

SUPREME JUDICIAL COURT
CHALK: REQUIREMENTS OF PROOF FOR HOMICIDE

I. MURDER IN THE FIRST DEGREE

A. Murder with Deliberate Premeditation

1. The defendant caused the death of [name of victim].
2. The defendant intended to kill.
3. The defendant committed the killing with deliberate premeditation.
4. **[Where there is evidence of self-defense or defense of another]** The defendant did not act in proper self-defense or in the proper defense of another.
5. **[Where there is evidence of mitigating circumstances]** There were no mitigating circumstances.

B. Murder with Extreme Atrocity or Cruelty

1. The defendant caused the death of [name of victim].
2. The defendant either:
 - a. intended to kill; or
 - b. intended to cause grievous bodily harm; or
 - c. intended to do an act which, in the circumstances known to him, a reasonable person would have known created a plain and strong likelihood that death would result.
3. The killing was committed with extreme atrocity or cruelty.

4. **[Where there is evidence of self-defense or defense of another]** The defendant did not act in proper self-defense or in the proper defense of another.
5. **[Where there is evidence of mitigating circumstances]** There were no mitigating circumstances.

C. Felony-Murder

1. The defendant committed or attempted to commit [name of crime], a felony with a maximum sentence of life imprisonment.
2. The death occurred during the commission or attempted commission of the underlying felony.
3.
 - a. The underlying felony was inherently dangerous; or
 - b. The defendant acted with a conscious disregard for the risk to human life.

II. **MURDER IN THE SECOND DEGREE**

A. Murder

1. The defendant caused the death of [name of victim].
2. The defendant either:
 - a. intended to kill; or
 - b. intended to cause grievous bodily harm; or
 - c. intended to do an act which, in the circumstances known to him, a reasonable person would have known created a plain and strong likelihood that death would result.
3. **[Where there is evidence of self-defense or defense of another]** The defendant did not act in proper self-defense or in the proper defense of another.

4. **[Where there is evidence of mitigating circumstances]** There were no mitigating circumstances.

B. Felony-Murder

1. The defendant committed or attempted to commit [name of crime], a felony with a maximum sentence of less than life imprisonment.
2. The death occurred during the commission or attempted commission of the underlying felony.
3.
 - a. The underlying felony was inherently dangerous; or
 - b. The defendant acted with a conscious disregard for the risk to human life.

III. **VOLUNTARY MANSLAUGHTER**

A. Voluntary Manslaughter as a Lesser Included Offense

1. The defendant caused the death of [name of victim].
2. The defendant either:
 - a. intended to kill; or
 - b. intended to cause grievous bodily harm; or
 - c. intended to do an act which, in the circumstances known to him, a reasonable person would have known created a plain and strong likelihood that death would result.
3. **[Where there is evidence of self-defense or defense of another]** The defendant did not act in proper self-defense or in the proper defense of another.

B. Voluntary Manslaughter Absent a Murder Charge

1. The defendant intentionally inflicted an injury or injuries on [name of victim] likely to cause death.
2. The defendant caused the death of [name of victim].
3. **[Where there is evidence of self-defense or defense of another]** The defendant did not act in proper self-defense or in the proper defense of another.

IV. **INVOLUNTARY MANSLAUGHTER**

A. Death Caused by Wanton and Reckless Conduct

1. The defendant caused the death of [name of victim].
2. The defendant intended the conduct that caused the death of [name of victim].
3. The defendant's conduct was wanton and reckless.
4. **[Where there is evidence of self-defense or defense of another]** The defendant did not act in proper self-defense or in the proper defense of another.

B. Death Caused by Wanton and Reckless Failure to Act

1. The defendant's failure to act caused the death of [name of victim].
2. There was a special relationship between the defendant and [name of victim] which gave rise to a duty of care, or the defendant created a situation that posed grave risk of death or serious injury to another.
3. The defendant intended the failure to act that caused the death of [name of victim].

4. The defendant's failure to act was wanton and reckless.

C. Death Unintentionally Caused by a Battery

1. The defendant caused the death of [name of victim].
2. The defendant intentionally committed a battery upon [name of victim] that endangered human life.
3. The defendant knew or reasonably should have known that the battery endangered human life.
4. **[Where there is evidence of self-defense or defense of another]** The defendant did not act in proper self-defense or in the proper defense of another.