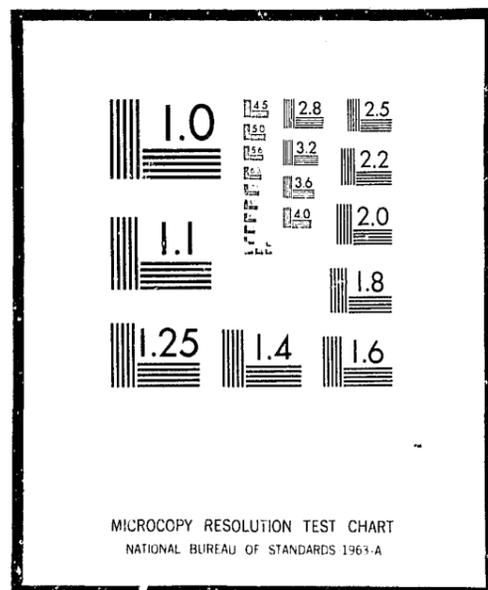


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U.S. DEPARTMENT OF JUSTICE
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SOUTH CAROLINA LAW ENFORCEMENT ETV TRAINING PROGRAM

• 174-471

BASIC CRIMINAL LAW (HOMICIDE, SECTION I) PART III STUDY WORKBOOK

prepared by SOUTH CAROLINA LAW ENFORCEMENT DIVISION • in cooperation with SOUTH CAROLINA EDUCATIONAL TELEVISION NETWORK

SOUTH CAROLINA LAW ENFORCEMENT-ETV TRAINING PROGRAM

FROM CRIME TO COURT

"Basic Criminal Law",

Part III²

"Homicide", Section 1,

Study Workbook

LAW ENFORCEMENT - E.T.V. TRAINING PROGRAM

"Basic Criminal Law"

Part III

"Homicide", Section I

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Sponsored by

South Carolina Law Enforcement Division
in cooperation with
South Carolina Educational Television Network

Endorsed by

South Carolina Governor, Robert E. McNair
South Carolina Sheriffs' Association
South Carolina Law Enforcement Officers' Association
South Carolina Police Chiefs' Executive Association
South Carolina F.B.I. National Academy Associates
South Carolina Southern Police Institute Associates

Program Objectives

The material contained herein relates to its accompanying TV presentation. It enlarges upon the general topic of "Basic Criminal Law", dealing with such matters as MURDER - VOLUNTARY MANSLAUGHTER - and INVOLUNTARY MANSLAUGHTER.

LAW ENFORCEMENT - ETV TRAINING PROGRAM

"Basic Criminal Law", Part III

"Homicide", Section I

Review and Study Workbook

INSTRUCTIONS: This review and study workbook is designed to be of use both during the group discussion period, which follows a television program, and by you at home on your own.

It should serve as 1) an effective aid to the Group Discussion Leader and to you for engaging in group discussions after you have viewed a TV program; also it should serve as 2) a means for you to privately check and see how well you learned the points covered in the TV lesson; and 3) as an opportunity for you to review the material on your own, at home, to be sure that you have gotten all out of the TV program and the group discussion that you want to.

Here is how the Study Workbook is to be used.

FOR THE GROUP DISCUSSION PERIOD

For the group discussion period which follows the television program, the discussion leader will provide you with the general and specific instructions. Just be sure that you write the answers he provides you in the space between the dashed lines and not in the blank spaces of the body of the items themselves. You will see what is meant when you get into the workbook proper.

FOR HOME REVIEW AND STUDY

Use the Workbook for review and study on your own as follows:

Before you get to the first item, cover the printed text of the workbook with a blank sheet of paper. Slide the blank paper down until you come to a triple star or asterick (***). Continue reading the printed material, above the stars, until you come to a numbered blank.

Fill in the blank with the word, words, or sentences which is/are missing to make sense out of the sentence so that it will then read correctly.

