

Video transcript
Video Tutorial (h): Manslaughter (chp 6)

Hello! In this video we're going to look at the common law offense of manslaughter and basically look at structuring, particularly in relation to problems type questions, where you need to think about how you're structuring your analysis and your application of the law to a scenario where somebody dies.

Now, manslaughter is a common law offence, it's a single offense, but it becomes quite tricky and sometimes quite tricky to understand and to apply in practice because although it is just one common law offence, there are multiple routes for how you can reach the outcome of a manslaughter conviction. And it's this that I want to talk about now just to think about and clarify. It's also something we discuss within Chapter 6 of the textbook and really alongside this discussion it's useful to look at the flow chart that we use within Chapter 6 which again gives you this idea, hopefully, of the structure of your analysis in this area.

Now, whenever you look at a problem question a potential criminal event you should always start with applying what is the most serious potential offense within those circumstances. So within homicide type scenario, i.e. you have a defendant and somebody is killed someone dies, then you should always begin with the potential liability of our defendant for murder. So within that, when you're looking at murder first of all *actus reus* of murder. So has our defendant done something which has caused the death of a person and you can look at that scenario. Now if the answer is no, if there's no causation, if our defendant hasn't killed that thing or indeed that thing killed isn't technically a person if there is lack of *mens rea* then there's no homicide offense, there is no murder and there's no manslaughter and you can look for alternative forms of potential liability. However, the answer is yes, that there is *actus reus* of murder, it has been satisfied, you then of course look at the *mens rea*. Now the *mens rea* of murder requires our defendant to have acted with the intention to kill or the intention at least to cause serious bodily harm. Now when you look at that scenario this is when it becomes particularly important when you're thinking about your potential manslaughter routes.

Now if your answer to the murder / *mens rea* question is yes, they did act with the intention to kill or cause grievous bodily harm, then your answer of course is that they have committed an offense of murder. Now from there, we look to the potential defences. From the defendant's point of view, they would ideally like to align a complete defence which would lead to an acquittal, something like self-defence for example, but if none of those complete defences are applicable then in relation to murder we also have the so-called partial defences. These are defences that don't lead to an unqualified acquittal but rather lead from a conviction for murder down to a conviction for manslaughter. So this is our first route to manslaughter, often referred to as voluntary manslaughter.

There are three partial defences each of which of course we discuss in detail in Chapter six. The first one is a loss of control type defences, so you say: 'yes, I committed murder but I did so whilst out of control to some extent because of some extreme provocation or because of some kind extreme fear' and so if you satisfy

the rules of that, your conviction for murder becomes a conviction for manslaughter. Another one would be diminished responsibility: 'yes, I committed murder but there's something wrong with me in such a way that I should be partially excused', murder becomes manslaughter. And the final one is if you killed in the circumstances of a suicide pact, again what was murder becomes manslaughter. So that's the first route what we call voluntary manslaughter and that is basically where there is liability for murder but there's a partial defence to murder which brings us down to manslaughter. The other alternative route comes about when your answer to the question of *mens rea* of murder is 'no', so you've found *actus reus* of murder that is satisfied, but when asking if the defendant acted with the intention to kill or cause grievous bodily harm your answer is no, they didn't act with that intention, so therefore there is no liability for murder. So this time, because we don't have liability for an offense we're not looking at partial defences or full defences, but rather we are looking for lesser forms of an offense and this is what is commonly referred to as involuntary manslaughter. So we have a series of manslaughter offenses which again leads us to the result of manslaughter liability.

The three main manslaughter offenses in this way are first constructive act manslaughter or unlawful act manslaughter, this is where essentially the defendant commits a base offense, in dangerous circumstances, that leads to the death of the victim. We have gross negligence manslaughter where extreme negligence on the part of the defendant leads to the killing of the victim. Or we have reckless manslaughter where our defendant has killed whilst foreseeing a risk of killing as opposed to intending to kill or cause grievous bodily harm, which would be murder. And that as I say, if you're found to satisfy the elements of any one of those offenses, then again the result is liability for manslaughter. So very, very importantly we have this single offense of manslaughter, but the two separate routes are defined or are created by, or are judged by our initial question about the *mens rea* of murder. *Actus reus* of murder satisfied, do we have the *mens rea* of murder? If the answer is yes, then we consider defences and the partial defences that can lead to manslaughter. If our answer is no, there's no *mens rea* for murder then we consider the lesser offenses the involuntary manslaughter offenses which if they are satisfied again leads us to this conclusion manslaughter liability.

Thanks!