules won’t cover, the new regulations will still highlight billions of dollars that governments forego every year.

Washington offers a sneak peek at the debate other states and localities could soon be having. State tax deals are public information, but they tend to trickle out in one-off reports and news headlines; most states don’t collect or report on them annually in any kind of comprehensive way. And few places really review clawback provisions once a deal is in place. Now, lawmakers and citizens everywhere may find themselves engaged in the kinds of conversations that have taken place in Washington state for the past decade, an ongoing attempt to assess whether tax incentives are really worth what states think they are.

States have offered incentives to companies for decades, either to entice them to move there or convince them to stay. The tax breaks have long been public information, but the practice has gotten more scrutiny in recent years because of the growing number of eye-popping deals. Since 2008, the average number per year of deals valued at more than $75 million has doubled, compared to the previous decade, according to Good Jobs First, which follows corporate tax subsidies. Meanwhile, their aggregate annual cost has roughly doubled as well, averaging around $5 billion. In addition to the Boeing deal, the list includes Nevada’s $1.25 billion tax break that wooed Tesla Motors in 2014 and an income tax break Oregon awarded to Nike in 2012 worth approximately $2 billion over 30 years.

Critics debate whether these deals are good policy—or whether they even really work. Some say they’re simply a Band-Aid approach to compensate for a government tax structure that isn’t business-friendly. Others say that the incentives don’t actually result in any net economic gain because corporations simply move around like pieces on a chess board. One example of that futility is in metropolitan Kansas City, which straddles Kansas and Missouri. The two states have long competed against each other to woo businesses across the state line—AMC Theatres, Applebee’s and JP Morgan Retirement are just a few businesses that have crossed the border in recent years.
But whether or not incentives are smart policy, it’s been difficult for most states to even say whether they achieved what they were supposed to, thanks to a lack of transparency and accountability on the deals. Greg LeRoy, Good Jobs First’s executive director, says he often holds up Washington state as a good example of accountability, particularly for its history of annual reports on its tax incentive programs. The regular audits were the indirect result of a citizens’ ballot initiative in 2005 that required the state auditor to conduct regular performance audits of state and local government entities, a year after that passed, legislation was passed that put Washington’s tax preferences on the list of regular audits. The legislative audit office typically evaluates about 25 tax incentive programs each year, looking at the stated purpose of the program and determining whether or not it’s meeting that goal. The office then presents its recommendation to a seven-member citizen commission, which hears public testimony on the audit. Both the audit office and the citizen commission present their findings to the legislature.

This process has led to real changes in Olympia over the past decade. On 12 occasions, either the audit office or the citizen commission has recommended that legislators get rid of a certain tax break; on nine of those occasions, the lawmakers agreed. They also terminated two other programs and allowed an additional eight to expire based on audit findings. One of those was a high-tech research and development tax credit for capital investment and operating expenditures. The audit team, working with outside economists, analyzed how many new jobs could actually be attributed to the credits. “The basic finding,” says legislative auditor Keenan Konopaski, “is that preference does create some jobs, but the job effect is not very big. It provided a solid piece of information, and I think that was enough to start a debate on, ‘Is it worth the price tag?’”

The audits were making a difference, but they also unearthed a consistent problem: It’s hard to track the progress of a program when lawmakers don’t outline what the intended effect is supposed to be. More than a third of the tax incentive audits simply recommended that lawmakers go back and clarify what it was a given program was supposed to achieve. “In many cases we were pretty lazy in past years, rubber-stamping a company’s request,” for a tax break, says Sen. Carlyle, who was the author of the state’s tax break transparency law. “We didn’t have vigor.”

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For the audit process to have real teeth, it was clear to Carlyle that the state needed more transparency and specificity regarding its expectations of what companies would do and what those expectations are for any future tax incentive program. It also meant, for the first time, that incentive data would be linked to specific companies, which led to the new disclosures about Boeinging from the state Department of Revenue. “Transparency categorically changes the conversation to, ‘What’s the value and return on investment?’” Carlyle says. “In other words: Does the damn thing work?”

