"A Fool for a Client": Print Portrayals of 49 Pro Se Criminal Defendants

Douglas Mossman, MD, and Neal W. Dunseith, Jr., MD

In the United States, an accused person has a constitutionally protected right to serve as his or her own lawyer, even if this means he or she has "a fool for a client." In the current study, information from more than 2,700 articles in the LEXIS "U.S. New, Combined" database was used to produce what the authors believe is the psychiatric literature's first characterization of a group of pro se criminal defendants. The sample's 49 defendants had a broad age range (18–75 years) and a broad range of educational backgrounds (9 to >20 years of formal schooling). Men, attorneys, persons with other advanced degrees, and unemployed persons formed disproportionately large fractions of the sample, compared with the general population. The defendants faced a broad variety of charges; homicide was the most common one. Many had reasonable motives for representing themselves, such as dissatisfaction with their lawyers or believing that they could do well without attorney representation. Defendants' apparent reasons for representing themselves fell into one of three categories: eccentric (16 defendants), ideological (4 defendants), and personal (19 defendants). These categories offer courts and evaluators three possible conceptualizations of a pro se defendant's behavior, outlook, and motivation.


The notion that an attorney should represent a criminal defendant is a recent historical development. Western literature contains many accounts of famous individuals—including Socrates, 1 Jesus, 2 Joan of Arc, 3 and Thomas More 4—who defended themselves against various types of criminal charges. English law traditionally denied the aid of counsel to felony defendants, and only after an 1836 act of Parliament were persons accused of felonies granted the full right to legal representation. 5 Twelve of the 13 original U.S. colonies expressly permitted accused persons to be represented by counsel, 6 but well into the 19th century, widely read texts were published in the United States about how to be one's own lawyer. 7-8 As late as 1942, the U.S. Supreme Court held that:

...it has been the considered judgment of the people, their representatives, and their courts that appointment of counsel is not a fundamental right, essential to a fair trial. . . . In the light of this evidence, we are unable to say that the concept of due process incorporated in the Fourteenth Amendment obligates the States, whatever may be their own views, to furnish counsel in every such case (Ref. 9, p 471).

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It was only in 1963 that the U.S. Supreme Court concluded 10 that it was unconstitutional to make a "poor man charged with crime . . . face his accusers without a lawyer to assist him," and gave indigent felony defendants the right to have court-appointed counsel based on "the widespread belief that lawyers in criminal courts are necessities, not luxuries" (Ref. 10, p 344). Nevertheless, U.S. law does not require criminal defendants to use lawyers in criminal proceedings. In Faretta v. California (1975), 11 the U.S. Supreme Court recognized a constitutionally protected right, derived from the Sixth Amendment as made applicable to the states by the Fourteenth, that permits defendants to proceed without counsel in state criminal prosecutions if they voluntarily and intelligently elect to do so.

In recent decades, prominent media coverage of self-representation by notorious defendants (including the nationally covered trials of Bobby Seale, 12 Charles Manson, 13 Ted Bundy, 14 Colin Ferguson, 15,16 and Jack Kevorkian 17) has reminded the public that in the United States, an accused person has a right to serve as his or her own lawyer, even if this means that he or she has "a fool for a client." (Often attributed to Abraham Lincoln, this phrase was first published almost two centuries ago in a Philadelphia magazine. As originally printed, it reads, "He who is always his own conseller [sic] will
often have a fool for his client” (Ref. 18, p 44). Most
criminal defendants retain counsel or have lawyers
appointed for them. Nevertheless, the limited available
evidence suggests that requests for self-representation
are not rare.19,20 Moreover, in many kinds of civil
litigation, especially domestic relations matters, self-
representation is the rule rather than the exception,
often because litigants cannot afford to retain coun-
sel.21,22 In recent years, several jurisdictions and organi-
izations have developed computer aids and information
packets to support the efforts of pro se litigants.23–26

Issues raised and problems created by criminal de-
defendants who represent themselves have frequently
been the subject of scholarly commentary that has
criticized judicial decisions permitting self-represen-
tation.27–31 For example, an August 2000 search of
the LEXIS law review database yielded 145 articles
that cited and/or discussed the decision in Faretta v.
California. By contrast, only a few articles have con-
tained empirical data compiled on groups of persons
who represent themselves. In an unpublished 1988
doctoral dissertation, Armstrong32 describes the ex-
periences and reactions of nine persons who repre-
sented themselves in several types of legal proceed-
ings, including divorce, child custody, and criminal
defense matters. How judicial attitudes influence
decisions involving constitutional self-representation
claims was the subject of a recent statistical study
of more than 100 federal district court cases involving
pro se defendants.33 In a 1997 effort34 “to put some
numbers behind the anecdotes” about the “explosion” of
pro se litigation (Ref. 34, p 822), Park con-
ducted a statistical study of pro se litigants in a U.S.
district court; his sample, however, was composed
entirely of civil litigants (e.g., persons participating in
disbarment proceedings or pursuing civil rights
claims). In 1999, Cunningham and Vigen35 re-
ported their findings concerning the mental func-
tioning of Mississippi death row inmates, who until
recently36 were not entitled to legal assistance—and
therefore had to represent themselves—in state post-
conviction proceedings.

