HOT TOPIC: Public Safety & Justice

1 in 31 Adults under Correctional Supervision: How are States Coping?

3 Ways State Courts Survive with Less Funding

Budget Cuts Stress Public Defense Systems

5 Tips for Laying Foundation for Mental Health Courts

A Pot of Savings for Decriminalizing Pot?

“...The reality is many defendants had co-occurring disorders and so I often had to lock them up because I had no place to put them.”
—Ohio Supreme Court Justice Evelyn Lundberg Stratton
Come to Sun Valley this Fall!

Take in the golden season in Hemingway country. Spend your days talking about key issues facing Western legislatures. And after the day’s work is done, enjoy crisp fall weather in the magnificent Wood River Valley. *Sunset Magazine* puts Sun Valley, Idaho at the top of its Northwest fall getaways, and so should you.

**REGISTER NOW!!!!**

You may register online for the meeting and reserve your guest rooms at [www.csgwest.org](http://www.csgwest.org).

Receive a $100 registration fee discount, when you register by July 31. For more information, call 916-553-4423.

- Pollster Frank Luntz—the Language of Politics
- NPR Political Correspondent Mara Liasson
- Jeff Thredgold—Western Economy and Job Creation
- Legislative Training with Cowboy Ethics and Public Speaking for Lawmakers
- Legislative Innovations Fair
- Third Annual North America Summit
- Forums on State Finance, Education, Energy, Drug/Mental Health Courts, Western Trends, Environment, Water and Trade
- Special Women in Politics Evening
- Scenic Tour of Redfish Lake and an Evening at Bald Mountain’s River Run Lodge
- Grand Finale: Murder Mystery Dinner Theater
Ohio Supreme Court Justice Evelyn Lundberg Stratton, a 2010 Toll Fellow, championed an innovative approach to the lack of mental health services available to offenders appearing in her court: She created a statewide advisory committee to address those issues in the court. Under her leadership, the advisory committee has organized training programs for judges and court staff on issues related to both adult and juvenile mental illness. See story on page 20.

ON THE COVER

COVER PHOTO BY RODNEY MARGISON

JULY / AUGUST 2010

13 HOT TOPIC—BUDGET CUTS = JUSTICE GAP?
State courts are playing defense as they try to ensure justice while dealing with state budget cuts.

24 10 QUESTIONS—JUSTICE REINVESTMENT
U.S. Sen. Sheldon Whitehouse is sponsoring a bill to provide federal grant funding to help states determine the best ways to cut growth in prison and jail populations.

26 HOT TOPIC—ALONG THE BORDER
The U.S. and Mexico are working together to fight organized crime along the southern U.S. border.

42 ECONOMIC SUMMIT WRAP-UP
State leaders from across the country shared ideas on how to best deal with the economic crisis.
contents | CAPITOL IDEAS

hot topic | 13  JUDICIAL BRANCH FUNDING
State courts play defense as funding falls during the recession.

16  PUBLIC DEFENDERS vs. PROSECUTORS BUDGETS
Budget cuts put state public defense systems under stress.

18  ABOUT STATE COURTS

19  CSG JUSTICE CENTER
Program focuses dialogue on approaches that work in prisoner re-entry, criminal justice issues.

20  MENTAL HEALTH IN THE COURTS
Judges find hope in a different approach for people with mental illness.

26  WAR ON DRUGS
The U.S. and Mexico are working together to fight organized crime at the border.

29  BORDER LEGISLATIVE CONFERENCE
State officials in the U.S. and Mexico are learning from each other as Mexico transitions to an adversarial form of justice.

32  MARIJUANA DECRIMINALIZATION
Some states are considering decriminalizing marijuana, and Rhode Island Sen. Joshua Miller sees a pot full of savings in the effort.

34  AGING IN PRISON
Health care costs soar for states as inmates age.

36  PRISON HEALTH CARE
Extending health care as inmates are released from prisons helps prevent the spread of infection in the communities to which they return.

feature | 42  ECONOMIC SUMMIT WRAP-UP
State officials shared real solutions during the summit.

45  PRESCRIPTION DRUG MONITORING
A new compact could help states fight their new war on drugs: prescription drug abuse.

they said it | 5  CORRECTIONS & JUSTICE

regional roundup | 6  EAST

6  SOUTH

8  MIDWEST

9  WEST

by the book | 10  BEHIND BARS
A look at the state of state prison systems across the country.

in the know | 12  COMMUNITY CORRECTIONS
Barbara Broderick, chief of the Maricopa County Adult Probation Department and president of the American Probation and Parole Association, discusses ways for community corrections to cut costs.

10 questions | 24  U.S. SEN. SHELDON WHITEHOUSE
As a former Rhode Island attorney general, Sheldon Whitehouse knows the benefits of justice reinvestment.

straight talk | 38  CRIMINAL JUSTICE
Changes in state criminal justice systems could save money, lower crime and provide justice for everyone.

stated briefly | 40  AFFILIATE & ASSOCIATION NEWS
News from The Council of State Governments and its affiliates

how to | 46  DEVELOP SOUND CORRECTIONS POLICY
Kansas Corrections Secretary Roger Werholtz offers tips on how to avoid making policy based on the headlines.

on the road | 47  UPCOMING MEETINGS

shout out | 48  SHIRLEY ABRAHAMSON
Meet the longest-serving state supreme court justice.
Fear is a Powerful Political Force

You don't have to look much further than the evening news to know that crime makes headlines. Most local newscasts embrace the rule, “if it bleeds it leads.” State leaders are required to react to the public’s perceptions about crime. In the hierarchy of human needs, security and safety rank high and fear is a powerful political force. The opportunity to pursue rational and effective criminal justice policy is often compromised by the sensationalism and tragedy of a violent crime. In this issue we share with you information and insights designed to help empower you as a state leader to be a more effective policymaker on public safety issues. We want to look beyond the sensationalism generated by news accounts and dig deeper into what works and how states are crafting solutions that cost less and produce safer communities.

One in every 31 Americans is under some form of correctional supervision, and we lock up one in every 100 Americans. This makes America unique among nations. The cost to states is staggering and growing. Realizing they can't build their way out of their corrections system challenges, many state leaders are searching for a better way, and in many instances making great progress in reforming correctional systems while creating safer communities and spending less.

I grew up in a law enforcement family. My dad was a 25-year veteran of the highway patrol who retired as a major. My late grandfather was a career state game warden and later a local police officer. My brother was a correctional officer and now is a local police officer. My wife's first job following law school was as an assistant district attorney prosecuting sex crimes and child abuse cases. As a public servant I had the opportunity to lead reform of the state juvenile justice system and served as a member of the state sentencing commission. In the course of these experiences I have gained a tremendous respect for the men and women who work to make our states safer. There are countless numbers of talented, innovative and passionate state public safety officials who work tirelessly in the pursuit of justice. The Council of State Governments commends them for their heroic efforts.

CSG is also proud to be part of a family that has a strong commitment to public safety. The CSG Justice Center with its many partners has emerged as a leader in helping states understand and address their most pressing public safety issues. Their work on re-entry, justice reinvestment and mental health issues, to name just a few, has provided states with access to front line expertise and guidance. We are grateful state leaders have embraced the use of the CSG Justice Center in helping them craft solutions that work. We are also grateful for the many partners and funders that have sustained and supported the work of the CSG Justice Center over the years. Their investment and engagement in this work have allowed it to make a difference.

CSG also includes the American Probation and Parole Association whose focus is to support and enhance the work of those supervising offenders in the community. APPA is a national leader in effective training programs and has been a trusted resource for innovations in the field. You will find an essay by the current APPA president in this issue.

Additionally, the National Emergency Management Association is a valued part of CSG. The work of its members often involves law enforcement, firefighters and other first responders. NEMA is a recognized resource to those entrusted with keeping the public safe from acts of terrorism and other threats to homeland security.

Crime isn’t going away but states and their leaders are demonstrating a remarkable degree of innovation in crafting new and better ways of addressing crime and building safer communities. We are pleased to share some of their stories in the pages that follow.

Very truly yours,

David Adkins
“… **Law matters**, because it keeps us safe, because it protects our most fundamental rights and freedoms, and because it is the **foundation of our democracy**.”

—Solicitor General Elena Kagan, on her nomination to the U.S. Supreme Court in May

“We are looking for more ways to **suitably punish and rehabilitate** criminals while saving our prison beds for violent offenders.”

—Arkansas Gov. Mike Beebe, during a June press conference announcing the study of the state’s corrections system

“In Michigan, and nationally, **95 percent** of people in prison are getting out. The fact is we have an obligation to do everything we can to maximize public safety, because they will be getting out.”

—Michigan Corrections Director Pat Caruso, as quoted in the *Detroit Free Press*

“We’re just **throwing everyone** in there because that’s the only alternative we have. It’s very expensive and imprecise.”

—Pennsylvania Senate Judiciary Committee Chairman Stewart Greenleaf, as quoted by The Associated Press on bills that would reduce prison time for nonviolent offenders

“Runaway jury awards contributed to the climate of **jackpot justice** that made our state an unfriendly place to do business, costing us countless jobs.”

—Mississippi Gov. Haley Barbour defending tort reform in a statement from the governor’s office
GPS & DOMESTIC VIOLENCE
Connecticut Gov. M. Jodi Rell signed a bill in June to use $140,000 in federal stimulus money for a pilot program tracking high-risk domestic violence offenders with GPS, according to the Hartford Courant. The new law came from recommendations of the bipartisan Task Force on Domestic Violence created by Connecticut House Speaker Christopher Donovan, the newspaper reports.

TAX AMNESTY
With a ticker sign that said, “Time Left to Pay Up,” Pennsylvania Gov. Ed Rendell helped make a final push in June to convince delinquent taxpayers to pay taxes owed to the state, the Pittsburgh Post-Gazette reports. The program collected $101 million by early June and lured taxpayers by waiving all the penalties and half of the interest on back taxes if they paid up.

TOPIX.COM
New Hampshire Attorney General Michael A. Delaney joins 22 other state attorneys general to urge Topix.com, an Internet message board, to improve consumer protections and eliminate its $19.99 fee for what it calls a “priority review” of abusive or inappropriate posts, according to a press release. The initial investigation began in Kentucky and Connecticut.

WEBIDNG PLANNING 101
Massachusetts Attorney General Martha Coakley is featuring recommended steps for those planning weddings on how to avoid potential mishaps with wedding service providers on her blog. Her office knows of customer service complaints that happened on a wedding day, including the reception hall going out of business, the caterer not having enough food, the limo driver never showing up and the photographer becoming unreachable after being paid, according to the blog.

DRUG REBATES
Maine joins 16 other states in a joint motion in two whistleblower lawsuits against the drug manufacturer Wyeth, saying it knowingly failed to report certain discounted prices of its drugs that were required by Medicaid program laws, according to a press release. The states say the drug company avoided paying hundreds of millions in rebates to state Medicaid programs for two drugs.

ANNUAL MEETING
The Council of State Governments Eastern Regional Conference will hold its 50th annual meeting Aug. 15–18 in Portland, Maine. Visit www.csgeast.org for more information.

Delaware Proposes New Laws after Earl Bradley Case

Delaware is moving to beef up patient protection after a case where Dr. Earl Bradley, a pediatrician, was arrested and indicted on a combined total of more than 500 counts of sexually abusing and exploiting more than 100 of his young patients.

Delaware Attorney General Beau Biden’s office, Gov. Jack Markell and a bipartisan coalition of legislators filed bills in June to strengthen patient protections and improve oversight of the medical profession in response to the Bradley case, according to a press release.

The bills reflect recommendations made by separate reviews the attorney general and governor ordered, according to the press release. Both reviews found multiple instances where the system had failed and made it clear that the laws and procedures in this area were broken and needed reform.

“These bills have broad bipartisan support. They should make a real difference to protect patients, and particularly children, going forward,” Markell said.

The package includes seven bills that will:

- Double the maximum fine to $10,000 for individuals with knowledge of suspected child abuse who do not alert authorities.

To learn more about these and other developments in the Eastern Region, visit: capitolideas.csg.org and www.csgeast.org.
Southern States Could Benefit from Panama Canal Expansion

With the historic expansion of the Panama Canal looming, some are predicting cargo traffic could shift away from West Coast ports to U.S. ports in Southern and Eastern states.

The Panama Canal expansion could double its capacity, and more traffic routed through it could mean retailers and other importers may prefer to ship cargo to Eastern and Southern ports instead of offloading on the West Coast, then transporting shipments across the country by truck.

That’s according to an upcoming report from The Council of State Governments Southern Legislative Conference, “The Panama Canal Expansion and SLC State Ports.” It reviews how Southern ports will be impacted by the renewed U.S. focus on export growth in the context of the ongoing expansion of the Panama Canal.

A striking example of this trend is the record of the Port of Savannah in Georgia, according to the report. In the span of less than a decade, the Port of Savannah has climbed up the ladder to rank among the busiest ports in the nation—it’s the fourth busiest in terms of container traffic in the latest national ranking from 2009. In 2007 and 2008, more than 2.6 million 20-foot shipping containers were transited through the port. Even though this number dropped in 2009 to 2.4 million due to the crippling blow delivered to global trade by the Great Recession, this is still an impressive figure, according to Sujit CanagaRetna, the report’s author and senior fiscal analyst with CSG SLC.

