

# **TO TESTIFY OR NOT TO TESTIFY—THAT IS THE QUESTION: COMPARING THE ADVANTAGES AND DISADVANTAGES OF TESTIFYING ACROSS SITUATIONS**

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Criminal defendants are under no obligation to testify on their own behalf and doing so can lead to deleterious outcomes. Specifically, if the defendant has a criminal record, the prosecution can introduce this into evidence in an effort to impeach the defendant's testimony. Yet, failure to take the stand and proclaim one's innocence arouses suspicion among jurors that may influence verdicts. In this study, we manipulated whether the defendant testified or not. In those instances where he did testify, we varied whether he had (1) no criminal record, (2) a criminal record for a similar offense, or (3) a criminal record for a dissimilar offense. Results indicated that mock jurors who adjudicated the defendant guilty were influenced by the defendant's failure to take the stand. Furthermore, mock jurors were more likely to render guilty verdicts when they perceived the defendant as less trustworthy, more aggressive, and less credible (as a witness). However, in no instance were these decisions and perceptions related to the manipulations. This suggests that mock jurors were suspicious of the defendant regardless of whether or not he testified, or whether he had a criminal record.

In criminal trials, the state is required to prove the defendant's guilt beyond a reasonable doubt in order to secure a conviction. Stated alternatively, defendants are not required to prove their innocence.

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Thus, a criminal defendant is not required to take the stand and offer any testimony to mitigate the evidence presented by the prosecution or proffer any evidence attesting to her/his innocence. This right is codified in the Fifth Amendment of the United States Constitution and exists primarily as a means against self-incrimination.

Although defendants have this Constitutional right, it may not be in the best interest of the defendant to exercise it. Psychological reactance theory (Brehm, 1966) suggests that the withholding of information increases the desire of individuals to have that knowledge. Thus, failing to testify may lead jurors to place more emphasis on this omission, which will likely be perceived as a desire to hide something incriminating. Limited empirical evidence substantiates this claim (Shaffer, 1985). Yet, much of the prior research in this area has failed to consider how exercising one's Fifth Amendment right not to testify compares to testifying when doing so may also be problematic. For instance, when a defendant has a prior record, testifying may be even more damaging than denying jurors information they perceive as important (Wissler & Saks, 1985).

The current study extends previous efforts by exploring the impact of not testifying on jurors' perceptions of the defendant, compared to testifying under certain conditions. More specifically, the focus of this study is to explore whether jurors' perceptions of the defendant (e.g., trustworthiness) and adjudications of guilt differ when the defendant (1) does not take the stand, (2) testifies and does not have a prior record, (3) testifies and has been previously convicted of an offense similar to the current charge, and (4) testifies and has been previously convicted of an offense dissimilar to the current charge. By comparing these various conditions vis-à-vis one another, the results of this study can provide insights into juror decision-making, as well as guidance to defense attorneys as to the most appropriate legal strategy to employ.

### PREVIOUS RESEARCH

Criminal defendants have the right to remain silent, and not taking the stand may be particularly advantageous when the defend-

ant has a prior conviction. If a criminal defendant takes the stand to offer exculpatory evidence, their prior record can be introduced as a means of challenging the credibility of their testimony. Research shows that criminal defendants are often perceived as less trustworthy and credible relative to other witnesses, and this perception is amplified when they have a criminal record (Wissler & Saks, 1985). Additionally, a consistent finding has been that prior record evidence is very damaging, as it increases the likelihood of conviction for the current charge (Doob & Kirshenbaum, 1972; Hans & Doob, 1976; Wissler & Saks, 1985). These deleterious effects are even more notable when the defendant's current charge is similar to the previous conviction (Wissler & Saks, 1985).

Although the purpose of introducing prior record evidence is to discredit the witness—based on the assumption that a convicted criminal is more likely to provide invalid testimony than a witness without a criminal history—jurors do not use this evidence in that manner. Instead, they appear to use evidence of a prior conviction to make more general assumptions about the defendant's character (Wissler & Saks, 1985). That is, they speculate that if the defendant was convicted of a previous crime, s/he is more likely to have committed the crime for which s/he is currently being tried. According to the fundamental attribution error (Ross, 1977), individuals assume that others' behavior results more so from dispositional qualities than from situational factors. It is likely that this tendency is exacerbated when there is evidence to suggest a pattern. In the current discussion, this social psychological phenomenon manifests itself by leading jurors to assume that the defendant has a criminal propensity, which increases their belief that the defendant is more likely to have committed the offense for which s/he has been charged. Thus, in those instances when a criminal defendant has a prior conviction, it seems prudent to keep her/him off the witness stand to prevent jurors from making assumptions about the defendant's propensity for criminal behavior or the likelihood s/he committed the offense for which s/he is currently standing trial.

