

Maryland Pays High Costs for Federal Immigration Enforcement

By Sean Miskell

Financial and law enforcement resources strained by federal requests to jail non-violent offenders

Carrying out federal immigration detention requests costs money that can be better used elsewhere and poisons the relationship between immigrant communities and local law enforcement.

Summary

Jailing suspected undocumented immigrants at the request of federal officials costs Maryland and its localities hundreds of thousands of dollars each year, using scarce state and local resources that could be better spent on more pressing law enforcement needs. The detentions, which are not required by federal law and overwhelmingly target non-violent offenders, also erode trust in local law enforcement among both documented and undocumented immigrants, which can hamper the prevention and investigation of more serious crimes.

To ensure that Maryland is not using its resources in counterproductive ways, state policymakers should follow the lead of other states and ensure that local police either do not intervene in these detention requests or enforce them more narrowly. Local law enforcement officials should also reevaluate their role in this federal policy, which they are not required to enforce. In particular, law enforcement should not hold individuals brought in on minor charges past the point when they are eligible for release on state or local grounds. Further, local law enforcement should collect and report data on their compliance with immigration detainers.

Enforcing the detention requests cost Maryland at least \$1 million between 2010 and 2013. There were broader social and economic costs as well. For instance, when local police appear to be an arm of federal immigration enforcement, community members fear that any contact with law enforcement, including coming forward as a witness to or victim of crime could lead to their confinement or deportation.

Immigrants Bolster Maryland's Economy

Foreign-born workers and their families play an increasingly important role in Maryland's economy. Between 2000 and 2012, the immigrant population in Maryland increased by 62 percent, reaching 14.3 percent of the total population.¹

Immigrants comprise 18 percent of Maryland's civilian labor force, and more than 21 percent of Maryland business owners are immigrants, generating \$2.8 billion in income each year.²

While most of these workers and business owners are legal residents, unauthorized immigrants represent 4.2 percent of Maryland's population and 6.2 percent of its overall labor force.³ Non-citizens are more concentrated among farm workers in Maryland, accounting for 21 percent of that workforce between 2007 and 2011.⁴

The vast majority of foreign-born workers live in the Maryland suburbs of Washington, D.C., especially Montgomery and Prince George's counties.⁵ While Maryland's immigrant population is diverse, the leading region of origin is Latin America.⁶

Recently, Maryland has made it easier for foreign-born workers and their families to participate more fully in the state's economy. Undocumented immigrants who meet certain requirements can now apply for driver's licenses and auto insurance.⁷ Moreover, undocumented Marylanders can attend the state's public universities at the in-state tuition price.⁸

¹ United States Census American Community Survey

² Executive Office of President Obama, "The Economic Benefits of Fixing our Broken Immigration System: Impacts for Maryland Families," August 2013, <http://www.whitehouse.gov/blog/2013/07/31/state-state-reports-economic-benefits-fixing-our-broken-immigration-system>

³ Maryland Department of Legislative Services, "International Immigration to Maryland," Presentation to the Maryland Joint Committee on Federal Relations, October 23, 2013.

⁴ Ibid.

⁵ Ibid.

⁶ Migration Policy Institute.

⁷ Wagner, John. "Maryland Law Expanding Driver's Licenses for Illegal Immigrants Takes Effect on Wednesday," *The Washington Post*, December 31, 2013, http://www.washingtonpost.com/local/md-politics/maryland-law-expanding-drivers-licenses-for-illegal-immigrants-takes-effect-on-wednesday/2013/12/31/81cf605c-7245-11e3-8def-a33011492df2_story.html

⁸ Anderson, Nick. "MD Voters Approve Dream Act Law," *the Washington Post*, November 6, 2012, http://www.washingtonpost.com/local/md-politics/md-voters-deciding-on-dream-act-law/2012/11/06/d539fe66-282f-11e2-bab2-eda299503684_story.html

Share of International Immigration to Maryland by County, 2000-2012	
Montgomery	45.3%
Prince George's	20.6%
Baltimore	9.4%
Baltimore City	5.8%
Howard	5%
Anne Arundel	3.1%
Frederick	1.5%
Wicomico	1%
Harford	0.6%
Washington	0.5%