That’s a question most states can’t answer right now. In most places, tax incentives are more than ever on the books, they’re rarely tracked with any consistency. Back in 2000, Good Jobs First released a report that looked at 122 audits of state economic development programs in 44 states. It found that auditors were having trouble doing their jobs because “they are hampered by lack of data and objectives.” Things have improved somewhat since then, says LeRoy, but it’s been a painstakingly slow process. Massachusetts, for example, has tried—so far unsuccessfully—to get the authority to see business tax returns so she can audit the effectiveness of incentives programs.

Now that governments will be required to report on their tax breaks with greater transparency, they could start to look more like Washington—to a point. The new rule, known as GASB 77, doesn’t require governments to analyze their tax programs, as Washington does. And states won’t have to report tax giveaways on an individual company basis, as Washington has begun doing. And the rule doesn’t necessarily mean that the lost tax revenue will have any bearing on budget discussions. Even Washington doesn’t use the information in budgeting very often, except during times of shortfalls or funding crises.

But GASB 77 does require states to tally up all their incentives as lost revenue. And it does call for reporting clawbacks. Officials must outline what their expectations are when a tax break is offered, and if those expectations aren’t met, the tax incentive may be revoked. Governments without a history of tax break transparency will likely have sticker shock when the full impact of their foregone tax revenue is released. States like Washington, says LeRoy, are better positioned. “States where they have already had the big debates will perhaps be out the gate sooner,” he says.

“It’s quite a bit more and more prepared to take advantage when the data comes online.”

The full impact of these incentives will hit most governments beginning later next year when fiscal 2017 reports are released. But it will likely take a few years for the data to sink in, as it did in Washington. It’s important to remember that the evolution in Olympia was a 10-year process: tax program audits that led to greater transparency, which led to more specific clawback provisions and expectations with company-specific reporting. That will likely be the pace for other states going forward, even those that want to move quickly on tax transparency.

And none of this necessarily means states will come to see tax incentives as a bad idea. Indeed, as the conversation in Washington has matured over the past decade, many people have taken a more measured view of tax breaks. Rather than eyeing them suspiciously as giveaways, the release of regular information has allowed lawmakers—and to some extent the public—to see them as an investment.

That, says GASB chair David A. Vaudt, is the whole point of requiring incentives reporting: to provide a truer, fuller picture of a government’s financial health. Officials will be able to see tax breaks as not just one-offs, but as investments that impact their bottom line. It’s also up to each government to decide what to do with the new information. But eventually, lawmakers everywhere could be asking the same questions those in Olympia are now: Was our investment worth the price?
Keeping Tabs

A growing number of states are monitoring the fiscal health of their cities and counties—and the localities seem to appreciate it.

When New York state released the latest scores for its fiscal stress monitoring system this fall, a few local governments received a bit of unwanted news. Two cities (including Albany), four counties and two small towns were deemed to be under “significant fiscal stress”—the system’s most severe designation.

Those localities are hardly the only places to find a spotlight being trained on their fiscal woes. A growing number of states are either establishing new systems or strengthening existing initiatives aimed at monitoring the fiscal health of their localities. In all, a recent Pew Charitable Trusts study found that 22 states regularly review local government finances to detect fiscal distress or assess fiscal conditions.

States have had plenty of reasons in recent years to want to keep tabs on local governments’ fiscal health. Municipal bankruptcies, while extremely rare, sounded the alarm in some states. In others, jurisdictions sparked concern when they missed debt payments. “There was this wake-up call moment in multiple states,” says Mary Murphy, who co-authored the Pew report. “The last few years have been especially important for thinking about these concerns.”

In 2013, New York State Comptroller Thomas DiNapoli initiated a system assessing a series of financial indicators, such as operating deficits and year-end fund balances, along with a different set of environmental indicators that consider a municipality’s demographics, property values and a range of other measures. In all, 59 local governments merited one of three designations indicating varying levels of stress in fiscal 2015. That’s a relatively small share of municipalities in the state, so being on the list acts as an added impetus for local officials to get their financial house in order.

