Efficiency Increased? The Effect of the Case Selections Act of 1988 on Abortion Case Processing Efficiency

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Abstract
Did the Case Selections Act of 1988 (the Act) reduce the time the Supreme Court takes to process abortion cases? In 1988, Congress passed legislation, which eliminated most of the Court’s mandatory appellate jurisdiction to decrease the Court’s workload and give the Court control over its docket. Scholarship on the Act’s effectiveness has focused on the Court’s plenary docket. I offer an empirical analysis of the Act’s influence on the processing time of abortion case petitions on which Court declined to hear oral arguments and abortion cases accepted to the plenary docket from 1953 to 2010. I argue that the Act allowed the Court to become more efficient, reducing abortion case processing time. Using t-tests to analyze 327 abortion case petitions and 48 abortion cases decided on their merits, I show that the Act reduced abortion case processing time, increasing the Court’s processing efficiency.

I. Introduction
The Case Selections Act of 1988 (the Act) was a judicial reform measure passed by Congress that removed most of the Supreme Court’s mandatory appellate jurisdiction, in an effort to reduce the Court’s workload. As a result, the Court gained more control of its agenda (Cordray and Cordray 2004). In this article, I analyze whether the Act reduced the Court’s workload, by increasing the Court’s case processing efficiency. In order to test the Act’s success, I examine the time taken to process abortion cases before and after 1988. I hypothesize that this legislation caused a reduction in abortion case
processing time, making the Court a more efficient institution. The results of the empirical analysis, documented in Section 5, support this main hypothesis. In this article, I show the positive impact judicial reform legislation can have on the Court’s workload, contrary to some scholarship. Some scholars suggest that this legislation did not reduce the Court’s workload but instead provided an incentive for the Justices to selectively reduce their workload, leading to a decrease in the Court’s perceived legitimacy (Owens and Simon 2011, 1244; Owens and Simon 2011, 1252). The Act did give the Court almost complete control over their own agenda so the Justices were free to pick cases on which they wanted to voice their opinions (Cordray and Cordray 2004, 389).

II. Background
The number of cases filed with the Court began to increase, following the Second World War, causing the Court to struggle once again with an overwhelming workload, which led to an increase in case processing time. Over the course of three decades, the percentage of cases heard and decided from the plenary docket rose from 28 percent to roughly 60 percent (United States 1984, 353). The overall discretionary docket was also growing and was identified as the primary burden on the Court by Charles Wiggins, a member of the Judiciary Committee (1984, 133). The Court’s oral argument calendar also became filled earlier each court term, creating a significant backlog and causing a further workload increase. This issue was primarily caused by mandatory appellate cases. The oral argument backlog and the Court’s overwhelming workload concerned politicians and members of the legal community, leading to discussions about legislative judicial reform and the Court’s primary role (Center and America 1972, 5; Estreicher and Sexton 1986, 7). In 1971, Chief Justice Burger put together the Study Committee on the Caseload of the Supreme Court (the Committee) to identify potential solutions because of increased concern. The Committee agreed that the Court’s workload problem was a real issue
that needed to be addressed and came up with two feasible, legislative-assisted solutions to relieve the Court of its overwhelming caseload: create another high-level federal court or do away with most mandatory jurisdiction cases (Estreicher and Sexton 1986, 16).

The first proposed solution was to create another high-level federal court to assist the Court with its docket. Creating another court would have been the most extreme change to the U.S. Justice System since the 1891 creation of the Courts of Appeals (United States 1984, 353). Opponents of this proposal argued that the creation of another court would cause an even greater increase in the Court’s workload, adding to the issue (United States 1986, 66). The failure of the Federal Circuit Act of 1982 proved that the creation of another federal level court would exacerbate the workload problem. The statute’s subject matter jurisdiction section lacked adequate clarity, leading to more work for the federal circuit court system (Ault 1987). Since this judicial reform proved adversely effective to the federal circuit court workload, creating another federal court was not as appealing as eliminating most of the Court’s mandatory appellate jurisdiction.

