

Great answers!
85%

1)

Arson is the malicious burning of a dwelling house of another. Malice is a house-endangering state of mind.

Burglary, at common law, is the trespassory breaking and entering the dwelling house of another at nighttime with the intent to commit a felony therein.

Modernly, the elements of breaking, dwellinghouse, and and nighttime are not needed, and expands to any theft related offense.

Larceny - trespassory taking and carrying away personal property of another with the intent to permantly deprive.

Malicious Mischief - is the malicious damage or destruction of real property of another. Malice is a property endangering state of mind.

Homicide is the killing of one person by another. It may be lawful or unlawful. Lawful homicides are those that are excusable or justifiable by law. Unlawful homicides are those that are murder or manslaughter.

Murder is homicide plus malice aforethought. It is the killing of one person by another, with malice aforethought. **Malice** is a man endangering state of mind. Malice may be expressed or implied. **Express malice murder** is the specific intent to kill. **Implied malice murder** is murder with the requisite malice implied in three ways: 1) FMR - while in the commission of a felony, someone dies as a result. Modernly, the felonies must be inherent dangerous in the abstract, and do not include the common law felony of larceny. At common law, felonies that will trigger the FMR are MRMRSLAMB. 2) wanton wilful total conscious disregard for the value of human life, someone dies as a result. 3) Intent to inflict GBI/SBI, someone dies.

Manslaughter is the unlawful killing of another with no malice aforethought. It comes in two forms:

Voluntary Manslaughter: is the intentional killing of another with no malice aforethought. it comes in two forms:

1) Heat of passion - a killing done from passion, rather than reason, with adeaute provocation, no cooling off period, and a causal link between act and death. 2) Imperfect Self Defense - Where a person subjectively believes the force for the preservation of life was necessary, but objectively it is not reasonable.

Involuntary Manslaughter: is the unintentional killing of another with no malice aforethought. It comes in two forms: 1) **MMR** - While in the commission of an unlawful act not amounting to a felony, someone dies. 2) **CNH** - while in the commission of a lawful act done with no due caution or circumspection, someone does.

People v Anna (A)

1) Did A commit Arson of Barbara's (B) house?

Arson Supra.

Malice for arson is a dwelling house state of mind. A did not express her malice by intentional burning B's house down, but her malice is implied by her wanton willful behavior. A was previously warned that high winds could burn nearby houses down, and she lit the fire not only to stay warm, but to test the warnings whether the wind could escape, and burn neighboring houses down. The fire roared out of control and burned B's house down. A implied a "I don't care about houses" behavior when she was aware of the risk, and continued on with it.

A will be guilty of Arson.

2) Did A commit Arson of Cathy's (C) house?

Arson supra.

A did not express her malice by intentionally burning C's house down, but implied her malice through her wanton willful "I don't care" behavior. A showed an indifference to dwelling houses when she was aware of the risk her fire could spread, and started the fire to even test those warnings.

A will be guilty of Arson of C's house.

3) Is A guilty of burglary of C's house?

Burglary supra.

A successfully satisfied the entering element when she entered through a partially opened window of the dwelling house of C, at nighttime, which was trespassory, as she did not have consent to be in C's house. The element of breaking is not suggested by the facts.

A will argue that she did not have an intent to commit a felony therein, but the facts state that when A saw C run away, that is when she entered. It could be reasonably inferred that A contemporaneously developed her intent to enter C's house and commit a larceny (discussed infra).

Modernly, the only needed elements are entry of a structure with the intent to commit a felony therein.

A entered (through window) a structure (C's house), with the intent to commit a larceny (discussed infra).

A will be guilty of burglary at modern law, and at common law if it is shown there was a breaking.

4) Is A guilty of larceny of the sandwich?

Larceny supra.

A successfully satisfied the taking element when she exerted control of the sandwich, which was trespassory as she did not have consent to the sandwich, and successfully carried it away when she ate it. A eating the sandwich rendered the return impossible to C, thus indicating A's intent to permanently deprive. The sandwich was personal property of another (C). A will argue that the personal property was perishable, thus there was no value. However, it is not up to the person who takes the personal property of another to determine if such property has value.

