



FOR IMMEDIATE RELEASE

April 30, 2021

Lt. Gov. Fetterman: Report Highlights Racial Disparities, Need for Second-Degree Statute Change

Harrisburg, PA – Lieutenant Governor John Fetterman is among those calling for reform after an eye-opening [report](#) was released today showing Black people in Pennsylvania have been sentenced to life in prison for second-degree murder at a rate 21 times higher than white people.

The report, a review of race and second-degree life-in-prison sentences, was a collaboration between Fetterman’s office, the Pennsylvania Board of Pardons, and Philadelphia Lawyers for Social Equity (PLSE).

Fetterman said the troubling disparity demonstrates the need to reevaluate.

“If you didn’t take a life, the state shouldn’t take yours through permanent incarceration,” he said. “Committing to a comprehensive review of this inmate population would produce what justice demands: that those who didn’t take a life and who have been living their best lives in prison over two or three decades would be living out their lives at home.”

Fetterman said justice requires balancing the needs of the victims and public safety.

“It is not justice for most of these people to be serving the same sentence as the Tree of Life shooter who murdered 11 people in their synagogue,” he said. “It doesn’t make sense and it doesn’t make us any safer, and it isn’t what justice would ask of us.”

Attorney General Josh Shapiro said reforming Pennsylvania’s felony murder statute is an important step in dismantling structural racism, “and we should not wait.”

Shapiro said the report “highlights how an overly punitive law and its disproportionate application have kept too many young people of color from a second chance to rehabilitate and rejoin society, while costing taxpayers, their communities and their families too much.”

The per capita rate of those serving life sentences for second-degree murder in Pennsylvania for Black people is 53.1 per 100,000, compared to 2.5 per 100,000 for white people.

The Law

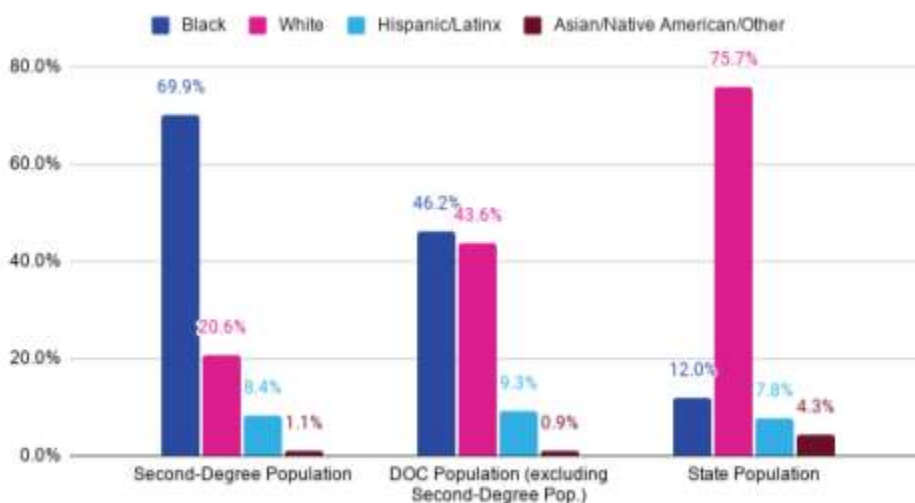
Second-degree murder charges may be pursued in Pennsylvania when someone dies as a result of a felony, such as a robbery. It can apply to anyone involved in the event in any way, from the look-out during a robbery to the get-away driver, including those who had no idea that weapons would be involved. It can also apply to deaths that are entirely accidental, as when the victim suffers a heart attack.

Because the statute carries a mandatory life sentence, accomplices with little involvement in the crime who opt to go to trial may end up serving life, while the person who most directly caused the death pleads guilty to a lesser offense, often in exchange for cooperating with the prosecution.

PLSE's first report on second-degree murder, released in February, found that the average sentence length for co-defendants who avoided a mandatory life sentence was 14 years.

In addition to disparities in sentence length, the new report shows significant racial disparities resulting from the statute; 70 percent of people sentenced under the statute in Pennsylvania are Black, whereas Black people are 47 percent of the prison population and 12 percent of the state population.

Racial Demographics of Second-Degree, DOC, and State Populations

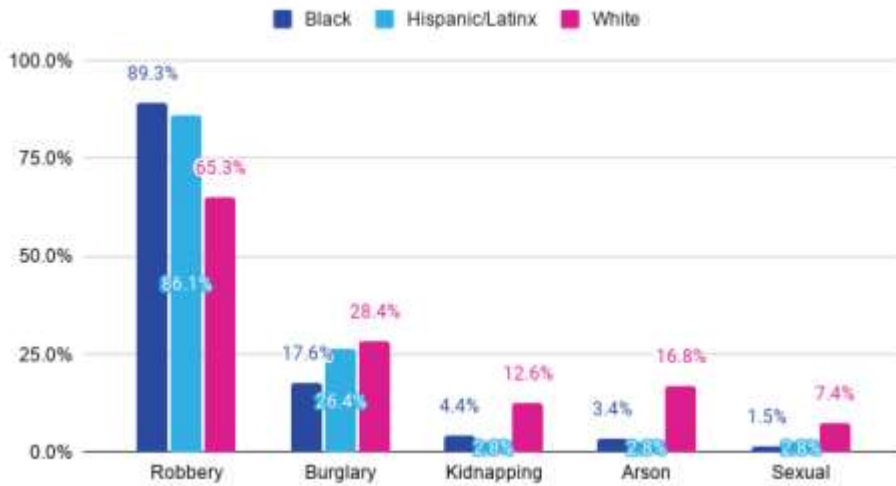


Nearly half of the state's 1,166 second-degree murder convictions studied in the report originate from Philadelphia, where Black people are two times overrepresented compared to their percentage of the county population. On the other hand, white people are also significantly *underrepresented* in the second-degree population, even in areas with large white populations.

