Request for Information to the Update of the National Artificial Intelligence Research and Development Strategic Plan: Responses

Center for New Democratic Processes (CNDP)

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The Center for New Democratic Processes (CNDP) commends the Office of Science and Technology Policy (OSTP), on behalf of the National Science and Technology Council's (NSTC) Select Committee on Artificial Intelligence (Select Committee), the NSTC Machine Learning and AI Subcommittee (MLAI-SC), the National AI Initiative Office (NAIIO), and the Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO) for seeking public comment and stakeholder input on the critical issues surrounding the future development and improvement of the National Artificial Intelligence Research and Development Strategic Plan.

We are pleased to respond to this Notice of Request For Information (RFI) on the ways in which the strategic plan should be revised and improved by outlining potential benefits of deliberative civic engagement processes to support the development of policies and guidance related to the topics identified in this Request.

For the purposes of this response, we focus our comments most specifically on Strategies 3, 4, and 8 of the National Artificial Intelligence Research and Development Strategic Plan: 2019 Update included in the Supplementary Information section of the Notice of Request For Information (RFI):

- **Strategy 3**: Understand and address the ethical, legal, and societal implications of AI.
- **Strategy 4**: Ensure the safety and security of AI systems.
- **Strategy 8**: Expand Public-Private Partnerships to accelerate advances in AI.
The work of the affiliated agencies and committees represented in this RFI, as well as the National AI Strategy itself, could be strengthened by the utilization of deliberative civic engagement methods (such as Citizens’ Juries) to engage the public (constituents, consumers, patients, and residents) in the development of policies and guidance on key ethical, legal, and regulatory issues, information governance and data privacy issues, the application of artificial intelligence, automated decision-making, machine learning technologies, algorithmic transparency and accountability, the public and private sector uses of biometric technologies, and other emerging AI applications. The use of purposefully designed deliberative civic engagement processes would also bolster the Office’s work to establish a “Bill of Rights for an Automated Society” that works for all.

Deliberative engagement on the public and private sector uses of artificial intelligence, the legal and ethical issues surrounding AI, and the societal implications of AI can promote diversity and equity in shaping data collection, data storage and management practices, developing regulatory oversight and guidance, and creating robust, equitable policy solutions. This can be achieved by meaningfully involving those who are directly impacted by policies and who have been historically excluded from decision-making processes and policy development - serving as both stakeholders and participants in deliberative events.

We encourage the OSTP, as well as affiliated agencies and committees under the auspices of this RFI, to pursue the use of deliberative civic engagement methods as the Office undertakes efforts to gather information and inform guidance and policy development regarding:

A. Stakeholder engagement practices for systems design, procurement, ethical deliberations, approval of use, human or civil rights frameworks, assessments, and strategies to mitigate the potential harm or risk of AI;
B. Best practices or insights regarding the design and execution of pilots or trials to inform further policy developments;
C. Practices regarding data collection (including disclosure and consent), review, management (including data security and sharing), storage (including timeframes for holding data), and monitoring practices;
D. Safeguards or limitations regarding approved use (including policy and technical safeguards), and mechanisms for preventing unapproved use;
H. Practices for public transparency regarding use (including notice of use), impacts, opportunities for contestation and for redress, as appropriate;
I. Clarity pertaining to the legal use, including intra-agency use and exchange, of personal data such as biometric data, health data, and other information that is used for secondary purposes through emerging data initiatives;

J. The reasonable responsibilities of private enterprises serving as data managers and brokers in their collection, storage, and disposal of personal data on behalf of public institutions or clients.

CNDP has demonstrated the potential impact and contributions of deliberative civic engagement to support the development of guidance and regulatory frameworks in partnership with government bodies on a range of emerging technology issues. These include but are not limited to: artificial intelligence and secondary uses of personal data among public and private sector entities (as well as how these organizations interface with one another through data sharing and information governance arrangements), explainability and performance in artificial intelligence and automated decision making processes, COVID-19 data sharing initiatives, as well as reasonable expectations for consent and opt-in vs. opt-out procedures for secondary uses of patient health records.

In 2021, CNDP conducted a series of deliberative projects to shape national policy regarding COVID-19 data sharing initiatives on behalf of the National Health Service (England), the National Data Guardian for Health and Social Care, and NIHR-ARC Greater Manchester.

The following documents present the findings from this project.

- The Full Report from the Pandemic Data Sharing Citizens’ Juries (three citizens’ juries) which were conducted in early to mid-2021.
- The Executive Summary from the Pandemic Data Sharing Citizens’ Juries (three citizens’ juries) which were conducted in early to mid-2021.

In 2019 CNDP conducted a pair of Citizens’ Juries on behalf of The National Institute for Health Research (NIHR) Greater Manchester Patient Safety Translational Research Centre (PSTRC) and the Information Commissioner’s Office in the United Kingdom that focused on the tradeoffs between explainability and performance when AI-powered automated decision making in systems directly impacting individuals. This pair of citizens’ juries assessed a range of scenarios including healthcare diagnosis, organ transplant matching, employment screening, and criminal justice sentencing practices.

