

Improving Congress’s Capacity to Serve the Public through Data and Data-driven Decision-making

*Testimony prepared for the House Select Committee on the Modernization of Congress Hearing: “Strengthening the Lawmaking Process: How Data Can Inform and Improve Policy” - October 27, 2021 by Tara McGuinness co-author of Power to the Public the Promise of Public Interest Technology¹ and Senior Advisor, New America
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Thank you Chairman Kilmer, Vice-Chair Timmons, members of the Committee. I am grateful to join you today to talk about the important task of equipping Congress to really work for the public in the digital age. In particular, how you can improve the use of data to make better policy and deliver outcomes for the public.

- While the new Millennium has brought a ruthless focus on using data to deliver for customers in the private sector— testing messages, imagery, and even tweaking the timing of emails to increase customer response—this modern toolkit is not yet accessible to Congressional leaders trying to bring critical policies and benefits to citizens.
- Before I speak to you about steps that you could take to improve how Congress uses data to effectively deliver outcomes, I want to talk about coffee: Starbucks coffee.
- Starbucks uses a combination of user research and data to drive their decision making. They test what works - from menu offerings to staffing demands on a rainy vs. sunny day.
- There are far greater resources (in recruiting human capital - data talent, tools, cutting edge testing) and more evidence-based policy making tools available today to support Starbucks than to the U.S Congress. That has to change.
- Coffee isn’t nearly as important as any single one of the scores of activities driven by this legislative body: keeping us safe, keeping our water clean, effectively providing vaccines, or food security or health insurance.
- The COVID-19 pandemic has brought an unprecedented urgency to using data equitably in policy making -- from tracking and containing the spread of the virus to delivering economic assistance in a timely and effective way. At their core these challenges are data problems: modern tools are required to build accurate data sets, interpret data and measure impacts.
- These skills and tools aren’t rocket science but they do take work and require transitioning from the way things have been done.
- I am grateful that you have called this hearing to understand how Congress can improve the use of evidence based policy making.
- I will focus my testimony on clear steps this Committee can take to make sure the best practices and tools are part of your work to serve the public good.

Here are four key recommendations for making this transformation to using data to drive outcomes in the digital age:

¹ McGuinness and Schank, Power to the Public: The Promise of Public Interest Technology, Princeton, Princeton University Press, April 2021.

- First, we need to create real-time data on government programs to see what is working and what isn't.
- Second, we need Congress to be a place where the brightest technologists, data scientists, designers and engineers go to work -- because policy is delivery and delivery is policy.
- Third, Congress needs to do what it ordered the federal government to do: bring practices of plain language and user-testing to its communications.
- Finally, we need data to drive *decision making* by creating a culture of improvement, where the users of policies have a voice in the process and actions get taken to improve things when the data suggest something isn't working.

First: real-time data, systems that can measure what matters, in real-time:

- Much of evidence based policy relies on the ability to collect and use data to assess what is working. Congress can aid the data improvement effort that is the lifeblood of evidence-based policy by considering including that data collection in *service of delivery* be part of any legislative bill. What might this look like?
 - *Encourage automated data for social programs* with the ability to monitor service delivery in real time. For example, it is impossible to determine real wait times in the Unemployment Insurance program (despite much data collection). This information would allow program administrators to understand where there are bottlenecks in the system, or when wait times are getting very long. A Child Tax Credit data dashboard built by Code for America, a nonprofit focused on improving government service, models what any social service should have: the time it takes to complete the application, the number of benefits delivered overtime, by zipcode, the top reasons for rejected applications. It is a model of real-time, good enough data that would allow interventions to be tested to see improvements. Most programs at the state and federal level don't have this day today.
 - I know first hand, how impactful the installation of real-time data monitoring was for Healthcare.gov. The adhoc team of engineers, designers, data scientists and contractors working to turnaround Healthcare.gov in its early days didn't know what was broken until they could see where clients were stuck: the log-in, the identity verification, the part of the site where you pick a plan. It was impossible to prioritize fixes until you could see all parts of the system in one place and where people were getting through and where they met barriers.
 - The ability to see in real-time who you are serving and how applications are being processed is a key part of modern service delivery operation. If a key population is getting stuck (people with two-part last names) or is missing altogether (people with obscure but legal immigration status) the sooner this is visible, the sooner it can be addressed.
 - What else can you do to advance evidence based policy? *Require and encourage that data, where possible, be machine readable and machine collected.* This will reduce the amount of manual data collection, allowing time for analyzing and using it, and making faster adjustments to improve delivery for the people the programs are intended to serve.

