



MDH Juvenile Forensics: Pretrial Services

A Presentation to the State Advisory Board for Juvenile Services

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Juvenile Pretrial Services

- Program has been in existence for 14 years
- Since July 2017, part of Child, Adolescent, and Young Adult Services (CAYAS) unit at MDH's Behavioral Health Administration
- Office consists of **administrative staff** (1) and **chief** (1) with oversight by contracted **senior medical advisor** (works remotely) and **director** of juvenile forensics
- Primary function: Assist courts with juvenile competency evaluations / attainment services

Juvenile Pretrial Services

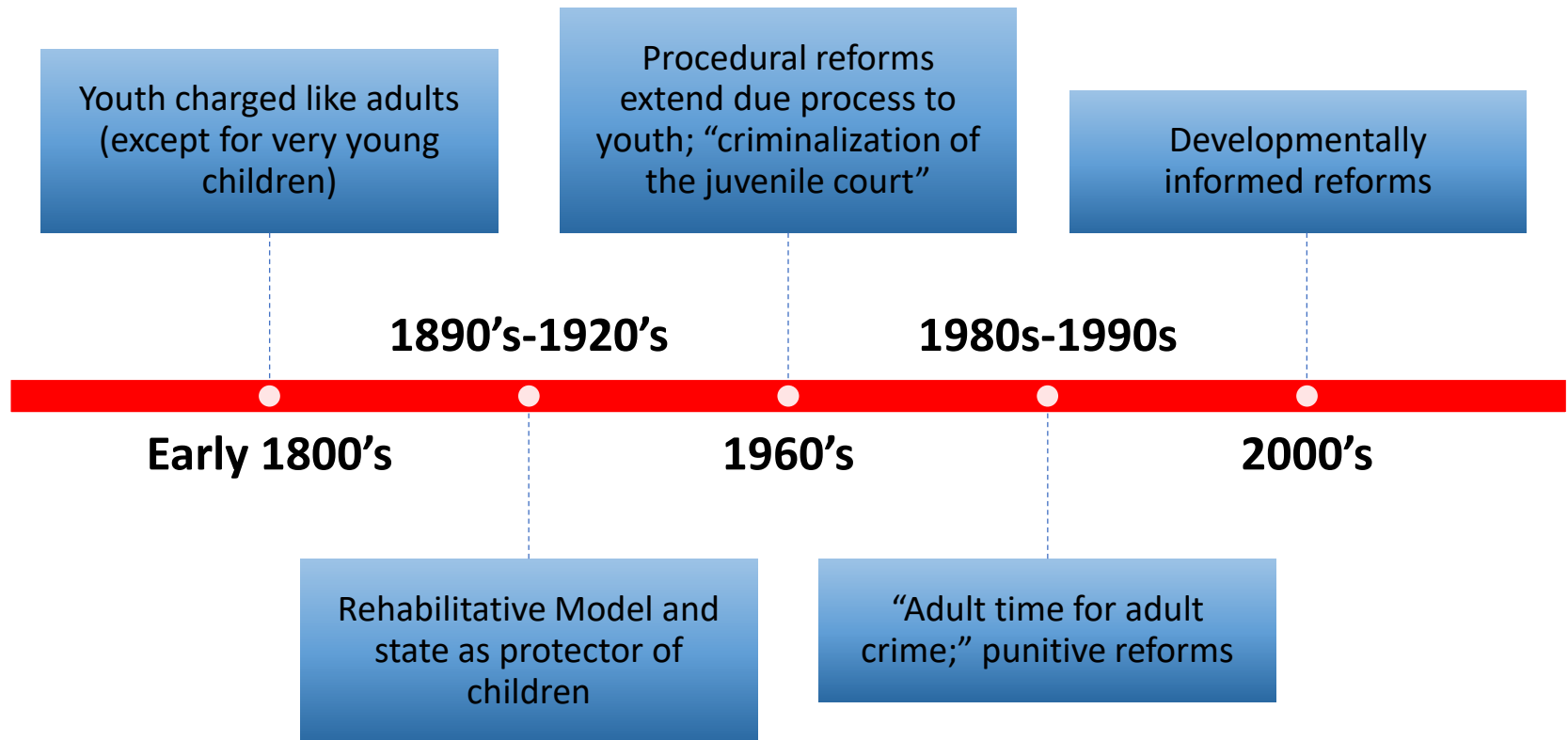
- Approximately **250-300** evaluations per year; nearly **100** attainment cases per year
- We provide training and consultation to outside agencies (Circuit Courts, DJS, attorneys)
- Collaborate with the other units of the MDH forensic group (DDA, OCEP)
- Annual training for evaluators and attainment providers
- Track cases in database to guide our research/practice
- Reports are reviewed by the Juvenile Pretrial Office before submission



What is Competency to Proceed (CTP)?