Source: Maryland Department of Legislative Services

Percent of Foreign Born Residents, by County		
	All Foreign-Born	Non-citizen
Allegany	1.5%	0.8%
Anne Arundel	7.8%	4.0%
Baltimore city	7.3%	5.9%
Baltimore	11.3%	1.0%
Calvert	3.1%	3.5%
Caroline	4.2%	1.2%
Carroll	3.5%	1.7%
Cecil	3.1%	2.8%
Charles	5.8%	2.8%
Dorchester	4.2%	5.5%
Frederick	9.7%	0.8%
Garrett	1.8%	1.9%
Harford	5.3%	8.5%
Howard	18.4%	3.0%
Kent	4.0%	16.7%
Montgomery	32.2%	12.7%
Prince George's	20.4%	1.3%
Queen Anne's	3.5%	1.9%
St. Mary's	4.4%	2.6%
Somerset	3.2%	2.8%
Talbot	5.3%	2.7%
Washington	4.9%	4.8%
Wicomico	7.4%	2.5%
Worcester	4.5%	4.7%

Source: US Census Bureau, 2012 American Community Survey, 3-year estimates, Table B05001

Federal Officials Shift Burden of Immigration Policies to Localities

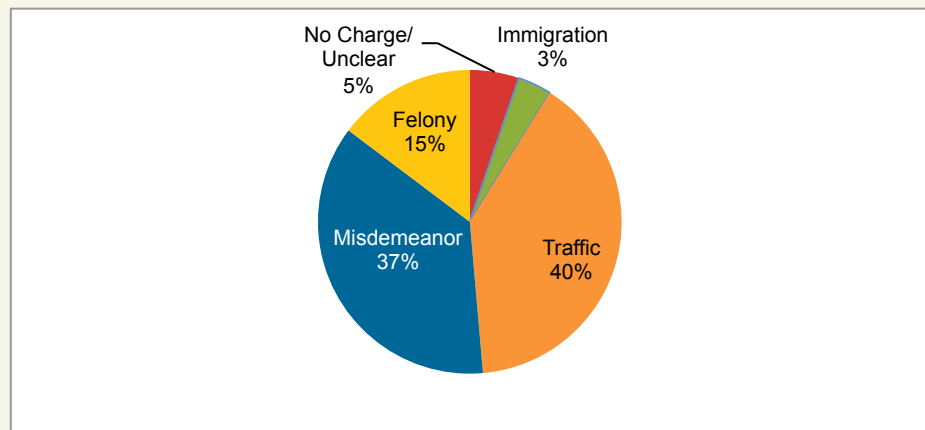
Despite such efforts to better integrate immigrants in Maryland communities, local law enforcement agencies continue to honor federal requests for the detention of suspected undocumented immigrants. These requests, known as “immigration detainers,” are the result of the federal government’s increasing reliance on state and local resources to enforce immigration policies that have long been under the jurisdiction of federal authorities. For example, the federal Secure Communities program puts fingerprints and other biometric data obtained by local police into a database maintained by the federal government. This information is sent to the Department of Homeland Security, which can, in turn, issue an immigration detainer requesting that a local agency hold an individual for up to 48 hours past the time they would otherwise be eligible for release. This can mean up to an additional five days in detention, since weekends and holidays do not count toward the 48-hour limit. The presence of a detainer may also result in longer incarceration on state or local charges, though there is not enough data to quantify this effect in Maryland. These hold requests effectively shift the burden of federal immigration enforcement to local officials and have contributed to the growing number of immigrant detentions and deportations in recent years.⁹

Automatic Compliance with Detention Requests in Maryland is Unnecessary

Compliance with immigration detainers is strictly voluntary and local law enforcement cannot be compelled to honor them.¹⁰ Indeed, Maryland’s Attorney General, like his counterparts in California and Illinois, has issued an advisory reinforcing that fact.¹¹

Most immigration detainers are issued for individuals charged with

MARYLAND IMMIGRATION DETAINERS BY OFFENSE CATEGORY



Source: American Civil Liberties Union, 2013. Data was only available for eight counties in Maryland: Anne Arundel County, Baltimore County, Charles County, Frederick County, Kent County, St. Mary’s County, Talbot County, and Washington County.

⁹ Although the Department of Homeland Security can provide reimbursement via the State Criminal Alien Assistance Program, this reimbursement is typically only for a small percentage of the costs and has been reduced in recent years.

