

SURVEY REGARDING FELONY MURDER AND THE NATURAL AND PROBABLE CONSEQUENCES DOCTRINE

Thank you for reading this. We represent several organizations – including several led by formerly incarcerated people and family members – that are working to challenge the felony murder rule in California and certain aspects of second-degree murder. Please take a few minutes to fill out this survey (included on the back of this page) if you have been impacted by the felony murder rule or the natural and probable consequences doctrine.

Our hope is to pass a law this year. The quicker you get this information to us, and the more detail you provide, the better our chances to change the law. Also, before you fill your own survey out, please make copies and pass them on to other people to complete.

Return completed surveys as soon as possible to:

Youth Justice Coalition
Attn: Legal Clinic
PO Box 73688
Los Angeles, CA 90003

Thank you!

Kim McGill, Youth Justice Coalition
Joanne Shearer, CA Felony Murder Project
Kate Chatfield, Restore California

Introduction

First Degree Felony Murder: All Participants Liable for Homicide

A killing that occurs during the commission, attempted commission, or flight from a statutorily enumerated felony (felony-murder) is also murder of the first degree. (PC § 189). Thus, a death may be accidental, unintentional, and unforeseen but so long as it occurred during the course of, or flight from, a statutorily-enumerated felony, all participants in the underlying felony --whether one performed the homicidal act or not, or was even at the scene of the killing-- are liable for first-degree murder.

Second Degree Felony Murder: All Participants in an Inherently Dangerous Felony Liable for Homicide

A killing may be murder in the second degree if a death occurred during the commission, attempted commission, or flight from a felony that is “inherently dangerous to human life.” There is no statutory list of “inherently dangerous felonies” as there is for first-degree felony-murder. Courts have determined what felonies are inherently dangerous. As in first-degree felony murder, the killing may be unintentional, accidental, or negligent.

Second Degree Murder: The Natural and Probable Consequences Doctrine

A person who did not personally commit a homicide may also be found culpable for second-degree murder under the “natural and probable consequences” doctrine. The California Supreme Court has held: “Thus, for example, if a person aids and abets only an intended assault, but a murder results, that person may be guilty of that murder, even if unintended, if it is a natural and probable consequence of the intended assault.”

Survey

1. Name and CDCR Number: _____
2. Institution: _____
3. Address: _____

For numbers 4-7, please fill out as the the police and courts understood you and the victim(s)

4. What is your race? _____
5. What is your gender? _____
6. What is the race of the victim(s) in your case? _____
7. What is the gender of the victim(s)? _____
8. How old were you at the time of the offense (for this conviction)? _____
9. What was the courthouse and county of your conviction?
10. Courthouse: _____ County: _____
11. Were there other people charged in the homicide with you? _____
12. If yes, to number 11, how many others? _____
13. What was/were the age of your co-defendant(s) at the time of the incident? _____
14. Did you have a trial? _____
15. Was there an appeal? _____
16. What is your sentence? (Please include counts for which you were convicted and any special allegations or enhancement)
17. What were you convicted of in terms of your involvement in the case? For example: If you were convicted of first degree murder involving a robbery or a burglary, did the prosecutor argue that you were the "trigger" person or did s/he argue that you were a participant in the underlying robbery or burglary?
18. Please include any other information you want us to know: