

YOUTH JUSTICE

POLICY BRIEF



**YOUTH JUSTICE:
HELPING ALL
TENNESSEE
CHILDREN REACH
THEIR POTENTIAL**

BRAIN DEVELOPMENT

The brain's basic architecture is constructed through an ongoing process that begins before birth and continues into adulthood. Trauma and adversity along the way disrupts and negatively impacts brain development.¹ Adolescence is a time of particularly intense brain-building, when children's brains are adjusting to meet the changing cognitive, emotional and social expectations and requirements that come with adulthood.² During this time, the skills and abilities young people need for strong brain functioning as adults are wired through a few key developments:

- A period of rapid neural growth occurs in the prefrontal cortex. This part of the brain sits just behind the forehead and governs executive function and self-regulation skills, including the ability to focus attention, organize, problem solve, plan ahead, and adjust to new circumstances.³
- The brain strengthens neural connections that are used most often and prunes away those that are not used as frequently, much like the pruning of a tree – by cutting back weak branches, others flourish. Some pruning begins early, but it reaches its peak during adolescence.^{3,4}
- The corpus callosum, which relays information between the brain's hemispheres, grows through a process called integration, resulting in decreased impulsivity, better judgment and increased self-regulation skills.⁴

Because the adolescent brain is a work in progress, young people are still developing their capacity to make decisions, set priorities and self-regulate. As a result, some behavior problems and incidents of rule-breaking are normal and developmentally appropriate and may result in involvement with law enforcement.⁵ Brain research confirms the development of the human brain, especially the frontal cortex, the part that controls executive functions such as judgment, self-regulation and impulse control, is not completed until around age 25.

Decisions of the United States Supreme Court dating back to 2005 have reshaped juvenile justice. In 2005, the Court prohibited the death penalty for juveniles (*Roper v. Simmons*). In 2010, the Court prohibited the sentence of life without parole for juveniles convicted of non-homicide offenses (*Graham v. Florida*). In 2012, the Court prohibited the mandatory sentence of life without parole for juveniles, even if the juvenile is convicted of homicide (*Miller v. Alabama*). In 2016, the Court held *Miller* applies retroactively and juveniles sentenced to life without parole prior to *Miller* must be given an opportunity to argue that they should be released from prison.

The Court relied on behavioral and brain research to affirm youth are not as mature as adults. Therefore, youth are not as culpable as adults in the commission of delinquent/criminal offenses. Additionally, the Court used the same body of research to affirm youth are more likely to change over time. *Juvenile Sentencing in a Developmental Framework: The Role of the Courts (Models for Change)*.

Tennessee has been a leader in advancing scientific knowledge regarding early brain development and the impact of trauma. As our systems become more trauma-informed, our criminal and juvenile justice systems should be no exception. More trauma-informed systems support the purpose of Tennessee Code Title 37, which in part states the purpose of Part 1 of Title 37 is as follows, "Consistent with the protection of the public interest, remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior and substitute therefor a program of treatment, training and rehabilitation." A trauma-informed system should emphasize rehabilitation and recovery rather than punishing, or unnecessarily incarcerating a youth for unruly and delinquent acts including acts of self-defense.



BRAIN DEVELOPMENT (CONTINUED)

Experts recommend several strategies that will result in better outcomes for young people and for society as a whole. One strategy is to ensure the juvenile justice system becomes more trauma informed. Youth who have experienced trauma are often hyper-vigilant and easily triggered. System-level changes are needed to improve a sense of safety, reduce exposure to traumatic reminders, and equip youth with tools to cope with traumatic stress.⁶

Using evidence-based assessments and interventions for trauma is another strategy. Often youth with multiple adverse childhood experiences are misdiagnosed with behavioral disorders and their treatment does not address underlying trauma. To increase positive outcomes and maximize resources, we should use evidence-based assessments to make accurate diagnoses that inform appropriate treatment for trauma-exposed youth.⁶

