

Accomplices to Felony Murder Who Lack Intent to Kill

The data subcommittee's first research question was: Are accomplices who lack an intent to kill commonly imprisoned for intentional murder? If so, how can the culpability of such accomplices be characterized?

Research Method

The data subcommittee examined people sentenced for either of two offenses: first-degree premeditated murder (Minn. Stat. § 609.185(1) or 609.185(a)(1)) or second-degree intentional murder (§ 609.19, subd. 1(1)). Attempts were excluded. To focus the inquiry on accomplices, the subcommittee examined only those cases for which Department of Corrections (DOC) records reflected a General Offense Code (GOC) of "Aid/Abet" (or, rarely, "Liability for").

Because DOC staff question the reliability of GOC data prior to 2018, only five years of second-degree intentional murder cases were examined, from 2018 through 2022. This yielded 31 second-degree cases of interest.

Because first-degree premeditated murder is less common, however, the subcommittee did not apply the 2018 restriction to these cases. Instead, it examined all first-degree premeditated murder cases where the GOC suggested the defendant may have been an accomplice, provided the defendant remained in prison. This yielded 77 cases, for a total of 108 cases of interest.

The subcommittee then enlisted the assistance of a volunteer team of Augsburg University students to research the facts underlying each of these 108 homicides, as reflected in court records. The cases were divided among the team members, all of whom individually answered a series of questions about their assigned cases. If the researchers found defendants who, although lacking an intent to kill, had been imprisoned for aiding or abetting intentional murder, the researchers were asked to summarize the defendants' culpability.

Limitations of the Research Method

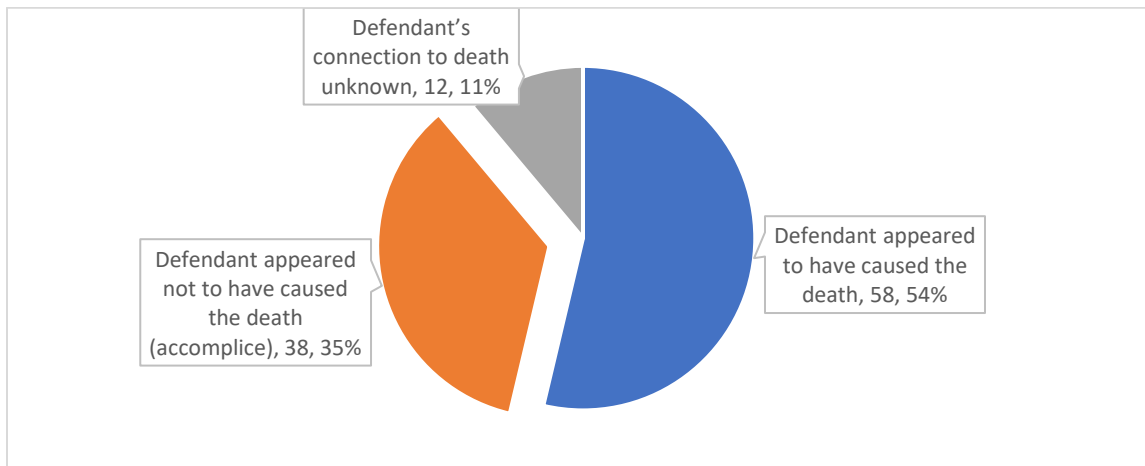
The above research method carries with it several limitations, and the results that follow should be viewed in this light. These limitations follow.

- The criteria for including second-degree intentional murder cases in this research were narrower than the inclusion criteria for first-degree premeditated murder cases. As a result, second-degree intentional murder cases are underrepresented in the research sample, and the number of second-degree intentional murder cases is small.
- Some second-degree intentional murder cases may have been excluded from the sample because DOC records were used to find GOCs. Any defendant who was not committed to DOC custody would have been excluded from the sample.
- Some aiding or abetting intentional murder cases may have been excluded from this research if the GOC was not properly coded. There are no systemic checks to ensure that GOC data is accurate.
- The student researchers were, in each case, asked to make some difficult judgment calls—chief among them, "Did the defendant intend to kill?"—with limited information. This is an imprecise undertaking, and different researchers may interpret the same court documents differently.

Research Findings

In each of 108 intentional murder cases in question, the GOC indicated that the defendant was an accomplice. The student researchers, however, found only 38 cases where the defendant truly appeared to have been a mere accomplice—24 first-degree premeditated murder cases and 14 second-degree intentional murder cases. The students focused the remainder of their research on those 38 accomplice cases, rather than on those cases in which defendant could not be classified as an accomplice either because the defendant appeared to have caused the death (58 cases) or because insufficient facts were available (12 cases) (Figure 1).

Figure 1. Defendant's Apparent Connection to the Victim's Death in 108 Intentional Murder Cases of Interest, as Assessed by Student Researchers.



