



Involuntary Manslaughter Gross Negligence Manslaughter

Where we're up to

■ Involuntary Manslaughter

■ Unlawful Act Manslaughter

■ Gross Negligence Manslaughter



Gross Negligence manslaughter

Gross Negligence Manslaughter

■ Definition

■ A person dies as a result of the negligence of another, and the degree of negligence by the D is sufficiently serious as to make him criminally liable for the death

■ NB Does not intend to kill

Gross Negligence Manslaughter

Gross Negligence Manslaughter

■ The leading case

■ **Adomako 1995**



Gross Negligence Manslaughter

Analysis

■ Adomako established 4 criteria for GNM:

■ 1. Duty of Care

■ 2. Breach of Duty

■ 3. Breach of duty amounts to gross negligence

■ 4. Breach of duty causes death

■ Also, you need to mention

■ 5. No need to prove *mens rea*

Gross Negligence Manslaughter



1. DUTY OF CARE

Gross Negligence Manslaughter

Duty of Care

- Donohue v Stevenson 1932 applies:
per Lord Atkin
- Specified as the correct test in Adomako
- *You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who then, in law, is my neighbour?...*

Gross Negligence Manslaughter

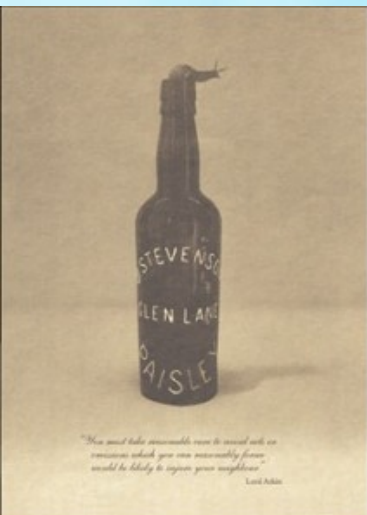


Duty of Care

■ Donoghue v Stevenson continued

■ *...persons who are so closely and directly affected by my act that I ought reasonably to have them in my contemplation as being affected when I am directing my mind to the acts or omissions in question.'*

■ NB Not the Caparo v Dickman test



Gross Negligence Manslaughter

Duty of Care

- Gross negligence manslaughter can therefore cover a wide array of situations e.g.
 - **Voluntary assumption of responsibility** (Stone v Dobinson 1977)
 - **Voluntarily creating a dangerous situation** (Miller, Evans)
 - **Contractual liability** (Pittwood, Singh etc.)
 - **Complicit in crime** (Wacker, Willoughby)
 - **Etc. etc.**

