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To: Jim Greiner
From: Hasaan Munim
RE: Wayne Kobbervig, *Mediation of civil cases in Hennepin county: An evaluation*,
Minnesota Judicial Center (1991).
Date: August 1, 2018

Title: Mediation of civil cases in Hennepin county: An evaluation
Authors: Wayne Kobbervig
Location: Hennepin County, MN
Sample: N = 1186
Timeline: April 1, 1998 to November 30, 1988
Target group: Civil court cases over \$50,000
Intervention type: Mediation
Research papers: <https://www.leg.state.mn.us/docs/pre2003/mandated/910535.pdf>
Partners: Minnesota legislature, Office of the State Court Administrator

Abstract

The Minnesota legislature wanted to understand the efficacy of alternative dispute resolution (ADR) in improving the processing of civil cases. Using an intention-to-treat strategy in a randomized setting, court administrators assigned almost 1200 cases to the mediation or control groups. Although the authors reported some positive results, the study was not sufficiently rigorous to inform compelling policy recommendations.

I. Policy Issue

The Minnesota legislature authorized a broad pilot program in 1987 for non-binding alternative dispute resolution (ADR) in general civil cases involving more than \$50,000 in Hennepin County. The legislature directed the state court administrator to report on the effectiveness of the program by 1991.

Did mediation, an ADR option, improve the processing of civil cases?

II. Context of Evaluation

The mediation pilot program began in April 1988. All 30 judges assigned to civil cases handled cases from the program. The project sought to make sure that mediation was the primary dispute resolution technique. Court administrators designated two mediation organizations, retired judges, and a dispute resolution organization for case mediation referrals.

Those in charge of the implementation of the project determined the following goals as important: speeding the flow of cases through the system to reduce court burden, maintaining litigant satisfaction and the quality of justice, and reducing the costs of litigation.

III. Details

This study looked at civil cases involving more than \$50,000 during an eight-month period, April 1, 1998 to November 30, 1988. Upon the filing of a certificate of readiness, a document that confirms that a case was ready for trial, a case became eligible for referral to mediation.

Upon determining eligibility, researchers randomly assigned cases to an experimental (n = 596) or control group (n = 590). The experimental group received treatment as if eligible for the mediation program. Control group cases were ineligible for mediation and could only go to arbitration or a judge could handle the case herself.

Judges could, at their discretion, choose to try and settle an eligible case or send it to trial rather than refer it to mediation. Judges underwent an orientation held by mediation groups, which outlined the differences between mediation and arbitration, and discussed the criteria for referring cases to mediation.

Researchers tracked cases through the court system from certificate of readiness to disposition. Researchers distributed participant opinion questionnaires to a sample of litigants and attorneys for cases handled by mediation through the mail after the dispositions. The questionnaires collected data on litigant satisfaction, costs, and the nature of the dispute.

IV. Results and Policy Lessons

The study analyzed the impact of mediation on time to disposition, costs saved, trial rates, litigant satisfaction, and attorney perception, but did not report the statistical significance of any of the results.

V. Quality of the Study

Overall, the study defined its procedure for randomization and analysis well. The authors disclosed the questionnaire items, a detailed breakdown of the study eligibility criteria, and their definition of outcome categories. Furthermore, using an intention-to-treat analytic strategy (ITT) improved the validity of the analysis given the otherwise

significant challenge of capturing noncompliance with treatment by judges and attorneys in this scenario.

The study findings would have been more conclusive if the authors of the study reported the statistical significance of the results. Without an understanding of statistical significance, it was possible that the results were due to chance alone.

Furthermore, the authors did not discuss limitations in the study's methodology nor the implications of data not received. For example, only 42 percent of the cases which went to court returned at least one questionnaire – the authors did not discuss the implications of such missing data. There are clear opportunities for selection bias inherent in their study procedure, resulting in what the authors wrote as “the response rate for mediation cases [being] somewhat higher.” Thus, even if the authors had reported statistical significance, there were serious issues that impinged on the validity of the study's data.