Texas Penal Code: Criminal Homicide

Course
Law
Enforcement I

Unit VI
Crime and Punishment

Essential Question
What constitutes murder and how are the various homicide charges determined?

TEKS
§130.293(c)
(7)(A)(B)(D)

Prior Student Learning
Basics of Criminal Law

Estimated Time
5 to 7 hours

Rationale
Criminal homicide is the most drastic crime. It is important for an officer to know the differences between types of homicides and their punishments, which can range from probation to the death penalty.

Objectives
The students will be able to:
1. Discuss the elements of murder.
2. Distinguish the different types of homicides and the differences between murder and capital murder.
3. Analyze infamous murder cases.
4. Evaluate what crimes apply to different cases.

Engage
Have a press conference. Divide the students into groups and give each group a different homicide law to study using the penal code. Have the students present their information to the class in a press conference format and have the students in the audience ask questions. Use the Press Conference Activity Rubric for assessment.

Key Points
Texas Penal Code. Title 5. OFFENSES AGAINST THE PERSON. Chapter 19. CRIMINAL HOMICIDE

Sec. 19.01. TYPES OF CRIMINAL HOMICIDE.
(a) A person commits criminal homicide if he intentionally, knowingly, recklessly, or with criminal negligence causes the death of an individual.
(b) Criminal homicide is murder, capital murder, manslaughter, or criminally negligent homicide.

Sec. 19.02. MURDER.
(a) In this section:
(1) "Adequate cause" means cause that would commonly produce a degree of anger, rage, resentment, or terror in a person of ordinary temper, sufficient to render the mind incapable of cool reflection.
(2) "Sudden passion" means passion directly caused by and arising out of provocation by the individual killed or another acting with the person killed which passion arises at the time of the offense and is not solely the result of former provocation.
(b) A person commits an offense if he:
(1) intentionally or knowingly causes the death of an individual;
(2) intends to cause serious bodily injury and commits an act
clearly dangerous to human life that causes the death of an individual; or

(3) commits or attempts to commit a felony, other than
manslaughter, and in the course of and in furtherance of
the commission or attempt, or in immediate flight from the
commission or attempt, he commits or attempts to commit
an act clearly dangerous to human life that causes the
death of an individual.

(c) Except as provided by Subsection (d), an offense under this
section is a felony of the first degree.

(d) At the punishment stage of a trial, the defendant may raise the
issue as to whether he caused the death under the immediate
influence of sudden passion arising from an adequate cause. If
the defendant proves the issue in the affirmative by a
preponderance of the evidence, the offense is a felony of the
second degree.

Sec. 19.03. CAPITAL MURDER.

(a) A person commits an offense if the person commits murder as
defined under Section 19.02(b)(1) and:

(1) the person murders a peace officer or fireman who is
acting in the lawful discharge of an official duty and who
the person knows is a peace officer or fireman;

(2) the person intentionally commits the murder in the course
of committing or attempting to commit kidnapping,
burglary, robbery, aggravated sexual assault, arson,
obstruction or retaliation, or terroristic threat under Section
22.07(a)(1), (3), (4), (5), or (6);

(3) the person commits the murder for remuneration or the
promise of remuneration or employs another to commit
the murder for remuneration or the promise of
remuneration;

(4) the person commits the murder while escaping or
attempting to escape from a penal institution;

(5) the person, while incarcerated in a penal institution,
murders another:

(A) who is employed in the operation of the penal
institution; or

(B) with the intent to establish, maintain, or participate
in a combination or in the profits of a combination;

(6) the person:

(A) while incarcerated for an offense under this section
or Section 19.02, murders another; or

(B) while serving a sentence of life imprisonment or a
term of 99 years for an offense under Section
20.04, 22.021, or 29.03, murders another;

(7) the person murders more than one person:

(A) during the same criminal transaction; or
(B) during different criminal transactions but the murders are committed pursuant to the same scheme or course of conduct;

(8) the person murders an individual under 10 years of age; or

(9) the person murders another person in retaliation for or on account of the service or status of the other person as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court.