Eliminating the majority of the Court’s mandatory appellate jurisdiction was the other solution to the workload issue, recommended by the Committee. Because the Court would fully brief and schedule an oral argument for appeals cases to ensure these cases were decided correctly, appeals cases would fill a section of the oral argument calendar, contributing to the Court’s workload (Hellman 409). If mandatory appeals did not take up the Court’s oral argument calendar, then there would be less of a backlog in the oral argument calendar. Many members of the legal community supported this solution because the workload issue was similar to that which led to the Judiciary Act of 1925. The effects of the 1925 Act dissolved in the 1942 court term (United States 1984, 374). Results of Estreicher and Sexton’s study of the Court, which were included in the 1986 congressional hearings, recommended that Congress eliminate most of the Court’s mandatory appellate jurisdiction as a potential solution.
for the workload issue (1986, 117). Despite the support for this legislation, the first time Congress voted on it, the bill did not make it through the Senate because Senator Helms had added an unconstitutional school prayer amendment to the bill. After that, the bill kept dying in the Senate (United States 1984, 143). The Court had already made a few internal changes to increase efficiency in the 1970s, such as creating the certiorari pool (cert. pool) to screen more case petitions each term and then reducing oral argument time from two hours total to one hour per case. Since the creation of another court would have changed the court system significantly, Congress finally passed the Act in 1988, removing the majority of the Court’s mandatory jurisdiction.

After 1988, there was a significant decrease in the number of cases ready for oral argument at the beginning of each subsequent court term.¹ Court terms began to start with about 50 oral argument ready cases, while the number of cases in the plenary docket declined below an average of 100 cases per term. Despite the ever-increasing number of case petitions, the Court’s workload appeared to decrease slightly because the oral argument calendar backlog seemed to decline. Members of the legal community, who spoke in past congressional hearings, used cases from the plenary docket to justify the need for the Act, ignoring the unscreened case petitions. Though these numbers after 1988 support the arguments made by these individuals, the cases waiting to be screened by the Court are an important part of the Court’s workload.

III. Literature Review
There has not been much literature published on the Act. However, the existing literature argues that eliminating most of the Court’s mandatory appellate jurisdiction did not impact the Court’s docket. Arthur Hellman, Margaret Cordray, and Richard Cordray are

convinced that the Act was not effective because the number of cases processed from the plenary docket did not increase. Hellman’s study focuses on the size of the Court’s plenary docket just before and after 1988 to determine the Act’s effectiveness. To test whether the Act caused a reduction in the size of the Court’s plenary docket, Hellman focused on three case types that would have been accepted to the plenary docket before 1988, but not after. Those case types were supremacy, cases coming from courts of appeals, and restraint cases. After comparing the number of criminal cases of each case type to the number of civil cases of each case type before and after 1988, Hellman concluded that the Act did not play a significant role in reducing the workload (1996, 404, 412). Though Hellman writes about the Court’s plenary docket, he uses cases that were not accepted to the plenary docket to argue that the Act did not increase the size of the plenary docket. Hellman describes the Court’s caseload as only the number of cases decided on their merits. He does not include all the cases brought to the Court, which are part of the workload. The study looked only at cases brought to the Court from 1983 to 1985 and from 1993 to 1995. Can judicial reform legislation effectiveness be accurately measured using data from only six court terms?

Cordray and Cordray (2001) argue that the Act had no effect on the plenary docket (758). They came to this conclusion after comparing appeals cases from the 1984 to 1987 court terms to cases that would have been brought to the Court as appeals from the 1990 to 1993 court terms (Cordray and Cordray 2001, 755). Because the number of appeals before 1988 was greater than the number of “appeals” after 1988, the conclusion drawn was that the Act had no effect on the plenary docket. Cordray and Cordray also wrote of internal procedures adopted by the justices, allowing appeals and petitions for writs of certiorari (cert. petitions) to be processed in a similar fashion (Cordray and Cordray 2001, 758). Both Hellman and Cordray and Cordray examine similar periods of time while also selecting case petitions after 1988 that would have been part of the
plenary docket. They do not take into account the potential effect the Act could have had on all the case petitions brought to the Court over a longer time.