In a bid to ensure that the port is prepared for future growth, most recently in the 2009 fiscal year, the port purchased four new Super Post-Panamax ship-to-shore cranes, 11 new gantry cranes and 10 electrically refrigerated container racks. The port’s two modern, deepwater terminals will make the port clear a projected capacity of 6.5 million containers by 2020.

The SLC report includes information on the potential impacts based on survey responses from 23 ports in Southern states and additional research that demonstrates the important infrastructure enhancements underway in a number of these ports.

The South

DRUG TESTS IN SCHOOLS
Students who participate in extracurricular activities could be subject to random drug testing beginning this summer if Tennessee Gov. Phil Bredesen signs a bill passed by the legislature, The Commercial Appeal in Memphis reports. According to the legislation, school districts would set their own drug-testing policies or decide if they want to participate in the program, the newspaper reports.

PUBLIC DEFENDERS
A Texas panel approved expansion of the state’s public defender program. Members of the Task Force for Indigent Defense approved a one-year, $2.2 million grant to expand the program into 55 counties, according to The Associated Press. The panel held off on a larger $27.7 million expansion due to the crippling blow delivered to the state budget shortfall, the AP newspaper reports.

COMMUNITY CORRECTIONS
West Virginia Gov. Joe Manchin awarded more than $5 million from the state’s general revenue and community corrections funds for 22 community corrections projects that give judges an option other than sending people to jail, according to a press release. Funds will be used to help local communities establish and operate community corrections programs.

OIL SPILL BILL
The North Carolina legislature is considering a proposal to eliminate the state’s cap on damages caused by any oil spill, according to the North Carolina News Network. Now, companies would pay no more than $75 million in civil penalties. The bill also directs state agencies to develop a plan in the event the BP oil spill makes it to the state’s coast and would impose stricter rules on companies seeking to drill of the coast, the network reports.

FLORIDA & BP
Florida Gov. Charlie Crist created the Gulf Oil Spill Economic Recovery Task Force to help Florida businesses and industries recover from lost business and revenues due to the Deepwater Horizon oil spill, according to Crist’s Web site. Meetings of the task force are online and available for viewing.

ANNUAL MEETING
The Council of State Governments Southern Legislative Conference will hold its 64th annual meeting July 31–Aug. 4 in Charleston, S.C. See page 47 or visit www.slcatlanta.org/SC2010 for more information.

To learn more about these and other developments in the Southern Region, visit capitolideas.csg.org and www.slcatlanta.org.
Missouri Concerned over Personal Information Picked up by Google

Missouri Attorney General Peter Koster sent a letter to Google in June asking the company to provide details on personal information it may have collected from Missourians in connection with its Street View Service, according to a press release from Koster's office.

Koster was concerned after Google said it inadvertently intercepted residents' personal information over unsecured or public Wi-Fi networks while it was collecting images for its Street View feature, according to an article in the Los Angeles Times.

“Missourians’ privacy could have been violated by Google’s tactics for gathering information,” Koster said in the press release. “We expect Google to provide information to us so we can ascertain whether there is any threat to Missourians’ private information, and take action if necessary to protect it.”

Koster’s letter asks Google to explain how the data were collected in Missouri, how that data were used, to whom they were disclosed, and what protections Google may have had in place to prevent the personal information from being used improperly, the press release said.

Koster also asked that Google not dispose of the data until his and other agencies investigating the matter had the chance to “scrutinize this situation,” the Los Angeles Times reports.

“As we have said before, this was a mistake,” Google spokeswoman Christine Chen told the newspaper.

“Google did nothing illegal and we are working with the relevant authorities to answer their questions and concerns.”

To learn more about these and other developments in the Midwestern Region, visit: capitolideas.csg.org and www.csgmidwest.org.
Washington Toughens Laws on Texting, Talking while Driving

The laws governing cell phone usage while driving in Washington just got a little tougher this summer. Following the trend for states to ban texting and using handheld cell phones while driving, Washington is upping the ante.

After a two-year grace period, police officers in the state can now pull over drivers just for texting or talking on a cell phone without using a hands-free device while driving, according to The Olympian in Olympia, Wash. Under the old law, that was considered a secondary offense and officers would only write a ticket for it if drivers were getting pulled over for something else, the newspaper reports.

But now it’s different. Drivers caught chatting on cell phones without a hands-free device can get a $124 ticket, according to The Seattle Times. The law also makes it tougher for new drivers with learner’s permits and for those with intermediate licenses—they cannot use a cell phone while driving, even if they have a hands-free device, the newspaper reports. Emergencies are an exception.

Other exceptions include people with hearing aids, making a 911 call or using a cell phone’s speaker mode and holding it in front of the mouth, The Seattle Times reports. It’s also still legal for taxi drivers, bus drivers and emergency responders to talk on radios while driving, the newspaper said.

Twenty-eight states and Washington, D.C., have laws against texting while driving, while seven states and Washington, D.C., made it illegal to use handheld devices while driving, according to The Dallas Morning News. Late last year, President Obama even banned texting and driving for federal workers on government business.
Behind Bars

The number of state prisoners declined in 2009—the first time in 38 years that has happened. State trends varied widely, ranging from a 9.2 percent drop in Rhode Island to a 5.3 percent increase in Indiana, according to “Prison Count 2010,” a new report from the Pew Center on the States. Still, about 1 in 100 adults is incarcerated in either state or federal prisons across the country, according to Pew. Meanwhile, state spending on corrections continues to grow, although the percentage of total state expenditures has remained fairly stable, according to the National Association of State Budget Officers.
Behind Bars in 2008

1 in 198 people

1 in 105 men

1 in 205 white men

1 in 83 Hispanic men

1 in 32 black men

1 in 1,471 women

1 in 2,000 white women

1 in 1,333 Hispanic women

1 in 671 black women

Source: Bureau of Justice Statistics, “Prisoners in 2008”

Corrections Control in 2007
(both in prison and under supervision)

1 in 31 people

1 in 18 men

1 in 89 women

1 in 45 whites

1 in 11 blacks

1 in 27 Hispanics

Source: One in 31: The Long Reach of American Corrections, Pew Center on the States

Under Supervision in 2008

1 in 31 adults were under correctional supervision (prison, jails, community supervision).

1 of every 45 adults were under community supervision (both probation and parole).

Source: Bureau of Justice Statistics, “Probation and Parole in the United States, 2008”
These are the most difficult times many of us have ever experienced in public service. In the 2010 fiscal year, 48 states confronted budget shortfalls. Since the beginning of the Great Recession in 2007, government agencies have had to cut their budgets, year after year, and have been tasked with providing public services with fewer and fewer resources.

Experts agree that the national economy has started a slow recovery, but states historically have their worst years just after a recession ends, as unemployment is slow to recover and demand for services remains high. In addition, many of the federal stimulus grants that have bolstered state and local government programs will be ending in the next year.

Surviving these tough times will require additional dedication and adherence to policies that support performance measurements and evidence-based practices such as community corrections. Now more than ever, the data must speak for probation and parole strategies to cut costs. Without data, community corrections cannot weather the economic storm.

**Performance Measurement**

Historically, measuring and managing performance have not been strengths for community corrections agencies. One reason is agencies are at varying places in managing data electronically. Another factor is agencies simply have not focused sufficient attention on measuring performance and reporting results. Agencies may need outside assistance such as research staff or technological consultants to measure their effectiveness.

It only takes a few carefully selected outcome measures, combined with a credible data collection process, to gain powerful information. Some agencies have management information systems that enable them to report on many performance measures, but this isn’t required. Even agencies without elaborate management information systems can begin to collect basic data on offender performance and program effectiveness.

When budget cuts are needed, performance data is an important tool that can guide the decision-making process. Are certain programs failing to make the mark? Even popular programs can be revamped or eliminated if they are not showing positive results. In addition, changes are easier for staff to accept or support when personalities and local politics are removed and it is clear decisions are based on facts.

**Evidence-Based Practices**

That said, community corrections decisions should be based on the facts. A sizable body of research demonstrates what works in community corrections—those principles and practices that reduce recidivism such as probation and parole.

In tough times, evidence-based principles can and should be used to guide rational policy and decision-making. The facts say that low-risk cases do worse if we over-supervise them, while high-risk offenders respond better with more structure and monitoring. We need to measure risk with a valid risk instrument and supervise the offender according to the results. Agencies that do this reduce costs and recidivism.

The stewards of public funds increasingly are encouraging, and requiring, the use of evidence-based practices. Some states have passed justice reinvestment legislation that aligns with evidence-based principles. Evidence-based initiatives such as the Texas Justice Reinvestment Initiative have since 2007 resulted in a stable prison population, savings nearing a half billion dollars, a sizeable drop in parole revocations, an increase in the felony probation population and a reduced crime rate.

As states struggle with enormous budget deficits, they see promise in community corrections and look to us with new expectations. The challenge is for community corrections agencies to measure their success and to support their work with evidence-based practices over the long run in order to meet new policy expectations.
BUDGET CUTS = JUSTICE GAP?

State Courts Play Defense as Funding Falls in Recession

by Nathan Dickerson

The Great Recession that started in 2007 has state courts playing defense.

That’s the way Washington State Court Administrator Jeff Hall sees it. As states slash budgets to match falling revenue, state courts are scrambling to accommodate increasingly restricted budgets.

In fact, Washington’s Justice in Jeopardy Initiative Web site says it all: “There is a justice gap, and it is growing!”

Washington’s initiative was started in 2002 to draft a sustainable and adequate plan for delivering justice in trial courts. The recession has reinvigorated the effort’s relevance as many of the services it spurred, such as increased compensation for court interpreters, are facing the chopping block.

Because of the reductions, Hall noted, “some municipal courtrooms have already gone dark.”

Washington is not alone. State courts across the country are struggling with the challenge of processing cases in a timely and efficient manner while absorbing the cuts imposed by limited budgets.

State courts are turning to three primary strategies to cope with less funding: cutting spending, raising revenue and increasing efficiency.
Cutting Spending

The judicial branch is generally distinguishable from the other branches of state government in that the majority of spending is allocated for staffing. The court system in Iowa, for example, devotes 95 percent of its budget to personnel expenses, according to an Iowa courts report from January, “Justice in the Balance.” So when courts must reduce their budgets, those expenses predominantly must be extracted from employees—one of the court systems’ key resources for delivering services.

The National Center for State Courts includes hiring freezes, salary freezes, pay cuts, court closures, furloughs, layoffs, and early retirements as examples of cost-cutting measures. All these tools can reduce budgets significantly.

In Arizona for example, the court system, “has delayed filling judicial vacancies, imposed a hiring freeze, and frozen salaries,” according to the National Center for State Courts.

Such efforts in Arizona have helped reduce the overall local and state court budget by $40 million, according to David Byers, administrative director of the courts.

Delaware courts, in contrast, have placed a hiring freeze on all but the most critical positions, such as court security.

“Vacant case processing positions, which are critical to court operations, may be left unfilled for many months, affecting the time it takes for courts to dispose of cases and morale of existing employees who end up handling the additional work,” said Patricia Griffin, administrator of Delaware State Courts.

Personnel cuts come with a cost. “…When we finish a legislative session and I don’t have to tell anyone they’ve lost their job, it’s big,” said Lisa Goodner, the state courts administrator in Florida.

Goodner was especially relieved to maintain staff in the 2010–11 budget after cuts were made in the fiscal years spanning 2007 to 2010. In these down years, Florida courts laid off 280 employees from its 3,100 person workforce, according to a report from the National Center for State Courts. Judges in Florida sustained a 2 percent reduction in pay for the 2009–10 fiscal year, which has been continued for the 2010–11 fiscal year, Goodner said.

Such sacrifices are happening across the country, according to the National Center for State Courts.

While some states have more flexibility through local funding, “reductions in state funding can have a ripple effect,” Hall of Washington said. “Local budgets are not in a position to adequately compensate for a reduction in state funding.”

Raising Revenue

Making cuts can only take the court system so far. During times of economic stress, the court systems must balance reduced budgets...
with an increased caseload. Take Florida, where the housing crisis wrought by the recession created more than 500,000 backlogged foreclosure cases.

The Florida courts have modified the fee for foreclosure cases, according to Goodner. It’s no longer merely a flat fee; it’s now proportional to the size of the loan. The Florida courts have raised $6 million from the filing fee to tackle backlogged cases. But those funds will help the courts process only about 62 percent of the backlogged caseload, Goodner said.

Some state courts have found ways to raise funds by better collecting the fees and fines they are already owed. Arizona, for example, has developed an integrated data system known as FARE to collect unpaid fees and fines. The data system will send warnings via U.S. mail to indebted individuals. If fines are not paid, the system places a hold on the debtor’s license plate. The fees can be paid at the time of renewal, even if the renewal takes place online.

Byers said FARE has helped raise tens of millions of dollars for city, county and state governments. This effort parallels a proposal states are making to have the federal government intercept income taxes to collect unpaid fees.