During COVID we saw first hand data challenges that emerge when a data person is out for a day, where possible you want to eliminate bias or corrections.

- Finally, Congress can seek ways to create surveys to better understand public needs. The Census Pulse survey (during Covid) was an imperfect tool, but did help Congress see what the public was facing in real-time in a crisis. Congress could use other established or emergency data mechanisms to get a read on what issues are important for the public. More systematic means of using constituent complaints to individual offices could also improve the feedback loop between the public and the government.

Second, technical talent.

There are many opportunities for this Committee and others to build your own teams, create new roles and to receive technical assistance from other government agencies like USDS which have already cultivated tech talent. According to Travis Moore, head of TechCongress, out of the nearly 3,500 legislative staff in Congress, there are fewer than twenty with backgrounds and training in technology.

- This will mean investing in bringing new skills and talent to Capitol Hill, diverse leaders, representing all our communities, with new data, research and technology skills, and new systems.
- There has been progress in this area --TechCongress has fellows in offices of both parties demonstrating there are new tools and mindsets that have come to the private sector and other branches of government that are mission critical to how this body does the work of legislation and oversight. But there is more to do.
- Many Americans are raising their hands to be in service. There are not enough fellowships or roles in Congress today to bring this expertise in at the scale we need. Tech Congress had 865 technologists apply to our programs over the last year for only sixteen slots.
- This committee has already begun to expand talent by recommending the creation of a Congressional Digital Service Task Force, modeled on the bipartisan proposal for a Congressional Digital Service from Majority Leader Hoyer and Minority Leader McCarthy, This would be another important step to bringing in technically informed policymaking. As you know, the Modernization Committee hosted a pilot Congressional Digital Service fellowship in 2020 and 2021, which proved the immense value a team of engineers and designers can have in Congress. The \$2 million appropriation for an innovation lab within House Information Resources is a great start and I encourage the Committee to continue pushing for a permanent Congressional Digital Service fellowship.
- There is so much more that could be done to both build out technical talent in personnel offices, committee offices and institutional offices like the Clerk and Chief Administrative Officer (CAO), and legislative support agencies like Congressional Research Service (CRS) and US Government Accountability Office (GAO).
- There are scores of jobs available in the private sector, at places like Starbucks, with titles like “chief digital and analytics officer” “data scientist” “ data engineering manager” “advanced analytics and insights officer.”
- This Committee can also bring expertise from the other parts of the federal government, like the US Digital Service. Designers, data scientists and engineers could provide valuable technical

assistance to lawmakers during the policy writing process, helping to illuminate how technical policy is successfully implemented by the executive branch. Rotations, fellowships, or exchanges could also bring expertise to committees while fostering alignment on policy objectives and outcomes. It could be incredibly useful to have someone who has actually implemented a policy improve the next generation of legislative drafting on it.

Third, plain language and user testing and iteration.

- To improve how government works today we need to build a tighter feedback loop between the people we serve and those who design policies for them and improvement overtime.
- From a book order on Amazon to a Lyft ride today's companies are constantly learning, testing and seeking data and feedback.
- One of the skills refined by technology companies is connecting data to user testing and refining how to convey ideas in plain and simple language².
- Analyzing reams of gig data isn't enough. Congress needs the ability to use data to make sure things are working for people by user testing, and trying things out small before rolling them out big.
- One well known financial services company tested the name of a single navigation item on their website with 455 participants, every year they conduct hundreds of tests with users often with over 1,000 participants in each study. No wonder government websites feel different; they have not been built and tested for what humans need the way company sites have.
- It is particularly important Congress makes sure that the public knows and understands the benefits they are eligible to receive through laws that are written.
- For example, if you are ill or are having a new baby - you might need information about medical leave or family leave, a policy that has been on the books for decades. Right now the Department of Labor website is entitled "FMLA Frequently Asked Questions"³ referring to the "Question and Answer" you might need regarding the name of the law "Family Medical Leave Act" You shouldn't have to know the name of the law from 20 years ago to get your questions answered about paid leave of medical leave and understand your rights. Our team has worked with two states on care policies testing how the families who will use them see them and what search terms they use. This type of research is something that Congress should have the capacity to do⁴.
- In 2010, Congress passed the [Plain Language Act](#) that requires that federal agencies use clear government communication that the public can understand and use. Congress needs to do what it has ordered the federal government to do: improve its own ability to write bills in plain language -- this could be through an additional level of expertise in leg council or more formal training for Congressional staff (similar to existing legal or budgeting training). This would improve public

