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NY Judge Rips 'Terrible' Conditions At NYC Federal Jails

By *Stewart Bishop*

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Law360, New York (May 5, 2020, 9:12 PM EDT) -- A New York federal judge on Tuesday derided the "unfortunate, terrible" conditions at New York City's two main federal jails, both before and after the coronavirus pandemic, during a hearing where he sentenced an admitted fraudster who tried to steal \$2.5 million from a law firm to time served.

U.S. District Judge Richard M. Berman criticized the "deficient system" at the Metropolitan Detention Center in Brooklyn and said he "has serious doubts" about the ability of the Metropolitan Correctional Center in Manhattan to safely and properly house its detainees.

Judge Berman, who presided over the criminal sex trafficking case against Jeffrey Epstein [until his suicide](#) at the MCC in August, said he was very disappointed that to his knowledge, U.S. Attorney General William Barr has not conducted a thorough assessment and investigation of the Bureau of Prisons nationwide, something he said Barr pledged to do around the time of Epstein's suicide.

In particular, Judge Berman said as far as he knows, there have been no serious reviews forthcoming of the poor living conditions at either the MCC or the MDC — which he said are dirty and infested with drugs and violence — conditions that have been many times compounded by the coronavirus outbreak.

"It is an outrage I have to say, and I'm very disappointed the Attorney General has not followed through on making a thorough investigation of conditions that those of us in the business, as it were, are all too familiar with," Judge Berman said. "And more importantly has not implemented appropriate changes."

A spokesman for the [U.S. Department of Justice](#) in Washington, D.C., did not immediately respond to a request for comment.

The judge's remarks came at the sentencing via video and audio conference of Terrance Morgan, who pled guilty to bank fraud conspiracy in October for his role in a scheme to steal \$2.5 million from an unnamed law firm's bank account.

Morgan, a citizen of Liberia and U.S. resident, already served about 14 months in custody with the Bureau of Prisons — including at the MDC — [Immigration and Customs Enforcement](#) and local authorities.

An attorney for Morgan, Sam Schmidt, said he was pleased with Judge Berman's

decision.

"It is gratifying to hear that Judge Berman fully understands what our clients are going through in the Bureau of Prisons at this time, especially in MCC and MDC," Schmidt said.

While Judge Berman didn't explicitly tie Morgan's sentence of time served, three months of home confinement and four years of supervised release to the conditions at the MDC, and the dangers of the coronavirus to inmates, it appeared to be a major factor. The judge also said while he doesn't disagree that Morgan's crime was a serious one, he said the goals of general and specific deterrence have been met, and the term of incarceration he has already served is adequate.

The judge also appeared to give some amount of weight to [an April 30 report](#) by Homer Venters, a physician and epidemiologist, who toured the 1,700-inmate facility recently to observe the jail's response to COVID-19.

In the report, which was filed in a proposed class action brought by medically vulnerable inmates seeking release from the prison because of the coronavirus, Venters excoriated the medical care at MDC in his expert report.

Venters, who previously served as the chief medical officer for New York City's jails, cited an array of problems including faulty virus screening, ignored and discarded sick-call requests, inept medical care and a "gross

deviation" from [Centers for Disease Control](#) and Prevention and correctional health care standards.

"I have to say it's a very serious document. It is not surprising to me. I've personally become acutely aware of the deficiencies at the ... MDC," Judge Berman said, citing a well-known incident in January 2019 when a fire took out the jail's power and heat.

Inmates were left in frigid conditions for a week and denied meetings with their attorneys or any other visits.

That incident led to an ongoing lawsuit by the Federal Defenders of New York against the BOP over attorneys' access to clients in the MDC. That case is [currently in mediation](#), which includes the MCC as well.

Judge Berman said Venters' report requires that there be a response from the BOP to the criticisms in the document.

"Such a response is long overdue," Judge Berman said. "It was long overdue when Jeffrey Epstein committed suicide, long before then."

The government is represented by Dina McLeod and Robert B. Sobelman of the [U.S. Attorney's Office](#) for the Southern District of New York.

Morgan is represented by Sam A. Schmidt.

The case is U.S. v. Morgan et al., case number 1:19-cr-00209, in the [U.S. District](#)

Court for the Southern District of New York.

--Additional reporting by Frank G. Runyeon.

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