A will argue that the sandwich was intended for her, therefore she could not be found guilty for larceny if the property was to become hers. However, her mistake of fact does not relieve the rule that larceny is a crime against possession, not ownership. The sandwich was in the lawful possession of C, and until C relinquishes that lawful possession to A, she is the possessor of the sandwich. Thus, A took the lawful possession of C.

A is guilty of Larceny.

5) Is A guilty of burglary of the built in cabinet?

Burglary supra.

Common law is out since the cabinet is not a dwelling house.

Modernly, a structure has to have four walls and large enough for a grown person to stand comfortably in.

A did enter a structure, with the intent to commit a larceny of the collectibles, however, fixtures built into a home generally do not satisfy the structure elements for modern law burglary

A will not be guilty of burglary of the built in cabinet.

6) Larceny of the collectibles?

Larceny supra

A successfully satisfied the taking element when she grabbed the collectibles, and successfully carried it away when she removed it from the cabinet. This was trespassory as she did not have consent from C to the collectibles. The collectibles are personal property of C, thus having intrinsic value. Her intent to permanently deprive is evidenced by her intent to sell them, thus rendering the return of C's personal property impossible

A will be guilty of Larceny of the collectibles.

7) Is A guilty for B's homicide?

Homicide supra.

B died from an act originating from A's conduct, therefore A will be culpable for B's homicide.

Murder supra

No facts suggest that A had an express intent to kill B, so A will not be found guilty of express malice murder. No facts suggest that A intended to cause GBI/SBI either. A was in the commission of a felony (arson supra) when B died, as she did not reach a safe spot and was in the rest gesta, therefore triggering the FMR at common law. An argument could also be made for wanton willful behavior. A implied an indifference to human life when she was warned about the dangers that could result to nearby homes from her fire and consciously disregarded that risk and started a fire during a windy night, indicating a " I don't care " attitude towards others. She disregarded the value of human life to test whether the warnings about her campfires could cause a wild fire.

A will be guilty of implied malice murder by way of FMR or Wanton Willful

Can A mitigate to Manslaughter?

Voluntary Manslaughter supra

No facts suggest anything that would allow A to mitigate to a self-defense or a heat of passion.

A will not be able to mitigate to Voluntary Manslaughter.

Can A mitigate to Involuntary Manslaughter?

Involuntary Manslaughter supra.

A was not in the commission of any lawful acts during B's death, so CNH is not applicable. A also did not commit any crimes amounting less to a felony. Even if she had, her alleged felonies are beyond overwhelming.

A will not be able to mitigate to Involuntary Manslaughter.

8) Is A guilty of Malicious Mischief of B's home?

Malicious Mischief supra.

The fire started by A destroyed and damaged B's home. Her property endangering state of mind was implied when she disregarded the risk that her campfire could affect nearby houses, and lit the fire anyways.

A will be liable for Malicious Mischief.

9) Malicious Mischief of C's home

Malicious Mischief supra

The fire started by A destroyed and damaged C's home. Her property endangering state of mind was implied when she disregarded the risk that her campfire could affect nearby houses, and lit the fire anyways.

A will be guilty of MM.

People v Donald (D)

10) Did D commit a burglary of B's house?

Burglary supra.

Because this was morning, there can be no common law burglary.

Modernly, D entered a structure, with the intent to commit a felony therein.

However, as stated supra, a structure must have four walls and be large enough for a man to stand in.

D entered a structure, with the intent to commit a theft related offense inside.

D will not be guilty of burglary at common law, and could be guilty of burglary at modern law if B's house still had four walls erected.

11) Did D commit a larceny of B's wrench/pliers?

Larceny supra.

D's satisfied the taking element when he grabbed the wrench, and the carrying away element when he made the slightest movement towards leaving. The taking was trespassory as B did not consent, D will argue that the personal property he was taking has no value, thus he could not be found guilty of larceny. However, even though they were burned, they were still salvageable, thus there is still some value. It is also not what D believes has value or not.