Nevada added teeth to its existing system last year, formalizing a process that requires local officials in designated “fiscal watch” jurisdictions to appear before a state oversight committee; just one county in the state is currently under watch. Recent legislation also expanded the state’s role in overseeing municipalities with “severe financial emergency” status—a designation that hasn’t been applied since 2009—such as approving a locality’s employment contracts.

Keeping an eye on local governments’ finances helps a state better distribute revenues and detect potential problems down the road. It also tends to make ratings agencies happy: Moody’s Investors Services noted in a report that it tends to go easier on troubled local governments if they’re in states with strong oversight and established intervention policies.

Fiscal monitoring systems take vastly different forms. Some are part of annual budget approval processes, as in Nevada, where all local governments submit tentative budgets to the Department of Taxation to check for technical errors or improper fund transfers or failing to appropriate enough money for debt service. It’s not uncommon for localities to need to tweak their budgets. The state according to the Pew report. That helps ensure continuity as administrations come and go and provides for consistent tracking. Other states, such as New York, simply collect annual financial data for analysis. These monitoring programs aren’t necessarily new—efforts in many states date back several decades. North Carolina maintains the country’s oldest system, adopted in the 1930s.

One of the more robust systems is Tennessee’s. There, every city and county must submit its budget to the state, which reviews them for red-flag issues such as improper fund transfers or failing to appropriate enough money for debt service. It’s not uncommon for localities to need to tweak their budgets. The state
Comptroller of the Treasury reports it most recently requested 20 to 30 percent of counties to make adjustments to their budgets before approval. A state analyst is assigned to each individual government, serving as a fiscal coach.

Tennessee’s arrangement is more hands-on than most other states, but officials there say it helped them weather the recession better than some other places. “We don’t want to stigmatize [localities],” says Ron Queen, a manager in the Office of State and Local Finance, “but to have a very proactive system.”

Tennessee maintains an internal watch list and tracks measures informally. In recent years, though, more states have begun publicizing the results of fiscal analyses, to raise awareness of municipalities’ fiscal challenges. The Ohio Auditor’s Office, for example, plans to launch a formal financial health indicators system later this year, and North Carolina created an online interactive benchmarking tool. Many produce annual reports on municipalities’ fiscal health.

Being slapped with an unflattering label by the state can be unwelcome publicity for a city or county. But local officials generally express support for these monitoring systems, Pew’s Murphy says. In Iowa, localities pushed for a state law that toughened reporting requirements for smaller jurisdictions. Monitoring systems are particularly valuable for small jurisdictions that lack the resources or technical expertise to conduct their own fiscal analyses.

In Connecticut, local officials sit on the board of the state’s oversight commission. “It goes a long way toward alleviating concerns that this is just some bureaucratic organization that doesn’t understand a municipality’s fiscal situation,” says George Rafael of the Connecticut Conference of Municipalities.

Pew further recommends that states provide local governments a formal role in the monitoring process, emphasize training for local personnel and interact with municipal officials throughout the year—not just when it’s time for an audit.
Hickenlooper’s Fellows

Colorado’s governor has a plan to recruit high-level corporate leaders.

There’s a shortage of men and women ready and able to fill high-level jobs in state government. In part, this is from leaks in the talent pipeline for top positions: Mid-level managers tend to leave the public sector for higher-paying jobs in corporate America.

One way to shore up the ranks of available talent is to scout the executive ranks of the private sector. Although Colorado has hired from corporate America in the past, Gov. John Hickenlooper is pushing an innovative effort called the Governor’s Fellowship Program.

The program taps leaders in the private sector with the needed competencies. It then has them meet with a cadre of instructors at the highest levels of state government to learn about public governance and how it differs from the private sector. Hickenlooper says the goal is to give the next governor, whether a Republican or Democrat, a list of top-notch people ready and willing to work in the public sector. Other governors, including Jack Markell of Delaware and Gina Raimondo of Rhode Island are looking into similar programs in their states.

