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WISCONSIN CRIMINAL JUSTICE TERMINOLOGY

THIS IS VERSION 5 OF THIS OUTLINE

1. **AGUILAR-SPINELLI** test. The former two-pronged test, before the *Illinois v. Gates* test (*see* **GATES** below), that was used to determine the sufficiency of the quality of the information when determining if probable cause to search or arrest was present in a particular case. Based on *Aguilar v. Texas,* 378 U.S. 108, 84 S.Ct. 1509 (1964) and *Spinelli v. United States,* 393 U.S. 410, 89 S.Ct. 584 (1969).
2. **ALFORD** plea. A defendant, while not admitting guilt, accepts that the evidence is sufficient for a conviction and authorizes the court to proceed as it would after a guilty plea. Based on *North Carolina v. Alford,* 400 U.S. 25 (1970).
3. **ALLEN** charge or jury instruction. The jury instruction, that is given after a jury indicates that it is having difficulty agreeing on a verdict, which urges jurors to try to reach a verdict. It is also correctly referred to as the modified *Allen* charge. WIS JI-CRIMINAL 520. Based on *Allen v. United States,* 164 U.S. 492, 17 S.Ct. 154 (1896).
4. **ANDERS** brief. The situation where appointed counsel [pursuant to sec. 809.32(1)], on finding the defendant's case wholly frivolous, can file a letter brief with the court so stating and discharge his/her duty of representation. Based on *Anders. v. California,* 386 U.S. 738, 87 S.Ct. 1396 (1967).
5. **ARIAS** test. The test that was formerly used to determine if one or more police actions during a traffic stop unlawfully extended the stop-this test was overturned by *Rodriguez v. United States,* 135 S.Ct. 1609 (2015). Based on *State v. Arias,* 2008 WI 84, 311 Wis.2d 358, 752 N.W.2d 748.
6. **BADGER** stop or technique. A Badger stop or technique occurs when a law enforcement officer concludes a traffic stop and essentially releases the driver, indicating in some manner that the driver may leave. However, nearly immediately after indicating to the driver that the stop is concluded and before the driver can leave the scene, the officer asks a follow-up question, normally about contraband, then asks the driver for consent to search the vehicle.
7. **BANGERT** motion or hearing or remedy or standard or type of case. The situation where a defendant moves to withdraw his/her plea based on an allegation that either the procedures set forth in sec. 971.08 or other court mandated duties at the plea hearing were not fulfilled. Based on *State v. Bangert,* 131 Wis.2d 246, 389 N.W.2d 12 (1986).
8. **BARTHOLOMEW** factors. The five factors that are used by a court when it decides whether to overturn a prior decision. Based on *Bartholomew v. Wisconsin Patients Corp. Fund,* 2006 WI 91, 293 Wis.2d 38, 717 N.W.2d 216.

