

Inside Criminal Justice



by
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About the Author

Sanjay K. Biswas, obtained his B.A. from Tulane University in New Orleans in 1994 and his law degree from Tulane University in 1997. He also obtained an LLM in Admiralty Law in 2013 from Tulane University. Since entering the practice of law, he has maintained a commitment to fully pursue the best possible results for his clients in each and every matter.

With his law office based in Metairie, Louisiana, Mr. Biswas provides vigorous criminal defense representation to individuals charged with misdemeanors and felonies throughout the state and federal courts of Louisiana. His practice area include everything from DUI/DWI, domestic violence, drug crimes and criminal appeals. His clients count on him to explore all available options for minimizing the penalties faced, or ideally getting the charges dropped altogether.

For a free consultation he can be reached 24/7 at 504-256-9019 or through his website at <http://www.sanjaybiswaslaw.com/>.

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Criminal Justice Overview

The Criminal Justice system of the United States of America composed of three general elements or branches of government: the Legislative, Executive and Judicial.

Legislative Role

Fundamentally, an action becomes a crime when it has been deemed such by the Legislative branch. This legislature can be either at the Congressional level in Washington, or on a state-by-state basis. Either way, it is the duty of the legislature to do the following:

- define crimes
- fix sentences
- provide funding for criminal justice agencies.

The Judicial Role

Trial courts decide the guilt of persons charged with crimes, with or without the assistance of juries. Appellate courts interpret the law according to the principles of the US Constitution. It is the duty of both state and federal appellate courts review legislative decisions and decide whether they fall within the boundaries of state law, federal law, and ultimately, the United States Constitution. Judicial review gives the courts the power to evaluate legislative acts in terms of whether they conform to the Constitution. If a law is in conflict with the Constitution, an appellate court may strike it down. The final route of appeal, after State and Federal Appeals Courts have been consulted, is the US Supreme Court. Its ruling as to whether or not a law enacted by a Legislature is Constitutional (and therefore valid) is final. The US Supreme Court can only be overruled by a change to the Constitution itself.

How judges are chosen varies both nationally and from state to state. Federal judges are appointed by the Executive branch (i.e. the White House), with those appointments then approved by the US Senate.

Within the 50 US states, the process varies:

Governor or Legislative Appointment: In 4 states, judges are appointed by the governor or (in South Carolina and Virginia) the legislature. Gubernatorial appointments usually require the consent of the upper house of the legislature or the participation of a special commission such as an executive council. In most of these states, judges serve a term (ranging from 6 to 14 years) and then may be reappointed in the same manner. In Massachusetts, New Hampshire, and Rhode Island, judges enjoy lifetime or near-lifetime tenure.

Merit Plan: In 23 states, judges are nominated by a nonpartisan commission, and then appointed by the governor. Judges serve a term and then are subject to a retention election, where they run alone, and voters can either approve another term or vote against them. Terms vary but on the whole are less than those in appointment states.

Nonpartisan Election: In 15 states, judges run for election. Their political affiliations are not listed on the ballot, and so voters, unless specifically informed, do not know a candidate's political party. These judges serve a term and then may run for reelection. The terms range from 6 to 10 years.

Partisan Election: In 8 states, judges run for election as a member of a political party. They serve a term in the range of 6 to 10 years for the most part and then may run for reelection. Louisiana elects its judges on this basis.

Powers of the Judiciary

A judge may, among other court orders, issue writs of habeas corpus (the power to call any prisoner before the court to test the legality of his detention), arrest warrants and search warrants. Exercise of authority by a judge of the Supreme Court or of a court of appeal is subject to review by the whole court. The power of judges to punish for contempt of court is limited by law.

The Executive Role

Besides its part in choosing or supervising elections of the Judicial branch, the Executive is responsible for the implementation and supervision of the laws enacted by the Legislature. This is the same whether the level of government is Federal, State, or County/City.

Again varying as to whether the level of government discussed is Federal, State or County, the attorneys-general or district attorney (those lawyers charged with prosecuting arrested individuals) may be appointed or elected. In Louisiana, there are 41 District Attorneys within the Circuit Court of New Orleans who are directly elected.

The Executive is also responsible for the maintenance of police forces, as well as the prison system.

What Happens if a Person is Arrested?