² Tom Tullis, "Measuring the User Experience," (Presentation, UX Masterclass, Montreal, Canada, September 20, 2010).

³ FMLA Frequently Asked Questions, Department of Labor, accessed October 25, 2021, <https://www.dol.gov/agencies/whd/fmla/faq>

⁴ Brigid Schulte, "Want to design policies that really work? Test them on the users who need them first: a step-by-step guide to how New Jersey used plain language and user-testing to improve the state's paid family and medical leave program," New America, March 31, 2020, <https://www.newamerica.org/better-life-lab/blog/want-to-design-policies-that-really-work-test-them-on-the-users-who-need-them-first/>

access to understanding the laws that affect them, but would also make agency interpretation simpler, clearer, easier to implement.

Building adaptable forms and customer response systems for humans.

- Set goals on outcomes, instead of prescribing timetables. Many pieces of legislation prescribe specific implementation timelines for the delivery of IT products and procurement that can't be known at the time of drafting -- it is easier to gather analysis of what works, without arbitrary deadlines. It can be a mistake to implement a program until it is clear that it will actually reach the public; it is possible to draft requirements that better connect to delivery than arbitrary timing deadlines.
- Often laws prescribe the need for contact or call centers that are obsolete, or they prevent helpful automation by prescribing human contact. For example, to this day, the Paperwork Reduction Act makes it difficult for federal agencies to have user-friendly form “wizards” because OIRA must approve every possible permutation of the form wizard as an independent form. New tools like the ability to actually time everyone who uses a form, and even to see exactly what question they get stuck on most often, are not used, in favor of literal guesstimates of “time to complete” estimates.
- Don't be too prescriptive. Sometimes the most evidence-based solutions are not available to agencies because the legislative text prescribes the exact way evidence should be collected. Language that sets the goals for rapid learning rather than the pathway for data collection is best.
- Legislation should point to tested existing federal guidance when it exists. Much of the COVID-19 pandemic unemployment fraud would have been avoided if states were held to the same guidelines⁵ that federal agencies must adhere to for affirming someone's identity. This guidance is flexible, and it works. (The VA and SSA are not overwhelmed by fraudulently filed benefits applications.) You could keep a short list of such policies for easy reference in bills, for example the US Web Design Standards.⁶

Finally, data and evidence that does not create change is useless.

I want to say a final word about data. It really doesn't matter if you build a data and evidence capacity if you don't have a willingness to learn and change what works and what doesn't. In our book *Power to the Public*⁷, the defining qualities of governments that were having profound outcomes were threefold: government officials didn't just have data, they also had meaningful feedback loops with the humans they serve, and they had a culture where the learning from the data and from their constituents changed their decisions. Plenty of organizations have data and dashboards, far fewer of them use the learning to tackle root causes, change incentives and cultures and stop doing things that don't work.

⁵ [NIST IAL2/AAL2 guidelines](#)

⁶ “A design system for the federal government,” <https://designsystem.digital.gov/>

⁷ McGuinness and Schank, *Power to the Public: The Promise of Public Interest Technology*, Princeton, Princeton University Press, April 2021.

We need data to drive decision making by creating a culture of improvement, where the users of policies have a voice and action is taken to fix root causes when the data suggest something isn't working.

I am grateful for the attention this Committee has paid to the process of improving and modernizing Congress. We do have the capabilities to use evidence to learn what truly works *to help policy really reach people, to test what works and to improve.* I hope this testimony leaves this committee with concrete steps and recommendations.

While policy matters a great deal, it matters very little if it doesn't reach those who need it most. Congress's capacity to collect and use evidence may seem like a small technical thing, but in the digital age it is the difference between accessing life saving vaccines, receiving a rental check before eviction -- the ability to see what works and what doesn't is nothing short of life saving.