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We measure what matters. That's an old saw in the private sector and true of most of the public sector as well. Election administration is the mysterious outlier in this respect. We know more about the cars we drive and dishwashers we buy than we do about our precious non-commodity – the right to vote. "Big data" drives financial investments and baseball-team trades, it dictates environmental policy and which pop-up ads appear on your computer screen. And yet we lack access to basic information about how well our election system is working, let alone how to make it work better. Part I of this testimony explains why data collection is essential if we are to have an election system worth revering. Data provide an essential management tool, enabling us to spot, surface, and solve the problems that plague election administration. Good data help us identify problems and find cost-effective solutions. They show us where our policymaking policies should lie and provide realistic benchmarks for solutions. And they provide the allies of reform with the tools they need to push for change. Good data not only set the policy agenda, but push it forward.

Part II of this testimony describes where we are on the data-collection front and where we ought to go from here. Things have improved since I wrote my book, *The Democracy Index: Why Our Election System is Failing and How to Improve It*.[1] There I proposed ranking states based on how well they run their election system. Thanks to the extraordinary efforts of the Pew Trusts, such an index now exists. Pew's Elections Performance Index (EPI) is a crucial first step toward catching election administration up to 21st century management practices. But it is only a first step. As I will explain in this testimony, there is still a good deal more work to do to collect new data and pull together the data that do exist in a form that allows for cross-jurisdiction comparisons.

Finally, Part III will examine federal data-collection efforts not just from the perspective of an elections scholar, but from that of a federalism scholar. The United States has a proud tradition of state-run elections. There is so much variation among and within the states that our election system easily lives up to Justice Brandeis' aphorism about the "laboratories of democracy." But the laboratories of democracy can only work if someone is recording the results. We need consistent definitions and an easy means for collecting and aggregating data so we can draw comparisons across jurisdiction. This is exactly the role that the federal government ought to play in a decentralized system like our own. The federal government can create the lingua franca needed to compare state policies and performance. It can fund standardized data-collection systems to record the results of the states' non-standardized practices. It can help states learn from one another's best practices and fix their own worst ones. It can foster the competition and

[1] Heather K. Gerken, *The Democracy Index: Why Our System is Failing and How to Fix It* (Princeton University Press, 2009). Portions of this testimony is derived from that book.

innovation that federalism is supposed to produce without intruding on state policymaking. We should not mourn the variation in our system. We should *harness* it, fueling the race to the top that federalism is designed to produce.

I. Data: The Essential Ingredient of Good Policymaking

Date collection, analysis, and comparison are routine activities in the private and public sectors, and with good reason.

A. Data-driven management: the norm in both the private and public sector

The private sector measures what matters. My colleague Ian Ayres, has written about how "supercrunchers" use data-driven analysis to build sports teams, diagnose disease, evaluate loan risk, assess the quality of a new wine, predict the future price of plane tickets, choose which passenger will be bumped off an airline flight, and inform car dealers how far they can push a customer on price.[2] Wal-Mart's data are so precise that it knows that strawberry Pop-Tarts sell at seven times their usual rate just before a hurricane. Data-crunching and benchmarking, in short, are routine practices in Fortune 500 companies.

The public sector measures what matters as well. Government agencies at the state[3] and federal levels[4] routinely rely on data-driven analysis to improve their performance.[5] One of the most well-known programs is called CitiStat, which was modeled on the Comstat program that brought the New York Police Department so much success. [6] CitiStat was first used in Baltimore with impressive results.[7] The city's mayor met regularly with department heads to create performance targets and assess progress toward them using data generated and collected by the city. For instance, the mayor decided that every pothole should be fixed within 48 hours of someone reporting it. The city then used performance data to evaluate its progress in reaching that goal.[8] Data-driven analysis has been used in a variety of public institutions, ranging from police departments to housing agencies, from transportation agencies to education departments.

Data-driven analysis has a long and distinguished historical pedigree. Just think about the vast amount of economic data that the government collects. We're all familiar with the GDP, which aggregates the value of goods and services over a set time period.

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[2] Ian Ayres, *Supercrunchers: Why Thinking by the Numbers is the New Way to Be Smart* (2007).
[3] *See, e.g.,* Julia Melkers & Katherine Willoughby, *Staying the Course: The Use of Performance Measurements in State Governments* (IBM Center for Business and Government 2004).
[4] For a survey, *see* Harry P. Hatry et al., *How Federal Programs Use Outcome Information: Opportunities for Federal Managers* (IBM Center for Business and Government 2003).
[5] For a useful sampling of these programs, *see* Daniel C. Esty & Reece Rushing, *Governing by Numbers: The Promise of Data-Driven Policymaking in the Information Age* (2007).
[6] *See, e.g.,* Paul O'Connell, "Using Performance Data for Accountability: The New York City Police Department's CompStat Model of Police Management" (IBM Center for Business and Government 2001).
[7] For a comprehensive but perhaps unduly cheerful analysis of CitiStat, see Robert D. Behn, "What All Mayors Would Like to Know about Baltimore's CitiStat Performance Strategy" (IBM Center for Business and Government 2007).
[8] *Id.* at 9.

The GDP has become a key metric for evaluating economic performance, providing a universal quantitative reference point for evaluating economic conditions. Without the GDP, we would have no sense of how we are doing economically. The GDP maps where we are and helps us chart our future path.

The economy isn't the only area where our government constantly measures. We conduct a full-blown census every ten years. Almost a hundred federal agencies and programs boast data-collection programs.[9] We collect statistics on the environment, transportation, crime, prisons, farming, disease, housing, childcare, immigration, aging, patents, the labor market, international development, medical services, imports and exports, and gas prices. We even try to measure things that many people believe can't be measured, like the quality of a public education.

B. Election administration: the mysterious outlier

Given how pervasive data-driven policymaking is, the mystery is why something that so naturally lends itself to measurement – election performance -- is not measured consistently. In some instances, as I discuss below, the data aren't being collected. In others, the data are being collected, but they aren't available in a form that is accessible, let alone provides for cross-jurisdiction comparisons.

One might think we don't need more data on our election system. Most of the arguments against data-driven analysis in the public sector boil down to a worry that institutional performance can't be measured. People argue, with some justification, that quantitative measures can't possibly capture how well a school educates its students or whether the government is providing the right social services.

The main thrust of these arguments is that gauging institutional performance requires us to make value judgments, and data can't make those judgments for us. Data-driven analysis may be a natural tool in the business arena, some argue, because the goal is clear: businesses are supposed to make money. Government agencies and educational institutions, in contrast, are supposed to carry out a variety of tasks that necessarily require more complex normative assessments.

While it is plainly true that judging performance requires us to make value-laden decisions about what matters and why, some government activities lend themselves more easily to measurement than others. Election data fall on the comfortable end of this sliding scale. Academics call election administration practices the "nuts and bolts" with good reason. These aren't the issues that have divided the elections community, like campaign finance or felon disenfranchisement. Even if the parties have a tendency to play politics on some issues, there's actually a good deal of agreement on how an election system should work. Moreover, much of what we value in election administration can be captured in a statistic: how long were the lines? how many ballots got discarded? how often did the machines break down? how many people complained about their poll workers?

[9] Federal Agencies with Statistical Programs, http://www.fedstats.gov/agencies/ (last visited May 8, 2014).

C. Good data is necessary for good policy

Just as we measure what matters, it matters what we measure . . . or don't measure. The dearth of data in election administration handicaps our efforts to build a system worthy of our storied democratic traditions.

Without good data, we lack the information we need to be confident that we've correctly identified the problem and chosen the right solution. Take two of the most controversial issues in election administration right now: photo ID and early voting. The conventional wisdom is that the first favors Republicans and the second favors Democrats. But as political scientists have begun to amass data on these issues, they have begun to question *both* conventional wisdoms.

What's true of controversial issues is just as true of mundane ones. We cannot run an election system by relying on necessarily atmospheric judgments about what problems exist and how to solve them. Data provide what we need: concrete, comparative information on bottom-line results. Good data help us figure out not just what is happening in a given state or locality, but how its performance compares to similarly situated jurisdictions'. Good data help us spot, surface, and solve the problems that afflict our system. Data, in short, give us the same diagnostic tool used routinely by corporations and government agencies to figure out what's working and what's not.

Identifying problems and solutions. The absence of good data poses the most basic of dilemmas for those who care about our election system: it is hard to figure out whether and where problems exist in a world without information. Election experts can name the symptoms they see routinely. But if you were to identify a specific election system and ask whether the problem existed there, experts might not be able to answer your question. Problems are hard to pinpoint in a world without data.

Distinguishing between a glitch and a trend. Even when we can identify a potential problem without good data, it's hard to figure out where that problem looms largest or to distinguish between a statistical blip and a genuine pattern. No election system is perfect. Problems occur regularly, if only because human beings are involved in every step of the process. The key is to figure out when the source of the problem is a one-off incident or a systemic error. That cannot be done without good data.

Benchmarking. Good policy requires something more than a bunch of individual jurisdictions collecting data on their own. It requires us to benchmark. Benchmarking is a routine practice in the business world, as corporations constantly compare their performance with that of their competitors to identify best practices and figure out where they can improve.

One cannot benchmark without a large amount of data that can be compared across jurisdictions. Election administration is simply too complex and too varied to be captured by studying a small sample or a single piece of data. As several scholars have explained, an election system is like an "ecosystem. . . . [C]hanges in any one part of the system are likely to affect other areas, sometimes profoundly."[10] When ecosystems vary as much as they do in the elections context, large-scale, cross-jurisdictional studies are essential.

Put differently, without high-quality, easily compared data, we find ourselves in the same situation as doctors of old. Based on limited information on symptoms (lots of ballots are discarded, the lines seem long), we try to identify the underlying disease (is the source of the problem badly trained poll workers? malfunctioning machinery?). Like the doctors of yore, we may even try one fix, followed by another, hoping that our educated guesses turn out to be correct. The problem is that our educated guesses are still just that . . . guesses.

Even when someone comes up with a good guess as to a solution, we can't tell how much improvement it will bring or how its effects would compare to other, less costly solutions. In today's environment of tight budgets and limited resources, this lack of precision undermines the case for change. What we need is what modern medicine provides: large-scale, comparative data that tell us what works and what doesn't.

Identifying what drives performance. The dearth of data doesn't just make it hard to cure specific ailments in our election system. It also prevents us from inoculating the system against future disease. Put yourselves in the shoes of a reformer or an election administrator and you can see why comparative data are crucial. While you are certainly interested in specific fixes for discrete problems, you really want a robust system capable of self-correction so that problems can be avoided rather than corrected. You want to identify not just best practices, but the basic drivers of performance.

If you are interested in the drivers of performance, absolute numbers matter to you, but comparative numbers are far more useful. After all, if you can't even identify who's doing well, it is hard to figure out precisely what drives good performance. Without comparative data on performance, we cannot know whether, for instance, well-funded systems tend to succeed, or whether the key is centralization, better training, or nonpartisan administration.

D. Good data helps move good policy

Good data don't just help us identify the problems we have and the solutions we want. Data also help us move from problem to solution. As I've written elsewhere, we have a "here to there" problem in election administration. We spend a great deal of time thinking about what's wrong with our election system (the "here") and how to fix it (the "there"). But we spend almost no time thinking about how to get from here to there -- how to create an environment in which reform can actually take root.

[10] Steven Huefner et al., *From Registration To Recounts: The Election Ecosystems of Five Midwestern States* v (2007).

Identifying policymaking priorities. Good data are essential if we want reform to take root. To begin, good data are essential to policymakers. Data give policymakers a baseline for refereeing debates between the election administrators who work for them and the reformers who lobby them. Policymakers see plenty of untrustworthy arguments coming from administrators who aren't doing their job properly. But they also grow pretty tired of the insistent drumbeat for change emanating from the reform community. While policymakers may be reluctant to hold election officials accountable based on the necessarily atmospheric judgments of the reform community, they are likely to be convinced by hard numbers and comparative data.

Good data also help policymakers sort through policymaking priorities. Legislators and governors are often bombarded with information. They hear lots of complaints, listen to lots of requests for funding, and sift through lots of reports. What they need is something that helps them separate the genuine problems from run-of-the-mill complaints, a means of distinguishing the signal from the static.

Helping election administrators make the case for change. Good data are just as important for election administrators, the people who do the day-to-day work of running our election system. We usually assume that pressure for change comes only from the outside – from voters or reformers or top-level policymakers. But some of the most effective lobbyists for change are people working inside the system. Moreover, the long-term health of any bureaucracy depends heavily on bureaucrats' policing themselves through professional norms.

Good data arm those existing allies. Hard numbers help election administrators sympathetic to reform make the case for change. They help flag policymaking priorities and give election administrators confidence in their proposed solutions.

Good data also create more allies for change among election administrators. Too often, reformers bombard election administrators with complaints and offer "silver bullet" solutions that don't pan out. Good data tell election administrators when they actually have a problem and, better yet, can point the way to a solution.

Good data can also serve as a shield for election administrators, who often find themselves trapped in a political maelstrom through no fault of their own. The absence of data, combined with the episodic way in which we learn about election problems, poses a terrible risk for election administrators. In a world without data, voters learn about problems only when there is a crisis, and they lack a comparative baseline for assessing what's going on. When an election fiasco occurs, voters tend to leap to the conclusion that the problem was deliberately engineered. After all, voters are operating in a virtual black box – they know there's a crisis, they don't see other places experiencing the same problem, and they may even be aware of the partisan affiliation of the person in charge. It is all too easy to connect the dots.

Good data change the blame equation. Hard numbers enable voters and reporters to distinguish between partisan shenanigans and the ailments that afflict most jurisdictions. Data thus help us reward the many election administrators doing a good job despite intense resource handicaps.

Developing best practices. Perhaps the most important role good data can play is to help create a consensus on best practices among election administrators. The long-term health of any system depends largely on administrators policing themselves based on shared professional norms. Indeed, professional norms may ultimately be more important to a well-run system than pressures from the outside. They are what my colleague Jerry Mashaw calls "soft law" because they rely on an informal source of power – peer pressure. Professional norms work because administrators are just like the rest of us. They care what other people think, and they are likely to care most about the opinions of people in their own professional tribe. Social scientists have done extensive work identifying the ways in which the pressure to conform affects individual behavior. Many professional groups – lawyers, accountants, doctors -- possess a set of shared norms about best practices. While these norms are often informal, they cabin the range of acceptable behavior. When professional identity becomes intertwined with particular practices, peoples' own sense that they are doing a good job depends on conforming to these norms.

It's not just peer pressure that causes people to conform to professional standards; it's also time constraints. No one has the time to think through all the considerations involved in every decision they make. Like voters, administrators need shorthand to guide their behavior. A professional consensus on best practices can represent a pretty sensible heuristic for figuring out the right choice. Good data help us pinpoint and disseminate best practices.

Even when we cannot reach a consensus on model policy inputs, it is still possible to generate professional norms about performance *outputs*. Good data can create something akin to a *lingua franca* in the realm of election administration, a shared set of performance standards that would apply to localities regardless of their policy practices.

In sum, good data are essential for a great election system. They provide an essential management tool, enabling us to diagnose and treat the problems that plague our election system. Good data help us identify problems and find cost-effective solution. They show us where our policymaking policies should lie and provide realistic benchmarks for solutions. And they provide the allies of reform with the tools they need to push for change. Good data not only set the policy agenda, then, but push it forward.

II. Where We Are and Where We Go From Here

Happily, things have improved since 2009, when I first wrote about election administration as a "world without data." Thanks to public and private efforts, most notably the Election Assistance Commission and the Pew Trusts, we have more and better data on how well our election system is performing. Indeed, we now have sufficient information to create the first index of state election performance.

On the public side, the much-maligned Election Assistance Commission has had its share of controversy. But it has led the way in data-collection efforts, administering a survey of state election practices that has helped jumpstart the important process of baselining state performance. The survey wasn't perfect, nor was it administered perfectly, thus prompting some well-deserved criticism by election administrators. But it was a crucial first step toward identifying the basic information states ought to collect and pulling it together in one survey.

On the private side, Pew has led the way in promoting data-driven management among election administrators. The Pew Center on the States has devoted considerable financial, intellectual, and organizing resources to improving and encouraging state data-collection efforts. It's taken on the daunting task of "scrubbing" and evaluating the extant data sets available, and no organization has done more to promote awareness of the need for data among election administrators.

One of Pew's most important projects has been the Elections Performance Index, which pulls together 17 indicators and aggregates them so we can compare state performance against one another and across time. Pew has thus given us what we've never had before – the election administration equivalent of the GDP measure. We now have the ability to baseline state performance, track the effects of policy change, and evaluate the drivers of performance.

While I'll leave it to the Committee's other witnesses to describe the EPI in full, let me just note that we are already reaping the benefits of the index. For instance, we've begun to learn things we didn't know before. States with high obesity rates, for instance, seem to have trouble getting their voters to the polls. So too, we're shaking loose some of our assumptions about which systems are working and which aren't. For instance, a number of states with long lines in 2012 ranked pretty high on the EPI. Ohio and Florida, the perennial objects of late-night comedy during elections season, were somewhere in the middle of the pack. Moreover, we see rich states and poor states performing well and badly on the list, something that at least raises questions about the real drivers of election performance.