Although there are contingencies for a Citizen's Arrest of a person suspected of having committed a crime, for now we shall just look at the more traditional and usual process.

- 1) **Observation** – A Police officer observes that a crime has been committed. This can be by such means as a 911 phone call reporting say a robbery, or say by the officer observing a car weaving erratically in traffic.
- 2) **Establishment of Probable Cause** – The officer notices that a man is running down a street with a television under his arm; or on pulling over the car that was driving erratically, the officer notices the smell of liquor on the driver's breath. These, or other such prima facie (literally, at first sight) pieces of evidence empower the officer to investigate further.
- 3) **An Arrest Warrant is Issued** – The warrant may be issued either before the suspect is actually arrested, or during a judicial hearing following the suspect having been taken into custody. (We shall deal with a suspect's rights shortly)
- 4) **Further Investigation** – The suspect is questioned, witnesses (if any) are also questioned. It may be necessary for the police to receive a search warrant from the judiciary in order to search the suspect's premises for i.e. Stolen goods.
- 5) **Charges Laid** – Upon conclusion of the investigation, the Police turn over their findings to a prosecutor or District Attorney. It is the latter's duty to ascertain whether the evidence gathered is sufficient to cause a likely verdict of Guilty.

Rights of the Arrested

The so-called Miranda Rights are well-known to viewers and readers of popular crime fiction. Here they are in specific. An arrested suspect:

- Has the right to remain silent
- Anything said can be used against the suspect in a court of law
- The suspect has the right to consult with a lawyer and have that lawyer present during the interrogation
- If a suspect cannot afford a lawyer, one will be appointed to represent him or her
- Can invoke the right to be silent before or during an interrogation, and if he or she does so, the interrogation must stop.
- Can invoke your right to have an attorney present, and until the attorney is present, the interrogation must stop.

Note: The Miranda Rights only apply when a suspect is in police custody and/or under interrogation. Put loosely, if one brags to an off-duty police officer in a bar that one has just robbed a furniture store, that statement may be entered into evidence even though the Rights have not been read to the suspect.

Court Procedures

Prosecution and Pretrial

- **Charges:** As noted above, the District Attorney, having considered the evidence assembled by the police, decides whether to file written charges. If the evidence does not warrant a charge, the suspect is released without prosecution.
- **First Court Appearance:** If the prosecutor decides to file formal charges, the suspect – now referred to as the accused appear in court to be informed of the charges and of his or her rights. The judge decides whether there is enough evidence to hold the accused or release him or her. If the defendant does not have an attorney, the court may appoint one or begin the process of assigning a public defender to represent the defendant.
- **Bail or Bond:** At the first court appearance (or at any other point in the process- depending on the jurisdiction) the judge may decide to hold the accused in jail or release him or her on bail, bond, or on his or her 'own Recognizance' (aka OR), (OR means the defendant promises to return to court for any required proceedings and the judge does not impose bail because the defendant appears not to be a flight risk). To be released on bail, defendants have to hand over cash or other valuables (for instance, property deeds) to the court as security to guarantee that the defendant will appear at the trial. Defendants may pay bail with cash or bond (an amount put up by a bail bondsman who collects a non-refundable fee from the defendant to pay the bail). The judge will also consider such factors as drug use, residence, employment, and family ties in deciding whether to hold or release the defendant.
- **Grand Jury or Preliminary Hearing:** In about one-half of the states (Louisiana is one of them), defendants have the right to have their cases heard by a grand jury, which means that a jury of citizens must hear the evidence presented by the prosecutor and decide whether there is enough evidence to indict the accused of the crime. If the grand jury decides there is enough evidence, the grand jury submits to the court an indictment, or written statement of the facts of the offense charged against the accused. In other cases, the accused may have to appear at a preliminary hearing in court, where the judge may hear evidence and the defendant is formally indicted or released.

- **Arraignment:** The defendant is brought before the judge to be informed of the charges and his or her rights. The defendant pleads guilty, not guilty, or no contest (accepts the penalty without admitting guilt). If the defendant pleads guilty or no contest, no trial is held, and the accused (now known as the offender) is sentenced then or later. If the defendant pleads not guilty, a date is set for the trial. If a plea agreement is negotiated, no trial is held.