While keeping a defendant with a prior conviction from testifying is advantageous for the reasons noted above, another poten-

tial problem may very well emerge. Some have posited that a defendant who does not take the stand may be perceived negatively by jurors (see Shaffer, 1985). More specifically, if a criminal defendant is innocent, then jurors expect her/him to take the stand and defend herself/himself. Conversely, jurors may presuppose that a criminal defendant who does not testify on her/his own behalf has something to hide. When individuals perceive that they are being denied valuable information, this could elicit potentially negative consequences. According to psychological reactance theory (Brehm, 1966), when a person believes that they are losing freedom, they react against this by wanting the choice even more. In the context of a criminal trial, if jurors feel they are being denied access to important, relevant information about the defendant, then they might react against the accused by placing even greater weight on the information not being provided. A defendant who does not take the stand is denying jurors the choice to hear directly from the defendant. This denial, in turn, can elicit a strong desire to want to hear from the defendant. Of course, it seems most reasonable that jurors will perceive such omitted information as incriminating.

A series of studies conducted by Shaffer and colleagues confirms that criminal defendants who do not take the stand risk being perceived negatively (Shaffer, 1985; Shaffer & Case, 1982; Shaffer & Sadowski, 1979). In fact, defendants who employ this strategy appear to fare no better than those who take the stand and proclaim their innocence (Shaffer & Sadowski, 1979). Perhaps one explanation of why jurors find a defendant's claims of innocence incredible is that the defendant has a vested interest in offering self-serving testimony. The discounting principle (Kelley, 1967) suggests that the validity of any potential explanation will be reduced if other plausible explanations also exist. Shaffer (1985) suggests that in the context of a criminal trial, this principle will apply to a defendant who testifies on her/his own behalf. Specifically, jurors recognize that a defendant's testimony may be just as likely to be deceitful as truthful. Thus, it appears that in either instance – remaining silent or taking the stand and offering exculpatory testimony – jurors are suspicious of criminal defendants.

While the aforementioned findings provide support for psychological reactance theory, there is an important caveat that complicates this interpretation. Specifically, limiting instructions were included in the study by Shaffer and Case (1982). Limiting instructions are used by judges to prevent jurors from inappropriately using information in deciding a case. When a defendant's prior record is introduced into evidence to discredit his testimony, it is standard practice for the judge to issue a limiting instruction that the jurors are to use this evidence only for the purposes of evaluating the defendant's credibility as a witness, and not to use it to evaluate the likelihood that the defendant committed the current offense. As noted above, however, jurors often use prior conviction evidence inappropriately by assuming a criminal propensity or increased likelihood that the defendant committed the current offense. In fact, research has indicated that instructing jurors not to use one's prior record in this manner increases the likelihood that they will (Diamond, Casper, & Ostergren, 1989; Shaw & Skolnick, 1995; Wissler & Saks, 1985; cf. Greene & Dodge, 1995). Thus, it is unclear whether jurors are reacting to the defendant's withholding of information or to the judge's limiting instructions.

Another complicating factor with the current literature is that no study has examined multiple conditions simultaneously and compared their relative efficacy. For instance, those studies indicating that remaining silent is negatively perceived and reacted to do not have a comparison group that includes a defendant with a prior record. Other studies (Greene & Dodge, 1995; Wissler & Saks, 1985), which include such a group, find that defendants with a prior conviction fare worse than those who do not take the stand. Yet, these latter studies also failed to incorporate an important group—those who testify and do not have a prior record. Thus, previous research has not evaluated how each of these various conditions compares to one another.

So what should a defendant do? What is the most appropriate advice for a defense attorney to offer a client? Should the defendant remain silent and not take the stand, thereby leaving jurors to make assumptions that s/he is hiding something? Or will taking the stand and pleading innocent simply be perceived as the defendant offering

self-serving testimony that could just as easily be a lie as the truth? And how do these strategies compare to taking the stand and having one's prior convictions introduced into evidence?