- What is the name of the offense you are charged with? Is it serious?
- What is an adjudicatory hearing?
- What is a plea bargain?
- Can you plead not guilty/not involved if you committed the offense?

Juvenile Justice System's Development



Dusky v. United States (1960)

SCOTUS ruled that to be competent to stand trial the defendant must have a:

"sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding" and a "rational as well as factual understanding of the proceedings against him."

(the statute MDH uses to guide our CTP evaluations is based on this)

Difference between Rational and Factual Understanding

- **Factual** – Basic knowledge of the legal process
- **Rational** – Logically sound, i.e., capable of reasoning (e.g., is the respondent's expectations of the outcome of his/her case logical and reasoned?)

Juvenile Competency in Maryland

- Framed by **Maryland statute §3-8A-17**
- Statute describes
 - Who is a Qualified Expert
 - Timelines for report production
 - Who should provide information
- Statute describes
 - Plan for dealing with those who need to “attain”
 - Timelines for attaining competency

Referrals for Competency Evaluations

- Grisso (1987) recommends that the question of juveniles' trial competence should be asked in cases involving any one of the following conditions:
 - Age 12 or younger
 - Prior diagnosis/treatment for a mental illness or intellectual disability
 - Borderline level of intellectual functioning or record of learning disability
 - Observations by others at pretrial events suggest deficits in memory, attention, or interpretation of reality

Adults vs. Juveniles

- MDH approaches juvenile competency differently than it does for adults
 - Standard is different: Based on **developmental normalcy**
 - Statute also includes several factors that report must consider that are specific to youth (e.g., **maturity, ability to behave in courtroom**)
- Juvenile competency does not assess criminal responsibility
 - There is no standard for criminal responsibility in juvenile court or procedures to follow in performing juvenile responsibility evaluations.

Statute

§3-8A-17

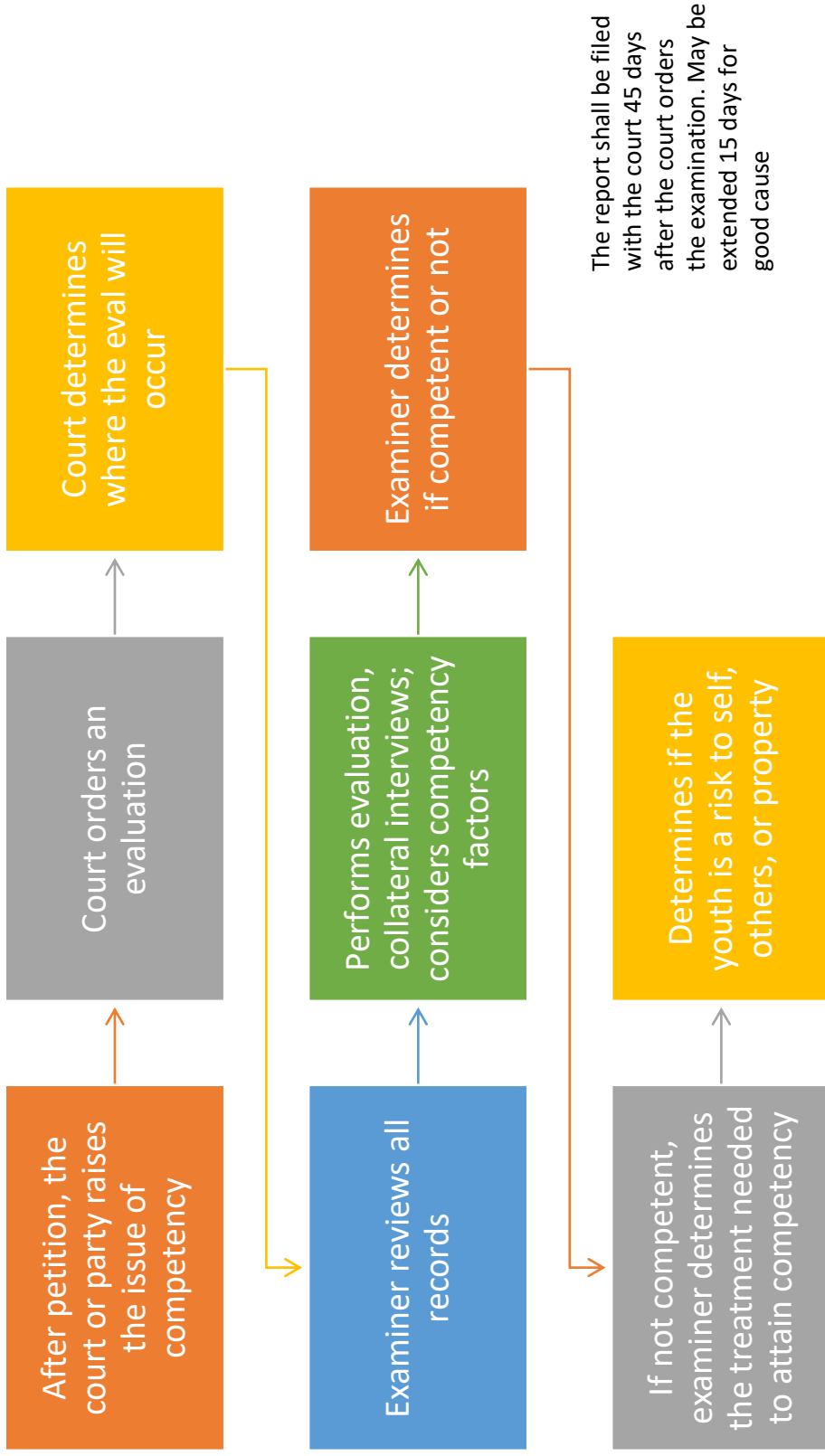
§3-8A-17.1: Evaluation of child's mental condition

