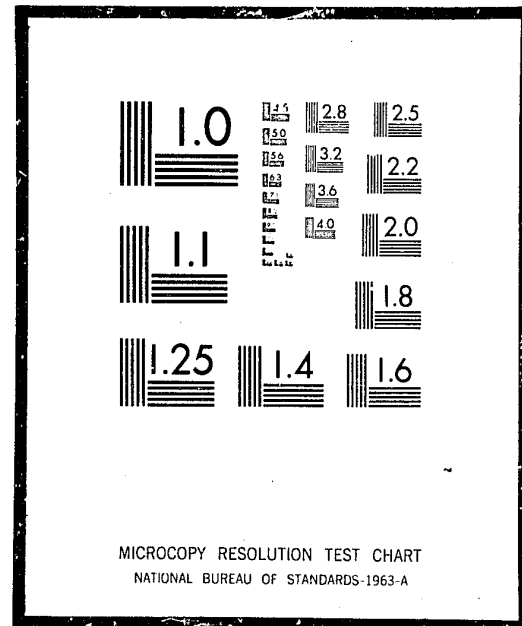


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Date filmed,

1/28/76

SOUTH CAROLINA LAW ENFORCEMENT ETV TRAINING PROGRAM

174
H/1

BASIC CRIMINAL LAW (Homicide, Section II) PART IV STUDY WORKBOOK

SOUTH CAROLINA

LAW ENFORCEMENT-ETV TRAINING PROGRAM

FROM CRIME TO COURT

"Basic Criminal Law";

Part IV 4

"Homicide", Section 12, Study Workbook

Study Workbook

LAW ENFORCEMENT - E.T.V. TRAINING PROGRAM

"Basic Criminal Law"

Part IV

"Homicide", Section II

By

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Sponsored by

South Carolina Law Enforcement Division
in cooperation with
South Carolina Educational Television Network

Endorsed by

South Carolina Governor, Robert E. McNair
South Carolina Sheriffs' Association
South Carolina Law Enforcement Officers' Association
South Carolina Police Chiefs' Executive Association
South Carolina F.B.I. National Academy Associates
South Carolina Southern Police Institute Associates

Program Objectives

This program deals with justifiable
homicide and with excusable homicide.

LAW ENFORCEMENT - ETV TRAINING PROGRAM

"Basic Criminal Law", Part IV

"Homicide", Section II

Review and Study Workbook

INSTRUCTIONS: This review and study workbook is designed to be of use both during the group discussion period, which follows a television program, and by you at home on your own.

It should serve as 1) an effective aid to the Group Discussion Leader and to you for engaging in group discussions after you have viewed a TV program; also it should serve as 2) a means for you to privately check and see how well you have learned the points covered in the TV lesson; and 3) as an opportunity for you to review the material on your own, at home, to be sure that you have gotten all out of the TV program and the group discussion that you want to.

Here is how the Study Workbook is to be used.

FOR THE GROUP DISCUSSION PERIOD

For the group discussion period which follows the television program, the discussion leader will provide you with general and specific instructions. Just be sure that you write the answers he provides you in the space between the dashed lines and not in the blank spaces of the body of the item themselves. You will see what is meant when you get into the workbook proper.

FOR HOME REVIEW AND STUDY

Use the Workbook for review and study on your own as follows:

Before you get to the first item, cover the printed text of the workbook with a blank piece of paper. Slide the blank paper down until you come to a triple star or asterik (***). Continue reading the printed material, above the stars, until you come to a numbered blank.

Fill in the blank with the word, words, or sentences which is/are missing to make sense out of the sentence so that it will then read correctly.

After you have filled in all of the blanks which are contained in an item, slide the loose sheet of paper down from its position, even with the stars, until it is just far enough to reveal the numbered correct answer or answers. These will be the answers which you have already filled in during the group discussion period. The numbers on these answers will correspond to the numbered blank or blanks which you have just completed in the body of the item at home.

Next, slide the blank paper down past the printed material of the following item until you come to another set of three stars. Stop the blank paper so as not to reveal the answers. Answer the item by filling in the blanks. Proceed throughout the Workbook as just described.

By using this method at home, you can both (1) check to see how well you have learned the content of the associated television program and you can (2) find out immediately, item by item, whether the answer you have just given is correct.

