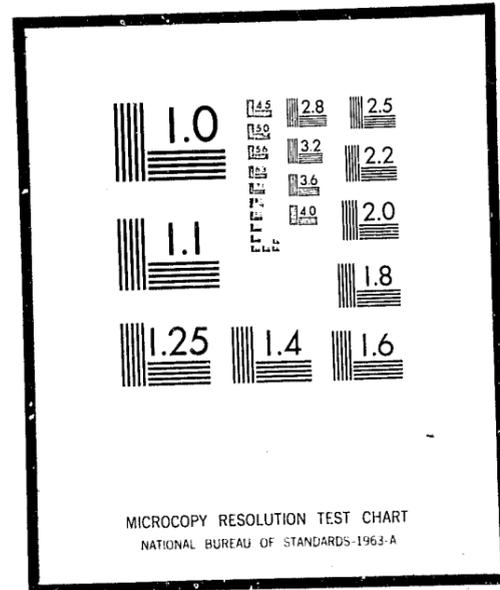


NCJRS

This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U.S. Department of Justice.

U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
WASHINGTON, D.C. 20531

Date filmed,

1/28/76

SOUTH CAROLINA LAW ENFORCEMENT ETV TRAINING PROGRAM

17406

BASIC CRIMINAL LAW (Homicide, Section III) PART V 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 V -

"Homicide", Section III,

Study Workbook

LAW ENFORCEMENT - E.T.V. TRAINING PROGRAM

"Basic Criminal Law"

Part V

"Homicide", Section III

By

C. T. Goolsby, Jr.
Assistant Attorney General
(South Carolina)

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

Those aspects of law enforcement, dealing with homicide, which are covered in this program include "murder", "manslaughter", and "reckless homicide".

LAW ENFORCEMENT - ETV TRAINING PROGRAM

"Basic Criminal Law", Part V

"Homicide", Section III

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 have 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 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 asterik (**). 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 down 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 have just completed in the body of the item at home.

Next, slide the blank paper down past the printed material of the following 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, 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:

"Murder" is defined at common law as the felonious killing of a human being by another with (1) _____.

*** 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 of 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) malice aforethought+ (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:

A "homicide" is the (2) _____ of one (3) _____ by another human.

Answers: (2) killing (3) human being

+ 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 the answer which does not differ significantly 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!

The definition of "murder" differs from the definition of "homicide". A "homicide" is defined as the killing of one human being by another human being. "Murder" means the felonious killing of a human being by another with malice aforethought.

What are the differences between the terms "homicide" and "murder"? "Homicide" appears to be a broader term. "Murder" involves a felonious killing with malice aforethought. "Homicide's" definition does not mention anything about the killing being done (4) _____ or with (5) _____.

Answers: (4) _____
(5) _____

There are six elements for the crime of "murder"; stated simply and briefly, they are: (answers in any order)

- (6) _____
- (7) _____
- (8) _____
- (9) _____
- (10) _____
- (11) _____

- Answers: (6) _____
- (7) _____
- (8) _____
- (9) _____
- (10) _____
- (11) _____

The term "malice" cannot be given a literal interpretation. While in most cases, actual hatred or enmity may be present, malice is not (12) _____ in its meaning to hatred or ill-will.

Answer: (12) _____

Malice may/may not (13) _____ exist in a given case even though the killer is not mad at anyone.

Answer: (13) _____

Malice may/may not (14) _____ exist where there is no intent to kill anyone.

Answer: (14) _____

Generally speaking, malice is a term which implies wickedness and excludes a just cause and excuse. It indicates a wicked or depraved spirit, intent on doing wrong, and malice may be either (15) _____ or (16) _____.

Answers: (15) _____ (16) _____

Express malice exists where a person kills another with a (17) _____ mind.

Answer: (17) _____

Express malice is present where there is an actual intent to kill the person who is, in fact, slain or where there is an actual intent to slay a particular person but another is actually killed instead.