Hickenlooper chatted with us at length about the fellowship effort. The following interview has been edited for both clarity and length.

Why bring men and women with corporate experience into high levels of the public sector?

The best-trained leadership in this country is in business—something like 75 percent of all the people with advanced leadership degrees are in business. They are trained in how to use data to get results; how to motivate the workforce; how to measure outcomes. I don’t diminish the importance of people with experience in public affairs. We need both. But often you see governments insulated from the world of the private sector.

What inspired the program?

Geoff Smart, who helped me hire people when I first came into office, wrote a book called Leadocracy. One of the points he made is that strong leadership is the ultimate lever for good in the world, but we don’t have a process for exposing people in the private sector to government.

Is this a government program?

The first thing we did was move it out of government. We [turned it] into a nonprofit, which isn’t funded by the state but by contributions from the business community.

How much time are the fellows required to put in?

The fellows work about one full day a month. They have class work that is highly curated. We make sure the speakers are high level: former governors, mayors and chiefs of staff.

What kinds of subjects are they covering?

The fellows will be exposed to real government problems in real time—everything from the mundane to how we reinvent our workforce training program. They’ll look at streamlining the wait time for motor vehicle licenses, managing a budget, dealing with the media.

In the first couple of years, every governor will have to deal with a couple of natural disasters. It’s the nature of life. So how do you respond to a natural disaster, whether it’s a flood or a wildfire or a tornado?

Do the fellows guarantee that they’ll come to work for government after they’ve finished the program?

We’re not compelling them to sign a document, but the expectation is that each fellow will spend two to four years serving in a cabinet department or running a large nonprofit that works with state or local government.

By Katherine Barrett and Richard Greene
Can you really attract people from the private sector?  
We just brought in Donna Lynne to replace the lieutenant governor, who had resigned to take another job. [Lynne] was the executive vice president for Kaiser Permanente. She went from making more than a million dollars a year to getting something around $160,000. That’s a gigantic pay cut. But she’s doing something very important. The people you get to come to work for the state are people with a genetic inclination toward public service, toward making the world a better place.

Where do you find people with those attributes?
You have to network. That genetic inclination manifests itself early on. The first 22 people we have in this program are high performers. They’re young and from Colorado’s largest, most successful companies.

What’s the primary benefit of the fellowship program?
It lets people in the private sector have direct exposure to government—what it looks like when you’re really working in the governor’s office. Many private leaders are surprised by how hard those in public service work. The jobs aren’t easy.

How will you measure the success of the program?
When we do our annual polling of residents, we ask if the state is delivering good service, using their tax dollars wisely. And you can imagine that the answers we’re getting aren’t very enthusiastic. While this won’t show results in two years—as would be the case with any management-education program—we’re hoping it will in five years or so.

What concerns do you have about the program?
I don’t have many worries. But I do have a regret in that I’ve only got two and a half more years. So, just as this is taking off, I’ll be on my way to my next adventure.

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BEST GOVERNMENT

By Mark Funkhouser

Leading in a 20-Year Winter

When times are difficult, people need perspective and control.

It may feel like autumn, but it’s winter in America. In her 2014 book, ReGENERATION: A Manifesto for America’s Next Leaders, the economist and futurist Rebecca Ryan builds on the concept of American “seasons” introduced by Neil Howe and William Strauss. Ryan writes that, much like the seasons of the year, “American life and society cycle through seasons, too”—and that each lasts about 20 years.

By that calculation, this is America’s fourth winter. The first was the period of the Revolutionary. The second was the Civil War and Reconstruction. And the third was the Great Depression. Our current winter began with the terrorist attacks of 9/11. In winter the crises seem to come in waves. In this case, after 9/11 came the end of America’s longest running bull market, in 2002, which prompted Wall Street to invent new tools to make money. And that led, in September 2008, to the beginning of the Great Recession.

