Types of Offences

Canada's justice system handles various criminal offences differently depending on the seriousness of the crime. The type of offence has a bearing on custody issues, bail requirements, trial procedures, and sentencing.

Summary Conviction Offence:

Is a minor offence that carries a relatively light penalty. Treating a a matter in a “summary fashion” means dealing with it quickly and simply, so as the term implies, these cases usually proceed through the court system fairly rapidly.

Examples: Public Nudity, Cruelty to Animals, Trespassing at Night, Theft under $5000

Penalty: Fined up to $2000 and / or imprisoned for up to 6 months.

Indictable Offence:

* Is a serious crime and carries a heavier penalty than a summary conviction offence.
* The method for trying an indictable offence differs according to the severity of the sentence that the offence carries.
* For an offence with a max penalty less than 5 years, the trial will be heard before a judge without a jury.
* If the max penalty is greater than 5 years, the accused can opt for a trial with a judge alone or with a judge and jury.

Examples: Perjury, Arson, Murder, Theft over $5000

Penalty: Maximum penalties are established for indictable offences, ranging anywhere from 2 years to life. Sometimes the Criminal Code sets a minimum penalty for indictable offences.

Hybrid Offence (or dual procedure offence):

* Is one that the Crown can decide to try either as a summary conviction or indictable offence.
* The Criminal Code always makes it clear when an offence is hybrid by stating explicitly that it can be treated either on a summary or indictable basis.
* Hybrid offences are always treated as indictable until charges are laid in court.

*Example: Suppose Connie has been charged with theft of DVD's worth $500. She has never been arrested before and has a steady job. In this case, the Crown may decide to proceed on a summary basis, and Connie will receive a light penalty, perhaps a fine. If Connie had a long record of arrests for theft, and if she had stolen several thousands of dollars worth of DVD's, the Crown might decide to proceed with the offence as indictable.*

Examples: Theft under $5000, Public Mischief, Sexual Assault

Homicide: The killing of another human being, directly or indirectly.

*Culpable* homicide: A killing for which the accused can be held legally responsible. Someone intentionally causes the death of another person, or shows such recklessness that these actions are likely to cause death.

*Non-culpable* homicide: A killing for which a person cannot be held legally responsible. Example: Unforeseeable Accident

Murder: The intentional killing of another human being

First-degree murder: A killing that is planned and deliberate, is the result of a contract, causes death of a peace officer, or is committed during another serious crime.

Second degree murder: Any murder not classified as first-degree murder. The murder does not fit into one of the four situations listed in first degree murder.

*The mandatory minimum sentence for both first and second degree murder is life imprisonment. The only difference is the date at which the offender can apply for parole. Generally, anyone convicted of first degree murder has to serve 25 years in prison before qualifying for parole. An offender convicted of second degree murder can usually apply for parole after serving 10 years.*

Infanticide: The killing of a newborn infant by the child’s mother. The max penalty for Infanticide is 5 years imprisonment.

Three circumstances must be present for it to be infanticide:

1. Natural mother of the victim
2. The victim must be less than 12 months old; and
3. At the time of the killing, suffering from mental illness (postpartum depression)

Manslaughter: Any culpable homicide not classified as murder or infanticide. The actus reus of manslaughter consists of killing someone through a wrongful act, even if the killing was not intentional.

*Example: A bar fight, when guy gets knocked out by a punch and ends up dying. He was trying to hurt someone, but not kill him.*

A charge of murder can be reduced to manslaughter if the accused can show provocation on the part of the victim. In other words, the victim did something so insulting or outrageous that it caused the accused to lose self-control.