(b) An offense under this section is a capital felony.

(c) If the jury or, when authorized by law, the judge does not find beyond a reasonable doubt that the defendant is guilty of an offense under this section, he may be convicted of murder or of any other lesser included offense.

Sec. 19.04. MANSLAUGHTER.

(a) A person commits an offense if he recklessly causes the death of an individual.

(b) An offense under this section is a felony of the second degree.

Sec. 19.05. CRIMINALLY NEGLIGENT HOMICIDE.

(a) A person commits an offense if he causes the death of an individual by criminal negligence.

(b) An offense under this section is a state jail felony.

Sec. 19.06. APPLICABILITY TO CERTAIN CONDUCT.

This chapter does not apply to the death of an unborn child if the conduct charged is:

(1) conduct committed by the mother of the unborn child;

(2) a lawful medical procedure performed by a physician or other licensed health care provider with the requisite consent, if the death of the unborn child was the intended result of the procedure;

(3) a lawful medical procedure performed by a physician or other licensed health care provider with the requisite consent as part of an assisted reproduction as defined by Section 160.102, Family Code; or

(4) the dispensation of a drug in accordance with law or administration of a drug prescribed in accordance with law.

Activities

1. Serial Killer Research Paper and Presentation. Have the students write a research paper about a serial killer. (No duplication. Only one serial killer for each student.) It must be a minimum of one page, double-spaced, 12 pt. font with 1-inch margins. A cover sheet and a works-cited page must be included. The Serial Killer Research Rubric lists the information that needs to be included. Use the Serial Killer Research Rubric for
assessment. (Note: This activity may be extended by having the students present their papers to the class. Use the Presentation Rubric as needed.)

2. Have students complete the open-note quiz.

**Assessments**

Criminal Homicide Exam and Key  
Criminal Homicide Quiz (Open Note) and Key  
Press Conference Rubric  
Serial Killer Research Rubric  
Presentation Rubric  
Research Rubric

**Materials**

Criminal Homicide computer-based presentation  
Computers with Internet Access

**Resources**

Texas Penal Code: [http://www.statutes.legis.state.tx.us/](http://www.statutes.legis.state.tx.us/)

**Accommodations for Learning Differences**

For reinforcement, the students will find articles in the newspaper or online about crimes involving homicide and determine which homicide charge should be used and why. Use the Research Rubric for assessment.

For enrichment, students will research more than one serial killer. Use the Research Rubric for assessment.

**State Education Standards**

Texas Essential Knowledge and Skills for Career and Technical Education  
§130.293. Law Enforcement I (One to Two Credits)  
(7) The student analyzes procedural and substantive criminal law. The student is expected to:  
   (A) define crime categories and respective punishments;  
   (B) analyze the elements of criminal acts;  
   (D) analyze types of criminal defenses.

**College and Career Readiness Standards**

V. Research  
   A. Formulate topic and questions.  
      2. Explore a research topic.  
   B. Select information from a variety of sources.  
      1. Gather relevant sources.  
   C. Produce and design a document.  
      1. Design and present an effective product.
Criminal Homicide Exam

1. _____A person commits criminal homicide if he intentionally, knowingly, recklessly, or with criminal negligence causes the death of an individual.
   A True
   B False

2. _____Criminal homicide includes murder, capital murder, manslaughter, and criminally negligent homicide.
   A True
   B False

3. _____Which of the charges below involves the death of the victim?
   A Manslaughter
   B Criminally Negligent Homicide
   C Kidnapping
   D A and B

4. _____At the punishment stage of a trial, the defendant may raise the issue as to whether the death was caused due to sudden passion.
   A True
   B False

5. _____If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is a ____________.
   A Felony of the First Degree
   B Felony of the Second Degree
   C Felony of the Third Degree
   D State Jail Felony