Even after the workbook has been filled in, both in the blanks contained in the body of the items and between the dashed lines, it provides an excellent means for review.

An EXAMPLE of how to use this "Study Workbook" at home is as follows:

(1) _____ has been committed.

*** NOTE: Throughout the Workbook, the three stars indicate that, when working at home, you should not slide your blank paper farther down the page until you have given your answer or answers by filling in all of the blanks in the item -- after you have written your answer or answers, slide the blank paper on down to reveal the correct answer.

Answer: (1) homicide (see footnote at bottom of page)

Note: Although the answer or answers is/are provided on this page of examples, ordinarily this page would not contain the answer or answers until you write it/them in during the group discussion period.

As another example, an item might call for more than one answer:

The example in which a person is put to death by the State illustrates a case of (2) _____ homicide rather than (3) _____ homicide.

Answers: (2) justifiable (3) excusable

† Note: In some cases there may be other words which mean the same thing as those given you as the answer. When this is true, the important fact is whether you have given an answer which does not differ significantly in meaning from the one given as the "correct" answer.

If there are any further questions about how to use the "Study Workbook", either during the group discussion period or at home, please do not hesitate to ask your group discussion leader for additional information.

Now to proceed with your study and review!

When proper officers in strict compliance with their (4) _____ execute a person who has been sentenced to death, such a homicide will be deemed justifiable.

Answer: (4) _____

A soldier, killing in the line of duty, is an example of (5) _____ homicide.

Answer: (5) _____

Homicide is justifiable when committed in the following cases:

(6) _____;

(7) _____;

(8) _____;

(9) _____;

(10) _____;

(11) _____.

Answers:

(6) _____;

(7) _____;

(8) _____;

(9) _____;

(10) _____;

(11) _____.

While it is justifiable homicide to kill in order to suppress a riot, it is justifiable only (12) _____.

Answer: (12) _____.

An officer should endeavor to suppress the disturbance by other means than homicide if possible; if he reasonably can, avoid the taking of human life.

A private citizen may/may not (13) _____, on their own authority, lawfully attempt to quell a riot.

Answer: (13) _____

To lawfully attempt to quell a riot, a private citizen may (14) _____ himself, and he may commit a (15) _____ to try to bring a riot to a halt.

Answers: (14) _____ (15) _____

A disturbance need/need not (16) _____ actually be characterized as a riot to justify homicide by an officer.

Answer: (16) _____

A homicide by an officer who attempts to preserve the peace is justifiable provided it is shown that the killing was reasonably necessary to bring about a preservation of the peace. However, when an officer is confronted with a situation which requires either a suppression of a riot or a preservation of the peace, the officer should act with great caution and kill only as a last resort. A police officer, or a private citizen, for that matter, who commits a homicide will not be criminally liable where the act was reasonably necessary to either preserve the peace or quell a riot.

Another instance where a homicide will be deemed justifiable is when one is killed to prevent the commission of a (17) _____.

Answer: (17) _____

Homicide will be deemed justifiable when it occurs to prevent the commission of certain felonious acts, but not to prevent the commission of a (18) _____.

Answer: (18) _____

Suppose an officer discovers a person committing the crime of embezzlement (a felony), he would/would not (19) _____ be justified in killing that person.

Answer: (19) _____

The crimes in the prevention of which a person's life may be taken may be generally classified as those involving force, violence, or surprise.

This rule does not authorize the killing of individuals who attempt to commit secret felonies that are unaccompanied by force. Examples of some of the felonies which would justify killing of the persons who attempt them are murder, burglary, rape or arson. These are felonies, the commission of which involve force, violence, or surprise.

A felony which is secretly being committed and is not accompanied by force does/does not (20) _____ justify a homicide which is done to prevent it.

Answer: (20) _____

There is no justification for taking another person's life if the offense which is being committed is neither a felony nor an offense that is characterized by force, violence, or surprise.

Imagine that A walks by a parked automobile and notices that there is a transistor radio, which is worth fifty dollars or more, resting on the front seat. No one is in the car. A opens the door to the vehicle, leans in, and picks up the radio. As he closes the door to the automobile, police officer B sees A taking the radio and shoots him. A falls dead. B probably was/was not (21) _____ justified in killing A.