Adjudication (Trial Process)

- **Plea Agreements:** The majority of cases are resolved by plea agreements rather than trials. A plea agreement means that the defendant has agreed to plead guilty to one or more of the charges in exchange for one of the following: dismissal of one or more charges, a lesser degree of the charged offense, a recommendation for a lenient sentence, not recommending the maximum sentence, or making no recommendation. The law does not require prosecutors to inform victims about plea agreements or seek their approval.
- **Trial:** Trials are held before a judge (bench trial) or judge and jury (jury trial), depending on the seriousness of the crime and other factors. The prosecutor and defense attorney present evidence and question witnesses. The judge or jury finds the defendant guilty or not guilty on the original charges or lesser charges. Defendants found not guilty are usually released. If the verdict is guilty, the judge will set a date for sentencing.

Post-Trial

Sentencing: Victims are allowed to prepare for the judge (and perhaps to read at the sentencing hearing) a victim impact statement that explains how the crime affected them. In deciding on a sentence, the judge has a range of choices, depending on the crime. These choices include restitution (paying the victim for costs related to the crime), fines (paid to the court), probation, jail or prison, or the death penalty. In some cases, the defendant appeals the case, seeking either a new trial or to overturn or change the sentence.

Probation or Parole: A judge may suspend a jail or prison sentence and instead place the offender on probation, usually under supervision in the community. Offenders who have served part of their sentences in jail or prison may-under certain conditions-be released on parole, under the supervision of the corrections system or the court. Offenders who violate the conditions of their probation or parole can be sent to jail or prison.

Some Common Crimes and Their Penalties

The following are the 10 most commonly committed crimes in the US as of 2013, listed in reverse order and with an emphasis on Louisiana law:

Motor Vehicle Theft

Louisiana law specifically prohibits motor vehicle theft. Under state law, a person commits the crime of motor vehicle theft by taking a motor vehicle that belongs to someone else either without the owner's permission or by fraud and with the intent to permanently deprive the owner of the vehicle. A person intends to permanently deprive the owner of the vehicle if the person does not intend to return the car. For example, a person who breaks into someone else's car in a parking lot and drives away to a "chop shop" has committed theft. A person who poses as a mechanic to obtain the key to a person's car and takes the car has also committed theft. A person also commits motor vehicle theft in Louisiana by taking possession of a car that is mis-delivered or lost or that the defendant knows (or should have known) is stolen.

Punishment

In Louisiana, theft of a motor vehicle worth less than \$500 is punishable by up to six months in jail, a fine of up to \$1,000, or both. Theft of a motor vehicle worth \$500 or more but less than \$1,500 is punishable by up to five years in prison, a fine of up to \$2,000, or both. Theft of a motor vehicle worth \$1,500 or more is punishable by up to ten years in prison, a fine of up to \$3,000, or both. Carjacking is punishable by two to 20 years in prison. Joyriding is punishable by up to ten years in prison, a fine of up to \$5,000, or both. Failing to return a rental car is punishable by up to five years in prison, a fine of to \$500, or both.

Domestic Violence

Louisiana defines domestic abuse battery as one household member intentionally using force or violence against another household member.

A household member is:

- any person of the opposite sex living with the defendant as a spouse, regardless of whether they are actually married
- any person of the opposite sex who resided with the defendant as a spouse within five years of the domestic abuse battery, regardless of whether they were actually married
- any child who currently lives with the defendant or has lived with the defendant within the five years preceding the domestic abuse battery, and
- any child of the defendant, regardless of where the child resides.

A defendant convicted of domestic abuse battery faces up to six months in jail and a \$1,000 fine. A portion of any jail sentence may be suspended if the defendant performs community service and participates in a domestic abuse prevention program. Repeat domestic abuse batterers face increased penalties. If the offense involves strangulation, the defendant may be sentenced to up to three years in prison.

Underage Drinking

The legal drinking age in Louisiana is 21 years old. However, 18-20 year olds may consume alcohol in an alcoholic beverage outlet if they are accompanied by a parent, spouse, or legal guardian who is 21 years of age or older.

Anyone illegally selling alcohol to persons under twenty-one is defined as the selling or otherwise delivering for value of any alcoholic beverage to any person under twenty-one years of age unless such person is the lawful owner or lawful employee of an establishment to which the sale is being made and is accepting delivery pursuant to such ownership or employment. Lack of knowledge of the person's age shall not be a defense. The penalty for such an illegal sale shall be fined not more than one hundred dollars or imprisoned for not more than six months, or both.

