

**BULLET-PROOFING YOUR HOMICIDE STATEMENT
WHEN...THERE ARE POSSIBLE MENTAL HEALTH ISSUES**

1. How are you doing?
2. Do you need anything?
3. Did someone get you something to drink? To eat?
4. Do you need to go to the bathroom?
5. Did everyone (police) treat you ok?
So before I talk to you...
(*MIRANDA*)
6. Favorite question: “**Do you know why I am here?**”
(Stephen L. case...)
[This question **must** be asked POST-*Miranda*]
7. Are you on any medication(s) today?
8. Do you see a doctor? (Last time saw her? Name? Location?)
Ever been hospitalized? For what? Where?
9. What medications are prescribed for you?
10. Are you currently taking those medications?
11. Do these medications help you? How?
12. When you take these medications can you handle daily tasks?
 - a. Shower?
 - b. Buy food?
 - c. Count money?
 - d. Use an ATM?
 - e. Play video games? (Are you good?)
 - f. Watch sports?
 - g. Play sports?
 - h. Drive?
 - i. You have a CDL?
 - j. So you passed the Driver’s test?
 - k. High school students – taken the CAHSEE?
(high school exit exam?)
 - l. Do you have a high school diploma? (GED?)
13. So you are not **OFF** your meds, now?
14. Were you taking your meds on (the date of 187)?
15. So you were not **OFF** your meds on (the date of the 187)?

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16. How do you know (the victim)?
17. Do you know his family? His mom? His sister? His child?
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DAY OF 187:

18. Did you have a weapon on that day (of the 187)?
19. Why?
20. For how long?
21. Why did you pick that weapon?
22. So you knew it was a good weapon?
23. You knew that you could use it? (Used it before?)
24. You knew that it could hurt someone? (even kill someone?)
25. Where did you have the weapon (at time of 187)?
26. Hidden? Concealed? Why hide it?
27. Was it loaded?
28. Who loaded it? (your fingerprints will be on it or the bullets?)
29. When did you load it?
30. Of course, you test-fired the weapon before?
31. Who else knew that you had the gun (weapon)?
32. Who else had seen you with the gun? When?
33. Your mom has told you never to point a gun at someone, right? Because it is dangerous, right? So you have known that guns are dangerous since you were a little kid?
34. ...all 187 questions that you already know...everything that led up to the 187...witnesses present...motive...actual 187...
35. you had other options...could have walked away, called 911, could have stopped after the first blow or first shot...but you kept going (Do NOT reveal autopsy results to D!)
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POST-CRIME BEHAVIOR:

36. fled the scene (didn't call 911 to get help for victim)
37. got rid of the murder weapon
38. changed clothes
39. lied about what happened

BULLET-PROOFING YOUR HOMICIDE STATEMENT
WHEN...THERE ARE POSSIBLE INTOXICATION ISSUES

1. If the suspect claims he was really drunk or really high and therefore does not recall any of the details right around time of the murder, then talk to them about time period **just before** and **just after** the homicide
2. First, talk to them about their experience with alcohol or drugs...
This is not your first time, no one slipped you any drugs that night, you can handle yourself when you drink...you are not a lightweight...
ON THE DAY OF THE 187:
3. What did you have to drink or smoke? When? How much?
4. Ask questions that show planning or goal oriented behavior at the time **just before** the 187?
5. What did you do?
6. Who were you with?
7. Where were you?
8. When did you start drinking? (Timeline is very important)
9. Who bought it? Debit card? Receipt? What store? Size of bottle?
10. Who else shared the bottle?
11. Anything else? Smoke anything? Weed? Laced with anything?
Snort anything? Inject anything? Take any pills?
12. Did you drive?
13. Did you use your phone? (Both at the same time?)
14. Did you talk to anyone after you had been drinking? Name? Number?
15. Go to the bathroom? Get zipper back up? Get pants buttoned?
Walk down any stairs? Ever fall down? Play any video games?
Dance? Get a condom out of the wrapper and put it on the right part of your body?
16. Continue the strict timeline...where were you **immediately** before the 187? Did you have anything to drink **just before** the 187?
(they will want to embellish that they pounded alcohol just before the 187, if you detail the strict timeline, then the alcohol will not have been absorbed at time of 187) Who was with you, right then?
17. Get them to give as many details about 187 as they will corroborate
18. Did you drink more after the 187? With whom? How much?
(Drinking **AFTER** the 187 will explain the blood test - that you already had drawn in a medically approved manner!)
19. Flee, get rid of weapon, change clothes, wash hands, text anyone?
...consciousness of guilt, shows you knew what you did and could have formed necessary intent