Answer: (21) _____

While grand larceny is a felony, it is not one involving force, violence, or surprise.

As another case, suppose that C is walking down a lonely street. A sees C, and walks up to him and says, "This is a stick-up - give me all of your money or you're a dead man." A pushes a gun into C's ribs. As C is in the process of handing over to A his wallet, police officer B happens along and sees the robbery in progress. B pulls his revolver and kills A. Was B justified in killing A? B (the officer) was/was not (22) _____ justified in killing A.

Answer: (22) _____

Robbery is a crime involving force and violence. Other crimes the commission of which would not justify a homicide are breach of trust, pick-pocketing, and any misdemeanor.

Only those felonies involving force and violence or (23) _____ will justify a homicide to prevent their commission.

Answer: (23) _____

Additionally, it is essential that the killing be necessary to (24) _____

Answer: (24) _____

If another means could prevent the felony from being committed, a homicide will not be justifiable. All other means must first be exhausted before the offender can be killed.

Suppose that police officer B is patrolling a residential neighborhood and sees A attempting to break into a dwelling house. A has raised the window and is about to go in. B gets out of his patrol car and walks up to A just as he is ready to go into the window opening. A is unarmed. B would/ would not (25) _____ be justified in killing A.

Answer: (25) _____

B would not be justified in killing A because B should first give A the opportunity to surrender inasmuch as A is not armed and no one's life is in immediate danger.

Suppose a crime has been completed. The person is not in the act of committing the felony. Inasmuch as the basis for the justification under consideration is the prevention of a felony, it would follow that where the felony has been completed and there is no element of preventing the escape or flight of the felon present, such felon could not be justifiably killed.

Suppose that A commits a murder and escapes. Several hours later, he walks into the police station to surrender. The desk sergeant says, "We've been looking for you ever since you killed B, and now you're going to get yours." He pulls out his gun and kills A. The desk sergeant would be guilty of (26) _____

Answer: (26) _____

The right to kill in defending against a robbery does not terminate just as soon as (27) _____

Answer: (27) _____

Technically, the crime of robbery is completed whenever the exchange of the possession of property has been accomplished - as when A hands B his wallet. However, as long as the property of the person robbed remains in his presence, the robber may be killed to (28) _____

Answer: (28) _____

Another situation in which a homicide will be regarded as justifiable is when an officer or a citizen is attempting a lawful arrest and kills a criminal in using reasonable force to overcome the criminal's flight.

A police officer must show that, when practicable, he had declared

(29) _____,

that the criminal (30) _____, and that the

killing was (31) _____.

Answers: (29) _____

(30) _____

(31) _____

Is the right to kill inclusive of all crimes? (32) _____.

Answer: (32) _____

An officer couldn't kill because the defendant ran a red light, for example. This right is limited to cases of arrest involving felonies and does not extend to misdemeanors.

If a criminal's resistance to an arrest is such that it endangers the life of the officer or citizen making the arrest, a homicide may be

(33) _____ - not (34) _____ - under the principles of self-defense, even in cases involving misdemeanors.

Answers: (33) _____ (34) _____

To be justifiable, a homicide must have been reasonably necessary. This necessity, however, need not be actual, and real - it need only be

(35) _____.

Answer: (35) _____

An officer would/would not (36) _____ be justified in killing a felon in the following situation: A is a felon. Officer B puts his hand on A's shoulder and tells A that he is under arrest. A brushes B's hand off his shoulder and stands there. B pulls out his revolver and kills A.

Answer: (36) _____

In the case above, B would be guilty of an unlawful homicide because

(37) _____

and because (38) _____

Answers: (37) _____

(38) _____

Where resistance is only momentarily made and the police officer kills after the resistance is over and the necessity for killing has ceased, an unlawful homicide will have occurred.

If an arrest is illegal, the homicide is (39) _____

Answer: (39) _____

A homicide committed by an officer attempting to make an illegal arrest could/could not (40) _____ be excused on the basis of self-defense.

Answer: (40) _____

If an arrest is unlawful, the officer has no right to kill, even in self-defense.

