

The Law

U.S. Constitution – Bill of Rights

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Oregon Constitution

Article I

Section 15. Foundation principles of criminal law. Laws for the punishment of crime shall be founded on these principles: protection of society, personal responsibility, accountability of one's actions and reformation. [Constitution of 1859; amendment proposed by S.J.R.32, 1995 and adopted by the people Nov. 5 1996]

Section 16. Excessive bail and fines; cruel and unusual punishments; power of jury in criminal case. Excessive bail shall not be required, nor excessive fines imposed. Cruel and unusual punishments shall not be inflicted, but all penalties shall be proportioned to the offense. – In all criminal cases whatever, the jury shall have the right to determine the law, and the facts under the direction of the Court as to the law, and the right of new trial, as in civil cases.

Section. 40. Penalty for aggravated murder. Notwithstanding sections 15 and 16 of this Article, the penalty for aggravated murder as defined by law shall be death upon unanimous affirmative jury findings as provided by law and otherwise shall be life imprisonment with minimum sentence as provided by law. [Created through initiative petition filed July 6, 1983, and adopted by the people Nov. 6 1984.]

Oregon Statute

163.095. "Aggravated murder" defined.

As used in ORS 163.105 and this section, "aggravated murder" means murder as defined in ORS 163.115 which is committed under, or accompanied by, any of the following circumstances:

- (1)(a) The defendant committed the murder pursuant to an agreement that the defendant receive money or other thing of value for committing the murder.
 - (b) The defendant solicited another to commit the murder and paid or agreed to pay the person money or other thing of value for committing the murder.
 - (c) The defendant committed murder after having been convicted previously in any jurisdiction of any homicide, the elements of which constitute the crime of murder as defined in ORS 163.115 or manslaughter in the first degree as defined in ORS 163.118.
 - (d) There was more than one murder victim in the same criminal episode as defined in ORS 131.505.
 - (e) The homicide occurred in the course of or as a result of intentional maiming or torture of the victim.
 - (f) The victim of the intentional homicide was a person under the age of 14 years.
- (2)(a) The victim was one of the following and the murder was related to the performance of the victim's official duties in the justice system:
- (A) A police officer as defined in ORS 181.610;
 - (B) A correctional, parole or probation officer or other person charged with the duty of custody, control or supervision of convicted persons;
 - (C) A member of the Oregon State Police;
 - (D) A judicial officer as defined in ORS 1.210;
 - (E) A juror or witness in a criminal proceeding;
 - (F) An employee or officer of a court of justice; or
 - (G) A member of the State Board of Parole and Post-Prison Supervision.
- (b) The defendant was confined in a state, county or municipal penal correctional facility or was otherwise in custody when the murder occurred.
 - (c) The defendant committed murder by means of an explosive as defined in ORS 164.055.
 - (d) Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally committed the homicide under the circumstances set forth in ORS 163.115 (1)(b).

(e) The murder was committed in an effort to conceal the commission of a crime, or to conceal the identity of the perpetrator of a crime.

(f) The murder was committed after the defendant had escaped from state, county or municipal penal or correctional facility and before the defendant had been returned to the custody of the facility.

Note: the following definitions are taken from the Oregon Jury Instructions for Criminal Cases prepared by the Oregon State Bar

Dangerous/Deadly Weapon

The term *dangerous weapon* means any instrument, article, or substance which, under circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury. The term *deadly weapon* means any instrument, article, or substance specifically designed for and presently capable of causing death or serious injury.

Intentionally and with Intent

A person acts "intentionally" or "with intent" when that person acts with a conscience objective either: (1) to cause a particular result, or (2) to engage in particular conduct.

Murder - Intentionally

Occurs when a person intentionally causes the death of another human being.

Consideration may also be made for aggravating or mitigating circumstances ...

Aggravating Circumstances

previous conviction for violent crime
murder to conceal another crime
Murder for money
Depravity or cruelty
More than one murder
Risk of death to several
Victim is a law enforcement officer
Crime meant to hinder law enforcement

Mitigating Circumstances

No history of previous crimes
Unusual pressures or influences upon the accused
Mental or emotional disturbance
Age
Acted only as an accomplice or limited participation
Victim was a participant or consented
Intoxication

