

INTRODUCTION

This program is designed to provide a review of basic concepts covered in a first-year criminal law class and is based on Kadish & Schulhofer, *Criminal Law: Cases and Materials*. You have accessed the tutorial for Chapter 5, “Homicide.” Prior to doing these exercises you should read the relevant material in Chapter 5.

OVERVIEW





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EXERCISE

Each question gives you a fact pattern, and then you must choose an answer that best reflects the law as you understand it. Be careful to read the question and the suggested answers thoroughly. Select your answer by clicking on it. If you give an incorrect answer, you will be given feedback on what was wrong with your answer. By clicking on the feedback you will be taken back to the question to try again. Once a correct answer is selected, click on the feedback to go to the next question.

You may begin the exercise by click on a question number below. Throughout the tutorial three Shortcut Buttons will be located in the bottom right-hand corner of each page. The Return Button  brings you back to this page allowing you jump to questions of your choice if you prefer. The Home Button  takes you to the Criminal Law Tutorial Home Page.

Questions:

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Question #5-1

Xavier is driving 100 mph on a deserted country road late at night. As he comes around a corner, he collides with a vehicle that was pulling out of a driveway, killing a passenger. If the jury finds that Xavier was reckless, he should properly be convicted of

- (A) Second degree murder.
- (B) Involuntary manslaughter.
- (C) Voluntary manslaughter.
- (D) Reckless endangerment.



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- (A) **Second degree murder.**
- (B) Involuntary manslaughter.
- (C) Voluntary manslaughter.
- (D) Reckless endangerment.

(A) is not the best answer because second degree murder requires at least extreme recklessness.



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- (A) Second degree murder.
- (B) Involuntary manslaughter.**
- (C) Voluntary manslaughter.
- (D) Reckless endangerment.

(B) **Correct.** The *mens rea* for involuntary manslaughter is mere recklessness.



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- (A) Second degree murder.
- (B) Involuntary manslaughter.
- (C) Voluntary manslaughter.**
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(C) is not the best answer because voluntary manslaughter is intentional, but in the heat of passion.



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- (A) Second degree murder.
- (B) Involuntary manslaughter.
- (C) Voluntary manslaughter.
- (D) Reckless endangerment.**

(D) is not the best answer because reckless endangerment does not involve a death.



Question #5-2

In a jurisdiction governed by the MPC, the *mens rea* for negligent homicide is

- (A) Extreme recklessness.
- (B) Mere negligence.
- (C) A gross deviation from the standard of care.
- (D) Nothing; the MPC does not recognize negligent homicide.



Question #5-2

In a jurisdiction governed by the MPC, the *mens rea* for negligent homicide is

- (A) **Extreme recklessness.**
- (B) Mere negligence.
- (C) A gross deviation from the standard of care.
- (D) Nothing; the MPC does not recognize negligent homicide.

(A) is incorrect because it overstates the *mens rea*.



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- (D) Nothing; the MPC does not recognize negligent homicide.

(B) is incorrect because it understates the *mens rea*.



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- (C) A gross deviation from the standard of care.**
- (D) Nothing; the MPC does not recognize negligent homicide.

(C) This is correct; a gross deviation from the “reasonable person” standard of care must be shown.



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- (A) Extreme recklessness.
- (B) Mere negligence.
- (C) A gross deviation from the standard of care.
- (D) Nothing; the MPC does not recognize negligent homicide.**

(D) is incorrect because the MPC recognizes negligent homicide, as opposed to the common law, typically as it relates to the operation of vehicles.



Question #5-3

Michael's wife, Terry, is suffering from end stage cancer and is in terrible pain. Michael, Terry's sister Brenda, and the doctor discuss Terry's situation in the waiting room. Michael asks the doctor to turn up the intravenous drip of morphine to a lethal level. The doctor initially agrees; Brenda says nothing but nods. However, a few moments later the doctor changes his mind and tells Michael. Michael returns to Terry's room followed by Brenda and the doctor. Michael turns up the drip himself, as Brenda looks on. The doctor tries to restrain Michael and calls security. Terry dies as a result of the morphine overdose.

What is the most serious crime of which Michael can be convicted?

- (A) Involuntary manslaughter.
- (B) Voluntary manslaughter.
- (C) Murder.
- (D) None of the above.



Question #5-3

Michael's wife, Terry, is suffering from end stage cancer and is in terrible pain. Michael, Terry's sister Brenda, and the doctor discuss Terry's situation in the waiting room. Michael asks the doctor to turn up the intravenous drip of morphine to a lethal level. The doctor initially agrees; Brenda says nothing but nods. However, a few moments later the doctor changes his mind and tells Michael. Michael returns to Terry's room followed by Brenda and the doctor. Michael turns up the drip himself, as Brenda looks on. The doctor tries to restrain Michael and calls security. Terry dies as a result of the morphine overdose.

What is the most serious crime of which Michael can be convicted?

- (A) Involuntary manslaughter.
- (B) Voluntary manslaughter.
- (C) Murder.
- (D) None of the above.

(A) is incorrect because the *mens rea* for involuntary manslaughter is recklessness.



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What is the most serious crime of which Michael can be convicted?

- (A) Involuntary manslaughter.
- (B) Voluntary manslaughter.**
- (C) Murder.
- (D) None of the above.

(B) is incorrect because voluntary manslaughter is committed in the heat of passion, and the facts here indicate premeditation.



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What is the most serious crime of which Michael can be convicted?

- (A) Involuntary manslaughter.
- (B) Voluntary manslaughter.
- (C) Murder.**
- (D) None of the above.

(C) This is the best answer because Michael had intent to kill, which is defined as "malice aforethought," despite his good and merciful intentions. The fact that Terry would have died shortly anyway does not negate causation because her death was hastened.



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- (A) Involuntary manslaughter.
- (B) Voluntary manslaughter.
- (C) Murder.
- (D) None of the above.**

(D) is incorrect because Michael is guilty of one of the listed crimes.



END

Find more exercises at the Criminal Law Tutorial Home Page by clicking the Home Action Button