However, our searches of several databases—
MEDLINE®, PsycINFO®, Arts and Humanities Ci-
tation Index, Science Citation Index Expanded, So-
cial Sciences Citation Index, and Sociological
Abstracts—found no published article that describes,
categorizes, or evaluates information on a group of
pro se criminal defendants when they represent them-
selves. This article provides what we therefore believe
is the psychiatric literature’s first systematic effort to
characterize a group of pro se defendants. In this ex-
ploratory study, we used articles from 1997 through
1999 identified in the LEXIS “U.S. News, Com-
Bined” database to generate hypotheses about the
following questions:

1. When do criminal defendants decide to repre-
sent themselves and against what kinds of charges?
2. What are their demographic characteristics?
3. Given the near-universal belief that self-repre-
sentation is foolish, do pro se defendants’ reasons for
representing themselves differ from those possible
motives described in previous publications?
4. Why do some criminal defendants elect
self-representation?
5. Are their reasons always foolish?
6. How often do pro se criminal defendants exhibit
evidence of possible capacity-impairing mental ill-
ness, and how often do courts recognize such evi-
dence and initiate mental health evaluations?
7. How often are mental-illness-related defenses
raised in cases involving pro se defendants?
8. Is there a typology of pro se defendants? Can
they be meaningfully classified into a few categories?

Materials and Methods

The LEXIS “U.S. News, Combined” library is a
full-text database that contains stories from more
than 200 United States newspapers and from the
wire services from which more than 60 percent of the
stories originate in the United States. In early 2000,
we conducted computerized searches of this database
using the strategy “pro se” or ((defend or represent)
pre/1 (himself or herself)) or (own pre/1 (attorney or
lawyer)). This strategy would find print news (pri-
marily newspaper) reports that contained phrases
such as “representing himself,” “his own attorney,”
and “defending herself,” that described persons who
had represented themselves in legal proceedings.

We wanted to examine articles concerning persons
who had recently represented themselves in at least
some portion of their trials or, in cases in which trials
did not occur, until the court entered a verdict or
dismissed the case. (We excluded from consideration
persons who functioned without attorneys for some
time during their pretrial proceedings, but who had
eventually obtained an attorney by the time of trial or
when they entered a guilty plea. We reasoned such
persons might be systematically different from indi-
viduals who persisted in wanting to proceed pro se

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until their trials were underway or a verdict was entered.) We therefore applied our sampling strategy to
news reports from four one-month periods (January, April, July, and October 1998), and read the headline and “hits” (phrases identified using the search strategy and surrounding text) from each article to see whether the article discussed an individual who had represented himself or herself in a legal proceeding. Most articles found with our search strategy concerned persons who were “defending themselves” in a colloquial sense (e.g., a coach explaining a managerial decision in the preceding night’s sports contest), were facing public criticism (e.g., President Clinton, after revelations concerning Monica Lewinsky), or were facing charges but had retained counsel and thus were not pro se defendants. If the article was pertinent, however, we then perused the full text to find the individual’s name, whether the person had been a criminal defendant, whether he or she had decided on pro se representation at trial or until the court accepted a plea, and whether the criminal case had reached a resolution after December 1996 but before January 2000.

Our searches of the four one-month periods yielded 2,193 articles, from which we obtained the names of 71 persons who appeared to have been pro se defendants in criminal prosecutions. For each of these 71 persons, we searched the “U.S. News, Combined” database again, this time using the individual’s names and one or two other identifying details (e.g., the criminal charge or the locale where the prosecution took place) to find all the database’s articles that mentioned the individual. We examined the resultant sets of articles to learn whether the cases discussed reached verdicts during the three-year (1997–1999) time frame, and whether the individuals had indeed represented themselves during a trial or until a verdict was reached. This process yielded a set of 49 persons who had represented themselves in 54 separate criminal prosecutions. We then examined the articles about these 54 prosecutions in detail, noting the following items when mentioned or applicable: (1) demographic information about the defendant (name, age, sex, race, occupation or employment status, and educational level); (2) city and state where prosecution occurred; and (3) primary source(s) of information and number of articles examined; (4) alleged offenses; (5) outcome: date, verdict or plea, sentence (if convicted); (6) whether the defendant ever had counsel, dismissed counsel, or retained counsel later (e.g., at sentencing); (7) the defendant’s stated reason (if reported) for wanting to proceed pro se; (8) reported history of mental illness; (9) whether the defendant underwent evaluations concerning competence to stand trial, criminal responsibility (legal insanity), or other forensic psychiatric matters; and (10) descriptions of irrational courtroom behavior or unusual demeanor during pretrial proceedings or at trial. In a few instances (e.g., the 1999 trial of Jack Kevorkian), the database contained hundreds of articles about individual defendants. When this occurred, we limited the articles examined to reports from one or (when available) two local newspapers that had the most detailed coverage, and one national print news source (e.g., United Press International reports or The New York Times).

