

A man became angry after he was unexpectedly laid off from his longtime job as a factory worker. The next day, he returned to the factory floor and indiscriminately fired shotgun rounds into the air. The man later testified, without contradiction, that he had not intended to kill anyone but had simply sought to exact revenge on the factory's owners by shutting down operations for the day. Unfortunately, one of the bullets ricocheted off the wall and killed the man's best friend.

The crimes below are listed in descending order of seriousness.

On these facts, what is the most serious offense of which the man properly could be convicted?

- A. Murder.
- B. Voluntary manslaughter.
- C. Involuntary manslaughter.
- D. Assault.

## Explanation:

### Homicide

Murder	Common law	Modern approach
	Unlawful killing committed with malice aforethought:	First-degree: murder committed with:
	Intent to kill	premeditation & deliberation
	Intent to cause serious bodily harm	heinous acts (eg, bombing, torture)
	Depraved-heart murder	enumerated felony murder
	Felony murder	Second-degree: any murder that is not first-degree murder
<b>Voluntary manslaughter</b>	Intentional killing mitigated by either: adequate provocation (ie, heat of passion) other mitigating factors (eg, imperfect self-defense)	
<b>Involuntary manslaughter</b>	Unintentional killing either: caused by criminal negligence (or recklessness under MPC) occurs during commission of criminal act (eg, misdemeanor manslaughter)	

**MPC** = Model Penal Code.

Murder is the **unlawful killing** of another with **malice aforethought**. Four types of mental states satisfy the malice aforethought requirement:

Intent to kill – the purpose or knowledge that one's conduct will cause the victim's death

Intent to cause serious bodily injury – the purpose or knowledge that one's conduct will cause serious bodily injury or a significant risk of death

**Depraved-heart murder** – **reckless indifference** to an **obvious or high risk to human life**

Felony murder – intent to commit an **inherently dangerous felony**

Here, the best friend was killed when the man's bullet ricocheted off a factory wall. Although the man did not intend to kill his best friend, he did act with reckless indifference to human life by indiscriminately firing shotgun rounds into the air inside the factory (depraved-heart murder). Therefore, the man properly could be convicted of murder.

**(Choice B)** Voluntary manslaughter is an intentional killing of another prompted by adequate provocation (or imperfect self-defense) and committed before a reasonable cooling-off period has elapsed. Here, the man could not be convicted of voluntary manslaughter since (1) he did not intend to kill his best friend, (2) an unexpected layoff is not adequate provocation, and (3) the murder occurred a day later—after he had cooled off.

**(Choice C)** Involuntary manslaughter is an unintentional killing of another (1) during the commission of an unlawful act or (2) with criminal negligence. Although the man could be convicted of involuntary manslaughter (since he killed the best friend while unreasonably firing a shotgun in the factory), he could also be convicted of the more serious crime of murder.

**(Choice D)** Assault is an attempted battery *or* the intentional infliction of reasonable apprehension of imminent bodily harm. Here, the man could be convicted of assault since he intended to shut down factory operations for the day by causing apprehension of imminent bodily harm with his shotgun. But murder is a more serious offense.

**Educational objective:**

Murder is an unlawful killing committed intentionally (ie, intent to kill or inflict serious bodily injury), during the commission or attempted commission of an inherently dangerous felony (ie, felony murder), or with reckless disregard for human life (ie, depraved-heart murder).

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