In the current study, these various conditions are explored in an effort to disentangle the effects. Both the discounting principle and psychological reactance theory suggest that simply remaining silent (i.e., not taking the stand) will result in lower guilt ratings than taking the stand and proclaiming one's innocence. While both may instigate psychological reactance, the more explicit denial of being guilty should activate this psychological phenomenon more acutely. Moreover, because previous research indicates that evidence of a prior conviction is so damning, both of the aforementioned conditions should lead to lower guilt ratings than conditions which include a defendant with a prior conviction.

Alternatively, there may be no differences among the various conditions. At least two lines of evidence suggest this possibility. First, despite the influence of extralegal factors, jurors' decisions are based primarily on the evidence (Devine, Clayton, Dunford, Seying, & Pryce, 2001; Nietzel, McCarthy, & Kern, 1999). If the evidence is equivocal (as the hypothetical cases were designed to be; see *Methods*) and the defendant's actions (e.g., remaining silent) or prior convictions are not inappropriately used by jurors, there should be no difference in guilt ratings across the conditions. Second, because criminal defendants are perceived negatively from the onset, jurors might be equally skeptical of them regardless of their behavior. Because so few studies have explored these various conditions vis-à-vis one another, and the inclusion of limiting instructions has potentially confounded the findings, strong hypotheses seem premature.

## METHODS

### *Participants*

The sample consists of 154 undergraduates who served as mock jurors in a hypothetical case. Students were enrolled in criminology courses. Although some have criticized the use of student

samples (Sears, 1986), results from those studies are comparable to those that utilize more generalizable samples (e.g., jury eligible, community participants; Bornstein, 1999; Nietzel, et al., 1999). Most of the mock jurors were women (62.3%). The majority of mock jurors indicated they were Caucasian (82.5%), while the remainder was African-American (10.4%), Latino (1.9%), Asian (1.9%), or other (3.2%). The sample was relatively young ( $\bar{x} = 20.2$ ,  $SD = 1.6$ ).

### *Measures*

Mock jurors were presented with a hypothetical case involving two men who were involved in an altercation at a local bar. The defendant was charged with assault and battery. An abbreviated court transcript was provided in which the prosecutor called the arresting officer to the stand in order to describe the events that led to the arrest of the defendant. Although it was clear that a fight occurred between the defendant and the victim, the evidence was ambiguous regarding who initiated the altercation. The equivocal nature of the evidence was achieved by the defense cross-examining the arresting officer on the facts of the case. Closing arguments were offered by both the prosecution and defense.

Although the basic facts of the case were the same, there were four vignettes that contained unique information. The first version contained all the facts of the case. The arresting officer provided the majority of the facts of the case from his perspective. Defense counsel cross-examined the arresting officer to cast doubt on his testimony. Importantly, the defendant did not testify in this condition. Thus, this was the “remaining silent” condition.

The second version contained the basic facts of the case (provided by the arresting officer, who was also cross-examined). In addition, the defendant took the stand and proclaimed his innocence. Specifically, he indicated that the victim had instigated the fight and he (the defendant) responded as a means of self-defense. During cross-examination, the prosecution challenged the defendant’s statement by indicating the defendant was actually the instigator (consistent with the arresting officer’s testimony). Thus, the second version was one in which the defendant testified, but had no prior convictions introduced into evidence.

In the third version, the defendant testified, but when cross-examined by the prosecution, the defendant's prior conviction for assault and battery was introduced into evidence and used to impeach the credibility of the witness's testimony. This condition, therefore, was one in which the defendant testified, but had a prior conviction that was similar to the one for which he was currently on trial.

In the final condition, the defendant testified, but when cross-examined by the prosecution, the defendant's prior conviction for possession of a controlled substance was introduced into evidence and used to impeach the credibility of the witness's testimony. Thus, in this latter condition, the defendant testified, but had a prior conviction that was dissimilar to the one for which he was currently on trial.

After reading the abbreviated court transcript, the mock jurors were asked several questions. They were asked to render a vote of guilty (1) or not guilty (2). Mock jurors were also asked to "indicate how convinced you are that he committed the offense for which he has been charged" (1 = *not at all convinced*; 10 = *definitely convinced*). This question was included to assess perceptions of guilt that varied more than the dichotomous outcome of guilty versus not guilty.