¹⁰ See 8 C.F.R. sections 287.7(a) and 287.7(d)

¹¹ Letter of Advice from Maryland Attorney General, Office of Counsel to the General Assembly to the Honorable Victor R. Ramirez, State Senator, October 31, 2013.

low-level crimes. In Maryland, 77 percent of all immigration detainers are issued for individuals accused of traffic offenses and other misdemeanors; only 15 percent target suspected felons.¹² Worse, more than 40 percent of those deported from Maryland had no prior criminal record, compared with 20 percent nationwide.¹³

Nonetheless, most local jurisdictions in Maryland automatically enforce every immigration detainer request that they receive. Only Talbot County puts a limit on the practice, refusing to enforce detention requests against individuals who violate civil traffic laws.¹⁴ By contrast, police in the nearby District of Columbia only hold individuals on immigration detainers if they were arrested for a serious crime within 10 days of the request, and limit their detention to 24 hours.¹⁵

Enforcing Immigration Detainers is Costly to Maryland

The exact cost to Maryland of enforcing immigration detainers is difficult to determine, since accurate and complete data is hard to come by. Local law enforcement authorities often do not keep records that make it possible to analyze the full cost, and even Freedom of Information Act requests turn up scant information.¹⁶ However, it is possible to piece together information from various sources to estimate the minimum cost.¹⁷ Using available data and conservative assumptions, this study estimates the minimum cumulative cost of enforcing immigration detainers in Maryland was \$1 million between 2010 and 2013. (See Appendix for data and details on the methods used.)

The money spent on immigration detainers deprives the state and localities of resources that could be better spent elsewhere. For example, the minimum cost of enforcing the requests in 2011 (\$330,000) was greater than the amount devoted to upgrading security cameras at correctional facilities statewide in Fiscal Year (FY) 2013 (\$300,000) and slightly less than the cost of a word-recognition software system used to monitor inmate phone calls, included in the proposed FY 2015 budget (\$375,000). The cost is also comparable to annual funding for substance abuse services at the Eastern Correctional Institution (\$339,393), the

¹² ACLU 2013.

¹³ Fritze, John. "Groups Target Inconsistencies in Immigration Enforcement," *The Baltimore Sun*, February 16, 2014, <http://www.baltimoresun.com/news/maryland/politics/bs-md-secure-communities-follow-20140216,0,6759321.full.story>

¹⁴ American Civil Liberties Union, "Restoring Trust: How Immigration Detainers in Maryland Undermine Public Safety Through Unnecessary Enforcement," Issue Brief, November 2013.

¹⁵ Fritze, John. "Groups Target Inconsistencies in Immigration Enforcement," *The Baltimore Sun*, February 16, 2014, <http://www.baltimoresun.com/news/maryland/politics/bs-md-secure-communities-follow-20140216,0,6759321.full.story>

¹⁶ For example, the American Civil Liberties Union's "Restoring Trust: How Immigration Detainers Undermine Public Safety through Unnecessary Enforcement," Issue Brief, the footnotes of which detail the difficulty of obtaining data on immigration detainers at the level of local law enforcement.

¹⁷ For example, the Colorado Fiscal Institute uses good data from one county in Colorado to extrapolate the cost of immigration detainer enforcement throughout the entire state. See "Misplaced Priorities: SB90 and the Cost of Immigration Enforcement to Local Communities," December 2012, <http://www.coloradofiscal.org/misplaced-priorities-sb90-the-costs-to-local-communities/>

Metropolitan Transition Center (\$343,572), or the Maryland Reception, Diagnostic and Classification Center (\$330,391) in FY 2013.

In light of the need to invest in such improvements to law enforcement, treatment, and public services more generally, Maryland cannot afford to spend money needlessly. Furthermore, it is hard to argue that the money spent on immigration detainees promotes public safety given that they target mostly traffic offenders and others accused of misdemeanors.

The Real Cost of Immigration Detainers is Likely Much Higher

The total cost of enforcing federal immigration detainees is surely much higher than our cautious estimates.

Several factors contribute to these higher costs. For instance, many of those detained are held in facilities in Montgomery County, where costs are higher than the estimates we used for our calculations. (See Appendix for further details.)

