

# Popular Names for Legal Processes a list of resources

By Jaime Healy-Plotkin

What's in a name? At times legal processes and procedures gain a colloquial name and become the jargon in the legal community. This guide focuses on a few of those procedures and offers resources for their explanation.

## John Doe Proceedings

**Definition** (Grand jury and John Doe proceedings in Wisconsin, by Jason Anderson, 2015):

An “independent inquir[y] into whether a criminal complaint should be issued in response to allegations of wrongdoing...The John Doe proceeding provides several perceived benefits to investigators that are not available using grand juries.” A judge replaces a jury, it may be initiated differently than a grand jury, and a secrecy order “can go much further than in a grand jury proceeding.”

### Resources

Wisconsin Statute 968.26 “John Doe proceeding”

<https://docs.legis.wisconsin.gov/document/statutes/968.26>

2015 Wisconsin Act 64, relating to: John Doe proceedings and providing a penalty

<http://docs.legis.wisconsin.gov/2015/related/acts/64>

Wisconsin Practice Series: Criminal Practice & Procedure

[KFW 2930 .W661 v.9](#)

Grand jury and John Doe proceedings in Wisconsin, prepared by Jason Anderson

[KFW 2420 .L44 WB 15-7](#) and online

Wisconsin judicial benchbooks – Vol. 1 Criminal and Traffic, Sixth edition

[KFW 2915 .W5 J86 v.1](#)

Criminal Law & Procedure, Wisconsin State Law Library

<https://wilawlibrary.gov/topics/justice/crimlaw/index.php>

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updated June 3, 2019



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## Daubert

**Definition** (Black's Law Dictionary, 10th ed. 2014):

“Daubert test (1993) Evidence. A method that federal district courts use to determine whether expert testimony is admissible under Federal Rule of Evidence 702, which generally requires that expert testimony consist of scientific, technical, or other specialized knowledge that will assist the fact-finder in understanding the evidence or determining a fact in issue. • In its role as “gatekeeper” of the evidence, the trial court must decide whether the proposed expert testimony meets the requirements of relevance and reliability. The court applies the test outside the jury's presence, usu. during a pretrial Daubert hearing. At the hearing, the proponent must show that the expert's underlying reasoning or methodology, and its application to the facts, are scientifically valid. In ruling on admissibility, the court considers a flexible list of factors, including (1) whether the theory can be or has been tested, (2) whether the theory has been subjected to peer review or publication, (3) the theory's known or potential rate of error and whether there are standards that control its operation, and (4) the degree to which the relevant scientific community has accepted the theory. *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 113 S.Ct. 2786 (1993). Similar scrutiny must be applied to nonscientific expert testimony. *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 119 S.Ct. 1167 (1999). Variations of the Daubert test are applied in the trial courts of most states.”

## Resources

Civil court judicial forum: advanced discovery and trial practice, by Robert J. Foster, William A. Masters

[KFW 2938 .A75 T42 2016](#)

[KFW 2938 .A75 C58 2018](#)

Discovery problems and their solutions, by Paul W. Grimm and others, Third edition

[KF 8900 .G75 2013](#)

Scientific evidence, by Paul C. Giannelli and others, Fifth edition

[KF 8961.G53 2012](#)

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Trying times: science and responsibilities after Daubert, edited by Vivian Weil  
[KF 8961 .A75 T79 2001](#)

Wisconsin Statute 907.02 “Testimony by experts”  
<https://docs.legis.wisconsin.gov/document/statutes/907.02>

Daubert Standard resources from Wisconsin State Public Defenders  
<https://www.wisprd.org/index.php/legal-resources/specialty-practices/forensic-sciences/daubert-standard>

Scientific Evidence research guide, Wisconsin State Law Library  
<http://wilawlibrary.gov/learn/starthere/scientific-evidence.pdf>

Evidence Legal Topic Page, Wisconsin State Law Library  
<http://wilawlibrary.gov/topics/justice/evidence.php>

## Franks/ Mann

**Definition** (Black’s Law Dictionary, 10th ed. 2014):

“Franks hearing (1978) Criminal procedure. A proceeding in which a defendant seeks to suppress evidence based on the falsity of an affiant’s declaration. • The defendant must establish that (1) the affiant deliberately misstated or omitted facts, and (2) the falsehood was necessary to the finding of probable cause. See *Franks v. Delaware*, 438 U.S. 154, 98 S.Ct. 2674 (1978).”

## Resources

Wisconsin Practice Series: Criminal Practice & Procedure § 11:18 (2d ed.)  
*Non-jurisdictional motions to dismiss—Franks-Mann motion.*  
[KFW 2930 .W661 v.9](#)

Criminal Law & Procedure, Wisconsin State Law Library  
<https://wilawlibrary.gov/topics/justice/crimlaw/index.php>

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