9. **BATSON** challenge or hearing or test or analysis. The name of the challenge or hearing or the test or analysis that is used when the issue is whether a party has exercised a peremptory jury strike based on unconstitutional reasons such as race or gender. Based on *Batson v. Kentucky,* 476 U.S. 79, 106 S.Ct. 1712 (1986).
10. **BECKER** motion or hearing. A hearing or motion to determine whether the state intentionally delayed filing a criminal complaint in the adult system until after the defendant's seventeenth birthday to avoid juvenile court jurisdiction. Based on *State v. Becker,* 74 Wis.2d 675, 274 N.W.2d 495 (1976).
11. **BELLOWS** motion. A motion in an adult prosecution to obtain confidential juvenile court/file information. The motion is filed and heard in the juvenile court. Based on *State v. Bellows,* 218 Wis.2d 614, 582 N.W.2d 53 (Ct. App. 1998).
12. **BELTON** search. A search of the passenger compartment of a vehicle and items in it pursuant to an arrest of an occupant of the vehicle that, prior to *Arizona v. Gant,* 556 U.S. 332, 129 S.Ct. 1710 (2009), was valid pursuant to *New York v. Belton,* 453 U.S. 454, 101 S.Ct. 2860 (1981).
13. **BENTLEY** standard or type cases. The standard/procedure that is used in many postconviction motions in which an evidentiary hearing is requested. Based on *State v. Bentley,* 201 Wis.2d 303, 548 N.W.2d 50 (1996).
14. **BLUM** precedential test. The test that is used, when the Supreme Court reverses only part of a Court of Appeals opinion, to determine the precedential value of any part of the Court of Appeals opinion that is not reversed on appeal. Based on *Blum v. 1st Auto and Casualty Inc. Co.,* 2010 WI 78, 326 Wis.2d 729, 786 N.W.2d 78.
15. **BOHLING** test. The legal test that is used to determine the legality of the police obtaining the blood of person under the exigent circumstances exception to the warrant requirement who has been arrested for an OWI related offense. Based on *State v. Bohling,* 173 Wis.2d 529, 494 N.W.2d 399 (1993).
16. **BRADY** material. Possible exculpatory material. Based on *Brady v. Maryland,* 373 U.S. 83, 83 S.Ct. 1194 (1963).
17. **BROOKS** dismissal or analysis. A discretionary decision/the analysis by a court to dismiss a refusal charge when the defendant has plead to the underlying OWI charge. Based on *State v. Brooks,* 113 Wis.2d 347, 335 N.W.2d 354 (1983).
18. **BROWN** attenuation analysis or test. The three-factor attenuation test that is used to determine if evidence obtained following an unlawful Fourth Amendment action is still admissible in the prosecution's case-in-chief under the attenuation exception to the exclusionary rule. Also referred to as the *Brown* three-factor attenuation analysis. Based on *Brown v. Illinois,* 422 U.S. 590, 95 S.Ct. 2254 (1975).
19. **BRUTON** issue or problem. The situation where the prosecution wants to try two or more defendants together/before the same jury and a statement of one or more of the defendants implicates another defendant. Based on *Bruton v. United States,* 391 U.S. 123, 88 S.Ct. 1630 (1968).
20. **CECCOLINI** test or factors. The test or factors that are used to determine the admissibility of live-witness testimony after a Fourth Amendment violation. Based on *United States v. Ceccolini,* 435 U.S. 268, 98 S.Ct. 1054 (1978).

21. **CHERRY** motion. A motion challenging a trial court's discretion in imposing a DNA surcharge-a motion to vacate an assessed DNA surcharge. Based on *State v. Cherry,* 2008 WI App 80, 312 Wis.2d 203, 752 N.W.2d 393.
22. **CONGER** hearing. A hearing where the issue is whether the court will refuse to amend or dismiss a charge that is the subject of a plea agreement. Based on *State v. Conger,* 2010 WI 56, 325 Wis.2d 664, 797 N.W.2d 341.
23. **CRAWFORD** violation/problem/issue. A violation of the defendant's Sixth Amendment right to confront an adverse witness by the prosecution's use in some situations of hearsay evidence. Based on *Crawford v. Washington,* 541 U.S. 36, 124 S.Ct. 1354 (2004).
24. **DENNY** evidence or hearing. Evidence that a defendant wants to introduce to show that a third party, other than the defendant, committed the crime that the defendant is charged with. The name of the hearing to determine if the proposed evidence is admissible at the defendant's trial. Based on *State v. Denny,* 120 Wis.2d 614, 357 N.W.2d 12 (Ct. App. 1984).
25. **DESANTIS** test. The test that is used to determine if a defendant can introduce at trial evidence of the complainant's alleged prior untruthful allegations of sexual assault. Based on *State v. DeSantis,* 155 Wis.2d 774, 456 N.W.2d 600 (1990).
26. **DIXON** factors. Several factors that are used in determining whether society would recognize an exception of privacy as reasonable. Based on *State v. Dixon,* 177 Wis.2d 461, 501 N.W.2d 442 (1993).
27. **DUNN** factors. Four of the several factors that are used to determine whether an area is within the curtilage of a home. Based on *United States v. Dunn,* 480 U.S. 294 (1987).
28. **EDWARDS** rule. The rule that the police must immediately cease questioning of a person when that person clearly invokes the *Miranda* right to counsel. Based on *Edwards v. Arizona,* 451 U.S. 477 (1981).
29. **ERNST** motion or hearing. A motion or hearing where the issue is a collateral attack by the defendant on the validity of a prior conviction that is being used as a penalty enhancer on the ground that the court in the prior proceeding did not follow the waiver of the right to counsel requirements set forth in *Klessig.* Based on *State v. Ernst,* 2005 WI 107, 283 Wis.2d 300, 699 N.W.2d 92.
30. **ESCALONA** procedural rule or bar. The rule that claims that could have been raised on direct appeal or in a previous 974.06 motion are barred from being raised in a subsequent 974.06 motion absent a showing of a sufficient reason for why the claims were not raised on direct appeal or in a previous 974.06 motion. Based on *State v. Escalona-Naranjo,* 185 Wis.2d 168, 517 N.W.2d 157 (1994).
31. **ESCALONA-NARANJO** procedural rule or bar. *See* **ESCALONA** above.
32. **EVANS** immunity rule. A rule of immunity for persons on probation, parole or extended supervision. The state may compel the person to answer self-incriminating questions for the agent or face the potential of revocation only if the person is protected by a grant of immunity that renders the compelled testimony/statement inadmissible against that person in a criminal prosecution, both in the state's case-in-chief and as impeachment evidence. Based on *State v. Evans,* 77 Wis.2d 225, 252 N.W.2d 664 (1977).
33. **FRANCIS** test. The name for one of the tests (were the separate crimes connected together or did they constitute parts of a common scheme or plan) that is used to

