**Manslaughter**

*The unjustifiable, inexcusable, and intentional killing of a human being without deliberation, premeditation, and malice. The unlawful killing of a human being without any deliberation, which may be involuntary, in the commission of a lawful act without due caution and circumspection.*

Manslaughter is a distinct crime and is not considered a lesser degree of murder. The essential distinction between the two offenses is that malice aforethought must be present for murder, whereas it must be absent for manslaughter. Manslaughter is not as serious a crime as murder. On the other hand, it is not a justifiable or excusable killing for which little or no punishment is imposed.

At [**Common Law**](http://legal-dictionary.thefreedictionary.com/Common+Law), as well as under current statutes, the offense can be either voluntary or [**Involuntary Manslaughter**](http://legal-dictionary.thefreedictionary.com/involuntary+manslaughter). The main difference between the two is that voluntary manslaughter requires an intent to kill or cause serious bodily harm while involuntary manslaughter does not. Premeditation or deliberation, however, are elements of murder and not of manslaughter. Some states have abandoned the use of adjectives to describe different forms of the offense and, instead, simply divide the offense into varying degrees.

**Voluntary Manslaughter**

In most jurisdictions, voluntary manslaughter consists of an intentional killing that is accompanied by additional circumstances that mitigate, but do not excuse, the killing. The most common type of voluntary manslaughter occurs when a defendant is provoked to commit the [**Homicide**](http://legal-dictionary.thefreedictionary.com/homicide). It is sometimes described as a heat of passion killing. In most cases, the provocation must induce rage or anger in the defendant, although some cases have held that fright, terror, or desperation will suffice.

If adequate provocation is established, a murder charge may be reduced to manslaughter. Generally there are four conditions that must be fulfilled to warrant the reduction: (1) the provocation must cause rage or fear in a reasonable person; (2) the defendant must have actually been provoked; (3) there should not be a time period between the provocation and the killing within which a reasonable person would cool off; and (4) the defendant should not have cooled off during that period.

Provocation is justifiable if a reasonable person under similar circumstances would be induced to act in the same manner as the defendant. It must be found that the degree of provocation was such that a reasonable person would lose self-control. In actual practice, there is no precise formula for determining reasonableness. It is a matter that is determined by the trier of fact, either the jury or the judge in a nonjury trial, after a full consideration of the evidence.

It is a general rule that a defendant who acts in [**Self-Defense**](http://legal-dictionary.thefreedictionary.com/Self-Defense) may only use force that is reasonably calculated to prevent harm to himself or herself. If the person honestly, but unreasonably, believes [**Deadly Force**](http://legal-dictionary.thefreedictionary.com/Deadly+Force) is necessary and, therefore, causes another's death, some courts will consider the crime voluntary manslaughter. Similarly when a defendant acts under an honest but unreasonable belief that he or she has a right to kill another to prevent a felony, some courts will find the person guilty of voluntary manslaughter. Although it is generally considered a crime to kill another in order to save oneself, the justification of coercion or necessity may, likewise, reduce murder to manslaughter in some jurisdictions.

**Involuntary Manslaughter**

Involuntary manslaughter is the unlawful killing of another human being without intent. The absence of the intent element is the essential difference between voluntary and involuntary manslaughter. Also in most states, involuntary manslaughter does not result from a heat of passion but from an improper use of reasonable care or skill while in the commission of a lawful act or while in the commission of an unlawful act not amounting to a felony.

Generally there are two types of involuntary manslaughter: (1) criminal-negligence manslaughter; and (2) unlawful-act manslaughter. The first occurs when death results from a high degree of [**Negligence**](http://legal-dictionary.thefreedictionary.com/negligence) or recklessness, and the second occurs when death is caused by one who commits or attempts to commit an unlawful act, usually a misdemeanor.

**Criminally Negligent Manslaughter** A homicide resulting from the taking of an unreasonable and high degree of risk is usually considered criminally negligent manslaughter. Jurisdictions are divided on the question of whether the defendant must be aware of the risk. Modern criminal codes generally require a consciousness of risk, although, under some codes, the absence of this element makes the offense a less serious homicide.

**Unlawful-Act Manslaughter** In many states, unlawful-act manslaughter is committed when death results from an act that is likely to cause death or serious physical harm to another person. In a majority of jurisdictions, however, the offense is committed when death occurs during the commission or attempted commission of a misdemeanor.