ADOLESCENT PATHWAYS

Exploring the Intersections Between Child Welfare and Juvenile Justice, PINS, and Mental Health

M.L. Armstrong
Vera Institute of Justice

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Executive Summary

In 1997, the Vera Institute of Justice began a collaboration with the Administration for Children's Services to study the flow of adolescents into ACS care through other government systems. Specifically, ACS was concerned with teenagers entering care through the juvenile justice, mental health, and PINS systems*. This concern was heightened by an apparent rise in the number of adolescents arriving at the Emergency Children's Services Center (ECS).

Vera worked with staff at ACS and several other local and state agencies to map the movement of juveniles between these agencies and to estimate the numbers moving along each pathway. In most cases, no precise measurement was possible, but a combination of agency data, interviews, observation, and original data collection produced reasonable estimates.

The analysis reveals a large number of teenagers moving between these government agencies, but not always in the expected patterns. For example, ACS staff initially believed that many adolescents entered their care through the juvenile justice system, but the analysis shows that the majority of the adolescents received from the juvenile justice system were actually being returned to ACS. Most had been in ACS care at the time of their arrest.

The study also documents pathways that are well known to people in the agencies but have not previously been measured. For example, teenagers start in the PINS system, but are voluntarily placed in ACS care by their parents before the PINS case is completed. Another example is the flow of children from the mental health system into ACS placements.

Finally, the study documents a lack of mutual understanding and cooperation between the agencies. The result is overuse of ACS placements in some situations and underuse in others. In addition, the analysis identifies duplication of services, unnecessary transaction costs, and poor results for some of the most troubled adolescents in the city's care. The crisis at ECS that spurred interest in this study is a symptom of the inefficiencies and poor coordination that characterize the movement of adolescents between these systems.

The report recommends strengthening interagency partnerships in three specific areas. Coordination should be improved in the PINS system between the diversion program, ACS field offices, and the Family Court. A partnership between ACS and the juvenile justice system should aim to eliminate the costly and unnecessary detention of ACS adolescents. Finally, the partnership between ACS and the mental health system should be strengthened with the addition of more therapeutic foster beds for adolescents.

*PINS is an acronym for "person in need of supervision." Family Court Act (FCA) §712(a) defines a PINS as "a person less than 16 years of age who is truant, incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent."

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Introduction

Adolescence is a tough time for many young people. Some navigate it without coming to the attention of government. When they run into problems, parents, families, and community members help them through. But for those who don't have these supports, government agencies—schools, police, child welfare, hospitals, mental health and juvenile justice—must create a network of support.

For teens in foster care, adolescence is even more of a challenge. Faced with the residual effects of childhood maltreatment, they must overcome a heightened risk of substance abuse, behavioral problems, school failure, delinquency, and mental illness. When they get into trouble, they must rely on their legal custodians, the Administration for Children's Services (ACS), and other government agencies.

ACS stands at the center of the child-serving agencies in New York City. Charged with the enormous task of caring for all children in foster care, ACS also provides temporary care for teenagers who need a place to sleep. These include adolescents who are given up by their parents, who need mental health services, and who have been recently arrested for minor crimes.

These teenagers sometimes coalesce in a single location that has come to highlight the complexity of their needs and the necessity of coordination between many governmental systems. That place is ACS's Emergency Children's Services (ECS), which takes care of adolescents who need beds after business hours or on weekends.

In June 1997, the Vera Institute and ACS began a collaborative effort to understand why large numbers of adolescents needed placement through ECS. That inquiry quickly led to a related question: Where were the adolescents at ACS, other than those who enter because of abuse or neglect, coming from? The immediate result of that inquiry was a complicated chart diagramming the flow of adolescents into foster care. This report provides a text version of that chart with a more focused look at the systems that place primary demand on ACS's placement resources:

- The PINS system, which relies on ACS to house teenagers who need diagnostic services or who cannot live at home while their court cases are pending, some of whom ultimately enter foster care.
- The juvenile justice system, which sends teens in foster care back to ACS after arresting and detaining them.
- The mental health system, which inadvertently uses ACS as a holding place for children whom it cannot accommodate because of a shortage of beds.

These movements across and through the four systems dramatically affect the lives of adolescents. This report describes the entry points to each system as it intersects with ACS. For context, the report also provides basic information about each system. To the extent possible, this report includes data from the relevant government agencies to support assertions about the volume of children involved.[1] But much of the movement between these

[1] Data was provided from the NYS Child Care Review Service (CCRS) and the NYC Juvenile Justice Information Service (JJIS). ACS, the NYS Office of Children and Family Services (OCFS), the Office of Court Administration

systems, not previously recognized, is not recorded in any official database. In the absence of formal data, this report relies on information obtained from interviews with senior staff at ACS, the voluntary contract agencies, the NYC Department of Probation, the NYC Police Department, Family Court judges, and professionals in the mental health system. A list of the many contributors is included as acknowledgements.

Finally, the report includes several recommendations to improve interagency cooperation and thereby reduce the unnecessary movement of teenagers between these systems.

(OCA), the NYC Department of Correction (DOC), and the Department of Juvenile Justice (DJJ) also supplied relevant data.

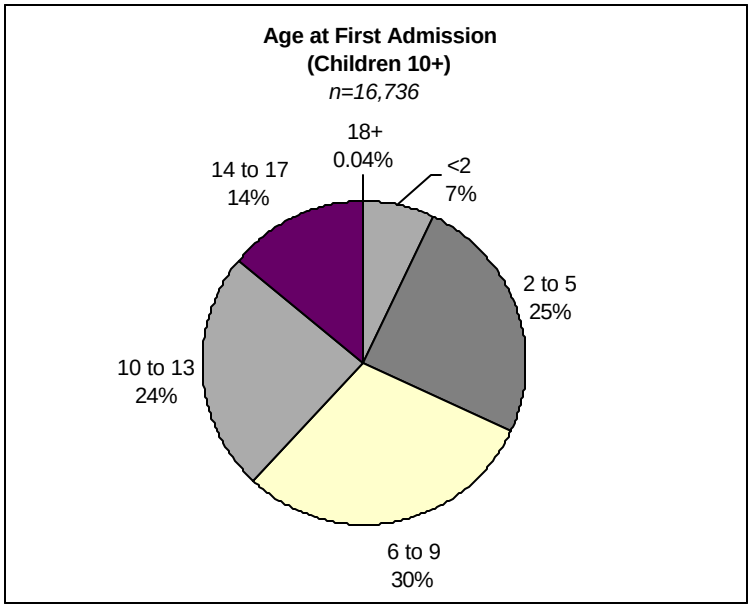
Children in Foster Care

In July 1997, 39,321 children were in care in New York City. One-third were 12 years of age or older. Another one-third were 6-11 years of age, and the remainder 0-5 years of age.

Age at First Admission

The majority (63%) of children in placement were five or younger when they first entered ACS care. Of those who are ten or older, roughly one-third were five or younger when they first entered; roughly one-third were between the ages of five and ten; and roughly one-third were ten or older. Approximately half the adolescents who are 14 or older first entered when they were younger than ten.

Figure 1



Legal Reason for Placement

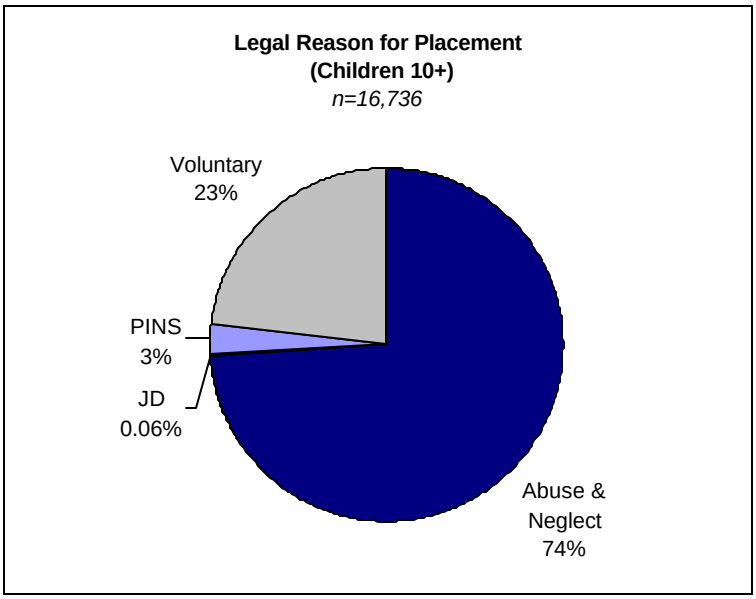
Children enter foster care in four ways. The overwhelming majority of children enter care because the Family Court finds that they were neglected or abused. This legal route is commonly referred to as an "Article 10" after the section of the Family Court Act governing such placements.

Second, parents or guardians may voluntarily sign children into care. A short study by the Vera Institute found that in recent years, voluntary placements are used primarily for older children. The two principle reasons for voluntary placement were misbehavior by the child and the death of the parents. This option was created to assist parents who were temporarily in crisis. But children often remain in voluntary placement for years.

Third, some older children enter foster care through the PINS (Person In Need of Supervision) system, a route that is discussed at greater length in the following section. Children may be remanded to ACS (temporarily placed in its custody) while their case is pending or after they are designated a PINS by the Family Court.

Fourth, children enter ACS care from the juvenile justice system. Only older children take this route into placement.[2]

Figure 2



June 1996 CCRS sample

Types of Placements

Beds are provided by ACS or by private agencies that contract with ACS.[3] Most (80%) older children are placed by private agencies. The majority of children live in foster homes, either kinship or boarding. However, as children age, foster homes are a declining resource; roughly one-third of adolescents who are older than 13 live in group homes or institutions (congregate care).

[2] This section of the report centers on the initial legal route into care. As the report discusses, there is a significant subpopulation of teenagers who first enter care as a result of maltreatment and who later become involved in the juvenile justice system. This group is both different from and substantially larger than the very small number of teenagers discussed in this section—those whose first placement with ACS is the result of a finding of juvenile delinquency.

[3] These private or voluntary agencies, also known as voluntaries, should not be confused with voluntary placements.

