

# The Daubert Standard and Admissibility of Psychological Testimony: Scrutinizing Science in the Courtroom

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## Abstract

As forensic psychological testimony becomes increasingly prevalent in legal proceedings, courts face growing pressure to assess its scientific validity and legal admissibility. The Daubert standard, established by a landmark U.S. Supreme Court decision, provides a critical framework for evaluating expert evidence. This article explores the application of the Daubert criteria to psychological testing, identifies the unique challenges associated with admitting psychological evidence in court, and offers best-practice guidelines for forensic psychologists operating within this evolving legal landscape.

**Keywords:** Daubert, Psychological Testimony, Forensic Psychology, Admissibility, Evidence

## 1. INTRODUCTION

Psychological assessments have become an increasingly influential component of legal proceedings, shaping outcomes in areas such as criminal responsibility, competency to stand trial, risk assessment, and sentencing. As the role of forensic psychology continues to expand, courts are faced with the complex task of determining whether such testimony meets the standards of scientific validity and legal admissibility. Central to this evaluative process is the **Daubert** standard, a legal framework established by the U.S. Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993), which serves as a foundational tool for judicial gatekeeping of expert evidence in federal and many state courts. This article first explains the origins and components of the Daubert standard, then explores its application to psychological assessments, analyzes key case law, and concludes with guidance for practitioners and a look at future challenges.

## 2. The Origins and Structure of the Daubert Standard:

The Daubert standard originated from the landmark 1993 U.S. Supreme Court decision in *Daubert v. Merrell Dow Pharmaceuticals, Inc.* This ruling replaced the long-standing *Frye* standard, which had required expert evidence to be “generally accepted” within the relevant scientific community. By contrast, Daubert introduced a more flexible, multi-factor approach for assessing the scientific validity and reliability of expert evidence.

Judges assume a critical “gatekeeping” role under Daubert, determining whether testimony is both relevant and scientifically sound. The Court outlined five non-exclusive factors:

1. **Testability** – whether the theory or technique can be empirically tested.
2. **Peer Review and Publication** – scrutiny through academic channels.

3. **Error Rate** – measured or potential error associated with the technique.
4. **Standards** – existence of clear, enforceable operational procedures.
5. **General Acceptance** – consensus within the scientific community.

These factors guide judicial discretion, allowing for case-by-case assessment. Though initially intended for scientific testimony, the Daubert framework now applies to a wide range of expert evidence, including forensic psychological assessments.

### 3. Psychological Testing in the Courtroom:

Common forensic psychological instruments include:

- Intelligence tests (e.g., WAIS-IV)
- Personality inventories (e.g., MMPI-2-RF)
- Risk assessments (e.g., PCL-R, HCR-20)

Despite their utility, applying **Daubert** to psychological evidence poses unique challenges. Unlike biomedical sciences, psychology often relies on interpretive methods and deals with multifactorial human behavior. Even standardized instruments can involve subjective interpretation, which may raise questions about admissibility.

### 4. Common Legal Challenges to Psychological Evidence

Courts frequently challenge psychological testimony on these grounds:

- **Subjectivity:** reliance on clinical judgment without objective benchmarks
- **Non-forensic adaptation:** tests used beyond their validated context
- **Cultural validity:** inadequate accommodation for diverse populations
- **Lack of transparency:** absence of reproducible methodology

**Notable cases include:**

- United States v. Mikos – admitted MMPI-2 testimony due to solid empirical backing
- State v. Allen – excluded future-dangerousness testimony from unvalidated tests

### 5. Case Study Analysis: Applying Daubert in Real Courts

Appellate decisions demonstrate varying approaches:

- U.S. v. Finley, 301 F.3d 1000 (9th Cir. 2002): Excluded testimony based only on general clinical observation.
- People v. Leahy, 8 Cal.4th 587 (1994): Excluded polygraph evidence due to questionable reliability.
- In re Commitment of W.Z., 173 N.J. 109 (2002): Upheld validated risk assessment tools for civil commitment.

These rulings underscore that psychological testimony must conform to accepted scientific norms to remain admissible.

### 6. Frye Standard and State-Level Variations

While Daubert governs federal courts, states differ:

- **Frye jurisdictions:** New York, Illinois, California
- **Daubert/adaptive jurisdictions:** Many others follow or hybridize Daubert standards

This patchwork creates inconsistent admissibility outcomes. Forensic psychologists must stay aware of varying jurisdictional requirements.

## **7. Best Practices for Forensic Psychologists**

To enhance admissibility under Daubert:

- Use peer-reviewed, empirical instruments tailored to forensic use
- Carefully document test administration, scoring, and interpretation
- Cite relevant literature (e.g., APA's Specialty Guidelines)
- Clearly separate data-driven findings from subjective hypotheses
- Understand test psychometrics and limitations
- Maintain familiarity with legal and scientific developments

## **8. Emerging Technologies and Future Challenges**

Innovations such as neuroimaging, computerized testing, and AI-based risk assessments pose new admissibility issues. These methods often lack established error rates and peer-reviewed validation—essential under Daubert. Courts are increasingly cautious, requiring strong evidence before emerging technologies can be accepted.

## **9. Conclusion**

The Daubert standard has significantly influenced the admissibility of psychological evidence in courtrooms. While demanding, these criteria push forensic psychologists toward greater scientific rigor. Practitioners who use validated methods, maintain transparency, and adapt to jurisdictional differences are better equipped to offer credible, legally robust testimony. As the field evolves, aligning scientific standards with legal expectations remains essential to the future of forensic psychology.