Some states, such as Oregon, Delaware, Arizona, New Mexico and Arkansas, are requesting a federal tax intercept to collect unpaid dollars. “(States can) intercept tax refunds for child support debts, state and federal tax debt and federal agency debt, but not for the collection of court ordered fines, fees and restitution,” an Arizona Federal Tax Intercept Proposal memo said. Intercepting these fees is significant because “Arizona courts currently possess between $500 million and $1 billion in victim restitution, fine fees and surcharges that are past due.”

Increasing Efficiency

Some states have also found ways to increase efficiency to deal with budget woes.

To offset staff cuts, information technology—primarily e-filing—has helped state court systems deliver more services with fewer employees and reduce storage costs.

Arizona has been using the AZTurboCourt.gov system for years, and it has proved particularly beneficial in this difficult economic climate. The system has become so ingrained in the fabric of the court system that Arizona has adopted the electronic copy of documents as the official document.

“The original forms of these documents were electronic; they were just printed on paper,” Byers said.

Arizona’s system is statewide, covering both criminal and civil cases. The court also charges fees for using the system, which helps make it economically sustainable. This electronic system has helped replace other physical storage solutions that were significantly more expensive to maintain.

Maricopa County, home to Phoenix, built a multi-million dollar storage facility for court documents that, while originally intended to last a decade, was filled in only a few years. Those types of costs are avoided with an electronic filing system.

“The Maricopa superior court receives roughly 40,000 copies of paper a day, which then must be filed,” said Byers. “The storage cost for the state is tens of millions every year.”

The technology has such promise that Florida, which did not have an e-filing system in place before the recession, has now made it a priority investment despite limited funds, said Goodner.

Protecting Justice

At the heart of the tug of war between court systems’ budget cuts and their delivery of services is the duty of the courts to protect justice.

Griffin, of Delaware, believes the standard of protecting justice is determined by the rate at which a case can be processed.

“Is it appropriate for a landlord and tenant case to be settled in weeks or months? For a traffic case to take months to be heard? These are the sorts of questions we must examine in determining the impact of fiscal cutbacks,” she said.

States like Delaware have developed specific formulas for delineating what their courts’ staffing needs are to ensure a timely process that protects justice. Several factors come into play in making these calculations, such as the nature and complexity of the cases to the number of lawyers involved and legal requirements related to court coverage by judges.

These statistics help ensure that courts are adequately funded and can process cases in a timely and efficient manner.

This is important work because, as the American Judicature Society’s Seth Andersen puts it: “… Justice delayed is justice denied.”

“Vacant case processing positions, which are critical to court operations, may be left unfilled for many months, affecting the time it takes for courts to dispose of cases and morale of existing employees who end up handling the additional work.”

—Patricia Griffin, administrator
Delaware State Courts
An $11 million shortfall in North Carolina’s Office of Indigent Defense budget could have a ripple effect throughout the state’s criminal justice system.

Public defenders handle about 32 percent of indigent cases, and the Office of Indigent Defense Services contracts with private attorneys to handle the rest. But the 2011 fiscal year shortfall puts that legal service in jeopardy. Assistant Director Danielle Carmen said the shortfall will force the office to stop or delay paying appointed private attorneys by mid-May 2011. That could be bad news for indigent defendants, according to Carmen.

“You get what you pay for in this world—there is a corresponding impact on quality when you don’t pay people a fair wage,” she said.

Because the state is required to provide that legal defense for people who can’t afford it, North Carolina could be open to legal liability if the program is underfunded.

“Indigent defense is not an optional expense for state governments,” said Mary Schmid, senior counsel for the Criminal Justice Program at The Constitution Project. “While other state budget expenditures may be completely discretionary, funding for indigent defense is simply not.”

That’s because in 1963, the U.S. Supreme Court in *Gideon v. Wainwright* ruled that defendants charged with crimes that carry a prison sentence are guaranteed a right to counsel, even if they cannot afford to hire an attorney.

In the face of an economic recession and budget constraints, providing enough public defenders is getting harder for states. As states struggle to fund mandatory programs like education, unemployment insurance and Medicaid, budgeting for the criminal justice system can be a particularly thorny issue. That’s because underfunding could lead to legal battles over the constitutionality of budget cuts to things like the public defender system.

That’s what happened in Montana. After the American Civil Liberties Union sued the state for not providing adequate public defense for impoverished people, the state legislature in 2005 established the public defender system.

“Our agency is committed to meet our mission to provide quality legal services for those that qualify even in the face of fiscal constraints,” said Harry Freebourn, administrative director for Montana’s public defender system.

Those fiscal constraints—an $800,000 shortfall in this budget cycle—are compounded by a 4 to 7 percent increase in the caseload for the state’s public defenders over the last two years.

**Demand Up, Funding Down**

Like many state programs, the public defender systems are suffering. In an economic downturn, more defendants qualify for services, while cash-strapped programs struggle to keep up with demand and still provide quality legal services.
These programs were facing serious funding difficulties even before the current economic crisis. In a 2009 meeting of the American Bar Association House of Delegates, Attorney General Eric Holder addressed the growing problem of underfunded indigent defense systems.

“Resources for public defender programs lag far behind other justice system programs,” he said. “Defenders in many jurisdictions carry huge caseloads that make it difficult for them to fulfill their legal and ethical responsibilities to their clients.”

While the right to indigent defense is well-established, the structure and level of ongoing support of those systems varies significantly among states. Some states are entirely responsible for funding and oversight of indigent defense programs, while in other states, these responsibilities primarily fall on the county or are shared by local and state government.

Because public defense programs are almost exclusively funded by state or local coffers, those programs are particularly vulnerable to changes in fiscal conditions. In Oklahoma, for instance, state budget shortfalls have led to staffing cuts in the state’s indigent defense program.

“Our problem is, compared to other agencies, we really don’t have any other funding source besides the state legislature,” Joe Robertson, the Oklahoma Indigent Defense System’s executive director, told the Norman Transcript.

In addition to differences in funding structure, the administration of indigent defense programs differs from state to state. According to a recent report published by the American Bar Association, 27 states substantially or completely organize their defense programs on a statewide level; 19 of those states have a state commission that supervises the state’s programs, while in the remaining eight states a state public defender, rather than a commission, provides oversight. The other 23 states have either a state commission with partial authority over indigent defense, a state appellate commission or agency, or no state commission at all.

Depending on the state administrative structure, public defense clients may be represented by attorneys working for state- or county-run public defender offices or by private counsel appointed by the court or a public defense panel, like in North Carolina.

**States Could Face Legal Challenges**

When it comes to criminal defense, quality and access become very significant matters, protected by state and federal constitutions.

“We’re a constitutional function of government,” Robertson told the Norman Transcript of the Oklahoma Indigent Defense System. “State and federal government requires that indigent defendants be furnished the effective assistance of counsel at the government’s expense.”

States that fail to adequately fund or administer their public defense systems could face problems. More than two dozen states have faced legal challenges to their programs in recent years.

“When state legislatures refuse to provide adequate funding to indigent defense systems, as they are constitutionally obligated to do, states face the real possibility of litigation against the state, as we’re seeing now in states like Michigan, New York and Florida,” Schmid said.

So as caseloads increase and resources dwindle, public defenders may find themselves backed into a corner.

“Defense attorneys who are forced to take on more clients than they can competently represent simply may have no other option than to file a lawsuit to obtain the funding necessary to protect the constitutional rights of the accused,” Schmid said.

---

**Innovative Ways to Use Federal Funding**

The U.S. Department of Justice allows states to use a portion of their Byrne Justice Assistance Grants, or JAG, funding for indigent defense, which has been designated as a key priority area.

“Many states have consistently used (JAG funds) exclusively for police and prosecutor activities, exacerbating the already existing gap between law enforcement and indigent defense spending,” Mary Schmid, senior counsel for the Criminal Justice Program at The Constitution Project, said. “States should take advantage of this funding stream to assist them in meeting their obligations.”

Here are some innovative ways states use that money for public defender programs, according to a recent survey by the National Criminal Justice Association.

1. **Minnesota** is using the funds to offset decreases in state funding that cut 53 public defender positions.

2. **Colorado** is using the funds to support a pilot project demonstrating new practices for bail administration and pretrial services.

3. **Delaware** is using the money to fund vacancies in the public defender’s office for case processing needs.

4. **Kentucky** is using the federal dollars to fund social workers who will work with clients to identify needed services and sentencing options using evidence-based practices.

5. **New York** is using the funds to enhance defense services leading to expedited flow of drug and violent offenders through the system, and ultimately improving case outcomes.
Judicial candidates for high courts raised $206.4 million for campaigns from 2000 to 2009, up from $83.3 million the previous decade.

The first woman to serve on a state supreme court was Florence Ellinwood Allen, who was elected to the Ohio Supreme Court in 1922.

32 states and Washington, D.C., require justices to retire at ages ranging from 70 to 90.

Indiana Chief Justice Randall T. Shepard is the longest-serving chief justice, serving since March 4, 1987.

The mean salary for associate justices is $148,064; the median salary is $142,341.

46 of 53 state courts of last resort have members without prior judicial experience.

32 states—California, Kentucky, Louisiana, Michigan, Oklahoma, South Dakota and Tennessee—have courts of last resort constituted entirely of judges with lower-court judicial experience.

7 states—California, Kentucky, Louisiana, Michigan, Oklahoma, South Dakota and Tennessee—have courts of last resort constituted entirely of judges with lower-court judicial experience.

Vermont is the only state that allows a judge to remain on the bench until age 90.

Indiana Chief Justice Randall T. Shepard is the longest-serving chief justice, serving since March 4, 1987.

The mean salary for associate justices is $148,064; the median salary is $142,341.

17 states have uncontested retention elections after initial appointment; 12 states grant life tenure or use reappointment.

76 percent of Americans believe campaign contributions have at least some impact on a judge’s courtroom decisions.

81 percent of Americans believe a neutral judge, not the judge whose fairness is being challenged, should decide whether a judge should avoid a case involving campaign benefactors.

California ranks first in associate justices’ salaries at $218,237; Montana ranks last, at $106,185.

25 states choose their high court judges by the appointment process known as merit selection.

In 3 states—California, Maine and New Jersey—the governor has sole discretion in naming judicial appointees.

In 2 states—South Carolina and Virginia—the legislature appoints judges.

Sources: National Center for State Courts, American Judicature Society, Justice at Stake
As the chair for The Council of State Governments Justice Center board of directors, I hear from colleagues across the country about the most pressing criminal justice challenges they face. Two issues that consistently are identified as causing deep concern are the high rates of failure among people released from prison and unsustainable growth in corrections spending. The CSG Justice Center has taken on both issues to ensure policymaking on these issues is bipartisan and data-driven.

In 2008 alone, state prisons across the country released more than 683,000 people to our communities. The reality is that more than 90 percent of all state prisoners are eventually released—whether neighborhoods are prepared to receive them or not. Evidence suggests we are simply not doing enough to facilitate their safe and successful re-entry. Past research from the Bureau of Justice Statistics tells us that more than half of the individuals leaving state prisons will either be reincarcerated or re-arrested within three years.

At a time when we are all facing tough cuts to state budgets, it is telling that professionals from housing, substance abuse and mental health treatment, employment and other disciplines are coming together in unprecedented ways to stop the cycle of offending and reincarceration. They know that collaborative re-entry initiatives improve lives, make communities safer and make good fiscal sense.

The good news is we are now able to focus the dialogue on approaches that work. The National Reentry Resource Center, authorized by the Second Chance Act and coordinated by the CSG Justice Center with vital support from the Bureau of Justice Assistance, is an excellent source for training materials, research, networking, funding information and other tools for states and local communities.

Corrections spending has increased from $12 billion to $52 billion over 20 years and the level of spending simply can’t be sustained in most states when education and other priorities are being slashed. As the chairman of the Committee on Corrections and a member of our Assembly’s Ways and Means Committee, I know firsthand that solutions do not come easy, especially when data across multiple systems is often unavailable to guide decision-makers.

The CSG Justice Center is working in more than 10 states to help collect and analyze data from corrections, probation, parole, law enforcement and myriad other sources to determine what drives prison population growth. It provides policy recommendations that are fiscally sound and earn bipartisan support. The “justice reinvestment” project has been the subject of hearings on Capitol Hill and is now being implemented in the states with unprecedented federal support from Congress, the Bureau of Justice Assistance and others, along with partners such as the Pew Center on the States. (More about how states are implementing justice reinvestment to reduce recidivism and make the most efficient use of public safety dollars is at www.justicereinvestment.org.)