Results

We examined 571 articles that discussed 54 separate criminal prosecutions in 21 states. The number of articles examined per case ranged from 1 to 39, with a mean of 10.6 ± 8.9 (SE) articles per case (median number of articles per case, 8). One 75-year-old retiree represented himself in three separate prosecutions for public nudity, a charge for which police had arrested him at least 20 times since 1962. (After the period covered in this study, this man continued to be arrested for public nudity and to represent himself in court. In August 2000, at age 77, he was sentenced to a year in jail after being found guilty of “walking around his yard in the buff.”) Three other persons represented themselves in two separate cases, and 45 persons were pro se defendants in a single criminal prosecution.

Table 1 describes the demographic information contained in the news reports we examined. Ages were mentioned for 44 of the 49 defendants and ranged from 18 to 75 years (mean, 42.9 ± 14.9 (SE) years; median age, 42 years). Only two (4.1%) of the defendants were women, a fraction that is significantly less than the 22 percent of arrestees who are women (p = .00056) and the 16 percent of correctional populations who are women (p = .010). Only eight articles mentioned the defendants’ race or ethnicity, and we therefore did not attempt to analyze this information further.

Four of the defendants were attorneys, and six others had occupational titles (e.g., osteopath, chiropractor) that showed that they had undergone professional training. Three were described as transients or drifters, and three others were described as unem-
Table 1  Data Sources and Demographic Characteristics of 49 Pro Se Defendants

<table>
<thead>
<tr>
<th>Demographic data</th>
<th>Articles on pro se defendants</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total examined</td>
</tr>
<tr>
<td></td>
<td>Mean ± SE per case</td>
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<tr>
<td></td>
<td>Median number per case</td>
</tr>
<tr>
<td></td>
<td>Range per case</td>
</tr>
<tr>
<td>Age</td>
<td>Mean ± SE</td>
</tr>
<tr>
<td></td>
<td>Median</td>
</tr>
<tr>
<td></td>
<td>Range</td>
</tr>
<tr>
<td>Sex</td>
<td>Men</td>
</tr>
<tr>
<td></td>
<td>Women</td>
</tr>
<tr>
<td>Occupation</td>
<td>Attorney</td>
</tr>
<tr>
<td></td>
<td>Other professional</td>
</tr>
<tr>
<td></td>
<td>Unemployed</td>
</tr>
<tr>
<td></td>
<td>Hired killer</td>
</tr>
<tr>
<td></td>
<td>Serial killer</td>
</tr>
<tr>
<td></td>
<td>Prison inmate</td>
</tr>
<tr>
<td></td>
<td>Student</td>
</tr>
<tr>
<td></td>
<td>Businessman</td>
</tr>
<tr>
<td></td>
<td>Transient</td>
</tr>
<tr>
<td></td>
<td>Other</td>
</tr>
<tr>
<td></td>
<td>No information</td>
</tr>
<tr>
<td>Education</td>
<td>Postgraduate</td>
</tr>
<tr>
<td></td>
<td>13–16 years</td>
</tr>
<tr>
<td></td>
<td>High school graduate</td>
</tr>
<tr>
<td></td>
<td>&lt;12 years</td>
</tr>
<tr>
<td></td>
<td>No information</td>
</tr>
</tbody>
</table>

Table 2  Trial Information

<table>
<thead>
<tr>
<th>Charges</th>
<th>Total number of charges</th>
<th>87</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total number of counts</td>
<td>267</td>
</tr>
<tr>
<td></td>
<td>Range per case</td>
<td>1–95</td>
</tr>
<tr>
<td>Types of charges</td>
<td>Homicide</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>Stealing</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>Threats</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>Assault</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Drug charges</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>Fraud or bribery</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>Sex offenses</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Driving offenses</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>20</td>
</tr>
<tr>
<td>Pleas</td>
<td>Guilty</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Not guilty</td>
<td>44</td>
</tr>
<tr>
<td></td>
<td>NGRI</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>No contest</td>
<td>2</td>
</tr>
<tr>
<td>Factfinder</td>
<td>Jury</td>
<td>38</td>
</tr>
<tr>
<td></td>
<td>Judge or panel</td>
<td>16</td>
</tr>
<tr>
<td>Verdicts</td>
<td>Guilty</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>Acquitted on all charges</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Charge dismissed</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Guilty, lesser included offense</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Hung jury</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>NGRI</td>
<td>1</td>
</tr>
<tr>
<td>Sentences</td>
<td>Prison</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>Median term</td>
<td>5 years</td>
</tr>
<tr>
<td></td>
<td>Term &gt;30 years</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>Death</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Suspended sentence</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Community control</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>Fine</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>Range</td>
<td>$200–$300,000</td>
</tr>
<tr>
<td></td>
<td>Community service</td>
<td>2</td>
</tr>
</tbody>
</table>