determine if a joinder of two or more crimes for a single defendant is proper. Based on *State v. Francis*, 86 Wis.2d 554, 273 N.W.2d 310 (1979).

34. **FRANKS** or **FRANKS/MANN** motion or hearing. A motion or hearing where the issue is whether a knowingly and intentionally false statement, or one made with reckless disregard for the truth, was included by the affiant in the application for a search warrant or a criminal complaint. Also included are omissions if the omissions are the equivalent of deliberate falsehoods or reckless disregard for the truth. Based on *Franks v. Deleware,* 438 U.S. 154, 98 S.Ct. 2674 (1978) and *State v. Mann,* 123 Wis.2d 375, 367 N.W.2d 209 (1985).
35. **FRISBIE-KER** doctrine. The doctrine that a defendant's appearance before a court, pursuant to an unlawful arrest, presents no barrier to that court's obtaining personal jurisdiction over the defendant. Based on *Frisbie v. Collins*, 342 U.S. 519, 72 S.Ct. 509 (1952) and *Ker v. Illinois*, 119 U.S. 436 (1886).
36. **GANT** search. A search of a vehicle incident to the arrest of an occupant of the vehicle based on *Arizona v. Gant,* 556 U.S. 332, 129 S.Ct. 1710 (2009).
37. **GARRITY** immunity. Statements given under threat of discharge from public employment are compelled (involuntary) and may not be used in subsequent criminal proceedings. Based on *Garrity v. New Jersey,* 385 U.S. 493, 87 S.Ct. 616 (1967).
38. **GATES** test or standard. The test or standard that is used in numerous arrest, search, and seizure situations to determine if the required quantum of evidence was/is present-what evidence can be used in making this determination. Based on *Illinois v. Gates,* 462 U.S. 213, 103 S.Ct. 2317 (1983).
39. **GOODCHILD** hearing. The hearing where the constitutional issue is whether the statement of the defendant was voluntary/voluntarily obtained. Based on *State ex rel. Goodchild v. Burke,* 27 Wis.2d 244, 133 N.W.2d 753 (1965), *cert. denied,* 384 U.S. 1017 (1966). This hearing is usually combined with the hearing to determine if the requirements of *Miranda* were complied with. *See* the discussion below under **MIRANDA** hearing and **MIRANDA GOODCHILD** hearing.
40. **GRUEN** factors. The factors that are used to determine if during a particular *Terry* stop the *Miranda* warnings were required. Based on *State v. Gruen,* 218 Wis.2d 581, 582 N.W.2d 728 (Ct. App. 1998).
41. **HARRIS** analysis. The analysis that is used to determine whether a statement of the defendant, obtained in violation of *Miranda,* can be used to impeach the defendant. Based on *Harris v. New York,* 401 U.S. 222 (1971).
42. **HARRIS** rule. When the police have probable cause to arrest before an unlawful entry into a home, evidence obtained outside of the home may be admissible if it is not the product of the unlawful entry. Based on *New York v. Harris,* 495 U.S. 14, 110 S.Ct. 1640 (1990).
43. **HARRISON** or **HARRISON/ANSON** or **HARRISON/MIDDLETON** hearing or analysis/test. The name of the hearing or analysis/test that is used to determine if the state's use of an illegally obtained statement from the defendant induced the defendant to take the stand at a prior trial in order to overcome the impact of that statement with the result that the defendant's testimony cannot be used at a later proceeding. Based on *Harrison v. United States,* 392 U.S. 219, 88 S.Ct. 2008 (1968), *State v. Anson,* 2005 WI