CSG members have generously given their time and expertise to ensure CSG Justice Center publications are practical and meet the needs of the field. They participate in our webinars and peer-to-peer learning tools, such as our program databases, and are welcome voices at conferences and national meetings. It is hoped the organization’s resources will advance the debate and policymaking on these and other criminal justice issues. Many individuals recently released from city and state correctional institutions, unfortunately, continually cycle in and out of incarceration.
A DIFFERENT APPROACH
BONNEVILLE COUNTY, IDAHO—Now-retired Idaho Judge Brent Moss served on Idaho’s first mental health court, Bonneville County Mental Court, and helped early clients such as Peggy Reese overcome drug addictions and provided her with a positive direction for a better life. The court is now designated as one of five mental health court learning sites through The Council of State Governments Justice Center and the Bureau of Justice Assistance. It serves as a resource for jurisdictions across the country looking to develop or refine their approach to individuals with mental illnesses. (© AP Photo / Randy Hayes)

JUDGES FIND HOPE IN DIFFERENT APPROACH FOR PEOPLE WITH MENTAL ILLNESS

By Mikel Chavers

If a mental health court were a college, people with illnesses like bipolar disorder, schizophrenia and major depression would graduate and move on to a better life—a life where they are able to manage their illness. And most importantly, they’d avoid jail.

That’s all based on the principle that if the justice system could just get at the underlying issues that cause a person to commit crimes, it could stop the behaviors and help the person become a productive and safe member of society.

Mental illness is one of those underlying issues.

Lifelong struggles with mental health issues can often contribute to crimes. Crimes lead to arrests, court appearances, jail time and often more court appearances and jail time. Over and over the cycle repeats, as judges grow increasingly frustrated at the justice system’s inability to fix the problem.

“We’re living the same day over and over again with these people,” said Judge Stephen Goss, presiding judge of the Dougherty Superior Court Mental Health and Substance Abuse Division in Georgia. “It’s like being stuck in a revolving door in a hotel lobby.”

Untying Judges’ Hands

He’s not alone in his early frustrations. Before mental health courts, it’s like judges’ hands were tied.

“I was a trial judge for seven years before I became a justice and I had a lot of people on my docket who had drug and alcohol and mental health issues, but our system was very fragmented,” said Ohio Supreme Court Justice Evelyn Lundberg Stratton.
“The judges who do a mental health docket are all volunteers—they don’t get any extra pay or anything like that, they just take on an extra duty because they believe in it.”

—Evelyn Lundberg Stratton
Ohio Supreme Court Justice

“The reality is these people had co-occurring disorders and so I often had to lock them up because I had no place to put them. And I was very frustrated by the process and so I kind of wanted to do something.”

That’s the reason Goss, Stratton and other state officials are looking to mental health courts for help. Mental health courts aren’t buildings, specifically, they are special times set aside in regular criminal courtrooms across the country where judges hear only cases involving people with serious mental illnesses. These programs are catching on because judges can take a different approach with these people and often they get better results.

When it is business as usual in a courtroom under a regular docket, offenders with mental illnesses committing a low-level crime could be sentenced to jail or could be put on probation or on community control, Stratton said. They would be ordered to get mental health treatment and drug and alcohol treatment, and are also told, ‘oh by the way, you need housing and a job.’

“And the person’s never actually been diagnosed properly, so they don’t even know what mental illness they have. They never even make the first place. They walk out that door and the probation officer never sees them again, so they’re arrested a next time,” Stratton said.

They become frequent users of the system. But a mental health court is a different approach. With a targeted group of clients and cases to handle, judges ask various community agencies to come to the court and bring all the mental health expertise and services together in one afternoon—because there are economies of scale to do that, Stratton said.

Mental health courts are said to work because caseworkers, judges and other personnel are experienced in dealing with mental health issues and when the mental health courts meet, special treatment services are made available for those defendants. The benefit is the focus these folks receive. It’s a dedicated time for a dedicated purpose to solve very specific underlying issues.

Use of Courts Growing

With that kind of thinking, mental health courts are sprouting up all over the country. There are now more than 200 mental health courts nationwide.

The Council of State Governments Justice Center helped spread the movement, said Patricia Tobias, Idaho’s administrative director of the courts. With its Mental Health Criminal Justice Consensus Project, the CSG Justice Center helps states adopt the strategy using federal grants from the Bureau of Justice Assistance.

In Ohio, Stratton formed a commission to help the legal community collaborate with other state agencies to foster mental health courts. She created the Advisory Committee on Mental Illness and the Courts in 2001—the first such Supreme Court committee in the country—and through that was able to grow Ohio’s mental health courts from two 10 years
Out From Under a Bridge

“One man (with Schizophrenia) came in a few years ago and he was homeless, living under a bridge along our river corridor. He was very difficult even to understand. He didn’t have a watch—we had a hard time even getting him to show up every week to (mental health court) because he didn’t know what time it was or where he was supposed to be. By the time he left us about a year and a half later, he had a bicycle to get around town, he had a watch and we were successful at transitioning him into a living situation. He was very, very happy and very, very stable on his medication when he left and not living under a bridge anymore.”

—Nevada Assemblywoman Sheila Leslie
Specialty Courts Coordinator, Nevada Second Judicial District Court
Board Member of The Council of State Governments Justice Center

SNAPSHOT: SUCCESS STORY IN REAL LIFE

The mental health court is saving the state money. In 2009, the mental health court saved Leslie’s district more than $250,000 in avoided jail time for its 63 individuals who successfully completed the mental health court program, she said. The year before they entered the mental health court, the group cost the district more than $300,000 for 2,820 days in jail. But after entering the mental health court, the group spent only 569 days in jail—a whopping 80 percent decrease in time behind bars.

“Even though Nevada is one of the worst states in terms of the percent of revenue we’ve lost during the recession, so far, the mental health court item has not been cut because the legislators really understand—and the governor as well—that by cutting the mental health court budget, you’re increasing costs exponentially in the other budgets,” Leslie said.

Budget Cuts Threaten Courts’ Funding

But some experts say budget cuts can’t be avoided in this economic recession. And when cuts are made to the mental health treatment services and mental health housing options, for example, judges are limited on where they can send mental health court clients.

After all, the mental health courts only work if the right treatment options are available to give to these people.

Goss in Georgia said the single biggest problem is just the lack of resources and the lack of treatment professionals in his part of the state. Goss hears a dozen or more cases every Friday during his mental health court.

In New York with its 23 mental health courts, Judge Judy Harris Kluger, chief of policy and planning for New York state’s unified court system, said when the state suffers from budget cuts, everything is affected.

“Everybody’s being cut in New York state,” Kluger said. “Like anything else, it may take us longer to place someone (and) there may not be as many choices in terms of where to place someone. It’s not as if the treatments don’t exist, but it’s just everybody’s cutting back so it’s going to have an impact on timing and also the variety of options that may be available.”

Idaho is going through something similar. “Our greatest challenge today is in light of the budget declines at the department of health and welfare, the behavioral health department is being cut dramatically, which will likely limit the amount of teams that are available in the communities to provide successful treatment to mental health court offenders,” Tobias said.

That has Tobias and her counterparts examining what adjustments need to be made. They’ll likely have to decide if they will need to limit number of offenders that can be admitted into mental health court, she said.

“We either have to find efficiencies in treatment delivery (to treat more people with the same resources) or limit offenders that can go into mental health courts,” Tobias said.
Mental health courts are only one of many options for reducing the prevalence of mental illness in the criminal justice system. Considering a mental health court in your state or community? The CSG Justice Center provides training and technical assistance through the Justice and Mental Health Collaboration Program and its predecessor, the Mental Health Court Program, both funded by the Bureau of Justice Assistance in the U.S. Department of Justice.

Based on experience, here are five key things to do before setting up a mental health court:

1. **Collaborate Early.**
   Convene stakeholders early to discuss the issue and identify potential interventions and resources. Those stakeholders include representatives from the criminal justice system, including law enforcement, corrections, court and community corrections practitioners; behavioral health systems, including mental health and substance use; and local government and mental health consumers.

2. **Understand the Way Things Are Working Now.**
   Spend time understanding your current system: What is the process flow for individuals in your criminal justice system? Are people screened for mental illness or a substance use disorder in the jail? What behavioral health resources are available in your community for individuals involved with the criminal justice system?

3. **Get to Know the People You Seek to Help.**
   Use interviews and available data to describe the population of individuals with mental illnesses in your criminal justice system. Recent research has found 17.9 percent of individuals entering jail have a serious mental illness. How is this reflected in your jurisdiction? How many of these people are eligible for benefits upon release into the community?

4. **Target a Group of People.**
   Use your stakeholders to define a potential “target population” for your mental health court or other initiative. Consider the level of charges, residency, clinical criteria and risk assessment to determine who can get help from the program.

5. **Justify.**
   Consider the total number of individuals who would be in the target population based on the jail population and the target population you are focusing on: Is this enough to fill a court calendar for a mental health court? Does the size of the population served by the mental health court justify the time of the stakeholders and team members in planning?

"My advice to states considering a statewide framework for mental health courts is to ensure success of a pilot mental health court before expanding it statewide.”

—Patricia Tobias
Idaho Administrative Director of the Courts
Member of the CSG Justice Center board

**More on Mental Health Courts**
The CSG Justice Center has authored numerous policy and practitioner guides on mental health courts and other programs for individuals with mental illnesses involved with the criminal justice system. Check out “A Guide to Mental Health Court Design and Implementation” and “The Essential Elements of a Mental Health Court,” among other resources, available online at www.consensusproject.org.
U.S. Sen. Sheldon Whitehouse, a former Rhode Island attorney general, has seen how using a data-driven approach can cut corrections costs for states. He’s pushing a bill to give grants to help states and localities better manage prison spending.
What are your goals in sponsoring the Criminal Justice Reinvestment Act in the U.S. Senate?

“I sponsored the Criminal Justice Reinvestment Act with Senator John Cornyn (of Texas) and Senator Patrick Leahy (of Vermont) to help states and localities determine how best to manage the growth in prison and jail populations and increase public safety. The legislation would authorize grants to analyze criminal justice trends and to design and implement policies to better manage prison spending.”

How does Justice Reinvestment work?

“Justice reinvestment is a data-driven approach to understand what factors are driving the growth in prison and jail populations, develop and implement policy changes to address those trends, and then measure the impact of those policy changes.”

How will the program help states analyze criminal justice trends and develop policy solutions?

“The Criminal Justice Reinvestment Act would create a two-part grant program to allow state and local jurisdictions to examine what is contributing to the rising costs of incarceration and the expansion of inmate populations, design and implement solutions unique to each corrections system. Through Phase 1 grants, government entities would be able to conduct a comprehensive analysis of corrections data, evaluate the cost-effectiveness of state and local spending on corrections, and develop policy options suggested by the analysis. Phase 2 grants would provide funds to help government entities implement those policy options and to measure their effectiveness.”

What is the status of the Act?

“In March, the Criminal Justice Reinvestment Act was reported out of the Senate Judiciary Committee with strong bipartisan support. A hearing also was held recently by our colleagues in the House that reflected their broad support for the legislation.”

Why do you believe it is important for the federal government to get involved in this issue to help states?

“Most policymakers, unfortunately, have limited access to detailed, data-driven explanations about changes in crime, arrest, conviction, and prison and jail population trends. But we in the federal government have the tools at our disposal to support states and local governments seeking solutions to their corrections problems. This bill requires a relatively small investment by the federal government to help improve corrections systems nationwide, and to resolve the conundrum of communities whose tight year-to-year budgeting prevents them from making the initial investments that can lead to future taxpayer savings.”

As a former attorney general, how do you think the rise in corrections spending affects criminal justice systems overall?

“Over 2.2 million American adults are presently incarcerated in state and local prisons and jails, at a rate of about 1 in every 100 adults. State spending on corrections has increased over $40 billion in the last 20 years, up over 30 percent in the past 10 years alone. At the same time, nearly half the states were forced to cut their corrections appropriations this fiscal year due to shrinking budgets. The combination of growing prison populations, rising costs and budget shortfalls is unsustainable in the long term, and in the short term tends to prejudice programs like re-entry support that are important to public safety.”

Rhode Island has seen some successes with justice reinvestment. What has worked in your home state?

“Just a few years ago, the trends for growth in the Rhode Island corrections system mirrored the national trends. The Rhode Island corrections system ran a comprehensive analysis of prison data to diagnose the drivers of growth. This in turn prompted statewide, bipartisan legislation to, among other things, standardize the use of risk assessments to inform parole release decisions. Now, the growth of Rhode Island’s incarcerated population is stabilizing. This is a great achievement and a testament to how a simple starting point—looking at data to learn what causes prison growth—can lead to agreement on substantial and much-needed change.”

How do we know that justice reinvestment approaches can be successful in other states?

“Model programs in several states have proved that this data-driven approach effectively manages the costs of a growing inmate population. As discussed, Rhode Island enjoyed success by changing its parole calculations. In Texas, the solution was much different but equally effective—following its analysis, the state invested $227 million on treatment programs and residential facilities to curb population growth, which averted spending $523 million on new prisons. In Vermont, data analysis showed that a significant factor in prison growth was reincarceration of former prisoners, which prompted the Vermont legislature to expand substance abuse resources and increase supervision of the highest-risk parolees.”

What other criminal justice issues is the U.S. Senate exploring that affect state governments?

“The Senate Judiciary Committee is considering a number of bills that affect states, such as the COPS Improvements Act of 2009, which I have co-sponsored.” (This bill would extend funding for Community Oriented Policing Services to 2014 and expand the authority of the attorney general to make grants for public safety and community policing programs.)

