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MEMORANDUM

TO: **Interested Parties**
FROM: **Penn Hill Group**
DATE: **September 13, 2017**
SUBJECT: **Summary of the Commission on Evidence-Based Policymaking's Final Report entitled "The Promise of Evidence-Based Policymaking"**

On September 7, 2017, the Commission on Evidence-Based Policymaking (CEP) released its final report entitled "The Promise of Evidence-Based Policymaking." This memo provides a summary of the findings and recommendations included in the final report.

Background:

The CEP was established by the Evidence-Based Policymaking Commission Act of 2016 (P.L. 114-140), which required a 15-person commission to be established with its members appointed by different persons across the Federal government, including the President, the Office of Management and Budget (OMB), the U.S House of Representatives and the U.S. Senate. The commission members are required to be from certain fields or have expertise in certain areas, such as academic researchers, data experts, experience in administering programs or experts in protecting personally identifiable information and data minimization. The law directs the CEP to conduct a comprehensive study of the data inventory, data infrastructure, database security and statistical protocols related to Federal policymaking and the agencies responsible for maintaining that data to identify: 1) the best ways to integrate data across the Federal government and make it available for various purposes; 2) how to modify data security, infrastructure and statistical protocols to achieve optimal data integration and data sharing; and 3) how to incorporate "gold standard research" protocols (like randomized controlled trials and impact analyses) into Federal program designs. The CEP produced a final report on this study which was unanimously agreed to by the CEP members.

CEP members

The following individuals were members of the CEP:

Chair and Co-Chair

- Katharine G. Abraham - University of Maryland, Commissioner and Chair
- Ron Haskins - Brookings Institution, Commissioner and Co-Chair

Commissioners

- Sherry Glied - New York University
- Robert M. Groves - Georgetown University
- Robert Hahn - University of Oxford
- Hilary Hoynes - University of California, Berkeley
- Jeffrey Liebman - Harvard University
- Bruce D. Meyer - University of Chicago
- Paul Ohm - Georgetown University

- Allison B. Orris - U.S. Office of Management and Budget (Departed the Commission on January 20, 2017)
- Nancy Potok - U.S. Office of Management and Budget (Appointed to the Commission on March 10, 2017)
- Kathleen Rice Mosier - Faegre Baker Daniels, LLP
- Robert Shea - Grant Thornton, LLP
- Latanya Sweeney - Harvard University
- Kenneth R. Troske - University of Kentucky
- Kim R. Wallin - D.K. Wallin, Ltd.

Secure, Restricted Access to Confidential Data

Findings

The CEP identified examples in which successful access to data generated information important for improving programs and policies. This often involved individuals or research teams with the patience and expertise to navigate - or figure out ways to access for the first time – available avenues for accessing data. Accessing confidential data for various research purposes (both in and out of government) involves navigating a complex array of bureaucratic processes, protocols and approaches. Federal departments are making greater use of their own administrative data for statistical activities than in the past, and in some cases, departments are also making such data available to external researchers. However, significant barriers to data access remain. The CEP identified four challenges to secure, restricted access to confidential data:

- 1: The current legal framework can stand in the way of data stewardship and the sharing of data to support evidence building.
- 2: Many high-value administrative data associated with Federally funded programs that could be useful to measuring the outcomes of government programs and policies are collected at the State or local level and are inaccessible for evidence building.
- 3: Cumbersome and idiosyncratic data access procedures create confusion, impose unnecessary costs and are a barrier to evidence building, without always providing significant privacy benefits.
- 4: Many Federal departments do not sufficiently or regularly assess their information resources to determine access controls and privacy protections appropriate to the sensitivity of the data.

General Recommendations

- Establish a National Secure Data Service (NSDS) to facilitate access to data (in order to improve the government's ability to understand the impact of its programs) while ensuring privacy and transparency in how that data are used. The NSDS will provide temporary and secure access within the government to existing data for approved projects. These approved projects will have stringent privacy qualifications in order for data to be accessed.
- Review and revise laws authorizing Federal data collection to ensure that limited access to administrative and survey data are allowed under strict privacy controls.

- Ensure State-collected quarterly earnings data are available for statistical purposes. This data is important to discovering outcomes for programs where earnings are important. Make additional State-collected data about Federal programs available, including by requiring States to provide the data in exchange for substantial Federal funds.
- Develop a uniform process for external researchers to apply and qualify for secure access to government data while protecting privacy.