Implied malice is where there is no actual intent to kill, but death is caused by an act which discloses such disregard for the (18) _____ as to amount to or be the equivalent of (19) _____.

Answers: (18) _____ (19) _____

Implied malice may be presumed from the use of a deadly weapon, such as a pistol, or it may be presumed from the wilful and intentional doing of an unlawful act such as throwing a rock at a passing car.

Murder is considered to have occurred with implied malice in the following three cases - when a killing takes place or occurs: (answers in any order)

(20) _____

(21) _____

(22) _____

Answers: (20) _____

(21) _____

(22) _____

The word "aforethought" is usually understood to refer to the time when the evil is conceived. The law does/does not (23) _____ require that malice exist for any particular length of time prior to the killing.

Answer: (23) _____

Malice can exist a split second before death.

It will not be sufficient if malice existed (24) _____ the killing.

Answer: (24) _____

Neither (25) _____ nor actual (26) _____ to kill is an element of murder.

Answers: (25) _____ (26) _____

The State must prove malice, and malice may be proved by showing the actual intent.

With respect to the other four elements of murder: there must be a killing - the extinguishment of life. The killing must be felonious - that is, without just cause or excuse. Another human being must be killed - that is, a living creature born of woman. Finally, the killing must have been done by another person.

Manslaughter, at common law, and by virtue of Section 16-55, means the unlawful killing of another human being without (27) _____, either (28) _____ or (29) _____.

Answers: (27) _____ (28) _____
(29) _____

In murder, there must be either expressed or implied malice. In manslaughter, malice is not present.

Voluntary manslaughter is defined as the (30) _____ and (31) _____ killing of another human being without (32) _____ in a sudden heat and passion upon a sufficient legal provocation.

Answers: (30) _____ (31) _____
(32) _____

Voluntary manslaughter is an unpremeditated and wilful killing. That is, one which is committed suddenly, without reflection, but done intentionally.

The elements of voluntary manslaughter are:

1. (33) _____ and _____ killing;
2. (34) of _____;
3. without (35) _____;
4. in a (36) _____;
5. upon a (37) _____.

- Answers: (33) _____
- (34) _____
- (35) _____
- (36) _____
- (37) _____

A "sudden heat and passion" is a state of mind which prohibits a (38) _____ man from conducting himself in a (39) _____ manner.

- Answers: (38) _____ (39) _____

A "sudden heat and passion" means a violent dethronement of reason. The person is in such a state of mind that he cannot control his actions - he cannot reflect upon things. This state of mind - this sudden heat and passion - may be the result of anger, rage, resentment, or terror.

For a "sudden heat and passion" to exist, it is not enough for one to be simply angry or terrified or highly excited. He must be in that frame of mind due to a (40) _____.

Answer: (40) _____

To be "sufficient legal provocation", such provocation may consist of anything the natural tendency of which is to produce (41) _____ in ordinary men.

Answer: (41) _____

Consider the following: A loves his wife very much. One day, he returns home from work earlier than usual. He opens the door to his bedroom and sees that his wife is in bed with another man, B. A is thrown into a fit of resentment and anger. He goes to a dresser drawer, finds his pistol, and thereupon, kills B. A is guilty of (42) _____.

Answer: (42) _____

In the case described above, there is/is not (43) _____ an "unwritten law" to cover such circumstances.

Answer: (43) _____

Where one spouse sees the other engaged in adultery and kills either adulterer, the crime is (44) _____.

Answer: (44) _____

Suppose, in the case above, A had not killed B right away but had waited two weeks before killing B. An ordinary and reasonable man would not remain in a state of uncontrollable rage for two weeks. The law says that if a reasonable time has elapsed for the blood to cool and reason to return, the killing will be regarded as (45) _____.

Answer: (45) _____

If a killer's passion is cooled by a sufficient length of time elapsing between the date of the provocation and the date of the homicide for a reasonable man to regain control of himself, the killer is guilty of "murder", not "manslaughter".