- The Court (judge), child's attorney or State's Attorney may raise the issue of competency
- Reason to believe: incompetency to proceed with a waiver hearing, adjudicatory hearing, disposition hearing, or a violation of probation hearing
- Qualified expert:
 - Licensed psychologist or psychiatrist
 - Expertise in child development, with training in forensic evaluation of children
 - Familiar with competency standards
 - Familiar with treatment, training, and restoration programs for children available in Maryland

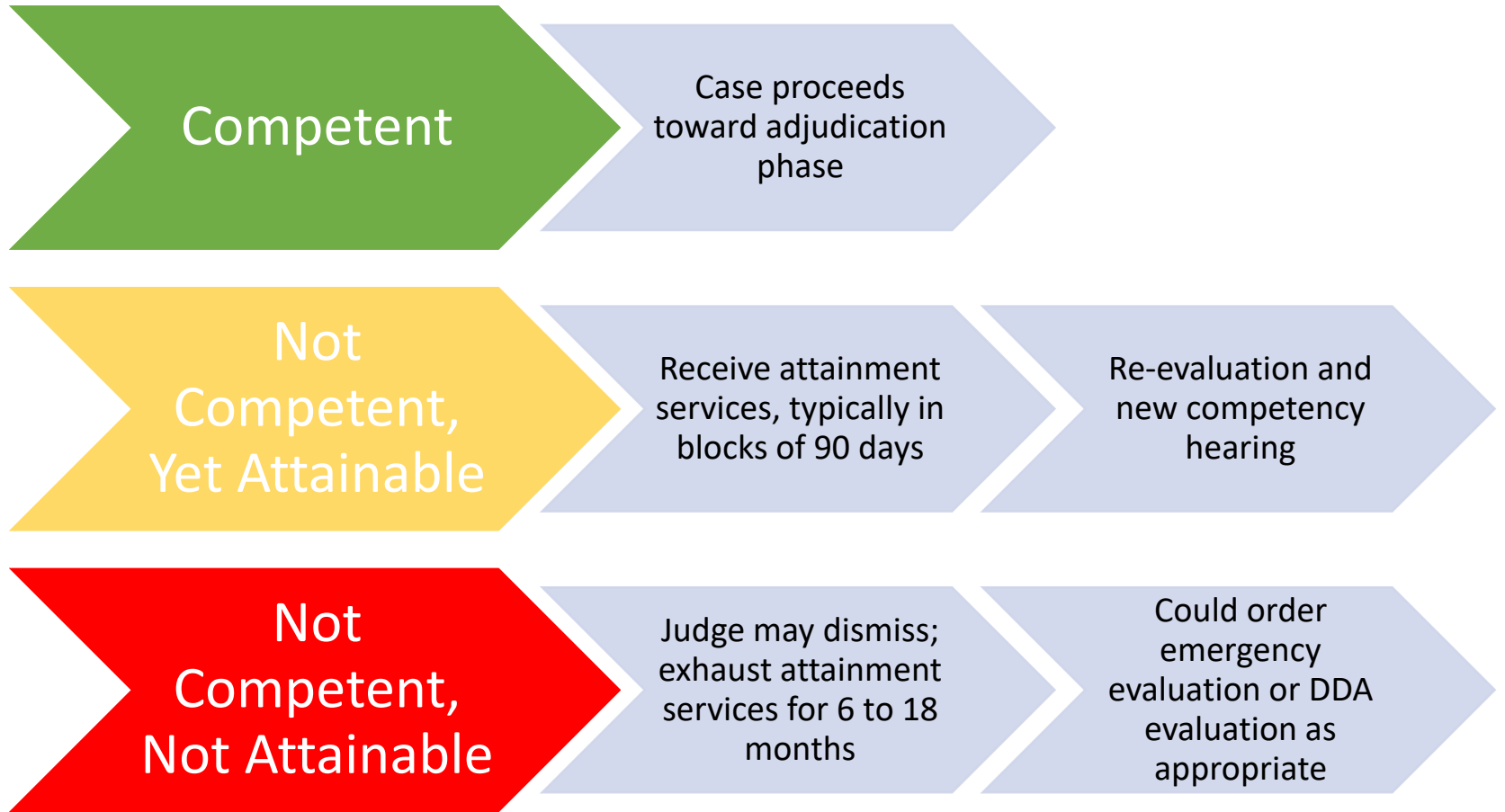
§3-8A-17.3: Evaluation of child's mental condition - Report

- The expert shall consider the following factors:
 - The **child's age, maturity level, developmental stage and decision-making abilities**
 - The capacity of the child to:
 - Appreciate the **allegations** against the child
 - Appreciate the range and nature of allowable **dispositions** that may be imposed in the proceedings against the child
 - Understand the **roles of the participants** and the **adversary nature** of the legal process
 - **Disclose to counsel** facts pertinent to the proceedings at issue
 - **Display appropriate courtroom behaviors** (*during ALL court proceedings*)
 - **Testify relevantly**
 - And any other factors that the qualified expert deems to be relevant

Competency Process



Competency Process



Attainment Services

Attainment Services

- Contracted, Licensed professionals (LCPC, LCSW-C, Special Ed.)
- To occur in “**least-restrictive**” environment
- Outpatient(majority)
 - Delivered in community, 2-3x per week
- Placement (FFC)
 - Following a Judge’s ruling that a youth is not competent, he/she may order attainment services for 90 days (re-eval)
 - Based on nature of charges/youth’s behavior, Judge may order the youth to receive these services at a “facility for children”
