

CRIMINAL CODE BRIEFS
(07-12-07)

1ST Degree Murders in Colorado CRS 18-3-102:

1. Killing of another person with intent *and after deliberation*.
2. **Felony Murder** Rule:
 - a. **Burglary**
 - b. **Robbery**
 - c. **Arson**
 - d. **Kidnapping**
 - e. **Escape**
 - f. **Sexual assault** CRS 18-3-402, 18-3-405(2)
During the course of the crime and immediate flight therefrom *anyone* caused the death of a person *other than one of the participants*.
3. **Perjury** (your *lies result in the conviction and execution* of an innocent defendant).
4. **Extreme indifference** to the value of human life (knowingly engaging in conduct *creating a grave risk of death* to another).
5. Death caused by drugs sold to minors upon/near school grounds:
 - a. Knowingly sold a *c/s*
 - b. To a person *under 18*
 - c. Within *1000 feet* public or private school
6. **Caused** death of a child *under 12* while in a *position of trust*.
7. First degree murder of a peace officer/firefighter (reasonably knew it was a peace officer; plainclothes identification must be made by *more than mere verbal advisement*).

Heat of Passion Defense:

1. **2nd Degree Murder CRS 18-103:**
 - a. **Knowingly (impulsive conduct)** caused death of another.
 - b. In the heat of passion.
 - c. No time to cool or reflect.
2. **Manslaughter CRS 18-3-104:**
 - a. **Recklessly** caused death of another.
 - b. In the heat of passion.
 - c. **Assists another in a suicide.**

3. **Criminally Negligent Homicide CRS 18-3-105:**
 - a. Offender killed another person;
 - b. By conduct amounting to criminal *negligence*.
 - c. *Failed to perceive the risk (error, omission, mistake)*.

4. **Vehicular Homicide CRS 18-3-106:**
 - a. Offender operated a motor vehicle;
 - b. In a *reckless manner OR DWAI/DUI*;
 - c. *And* conduct was *proximate cause* of death to another person.

Difference between Criminal Negligence and Reckless Manslaughter:

R/M= Being aware yet *consciously disregarding a substantial and unjustifiable risk* of death from one's own conduct.

C/N= Failing to perceive, through a *gross deviation from the reasonable care standard*, a substantial and unjustifiable risk that death will result from one's own conduct.

- The *crime of accessory* does not arise until a person aids, abets or assists another *after the completion of the crime*.

- If one aids, abets or assists prior to the completion of a crime, you are charged as a *principal* under the *complicity theory*.

1st Degree Assault CRS 18-3-202:

1. Offender with intent;
 2. To cause *serious bodily injury and does cause*;
 3. By means of a deadly weapon;
- OR
- Intent to disfigure, destroy, amputate, or disable permanently;
 - Extreme indifference to human life (knowingly engaging in conduct creating a grave risk of death to another and causes SBI);
 - Assault/threat against a peace officer w/ a deadly weapon (i.e.gun);
 - Knew or should have known person was a peace officer (in uniform or properly identified by more than verbal advisement);
 - While in custody, threatens with a deadly weapon any employee of the detention facility;

2nd Degree Assault CRS 18-3-203:

1. Offender with intent;
2. **To cause *bodily injury and does cause***;
3. By means of a deadly weapon OR;
 - a. Intent to cause (and does cause) bodily injury to a peace officer (knew or should have known it was a cop by more than mere verbal advisement).
 - b. **Reckless** use of weapons (caused *serious bodily injury*).
 - c. Drug inducement (for purpose other than medical/therapeutic).
 - d. In custody/confinement (knowingly and violently applies physical force against a peace officer).
 - e. Assault with bodily fluids while in a detention facility.
 - f. Felony assault rule (like felony murder - rule requires SBI, B.R.A.K.E.S. plus murder/attempt murder).

3rd Degree Assault CRS 18-3-204:

1. Knowingly or recklessly caused *bodily injury (pain is enough for 3rd degree assault)*; **OR**
2. With **criminal negligence** caused *bodily injury* by means of a **deadly weapon**

Felony Menacing CRS 18-3-206:

1. Placing another in **fear of imminent serious bodily injury**;
2. By use of a **deadly weapon** or any article fashioned in a manner to cause a reasonable person to believe article is a deadly weapon; or person states it is a deadly weapon;
3. Difference between felony and misdemeanor menacing is the use of a **DEADLY** weapon; or any **article fashioned** in a manner to represent a deadly weapon; or **offender verbally or otherwise represents** it is a deadly weapon.

Reckless Endangerment CRS 18-3-208:

1. Recklessly engages in conduct;
2. Which **creates a substantial risk**;
3. Of serious bodily injury to another.