Gross Negligence Manslaughter

Duty of Care

■ Voluntary assumption of responsibility

■ **Stone v Dobinson 1977**



Gross Negligence Manslaughter

Duty of Care

■ Voluntarily creating a dangerous situation

■ Miller 1983



Gross Negligence Manslaughter

Duty of Care

■ Voluntarily creating a life-threatening danger

■ Gemma Evans 2009

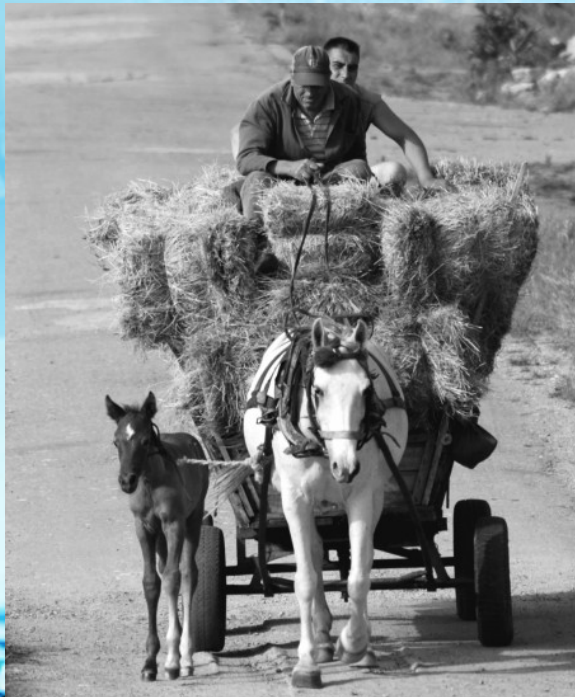


Gross Negligence Manslaughter

Duty of Care - contract

■ Contract to keep 3rd parties safe

■ **Pittwood 1902**



Gross Negligence Manslaughter

Duty of Care - contract

■ Employment Contract

■ Litchfield 1998



Gross Negligence Manslaughter

Duty of Care - contract

■ Tenancy Contract

■ Singh 1999



Gross Negligence Manslaughter

Duty of Care

■ D and V complicit in crime

■ **Wacker** 2002



Gross Negligence Manslaughter

Duty of Care

■ D and V complicit in crime

■ Willoughby 2005



Gross Negligence Manslaughter



2. BREACH OF DUTY

Gross Negligence Manslaughter

The reasonable man

■ Blythe v Birmingham Waterworks 1856

■ Breach of duty ... 'is the omission to do something which a reasonable man...would do or doing something which a prudent and reasonable man would not do.'



Test applied objectively

■ What is a reasonable standard of care is decided objectively

■ **Nettleship v Weston 1971**

■ ‘The learner driver may be doing his best, but his incompetent best is not good enough. He must drive in as good a manner as a driver of skill, experience and care.’

■ In a criminal trial, what is reasonable will be decided by the jury

Different classes of 'reasonable man'

■ Professionals

■ The Bolam Test

■ Bolam v Friern Hospital Management Committee
1957



Breach of Duty

Different classes of reasonable man

■ The Bolam Test:

- A professional must act to the standard of a reasonable professional professing to have and exercising that skill
- A professional must act in accordance with a competent body of professional opinion

Different classes of 'reasonable man'

- People with specialist skill

■ **Philip v Whiteley 1938**



Breach of Duty

≠



The standard of care is task specific

- Motorists

❖ **Nettleship v Weston 1971**

‘The learner driver may be doing his best, but his incompetent best is not good enough. He must drive in as good a manner as a driver of skill, experience and care.’
Lord Denning

Breach of Duty



The standard of care is task-specific

- Sport
 - Smolden v Whitworth & Nolan 1997



Breach of Duty

The standard of care is task-specific

■ Dangerous jobs

- Green v Fibreglass Ltd [1958]

- Some jobs are potentially so dangerous that even an amateur must do it to the standard of a professional



Brea

Risk factors

- Risk factors are circumstances which raise or lower the standard of care in order to determine what standard of care is appropriate



Risk Factors

■ Need to guard against risks within reasonable contemplation

■ **Haley v London Electricity Board**
1965



Risk Factors

■ D must take more care if there's a risk of catastrophic harm

■ **Paris v Stepney Borough Council**
1951



Br



3. BREACH OF DUTY AMOUNTS TO GROSS NEGLIGENCE

Gross Negligence Manslaughter

Gross Negligence

■ Adomako: per Lord Mackay

■ *'The jury will have to consider whether the extent to which the D's conduct departed from the proper standard of care incumbent upon him, involving as it must have done a risk of death to the patient, was such that it should be judged as criminal...'*

Gross Negligence Manslaughter



Gross Negligence

■ Adomako: per Lord Mackay cont.

