

Date Revised: 9/30/2019

Course Goal: To teach recruit officers the laws involving crimes against persons.

Learning Objective:

- Recognize the crime elements required to arrest for:
 - Robbery [\[7.3.A.1\]](#)
 - Carjacking [\[7.3.A.2\]](#)
- Recognize the crime classification as misdemeanor or felony [\[7.3.B\]](#)
- Recognize the crime elements to arrest for murder [\[7.4.A\]](#)
- Recognize the crime elements and classification for manslaughter crimes [\[7.4.B\]](#)

Session Time: 2 Hours

<p>Resources:</p> <ul style="list-style-type: none"> • Classroom with tables • Overhead projector • Computer with multimedia software and Microsoft PowerPoint 	
<p>Session Summary: The instructor will lead a facilitated discussion accompanied with learning activities with the whole class.</p>	
Outline	Instructor's Notes
<p>I. Crimes Related to Robbery</p> <p>A. Robbery</p> <ol style="list-style-type: none"> 1. Elements [7.3.A.1] <ol style="list-style-type: none"> a. Taking of personal property of another b. From the person or immediate presence c. Against the person's will d. Accomplished by means of force or fear 2. Felony 3. In robbery, must be reasonable apprehension of danger <ol style="list-style-type: none"> a. Fear of unlawful injury to person, person's property, or person's relatives b. Fear of unlawful and immediate injury to person, person's property, or anyone in company of person <p>B. Carjacking</p>	<p><u>TTS 7.3.A.1 - 7.3.A.2 (30 Minutes)</u></p> <p style="text-align: center;">PowerPoint Slides # 2 - 6</p> <p>Ask a recruit or the whole class to recall the elements of a theft:</p> <ul style="list-style-type: none"> - The taking or carrying away of personal property of another without consent with the intent to permanently deprive <p>Ask What additional elements are needed to convert the crime into a robbery?</p> <ul style="list-style-type: none"> - Cover the rest of TTS 7.3.A.1

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<p>1. Elements [7.3.A.2]</p> <ul style="list-style-type: none">a. Taking of a motor vehicleb. From the person or immediate presencec. Of a possessor or passengerd. By means of force or feare. With the intent to either, permanently or temporarily deprive the possessor or passenger <p>2. Felony</p> <p>3. Crime is complete when suspect has dominion and control of car, regardless of who's in it</p> <p>II. Crimes Related to Homicide</p> <p>A. Murder, PC 187</p> <p>1. Elements [7.4.A]</p> <ul style="list-style-type: none">a. Unlawful killing of a human being or fetusb. With malice aforethought <p>2. Malice aforethought</p> <ul style="list-style-type: none">a. Necessary element, otherwise crime is manslaughterb. Implied intent if no intention to kill but conscious disregard for lifec. Expressed intent when conscious disregard for life and an intentional act while aware of danger <p>3. Classification: Felony</p> <ul style="list-style-type: none">a. First-degree murder, PC 189 (PETPoLy)<ul style="list-style-type: none">1) Premeditated2) Explosives (including Weapons of Mass Destruction (WMD's), destructive devices, and metal or armor piercing ammunition)3) Torture (Penal Code Sections 206 and 12022.7)4) Poison5) Lying in wait <p>4. Felony Murder Rule: Malice aforethought implied by operation of law in following</p> <ul style="list-style-type: none">a. Arsonb. Rapec. Robbery	<p>Explain that 215 PC: Carjacking is similar to a robbery except the property taken will be a vehicle</p> <p><u>TTS 7.4.A - 7.4.B (1.5 Hours)</u></p> <p>PowerPoint Slides # 7 - 45</p> <p>Run Learning Activity # 1</p> <p>Note: See last page for learning Activity # 1</p>
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<ul style="list-style-type: none">d. Carjackinge. Burglaryf. Kidnappingg. Mayhemh. Drive by shootingi. Train wrecking <p>B. Manslaughter</p> <ul style="list-style-type: none">1. Voluntary Manslaughter, PC 192<ul style="list-style-type: none">a. Elements [7.4.B]<ul style="list-style-type: none">1) The unlawful killing of a human being without malice2) Upon a sudden quarrel or heat of passionb. Felonyc. Related Terms<ul style="list-style-type: none">1) Heat of passion- blinding rage which clouds judgment and common sense2) Imperfect self-defense- the killer had belief of necessity to use deadly force but under the circumstances, it was not reasonable2. Involuntary Manslaughter, PC 192(b)<ul style="list-style-type: none">a. Elements<ul style="list-style-type: none">1) In the commission of an unlawful act not amounting to a felony or2) In the commission of a lawful act which might produce death in an unlawful manner, or3) Without caution and circumspectionb. Felony3. Vehicular Manslaughter<ul style="list-style-type: none">a. Depends on 2 elements<ul style="list-style-type: none">1) Intoxication or condition of driver2) Level of negligence displayed by the driverb. Related vehicular manslaughters and classifications<ul style="list-style-type: none">1) Gross negligence while intoxicated, felony, PC 191.52) Gross negligence while not intoxicated,	
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<p>felony, PC 192(c)(1)</p> <p>3) Ordinary negligence while intoxicated, felony, PC 192(c)(3)</p> <p>4) Ordinary negligence while not intoxicated, misdemeanor, PC 192(c)(2)</p>	
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Learning Activity # 1 – Murder & Manslaughter

