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To: Jim Greiner
From: Fiona Fitzgerald
RE: Anthony Partridge & Allan Lind, *A Reevaluation of the Civil Appeals Management Plan*,
Fed. Judic. Cent. (1983).
Date: October 7, 2018

Title: *A Reevaluation of the Civil Appeals Management Plan*
Authors: Anthony Partridge & Allan Lind
Location: United States Court of Appeals Second Circuit
Sample: N = 470
Timeline: July 1, 1978 to January 19, 1979
Target group: Settlement Conference
Intervention type: Settlement Conference
Research papers: <http://hdl.handle.net/2027/uc1.b3891465>
Partners: Federal Judiciary Center

Abstract

A previous study by Jerry Goldman in 1978 set out to study the effect of Civil Appeals Management Procedure (CAMP), a process composed of settlement conferences and scheduling orders, on alleviating judicial burden in the Second Circuit of the United States Court of Appeals. Goldman's results were show that CAMP was largely ineffective (it decreased case length but did not decrease court burden, as measured by the number of cases reaching argument),, so the Federal Judicial Center set out to replicate the study. The court ended the study early but later asked the authors to study the data that had been collected thus far. In the second study, the authors reported that CAMP caused a statistically significant decrease in court burden, but they did not use proper statistical procedures to address the fact that they were testing multiple hypotheses on the same dataset. The data in the second study were so close to being explainable by chance that any principled statistical procedure for multiple testing would have resulted in a finding of no statistically significant difference. Correspondingly, the authors found the effect's magnitude was uncertain. Overall, although the authors report otherwise, the better interpretation of their results is that this second study, like the first, showed no statistically significant effects due to CAMP.

I. Policy Issue

The number of federal appeals cases reaching trial in the 1970s was outpacing the number of judges available to hear cases in United States Courts of Appeals throughout the nation; the Second Circuit for the United States Court of Appeals decided to institute a program to address this issue without increasing the number of sitting judges. They created a program called the Civil Appeals Management Plan (CAMP), which established preconference appeals to encourage higher appeal quality and more pre-trial settlements. The chief judge asked for funds from the Federal Judicial Center to expand CAMP. The FJC agreed, but required the completion of a randomized control trial testing the program's effectiveness. The experiment was conducted from 1974 to 1975. The lead researcher, Jerry Goldman, published his findings three years later. In 1979, a new research team started a second experiment to assess several changes to the program. However, the second experiment was ended early because the court did not want to exempt the necessary number of control cases. The court then asked the FJC to analyze the data that was already collected. The authors at hand, Partridge and Lind, conducted the analysis and published the results.

In addition to evaluating the efficacy of CAMP, the authors wished to assess whether the salaries of staff counsel and related overhead in each appeals court could be better spent elsewhere. Partridge and Lind examined the four key goals of CAMP: encouraging the parties to resolve the appeal without court action; decreasing the time needed for appeals that go to argument; clarifying the issues in cases that aren't settled; and resolving procedural issues.

II. Context of Evaluation

The authors performed their study in the United States Court of Appeals Second Circuit, in order to replicate Goldman's 1974 study on CAMP. The Second Circuit included districts in New York, Vermont, and Connecticut.

Since the first experiment, the original CAMP program in the Second Circuit was expanded. The court hired an additional staff counsel in order to increase the number of conferences that could be held and began issuing scheduling orders to all civil appeals, not just those eligible for the program.

III. Details

The control group did not receive CAMP procedures (n=152), and the experimental group received preconference arguments (n=318). Both the control and experimental group received scheduling orders. In the previous Goldman study, the staff counsel determined which cases were eligible for CAMP procedures using a "judgmental screen" that did not include a specified number of criteria to qualify a case as CAMP-eligible. After Goldman released his study, the Second Circuit changed their policy to utilize objective categories to determine CAMP eligibility. One other major difference between Goldman and Partridge and Lind's evaluations is that the court hired a second staff counsel, meaning that the authors were able to analyze a larger sample size in a shorter timeline. Thus, even though the second experiment was cut short and only lasted six-and-a-half months, the researchers had a larger sample size than Goldman's

study, which lasted a full year. In addition to the advantage of a larger sample size, the authors could compare the performance of multiple staff counsels in the Second Circuit.

