119TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
119–635

MONITOR ACCOUNTABILITY ACT

MAY 4, 2026.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. JORDAN, from the Committee on the Judiciary, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 8365]

The Committee on the Judiciary, to whom was referred the bill (H.R. 8365) to provide for conditions on the appointment of monitors by courts, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all that follows after the enacting clause, and insert the following:

69–006

SECTION 1. SHORT TITLE.

This Act may be cited as the "Monitor Accountability Act".

SEC. 2. CONDITIONS ON THE APPOINTMENT OF MONITORS BY COURTS.

(a) IN GENERAL.—Not later than 180 days after the effective date of this section, the Director of the Administrative Office of the United States Courts shall by rule establish conditions on the appointment by a district court of the United States of any person charged, pursuant to a court order, with monitoring the conduct of a State or unit of local government. Such conditions shall include the following:

(1) FEES.—Such person—

(A) may not assess a fee in excess of such maximum rates as the Administrator may establish; and

(B) shall be authorized to employ the use of pro bono time or reduced rates.

(2) EXCLUSIVITY AND TERM.—Such person may not be—

(A) appointed to more than one such monitorship at a time;

(B) appointed for a term greater than 5 years; or

(C) reappointed after the expiration of such term pursuant to the same court order.

(3) SUBSEQUENT MONITORS.—A monitor who is appointed to a monitorship after the expiration of the term of a monitor who served pursuant to the same court order may not be employed by the same employer as the previous monitor.

(4) PUBLIC COMMENT.—Prior to the appointment of a monitor, the court shall provide notice of the person to be appointed and afford the public an opportunity for comment thereon.

(5) TERMINATION.—

(A) REVISION.—In the case that a court, a party, or a monitor seeks to revise a monitorship imposed by a court order, the court shall conduct a hearing.

(B) SCOPE OF MONITORSHIP.—The court may only revise a requirement of a monitorship with respect to which the subject of the monitorship has not attained substantial and sustained compliance.

(b) TRANSFER.—On the date that is 6 years after the court order imposing a monitorship, if such monitorship is in effect on such date, the case shall be transferred to another judge in the district in which the case is pending.

(c) ACCOUNTING.—

(1) IN GENERAL.—On an annual basis, a monitor shall submit to the court imposing the monitorship an accounting, which shall include—

(A) information on the services provided and the fee charged for such services; and

(B) whether any such services were provided pro bono or at a reduced rate.

(2) PUBLICATION.—The court shall make available to the public any accounting submitted to the court under paragraph (1).

(d) RETROACTIVITY.—In the case of a monitorship that is in effect on the date of enactment of this Act and has been in effect for 6 years—

(1) a new monitor shall be appointed not later than 180 days after such date of enactment in accordance with the limitations under this section; and

(2) the case shall be transferred not later than 1 year after such date of enactment in accordance with this section.

(e) SENSE OF CONGRESS.—It is the sense of Congress that monitoring is a public service and monitorships should be structured to encourage the use of pro bono time or reduced rates.

Purpose and Summary

H.R. 8365, the Monitor Accountability Act, introduced by Rep. Andy Biggs (R–AZ), requires the Administrative Office of the United States Courts to establish conditions on the appointment by a district court of a monitor of a state or unit of local government. These conditions include a cap on fees, a term limit on the monitors and judges overseeing monitor cases, allowing for public comment on the selection of the monitor, and providing a public accounting of the activities of the monitor.

Background and Need for the Legislation

Court monitors are independent oversight officials appointed through agreements between a government agency and a public or private entity, often in response to concerns involving civil rights violations, fraud allegations, misconduct, or regulatory violations.[1] These agreements often function as alternatives to more severe enforcement actions such as civil penalties, debarment, or criminal prosecution, by requiring the organization to implement corrective reforms under external supervision.[2] Section 21601 of title 34 of the U.S. Code authorizes the Attorney General to sue local law enforcement agencies that "engage in a pattern or practice of conduct" that "deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States."[3] In cases where such a pattern or practice is established, a monitor is often instituted to ensure the agency implements corrective action.

