

CHAPTER ONE: INTRODUCTION

Chapter Overview

This Chapter introduces the subject of murder and outlines the text book. The public fascination with murder is introduced in this Chapter and is carried throughout the text. The fact that the text is an academic treatment of homicide is stressed in this first Chapter. The Chapter ends with a note to the reader where the author explains that she often uses first person in her writing instead of third person scientific writing for two reasons. First, she believes it makes the reading easier – more approachable and understandable. Second, she wants to point out that someone is writing the text, it does not just exist as scientific fact void of human decisions.

Teaching Suggestions

- ✓ You may consider assigning an additional book for this class to go along with the main text. Fox Butterfield's book *All God's Children* is one such book. This book is great for Southern Subculture of Violence and for discussions about environment, genetics, and criminal offending. Direct ties to Chapters 5, 6, 7 and 9 of *The Murder Book*.
- ✓ Another book that may be of value and of interest to students is Shipley and Arrigo's book *The Female Homicide Offender: Serial Murder and the Case of Aileen Wuornos*. NJ: Prentice Hall. This book is excellent for its description and discussion of Antisocial Personality Disorder. It directly ties to Chapters 5 and 12 of *The Murder Book: Examining Homicide*.
- ✓ Have students keep a journal during the term of this course where they write their reflections on the class and media portrayals of murder during the term. For the first writing have the students write about why they are taking the class and in general what comes to mind when they think of "murder." For the last writing, have the students write about what they have learned and/or how their ideas about murder have changed over the term.
- ✓ There are many films that you can show for this course and I will note many in this instructor's manual. I strongly recommend that you view films before you show them to your class. You may want to warn the students about the level of violence they will be viewing. In fact, I put the following warning on my syllabus for this class:

This class is about murder – a particularly grisly topic for some. During class we may watch film, hold discussions about, and/or make reference to newspaper articles that are graphic portrayals of heinous crimes. If this type of material is upsetting to you, you may wish to enroll in another class.

Discussion/Essay Questions

1. Why do you think there is a public fascination with murder?
2. What are some of the explanations given in the Chapter for the fascination with murder and gruesome killings?
3. Do you find the subject fascinating? Why or why not?
4. What are the author's goals in writing this text?
5. Why does the author use first person rather than the third person scientific method of writing? What do you think of her explanations and her approach?

CHAPTER 2: DEFINITIONS AND DEGREES

Chapter Overview

This Chapter defines different types of criminal homicide. Beginning with an overview of the history of homicide law generally in the U.S., the Chapter explains the difference between *Mala in Se* and *Mala Prohibita* and felony and misdemeanor crimes. With a heavy focus on the Model Penal Code definitions, different types and degrees of criminal homicide are defined as are the following terms: premeditation, deliberation, and malice aforethought.

Teaching Suggestions:

- ✓ Show the film *The Disappearance of Helle Crafts*. This film is about the Wood Chipper Murder Case discussed in this Chapter. You can discuss the evidence needed to prove there has been a murder and how in this case, investigators went to great lengths to provide evidence. *The Disappearance of Helle Crafts* is available at [www.films.com/id/9051/The Disappearance of Helle Crafts.htm](http://www.films.com/id/9051/The_Disappearance_of_Helle_Crafts.htm)
- ✓ Have students watch a televised crime show such as Law and Order and listen for the different types of murder that the prosecutors and officers discuss. Have students explain whether the cases fit the types of murders discussed.
- ✓ Have students complete the Your Turn: UCR Classification assignment in the appendix of this manual. Students can work individually or in groups and then as a class, discuss the answers and classifications. Be sure to discuss the difficulties in determining what classification to use while at the same time emphasizing that the UCR SHR data is one of the most important sources of public data on homicide available to researchers.

Web Assignments:

1. To read more about Wood Chipper Murder Case visit Court TV's Crime Library. <http://www.crimelibrary.com> and search for the Woodchipper Murder Case.
2. On December 20, 2005, the Law Commission in Britain recommended that Britain should adopt a three-tier scale for distinguishing among murder in the law. Do an on-line search to see what you can learn about this proposal and whether it has been adopted. You may find the TIMESONLINE helpful at www.timesonline.co.uk in your search.
3. Use the internet to search for the homicide code in your state. Does your state's homicide law appear to be based upon common law or the Model Penal Code? Does the year and a day rule exist where you live?