Partnering with caregivers to increase family involvement is a strategy. Young people without family support are at higher risk of violence and prolonged court involvement. Moreover, research on resiliency suggests youth are more likely to overcome adversities when they have caring adults in their lives. Across systems, we should work to meaningfully engage biological and foster parents, extended families, kinship caregivers and adoptive families, and educate them about brain development, trauma and community resources.⁶

Additionally, we must promote increased collaboration between systems. This means trauma-informed juvenile court officials, prosecutors, defense attorneys, law enforcement, schools, community organizations and advocates sharing information and working together to ensure children and families get the services they need.⁷



DETENTION REDUCTION

Detention can exacerbate trauma. Because of the effect of trauma and adversity on brain development, adolescents with trauma histories are more likely to be involved in the juvenile justice system.⁸ Detention can be particularly counterproductive for these youth, who are more likely to read their environment as threatening, respond with aggressive behavior and distance themselves from others, all in an effort to self-protect.⁹

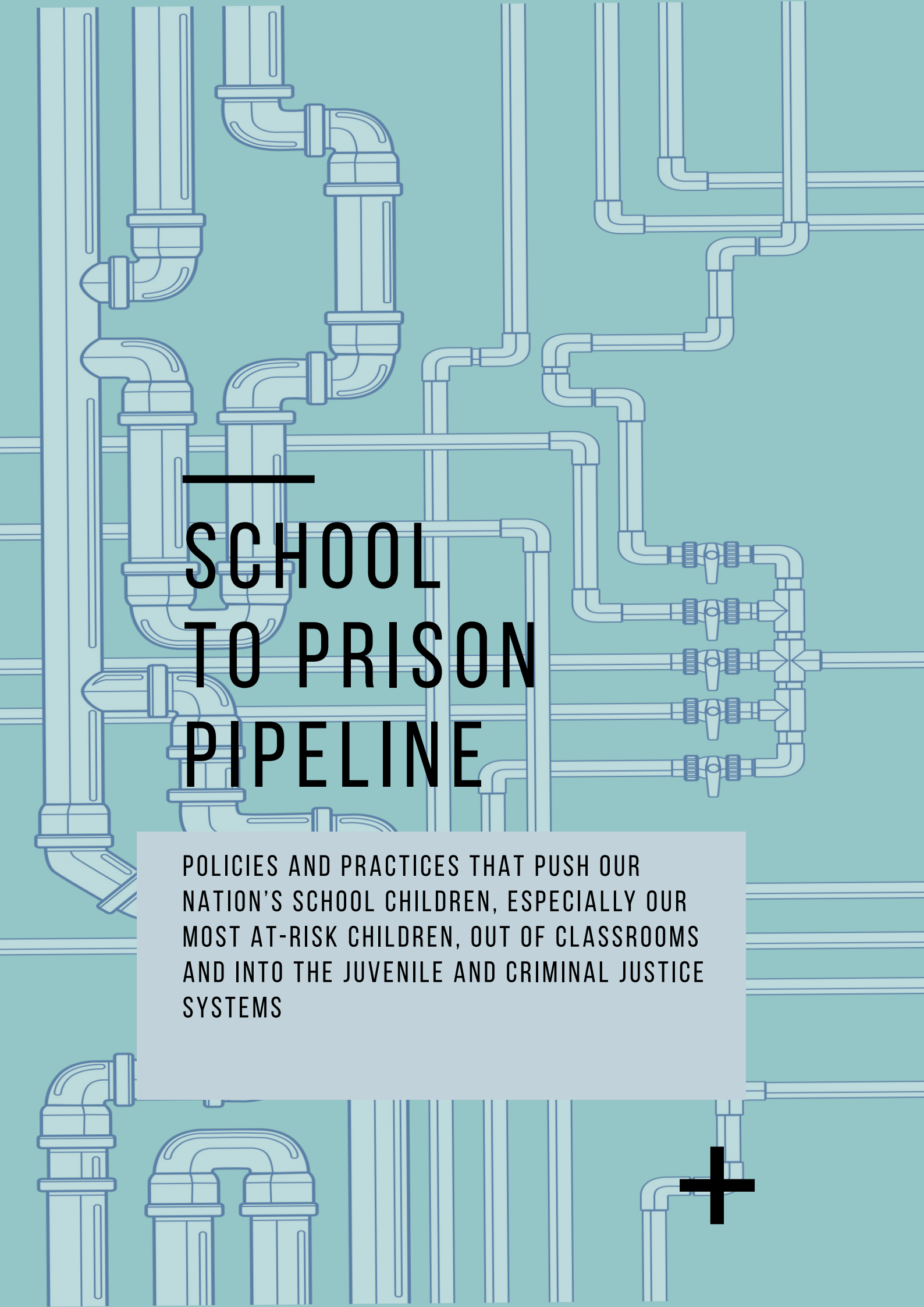
Detention can also intensify mental health problems. Youth with adverse childhood experiences are at higher risk for mental health problems, behavioral problems and substance abuse.⁶ In detention, young people with these challenges get worse, not better, because they have even less access to effective services and supportive adult relationships.¹⁰