Even if the insurance was to cover the loss, D had no right to the tools found in the debris, so his mistake of fact will not vitiate his guilt. D will next argue that the property is abandon, thus there is no rightful owner.

If a court agrees with him, D will not be liable for larceny. If they do not, D will be liable for larceny

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Assault at common law, is an attempted battery

Assault at modern law is placing another in reasonable apprehension of an imminent battery.

Attempt is an act beyond mere preparation, and into the zone of perpetration, or a substantial step towards the commission of a crime.

Battery is the unlawful application of force upon another.

People v Ruby (R)

90% Excellent
Close to perfect

1) Is R guilty of Larceny of Sam's phone?

Larceny supra

When R took Sam's phone, it was trespassory, as she did not have consent. She satisfied the taking element when she exerted control of the phone, and successfully carried it away when Sam was dispossessed of his phone, thinking it was lost while in R's possession the entire time. The phone was the personal property of Sam's, thus having intrinsic value. When R threw the phone in the lake, she rendered the return of the phone impossible to sam, thus permanently depriving him of his phone.

R will be guilty of larceny of S's phone.

2) Is R guilty of malicious mischief of S's phone?

Malicious Mischief supra.

When R threw S's phone, real property of S, into the lake, she damaged and most likely destroyed the phone. R expressed her property endangering malice when she wanted to get rid of the phone, knowing a body of water would completely damage the phone to never work again.

R will be guilty of MM.

3) Is R guilty of burglary of Tina's house?

Burglary supra,

The facts suggest it was nighttime, and the dwelling house was of another (Tina's). When R smashed the window, she successfully satisfied the breaking element, all of which is trespassory as R had no consent to Tina's house. Her intent however, was to shoot Sam, not necessarily a felony as the facts state she wanted to shoot him, not kill him. R will argue that there no entering, as no part of her person crossed the threshold. When a tool is used simply for the breaking, it cannot be applied to the entry. However, this scenario was not two separate acts of breaking the window, then shooting. R's conduct was one continuous act, of firing the gun that traveled through the window into the house. Because the entry was consummated with the breaking, this would be a valid common law burglary, except for R's absent felony intent.

Modernly, R entered a structure by means of an instrument set forth in motion with her intent of shooting Sam, which is not necessarily a felony.

R will not be guilty of Burglary at common or modern law.

4) Is R guilty Malicious mischief of the glass?

Malicious Mischief supra.

When R shot into the window, smashing the glass, she did not expressly intend to damage the property of Tina, however, her property endangering state of mind was implied when she would have known that firing into a glass would cause destruction or damage to Tina's property.

R will be guilty of MM.

5) Is R guilty of Malicious Mischief of the Cookie jar?

Malicious Mischief supra

When R originally shot into the glass, she was aiming for Sam and did not possess the property endangering state of mind to destroy the cookie jar. However, R should know that by firing a firearm into a dwelling, damage is to ensue, and her property endangering malice is implied this way by her " I don't care " attitude towards Tina's dwelling.

R will be guilty of Malicious mischief.

6) Is R guilty of Assault on Sam?

Assault Attempt Battery supra.

R took a substantial step towards the commission of an unlawful application of force upon S when she entered the zone of perpetration by firing her gun at S. This is enough for a common law assault as R attempted a battery.

Modernly, when R fired her gun, she put S in a reasonable apprehension of an imminent battery, This is evidenced by S running out of T's house looking for whoever shot him, being aware that he was shot would put a person in a reasonable apprehension of an imminent battery.

R will be liable for assault at common law and modernly.

7) Is R guilty of attempted murder of Sam (S)?

**Attempt supra
Homicide supra
Murder supra**

Involuntary Manslaughter supra

R was evidently angry and shot at S. However, no facts suggest she possessed an express intent to kill. R was angry, suspected her boyfriend of cheating, but she did not follow him solely to specifically kill him. The facts suggest more of an impulse than a planned, specific killing. On the contrary, she premeditatedly brought a gun with her, implying that she had some intent to do something malevolent with it.

