**Second Degree Murder: Definition**

Second-degree murder is ordinarily defined as: 1) an intentional killing that is not premeditated or planned, nor committed in a reasonable "heat of passion"; or 2) a killing caused by dangerous conduct and the offender's obvious lack of concern for human life. Second-degree murder may best be viewed as the middle ground between [first-degree murder](http://criminal.findlaw.com/criminal-charges/first-degree-murder-overview.html) and [voluntary manslaughter](http://criminal.findlaw.com/criminal-charges/voluntary-manslaughter-overview.html).

For example, Dan comes home to find his wife in bed with Victor. At a stoplight the next day, Dan sees Victor riding in the passenger seat of a nearby car. Dan pulls out a gun and fires three shots into the car, missing Victor but killing the driver of the car.

Some jurisdictions make a distinction between different situations that constitute murder and prosecute the charges differently. These states usually break the crime of murder into first degree murder and second degree murder.

**First versus Second Degree Murder** – The exact definition of second degree murder varies between jurisdictions, but there are a few common elements that second degree murder shares across jurisdictions. To find the second degree murder statute in your state, visit the [State Second Degree Murder Laws](http://statelaws.findlaw.com/criminal-laws/second-degree-murder/) page.

The essential elements of second-degree murder differ from those of first degree murder. The criminal act for both crimes is the same: the killing of another person. What separates the two is the perpetrator's mental state at the time of the killing.

First degree murder involves a premeditated killing. In other words, the killer made a plan to kill the victim and then carried that plan out. Second degree murder does not require premeditation, however. Instead, there are three typical situations that can constitute second degree murder:

* A killing done impulsively without premeditation, but with malice aforethought
* A killing that results from an act intended to cause serious bodily harm
* A killing that results from an act that demonstrates the perpetrators depraved indifference to human life

**Impulsive Killings with Malice Aforethought** – Thesesorts of killings occur in the heat of the moment, and don't involve any premeditation on the part of the killer. At the moment the murder occurs, the killer definitely intends to kill the victim, but up to that moment, the killer had no intent or plan to commit murder.

For example, Adam and Bill are neighbors, and lately they've been having disagreements over the fence between their properties. Adam pays Bill a visit to discuss the matter, but gets angry in the process, pulls out a gun and shoots and kills Bill.

Adam didn't have any plan to kill Bill when he went to Bill's house that day, so there was no premeditation. At the time of the murder, however, Adam fully intended to kill Bill because of his anger over the fence, so there was malice aforethought. Most states that distinguish between degrees of murder would consider that a second degree murder.

**Killings after an Act Intended to Cause Serious Bodily Harm** – A second category of acts that constitute second degree murder are acts where the perpetrator intends to cause serious bodily harm with the full knowledge that death is a possible result of the act. The killer might not necessarily intend to kill the victim, but knows that death is a likely outcome.

For example, in the situation above, instead of shooting Bill, Adam grabs a shovel and hits Bill on the head with all his strength. Adam didn't explicitly intend to kill Bill when he hit him, but he did intend to hit him with the tire iron, and he knew that such a blow to the head carried with it a distinct possibility of death. Adams killing of Bill in this instance also constitutes second degree murder.

**Killings Resulting from a Depraved Indifference to Human Life** – The third main type of second degree murder occurs when a victim dies as a result of the perpetrators depraved indifference to human life. Depraved indifference to human life can mean different things in different jurisdictions, but in general it signifies that the perpetrator had an utter disregard for the potential damage to human life that their actions could cause.

Going back to Adam and Bill, imagine that, instead of hitting Bill over the head with the tire iron, Adam grabbed his gun and fired in anger into a crowd of onlookers. Adam didn't necessarily mean to kill anyone, but also didn't give any thought to the harm that his actions could cause in the crowd. This demonstrates Adams depraved indifference to human life. If one of Adams bullets struck and killed anyone in the crowd, then Adam has probably committed second degree murder.

**Felony Murder** – Some states also classify killings that occur during the commission of another felony as second degree murder, although other states characterize these [felony murders](http://blogs.findlaw.com/blotter/2013/03/what-is-the-felony-murder-rule.html) as murder in the first degree. An individual can be found guilty of a felony murder even if they did not actually kill anyone and only intended to commit the original felony.

For example, if Adam and Bill went into a convenience store intending to rob it at gunpoint (which constitutes a felony), and Adam ended up shooting the store owner, a jury could find Bill guilty under the felony murder rule since he was involved in the commission of the original felony when the killing took place.

Whether this felony murder would constitute a first or second degree murder, however, depends on the law in the state in which it took place.