



Fetterman: Study Confirms Immediate Need for Reform of Life Without Parole Sentences for Second-Degree “Felony” Murder

Harrisburg, PA – The mandatory life-without-parole sentence for second-degree murder in Pennsylvania ruins lives that could be rehabilitated while costing taxpayers billions and leaving them no safer as a result, Lt. Gov. John Fetterman said Friday while releasing the results of an [objective assessment of sentencing in the Commonwealth](#).

“More than 1,000 people are sitting in jail right now on what amounts to a death sentence despite never having taken a life,” Fetterman said. “That’s not because a judge thought the sentence was deserved. It’s because a one-size-fits-all law makes it mandatory. Any reasonable person who looks at the unfairness of these sentences will acknowledge the need for change.”

Fetterman said the report helps everyone – the legislature, the Board of Pardons, and the public as a whole – understand what’s actually happening as a result of mandatory sentencing.

While it’s called “second-degree” or “felony” murder, people who are charged with this crime did not directly take a life.

Unlike almost every other crime, second-degree murder describes a situation instead of an act. It applies when someone dies as the result of a felony, such as a robbery.

The punishment applies to both the person who actually caused the death and to any other person who participated in any other way, including:

- Planning the crime, even if you didn’t help execute it,
- Being a lookout,
- Being the get-away driver, or
- Receiving anything that was stolen.

These people must all be sentenced to prison until they die, even if they had no idea that an accomplice would use a gun or other weapon.

Using the example of a store robbery, someone who acted as a lookout could be sentenced to life in prison if the robber got nervous and shot and killed a clerk, even if the lookout never entered the store. The sentence would also be life in prison if the clerk suffered a heart attack and died three days later, even if there was no gun.

“Any loss of life because of a crime being committed is a tragedy,” Fetterman said. “But in what world has justice been served if the person who actually took the life can plead out with 5, 10, or

even 15 years in jail, but their lookout is ordered to serve the rest of their life, 40, 50 or 60 more years, and then die in prison for second-degree murder?”

PA Ranks Worst

Fetterman's office commissioned the report, which was performed by PLSE (Philadelphia Lawyers for Social Equity) and funded by a grant from The Heinz Endowments.

The report is “meticulous in its design and clear in its findings,” said Ashley Nellis, Ph.D. and Senior Research Analyst at The Sentencing Project in Washington, DC.

“Pennsylvania has used the blunt instrument of life-without-parole sentences as if all participants in a homicide played an equal role, creating a punishment system that isn't just,” she said. “Pennsylvania is emblematic of a state that applied tough-on-crime rhetoric to the detriment of finding smart-on-crime solutions.”

She noted that Pennsylvania ranks worst nationwide in its use of life-without-parole sentences for youth and second-worst in its use of life-without-parole for everyone else.

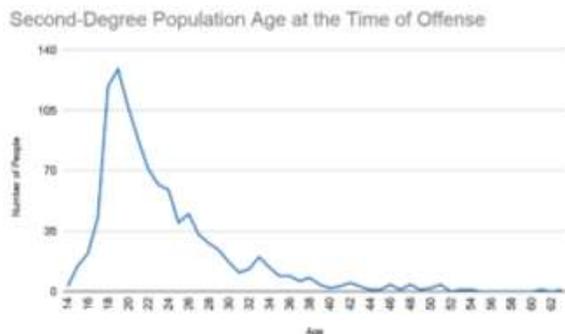
“It is clear that policies, not crime, have led to these terrible rankings,” she said. “PLSE's study reveals that these people whom the law has sent to prison to die were overwhelmingly young when the crime occurred, are heavily geriatric now, and are costing the state millions despite their very low risk of ever again committing another crime.”

Nellis said she hopes the findings will be read far and wide by lawmakers and other decisionmakers, not just in Pennsylvania but around the country, and that mandatory life-without-parole policies will be eliminated.

Fetterman has used his role as chairman of the Pennsylvania Board of Pardons to push for second chances among the lifer population, resulting in the largest number of early releases (sentence commutations) in Pennsylvania in decades. Governor Wolf signed several of those commutations yesterday.