Three additional situations where provocation has been held sufficient to reduce an intentional killing from "murder" to "manslaughter" are: (answers in any order)

1. Where (46) _____
2. Where (47) _____
3. Where (48) _____

- Answers: (46) _____
 (47) _____
 (48) _____

Words alone, if dirty and abusive, are/are never (49) _____ a sufficient legal provocation for homicide.

Answer: (49) _____

A simple trespass, either on one's land or against one's person, is/is not (50) _____ an adequate provocation for homicide.

Answer: (50) _____

"Voluntary manslaughter" differs from "involuntary manslaughter" in that involuntary manslaughter does not involve a killing in a (51) _____ upon a sufficient legal provocation; however, like voluntary manslaughter, there is no (52) _____ involved.

- Answers: (51) _____
 (52) _____

There are several ways of committing involuntary manslaughter. First, by committing an (53) _____ act that does not amount to a (54) _____; second, by committing an act that is likely to (55) _____; third, by (56) _____ doing a lawful act; and fourth, by failing to perform a (57) _____.

Answers: (53) _____ (54) _____
(55) _____
(56) _____ (57) _____

If any of the acts stated in the item above result in death, the party performing the act is guilty of (58) _____.

Answer: (58) _____

Involuntary manslaughter may be defined as an unlawful homicide unintentionally caused by another who was engaged in the commission of an unlawful act which did not amount to a felony or an unlawful act which was likely to endanger life or as an unlawful homicide unintentionally caused by another who acted negligently in performing a lawful act or negligently omitted or failed to act where a legal duty was owed.

Consider a case in which A, who is a man, calls B, who is a woman, over the telephone and makes an indecent and obscene proposal to her. B is a woman who has had a history of heart attacks. A's proposal so terrifies B that she dies of a heart attack.

Section 16-552 declares it to be a (59) _____ for one to communicate an indecent message by telephone to a woman. A's commission of this misdemeanor has resulted in B's death. A would be guilty of (60) _____.

Answers: (59) _____
(60) _____

Involuntary manslaughter may be committed where a person commits an unlawful act that does not amount to a felony and another person dies as a result.

Consider a case in which A is a practical joker. A sees B about to sit down in a chair. Before B has contact with the chair, A pulls the chair out from under B. B falls and his head strikes a hard object causing B to suffer a fatal wound. A would be guilty of (61) _____.

Answer: (61) _____

Involuntary manslaughter may be committed where a person performs an act that is likely to endanger life and another dies as a result.

Consider the case where A is in the woods legally hunting deer. A is engaged in a lawful act. A sees some bushes move. He aims his gun and fires. B falls from behind the bush and is dead. A is guilty of (62) _____.

Answer: (62) _____

Involuntary manslaughter may be committed where a person negligently performs a lawful act which results in another's death.

Suppose A's child is ill and is in very bad need of a doctor. However, A is drunk and does not notice the child's condition. The child dies. A negligently failed to act because of his condition and is guilty, therefore, of (63) _____

Answer: (63) _____

Involuntary manslaughter may be committed where a person negligently omits to perform a legal duty. For example, a parent owes a legal duty to his child, a husband to his wife, physician to patients, and so on.

"Involuntary manslaughter" and "reckless homicide" are similar. The latter is a statutory offense and is contained in Section 46-341 of the Code. That section reads, in part, as follows: "When the death of any person ensues. . . as a proximate result of injury received by the driving of any vehicle in reckless disregard of the safety of others, the person so operating such vehicle shall be guilty of (64) _____"

Answer: (64) _____

The elements of "reckless homicide" are: one, the death of a (65) _____; two, which is (66) _____ caused by another person; and three, because of a reckless operation of a (67) _____

Answers: (65) _____ (66) _____
(67) _____

"Reckless homicide" differs from "involuntary manslaughter", when an automobile or other vehicle is involved, in that "involuntary manslaughter" is concerned with (68) _____ whereas "reckless homicide" involves (69) _____

Answers: (68) _____

(69) _____

Negligence means the (70) _____

Answer: (70) _____

Recklessness, on the other hand, means (71) _____

Answer: (71) _____

Suppose that a person acts in such a manner as to indicate that it makes no difference to him whether what he is doing hurts somebody or not, he is acting (72) _____.