As for illegal possession of alcohol, the offender shall be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

Aggravated Assault

There are two levels of Assault and Battery in Louisiana. It is either a Felony or a Misdemeanor offense. Assault in Louisiana is an attempt to cause physical injury to another person—for instance, attempting to strike someone with a hand or object, and missing. Assault also is any intentional act or threat of action that reasonably causes a person to feel afraid of impending violence. Words alone do not constitute an assault, but if an offender threatens to attack or injure another, appears to have the ability to carry out the threat, and causes the victim to reasonably believe that he is about to be struck or injured, the offender has committed an assault. (La. Rev. Stat. Ann. §14:36.)

Battery in Louisiana is the intentional infliction of violence or force against another person, such as punching another person or hitting someone with an object. (La. Rev. Stat. §14:33.)

There are many levels of Assault and Battery in Louisiana, depending whether or not the victim is a child, is a person with Special Needs, or whether there was a sexual aspect to the crime.

Punishment

The penalties for felony battery are specific to the individual offense. They range from one year in prison with or without hard labor for a second offense of domestic abuse battery when the victim is pregnant; to a fine up to \$5,000 or up to ten years in prison with or without hard labor, or both, for aggravated battery. The most severe punishments involve 25 to 99 years in prison with hard labor for oral sexual battery or sexual battery against a person 65 years old or older, a child under the age of thirteen (if the offender is seventeen years or older), or a victim who is incapable of consent or unable to physically resist.

In some cases, such as domestic abuse when a child is present or a felony battery offense involving a child victim or other “special” victim, the court may be required to impose a minimum jail sentence and may be prohibited from suspending the jail sentence. This means that the offender will have to serve time in jail without the opportunity for probation. In some sexual battery cases, the offender will be subject to electronic monitoring for the rest of the person’s life.

Penalties for Misdemeanor, or Simple Battery in Louisiana are:

- up to six months in jail or a fine up to \$1000 or both
- probation up to two years, and
- restitution to the victim.

The court can impose more jail time – up to one year in some cases – if an assault or battery is committed against certain victims such as, but not limited to: disabled and elderly victims; a business employee if the offense is committed during a theft or attempted theft; and law enforcement officers, correctional officers, school employees (if the offender is a student), bus or cable car operators for a public transport system, and child welfare and adult protective services employees, if the defendant reasonably could have known that the employee or law enforcement officer was engaged in the performance of his duties. In cases involving these “special victims,” the court may be required to impose a minimum jail sentence and may be prohibited from suspending any jail time, which means the offender will have to serve time in jail without the opportunity to serve time on probation.

Rape

Louisiana's laws criminalize any sexual activity committed without the victim's consent. If the defendant engages in oral or anal sex or sexual intercourse, the crime is rape (which may be termed aggravated, forcible, or simple). If the defendant engages in other sexual activity, the crime is sexual battery. Sexual acts that are committed by violence or threats or against particularly vulnerable victims are punished more severely.

Until very recently, the marital rape exemption was alive and well in Louisiana. For example, until 2002, it was a complete defense to a charge of simple rape that the defendant was married to the victim. Today, the marital rape exemption has been abolished for all nonconsensual sexual conduct, but there still exists a very limited marital rape exemption in Louisiana.

It is a defense to a charge of statutory sexual battery (consensual sexual activity with a child under the age of 15) if the defendant is the child's spouse.

Punishment

Louisiana imposes stiff penalties for sex crimes. The most serious rape offenses are punishable by life without parole at hard labor. The most serious sexual batteries are punishable by up to 99 years' imprisonment at hard labor and lifetime electronic monitoring.

Fraud and Racketeering

This is quite a wide category of crimes. Fraud is commonly understood as dishonesty calculated for advantage. A person who is dishonest may be called a fraud. In the U.S. legal system, fraud is a specific offense with certain features.

Fraud is most common in the buying or selling of property, including real estate, Personal Property, and intangible property, such as stocks, bonds, and copyrights. State and federal statutes criminalize fraud, but not all cases rise to the level of criminality. Prosecutors have discretion in determining which cases to pursue. Victims may also seek redress in civil court.