After you have filled in all of the blanks which are contained in an item, slide the loose sheet of paper down from its position, even with the stars, until it is just far enough to reveal the numbered correct answer or answers. These will be the answers which you have already filled in during the group discussion period. The numbers on these answers will correspond to the numbered blank or blanks which you will have just completed in the body of the item at home.

Next, slide the blank paper down past the printed material of the next item until you come to another set of three stars. Stop the blank paper so as not to reveal the answers. Answer the item by filling in the blanks. Proceed throughout the Workbook as just described.

By using this method at home, you can both (1) check to see how well you have learned the content of the associated television program and you can (2) find out immediately, item by item, whether the answer you have just given is correct.

Even after the workbook has been filled in, both in the blanks contained in the body of the items and between the dashed lines, it provides an excellent means for review.

An EXAMPLE of how to use this "Study Workbook" at home is as follows:

When a person is found dead and his death appears as though it had been caused by foul play, an officer would question whether some form of the crime of (1) _____ had been committed.

*** NOTE: Throughout the Workbook, the three stars indicate that, when working at home, you should not slide your blank paper farther down the page until you have given your answer or answers by filling in all the blanks in the item -- after you have written your answer or answers, slide the blank paper on down to reveal the correct answer.

Answer: (1) homicide+ (see footnote at bottom of page)

Note: Although the answer or answers is/are provided on this page of examples, ordinarily this page would not contain the answer or answers until you write it/them in during the group discussion period.

As another example, an item might call for more than one answer:

(Now, slide the blank paper down past the next item, stopping when you come to the three stars, and proceed, as above.)

A distinction which is made by some states, but not by South Carolina, is to identify murder as either (2) _____ murder or as (3) _____ murder.

Answers: (2) first degree (3) second degree

+ Note: In some cases there may be other words which mean the same thing as those given you as the answer. When this is true, the important fact is whether you have given an answer which does not differ significantly in meaning from the one given as the "correct" answer.

If there are any further questions about how to use the "Study Workbook", either during the group discussion period or at home, please do not hesitate to ask your group discussion leader for additional information.

Now to proceed with your study and review!

Generally, the term "Homicide" refers to an act of (4) _____

Answer: (4) _____

Where one person kills another individual without legal (5) _____ or (6) _____, the act of killing will be deemed unlawful.

Answers: (5) _____ (6) _____
(either order)

In the absence of a statute, the crime of homicide is either (7) _____ or (8) _____.

Answers: (7) _____ (8) _____
(either order)

If the crime is manslaughter, it may be either (9) _____ manslaughter or (10) _____ manslaughter.

Answers: (9) _____ (10) _____
(either order)

Basically, a "homicide" is excusable when it is the result of an (11) _____ that occurred during the commission of a (12) _____ act in a (13) _____ manner.

Answers: (11) _____ (12) _____
(13) _____

A "homicide" is justifiable when it is committed in (14) _____ to prevent either (15) _____ or (16) _____.

Answers: (14) _____
(15) _____ (16) _____
(either order)

The killing of a person who was going to die anyway is/is not (26) _____ a homicide.

Answer: (26) _____

We are all going to die; thus, it is no defense that the person was dying. The law regards the extinguishment by another of the last spark of life that is left in a human being as homicide. If there is any life at all in a human body, the destruction of that life by another is considered homicide. The victim's mental competency and one's physical state is immaterial.

Where a person kills a living convict, whether the convict is under either a life or death sentence, the killing will be regarded as a (27) _____.

Answer: (27) _____

The phrase, "born of woman", has a great deal of significance. Under the common law, it is not murder to kill an (28) _____ child.

Answer: (28) _____

The law requires that a child be physically (29) _____ of the woman's body and be (30) _____ before it can be regarded as a subject of homicide.

Answers: (29) _____ (30) _____

It is sometimes stated that the child must have been wholly expelled from its mother's body and was possessed of or capable of an existence by means of (31) _____.

Answer: (31) _____

Suppose a child is born alive in spite of an attempt to kill it while the child was in the mother's womb, and after it is born the child dies as a result of the prenatal attempts to kill it. A homicide has occurred.