 - Currently, John L. Gildner Regional Institute for Children (RICA-Rockville)
 - Semi-secure unit
 - Attainment services 3-4x per week
 - Receives academic services
 - Medication as necessary
 - Problem: Uptick in referrals; limited space

Providing Competency Attainment Services

- Different individuals learn best in different modalities; some learn best when information is given visually, others learn best if they hear the information, and others by reading the information.
 - It is important to present material in a variety of modalities initially
 - Emphasis is placed on the modality he/she exhibits strength in
 - Review of IEP

Providing Competency Attainment Services (cont'd)

- Goals for competency attainment services
 - Build rapport
 - Provide **accurate** and relevant information about the juvenile justice system in Maryland
 - Set social and behavioral expectations for sessions, and for working with attorneys and being in court
 - Monitor progress in understanding legal information

Scenario

You have been arrested and charged with felony assault. The police say that you were in a 7-Eleven store when you became involved in an argument with another customer, a fellow student from your school. During the argument, you reportedly pushed the other student so hard that he fell backwards and hit his head on the store counter, causing him to be knocked unconscious. You allegedly ran out of the store after the student fell down. The cashier and two other customers, a priest and a school teacher, saw the incident and are prepared to testify against you at a trial if you have one. The security cameras in the store also recorded the incident and the government plans to use the footage as evidence against you.

Youth who can attain competency

- 2009 research in Virginia found that **approximately 70%** of incompetent youth can attain competency following a period of remediation, but this outcome varies widely depending on the impairment that contributed to the initial finding of incompetence (Warren et al., 2009). In this same study (n = 563 youth):

Diagnosis	% able to meet standard for CTP
Youth with ID	46%
Youth with ID & mental disorder	48%
Mental Disorder Only	84%
No mental disorder & no ID	91%

Warren et. Al. Developing a forensic service delivery system for juveniles adjudicated incompetent to stand trial. *International Journal of Forensic Mental Health*, 8(4), 245-262.

Youth who can attain competency

- 2019 research from Virginia (n = 1,913) indicates that **76% of youth** ordered into remediation services can attain competency. Note this is equal to that found among adult defendants determined by the court to be IST (Gay et al., 2017; Zapf & Roesch, 2011).
- 2019 Virginia study did show that age does matter in the remediation process, however.

Age	Percent Remediated
Eight to 10 yrs	66%
11 to 13 yrs	80%
14 to 16 yrs	76%

Gay, J.G., Vitacco, M.J., & Ragatz, L. (2017) Mental health symptoms predict competency to stand trial and competency restoration success. *Legal and Criminological Psychology*, 22(2), 288-301.

Warren et. Al. (2019) The Competency Attainment Outcomes of 1, 913 Juveniles Found Incompetent to Stand Trial. *Journal of Applied Juvenile Justice Services*.

Zapf, P.A., & Roesch, R. (2011). Future directions in the restoration of competency to stand trial. *Current Directions in Psychological Science*, 20(1), 43-47.

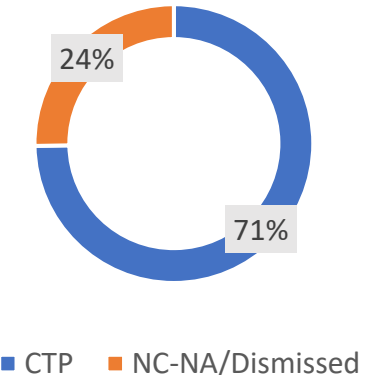


What our Population Looks Like (2017-2020)

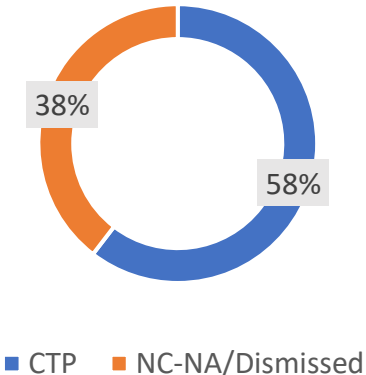
- Median/Average age is 14
- 86% male; 71% AA / 21% W
- “Severity of offense”
 - Crimes of Violence = 23%
 - Felonies = 15%
 - Misdemeanor = 58%
- Most Cases referred (by county)
 - Baltimore City = 27% (155 of 583 cases)
 - Baltimore County = 12%
 - Wicomico = 10%
 - Montgomery = 8%
 - Dorchester = 7%
- In 2020, 62% of cases were ordered attainment services (38% in 2017)
- MDH initial CTP opinion has dropped from 49% (2017) to 22% (2020)

Outcome Data – Results (2017-2019)

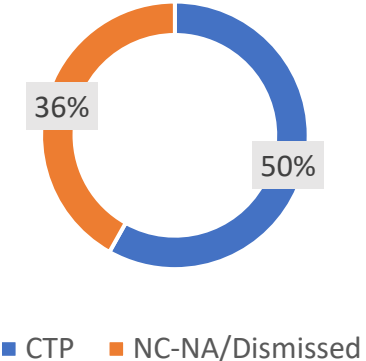
2017 (156 Cases)



2018 (103 cases)

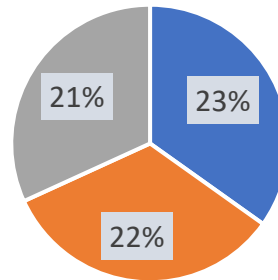


2019 (131 cases)



12 and Under Stats (2017-2019)

12 & Under



■ 2017 ■ 2018 ■ 2019

Competency to Proceed (Judge's initial opinion)	Final Outcome
-2017 74% were NC+A (3% were NC-NA) -2018 65% were NC+A (15% were NC-NA) -2019 63% were NC+A (17% were NC-NA)	-2017 64% were CTP -2018 40% were CTP -2019 43% were CTP

Facility for Children and Spring Grove Hospital Center

FFC: What? Where? When? Why? How?

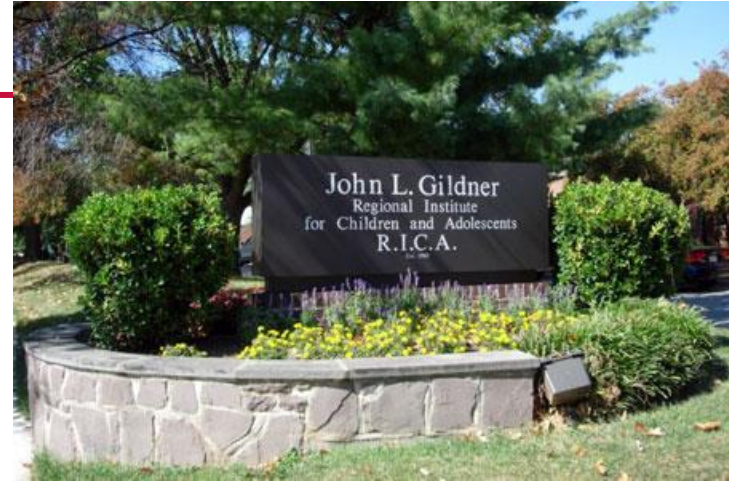
- What?
 - The facility for children is a residential program for boys and girls, potentially ranging in age from 7-20 years of age.
- Where?
 - Located on the grounds of the John L. Gildner Regional Institute for Children and Adolescents (JLG-RICA) in Rockville.
- When?
 - FFC opened in 2006.
- Why?
 - Per statute, youth are placed at FFC after being found not competent, yet attainable, and are not able to be served in the community due to safety concerns. Placements can range from an initial 90 days by statute, with additional 6 month increments as deemed necessary by the courts. For a delinquent act, that would be a felony if committed by an adult, a juvenile can remain in attainment services for no more than 18 months.
- HOW?
 - On court order; per statute, FFC is to be managed by:

§ 3-8A-17.12. Regulations.

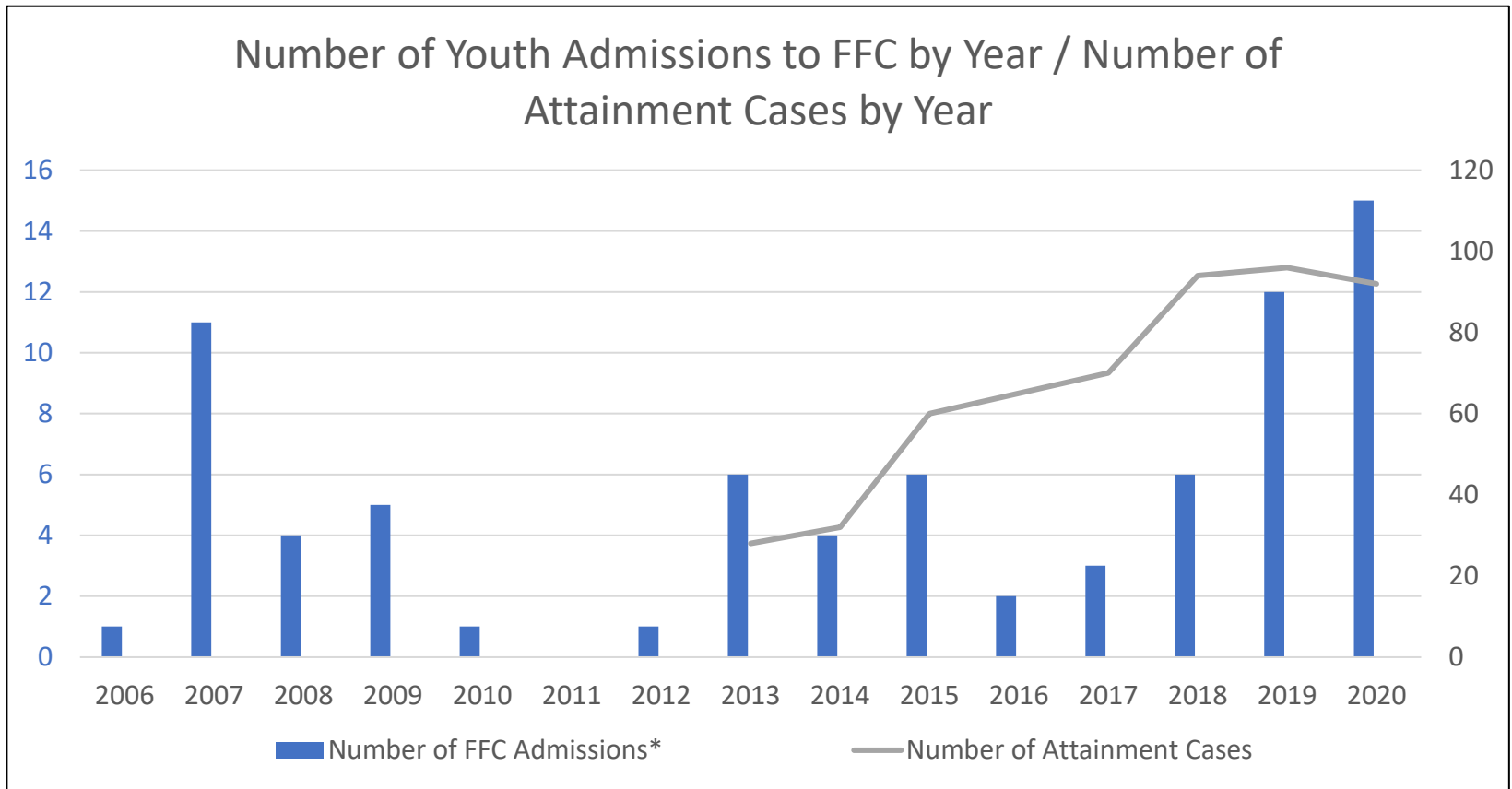
The Secretaries of Health and Mental Hygiene, Human Resources, and Juvenile Services, and the Superintendent of Schools shall jointly adopt regulations to carry out the provisions of this subtitle relating to competency.

FFC Stats (2017-2020)

- Median age = 14
- 12 & Under
 - 2017 – 57%
 - 2018 – 43%
 - 2019 – 42%
 - 2020 – 40%
- 80% AA; 80% male
- 57% Felony
- 35 cases referred (21 between 2008-2016)
- Top Referring Jurisdictions (12 of 24 counties):
 - Baltimore City = 41%
 - Dorchester/Wicomico = 11% each
- Average length of stay = 3.4 months (4 youth have stayed for as long as 8 months; longest was 10 months in 2015; length of stay could be 6-18 months)

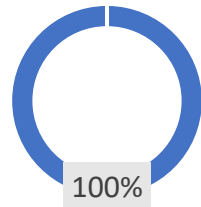


FFC Admissions over the Years



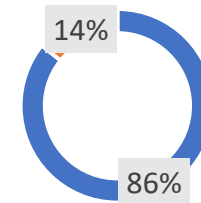
FFC – Competency to Proceed (2017-2020)

2017 (7 cases)



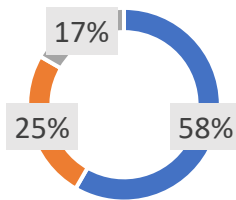
■ CTP ■ NC-NA/Dismissed

2018 (7 cases)



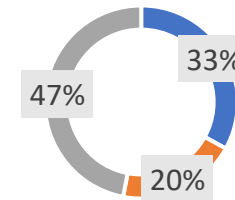
■ CTP ■ NC-NA/Dismissed

2019 (12 cases)



■ CTP ■ NC-NA/Dismissed ■ Active

2020 (15 cases)



■ CTP ■ NC-NA/Dismissed ■ Active

Spring Grove Hospital Center (SGHC)

- Adolescent Unit (Dayhoff B)
- Ages 12-17, both male and female
- Multidisciplinary hospital staff
- Educational services are provided
- Youth must meet hospital inpatient criteria:
 - Has a mental disorder
 - Needs inpatient care or treatment
 - Danger to self/others
 - Unable or unwilling to be admitted voluntarily
 - Least restrictive setting does not exist
- Attainment services when hospitalized?



MDH Juvenile Contact Information

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Questions

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