The researchers tracked the progress of each case and collected data from scheduling orders on the timing of the appeal lifespan. They theoretically assigned the control and experiment groups based off of their case numbers, with the odd numbered cases going to the first staff counsel, even numbered cases to the second counsel, and every third docket (regardless of whether it was even or odd) going to the control group. However, the authors noted that the pattern was not always followed, as one staff counsel was assigned 169 cases while the other was given 149. They were also somewhat concerned about assignment to the control group. For example, only one consolidated case out of twenty-one total were designated as a control. Partridge and Lind note that the likelihood of that distribution was less than one in two-hundred.

To address the appeal-quality hypothesis, the authors utilized outcome data and surveys of attorneys. There were three questionnaires: one for attorneys in control cases, one for attorneys in treatment cases that were conferenced, and one for attorneys in treatment cases that were not conferenced. The questionnaire contained the docket number, but the researchers did not track the total number of surveys mailed to attorneys or whether it was the appellant or appellee's lawyer responding. Based on the docket sheets, the authors believe they had a response rate of roughly 50 percent, but they did not reconstruct the exact number. Accordingly, the authors only use the questionnaires for anecdotal evidence.

IV. Results and Policy Lessons

Partridge and Lind reported that CAMP succeeded in reducing the number of appeals cases reaching argument; 61.2 percent of control cases argued while only 51.3 percent of CAMP cases argued, with a p-value barely below 0.05. However, there was no statistical adjustment for multiple hypothesis testing, and given how close the p-value was to 0.05, it is unlikely that the authors' reported findings of statistical significance would have survived adjustment for multiple testing. Correspondingly, the magnitude of the effect was unclear. The authors estimate that there is a 95 percent probability that CAMP disposes between 2 and 192 appeals; they attribute the wide range in magnitude to the small control group. CAMP also decreased the average disposition time for cases by 21 to 67 days.

The authors also looked at several other measures of judicial burden, including brief lengths and whether the case required a written opinion, but found no statistically significant effects. They attempted to look at which cases succeeded based on its classification and whether more cases were withdrawn or settled under CAMP, but the sample sizes were too small.

The authors then analyzed the questionnaire and found that the majority of lawyers preferred participation in CAMP, although this preference grew weaker as lawyers participated in more preargument conferences. Those that disliked CAMP commented that the conferences led to undue pressure to settle. One other unexpected policy finding from this study was that preconference arguments placed an undue burden on lawyers from out of state who had to travel to the Second Circuit court for preconference hearings and other CAMP procedures. In light of

these findings, the authors concluded that the CAMP was effective enough to justify the costs, but the Second Circuit should make more exceptions for lawyers who could not appear in person.

V. Quality of the Study

The authors estimate that only around half of all lawyers responded to the survey providing their professional and personal evaluation of CAMP. The researchers did not keep count of the exact number of questionnaires sent out or whether the returned questionnaire came from an appellant or appellee's lawyer. There was no attempt to account for non-response, either bias or increased uncertainty. This should qualify the authors' introductory claim that "most" lawyers in appeals court look upon CAMP favorably. Another problem with the lawyer's survey is that a strong majority said staff counsel did not help with resolving procedural problems. The authors strongly expected the opposite considering the amount of time staff counsel spent on administrative scheduling issues, and they believed that there may have been a fault in how the question was worded or understood by the lawyers.

Additionally, the authors were working off of an incomplete dataset as the study lasted only half of its intended length. Thus the study might not account for seasonal variations and the sample size prevented the authors from analyzing all aspects of CAMP.