

July 28, 2009

The Honorable John Conyers, Jr.
Chairman, Committee on the Judiciary
United States House of Representatives
2138 Rayburn Office Building
Washington, DC 20525

The Honorable Lamar Smith
Ranking Member, Committee on the Judiciary
United States House of Representatives
2138 Rayburn Office Building
Washington, DC 20525

Dear Chairman Conyers and Ranking Member Smith:

We understand the Committee may soon consider H.R. 3327, the Ramos-Compean Justice Act of 2009, legislation that would allow federal judges to impose sentences below mandatory minimum terms set by statute when justice requires. I write on behalf of the American Bar Association to urge Committee members to approve H.R. 3327 so that it may soon be considered by the full House of Representatives. The ABA believes that enactment of this much-needed legislation, along with the operation of the federal Sentencing Guidelines, will provide judges with appropriate guidance and direction in sentencing and result in improving fairness in federal sentencing.

H.R. 3327 would amend current law to allow judges to issue a sentence lower than the mandatory minimum “if the court finds that it is necessary to do so to avoid” conflict with fundamental factors that judges are directed to consider in formulating sentences. These factors include the nature and circumstances of the offense and the history and characteristics of the defendant.

The ABA testified last week at a hearing on “Over-Criminalization and Over-Federalization of Criminal Law” held by the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security about the failure of mandatory minimum sentencing to achieve sound sentencing policy goals. Federal mandatory minimum sentencing has resulted in an enormous growth in the U.S. prison population over a period of two decades, with far too many low-level offenders receiving lengthy prison terms. At the same time, state and local governments, most often led by prosecutors, are utilizing cost-effective alternatives to incarceration that include drug treatment and community-based confinement – with lower rates of recidivism than those experienced by the prison population.

In short, the evidence is overwhelming that mandatory minimum sentencing too often results in unfair sentences by treating offenders convicted of unlike offenses exactly the same: sentenced to a pre-determined, inflexible prison term regardless of differences in circumstances. H.R. 3327 would provide much-needed balance in federal sentencing by permitting sentencing judges to consider those highly relevant factors related to individual offenders.

For these reasons, the ABA strongly supports H.R. 3327 and urges you to support it when it is considered by the Judiciary Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas M. Susman", with a long horizontal flourish extending to the right.

Thomas M. Susman