Once appointed, a monitor has broad access to an organization's internal systems, policies, and data.[4] The monitor may carry out a range of duties, including evaluating compliance programs, auditing adherence to legal and contractual requirements, and recommending reforms to strengthen efficiency, accountability, and internal controls.[5] In some cases, a monitor's role extends to assessing broader cultural and institutional reforms within the monitored entity.[6]

Although court monitors are intended to operate independently from both the government and the monitored entity, this independence has raised concerns in practice, particularly regarding cost, duration, and accountability in long-running consent decree regimes.[7] There are various court monitors across the United States that are responsible to report findings to the court or relevant authorities, ensuring transparency and accountability throughout the monitoring process.[8] In several cases, monitorships have remained in place for a decade or longer, prompting debate over whether oversight remains narrowly focused on ensuring compliance or expands into sustained managerial control of agency operations.[9]

In April 2021, then-Attorney General Merrick Garland asked then-Associate Attorney General Vanita Gupta to conduct a four-month review of how the Justice Department appoints and oversees federal monitors in settlement agreements and consent decrees

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[1] U.S. DEP'T OF JUST., *Civil Settlement Agreements and Consent Decrees Involving State and Local Governmental Entities*, 1–20.010 (last accessed Apr. 29, 2026).
[2] *Id.*
[3] 34 U.S.C. § 12601.
[4] U.S. DEP'T OF JUST., *Civil Settlement Agreements and Consent Decrees Involving State and Local Governmental Entities*, 1–20.010 (last accessed Apr. 29, 2026).
[5] *Id.*
[6] Press Release, See Antitrust, *Compliance Monitoring and State Attorney General Investigations: Issues in Appointment and Operation*, National Association of Attorneys General (last accessed Apr. 29, 2026).
[7] Womble Bond Dickinson, A Shift Away from Corporate Monitors Signals DOJ's More Active Role in Compliance Oversight, JD SUPRA (Sep. 23, 2025), https://www.jdsupra.com/legalnews/a-shift-away-from-corporate-monitors-2036141/
[8] Robin Barclay & Nico Leslie, *Monitorships*, GLOBAL INVESTIGATIONS REVIEW (Oct. 31, 2025), https://globalinvestigationsreview.com/guide/the-practitioners-guide-global-investigations/2026/article/monitorships
[9] U.S. DEP'T OF JUST., *Civil Settlement Agreements and Consent Decrees Involving State and Local Governmental Entities*, 1–20.010 (last accessed Apr. 29, 2026).

with state and local governments.[10] On August 13, 2021, Associate Attorney General Gupta issued memorandum to Attorney General Garland, which made 19 recommendations stemming from five core principles.[11] These core principles included minimizing costs and conflicts of interest in monitorships, ensuring monitors' accountability, conducting compliance assessment within the organization, community engagement on monitorship, and efficient reform, which determines whether an organization makes corrective changes quickly to achieve compliance.[12]

A notable reform proposed in the memorandum was imposing term limits for federal monitors.[13] The memorandum recommended that consent decrees set a specified term for a monitor—two to three years—after which the monitor's performance would be reviewed, and he or she could be reappointed.[14] Moreover, the memorandum called for a hearing no later than five years after the decree begins to assess whether the court should terminate the monitorship.[15] Attorney General Garland accepted these recommendations, publicly announcing them on September 13, 2021.[16] The significance of these recommendations set clear expectations for time-limited oversight, ensuring that federal monitorships are not indefinite.[17]

There are various court monitors across the United States whose actions have raised concerns regarding cost, duration, and accountability in certain long-running consent decree regimes.[18] There is no precise nationwide count of court monitors, but the Department of Justice states that monitorships are appointed on a case-by-case basis under individual consent decrees and enforcement agreements, resulting in a limited and variable number of active monitors at any given time.[19] In several cases, monitorships have remained in place for a decade or longer, prompting debate over whether oversight remains narrowly focused on ensuring compliance or expands into sustained managerial control of agency operations.[20]

In February 2026, the Subcommittee on Crime and Federal Government Surveillance conducted a hearing in Phoenix, Arizona, to examine the federal court monitor overseeing the Maricopa County Sheriff's Office (MCSO). Since 2013, the MCSO has been subject to federal judicial oversight stemming from the *Ortega Melendres v. Arpaio* case, a lawsuit accusing the MCSO of targeting Latino drivers and passengers during traffic stops, arrests, and investigations.[21] In January 2014, a federal court appointed Robert

