**First Degree Murder: Definition**

In most states, first-degree murder is defined as an unlawful killing that is both willful and premeditated, meaning that it was committed after planning or "lying in wait" for the victim.

For example, Dan comes home to find his wife in bed with Victor. Three days later, Dan waits behind a tree near Victor's front door. When Victor comes out of the house, Dan shoots and kills him.

Most states also adhere to a legal concept known as the "felony murder rule," under which a person commits first-degree murder if any death (even an accidental one) results from the commission of certain violent felonies -- such as [arson](http://criminal.findlaw.com/criminal-charges/arson.html), [burglary](http://criminal.findlaw.com/criminal-charges/burglary-definition.html), [kidnapping](http://criminal.findlaw.com/criminal-charges/kidnapping.html), [rape](http://criminal.findlaw.com/criminal-charges/rape.html), and [robbery](http://criminal.findlaw.com/criminal-charges/robbery-definition.html).

For example, Dan and Connie rob Victor's liquor store, but as they are fleeing, Victor shoots and kills Dan. Under the felony murder rule, Connie can be charged with first-degree murder for Dan's death even though neither of the robbers actually did the killing.

The Elements of Murder in the First Degree

State laws categorizing murders into first, second and possibly third degrees generally require that first degree murders include three basic elements: willfulness, deliberation and premeditation. Some states also require "malice aforethought" as an element, though sates differ as to how malice must be shown and whether this is a separate requirement from willful, deliberate and premeditated taking of human life. Most states also enumerate certain kinds of killings as first degree murders without need to prove intent, deliberation and premeditation.

Not all states break murder into degrees. In some places, the top level murder crime is called by another name, such as "capital murder."

**Intent** – In terms of willfulness, first degree murderers must have the specific intent to end a human life. This intent does not necessarily have to have been focused on the actual victim. A murder in which the killer intends to kill but kills the wrong person or a random person would still constitute first degree murder. Furthermore, under many state laws, killing through action showing a depraved indifference to human life can qualify as murder in the first degree.

**Deliberation and Premeditation** – Whether a killer acted with the deliberation and premeditation required for first degree murder can only be determined on a case by case basis. The need for deliberation and premeditation does not mean that the perpetrator must contemplate at length or plan far ahead of the murder. Time enough to form the conscious intent to kill and then act on it after enough time for a reasonable person to second guess the decision typically suffices. While this can happen very quickly, deliberation and premeditation must occur before, and not at the same time as, the act of killing.

**"Malice Aforethought"** – Under many state laws, perpetrators of first degree murder must have acted with malice or "malice aforethought." Malice generally includes an evil disposition or purpose and an indifference to human life. States treat the concept of "malice" differently. Under some laws, malice aforethought essentially means the same thing as acting with a premeditated intent to kill or extreme indifference to human life. Other states require a showing of malice distinct from the willfulness, deliberation and premeditation generally required for first degree murder.

**Enumerated First Degree Murders** – State laws often categorize specific types of killings as first degree. In these cases, the typical elements of specific intent to kill, deliberation and premeditation may not be required. These often include:

* the killing of a child by use of unreasonable force;
* certain killings committed in a pattern of domestic abuse;
* the murder of law a law enforcement officer, and
* homicides occurring in the commission of other crimes such as arson, rape, robbery or other violent crimes.

This list merely illustrates some of the enumerated first degree murders. For a complete list, consult specific state laws.

Many states also categorize certain methods of killing as murder in the first degree. These include intentional poisonings, murders resulting from imprisonment or torture and murders in which the killer "laid in wait" for or ambushed the victim.