On the other hand, Owens and Simon look only at the Court’s plenary docket, but come to a different conclusion. They find that the Act had an impact on the Court’s docket, contrary to the previously mentioned conclusions. The article details that the Act had an effect on the Court’s docket, but whether Owens and Simon are referring to the Court’s plenary docket or to the entire docket is, at times, unclear. The article analyzes case data from court terms from 1940 to 2008 (Owens and Simon 2011, 1219). Given that Hellman and Codray and Codray only used three or four court terms before and after 1988 to test the Act’s effectiveness, the fact that an expanded number of court terms included in the analysis would have such an influence on the Act’s perceived success is interesting. The success of the Act found by Owens and Simon could be the result of other internal procedural changes adopted by the Court in the 1970s. For example, in the 1970’s, the Court reduced oral arguments from a total of two hours to a total of one hour in an effort to increase space on the oral argument calendar. In 1972, the Court also began using the cert. pool to process case petitions more quickly. Either of these procedural changes could have influenced the Court’s efficiency, causing an increase in the Act’s success.

The literature mentioned has used the size of the Court’s plenary docket to measure processing efficiency but offers no other measure of court efficiency. However, Nie, Waltenburg, and McLauchlan use case processing time as a measure of court efficiency. Processing efficiency has an effect on the Court’s perceived legitimacy as an institution because short case processing times are ideal to make room for other cases on the docket (Nie, Waltenburg, and McLauchlan 2014, 1). Nie, Waltenburg, and McLauchlan clearly indicate that there are both theoretical and statistical connections between court efficiency and case processing time (Nie, Waltenburg, and McLauchlan 2014). The paper’s focus is paid filings from six case
categories, which were accepted to the plenary docket between the 1948 court term and the 2010 court term. Though Nie, Waltenburg, and McLauchlan acknowledge the importance of case petition screening time, the primary focus of their paper remains on cases accepted to the plenary docket. It is important to mention that Nie, Waltenburg, and McLauchlan and Owens and Simon analyze cases from a similar court term range, and both analyses found that the Act caused a decrease in the Court’s workload.

Most scholars have measured the Court’s efficiency and legitimacy by observing the size of the plenary docket and argument calendar from one court term to another. This measure of efficiency and legitimacy is a valid measure of the Act’s potential impact on the Court’s workload. However, the Act did not only impact the plenary docket. It affected the Court’s entire docket of cases and case petitions. By ignoring the entire docket, the full impact of the Act on the workload is left unacknowledged. Yes, plenary cases are important to consider because they are the cases that make up precedent, but by ignoring the filing load, the scholarship does not take into consideration the full magnitude of the Act or all the Court’s duties as a political institution.

Hellman’s article compares civil and criminal cases while Nie, Waltenburg, and McLauchlan compare six case types, including abortion. Comparing types of cases is a method that has been used by scholars in the past, so it is logical to use this approach when looking at court efficiency. Because Nie, Waltenburg, and McLauchlan and Owens and Simon used a wide range of case petitions in their analyses, using as many abortion cases as were brought to the Court seems justified to look at court efficiency. Nie, Waltenburg, and McLauchlan see the Act as a significant variable in their analysis without being able to explain its significance. This article should add to the understanding of the Act’s effects on the Court’s efficiency. Some of the literature puts forth the theory that the 1988 Act had an impact on the Court’s efficiency when multiple court terms are included in analysis.
IV. Research Design
In the 1983 congressional hearings held about the 1988 Act, Leo Levin, Director of the Federal Judiciary Center, indicated in his written statement that the Court’s overwhelming workload was “an important matter of process and procedure” (United States 1984, 25). As stated in the previous section, case processing time, as opposed to the number of cases decided per court term, is used in this article as a measure of Court efficiency. When participants in the congressional hearings on the Act made the case that the Court’s workload was larger than the Court could handle, the plenary docket was the focus of arguments for reform. This measure of efficiency ignores the Court’s main issue. Levin stated that this matter was about “process and procedure”, not about the fluctuating size of the plenary docket. Only a few scholars have used case processing time as a tool to measure court efficiency, which allows the efficiency of the processing system to be measured. Luskin was one of the first scholars to use this tool as a way of measuring variation in court efficiency. Though she uses case processing time to measure the efficiency of criminal courts, it is realistic to assume that Luskin’s efficiency measure could be applied to the Supreme Court (1978, 14). Nie, Waltonburg, and McLauchlan’s paper used Luskin’s measure of court efficiency, so it is logical for the measure to be applied to this article (2014). If the reduction of case processing time indicates that the Act was instrumental in reducing the Court’s workload, then case processing time analysis generates proof that the Act was effective, contrary to the majority of the scholarship.