The report found that 89 percent of Black people convicted of second-degree murder were involved in a robbery, though that number drops to 65 percent of white people. The report found that, compared to other racial groups, white people were most often convicted of the

felony types of burglary, kidnapping, arson, and certain sexual offenses, and least often convicted of robbery.

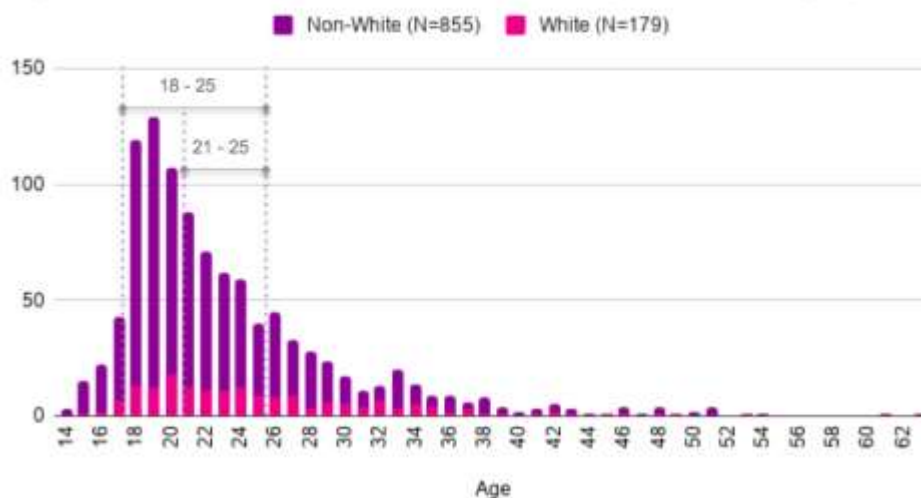
Percent of Racial Group with Context Felony Conviction



Black and Hispanic/Latinx people were also significantly younger than white people at the time of offense. Age is a relevant factor due to the implications on neurological and developmental maturity at the time of offense, given that neuroscience has shown the prefrontal cortex of the brain, which oversees rational decision-making, does not fully mature until about age 25. Over three-quarters of Black people, two-thirds of Latinx people, and six out of 10 white people were 25 or younger at the time of offense.

People of color comprise 87.9 percent of 18-to-20-year-olds at the time of offense, which is important as state courts begin to evaluate whether mandatory life without parole sentences violate state constitutions, as the Washington State Supreme Court ruled last month.

Age at the Time of Offense Distribution by Racial Category



In addition to its implications on culpability, younger ages were correlated with group prosecution, which is consistent with neuroscience's findings that youth are more susceptible to peer pressure than older adults. Because Pennsylvania's second-degree murder statute applies to all individuals involved in the felony, including those who did not directly cause the death, this factor has a disparate impact on young people of color in the population. More than 80 percent of those who were prosecuted in a group in which multiple people were convicted of second-degree murder are Black, resulting in a greater number of Black accomplices in the population.

The report also noted that white people in the second-degree population pleaded guilty two times as often as Hispanic/Latinx people, and over three times as often as Black people. While the source of this difference is not conclusive, the authors note these differences may reflect prosecutorial decision-making; the nature of the offense; and/or the relative older ages of white defendants, which were predictive of pleading guilty.

Reactions

Officials and experts from across the U.S. weighed in on the report.

"Having fair sentencing policies that take into account the nature of accomplices, many of whom are not directly involved in the violent act that's being prosecuted, require sentences to reflect the defendant's true involvement in the crime. My House Bill 135 takes that into account, and allows those with second-degree murder charges the opportunity for parole when sentenced to life without parole." **Rep. Jason Dawkins, 179th Legislative District**

"It is imperative that we pass policy to end the inequities created by second-degree felony murder sentencing in Pennsylvania. ...Hundreds of men and women have been sentenced to a death by incarceration having never taken a life. The Parole Board should have the ability to review these cases. Senate Bill 135 would empower them to do so." **Sen. Sharif Street, Senate District 3**

"Justice is not blind to race. Pennsylvania's uniquely overbroad use of life sentences impacts Black young men more than other demographic groups. This report demonstrates that it is high time we paid attention to the racial inequities in this 'system of justice' and do what we can - by the Board of Pardons and through the General Assembly - to make it a better system for all." **Claire Shubik-Richards, Executive Director of the Pennsylvania Prison Society**

"There is a long history of people of color receiving harsher sentences because of their race in the U.S., and this is especially true for life without parole. In Pennsylvania, which ranks among the worst in doling out life without parole sentences, 65 percent of people serving life without parole are Black, compared to 55 percent nationwide." **Ashley Nellis, Ph.D. and Senior Research Analyst at The Sentencing Project in Washington D.C.**

"One noteworthy finding of the report is that Black and Latinx defendants were significantly younger than white defendants at the time of offense. Last week, the Supreme Court's decision

on *Jones v. Mississippi* just triggered a nationwide conversation on the handling of juvenile defendants. Although many individuals in this report are considered young adults under the age of 25 rather than juveniles, the balance between punishment and rehabilitation is still highly relevant, and more so for the people of color in the population given their relatively lower age." **Shi Yan, assistant professor of criminology and criminal justice at Arizona State University**

"With the vast majority of these cases originating from Philadelphia County and other metropolitan areas with significant racial minority populations, it is imperative that the legislative leaders in these areas work both with General Assembly, the Governor and our Board to balance the scales of justice, wherever applicable." **Brandon Flood, Secretary of the Pennsylvania Board of Pardons**