R will not be guilty of attempted express malice murder.

Implied malice murder is a legal impossibility since all attempts are specific attempt crimes and implied malice murder is not.

R will not be guilty of implied malice murder.

May R mitigate to Voluntary Manslaughter?

Voluntary Manslaughter supra

No facts suggest anything about self defense, so this prong will not work. However, R may make an argument for heat of passion. R acted out of passion after her suspicion of her boyfriend's infidelity was ocularly confirmed, giving R no cooling off period and acting on impulse, passion, rather than reason. Generally, knowledge of adultery is not adequate provocation for voluntary manslaughter. However, the provocation must be sudden. It is reasonable that someone who has suspicion their significant other is committing adultery would be enticed to a level of extreme passion after seeing that significant other with another women, confirming their suspicion all along.

R will be able to mitigate to attempted voluntary manslaughter.

There can be no attempted involuntary manslaughter is all attempts are specific intent crimes and involuntary manslaughter the killing is unintentional.

8) Is R culpable for T's Homicide?

T died by an act committed by R, therefore R is culpable for T's homicide.

R was intending to originally shoot at S, thus she did not have a specific intent to kill T, and therefore cannot be liable for **express malice murder**.

R did not intend to commit GBI/SBI evidenced by her single shot. An argument could be made that R showed an indifference to human life when she shot into a dwelling house, virtually implying she "does not care" about human life. However, depraved heart murder generally involved actions that rise to the level of conscious disregard, and her acts do not necessarily reach the level precisely. R was also not in the commission of a felony at the time, therefore the FMR would not apply.

R will not be guilty of implied malice murder.

Voluntary Manslaughter supra? The facts do not suggest anything to suggest that R was in a self-defense moment, so this will not apply. An argument could be made for heat of passion, but voluntary manslaughter is a specific intent crime. R had no specific intent to kill T, only to shoot at S.

R will not be guilty of Voluntary Manslaughter.

Involuntary manslaughter supra: R was not in the commission of a lawful act done with no due caution or circumspection, as she unlawfully shot into a home. CNH will not be applicable. However, when R shot at S, she was technically committing a battery. Battery is a crime that will trigger the MMR. Unlike FMR, where the underlying felony cannot be bootstrapped unless it is a separate felony, MMR allows bootstrapping.

R may be found guilty of involuntary manslaughter by way of MMR.

People v Sam (S)

9) Did S commit an assault of Unger (U)?

**Assault supra
Attempt supra
Battery supra**

S left the zone of preparation when he concluded the U must have shot him, and entered the zone of perpetration when he began punching U. S attempted a battery, and successfully completed it.

It can be reasonably inferred that when S punched U the first time, U was in a reasonable apprehension of an imminent battery. S systematically delivered punch after punch to U, thus allowing a reasonable inference that U was apprehended.

S will be guilty of assault at common and modern law.

10) Did S commit an assault upon R when he threw the rock?

**Assault supra
Attempt supra
Battery supra**

A battery may be upon direct force, or may be by an instrument set forth in motion by the offending party.

S took a substantial step towards the commission of a crime when he threw a rock in her direction, he attempted a battery, enough for common law assault.

The facts do not suggest if R saw S throw the rock. If R was apprehended when S threw the rock, S will be guilty of assault at modern law.

S is guilty of assault at common law, and at modern law if it can be show R was apprehended

11) Did S commit an attempted malicious mischief when he threw a rock at R's car?

**Malicious Mischief supra
Attempt supra**

S took a substantial step towards the destruction or damage or real property of another when he threw a rock at R's car. S implied his property endangering malice when he threw a rock at R's car, knowing the impact would cause destruction or damage. However, since S missed, this would only be an attempted malicious mischief.

S will be guilty of attempted malicious mischief.

END OF EXAM