The reason is because the child's death meets the two requirements to be considered a homicide victim. For one thing, it was (32) _____.

Also, it was (33) _____.

Answers: (32) _____ (33) _____

It should be recognized, however, that while killing of an unborn child will not be treated as a homicide, the defendant would be guilty, in some cases, of violating the (34) _____ statutes.

Answer: (34) _____

Consider the following case. A wants to kill B. A gets his pistol and goes to B's house. While A is on his way over to B's house, B has a heart attack and dies as he sits in a chair in his living room. A goes to the window and sees B sitting in the chair. A doesn't know that B has died. A shoots B through the head. A is/is not guilty (35) _____ of a homicide.

Answer: (35) _____

The reason that A is not guilty of homicide is because B must be (36) _____ in order to be a homicide victim.

Answer: (36) _____

In the above case, even though he is not guilty of homicide, A, nevertheless, is guilty of the crime of (37) _____.

Answer: (37) _____

Consider a case in which A shoots B in the head. B will die from this head-wound; however, before he dies, C comes along and stabs B in the heart. This wound in the heart kills him. C could/could not (38) _____ use as a defense the fact that B was dying of a mortal wound inflicted by A.

Answer: (38) _____

It makes no difference that the victim was dying at the time the defendant acted. If the act of the defendant hastens the death of the victim, he is guilty of a homicide. This would be true even though the victim was in a dying condition as a result of a mortal wound administered by someone other than the defendant.

Suppose A stabs B and B dies fifteen months later. A would/would not (39) _____ be guilty of homicide.

Answer: (39) _____

It is necessary that the death occur within (40) _____ after the defendant acted for him to be guilty of homicide.

Answer: (40) _____

The reason for this rule is that when death occurs more than a year and a day after the defendant's act, the law regards the death as due to (41) _____ rather than due to the act of the accused.

Answer: (41) _____

In the example above, in which A stabs B and B dies fifteen months later, instead of being guilty of homicide, A would be guilty of

(42) _____.

Answer: (42) _____

A person must/need not (43) _____ intend to kill a particular individual before he can be guilty of homicide.

Answer: (43) _____

The definition of homicide specifies the killing of one person by another person. The definition makes no reference whatever to intent. An actual intent to kill a person is not an essential element of homicide.

Murder, as well as manslaughter, may be predicated upon an (44) _____ killing that occurs in the commission of an unlawful act.

Answer: (44) _____

If the intention of the defendant is to do an (45) _____ act, this intention supplies the necessary mental element.

Answer: (45) _____

Suppose that a person, without any lawful excuse, fires a pistol into a crowd of people. He does this without intending to kill anyone. He just wants to scare them or to have fun. Despite his lack of an intent to kill anyone, he does so anyhow.

Because his conduct was extremely reckless, the law would say that he is guilty of a (46) _____.

Answer: (46) _____

Suppose that a person desires only to inflict great bodily harm upon a victim. He does not intend to kill the other individual. He only wants to hurt him very bad.

If the victim dies as a result of the injury inflicted, the one causing the injury will be deemed guilty of a (47) _____ even though it was not his (48) _____ to kill him.

Answers: (47) _____ (48) _____

The intent to cause grievous bodily harm or injury displays a disregard of (49) _____ and, therefore, a person is held answerable for all the harm he does even though he does not specifically design (50) _____.

Answers: (49) _____ (50) _____

Consider the following case; A shoots B without intending to kill him or with the intent only to cripple B, however, B does die. A would be guilty of a (51) _____.

Answer: (51) _____

Consider another example: A wants to kill B, and sees B standing in a crowd of people. A shoots B but the bullet strikes C instead. Now here, there was an actual intent to kill someone; but the person that A killed was not the one that he wanted to kill.

The fact that the homicidal act was directed against or intended to cause the death of one other than the person killed does/does not (52) _____
_____ relieve the slayer of criminal responsibility.

Answer: (52) _____

The fact that a bystander was killed instead of the intended victim is (53) _____.