It is justifiable homicide for an officer or citizen in charge of, or who has lawful custody of, a prisoner who is being held for a felony to kill him to prevent (41) _____.

Answer: (41) _____

There would be no right to kill a (42) _____ to prevent his escape.

Answer: (42) _____

To summarize very briefly the principal areas of justification: (1) A homicide is justifiable where one kills to suppress a riot or preserve the peace when the riot or disturbance could not be suppressed by another reasonable means. Also, (2) a homicide is justifiable where it is committed to prevent the commission of a felony involving force, violence, or surprise, and the killing was reasonably necessary for the prevention of the felony. A homicide is justifiable (3) where a person attempts to make a lawful arrest of a felon or attempts to prevent a felon's flight, and the killing was reasonably necessary to overcome resistance or to prevent flight. Finally, (4) a homicide is justifiable to prevent the escape of a felon.

Broadly speaking, a homicide may be excusable when it is the result of an (43) _____ or has been committed in (44) _____

Answers: (43) _____ (44) _____

When one person kills another and the killing was done during the commission of a (45) _____ and (46) _____ act, the person causing death will not be held criminally liable.

Answers: (45) _____ (46) _____

When a person kills another accidentally while committing a lawful but negligent act, criminal liability will/will not (47) _____ attach.

Answer: (47) _____

Criminal liability will attach where one is accidentally killed due to an unlawful act being performed by another.

Suppose that A is engaged in the lawful act of driving his automobile, but A is speeding. A, however, does not actually know that he is speeding. B is walking down the road, and a defective tire on A's car blows out. A's car, due to the speed, goes out of control, and strikes B, killing him. A was negligently engaged in a lawful act which killed B. A has committed (48) _____.

Answer: (48) _____

Where a homicide accidentally occurs during the commission of a lawful act performed in a non-negligent manner, it is deemed (49) _____.

Answer: (49) _____

Where a homicide accidentally occurs during the commission of a lawful act performed in a negligent manner, it is deemed (50) _____.

Answer: (50) _____

Where a homicide accidentally occurs during the commission of an unlawful act, it is (51) _____.

Answer: (51) _____

Every man has a right to defend himself from an attack which threatens him with death or grievous bodily injury. This right rests upon necessity, either (52) _____ or (53) _____.

Answers: (52) _____ (53) _____

To establish the plea of self-defense, the accused must show: First, that he was entirely without (54) _____ in bringing about the immediate difficulty; second, that at the time he fired the shot or delivered the fatal blow, he, in (55) _____, believed that he was in imminent danger of losing his life or of sustaining a serious bodily injury; third, that such belief was reasonable and that a reasonable, careful, and prudent person - that is, a person of ordinary courage and firmness - situated in life circumstances would have (56) _____; and fourth, where both the deceased and the accused are on common ground, that is where both have an equal right to be, and the accused is not on his own premises, then the accused must show that he had no other reasonably safe, adequate, and obvious means of escape, or way of avoiding the danger of losing his life or sustaining serious bodily injury, except to (57) _____.

Answers: (54) _____ (55) _____
 (56) _____
 (57) _____

In summary, the elements required to establish "self-defense" are: One, the defendant must be entirely without fault; two, the defendant must show that at the time of killing, he was in danger of death or serious bodily harm or appeared to be in such danger; three, the circumstances were such that a man of ordinary courage and firmness would have acted as the defendant did; and four, if the parties were on common ground, the defendant had no probable means of escape.

The phrase "entirely without fault" means that a defendant cannot (58) _____

Answer: (58) _____

Should a slayer provoke the combat or produce the occasion for homicide in order to have a pretext for killing or doing great bodily harm to his adversary, he cannot plead self-defense.

If A walked up to B and slapped B and called him a dirty low-down S.O.B., and B drew a knife on A, then A could/could not (59) _____ pull out a pistol and kill B and expect to be excused for his act.

Answer: (59) _____

If, in the case above, the aggressor, Mr. A, has, in good faith, withdrawn from combat and has so informed his intention to withdraw to his adversary, Mr. B, then Mr. A, the initial aggressor, has restored to himself his right of (60) _____.

Answer: (60) _____

If, after a good faith withdrawal by an initial aggressor, the adversary continues the fight and the intention to withdraw has been communicated to him, the original aggressor may exercise the right of self-defense as though he had never been an aggressor.

