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More on Madoff: Talking Life Behind Bars, with Lawyer Alan Ellis



So what happens to Bernie Madoff from here? What will life be like between now and June 16, when he's sentenced? What type of prison will he likely do time in? What is life in federal prison like? We just got off the phone with [Alan Ellis](#), a lawyer specializing in federal sentencing and Bureau of Prison matters and the author of the [Federal Prison Guidebook](#), to find out.

Hi Alan. Thanks for chatting with us. So let's start with the immediate: Where will Madoff likely be housed between now and June?

They took him to the [Metropolitan Correctional Center](#) (the inside of which is pictured). So he'll likely stay there. They may also take him to the [Metropolitan Detention Center](#) in Brooklyn.

What are those places like?

They're essentially administrative facilities. You're detained with all sorts of people, from the guy who can't pay a \$10,000 debt to deportable aliens to violent offenders who are viewed as dangers to the community to people, like Madoff, who might have the means to flee if they're kept out on bail. It's basically all sorts of characters.

[Editor's note: Scott Sussman, a spokesman for the MCC told the WSJ on Thursday that Madoff's day will begin at 6 a.m. with "lights on" and breakfast at 6:30 a.m. Lunch is served at 11 a.m. and dinner at 5 p.m. The facility's lights are turned out at 11 p.m.

Sussman said that if Madoff is assigned to the general population, he'll likely have available to him a TV in a common area and may play ping pong or work on his case and read other material in the law and leisure libraries. Every other day he will be allowed to go outside to the roof where there is a basketball court and "other amenities."]

And on June 16, to what type of prison will he likely be assigned?

He can request the judge to assign him to a certain facility, but given the length of his sentence, his options might be limited.

Were he a typical white-collar offender, he'd probably go straight to a minimum-security prison camp. But New York has something called public-safety factors, which can alter one's assignment. One of these factors is sentence length. Typically, in regard to a sentence in which you have between 20-30 years to be served, the sentence-length public-safety factor will dictate that you go to a medium-security facility. There are three of those in the New York area: One in [Otisville, N.Y.](#), one in [Ray Brook, N.Y.](#), up near Lake Placid, and and one in southern New Jersey, called [Fairton](#).

If you have more than 30 years to be served, typically you go to a federal penitentiary, a high-security prison. The two in northeast are both in Pennsylvania, at [Lewisburg](#) and [Allenwood](#).

Now, Madoff is likely looking at a life sentence, which would ordinarily put him in a high-security facility. But the Bureau of Prisons can waive this and put him in a lower-security facility. It's really up to the discretion of the Bureau of Prisons. [Enron's] Jeff Skilling, for instance, initially received nearly a 25-year sentence, but he was assigned to Waseca, Minn., a low-security facility. (Waseca has since become an all-women facility; Last fall, Skilling was moved to a low-security facility in [Englewood, Colo.](#))

The Bureau of Prisons might ultimately find that Madoff doesn't need to be in a high or medium-security prison. Remember, the Bureau's job is not to punish individuals, but to house them safely and make sure they don't escape. The Bureau might take into consideration that there are violent individuals at high and medium-security facilities and that putting Madoff there isn't worth the risk, that it's not worth the liability that might ensue if something happened to him. As someone once told me, at low-security facilities, you get punched; at medium-security facilities, you get knifed.

[Editor's note: After talking to Ellis, we checked back in with George Jackson, [with whom we spoke yesterday](#) about the Madoff situation and who told us he thought Madoff would go to a low-security prison. Jackson reiterated his view that while Madoff might start in a higher level security prison, he's likely to serve the bulk of his term at a low-level security facility.]

So it sounds like, Alan, that you think Madoff might have to put up with some violence?

He'll probably have to contend with bad things, but as a practical matter, high-profile inmates typically don't get assaulted. They're generally treated pretty well. In my experience, you generally have two types of white collar inmates. The first are the 'Masters of Universe' type. These are folks who aren't used to taking orders and go into prison with an attitude and an arrogance that not only alienates other inmates, but staff too. These folks can have trouble. On the other hand, many white-collar convicts have good people skills, people skills that have helped them get to the top of their field. Those people often can use those people skills to good effect in prison. Other inmates will find themselves going to them for advice, etc. Those folks tend not to have as much of a problem.

Okay, so now when you have a client who's about to head off to prison, do you help prepare them psychologically for what they're about to go through?

We do. I have two former Bureau of Prisons consultants who work with me, and they offer clients a counseling session on how to do time. I've also got a chapter on this in my book.

But it's much easier for short-termers, for those folks who are only going in for two years or less. My advice to them is to treat the time as a sabbatical. Read the books that you never got around to reading. Read Plato's Republic, improve your Spanish. It's also a chance to get your body in shape. You're not going to drink or smoke, and you're going to eat properly and you're going to get plenty of exercise. I say that if you're going to lose two years in prison, add three years to your life by getting in shape.

What about preparing someone for a life sentence?

We've never dealt with someone with a life sentence.

Okay, what about a longer-term sentence, like five years?

It's certainly harder to talk about a five-year sabbatical, so we tend to focus on how to get along, how not to run afoul of other inmates and how not to make enemies.

But look, these places are not Club Feds. That's a total misnomer. It may have been somewhat true in the 1960s, but it's not true today. There are no golf courses.

Life in prison is fundamentally boring, so you've got to work to combat that. And it's not easy at first. You typically start out with the most menial jobs, like working in the kitchen or doing laundry." Sometimes, people with skills and intelligence can work their way up to doing clerical work or helping others by passing down life-skills. People might not call upon someone like Bernie Madoff to give them advice on sophisticated investment strategies, but even teaching other inmates how to set a budget and stay on it can be pretty helpful.

So what do you think Bernie Madoff is going through psychologically now?

I don't know. It's an extremely difficult time, especially leading up to sentencing, because probably, somewhere in the back of Bernie Madoff's mind is a tiny hope that he won't get a life sentence, that the judge will show some leniency.

After sentencing, often you see defendants feel a sense of relief, because for some, the leadup is the hardest part. The investigation, the scrutiny — it's tremendously stressful and difficult. While a conservative may be a liberal who's been mugged, they say that a libertarian is a conservative who's been under investigation. It can be grueling and extremely taxing.

So to have it over with, well, sometimes there's relief. Some people feel that it's good to have some certainty in your life again, at least know where you're going and what it is you might be up against.

Very interesting. Thanks for taking the time.

You bet.

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