Governor's Commission to Reform Maryland's Pretrial System

July 15, 2014

2:00 – 4:00 PM

Maryland House of Delegates Building

Meeting Materials:

- Agenda
- Governor's Commission to Reform Maryland's Pretrial System (Version 2)
- Pretrial Commission Data Request
- Final Packet Pretrial Analysis of Maryland 2014
- District Court Guide for Pretrial Decisions

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Agenda:

- Welcome and Introductions
- Approval of Minutes
- Discussion:
    - Characteristics of Ideal Pretrial System
    - Maryland's Pretrial System and Information Requests
- Formation of Subcommittees
- Closing Remarks/Next Steps

Governor's Commission to Reform Maryland's Pretrial System

July 15, 2014

Characteristics of Ideal Pretrial System

1. Pretrial detention decisions are based on <u>risk</u>.
2. Efficient and cost effective
3. Fundamental rights are protected.

Characteristics of Ideal Pretrial System

1. Pretrial detention decisions are based on risk.
   - High/low risk of re-offense (violent, nonviolent)
   - High/low risk of failure to appear

Methods
- Diversion programs and services
- Better information for pretrial decision makers
- Objective risk assessment tool
- Increase objectivity to eliminate disparities

Characteristics of Ideal Pretrial System

2. Efficient and cost effective

Methods
- Early screening
- Improve processing times
- Effectively manage pretrial populations
- Utilize pretrial supervision when appropriate
- Transparency & accountability: Data collection
  - arrests and booking
  - initial appearances
  - bail hearings
  - jail populations
  - case outcomes

Characteristics of Ideal Pretrial System

3. Fundamental rights are protected.

<u>Methods</u>
- Uphold right to counsel
- Maintain presumption of innocence
- Equal protection

Characteristics of Ideal Pretrial System

1. Pretrial detention decisions are based on <u>risk</u>.
2. Efficient and cost effective
3. Fundamental rights are protected.

Maryland's Pretrial System

- Are pretrial detention decisions based on risk?

Data	Status	Source
How many individuals who were ROR or bailed (so released) FTA or got rearrested?	GOCCP received data from Judiciary and is working on analysis.	Judiciary
FTA statistics by bail type by jurisdiction (2012 and 2013).	Completed	Judiciary
Copy of rule that includes the factors court commissioners consider to determine pretrial release.	Completed. Subcommittee will review.	Maryland Rule 4-216
A breakdown of court commissioner pretrial decisions vs. judge decisions	GOCCP received data from Baltimore City only.	Judiciary
Research on harm reduction models and survey of local pretrial diversion programs statewide.	GOCCP will coordinate with Sen. Shank (NCSL, CSG), PJI, MSAA, MCAA to gather information.	MSAA, DPSCS, MCAA, Judiciary
Proven strategies to manage risk based on assessment	Subcommittee will research.	Subcommittee #1
What branch of govt/agency should administer risk assessment tool?	Subcommittee will research.	Subcommittee #1
Testing of risk assessment tool to address concerns		

Maryland's Pretrial System

- Is the system efficient and cost effective?

Data	Status	Source
Citizen application breakdown for the past 2 years including summonses and arrest warrants	GOCCP will reach out to JIS. Detailed information may not be available. GOCCP will coordinate w/ Dave Weissert.	Judiciary
Number and percentage of nolle pros and dismissal cases by jurisdiction	State's Attorneys receive annual report from District and Circuit Court. (	Judiciary, MSAA
How many citizen and police complaint cases are screened by a State's Attorney	MSAA (Scott)	MSAA
Average wait times to get to the court commissioner initial appearance	Survey of local jails with central processing; LE	MCAA
Length of time defendants are detained pretrial by jurisdiction	2 maps were created using monthly jail data to be distributed to the Commission on 7/15	MCAA
Daily jail snapshots of the detained pretrial population	7 of 24 jurisdictions have sent their data, received from MCAA. GOCCP will analyze.	MCAA
Pre and post Richmond statistics by jurisdiction: average initial appearance waiting time, RORs, and bail amounts	Subcommittee will investigate different jurisdictions. Dave Weissert is collecting some of these data.	Judiciary
Assess the impact on Richmond by jurisdiction (indigency determinations)	Subcommittee will investigate different jurisdictions.	DPSCS, MCAA, MSAA, Judiciary, law enforcement, OPD
How many defendants waived right to counsel post-July 1st? Does it depend on offense type (M v. F)?	Dave Weissert is collecting waiver information. Commissioners do not track types of offenses.	Judiciary

Maryland's Pretrial System

- Are fundamental rights protected?