Purpose: To identify and classify crimes related to homicide.

Description:

1. Divide the class into learning groups of 6-8 recruits.
2. Provide each learning group with one or more of the following penal code sections (depending on the size of the class) (PowerPoint Slide # 8)
 - a. 195 PC: Excusable Homicide
 - b. 197 PC: Justifiable Homicide (Private Persons)
 - c. 198 PC: Bare Fear
 - d. 199 PC: Justifiable & Excusable Homicide not punishable
 - e. 196 PC: Justifiable Homicide (Peace Officers)
 - f. 187 PC: Murder
 - g. 188 PC: Malice Defined
 - h. 194 PC: 3 Years and 1 Day
 - i. 189 PC: Felony Murder Rule
 - j. 190 PC: Punishment for Murder
 - k. 192 (a) PC: Manslaughter
 - l. 192 (b) PC: Involuntary Manslaughter
 - m. 192 (c) PC: Vehicular Manslaughter
3. Have the learning teams discuss their penal code section(s) and develop examples to present to the class. The PC's go beyond what the LD covers but help in fully understanding the concepts of homicide in relation to police officers.
4. Utilizing a blank "Homicide Matrix," instruct the students to complete the matrix as the material is covered
5. Have the learning teams present their penal code section(s), conduct an instructor led discussion and ensure to cover the TTS' 7.4.A - 7.4.B
6. Additional points to discuss
 - a. Homicide
 - 1) Used to describe the killing of a human being or viable fetus by another human being
 - a) Embryo becomes a fetus at the end of the 8th week (U.S. National Library of Medicine & National Institutes of Health. (2009, November 1). Fetal Development. Retrieved April 14, 2010)

- b) Fetus may be presumed viable as early as 24 weeks (Roe v. Wade (1973) 410 U.S. 113)
 - c) Depends on case by case basis

 - d) When the fetus is younger than 24 weeks, the burden is on the prosecution to prove viability
 - e) Viable is when the fetus can survive outside of the uterus with or without life support
- 2) The term homicide is used to describe all taking of human life
- a) By human act or
 - b) Agency
- 3) Homicide describes both lawful and unlawful killing (PowerPoint Slide # 11)
- 4) There are two categories of homicide:
- a) Lawful homicide (no crime)
 - i. Excusable
 - ii. Justifiable
 - b) Unlawful homicide (criminal)
 - i. Murder
 - ii. Manslaughter
- b. Lawful Homicides
- 1) 195 PC: Excusable Homicide
- a) When committed by accident and misfortune, or in doing any other lawful act by lawful means, with usual and ordinary caution, and without any unlawful intent
 - b) To excuse a homicide on the grounds of accident and misfortune, the accused must have been engaged in a lawful act and must have been performing it with due care
- 2) 197 PC: Justifiable Homicide (Private Persons)
- a) Homicide is also justifiable when committed by any person in any of the following cases:
 - i. When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person; or,
 - ii. When committed in defense of habitation, property, or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in a violent, riotous or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein; or

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- iii. When committed in the lawful defense of such person, or of a wife or husband, parent, child, master, mistress, or servant of such person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mutual combat, must really and in good faith have endeavored to decline any further struggle before the homicide was committed; or,
 - iv. When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace.
 - b) Under subsection i, a killing must be reasonably necessary and justified on the basis that there is reason to believe that a serious and violent felony will be, or is being committed, and a homicide must be committed as a means to prevent the felony, there being no other immediate means of thwarting the act
 - c) Under subsection ii, the defense of habitation person or property, must be against one who intends or endeavors to use violence
 - d) Under subsection iii, there must be a reasonable ground to believe the perpetrator plans to commit a felony or to do some great bodily injury, and a real or apparent imminent danger must exist at the time of the killing
 - e) Under subsection iv, one may use only that amount of force necessary to accomplish a lawful purpose
- 3) 198 PC: Bare Fear
- a) A bare fear of the commission of any of the offenses mentioned in subdivisions 2 and 3 of Section 197, to prevent which homicide may be lawfully committed, is not sufficient to justify it. But the circumstances must be sufficient to excite the fears of a reasonable person, and the party killing must have acted under the influence of such fears alone
 - b) “Bare fear” will not justify a killing in defense of home. Circumstances must be sufficient to excite the fears of a “reasonable person,” and the person using deadly force must have acted under the influence of such fears alone to make the killing justifiable
- 4) 199 PC: Justifiable & Excusable Homicide not punishable: The homicide appearing to be justifiable or excusable, the person indicted must, upon his trial, be fully acquitted and discharged
- 5) 196 PC: Justifiable Homicide (Peace Officers)
- a) Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance, either:

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- i. In obedience to any judgment of a competent Court; or,
 - ii. When necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty.
- b) **Tie back** to the Use of Deadly Force classes received during the police sciences block [LD 20 infused]
- c) **Ensure** that specific questions regarding the Use of Deadly Force are addressed by an instructor certified to teach the subject matter
- 6) **SHOW:** Video clips 1,2,3
- a) Clip 1 depicts a café located in a small town. It is near closing time when two men (suspects) passing through town come into the café. When the waiter advised the men that they were closing, the men became belligerent. Suspect-2 grabbed a waitress and dragged her to one of the booths while Suspect-1 pulled out a gun and pointed it at the waiter. Suspect-1 told Suspect-2 to, “Do her,” in regards to the waitress. When Suspect-2 was about to “do” the waitress, the waiter struck Suspect-1 with a hot pot of coffee who dropped his gun. The Suspect-1 drew a revolver and shot at the waiter. The waiter grabbed Suspect-1’s gun and shot the Suspect-2 and subsequently Suspect-1, killing them both.
- i. **Ask** the class what type of crime(s) occurred. Answer: Kidnap and possible attempt murder and / or sexual assault
 - ii. **Ask** What type of homicide occurred? Answer: Justifiable homicides because it was done in self-defense, defense of others, resist an attempted felony, prevent SBI
- b) Clip 2 depicts a suspect attempting to rob a store with a gun. The store clerk grabbed a gun behind the counter and two become involved in a gun battle. The store clerk shot the suspect several times, killing him.
- i. **Ask** What type of crime occurred? Answer: Robbery
 - ii. **Ask** What type of homicide occurred? Answer: Justifiable because it was done in self defense.
- c) Clip 3 a motorcycle was traveling in the number one lane of a highway when a truck traveling in the same lane from approximately one to two car lengths, closes the distance and collides with the motorcycle, killing the rider.
- i. **Ask** What type of motor vehicle violation occurred? Answer: Reckless driving, following too closely, no crime
 - ii. **Ask** What type of homicide occurred?
 - i. If the class believes that the truck driver acted with usual and ordinary caution, then the killing will be classified as excusable homicide

- ii. If the class believes that the truck driver acted with negligence, then the killing will be classified as a criminal homicide.

c. Unlawful Homicides

- 1) Unlawful homicides fall into two categories: Murder and Manslaughter
- 2) 187 PC, Murder: Unlawful killing of a human being, or a fetus, with malice aforethought
- 3) 188 PC, Malice defined
 - a) Such malice may be express or implied. It is express when there is manifested a deliberate intention unlawfully to take away the life of a fellow creature. It is implied, when no considerable provocation appears, or when the circumstances attending the killing show an abandoned and malignant heart. When it is shown that the killing resulted from the intentional doing of an act with express or implied malice as defined above, no other mental state need be shown to establish the mental state of malice aforethought. Neither an awareness of the obligation to act within the general body of laws regulating society nor acting despite such awareness is included within the definition of malice.
 - b) **Show PowerPoint Slide # 29** and explain that the photo was of a crime scene of a gang related shooting where a gang member was shot and killed by a rival gang. **Ask** the class to explain the malice involved in this homicide.
 - i. Territory disputes
 - ii. Disputes over illegal enterprises (drugs / prostitution)
 - iii. Differences in fundamental beliefs
 - iv. Differences in race, color, creed, etc...
 - v. These differences or disputes tend to manifest in violence between rival gangs
- 4) 194 PC, Time Within Death Must Occur
 - a) Death must occur within 3 years and 1 day
 - b) If death occurred beyond 3 years and 1 day, presumed not criminal and burden is on the prosecution to overcome presumption
- 5) 189 PC, Degrees for murder
 - a) When a killing is perpetuated under the following conditions, it is considered first degree murder: PETPoLy
 - i. Premeditation
 - ii. Explosives
 - iii. Torture
 - iv. Poison