6. _____“Behavior that would commonly produce a degree of anger, rage, resentment, or terror in a person of ordinary temper, sufficient to render the mind incapable of cool reflection,” defines which of the following?
   A Adequate Cause
   B Sudden Passion
   C All of the above
   D None of the above

7. _____“Behavior directly caused by and arising out of provocation by the individual killed or another acting with the person killed which emotion arises at the time of the offense and is not solely the result of former provocation,” defines which of the following?
   A Adequate Cause
   B Sudden Passion
   C All of the above
   D None of the above
8. “A person commits an offense if he recklessly causes the death of an individual,” defines which of the following?
   A Capital Murder
   B Manslaughter
   C Criminally Negligent Homicide
   D Applicability to Certain Conduct

9. “A lawful medical procedure performed by a physician or other licensed health care provider with the requisite consent, if the death of the unborn child was the intended result of the procedure,” defines which of the following?
   A Capital Murder
   B Manslaughter
   C Criminally Negligent Homicide
   D Applicability to Certain Conduct

10. “The person murders a peace officer or fireman who is acting in the lawful discharge of an official duty and who the person knows is a peace officer or fireman,” defines which of the following?
    A Capital Murder
    B Manslaughter
    C Criminally Negligent Homicide
    D Applicability to Certain Conduct

11. An offense under which of the following sections is a state jail felony?
    A Capital Murder
    B Manslaughter
    C Criminally Negligent Homicide
    D Applicability to Certain Conduct

12. “The person intentionally commits the murder in the course of committing or attempting to commit kidnapping, burglary, robbery, aggravated sexual assault, arson, obstruction or retaliation, or terroristic threat,” defines which of the following?
    A Capital Murder
    B Manslaughter
    C Criminally Negligent Homicide
    D Applicability to Certain Conduct

13. Juanita was a judge working at the court at the downtown jail. Drug dealer Charles saw Juanita walking through the jail and said, “Million dollar bond? If I'm going to death row, you're gonna die too.” He then grabbed Juanita around the neck and, with superhuman strength, crushed her throat causing her to die. What is the most serious charge you can legitimately file against Charles?
    A Capital Murder
    B Manslaughter
    C Criminally Negligent Homicide
    D Applicability to Certain Conduct
14. _____Sally has been married to Ahmed for several years and is tired of his behavior. She has wanted to end the marriage for a long time but has not filed for divorce because she is afraid that she might have to pay Ahmed alimony. Sally decides to pay Michael to kill Ahmed and make it look like an accident. Sally’s plan works. What should Sally be charged with?
   A Capital Murder
   B Manslaughter
   C Criminally Negligent Homicide
   D Applicability to Certain Conduct

15. _____Jimmy, a 17 year old, was skateboarding on the property of a shopping center that had a visible sign posted that stated, “No skateboarding on property.” As Jimmy was skating he turned a corner and ran into Judith, an elderly woman, who was shopping on the property. The fall that Judith took caused her to strike her head on the concrete, which resulted in her death. What offense should Jimmy be charged with?
   A Capital Murder
   B Manslaughter
   C Criminally Negligent Homicide
   D Applicability to Certain Conduct

16. _____David successfully stole a car. Six blocks from the site of the theft, David saw a police officer in uniform working as a school crossing guard. David intentionally hit the police officer, which killed him. What is the most serious crime that you can file on David?
   A Capital Murder
   B Manslaughter
   C Criminally Negligent Homicide
   D Applicability to Certain Conduct

17. _____Cecil decided he had enough meddling from his wife’s family. He got his gun, drove to his mother-in-law’s house, and shot her dead. Cecil then set out looking for his father-in-law. Shortly thereafter, Cecil found him at his favorite fishing spot and shot him dead. What is the correct charge for Cecil?
   A Capital Murder
   B Manslaughter
   C Criminally Negligent Homicide
   D Applicability to Certain Conduct

