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Diminished Capacity

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Definition

Diminished capacity is often included as part of a “mens rea” defense where the defense argues for a lesser degree of culpability (e.g., manslaughter instead of first-degree murder) due to decreased intent. Although they both involve an assessment of a defendant’s mental state at the time of the commission of a crime, a diminished capacity defense is distinct from the insanity defense. In an insanity defense, the defense argues that the defendant lacks the mental capacity “as a result of mental disease or defect” to appreciate the criminality (e.g., wrongfulness) of the act and to conform his/her conduct to the requirements of the law. In a diminished capacity defense, the defense argues that the defendant had a *decreased level of intent* to commit the act as a result of several possible factors including drug or alcohol intoxication, medication use, and neurological conditions (Melton et al. 2007). The most extreme variant of the diminished capacity defense is the “automatism defense.” Under this defense, defendants claim that they had no conscious awareness

of acts committed. For example, an individual who commits a crime while sleepwalking or during a seizure would employ such a defense. This form of a defense is permitted, but courts usually require that certain conditions be present prior to the act being committed and that the individual took necessary precautions to prevent committing a criminal act.

Cross-References

- [Actus Rea](#)
- [Criminal Responsibility](#)
- [Insanity](#)
- [Mens Rea](#)
- [Mental State at Offense](#)

References and Readings

- Denney, R. L. (2005). Criminal responsibility and other criminal forensic issues. In G. Larrabee (Ed.), *Forensic neuropsychology: A scientific approach*. New York: Oxford University Press.
- Goldstein, A. M., Morese, S. J., & Shapiro, D. L. (2003). Evaluation of criminal responsibility. In A. Goldstein (Ed.), *Handbook of psychology (vol 11). Forensic psychology*. Hoboken: Wiley.
- Melton, G. B., Petrila, J., Poythress, N. G., & Slobogin, C. (2007). *Psychological evaluations for the courts* (3rd ed.). New York: Guilford.