Fraud must be proved by showing that the defendant's actions involved five separate elements:

- (1) a false statement of a material fact,(

- (1) a false statement of a material fact,
- (2) knowledge on the part of the defendant that the statement is untrue,
- (3) intent on the part of the defendant to deceive the alleged victim,
- (4) justifiable reliance by the alleged victim on the statement, and
- (5) injury to the alleged victim as a result.

As for Racketeering, Racketeering activity under federal law includes a number of criminal offenses, including: Bribery; sports bribery; counterfeiting; felony theft from interstate shipment; Embezzlement from Pension and Welfare funds; extortionate credit transactions; Fraud relating to identification documents; fraud relating to access devices; transmission of gambling information; Mail Fraud; wire fraud; financial institution fraud; citizenship or naturalization fraud; obscene matter; Obstruction of Justice; obstruction of criminal investigation; obstruction of state or local law enforcement; witness tampering; retaliation against witness; interference with commerce, bribery, or extortion; interstate transportation in aid of racketeering; interstate transportation of wagering paraphernalia; unlawful welfare fund payments; prohibition of illegal gambling business; Money Laundering; monetary transactions in property derived from unlawful activities; murder for hire; sexual exploitation of children; interstate transportation of stolen motor vehicles; interstate transportation of stolen property; sale of stolen goods; trafficking in motor vehicles and parts; trafficking in contraband cigarettes; white slave traffic; restrictions of payments and loans to labor organizations; embezzlement from union funds; Bankruptcy fraud; fraud in the sale of Securities; felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic or other dangerous drugs; and any act that is indictable under the Currency and Foreign Transactions Reporting Act.

Prostitution

In Louisiana, it is against the law to engage in sexual intercourse for money or promote or make money from the prostitution of others. Laws against promoting prostitution are aimed at third parties who benefit from or facilitate the commercial sex trade. Generally, in order to be convicted of these crimes, the defendant must know that prostitution is occurring. For example, a person who owns a strip club where the dancers also engage in sexual intercourse in exchange for money is guilty of promoting prostitution.

Punishment

Prostitution in Louisiana is punishable by up to six months in jail, or a fine of up to \$500, or both.

If prostitution was solicited from a public road or sidewalk, then the court must sentence the defendant to at least 90 days in jail or order 240 hours of community service. Subsequent convictions for prostitution are punishable by up to four years in prison, a fine of up to \$4,000, or both. The defendant's prior convictions must have occurred within the past five years.

Prostitution by massage is punishable by up to six months in jail, or a fine of up to \$500, or both.

Promoting prostitution is punished by up to two years in prison, or a fine of up to \$5,000, or both. Inciting is punishable by up to one year in jail, or a fine of up to \$1,000, or both. Pandering is punishable by up to five year in prison, or a fine of up to \$5,000, or both. Soliciting is punishable by up to six months in jail, a fine of up to \$500, or both.

In cases of **Child Prostitution** in Louisiana, the penalties are even more extreme:

Permitting your child to engage in prostitution is punishable by a fine of up to \$50,000, or at least five years in prison, or both. If the child is under the age of 14, the crime is punishable by a fine of up to \$75,000, or at least ten years in prison, or both.

Engaging in prostitution with, promoting, pandering, inciting, or soliciting the prostitution of, or enticing a child under the age of 18 is punishable by 15 to 50 years' imprisonment, or a fine of up to \$50,000, or both.

Committing any of these crimes against a child under the age of 14 is punishable by 25 to 50 years in prison, or fine of up to \$75,000, or both. If the court sentences the defendant to imprisonment for engaging in prostitution with a child under the age of 14, then the defendant must serve a minimum of 25 years.

Enticement of a person over the age of 18 is punishable by two to ten years' imprisonment. The court can also seize any personal property (such as a computer) used by the defendant to commit enticement.

Burglary/Theft

In Louisiana, burglary is defined as entering or remaining in an occupied structure without the legal right to do so, with the intent of committing a felony or theft inside.

Elements of burglary

The two parts of the definition are known as the "elements" of the crime of burglary. To be convicted of burglary, both elements of the crime must be proved beyond a reasonable doubt (or admitted to by the defendant). That is, the prosecutor must prove that the defendant actually entered the building, and entered with the intent to commit a felony or theft. Without sufficient proof of each element, the prosecutor may secure a conviction for some other crime (such as trespass or attempted burglary), but not burglary.

