

## Chapter 6

### The Nature of Criminal Law

All criminal acts consist of a *corpus delicti*, the body of a crime. This body consists of two parts *mens rea* and *actus rea*. *Mens Res* means, “the guilty mind,” and refers to the mental state of the suspect. *Actus rea* refers to the acts or elements that make up the crime. *Mens rea* refers to the ability of the criminal to form criminal intent. Some people may not be able to do this, such as young kids (7-10 years old and younger), mentally retarded people, someone suffering a psychological disorder, or some elderly people. People who lack *mens rea* may be taken into *protective custody* instead of being arrested, they aren’t under arrest but are detained temporarily for their safety or the public’s safety. *Actus rea* is what makes up the crime; it can decide whether the crime is a felony or misdemeanor. A *misdemeanor* is a minor crime with a maximum confinement of up to a year. A *felony* is a serious crime that constitutes more than one year in prison. What decided whether it is a misdemeanor or felony can differ based on crime classification and geographical location. An officer cannot make an arrest for a misdemeanor unless it occurs in their presence; no such rule applies for felony crimes. Police officers don’t generally have to concern themselves with *mens rea* what is important for them is the *actus rea*. The classification of crime depends on whether or not an officer can take immediate action, the type of action, and the charges the office will file. Due to the rapid progression of events in the field, officers do not have the luxury of consulting law books.

### Violent Offenses

Homicide, assault, battery, sexual battery, robbery, and kidnapping will be included in this section.

### Homicide

Homicide is the killing one human being by another. Two general types: lawful and unlawful.

### **Justifiable Homicide**

Justifiable Homicide is the use of lethal force to prevent serious injury or death to oneself or another. Examples of this would be police officers killing an armed criminal endangering others, or a person who follows the “stand your ground law” and kills a criminal in defense against serious injury or death to themselves or others.

### **Excusable homicide**

Excusable homicide is the death of a person resulting due to an accident or misfortune. Such as a hammer falling from a building and killing someone, this does not protect against civil liability.

### **Murder**

States usually divide unlawful homicide into two categories, murder and manslaughter. **Murder**, occurs when a criminal homicide is committed purposely or knowingly, or it is committed under reckless circumstances. **Manslaughter** is the appropriate charge if it occurs under the influence of extreme mental or emotional disturbance for which there is a reasonable explanation. The difference between the two is the element of premeditation. **First degree murder** involves malice aforethought, deliberation, and premeditation. **Malice aforethought** is the intent to commit a felony or to cause death or serious harm. **Deliberation** means a person has thought over the consequences and kills anyway. **Premeditation** implies that the person planned to carry out the killing. If the person intends to kill someone but accidentally kills the wrong target, the appropriate charge is first degree murder.

### **Manslaughter**

*Manslaughter* is the unlawful murder characterized by a lack of premeditation. Lies somewhere in the middle of first degree murder and excusable/justifiable murder but is still illegal. Manslaughter can be either voluntary or involuntary. *Voluntary manslaughter* occurs due to an extraordinary set of circumstances where the victims provoke the offender. Usually the aggressor intends to hurt the other party but not kill them due to a state of emotional imbalance. The intense temporary loss of control and emotional imbalance is known as the *heat of passion*. Four conditions must be met to make up the heat of passion. First, the provocation must be reasonable. Second, the death must take place during the heat of passion. Third, there can be no chance for a "cooling off period" during the time lapse between the provocation and killing. Lastly, the suspect must have acted in the heat of passion. If any one of these conditions is missing the appropriate charge would most likely be murder. The standard for provocation is *reaction of a reasonable person*, what would a reasonable person do. Has to be the result of more than just taunting or verbal argument. *Involuntary manslaughter* is a catchall and either negligence or recklessness can produce this type of homicide. *Negligence* is behavior that exposes others to unnecessary risk of death or serious injury.

### **The Felony Murder Rule**

The *felony-murder rule* means that if a person dies during the course of a felony that is dangerous to life (robbery, burglary, sexual batter, arson, kidnapping, etc.) the suspect is responsible for that death. Another way to test this is the *sine qua non test* or if it wasn't for the suspect's actions, the person would still be alive today. An addition to this mentioned in the book is that any participant can be charged, as in the getaway drive for a bank robber who shot a killed a clerk can also be found guilty of first degree murder. Even if no one shoots the clerk and he has a heart attack and dies, they are responsible for his death and are guilty of first degree murder.