

# YOU Be the Judge

## *In Court*

You are a judge. What crime did they commit? You must also decide how long to send the accused to prison for. The minimum is three months. The maximum is a real life sentence. You can also acquit.

- Case 1**      The accused is a prisoner of war. Your country has just defeated his. He was a pilot. He dropped an atom bomb on your tenth largest city, killing 200,000 people and injuring many more.
- Case 2**      The accused is a doctor. He gave an overdose to an 85-year-old painter who had terminal cancer. The painter had asked for the overdose. The painter's family accuse the doctor of murder.
- Case 3**      The accused found her husband in their bed with another woman. She took the bread knife and killed him.
- Case 4**      This man is a well-known leader of a radical organization. He was recently tried for possessing one marijuana cigarette and sentenced to ten years in prison. He is appealing the decision.
- Case 5**      This factory owner is on trial for cruel and inhuman treatment. The workers in his factory had a sit-down strike to protest against low wages. The owner set rats loose in the factory. The workers killed all the rats and no one was hurt.
- Case 6**      This woman was given thalidomide while she was pregnant. She gave birth to a baby without arms and legs. When it was two months old, she smothered it while it was sleeping.
- Case 7**      a. These three teenage boys were having a fight with a fourth boy near a swimming pool. They threw him in the water and then stood on him till he drowned.
- b. These five adults were sitting not far from the pool and watched the fight. They did nothing and are accused of complicity.

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**Instructions:** With your group, read each scenario & write down the answers to the questions. You should only complete one "round" at a time – do not continue until told to do so. We will review each answer, then read the rule to see if any groups want to change their answers.

## **ROUND 1 –Voluntary Act**

It must be a **voluntary act** (*actus reus*). If you knowingly put yourself in a position where you will do something wrong beyond your control, you might be held liable.

*Why is "voluntary act" is a necessary element of crime?*

If no act was necessary, then people would be punished for mere intent to commit crimes. Not every thought you have becomes an action. Imagine a world where there are thought police, and you are punished for every bad idea you have. For each bad thought you have, you might as well commit the bad action if you are going to be punished anyway, which increase crime. Our society's laws are hoping to decrease and deter criminal activity.

**Scenario 1:** A man was arguing with a police officer and was shot in the stomach. Though he lost consciousness, he continued struggling with the officer while unconscious, causing the policeman's gun to discharge. The police officer's gun shot the police officer who died right away (adapted from *People v. Newton*).

WOULD THE UNCONSCIOUS MAN'S ACTIONS BE CONSIDERED VOLUNTARY (ACTION UNDER HIS CONTROL) OR INVOLUNTARY (ACTION NOT UNDER HIS CONTROL)? WHY?

WILL HE BE CONVICTED OF HOMICIDE?

**Scenario 2:** A man was diagnosed with epilepsy. He frequently has seizures and becomes unconscious. He does not want to stop driving, even though he knows he could lose consciousness and cause car accidents. He decides to drive anyway. While driving, he has a seizure, becomes unconscious, and drives over a girl who is crossing the street. She dies (adapted from *People v. Decina*).

WILL THE MAN WHO KILLED SOMEONE FROM HAVING A SEIZURE WHILE DRIVING BE HELD CRIMINALLY RESPONSIBLE FOR HOMICIDE?

IF HE HAD NOT YET BEEN DIAGNOSED AND HAD HIS FIRST SEIZURE EVER, WOULD HE STILL BE CRIMINALLY RESPONSIBLE FOR HOMICIDE?

**Scenario 3:** A grandmother and mother drank too much while at a bar with the mother's baby. The grandmother offered to take the baby home with her. The

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grandmother put the baby to bed, but she was too drunk to notice that the baby was suffocating from the blankets. The baby died. The grandmother was charged with manslaughter due to her negligent behavior, or her lack of taking reasonable care of the child (adapted from *Cornell v. State*).

IS THE GRANDMOTHER GUILTY OF MANSLAUGHTER?

## **ROUND 2: State of Mind**

*Mens rea* looks at what the criminal was thinking at the time of committing the crime. Most crimes require a criminal intent. This is to punish those who are most dangerous with the rationale being that they will be more likely to do bad things again rather than the person who does so accidentally. However, sometimes you can be responsible even when *mens rea* doesn't exist in order to protect other people.

Note: there are exceptions and not all crimes require *mens rea*.

**Scenario 1:** A man's wife had an incurable and very painful disease. To put her out of her misery, he killed her.

DID THE MAN COMMIT MURDER?