Answer: (53) _____

The intent is transferred, in a sense, to the person whose death has been caused. As one court has stated, the malice or intent follows the bullet. There is an issue or complication here, however.

If the killing of the intended victim, in the example above, would have been (54) _____ instead of "murder", then the unintended and accidental killing of the bystander would also be (55) _____.

Answers: (54) _____ (55) _____

One's (56) _____ state in a homicide varies with the nature of the homicide involved.

Answer: (56) _____

In distinguishing between the crimes of murder and manslaughter, the (57) _____ of the accused is an important factor.

Answer: (57) _____

One's mental state determines which of the offenses, between murder and manslaughter, has occurred in a given case. Notice that the term is "mental state" - not "mental intent."

Where a person, other than the one that the defendant intends to kill, is slain, homicide partakes of the quality of the original act. Thus, the guilt of the perpetrator of the crime, in the case where a bystander, instead of the intended victim is killed, will be determined by (58) _____

Answer: (58) _____

Consider this example: A intends to kill B but kills C instead.

If A would have been guilty of murder had B been killed, then A is guilty of murder for having killed C; however, if A would have been guilty of only manslaughter had B been killed, then A is guilty of manslaughter for having killed C.

The question is (59) _____

Answer: (59) _____

One's motive in killing another person is important, and a police officer in investigating a homicide ought to try to find out what it was. It is/is not (60) _____ an essential element of a "homicide."

Answer: (60) _____

Consider the following example: B is dying of cancer and is in terrible pain. A loves B very much and cannot bear to see B's suffering. To put B out of his misery, A kills B. A is prompted by love in killing B. The act of A is/is not (61) _____ considered homicide.

Answer: (61) _____

The above answer is so because motive is not an essential element of a homicide.

To summarize thus far, a homicide is a killing of a person by another individual.

If the homicide is inexcusable or unjustifiable, it is, of course, unlawful. The term "Homicide" will include the common law crimes of murder, voluntary manslaughter, and involuntary manslaughter. In South Carolina, there are no degrees of murder. Only a living human being that is born of woman can be a victim of homicide. The victim's mental and physical condition is immaterial. Neither an unborn child nor a dead person can be a homicide victim.

Where a person is dying and another accelerates the latter's death, the individual performing the act that hastens the other's death will be deemed guilty of homicide. On the other hand, where one inflicts an injury upon another from which he dies more than one year and a day later, the accused cannot be guilty of a homicide.

Neither intent to kill nor motive is an essential element of a homicide; but one's mental state is a factor which will be important in determining whether the crime of murder or manslaughter was committed.

When a person intends to kill a particular individual but kills a bystander instead, the defendant will be guilty of a homicide. As to whether, in such a case, the offense is "manslaughter" or "murder" will depend upon the mental state of the accused with regard to the intended victim.

A person is not legally responsible for the death of another individual unless his act (62) _____ or contributed to the other person's death.

Answer: (62) _____

For an act to be considered a cause of death, it is necessary that death be a natural or (63) _____ result of the act in question.

Answer: (63) _____

It is not necessary that the result or consequences of the act should have actually been foreseen or intended by the accused.

Consider a case in which A points a gun at B's head and fires, the natural and probable result of A pointing the gun at B's head and firing it is that B will be put to death -- that is, be killed.

Suppose, A is "playing" and does not think that the gun is loaded when he has it pointed at B's head; but the gun is, as a matter of fact, loaded. A does not intend to kill B. He doesn't actually foresee that he is going to kill B. A pulls the trigger, and a bullet, which A did not know was in the gun, enters B's head. As a result, B falls dead. A would be guilty of (64) _____.

Answer: (64) _____

Causation, in the cases above, refers to the (65) _____ consequences of an act that produces death.

Answer: (65) _____

It does not make any difference whether the person actually foresaw the consequences of his act or actually intended them.

An act may be too remote to be considered a cause of death.

If the victim would not have died as a result of the wound, and death was caused solely by an act of the victim or the attending physician, the person inflicting the wound is not responsible.