Beyond deciding guilt, mock jurors were also asked to rate the defendant on two dimensions: trustworthiness and aggression. Both of these items were rated on a scale ranging from 1-10, with higher scores indicative of perceiving the defendant as more trustworthy or aggressive. For those presented with the version in which the defendant did not testify, mock jurors were asked to indicate "how much was your decision of guilty or not guilty affected by the defendant not testifying?" (1 = *not at all affected*; 10 = *strongly affected*). In those conditions where the defendant testified, mock jurors were asked "how credible did you find the defendant to be as a witness?" (1 = *not very credible*; 10 = *very credible*).

Mock jurors were also asked to indicate their gender, race/ethnicity, and age.

*Procedure*

The mock jurors were recruited from undergraduate criminology courses. They were informed that this was a study assessing perceptions of criminal defendants, and that if they chose to participate they would receive extra credit in the course. For those who wanted extra credit, but did not want to participate in the study, an alternative was provided. All students were informed that their participation was voluntary. The different versions of the trial were randomly distributed to participants.

**RESULTS**

The first series of analyses assessed whether there were any significant relationships between demographic variables and the mock jurors' ratings. Age was not significantly related to guilt ratings ( $t_{(49.54)} = 1.88, p > .05$ ) or the degree to which mock jurors were convinced of the defendant's guilt ( $r = .10, p > .05$ ). Moreover, age was not related to mock jurors' perceptions of defendant trustworthiness ( $r = -.09, p > .05$ ) or aggressiveness ( $r = .13, p > .05$ ). Neither gender ( $\chi^2_{(1)} = 0.52, p > .05$ ) nor race ( $\chi^2_{(4)} = 3.63, p > .05$ ) was significantly related to guilt verdicts, or ratings on how convinced mock jurors were about the defendant's guilt (gender:  $t_{(152)} = 0.03, p > .05$ ; race:  $F_{(4, 149)} = 0.50, p > .05$ ). These results indicate that demographic factors played no role in jurors' decision making, consistent with previous research (Diamond, 1990; Hastie, 1991).

One of the key questions driving this research is whether defendants who do not take the stand are judged more harshly. As one means of answering this question, the current study asked those mock jurors who read the vignette in which the defendant did not testify to indicate how much of their decision regarding guilt was influenced by the defendant's silence. Consistent with previous research (Myers, 1979; Shaffer, 1985; Shaffer & Case, 1982), those who indicated that the defendant's failure to testify was an important factor were significantly more likely to vote "guilty" ( $t_{(41)} = 2.70, p < .05$ ). Moreover, there was a significant relationship between mock jurors' perception of the likelihood that the defendant committed the offense for which he was charged and his decision to not testify ( $r$

= 0.33,  $p < .05$ ). These findings suggest that failing to take the stand can indeed have negative consequences for a defendant, as some jurors view such inaction as damning. However, a more rigorous test of the effect of remaining silent requires a comparison of this behavior with the alternatives of testifying under different conditions.

Although jurors in the “remaining silent” condition indicated the defendant’s failure to testify influenced their decisions, there were no significant differences in the likelihood of a guilty verdict as a function of the scenario ( $\chi^2_{(3)} = 3.73, p > .05$ ). In addition, there were no significant mean-level differences across scenarios in mock jurors’ ratings of the likelihood that the defendant committed the offense for which he was being charged ( $F_{(3, 150)} = 1.34, p < .05$ ; see Table 1, below). Thus, while some mock jurors are skeptical of a silent defendant, so much so that they are more likely to adjudicate him guilty, they do not appear any more skeptical, on average, than mock jurors who have the opportunity to hear from the defendant.

**Table 1**  
Means, Standard Deviations, and One-Way Analyses of Variance (ANOVA) for Effects of Defendant Testimony and Mock Juror Decision Making

	Remained Silent		Testified without Prior Conviction		Testified with Dissimilar Prior Conviction		Testified with Similar Prior Conviction		ANOVA
	$\bar{x}$	SD	$\bar{x}$	SD	$\bar{x}$	SD	$\bar{x}$	SD	F (df1, df2)
Convinced of Guilt	5.63	2.25	5.97	2.54	5.69	2.09	6.58	2.58	1.34 (3, 150)
Trustworthiness	5.72	1.45	5.34	2.03	5.51	1.45	5.73	1.61	0.48 (3, 150)
Aggressiveness	6.40	1.40	6.43	1.19	6.56	1.54	6.81	1.75	0.50 (3, 150)
Credibility	n/a	n/a	5.23	2.02	5.36	1.95	5.86	1.95	0.35 (2, 108)

