

Degrees of Liability for the Crime of Homicide

Homicide laws vary from state to state, but each state allows for differing degrees of homicide to account for attendant circumstances. The most serious form of homicide is typically called first-degree murder or aggravated murder, depending on the state. This typically involves the deliberate, planned killing of another person. In Ohio, aggravated murder has a number of definitions, one of which is the following: “No person shall purposely, with prior calculation and design, cause the death of another” (Ohio Revised Code, §2903.01 (A), 2005). In California, first-degree murder also has a number of definitions, one of which is “the unlawful killing of a human being . . . with malice aforethought” (California Penal Code, §187 (a), 2005). In these examples, the actus reus is causing the death of or unlawful killing of another person, while the means rea is found in the prior calculation and design and malice aforethought elements. In these states, aggravated or first-degree murder carries the possibility of a death sentence, although a death sentence is not mandatory. Other punishments for this crime include life imprisonment without the possibility of parole or life imprisonment with the possibility of parole after a certain number of years.

A less serious form of homicide is called second-degree murder. This form of homicide is not as easily definable as first-degree murder. In second-degree murder, an individual typically has no specific intent to kill another, but engages in extremely harmful conduct that runs the risk of the victim being killed. For example, an individual can be charged with second-degree murder if, during the course of a severe beating, the victim dies. The intent was not to kill the victim; however, the individual engaging in the beating should have known that death was possible, but chose not to stop his or her conduct. In Ohio, second-degree murder is defined as “purposely causing the death of another” and carries a

punishment of a minimum of 15 years in prison up to life (Ohio Revised Code, §2903.02 (A), §2929.02 (B), 2005). In California, second-degree murder is largely defined by what it is not; in effect, various types of first-degree murder are defined, while second-degree murder is defined as all other kinds of murders that are not listed in the first-degree murder category. This crime is punished by a minimum of 20 to 25 years in prison up to life (California Penal Code, §189, §190, 2005).

Other less serious forms of homicide include voluntary manslaughter and involuntary manslaughter. Voluntary manslaughter is homicide that is provoked or is committed in the heat of passion. Ohio defines voluntary manslaughter as being committed “under the influence of a sudden passion or in a sudden fit of rage” and sets the punishment as up to 10 years in prison (Ohio Revised Code, §2903.03, §2929.14, 2005). In California, voluntary manslaughter is defined as “unlawful killing . . . upon a sudden quarrel or heat of passion” and is punishable by up to 11 years in prison (California Penal Code, §192, §193).

Involuntary manslaughter is the unintentional killing of another that involves reckless behavior on the part of the perpetrator. Ohio defines involuntary manslaughter as “causing the death of another as a result of the commission of certain lower-level felonies or misdemeanors” and punishes the act with up to 10 years in prison (Ohio Revised Code, §2903.03, §2929.14, 2005). California specifies that involuntary manslaughter occurs during the commission of a lawful or unlawful act “without due caution and circumspection” and punishes the act with up to 4 years in prison (California Penal Code, §192, §193).

Ohio’s criminal code also includes the crimes of reckless homicide and negligent homicide. Reckless homicide occurs when one, “...recklessly cause[s] the death of another...” and is considered a third degree felony (Ohio Revised Code, §2903.041, 1999).

Negligent homicide occurs when one, "...negligently cause[s]the death of another...by means of a deadly weapon or dangerous ordnance..." and is considered a first degree misdemeanor (Ohio Revised Code, §2903.05, 1996).