Fatal Offences

Murder

Definition: the unlawful killing of a human being under the Queen's peace, with malice aforethought express or implied: Sir. Edward Coke, Common law offence. Not in statute.

Actus Reus: to unlawfully cause a person's death. Certain killings are lawfule.g. in war/self defence.

- 1) D must cause the death factually i.e. 'but for' D's acts would it have happened? In White she would have died anyway.
- D must be the legal cause of death i.e. no breaks in the chain.

Mens Rea: intent to kill (express) or cause GBH (implied) Vickers: intended GBH when committing burglary and hit shop owner.

If guilty: mandatory sentence is life imprisonment but can recommend minimum term before rec. for release on licence

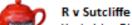
Causation: 2 tests (only if asked)

- 1) Factual- 'but for' D's acts would C have died? In White she would have died anyway so doesn't pass test
- 2) Legal were D's actions the operating and substantial cause of death? Or did something break chain?

Jordan: bad medical treatment can break chain where as in Blave extra sensitivity cannot break chain.

R v Byrne

Irresistible impulses of sexual psychopath



Yorkshire Ripper - DR - but court said still murder.

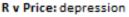


BWS and depression = DR



R v Martin

Paranoid personality disorder



R v Reynolds: post natal depression and PMT

Voluntary Manslaughter

Charged with murder, have MR and AR but have a defence - lowers to manslaughter.

Diminished Responsibility

S52 Coroners and Justice Act 2009:

- D suffers an abnormality of mental functioning
- a) From a recognised medical condition
- b) Substantially impairs D's ability to understand their conduct
- c) Provides an explanation for D's act

Loss of Control

\$54 Coroners and Justice Act 2009

- D's actions resulted from LOC
- LOC had qualifying trigger (s55: feared serious) violence on themselves or someone else OR due to something said or done OR both.
- A similar person would react the same

Doesn't need to be sudden, Cannot be in revenge. Carries a discretionary sentence i.e. judge can choose

Unlawfully killed but NO MR.

Constructive/Unlawful Act Manslaughter

Involuntary Manslaughter

1) D carried out unlawful act

Doesn't need to realise may result in death/injury. Needs AR and MR of original act.

Unlawful act was dangerous

D doesn't need to realise, just ordinary person.

Unlawful act caused death

Gross Negligence Manslaughter

- D owed V legal DOC
- 2) DOC breached
- Breach caused death
- So bad jury consider it "gross" negligence

Showed such a disregard for life and safety it created an obvious risk of death.



R v Cocker

D suffocated wife, No LOC



R v Doughty

Crying baby now wouldn't be L^^



R v Clinton (2012)

LOC rejected due to sexual infidenty



DPP v Newbury and Jones

Teenage boys didn't realise risk - didn't matter ,normal person would.

Man pushed another - illegal



R v Pittwood

R v Mitchell

Owed DOC to shut gate under contract



R v Adomako

Failed to notice breathing tube disconnected - a gross breach



R v Wacker

Smuggled immigrants without ventilation = gross.



R v Evans (2012)

LOC rejected as acted in revenge



R v Ibrams and Gregory

Plotted revenge -wouldn't be LOC



R v Camplin

15vr old - abused, LOC would now work

Writing Guide for <u>APPLICATION</u> Questions

Murder

Define: the unlawful killing of a human being under the Queen's peace, with malice aforethought, express or implied –

Sir Edward Coke

Actus Reus:

- 1. What was the act? (punch/stab etc)
- Was it unlawful (if was if it was not in war)
- 'but for' D's act would the person have died? (White)
- Did anything break the chain? (Bad medical treatment? Note: thin skull won't break chain Blaue)
- Both 3 and 4 must be answered 'no' for D to have the Actus Reus of murder.

Mens Rea: "malice aforethought"

Did D directly intend to **kill** – if so they had an express intent, unlike in **Vickers** who intended GBH Did D intend GBH (serious harm but not death) – if so they had an implied intent, like in Vickers who intended GBH

If they have the AR and MR then they are guilty of murder which carries a mandatory life sentence.

Voluntary Manslaughter

Where on a murder charge, a partial defence can be pleaded

Diminished Responsibility

Loss of Control

Comes from **s54 Coroners**

and Justice Act 2009

Comes from Homicide Act 1957 s2 (as amended by s52 Coroners and Justice Act 2009)

abnormality of mental

Jury will decide on

BWS/depression

(Ahlywalia), post-

evidence. Examples:

natal/PMT (Reynolds),

paranoid personality

Was it from a recognised

D's ability to know what he

(Martin), severe

depression (Price)

medical condition?

3. Did it substantially impair

was doing? How did it

be more than trivial.

impair him? Lloyd; must

Does it explain the killing?

sexual psychopath (Byrne),

functioning? Byrne "state

of mind so different from

an ordinary human being".

Test:

1. Did D lose control? How do you know?

1. Was D suffering from an

2. State that the LOC does not

Test:

- State that the LOC does not now need to be sudden (unlike in **Thornton**)
- 3. LOC must be from a qualifying trigger (anger trigger or fear for him or another)
 Minor provoking acts not allowed, unlike under old law in **Doughty** baby crying).
 Revenge killings excluded: **R**
 - Revenge killings excluded:

 v Ibrams and Gregory

 Killings due to sexual

 infidelity excluded: R v
 - infidelity excluded: **R v Clinton**
- Would the reasonable person of same age and gender, but with ordinary self control do the same?
 Camplin: compared him to a 15 yr old.

If accepted, then the judge can award a discretionary sentence i.e. he can choose anything from life imprisonment down.

Constructive/Unlawful Act Manslaughter

Gross Negligence Manslaughter

- Did D carry out an unlawful act?
 - Was it a crime that led to a death?
 - Does he have the AR and MR of the <u>original</u> <u>offence</u> (normally a battery as in **Mitchell**)
 - D doesn't need to realise actions could lead to death
- 3. Was the unlawful act dangerous?
 - Ordinary person would realise there was a risk of <u>physical</u> injury.
 - Irrelevant if D was not aware (DPP v Newbury and Jones)
- 2. Did the unlawful act cause death?
 - If cannot prove D's action <u>caused</u> death – no liability.

1. Did D owe V a legal DOC

Incluntary Manslaughter

Where D has NO INTENT to kill or cause GBH

- E.g. parent to child, employer to employee, contract, job (Pittwood).
- 4. Did D breach DOC?
 - Did D fail to take reasonable care?
- 3. Did breach cause death?
 - If not, not guilty
- Would jury consider the breach constituted 'gross negligence'?
 - Does it show a 'disregard for life and safety'?
 - Did it create an 'obvious, serious risk of death?'
 - If yes = guilty as in
 Adomako or Wacker.

If yes, then the judge can award a discretionary sentence i.e. he can choose anything from life imprisonment down.