

Chapter 8

8.1 Self Check

1. Why are the definitions of the beginning and end of life so important in criminal homicide cases?

By definition, a criminal homicide requires the killing of a human being. This requirement raises issues about when life legally begins, such as in the case of an unborn child, and when it legally ends.

2. Imagine you can change one or two elements of the current definitions, what would be the legal consequences of such changes? Why?

If you choose to change the elements of the definition of birth, liability for the unlawful death of fetuses would change greatly. If you choose to change the elements that define death, that could have serious consequences for doctors, families, and law enforcement.

8.2 Self Check

1. Why is the concept of *actus reus* or “voluntary action” crucial in proving criminal homicide?

As with all criminal offenses, the act that causes the harm (in this case, death) must be voluntary. The *actus reus* can be a voluntary act or an omission. In the case of criminal homicide, if the accused has a legal duty to act on behalf of another but fails to do so, and death results, the accused can be prosecuted for murder.

2. If the *actus reus* of a crime can also prove *mens rea*, have you then proven criminal homicide?

Why or why not?

Yes. Since people rarely confess to murder, and since a confession alone is not enough to lead to a conviction, police and prosecutor must rely on circumstantial evidence surrounding the death to prove that the *actus reus* indicated the *mens rea* at the time of the crime.

8.3 Self Check

How do common law and modern laws differ in regard to criminal homicide?

Under modern law there are many different types and degrees of homicide, reflecting different justifications, excuses, and mental states.

8.4 Self Check

1. Why do you think provocation can be a mitigating factor in a case of voluntary manslaughter?

Because it can lead otherwise rational people to emotional extremes, leading them to commit acts that they would not commit under normal circumstances.

2. Do you think the felony murder rule should be used in all states or rejected by them (as in Michigan)? Why or why not?

Many people favor the felony murder rule because it ensures that serious criminals with a disregard for human life are punished appropriately. Others feel that it does not allow for individual circumstances.

8.5 Self Check

1. What elements of the *mens rea* of criminal liability apply to voluntary manslaughter? To involuntary manslaughter?

A defendant must have the intent to inflict harm to be convicted of voluntary manslaughter. A defendant need only be negligent to commit involuntary manslaughter.

2. How do you differentiate wanton recklessness, negligence, and mere recklessness?

A person should realize that wanton recklessness creates a high risk of death or great bodily harm. Negligence only requires that an actor should be aware that his or her actions or lack thereof could create a risk of death or great bodily harm. Mere recklessness, a lower form of recklessness, can be used to find liability in a civil case, but not a criminal one.