18. _____Roger is in prison and joins a prison gang. Roger’s gang gets in a fight with another prison gang and the prison guards try to break it up. During this time, Roger knocks a guard unconscious. The guard later dies from his wounds. What should Roger be charged with?
   A Capital Murder
   B Manslaughter
   C Criminally Negligent Homicide
   D Applicability to Certain Conduct
19. Gilbert decided to test the limits of his brand new Mustang. He drove down the freeway at 110 mph. As he came over the top of a hill, there was a disabled car in his lane. Gilbert swerved to avoid the car, which caused his car to roll over. This killed Tiffany, who had stopped to change a tire and had been standing along the side of the freeway. Gilbert should be charged with what offense?
   A Capital Murder
   B Manslaughter
   C Criminally Negligent Homicide
   D Applicability to Certain Conduct

20. Stephen has been in prison for 5 years and comes up with a plan to escape. Stephen executes his plan during the nighttime. Something goes terribly wrong and he is caught by a guard. Stephen decides that, no matter what, he does not want to stay in prison, so he finds a nearby pipe lying on the ground and kills the guard with it. What should Stephen be charged with when he is caught?
   A Capital Murder
   B Manslaughter
   C Criminally Negligent Homicide
   D Applicability to Certain Conduct

21. Ruthie was driving her Porsche at a rate of 50 miles-per-hour in a school zone while children were being released from school. She accidentally hits and kills a child who is crossing the street. Ruthie should be charged with which offense?
   A Capital Murder
   B Manslaughter
   C Criminally Negligent Homicide
   D Applicability to Certain Conduct

22. Ethan decided to burglarize a house. While in the home, he was confronted by the homeowner, who displayed a gun and said, “Hands up or you're dead.” Ethan then grabbed his own handgun and shot the homeowner, killing him. Ethan has committed which offense?
   A Capital Murder
   B Manslaughter
   C Criminally Negligent Homicide
   D Applicability to Certain Conduct

23. Margaret drowns her two-year-old daughter. What should Margaret be charged with?
   A Capital Murder
   B Manslaughter
   C Criminally Negligent Homicide
   D Applicability to Certain Conduct
24. Philip arrives home to find his wife in bed with Nathan. Grief-stricken, Philip heads to a bar to deal with the situation. After having seven mixed drinks, Philip gets into his car, drives down the street at twice the posted speed limit, and accidentally hits and kills a pedestrian. What crime should Philip be charged with?

A Capital Murder  
B Manslaughter  
C Criminally Negligent Homicide  
D Applicability to Certain Conduct

25. Dalton is serving 40 years in prison for murder. Dalton feels like he will never get out and doesn't fear getting into trouble. Dalton has a cellmate that annoys him. His cellmate will intentionally take actions that make Dalton angry. One night Dalton suffocates his cellmate with a pillow. What should Dalton be charged with?

A Capital Murder  
B Manslaughter  
C Criminally Negligent Homicide  
D Applicability to Certain Conduct
Criminal Homicide Exam Key

1. A
2. A
3. D
4. A
5. B
6. A
7. B
8. B
9. D
10. A
11. C
12. A
13. A
14. A
15. B
16. A
17. A
18. A
19. B
20. A
21. C
22. A
23. A
24. B
25. A
Criminal Homicide Quiz

What are the elements of a criminal homicide?

1. Is criminal homicide the same as murder?

2. At the punishment stage of a trial, can the defendant raise the issue of whether the death was caused due to sudden passion?

3. What is the legal definition of “sudden passion”?

4. What is the legal definition of “adequate cause”?

5. When is sudden passion determined?

6. What does the culpable mental state have to be for manslaughter?

7. What is the punishment for criminal negligence homicide?

8. What is the punishment for manslaughter?

9. What is the punishment for capital murder?

10. What does the culpable mental state have to be for murder and capital murder?
For a murder to become capital murder, what type of victim must be killed while discharging an official duty?

12.

13.

When a murder is intentionally done during certain crimes, it becomes capital murder. What are these crimes?

14.

15.

16.

17.

18.

19.

20.

Remuneration is capital murder. What is remuneration specifically?

21.

It is capital murder when a person with which occupation is murdered for retaliation purposes?