Figure 3-1

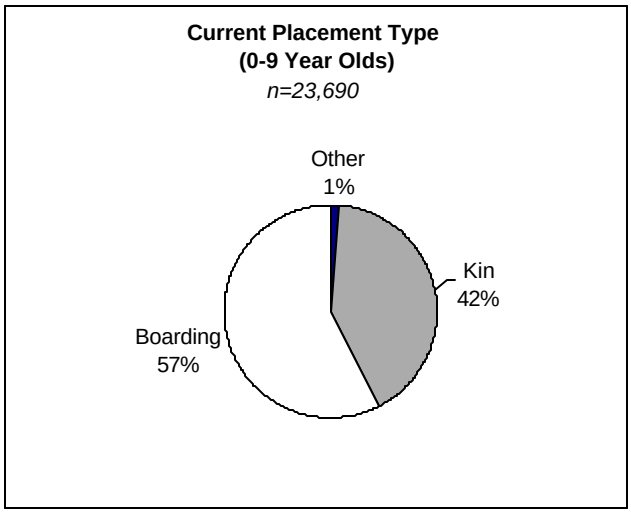


Figure 3-2

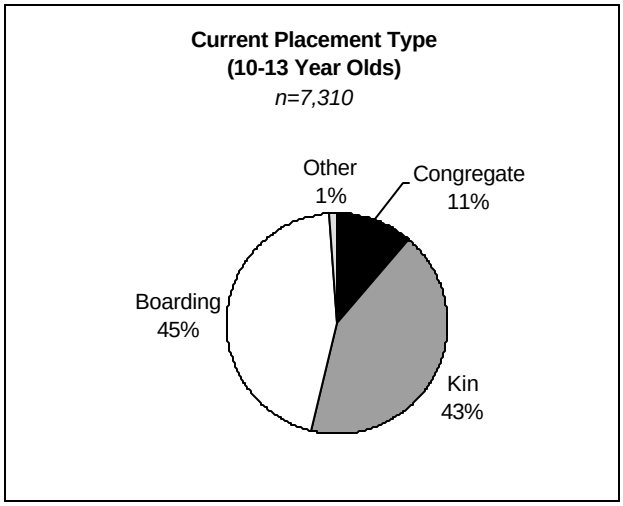
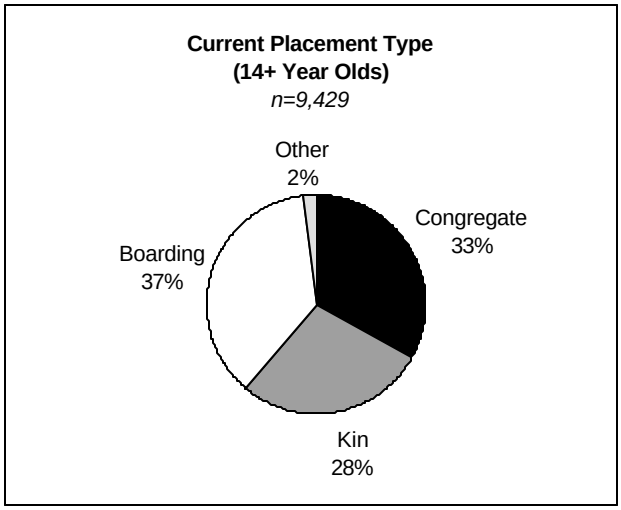


Figure 3-3



ACS and PINS

> *Last year, Linda, 15, ran away from home. Her mother went to the police, who advised her to go to court to file a PINS petition. The judge issued a warrant for Linda's arrest. She was picked up and brought to court. Linda spent a month in a group home before her mother withdrew the PINS case and allowed Linda to move in with her grandmother. But after a few months, Linda's mother again grew distressed at her behavior. Not wanting Linda to remain with her grandmother and unwilling to take her back, her mother refiled the PINS petition and took Linda to court. They saw a judge, who scheduled a hearing for the following day. That night, Linda slept at ECS.*[4]

The PINS System

When struggling with an adolescent, some families ask the government for help. They may turn to schools, the police, and even the mental health system. Professionals in those systems often refer the families to court to file a PINS petition or to ACS for services or a voluntary placement (Diagram 2).

The PINS system was designed to help difficult-to-manage adolescents and their families. Parents, guardians, and schools may petition the Family Court to determine if a teen is a PINS, defined as "a person less than 16 years of age who is truant, incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent." PINS diversion provides services that aim to keep kids out of foster care by solving family problems. If diversion fails or is not possible, the court system can take over.[5]

Whether families first come into contact with ACS or the PINS system is largely a matter of chance. But one, and often both, of the systems will usually determine where troubled adolescents who haven't committed crimes end up. The two systems are intertwined. ACS provides the bulk of diversion services to PINS children and houses those, like Linda, who are remanded (temporarily placed pending the outcome of the case) or placed by the courts as PINS.

Diversion

In recognition that the court process does little to address problems at the root of PINS referrals, in 1987, New York City, under the leadership of the Criminal Justice Coordinator's Office, formed the PINS Diversion Program—a cooperative effort between the Department of Probation and ACS. Families turn to the PINS system (Diagram 3) for a variety of problems of which the teen's difficulties may be only a symptom. Families who initiate PINS proceedings are referred to Probation for screening. Probation staff interview the family members to determine eligibility for diversion.

In 1996, Probation screened 5,242 families. Roughly half, 50.5 %, were referred for diversion after the initial meeting. The rest were sent to court, often because the parent

[4] The stories included are those of real teenagers interviewed at ECS. Their names and identifying details have been changed.
[5] Families also withdraw from the process.

asserted that the teenager's whereabouts were unknown. Once the juvenile's presence was secured, judges directed half of those cases back to Probation for diversion. Overall, more than 70% of cases were resolved via the PINS Diversion Program.

Families who qualify for diversion are sent to borough-based Designated Assessment Service (DAS) units. ACS contracts with private social services agencies to staff the DAS units in Brooklyn, the Bronx, Queens, and Manhattan; Probation staffs the one in Staten Island. DAS units assess the needs of families and adolescents, construct a service plan, and refer them for services. They make referrals for education, mental health[6], substance abuse, and family counseling. After making referrals, they track the progress of the teenager and family. By all accounts, DAS units are adept at assessing the problem, motivating the family and teenager to participate in treatment, and avoiding placement.

DAS units act expeditiously. They are expected to make assessments within 30 days, and referrals shortly thereafter. Once the family makes contact with the organization or agency to which it was referred, DAS sends the case back to Probation for further monitoring. If the family fails to cooperate, DAS will refer the case back to Probation, which decides whether to send the case to court. Probation can monitor the case for up to 180 days.[7]

The Court Process

Diversion is not always possible: The family may not be receptive; the teenager may be unavailable or uncooperative; or the facts of the case may indicate that diversion is inappropriate (for example, the family may have previously filed several PINS petitions). When diversion is not an option or has failed, Probation may refer the case to a judge. The most common reason for referring cases to court is a parent's assertion that the teenager cannot be found. The judge then issues either a summons for the juvenile to appear voluntarily or a warrant for arrest.

When the court issues a warrant, the case is put on hold until the police locate the teenager. The police then bring the adolescent to court, and the case begins. However, if the police find teens at night or on weekends, they bring them to ECS.[8] Because teens arrive in handcuffs, ECS staff members often mistake them for juvenile delinquents. In June 1997, a sample of adolescents who arrived at ECS in handcuffs contained no juvenile delinquents. They all came on executed warrants, usually issued in connection with a PINS case. In two cases, the warrants had been issued at the request of the Health and Hospitals Corporation (HHC).

The stay at ECS is short. The teenager sleeps at ECS and returns to court when it opens, typically the next morning. Judges refer cases back to Probation for diversion or initiate the court process. If judges keep cases in court, they review allegations in the PINS petition and solicit information from parents and advocates. Then they decide whether to return teenagers to their homes or to remand them to ACS pending resolution of the case.

[6] PINS professionals assert that one in three of the teenagers who passes through the PINS system exhibits symptoms of suicidal ideation or severe depression.
[7] FCA §735(g).
[8] PINS warrants are supposed to be executed during court hours.

How many adolescents ACS houses on remand is unclear.[9] Records from the Juvenile Justice Information System (JJIS) suggest that about 400 were remanded to ACS in 1996. Remanded teens are returned to ECS. They are housed like other adolescents in ACS care, usually in a congregate care facility.[10] Any services previously available to the family unit end with the remand. ACS does not provide any specialized services for the PINS population. Although remand is considered a temporary arrangement, the average length of stay is between seven and eight months.

Housing adolescents on remand is costly. The federal government provides reimbursement for adolescents who are placed in foster care. But the expense of a PINS remand is borne entirely by ACS and the New York State Office of Children and Family Services (OCFS). Moreover, most adolescents who are remanded to ACS stay in congregate care facilities, which cost more than foster homes.

Few teenagers are designated as PINS and enter foster care. In 1996, only 71 were placed in New York City. Most PINS cases are resolved in other ways; families reconcile or circumvent the PINS system by voluntarily placing children in care.

Voluntary Placements

Some families go directly to ACS, usually in hopes of placing adolescents in care. (Diagram 4). Voluntary placement may be a relatively easy solution for a parent or guardian struggling with an adolescent, or a last resort for one who has tried everything else. An ACS staff member at a field office interviews the parent and decides whether placement is appropriate. The worker may try to avert placement by referring the family for preventive services. However, workers report that diversion is often not an option because the family refuses to participate or because services are not available.

If the ACS worker decides that placement is appropriate, the parent signs an agreement, and the adolescent usually enters care immediately. The agreement requires parents to provide financial support, but this requirement is usually overlooked. No prior court approval is necessary. Not until about three months after the adolescent enters care does the court review the placement.

ACS staff express concerns about voluntary placements. They say that moving adolescents into foster care without first addressing their behavioral problems can be a recipe for disaster.

PINS and Voluntary Placements

In theory, a family who first comes into contact with the PINS system and one who goes to ACS for a voluntary placement are in the same position. At the entry point to each system,

[9] Data on PINS remands is kept by court proceeding, not by individual adolescent. One adolescent could have 7 court proceedings and 7 remands, while another could have only 1.

[10] In the early years of PINS diversion, there were special PINS-designated beds but that practice was discontinued.

workers try to keep adolescents out of foster care by offering the same preventive services. If placement is necessary in either case, it is with ACS, and the same facilities are available.[11]

In practice, however, the two systems are not equivalent. The strength of the PINS system is its ability to keep families with troubled teens together. When adolescents must enter care, however, the PINS system is cumbersome because it has no internal placement resources. By contrast, ACS field offices make placements efficiently but lack commitment to, and experience with, diverting adolescents from care.

Moreover, instead of compensating for the other's weakness, the two systems often work at cross-purposes. Several attempts to encourage cooperation between the two systems have failed. Staff in the PINS system report that 30% of the families who request their assistance were previously known to ACS, and people in both systems complain that their counterparts make inappropriate referrals. Because the two systems are intertwined, it is not always easy to determine which has primary responsibility for families. In the end, which families receive services from which system depends on the judgment of the screener and on the degree to which the parent insists on placement.

From ACS to PINS

ACS field office workers often refer families to PINS. The referrals are necessarily unofficial for two reasons: ACS policy discourages them, and if Probation finds out about a family's contact with ACS, it sends them back to the field office. Some in the PINS system maintain that ACS workers send families to DAS units to avoid work. That view appears to be unfair. Usually, they refer families to the PINS system because they believe it is in their best interests and perhaps because they have an overly optimistic view of the power of a judge to inspire change in resistant teens and families.

From PINS to ACS

Some families who are involved in the PINS system move into the voluntary system (Diagram 5). They can make the transition at any stage in the process. For example, a parent who does not want to participate in diversion treatment or to wait for the proceeding to end may go to an ACS field office and insist on placement.