Data	Status	Source
A sample of court commissioner decisions by demographics of the defendant, crime charged, and criminal history		Judiciary
What branch of gov't/agency should be responsible for providing counsel?	Subcommittee will research options, make recommendation.	Subcommittee #3
Geographic standardization		

Values in Justice System

- Individual outcomes
- Public Safety
- Efficacy

See Executive Order

Executive Order

- Conduct a comprehensive examination of ideas that the State of Maryland could implement to ensure that Maryland operates an equitable and efficient statewide pretrial program;
- Review approaches of other states and municipalities that use validated risk assessment tools;
- Recommend how an objective validated risk assessment tool could be used in the State of Maryland;
- Consider other methods to reduce the amount of time that low-risk arrestees are detained and other methods of pretrial diversion;
- Develop and issue recommendations, including recommendations for legislation, that the State of Maryland should undertake to achieve these goals;
- Assist and advise the State on issues arising from the ongoing implementation on a pilot basis of a risk assessment tool in one or more counties; and
- Consider other related matters as the Commission deems necessary.

Data Category	Data Request	Source	Status	Requestor
Pretrial detention decisions are based on risk	How many individuals who were ROR or bailed (so released) FTA or got rearrested.	Judiciary	GOCCP received a data dump from the Judiciary on 32,000 bail and ROR cases in 2013. GOCCP will create a sample and manually review these cases to look for pretrial failures (FTA or re-arrest for any offense or a violent offense)	Scott Shellenberger
Pretrial detention decisions are based on risk	FTA statistics by bail type by jurisdiction (2012 and 2013)	Judiciary	Completed	Brian Frank
Pretrial detention decisions are based on risk	Copy of statute that includes the 8 factors considered to determine pretrial release	Maryland Code	Completed	Tammy Brown
Pretrial detention decisions are based on risk	A breakdown of court commissioner pretrial decisions vs. judge decisions	Judiciary	GOCCP received data from Baltimore City only.	Tammy Brown
Pretrial detention decisions are based on risk	Research on harm reduction models and survey of local pretrial diversion programs statewide	MSAA, DPSCS, MCAA, Judiciary		Senator Christopher Shank
Efficient and cost effective	Citizen application breakdown for the past 2 years including summonses and arrest warrants	Judiciary		Hon. Steven Platt
Efficient and cost effective	Number and percentage of nolle pros and dismissal cases by jurisdiction	Judiciary, MSAA		Hon. Steven Platt
Efficient and cost effective	How many citizen and police complaint cases are screened by a State's Attorney	MSAA		Hon. Steven Platt
Efficient and cost effective	Average wait times to get to the court commissioner initial appearance	Judiciary		Tammy Brown
Efficient and cost effective	Length of time defendants are detained pretrial by jurisdiction	MCAA	2 maps were created using monthly jail data to be distributed to the Commission on 7/15	Capt. Michael Merican
Efficient and cost effective	Daily jail snapshots of the detained pretrial population	MCAA	7 of 24 jurisdictions have sent their data	Capt. Michael Merican
Pretrial detention decisions are based on risk	A sample of court commissioner decisions by demographics of the defendant, crime charged, and criminal history	Judiciary		Delegate Joseline Pena-Melnyk
Efficient and cost effective	Pre and post Richmond statistics by jurisdiction: average initial appearance waiting time, RORs, and bail amounts	Judiciary		Tammy Brown
Fundamental rights are protected	Assess the impact on Richmond by jurisdiction	DPSCS, MCAA, MSAA, Judiciary, law enforcement, OPD		Senator Robert Zirkin

Pre-Trial Analysis of Maryland

Cover Sheet

Date Requested: July 3, 2014

Person/Agency Requesting: Jeffrey Zuback, Governor's Office of Crime Control and Prevention

Date Completed: July 7, 2014

Person/Agency Product was sent to: Jeffrey Zuback, Governor's Office of Crime Control and Prevention