BULLET-PROOFING YOUR HOMICIDE STATEMENT WHEN...THERE IS A POSSIBLE CLAIM OF ALIBI

1. When a suspect is saying he wasn't there...DO **NOT** TELL HIM ALL YOUR EVIDENCE THAT PROVES HE WAS!
2. Instead, ask him exactly where he was day before 187, day OF 187 and day after the 187...
3. For date and time of actual 187, ask him WHO he was with, WHERE he was and WHAT he was doing...ask him for names and phone numbers of who can confirm his story...(may want to call them right then and there)
4. Ask him for proof...such as ATM receipts, credit card receipts, movie tickets, "selfies" on his phone
5. FACEBOOK – have him show you his FB page and have him tell you his password – look at entries for that date
6. INSTAGRAM, too.
(DON'T LEAVE HIM ALONE WITH HIS PHONE!)
7. Go on Law Enforcement Tab of FB and do a preservation letter (before he or his family can take it down) Write S/W
8. Write a Search Warrant for his phone records including text messages, cellphone tower evidence – ask him to let you look at his phone – if he is innocent he will be anxious to show you...
9. Ask him if he used anyone else's phone on the day of 187
10. Gather all surveillance video showing he was there, bridge crossings, red light cameras
11. Get him to describe how he appeared at the time of the 187 - what was he wearing, hair style, facial hair, hat?
12. If arrested long time after 187, pin him down on memorable dates/events he would normally remember near time of 187 or work hours and co-workers names at time of 187
13. Do you have a TWIN brother?
If so, did your twin brother do this?
Was he there?
Did he have a cast on his leg, too?
GO TAKE A STATEMENT FROM TWIN BROTHER!

**BULLET-PROOFING YOUR HOMICIDE STATEMENT
WHEN...THERE ARE POSSIBLE SELF-DEFENSE ISSUES**

1. “**Do you know why I am here?**” (after *Miranda*)
2. What is your height and weight? Nick names?
3. How do you get the news? (read on-line? read the paper?)
4. Are you on social media? Which ones? User name?
5. Will you show me your Instagram account? Password?
6. Will you show me your Facebook page? User name? Password
7. Ever been in trouble before? At school? What for?
8. Ever been suspended from school? Expelled? What for?
9. What kind of school do you go to now?
10. Ever heard your *Miranda* rights before?
11. Ever been arrested for anything? Go through **every** act of violence - including misdemeanors or weapons

12. **Experience with firearms** (weapons)
 - a. When was the first time you ever touched a gun (knife)?
 - b. First time ever fired one? (started carrying one?)
 - c. First time ever purchased a firearm, where, how much?
 - d. If you didn't purchase it, why not? (felon?) (Then, who?)
 - e. First time ever purchased ammo?
 - f. How did you select the ammo? Why this type?
 - g. You know that a gun is dangerous?
 - h. You know that a gun can kill?
 - i. You were told at a young age, never to point a gun
 - j. Your mother (grandmother) told you...

13. **Day in question:**
 - a. Did you have a weapon on the day of the 187?
 - b. **Why?** For how long?
 - c. Why did you pick that particular weapon, this time?
 - d. **What** did you think might happen?
 - e. **Where** did you have it?

- f. Was it loaded?
 - g. Who loaded it? (So your fingerprints...?)
 - h. **When** did you load it?
 - i. Had you test-fired the weapon before? (No one is going to buy/use a gun, unless they know it works)
 - j. Who else knew that you had the gun?
 - k. Who else had seen you with the gun? When?
14. **RELATIONSHIP WITH THE VICTIM**
(or intended victim)
- i. How long have you known victim?
 - ii. Victim's height and weight (size differential)
 - iii. History?
 - iv. Bad blood?
 - v. Rivals?
 - vi. Third party problems?
 - vii. Ever seen the victim with a weapon? * **caveat**
 - viii. Establish any and **all** motives for 187
15. **Back to Day of 187:**
- a. At time of 187, was it 1 on 1? 2 on 2? 4 on 2?
 (you had more guys – i.e. didn't need to use weapon)
 - b. What did you think was going to happen just before 187?
 - c. Why? What could you see?
 - d. Did you see anything in the victim's hands?
 - e. What options did you have at that point?
 (elaborate on ALL possible escape routes?)
 (elaborate on ALL possible alternatives to a 187)
 - i. Leave?
 - ii. Call 911?
 - iii. Talk it out?
 - iv. Give victim a simple warning (verbal)?
 - v. Conditional threat (not imminent)?
 - vi. Just scare the victim (instead of killing him)?
 - vii. Just have a fist fight?
 - viii. Just shoot into the air?
 - ix. Just shoot him once in the toe?
 - x. Just shoot him once, instead of multiple times?

- f. **NEVER** tell a suspect the **AUTOPSY** results!
- g. At the **very instant** of the killing, what did you think was going to happen?
- h. Why?
- i. Through your questioning, show that the killing was **NOT ABSOLUTELY NECESSARY** because the suspect was not about to instantly die or suffer GBI (but don't ask that!)
show that he had **options** other than to kill
- j. If suspect is claiming he mistakenly believed it was necessary to kill because he was suffering from a **DELUSION** which justified the killing, then go through all of his **ACCURATE** perceptions of reality -
 - i. he chose a human being to shoot, not a fire hydrant
 - ii. he chose the person he was angry at, not a random stranger
 - iii. he chose to shoot a gun, not a banana
 - iv. he chose a fatal part of the victim's body

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TO PREVENT A FALSE CLAIM OF HEAT OF PASSION DEFENSE: (Victim provoked him into spontaneous rage)

1. Show the suspect engaged in **PLANNING** activities before 187
2. Show the suspect was **ARMED AHEAD** of time
3. Show the suspect had **MOTIVE** ahead of time
4. Ask why **FATAL force** was chosen?
5. Show that the **VICTIM** was **NOT** the source of provocation
6. Show that the **ANGER** was **NOT** instantaneous, but present beforehand
7. Was there **ANY** time for the suspect to cool off before 187?
(Did he go and retrieve a weapon? No Heat of Passion!)
(Did he make a phone call? No Heat of Passion!)
8. Show all activities that prove goal-directed behavior