■ *...it is supremely a jury question ... whether, having regard to the risk of death involved, the conduct of D was so bad in all the circumstances as to amount in their judgment to a criminal act or omission'*



Gross Negligence Manslaughter

Bateman 1925

■ The test for gross negligence

■ *'in the opinion of the jury, the negligence of the D went beyond a mere matter of compensation between the subjects and showed such disregard for the life and safety of others as to amount to a crime against the state and conduct deserving punishment'*

Gross Negligence Manslaughter

Bateman 1925

■ The test for gross negligence

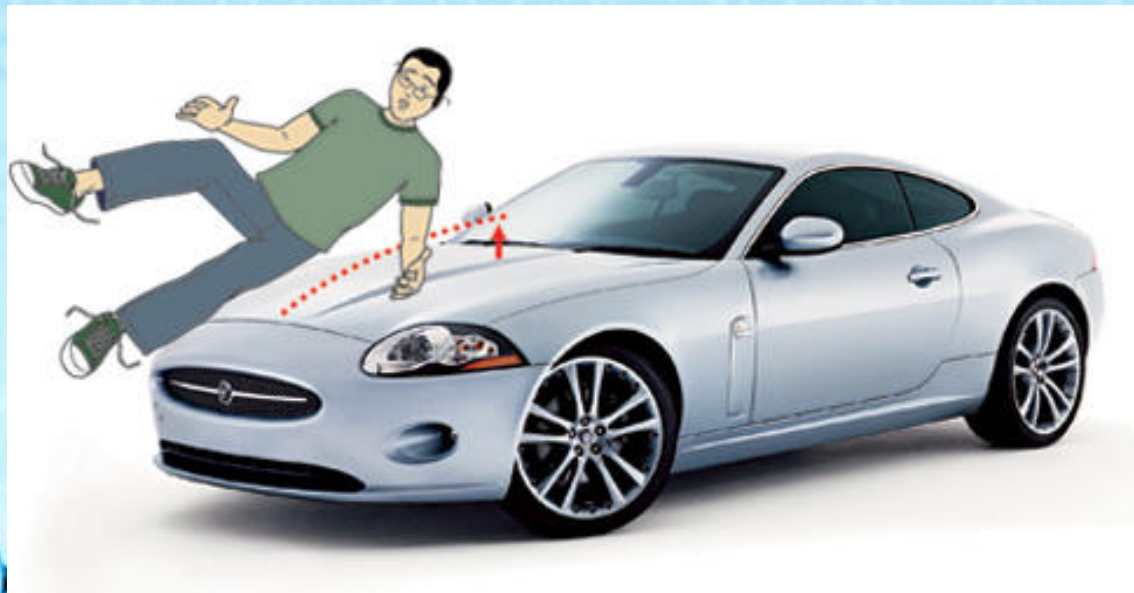
■ *'in the opinion of the jury, the negligence of the D went **beyond a mere matter of compensation between the subjects** and showed such **disregard for the life and safety of others** as to amount to a **crime against the state** and conduct deserving punishment'*

Gross Negligence Manslaughter

Gross Negligence Manslaughter

■ Simple lack of care not enough

■ **Andrews 1937**

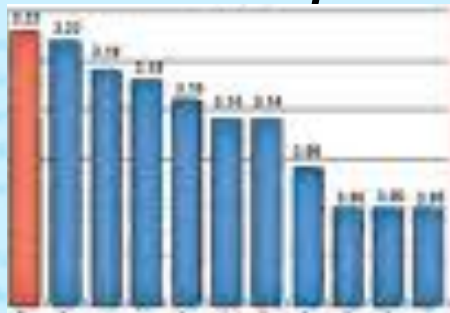


Gross Negligence Manslaughter

Gross Negligence Manslaughter

Andrews 1937 Per Lord Atkin

*‘Simple lack of care which will constitute civil liability is not enough. For the purposes of the criminal law, there are degrees of negligence and a **high degree of negligence** is required to be proven’*



Gross Negligence Manslaughter

Risk of Death

■ Clarified in

■ **R v Singh 1999**

■ *The circumstances must be such that a reasonably prudent person would have foreseen a serious and obvious risk not merely of injury or even of serious injury but of death.*



Gross Negligence Manslaughter

Risk of Death

■ This is the definitive test

■ *The circumstances must be such that a **reasonably prudent person** would have foreseen **a serious and obvious risk** not merely of injury or even of serious injury but **of death**.*