CSG is holding its annual meeting in Providence, R.I., in December. What are some things those in attendance should not miss out on while in the area?

“Rhode Island is a beautiful state with an abundance of things to see and do despite its small size. I’d particularly recommend strolling Providence’s beautifully preserved historic districts, visiting the Rhode Island School of Design museum, eating a great Italian meal up on Federal Hill, and catching WaterFire, an award-winning sculpture on the river or a show at Trinity Repertory Company.”
It was a brutal, gang-style killing in Chihuahua, Mexico, and the Mexican man wanted for murder was hiding out in Colorado. But thanks to strong relationships that know no borders, the Chihuahua Attorney General’s office worked with the Colorado Attorney General’s office and federal Immigration and Customs Enforcement agents to locate the man and arrest him in May.

Colorado Attorney General John Suthers said the successful arrest and deportation of Ricardo Padilla-Chavez, 25, was a result of the good relationships his office maintains with Mexican officials. Together, state government officials and Mexican officials are working to fight organized crime.

“This example is a perfect one,” Suthers, the chair of the Conference of Western Attorneys General, said. “This Mexican attorney general knew exactly who to call in Colorado to get something done.”

State officials in the border region are seeing the effects of organized crime all the time. The drug cartel violence and gang-style killings are making news headlines.

“Organized crime is a phenomenon that takes place at both sides of the border—same manifestations at both sides of the border,” said Ruben Beltrán Guerrero, consul general of Mexico in New York. That means it’s an issue of shared responsibility, he said.

“In Juárez today, the most vicious, international crime cartels are at war over valuable drug corridors. That is, these trade corridors that enter the United States from Mexico are also drug corridors and are the site of conflict...
between various gangs,” said Texas Sen. Eliot Shapleigh, who represents El Paso, which neighbors Juárez in Texas.

“Right now, thousands of Juárenzes have moved to El Paso, fleeing the violence. Essentially they are now refugees from that violence,” he said.

For people in El Paso, that could mean an aunt or grandfather moves in, Shapleigh said. An economic benefit for El Paso: Refugees are also buying homes and relocating businesses.

But that’s a double-edged sword. What is a boom for El Paso is an economic drain for Juárez. “The fact is those are the vibrant economic refugees that are leaving their home city, leaving it less able to cope,” Shapleigh said.

“What has happened in Juárez is the disintegration of civil society.”

U.S. state officials are trying to help.

Shapleigh, heavily involved in border issues, was the chair of the Border Legislative Conference in 2008, a program administered by The Council of State Governments-WEST office and its regional CSG partner in the South, the Southern Legislative Conference.

The Conference of Western Attorneys General, the Border Legislative Conference and other organizations make up the U.S.-Mexico State Alliance Partnership. The Alliance Partnership is a conglomerate of state-based organizations taking a collaborative, multi-branch approach aimed at strengthening cooperation among state officials from the U.S. and Mexico. The partnership brings together state officials from different branches like Suthers and Shapleigh under one roof with one vision.

Teaming Up to Prosecute Cases

Luz Maria Shearer in the Colorado Attorney General’s office gets calls for help from Mexico—like the one in May—fairly regularly. Colorado was the first in 2001 and is still the only non-border state with a foreign prosecution office. There, Shearer works to help catch the bad guys and prosecute criminal cases.

Some cases are actually filed in Mexico and Shearer does the legwork, which can lead to coordinating an arrest and preparing the case against a criminal defendant. Although some Mexican states are transitioning to a judicial system that’s very similar to the judicial system in the U.S., most jurisdictions in Mexico still use a paper-based system where cases are essentially presented through documents.

The Border Legislative Conference, the Conference of Western Attorneys General and state officials in Colorado and other states are working to train Mexican officials in this new justice system. (For more on how state officials are helping Mexico make the switch, see pages 30–31.)

Shearer believes when Mexican states convert to this new judicial process, it will also help combat organized crime. Until that transformation, Shearer and other investigators will continue to prepare paper cases against defendants that can be presented to Mexican authorities.

“We can actually have these fugitives incarcerated in Mexico; it doesn’t cost the state anything in incarceration,” Shearer said.

And that’s the beauty of it, she said. This process has saved several millions of dollars just in Colorado because the state doesn’t have to jail these criminals, she said.

Guns Crossing Borders

But fighting organized crime at the border is about more than just catching the bad guys. These issues go beyond the border violence and the attention-grabbing headlines.

“The Mexicans who are paying huge, huge costs for taking on the cartels deserve a level of cooperation from us in terms of, number one, trying to reduce the demand for the product the cartels produce and, number two, trying to stem the flow of weaponry that goes across the border from the United States to Mexico, which helps fuel a lot of the cartels’ violence toward the Mexican police and their population,” Suthers said.

Beltrán, the Mexican consul general, agrees. He’d like to see more work on combating the flow of guns from the U.S. to Mexico. In the last three years, the Mexican government seized 75,000 weapons, Beltrán said. Those weapons—mostly assault weapons—were destined to go in the hands of organized crime in Mexico. Government officials were able to track where the weapons came from and 80 percent of those 75,000 weapons can be tracked to the U.S., Beltrán said.

“If you look at how weaponized these bands of thugs are, you will easily see that the U.S. cooperation is indispensable,” Beltrán said.

Still, some say combating organized crime can’t be done without the necessary components of job creation and poverty alleviation to give people other opportunities besides involvement and work with the drug cartels.

“Security without real jobs and real hope is not a real solution. For the first time, the focus on jobs, energy (and) mobility will make it possible for the transformation so needed in Mexico today,” Shapleigh said. The Border Legislative Conference and the Alliance Partnership are actively involved in coordinating binational strategies for change, he said.

“That has created real hope in El Paso-Juárez.”

“ But if no sustainable jobs are there, what happens next? The drug-related businesses just reassert themselves and take control of civil society.”

—Texas Sen. Eliot Shapleigh on the drug cartels in Mexico
U.S. JUDGES HELP SET UP MEXICO’S FIRST DRUG COURT

by Mikel Chavers

Five American drug court judges were on a mission to Mexico.

When the judges traveled 250 miles south of the Texas border to Monterrey to help set up Mexico’s first drug court, they wanted to do more than just the standard training for a week. They wanted to share the amazing things they’d seen serving on a drug court. They wanted to impart their wisdom gleaned from years of experience of handling a completely different client—the drug addict who can often benefit from a different approach.

“Literally there are those moments that occur in court where I almost see the transformation occurring right on the spot where people finally get it,” said one of the team members, retired New Mexico Judge Michael Kavanaugh, who served on a drug court in Bernalillo County. “When you as a drug court judge first start to take cases, it is amazing to see just after the first few months what occurs in the clients themselves.”

When drug court judges see defendants the day after arrest, some are in pretty bad condition—looking and smelling bad and physically deteriorated, Kavanaugh said. But many clean up and sober up in drug court, which connects them to long-term treatment and heavy monitoring, including periodically standing before the judge.

“You’re the person who’s asking them about their family, their children, their work and giving them positive re-enforcement. These people are responding to you and communicating to you (in a way) that shows that they are getting it—they are getting how they’ve been making these mistakes.”

Santa Barbara County, Calif., Judge Rogelio Flores, a drug court judge for 15 years, was also part of that team. He said part of the magic of drug courts is maintaining a personal relationship with each offender.

“You see people getting better,” Flores said. The courts save money and lives by diverting people out of jail and helping them kick addictions. His drug court saved $11 million in the 2007–08 tax year. Because of the drug court, 100 women delivered babies that are not addicted to drugs, Flores said.

“There’s really a hunger for this in Mexico,” Flores said.

Drug courts in the U.S. have been around for 20 years and they now exist in every state and Washington, D.C., according to the National Association of Drug Court Professionals. The association coordinated the trip to Mexico.

While the U.S. has lots of experience with drug addiction and treatment, Mexico historically hasn’t struggled with the heavy social price tag of drug addiction, according to Kavanaugh.

“The issues of addiction are beginning to really compound the problem of drugs and violence,” said New Mexico Judge Marie Baca, another member of the team. “People get trapped into that cycle.”

She and the other teammates hope the drug court prospers and the idea spreads throughout Mexico.

“You’ve got cartels in Mexico who have all this product and they can’t get it into the United States, they’re going to start selling it down there to their young people ... and (Mexico) did not have the type of expertise that we had developed in the past 20 years of working with drug courts and dealing with this population.”

—Santa Barbara County, Calif., Judge Rogelio Flores

“Lots of times we talk about the problems with illegal immigration and drug cartels; we also need to recognize these are real people with real issues. We are the courts and can help people turn things around,” Baca said.

The federal government shares that hope.

“The U.S. is committed to helping Mexico continue to expand the program in Nuevo Leon and initiate drug courts in other states throughout Mexico,” said Gil Kerlikowske, policy director at the White House Office of National Drug Control.
What is the Border Legislative Conference?  
The BLC is a way for state legislators in the U.S. and Mexico to engage in discussions about issues important to the areas they serve.

Who is Involved in the BLC?  
Legislators from 10 states along the U.S.-Mexico border are members. In the U.S., that’s Arizona, California, New Mexico and Texas. In Mexico, that’s Baja California, Chihuahua, Coahuila, Nuevo Leon, Sonora and Tamaulipas.

Who Coordinates the Program?  
The BLC is a joint program between The Council of State Governments-WEST and CSG’s Southern Legislative Conference. Staff members from those regional organizations provide administrative support, including the coordination and organization of forums, preparation of recommendations and analysis, and implementation of policies and actions as directed by BLC members. Martha Castaneda serves as director of the BLC.

Who are Officers in the BLC?  
California Sen. Denise Moreno Ducheny is the chair and Diputado Ramiro Flores Morales of the Coahuila Congress is vice-chair.

How is the BLC Funded?  
The U.S. Agency for International Development—or USAID—provides funding for the program.

Why is the BLC Important?  
The BLC fosters the development of shared solutions to common problems faced by states on both sides of the border.

What is the Economic Relationship between the U.S. and Mexico?  
The U.S. and Mexico border is one of the longest borders in the world, as well as one of the most heavily traversed by both goods and people. The U.S. is Mexico’s largest trade partner in both exports and imports, while Mexico is the U.S.’s second largest buyer and third largest supplier of goods.

How is BLC Involved in the U.S.-Mexico State Alliance Partnership?  
The U.S.-Mexico State Alliance Partnership is a collaborative, multi-branch alliance in which CSG-WEST and the SLC are involved in an effort aimed at strengthening cooperation among state officials and institutions of the U.S. and Mexico. The Alliance Partnership promotes and convenes binational exchanges and workshops among border legislators, attorneys general, treasurers and others that enhance the role of state officials in addressing shared public policy concerns that transcend international borders.

What are the BLC’s Goals with Regard to the Alliance Partnership?  
Members of the BLC in April adopted a proposal to add a component to the Alliance Partnership aimed at strengthening local/regional border communities. The objective is to work with BLC members and local border officials to convene binational exchanges to promote strong border communities and to strengthen binational mechanisms of cooperation.

What Specific Issues Does the BLC Currently Address?  
The BLC addresses a number of issues, including economic development, border crossings, environment, water, illegal trafficking and security. Members attending the conference in April affirmed the need to reactivate the BLC Health Committee. Issues are determined at the end of one forum for the following forum; and the BLC will continue to address scrap tire legislation and ways to create rubberized asphalt from scrap tires, energy in the border region, successful programs to abate graffiti and health indexes of the border region. Those issues will also be discussed in Sonora this fall based on discussions in April.

How Will BLC-coordinated Efforts for Cross-Border Cooperation Encompass Security, Rule of Law, Energy, Mobility and Sustainable Jobs?  
Cross-border cooperation is largely based on relationships and trust, and the BLC, as well as many other binational organizations, contribute to this. Regarding all these realms, state legislators are in a position to introduce and pass legislation to address any and all of these issues. Sometimes, observations of cross-border dynamics such as the make-up of the pool of workers or job markets through exchange of information among state legislators can lead to better coordination for creating sustainable jobs.
VIEWPOINT:
GOING ADVERSARIAL
Baja California Officials Learn from U.S. Counterparts
by Rommel Moreno Manjarrez
Attorney General of the state of Baja California

The new Code for Criminal Procedures of Baja California was published Oct. 19, 2007. That code established a new criminal justice system based on the adversarial model including oral arguments that was to be implemented in Mexicali Aug. 11, 2008.

Under these conditions, I assigned myself the task of analyzing the challenges that began appearing, to establish and support the consolidation of a genuine system of justice—one of quality, efficiency and transparency. In other words, the institutional reorganization meant harmonizing resources, experiences, needs, professionalization and capacity training.

Before taking on such challenges, it was necessary to consolidate a new philosophy in criminal justice to gain citizens’ trust through an administrative change and reorganization; but above all, it was necessary to change the mindset, rebuild values, and take advantage of the challenge of transparency to strengthen the capacities of our investigators, prosecutors and police officers. Specialized training by impartial experts was indispensable to achieve this.