Discussion/Essay Questions

1. Is there ever a time when you would consider the killing of a human being to be mala prohibita or do you think it is always mala in se?
2. Name and discuss the elements of homicide according to the Model Penal Code.
3. Early in this Chapter, the author describes a situation in which a man (Todd) suggests to his mistress that he would marry her if his wife were out of the picture. Based on the scenario described in the book, do you think you could convince a jury that Todd was guilty of murder? How would you do it?
4. Do you think that there should be a separate definition or law for corporate homicide as being considered in Great Britain? What might be the benefits and detriments of such a law?
5. Discuss the arguments for and against prosecuting women for the deaths of their unborn babies. In what situations, if any, do you think it makes sense to prosecute women who give birth to stillborn babies?
6. Explain why the shipwreck survivors Dudley and Stephens' argument of necessity did not work?
7. Discuss what mitigates a murder to voluntary manslaughter. Consider the case presented in Box 2.6.
8. Why might it be easier to find a person has caused the death of another in a civil case as compared to a criminal case?
9. When may law officers shoot a suspect according to the ruling in *Tennessee v. Gardner*? Do you think the ruling by the court is reasonable? What do you think constitutes probable cause in determining whether a suspect poses a significant threat as indicated in the ruling?
10. What is "suicide by cop" and what type of training do you think, if any, law enforcement should be given to deal with this phenomenon?

Multiple Choice Questions:

1. The first homicide statute in the United States was instituted in which state?
 - A. New Jersey
 - B. Pennsylvania *
 - C. New York
 - D. Massachusetts

2. Scott Alexander was shooting pigeons on his street when one of the bullets went through his neighbor's fence striking him and killing him instantly. According to the Model Penal Code, Alexander could be charged with murder because:
 - A. Alexander always hated his neighbor and this could be considered a motive for murder.
 - B. It is against the law to discharge a firearm within city limits.
 - C. Alexander was acting reckless. *
 - D. Alexander could not be charged with murder according to the Model Penal Code because he did not knowingly shoot his neighbor.
3. According to the Model Penal Code, this is the unlawful and intentional killing of one person by another committed in the heat of passion with adequate provocation.
 - A. Murder
 - B. Voluntary Murder *
 - C. Premeditated Murder
 - D. Passionate Murder
4. This is the unlawful killing of a human being without premeditation.
 - A. Misdemeanor homicide
 - B. Manslaughter *
 - C. First Degree Murder
 - D. Unlawful murder
5. In common law for a killing to be considered manslaughter instead of first or second degree murder, the malice aforethought must be lacking because of:
 - A. Limited *mens rea*
 - B. Provocation *
 - C. A reckless disregard for human life
 - D. Justification
6. Each of the following may be considered provocation for a killing to be deemed manslaughter except for:
 - A. adultery with offender's spouse
 - B. mutual combat
 - C. illegal arrest
 - D. taunting words *
7. If a child dies from malnutrition in a state that follows the Model Penal Code, what is the most likely charge?
 - A. Manslaughter
 - B. Infanticide
 - C. Negligent Homicide *
 - D. Involuntary Murder

8. Beardsley was originally found guilty of manslaughter in the killing of Ms. Burns who he had spent the weekend with drinking and taking morphine pills. What did the Supreme Court rule?
- A. The Supreme Court upheld the guilty verdict because Beardsley failed to perform his duty to care for Burns.
 - B. The Supreme Court overturned the guilty verdict because Beardsley did not supply the morphine to Burns.
 - C. The Supreme Court overturned the guilty verdict because Beardsley had no legal duty to save Burns.*
 - D. The Supreme Court upheld the guilty verdict because Beardsley's legal duty to save Burns was transferred to the man who moved Burns out of the apartment.
9. In jurisdictions that make a distinction between first and second degree murder, first degree murder is defined as:
- A. Deliberate
 - B. Heinous
 - C. Premeditated
 - D. Both A & C *
10. A prosecutor may consider evidence that a youngster who killed his father was abused by his father to charge the youth with a lesser crime. What is the prosecutor considering?
- A. Defense motions
 - B. Mitigating circumstances *
 - C. Aggravating circumstances
 - D. Felonious circumstances
11. According to the felony murder rule, when may Robert be found guilty of murder?
- A. Robert is a getaway driver and the police shoot a guard while Robert's accomplices are robbing a bank.
 - B. Robert shoots at a man he is trying to rob. The man runs into traffic and is hit by a car which kills him.
 - C. Robert's accomplice is shot by a guard while Robert and his accomplice are robbing a bank.
 - D. In all of the above situations, Robert may be found guilty of murder following the felony murder rule. *
12. When is a murder eligible for a death sentence in states that allow for the punishment of death for murder?
- A. If the murder victim is of special class (e.g. police officer).
 - B. If the murder meets special mitigating circumstances.
 - C. If the murder meets special aggravating circumstances.
 - D. A & C only *

