

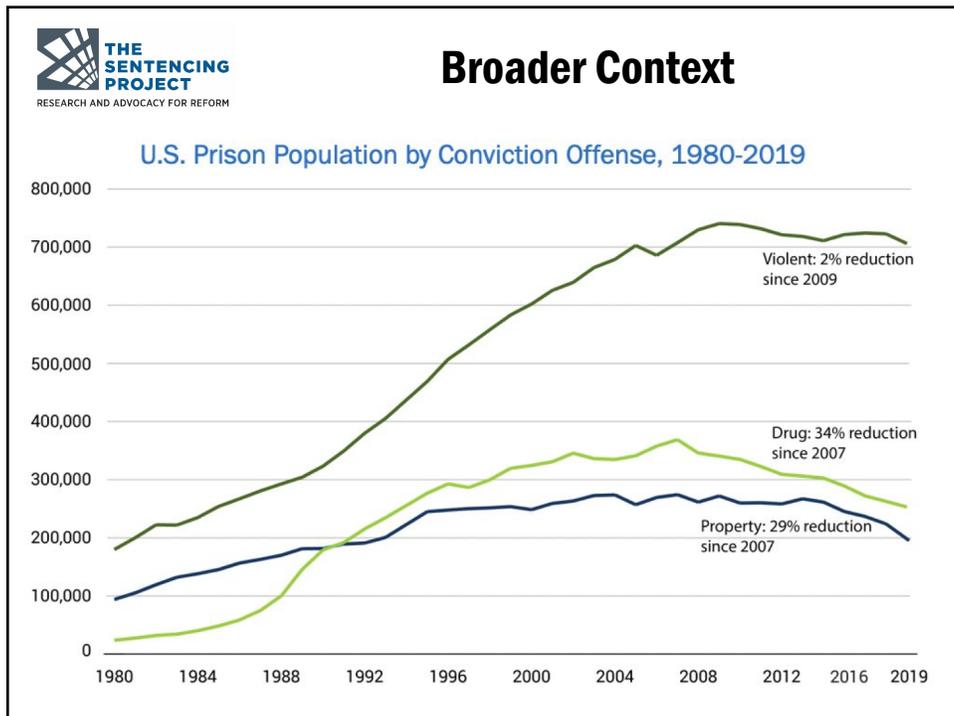
FELONY MURDER:

An On-Ramp for Extreme Sentencing

THE SENTENCING PROJECT
RESEARCH AND ADVOCACY FOR REFORM

FJP
FAIR AND JUST PROSECUTION

Nazgol Ghandnoosh, Ph.D.
nghanooosh@sentencingproject.org





Felony Murder

Felony murder laws impose sentences associated with murder on people who neither **intended** to kill nor **anticipated** a death, and even on those who did not **participate** in the killing.



Erasing Distinction Between Intentional / Unintentional Killings

“The rationale of the [felony-murder] doctrine is that one who commits a felony is a bad person with a bad state of mind, and he has caused a bad result, so that we should not worry too much about the fact that the fatal result he accomplished was quite different and a good deal worse than the bad result he intended.”

— Wayne LaFave, College of Law at the University of Illinois



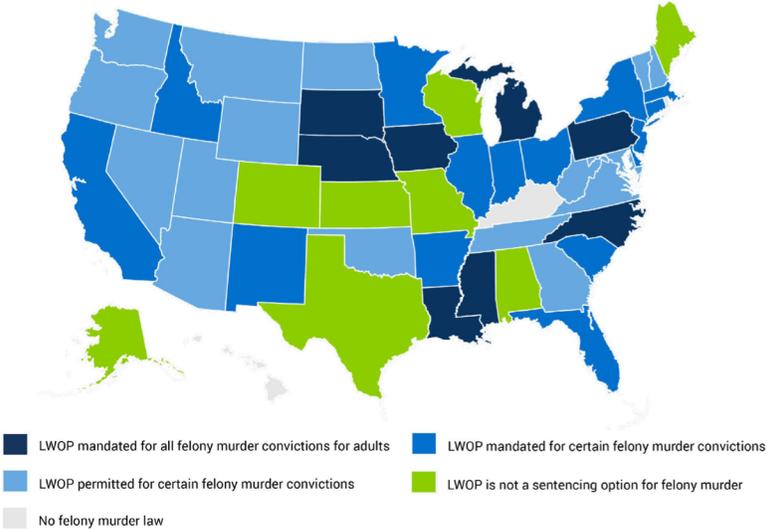
Problems With Felony Murder Laws

- 1. Felony murder laws widen the net of extreme sentencing and are counterproductive to public safety.



1. Felony Murder Laws Expand LWOP

FIGURE 1. Sentencing Laws for Felony Murder, 2022





Problems With Felony Murder Laws

1. Felony murder laws widen the net of extreme sentencing and are counterproductive to public safety.
2. Felony murder laws have particularly adverse impacts on people of color, young people, and women.



Problems With Felony Murder Laws

1. Felony murder laws widen the net of extreme sentencing and are counterproductive to public safety.
2. Felony murder laws have particularly adverse impacts on people of color, young people, and women.
3. Existing reforms must be expanded to achieve justice.



4. The Most Egregious Felony Murder Laws

Overstretched prosecutorial power to bring murder charges related to burglary, drugs, and assault.

“If the felony murder doctrine is designed to produce results like these, it should indeed be abolished.” – Guyora Binder, SUNY Law



Reform Leaders

- **CA’s SB 1437 (2018):**

To be convicted as an accomplice to felony murder an individual must have either intended to kill or been both a "major participant" in the underlying felony and acted with "reckless indifference to human life" in the killing. The law provides a process for those convicted under the old definition of felony murder to apply to be resentenced.

- **CA’s SB 775 (2021):**

Extends relief to individuals who pleaded guilty to manslaughter to avoid a felony murder conviction under the old definition.

- **CA’s SB 300 (pending):**

Would require that if someone did not kill, the prosecutor must prove that the accomplice had the intent to kill in order to obtain an LWOP or death sentence.



Reform Leaders

DC proposal as part of the Revised Criminal Code Act:

- Reclassify FM from from first- to second-degree murder, reducing maximum sentence to 24 years
- End felony murder accomplice liability



Other Reforms

- In 2017, the Supreme Judicial Court of [Massachusetts](#) ended the felony-murder doctrine by requiring that first-degree murder convictions require “actual malice” regarding the murder itself. Not retroactive.
- [Florida](#) also passed legislation in 2014 automatically entitling minors convicted of felony murder to review for sentences longer than 15 years.
- The [federal](#) Childhood Offenders Rehabilitation and Safety Act (H.R. 2908), introduced by Rep. Karen Bass in 2021, would eliminate the application of the felony murder rule to minors.



Our Recommendations

- Full repeal of felony murder laws
- In the absence of this broad overhaul, recommendations include:
 - Ensure that felony murder convictions result in [less harsh punishment](#) than intentional murders.
 - Eliminate application of the felony murder law to predicate offenses that have an extremely low risk of death, including [robbery, burglary, and drug law violations](#).
 - Repeal the felony murder rule for [accomplices](#) as well as for [youth and emerging adults](#).
 - Institute [meaningful intent requirements](#) for a killing to be considered felony murder, assessing the defendant's mental state with respect to the killing itself, not to the underlying felony offense.