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[10] Memorandum from The Attorney General, U.S. DEP'T OF JUST., *For Heads of Civil Litigating Components United States Attorneys*, Office of the Attorney General (Sep. 13, 2021). https://www.justice.gov/archives/ag/file/1166091-0/dl?inline=.
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] Womble Bond Dickinson, A Shift Away from Corporate Monitors Signals DOJ's More Active Role in Compliance Oversight, JD SUPRA (Sep. 23, 2025), https://www.jdsupra.com/legalnews/a-shift-away-from-corporate-monitors-2036141/
[19] U.S. DEP'T OF JUST., *Civil Settlement Agreements and Consent Decrees Involving State and Local Governmental Entities*, 1–20.010 (last accessed Apr. 16, 2026).
[20] *Id.*
[21] Thomas Galvin, *A monitor keeps moving goalposts for MCSO officers, putting our safety at risk*, AZCENTRAL (Sep. 3, 2025); First Amended Complaint, Ortega Melendres v. Arpaio, No. CV 07–025 13–PHX–MHM (D. Ariz. Jul. 16, 2008).

Warshaw as the monitor to oversee MCSO.[22] MCSO's policy development, training, and procedural changes have improved since 2014.[23] In January 2026, the DOJ informed the court that it supported the County's motion to end the monitorship, noting that MCSO has corrected its unconstitutional practices and demonstrated sustained, systemic compliance when it comes to training, procedural, and policy changes.[24] Despite MCSO's ongoing compliance since 2013, the county remains subject to oversight, costing Arizona taxpayers roughly $350 million as of September 2025.[25] As of April 2026, the court-appointed monitor overseeing the Maricopa County Sheriff's Office in the *Melendres* litigation remains in place.[26]

This is a reoccurring pattern across the country. For example, the Justice Department consent decree involving the Los Angeles Police Department, initiated in 2001, remained active for more than a decade before officially ending in 2013, and required substantial expenditures on monitoring, compliance reporting, and related administrative functions.[27] When court monitors expand their role beyond targeted compliance oversight, some states may face prolonged financial obligations, increased administrative demands, and reduced flexibility.[28] These effects can persist beyond the underlying remedial objectives, underscoring the importance of clearly defined mandates and periodic reassessment to ensure monitoring remains proportionate, time-limited, and directly tied to measurable compliance outcomes.[29]

THE MONITOR ACCOUNTABILITY ACT

The Monitor Accountability Act codifies much of Associate Attorney General Gupta's memorandum to Attorney General Garland regarding monitors. It requires the Administrative Office of the United States Courts to establish conditions on the appointment by a district court of a monitor of a state or unit of local government. These conditions include a cap on fees, a term limit on the monitors and judges overseeing monitor cases, allowing for public comment on the selection of the monitor, and providing a public accounting of the activities.

Hearings

For the purposes of clause 3(c)(6)(A) of House rule XIII, the following hearings were used to develop H.R. 8365: "The Monitoring Racket: The Grift that Keeps on Giving," a hearing held on February 13, 2026, before the Subcommittee on the Crime and Federal

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[22] Order Appointing Monitor, *Ortega Melendres v. Arpaio*, No. CV 07–025 13–PHX–MHM (D. Ariz. Jan. 17, 2014)

[23] *Id.*

[24] Report's Transcript of Proceedings, In-Court *Hearing, Ortega Melendres v. Sheridan*, 2:07–cv–02513–GMS (D. Ariz. Jan. 9, 2026).

[25] Thomas Galvin, *A monitor keeps moving goalposts for MCSO officers, putting our safety at risk*, AZCENTRAL (Sep. 3, 2025).

[26] Press Release, *Maricopa County Leaders Cite $350M Cost In Push To End Federal Oversight Of Sheriff's Office*, AZ FREE NEWS (Mar. 25, 2026), https://azfreenews.com/2026/03/federal-governments-racial-profiling-oversight-continues-to-cost-maricopa-county/

[27] Solomon Moore, *Judge Ends Monitor of the Los Angeles Police*, THE NEW YORK TIMES (Jul. 17, 2009), https://www.nytimes.com/2009/07/18/us/18lapd.html

[28] Thomas Stevenson, *Andy Biggs asks DOJ to lift Obama-era monitoring of Maricopa County Sheriff's Office over racial profiling allegations*, *Post Millennial* (Oct. 7, 2025).

[29] *Id.*

Government Surveillance of the Committee on the Judiciary. The Subcommittee heard testimony from the following witnesses:

- The Honorable Debbie Lesko, Vice Chair, Maricopa County Board of Supervisors;
- Felix Garcia, Community Advisory Board for the Monitor of Maricopa County Sheriff's Office; and
- Jon Riches, Vice President for Litigation and General Counsel at the Goldwater Institute's Scharf-Norton Center for Constitutional Litigation.

The hearing examined the federal court monitor overseeing the Maricopa County Sheriff's Office (MCSO) and how improvements to the monitor regime could be implemented.

Committee Consideration

On April 22, 2026, the Committee met in open session and ordered the bill, H.R. 8365, favorably reported with an amendment in the nature of a substitute, by a roll call vote of 13–11, a quorum being present.

Committee Votes

In compliance with clause 3(b) of House rule XIII, the following roll call votes occurred during the Committee's consideration of H.R 8365:

1. Vote on favorably reporting H.R. 8365, as amended—passed 13 ayes to 11 nays.

COMMITTEE ON THE JUDICIARY

119th CONGRESS

25-19

ROLL CALL

Date: 4/22/26

Vote on: Final Passage of HR 8365, as amended

Roll Call #: 1

REPUBLICANS	AYE	NO	PRESENT	DEMOCRATS	AYE	NO	PRESENT
MR. JORDAN (OH) *Chairman*	✓			MR. RASKIN (MD) *Ranking Member*		✓	
MR. ISSA (CA)				MR. NADLER (NY)		✓	
MR. BIGGS (AZ)	✓			MS. LOFGREN (CA)		✓	
MR. McCLINTOCK (CA)	✓			MR. COHEN (TN)			
MR. TIFFANY (WI)				MR. JOHNSON (GA)		✓	
MR. MASSIE (KY)				MR. LIEU (CA)			
MR. ROY (TX)				MS. JAYAPAL (WA)		✓	
MR. FITZGERALD (WI)	✓			MR. CORREA (CA)		✓	
MR. CLINE (VA)	✓			MS. SCANLON (PA)		✓	
MR. GOODEN (TX)	✓			MR. NEGUSE (CO)			
MR. VAN DREW (NJ)				MS. McBATH (GA)		✓	
MR. NEHLS (TX)				MS. ROSS (NC)			
MR. MOORE (AL)	✓			MS. BALINT (VT)		✓	
MS. HAGEMAN (WY)				MR. GARCIA (IL)		✓	
MS. LEE (FL)	✓			MS. KAMLAGER-DOVE (CA)		✓	
MR. HUNT (TX)				MR. MOSKOWITZ (FL)			
MR. FRY (SC)				MR. GOLDMAN (NY)			
MR. KILEY (CA)	✓			MS. CROCKETT (TX)			
MR. GROTHMAN (WI)	✓			Vacant			
MR. KNOTT (NC)							
MR. HARRIS (NC)	✓						
MR. ONDER (MO)	✓						
MR. SCHMIDT (KS)	✓						
MR. GILL (TX)							
MR. BAUMGARTNER (WA)							

Roll Call Totals: ✓ Ayes: 13 Nays: 11 Present:

Passed: X Failed:

Committee Oversight Findings

In compliance with clause 3(c)(1) of House rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974* and with respect to the requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Chairman of the Committee shall cause such estimate and statement to be printed in the *Congressional Record* upon its receipt by the Committee.

Congressional Budget Office Cost Estimate

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the *Congressional Budget Act of 1974* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

Committee Estimate of Budgetary Effects

With respect to the requirements of clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the *Congressional Budget Act of 1974.*

Duplication of Federal Programs

Pursuant to clause 3(c)(5) of House rule XIII, no provision of H.R. 8365 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of House rule XIII, H.R. 8365 would require the Administrative Office of the United States Courts to establish conditions on the appointment by a district court of a monitor of a state or unit of local government.

Advisory on Earmarks

In accordance with clause 9 of House rule XXI, H.R. 8365 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clauses 9(d), 9(e), or 9(f) of House rule XXI.

Federal Mandates Statement

An estimate of federal mandates prepared by the Director of the Congressional Budget office pursuant to section 423 of the *Unfunded Mandates Reform Act* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the *Federal Advisory Committee Act* were created by this legislation.

Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act* (Pub. L. 104–1).

Section-by-Section Analysis

Section 1: Short Title

The "Monitor Accountability Act."

Section 2. Conditions on the Appointment of Monitors by Courts.

