

# Criminal homicide essay

[Law](#), [Criminal Justice](#)



## **INTRODUCTION**

Criminal homicide is the act of ending another person's life by the hand of another (Luckenbill, 1977). There are many different ways in which criminal homicide is defined in the American criminal justice system; different degrees of what constitutes homicide, as well as other mitigating factors, can help to determine the sentencing of an individual or individuals who take part in the act, whether voluntarily or not. This is meant to apply as individualistic a sentencing as possible on the particular situation, instead of making standardized choices for criminal homicide on the whole. All of this leads to an overall better understanding of what would be fair and just regarding the level of sentencing committed towards an offender found guilty. In this presentation, the varying degrees of criminal homicide will be detailed, as well as how those degrees affect sentencing. The reasons for creating these classifications will also be made clear.

## **HOMICIDE**

In the world of criminal homicide, there is a distinct difference between murder and manslaughter. This primary difference is the idea of 'malice aforethought'; this is the notion that someone predetermined before the homicide that they were going to commit the act of murder. In the case of manslaughter, however, these killings are often accidental, and the work of outside forces or other such circumstances. The importance in differentiating the two is great when sentencing; it is thought in the American justice system that individuals should not be punished as severely as murderers if they did not intent to kill the victim beforehand. If there is determined to be

no malice aforethought, the homicide is determined to be manslaughter. This important distinction between the two classes of criminal homicide helps the courts determine the severity of the crime, and therefore the sentence.

There are varying degrees within these two definitions, of course, that will be described in detail.

## **FIRST DEGREE MURDER**

First degree murder is the most significant and most harshly punished type of criminal homicide. These types of murders are willful and premeditated; the offender has already established and made steps to carry out the murder. They then commit the murder according to the plan, and successfully kill the intended target. It is based on the combination of two legal terms: the actus reus - the guilty act, the actual physical murder itself, and the mens rea - the guilty mind. The mens rea is the mental attitude that leads them to understand that they are causing the death of another person, and are still going through with it. Felony murder cases will often fall under the category of first-degree murder. These types of murders typically receive the strictest punishments, all the way up to capital punishment.

## **SECOND DEGREE MURDER**

Second-degree murder is the next step down from first-degree; it is somewhat of a grey area that fills the gap between first-degree murder and voluntary manslaughter. Second-degree murder is somewhat more accidental, as it still displays reckless behavior and disregard for human life, and the killing is intentional. It may, however, be accidental in that it was not the intended victim of the murderer; they may have been someone killed in

a crossfire, but as a direct result of actions taken by the offender. They still planned on killing, but it did not happen in the way that they had premeditated. This distinction is important because the offender still has to be punished, but there is not the same level of premeditation involved in the second-degree murder.

## **VOLUNTARY MANSLAUGHTER**

Someone killed during the heat of passion is the victim of voluntary manslaughter. In these cases, there is the specific, willful intent to kill, but there is no premeditation. This often applies to cases where something traumatic or angering happens to the offender, to the point where they become irrational or disturbed. This state of mind leads them to lose control of their actions, leading to the death of the victim. Voluntary manslaughter is most often invoked for people who behave uncharacteristically, and who were clearly in a rare mood to cause harm. It can be difficult to determine the severity of their punishment when there is less of a tendency to follow this pattern, and as a result a rare chance that it would occur again.

Sentencing for this is complicated, as there was no premeditation, but there was intent to kill; this could be as a result of an impaired or confused mental state as a result of the specific circumstances they were in (i. e. finding a spouse in the act of infidelity). In the event that the specific provocation is enough to make someone lose their self-control, a conviction of second-degree murder applies.

## **INVOLUNTARY MANSLAUGHTER**

Involuntary manslaughter, compared to voluntary manslaughter, is much more accidental; there is neither premeditation nor intent in the killing of another. These murders are pure accidents, brought about by negligence, impairment or a number of other factors. Misdemeanor murder can also qualify as involuntary manslaughter – this is the conviction that many American courts hand out if someone is killed in the process of committing a misdemeanor. The factors involved in involuntary manslaughter are many, including ignorance of the law, reckless behavior, and the like, all factors that reduce culpability. There is no malice afterthought to be had in involuntary manslaughter, just the offender's responsibility for the death of the victim. This leads to comparatively lighter sentencing in terms of jail time spent than a first-degree murder.

