

Aiding & Abetting Law Reform HF 1406/SF 1478

Presentation to the
Minnesota House Public Safety Committee
February 28, 2023

2021-2022 Task Force on Aiding & Abetting Felony Murder (“AAFM”)



Members

- Dept. of Corrections appointee
- Executive Director of the MN Sent. Guidelines Commission
- State Public Defender
- Violent Crime Coordinating Council Representative
- 2 MCAA appointees
- Police Chief
- Legal scholar
- Victims' Rights advocate
- Civil Rights advocate
- Impacted family member

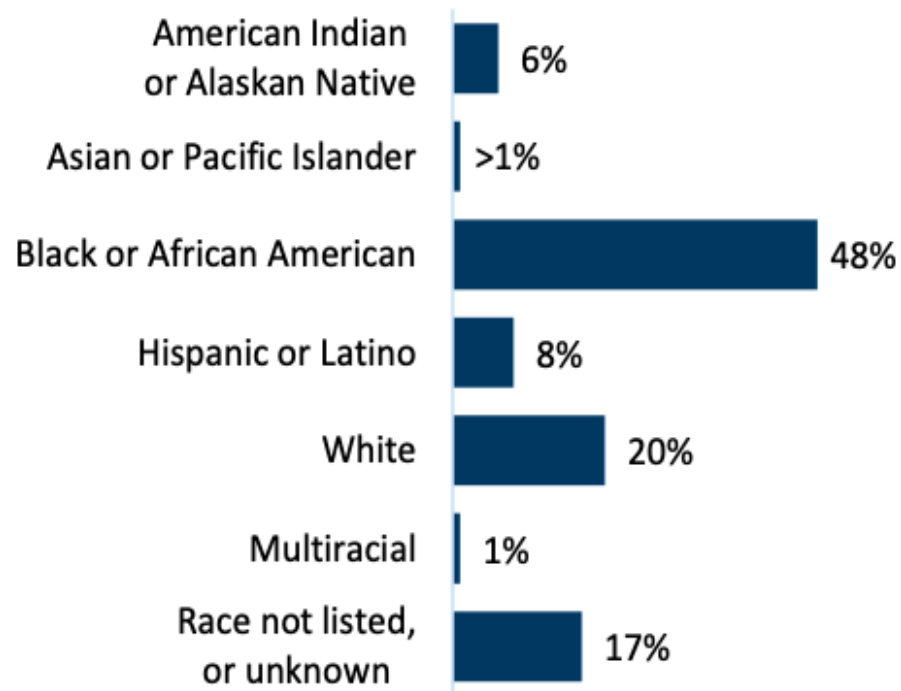
Mandate

- Collect and analyze relevant data on AAFM laws in Minnesota
- Review laws in other states
- Receive input from impacted people
- Analyze benefits and unintended consequences of AAFM laws in Minnesota
- Make recommendations to MN Legislature

Laws of Minnesota 2021, 1st Spec. Sess. chapter 11, article 2, section 53

Impetus for Task Force: *Inequity and Disproportionality*

Racial Disparities



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

Age Disparities

63% under 25 years

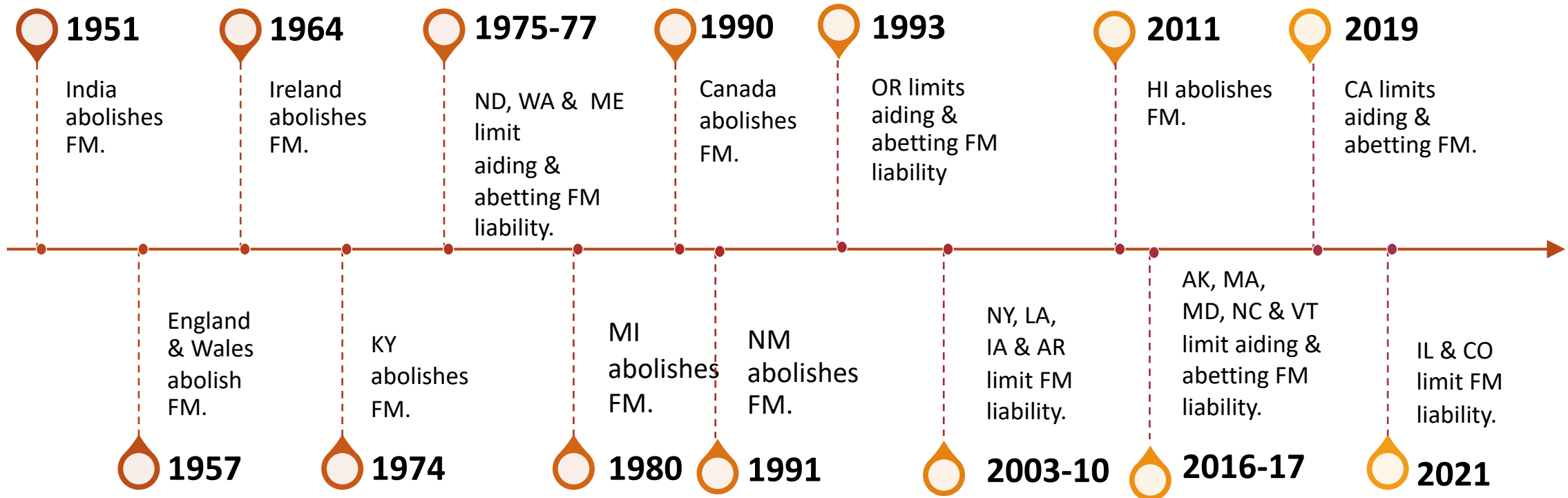
Geographic Disparities

42% charged in Hennepin County

Sentencing Disparities

- 5 aiders & abettors serving equal or harsher sentences than principals
- all 5 people of color & 4 of 5 from Hennepin County

Impetus for Task Force: *National Trends*



Impetus for Task Force: *Expansive Liability*



MN Stat. 609.05 LIABILITY FOR CRIMES OF ANOTHER

- **Subd. 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.
- **Subd. 2. Expansive liability.**
 - A person liable under subdivision 1 is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended.
- ***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

- **MN Stat. 609.185 (first-degree murder):** limiting liability to those who caused death or aided and abetted “with intent to cause death of a human being”
- **MN Stat. 609.19 (second-degree murder):** 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**

What is a “major participant?”

“Major participant” under this section may include, but is not limited to, a person:

- 1) Who used a deadly weapon during 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) Who played a principal role in the act(s) that proximately caused the death and it was reasonably foreseeable that such acts would cause death or great bodily harm;
- 3) 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 it was reasonably foreseeable that such actions would cause death or great bodily harm; or
- 4) 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.