Policy Recommendations

- Congress and the President should enact legislation establishing the NSDS. The NSDS will model best practices for secure, temporary record linkage within privacy constraints. NSDS should be a service and not a data warehouse or clearinghouse
- In establishing the NSDS, the Privacy Act and the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) should be amended to require new stringent privacy qualifications as a precondition for the NSDS to acquire and combine survey and administrative data for solely statistical purposes. Other statutory changes should be considered to enable better use of statistics.
- Congress and the President should review and amend, as appropriate, statutes, such as Title 13 of the U.S. Code, to allow statistical uses of survey and administrative data for evidence building within the CIPSEA secure environment.
- Congress and the President should consider repealing current bans and limiting future bans on the collection and use of data for evidence building.
- Enact statutory or other changes to ensure that State-collected administrative data on quarterly earnings are available, through a single Federal source, for solely statistical purposes.
- The President should direct Federal departments that acquire State-collected administrative data to make them available for statistical purposes. Where there is substantial Federal investment in a program, Federal departments should, consistent with applicable law, direct States to make the data available.
- OMB should promulgate a single, streamlined process for external researchers to apply, become qualified and gain approval to access government data that are not publicly available. The data requested would be considered on a case-by-case basis, including any specific restrictions appropriate to the specific dataset.

Enhancing Privacy Protections for Federal Evidence Building

Findings

Many Federal departments use modern methods to keep data secure and confidential, but government practices must adapt to new threats and take advantage of technologies that better protect data. Principal Statistical Agencies (PSAs), such as the U.S. Census Bureau, have demonstrated responsible stewardship of data collected through censuses and surveys. The laws governing PSAs give them the authority to protect confidential data by allowing use of the data for exclusively statistical purposes, such as analyzing individual records, producing descriptions of groups of people and creating averages about groups. Reducing barriers to accessing and using administrative data for evidence building requires the same kind of attention to confidentiality that is embedded in the culture and history of the PSAs. The CEP learned about potential threats to the confidentiality of Federal data used for evidence building.

The CEP report highlights three challenges that inhibit the Federal government's confidentiality protections.

- 1: Key laws governing Federal data do not require the application of best practice statistical disclosure limitation techniques or a risk assessment prior to the public release of de-identified confidential data.
- 2: Federal departments must adapt to new threats to information security and privacy, as well as take advantage of emerging technologies that better protect data.
- 3: Many Federal departments lack senior leadership focused on data stewardship, and PSAs have uneven independence and authority to protect confidential data used for evidence building.

General Recommendations

- Require comprehensive risk assessments on de-identified confidential data that will be publicly released to improve how data are protected and to manage risk.
- Adopt modern technologies enhancing the privacy of confidential data to ensure the government's capabilities to keep data secure and protect confidentiality are constantly improving.
- Assign senior officials the responsibility of managing and overseeing data within Federal departments. This will help improve leadership, coordination and collaboration between agencies when implementing protections for the use of confidential data.
- Codify policies for maintaining integrity and objectivity in Federal statistics to promote continued public trust in the accuracy of information being used to guide government decision-making.

Policy Recommendations

- Congress and the President should amend the Privacy Act and CIPSEA to require Federal departments to conduct a comprehensive risk assessment on de-identified confidential data intended for public release. Under these laws, de-identified confidential data should only be made available after a disclosure review board approves the release and publicly provides the risk assessment and a description of steps taken to mitigate risk.
- The President should direct Federal departments, in coordination with the newly established NSDS, to adopt the best, most modern database, cryptography, privacy-preserving and privacy-enhancing technologies for confidential data.
- The President should direct Federal departments to assign a senior official the responsibility of coordinating access to and overseeing the department's data in collaboration with senior department information technology, privacy and other leaders. A Principal Statistical Agency head, or other appropriately qualified senior official, should serve this function.
- Congress and the President should enact legislation to codify relevant portions of OMB Statistical Policy Directive #1 to protect public trust by ensuring that data acquired under a pledge of confidentiality are kept confidential and used exclusively for statistical purposes.

Modernizing America's Data Infrastructure for Accountability and Privacy

Findings

Technology and privacy-protective approaches related to the use of data to generate evidence have advanced greatly over the past 50 years. However, the Federal government currently lacks the complete infrastructure needed to routinely, efficiently and securely measure the impact of government policies and programs using confidential data. The CEP identified four challenges to routine and secure evidence generation to improve government policies and programs specifically related to the use of confidential government data for statistical purposes.

- 1: Existing Federal government privacy-protective data linkage, access and analysis capabilities do not meet government-wide needs for evidence.
- 2: Identification and adoption of emerging technologies and techniques for privacy-protective data access, linkage and analysis are too slow and uneven in the government to effectively support evidence building.
- 3: The existing infrastructure for accessing, linking and analyzing confidential data for evidence building does not always prioritize state-of-the-art transparency and oversight.
- 4: Datasets that could be used for evidence building do not all have adequate technical documentation.

