

Homicide Addendum

Fetal Murder

- 24 States treat the killing of a fetus as some degree of homicide irregardless of the viability of the pregnancy, many states protect embryos as well
- 10 States have laws that treat the killing of a fetus as some degree of homicide, but include viability as a requirement (Florida is among them)
- The Federal Government treats the killing of a fetus as a separate crime, it specifies that the fetus can be at any stage of development

Year and a Day Rule

- At common law to be held liable for a homicide the victim must die within a year and a day
- Many states have abolished this rule
- Some still use variations of it

First Degree Murder

- Deliberate, premeditated intent-to-kill murders
- Also poison and lying in wait
- Intentional murders committed during the course of a felony
- Killings that are heinous, atrocious or cruel
- Torture murders

Second Degree Murder

- Intentional murders that do not meet the necessary requirements to raise it to first degree
- Depraved heart murder- acting in a manner that shows an utter or complete disregard for human life or actions that are likely to result in the death of another
- Transferred intent- when attempting to commit murder another person is killed (unless that person is a police officer or another in a “protected class”)
- Killings resulting from the intent to commit serious bodily harm

Examples of Second Degree Murder

- Shooting at a person to scare them but actually killing them
- Women struck a homeless man with her car and left him in her garage for three days without seeking help
- A man driving his automobile while intoxicated drove through several red-lights at a high rate of speed and eventually crashed into a car killing one of the persons within
- A man drove through a police roadblock at a high rate of speed and later killed a man during his flight from officers
- Shooting into a crowd, occupied house, or occupied automobile
- Tossing a heavy stone off a building onto a busy sidewalk

Voluntary Manslaughter

- Killing while in the heat of passion without time to sufficiently “cool off”
- Killing when mistakenly believing they had a right to self-defense
- Killing during mutual combat

Involuntary Manslaughter

- Reckless conduct that does not rise to the level of extreme disregard for human life of second degree (also known as wanton conduct)
- Deaths caused by negligence

- Misdemeanor murder

Examples of Involuntary Manslaughter

- Negligently cleaning a gun
- Killing a person while driving intoxicated
- A congressman driving at a high rate of speed (who had received several previous speeding tickets) crashed into a car killing another person
- Repeated instances of allowing horses to run free
- A father left his two-year-old daughter in a hot car unattended for seven hours
- The San Francisco couple that allowed their vicious dog to maul a woman
- Playing Russian Roulette (although some versions have resulted in murder)
- A club owner did not provide adequate exits or fire prevention
- Hazing deaths
- A hunter mistook a woman's white mittens as the tail of a deer
- Playing with an unattended gun without checking to see if it was loaded