96, 282 Wis.2d 629, 698 N.W.2d 776 and *State v. Middleton,* 135 Wis.2d 297, 399 N.W.2d 917 (Ct. App. 1986).

44. **HASELTINE** rule or evidence. The evidentiary rule that no witness, whether expert or lay, may testify that another mentally and physically competent witness is telling the truth. Based on *State v. Haseltine,* 120 Wis.2d 92, 352 N.W.2d 673 (Ct. App. 1984).
45. **IMPERFECT** self-defense. The mitigating circumstance of unnecessary defensive force [940.01(2)(b)] which mitigates first-degree intentional homicide to second-degree intentional homicide.
46. **JENSEN** evidence or testimony. Evidence that an alleged victim exhibited behaviors consistent with those commonly observed in sexual assault victims. Based on *State v. Jensen,* 147 Wis.2d 240, 432 N.W.2d 913 (1988).
47. **JORGENSEN** factors. The factors that are used in determining if an error was harmless. Based on *State v. Jorgensen,* 2008 WI 60, 310 Wis.2d 138, 754 N.W.2d 77.
48. **KASTIGAR** hearing. A hearing at which the prosecution attempts to prove that the evidence it intends to present or has presented is derived from a source wholly independent from the defendant's immunized statement. Based on *Kastigar v. United States,* 406 U.S. 441, 92 S.Ct. 1653 (1972).
49. **KNIGHT** petition. A defendant's motion alleging ineffective assistance of appellate counsel are often referred to a "*Knight*" petition. Based on *State v. Knight,* 168 Wis.2d 509, 484 N.W.2d 540 (1992).
50. **KNOCK AND TALK** procedure. A procedure used by law enforcement officers primarily in drug cases. Police officers, in situations where they do not either have probable cause to search a residence or have probable cause to search but do not have the required warrant, will approach a house, knock on the door, talk to the person who answers, and then will attempt to gain entry and possibly perform a search of the residence by obtaining consent.
51. **KRAMER** test. The test that is used to determine if a law enforcement officer's conduct/actions properly falls within the scope of the community caretaker function exception to the Fourth Amendment warrant requirement is referred to as the *Kramer* test. Based on *State v. Kramer,* 2009 WI 14, 315 Wis.2d 414, 759 N.W.2d 598.
52. **LONG** presumption. In some circumstances there is a presumption that a state court decision rested on federal constitutional law/grounds rather than independent state constitutional law/grounds. Based on *Michigan v. Long,* 463 U.S. 1032, 103 S.Ct. 3469 (1983).
53. **LUCE** rule. The rule in some jurisdictions that a defendant must testify in order to preserve for review the issue of improper impeachment by prior convictions. Based on *United States v. Luce,* 469 U.S. 38, 105 S. Ct. 460 (1984).
54. **LUDWIG** hearing or procedure. A hearing or procedure at which the court inquires of the defendant whether the defendant was informed of any prior formal proposed plea agreements offered by the state and whether the defendant personally rejected them-this ensures that defense counsel has complied with the constitutional requirement that formal plea negotiation offers must be conveyed to the defendant and the defendant must make the ultimate decision whether to accept or reject an offer. Based on *State v. Ludwig,* 124 Wis.2d 600, 369 N.W.2d 722 (1985).