If the pattern holds, spring will come again around 2020. For now, however, we’ve still got to deal with winter. “Leaders play an important role during winter,” Ryan writes, “to help Americans understand the crisis, and our way forward.” Leading in winter requires us to be pragmatic and hardheaded, but never downdraft or cynical. Leaders, in my view, should be brutally honest about the current circumstances but also about the basic strength and resiliency of ordinary people. Ryan cites Franklin D. Roosevelt during the Great Depression, calming Americans with his fireside chats. “He spoke,” she writes, “in plain language to explain the crises and his approach to them.”

Ryan emphasizes two things winter’s leaders should provide: perspective and control. You want people not to give in to fear and fall into nonproductive pan demonium. You can do that by reminding them that we’ve been through these kinds of crises before and always made our way out. After last year’s horrific church massacre in Charleston, S.C., for instance, Mayor Joseph Riley worked to give the city’s shocked residents a sense of control by opening a bank account where they could contribute to help people impacted by the shootings.

To those two points, I would add a third, which is about giving people space in which to grow. In his book Believer: My Forty Years in Politics, David Axelrod describes a discussion with Harold Washington, Chicago’s first black mayor, about Washington’s racially polarized conflict with two white aldermen, Edward M. Burke and Edward Vrdolyak. Axelrod writes that “it was only Vrdolyak whom the mayor loathed. I asked him why. ‘Because I think Burke is the product of his upbringing and environment. He’s an honest racist.’” As Axelrod notes, Washington didn’t live long enough to see Burke adopt an African-American son. For winter to change to spring, people have to change, and you have to give them space to do that.

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ReGENERATION: A Manifesto for America’s Next Leaders
By Rebecca Ryan

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Chicago Gets a Fitbit
New sensors could redefine what it means to be a smart city.

At first glance, the smart city movement seems quite robust. The media is full of stories about cities with smart utilities, smart parking systems, smart streetlights and apps for all sorts of smart services, such as next bus arrival times or trash bins that “ask” to be emptied when sensors detect they’re full.

But dig a little deeper and it becomes apparent that many of these services are simply pilot projects testing a technology or apps that may make things a little more convenient for the public but don’t get at the root of a city’s problems.

That’s the criticism that’s being leveled at the smart city trend these days. Some are warning that cities are in danger of developing a fetish for apps and sensors and failing to address the real problems of modern city living. Many of today’s app solutions in cities are nothing more than a “Band-Aid slapped over a problem,” according to Julian Agyeman, a professor of urban policy at Tufts University.

But the city of Chicago wants to change that. An effort is underway that could answer a number of key questions about what makes a city smart, as well as provide a road map to developing solutions that get at the causes of a number of urban issues, such as health, the environment and traffic congestion. The University of Chicago, Argonne National Laboratory and the city announced in August the launch of an “urban sensing” project that will collect, analyze and share data on air quality, traffic flow and hyperlocal weather conditions, which can be used to support energy efficiency in neighborhoods. Call it a Fitbit for the city. The goal is to place 500 of the devices around the city by 2018.

One problem the project might help address right off the bat is how best to place sensors. “There’s not any good science of where you put sensors in a city to answer specific questions,” says Charlie Catlett, head of the project, which is dubbed the “Array of Things,” and director of the Urban Center of Computation and Data at the University of Chicago.

There’s also not a lot known about the sensors’ reliability, cost and how best they should operate. “Other questions have to do with the number of sensors needed to get the right information and what types of sensors are best at measuring different type of data values,” Catlett says.

The first 80 sensors installed will be used to collect data that will help researchers figure out what is triggering high rates of asthma in certain neighborhoods. They’ll also be used to measure traffic flows on city streets in order to improve traffic safety, reduce congestion, and suggest safe routes for pedestrians and bicyclists. “Cities have data on traffic in and out of cities, but not through downtown areas,” Catlett says.

The project is also an attempt to understand the nontechnological quandaries of becoming a smart city: What types of governance and policies should a city focus on? How important is privacy when cameras are part of a project? What is the best way to engage a community to get their buy-in?

In the case of Chicago, engagement started early. What’s more, the project directors decided to make all the data open and available to the public. They also decided to set up a privacy review group to deal with questions or issues as they arise. Catlett notes that the cameras are not able to identify individuals, and the sensors don’t collect private information.

