

Chapter 6

Why are the police sometimes called the gatekeepers to the criminal justice program?

The role of a police officer is to enforce the criminal law, therefore the decision to arrest someone is the trigger for the criminal justice process.

Explain how *corpus delicti*, *mens rea*, and *actus rea* relate.

Corpus delicti is the body of a crime which contains two parts; *mens rea* and *actus rea*. *Mens rea* refers to the mental state of the suspect (literally translates as “the guilty mind”) and implies that the suspect has the ability to form criminal intent. *Actus rea* refers to the elements that make up a crime. The actual act.

Give some examples of a lack of *mens rea*.

People who lack the ability to form criminal intent aka small children (usually between the ages 7-10), the mentally retarded, those affected by psychological disorders, and the very old and senile (intoxication is debatable)

What is the difference between a felony and a misdemeanor?

A felony is a serious crime punishable by more than one year imprisonment while a misdemeanor is a minor crime that carries a maximum confinement of up to one year.

Define homicide.

Homicide: the killing of one human being by another

“All murders are homicides but not all homicides are murders.”

Classified into lawful and unlawful

What does justifiable homicide mean?

Involves the use of lethal force to prevent serious injury or death to another or to oneself

To what does an excusable homicide refer?

Refers to a death that results from an accident or sheer misfortune

What constitutes murder?

Crime is committed purposely or knowingly; or it is committed recklessly under circumstances manifesting extreme indifference to the value of human life.

What is first-degree murder?

Involves malice aforethought, deliberation, and premeditation.

Define malice aforethought, deliberation, and premeditation.

Malice aforethought: intent to commit a felony or to cause death and/or serious harm

Deliberation: the person has thought over the consequences and has still decided to kill the victim

Premeditation: the person has planned to carry out the killing

What is included under manslaughter?

Voluntary vs. involuntary

What four conditions make up the “heat of passion” (rule of provocation)?

1-the provocation must be reasonable

2-the death must take place during the heat of passion

3-there must be no chance for a “cooling off” period during the time lapse between provocation and the killing

4-the suspect must have acted in the heat of passion

Explain the standard “reaction of a reasonable person”

Does not try to kill someone, the law does not allow a reasonable person who becomes so provoked to choose homicide as a deliberate strategy

Contrast voluntary vs. involuntary manslaughter.

Voluntary: instances where death occurs during some extraordinary circumstance and where the deceased has provoked the offender (not trying to kill the person, just an intent to hurt), along with the intent to hurt there must be a state of emotional imbalance

Involuntary: the “catchall”, any unintentional killing if it doesn’t fall into another category (ex] negligence, recklessness)

What is the felony murder rule?

Means that if a person dies during the course of a felony that is dangerous to life (ex] robbery, sexual battery,etc.) the suspect is responsible for said death

Compare simple assault, simple battery, aggravated assault, and aggravated battery.

Assault: one person threatens to harm another; the person making the threat must be capable of carrying out his/her intentions and the assailant must be in genuine fear of their well-being

Simple assault: a misdemeanor; lack of weapon

Aggravated assault: a felony; presence of a weapon

Battery: the intentional touching/striking of a person against that person's will; the offender must intend to injure the victim

Simple battery: no weapon, minor injury

Aggravated battery: weapon; serious bodily harm

What is the difference between rape and sexual battery?

Rape applies to forced sexual intercourse or "carnal knowledge" and the old laws usually only recognized males as offenders and females as victims.

What are the elements of sexual battery?

Sexual battery refers to any oral, anal, vaginal penetration, or union by the sexual organ of another or with any object; must be non-consensual; use of force or the threat of force to make the victim submit

What is spousal immunity?

(aka marital exemption) common law does not recognize a husband being capable of raping his own wife because marriage is a contractual arrangement (exclusive sexual access)

What are the elements of robbery?

Refers to the unlawful taking of money or property from a person through force, violence, or fear of harm (victim must be present during time of the taking)

Contrast armed robbery with strong-armed robbery.

Armed robbery: weapon used