On Aug. 2, 2008, in Seattle, Wash., Baja California—a border state that benefited from the binational relationship of Mexico and the U.S. and that shared the previously stated vision—entered into partnership with the Conference of Western Attorneys General by signing memorandums of understanding with attorneys general in the states of Idaho, Arizona and New Mexico. It was in this manner that the relationships were consolidated that allowed us to break paradigms and initiate a magnificent process of internal training and specific development of the inherent abilities of each member of our institution.

It is in this manner that as of today, our state attorney general’s office has signed memorandums of understanding with 12 states in the U.S., sharing judicial knowledge and experiences, exchanging ideas and walking hand in hand in search of a better procurement of justice, generating excellence in specialized subjects such as oral arguments, criminal investigations and professional ethics. These agreements have been carried out successfully.

Up to now, 169 civil servants from our institution have benefited by participation in workshops and training courses that have generated improvement in the fulfillment of their duties, which translates such into a model institution.
VIEWPOINT: 
BRINGING PEACE TO THE BORDER

U.S. Attorneys General Learn of Sacrifice by Mexican Counterparts

by John Suthers
Colorado Attorney General
Chairman, Conference of Western Attorneys General

Over the past several years, the Conference of Western Attorneys General has worked through an Alliance Partnership to help prepare Mexican prosecutors and investigators for the country’s switch to an oral advocacy system, akin to the court system we have in the U.S. USAID has provided funding for the effort.

This transition, from a paper-based and problem-prone system, is a complex transformation, but with our assistance and the perseverance of Mexican law enforcement, the country undoubtedly will have a better, more accountable and public justice system.

Throughout this process, I have had the pleasure of meeting dozens of Mexican prosecutors and investigators. Each of them has told me stories of unbelievable sacrifice as they grapple not only with a changing court system, but also with the country’s surge in drug-related violence. Thousands of members of the police, public and army have died on the Mexican side of the border as President Felipe Calderón has applied pressure to the cartels and the criminal enterprises have fought back. The U.S. side of the border, too, has seen its fair share of cartel-fueled death and crime.

When Colorado prosecutor Sean May was gunned down outside his home in 2008, prosecutors and police reacted with horror. The killing of a prosecutor in the U.S. is the exception. It is a rare, brazen act by criminals because they know they will face severe consequences and a vigorous investigation and prosecution.

In Mexico, and more specifically along the border, these sorts of killings—and the murder of police officers—sadly have become all too common.

Our Mexican peers face constant threats to their lives. When I drive to work it is in a run-of-the-mill sedan that no one would every notice as odd. In Mexico, it is not unusual for a state’s top prosecutor to drive to work in a heavily armored vehicle. It also is not uncommon for prosecutors to spend their nights in the U.S. where they are guaranteed a greater degree of safety.

The sacrifices of our Mexican counterparts also underline the importance of the close working relationship U.S. law enforcement must have with Mexican law enforcement. From working together to bring border-crossing criminals to justice to abating the flow of drugs and guns across our shared borders, we have a lot of work to accomplish.

There could be no greater memorial to the sacrifices of Mexican and American law enforcement alike than to meet these challenges currently facing our two countries and bring peace to our common border.
Rhode Island Sen. Joshua Miller sees a pot full of savings in decriminalizing marijuana.

Miller led a Senate commission that studied the issue for four months, concluding the state could save money and free up law enforcement to investigate more serious crimes if it wasn’t a crime for adults to possess less than 1 ounce of marijuana.

“It doesn’t make sense to have our cash-strapped state spend millions trying to put people in prison for possessing a little of something that is arguably less dangerous than alcohol or tobacco,” Miller said. He is sponsoring a bill that would replace the misdemeanor penalty for possession of small amounts of marijuana with a civil penalty.

Under the bill, violators would pay a $150 fine for a first offense to the municipality where it occurred. The bill would require municipalities to spend half the new revenue on drug awareness and treatment programs for youth.

“We believe that the money spent on prosecuting and jailing people for possessing a small amount of marijuana could be spent on any number of other services. Incarceration is nowhere near as effective as drug awareness education or treatment,” said Miller.

Harvard economist Jeffrey Miron estimated decriminalizing marijuana would save Rhode Island up to $11.1 million a year in reduced law enforcement expenditures alone. In 2009, more than 2,500 people in Rhode Island were arrested for a first offense of possession of marijuana.

Thirteen states have adopted some form of decriminalization of the drug, and six states, including Rhode Island, have considered similar legislation this session.

LEGALIZING—AND TAXING—POT

Some states are considering going even further—legalizing the drug, allowing for regulation and taxation.

In January, the California Assembly Public Safety Committee took the first formal steps toward legalizing marijuana by passing legislation that would have legalized the sale and use of marijuana for adults 21 and older. It would have created a system to regulate and tax the drug just like alcohol.

After the vote, Assemblyman Thomas Ammiano, the bill’s sponsor, said in a statement the vote was significant “because it is time to acknowledge that the existing model of prohibition has failed and that California is
long overdue for a public policy for control
and regulation of marijuana that reflects the
reality of what is happening in our state.”

The bill didn’t pass, but it did bring atten-
tion to an initiative that qualified for the
November ballot. The Tax Cannabis initiative
would allow people 21 and older to pos-
sess, grow and transport marijuana for their
personal use. It would also permit cities and
counties to decide whether to regulate and
tax the commercial production and sale of
the drug, possibly creating a system of “wet” and
“dry” counties for marijuana, similar to those
that exist with alcohol laws.

The measure would also increase the
criminal penalty for giving marijuana to a
minor, prohibit the consumption of the drug
in public or while minors are present, and
maintain existing laws against driving under
the influence.

A recent poll found a close race for the
ballot question: 48 percent of Californians
support the law, while 49 percent oppose it.

Campaigns are under way in both Oregon
and Washington to place similar initiatives on
the 2010 ballot.

Supporters argue that the current laws
regarding marijuana simply are not working.

“... The call for a new direction in our drug
policy grows louder every day,” Ammiano
said in a statement.

But there are still many who oppose
decriminalizing or legalizing marijuana and
these efforts remain controversial.

Law enforcement groups strenuously
oppose decriminalization. Col. Joseph Moran,
president of the Rhode Island Police Chiefs
Association, voted against the initiative for
decriminalization. “Marijuana is a dangerous
drug and we will be sending Rhode Islanders
the wrong message by decriminalizing the
possession of an ounce or less of marijuana,”
he said.

Law enforcement groups in California have
joined with anti-drug community groups,
many businesses and Mothers Against Drunk
Driving, among others, to form an anti-initia-
tive coalition known as Public Safety First.
The group argues that legalizing marijuana
will lead to increased substance abuse, and
that the associated long-term costs would
vastly exceed the new revenue legalizing the
drug might bring in.

Skip Miller, a California lawyer who
chairs the board of the drug abuse education
program D.A.R.E. America, blasted those
who call for legalization as a way of boosting
tax revenues.

“It is completely irresponsible to suggest
that the legalization of a dangerous drug
could be a way to help us out of the budget
mess we’re in,” he said in a statement. “Such
comments send entirely the wrong message,
especially to young people who face a difficult
enough time resisting the pressure of peers and
others to try drugs.”

An Industry Out of the Shadows

Supporters say legalization would bring
the marijuana industry above ground and
eliminate much of the violence and corruption
that characterizes the marijuana market.

In an editorial in the Harvard Crimson, Miron
likens marijuana legalization to the repeal
of alcohol prohibition that restored the legal
alcohol industry.

“A small component of the marijuana
market might remain illicit—moonshine mari-
juana rather than moonshine whiskey—but
if regulation and taxation are moderate, most
producers and consumers will choose the legal
sector, as they did with alcohol,” he wrote.

Supporters also point to the significant
amount of revenue that could be raised by
legalizing and regulating the drug. Studies by
state agencies found legalization would gener-
ate billions of dollars in revenue that could be
used to fund schools and public safety.

The California Board of Equalization, which
collects alcohol and tobacco taxes, estimates
cannabis taxes could generate $1.4 billion each
year. That doesn’t include the other budgetary
implications of legalizing marijuana, including
the expansion of agriculture if farmers were al-
lowed to openly cultivate the plant. Marijuana
is believed to be one of the biggest cash crops
in the country.

California already collects about $18
million in sales taxes a year from $200 million
worth of medical marijuana purchases.

Estimates of the amount of money state
and federal governments could gain by
legalizing marijuana vary. Jon Gettman, a
senior fellow at George Mason University,
valued the American marijuana trade at $113
billion annually. Between drug enforcement
costs and potential taxes, Gettman estimates
the federal government and states are losing
nearly $42 billion a year by keeping mari-
juana illegal.

Miron, the Harvard economist, estimated
legalizing marijuana would save $7.7 billion
annually in government spending on enforce-
ment alone, with $5.3 billion of this total
going to state and local governments. Miron
also estimates legalization would yield tax
revenue of $2.4 billion if marijuana was taxed
like all other goods, and $6.2 billion annually
if it was taxed at rates comparable to those on
alcohol and tobacco.

“It doesn’t make sense to have our cash-
strapped state spend millions trying to
put people in prison for possessing a
little of something that is arguably less
dangerous than alcohol or tobacco.”

—Rhode Island Sen. Joshua Miller

Potential Showdown Looms

If California voters approve the ballot mea-
Sure in November, it would set up a showdown
with the federal government, because mari-
juana would continue to be illegal under fed-
eral law. In his recently released federal drug
control strategy, President Obama stressed his
administration “firmly opposes the legaliza-
tion of marijuana or any other illicit drug.”

But the high costs of prosecuting and incar-
cerating marijuana offenders, coupled with
state fiscal crises and the promise of additional
revenue, could lead other lawmakers to rethink
their states’ marijuana laws.

“It is time to take our heads out of the sand
and start to regulate this $14 billion industry,”
Ammiano said in a statement. “By doing so,
we can enact smart public policy that will bring
much needed revenue into the state and im-
prove public safety by utilizing our limited law
enforcement resources more wisely. The move
toward regulation is simply common sense.”
Long-Timers Become Old-Timers in Prison

Health Care Costs Soar for States as Inmates Age

by Mary Branham

Richard Laurenzano speaks freely about the stage four cancer he faced just four short years ago.

“The prison system saved my life,” Laurenzano said bluntly in a KPBS documentary on California’s aging prison population. In fact, the prison system sent him to outside doctors for treatment.

While his cancer is in remission, Laurenzano—who is serving a 50-year sentence imposed in 1984 for sexual assault of children under 14—has heart trouble and is consulting doctors about surgery, according to the documentary. That’s medical care California taxpayers will cover.

Aging prisoners are growing in number across the country, and so are the health care costs associated with them.

“We see more people in their 40s, 50s and 60s than we ever have before,” Edward Harrison, executive director of the National Commission on Correctional Health Care, said.

In fact, as of Dec. 31, 2008, 74,100 men over age 55 were under state or federal jurisdictions, according to the U.S. Justice Department’s Bureau of Justice Statistics’ most recently released numbers.

“In terms of health care, not only are we providing care for a longer period of time for inmates. We are now caring for an older inmate population,” Harrison said. And just as in society in general, health care for older Americans costs much more than for younger ones.

That’s why some states are expanding early release laws to address elderly and infirmed inmates who meet certain criteria. And several states have revised their laws to streamline the early release process, according to the National Conference of State Legislatures.

“I think there are a few things driving it,” said Alison Lawrence, policy specialist for NCSL’s criminal justice program. “Cost is one of them because geriatric, elderly, sick inmates are a huge cost, but I think states are also looking at their policies and saying we have this policy on the books but it’s not being used.”

Rigid Laws Lead to Longer Sentences

Many people blame rigid sentencing laws for the growing number of older inmates in state prisons.

“Those of us who have worked in corrections for some time have noticed a trend of judges no longer having the discretion they used to have in determining sentences for various crimes,” said Harrison. He’s speaking of mandatory minimum sentencing laws that require judges to give a specific sentence for a crime—with no wiggle room to give a shorter sentence.

Delaware Gov. Jack Markell acknowledged a need to review the state prison population and policies in his January state of the state address.

“Many inmates sentenced under the minimum mandatory provisions adopted in the 1980s are approaching their older years,” he said in January. “The cost of their care is soaring. ... We must examine who we’re holding in prisons and whether we can provide a less expensive but safe alternative.”

Thirty-nine states have laws that allow for a medical early release, according to the NCSL.

Fifteen states and Washington, D.C., have geriatric-related release policies, according to a report released in April by The Vera Institute of Justice, an independent, nonpartisan, nonprofit research center for justice policy and practice. Most states screen out violent and sex offenders for early release, said Tina Chiu, who authored the report.

In fact, the Vera Institute recommends states looking at geriatric releases for savings should examine how they put policy into practice. Chiu said states should develop pilot projects to determine what needs exist.

“A lot of work on re-entry is not done with this demographic in mind,” she said. “We might need to see more programs developed around what older people will face” if released. That includes housing, employment and family support, which might have changed drastically while the person was in prison, she said.

But Illinois Rep. Dan Brady doesn’t see where releasing prisoners would save states money. He’s opposed legislation each time it’s been considered—the most recent in 2009—to release older prisoners based on certain criteria.

“Just because of your age, I couldn’t see voting to give you special consideration to be released early,” he said.

