

# WEEK 4: HOMICIDE

# HOMICIDE

Things to know.

- **DEFINITION:**
  - When one human being kills another human being
- **Number of Homicides in 2020:**
  - 24,576
- **People involved:**
  - Parties
    - Victim - the person killed
    - Defendant - the killer
  - Lawyers
    - Prosecutor: the lawyer representing the victim.
    - Defense Attorney: the lawyer representing the defendant



## WHAT DO LAWYER S DO?

1. Lawyers research the laws
2. Look at the facts and evidence and then
3. Are in charge of telling the story.
  - What happened (what are the facts)?
  - What is the law? How do the facts fit the law?
  - What does all of this mean?

Remember! Defendants are innocent until proven guilty.

INNOCENT  
UNTIL  
PROVEN  
GUILTY

=

PROOF  
BEYOND A  
REASONAB  
LE DOUBT

- Proof beyond a reasonable doubt is REQUIRED for a guilty verdict.
  - What does it mean?
- The prosecutor must convince the jury that the evidence can point to *no other reasonable explanation* than that the defendant is guilty.
- If there is ANY reason to doubt what the prosecution is saying, then the jury should NOT find the defendant guilty.
  - A very high bar.

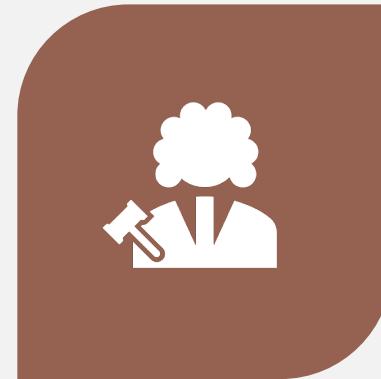
# SPELUNCEANS EXERCISE



READ OUT THE HYPO.



DISCUSS IN GROUPS BASED ON  
THE SIDE YOU ARE ASSIGNED  
TO.



DEBATE YOUR SIDE.  
BE THE BEST POSSIBLE LAWYER  
FOR YOUR CLIENTS!

## TYPES OF HOMICIDE

First Degree Murder

Second Degree  
Murder

Felony Murder

Manslaughter

Act  
us  
Reu  
s

- Voluntary physical act

Men  
s  
Rea

- Required mental state
- Intent – what the perpetrator wants to have happen.

TWO  
BASIC  
ELEMEN  
TS

# FIRST DEGREE MURDER

## Actus Reus

- Must do the act that killed the victim.

## Mens Rea

- Have the intent to kill the victim
  - **Intentional**
    - Intend to kill the person OR
    - Intend to inflict grievous bodily injury
  - **Deliberate**: done on purpose
  - **Premeditated**: planned ahead

Ex. JFK  
assassination & Lee  
Harvey Oswald

- Purchased the gun
- Scoped out the location
- New the parade route
- Wanted to kill JFK

Oswald ...  
planned ahead  
(premeditation)...  
in order to  
achieve his goal  
(deliberate)...  
of killing JFK  
(intentional)

# SECOND DEGREE MURDER

## Actus Reus

- Must do the act that killed the victim.

## Mens Rea

- Have the intent to kill the victim
  - **Intentional**
    - Intend to inflict grievous bodily injury OR
    - Act with a “conscious disregard for human life”
  - **Deliberate**: done on purpose
  - **NOT Premeditated**: did not plan ahead

Ex. JFK assassination – if Lee Harvey Oswald had gone into the building with his gun and intended to shoot JFK, but instead had accidentally shot Jackie Kennedy.

He purposefully shot the gun with the goal of killing someone (deliberate) but he killed the wrong person.  
He decided he did not care who else he hurt or killed in trying to kill JFK.

## PREMEDITATION HYPO I

- Husband and wife lying in bed, having an argument. Wife was saying mean things. Five minutes later husband picked up gun and shot her.
- Was this premeditated?

## PREMEDITATED HYPO 2

- Victim was defendant's coworker and would make fun of defendant's nose. Defendant stabbed victim in the neck out of anger after victim hit him with a towel.
- Was this premeditated?

## PREMEDITATION HYPO 3

- Defendant did not know the deceased. Defendant stabbed deceased 10 times (random stabs). Defendant had no escape plan.