Or, adolescents remanded to ACS while their cases are pending may enter foster care; in other words, a parent may convert a temporary placement into a voluntary placement. A parent may then ask a judge to dismiss the PINS case. Such an outcome has several advantages: The parent and adolescent approve of the placement; the adolescent is not labeled a PINS; the parent does not have to attend more proceedings; the court does not have to conduct more proceedings; and ACS receives partial reimbursement from the federal government. As noted above, however, placing a teen in care without addressing the causes of misbehavior may invite future problems.

Adolescents also go from the PINS system into foster care via Probation. The court has the option of sending PINS children home and placing them on probation. Probation supervises the teens and refers them for services. When a return home fails, either because

[11] Effective September 1987, New York City was no longer permitted to place PINS in OCFS (formerly DFY) custody. FCA §720. This restriction was extended to the rest of the state as of July, 1996. Exec. Law §507-a.

the teen reverts to poor behavior or because family conflict persists, the judge may place the adolescent with ACS as a PINS, or the family may opt for a voluntary placement.

Diagnostic Placements for PINS Kids. Problems between the two systems arise when PINS kids need in-depth diagnostic assessments, available only in residential settings. The PINS system used to meet some of that need through contracts with two psychiatric facilities that specialize in treating adolescents and through designated diagnostic beds for PINS kids. But funding for those contracts was cut in 1993. Today, DAS has no access to residential settings. DAS places adolescents who have insurance in private facilities. Otherwise, DAS is dependent on ACS for beds.

The PINS system and ACS have a formal agreement; DAS may refer adolescents who need diagnostic assessments to ACS for temporary voluntary placement (Diagram 5). Only the field offices may provide access to the beds, which are scarce. ACS policy requires field workers to give special consideration to DAS referrals. But DAS workers believe that ACS often fails to honor their requests. Frustrated, some DAS workers seem to have abandoned the formal process. Notably, they think that families will have a better chance of securing a bed without a referral.[12]

Conclusion

Although no one counts the teenagers coming into voluntary placement from the PINS system, there is some indication that the number has increased. ACS reports that the number of voluntary placements in FY 1997 soared; petitions were up 41% from 1996. A study by Vera during a two-month period in 1996 found that that the most common reported reason for voluntary placements, given in about one-third of cases (for all children), was misbehavior by the child—evidence that the voluntary system is used as an alternative to the PINS system.

Recommendation: Increase interagency coordination in the PINS system.

1. Build a supportive partnership between DAS units and field offices.

ACS should give DAS units the resources and responsibility to handle all cases that involve PINS-type behavior. DAS units have expertise with this population that cannot be replicated in field offices. Moreover, establishing a single intake source would reduce shopping between systems and duplication of resources. DAS units also need to be able to contact field offices to learn of placement history and consult with field offices when placement is warranted or

[12] Another source of friction between PINS and ACS involves investigation of allegations of abuse and neglect. DAS units do not have the authority to make determinations about abuse or neglect or to effect removals and placements. DAS workers who suspect neglect or abuse must make a report to the Central Registry, which refers the matter to a field office. Sometimes, information available to the DAS worker is not transmitted to the ACS investigator. Field office investigators often determine that the reports are unfounded. They believe that DAS units file too many reports of abuse or neglect.

when they suspect abuse or neglect. In turn, field offices need to honor referrals for placement from DAS.

2. Partner ACS with Probation and the Family Court to institute early assessment of PINS remand cases.

The practice of remanding PINS children to ACS is expensive, inefficient, and fails to provide specialized services, such as those available in PINS diversion. ACS caseworkers generally lack the expertise of DAS units in working with this population, and group homes, where remanded juveniles are usually placed, have no services for them.

The city should implement an assessment process in which ACS, Probation, and DAS work together and with families to determine if placement is avoidable or imminent, and, in either case, which services are called for. The assessment should occur within the first three months after an adolescent is remanded—a practice the courts would welcome. If a teen needs to enter care, voluntary placement may be desirable. However, ACS should continue to demand parental involvement, including financial support—already included in the voluntary agreement—and provide specialized services, identified by DAS, to this population.

ACS and the Juvenile Justice System

Lizzie, Jean, and Diana, all 15, were living in an ACS contract diagnostic center. Although the three had not known each other before moving to the center, they became friends. Riding the train home one afternoon, Lizzie and a girl she did not know got into an argument. The argument escalated into a fight, and both of Lizzie's friends and the girl's friends became involved. At the next subway stop, the police rounded up all the girls. Lizzie and her friends were accused of stealing earrings and were placed under arrest. Upon arriving at the precinct, the police called the diagnostic center, which discharged the girls. When the girls went to court, no adult appeared and they had no place to stay. The judge ordered them held. The girls spent the next eight days at Spofford. In the meantime, the robbery charge was reduced to assault, the case was transferred to family court, and the prosecutor agreed with probation that the three girls should be released. However, they had nowhere to go. In frustration, the judge sent the girls to ECS.

The Juvenile Justice System

The juvenile and criminal justice systems also overlap with ACS (Diagrams 6 and 7). There is little data documenting the connections between those systems. But studies indicate a substantial flow of ACS teenagers—more than 1,000 last year—through the criminal and juvenile justice systems.[13]

This report focuses on ACS and the juvenile justice system. Specifically, it examines not the myriad intersections between the two systems, but focuses on the period following arrest, when adolescents must be placed somewhere.

Most teenagers who get in trouble with the law are prosecuted in criminal, not juvenile, court. In New York, a teen is considered an adult at age 16, regardless of the offense.[14] Those as young as 13 who are charged with serious offenses can also be prosecuted as adults.[15] Only teens younger than 16 who commit less serious offenses are considered juveniles. As Diagram 6 illustrates, the juvenile justice system involves a number of government agencies—the police, the Department of Juvenile Justice (DJJ), Probation, Corporation Counsel, the Legal Aid Society Juvenile Rights Division, and the courts—and entails five stages, which are discussed below.

[13] There is no information system that tracks the overlap between ACS and the juvenile and criminal justice systems. This estimate is based on the Vera Overlap studies at Spofford and Rikers.
[14] It is the juvenile's age at the time of the offense that is relevant.
[15] A juvenile who is 13 years of age may be prosecuted as an adult if charged with murder in the second degree. A juvenile who is 14 or 15 years of age may be prosecuted as an adult if charged with second degree murder; attempted second degree murder; first degree manslaughter; first degree kidnapping; attempted kidnapping in the first degree; arson in the first or second degree; first degree assault ; rape, sodomy, or aggravated sexual abuse in the first degree; first or second degree burglary; and first or second degree robbery . These cases are usually handled in a special courtroom (or part) in the adult system referred to as the Youth Part.

Stage One: The Police

After police arrest juveniles, they are supposed to deliver them to a subsequent location within three hours. That location depends on the seriousness of the offense and on whether parents are available to take juveniles home. Police must try to contact the parents of teens who are arrested. If a parent comes to the precinct within the three hours, the teen is usually released. However, a teen who commits a serious crime, like homicide, will not be released; rather, the teen will be brought to Spofford, the secure detention facility operated by the Department of Juvenile Justice (DJJ). If the crime is less serious, the teen may be released to a parent with a date to appear in family court. If the crime is minor (even less serious), the police may choose to issue a youth card instead of a court date, and the teen can go home.

What if a parent is unavailable or unwilling to take a juvenile home? In most cases, the juvenile is detained at Spofford.[16] In 1996, the police brought 1,926 juveniles to Spofford. However, the police take some adolescents who have been issued youth cards to ECS. This population places a strain on ECS's resources. Despite having little information about the teens, ECS staff must find their parents or secure alternate living arrangements.

Stage Two: The Department of Juvenile Justice (DJJ)

DJj processes juveniles who are brought to Spofford. Using its own risk assessment techniques, it determines whether to release the juvenile. In the course of the assessment, DJJ staff are required to try to contact a parent. If the parent is unavailable or detention is appropriate, DJJ retains custody and brings the adolescent to court when it opens. Ninety-four percent of the kids brought to Spofford by the police were taken to court; the remaining 6% went home.[17]

Stage Three: Probation Intake

Once the juvenile arrives in court, probation intake is the first step. In 1995, Probation conducted 11,512 intake interviews. The officer interviews the adolescent and, if possible, the parent or guardian. From the interviews and records, the officer gathers critical information, such as school attendance, criminal history, and circumstances of the offense. Based on this information, the officer decides whether to divert the case from prosecution. If the offense is minor, the juvenile has no criminal record, and the complainant consents, the probation officer can "adjust" the case. Under this scenario, if the juvenile complies with certain requirements, such as attending school regularly for two months, the officer does not refer the case for prosecution. If officers cannot reach the parent or guardian, they cannot adjust the case. In 1995, they adjusted 11% of cases—probation officials estimate this percentage has declined in recent years.

[16] Spofford is scheduled to be closed with the opening of two new detention facilities. At the time of this report, one facility is open and Spofford remains active. For ease of description, all detention is referred to as Spofford.
[17] DJJ estimates that its risk assessment measures found that approximately 1,090 (56%) of the total 1,925 juvenile delinquents brought by the police were eligible to go home.

Stage Four: Corporation Counsel

Most cases, 89%, are referred to corporation counsel, which decides whether to bring charges. In FY 1996, corporation counsel filed petitions to bring charges in 65% of referred cases. During the decision-making period—which can take hours, days, or months—the involvement and supervision of a parent or guardian are important factors. During this period, juveniles are expected to appear in court with an adult. If there is no adult, the policy of corporation counsel is to recommend detention, unless there is no basis for filing a delinquency petition, in which case it recommends that the juvenile be referred to ECS.

Stage Five: The Judge

It is the judge, however, who ultimately decides where a juvenile goes while a delinquency case is pending. At the initial court hearing, the teenager appears with an appointed lawyer, usually from the Legal Aid Society's Juvenile Rights Division (JRD). The judge hears from Probation, corporation counsel, and the lawyer. If parents or guardians are present, the judge will consult with them. Judges report that the presence or absence of the parent or guardian is a significant factor in their decision whether to release adolescents. In 1997, despite a drop in the juvenile crime rate, the number of detained adolescents surged.

The next significant event is fact-finding—the family court term for a trial—which usually follows a series of interim hearings. Not all cases go to fact-finding; the complainant may not follow up or appear in court, or corporation counsel may move to dismiss. If the case is still active, the juvenile pleads guilty (make an "admission") or decides to proceed with fact-finding. Most cases that reach fact-finding end in an admission.[18] There is another option, rarely exercised, that allows judges to convert delinquency cases to PINS. In 1993, 50 delinquency cases were converted to PINS. In recent years, there have been even fewer, usually around 20.

If a juvenile is found guilty ("involved") or makes an admission, the judge sets a sentencing ("disposition") date. When the facts are uncomplicated and adequate information is before the court, the judge may proceed to disposition immediately. If not, the judge orders Probation to produce a report (the "I and R") in which it assembles information about the adolescent and recommends a disposition.

At disposition, the judge may return juveniles to the community (unsupervised or supervised) or order them placed. A supervised return to the community means probation. In 1995, 922 juveniles were put on probation. Placement means that the court transfers custody to either OCFS or ACS. The clear preference of the court is to turn juveniles over to OCFS. According to JJIS, OCFS assumed custody of 94% (1,093) of the adolescents ordered placed.