So what, then, was driving the guilty verdicts? That is, what did jurors base their decisions on? It appears the answer is found in the characteristics ascribed to the defendant. Mock jurors who perceived the defendant as trustworthy were less likely to vote guilty ( $t_{(53.179)} = -3.15, p < .01$ ), while those who perceived the defendant as aggressive were more likely to adjudicate him guilty ( $t_{(41)} = 2.70, p < .05$ ). In addition, mock jurors were asked to rate the credibility of the defendant as a witness in those conditions where the defendant took the stand. Results indicated that the more credible the defendant was deemed, the less likely mock jurors were to vote guilty ( $t_{(107)} = -2.25, p < .05$ ). Furthermore, credibility was unrelated to ratings of the likelihood that the defendant committed the crime for which he was on trial ( $r = -0.10, p > .05$ ).

The next step taken was to understand whether perceptions of the defendant varied across scenarios (see Table 1). An analysis of variance (ANOVA) indicated that there were no mean-level differences in perceptions of trustworthiness ( $F_{(3, 150)} = 0.48, p > .05$ ) nor aggressiveness ( $F_{(3, 150)} = 0.50, p > .05$ ). That is, the defendant was rated as equally trustworthy and aggressive regardless of whether he remained silent, testified (but without a criminal record), testified and had a similar prior conviction (i.e., aggravated assault), or testified and had a dissimilar prior conviction (i.e., drug offense).

## DISCUSSION

Previous research suggests that taking the stand and having a prior conviction introduced into evidence leads to more negative outcomes for criminal defendants (Kalven & Zeisel, 1966; Wissler & Saks, 1985). Jurors even appear to be skeptical of a defendant who takes the stand and proclaims his innocence (Myers, 1979; Shaffer & Case, 1982). However, remaining silent has also been found to adversely affect criminal defendants (Shaffer & Case, 1982). Given these findings, it is unclear what the best strategy is for criminal defendants.

Furthermore, the interpretation of previous research is somewhat ambiguous for at least two reasons. First, multiple strategies (e.g., remaining silent, testifying with and without a prior conviction)

tion) have not been assessed simultaneously. Second, several studies have included limiting instructions (Greene & Dodge, 1995; Shaffer & Case, 1982; Wissler & Saks, 1985), which may create a boomerang effect that actually increases the salience of inadmissible testimony (Diamond, et al., 1989). The current study sought to better understand how mock jurors perceive and act toward criminal defendants who do not take the stand in their own defense, and under what conditions taking the stand was disadvantageous.

The results were quite clear: Mock jurors do not appear to be differentially influenced by whether or not a defendant testifies. While there was some indication that failure to testify affected some mock jurors, this influence did not lead to any more adverse outcomes in terms of guilt verdicts or ratings of the likelihood that the defendant committed the crime in comparison to testifying. Nor did we find that testifying with a criminal record was particularly disadvantageous. Moreover, and surprisingly, there were no differences in perceptions of defendant aggressiveness even with a previous conviction for assault and battery (which was the current offense for which the defendant was on trial).

While null findings are often interpreted in a negative light, we see the lack of significant differences across conditions as a source of optimism regarding juror decision making. Specifically, these findings suggest that mock jurors are not overly influenced by extralegal factors, and are not making assumptions about the defendant that are not based on the evidence presented. As such, this study confirms a plethora of jury decision making research that finds jurors perform their duties diligently and in accord with the law (Devine, et al., 2001; Greene et al., 2002; Nietzel, et al., 1999). Specifically, in this instance, the primary determinant of jurors' decisions regarding adjudication was the evidence. Each of the scenarios employed in the current study contained the same equivocal evidence. Thus, if jurors are performing their task in an appropriate manner (i.e., focusing on the evidence), their decisions regarding guilt should have been equivalent regardless of whether the defendant testified or not, or if he had a prior record.

Although the current findings provide evidence that mock jurors were not strongly affected by the defendant's prior record or actions in the courtroom (i.e., testifying or not), other studies have arrived at different conclusions (Shaffer & Case, 1982; Wissler & Saks, 1985). There are several plausible explanations for the discrepancies in research findings. First, too few studies have been conducted that specifically examine this issue. This may be, in part, based on the assumption that a defendant with a prior conviction should never take the stand because that prior bad act will be introduced into evidence. Such an assumption has strong face validity. However, as articulated above, refusing to testify, or testifying and declaring one's innocence, also have shortcomings as a trial strategy. Moreover, the few studies that have focused on this issue have not compared the efficacy of various strategies simultaneously. Thus, previous conclusions may have been premature. Despite the confidence we have in our findings, we suggest that this literature remains relatively unexplored, and continued efforts should be made to provide more empirical verification.

