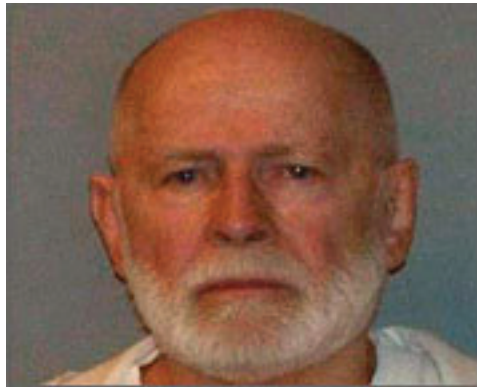


## Prosecutor objects to court-appointed attorney possibility

By Stephanie Ebbert – June 23, 2011

James “Whitey” Bulger was paying cash to rent his Santa Monica, Calif., apartment, and he had \$800,000 on hand when he was arrested on Wednesday. Yet he still may get a free court-appointed lawyer to mount his defense.



The issue remained unresolved yesterday when Bulger, the longtime fugitive South Boston gang leader accused of 19 murders as well as racketeering charges, appeared in US District Court. Bulger is being temporarily represented by defense attorney Peter B. Krupp, who called himself a “provisional attorney” yesterday.

Bulger’s financial means took center stage in court when Magistrate Judge Marianne B. Bowler asked if he could afford his own lawyer.

“Well, I could if you gave me my money back,” Bulger said.

“You’ll have to talk to Mr. Kelly about that,” Bowler told Bulger, referring to prosecutor Brian Kelly.

But Kelly objected to the request for a court-appointed lawyer, noting that Bulger had \$800,000 when he was arrested and suggesting that was not the extent of his resources.

“We think he has access to more cash,” Kelly said. “We certainly don’t think [the \$800,000 found in the apartment] is his last stash.”

Kelly, however, also acknowledged that the money probably was not earned honestly.

“He clearly didn’t make that on a paper route on Santa Monica Boulevard,” he said.

One former federal prosecutor who now works as a defense attorney for white-collar crimes said that any money Bulger had on hand would presumably be the fruit of illegal activity that would be seized by the government and unavailable for a defense.

**“He could have earned \$800,000 from being a drug dealer, but that’s forfeitable to the government and not his to use for his own purposes,” said Michael D. Kendall, a partner at McDermott Will & Emery LLP in Boston and head of the firm’s White Collar Defense Group. “Unless he has something from a truly clean source that was never used to facilitate a crime, the government gets to forfeit.”**

But the prosecutor in court also suggested that there are “family resources” available to Bulger, prompting a puzzled look from his brother, William M. Bulger, the former president of the state Senate and former president of the University of Massachusetts.

William Bulger received a \$960,000 severance package and a steep pension for his decades of work in state government after he stepped down under political pressure after revelations that he had spoken with his fugitive brother while he was on the run.

He ultimately won a legal battle to count extra benefits that boosted his annual pension to more than \$200,000.

**Kendall — a former federal prosecutor who helped generate evidence to turn bookmakers against Whitey Bulger — said that many longtime criminals like gangsters and drug dealers have their funds seized by the government and are unable to use them to mount a defense. There are exceptions, however, he noted, citing one defendant who had legitimate life insurance proceeds from a deceased family member.**

The government would claim the money recovered in California, he said, but the victims of Bulger's alleged crimes could also make a case for it and seek compensation.

Families of Bulger's alleged victims have already been awarded damages from the federal government in wrongful death lawsuits that blame FBI complicity for their murders.