A. Abortion as an Issue of Social Concern
Abortion cases are the focus of this analysis for a few reasons. Abortion is a social issue that is important to the general public (Smith 2001, 7). Since a similar number of abortion case petitions were processed before and after 1988, the Act’s impact on the Court can be measured by comparing abortion case processing time. If the Act had the desired effect on the Court’s workload, there would be a
significant decrease in overall processing time. This approach is similar to Hellman’s approach described previously. There is a difference between focusing on abortion case petitions to assess the Act’s success and Hellman’s approach. By focusing on abortion case petitions and cases decided on their merits, all parts of the Court’s processing system are acknowledged. Hellman’s study is only all-inclusive with cases screened after 1988 in three selected areas. To measure the Act’s impact, considering both fully processed abortion cases and abortion case petitions from before and after 1988 is important. Because of the reasons listed above, abortion cases are a suitable focus for this article.

B. The Data and Variables
As previously stated, the Act was supposed to lighten the Court’s workload thereby increasing its efficiency. If the Act caused this, processing time would decrease significantly after 1988. The abortion case data gathered from *U.S. Law Week*\(^2\) should show that abortion cases processed after 1988 were processed faster than abortion cases processed before 1988. The data range from the 1953 court term to the 2009 court term and include 326 abortion case petitions, 47 of which were decided on their merits. Abortion cases brought to the Court using certification, a writ of habeas corpus, or a writ of mandamus have been excluded from this dataset.

Used to examine the impact of the Act on the Court’s overwhelming workload, abortion case processing time has been proven to be an effective method to measure court efficiency. In this article, processing time will be used to compare the Court’s ability to handle its abortion case workload before 1988 to its ability after 1988. If the Act had the desired effect on the Court’s workload then there would be a noticeable decrease in total abortion case processing time after the Act.

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\(^2\) Data gathered by Dr. William McLauchlan, Purdue University.
Hypothesis 1: Total abortion case processing time will decrease significantly after 1988.
If the data show that that total processing time decreased after 1988, it is important to look at what section of the processing system was most affected by the Act. Did the Court get faster at screening petitions or did the backlog of the oral argument calendar reduce completely? The Court’s processing system can be divided into two main sections of interest: time from filing to acceptance for review or denial of review (screening time) and time from acceptance of review to oral argument (screening to oral argument time). First, screening time is a variable uniting all the cases in the dataset because every case has to be screened by the Court. Justice Brennan once said that the screening process is very important to the Court’s ability to successfully complete its main functions (Cordray and Cordray 2004, 394). The increasing number of case petitions brought to the Court every year adds to its overwhelming workload. Estreicher and Sexton mention that the screening process could have been the cause of the Court’s workload issue (Estreicher and Sexton 1986, 39). If abortion case screening time decreased after 1988, then the Act will have made an impact on at least a portion of the Court’s workload.

Hypothesis 2: After 1988, there will be a significant decrease in average abortion case screening time.
In the dataset the time between oral argument and decision is relevant for 47 cases accepted to the plenary docket and decided after oral arguments. Looking at the time between oral argument and decision is important to the phenomenon of interest because the 1988 Act aimed to fix the Court’s overscheduling of oral arguments, which contributed to the overwhelming workload.