The EPI hasn't just given us a new diagnostic tool. It also seems to be pushing reform forward.[11] Indeed, now that we can assess state performance across two comparable elections (the 2008 and 2012 presidential elections), we see states paying close attention to the rankings. In the first few weeks after the release of the 2012 EPI, there were lots of stories about states touting their rise in the rankings or grumbling about their scores, with more discussions happening behind the scenes.

Secretary of State Jon Husted, for instance, noted that one of the reasons that Ohio didn't rank higher on the EPI was its failure to keep up with other states in creating an online registration system and urged his legislature to take up the bill. Iowa is paying

[11] The next three paragraphs were drawn from a post on the Election Law Blog entitled "The EPI and Election Reform: The Early Returns are Promising," which is available at http://electionlawblog.org/?p=60357. That post contains links to the relevant stories.

special attention to military and overseas balloting, which pushed its rankings down. Florida was working with Pew in advance of the EPI's release and promises that it has *already* enacted transparency and access reforms that will improve its rankings next time. Indiana's Secretary of State tells us that, as we speak, the state is working on a post-election auditing process in order to up its ranking. The state also issued "a call to action" suggesting further improvements. Georgia insists that it's going to do a better job on data collection in the future in order to increase its score.

We see the same thing happening at the top of the rankings, also as I predicted. For example, the Secretary of State of Montana – which now ranks near the top – is not resting on her laurels. She called for additional reform so that Montana could maintain its position. So, too, the Secretary of State of top-ranked Michigan, which fell just shy of the top five, has called for online voter registration and changes to absentee voting in order to move the state higher up the list. Twelfth-ranked Washington is on the hunt for ways to improve its already strong ranking. And in North Dakota, which ranked first in the nation, policymakers who oppose voting rules recently enacted in North Dakota are using the EPI as a cudgel to beat the other side, arguing that those changes put the state at risk of losing its treasured number one spot.

If the EPI continues to develop into the touchstone for measuring election performance, it should matter more in these debates, and the pressure will continue to mount for low-performing states. States improved an average of 4.4 percentage points between 2008 and 2012. As Doug Chapin noted, "even states showing modest improvement run the risk of being left behind." A spokesperson for Washington State has plainly gotten the message: "[M]uch of what we've done is outstanding" but "others are catching up . . . We're still a high performing state [but] other states are making rapid improvements. Essentially, all boats are rising . . ." Moreover, as I noted above, even if the EPI doesn't prod a single state to do a single thing, it will still matter a great deal to election reform. That's because it provides an essential tool for data-driven policymaking: a baseline.

There are other sources of data as well, in large part due to the efforts of savvy local administrators. But these data aren't readily accessible, let alone provided in a form that would allow cross-jurisdiction comparisons.

In sum, while we've made important strides in collecting data on election performance, much work remains to be done. Let me describe three main areas where the data we have are decidedly sub par.

Cost. The information we have on the cost of administering elections -- one of the most important factors in the reform equation – is woefully incomplete. At present, we have no reliable means of measuring the costs of running elections from state to state. During a period of tight budgets and financial restraint, it is essential to compare the relative costs and benefits of the systems we use and the reforms we seek. That's why even the granular information we have on cost is already driving reform forward. Many Secretaries of States, for instance, are turning to online registration systems because they reduce both human error *and* financial costs. The price tag for online registration is substantially smaller for traditional registration processes. Sometimes dollar and cents align with good sense in the policy world. Without more and better data on cost, however, we cannot identify the cost-effective interventions that would make our system better.

Local variation. We can also do a better job collecting data on local performance. While we've begun to gather sufficient information to draw some cross-state comparisons, we have no comparable means of assessing the considerable variation that exists locally. Local comparisons, of course, would give us a far richer set of information on what works and why. It should also help us identify policymaking priorities going forward. Virtually every Secretary of State will tell you that he or she worries most about one or two local outliers whose performance falls considerably below the statewide average, and state policymakers often offer gloomy predictions about which city or county will convert their state into the next Florida or Ohio. Without local performance data, however, we cannot identify the localities that put our system most at risk.

