



## **H.R. 3327, the “Ramos-Compean Justice Act of 2009.” Introduced by Rep. Robert “Bobby” Scott (D-Va.) and Rep. Ted Poe (R-Texas)**

H.R. 3327 would allow courts to sentence below a mandatory minimum when, after looking at all the relevant facts and circumstances of the case and considering the purposes of punishment, imposing a mandatory minimum sentence would violate 18 U.S.C. § 3553(a), a federal law that requires the sentence be no greater than necessary to comply with the purposes of punishment.

H.R. 3327 would retain mandatory minimums in the criminal code and Congress would retain the ability to set mandatory minimums. At the same time, though, it would empower courts to use their discretion and impose a sentence below a mandatory minimum in cases where the mandatory minimum sentence would be longer than needed to achieve the goals of punishment.

The bill is named after two Border Patrol agents, Jose Compean and Ignacio Ramos, convicted of shooting an unarmed, fleeing man, later identified as an undocumented immigrant and drug smuggler. Both Border Agents received ten-year mandatory minimums under 18 U.S.C. § 924(c) for discharging a firearm in the commission of a crime of violence. George W. Bush commuted their sentences in January 2009 and they were released from prison.

Their sentences angered many Americans who saw the agents as heroes and who feared their convictions and long sentences might have a chilling effect on those who work on the border or other front lines of law enforcement. The case is not an anomaly. In reality, it is just one more of the all-too-common failures of one-size-fits-all sentencing.

### **The bill . . .**

#### **•Saves taxpayer money.**

The abundance of low-level offenders incarcerated as a result of mandatory sentences has had a profound impact on the US prison system. Drug trafficking convictions and increased sentence length have driven the federal prison population explosion and mandatory minimums are largely responsible for the fact that drug sentences are three times longer than they were before the advent of mandatory minimums. The federal prison population of over 205,000 people strains the capacity of our federal prison system, which is currently 40 percent over capacity. Overall, the U.S. has the largest prison population in the world, with 2.3 million behind bars at a cost of \$5.4 billion to taxpayers each year. This is wisely spent money when it is used on proper punishment, but the funds are wasted when we employ one-size-fits-all sentencing for everyone, no matter how well the punishment fits the crime.

#### **•Restores the balance between prosecutorial and judicial discretion.**

Just like the Court should not determine what the government should charge in a given case, prosecutors should not have the ability to determine what the Court sentences in a given case. The case of Jose Compean and Ignacio Ramos is an example where some feel prosecutors were improperly able to set the sentence of the two border agents. This legislation would allow prosecutors to determine what to charge a defendant and allow the Courts to set the sentence if a guilty verdict is found. Any sentence handed down by the Court can be appealed.

#### **•Does not eliminate mandatory minimums.**

Under this law, mandatory minimums remain on the books. This allows Congress the ability to set sentencing policy. By in large, sentencing guidelines are linked to mandatory minimums. Under the current guidelines, judges may depart or vary from the guideline sentence if doing so respects the factors and mandates laid out in 18 U.S.C. § 3553(a). Data shows that judges are hewing quite closely to the guidelines, sentencing below them in only 13.4 percent of cases in 2008, compared to a government variance rate of 25.6 percent.