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To: Jim Greiner
From: Sara Bobok
RE: D. James Greiner & Andrea Matthews, *Randomized Control Trials in the United States Legal Profession*, SSRN Electronic Journal 295 (2016).
Date: February 4, 2019

Title: Randomized Control Trials in the United States Legal Profession
Authors: D. James Greiner and Andrea Matthews
Location: Harvard Law School, Cambridge, Massachusetts
Sample: N = 50
Timeline: N/A
Target group: Randomized Control Trials in the US Legal Profession
Intervention type: Studying success of past randomized control trials
Research papers: https://doi.org/10.1146/annurev-lawsocsci-110413-030732
Partners: N/A

Abstract

This paper made the case that randomized control trials (RCTs) in the United States legal profession had not yet become a rigorous, objective science, as RCTs were in the medical profession. The study itself was not an RCT in that it did not randomly consider past RCTs in the legal profession. Instead, it was an overview of all RCTs in law conducted in the past.

I. Policy Issue

Greiner and Matthews sought to answer the question, why didn't legal RCTs develop into a scientific field similar to medical RCTs? They argued that RCTs would be an effective form of study in the legal profession, just as they were in the medical profession. They sought to eliminate myths surrounding this argument, such as RCTs being incompatible with professional judgement or that cases were too complex. Greiner and Matthews made their arguments by comparing legal RCTs to medical ones and by considering legal RCTs run in the past.

II. Context of Evaluation

This paper was written in 2016 as a response to the limited number of legal RCTs produced in comparison to the countless number of medical RCTs. The first RCT was

conducted in law in the 1930s, but since then, medicine had become a rigorous scientific field, while only 50 legal RCTs had been published. Thus, the authors set out to compare the two disciplines in theory and examine the efficacy of past legal RCTs.

III. Details

The authors and their team collected all legal RCTs conducted in the United States. Before starting their search, they first defined which studies would be included in their review. The study needed to take place in the US, needed to intervene directly in a course of legal action, and needed to be unconfounded. Furthermore, the RCT intervention needed to replace a decision-making process that otherwise would have been fulfilled by a judge or lawyer. Lastly, the randomization in the study must have been implemented for the generation of knowledge, not to improve efficiency.

The authors and their team spent three years collecting all RCTs that met these conditions. They did so in two ways: they searched through three different extensive databases and collected sources by word of mouth. Ultimately, word of mouth provided them with most of their sources.

IV. Results and Policy Lessons

In the end, the authors found 50 RCTs that fit their criteria. The set of RCTs was found to be difficult to locate and spread across many subject areas. While a few of the studies were fairly high profile and others were fairly sophisticated and complex, they did not find evidence of an RCT actually prompting change in a program or policy. Finally, they found that other authors as early as the late 1950's had been calling periodically for greater use of randomized control trials.

Greiner and Matthews contended that their findings substantiated their claim that US law was resistant to RCTs, citing examples of such resistance from a selection of RCTs. They believed this to be the case because of the small quantity of sources they had found, the tendency of lawyers and judges to undermine RCTs, and their own experiences of having proposed studies rejected. They argued that many of the myths associated with legal RCTs, such as issues of complexity and professional ethics, were also present in medicine and can be reconciled when considering how those obstacles have been handled.

V. Quality of the Study

This study made a very important point but did so with little statistical backing. They did not run an actual RCT for this study. Additionally, they did not present statistics relating to the cases that they used as anecdotes. The authors acknowledged that much of the paper was speculation to be supported by further research, particularly those portions comparing the fields of law and medicine.