

COMMENTARY

The role of psychiatric diagnosis in the law

BY PROFESSOR RALPH SLOVENKO

Does or should psychiatric diagnosis play a role in the legal process? In a cautionary statement in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, it is set forth:

The purpose of DSM-IV is to provide clear descriptions of diagnostic categories in order to enable clinicians and investigators to diagnose, communicate about, study, and treat people with various mental disorders. It is to be understood that inclusion here, for clinical and research purposes, of a diagnostic category such as Pathological Gambling or Pedophilia does not imply that the condition meets legal or other non-medical criteria for what constitutes mental disease, mental disorder, or mental disability. The clinical and scientific considerations involved in categorization of these conditions as mental disorders may not be wholly relevant to legal judgments, for example, that take into account such issues as individual responsibility, disability determination, and competency.¹

This disclaimer notwithstanding, the *DSM* is used frequently in the legal process. It is not surprising, given that the *DSM* is recognized as state of the art in psychiatry, and psychiatry is intertwined with the law on a number of matters. The *DSM* also states:

Psychiatry Law Pb 2002

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