



**DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES**

Chesapeake Detention Facility
Funding Report

December 2021

Governor Larry Hogan
Lt. Governor Boyd K. Rutherford
Secretary Robert L. Green

INTRODUCTION

The Budget Committees requested the Department of Public Safety and Correctional Services (DPSCS) on Chesapeake Detention Facility Funding. Language found on page 156 of the 2021 Joint Chairmen's Report is provided below.

Chesapeake Detention Facility Funding Report: Provided that \$500,000 of this appropriation may not be expended until the Department of Public Safety and Correctional Services conducts a review of the agreement to operate the Chesapeake Detention Facility as a federal facility, reaches out to the U.S. Marshals Service to renegotiate the agreement, and submits a report on these efforts to the budget committees. The report shall include results of efforts to renegotiate the agreement, options to reduce the reliance on general funds for this facility (including the consequences of exiting the agreement prior to expiration), and plans for the facility following the conclusion of the agreement. The report shall be submitted by December 1, 2021, and the budget committees shall have 45 days from the date of the receipt of the report to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

SYNOPSIS

I. HISTORY OF AGREEMENT

The Department's history of maintaining custody of federal pretrial detainees for the U.S. Marshal Service precedes the 2010 Cooperative Agreement (CA). The CDF, formerly known as the Maryland Correctional Adjustment Center (MCAC), was being used to house some 100-150 federal detainees at a per diem rate. The history of the negotiations that resulted in the Cooperative Agreement commenced in the spring of 2007, when the Department of Justice (DOJ) approached the DPSCS seeking to expand that relationship. The DOJ wanted to ensure that it retained the number of beds it currently used at MCAC, but further "hoped to join the State's expansion project downtown so that [it] could increase utilization of beds with the State and enter into a long-term contract." Ultimately, DPSCS proposed that the DOJ contribute \$20 million to the construction costs necessary to develop a new pre-release facility in Jessup, the Dorsey Run Correctional Facility. The Department would agree to make those 500 beds available to the U.S. Marshals for 15 years, thus providing the long-term solution the DOJ was seeking. Negotiations as to the terms continued for the next two years. The terms were ultimately agreed to, and the CA was signed on September 23, 2010 and is effective for 15 years, or through the year 2025.

II. EFFORTS TO RENEGOTIATE

As reported in the 2020 Joint Chairmen's Report, DPSCS leadership has made several attempts to reach out to the DOJ in an effort to begin discussions to renegotiate the CDF CA. In response to one of the written correspondences sent, the DOJ's Intergovernmental Agreement Branch finally responded by indicating that DPSCS must complete an

extensive Automated Intergovernmental Agreement (IA) application before any renegotiation discussions could begin.

After a considerable delay, on March 30, 2021, the DOJ granted the Department access to the Federal Reimbursement System in order to start the electronic IA application. The application was labor intensive and required a large amount of information from Finance and CDF Operations. The Department completed and submitted the electronic IA application on May 25, 2021. Since the submission of the electronic IA application, the Department continued its renegotiation efforts. Between June and September 2021, numerous follow up attempts were made by the Department with the Chief of Intergovernmental Agreements requesting a status of the application review. The Department received replies on July 20th and September 9th that the application was being worked on, and a timeframe was unable to be provided for when the review would be completed. On September 13th, the Department reached out to the Federal Bureau of Prisons (FBP) requesting additional assistance. In response, the FBP referred the request for assistance to the DOJ.

On November 3, 2021 the Secretary and members of his Executive Team had a conference call with the Assistant Director of the U.S. Marshals' Prisoner Operations Division. The Assistant Director acknowledged a lack of responsiveness on their end and requested the Department draft and submit a letter proposing a timeframe for scaling back the number of federal detainees housed at the Chesapeake Detention Facility. Once they receive this letter, they will propose an updated reimbursement rate.

Until such time the Department is able to complete the renegotiation of the CA with the ODFT, DPSCS and the Division of Pretrial Detention and Services will continue to use CDF to house pretrial federal detainees at the rate stipulated by the current contract.