General Recommendations

The CEP's recommendations for improved data access and strong privacy protections rely on the establishment of the NSDS. The CEP's recommendations to implement the NSDS include:

- Build on the infrastructure and expertise already developed in the government, including at the U.S. Census Bureau, to ensure that data linkages and access to confidential data for statistical purposes are conducted in the most secure manner possible.
- Require public input, guidance and participation in the policies and procedures for data linkage activities through public and stakeholder representation on the NSDS's steering committee.
- Establish a new portal for evidence building activities to ensure that the public is notified on how confidential data are used for evidence building and to document routine audits for compliance with rules governing privacy, confidentiality and data access.
- Continuously innovate approaches to privacy-protected data access that have sufficient administrative flexibilities to ensure that the government can adjust to technology advances.
- Increase efforts to make information available about the government's current data inventories and documentations to help researchers inside and outside the government know which data they need to evaluate programs and policies.

Policy Recommendations

- The NSDS should be established in the U.S. Department of Commerce, building upon and enhancing existing expertise and infrastructure in the Federal government, especially at the Census Bureau.
- The NSDS should establish a steering committee that includes representatives of the public, Federal departments, State agencies and academia.
- To ensure exemplary transparency and accountability for the Federal government's use of data for evidence building, the NSDS should maintain a searchable inventory of approved projects using confidential data and undergo regular auditing of compliance with rules governing privacy, confidentiality and access.
- The NSDS should have specific administrative and implementation flexibilities, including the ability to leverage public-private partnerships and to collect and retain user fees.
- OMB should increase efforts to make information available on existing Federal datasets, including data inventories, metadata and data documentation in a searchable format.

Strengthening the Evidence Building Capacity within the Federal Government

Findings

Evidence building takes place unevenly across the government, both within the internal Federal government and across partnerships with external organizations. The internal Federal evidence building community includes PSAs and other statistical programs, evaluation and policy research offices, program administrators, performance management offices, policy analysis offices and privacy offices. Within this Federal government community, evidence building often occurs in silos, leading to the duplication of effort or missed opportunities for collaboration (which has been challenging). Without a strong internal capacity to support the full range of analytic approaches required for evidence building, other recommendations related to improving data access, establishing the NSDS and implementing enhanced privacy protections will not have the impact that is needed. The CEP identified five primary challenges that currently restrict the capacity of the Federal government's evidence building community.

- 1: The capacity of Federal departments to support the full range of evidence building functions is uneven, and where capacity for evidence building does exist, it is often poorly coordinated within departments.
- 2: Federal departments frequently do not have an integrated approach or a long-range plan for evidence building.
- 3: The current organizational structure of OMB does not optimize the agency's ability to coordinate evidence building across the Federal government.
- 4: Administrative processes are not tailored or aligned to support evidence building activities.
- 5: The Federal evidence building community has insufficient resources and limited flexibilities that restrict the ability to expand evidence building activities.

General Recommendations

- Identify or establish a Chief Evaluation Officer in each department to coordinate evaluation and policy research and to collaborate with other Federal departments.
- Develop learning agendas in Federal departments to support the generation and use of evidence to address the range of policymakers' questions.
- Improve coordination of government-wide evidence building by directing OMB to facilitate cross-government coordination. This should also include, and may require, consolidation or reorganization at OMB.
- Align administrative processes with evidence building activities, including those relating to the approval of information collections and the procurement of services for evidence building.
- Ensure that sufficient resources to support evidence building activities are available, including resources to support implementation of the CEP's recommendations.

Policy Recommendations

- The President should direct Federal departments to identify or establish a Chief Evaluation Officer, in addition to needed authorities to build a high-performing evidence building workforce.
- Congress and the President should direct Federal departments to develop multi-year learning agendas that support the generation and use of evidence.
- Congress and the President should direct OMB to coordinate the Federal government's evidence building activities across departments, including by increasing the role of interagency councils. Reorganization or consolidation within OMB should be considered.
- Congress and the President should align administrative processes to support evidence building, in particular by streamlining the approval processes for new data collections and using existing flexibilities in procurement policy.
- Congress and the President should ensure sufficient resources to support evidence building activities about Federal government programs and policies.

Conclusion

The CEP concludes that its recommendations present a comprehensive strategy for addressing the problems facing evidence building today—data access is limited, practices protecting the privacy of data are inadequate and the capacity to generate the evidence needed to support policy decisions is insufficient. The CEP feels the recommendations within the report improve privacy protections and makes better use of data the government already collects to support policymaking. The CEP also recommends that the President and Congress lead efforts to ensure evidence plays an important role in decisions made by government officials. Ultimately, the public and the government need to know what Federal programs and policies are working. The CEP concludes that Federal officials need to use evidence to make policy and funding decisions to ultimately create policies that will improve the country across sectors and to know in which areas to invest limited Federal resources to have an impact.