The following document presents the findings from this project.

The following articles, documents, and posts from project sponsors demonstrate how jury outcomes have been incorporated and/or responded to regarding emerging technology policy, data privacy, artificial intelligence, and information governance issues.

- From the National Data Guardian (Dr. Nicola Byrne) (project sponsor) re: Pandemic Data Sharing Juries (2021).
- From Greater Manchester National Institute of Health Research and NHSX (project sponsors) re: Pandemic Data Sharing Juries (2021).
- From the Information Commissioner's Office (project sponsor) re: AI Citizens' Juries and Interim Report from ICO on use of Jury Findings (2019).
- From the Greater Manchester Patient Safety Translational Research Centre (project sponsor) re: AI Citizens' Juries (2019).
- From the National Data Guardian (project sponsor) re: Reasonable Expectations for Data Sharing Citizens' Jury (2018).

As described on the Brookings Institution blog, “Citizens’ Juries are valuable, we believe, as tools for improved policymaking. But their value may go beyond any specific use, in part because their use would demonstrate greater trust in and respect for the people. Adopting a more open version of democracy — such as one in which Citizens’ Juries are positioned to purposefully shape policymaking — provides the public with a structured opportunity to directly voice their opinions and influence decision-making… An approach which purposefully situates Citizens’ Juries in policy development communicates to community members and constituents that their viewpoints matter and are trusted enough to be included in the decision-making process. This could be accomplished by developing clear channels for the incorporation or adoption of jury findings and results by policymakers and decision-making bodies.”

We provide this comment in response to the Request For Information to the Update of the National Artificial Intelligence Research and Development Strategic Plan to encourage the OSTP and affiliated agencies and committees to supplement their ongoing information gathering, stakeholder input, and policy development efforts through the use of deliberative civic engagement processes.

The Center for New Democratic Processes welcomes the opportunity to collaborate with the OSTP, the National Science and Technology Council’s (NSTC) Select Committee on Artificial Intelligence (Select Committee), the NSTC Machine Learning and AI
Subcommittee (MLAI-SC), the National AI Initiative Office (NAIIO), and the Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO) on efforts to utilize deliberative civic engagement on emerging technology issues and updates to the National AI Research and Development Strategic Plan.

Organizational Contact
Please contact Kyle Bozentko, Executive Director of the Center for New Democratic Processes, (email: kyle[at]cndp[dot]us) for further information or with any questions.

About Us
The Center for New Democratic Processes is a nonpartisan, nonprofit civic engagement organization based in St. Paul, MN with global partners and clients. Our mission is to strengthen democracy by partnering with individuals, communities, and institutions to design and implement informed, innovative, and democratic processes to address today's toughest challenges. We provide an interdisciplinary, customized approach to the design and implementation of each deliberative process and engagement project we undertake.

Since 2012 CNDP has conducted over 150 multi-day deliberative events (Citizens’ Jury, Citizens’ Assembly, Community Panel, Policy Juries, etc.,) and deliberative forums (single day events) on a broad range of complex policy issues and research programs. We’ve advised governments and teams in Argentina, Australia, Canada, Japan, Portugal, Scotland, Singapore, South Korea, and the UK on the effective design and implementation of civic engagement strategies and public participation projects. Our recent projects have informed data privacy and governance, technology policy and artificial intelligence (AI) regulatory guidance, and shaped national policy regarding data sharing initiatives that emerged in response to the COVID-19 pandemic on behalf of the NIHR-ARC Greater Manchester, the National Health Service (England) and the National Data Guardian for Health and Social Care. We’ve supported rural communities responding to local impacts of climate change and extreme weather through the Rural Climate and Energy Dialogues. We worked with stakeholders to guide significant infrastructure and planning decisions with the City of Vancouver (British Columbia) through the Flats Arterial Community Panel. We designed and delivered the first Citizens’ Assembly in the United States through the MN Community Assembly Project. We are currently working with the University of Liverpool and Pfizer Inc. who’ve commissioned the Liverpool Citizens’ Jury on Antimicrobial Resistance to explore attitudes and perspectives about relationships among public and private entities collaborating to monitor and develop responses to antimicrobial resistance.
Our History
For nearly fifty years we’ve been expanding the boundaries of democracy through ongoing experimentation and implementation of groundbreaking deliberative processes. We were the first to employ the Citizens’ Jury, invented by our founder (Ned Crosby), as a method for participatory deliberative engagement in the United States. Since its introduction, we have supported the global proliferation of this method. Throughout the 1970s, 80s and 90s our work focused on refining the use of the citizens’ jury on issues ranging from Ag Impacts on Water Quality, Organ Transplants, and School-based Clinics to the Federal Budget and evaluating the positions of candidates for US Senate. In the early 2000s we covered topics such as global climate change, piloting the Citizens’ Initiative Review in the state of Washington, advancing the use of deliberative democracy in Australia, and improving Electoral Recounts.