

Vehicular Manslaughter

Even though most people would concede that it is never a good idea to drive after a night of drinking, many people take this risk because they misjudge their ability to drive safely. Drivers who are intoxicated, distracted by a cell phone, or otherwise negligent are involved in fatal crashes on a daily basis. Depending on the circumstances, one can be charged with vehicular manslaughter if your negligence causes a collision that results in the death of another driver, passenger or pedestrian.

While these feelings of guilt and remorse are natural, do not make statements expressing such sentiments because these statements might be used against you if you are charged with vehicular manslaughter. Given the potentially severe penalties associated with a homicide caused by a motor vehicle accident, it is important to speak to no one until legal advice has been obtained. Sanford and Christy Horowitz have successfully represented clients in cases across the spectrum, from minor misdemeanors to serious and violent felonies.

Misdemeanor Vehicular Manslaughter (PC Section 192(c)(2))

The prosecutor must prove the following elements beyond a reasonable doubt to convict a defendant of this vehicular homicide offense:

- A motorist committed a traffic infraction or misdemeanor or committed a lawful act in a way likely to cause a fatality;
- The conduct was unsafe given the circumstances;
- The motorist was negligent; AND
- The conduct caused the death of someone other than the accused.

The defining characteristic of this form of vehicular manslaughter is that it only requires ordinary negligence by the accused. Ordinary negligence is the failure to act as a reasonably prudent person. A motorist's conduct meets this standard if the accused fails to exercise reasonable care to prevent reasonably foreseeable harm to others. The exposure for misdemeanor vehicular manslaughter is up to one year in county jail and a fine of up to \$1,000.

Gross Vehicular Manslaughter

The elements that the prosecutor must prove to obtain a conviction of gross vehicular manslaughter are the same as the misdemeanor variation of the offense except that a higher level of negligence is required. Gross negligence involves more than routine carelessness, lack of attention, or miscalculation.

The gross negligence required to support a charge of gross vehicular manslaughter involves the following:

- Reckless conduct that poses a high risk of causing great bodily injury or death; and
- A reasonable individual would have known that the conduct created this serious risk.

Gross Vehicular Manslaughter Case Example: Marcos was engaged in a street race on a two-lane highway and caused a head-on collision with another vehicle. The lady driving the other vehicle passes away.

Gross vehicular manslaughter is a wobbler that can be charged as a misdemeanor or felony based on the facts, circumstances and prior criminal record of the accused. As a misdemeanor, gross vehicular manslaughter could result in up to one year in county jail and/or a fine of up to \$1000. This conviction can result in summary probation, also known as informal probation. This form of probation involves inactive supervision of a person who has been convicted of a misdemeanor. If convicted as a felony, gross vehicular manslaughter is punishable with incarceration in state prison for two, four, or six years and/or a fine of up to \$10,000. One is also subject to formal probation, which involves an increase supervision as well as counseling, community service, drug testing, etc.

Vehicular Manslaughter While Intoxicated (PC Section 191.5)

The charge of vehicular manslaughter while intoxicated requires the prosecutor to prove the following beyond a reasonable doubt:

- The accused commits DUI (drugs or alcohol)
- The accused engages in either ordinary or gross negligence
- The accused commits a traffic infraction misdemeanor or lawful act that causes a fatality; AND
- The violation causes a fatality.

A driver can be charged with this form of vehicular manslaughter based on either actual impaired mental or physical driving skills because of alcohol or drugs or a DUI “per se” violation because the driver’s BAC is .08 percent or higher.

- Ordinary Vehicular Manslaughter While Intoxicated Penalty (PC 191.5(b)): The prosecutor can charge this offense as either a misdemeanor or felony. The misdemeanor can be punished by up to one year in county jail. If you are charged and convicted of a felony, the exposure can be 16 months, 2 years or 4 years in state prison.
- Gross Vehicular Manslaughter While Intoxicated Penalty (PC 191.5(a)): This offense is a felony that carries a penalty of 4 years, 6 years or 10 years.

Defense Strategies for Vehicle Manslaughter Convictions

If you are charged with vehicular manslaughter, your attorney must consult with accident reconstruction experts and carefully analyze law enforcement reports. Sanford and Christy Horowitz are experienced criminal defense attorneys, who will challenge:

- field sobriety tests and chemical testing results,
- Present evidence that the other driver was at-fault for causing the crash,
- Demonstrate that the arresting officer’s observations were inaccurate,
- Dispute that the accused was negligent, and/or
- Arguing that the crash was caused by a vehicle defect or unsafe roadway.

These are a few of the many tactics that Christy and Sanford Horowitz Criminal Defense can administer to defend vehicular manslaughter accusations.