The maximum period of placement with OCFS varies with the type of offense: For a misdemeanor it is 12 months; for a felony it is 18 months; and for a designated felony it is 3 to 5 years. Those periods can be extended by petition to the court.

Placement with OCFS may not end ACS involvement. A judge may order OCFS to place the adolescent with a specific voluntary agency. Or the judge may give discretion to OCFS, which may opt to place the juvenile with a voluntary agency. OCFS reports that in 1995, it

[18] Office of Court Administration records suggest that 81% of juvenile delinquency petitions which reach the fact-finding stage are resolved by admission.

placed 36% of the juveniles sent to it in voluntary agencies. State law requires ACS to pay more than 60% of the costs for each young person that OCFS places in a voluntary agency. Even though ACS pays most of the expense, OCFS retains custody and supervisory responsibility.

The Overlap Population: Foster Kids in the Juvenile Justice System

The preceding section described all teenagers passing through the juvenile justice system. It is very difficult to determine how many were also in foster care at the time of arrest. No organization or agency—not the police, DJJ, JJIS, or CCRS—tracks the arrest of foster children.

To generate some knowledge about this population, Vera conducted a small study. With the cooperation of New York City's Department of Juvenile Justice, Vera interviewed juveniles admitted to two of New York City's detention facilities, Spofford, the secure detention facility, and Beach Street, a nonsecure detention facility.[19] The study found that 15% were in the child welfare system when they entered detention—a rate 8 times the expected based on census data.[20] This finding suggests 939 admissions of foster kids to DJJ in FY 1997.

The high rate of detention is surprising because the study also indicates that ACS teenagers are not committing worse offenses than the juvenile population at large. In fact, ACS teens averaged *lesser* levels of charged offenses than non-ACS teens. Another indication that ACS juveniles commit less serious crimes is that only 27% of ACS detainees were committed to OCFS, compared to 44% of non-ACS detainees.

The Spofford study and a nonrepresentative group home survey suggest that the disparity can be traced to two factors, which are particularly important for adolescents living in group homes:

1) ACS adolescents were less likely to have an adult present at each stage of the juvenile justice system.

2) ACS adolescents were more likely to be arrested at home and therefore were less likely to have a viable alternative discharge source to detention.

The stay in detention may not be long; the average length among the Spofford foster sample was 17 days and the median was 8 days. But the costs to the teen and system are high. While the adolescent is in detention, a new teenager is placed in the bed. When the teen is released from detention, a new bed must be located. The adolescent usually ends up at ECS. The transactional cost of replacement is only a portion of the bill. A day in a secure detention

[19] The Vera survey was conducted between December 13, 1996 and February 14, 1997.

[20] Vera compared 1995 New York City census data for 12-16 year olds with 1995 ACS placement data for 12-16 year olds. 12-16 year olds were chosen as the baseline because those ages are the most representative of the Spofford population. Juveniles in the child welfare system comprise only 1.9% of all juveniles in that age group. Therefore, if foster kids were detained at the rate comparable to their proportion of the population that detention rate would also be 1.9%.

bed costs between $240 and $325, and a day in a nonsecure detention bed costs between $230 and $280. By contrast, child welfare per diem ranges from $19 to $155, and those costs, unlike detention expenses, are eligible for partial reimbursement from the federal government.

The Missing ACS Presence

There is no system to notify ACS when a teenager in foster care is arrested. Because ACS is not a party in delinquency cases, there is no automatic notice. Consequently, notification is ad hoc and erratic. If the police discover that a juvenile in custody is in foster care, they attempt to contact someone at ACS. However, they report that they have trouble identifying and reaching an appropriate person. Foster parents defer to caseworkers, who are difficult to reach and who may not grasp the necessity of appearing at the precinct. Often, as in the case of Lizzie, Jean, and Diana, no adult shows up, and the teenager is detained. The problem repeats itself at each subsequent stage of the system—DJJ, probation intake, corporation counsel decision-making, and initial court appearance—with the same result: detention for ACS teens.

Arrest at Home

The Spofford study and group home survey also suggest that ACS teenagers are more likely to be arrested in their homes as a result of incidents in placement.

Table 1
Arrests at Home

Non-ACS (n=186)	4%
Foster Care (n=19)	36%
Congregate (n=11)	55%

The group home survey found that 27 of the 28 teenagers had been arrested at least once, and that almost half, 13, had been arrested as a result of an incident in placement.

There are wide differences between facilities. For example, over an 11-month period, one facility had called the police almost 40 times, while another called 5 times. Discussions with staff at a variety of facilities indicate that they use the police differently. Some facilities are quick to turn to the police for assistance while others prefer to try to handle minor misbehavior themselves. In interviews with the police, they articulated the need for improving their coordination with ACS and identifying situations that are most appropriate for intervention.

ACS Responsibility for Juvenile Delinquents

ACS is also responsible for two groups of juvenile delinquents. The first is the small number who come to ACS from the juvenile justice system. According to JJIS, 75 juvenile delinquents in 1995 and 23 in 1996 were placed with ACS. The second group is the financial, not the custodial, responsibility of ACS. As mentioned above, ACS pays a portion of the expenses for teenagers in the juvenile justice system who are placed through OFCS in voluntary agencies. CCRS has difficulty counting this population, but OCFS figures suggest that there were 562 such admissions in 1996.

Recommendation: Partner ACS with the juvenile justice system agencies (Police, DJJ, Probation, and Family Court) to reduce cycling between Child Welfare and Juvenile Justice.

The lack of coordination between ACS and the juvenile justice system strains both systems and hurts adolescents (Diagram 8). ACS and the juvenile justice system agencies need to work together to create a system in which ACS is notified when adolescents in foster care are arrested, ACS participates in the court process, ACS adolescents are not detained or sent to ECS unnecessarily, and ACS adolescents are appropriately referred to juvenile justice system resources.

With the cooperation of both ACS and juvenile justice system agencies, the Vera Institute is exploring the feasibility of instituting an interagency notification system and piloting a program for the ACS/Juvenile Justice overlap population.

ACS and the Mental Health System

> *When we first saw Maria, she was sitting in a corner at ECS by herself, crying. We asked if there was anything we could do. She said she was scared because she didn't know where she was going to end up that night. She moved her hands away from her face, revealing fresh scars on her wrists. Maria had recently been released to the custody of her mother after a three-month stay at Elmhurst Hospital, where she had been referred by the PINS system. She had been admitted for severe depression and suicidal behavior. She had improved at the hospital, but at home, her condition had deteriorated. Her mother had expressed no interest in caring for her. Maria had spent most of her time at a friend's house. She had stopped taking medication and attending counseling. An ACS worker investigated, removed Maria, and filed a neglect case against her mother.*

The intersection that is most difficult to quantify is between ACS and the mental health system (Diagram 9). But a strong connection is clear. The following is the product of interviews with experts in the mental health, child welfare, and PINS systems.

As adolescents reach puberty, their mental health problems become manifest. Often, parents, kinship parents or boarding homes, unable to cope, ask ACS to find the teens new homes or involve them in the PINS system. When biological, kin, or foster home placements fail, the alternative is congregate care. Mental health problems are also evident at ECS, where medical staff report an increasing number of adolescents on psychotropic medication when they arrive.

ACS and Mental Health Residential Resources

Adolescents with mental health problems have limited residential options. The two types of facilities are hospitals and residential treatment facilities (RTF), both of which are in short supply.

In this era of managed care, hospitals have tightened the criteria for admission to psychiatric beds. Only adolescents who are in the midst of a life-threatening crisis qualify for admission. If admitted, they are usually discharged shortly after they stabilize.

Residential treatment facilities are licensed psychiatric facilities, equipped to handle teenagers with complex problems. RTF residents often suffer from problems in addition to mental illness, such as a history of serious delinquency and severe educational deficiencies. A visit to one RTF, August Aichhorn, and a review of the placement histories of a sample of residents suggest that RTFs can be effective. But August Aichhorn has only thirty-four beds, and it discharges an average of one resident per month; it is necessarily a limited resource. In the entire city, the mental health system provides only 200 residential beds for adolescents.

There is a two-year waiting list for ACS adolescents to enter an RTF; most never make it. Instead, they remain in ACS residential treatment centers, group homes and residences, and diagnostic facilities. Moreover, PINS cases who need diagnostic placements also consume limited resources.

Although residential treatment centers are the most treatment intensive form of care available to ACS residents, they are designed on a behavioral, not a psychiatric, model.

Consequently, RTCs have a limited ability to help adolescents with serious mental health problems. Because stays in diagnostic facilities are limited to 90 days, they provide only a temporary solution. Finally, group homes and residences—which handle the adolescents on the waiting list for RTFs who cannot be placed in RTCs and diagnostic facilities—are least equipped to help adolescents with mental health problems.

Alternatives to Residential Placement in the Mental Health System

In the 1990s, the mental health system has moved away from creating new beds, which are extremely expensive and can encourage overplacement. It is looking for alternatives to placement. The favored alternative is to bring mental health services directly to patients' homes. Commonly referred to as "wrap-around" or "case-coordination", this model uses flexible programming and dollars to create an individualized treatment plan; the needs of the family dictate the services.[21] For children and adolescents, wraparound relies heavily on the involvement of adults. But ACS adolescents are less likely to have adults to participate in treatment. It is particularly difficult to employ the wraparound model in congregate care facilities, which contain most of the deeply troubled adolescents.

Recommendation: Partner ACS with Mental Health to create therapeutic foster beds.

Adolescents with mental health needs would benefit from an effort by ACS and the mental health system to create special therapeutic foster beds. ACS has only 150 therapeutic foster beds (It has contracted to add approximately 150 more.) Therapeutic foster beds are beneficial for two reasons: They provide better services in the least restrictive setting, and they are less expensive. A therapeutic foster bed costs between $70 and $90 per day (distributed between the two agencies), while a congregate care bed costs between $140 and $155, and a bed in the mental health system costs $200 or more. An increase in beds would allow adolescents with mental health problems to move out of group settings. It would also enable group residences to improve services for remaining adolescents.

The mental health system would supply the wraparound services to transform foster placements from standard to therapeutic, and ACS would find foster parents. Some assume that it would be difficult to find foster parents for adolescents with mental health problems. However, ACS already has a pool of foster parents, both kinship and boarding, who have been caring for them in their younger years. With the support of wraparound services, many parents would continue to do so. Still, more foster parents would be needed. Programs in NYC, New York State, and elsewhere have secured foster parents for troubled kids by actively recruiting them (passive recruitment usually produces only foster parents for young kids) and by providing services that assure them that they will have the support they need.

[21] The New York State Office of Mental Health has funded the Home and Community-Based Waiver Program (HCBWP), a demonstration project using this model.

The Need for Interagency Solutions

Most teens in foster care first encountered ACS because of maltreatment. Those who entered through different routes—the voluntary, the PINS, and juvenile justice systems—also come with an array of personal and familial problems. As these adolescents age, they are less likely to be viewed as victims and more likely to be seen as troublemakers. The truth is that they can be both. Both troubled and troublesome, they pose challenges that few people, often not even their parents, are eager to tackle.

As this report describes, adolescents in crisis are shifted between a host of government agencies—the police, DJJ, probation, mental health, the courts, and ACS. Often, they are passed along as quickly as possible. The lack of cooperation between these agencies leads to both over and under placement, duplication of services, unnecessary transaction costs, and, most important, poor service for teens and their families.

ACS stands as the housing provider of last resort for these teens. Although all the agencies discussed here oversee the adolescents in this population at some stage, they shift responsibility for housing and services to ACS as quickly as possible. The result is that the already underfunded capacity at ACS is overburdened. Alone, ACS can neither meet the needs of all these teenagers nor reduce their numbers.

The crisis at the ECS after-hours placement center is a symptom of this fundamental problem. Over the last ten months, too many adolescents have flowed through the ECS offices, many of them staying overnight. They arrive at ECS from both internal and external sources—from field offices as voluntary placements or replacements; from the police with youth cards or warrants; from the PINS system; from HHC; from the courts as PINS remands or PINS placements; from detention facilities; indirectly from psychiatric facilities; or on their own, returning from being AWOL or sent by a relative from kinship care.

Effective interagency partnerships should improve services to these teens and rationalize their movement, relieving the burden on ECS. Three such partnerships could be started now: coordination between DAS and the field offices and between ACS and the courts; a partnership between ACS and the juvenile justice system to reduce detention of the ACS population; and an effort by ACS and the mental health system to create more therapeutic foster beds. In each case, a small investment in coordination could turn dysfunctional services into effective services for adolescents.

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Patricia Brennan, *Special Assistant, Office of Deputy Commissioner Featherstone Division of Family Permanency*

Brooklyn Field Office Staff

Harry Bryan, *Assistant Commissioner, Congregate Care, Division of Family Permanency*
Ms. Benne and Mr. Skinner, *Division Directors, Congregate Care*
Mr. Weir and all of his staff and residents
Ms. Johnson and all of her staff and residents
Mr. Roberts and all of his staff and residents
Ms. Jones and all of her staff and residents

Pedro Cordero, *Director, Office of Interagency Affairs*

Dan Friedman, *ACS Budget Office*

Ann O'Reilly, *Assistant Commissioner, Placement Services*
Maureen Benej, *Director of Placement*
Sarah Taylor and her staff, *Pre-Placement Services*

Jessica Ziegler-Madden, *Management Development and Research*

The members of ACS's Advisory Board Adolescent Subcommittee:
Deputy Commissioner Aubrey Featherstone, *Division of Family Permanency, ACS*
Christopher Stone, *Director, Vera Institute of Justice*
Tracy Gray, *Foster Parent*
Poul Jensen, *Executive Director, Graham Wyndham*
Giselle John, *Foster Care Youth United*
Betsy Krebs, *Executive Director, Youth Advocacy Inc.*
Sr. Paulette LoMonaco, *Executive Director, Good Shepherd Services*
Luis Medina, *Executive Director, St. Christopher's-Gennie Clarkson Child Care, Inc.*
Brian Moran, *Assistant Commissioner, Independent Living, ACS*
Denise Rosario, *Executive Director, Coalition for Hispanic Family Services*
Alfonso Wyatt, *Vice President, Fund for the City of New York*

Courts

The Honorable Michael Gage, *Supervising Judge, NYC Family Court*
Michael Fleming, *Senior Management Analyst, NYC Family Court*

The Honorable Michael Nash, *Supervising Judge, Los Angeles County Dependency and Delinquency Courts*

Other Agencies

William Baccaglini, *Director, Strategic Planning and Policy Development, NYS OCFS*

Barbara DeMaio and Jenna Mehnart, *NYC Office of the Criminal Justice Coordinator*

Michele Dubowy, A*CSW, Director, PINS Mediation and Diversion Program*
The Children's Aid Society

Mary Ellen Flynn, *Assistant Commissioner, Family Court Probation*
New York City Department of Probation

Sgt. Lisa Gong, *Citywide Youth Coordinator for Patrol Service Bureau, NYC Police Department*

Leslie Hurdle, *Assistant Commissioner, Management Research and Planning, DJJ*
Ira Rubin, *Research, DJJ*

James D. MacRae, C.S.W., *Director of Community Services, Mental Health Association of New York and Bronx Counties*

Robert Myers, CSW, *Assistant Commissioner, Bureau of Child and Adolescent Services, NYC Department of Mental Health*

Dr. Michael Pawel, *Director, August Aichhorn*

Maurice Satin, *Director, Bureau of Program Evaluation, NYS OCFS*

Jane Spinak, *Attorney-in-Charge, Juvenile Rights Division, LAS*

Vera Institute of Justice

Dylan Conger, *Research Associate*

Syd Khosla, *Intern*

David Mizner, *Writer/Editor*

Dawn Scott, *Intern*

Selected Resources

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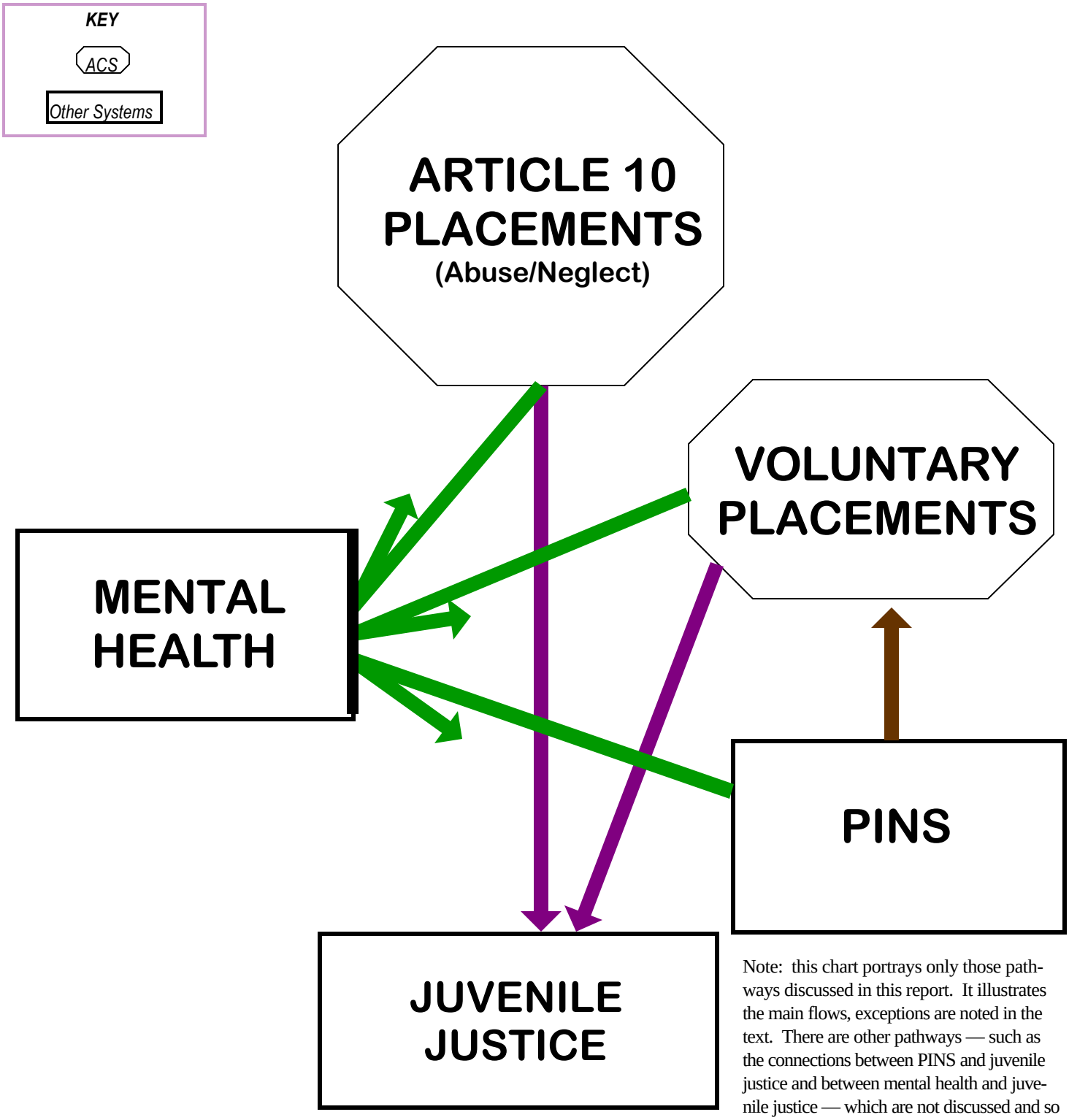
APPENDIX

DIAGRAM 1

ADOLESCENT PATHWAYS OVERVIEW



Note: this chart portrays only those pathways discussed in this report. It illustrates the main flows, exceptions are noted in the text. There are other pathways — such as the connections between PINS and juvenile justice and between mental health and juvenile justice — which are not discussed and so are not portrayed.

DIAGRAM 2

ADOLESCENT PATHWAYS: Parent-Initiated Pathways

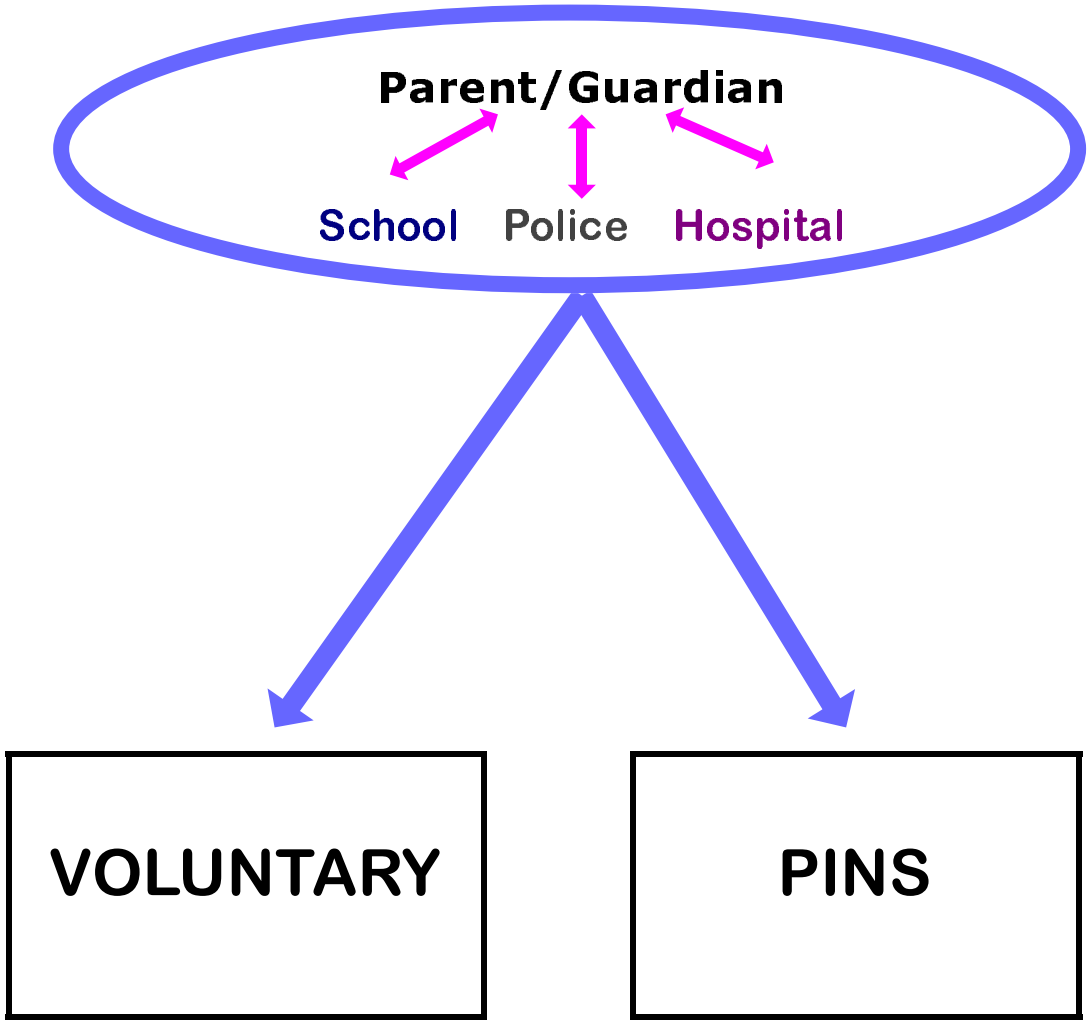


DIAGRAM 3

ADOLESCENT PATHWAYS

PINS

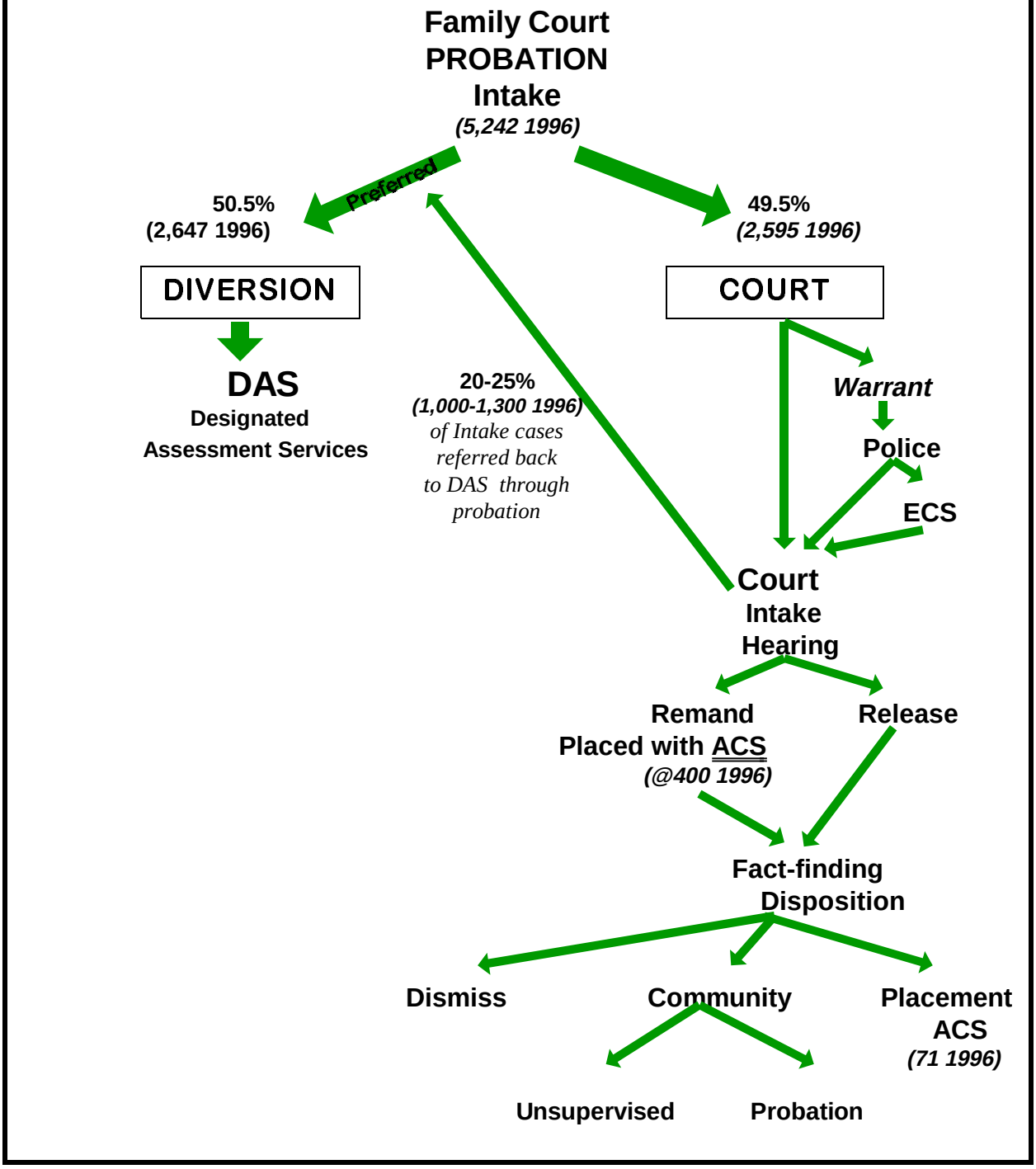


DIAGRAM 4

ADOLESCENT PATHWAYS

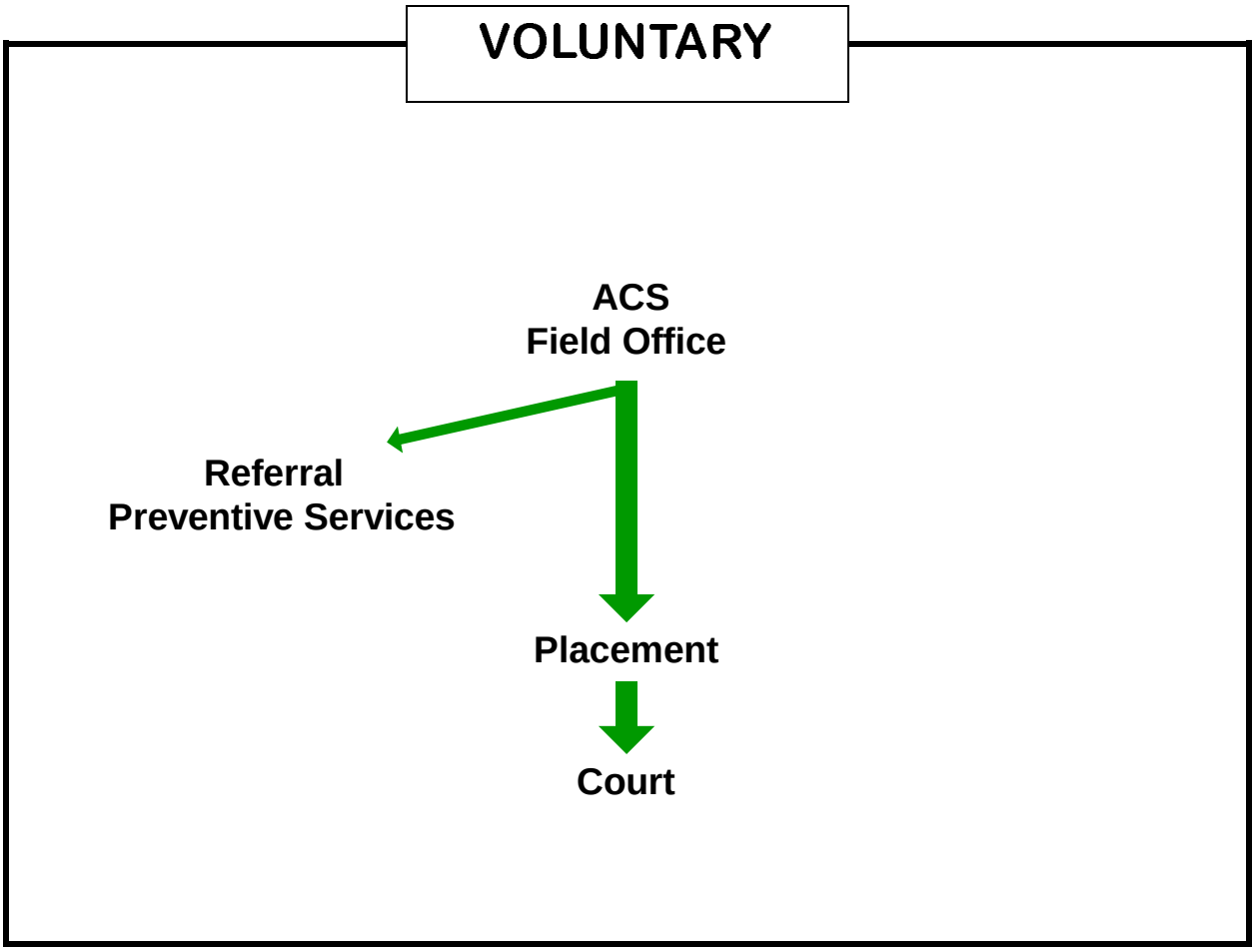


DIAGRAM 5

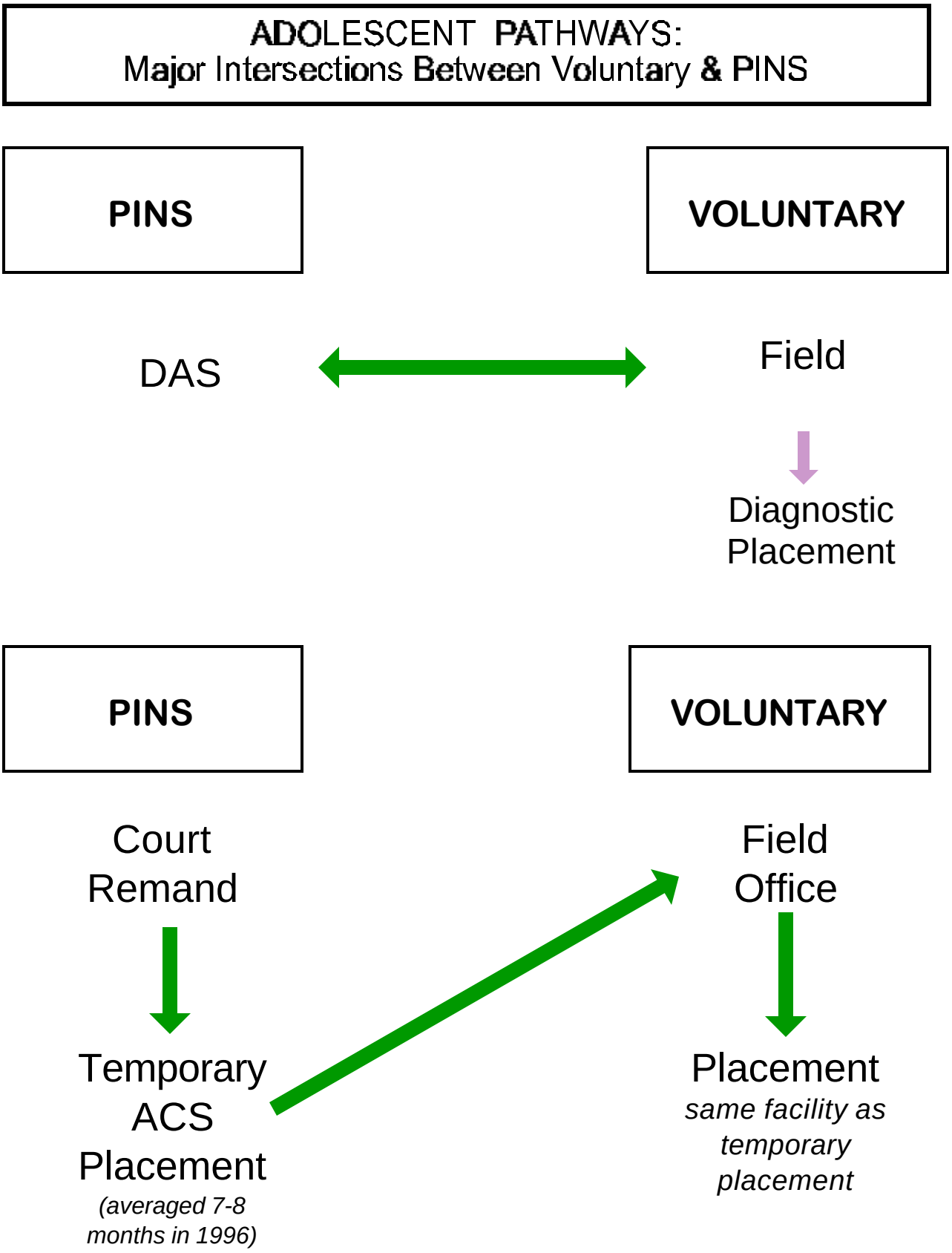

ADOLESCENT PATHWAYS:
Major Intersections Between Voluntary & PINS
PINS
VOLUNTARY
DAS
Field
Diagnostic Placement
PINS
VOLUNTARY
Court Remand
Field Office
Temporary ACS Placement
(averaged 7-8 months in 1996)
Placement
same facility as temporary placement

DIAGRAM 6

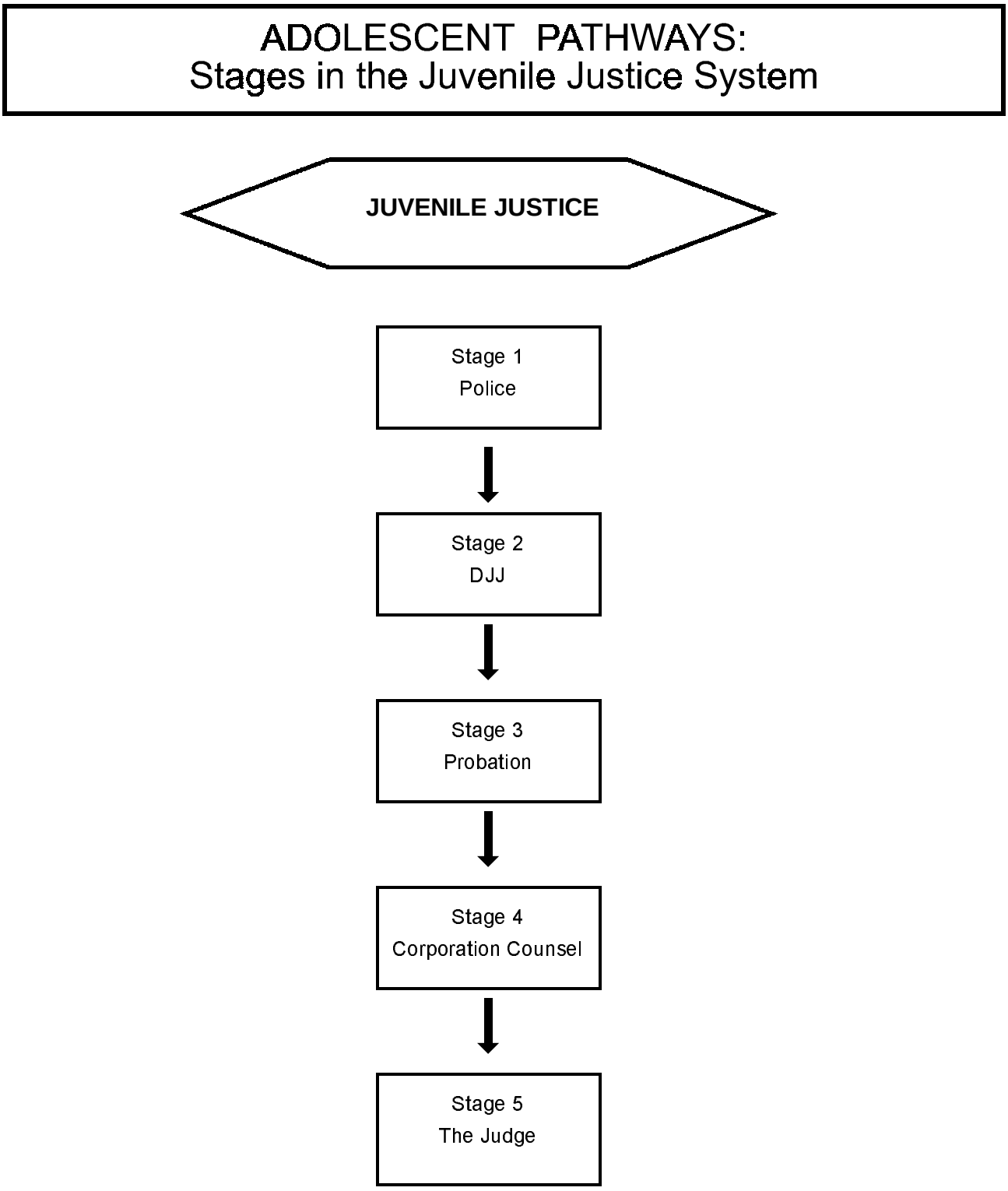

ADOLESCENT PATHWAYS:
Stages in the Juvenile Justice System
JUVENILE JUSTICE
Stage 1
Police
Stage 2
DJJ
Stage 3
Probation
Stage 4
Corporation Counsel
Stage 5
The Judge

DIAGRAM 7

ADOLESCENT PATHWAYS: ACS & Juvenile Justice

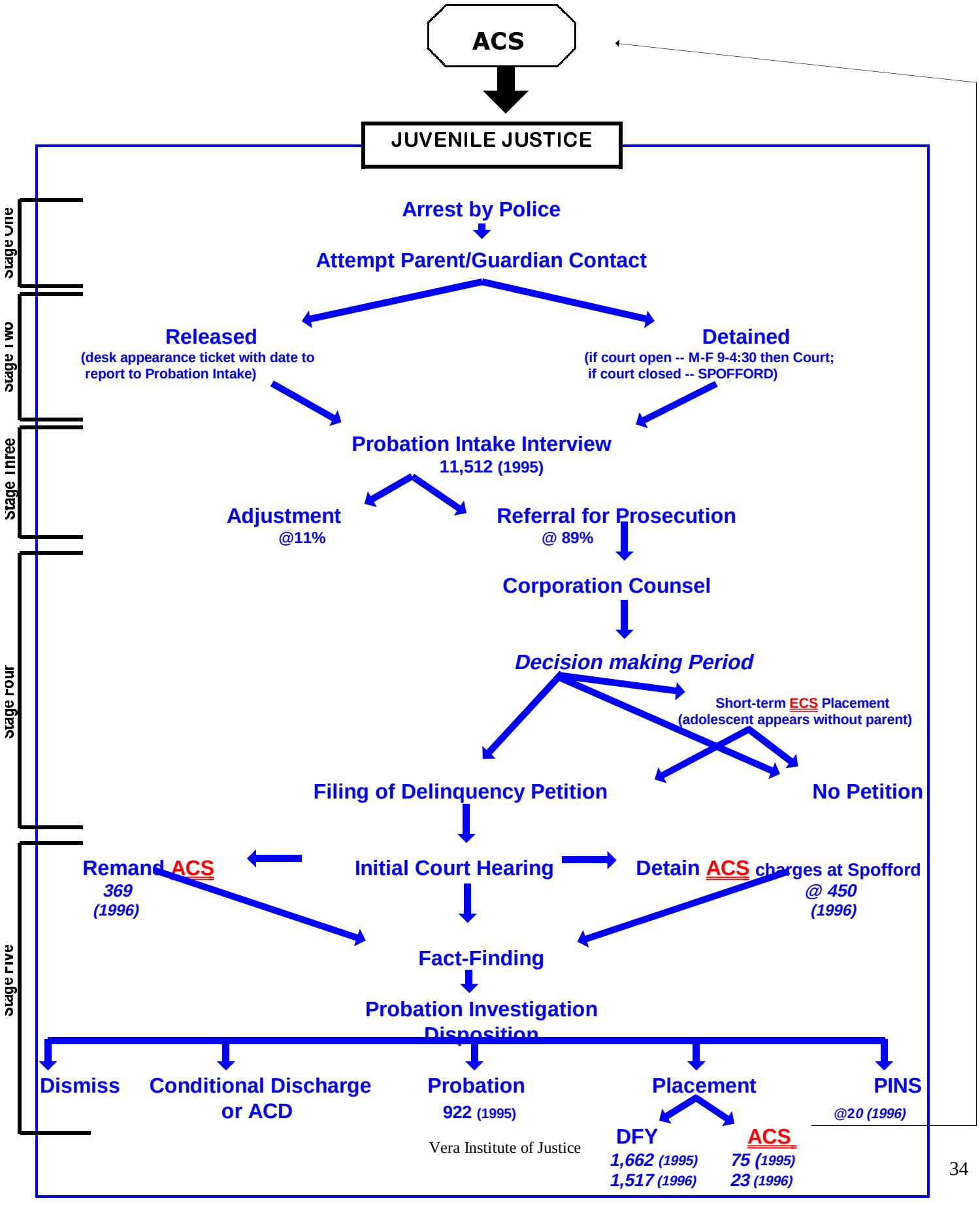
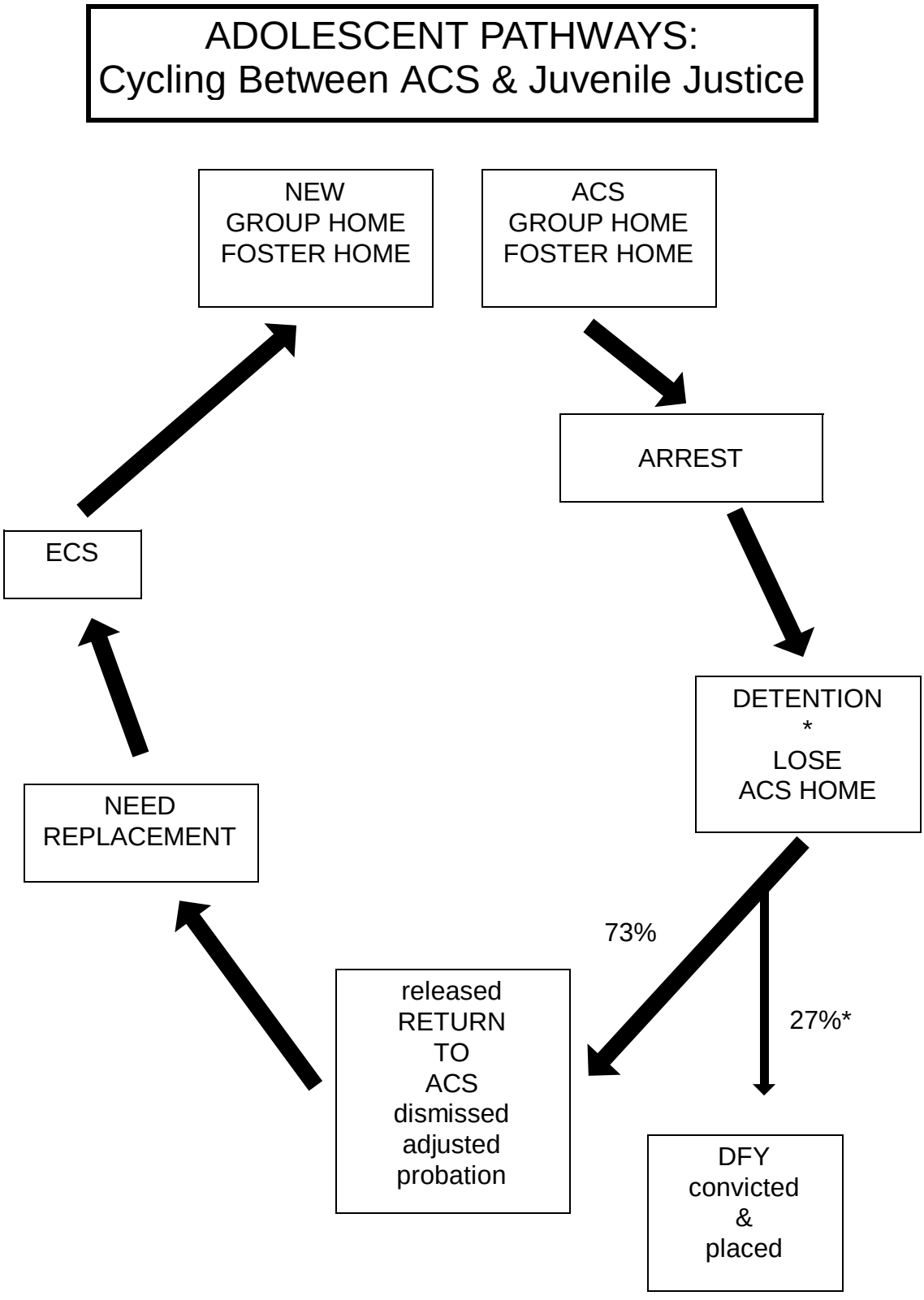


DIAGRAM 8



*Note: compare to 44% DFY placement non-ACS population sample.

DIAGRAM 9

ADOLESCENT PATHWAYS: ACS & Mental Health

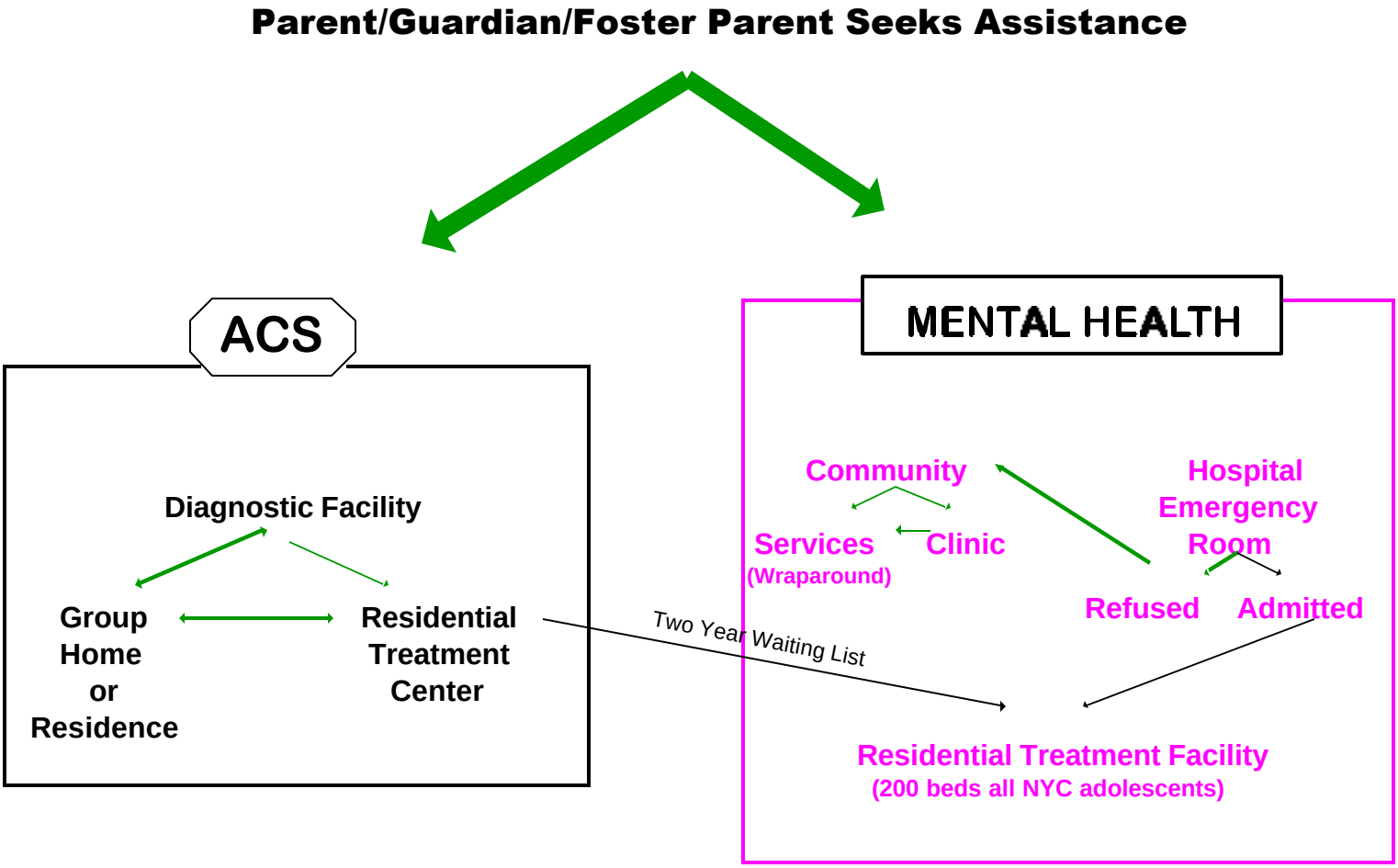
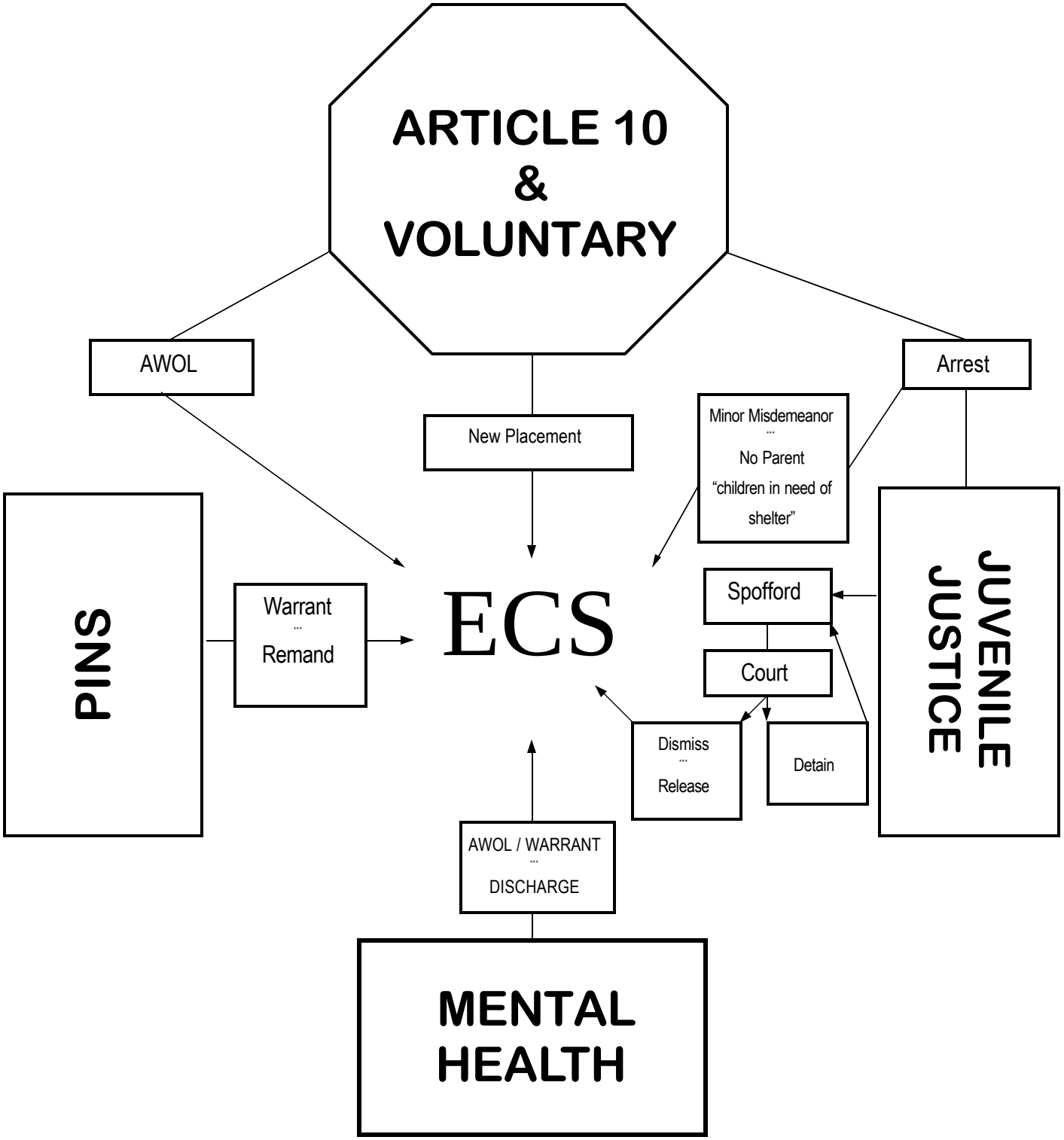


DIAGRAM 10

ADOLESCENT PATHWAYS: ECS



Note: all pathways are not equal.