Consider another case of stabbing. A stabs B in the arm. The wound is not such in and out of itself to cause death. For example, the victim would not have bled to death. B does not seek medical attention. He is killed in an automobile accident the same day. In this case, A is/is not (71) _____ guilty of homicide.

Answer: (71) _____

If a victim receives a wound from which he would not have died, but he dies because of his own act or that of his doctor, the person causing the wound would not be criminally responsible.

Take this example. A hits B on the head with a rock. The wound, if left untreated, would not cause death. However, B is anxious about his wound and goes to the doctor. B's doctor is negligent in treating B's superficial head wound and B dies as a result. A would/would not (72) _____ be responsible.

Answer: (72) _____

Where a person wounds another and that wound develops into or initiates an affliction or disease from which the wounded person dies, the one causing the wound is (73) _____ responsible.

Answer: (73) _____

Should A stab B, and B develops blood poisoning and dies, A would be guilty of (74) _____.

Answer: (74) _____

Where one inflicts a wound upon another which develops into an affliction or disease from which he dies, the individual causing the wound will be criminally liable.

The above rule will be applied not only to diseases or afflictions (75) _____ related with the wound - such as lockjaw - but to (76) _____ conditions as well - such as pneumonia.

Answers: (75) _____ (76) _____

In summary, for one to be legally responsible for the death of another person, he must have done the act, the natural and probable consequence of which is to produce death. The wrongdoer need not have actually foreseen or intended that his act cause death.

Where one does some act which is too remote to have brought about death, he will not be criminally responsible. Should one perform an act that could cause death but an independent intervening cause with which the person is not associated brings about another's death instead, the accused will not be guilty of a homicide.

A wrongdoer is not relieved of criminal liability where his victim acts negligently or carelessly.

In a case where a person wounds another and the person dies as a result of an affliction or disease that has developed from or has been initiated by the wound, the defendant would be guilty of a homicide.

Each person is strongly urged to retain their reference material. Prior to the next television program, the material contained herein should be reviewed in detail, because the law of homicide is most difficult and requires devoted study.

"Basic Criminal Law"

Part III
Homicide, Section I

Study Workbook Answer Key

-
- | | |
|---------------------------------------|---|
| (1) Homicide | (26) is |
| (2) first degree | (27) homicide |
| (3) second degree
(either order) | (28) unborn |
| (4) one person in killing another | (29) out |
| (5) excuse | (30) living |
| (6) justification
(either order) | (31) a circulation independent
of its mother |
| (7) murder | (32) alive |
| (8) manslaughter
(either order) | (33) born of woman
(either order) |
| (9) voluntary | (34) abortion |
| (10) involuntary
(either order) | (35) is not |
| (11) accident | (36) alive |
| (12) lawful | (37) attempted murder |
| (13) lawful | (38) could not |
| (14) self-defense | (39) would not |
| (15) death | (40) a year and a day |
| (16) serious bodily harm | (41) natural causes |
| (17) does not | (42) assault and battery with
intent to kill |
| (18) kills himself | (43) need not |
| (19) a person is killed by
another | (44) involuntary |
| (20) a human being | (45) unlawful |
| (21) is not | (46) homicide |
| (22) living | (47) homicide |
| (23) could | (48) intention |
| (24) mental | |
| (25) physical
(either order) | |

-
- (49) consequences
(50) death
(51) homicide
(52) does not
(53) immaterial
(54) manslaughter
(55) manslaughter
(56) mental
(57) mental state
(58) what his guilt would have been had the fatal blow fallen upon the intended victim rather than the bystander.
(59) what was the accused's mental state at the time
(60) is not
(61) is
(62) caused
(63) probable
(64) a homicide
(65) probable
(66) remote
(67) natural and probable consequence
(68) would not
(69) is not
(70) sufficient to have caused death
- (71) is not
(72) would not
(73) criminally
(74) homicide
(75) directly
(76) disassociated

STATEWIDE LAW ENFORCEMENT EDUCATION THROUGH TELEVISION

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