Hypothesis 3: The time between abortion case screening and oral arguments will decrease significantly after 1988.
Since the presence of the Act is important to proving an increase in Court efficiency, a dummy variable labeling abortion cases processed
before and after 1988 was created. This variable is equal to zero if an abortion case is filed before September 1988, when the Act went into effect. If an abortion case is filed after September 1988, the variable has a value of one. This variable will allow simple cross tabulation and Student’s t-test results to demonstrate the difference in the average abortion case processing time before and after 1988.

C. Methods
These hypotheses will be tested using t-tests to understand the potential relationships between processing times before and after the 1988 Act as well as the potential relationships between the two types of petitions. These tests will determine whether the Court became more efficient in abortion case processing, after the Act. A t-test, a comparison of means test, shows how close the mean values of two variables are to one another. I will be comparing the mean case processing time of abortion cases before and after the 1988 Act to test whether there was a statistically significant difference between the two processing time means. If there is such a difference, it will be clear that the Act had an impact on the Court’s efficiency.

V. Data Analysis
As previously stated, the Court’s overall caseload increased rapidly, following World War II, which raised Court efficiency concerns. With the ever-increasing number of petitions, it was important to keep total processing time as low as possible. The Court needed to become faster at processing cases to ensure that their workload did not become overwhelming again. With the established cert. pool and a reduced oral argument time, there was little more that the Court could do to decrease their workload without Congress’s assistance. Table 1 (below) shows that there was a significant decrease in the mean total processing time after 1988 by about 42 days. It looks as though the Court became more productive as a result of the Act. The table also shows that the number of abortion cases brought to the Court increased from 147 to 179 cases after 1988. It is interesting
that there was a significant increase of abortion cases in addition to a significant decrease in average total case processing time for abortion cases. The reduction in average total abortion case processing time despite the increase in cases seems to indicate that the Act was successful in increasing the efficiency of the total processing system.

Table 1. Comparison of the Average Total Processing Time of Abortion Cases before and after 1988

<table>
<thead>
<tr>
<th>Before or after the Act</th>
<th>Number of Cases</th>
<th>Mean Total Processing Time</th>
<th>Standard Error</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before</td>
<td>147</td>
<td>189.46</td>
<td>14.52</td>
<td>176.07</td>
</tr>
<tr>
<td>After</td>
<td>179</td>
<td>147.27</td>
<td>11.89</td>
<td>159.09</td>
</tr>
<tr>
<td>Total</td>
<td>326</td>
<td>166.30</td>
<td>9.31</td>
<td>168.02</td>
</tr>
<tr>
<td>Difference</td>
<td></td>
<td>42.19</td>
<td>18.77</td>
<td></td>
</tr>
</tbody>
</table>

\[ t = 2.25 \]  
Statistical Significance = 0.03

The box plots in Figure 1 (below) indicate that the overall range of total processing time as well as the interquartile ranges, after the Act, decreased significantly. Though the figure is missing a few outlier cases, the drastic decrease in the size of the whiskers and the box after 1988 is still interesting. Also, the whisker on the right after 1988 still seems to be long, which could indicate that the Court still has some room to become more efficient. There also seem to be more outliers after 1988 than before. The significant decrease in the average total processing time for abortion cases after 1988 confirms the hypothesis that the removal of appeals cases from the Court’s docket had an impact on the Court’s efficiency. These results support Nie, Waltenburg, and McLauchlan’s (2014) results as well as Owens and Simon’s (2011) conclusion that the Act had an effect on the Court’s efficiency.
The screening process for case petitions is the most important section of processing time. All cases brought to the Court must undergo this process before they can be accepted to the plenary docket or be denied review. To determine whether the Act successfully impacted the screening process, the average abortion case screening time after 1988 would need to be less than the average screening time before 1988. Table 2 (below) shows a slight decrease of about 24 days in abortion case screening time, after 1988. There is a statistically significant relationship between the difference in the average screening time before and after 1988, proving that the Act was instrumental in increasing the efficiency of the Court’s abortion case petition screening system. This result could also be an indication...
that the Court became more accustomed to processing only cert. petitions rather than both appeals and cert. petitions.