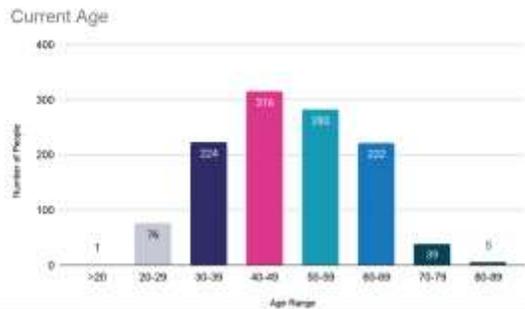
The Study

The analysis showed that almost three-quarters of the 1,166 prisoners (73.3%) were 25 years old or younger at the time of they committed the crime. Well-established medical and behavioral science has found that the brain is not fully formed at that age.



At the time of the study, nearly half of the prisoners (47.1%) were at least 50 years old – an age when criminologists and corrections experts, sociologists and behavioral psychologists all agree there is virtually no chance of committing another crime, especially a crime of violence – and an age when the cost of incarceration is estimated to double.

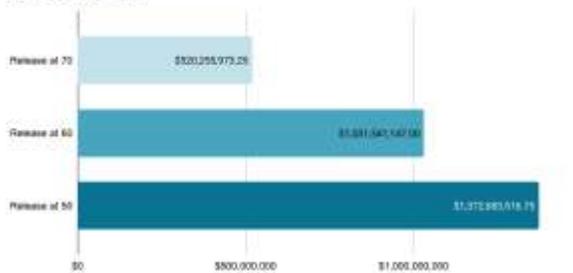
The following graph shows the distribution of the ages of the second-degree population as of September 1, 2020:



The cost of medication alone for incarcerated people age 50 and older is \$3,630.75 per person annually in Pennsylvania.

Releasing them at age 50 could save the Commonwealth an estimated \$1.4 billion (\$1,372,683,516).

Costs Savings Compared to Average Life Expectancy for Current Second-Degree Population



Pennsylvania Attorney General Josh Shapiro, Fetterman’s fellow member on the Board of Pardons, said shared facts and understanding are critical to grappling with complex issues, and PLSE’s report provides valuable baseline data on Pennsylvania’s second-degree population for both the Board of Pardons and the Legislature to consider.

“As a member of the Board of Pardons, I review the facts and circumstances of each case, and this report has provided valuable context for those deliberations,” Shapiro said. “The findings in this report also support the call I have made on the General Assembly to change the law so second-degree murder is not an automatic life sentence and to provide additional sentencing options, and I renew that call today.”

Also reviewing the study was Criminologist Daniel Nagin, Ph.D., Teresa and H. John Heinz III University Professor of Public Policy and Statistics at Carnegie Mellon University.

Nagin has been recognized internationally for his leadership in the field, including with the 2014 Stockholm Prize in Criminology and the National Academy of Science Award for Scientific Reviewing in 2017.

He said the study “carefully and thoroughly documents the injustice and fiscal waste of Pennsylvania’s second-degree murder statute.”

“The ultimate solution is its replacement with a statute providing for a just punishment,” he said. “In the meantime, the Board of Pardons should proactively use its powers to remediate the injustice of the present statute.”

Claire Shubik-Richards, Executive Director of the Pennsylvania Prison Society, said the study takes the argument about mandatory life sentences out of the realm of politics or social philosophy (like being "hard" or "soft" on crime) and reduces it to hard numbers, costs and benefits.

“It allows the debate to be over whether, given all of our state's other priorities, it makes sense to keep spending billions of tax dollars to keep geriatric and increasing sick people – no longer any risk to society – in prison for years and even decades longer, until they die.”

Allegheny County Public Defender T. Matthew Dugan said people who work every day in the criminal justice system – prosecutors and defenders alike – have long struggled with the idea that judges and parole boards can decide penalties for some crimes but not others.

“This study provides ample proof that this blanket approach doesn’t work,” he said. “It’s not just a matter of fundamental fairness, it also makes zero economic sense, especially now, when we need every available penny for so many other public priorities.”

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