Another issue with previous research is that other factors might have influenced the results. For instance, limiting instructions often create a boomerang effect whereby jurors pay more attention to, and perhaps are more strongly affected by, the very evidence they are instructed to ignore (Diamond, et al., 1989; Wissler & Saks, 1985). This study did not include such limiting instructions, and thus did not overly emphasize extralegal factors. While our decision to exclude limiting instructions allowed for a clearer test of the effects of testifying (under various conditions) versus not testifying, this choice did compromise the external validity because such instructions are common in actual trials. The fact that we failed to find differences across conditions thus extends previous research that suggests the legal system should carefully consider whether the continued use of this procedural action is warranted (Diamond, et al., 1989).

Beyond the evidence, jurors' perceptions of the defendant as trustworthy and aggressive, as well as being a credible witness (in those conditions in which the defendant testified), were related to guilty verdicts. It is unclear what was driving these perceptions.

Our results indicated that it was not related to whether or not the defendant testified, or even whether they testified and had a previous conviction. It could be that juror personality traits—such as authoritarianism—were the culprit. This would be consistent with extant research that those high in authoritarianism are more conviction prone (Lamberth, Kreiger, & Shay, 1982; Moran & Comfort, 1982). However, we did not assess juror personality traits and therefore cannot conclude that this was the deciding factor.

Another plausible interpretation of the results in this study is that all criminal defendants are viewed with skepticism, regardless of their behavior in the courtroom (see also Penrod, 1983). That is, mock jurors may have distrusted the defendant in this case regardless of whether or not he testified, or had a previous conviction. There is some evidence to substantiate this. The mean ratings of the likelihood that the defendant committed the crime were moderate across scenarios. This suggests that mock jurors had a healthy skepticism toward the defendant across conditions.

Despite the strengths of the current study, there were limitations that should be considered. First, the sample was comprised of college students. Although previous jury research has concluded that college samples are not appreciably different from non-college samples (Bornstein, 1999; Nietzel, et al., 1999), findings based on more representative samples would certainly increase our confidence in the results. In addition, the current sample size was relatively small. While there was sufficient power (i.e., .80) to detect large and medium effects (Cohen, 1992), it may be the case that manipulations on defendant testimony exert significant but small effects. To the extent this is true, our sample size was not sufficient to reveal this.

Third, there were no limiting instructions included in this study. While the purpose of this exclusion was to eliminate any potential boomerang effect, the results would have been more compelling if we had manipulated their inclusion. Finally, and like much jury research, our study lacked verisimilitude. The case presented in this study provided only a limited amount of details, and jurors did not deliberate as they would in a real trial. However, mock jury methods such as the one used in this study allow far greater control

and isolation of effects than can be accomplished in archival analyses. Nonetheless, replication of the current study based on actual trials would strengthen confidence in the findings.

Based on these limitations and other considerations, there are a number of fruitful avenues future researchers might pursue. First, we recommend that limiting instructions be included as a variable in future research. For instance, similar conditions such as the ones employed in the current study could be used with half containing limiting instructions and the other half not. This will allow for an empirical examination of whether our null findings were the result of not including limiting instructions. Another potential modification could be the types of testimony offered. For example, the inclusion of testimony from the victim, as well as the arresting officer, might reveal interesting effects. Given the current case boiled down to conflicting accounts of who initiated the altercation, jurors' decisions and perceptions may be influenced if they were to hear testimony from the victim. Such testimony could also be subjected to cross-examination. While such endeavors will increase the external validity and generalizability, they will simultaneously increase the difficulty in conducting the research. Nonetheless, the potential policy implications are important enough that such complexity needs to be introduced in future research.

Despite the shortcomings of the current investigation, this study supplements a small literature exploring the relative merits of different trial strategies. Our analysis provides defense attorneys with an empirically-based assessment of potential trial strategies that might be considered before determining whether or not to advise their client to take the stand or to remain silent. However, we would be remiss if we suggested that this study—or any single study—should be used as the sole basis for determining a trial strategy. Instead, more research is needed, and it is hoped that this study stimulates other psycholegal researchers to explore this issue in greater depth and complexity so that basic and applied knowledge can be advanced.

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