**Table 2. Comparison of the Average Screening Time for Abortion Case Petitions before and after 1988**

<table>
<thead>
<tr>
<th>Before or after the Act</th>
<th>Number of Cases</th>
<th>Mean Screening Time</th>
<th>Standard Error</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before</td>
<td>147</td>
<td>131.95</td>
<td>9.47</td>
<td>114.84</td>
</tr>
<tr>
<td>After</td>
<td>179</td>
<td>107.78</td>
<td>6.67</td>
<td>89.20</td>
</tr>
<tr>
<td>Total</td>
<td>326</td>
<td>118.67</td>
<td>5.66</td>
<td>102.11</td>
</tr>
<tr>
<td>Difference</td>
<td></td>
<td>24.17</td>
<td>11.58</td>
<td></td>
</tr>
</tbody>
</table>

\[ t = 2.09 \]

Statistical Significance = 0.04

Figure 2 shows (below) the significant decrease in the overall screening time range, after 1988, indicating an increase in screening time consistency. This figure shows slight decrease in median screening time after the Act goes into effect. Figure 2 clearly shows a decrease in the overall range of abortion screening time and the increase in screening time consistency. It is worth noting that about 30 more case petitions were screened after 1988 than before. This increased number of petitions could have contributed enough to the shift in median screening time, supporting the hypothesis that the Act significantly contributed to the Court’s increased screening efficiency of abortion case petitions. These results support Nie, Waltenburg, and McLauchlan’s conclusion that abortion case screening time decreased after the Act.

\[^3\] Eight abortion cases were omitted from this figure because their screening time values would have made the difference in average screening time difficult to see by unnecessarily extending the range on the x-axis. The screening times for all eight of these excluded abortion case petitions were greater than 400 days.
Because appeal petitions were almost completely eliminated by the Act, it is reasonable to believe that appeals petitions caused the case processing time for abortion cases to be much greater than processing time for cert. petitions before 1988. Table 3 (below) indicates that abortion appeals had a significantly higher average screening time than abortion cert. petitions, prior to the Act, by 52 days. It can be concluded that abortion appeals cases were the cause of the inflated abortion screening time before 1988, as previously seen in Figure 2. A longer average screening time than abortion cert. petitions before 1988 asserts that the Act successfully improved the efficiency of the Court’s screening process and, as a result, overall case processing time.
Table 3. Comparison of the Average Screening Time between the Two Main Types of Petitions before 1988

<table>
<thead>
<tr>
<th>Type of Petition</th>
<th>Number of Cases</th>
<th>Mean Screening Time</th>
<th>Standard Error</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Writ of Certiorari</td>
<td>78</td>
<td>107.91</td>
<td>8.06</td>
<td>71.14</td>
</tr>
<tr>
<td>Appeal</td>
<td>69</td>
<td>159.12</td>
<td>17.52</td>
<td>145.50</td>
</tr>
<tr>
<td>Total</td>
<td>147</td>
<td>131.95</td>
<td>9.47</td>
<td>114.84</td>
</tr>
<tr>
<td>Difference</td>
<td>-51.21</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\[ t = 2.66 \]  
Statistical Significance = 0.01

A final way to measure whether the Court’s efficiency increased is to look at the difference in the time between abortion case screening and oral arguments. A shorter time between the two sections of processing would indicate that the Court’s efficiency increased significantly. The data indicate that there was a decrease of about 19 days in abortion screening to oral argument time, after the Act. There is not a statistically significant relationship between average abortion case screening and oral argument times and the existence of the Act, so this decrease cannot be used to support the increased efficiency hypothesis. There are only 47 cases used in this analysis, 27 of which were processed before the Act. As a result, statistical significance is harder to achieve for such a small number of cases compared to an analysis of a case pool of 326 cases.