(37%) of the cases, news articles reported that defendants had counsel at some point before they went to trial or entered a verdict. In 16 of these instances,
news reports stated explicitly that the defendants dismissed counsel so they could represent themselves. In three cases, lawyers withdrew from cases because of conflicts with their clients, who then represented themselves. In 11 cases, defendants began trials without an attorney but obtained one later (either during the trial itself or for representation at sentencing).

Defendants entered pleas of not guilty in 44 (81%) cases, guilty in 7 (13%), no contest in 2 (4%), and not guilty by reason of insanity (NGRI) in 1 (2%). Thirty-eight cases (70%) were heard by juries at trial; in the remaining cases, individual judges or judicial panels rendered verdicts. Defendants were found guilty as charged in 39 (72%) of the 54 cases. In four (7%) cases, pro se defendants gained acquittals on all counts that they faced, and in three (6%), their charges were dismissed. In five cases (9%), juries convicted defendants of lesser included offenses. One case resulted in an NGRI jury verdict (the judge’s instructions to the jury included this option for consideration). In two cases (4%), jurors could not reach a verdict on some or all of the charges. It could be said, then, that in 15 (28%) of the 54 cases, the pro se defendants achieved some degree of success in avoiding conviction or diminishing criminal punishment.

Thirty cases (56%) resulted in defendants’ receiving jail or prison sentences. The median sentence length was 5 years, and eight cases resulted in defendants’ receiving life sentences or sentences of more than 30 years. Five defendants received death sentences; in three of these cases, the defendants hoped for or requested the death penalty. Other outcomes included suspended sentences (1 case), community control or probation (9 cases), community services (2 cases), and fines (10 cases) ranging from $200 to $300,000.

In 28 cases, articles reported defendants’ reasons for proceeding without attorney representation. The reasons mentioned most frequently (Table 4) were the defendant’s dissatisfaction with the current lawyer and the defendant’s belief that he could present the case as well as or better than a lawyer (five instances each). Five defendants represented themselves because they objected to their attorneys’ plans to defend them: Two did not want the charges contested, and three demurred to a proposed insanity defense. In five cases, defendants proceeded pro se because they thought lawyers were part of a conspiracy (mentioned three times) or because of their general opinions about lawyers (not trusting them, not thinking highly of them). Four defendants (including Jack Kevorkian, who wanted to be a “martyr” for the cause of active euthanasia) represented themselves against charges that reflected their positions on social issues. Three cases cited strategic reasons—that is, advantages to presenting one’s own defense. These advantages included being able to cross-examine witnesses oneself, to demonstrate points without having to undergo cross-examination, or to present a non-traditional defense of not openly contesting the charge (which led to its dismissal).

As was mentioned earlier, we noted whether news articles contained descriptions of irrational courtroom behavior or unusual demeanor during pretrial proceedings or at trial. In 16 cases involving 13 defendants, press reports described what we will hereinafter term “odd behavior.” In deciding what qualified as odd behavior, we focused on whether the defendants’ reported statements or actions appeared to be symptoms of a serious Axis I mental disorder or indicated possible incompetence to stand trial. We did not count statements or actions that were merely funny, that probably reflected courtroom anxiety (e.g., trembling hands), or that merely seemed inept, unwise, or foolish (e.g., a defendant who wore prison clothing to court during a jury trial, stating that he was more “comfortable” in such garb). Recognizing that irrationality or oddness often is in the eye of the beholder, we have summarized news report descriptions of the 13 defendants’ behavior in Table 5 (along with references to the original news accounts) so that readers can make their own judgments.