- v. Lying in Wait
 - b) When a killing occurs during the commission of certain felonies, it would be considered murder: CaRTMaDKRABS
 - i. Carjacking
 - ii. Robbery
 - iii. Train wrecking
 - iv. Mayhem
 - v. Drive by shooting
 - vi. Kidnapping
 - vii. Rape
 - viii. Arson
 - ix. Burglary
 - x. Sex crimes (certain)
 - c) All other murders are considered second degree
- 6) 190 PC, Punishment for Murder
- a) Death
 - b) Life in prison
 - c) 25 years to life in prison
- 7) **Show Clip 4 (PowerPoint Slide # 36)**
- a) Clip 4 depicts a rogue police officer who arranges to have his partner killed. During a search of a potential abandoned vehicle, a suspect who was hiding in the passenger compartment of the van shot the officer with a shotgun and killed him.
 - b) **Ask** Is this murder?
 - i. Yes. The suspect lay in wait for the officer
 - ii. Even though the rogue cop was not the trigger man, he was a principle in crime and therefore also committed the crime of murder
- 8) 192(a) PC, Manslaughter
- a) Unlawful killing of a human being without malice (PowerPoint Slide # 37 - 44)
 - b) Upon sudden quarrel or heat of passion
- 9) 192(b) PC, Involuntary Manslaughter
- a) In the commission of an unlawful act
 - b) Not amounting to a felony, or
 - c) The commission of a lawful act
 - d) Which might produce death
 - e) In an unlawful manner, or
 - f) Without due caution and circumspection

- 10) 192(c) PC, Vehicular Manslaughter
 - a) Gross negligence while intoxicated
 - b) Gross negligence while not intoxicated
 - c) Ordinary negligence while intoxicated
 - d) Ordinary negligence while not intoxicated
7. Below are samples of news articles the instructor may utilize to reinforce the homicide concepts taught.
 - a. O.J. Simpson (1994) double murder case
 - b. Juan Manuel Alvarez (2005) Glendale train wreck case
 - c. Susan Smith (1994) double murder of her children
 - d. Jeremy Rourke (2005) victim of baseball bat beating by 13 year old boy
 - e. Dan White (1978) former San Francisco city supervisor who murdered the mayor George Moscone and city supervisor Harvey Milk
 - f. Chai Vang (2004) hunter who killed six other hunters in self-defense in Wisconsin
 - g. Naveed Afzai Haq (2006) forced his way into the Seattle Jewish Federation building, killed one, and wounded five others
 - h. Samuel McAllister (2008) security guard who became involved in a fight with a drunk (Jose Pineda). McAllister struck Pineda, who fell, and subsequently died from his injuries (L.A. Times June 17, 2008)
8. **Show PowerPoint Slide # 45:** briefly explain the homicide flow process, utilizing the Homicide Flow Chart from the Recruit Law Study Guide. Call on individual recruits and provide them with the below listed homicide scenarios. Allow them to determine what type of homicide (if any) was committed by utilizing the chart. The instructor may use, but is not limited, to the below listed scenarios:
 - a. A husband caught his wife having sex with another man. In a fit of rage, the husband struck the man in the head several times and rendered him unconscious. The man lay comatose for about a year before dying from his injuries.
 - b. A man driving southbound rolled through a 4-way stop sign and collided with another vehicle travelling eastbound in the intersection. The driver of the vehicle travelling eastbound was not wearing his seatbelt and died as a result of the collision.
 - c. A husband caught his wife having sex with another man. In a fit of rage, the husband stormed out of the house. He went to the gun store and purchased a firearm. After the 10 day waiting period, the husband picked up his firearm and in a fit of rage shot his wife and her lover. Both victims died as a result of their injuries.
 - d. A suspect, who was destitute and needed to feed his family, attempted to rob a liquor store with a gun. When the clerk confronted the suspect with a shotgun, the suspect (fearing for his life) shot the clerk to defend himself.

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- e. A man had 10 beers while watching the football game at his friend's home. While driving home, another vehicle ran a red light and collided with the man's vehicle. The driver of the vehicle that ran the red light died. Officers at scene determined that the intoxicated man's blood alcohol level was .24 BAC.
- f. Officers responded to a home after citizens reported they haven't seen the male resident for many weeks. Upon the officers' entry into the location, they observed

that the male resident deceased with a gunshot wound to the head. Next to him was a note addressed to his mother stating that he was sorry for everything that he had done.
- g. Two males in a bar got into a fight over a girl. One of the males struck the other male, who fell and hit his head on the corner of the bar, killing him.
- h. A suspect shot a victim with the intent to kill him. After a lengthy stay in the hospital and months of physical therapy, the victim recovered. About 2 ½ years after the shooting, the victim was involved in a fatal car accident and died.

Resources needed:

- Recruit Penal Code Books
- Classroom
- Projector
- PowerPoint Presentation

Handouts:

- Homicide Matrix
- Homicide Flow Chart

Time required: 1.5 Hours