

PS232: Criminal Law
Examination 2 Study Guide

Chapter 7: Homicide

Justifiable homicide- Homicide that is permitted under law. A killing justified for the good of society. The killing of another in self-defense when danger of death or serious bodily harm exists. The killing of a person according to one's duties or out of necessity but without blame

Excusable homicide- A killing conducted in a manner that the criminal law does not prohibit. Also, a killing that may involve some fault but is not criminal homicide.

Criminal homicide- The purposeful, knowing, reckless, or negligent killing of one human being by another, Also, a form of homicide for which criminal liability may be incurred. Criminal homicide may be classified as murder, manslaughter, or negligent homicide.

Defining Death- Under common law, death is the cessation of a heartbeat and the cessation of respiratory function. Under the UDDA standards, death is irreversible cessation of brain function (including stem) OR irreversible cessation of circulatory respiratory function

Year and a Day Rule- A common law requirement that homicide prosecutions could not take place if the victim did not die within a year and a day from the time that the fatal act occurred.

Malice aforethought- An unjustifiable, inexcusable and unmitigated person endangering state of mind. Conscious intent to cause harm or serious bodily injury to another person. Planned and premeditated.

Elements of Murder- An (1) unlawful killing, (2) of a human being, (3) with malice aforethought

Model Penal Code and Murder-

Degrees of Murder-

First Degree Homicide: Acts that involve the death of someone in "cold blood" or by "lying in wait."

- o Elements:
 - (a). Willful
 - (b). Deliberate
 - (c). Malicious
 - **Punishment: Death Penalty!**

Second Degree Murder: All other murders that were done with "malice". Also includes felony murder. Depraved heart

- o Specifically, although 2nd degree is the "catch all" or "default" category, think of 2nd degree murders as those done with "intent to inflict grievous bodily injury" and those "depraved heart killings" (extreme recklessness)

Third Degree Murder: only Pennsylvania has it

- o All other kinds of murder shall be murder of the third degree. Murder of the third degree is a felony of the first degree.

Felony Murder- A rule that established murder liability for a defendant if another person dies during the commission of certain felonies.

M.P.C. and Felony Murder

Voluntary Manslaughter- An unlawful killing of a human being, without malice, that is done intentionally during a sudden quarrel or in the heat of passion. Also, a killing committed without lawful justification wherein the defendant acted under a sudden and intense passion resulting from adequate provocation

Involuntary Manslaughter— An unlawful homicide that is unintentionally caused and that either (1) is the result of an unlawful act other than a dangerous felony or (2) occurs as the result of *criminal negligence or recklessness*

Examples: Careless use of firearms, explosives, animals, medicine, trains, planes, ships, and automobiles.

Negligent Manslaughter- The killing of a person without intent to kill, when the killing takes place while the offender is performing a negligent act or when the offender fails to exercise reasonable, prudent care. Ordinary negligence, not criminal negligence or extreme negligence

Simple Negligence vs. Gross Negligence vs. Recklessness- Simple negligence is a simple mistake. Gross negligence is a conscious disregard of one's duties, resulting in injury or damage to another. Recklessness is acting in a way without thinking or caring about the consequences that could occur.

What counts as "adequate provocation"? - Provocation that "would cause a reasonable person to lose self control". Words alone do not constitute adequate provocation.

People v. McCarthy (1989)- McCarty and his girlfriend had been together for nearly ten years and had two kids before they broke up. After an argument about the kids, he broke into her new apartment and found her in bed with another man. He shot her five times. He requested the courts to introduce voluntary manslaughter in addition to manslaughter because he stated that he was broken over the break up. The courts refused the introduction of the manslaughter because it is reserved for married couples and they were not together at this point anyway. Limitation on voluntary manslaughter. Reserved for married couples and you have to see something (spouse in bed)

Commonwealth v. Schnopps- Killed his wife and tried to kill him after the two of them broke up and it was confirmed to him that she was sleeping with someone else. He claimed that it was the first time he had known about the affair and it confirmed it. He asked because of that for voluntary manslaughter but it is stated that the defendant knew about the affair for months. He was convicted for first degree murder.

Vacco v. Quill (1997)- Supreme Court upheld NY's law banning assisted suicide- it violated the equal protection clause- you are allowed to refuse life support but you are not allowed to have a physician help them speed up the death. Vote was 9-0 against physician-assisted suicide.

Chapters 5-6: Defenses to Crimes (Chapters 5-7)

Justifications vs. Excuses- Justification: The defendant admits committing the act in question but claims it was necessary in order to avoid some greater evil.

Excuse: Defendant claims that some personal condition or circumstance at the time of the act was such that he/she should not be held accountable under the criminal law

Affirmative defenses- An answer to a criminal charge in which a defendant takes the offensive and response to the allegations with his or her own assertions based on legal principles. Affirmative defenses must be raised and supported by the defendant independently of any claims made by the prosecutor. Affirmative defenses include justifications and excuses

Self-defense- Often called the perfect defense. Why?

- o If you are able to convince the jury, you just go home and no lesser crime
- o 1. The defendant is the victim of an unlawful attack
- o 2. The defendant did not provoke the attack
- o 3. The defendant actually and reasonably believes that he or she is in imminent danger of bodily harm
- o 4. The defendant uses only the amount of force needed to repel the attack
- o 5. The defendant has taken all reasonable measures to retreat
 - Retreat rule not required for your house (Castle Doctrine)
 - Has gone under the most change

Elements of self-defense

Changes in self-defense law, started by Florida

Public duty

Necessity- Aka, 'Choice of Evils" defense

- Person commits a crime to prevent a greater harm from occurring
- Harm avoided has to be a natural origin (at least a common law)
- The Queen v. Dudley and Stephens
- Economic necessity is not a defense
- Generally the defendant must show,
 - o Harm he/she sought to avoid was greater than the danger of the prohibited act he/she was charged with;
 - o He/she had no reasonable alternative;
 - o He/she ceased to engage in the prohibited conduct once the danger passed;
 - o He/she did not create the danger they were trying to avoid.