Answer: (72) _____

Your Study Workbook concludes with an example based on a Pennsylvania case.

SCENE: Two men go into a country store. Storekeeper is behind his counter. Once inside, the two men look cautiously around.

Storekeeper: Can I help you gents?

First Man: (Pulling out pistol.) I think so. (Storekeeper puts his hands in the air.) Give me all your money. Not just that in the cash register, but whatcha got in your pockets, too.

Second Man: (Standing at a window.) Hurry it up. Somebody's coming!

(Storekeeper empties cash register and his pockets, and hands money to first man.)

First Man: Thanks buddy. (To other man.) Let's split!

(When both men have turned their backs, storekeeper obtains a revolver and shoots second man in the back as he follows first man through the door.)

END OF SCENE

As to what kind of crime, if any, has been committed and by whom, we leave that up to you to decide with your discussion leader.

Thank You

Part V

"Homicide", Section III

STUDY WORKBOOK ANSWER KEY

-
- | | |
|--|---|
| (1) malice aforethought | (25) motive |
| (2) killing | (26) intent |
| (3) human being | (27) malice |
| (4) feloniously | (28) expressed |
| (5) malice aforethought
(either order) | (29) implied |
| (6) killing | (30) felonious |
| (7) felonious | (31) intentional
(either order) |
| (8) a human being | (32) malice |
| (9) by another human being | (33) felonious <u>and</u> intentional |
| (10) with malice | (34) another person |
| (11) aforethought
(answers in any order) | (35) malice |
| (12) limited | (36) sudden heat and passion |
| (13) may | (37) sufficient legal provocation |
| (14) may | (38) reasonably prudent |
| (15) expressed | (39) sane |
| (16) implied
(either order) | (40) sufficient legal provocation |
| (17) sedate and deliberate mind | (41) passion |
| (18) the consequences | (42) voluntary manslaughter |
| (19) actual intent | (43) is not |
| (20) during the commission of a felony | (44) voluntary manslaughter |
| (21) where a person resists lawful
arrest | (45) murder |
| (22) under circumstances which show a
heart devoid of social duty and
fatally bent upon mischief | (46) the deceased has violently assaulted
his slayer |
| (23) does not | (47) there has been an attempt to arrest
the accused illegally |
| (24) after | (48) There has been mutual combat un-
sought by the accused |
| | (49) are never |

-
- (50) is not
- (51) sudden heat and passion
- (52) malice
- (53) unlawful
- (54) felony
- (55) endanger life
- (56) negligently
- (57) legal duty
- (58) involuntary manslaughter
- (59) misdemeanor
- (60) involuntary manslaughter
- (61) involuntary manslaughter
- (62) involuntary manslaughter
- (63) involuntary manslaughter
- (64) reckless homicide
- (65) person
- (66) proximately
- (67) vehicle
- (68) negligence
- (69) recklessness and wantonness
- (70) The lack of ordinary care, carelessness,
or failure to exercise due care
- (71) an utter disregard of the rights or
safety of others. It is a conscious
failure to exercise due care
- (72) recklessly

STATEWIDE LAW ENFORCEMENT EDUCATION THROUGH TELEVISION

This training program is made available through the cooperation of the South Carolina Law Enforcement Division, the South Carolina Educational Television Network and the U. S. Department of Justice through funds made available under the Law Enforcement Assistance Act of 1965.

This publication does not necessarily reflect the views of the U. S. Department of Justice.

SOUTH CAROLINA EDUCATIONAL TELEVISION NETWORK



END