News articles mentioned that mental health issues (Table 6) arose at some point—either before trial or after conviction—concerning 13 (27%) of the 49
Table 5 Summary of News Report Descriptions of Irrational Behavior or Unusual Demeanor at Trial

<table>
<thead>
<tr>
<th>Defendant's Name</th>
<th>Description of Behavior</th>
<th>Source(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clausing, Vernon</td>
<td>During trial, wore bullet-proof vest to court and contended he was the victim of a conspiracy. Did not appear for sentencing hearing; when judge called him at home, he hung up twice. Requested incarceration rather than community service because he felt safer in jail. Made “outrageous accusations,” “corrupt offices in our system,” exceeded bounds of “accepted courtroom behavior.” Said during trial that he wanted to die by execution instead of at the hands of inmates. Did not want jury to hear about evidence of mental illness. Made no opening remarks. When guilty verdict was read, gave judge a “thumbs up” and said, “right on.” Although he entered an insanity plea, he also requested death penalty “as a fitting end to a ruined life. . . . I’d push the button if I could.” Blamed the murder on his explosive personality disorder. Caved no opening statement; was on a suicide watch in jail during his trial.</td>
<td>39, 40, 41–43, 44, 45, 46, 47, 48, 49–52, 53, 54, 55, 56–59, 60–62, 63–65, 66, 67, 68–70</td>
</tr>
<tr>
<td>Guinn, Darin Thomas</td>
<td></td>
<td></td>
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<tr>
<td>Delgado, Jose</td>
<td></td>
<td></td>
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<tr>
<td>Laufgas, Bernie</td>
<td></td>
<td></td>
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<tr>
<td>Franklin, Joseph</td>
<td></td>
<td></td>
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<tr>
<td>Zagustin, Elena</td>
<td></td>
<td></td>
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<tr>
<td>Frederickson, Daniel</td>
<td></td>
<td></td>
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<tr>
<td>Ranson, Gerry</td>
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<tr>
<td>Klat, Susan Viola</td>
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<tr>
<td>Mossman and Dunseith</td>
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</tbody>
</table>

Table 6 Mental Health Issues

<table>
<thead>
<tr>
<th>Description of Behavior</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reported history of mental illness</td>
<td>9</td>
</tr>
<tr>
<td>Competence-to-stand-trial evaluation</td>
<td>6</td>
</tr>
<tr>
<td>Criminal-responsibility evaluation</td>
<td>2</td>
</tr>
<tr>
<td>Other mental health evaluation</td>
<td>10</td>
</tr>
<tr>
<td>News report of odd behavior at trial</td>
<td>16</td>
</tr>
</tbody>
</table>

defendants and in 15 (28%) of the 54 prosecutions. (The court ordered a mental health evaluation at each trial involving the defendant who chose pro se representation in three cases.) In six cases, defendants underwent evaluations of their competence to stand trial, and in two cases, defendants underwent criminal responsibility evaluations. News reports mentioned that seven defendants (including the man who represented himself three times) had histories of mental illness.

In 5 (31%) of the 16 instances in which news reports described odd behavior in court, news reports also noted that defendants underwent competence evaluation. A competence evaluation was noted in only 1 (3%) of the 38 cases in which no odd behavior was reported \( (p = .0067, \text{ Fisher's exact test}) \). Mental health evaluations occurred in 10 (62%) of 16 in-
sances in which odd behavior was reported, but in only 5 (13%) of the remaining 38 cases ($p = .00050$, Fisher’s exact test). A report of having a history of mental illness was associated with undergoing a psychiatric evaluation at some point during the proceedings ($p = .00094$, Fisher’s exact test), but did not make a competence evaluation significantly more likely ($p = .051$, Fisher’s exact test).

News stories contained enough information about behavior, motives, and decision-making to place 39 of the 49 defendants into one of three broad categories (Table 7). The first category, which we termed eccentric, included 16 defendants whose decision to proceed without representation was one of many behavioral or emotional peculiarities reported in the articles we examined. This group included all but one person whose odd behavior was reported, all the persons who thought lawyers were part of a conspiracy, 8 of the 14 persons who underwent a mental health evaluation, and 4 of the 6 persons who underwent evaluations of their competence to stand trial.

A second category of defendants consisted of four persons whose alleged offenses reflected their feelings about larger ideological issues. This category included Jack Kevorkian (who had arranged for a national television broadcast of a videotaped lethal injection), Clifford Hobbs (who was charged with interfering with a judicial officer, and did not believe in the authority of state courts), Vernon Bellecourt (who burned an effigy of Chief Wahoo at a World Series game to protest what he believed was a racist symbol), and Algea Motley (a paralegal charged with practicing law without a license who believed that retaining a lawyer would have involved “a conflict of interest”).

The third category included 19 defendants who chose self-representation for personal reasons, so that they could exercise control over how they handled their cases. These persons represented themselves for strategic reasons, to avoid trials, to avoid lawyers’ proposed insanity pleas, to request the death penalty, or because of other conflicts with defense counsel. This category also included the four lawyers whose self-representation was reported in the articles we examined. We prepared Fig. 1 as a pictorial summary of the relationships among our categorizations, mental health issues, and some cases’ outcomes.

