**Homicide: Murder and Manslaughter**

**Murder and manslaughter are two types of homicide (the killing of a human being).**

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**What Is Homicide?**

When we hear the term "homicide," we tend to think of murder and manslaughter. But these are just two types of homicides. Homicide encompasses lawful killing (such as a killing in self-defense), intentional killing (murder), state-sanctioned killing during war, and negligent or reckless killing (manslaughter). Homicide even describes what happens when the state executes someone.

**What Is Murder?**

Murder is one type of homicide that involves very specific elements under the law. The crime of murder is the killing of one human being by another that is:

* intentional (an accidental killing is usually not murder, except in cases of felony murder)
* unlawful (as opposed to the lawful killing by a police officer of a suspect during a shoot-out, for example), and
* done with “malice aforethought.”

Malice aforethought, which is sometimes erroneously called “premeditation” (a type of malice aforethought), describes a state of mind or action that evinces an:

* intent to kill
* intent to inflict very serious or grievous bodily harm
* extremely reckless indifference to the value of human life, or
* intent to commit a dangerous felony (which accidentally results in the death of another).

Although the law on murder varies from state to state, most states recognize common degrees of murder. Murder includes premeditated murder (first-degree murder), unpremeditated murder where the defendant intended to inflict grievous bodily harm (second-degree murder), and felony murder (death caused during the commission of a dangerous felony).

Here are some examples of these common types of murder:

* **First-degree murder.** A deliberate, premeditated killing is generally considered first-degree murder. Where the defendant planned the killing (as in a poisoning), she will usually be charged with first-degree murder. The Los Angeles district attorney charged O. J. Simpson with two first-degree murder counts in the deaths of his ex-wife Nicole Simpson and another person. The district attorney brought the first-degree murder charges based on crime scene evidence, including a bloody glove, and on evidence that Simpson allegedly spied on his wife prior to the killings. Such evidence could have indicated a plan or premeditation to commit the crimes.
* **Second-degree murder.** In the widely-reported shooting death of Florida teen Trayvon Martin, the prosecutor in Seminole County, Florida, charged neighborhood watch volunteer George Zimmerman with second-degree murder. The reason that the prosecutor charged Zimmerman with second-degree murder is that Zimmerman shot Martin but there was no evidence that the killing was premeditated. To win a conviction of Zimmerman on the charge, the prosecutor needed to prove to the jury that Zimmerman intended to inflict grievous bodily harm on Martin.
* **Felony murder.** Let’s assume by way of example that Bonnie and Clyde rob a bank. Clyde shoots and kills the guard during a confrontation. Clyde is charged with first-degree murder. Bonnie is charged with felony murder because the guard died during Bonnie’s participation as an accomplice in committing the dangerous felony of armed robbery. Now let’s assume instead that Bonnie waits behind the wheel of the getaway car while Clyde robs the bank. After the robbery, Clyde jumps into the car and Bonnie speeds off, accidentally hitting and killing a pedestrian. Both Bonnie and Clyde are charged with felony murder because they accidentally killed the pedestrian while committing a dangerous felony.
* **Aggravating circumstances.** Murder committed under certain circumstances, such as by laying in wait or targeting a person in a particular position, such as a police officer, judge, or firefighter, can lead to a more severe sentence, including the death penalty.

**What Is Manslaughter?**

Manslaughter (another type of homicide) is the unlawful killing of one human being by another *without* malice aforethought.

There are several types of manslaughter, including:

* **Involuntary manslaughter.** This often refers to unintentional homicide from criminally negligent or reckless conduct. It can also refer to an unintentional killing through commission of a crime other than a felony. In November 2012, a Las Vegas jury found a man guilty of involuntary manslaughter for a single punch to a fellow casino patron who died when he hit his head as he fell.
* **Voluntary manslaughter.** When a murder charge is reduced to manslaughter due to mitigating circumstances, such as heat of passion or diminished capacity, the reduced charge is sometimes voluntary manslaughter.
* **Vehicular manslaughter.** When this crime is charged, the driver had no intent to kill or cause serious bodily harm but operated a vehicle with criminal negligence (also called “gross negligence”) or during the commission of a misdemeanor and caused another’s death. This charge can include accidental killing by a drunk driver. If the accidental death occurred during the commission of a felony, the charge may be raised to felony murder (discussed above).
* **Intoxication no defense to manslaughter.** Where an intoxicated person acts with criminal negligence and causes the death of another, the intoxicated person may be charged with manslaughter. The fact that the person was too intoxicated to intend to kill or even seriously injure another is no defense because manslaughter does not require intent to kill.

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**Quelle:**

<https://www.criminaldefenselawyer.com/resources/murder-and-homicide.htm>

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