This section requires the Administrative Office of the United States Courts to establish conditions on the appointment by a district court of a monitor of a State or unit of local government. These conditions include a cap on fees, a term limit on the monitors and judges overseeing monitor cases, allowing for public comment on the selection of the monitor, and providing a public accounting of the activities of the monitor.

Dissenting Views

I oppose this legislation to undermine federal monitorships, which are an important tool for federal judges to ensure compliance with court orders, settlement agreements, or consent decrees and remedy entrenched violations of federal law, especially in matters of civil rights, policing, detention, disability rights, the environment, education, and antitrust.

The sponsors of this bill appear to be offering it in response to the ongoing federal monitorship of the Maricopa County, Arizona, Sheriff's Office. In May 2013, a federal court found that the Sheriff's Office, under the infamous leadership of Sheriff Joe Arpaio, had a practice of racially profiling and illegally detaining Latino motorists, in violation of the Fourth and Fourteenth Amendments of the Constitution, Title VI of the Civil Rights Act of 1964, and

the Arizona State Constitution.[1] One expert called it, "the worst pattern of racial profiling by a law enforcement agency in U.S. history."[2] Following this ruling, the federal district judge placed the Maricopa County Sheriff's Office under supervision by a court-appointed monitor to ensure it was taking the necessary steps to correct systematic violations of the law. For years after the initial court order, Sheriff Arpaio gleefully violated a succession of court orders, refusing to end his office's practice of unlawful racial profiling, which eventually led to courts finding him in civil contempt and guilty of criminal contempt, for which he was later pardoned by President Trump.[3] As a result, the court has had to issue subsequent orders, each time trying to more clearly articulate the steps the Sheriff's Office must take to come into compliance with the order and the law.

Recently, my Republican colleagues held a field hearing in Phoenix, Arizona, where they apparently took issue with the fact that the Sheriff's Office is still under federal monitorship more than ten years later. It's not a "grift", as they allege, that a monitor is still in place for the Maricopa County Sheriff's Office. The monitor is still in place because the Sheriff's Office has still not cleaned up its act by remedying its egregious violations of the law, pursuant to multiple court orders. In fact, more than a decade later and even under a new sheriff, data reveals that racial disparities in the Sheriff's Office arrest rates persist.[4]

The real grift is contained in this legislation. While I am certainly open to having a serious policy discussion about ways to strengthen or improve the federal monitorship process, this bill is flawed in multiple ways.

We were told that the Monitor Accountability Act is simply a codification of recommendations made by Attorney General (AG) Merrick Garland and Associate Attorney General Vanita Gupta in a 2021 Department of Justice memo on the use of monitors in settlement agreements and consent decrees.[5] But that's not close to the full story.

The Monitor Accountability Act is a cherry-picked, chopped up and distorted GOP creation that would make inevitable the demise of the Maricopa County monitor and make all other federal monitorships less effective and less efficient. It would exacerbate existing problems in accomplishing the goals of consent decrees and settlement agreements, which is to provide legal and equitable re-

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[1] Press Release, American Civil Liberties Union, *Federal Court Rules Arizona Sheriff Joe Arpaio Violated United States Constitution* (May 24, 2013), https://www.acluaz.org/press-releases/federal-court-rules-arizona-sheriff-joe-arpaio-violated-united-states-constitution/.

[2] Ray Stern, *Sheriff Joe Arpaio's Office Commits Worst Racial Profiling in U.S. History, Concludes DOJ Investigation,* PHOENIX NEWS TIMES (Dec. 15, 2011), https://www.phoenixnewtimes.com/news/sheriff-joe-arpaios-office-commits-worst-racial-profiling-in-us-history-concludes-doj-investigation-6655328/.

[3] Steve Almasy & Artemis Moshtaghlan, *Sheriff Joe Arpaio, Three Others Found in Civil Contempt,* CNN (May 15, 2016), https://www.cnn.com/2016/05/13/us/sheriff-joe-arpaio-contempt-charges; Colin Dwyer, *Ex-Sheriff Joe Arpaio Convicted of Criminal Contempt,* NPR (July 31, 2017), https://www.npr.org/sections/thetwo-way/2017/07/31/540629884/ex-sheriff-joe-arpaio-convicted-of-criminal-contempt; Press Release, White House, *President Trump Pardons Sheriff Joe Arpaio* (Aug. 25, 2017), available at https://trumpwhitehouse.archives.gov/briefings-statements/president-trump-pardons-sheriff-joe-arpaio/.