Figure 3 (below) shows the significant decrease in the time between screening and oral arguments both in the range and in the average, after 1988. This could be an indication that the Act helped reduce the Court’s oral argument backlog. On the other hand, the interquartile range is extended by about 20 days after 1988. One outlier case that came to the Court before 1988 was *Hartigan et al. v. Zbaraz et al.* (1987). The oral argument for this case was scheduled about a year after it was screened. This case is an example of how backlogged the oral argument calendar was right before the Act took
effect. Though the overall range decreased after the Act, Figure 3 (below) shows that the lower part of the range increased by about 20 days and the higher portion of the range only decreased slightly. The increased consistency in this section of processing time is indicated in the significant decrease of the length of the left whisker compared to that of the left whisker of the box plot before 1988. Before 1988, the Court was fairly inconsistent in scheduling oral arguments for abortion cases. It is clear that the Act made the Court more consistently efficient in the scheduling of oral arguments for abortion cases.

Table 4. Comparison of the Average Time between Screening and Oral Arguments for Abortion Cases before and after 1988

<table>
<thead>
<tr>
<th>Before or After The Act</th>
<th>Number of Cases</th>
<th>Mean Screening to Oral Argument Time</th>
<th>Standard Error</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before</td>
<td>28</td>
<td>179.71</td>
<td>11.69</td>
<td>61.88</td>
</tr>
<tr>
<td>After</td>
<td>20</td>
<td>161.40</td>
<td>11.19</td>
<td>50.03</td>
</tr>
<tr>
<td>Total</td>
<td>48</td>
<td>172.08</td>
<td>8.39</td>
<td>57.40</td>
</tr>
<tr>
<td>Difference</td>
<td></td>
<td>18.31</td>
<td>16.87</td>
<td></td>
</tr>
<tr>
<td>t= 1.09</td>
<td></td>
<td>Statistical Significance= 0.28</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

It seems as though the decrease in total processing time, detailed previously, is the result of an increased efficiency specifically in the Court’s screening process. The decrease in the time between screening and oral argument is not statistically significant and therefore cannot be relied upon to confirm the Court’s increased processing efficiency. However, overall the Court’s processing system seemed to process cases quicker after the 1988 Act went into effect.
VI. Discussion and Conclusion
The Act improved the Court’s abortion case processing efficiency by eliminating most appeals cases from the Court’s docket. The Justices were also able to gain complete control of the agenda because of the Act. The elimination of the appeal avenue to the Court led to a significant decrease in abortion screening and total abortion case processing time. There has not been a significant explanation as to why abortion appeals cases took significantly more time for the Court to process than abortion cert. cases. Estreicher and Sexton seem to be correct in arguing that the petition screening system was contributing significantly to the workload. Figures 1, 2, and 3 show significant increases in abortion processing consistency after 1988. Table 3 indicates that this increase in processing consistency is most
likely the result of the Act and not some other factor. The t-test results from Section 5 do not support Cordray and Cordray and Hellman’s conclusions that the Act did not have an effect on the Court’s workload (Hellman 1996; Cordray and Cordray 2001, 793). The results do support Owens and Simon and Nie, Waltenburg, and McLauchlan’s work (2011; 2014).

In the future, it would be interesting to examine why abortion appeals cases took longer to process on average than cert. petitions prior to 1988. Also, it would be interesting to see if the Act had the same effect on other important case types such as environmental cases. The Court accepted less abortion cases to the plenary docket after the Act. It would be interesting to see why the Court was not as eager to decide abortion cases on their merits after 1988 despite an increase in abortion case petitions. Finally, it would be beneficial to research why consistency in abortion case processing time increased after less than half a century. Is this increase in consistency just a side effect of the time period or can case types become efficiently handled in a short time frame? The Act reduced abortion case processing time, verifying that this legislation increased the Court’s processing efficiency, which lightened the Court’s workload.

References


Supreme Court Case Selection.” *Washington University Law Quarterly* 82: 389-452.


