

A Requiem of Retribution at a Black Mass: Whitey Bulger and Prisoner Welfare

By **Rachel Robison-Greene** - Nov 30, 2018



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On October 31, 2018, crime boss **Whitey Bulger** was found beaten to death in a West Virginia prison. Bulger was infamous for racketeering, committing murder, and evading capture for 16 years. His place on the FBI's most wanted list was second only to Osama Bin Laden. He was finally captured in 2011 at the age of 81. He was convicted for his crimes and sentenced to two consecutive life sentences, but served only six years before more than one fellow inmate beat him to death with a padlock stuffed inside a sock. Bulger was infamous for his crimes and was reasonably well known among the population at large. He was the motivation for Jack Nicholson's character in Martin Scorsese's *The Departed* and his life story was told in the 2015 film *Black Mass* starring Johnny Depp as Bulger.

There were good reasons to think that Bulger might be at a greater risk of victimization while incarcerated than other prisoners. He made many enemies during his career as a mafia boss, and many of those enemies either went to prison themselves or had connections in the prison system. To make matters worse, Bulger was an FBI informant for 15 years, and prisoners don't tend to be particularly fond of "snitches." With these considerations in mind, prison administrators might have done well to think carefully about Bulger's safety in prison.

Some claim that he got what he deserved. Bulger's crimes demonstrated a particularly callous disregard for the lives of others and a level of greed and vindictiveness that is, happily, quite rare. Bulger's protégé, Kevin Weeks, **testified** that, after committing murders, Bulger would lie down, leaving others to clean up the mess he had made—a sign that he wasn't particularly concerned with facing head-on the consequences of his actions. Another witness, Stephen Flemmi, **testified** that he witnessed Bulger strangle a young woman to death with his bare hands. If justice requires that the punishment is proportional to the crime, then, some claim, the federal government dropped the ball by not sentencing Bulger to death and his assassins simply picked that ball back up.

Others argue that vengeance is never justice. There are good reasons why sentences should be carried out by the state. When the state sentences criminals, it is speaking on behalf of its citizens, giving expression to the community's values. The principles of justice should be articulated in advance and meted out, for the most part, impartially. The satisfaction of personal vendettas falls significantly short of this standard.

Some are concerned about the circumstances under which Bulger died. In the months immediately preceding his death, Bulger's **health was poor** and he was being held in a facility in Florida conducive to the needs of sickly patients. He had cardiac issues and was confined to a wheelchair. In October, paperwork for his transfer was processed and he was moved into the general population at Hazleton, a notoriously violent West Virginia prison. While in Florida, Bulger's health designation was at Care Level 4. Upon his release, it had been adjusted to Care Level 2. This dramatic revision surprised some **prison employees** who claimed that at his age and level of dependence, Bulger should not have been assigned a Care Level under Care Level 3. To release a notorious and hated criminal who is in no state to defend himself into the general population at a very violent prison is essentially, a death sentence.

Bulger's case raises concerns about a general lack of transparency when it comes to the punishment of prisoners once they are on the inside. Some argue that corrections officers and other prison employees are given much discretion and that there is not enough oversight. Prison employees have powerful tools at their disposal and the way they choose to use those tools can have significant impacts on the lives of prisoners and their loved ones.

This case also raises questions about how we should treat elderly prisoners. The case of Whitey Bulger serves as a particularly interesting case study, because Bulger dedicated his time on earth to a heinous life of crime and evaded capture until he was already elderly. Nevertheless, elderly individuals are a particularly vulnerable class who face a unique set of problems when incarcerated. Does the fact that these individuals have violated the law, in many cases fairly egregiously, mean that we have less of an obligation to provide the care that is often needed near the end of life?

The United States stands out as a country close to uniquely motivated by retributivism as a theory of punishment. As a result, many have the intuition that, since criminals are being punished for their bad behavior, prison should be a pretty miserable experience. When criminals make the decision to violate the laws, they take themselves out of the company of people concerned with respecting laws. The choice to commit a crime is, among other things, a choice to face the appropriate punishment when caught. It is common knowledge that violent criminals populate prisons. In making the choice to commit a crime in the first place, a criminal chooses the company they are to keep and must face the consequences of putting themselves in that company.

Others, particularly those who are motivated more by rehabilitation than by retribution, see the role of prisons very differently. They argue that a person does not give up their basic human dignity when they commit a crime. They have a right to bodily autonomy and to feel safe and secure in their own persons. The role of prisons, on this view, should be to do what is reasonable and possible to solve the problems that led to criminal behavior in the first place with an eye toward redirecting a criminal down the path of becoming a productive member of society. It wasn't realistic to suppose that Whitey Bulger would ever see another day outside of prison as a free man. Nevertheless, it still looks like the time that he had left would have best been spent pursuing flourishing of whatever type was still possible for him in the limited time he had left. Clearly that can't happen when prison conditions are such that a prisoner might be murdered or seriously injured by a fellow inmate at any time.

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