[4] Rafael Carranza, *This Sheriff Says His Department Eliminated Racial Bias. Data Shows Otherwise.,* PROPUBLICA (Mar. 26, 2026), https://www.propublica.org/article/sheriff-jerry-sheridan-maricopa-county-court-oversight.

[5] Memorandum from Att'y Gen. to Heads of Civil Litigating Components U.S. Att'y, Review of the Use of Monitors in Civil Settlement Agreements and Consent Decrees with State and Local Gov't Entities (Sept. 13, 2021).

lief to remedy serious violations of federal law, particularly for entities that engage in a pattern or practice of misconduct. The bill would also have sweeping consequences for the enforcement of federal law around the country through consent decrees and settlements that have been entered into with other federal government agencies outside our Committee's jurisdiction. The effect would be to undermine one of the most important tools we have to address persistent violations of federal law in matters of civil rights, policing, detention, disability rights, the environment, education, and antitrust.

While this bill certainly encompasses some of the Garland memo's recommendations, many other key recommendations contained in the Garland memo are not included, such as requiring a hearing after five years to assess the progress made under the agreement and evaluate whether a monitorship should be terminated.

Many of the provisions of this bill are far more proscriptive than the recommendations made in the Garland memo, and, in other cases, the legislative language in the bill expressly contradicts the Garland memo's recommendations. For example, this bill would impose mandatory five-year term limits on federal monitorships. While the Garland memo supports term limits for monitors, it does not prescribe a specific time limit, and counsels against automatic termination, as would be the case under this bill. Instead, the Garland memo recommends judicial evaluation of monitorships at the end of their term and allows for the possibility of reappointment.[6] The Garland memo also recommends that consent decrees and settlement agreements explicitly include a mutually agreed upon process for assessing the monitor before a reappointment can occur.[7]

This bill also imposes a new mandate that requires appointment of a *new* judge after six years—which means that, oddly, it fails to align the term limits for monitors and judges. Where's the efficiency in that? Far from making this a more efficient and effective process, these requirements will delay, prolong, and confuse monitorships as a new monitor and a new judge will have to get up to speed on the complicated history of the case and the progress completed by the party prior to their appointment. They will have to review years' worth of briefs, reports, motions, replies, orders, and pleadings, among other case documents. Together, these provisions could certainly incentivize a reluctant party to simply "run out the clock" until a more favorable monitor and/or judge is appointed to their case.

The retroactive application of this bill is also curious. The Garland memo explicitly warns against retroactivity, noting that, "because existing consent decrees and monitorships are the product of extensive negotiations between the parties, with approval by the federal court, the specific recommendations [in the memorandum] should apply only to consent decrees and monitorships used in future cases."[8] Inexplicably, the Monitor Accountability Act would effectuate the exact opposite of this advice. The bill would apply retroactively, meaning that both the monitor and judge in the Maricopa County Sheriff's Office case would be terminated shortly after

[6] *Id.* at 8–9.
[7] *Id.* at 5–6.
[8] *Id.* at 3.

this bill becomes law. And that, I have a hunch, may be the deep-down ulterior motive for why this bill is being offered here in the first place.

I will also note that this bill suffered from other technical deficiencies at the outset. Some of the deficiencies were brought to the attention of the Majority, including its timeline for implementation and who would be responsible for implementation. For example, the bill instructed the "Administrator" of the Administrative Office of the Courts (AO)—a position that does not currently exist—to establish the new conditions, including a new fee schedule, for monitors within 90 days of enactment. Given that the Judicial Conference only meets twice a year, it would have been impossible for the AO to establish a new fee schedule within 90 days of enactment of the Monitor Accountability Act. These issues were addressed by an amendment introduced by the bill's sponsor, changing the timeframe for implementation to 180 days and making the "Director" of the AO responsible for implementation, but they do not come close to solving the underlying flaws in this legislation.

While I appreciate that my colleagues took steps to make corrections, the fact that these last-minute changes were necessary to make the bill remotely sensible demonstrates that we have not done any kind of thorough vetting and analysis of the recommendations contained therein. If the Majority is serious about improving the appointment and use of federal monitors and making AG Garland's 2021 recommendations law, then they would have worked with us and the AO to craft this bill rather than rushing through this last-minute, makeshift legislation that was introduced for the first time two days before the markup.

I urge my colleagues to oppose this makeshift, ramshackle bill designed apparently to interfere in a single case.

JAMIE RASKIN,
Ranking Member.