Malice (Required for Murder)

- Intent to kill, (either person killed or another)
- Act intended to kill, although not intended to kill any particular individual
- Intent to cause grievous bodily harm
- Intentional act that is likely to kill or cause grievous bodily harm and is recklessly indifferent as to the results of his act or may even desire that no harm should be caused by it
  - Degree of risk
  - Justification for risk
  - Defendant’s awareness of risk
Felony Murder Hypothetical

♦ The defendant is confined in prison, serving a sentence on a felony drug conviction. She escapes from prison, by jumping into the driver’s seat of the van that transports food to and from the prison cafeteria. She drives towards the gate at the prison walls and in her haste runs through a stop sign, crashes into a pedestrian (a relative of an inmate who is entering the prison for a visit) and kills the pedestrian.

♦ Escape: A person is guilty of escape in the first degree, a Class B felony, if being detained pursuant to a conviction of a felony, he or she escapes from custody.
Misdemeanor Manslaughter Limitations

- Proximate Cause
- Malum in se, not malum prohibitum (i.e. regulatory) offenses
- Proof that the misdemeanor was dangerous to human life under the circumstances of its commission.
Felony Murder Limitations

♦ Statutory Reform:
  - Enumeration of Felonies (i.e. murder statute lists the felonies that can serve as the basis for felony murder)
  - Agency v. proximate cause (who committed the act of killing?)
  - Homicide victim is co-felon (who died?)

♦ Judicial Reform:
  - Abolition
  - Inherently Dangerous Felony
  - Merger