55. **MACHNER** hearing. The name of the hearing that must be held when a defendant alleges that his/her prior counsel rendered ineffective assistance of counsel-at this hearing the prior counsel testifies. Based on *State v. Machner,* 92 Wis.2d 797, 285 N.W.2d 905 (Ct. App. 1979).
56. **MADAY** examination or factors. A court ordered pretrial psychological examination of a victim (usually in a sexual assault case) at the request of the defendant-the seven factors that a court uses when determining if the defendant in a given case has shown a compelling need or reason for such an examination. Based on *State v. Maday,* 179 Wis.2d 346, 507 N.W.2d 365 (Ct. App. 1993).
57. **MARKS** rule. The rule that is used to determine the precedential value of a plurality opinion of the United States Supreme Court. Based on *United States v. Marks,* 430 U.S. 188, 97 S.Ct. 990 (1977).
58. **MCCALLUM** test. The test that is used to determine if a defendant after sentencing is entitled to either withdraw his guilty plea or a new trial based on newly discovered evidence. Based on *State v. McCallum,* 208 Wis.2d 463, 561 N.W.2d 707 (1997). *See also* **MODIFIED MCCALLUM** test below.
59. **MCFARREN** factors. The five factors that are used to determine who has the burden of proof if it has not already been determined by statute or caselaw. Based on *State v. McFarren,* 62 Wis.2d 492, 215 N.W.2d 459 (1974).
60. **MCMORRIS** evidence. A defendant, when he/she raises the issue of self-defense in a prosecution for assault or homicide and there is a factual basis to support such a defense, may in support of that defense establish what the defendant believed to be the turbulent and violent character of the victim by proving specific instances of violence by the victim within the knowledge of the defendant at the time of the incident. Based on *McMorris v. State,* 58 Wis.2d 144, 205 N.W.2d 559 (1973).
61. **MENDENHALL** test. The name of the test that is used in many cases to determine if a seizure of the person for Fourth Amendment purposes occurred. Based on *United States v. Mendenhall,* 446 U.S. 544, 100 S.Ct. 1870 (1980).
62. **MIMMS** rule. The per se rule that an officer, during a traffic offense stop, can order the occupants of a vehicle to exit the vehicle without any addition reason other than the traffic offense stop itself. Based on *Pennsylvania v. Mimms,* 434 U.S. 106, 98 S.Ct. 330 (1977).
63. **MIRANDA** hearing. The name of a hearing where the issue is whether the requirements of *Miranda v. Arizona,* 384 U.S. 436, 86 S.Ct. 1602 (1966) and subsequent cases were complied with during the obtaining of a statement from the defendant.
64. **MIRANDA GOODCHILD** hearing. A hearing where the issues are those litigated at a *Miranda* and *Goodchild* hearings.
65. **MODIFIED ALLEN** charge. *See* the discussion above under **ALLEN** charge.
66. **MODIFIED MCCALLUM** test. The test that is used to determine if a defendant prior to sentencing is entitled to withdraw his guilty plea based on newly discovered evidence. Based on *State v. McCallum,* 208 Wis2.d 463, 561 N.W.2d 707 (1997) and *State v. Kivioja,* 225 Wis.2d 271, 592 N.W.2d 220 (1999). *See also* **MCCALLUM** test above.
67. **MOSLEY** test, analysis, factors. The five-factor framework, test, analysis that is used to determine the legality of reinterrogaton of a defendant after the defendant has asserted his

Miranda right to remain silent. Based on *Michigan v. Mosley,* 423 U.S. 96, 96 S.Ct. 321 (1975).

