

# ADMINISTRATION OF JUSTICE

## CRIMES AGAINST THE PERSON

### EXAM STUDY GUIDE

1. Define the criminal justice system's view of death: A person shall be considered dead if he has suffered "total and irreversible cessation of brain function."
2. A homicide can only occur if the person dies within a specified period of time varies from state to state
3. There need be no body produced in order for a conviction to be obtained
4. Expressed malice simply means – with purpose or design or deliberate intention to unlawfully take away the life of a fellow creature
5. In most states murder is first degree when the killing is perpetrated by means of: Willful deliberation and Premeditation use of torture, use of Poison, or lying in wait for the victim
6. In most states murder is of the first degree when the death results during the commission or attempt to commit one of the following crimes: child molesting, arson, rape, robbery, or burglary
7. If murder is committed during a felony other than those enumerated in first degree murder it will be at least: second degree murder
8. In some states death as a result of driving while intoxicated can be classified as: second degree murder
9. In the crime of manslaughter there is an absence of: premeditation, deliberation, and malice aforethought
10. Involuntary manslaughter will occur during the commission of a misdemeanor which results in death.  
An example of involuntary manslaughter – John gets mad at Bill and punches him in the nose while working at a construction site. Bill falls backward into a rod sticking out of a cement wall and his lung is punctured causing Bill to die.
11. Involuntary manslaughter occurs in the commission of a lawful act which might produce death in unlawful manner, or without due caution and circumspection.  
Know example: Joe goes hunting with his high powered rifle. He is up all night playing cards and getting drunk. The next morning he goes hunting for a deer and shoots wildly in a clump of moving bushes. Out rolls another hunter, shot through the head.
12. Involuntary manslaughter may result from a failure to perform a legal duty, such as child neglect.
13. Vehicular manslaughter the elements are: No intent to kill is necessary,
  - (a) in the commission of a misdemeanor involving gross negligence --- Example: Driving 60 miles an hour in a residential area, skidding around a corner and hitting a child
  - (b) In the commission of a lawful act which might produce death, with gross negligence --- Example: Driving the speed limit, a friend leans out the window to hand something a friend in an adjacent car. The friend falls out the window and gets run over
  - (c) In the commission of a lawful act which might produce death, but with no gross negligence
14. **LAWFUL HOMICIDE – TWO TYPES:** excusable homicide and justifiable homicide
15. Excusable homicide – elements: There is no intent to kill - there is no law violated - there is no lack of due caution.  
Example: Man has argument with wife and she tries to stop her from running in front of a car, he grabs her to stop her. She pulls away from his grasp and falls on a fire hydrant resulting in a fatal concussion hence excusable homicide.
16. Key words to excusable homicide are they were the result of an accident and/or misfortune
17. Justifiable homicide includes: In obedience to any judgment of a competent court (execution), Overcoming resistance to execution of some legal process or duty, Defense of habitation, property or person and there is no obligation to give warnings before shooting in defense of habitation and no duty to retreat
18. The crime of kidnapping is the unlawful moving of a person from one place to another (asportation) against his will. Consent obtained by fraud is no consent.
19. The elements of robbery includes the felonious taking (asportation) of the personal property of another from their person or immediate presence, the taking of property against his will accomplished by means of force or fear
20. Fear in robbery can be the threat of unlawful injury to the victim, his property, or any relative of his
21. An assault is an unlawful attempt (to commit battery) coupled with the present ability - must establish that the act attempted by assailant is capable of being carried out
22. To commit a violent injury upon the person of another "Violent" injury merely means the unlawful application of physical force upon the person of another
23. The elements of battery: Any willful and unlawful use of force or violence
24. Battery is a completed assault example is kissing a woman
25. "Serious injury" is defined as a serious impairment or physical condition, including, but not limited to, the following conditions: Loss of consciousness, bone fracture, a wound requiring extensive suturing or serious disfigurement
26. Corpus of Rape - An act of sexual intercourse in which penetration of the vagina by a penis is required, however, (penetration may be however slight) and can involve woman raping a man
27. Rape of Spouse: When reported within a specified period of time of the act (to authorities)

28. Corpus of Assault With A Deadly Weapon (ADW)

- (a) Every person who commits an assault upon the person of another with a deadly weapon, or
- (b) A "deadly" weapon is any object, instrument, or weapon which, from the manner in which it is used, is capable and likely to produce death or great bodily injury
- (c) Depends not upon the purpose for which the instrument was made, but the manner in which it was used

29-33. Corpus of Unlawful Sexual Intercourse:

- (29) Sexual intercourse
- (30) Accomplished with a female
- (31) Not the wife of the perpetrator
- (32) When the victim is under the age of 18 years
- (33) Parent(s) may bring charges against offender without consent/involvement of their minor child

33-39. Corpus of Child Molestation

- (34) Any person who willfully and lewdly commits any lewd or lascivious act
- (35) Upon the body or any part or member thereof
- (36) Of a child under the a certain age (14 years of age in most states)
- (37) With the intent of arousing, appealing to, or gratifying the lust, passion, sexual desires
- (38) Of either the perpetrator or the child
- (39) Immaterial whether victim participated willingly or not

40-43. Corpus of Indecent Exposure

- (40) Every person who willfully and lewdly
- (41) Either exposes his person or private parts thereof
- (42) In any public place, or in any place where there are present persons to be offended or annoyed thereby
- (43) Nude sunbathing is not violation of this section because the act is not being done lewdly