

# What is first degree murder?

I meant to post this a few days ago in response to the conviction of Ralph Lewis in the fatal accident that killed 16-year-old Corey Diamond ([CLICK HERE FOR STORY](#)). Apparently the jury didn't take much time, under three hours in fact, in deciding that yes, he is guilty of first-degree murder. This story made me wonder just what constitutes first-degree murder. I had always thought that first-degree murder was a premeditated killing. The killer planned to kill someone and then carried it out. Maybe the plan wasn't always long and drawn out, but could have been mere seconds ago, "Okay, I've drawn my gun and I'm going to shoot you now." That would cover killing police and vicims in armed robbery.

So what happened in the case of Ralph Lewis killing Corey Diamond? Well, apparently Lewis was trying to get away from police after a botched attempt to make a purchase from a store using false ID. He wove in and out of traffic and through red lights until finally smashing into the car where Diamond was a passenger. Now, in my mind, first-degree murder in this death would have meant Lewis thought to himself while trying to get away from the police, "Hey, here's a car with some people in it- I think I'll just crash my truck into it and see if I can kill anyone." This of course is not what happened and even the article discussing his conviction doesn't say it happened this way. So it would seem that I am wrong in what constitutes first-degree murder. Here's what [Wikipedia says about the subject](#):

*After the Supreme Court placed new requirements on the imposition of the [death penalty](#), most states adopted one of two schemes. In both, third degree murder became the catch-all, while first degree murder was split. The difference was whether some or all first degree murders should be eligible for the most serious penalty (generally death, but sometimes life in prison without the possibility of [parole](#)).*

- The first scheme, used by [Pennsylvania](#) among other states:
  1. First Degree Murder: A [premeditated murder](#), and (in some states) murders involving certain especially dangerous felonies, such as [arson](#) or [rape](#), or committed by an [inmate](#) serving a life sentence.
  2. Second Degree Murder: Non pre-meditated killing.
  3. Third Degree Murder: Any other murder.
  
- The second scheme, used by [New York](#) among other states, as well as the [Model Penal Code](#):
  1. First Degree Murder: Murder involving special circumstances, such as murder of a police officer, judge, fireman or witness to a crime; multiple murders; and torture or especially heinous murders. Note that a “regular” premeditated murder, absent such special circumstances, is not a first-degree murder; murders by poison or “lying in wait” are not per se first-degree murders. First degree murder is pre-meditated. <sup>[55]</sup> However, the [New York Court of Appeals](#) struck down the [death penalty](#) as [unconstitutional](#) in the case of *People v. Taylor*.<sup>[56]</sup>
  2. Second Degree Murder: Any premeditated murder or felony murder that does not involve special circumstances.<sup>[57]</sup>

The death of Corey Diamond doesn't seem to fit the definition of any of these. But then Wikipedia just has a generalized definition for the entire US. As this happened in Illinois, a look at IL law is necessary. From the [Illinois Criminal Code](#)

of 1961:

*(a) A person who kills an individual without lawful justification commits first degree murder if, in performing the acts which cause the death:*

*(1) he either intends to kill or do great bodily harm*

*to that individual or another, or knows that such acts will cause death to that individual or another; or*

*(2) he knows that such acts create a strong*

*probability of death or great bodily harm to that individual or another; or*

*(3) he is attempting or committing a forcible felony*

*other than second degree murder.*

The rest of this section of code is about the death penalty. As far as this case goes, apparently they got Lewis on the second one listed. My own thought on first-degree murder seems to be contained in the first part and so was clearly limited, at least in Illinois law. So it sounds like any time someone does something that they know could lead to "a strong probability of death or great bodily harm" to someone they could be found guilty of first-degree murder. Is it just me or does this seem kind of broad? Say in the classic example of moving a very heavy object like a piano or safe either to or from a second (or higher) story room using a rope and going through the window. Now suppose, also from the classic example, that the rope breaks just as someone is passing under so that the piano/safe kills the person. By Illinois law, the people moving the piano/safe are guilty of first-degree murder since they knew there was a possibility that the rope could break, causing the death of anyone who happens to be passing below at the time!

Am I just being pedantic about all of this, or does this case make you wonder too? I'm not saying that Lewis was completely innocent of everything and should walk away scott-free. Crimes were clearly committed, but should one of them have been counted first-degree murder? Please discuss.