Several articles reported behavior, statements, or choices made by defendants that clearly appeared ill-advised, foolish, or risible; in fact, some defendants’ actions were reported in news bites that probably received national circulation simply because they seemed curious or amusing. However, several articles commented that pro se defendants (especially those who gained acquittals) did well in presenting their cases and sometimes enjoyed distinct advantages over attorney-represented defendants (Table 8). Being a pro se defendant allowed defendants to confront directly and cross-examine their accusers. One doctor who represented himself skillfully used this opportunity to display techniques and introduce information at trial without being cross-examined. In a few cases,

Table 8  Potential Advantages of Pro Se Representation

<table>
<thead>
<tr>
<th>Advantage</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defendant could directly confront and cross-examine accuser</td>
<td></td>
</tr>
<tr>
<td>Introduction of information at trial without cross-examination</td>
<td></td>
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<tr>
<td>Establishment of rapport with jurors</td>
<td></td>
</tr>
<tr>
<td>Jurors get to know and understand pro se defendants more than</td>
<td></td>
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<tr>
<td>attorney-represented defendants</td>
<td></td>
</tr>
<tr>
<td>Unique understanding of the law concerning charge or details related to</td>
<td></td>
</tr>
<tr>
<td>cases may give advantage when questioning witnesses</td>
<td></td>
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<td>Nonlawyer pro se defendants may receive greater latitude in allowed</td>
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defendants appeared to benefit from the rapport they established with jurors, who got to know the defendants from the beginning of the trial and therefore had more opportunity to understand pro se defendants as persons than would have been the case had the defendants used lawyers. Some defendants had unique understanding of the law surrounding their charges or details related to their cases, and this gave them an advantage when questioning witnesses. Sometimes, courts did not expect those pro se defendants who were not lawyers to understand details of courtroom procedure and permitted the defendants greater latitude in their behavior and questioning than they would have allowed defense lawyers.

Discussion

In a 1932 decision recognizing a Fourteenth Amendment due process right to an attorney in capital cases, the U.S. Supreme Court noted:

Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel, he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he [may] have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. If that be true of men of intelligence, how much more true is it of the ignorant and illiterate, or those of feeble intellect (Ref. 5, p 69).

Despite these reasons to use counsel, a few criminal defendants choose not to do so. In this article, we present what is, to our knowledge, the first effort to characterize a large group of criminal defendants who represented themselves for at least part of their trials or (in cases in which they entered guilty or no contest pleas) until the court had rendered its verdict. Before discussing our findings, we must emphasize this study’s limitations.

We obtained our data from a computer sampling of U.S. print news reports. This approach allowed consideration of a national sample of facts about and observations of pro se defendants, rather than a necessarily more limited sample that might be obtained from gathering data directly from one or a few jurisdictions. However, our data set may have had systematic biases. News articles concern happenings deemed “newsworthy” by reporters. They are “stories” chosen for publication because editors believe they will appeal to the public. Our sample may therefore have overemphasized cases that involved offbeat behavior, notorious defendants, or sensational offenses. News articles may over-represent pro se defendants whose actions seemed striking. Pro se defendants who gain acquittals or who say and do odd things in court may be expected to gain a disproportionate share of media attention.

News reporters also may not be skilled at or concerned about discerning signs or describing key elements of mental disorders. Our database may therefore have understated symptoms that a mental health professional would have noted or may have skewed descriptions of problems away from subtle but pathognomonic signs of illness and toward behavior that would be salient to an intelligent but untrained observer. Statements about defendants usually were based on courtroom statements, not interviews with defendants, which means that descriptions of defendants’ reasons for choosing self-representation came from what reporters heard defendants tell others, not what the defendants would have said had reporters asked about their decisions.

Besides problems that stem from our data sources, our study shares the limitations of many efforts to assemble naturalistically generated empirical data. The first is “chance error” — that is, error arising from the always-present possibility that a limited sample is not representative of the whole population. A second limitation arises from our choosing cases that reached verdicts in a single three-year period. Even if the cases we sampled typified pro se defenses from 1997 through 1999, what happened during these years may not apply in the future. Third, we removed from consideration defendants who represented themselves briefly, but obtained counsel before trial. We do not know how individuals who fell into this category differ from the defendants in our sample. Fourth, our procedure often required us to make judgments about what we read and therefore may reflect our limitations in interpreting information. Finally, our sample consisted of criminal defendants who primarily faced felony charges. Our findings probably would not apply to individuals who represent themselves in traffic court or less serious criminal proceedings.
With these limitations in mind, we offer the following summary of and comments about our findings.