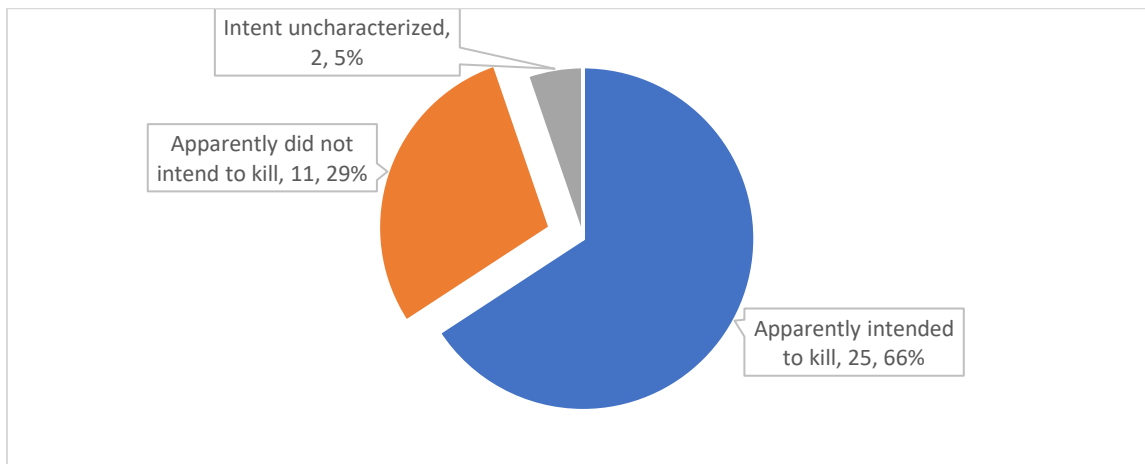
Of the 38 cases in which the defendant was apparently imprisoned for having been an accomplice to intentional murder, the researchers found that the defendant apparently intended to kill in 25 cases (characterizing 17 of these murders as a team effort, two of these murders as having been procured by the defendant, and six cases with other characteristics.¹) In two other cases, the researchers did not characterize the defendant's intent.² (Figure 2.)

¹ Researchers described these six cases as follows:

- “[Defendant] was at the scene and heard to say ‘Kill him Shoota’. [Defendant] also assisted in covering up the murder by burning the victim’s vehicle.”
- “After receiving an order, [Defendant] called the victim to lead him to a location where several vehicles were waiting. Shooters shot at the victim’s car ([Defendant] in the backseat).”
- “[Defendant] was with two other men outside of the victim’s car with a gun. Witness thought he fired at least one round.”
- “It’s unclear whether or not [Defendant] was the one who pulled the trigger; evidence that he knew of the killing and helped plan it is present but the evidence that he was the killer is questionable (the testimony was recanted); although the aiding and abetting itself is a strong case, any murder charge is not.”
- “[Defendant] planned the murder and handed [B.] the weapon.”
- “[Defendant] provided information to assist her brother in murdering [victim] (such as home layout, location of his daughter) and helped clean up after the murder (cleaning up the murder site, burning the body).”

² In one of those cases, the researcher noted, “[Defendant] did not pull the trigger however he did go with [the killer] to buy ammunition, he also helped pay for the ammunition. [Defendant] claims [the killer] just wanted to

Figure 2. Defendant's Apparent Intent to Kill in 38 Cases of Aiding or Abetting Intentional Murder, as Assessed by Student Researchers.



In the remaining eleven cases—29 percent of the 38 murder cases in which the defendant was imprisoned for being an accomplice to intentional murder—the student researchers found that the accomplice-defendant apparently lacked the intent to kill (Figure 2).

The researchers summarized the accomplice-defendant's culpability in each of these eleven cases as follows. The first five are second-degree intentional murder cases; the remaining six are first-degree premeditated murder cases. Note that the last two cases represent the same murder; the defendants are codefendants.

- “Drove the car and provided the gun for an attempted robbery.”
- “[Defendant] was picked up and the group agreed to commit a robbery. He was present in the car during the murder, but had no further involvement.”
- “[Defendant] was present during the murder and helped to cover the evidence, but did not appear to play a role in the killing.”
- “[Defendant] participated in the assault (along with several others), but it is unclear who ultimately caused the death.”
- “[Defendant] accompanied [the killer] at his request. [Defendant] did not have a gun but knew [the killer] did and stated he was present to make sure things didn't go south. [Defendant] did not fire any shots.”
- “Made a call to attempt to lure victim to a home. Cell phone towers placed [Defendant] in the area of the murder.”
- “Drove the car and was in the house during the murder. His fingerprints were not on the weapon.”
- “[Defendant claims he] planned to have [the killer] rob [defendant] and [defendant's wife/victim] to ‘scare’ her.”

‘rough up’ the victim, who allegedly had been harassing [the killer's] girlfriend. [Defendant] and [the killer] had been drinking prior to the murder. It is objectively unclear as to what [Defendant] state of mind was during and before the murder, therefore unable to determine intent. However, because [Defendant] went with [the killer] to purchase the ammunition and because he also helped pay for the ammunition, it is my opinion that the crime was reasonably foreseeable.”

- “[Defendant] drove the getaway car.”
- “[Defendant] was in the home during the murder, but claims [codefendant] was responsible. Extensive evidence (blood on clothes, DNA under fingernails, etc.).”
- “[Codefendant] was in the home during the murder, but claims [defendant] was responsible. Less evidence (some blood).”