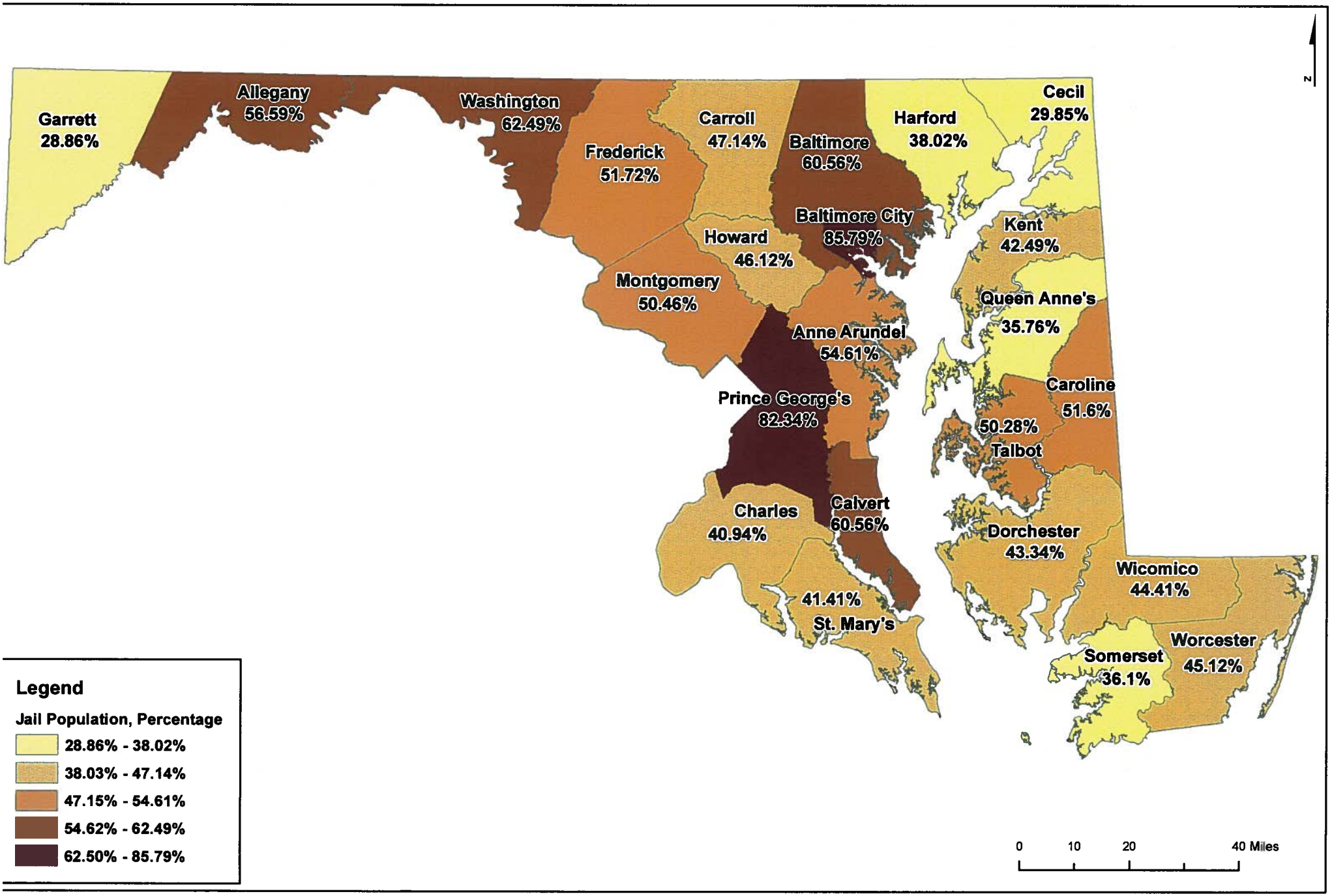
Description of Data Used: The data used for these maps was provided by the Governor's Office of Crime Control and Prevention on pre-trial data by county obtained by the Maryland Correctional Administrators Association.

List of Maps:

2014 Year to Date Average Percentage of the Daily Jail Population that is Pretrial (Page 1)

2014 Year to Date Average Intake Pretrial Population that has been Detained for more than 90 Days (Page 2)

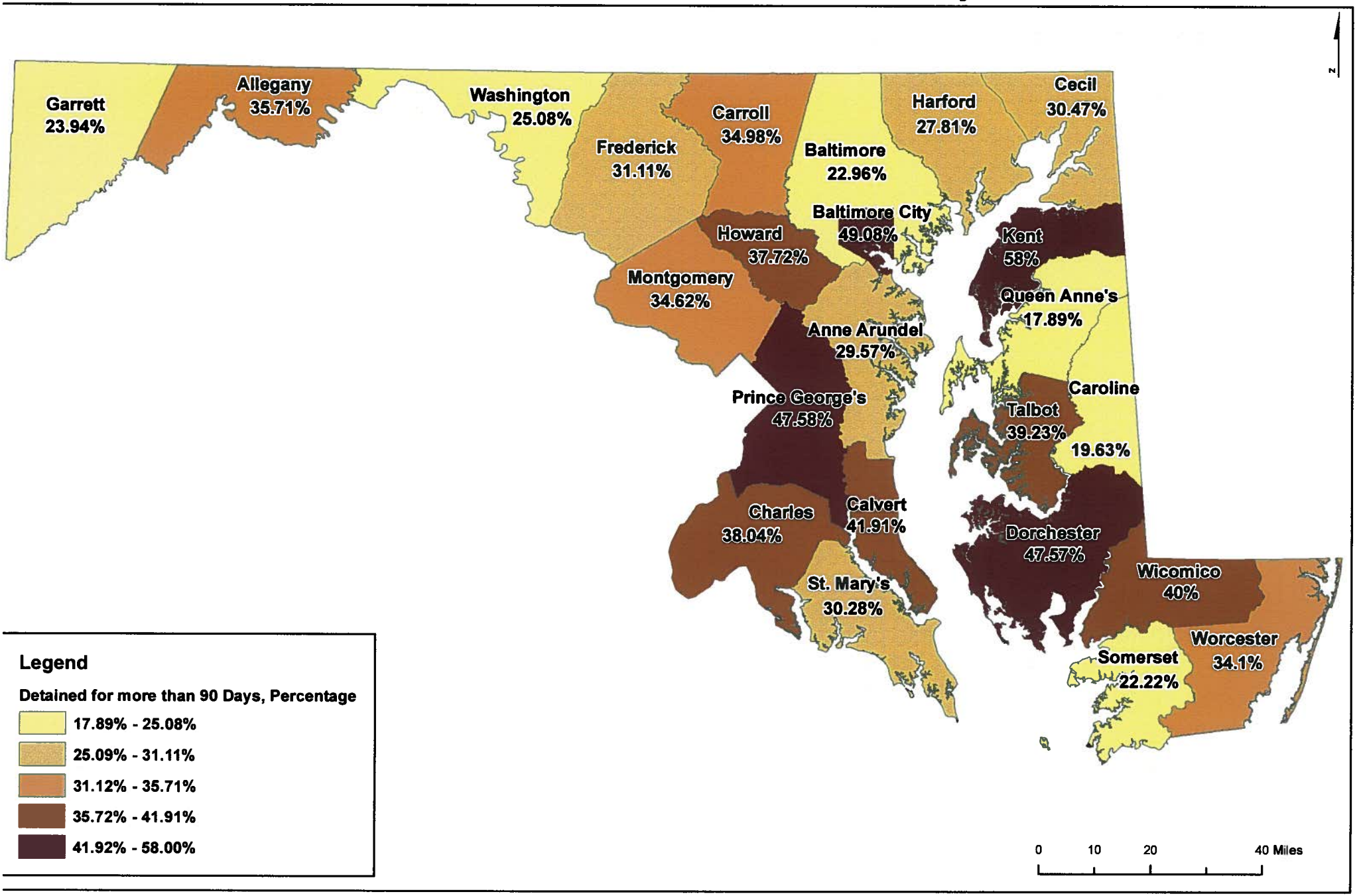
2014 YTD Average Percentage of the Daily Jail Population that is Pretrial



Source: Maryland Correctional Administrators Association
Date Extracted: July 3, 2014
Map Created: July 2014

WASHINGTON COLLEGE

2014 YTD Average Intake Pretrial Population that has been Detained for more than 90 Days



Source: Maryland Correctional Administrators Association
Date Extracted: July 3, 2014
Map Created: July 2014

Washington College
GOCCP

District Court of Maryland

QUICK REFERENCE GUIDE

Restrictions on Pre-trial Release (Commissioner must hold no bond – no discretion)

Escape . . . . . CP 5-202(a)

Drug Kingpin . . . . . CP 5-202(b)

Crime of Violence as listed CP5-202 with previous . . . . . CP 5-202(c)
conviction of crime of violence in any state

Crime listed under CP 5-202(d) while out on bond . . . . . CP 5-202(d)
charged with the same, or another offense listed
under that section

Violation of temporary or final protective order . . . . . CP 5-502(e)
protective order with conditions/charged with abuse or
threats to abuse — **Does not apply to Interim Order**

Crime involving a firearm listed under CP 5-202(f) . . . . . CP 5-202(f)

CP 5-202(f) after being convicted of a crime involving a
firearm listed under CP 5-202(f)

Charged with ANY CRIME, and a registered sex offender . . . . CP 5-202(g)
under CP 11-701 *et seq*

Crime punishable by life imprisonment . . . . . CP 5-102 and Rule 4-216(d)

Fugitive Warrants

Judge Preset Warrants on Violation of Probation

Chief Judge John P. Morrissey
District Court of Maryland
580 Taylor Avenue
Annapolis, MD. 21401
(410) 260-1525
http://mdcourts.gov/district/index.html

Factors to be considered by Commissioners in determining release (Md. Rule 4-216)

- Nature and circumstances of the offense charged
- Nature of the evidence against the defendant
- Potential sentence upon conviction
- Defendant's prior record of appearance at court, including flight and FTAs
- Defendant's family ties, employment status, history and financial resources
- Defendant's reputation and character, including mental condition
- Defendant's length of time of residence in the community and the state's recommendations from pre-trial services, State's Attorneys and defendant's counsel
- Danger of the defendant to the victim, another person or community
- Danger of the defendant to himself or herself
- Any other factors bearing on willful failure to appear and safety of the victim, another person or community
- Prior convictions and/or prior adjudications of delinquency that occurred within three years of the date the defendant is charged as an adult

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