In addition, studies from other states suggest that some individuals are held a great deal longer than the 48-hour limit, which also drives up costs. For example, those held on immigration detainees in Colorado remain in custody an average of 21 days longer than those not subject to such requests, the Colorado Fiscal Institute, a non-profit research group, found. This is because an immigration detainee can make an inmate ineligible for early release or alternatives to detention. People held on immigration detainees also are less likely to be eligible for pretrial release, even if they were charged with a low-level offense, and more likely to be prevented from posting bail.^{18 19}

These extended detentions have broader costs as well. Those held on immigration detainees can't work, see their families, or patronize local businesses. This means lost wages, jobs, and tax revenue. The Colorado study found that state lost millions in tax revenue and economic activity as a result of honoring federal immigration detainee requests.²⁰

There are also additional public costs. The likelihood that families will have to rely on services such as the Supplemental Nutrition Assistance Program (SNAP), Supplemental Nutrition Program for Women, Infants and Children (WIC), and

18 Judith A. Greene, "The Cost of Responding to Immigration Detainers in California. Preliminary Findings" Justice Strategies, August 22, 2012, <http://www.justicestrategies.org/publications/2012/cost-responding-immigrationdetainers-california>.

19 Colorado Department of Public Safety, Report of the Governor's Working Group on Law Enforcement and Illegal Immigration, December 31, 2008 (CO Department of Public Safety, 2008) 19-21.

<http://cdpsweb.state.co.us/immigration/documents/FINAL%20Report%202%20for%20Eservice.pdf>.
20 Stiffler, Chris. "The High Cost of Immigration Enforcement in Colorado," The Color Fiscal Institute, March 26, 2013, http://www.coloradofiscal.org/wp-content/uploads/2013/03/2013-3-29_Community-Trust-Report.pdf

Temporary Assistance for Needy Families (TANF) rises dramatically when a family member is detained or deported.²¹

Maryland's largely blanket compliance with immigration detainers is also counter-productive for law enforcement. A University of Illinois study found that Latinos, whether they are native born or came to the United States as immigrants, are less willing to cooperate with law enforcement in criminal investigations due to fears of racial profiling or jeopardizing the immigration status of themselves or their family.²² This erodes the ability of local law enforcement to do the important work of responding to and preventing crime, which has economic consequences as well. The District of Columbia's decision to only hold individuals if they had recently been arrested for a serious crime was motivated by concerns that strict enforcement of immigration detainers was making immigrant communities less likely to report crimes.²³

Maryland Can Save Money and Restore Trust among Immigrant Communities By Not Automatically Responding to Immigration Detainers.

It is clear that enforcing federal requests to detain suspected undocumented immigrants places an unnecessary burden on localities and imposes a deep toll on immigrants, their families, and their communities. Serving as an instrument of federal immigration enforcement can damage the relationship between immigrant communities and local law enforcement. Doing so makes little sense, especially considering the inarguably valuable contributions of immigrants to local communities and our entire state.²⁴ Those detained are not just suspects; they are workers, parents, entrepreneurs, consumers, and students.

Local law enforcement officials in Maryland should reevaluate their role in enforcing federal policies they are not required to enforce. State policymakers can follow the lead of lawmakers in states such as Connecticut and California by enacting the Law Enforcement Trust Act, establishing narrower parameters for how local law enforcement responds to federal immigration detainers.²⁵ ²⁶ In

²¹ Facing Our Future: Children in the Aftermath of Immigration Enforcement, Urban Institute, 2010

²² Theodore, Nik. "Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement," University of Illinois at Chicago, May 2013
http://www.uic.edu/cuppa/gci/documents/1213/Insecure_Communities_Report_FINAL.pdf

²³ Fritze, John. "Groups Target Inconsistencies in Immigration Enforcement," *The Baltimore Sun*, February 16, 2014, <http://www.baltimoresun.com/news/maryland/politics/bs-md-secure-communities-follow-20140216,0,6759321.full.story>

²⁴ See for example: Rose, Joel, "Does Crime Drop When Immigrants Move In?" NPR, March 8, 2013, <http://www.npr.org/2013/03/08/173642807/does-crime-drop-when-immigrants-move-in>

²⁵ For more information on Trust acts in California and Connecticut, see Vock, Daniel C., "Capping String of Victories for Immigrants, Brown Signs California Trust Act, Pew Charitable Trusts, October 7, 2013, <http://www.pewstates.org/projects/stateline/headlines/capping-string-of-victories-for-immigrants-brown-signs-california-trust-act-85899510189>; as well as Nalpathanchil, Lucy, "Connecticut Leads Way on Immigration Trust Act as California Considers It," WNPR News, September 16, 2013, <http://wnpr.org/post/connecticut-leads-way-immigration-trust-act-california-considers-it>

particular, local law enforcement should not detain individuals beyond the date they become eligible for release on local or state grounds, or make an individual available for questioning by federal immigration agents unless the individual provides written consent and is offered the opportunity to be represented by legal counsel. In addition, local law enforcement should collect and report data on immigration enforcement activities, including the number of individuals held on immigration detainers, the number of days these individuals were held past the date the individual was eligible for release on state charges, the reason for the arrest of each individual held on an immigration detainer, and the number of individuals ultimately transferred to federal authorities.