Louisiana criminal statutes defines theft as the taking anything of value which belongs to another person, either without the consent of the other person, or by fraudulent conduct. Any theft must involve the intent to deprive the other person permanently of the property that is the subject of the taking. Louisiana is also quite specific regarding theft, with individual laws and statutes which each criminalize (and with varying punishments) theft of livestock, petroleum products, firearms, alligators and crawfish, among others.

Punishment

In Louisiana, burglary is broken into two categories, with fines and prison terms increasing according to the severity of the crime.

Simple burglary includes unauthorized entry into a dwelling, vehicle, watercraft, or other structure with the intent to commit a felony or theft therein.

Penalties include a fine of up to \$2,000, up to 12 years in prison, or both.

Aggravated burglary includes unauthorized entry into an inhabited building with the intent to commit a felony or theft therein, while either armed with a dangerous weapon or having committed a battery on another person during the crime.

Penalties include at least one year (and up to 30 years) in prison.

Louisiana does set the punishment for theft offenses according to the value of the property involved in the theft offense. Here are the classes:

- For theft of property valued at less than \$500, the offender will receive a sentence of imprisonment of not more than six months, or a fine of not more than \$1,000, or both.
- For theft of property valued at more than \$500, but less than \$1,500, the offender will receive a sentence of imprisonment of not more than five years, or a fine of not more than \$2,000, or both.
- For theft of property valued at \$1,500 or more, the offender will receive a sentence of imprisonment of not more than ten years, or a fine of not more than \$3,000, or both.

Drugs

All states regulate and control the possession of controlled dangerous substances (CDS), though each differs in its exact definition of CDS and the penalties for possession. Louisiana classifies not only well-known drugs like marijuana, heroin, and cocaine as CDS, but also the compounds used to manufacture them. Louisiana divides CDS into five “schedules.” Schedule I lists the most dangerous drugs, which have a high probability of abuse and addiction, and no recognized medical value. Schedules II, III, IV, and V decrease in dangerousness and probability of abuse; and increase in recognized medical uses.

Punishment

Schedule I Substances

Penalties vary according to the specific CDS involved, and usually include a fine of at least \$5,000 (and sometimes as much as \$600,000); at least four (and sometimes up to 30 years) in prison; or both. However, some substances incur even greater specified minimum penalties. For example, possessing 400 grams or more of a narcotic drug in Schedule I incurs a minimum fine of \$250,000 (and up to \$600,000), a minimum prison sentence of 15 (and up to 30) years, or both. (40 La. Stat. Ann. § 966.)

Schedule II Substances

Penalties vary according to the specific CDS involved, and usually include a fine of \$5,000 or more (and sometimes as much as \$600,000); five or more (sometimes up to 30) years in prison; or both. (40 La. Stat. Ann. § 967.)

Schedule III Substances

Penalties include a fine of up to \$5,000, up to five years in prison, or both. (40 La. Stat. Ann. § 968.)

Schedule IV Substances

Penalties include a fine of up to \$5,000, up to five years in prison, or both. However, convictions involving Flunitrazepam incur a fine of up to \$5,000, up to 10 years in prison, or both. (40 La. Stat. Ann. § 969.)

Schedule V Substances

Penalties include a fine of up to \$5,000, up to five years in prison, or both.

A defendant convicted of a second or subsequent offense will face twice the applicable fine, prison term, or both, as described above, according to the Schedule and substance involved in the violation.

Murder

Homicide is the killing of a human being by the act, procurement, or culpable omission of another. Criminal homicide is of five grades:

- (1) First degree murder.
- (2) Second degree murder.
- (2) Manslaughter.
- (4) Negligent homicide.
- (5) Vehicular homicide.

Punishment

First degree murder is the only type of murder for which the death penalty is possible in Louisiana. In some states if the murderer are 'lying in wait', or the murder is 'premeditated', then it is by that definition first degree murder. In Louisiana there is no such provision for first degree murder.

The Definition of First Degree Murder

First degree murder can be the charge for any of the following conditions:

1. The killing of a person with 'specific Intent' while committing certain felony crimes. This is known as the felony murder statute. The felony crimes include: aggravated rape, forcible rape, aggravated arson, aggravated burglary, aggravated kidnapping, second degree kidnapping, aggravated escape, assault by drive by shooting, armed robbery, first degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second degree cruelty to juveniles, and terrorism.
2. Killing a certain type of person, including police officers, children under the age of 12, and people over the age of 65, with specific intent.