68. **NELSON/BENTLEY** motion. A motion where the defendant attempts to withdraw his plea based on facts extrinsic to the plea colloquy. Based on *Nelson v. State,* 54 Wis.2d 489, 195 N.W.2d 629 (1972) and *State v. Bentley,* 201 Wis.2d 303, 548 N.W.2d 50 (1996).
69. **O'BRIEN** consequential evidence test. The test that is used to determine when a defendant has a right to postconviction discovery of physical evidence. Based on *State v. O'Brien,* 223 Wis.2d 303, 588 N.W.2d 8 (1999).
70. **PAULICK** review/hearing. A paper review/hearing pursuant to sec. 980.09(2) to determine if probable cause exists to hold a hearing on whether a Chapter 980 committee is still a sexually violent person. A *Paulick* letter is sent to the court reminding the court of the need to conduct a probable cause hearing. Based on *State v. Paulick,* 213 Wis.2d 432, 570 N.W.2d 626 (Ct. App. 1997).
71. **PAYTON** violation. A situation where the police enter the defendant's home to arrest him and entry is in violation of the Fourth Amendment because the police did not have the required information that the defendant was present in an arrest warrant situation or a required Fourth Amendment justification for the entry (an arrest warrant, consent, exigent circumstances, etc.) was not present. Based on *Payton v. New York,* 445 U.S. 573, 100 S.Ct. 1371 (1980).
72. **PERFECT** self defense. The self-defense privilege codified at sec. 939.48.
73. **PHILLIPS** hearing or motion. The hearing or motion where the issue is whether the police unreasonably prolonged the detention of the defendant in order to sew-up the case by obtaining a confession. Based on *Phillips v. State,* 29 Wis.2d 521, 139 N.W.2d 41 (1966).
74. **PRESS-ENTERPRISE** test. The four-part test that is used to determine when the closure of a criminal trial is justified. Based on *Press-Enterprise Co. v. Superior Court,* 464 U.S. 501 (1984). This test is more commonly referred to as the **WALLER** test. *See* **WALLER** test below.
75. **PULIZZANO** test or criteria or motion. The test or criteria or motion that is used to determine if a defendant can introduce evidence under the judicially created exceptions to the rape shield law. Based on *State v. Pulizzano,* 155 Wis.2d 633, 456 N.W.2d 325 (1990).
76. **QUARTANA** test. The test that is used to determine whether the movement of a person during a *Terry* stop or a similar type of stop is justified/lawful. Based on *State v. Quartana,* 213 Wis.2d 440, 570 N.W.2d 618 (Ct. App. 1997).
77. **QUELLE** inquiry. The three pronged inquiry that is used for assessing the adequacy of the information process mandated by sec. 343.305(4) (the implied consent law). Based on *County of Qzaukee v. Quelle,* 198 Wis.2d 269, 542 N.W.2d 196 (Ct. App. 1995).
78. **REITTER** rule. The rule that there is no affirmative duty in an implied consent situation to either inform the defendant that there is no right to counsel or that a defendant's request to consult with an attorney constitutes a refusal. Based on *State v. Reitter,* 227 Wis.2d 213, 595 N.W.2d 646 (1999).
79. **RICHARD A. P.** evidence or expert testimony. Evidence/expert testimony by the defense at trial that the defendant lacks the character traits of a sexual offender and

therefore the defendant is unlikely to have committed the sexual assault in question. Based on *State v. Richard A.P.*, 223 Wis.2d 777, 589 N.W.2d 674 (Ct. App. 1998).

80. **RIVERSIDE** 48-hour rule. The name given to the holding of the Court in *County of Riverside v. McLaughlin,* 500 U.S. 44, 111 S.Ct. 1661 (1991). Under *Riverside* a person in custody pursuant to a warrantless arrest must have the benefit of a judicial determination of probable cause within forty-eight hours of his/her arrest, absent a bona fide emergency or other extraordinary circumstances, to satisfy the requirements of the Fourth Amendment.
81. **RIVERSIDE** procedure. A procedure (sometimes a hearing) to comply with the *Riverside* requirements.
82. **RIVERSIDE** motion. A motion where the defendant alleges a violation of the *Riverside* rule.
83. **RIVEST** motion or hearing. A motion or hearing where the prosecution seeks to be released from its obligations under a plea agreement because of an alleged breach of the agreement by the defendant. Based on *State v. Rivest,* 106 Wis.2d 406, 316 N.W.2d 395 (1982).
84. **ST. GEORGE** test. The test that is used when a defendant challenges the exclusion of expert testimony evidence on the grounds that the exclusion would violate his/her constitutional right to present a defense. Based on *State v. St. George,* 2002 WI 50, 252 Wis.2d 499, 643 N.W.2d 777.
85. **SEWUP** confession. *See* **PHILLIPS** above.
86. **SHIFFRA** motion or hearing. The motion or hearing where the issue is whether a court should made an in-camera inspection of documents/records (in the possession of a third party) that are privileged or protected to determine if they contain exculpatory evidence and to have access to those documents/records if they are found to contain exculpatory evidence after the inspection. Based on *State v. Shiffra,* 175 Wis.2d 600, 499 N.W.2d 719 (Ct. App. 1993).
87. **SHIFFRA-GREEN** test. The threshold test that a defendant must satisfy to be entitled to an in-camera review of privilege record. Based on *State v. Shiffra,* 175 Wis.2d 600, 499 N.W.2d 719 (Ct. App. 1993) and *State v. Green,* 2002 WI 68, 253 Wis.2d 356, 646 N.W.2d 298.
88. **SIMMONS** rule or test. When can the testimony of a defendant at a Fourth Amendment suppression hearing be used at a subsequent proceeding by the prosecution. Based on *Simmons v. United States,* 390 U.S. 377, 88 S.Ct. 967 (1968).
89. **STANISLAWSKI** stipulation. A stipulation, when polygraph test results were admissible into evidence, entered into by the prosecution and the defense that was required for polygraph test results to be admissible. Based on *State v. Stanislawski,* 62 Wis.2d 730, 216 N.W.2d 8 (1974).
90. **STRICKLAND** test or analysis. The test or analysis that is used to determine if a defendant was denied the effective assistance of counsel. Based on *Strickland v. Washington,* 466 U.S. 668, 104 S.Ct. 2052 (1984).
91. **SULLIVAN** test or analysis. The three-part test or analysis that is used to decide the admissibility of other acts evidence. Based on *State v. Sullivan,* 216 Wis.2d 768, 576 N.W.2d 30 (1998). *See* **WHITTY** and **WHITTY/SULLIVAN** below.

