Evidence Commission Approach to Data Sharing & Sensitivity and what the Evidence Act now requires

Nick Hart, Ph.D.
President, Data Foundation

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U.S. Commission on Evidence-Based Policymaking

- Created in 2016 by law to study how to make government data more accessible and useful
- 15 politically-appointed members with expertise in program administration, data, and research
  - 5 appointed for specifically knowledge about privacy and confidentiality
  - Included former congressional staff, former statistical agency leaders, and former senior executives
- Final report included 22 unanimous recommendations
CEP Findings

• Many government agencies don’t adequately assess resources to determine access controls
  • Viewed Tiered Access as a privacy mechanism and one way to support the data minimization FIPPs
  • Acknowledged PSAs are leaders in tiered access
  • “A well-designed and properly implemented data minimization strategy like tiered access can reduce the risk of unauthorized use and unintended harm to individuals.” – CEP 2017, p. 38
• Suggests agencies should review sensitivity of data to better determine tiering approaches – though a consistent system does not exist today
Tiered Access in Commission Process

• Commission was presented information to suggest tiered access was a “major strategy for addressing re-identification risk” (see CEP staff memos)

• Viewed the NSDS as an opportunity to implement a consistent tiered access approach, with the organization using OMB’s standard setting authority
CEP Findings

- Existing systems for considering sensitivity levels offer potential for more widespread adoption in Federal government
  - Suggest such systems benefit from feedback from stakeholders, researchers, privacy advocates, etc.
  - Sensitivity is not static and can change over time
CEP Recommendations

• 2-1: Establish the NSDS
  • Make information publicly available about sensitivity, risk or re-id, etc.

• 2-8: develop single standard for access to data that “are not publicly available” – including with acknowledgements to data sensitivity with appropriate access restrictions (implemented with NSDS playing a key role)
  • NSDS to help agencies review sensitivity levels over time, including periodic reviews
  • Suggest could be based on a standard classification scheme

• 3-1: Data Officials envisioned with key role in establishing sensitivity levels with access controls

• 4-5: Establish data inventories with sufficient metadata.
  • Metadata for the NSDS should be sufficient to allow for determination of sensitivity and appropriate protection levels.
Translation to the Evidence Act

• Foundations for Evidence-Based Policymaking Act of 2018 (PL 115-435) addresses half the CEP recommendations

• **Does not** establish NSDS (but does set up a new FACA)

• **Does:**
  - Require risk assessment in the statistical system
  - Establish CDOs government-wide
  - Statistical officials in all 24 CFO Act Agencies
  - Require data inventories with sufficient meta-data
  - Mandate open data, when practicable and consistent with the FOIA standard – taking into account “risks and restrictions related to the disclosure of [PII]...”
  - Direct OMB to establish standards for the statistical system to categorize sensitivity levels of “data assets” – with the info being made available via data inventories (see CIPSEA Sec. 3582)
About the Data Foundation

• Non-profit research think-tank based in DC
• Support efforts to provide research, training and education about data policy
  • E.g., roundtables, white papers, technical assistance, trainings, and task forces

www.datafoundation.org
Nick.Hart@DataFoundation.org