Needless to say, we cannot expect every locality to provide fine-grained data on every issue. Happily, we don't need massive amounts of data from every single jurisdiction to get a good read on whether the system is working or not. In collecting data at the local level, we should think like the Census Bureau.[12] The Census Bureau knows that it needs certain data from everyone. It thus sends every household a "short form" once every ten years to ask about basic demographic questions -- age, sex, and race/ethnicity. The Bureau then uses random sampling to gather other information. It sends a long form to a subset of the population to pull together more detailed data issues like education, jobs, and housing. We should use a similar short form/long form approach for local jurisdictions. We should identify a basic set of information that every jurisdiction ought to collect and then use a random sampling strategy to glean the rest of the information we'd like to have. We could also do a "deep dive" into a small number of jurisdictions, sending out the elections equivalent of McKinsey consultants to get fine-grained data on every aspect of the elections process for a handful of localities.

Customer-service data. In keeping with the recommendations of the Presidential Commission on Election Administration,[13] we should also encourage states and localities to gather more data on the voter's experience. Most Fortune 500 companies pay a great deal of attention to this information; most election administrators, unfortunately, do not.

There are many sensible strategies for figuring out whether, say, the registration system is unduly cumbersome or whether polling places are well designed for the average voter. The first involves testers. In *The Mystery of Capital*, Hernando DeSoto describes his elegant strategy for evaluating the quality of corporate regulations. He simply sent testers to different counties and then asked them to try to register a business. Based on their feedback, he gathered extremely useful quantitative and qualitative data on how

[12] I am indebted to Eric Fischer for suggesting this strategy.
[13] The Commission's excellent report is available at https://www.supportthevoter.gov/.

each process worked.[14] Following DeSoto's example, we could send out a diverse group of eligible voters -- someone who lives in a rural area, someone who lives in the inner city, someone who is blind, someone who has a seventh grade education, someone who requires language assistance, an overseas voter – to see whether they are able to register successfully and assess how long it takes them to do so. So, too, voter surveys can give us helpful information about the voter experience.

Alternatively, as I suggested in my book, we could create the voting equivalent of "Nielsen families,"[15] the randomly selected individuals who record their television watching habits for the Nielsen ratings service. We could ask randomly selected voters to record information about their experiences with the election process. For instance, a Nielsen voter might be asked how long it took her to register, whether she thought her polling place was conveniently located, and whether she found the ballot design confusing.

In sum, while we have come some distance in collecting elections data, there is a good deal more work to be done. As I argue in the next Part, the federal government is well suited to moving this process forward.

III. Why Congressional Data-Collection Efforts Vindicate the Values of Federalism

One might, of course, worry about the federal government intervening in what is largely a state-run endeavor. But federalism values cut the other way in this context. Indeed, were Congress to fund, encourage, or even mandate data collection by the states, it would serve the values of federalism rather than undermine them.

As a federalism scholar, I find much to admire about our decentralized election system. But a well-functioning decentralized system is not the same thing as a system without any national involvement. To the contrary, federalism's fans and foes are united in the view that there is always a role for the national in a federal system. This principle plainly applies to election administration, where one of the most obvious and important roles that federal actors can play is in funding, facilitating, and promoting data collection.

At present, states and localities are performing their storied role as "laboratories of democracy" in our election system. Because of the wide variation in state and local election practices, a huge number of policy experiments are running across the country. There is only one problem: we aren't recording the results of those experiments. Without more and better data on state and local practices, we risk turning the great promise of decentralization – that it can help us identify and implement better policy – into an empty one.

[14] Hernando de Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* 28 (2000).

[15] For information on Nielsen families, *see* http://www.nielsenmedia.com/nc/portal/site/Public/. Many thanks to David Schleicher for the great analogy.

The federal government is uniquely well suited to help. Data collection requires shared definitions and common collection protocols -- just what a federal agency can provide. Data collection also involves economies of scale, which is another long-standing justification for federal intervention in state affairs. It would be pointless to have fifty states design their own data-collection systems. As we have seen, the states end up collecting different information, and the data cannot be easily aggregated or compared. Moreover, a great deal of money is wasted when fifty states create fifty different systems where one or two will do.

The federal government can do for states what Fortune 500 companies routinely do for their decentralized units: invest in an integrated, user-friendly data-collection system that makes it easy to collect and aggregate the information we need. Better yet, the federal government can create such a system at a fraction of the cost that the states would pay if they undertook such efforts individually.