These reforms will help to provide a better understanding of the extent to which immigration detainers are enforced and their true cost, as well as reduce this practice. Maryland cannot afford to bear the significant social and economic costs of federal immigration enforcement at the expense of valuable members of its communities.

²⁶ The “Maryland Law Enforcement Trust Act” (House Bill 29/Senate Bill 554), which would limit enforcement of immigration detainers in the state, has been introduced in the Maryland General Assembly: <http://mgaleg.maryland.gov/webmga/frmMain.aspx?pid=billpage&tab=subject3&id=hb0029&stab=01&ys=2014RS>

Methodological Appendix

To calculate the cost of enforcing federal immigration detainer requests in Maryland, this study relies on the following information and assumptions. First, to determine the number of immigration detainees per year in Maryland, we draw on data provided by Immigration and Customs Enforcement to the American Civil Liberties Union of Maryland, obtained through a Freedom of Information Act.²⁷ The data covers the period between January 2010 and October 2013. A breakdown of the number of detainees by Maryland facility appears below.

Calculating the cost of immigration detainees requires data on how expensive it is to house detainees in local jails. County governments do not release this information and it is not collected at the state level. However, in fiscal notes released during the 2014 legislative session for various criminal justice bills, Maryland's Department of Legislative Services (DLS) estimated that the daily cost of housing an inmate in a local detention facility in Maryland ranges from \$60 to \$160.²⁸ In keeping with the conservative assumptions employed by this study, we will apply the \$60 per diem rate across all local detention centers in Maryland.²⁹ However, additional fiscal notes produced by DLS provided specific costs for two Baltimore detention facilities. According to DLS, it costs \$81 per day to hold an individual in the Baltimore City Detention Center, and \$154 per day to hold an individual in the Baltimore Central Booking and Intake Center.³⁰ These higher costs were applied to these facilities only.

We assume that each detainee is held for the maximum of 48 hours allowed. Data on the duration individuals are held on immigration detainees is largely unavailable. However, 48 hours is consistent with other fiscal analyses of the cost of immigration detainees in other states.³¹ Detailed data obtained by the American Civil Liberties Union also suggests that the average stay of individuals held on immigration detainees in Anne Arundel County between 2010 and 2012 is 2.1 days. However, the length of detention could be considerably longer given that weekends and holidays do not count toward the 48-hour limit, which could increase the period of detention to 120 hours. Detention costs increase even more

²⁷ The American Civil Liberties Union provided this data upon request to the Maryland Center on Economic Policy. The Maryland Center on Economic Policy sorted and analyzed this raw data.

²⁸ See the Maryland Department of Legislative Services' Fiscal and Policy Notes for Senate Bill 113, Senate Bill 219, and House Bill 84 from the 2014 Legislative Session.

²⁹ The per diem of cost of detaining and individual is not the same as the marginal cost of each additional inmate, given some costs are relatively fixed, particularly capital costs. In other words, the per diem cost is not necessarily the cost that local law enforcement would save by no longer honoring federal immigration detainees. Nonetheless, it makes sense to use the per diem number when accounting for the cost of each detainee, especially in the context of the conservative assumptions employed by this study. Calculating the exact marginal cost is difficult given available information, and further, does not account for the full cost of detaining an individual given that some portion of the fixed costs that fall outside of the marginal cost are expended towards housing those held on immigration detainees.

³⁰ See the Maryland Department of Legislative Services' Fiscal and Policy Note for Senate Bill 581 from the 2014 Legislative Session.

³¹ See for example the Colorado Fiscal Institute's "Misplaced Priorities."

when localities hold individuals beyond the potential 120 hours. These figures do not include any additional costs, such as the results of denial of bail to individuals with immigration detainers and the costs of any liability incurred as a result of their stay, including potential litigation for violations of the 48-hour detention limit and challenges to the legality of detention on the sole basis of immigration detainers.