22.

It is capital murder when someone murders more than one person during the same what?

23.

Someone commits capital murder when they commit murder while trying to escape from what?

24.

If someone is imprisoned for murder and murders someone while in prison, can they be charged with capital murder?

25.
Criminal Homicide Quiz Key

1. Intentionally, knowingly, recklessly, or criminally negligently causes the death of an individual
2. Yes
3. Yes
4. Behavior directly caused by and arising out of provocation by the individual killed or another acting with the person killed which emotion arises at the time of the offense and is not solely the result of former provocation.
5. Behavior that would commonly produce a degree of anger, rage, resentment, or terror in a person of ordinary temper, sufficient to render the mind incapable of cool reflection.
6. Punishment Stage
7. Reckless
8. State jail felony
9. Second-degree felony
10. Capital Felony
11. Intentionally or knowingly
12. Police officer
13. Fireman (or Judge)
14. – 20. Obstruction, Retaliation, Burglary, Aggravated Sexual Assault, Arson, Robbery, Kidnapping, Terroristic Threat
21. Murder for hire
22. Judge
23. Criminal transaction
24. Penal institution
25. Yes
Press Conference Activity

Directions:

Each group will research its assigned crime(s). Each group will address the elements of the crime and give examples, along with giving the punishment for the crime. The group can have a spokesperson for the group, or each person can speak. The class will ask questions as needed. Each person in the class has to ask at least one question. Each member of every group has to turn in a paper on their crime. Put the Penal Code in your own words.

Murder
Capital Murder
Manslaughter
Criminally Negligent Homicide

Rubric:

<table>
<thead>
<tr>
<th>Activity Objectives</th>
<th>Pts.</th>
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<tr>
<td>Criteria (2 pts. each)</td>
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<td>Group addressed culpable mental states</td>
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<td>Group addressed the action</td>
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<td>Group addressed punishment</td>
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<td>Group gave an example</td>
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<td>Individual asked a relevant question</td>
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<td>Total Points (10 pts.)</td>
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Comments:
Serial Killers Research Rubric

**Directions:**
Write a research paper about a serial killer (No duplication. Only one serial killer for each student). It must be a minimum of one page, double-spaced, 12 pt. font with 1-inch margins. A cover sheet and a works-cited page must be included. The following rubric lists the information that needs to be included, if applicable. You will present this paper to the class.

**Rubric:**

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Criteria (2 pts. each)</th>
<th>Pts.</th>
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<tr>
<td><strong>Biographical Information</strong></td>
<td>Description of upbringing</td>
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<td>(If your subject does not have some of these components, please state it in your paper.)</td>
<td>Influential life experiences</td>
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<td>Description of criminal background</td>
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<td>Favorite type of victim</td>
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<td>Punishment given</td>
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<td>Summary of post-capture interviews</td>
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**Total Points (20 pts.)**

**Comments:**
## Presentation Rubric

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<td>• Image and font size are legible to the entire audience</td>
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**Comments:**
## Research Rubric

|-----------|-----------------|-------------|-------------------------------|-----------------------------|-----|------|
| **Question/goal**  
Student identified and communicated a question or goal of the research | | | | | | |
| **Research/Gathering information (if relevant)**  
Student used a variety of methods and sources to gather information. Student took notes while gathering information | | | | | | |
| **Conclusion/Summary**  
Student drew insightful conclusions and observations from the information gathered. Information is organized in a logical manner | | | | | | |
| **Communication**  
Student communicated the information gathered and summary or conclusions persuasively. Student demonstrated skill in the use of media used to communicate the results of research | | | | | | |
| **Reflection**  
Student reflected on the importance of the research and its potential application | | | | | | |
| **Total Points (20 pts.)** | | | | | | |
| **Comments:** | | | | | | |

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## Writing Rubric

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<td>The writing has all required parts from introduction to conclusion in smooth transition.</td>
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<td>All sources and references are clearly and accurately documented.</td>
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**Total Points (28 pts.)**

**Comments:**