

Terry Lenamon on the Death Penalty

Sidebar with a Board Certified Expert Criminal Trial Attorney



Terence M. Lenamon is a Florida Bar certified expert in the area of criminal trial law. With over 17 years experience he has built a reputation as one of Florida's most respected criminal defense lawyers. His defense has been sought by many high-profile clients and has led him through 20 first-degree murder trials and eight death penalty cases. That experience has brought him national recognition as a go-to commentator on death penalty issues. He is the force behind both deathpenaltyblog.com and Florida Capital Resource Center (floridacapitalresourcecenter.org), and can be reached at terry@lenamonlaw.com.

Use of DSM in the Law: the Doctors Need to Recognize this Reality in DSM-V

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Mental health professionals and those dealing with mental health issues are well aware of the **Diagnostic and Statistical Manual of Mental Disorders (DSM)**. It is used everyday in the law, as well, and you can find a copy on most death qualified criminal defense attorney's shelves – maybe more than one. In fact, you can buy a copy for yourself, new or used, at Amazon.com for around \$60.00.

What is the DSM?

The DSM is a reference work that classifies (by **codes**) recognized mental disorders in the United States. According to the **American Psychiatric Association**, the DSM is "...intended to be applicable in a wide array of contexts and used by clinicians and researchers of many different orientations (e.g., biological, psychodynamic, cognitive, behavioral, interpersonal, family/systems)."

Right now, the DMS is in its fourth version ("DSM-IV"). The APA allows that it is been "**designed**" to be used in clinical settings and by all sorts of health care providers (including psychiatrists, social workers, counselors, and even rehab techs).

DSM-V, the Fifth Edition, is due to be published in May 2013.

The DSM in Legal Proceedings

Conspicuous by its absence in the APA definition of the DSM is the regular and routine use of the manual in legal matters. This is particularly true in death penalty cases, where mitigation during the penalty phase often focuses upon the mental illness suffered by the defendant and where postconviction proceedings fight against execution based upon severe mental illness.

Addressing this issue is a new editorial by Ralph Slovenko, JD, PhD in the Journal of the American Academy of Psychiatry and the Law (J Am Acad Psychiatry Law 39:6-11, 2011), entitled "The DSM in Litigation and Legislation."

[You can download and read Dr. Slovenko's work here.](#)

In the article, it is recognized that while the DSM is purportedly to be used by health care professionals, the DSM in its various versions has been cited in over 5500 judicial opinions and in over 320 pieces of legislation.

Slovenko argues that this reality needs to be addressed in the DSM itself. And he's right.

The DSM isn't exclusively used by medical professionals, nor should it be. When its authors are writing the language within the new version of the DSM as well as deciding what all should be covered within the DSM ([for example, should narcissistic personality disorder be included? It is being removed in DSM-V](#)), the legal ramifications of their decisions exist and should be included in their decision making.