While this study employed a very conservative estimate of the daily cost of each additional detainee, the real cost is surely higher. For example, Montgomery County also receives a large proportion of the state's immigration detainer requests, ranging from 12 to 17 percent per year between 2010 and 2013. Data from the Montgomery County Department of Correction and Rehabilitation suggest that local detention centers in the county likely have higher per diem costs for holding individuals than other counties in Maryland. The reported per diem cost per inmate across all detention facilities in Montgomery County exceeded \$163 in FY 2011, and was projected to increase in the following years.³²

³³ Because this figure includes more long-term facilities in addition to the Montgomery County Detention Center - where hundreds of individuals are held on immigration detainers each year - it is not possible to use this information to generate a specific figure. But it does indicate that the cost of responding to immigration detainers in Montgomery County, which has responded to the highest number of immigration detainer requests of all Maryland counties in recent years, is greater than the conservative estimate employed in this study.

³² Montgomery County Office of Management and Budget, Department of Correction and Rehabilitation Budget Overview for Fiscal year 2011,

http://www.montgomerycountymd.gov/OMB/Resources/Files/omb/pdfs/fy10/psp_pdf/cor.pdf

³³ Montgomery County Department of Correction and Rehabilitation Performance Plan, October 10, 2011, http://www6.montgomerycountymd.gov/content/exec/stat/pdfs/docr_fy11.pdf

Immigration Detainers by Detention Facility in Maryland				
Detainer Detention Facility	2010	2011	2012	2013 (Through October)
Allegheny Detention Facility	1	0	3	2
Annapolis Police Department	0	0	0	1
Anne Arundel County Detention Center	285	320	191	114
BAL D D & P	4	6	2	3
Baltimore City Central Booking	29	66	105	111
Baltimore City Detention Center	25	72	76	12
Baltimore County Detention Center	160	347	141	134
Brockbridge Correctional Facility	0	0	0	1
Calvert County Sheriff	0	22	9	10
Caroline County Detention Center	1	20	13	4
Carroll County Detention Center	51	56	13	6
Cecil County Detention Center	4	5	2	9
Charles County Detention Center	3	28	20	11
Cumberland Federal Correctional Institution	1	1	2	4
Dorchester County Detention Center	17	4	9	7
Eastern Correctional Institution	5	1	0	2
Frederick County Detention Center	229	180	122	63
Harford County Detention Center	26	43	17	26
Howard County Detention Center	92	116	82	58
Howard County Jail	0	0	2	0
Jessup Correctional Facility	5	5	12	6
Kent County Detention Center	16	10	10	8
Maryland Correctional Institution - Hagerstown	95	94	57	19
Maryland Reception, Diagnostic, and Classification Center	15	21	22	12
Maryland Transition Center	1	0	3	2
Montgomery County Detention Center	291	310	276	226
Montgomery County Sheriff	1	0	0	1
Patuxent Correctional Facility	1	1	0	1
Prince George's County Detention Center	604	577	260	249
Queen Anne County Detention Center	29	28	19	20
Roxbury Correctional Institution	2	2	1	0
Somerset County Detention Center	1	7	6	6
St. Mary's County Detention Center	25	19	8	7
Talbot County Detention Center	5	27	15	14
US Marshalls, Maryland	23	35	38	34
Washington County Detention Center	17	22	12	5
Washington County Jail	2	1	1	0
Wicomico County Detention Center	101	113	47	36
Worcester County Jail	14	24	22	30
Other Facilities within Baltimore Area of Responsibility	65	36	29	142
Total	2,246	2,619	1,647	1,396

Cost of Immigration Detainers in Maryland				
	2010	2011	2012	2013 (Through October)
Total Number of Detainers	2,246	2,619	1,647	1,396
Total for Baltimore City Detention Center	25	72	76	12
Total for Baltimore Central Booking	29	66	105	111
Total for All Others Facilities	2,192	2,481	1,466	1,273
Minimum Cost for Baltimore Detention Center	\$4,050	\$11,664	\$12,312	\$1,944
Minimum Cost for Detainers in Baltimore Central Booking	\$8,932	\$20,328	\$32,340	\$34,188
Minimum Cost at All Other Facilities	\$263,040	\$297,720	\$175,920	\$152,760
Total Minimum Cost	\$276,022	\$329,712	\$220,572	\$188,892
Cumulative Total Cost, 2010 – October 2013: \$1,015,198				