Gross

slaughter

Risk of Death

■ Singh confirmed as the correct test in

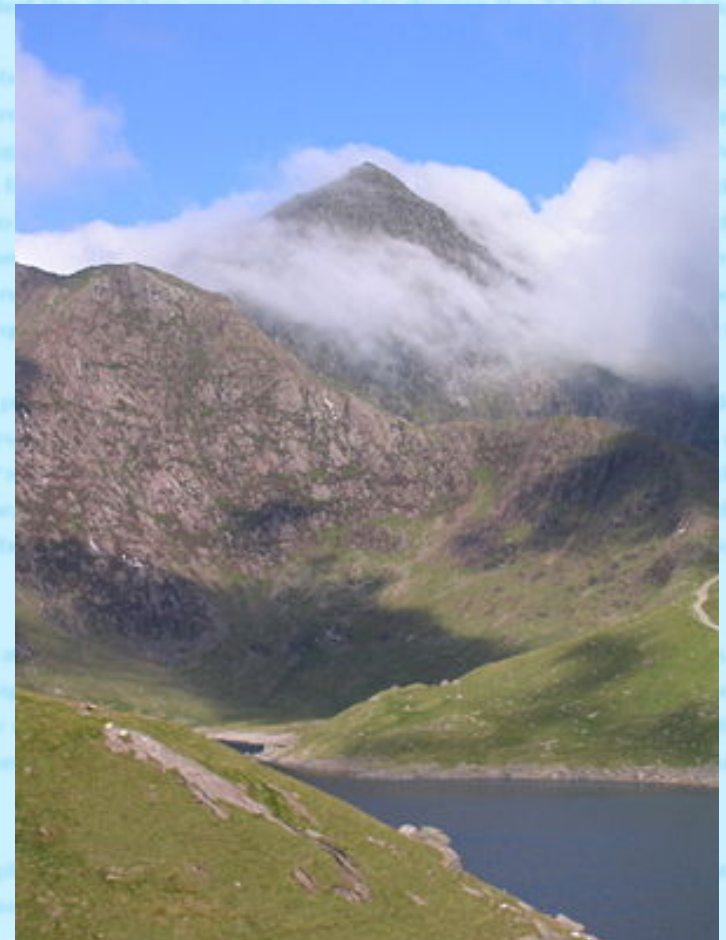
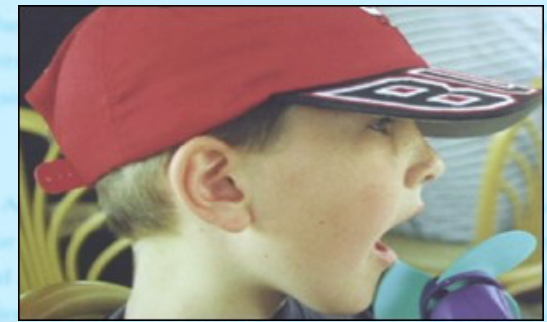
■ **Misra and Sribastava 2004**



Gross Negligence Manslaughter

Gross negligence

 **Finlay 2001**



Gross Negligence Manslaughter

Gross negligence

 **Edwards 2001**



Gross Negligence Manslaughter



4. BREACH OF DUTY CAUSES DEATH

Gross Negligence Manslaughter

The rules of causation apply – see Actus Reus of Murder for more info

■ Factual:

- ‘but for’ test - Wacker

■ Legal

- D's actions need not be the only cause, but must be an ‘operating and substantial cause’ – Smith
- Thin skull rule applies
 - Hayward
- No Novus Actus Interveniens
 - Smith, Cheshire, Jordan etc.
 - Not ‘so independent of his acts, and in itself so potent in causing death’, that ‘the D's contribution can be regarded as ‘insignificant’ - Cheshire

Gross Negligence Manslaughter



5. NO NEED TO PROVE *MENS REA*

Gross Negligence Manslaughter

Mens rea

- Involuntary manslaughter, so no intention to kill

- No need to prove *mens rea*

- **AG's Ref No 2 of 1999**



Gross Negligence Manslaughter