Besides, he said, the health care needs of those people don’t go away just because they are out of prison.

“When they’re released and go back into society, there’s a burden on the state there, from either public assistance or other state programs,” he said.

Brady said there’s also the matter of inmates serving their full sentence.

Will Marling, executive director of the National Organization for Victims Assistance in Virginia, agrees. His organization believes victims should have a voice in the decisions that would change laws freeing prisoners.

Marling accepts that states are facing dire financial constraints, and recognizes the need to cut corrections spending. But he believes that shouldn’t drive inmate release.

“Who’s influencing our justice system? Is it simply a financial issue?” Marling said.

The system promises justice to victims of crime, regardless of a state’s budget situation.

“My concern is our society is moving so grossly toward a pure crass bottom line,” Marling said. “Justice has to transcend that at some level.”
ELDERLY PRISONERS

WETUMPKA, ALA.—Martha Staggs, in prison for murdering her husband in 2003, was diagnosed with colon cancer and after surgery, the cancer spread to her liver. Her weekly chemotherapy and medical bills cost the state more than $67,000 a year while she was imprisoned. The cost of elderly or infirm inmates is prompting some states to consider early release of those prisoners.

© AP Photo/Rob Carr

Prison Hospitals

Some states, like Pennsylvania, have cut costs in inmate medical care by consolidating the aging prisoner population. The Pennsylvania Department of Corrections houses older inmates in need of long-term medical care at Laurel Highlands prison. It provides specialized treatment for a variety of elderly related heath care needs so inmates don’t have to be transported for care, according to Susan Bensinger, deputy press secretary for the department.

She said the arrangement cuts costs, primarily in transportation and security. It’s also saved the department about $2.2 million by consolidating dialysis units for those prisoners who need it, according to Bensinger.

States are required to provide medical care for prisoners, according to Harrison. That goes back to 1976, he said, when the U.S. Supreme Court ruled governments have a constitutional obligation to provide necessary care for inmates.

Health staff and normal medical and mental health protocols in the community determine what health care is necessary, he said.

So, for instance, an organ transplant for an inmate is going to be covered if that inmate is approved for a transplant. In fact, a case a few years ago garnered a huge amount of attention for just that reason, Harrison said. He said people were outraged at the exorbitant costs of funding the transplant for an inmate.

“But the bread and butter cost is not for these eye-popping numbers,” he said. “It’s for the more just routine care of taking care of people when they get older. It’s just the volume of people in prison who stay in prison, who get older, and the cost of providing care for people as they get older.”

Elements of Geriatric or Medical Release Policies

» **Eligibility Requirements:** Minimum age or time served, medical needs

» **Types of Exclusions:** Conviction offenses, previous criminal history

» **Application:** Parties eligible to make application, agency to which application is made

» **Evaluation:** Public safety or risk assessments, medical conditions, party responsible for evaluations, existing parole guidelines, agency responsible for final release

» **Conditions of Release:** Release plan, predetermined release location, program participation, monitoring, reporting requirements, level of supervision

» **Revocation:** Reasons, responsible agency, procedures

Source: The Vera Institute: “It’s About Time: Aging Prisoners, Increasing Costs and Geriatric Release”
Nearly half of the inmates in New York’s prisons return to the community each year. New York was also one of three states that housed nearly half the 20,000 state prisoners across the country who had HIV or confirmed AIDS. Correctional health care is not only good for the health of inmates and correctional staff—it’s also about preventing the spread of infections to their families and communities when prisoners are released.

“The state prisons have about 60,000 inmates, and each year about 27,000 of them return to the community. Providing essential health care to this population is important to the well-being of them, their families, communities and the correctional staff,” said New York Assemblyman Richard N. Gottfried. He sponsored a bill in 2009 to improve medical care for HIV/AIDS and hepatitis C in the state’s prisons and jails by requiring oversight by the state Department of Health.

The issue is so important because people entering correctional facilities have much higher infection levels than the general population for everything from tuberculosis and hepatitis to sexually transmitted diseases, including HIV/AIDS, according to the Centers for Disease Control and Prevention. And when the inmates are released to their communities without connections to adequate medical care, infections can continue to spread in their communities.

In New York, where more than 300,000 people pass through jails and prisons each year, the quality of care available to inmates varied widely among facilities. New York Assembly Bill 903 and companion Senate Bill 3842 aim for high quality medical care for all HIV/AIDS and hepatitis C infected inmates through a facility review and inspection process. The bill authorizes reviews of similar services in local correctional facilities to begin in two years.

Incarceration provides the state with a public health opportunity to test, treat and educate the inmates who have not had sufficient access to health care prior to incarceration, and have high incidence of chronic and infectious diseases, mental illness and substance abuse problems, according to the bill’s purpose statement.

Correctional Health Care is COMMUNITY HEALTH CARE

by Ann Kelly

HEALTH CARE BEGINS BEHIND BARS, CONTINUES IN COMMUNITY

KEEPING INMATES HEALTHY IN JAILS AND PRISONS

1. Test for infections on intake, and coordinate care for inmates who are transferred from jail to prison or released into the community prior to treatment. When appropriate, test inmates again prior to release.

2. Offer testing, treatment and prevention education programs for all inmates when possible, focusing on assuring confidentiality and avoiding stigma for those who participate.

3. Offer programs to modify behaviors that put inmates at risk for transmitting infections, including providing condoms and clean syringes.

4. Provide substance abuse and mental health treatment for inmates when needed to avoid further risk of infection.

KEEPING INMATES HEALTHY UPON RELEASE

1. Begin planning and registering for continuing medical care and health coverage as soon as possible after incarceration begins.

2. Provide medications for several weeks and instructions on how to obtain affordable refills upon release for those taking prescription medications.

3. Link inmates to mental health and substance abuse treatment, or community condom distribution and syringe exchange programs for those who want to avoid future risk of transmitting infection.

4. Link inmates to community support programs for assistance with homelessness, unemployment and lack of education to help them achieve lifestyles with lower risk of transmitting infections.
According to public health experts, inmates often have no access to medical care outside correctional facilities, and are more likely to be drug offenders, homeless or mentally ill. They disproportionately come from racial and ethnic minority populations, or families of low socioeconomic status. Their lives are more likely affected by drug and alcohol abuse, lack of education, a history of physical abuse, unemployment and participation in unsafe sex practices.

As more states use community supervision to reduce prison populations, community-based programs that work with public and correctional health care providers to continue medical care and history, whether they are the same doctor or different medical providers, connect inmates with physicians during incarceration that continues after release.

Rhode Island’s Project Bridge, sponsored by the state departments of health and corrections, along with medical providers, connects inmates with physicians during incarceration that continues after release.

Georgia departments of corrections and parole refer inmates to STAND Inc., whose innovative approach includes individualized medical care management including sexually transmitted infection prevention and substance abuse treatment, as well as assistance with housing, job readiness skills and personal development.

The state-supported AIDS Foundation of Chicago is conducting cross-training of community and corrections health program staff, as well as education and counseling programs for inmates’ partners and family members.

Higher Rates of HIV, STIs in Prisons

New York, Florida and Texas together house nearly half the 20,000 state prisoners across the country who had HIV or confirmed AIDS, according to the Bureau of Justice Statistics’ January 2010 Bulletin, “HIV in Prisons, 2007–2008.”

People in state and federal prisons have rates of HIV infection and AIDS more than two times higher than the general population. Prisoners in these and 10 other northeastern and southern states had above average rates of HIV infections and AIDS, according to BJS. In addition to HIV/AIDS, other sexually transmitted infections are more common among inmates, including gonorrhea and chlamydia, according to the CDC. These other infections can make people more susceptible to HIV infection if exposed.

While the prison population is falling in some states, according to the Pew Center on the States, one in 100 adults was incarcerated in U.S. prisons and jails in 2008. Nationally, this represents nearly 2.3 million Americans, and the highest incarceration rates were among young African-American and Hispanic men.

Communities are responding, and support the New York bill focused on the disproportionate impact of HIV and hepatitis C infection in black and Latino communities, and the need to protect communities by addressing the epidemics both during and after incarceration. By starting treatment and education for inmates while they are incarcerated, community supporters anticipate inmates will be more likely to continue treatment after release, encourage family and friends to seek testing and care, and will be less likely to pass infections on to loved ones or seek costly emergency services after incarceration.

In addition, since women in New York’s prisons are twice as likely as male inmates to have HIV and 80 times more likely than in the general population, there was support for making quality medical care available to all female inmates.

The financial costs of the New York program are expected to be offset by savings from initiating early treatment and decreasing the incidence of HIV and other sexually transmitted infections among inmates. The average cost of caring for a person with early HIV disease is approximately $14,000 a year, while the cost of caring for a person with advanced HIV disease is approximately $34,000 per year.

“If this bill reduces the spread of HIV/AIDS or hepatitis C, or prevents advance of the disease to a stage where the patient is more infectious and more difficult and expensive to treat, even in a small fraction of cases, it will pay for itself many times over,” Gottfried said. “This is an important first step across the boundary between public health and the prison system.”

© Corbis (Andrew Lichtenstein)
Criminal Justice: What Would You Change?

END ‘TOUGH ON CRIME’ ATTITUDE

Rep. Cindy Evans
Majority Caucus Floor Leader
Hawaii

“People understand that this is an issue that will never go away, because we always incarcerate people who break the law. But what’s happened in the United States … now that society has gotten into this ‘tough on crime’ attitude and it’s like, ‘shame on them for doing what they did and punish them’ … We pass laws that will take a crime and turn it from a misdemeanor into a felony and then we write into law that all felonies have mandatory minimum sentencing. … It doesn’t matter if they’re a model prisoner and they do all their programs and they work really hard to do the right things. But they’re no different than the person in the next cell that may be cantankerous (and) causing problems … but because of mandatory minimums, it really doesn’t make a difference. Where’s this whole idea of teaching people what it means to succeed in life?”

JUDGES CHANGE THE SENTENCING CULTURE

Sue Bell Cobb
Supreme Court Chief Justice
Alabama

“Substantial progress is being made in Alabama in the area of juvenile justice reform and adult sentencing reform. Even though Alabama has had marked improvement, my greatest desire for change would be for a total commitment from all judges and prosecutors for utilizing evidence-based sentencing practices in both juvenile and adult criminal cases as well as significant changes in our sentencing culture. This statewide improvement in our sentencing culture would lead to local and state leaders creating a full continuum of community punishment alternatives. The availability of those punishment alternatives would prevent the loss of innocent lives, prevent recidivism and prevent the enormous waste of precious tax dollars.”
**ENFORCE IMMIGRATION LAWS**

**Sen. Russell Pearce**  
Chairman of Appropriations Subcommittee on Transportation and Criminal Justice  
Arizona

“… Simply enforce our immigration laws and you will see less crime, lower taxes, smaller class sizes, shorter lines in our emergency rooms and reduce deaths, murders, maimings, drugs, home invasions, carjackings, kidnappings, jobs taken from Americans, reduced wages, and ultimately save the taxpayer billions of dollars. We cannot afford to not enforce our laws. This is the only law we allow our elected officials to put conditions on before our police officers can do their job. … Citizens have a constitutional right to expect the protection of federal laws which prohibit unauthorized activities by non-citizens; (they) are denied equal protection by law enforcement, police departments or magistrates when they fail to enforce those laws.”

**EQUALIZE COURT FUNDING STRUCTURE**

**Lilia Judson**  
Executive Director of Supreme Court Division of State Court Administration  
Indiana

“I would change the way Indiana funds its trial courts to provide a more equitable funding structure. Because Indiana’s trial courts are funded by the counties in which they sit, the resources available to the courts depend on local economic fortunes and vary significantly. Availability of resources, or lack thereof, invariably affects the timeliness and nature of access to the courts and the decision options available to judges. For example, a court in a county that is able to fund a drug court has the option of sentencing a drug offender to that drug court, thereby offering a second chance to the offender … a court in a county that cannot support a drug court does not have this sentencing option. Disparate resources and staff levels affect the most basic access issue, how quickly courts can bring cases to closure.”

**JUSTICE FOR EVERYONE**

**Nancy Saitta**  
Supreme Court Justice  
Nevada

“I would like to improve access to justice for everyone in Nevada. Our state is 100,000 square miles with just two major population centers. Much of Nevada is rural and towns are separated by hundreds of miles. Rural residents deserve the same justice as those who live in our more populated areas of Las Vegas and Reno. But in many areas, there are few lawyers, few interpreters, and only part-time judges. The Nevada Supreme Court has been utilizing technology to bridge the miles, but more should be done.”
In the Interest of Kids

Retired Brig. Gen. Norman E. Arflack is the first executive director of the Military Interstate Children’s Compact Commission, known as the MIC3. The commission, created in 2007 by the Council of State Governments and the U.S. Department of Defense, serves the kids of military personnel when they move across state lines to attend school. It administers a multistate compact that eases the transition with policies that address interstate transfer of enrollment records, graduation requirements, age of enrollment and Advanced Placement courses, among other things. Arflack, of Frankfort, Ky., is a former secretary of the Kentucky Justice and Public Safety Cabinet, a former Kentucky adjutant general and former executive director of the National Guard Association of Kentucky.

