

## Felony Murder

Under the common law of England, from which many of America's legal traditions were derived, there is a doctrine in criminal law known as "[felony murder](#)." The doctrine holds that, if someone is committing a felony, and a person dies as a result, they are guilty of murder. This is different from the crime of "ordinary" [murder](#), which requires that the defendant act with intent to kill the victim.

In felony murder, there is no requirement for intent. The most obvious reason for this rule is to deter people from committing felonies: if someone knows that they might be charged with murder if they accidentally cause a death, they will have to think very hard about the costs and benefits of committing whatever crime they're contemplating.

Under the traditional felony murder rule, *any* felony can be a basis for a murder conviction, if someone dies during the commission of it. Modernly, although most states in the U.S. maintain the felony murder rule, they have put limits on its application.

### **Requirement of Causation**

In order for the defendant to be guilty of felony murder, the death must have been required by the *criminal nature* of the defendant's conduct. For example, suppose that the defendant and an accomplice are transporting a load of illegal drugs in a car, which is a felony in the relevant state, and the car skids out on some ice, causing an accident which kills the accomplice.

In such a case, the defendant would not be guilty of murder under the felony murder rule, because, presumably, the accident and death would have happened even if they were not carrying drugs.

However, if they were being chased by the police because they were caught transporting drugs, and, as a result, get into an accident which kills the accomplice, the driver would be guilty of murder, because if he were not committing a felony (transporting drugs and running from the police), the death probably would not have happened.

### **Other Limits on the Felony Murder Rule**

While it used to be that any felony could serve as the predicate for a felony murder charge, but the recent trend has been to place strong limitations on the application of the rule.

Many states, including California, have altered the rule to mitigate its harsh effects. For example, rather than allowing any felony to serve as the predicate for a felony murder charge, only certain enumerated crimes can serve as the predicate.

These “enumerated felonies” are the most deplorable and violent crimes, including rape, armed robbery, arson, and kidnapping. These are the only felonies that can result in a charge of first-degree murder.

If someone dies during the commission of any other felony, a charge of second-degree murder or manslaughter might be available. In California, a charge of second-degree murder is only available if the underlying felony is inherently dangerous. Deaths arising from a non-enumerated felony which is not deemed “inherently dangerous” can result in a charge of manslaughter.

A manslaughter conviction is not to be taken lightly, but unlike first-degree murder, it can’t result in the death penalty or life imprisonment without parole.

### **How Can I Avoid A Felony Murder Conviction?**

Short answer: don’t commit felonies (or any other crimes). 99.99% (give or take a few hundredths of a percent) of the time, that will prevent you from being charged with a crime. That should, of course, go without saying.

However, if you are falsely accused of committing a felony in which a person died, or believe that there are some mitigating factors which preclude application of the felony murder rule, it’s essential that you speak with a good [criminal defense attorney](#). A lawyer will be able to advise you on your options, possibly negotiate a plea bargain, and help to ensure, if nothing else, that you get a fair trial.