Was this premeditated?

# MANSLAUGHTER

Voluntary Manslaughter	Involuntary Manslaughter
<b>Actus Reus</b> <input type="checkbox"/> do the act that killed the victim	<b>Actus Reus</b> <input type="checkbox"/> do the act that kills the victim
<b>Mens Rea</b> <input type="checkbox"/> Have the intent to kill the victim <u>Intentional</u> : Intent to kill Intend to inflict grievous bodily injury Acted with a “conscious disregard for human <u>Deliberate</u> : acted on purpose <u>NOT premeditated</u> : did not plan ahead Done due to a loss of self-control caused by the victim.	<b>Mens Rea</b> <input type="checkbox"/> Have NO intent to kill the victim <u>NOT intentional</u> : do not want to kill anyone <u>NOT deliberate</u> : Accidental. Not done on purpose. <u>NOT premeditated</u> : did not plan ahead
Ex. Heat of passion murders.	Ex. Vehicular homicide.

# FELONY MURDER

- Deaths that occur during the commission of a felony.

1 <sup>st</sup> Degree Felony Murder	2 <sup>nd</sup> Degree Felony Murder
<p>Someone dies during the commission of a felony</p> <p>And the felony is listed in the 1<sup>st</sup> degree murder statute</p> <p>In CA:</p> <ul style="list-style-type: none"><li>• Arson,</li><li>• Rape,</li><li>• Carjacking,</li><li>• Robbery,</li><li>• Burglary,</li><li>• Mayhem,</li></ul> <ul style="list-style-type: none"><li>• Kidnapping,</li><li>• Train wrecking,</li><li>• Discharging a firearm from a motor vehicle at another person outside of the vehicle with the intent to inflict death</li></ul>	<p>Someone dies during the commission of a felony</p> <p>And the felony is NOT listed in the 1<sup>st</sup> degree murder statute</p>

## EVIDENCE TO LOOK FOR

### Planning

- What did they do before?
- Did they make a plan or was it spur of the moment?

### Motive

- Why did they do what they did?

### Manner

- How did they do it?
- What was the weapon?
- What were the wounds like?

## HYPO I

- If I am playing Russian Roulette with Billy and Bob, if one of them gets the bullet, what am I guilty of?

## HYPO 2

- Joe and I are robbing the bank. We did not go in planning to kill anyone. But Joe gets too excited. He thinks the teller might have seen his face so he shoots the teller. Besides robbery, what am I guilty of?

## HYPO 3

- Erica knows Billy will be at the Lake at 2:00 PM, she decides she is tired of how Billy wears his hair so she goes to the lake intending to drown him. She is successful. What is Erica guilty of?

## HYPO 4

- Erica is at the Lake with Bill. She doesn't know he can't swim but she knows the water is really deep. A reasonable person would have known drowning is a risk. As a joke, she pushes him into the water and he drowns. What is Erica guilty of?

## HYPO 5

- Erica is at the Lake with Bill. She knows he can't swim and she knows the water is really deep. However, without a care in the world, she pushes him into the water and he drowns. What is Erica guilty of?

## HYPO 6

- Fast Boyle is walking along a busy street. Clay bumps into Boyle and continues walking without saying, "Sorry." Angered by Clay's rudeness, Boyle immediately pulls out a gun and kills Clay. What is Clay guilty of?

## HYPO 7

- Owner of a nightclub knows that some of the exits to his nightclub are blocked or locked. One night, when he is at the hospital, a candle falls to the floor at his nightclub and the entire club catches on fire within minutes. Many people are unable to escape because of the exits being blocked or locked so dozens of people die. What is club owner guilty of ?

## HYPO 8

- Bobby sets his house on fire in order to collect insurance money. His son, who unbeknown to Bobby was in the house, dies from the fire. Is Bobby guilty of anything?

## HYPO 9

- Couple had a baby who had a tooth infection. The couple did not get medical attention until the child died from the tooth infection. The couple had a low IQ and had tried to help with child with over the counter medication. Is the couple guilty of anything?

## HYPO 10

- I am committing burglary. The resident wakes up, sees me, and has a heart attack from fear of seeing me. Am I guilty of anything?