Our sample of \textit{pro se} defendants displayed a broad age range (18-75 years) and had a broad range of educational backgrounds (9 to >20 years of formal schooling). Attorneys, persons with other kinds of advanced degrees, and unemployed persons formed disproportionately large fractions of our sample, compared with their representation in the general population. Women appeared at a rate significantly lower than recent U.S. arrest and incarceration rates for women. At least one third of the defendants had counsel at some early point in their criminal proceedings. Most of these dismissed their lawyers to represent themselves, but in a few cases lawyers withdrew because of interpersonal conflicts. The defendants faced a broad variety of charges, the most common of which was homicide. We suspect that this last finding may reflect news sources' reporting tendencies, and wonder whether \textit{pro se} homicide defendants are as common in fact as they might appear from press accounts.

Acknowledging the difficulty in specifying why criminal defendants would proceed \textit{pro se}, Decker\textsuperscript{71} suggests these reasons: (1) to symbolize their "lack of respect for authority"; (2) as "an act of defiance" by defendants who "are unable to get their way"; (3) knowledge that their "heinous atrocities" would lead to life imprisonment or execution, no matter whether they had counsel; (4) to manipulate "the criminal justice system for their own secret agenda[s]"; (5) to advance "a radical political scheme"; (6) because "they are so totally out of touch with reality that they believe they can do it all themselves" (Ref. 71, pp 485–7 (individual citations omitted)).

Decker's list suggests that \textit{pro se} criminal defenses are always ill advised, which comports with his position that the \textit{Faretta} decision permitting self-representation is flawed. Some of Decker's reasons may have fitted a few of the defendants discussed in the articles we examined. Yet many defendants had reasons that did not comport with Decker's apparent assumption that \textit{pro se} representation is pathological \textit{per se}.

Our data set suggests that some \textit{pro se} criminal defendants have valid reasons for proceeding without counsel. The most commonly stated reasons for choosing self-representation were the defendant's dissatisfaction with the present lawyer and a belief that the defendant could do as well without attorney representation. At least 17 recent law review articles quote (usually approvingly) Judge Bazelon's observation that court-appointed criminal defense lawyers often are "walking violations of the Sixth Amendment" (Ref. 72, p 2); this suggests that ridding oneself of a poorly performing lawyer or having a generally low opinion of attorneys is not, on its face, unreasonable. The notion that a defendant can defend himself or herself as well as or better than an attorney receives support from occasional observations about \textit{pro se} defendants' actual in-court performances. Some defendants had (at least) potentially reasonable objections to the lawyers' plans (e.g., to raise the insanity defense or to contest charges). Other defendants had strategic reasons for \textit{pro se} representation, and sometimes their strategies were effective enough to result in acquittals on serious charges. Some defendants (e.g., Jack Kevorkian) seem to be motivated by political beliefs that, although unusual, are not universally regarded as radical.

For four-fifths of the defendants, news stories contained enough information to let us categorize their motives as eccentric, ideological, or personal. Sixteen of the 39 classifiable defendants fell into the first category, which means that 23—a majority—did not. We think this finding may have several uses. First, it suggests that most persons who want to represent themselves are not overly "kooky," however peculiar or unusual their desire to defend themselves may be. A second use may accrue to trial judges who entertain requests for self-representation and to mental health professionals who evaluate \textit{pro se} defendants' competence: our categories offer courts and evaluators three alternative conceptualizations of a \textit{pro se} defendant's behavior, outlook, and motivation, and even some rough base rates of the frequency of each type of \textit{pro se} defendant. A third and related use may be to encourage persons who write about \textit{pro se} defendants (including academics and news reporters) to consider other views of self-representation besides the knee-jerk fool-for-a-client assumption that often predominates reporting and scholarly discourse. Fourth—and despite the previous three points—the finding that many \textit{pro se} defendants had odd beliefs or behavior means that when a criminal defendant asks to represent himself, the trial judge should wonder whether the defendant has a competence-impairing mental condition.
Of course, having a psychiatric problem and behaving oddly are not, by themselves, reasons for preventing someone from exercising a constitutional right. Still, our findings suggest that a defendant’s request for self-representation should lead to careful inquiry, not just about the accused’s understanding of facts and legal consequences, but about the defendant’s motives, too. To accomplish this, trial judges would have to question potential pro se defendants differently from the currently recommended method. The Bench Book for United States District Court Judges contains a 16-point model inquiry for judges to use when defendants want to represent themselves. The questions have been cited approvingly in some appellate decisions and are reprinted in Appendix I. The model inquiry is intended to fulfill the mandate of the U.S. Supreme Court’s decision in Von Moltke v. Gillies, under which a trial judge faced with a potential pro se defendant:

...must investigate as long and as thoroughly as the circumstances of the case before him demand. . . . A judge can make certain that an accused’s professed waiver of counsel is understandably and wisely made only from a penetrating and comprehensive examination of all the circumstances under which such a plea is tendered (Ref. 77, pp 723–4).

