

Aiding & Abetting Law Reform

HF 1406/SF 1478

Presentation to the
Minnesota House Judiciary Committee

March 24, 2023

Task Force on Aiding & Abetting Felony Murder

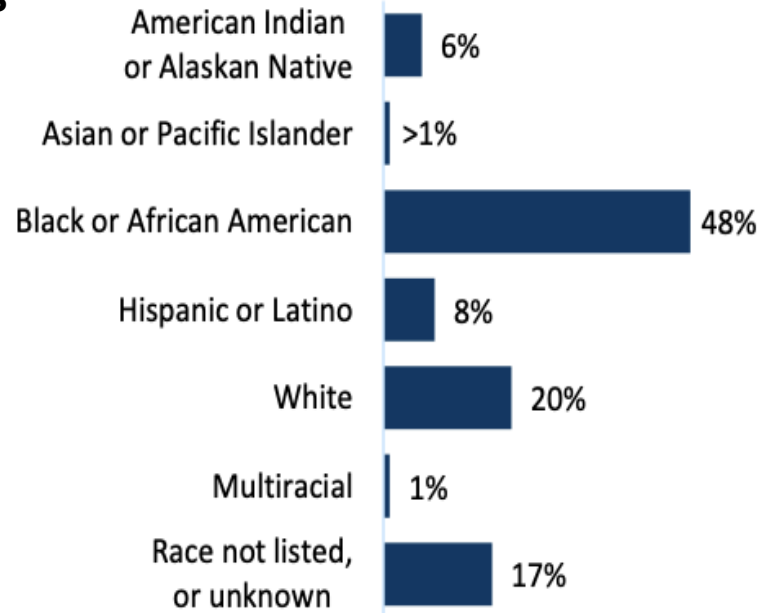
- **June 2021:** MN Legislature establishes Task Force (1st Spec. Sess., Ch. 11, art. 2, sec. 53 (2021))
- **Members:** DOC appointee, ED of the MN SGC rep, State PD, Violent Crime Coord Council rep, 2 MCAA appointees, police chief, legal scholar, victims rights advocate, civil rights advocate, impacted person
- **Mandate:** collect and analyze relevant data on aiding & abetting felony murder in Minnesota, review statutes in other states, receive input from impacted people, analyze benefits and unintended consequences of aiding & abetting felony murder laws in Minnesota, make recommendations to MN Legislature

Impetus for Task Force

1. Inequity

- **Racial Disparities**

Charges of aiding and abetting felony murder by race, 2010-2019

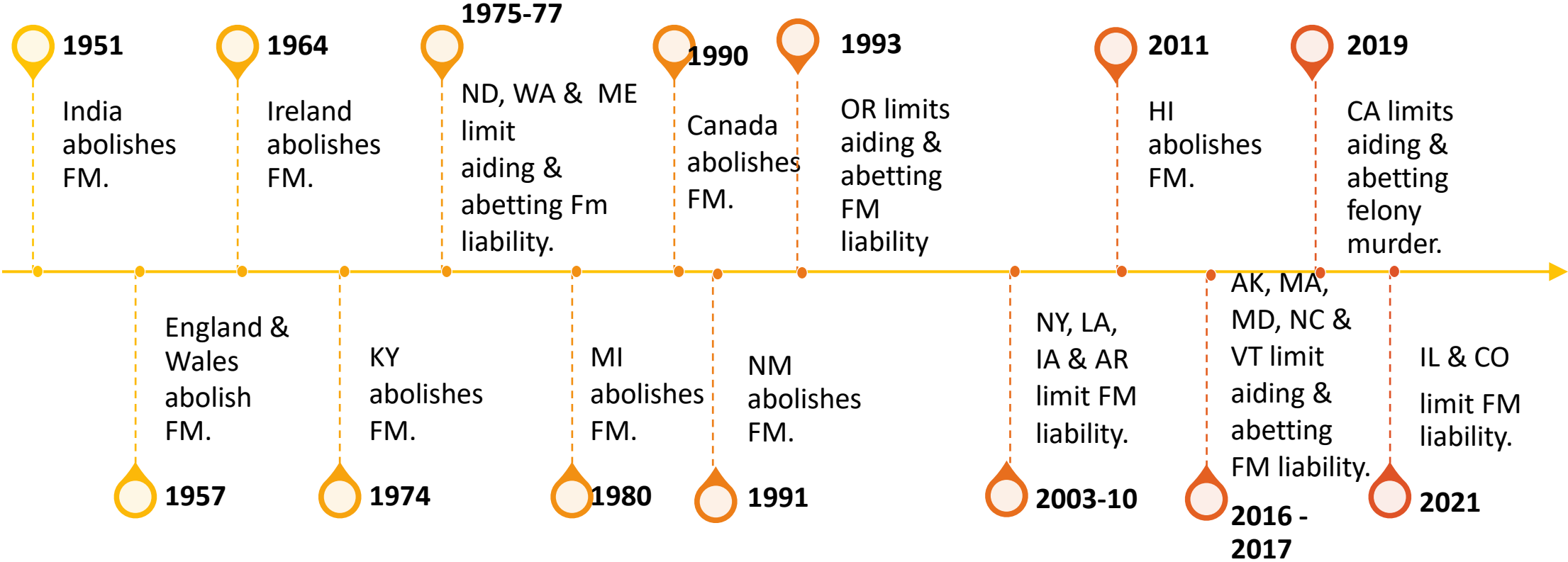


- **Age Disparities:** 63% under 25 years
- **Geographic Disparities:** 42% charged in Hennepin County
- **Culpability & Sentencing:**
 - 4 aid & abettors serving more severe sentences than principal
 - 1 serving same sentence
 - All 5 people of color & 4 of 5 from Hennepin County

2. Lack of Deterrence – studies show that aiding and abetting felony murder does not deter crime

3. Support from Stakeholders and Impacted Persons

Impetus for Task Force: national trends limiting aiding & abetting liability



Impetus for Task Force:

Minnesota's expansive aiding and abetting liability laws

609.05 LIABILITY FOR CRIMES OF ANOTHER

- **Subdivision 1. Aiding, abetting; liability.**

- A person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.

- ***State v. Milton*, 821 N.W.2d 789, 806 (Minn. 2012)** (citing *State v. Mahkuk*, 736 N.W.2d 675, 682 (Minn. 2007)):

- A person “intentionally aids” when they:
 - Knew their alleged accomplice was going to commit a crime
 - Intended their presence or actions to further the commission of that crime

Task Force's 3 Key Recommendations

Task Force members unanimously recommended:

1. Revising relevant statutes to limit aiding and abetting felony murder liability
2. Revising relevant statutes such that those previously convicted may petition for limited relief
3. Implementing reforms beyond mere adoption of an affirmative defense

HF 1406/SF 1478: Core Provisions

- **609.185 (first-degree)**: limiting liability to those who caused death or aided and abetted “with intent to cause death of a human being”
- **609.19 (second-degree)**: limiting liability to those who caused death or were a “major participant in the underlying felony who acted with extreme indifference to human life”
- Provides avenue for **retroactive relief**

Defining Major Participant

“Major participant” is one who:

1. Used a deadly weapon during the commission of the underlying felony or provided a deadly weapon to other participants and it was reasonably foreseeable that the weapon would be used in the underlying felony;
2. Was not present at the time of the commission of the underlying felony but coerced a participant to undertake actions in furtherance of the underlying felony that proximately caused the death, and where it was reasonably foreseeable that such actions would cause death or great bodily harm; or
3. Who impeded another person from preventing the death either by physical action or by threat of physical action when it was reasonably foreseeable that death or great bodily harm would result.