

Spring 2020

# YOUTHFUL OFFENDER SYSTEM

- **Direct file may be sentenced to the youthful offender system UNLESS convicted of:**
- *A class 1 felony;*
- *Any sexual offense described in section 18-6-301 or 18-6-302, C.R.S., or part 4 of article 3 of title 18, C.R.S.; or*
- *A second or subsequent offense, if the juvenile received a sentence to the department of corrections or to the youthful offender system for the prior offense.*



**DIRECT  
FILE:  
ELIGIBLE  
FOR YOS  
19-2-517**

**YOUNG ADULTS:  
GETTING IN TO YOS  
18-1.3-407.5**

- **Direct Sentence to YOS permitted if:**
- **at least eighteen years of age but under twenty years of age at the time the crime is committed and under twenty-one years of age at the time of sentencing, AND:**
  - Convicted of a felony enumerated as a crime of violence (18-1.3-406);
  - Convicted of a felony weapons offense (18-12-100s)
  - Used, or possessed and threatened the use of, a deadly weapon during the commission of a felony offense against a person,
  - Convicted of vehicular homicide (18-3-106), vehicular assault (18-3-205), or felonious arson (18-4-100s)

YOUNG ADULTS:  
GETTING IN TO YOS  
18-1.3-407.5

- Convicted of an F3, other than sex assault when victim is less than fifteen years of age and the actor is at least four years older, AND
  - has, within the two previous years, been adjudicated a juvenile delinquent for a delinquent act that would constitute a felony if committed by an adult;
- Convicted of a felony offense, AND
  - is determined to have been a "habitual juvenile offender," (two previous felony for separate delinquent acts, arising out of separate and distinct criminal episodes). (19-1-103 (61)).

*Attempt, conspiracy, or solicitation to commit listed offenses are also YOS eligible.*

- Convicted of
  - Class 1 or class 2 felony;
    - BUT, a young adult offender who is charged with first degree felony murder (18-3-102 (1)(b)) and pleads guilty to a class 2 felony as a result of a plea agreement, if the underlying felony would be YOS eligible.
  - Any offense, if the young adult offender has received a sentence to the **youthful offender system** for any prior conviction.



INELIGIBLE  
FOR YOS  
18-1.3-407.5



## YOUTH TRANSFERS

- **18-1.3-407:** For the purposes of public safety, academic achievement, rehabilitation, the development of pro-social behavior, or reentry planning for youthful offenders, the executive director or his or her designee may transfer any **offender age twenty-four years or younger** and sentenced to the department of corrections into and out of the youthful offender system at his or her discretion.

## YOS SENTENCE

The court shall first impose a sentence to the department of corrections



The court shall suspend such sentence conditioned on completion of a sentence to the youthful offender system, including a period of community supervision.

WHEN CAN I  
ADVOCATE?

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Plea Negotiations

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Sentencing

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Post-Sentencing, with DOC

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35(b)

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During DOC Sentence

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At YOS revocations

# ESSENTIAL INFO



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Departmental Information > Departmental Reports and Statistics

## Departmental Reports and Statistics

# Evaluation of the Youthful Offender System (YOS) in Colorado:

A report of findings per C.R.S. 18-1.3-407(10)(b)

December 2018

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**COLORADO**  
Division of Criminal Justice  
Department of Public Safety

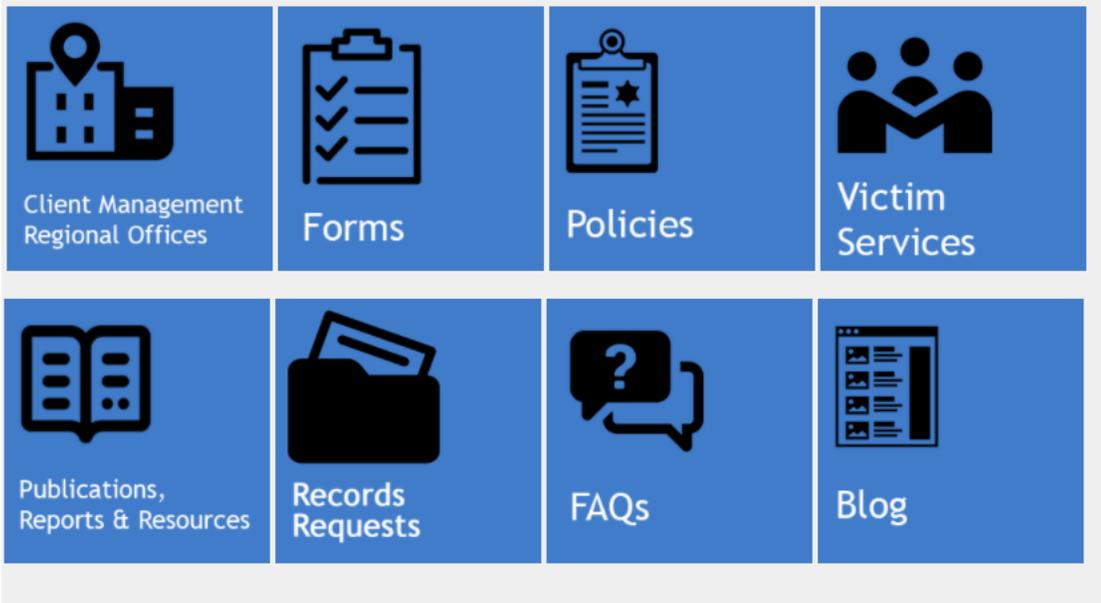
ORS Home DCJ About ORS Data & Stats Documents Data Collection Requests Search

Documents · Reports and Documents

## Reports and Documents

The following documents and reports are only those published by the DCJ: Office of Research and Statistics. For other reports, see the

# ESSENTIAL INFO



**– Youth Services Reports & Evaluations**

TITLE	LAST MODIFIED
Annual Reports	Feb 11 Gail Andrews
Annual Senate Bill 94 Evaluation Reports and Reference Man...	4/13/17 Cdhs Comm
Continuum of Care: Youth Transitions and Non-Residential S...	4/13/17 Unknown US

Fiscal Year 2018 - 2019

Management Reference Manual



**COLORADO**  
**Division of Youth Services**  
 Office of Children, Youth & Families

January 2020

WHO IS AT  
YOS?

Figure 5  
Average Age at Admission (FY 2019 = 19.1)

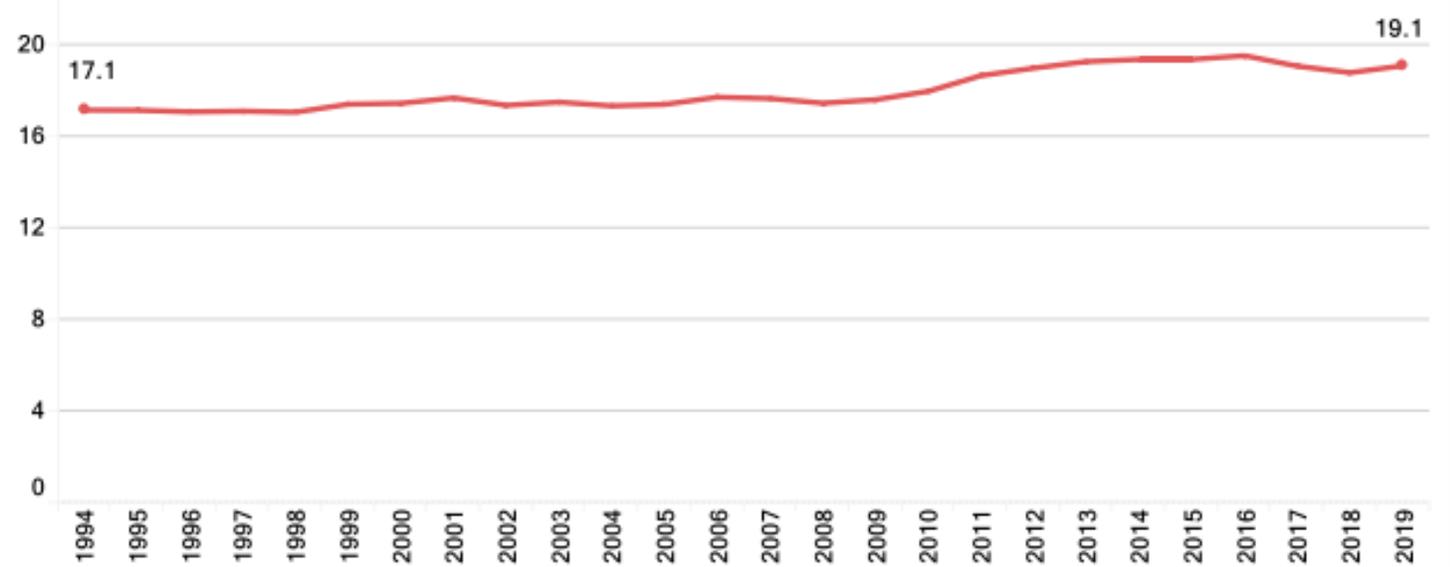
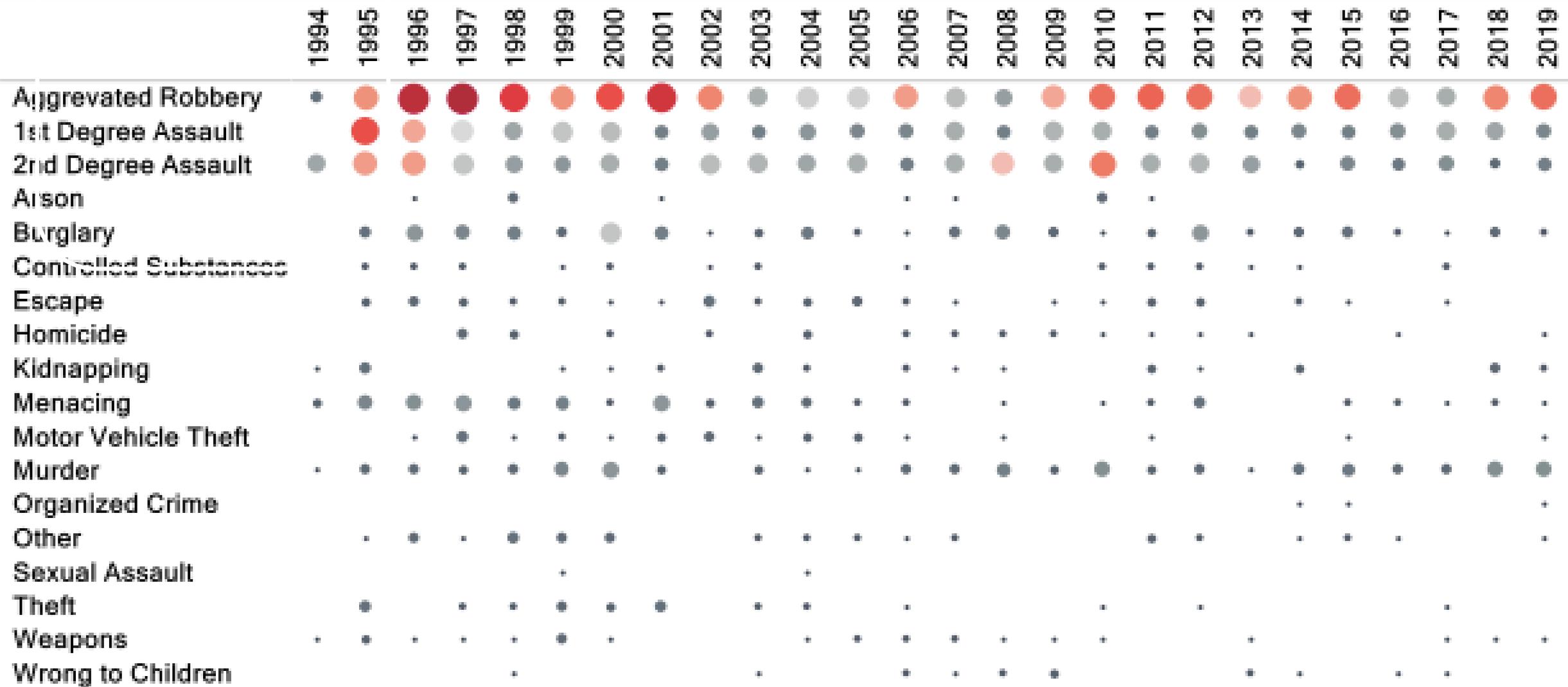


Figure 9

Most Serious Crime by FY of Admission Since YOS Inception



Count of Docno

WHAT'S A YOS SENTENCE LIKE?



Boot Camp

Three phases

GED and college courses available

- Limited special education

Vocational programming available

- BUT, GED required

No Gang Intervention

Limited SA counseling

Limited MH services

# MENTAL HEALTH SERVICES

## Intake

During the first 7-10 days, a “thorough” mental health and medical assessment is completed to determine the level of care the offender needs.

### The assessment includes

- Clinical interview, Brief Psychiatric Rating Scale (measures depression, anxiety, hallucinations and unusual behavior), CDOC Mental Health Screening Form, and Mental Health Appraisal Form.

## **Cognitive Intervention Treatment Components**

- Quick Skills
- Guided Group Interaction (positive Peer Culture)
- Thinking for Change
- Addiction and Recovery Programs
- Life/Living Skills
- Victim Impact & Awareness
- Seven Habits of Highly Effective Teens

# MENTAL HEALTH SERVICES

## **Non-Mandatory Treatment**

### Individual Therapy

- One time a month at minimum for High Level mental Health Score
- Once every three months for Low Level Mental Health Score
- No options for individual therapy for offenders that score at the lowest level of mental health services.

## **Mandatory Mental Health Programming**

- Anger Management
- Victim Impact
- Thinking for Change
- Substance Abuse
- Pre-Release,
- Parents on a Mission

# THE BACK END: REVOCATIONS

# SUITABILITY HEARINGS

## REVOCAATION HEARINGS



**“Due process entitles a defendant to a pre-revocation evidentiary hearing and the opportunity to confront and cross-examine witnesses.” These are required:**

- (1) written notice of the claimed violations;
- (2) disclosure to defendant of the evidence against him or her;
- (3) a fair opportunity to be heard in person and to present witnesses and documentary evidence;
- (4) the right to confront and cross-examine adversarial witnesses, unless there is good cause to deny such a right;
- (5) a neutral and detached hearing officer or judge; and
- (6) a written statement by the factfinder as to the evidence relied on and reasons for the revocation.

## REVOCATION HEARINGS

Revocation of a YOS sentence can only occur upon a showing that defendant meets the requirements in the statute for revocation. See *People v. McCoy*, 939 P.2d 537, 540 (Colo.App. 1997).

“A defendant has a reasonable expectation that transfer will not occur absent just cause.” *Id.* “Therefore, revocation of a YOS sentence is markedly different from revocation of a community corrections placement where rejection may occur for any reason or for no reason at all.” *Id.*

The prosecution has the burden of establishing grounds for revocation by a preponderance of the evidence. *Id.*

# REVOCAATION HEARINGS

- The youth must have posed “a danger to himself or herself or others” (for YOS to initiate the transfer/revocation process, under the statute)
- The youth must either be unable to “successfully complete the sentence to the youthful offender system,” or “fail to comply with the terms or conditions of the youthful offender system” (for DOC to refer the case to the district court for revocation)
- Timeline: If youth is transferred to another facility, YOS must determine whether to revoke within 60 days. If revoked by YOS, youth must be transferred to the county jail within 35 days.
- **The court has broad discretion to fashion a sanction for failure to abide by these timelines.** *People v. Martinez*, 350 P.3d 986, 992 the trial court dismissed the DA’s petition to revoke the YOS sentence and impose a DOC sentence because DOC failed transfer the defendant to county jail within thirty-five days. COA found “the district court retained discretion to fashion a remedy it deemed appropriate for the statutory violation, and we perceive no abuse of that discretion in the court determining dismissal was the appropriate remedy.”

## REVOCAATION HEARINGS

- See *People v. McCoy*, 939 P.2d 537, 541 (Colo.App. 1997) (“The statute thus makes it clear that upon such a revocation, imposition of the original sentence is the only authorized sentencing procedure.”)
- BUT: 18-1.3-407(5)(b) provides that a youth who is unable to complete the YOS program due to a behavioral or mental health disorder or an intellectual and developmental disability **may be eligible for a reduced DOC sentence if revoked.**

# REVOCAATION HEARINGS

- *Don't forget to ask for:*
  - presentence confinement for days in jail prior to imposition of the original sentence (might not have been awarded when sentenced to YOS)
  - presentence confinement credit for the days served at YOS (18-1.3-407(2)(a)(IV)(b))
  - consider making an argument that the client should also get earned time for the time served at YOS, especially since the sentence is now being converted to a DOC sentence. An equal protection argument was raised regarding earned time in *McCoy*, but the court did not reach the issue. *People v. McCoy*, 939 P.2d 537 (Colo.App. 1997).

# YOS: A FAMILY MEMBER'S PERSPECTIVE