We doubt that the series of yes-or-no questions recommended in the Bench Book would tell a judge how well a prospective pro se defendant understands and reasons about his situation. As the Von Moltke decision notes, “a mere routine inquiry—the asking of several standard questions followed by the signing of a standard written waiver of counsel—may leave a judge entirely unaware of the facts essential to an informed decision that an accused has executed a valid waiver of his right to counsel” (Ref. 77, p 724). Moreover, a good cognitive understanding of legal proceedings does not preclude the presence of competence-impairing conditions (for example, paranoia) that can prevent a defendant from working rationally with a lawyer.

**Concluding Comments**

Most legal and scholarly writing about self-representation at criminal trials has explored individual cases, moral dilemmas, or legal issues, rather than systematically gathered data about pro se defendants’ motives and characteristics. We hope this report will encourage other investigators to map empirical dimensions of this unusual but important courtroom phenomenon. Desiderata for future empirical research include obtaining data that are similar to those we obtained from news reports, but that come directly from court records about, or interviews with, a representative sample of defendants. It may be useful to compare pro se and attorney-represented defendants concerning how frequently they achieve some level of success in their defenses, how often they undergo competence evaluations, and the outcomes of those evaluations. Exploring pro se defendants’ reasons for not wanting attorney representation to see how frequently their positions are sensible also would be valuable.

Conducting such research will not be an easy or uncomplicated task, however. Pro se defenses, although not rare, are low-frequency events, which may make it difficult for researchers outside large metropolitan areas to accumulate enough subjects—either through direct interviews or from court records—to make meaningful inferences. A related point is that findings from studies conducted in one or a few locales may have limited generalizability. Research that involved any preverdict, direct contact with defendants would raise ethical issues: It could be intrusive, and a mental health researcher’s interest in an individual’s defense might influence judicial perceptions or other aspects of the case. Finally, the paucity of court statistics on this issue may make it difficult for researchers to find, analyze, and quantify data about individuals whose cases have already reached adjudication. We nonetheless hope that other clinicians and researchers will evaluate the hypotheses we have put forth and make other efforts to investigate a previously unstudied topic in mental health law.

**Appendix I: Guideline**

For District Judges, from Bench Book for United States District Judges (Ref. 73, §1.0-2 to 5), cited in U.S. v. McDowell (Ref. 74, pp 251–2):

When a defendant states that he [or she] wishes to represent himself [or herself], you should . . . ask questions similar to the following:

(a) Have you ever studied law?
(b) Have you ever represented yourself or any other defendant in a criminal action?
(c) You realize, do you not, that you are charged with these crimes: (Here state the crimes with which the defendant is charged.)
(d) You realize, do you not, that if you are found guilty of the crime charged in Count I the court must impose an assessment of at least $50 ($25 if a misdemeanor) and could sentence you to as much as ____ years in prison and fine you as much as $ ____?
(Then ask him a similar question with respect to each other crime with which he may be charged in the indictment or information.)

(e) You realize, do you not, that if you are found guilty of more than one of those crimes this court can order that the sentences be served consecutively, that is, one after another?

(f) You realize, do you not, that if you represent yourself, you are on your own? I cannot tell you how you should try your case or even advise you as to how to try your case.

(g) Are you familiar with the Federal Rules of Evidence?

(h) You realize, do you not, that the Federal Rules of Evidence govern what evidence may or may not be introduced at trial and, in representing yourself, you must abide by those rules?

(i) Are you familiar with the Federal Rules of Criminal Procedure?

(j) You realize, do you not, that those rules govern the way in which a criminal action is tried in federal court?

(k) You realize, do you not, that if you decide to take the witness stand, you must present your testimony by asking questions of yourself? You cannot just take the stand and tell your story. You must proceed question by question through your testimony.

(l) (Then say to the defendant something to this effect): I must advise you that in my opinion you would be far better defended by a trained lawyer than you can be by yourself. I think it is unwise of you to try to represent yourself. You are not familiar with the law. You are not familiar with court procedure. You are not familiar with the rules of evidence. I would strongly urge you not to try to represent yourself.

(m) Now, in light of the penalty that you might suffer if you are found guilty and in light of all of the difficulties of representing yourself, is it still your desire to represent yourself and to give up your right to be represented by a lawyer?

(n) Is your decision entirely voluntary on your part?

(o) If the answers to the two preceding questions are in the affirmative [and in your opinion the waiver of counsel is knowing and voluntary], you should then say something to the following effect: "I find that the defendant has knowingly and voluntarily waived his right to counsel. I will therefore permit him to represent himself."

(p) You should consider the appointment of standby counsel to assist the defendant and to replace the defendant if the court should determine during trial that the defendant can no longer be permitted to represent himself.

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