Lieutenant Governors Talk Renewable Energy in Mexico

A delegation from the National Lieutenant Governors Association, an affiliate of the Council of State Governments, will visit federal, state and local officials in Mexico in early July. The economic development mission to promote bilateral renewable energy agendas is led by Nevada Lt. Gov. Brian Krolicki and Wisconsin Lt. Gov. Barbara Lawton. For more details, see www.nlgaus.org.

Enhancing Public Safety

The Council of State Governments is home to a number of organizations focused on enhancing public safety. The national organizations housed at CSOs Lexington, Ky. headquarters are the American Probation and Parole Association; the Interstate Commission for Adult Offender Supervision; the Interstate Commission for Juveniles and the National Emergency Management Association.
Preventing Child Abuse

Mike Robinson, deputy executive director of The Council of State Governments, recently took office as president of Prevent Child Abuse Kentucky. Robinson has served on the board for four years after learning about the organization while serving as commissioner of Kentucky’s Department for Community Based Services. “The toughest thing for me as commissioner of DCBS was hearing about a child fatality due to neglect and/or abuse,” Robinson said. “It was the issue that was constantly on my mind and kept me awake at night.” After retiring from state government, Robinson was asked to join the board. “It gave me the chance to stay involved with a critical issue, the safety of children. Hopefully, we can continue to make a difference.”

COOPERATING ACROSS THE BORDER

In April, members of The Council of State Governments Border Legislative Conference held joint meetings with Border Governors Conference representatives, Environment Work Table and Logistics and International Crossings Work Table in Tempe, Ariz., to discuss areas of cooperation in the border region. The 21st Border Legislative Conference focused on sustainable energy for the border region, continuing strong federal-state relations, and repatriation of juveniles. Arizona Senate Bill 1070, which had then passed the state’s House, was the topic of conversation. Most in attendance expressed concern about the law’s ramifications for binational cooperation. For more, visit http://www.borderlegislators.org/21XXI_3ng.htm

NEW CSG VIDEOS!

Visit www.csg.org to view new videos from the recent Economic Summit of the States. Were you interviewed? Embed your video from YouTube to your own Web site. See www.youtube.com/user/CSGovts
Virtually all state officials are talking about the recession and its historic effect on state finances. But Kentucky Senate President and 2010 Chair of The Council of State Governments David L. Williams said “we can do more than just talk about it.”

Williams and South Dakota Gov. Mike Rounds, 2010 President of CSG, hosted the CSG Economic Summit of the States in New York City May 20–23 to provide a forum for state officials to share real solutions to the issues the states face.

You’ve heard all the stats. States are cutting budgets and revenues are dwindling. Thirty-eight states increased taxes and fees to the tune of $24 billion, the largest net increase since 1979, according to Susan Urahn, managing director of the Pew Center on the States, a speaker at the summit.

“We will have a new economy after this recession,” Oregon Rep. Arnie Roblan said at the summit, “so we had best figure out some long-term solutions to control some of those costs.”

But that’s exactly the challenge. Thinking long-term isn’t easy when states are struggling to balance the budgets. “We spend all the time and resources reacting to the fires at the time,” Kansas Senate President Stephen Morris said during the summit.

One of those long-term challenges is funding states’ pension obligations, a can that’s being kicked down the road as states skip out on fully paying for their employee retirement benefits. Urahn said this is an issue that’s really bubbling to the surface as states are facing a trillion dollar gap in unfunded pension liabilities.

“We make some of these decisions without that long-term fiscal impact discussion,” Hawaii Rep. Cindy Evans said at the summit. She’s seeing this in Hawaii’s public retirement system.

States not funding pensions is a national threat, Williams said, and one that needs to be pushed on a state-by-state basis.

Some states must fully fund pensions by law, and that’s led states such as Arizona to have healthy pensions even in a recession.

Public education, health care and retirement benefit costs will continue to be a significant cost driver for states, said Scott Pattison, executive director of the National Association of State Budget Officers, who spoke at the summit. He suggested states will likely have to require public employees to contribute more to their health care benefits.

In addition, Pattison said states will have to cut some services, manage their rainy day funds carefully and use their market power to keep their costs down.

South Dakota is one state with more in its rainy day fund than most.

“Since 2008, we haven’t touched our reserves in large part, because we used the federal (stimulus) money to replace the dollars that we were losing,” Rounds said. He headlined the Opening Session of CSG’s Economic Summit of the States.

This year the state made some additional cuts in higher education and state employees didn’t get a raise for the second year in a row, for example, according to Rounds.

“We’ve been able to live within our means so far,” he said.

But it isn’t always as straightforward as living within a state’s means. For some states, there have been many more outside factors at work. The decline of the domestic auto industry hit Michigan hard. But it’s not the only state battling against reduced revenues.

Michigan has a projected $1.7 billion shortfall in the next fiscal year, for example, said Sen. Ron Jelinek, chair of Michigan’s Appropriations Committee. The state is exploring al-
alternative energy, redirecting trust fund dollars and raising some fees and taxes, he said. “We’re trying to spread our wings out a little bit, but it’s a slow process,” Jelinek said.

In Florida, the state is battling the misperception that it hasn’t cut spending, said Sen. Thad Altman, chair of the state’s Committee of Finance and Tax. In truth, Florida currently has a $70 billion budget, slightly down from previous years, Altman said. Still, the state was hurt by a decline in property tax revenue in 2007 and is also exploring alternative energies and renewable energies such as biomass, he said.

Clear collaboration between legislators, fiscal analysts and the executive branch can also help states close their fiscal gaps, John Nixon, executive director of the Governor’s Office of Planning and Budget in Utah, said at the summit. “It is these times that test us. We have to ask those questions that we didn’t ask when there was enough money not to ask the questions,” Roblan from Oregon said.

—Mary Branham and Mike Jackson contributed to this report.
CSG ECONOMIC SUMMIT OF THE STATES

Thanks to the following partners ...

GOLD
Altria Client Services, Inc.
AT&T
Puerto Rico Federal Affairs Administration & Rums of Puerto Rico
Reynolds American

SILVER
Governing
Kraft Foods Global, Inc.
National Beer Wholesalers Association
State Government Affairs Council (SGAC)

BRONZE
3M Company
Bayer HealthCare
Cargill
Genentech
Hewlett-Packard
Intuit
Lilly USA LLC
The Procter & Gamble Company
Wal-Mart Stores, Inc.

QUARTZ
AstraZeneca LP
Comcast
Endo Pharmaceuticals, Inc.
HCA—Hospital Corporation of America
MedImmune, Inc.
Northeast Utilities

FRIENDS OF CSG
1-800 Contacts
Amway Global
CTIA—The Wireless Association
Environmental Systems Research Institute, Inc. (ESRI)
Global Traffic Technologies, LLC
Golden Living
PhRMA
Reckitt Benckiser Pharmaceuticals
States are in the midst of fighting a new war on drugs—prescription drug abuse. According to the Centers for Disease Control and Prevention, prescription drug abuse is a national epidemic more deadly than crack cocaine or heroin use. By May, 40 states had developed programs to keep close watch on prescription drugs—33 of those programs are operational.

But there is little uniformity, information-sharing and cooperation among the states. A new compact developed by The Council of State Governments, through the National Center for Interstate Compacts, aims to address that issue.

An advisory committee, chaired by Kansas Sen. Vicki Schmidt, endorsed the formation of an interstate compact during its first meeting, and established the ambitious goal of drafting legislation for introduction in the states in 2011.

While CSG, the advisory group and the legislation drafting team are committed to resolving issues around information-sharing, the stakeholders want states to maintain autonomy to develop and operate their prescription drug monitoring programs.

### Status of State Prescription Drug Monitoring Programs

- States with prescription drug monitoring programs
- States with enacted legislation, but program not yet operational
- States with pending legislation

1 Washington temporarily suspended its prescription monitoring program due to budgetary constraints. However, a bill in the legislature would allow for the statewide operation of a privately funded prescription monitoring program.

2 The proposed New Hampshire prescription monitoring program bill failed to pass a committee vote and is unlikely to become law this session.

Source: The National Alliance for Model State Drug Laws
Avoid Legislating Based on the HEADLINES

Kansas Corrections Secretary Roger Werholtz, a 28-year leader in state corrections policy, has seen how the headlines can influence policies related to crime and justice. He believes there’s a better way to develop policy around emotionally charged issues that will be better in the long run.

GATHER DATA.
Horrific crimes often make the news. Often, those headlines can lead to a call from the citizenry for legislative action, but quick action is not always good, Werholtz said. He suggests gathering all the research that has been done on a particular topic to see what really works and what doesn’t. “I think going into the fact-finding mode and being very thoughtful and deliberate and methodical is important, and I think in the long run it’s effective,” said Werholtz.

SEEK PUBLIC INPUT.
Poll residents to get their opinion. “I think (that) is comforting to legislators,” Werholtz said. “They saw polling data as what their constituents really want.”

DISCUSS THE RATIONALE.
Hold forums across the state to present all the information. That can eliminate misinformation, Werholtz said. The state corrections department can help facilitate these meetings and allow the legislator the opportunity get facts out without having to take a position. “You have more time to talk with folks who are frightened and work them through the concerns they have,” he said.

CREATE ‘SOUND BITE’ INFORMATION.
It’s difficult to address raw emotion in sound bites that come from data alone. “Just presenting a lot of dry data and a lot of arguments about what constitutes effective supervision (for example) is not terribly persuasive to emotional parents,” he said. Werholtz suggests showing the experiences of others in a similar situation, presenting the information in a people-oriented way, rather than the raw statistics.

BRING IN EXPERTS.
In addition to the data, find people who have had experience with similar situations and discuss those experiences with them. Werholtz said having those experts present that information in a committee setting, where the media is present, can be an effective way to show the need for policy based on fact rather than the headlines. “You’ve got to help people understand what the risks are and aren’t in a way that is quickly accessible because the media, particularly the electronic media, time span for getting a story out is relatively short and it’s got to be delivered in a way that has impact,” he said.

LOOK AT THE BIG PICTURE.
Werholtz said legislators should not single out individual events, but instead judge corrections successes on the department’s abilities to influence trends in recidivism and reoffense rates. He said it’s important for corrections departments to get that commitment from legislators when things are going well.

“Sometimes, you’ll see people out there calling for immediate action and if we don’t know what the best immediate action is . . . we can very well make things worse rather than make it better.”

—Roger Werholtz
National and Regional Meetings

Registration and application deadlines may apply. Visit www.csg.org/events for complete details.

Visit slcatlanta.org for more information.

CSG South
Bernanke, Graham, Clyburn to Speak
July 31-Aug. 4, 2010 • Charleston, S.C.

The meeting takes place at a time when state legislatures nationwide are facing unprecedented challenges. Meeting these challenges requires information, experience and understanding. This year’s meeting features plenary presentations from Federal Reserve Chairman Ben Bernanke, U.S. Sen. Lindsey Graham and Congressman James Clyburn, as well as sessions on promoting the creative economy, funding transportation in fiscally tough times, federal health care reform and implications for Southern states, educational alignment and student persistence, and revamping state tax systems.

Visit slcatlanta.org for more information.

CSG Midwest
Broder, Fallows to Speak
Aug. 8-11, 2010 • Toronto, Ont.

David Broder, a Pulitzer Prize-winning author and renowned Washington Post columnist, will discuss the current American political landscape and share his insights about the upcoming midterm elections. James Fallows, a national correspondent for The Atlantic, will give the keynote address. He’ll explore how the U.S. and Canada can position themselves to better compete in the global economy. Attendees can also take part in roundtable discussions about common challenges faced by Midwestern states and provinces.

Visit www.csgmidwest.org for more information.

For more information, visit:
www.csg.org/events.
Wisconsin Supreme Court Chief Justice Shirley Abrahamson didn’t plan on becoming a judge when she was attending law school at Indiana University. But when an unexpected opening on the Supreme Court came up in 1976, her name surfaced. Then-Gov. Patrick Lucey appointed Abrahamson as the first woman to serve on Wisconsin’s high court, and she still sends him flowers every year for his birthday. Abrahamson is the longest-serving state justice and the sixth longest-serving state chief justice in the U.S. Abrahamson said the best piece of advice she can give is this: “In writing opinions and deciding cases, a judge has to keep in the forefront that the judge is a fair, neutral, impartial, nonpartisan decision-maker,” she said. Judges should not be swayed by personal ideology and should work without interference from the executive or legislative branches and from public opinion. “Equal justice for all,” she said. “It’s a tall order but every judge can do it.”
Repowering the Northeast: Innovative Jobs, Energy, and the Economy

The 50th Annual Meeting and Regional Policy Forum
The Council of State Governments/Eastern Regional Conference
August 15-18, 2010 Portland, Maine
Holiday Inn By the Bay
THE COUNCIL OF STATE GOVERNMENTS’

2010 NATIONAL CONFERENCE
PROVIDENCE, RHODE ISLAND

Dec. 4–7, 2010 | Rhode Island Convention Center

FOR MORE INFORMATION, VISIT WWW.CSG.ORG/EVENTS