**Scenario 2:** A man was given something and asked to sell it for \$100 dollars to someone. It ends up that he was selling was opium (adapted from *US v. Balint*).

IS HE GUILTY OF SELLING DRUGS?

**Scenario 3:** A man left his wife when he found out she had cancer and just assumed she had died, so he married another without getting a divorce. Years later, he discovers his wife was alive all this time.

IS HE GUILTY OF BIGAMY? BIGAMY IS THE ACT OR CONDITION OF ANY PERSON MARRYING YET ANOTHER PERSON WHILE STILL BEING LAWFULLY MARRIED.

**Scenario 4:** A girl who is 19 has sex with a boy who is 15, though he looks to be about 20, and his age never came up.

IS SHE GUILTY OF STATUTORY RAPE?

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## **ROUND 3: Concurrence of *mens rea* and *actus reus* (must both be present)**

There must be concurrence between the mental state and the act. This means the act or result must be attributable to the "criminal state of mind," meaning the criminal must have had intent while committing the criminal act.

**Scenario 1:** A woman enters a home because she wants to steal all of the jewelry. While on her way there, she changes her mind about stealing the jewelry, but it starts pouring, so she decides to go in and trespass into the house anyway until it stops raining (adapted from *Jackson v. State*).

DID SHE COMMIT BURGLARY?

**Scenario 2:** It is pouring outside, so a woman enters a home to seek shelter from the rain. While in there, she sees some awesome jewelry. She decides she wants to steal all of the jewelry, so she does.

DID SHE COMMIT BURGLARY?

**Scenario 3:** Scott is really angry at his friend Rob for having a higher score at playing Angry Birds on their phones. He has always been the best at that game. He sees Rob walking down the street, and he decides to hit him with his car so he can't play Angry Birds anymore. At the last minute, he changes his mind, but he can't stop the car in time, and it hits Rob, who ends up getting injured (based on *People v. Claborn*, 1964).

CAN SCOTT BE CONVICTED OF BATTERY? BATTERY IS CONTACT WITH ANOTHER IN A MANNER LIKELY TO CAUSE BODILY HARM.

## **ROUND 4: Causation**

Causation means that the criminal's mental state must cause the harm. If you intend to shoot someone but while you were thinking about it, you accidentally run the person over, you're not guilty of murder.

Two types of causation are required:

- **Factual Causation:** Prosecution must show that the criminal's actions were the factual result. So if the criminal didn't act, then that result wouldn't have happened as and when it did, then the criminal did not cause the crime and is not a criminal.

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- Proximate causation: Asks if the criminal should actually be held liable or if there was an intervening factor that caused the harm (he should not be responsible). If what the defendant did led to the natural and probable consequence, even if something else occurred in between, he will still be held responsible.

**Scenario 1:** Betty cut Anna when she slapped her. Anna suffered just a slight cut and a few drops of blood fell. Tom then got mad at Anna and shot her, and Anna lost a lot more blood, worth about as much fits into a 2 liter of Sprite. Anna bled to death.

DID BETTY CAUSE ANNA'S DEATH?

**Scenario 2:** Nancy and Adam both shot Andrew at the same time. Andrew dies. Medical doctors found that he would have died from either one of their shots, even if the other hadn't also shot him.

IS NANCY RESPONSIBLE FOR ANDREW'S DEATH?

**Scenario 3:** Claire shoots Donovan and injures him. Donovan goes to the hospital. Unfortunately, his doctor is pretty sick with bird flu because he was just travelling somewhere that had it, and bird flu is contagious. It is the first case of bird flu ever in the state of Washington. Donovan gets bird flu and dies (adapted from *Bush v. Commonwealth*).

CAN CLAIRE BE CONVICTED FOR THE DEATH OF DONOVAN?

**Scenario 4:** Sally is world champion boxer. She got mad at Cathy and hit her, knowing she might die from being hit that hard. Cathy did not die and was instead knocked unconscious. While unconscious, Cathy threw up and choked to death (adapted from *People v. Ginger*, which was not about boxers).

CAN SALLY BE CONVICTED FOR THE DEATH OF CATHY?

**Scenario 5:** Marty stabs Chris's hand while playing poker because he is mad he is losing. Ordinarily, a person could just wrap a wound like this and be fine. However, Chris has hemophilia, but he hasn't told anyone even though he's had it for years, which means he bleeds more than most people and can die from even minor injuries. He bleeds to death.

CAN MARTY BE CHARGED FOR THE DEATH OF CHRIS?

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