92. **TEAGUE** rule. The legal framework/rule that is used to decide when a pronouncement of a Court (usually the United States Supreme Court) shall be given retroactive effect to certain cases, especially cases on collateral review. Based on *Teague v. Lane,* 489 U.S. 288, 109 S.Ct. 1060 (1989).
93. **TILLMAN** procedural bar. The rule that claims that could have been raised on direct appeal or in a previous 974.06 motion are barred from being raised in a subsequent 974.06 motion absent a showing of a sufficient reason for why the claims were not raised on direct appeal or in a previous 974.06 motion in a situation following a no-merit appeal. Based on *State v. Tillman,* 2005 WI App 71, 281 Wis.2d 157, 696 N.W.2d 574.
94. **TRONGEAU** motion. The motion that a party brings when that party wants the circuit court to review a decision made by a court commissioner. Based on *State v. Trongeau,* 135 Wis.2d 188, 400 N.W.2d 12 (Ct. App. 1986).
95. **WALLER** test. The four-part test that is used to determine when the closure of a criminal trial is justified. Based on *Waller v. Georgia,* 467 U.S. 39 (1984). *See also* **PRESS-ENTERPRISE** test above.
96. **WALLERMAN** stipulation. An offer by a defendant to stipulate to one or more elements of the charge against him in order to preclude the prosecution from introducing evidence to prove that element. Based on *State v. Wallerman,* 203 Wis.2d 158, 552 N.W.2d 128 (Ct. App. 1996).
97. **WEED** colloquy. The colloquy that a trial court must conduct to determine the validity of a defendant's decision not to testify. Based on *State v. Weed,* 2003 WI 85, 263 Wis.2d 434, 666 N.W.2d 485.
98. **WHITTY** evidence. The name/term that was originally used (and is still used by some persons) to describe other acts evidence. Based on *Whitty v. State,* 34 Wis.2d 278, 149 N.W.2d 557 (1967). *See* **SULLIVAN** above and **WHITTY/SULLIVAN** below.
99. **WHITTY/SULLIVAN** analysis or test. *See* **SULLIVAN** and **WHITTY** above.
100. **YOUNGBLOOD** test. The test that is used to determine whether the government's failure to preserve or destruction of criminal evidence violates a defendant's right to due process. Based on *Arizona v. Youngblood,* 488 U.S. 51, 109 S.Ct. 333 (1988).
101. **YOUNGER** doctrine or rule or abstention. This doctrine requires federal courts to abstain from taking jurisdiction over federal constitutional claims that seek to interfere with or interrupt ongoing state proceedings. Based on *Younger v. Harris,* 401 U.S. 37, 91 S.Ct. 746 (1971).