To regain the right of self-defense, the aggressor's withdrawal must be done in (61) _____ and his intention to (62) _____ must be clearly and fairly communicated to the other person.

Answers: (61) _____ (62) _____

A person seeking to excuse a homicide on the basis of (63) _____ must, among other things, show that he acted under a reasonable belief that he was in imminent danger of losing his life or of receiving serious bodily harm and that a person of ordinary courage and firmness would have acted as he did.

Answer: (63) _____

The party attacked is the judge of his own peril, and can safely act on appearances, upon the facts and circumstances prevailing at the time.

One is/is not (64) _____ bound to wait until he receives a fatal wound or until a grievous bodily injury is inflicted upon him, before he can act in his defense.

Answer: (64) _____

If the appearances in a situation are such as to justify a man of reasonable courage and firmness in the belief that his life was in danger or that he was in danger of sustaining grievous bodily harm, then, subject to the other elements required for self-defense, he has a right to strike in self-defense.

If a man had a pistol pointed at another individual, the person at whom the pistol was pointed would/would not (65) _____ have to wait until the one holding the pistol had fired before he could strike in self-defense.

Answer: (65) _____

Next, a person pleading self-defense must show that, under the circumstances existing at the time the other party was slain, a person of ordinary courage and firmness would have acted as he did.

If the appearances to the accused at the time of the slaying were such that he could not safely and reasonably avoid taking the life of the deceased, and a person of ordinary courage and firmness would have arrived at the same conclusion, then the accused is entitled to plead self-defense, if (66) _____.

Answer: (66) _____

The determination as to whether one should or should not have killed revolves about the question as to whether a person of ordinary courage and firmness would have arrived at the conclusion to kill as did the accused. The question is not would a coward or an exceedingly courageous individual have reached the same conclusion.

Where parties are on common ground, to establish self-defense, the accused must show that he had no (67) _____ means of escape.

Answer: (67) _____

One must, in good faith, actually retreat, if he reasonably can do so. Where a defendant could have avoided the danger by retreat, he is under a duty to do so, and if he killed without retreating, he cannot claim self-defense.

Where, however, retreat cannot be had without exposure to (68) _____, a party need not retreat.

Answer: (68) _____

There is no duty to retreat when to do so would increase the danger to the person's life.

One who is attacked in either his (69) _____ or (70) _____ is not required to retreat.

Answers: (69) _____ (70) _____

A person's home or place of business is not (71) _____ ground.

Answer: (71) _____

If a man is attacked at home by his wife, he does/does not (72) _____ need to retreat.

Answer: (72) _____

If a man is attacked in his own automobile, he is/is not (73) _____ considered to be on common ground, thus he does/does not (74) _____ need to retreat.

Answers: (73) _____ (74) _____

An officer is not required to retreat when assaulted and allow the would-be lawbreaker to work his will. An officer must stand and meet force with force; and if he kills in the performance of his duty, the homicide will not be unlawful.

Where a police officer attempts a (75) _____ arrest, he is not required to retreat, but may stand his ground and use such force as is (76) _____ necessary to effect the arrest.

Answers: (75) _____ (76) _____

Where an officer uses (77) _____ force in making a lawful arrest and the person sought to be arrested either believes or has reason to believe that he is in danger of being killed or seriously injured, he may defend himself and kill the officer, if necessary.

Answer: (77) _____

The above rule is applicable where the officer attempting the arrest abuses his authority and causes one to believe his life is in danger. Where an officer, however, uses necessary force to overcome resistance to an arrest or to prevent an escape, the person sought to be arrested or prevented from escaping has no right to self-defense. When a person resists and openly defies a police officer, he is not allowed to take advantage of his wrongdoing and establish an excuse for self-defense.

One may resist an (78) _____ arrest, even to the point of taking the officer's life, if necessary, to prevent one's own death or serious bodily harm.

Answer: (78) _____

Where an officer attempts an unlawful arrest, a citizen may rightfully resist. Should it either become necessary or apparently necessary to save his life or save himself from serious bodily harm, a person may kill the one attempting to make the unlawful arrest.