As an indication of just how significant Chicago’s project is to other municipalities, Catlett says that even before the first sensor was turned on, he had received inquiries from more than 60 cities, including several international jurisdictions, about the results. “There’s huge interest in this.”

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During this election season, the presidential candidates have offered up their federal tax reform plans which, depending on who you asked, would either provide much-needed relief for hard-working families or tax America's middle class out of existence. But there’s an important aspect of the conversation that has been left out. Neither of the candidates have explained how their plans would really affect state and local governments.

Let me flesh this out. Under that hoary old concept of reciprocal immunity, no level of government should be taxing another government’s essential activities, like, say, financing of public infrastructure—a critical issue in the decade to come and one the states have increasingly funded. The Congressional Budget Office tells us that public spending on transportation and water infrastructure totaled $416 billion in 2014. State and local governments provided $320 billion of it; the federal government, only $96 billion. According to the Boston Federal Reserve, annual capital spending by state and local governments over the last decade accounted for 12 percent of their total spending. Capital investments account for 14.4 percent of outstanding state and local long-term public debt.

As to the federal government, this year will be the sixth year of austerity in domestic appropriations, and the cumulative effects on transportation infrastructure are dramatic: Transportation Department programs funded through annual appropriations are projected to be at their lowest in 14 years. So when a new president comes into office in January, how might campaign tax reform promises affect the ability of states and local governments to make critical investments? A key factor will be whether a new administration seeks to interfere with the country’s strong tradition of state tax sovereignty—a challenge as old as the republic. It was Alexander Hamilton—not the one on Broadway—who wrote that “individual States should possess an independent and uncontrollable authority to raise their own revenues for the support of their own wants ... any attempt on the part of the national government to abridge them in the exercise of it would be a violent assumption of power unwarranted by any article or clause of the Constitution.”

Apart from the muni tax exemption—which helps states and localities to borrow money for infrastructure—eliminating the deduction for state and local taxes is one campaign promise that could most directly impact those governments. It would mean that Americans pay federal taxes on their state and local taxes. So it is that presidential candidate Hillary Clinton proposed limits on high earners’ deductions, and candidate Donald Trump said he would cap the value of individual deductions. He also promised to “reduce or eliminate some corporate loopholes” and cap the deductibility of business interest expense. The target of their proposed changes involve deductions that currently serve to ensure the federal government does not, in effect, impose federal taxes on state property and sales and use taxes. If implemented, they would undo and reverse important provisions in our federal tax code. These are provisions that were intended, as Aretha Franklin used to belt out, as R-E-S-P-E-C-T for states and local governments.

Thus, with a new president moving into the Oval Office in January, campaign promises could transform the authority of state and local governments to finance public infrastructure and raise revenues to meet critical public needs. And it would come at a particularly inopportune time: Total state general fund tax collections rose only 2.3 percent in the last fiscal year, less than half of the increase in fiscal 2015—or what Rockefeller Institute budget analyst Lucy Dadayan calls a “red flag” for states.

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Tiny houses are having a moment. On TV, there are at least six shows devoted to the topic. Off the air, the craze has spread from the environmentally and pocketbook-conscious house hunter to the government. This summer, Yuba County, Calif., opened 20 tiny houses for the homeless. Using $100,000 in taxpayer money and raising the rest from nonprofits, the county designed the shelters to be temporary. Participants are allowed to stay for 21 days, during which time they’re evaluated and offered a variety of services that include health care, meals, employment services, showers at a nearby facility, legal assistance, mental health services and more. The tiny houses are open to individuals currently living in encampments along rivers surrounding Yuba City and Marysville. The 8-by-14-foot modified Tuff Sheds have two single beds inside, but no running water or electricity. The shelters are part of an effort to eliminate homelessness in Yuba County, which is not the first place to undertake such a program. There are tiny house villages for the homeless in Austin, Detroit; Fresno, Calif.; Portland, Ore.; and Seattle, among others. —Elizabeth Daigneau
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