3. Killing more than one person.

The Definition of Second Degree Murder

Second degree murder can be the charge in any of the following conditions:

1. The offender has the specific intent to kill or inflict bodily harm, but is not also committing a felony crime
 2. A person in the process of committing a felony crime kills someone, but without specific intent to kill. For example, if the offender is engaged in an armed robbery and someone dies during the crime, the charge could be second degree murder, even if the death was accidental or unintentional.
 3. A drug dealer distributes a controlled dangerous substance listed in the schedule I – IV in the uniformed dangerous substances law (examples are cocaine and heroin) and that distribution is the direct cause of the death of the recipient who consumed the drugs.
- Both first and second degree murder are extremely serious felony crimes. Persons convicted of first degree murder face at best life in prison, and possibly the death penalty. A conviction of second degree murder carries a life sentence with no possibility of ever getting out of prison.

TESTIMONIALS

"I've known Sanjay for about 10 years now. He has always acted professionally and diligently and has resolved every case he's taken on, on my behalf successfully. I would highly recommend his services and law firm." - **Mark, Louisiana**

"Sanjay Biswas fights for the accused like nobody else!! He knows he is the last chance for freedom for his clients. He will do his best to help his clients. Great attorney!!" -**Raj, Louisiana**

"We heard about this law firm through a friend and decided to use it for our case. The office was quick to respond and there was no waiting period for our first meeting. The attorney met with us and was very professional, yet approachable. There was no time limit and he took his time to explain all our options in a clear and understanding way. After we chose our best option, it was very clear what needed to be done next. All our emails were answered quickly and precisely. We were guided throughout the whole process and the estimated time that was given was correct." - **Dirkie, Louisiana**

"Sanjay, You're a great lawyer - smart, dedicated, hard working and you continue to fight for your clients. Congrats on the success of your law firm!" - **S.A., Louisiana**

TESTIMONIALS

"When I was in a immigration detention center for a visa violation, and my wife was pregnant at the time, all other attorneys advised that they let them deport me and they will get me back my visa within 2 years.. I thank Mr. Sanjay Biswas because he handled my case and got me out of detention center before my baby girl was born.

*"During my detention time he helped my wife mentally, answer her phone calls and fought my case up to BIA(Board of Immigration Appeal) and solved my case in very fair fee and not only that, at my citizenship time, other attorneys told me that I wouldn't become a U.S. citizen because I was in immigration detention(jail). At that time, Mr. Sanjay Biswas handled my citizenship matter and because of him today I am a proud citizen of the United State of America. Since then, anytime I call him for any immigration matter for my friends or relatives, he give me advice without any charge. The first ever attorney, I have seen that answer you after business hour and without any charges. Thanks Sanjay." - **Dinesh, Louisiana***

*"Sanjay handled my green card application in 2001 and everything went smoothly and I was granted my green card I am very pleased I went to him when I did." - **Robert, Louisiana***

SUMMARY

This has been but a very brief examination Inside Criminal Justice in the US. In the very near future, I shall be releasing more detailed ebooks on individual issues. The first one will be on the subject of DUI/DWI in Louisiana. Stay up to date on all the issues by following my website at: <http://www.sanjaybiswaslaw.com/>.

Kind regards,

Sanjay

ABOUT SANJAY K. BIWAS:

Sanjay K. Biswas, obtained his B.A. from Tulane University in New Orleans in 1994 and his law degree from Tulane University in 1997. He also obtained an LLM in Admiralty Law in 2013 from Tulane University. Since entering the practice of law, he has maintained a commitment to fully pursue the best possible results for his clients in each and every matter.

With his law office based in Metairie, Louisiana, Mr. Biswas provides vigorous criminal defense representation to individuals charged with misdemeanors and felonies throughout the state and federal courts of Louisiana. His practice area includes everything from DUI/DWI, domestic violence, drug crimes and criminal appeals. His clients count on him to explore all available options for minimizing the penalties faced, or ideally getting the charges dropped altogether.

For a free consultation he can be reached 24/7 at 504-256-9019 or through his website at <http://www.sanjaybiswaslaw.com/>.