Consider the following case: B, a police officer, attempts to arrest A for a misdemeanor without a warrant. In fact, A is guilty of a misdemeanor but he did not commit it in B's presence. B says, "You are under arrest."

A asks him for a warrant. B replies, "I have non; and if you don't come on, I'm going to shoot you right now." At that point, B reaches for his pistol and points it at A. A, then, could (79) _____.

Answer: (79) _____

Consider another case: A is about to put a knife into B. C shoots A to prevent A from killing B. Could C plead self-defense? Whether C could plead self-defense or not will depend on (80) _____.

Answer: (80) _____

Where a person intervenes in a difficulty between two others, he acts at his (81) _____.

Answer: (81) _____

The intervening party will not be allowed to plead self-defense unless (82) _____

Answer: (82) _____

The right to excuse a killing in defense of another depends upon the same conditions as would be necessary to excuse the other person under the plea of self-defense.

Consider the case again in which A is about to put a knife into B. C shoots A to prevent A from killing B. Suppose that B was at fault in bringing on the difficulty with A. C could/could not (83) _____ plead self-defense.

Answer: (83) _____

If B could not plead self-defense, neither could C. C simply occupies B's position.

Again, remember the sound advice, "Everyone study your reference material between now and the next TV session."

Thanks

"Basic Criminal Law"

Part IV

"Homicide", Section II

STUDY WORKBOOK ANSWER KEY

-
- (1) homicide
 - (2) justifiable
 - (3) excusable
 - (4) duty
 - (5) justifiable
 - (6) first, when the proper officers in strict compliance with their duty execute a person who has been sentenced to death;
 - (7) second, when a soldier in conforming to his military duty kills a person;
 - (8) third, a homicide may be justifiable when an officer or a private citizen kills in suppressing a riot or preserving the peace;
 - (9) fourth, when an officer or a private citizen making a lawful arrest kills a felon who is forcibly resisting arrest or attempting to flee;
 - (10) fifth, when an officer or a private citizen kills to prevent the commission of a felony;
 - (11) sixth, when an officer kills a felon to prevent his escape.
 - (12) when the suppression of the riot can be done in no other way
 - (13) may
 - (14) arm
 - (15) homicide
 - (16) need not
 - (17) felony
 - (18) misdemeanor
 - (19) would not
 - (20) does not
 - (21) was not
 - (22) was
 - (23) surprise
 - (24) prevent the commission of the felony in question
 - (25) would not
 - (26) unlawful homicide
 - (27) there has been an exchange of possession of property
 - (28) prevent him from carrying it away
 - (29) his intention to arrest the criminal
 - (30) refused to submit
 - (31) necessary to make the arrest
 - (32) no
 - (33) excused
 - (34) justified
 - (35) apparent
 - (36) would not
 - (37) the homicide was not reasonably necessary
 - (38) A's resistance was momentary and he was killed after the resistance was over
(either order)

-
- (39) unlawful
 - (40) could not
 - (41) his escape
 - (42) misdemeanor
 - (43) accident
 - (44) self-defense
(either order)
 - (45) lawful
 - (46) non-negligent
(either order)
 - (47) will
 - (48) an unlawful homicide
 - (49) excusable
 - (50) inexcusable
 - (51) inexcusable
 - (52) actual
 - (53) reasonably apparent
 - (54) fault
 - (55) good faith
 - (56) reached a similar conclusion
 - (57) act as he did
 - (58) wilfully create a difficulty that will provoke a circumstance which will make it necessary for him to kill
 - (59) could not
 - (60) self-defense
 - (61) good faith
 - (62) withdraw
 - (63) self-defense
 - (64) is not
 - (65) would not
 - (66) all the other elements of self-defense are present
 - (67) reasonably safe and adequate
 - (68) greater danger
 - (69) home
 - (70) place of business
 - (71) common
 - (72) does not
 - (73) is
 - (74) does
 - (75) lawful
 - (76) reasonably
 - (77) unnecessary
 - (78) unlawful
 - (79) defend himself
 - (80) B's actions
 - (81) peril
 - (82) such plea would have been available to the person whose place the intervenor took
 - (83) could not

STATEWIDE LAW ENFORCEMENT EDUCATION THROUGH TELEVISION

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