## **JUSTIFIABLE HOMICIDE**

When understanding criminal homicide, it is important to know which instances constitute justifiable, or non-criminal homicide. These are circumstances in which an individual who takes the life of another do so in a way that is excused by the American law system, and who will subsequently not be charged. Examples of these justifiable homicides include killing in wartime; while in military service, American troops are given license, within reason, to carry out the orders of their superiors and dispatch enemy forces without fearing prosecution. Capital punishment is also considered a justifiable homicide, as it is used as a punishment and deterrent. Killing in self-defense is excused, as the offender was merely trying to defend their own life from their attacker. The doctrine of necessity permits medical

professionals and the like to perform life-saving procedures that may lead to another person losing their life. All of the factors and more contribute to sentences of justifiable homicide.

## **FELONY MURDER RULE**

Felony murder is a permutation of criminal homicide that is somewhat different than murder, and carries with it a different set of circumstances. In felony murder, a killing occurs while another felony is being conducted – this is not premeditated, but it happens as the result of a premeditated crime that falls outside murder. It expands murder as a crime in a pair of very important ways. First, normal cases of manslaughter will often be elevated to murder if they take place during a felony. Secondly, if an offender takes part in a felony, it makes them liable for whomever might die in the process. This type of murder is classified in order to deter people from committing dangerous felonies that would lead to deaths, as its sentencing practices are far more stringent than simple manslaughter cases. It is possible for the death penalty to be invoked, given sufficient culpability in the crime itself, and the level of indifference the offender displays to the crime.

## **YEAR AND A DAY RULE**

According to the ‘year and a day rule,’ an amount of time is set between an act of violence and the death of the victim; it is an old common law practice that states that, if the victim does not die within a year and a day after the act, the offender cannot be tried for murder. It is a statute of limitations that does not exist in American law to a great extent; it has been abolished in several states, and convictions have been overturned in recent years using

this defense. Given modern medical systems, and the controversy of life support, many courts find it to be unjust that a criminal can go free because a victim remains on modern medical life support. As a result, it is not often used in American homicide convictions.

## **BORN ALIVE RULE**

Another legal principle to consider in the realm of criminal homicide is that of the 'born alive rule.' This states that criminal homicide only applies to children that are 'born alive'; in essence, murder does not apply to fetuses. This law has been otherwise overturned in America - often, an offender will be convicted of two counts of aggravated murder if they kill a woman with an unborn child. However, this law can become flexible in certain circumstances, such as the accidental causing of a stillbirth or miscarriage. Sentencing in these cases is similar to that of multiple counts of murder, depending on the circumstances of the offense. The born alive rule is meant to prevent individuals who perform feticide (especially accidentally) from being convicted of multiple counts of murder, though the advent of medical science has led to a slow abolition of this rule.

## **SENTENCING**

Sentencing of offenders who have been found guilty of criminal homicide depends greatly on a number of factors. The specific circumstances involved, including motive, premeditation, and other mitigating factors play significant roles in determining just what type of punishment the offender receives. However, in the United States, murder charges carry mandatory sentences in federal law; first degree murders require life imprisonment, or the death

penalty in some cases. In cases of second degree murder, imprisonment is still a requirement, and can be upgraded to a life sentence. Mandatory life sentences take place if a second degree murder is performed by someone already serving a life sentence. States' laws vary wildly between each other, degrees of murder can vary depending on which state is prosecuting. Cases of manslaughter are almost universally less harsh than murder sentencings, with lighter jail times involved given the specific crime itself.

## **CAPITAL PUNISHMENT**

Capital punishment is the most extreme form of sentencing for a criminal offender in the United States; it involves the state-assisted, non-criminal homicide of an individual thought to have committed a crime warranting the punishment. In these instances, the United States only permits the practice in cases of aggravated murder, although there have been instances of felony murder qualifying for the sentence. It is a very rare form of punishment in America, only a few dozen being put to death every year. Many states have no death penalty statutes on record, including Michigan, Maine, Alaska, Hawaii and others. Other states have these statutes, but have not exercised them in a long time. It is an extremely controversial form of punishment, as opponents argue it is another form of murder.

## **CONCLUSION**

In conclusion, there are quite a few different degrees and varieties of criminal homicide. This diversity makes sentencing in American courts relatively difficult; it can mean the difference between a few years in prison and the death penalty. Several factors need to be in place in order to receive



the harshest sentence - malice aforethought, actus reus and mens rea - all proving that the offender has little to no regard for the life of other people, and presents a danger to society. Other mitigating factors like culpability, intent and premeditation can mean the difference between first-degree murder and involuntary manslaughter; unique rules like 'born alive' and 'year and a day' provide needed context and history within common law practices that are often still alive today.

## **References**

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