The federal government can also encourage, even prod states and localities into 21st century data-collection practices. It can do so through regulatory mandates or through conditional funding. Both are well within Congress's power and both would help states and localities create and maintain a well-functioning election system that redounds to the benefit of us all. At the very least, Congress can continue to fund and support the EAC's survey efforts.

Finally, turning to from the general to the specific, if there were one area where federal support for data collection could play an especially useful role, it is in helping states and localities track voters as they move. Voter mobility causes election administrators huge headaches. It fills voter registration lists with deadwood, eats up precious resources, and results in too many frustrated voters on election day. The private sector has little trouble keeping track of its customers when they move, and the federal government has long dealt with the challenges associated with a mobile population. Solving the problem of voter mobility is just the kind of federal project that would help states do a better job of running state and federal elections.

Conclusion

Data collection efforts in the United States are at an inflection point. Thanks to public and private efforts, we've made important strides in recent years. But there is much more work to do. Now is the time to build on our initial successes and support the type of 21st century data-collection efforts necessary to support a 21st century election system. Gathering information is the first and more important step in the policymaking process, and it should be a top priority for Congress as it strives to promote an election system worthy of our democratic traditions.

EXECUTIVE SUMMARY
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We measure what matters. The public and private sector routinely collect and analyze data on virtually every aspect of our lives. Data-driven management isn't the ideal any more; it's the norm for corporations and government alike. Good data help us spot, surface, and solve existing problems. Data don't just allow us to identify policymaking priorities, but help move the policymaking process forward.

Data collection is at an inflection point in election administration. Things have improved in recent years, with a number of dynamic election administrators and astute state policymakers deploying data to identify problems and find solutions. Thanks to efforts by the public and private sector, we now have the nation's first election performance index, an idea I proposed several years ago. For the first time, we have a baseline to compare state performance and evaluate the effects of reform over time. That index will provide a crucial policymaking tool going forward.

Nonetheless, election administration still lags behind many public and private institutions on the data-collection front. We still lack sufficient data on a wide variety of important issues, including the cost of elections, local performance, and the voter experience. In some instances, the data are being collected, but they aren't collected in a form that is accessible let alone one that enables comparisons across jurisdictions. The absence of good data handicaps our efforts to fix the problems we see in the elections process, anticipate the problems we don't yet see, and manage the reform process going forward. Unless we capitalize on the data-collection efforts of recent years, we will never have an election system that lives up to our storied democratic traditions.

The federal government is uniquely well suited to assist the states in their nascent data-collection efforts. The marked variation in state and local election schemes lives up to Justice Brandeis' aphorism about the "laboratories of democracy." But the laboratories of democracy can only work if someone is recording the results. The federal government can provide what the states cannot supply on their own: a cost-effective, easy-to-use strategy for collecting, aggregating, and comparing state and local data. Were the federal government to promote data-collection among states and localities, it would vindicate the most important of federalism values by making it easier for the states do their job. The federal government can foster the competition and innovation that federalism is supposed to produce without intruding on state policymaking. We should not mourn the variation in our system. We should *harness* it, fueling the race to the top to which we all aspire. Good data, in sum, are essential for a great election system.

Biographical Information

Heather K. Gerken is the J. Skelly Wright Professor of Law at Yale Law School. Professor Gerken specializes in election law and constitutional law. She has published in the *Harvard Law Review*, the *Yale Law Journal*, the *Stanford Law Review*, *Political Theory*, and *Political Science Quarterly*. Her most recent scholarship explores questions of election reform, federalism, diversity, and dissent. Her work has been featured in *The Atlantic*' "Ideas of the Year" section and the Ideas Section of the *Boston Globe* and has been the subject of a festschrift and a symposium. Professor Gerken clerked for Judge Stephen Reinhardt of the 9th Circuit and Justice David Souter of the United States Supreme Court. After practicing for several years, she joined the Harvard faculty in September 2000 and was awarded tenure in 2005. In 2006, she joined the Yale faculty. She has won teaching awards at both Yale and Harvard, has been named one of the nation's "twenty-six best law teachers" by a book published by the Harvard University Press, and has won a Green Bag award for legal writing. Professor Gerken served as a senior legal adviser to the Obama for America campaign in 2008 and 2012. Her proposal for creating a "Democracy Index" was incorporated into separate bills by then-Senator Hillary Clinton, then-Senator Barack Obama, and Congressman Israel and turned into reality by the Pew Trusts, which created the nation's first Election Performance Index in February 2013.