13. It is easier to find an individual responsible for a wrongful death than it is to find them guilty of murder because:
- A. Civil courts do not use juries
 - B. Burden of proof is beyond a reasonable doubt in civil cases
 - C. The accused must take the stand to testify. *
 - D. In civil cases, the state prosecuting attorney has more leeway.
14. Which of the following is unlikely to be defined as a justifiable homicide?
- A. Killings by a law officer in line of duty
 - B. Execution of condemned inmate
 - C. Killing when discover wife in bed with another man *
 - D. Killing in self defense
15. According to the ruling in *Tennessee v. Garner* (1985), a police officer may use deadly force to:
- A. Prevent the imminent escape of an offender who is believed to have caused serious physical injury to others.
 - B. Prevent the escape of suspect the police have probable cause to believe poses a significant threat of serious physical injury to the officer or others.*
 - C. Prevent the escape of an armed offender only if there is probable cause to believe he has committed a felony.
 - D. Prevent an offender from escaping after the officer identifies him/herself as an officer and demands the suspect stops.

Fill-in-the-Blank Questions

1. Crimes like aggravated murder that are seen as inherently wrong would be considered _____ crimes. (*Mala in Se*)
2. _____ degree murder is also known as aggravated or premeditated murder. (First)
3. _____ is the unlawful killing of one person by another with malice aforethought. (murder)
4. _____ is the unlawful and intentional killing of one person by another committed in the heat of passion with adequate provocation. (voluntary murder).
5. A homicide is considered _____ if the killer wanted to kill the victim or was fairly certain that his or her actions would result in the victim's death. (intentional)
6. In common law for a killing to be considered manslaughter instead of first or second degree murder, the _____ would have to lack because of provocation. (malice aforethought)
7. In jurisdictions that make a distinction between first and second degree murder, first degree murder is _____ and premeditated. (deliberate)

8. _____ circumstances are those that make the murder appear less heinous. (Mitigating)
9. Circumstances that make a murder seem worse such as torturing the victim are said to be _____ circumstances. (aggravating)
10. _____ murders are those in which the punishment may be death. (Capital)

True/False Questions

1. Mala prohibita crimes are those acts that are defined as wrong. (False)
2. Individuals who are found guilty of misdemeanors are more likely to be sentenced to jail than to prison. (True)
3. In Japan the harshest penalties for murder are given to those who kill government officials. (False – those who kill lineal descendants are most harshly punished.)
4. According to the Model Penal Code, if Susan accidentally kills her boyfriend, it would not be considered murder. (False, she could have been reckless or negligent.)
5. Adultery is considered to be a reasonable provocation to consider a killing manslaughter instead of murder (False, infidelity by a girlfriend has not held up in court though finding a spouse in bed with another has been considered enough provocation.)
6. In American common law, the killing of a human is voluntary manslaughter if a reasonable person would have acted rashly in the same circumstances. (True)
7. The Model Penal Code places fewer restrictions on the extenuating circumstances that mitigate murder to manslaughter than does common law. (True)
8. Mitigating circumstances are those that show the crime in a more dreadful light. (False, mitigating make the murder appear less heinous.)
9. If a police officer kills a guard while trying to stop a perpetrator from robbing a bank, the perpetrator can be held accountable for the murder. (True)
10. Capital murders are those which are committed in federal jurisdictions. (False, they are those in which the punishment may be death.)