Think about how a bicycle is more effective when it uses different gears for different terrains. The same is true for how we respond when young people are involved in the juvenile justice system. We have been over-using the detention gear for juveniles with an array of needs and varying circumstances, even though detention does not address external factors like trauma or unsafe environments. Particularly for adolescents who have faced significant adversity or are in need of mental health services, detention is the wrong gear and can derail their progress at a critical time in their brain development, with long-term implications. We need to shift gears and prioritize research-based alternatives to juvenile detention that recognize the unique needs of youth so they can get the help they need to grow into healthy, engaged adults.

DATA

To assess and improve Tennessee's juvenile justice system, rigorous data collection methods are necessary. Data should be used both to ensure the effectiveness of trauma-informed programs and to guide objective decision-making.^{6,7} For example, we can combat racial disparities by examining data to identify practices that may disadvantage youth of color and pursuing strategies to ensure a more level playing field.⁷





SCHOOL TO PRISON PIPELINE

POLICIES AND PRACTICES THAT PUSH OUR
NATION'S SCHOOL CHILDREN, ESPECIALLY OUR
MOST AT-RISK CHILDREN, OUT OF CLASSROOMS
AND INTO THE JUVENILE AND CRIMINAL JUSTICE
SYSTEMS



“The ‘school-to-prison pipeline’ refers to the policies and practices that push our nation’s schoolchildren, especially our most at-risk children, out of classrooms and into the juvenile and criminal justice systems. This pipeline reflects the prioritization of incarceration over education.”¹¹

According to an analysis of U.S. Department of Education data by the Southern Poverty Law Center, suspensions and expulsions from school used to be relatively rare. In 1973, fewer than four percent of students were kept out of school for punishment. However, a growing concern of youth crime and violence led to policies requiring youth to be suspended or expelled for various offenses. For example, the Gun-Free Schools Act was passed in 1994. This act mandated a yearlong out-of-school suspension for any student caught bringing a weapon to school. “Zero-tolerance” laws and policies such as the Gun-Free Schools Act have contributed to an increased rate of suspensions and expulsions. In addition to zero-tolerance policies, schools simultaneously adopted strict policies on minor offenses and relied more heavily on school resource officers in an attempt to deter more serious offenses. Over time, these policies have failed to yield their intended results.

Research indicates it is preferable to keep children out of the juvenile court system whenever reasonably possible. Strategies to reduce the school-to-prison pipeline improve outcomes for youth and avoid the potentially lifelong stigma of justice system involvement. They contribute to long-term community safety by improving the possibilities for success in school and reducing involvement with the justice system.

Restorative practices build healthy communities, increases social capital, reduces the impact of crime, decreases antisocial behavior, repairs harm and restores relationships. As an emerging social science, restorative practice integrate developments from a variety of disciplines and fields, including education, psychology, social work, criminology, sociology, organizational development and leadership. Notable areas of influence for restorative practices include the school-to-prison pipeline and community policing.

The fundamental premise of restorative practices is people are happier, more cooperative and productive, and more likely to make positive changes when those in positions of authority do things with them, rather than to them or for them. The use of restorative practices helps to:

- reduce crime, violence and bullying;
- improve human behavior;
- strengthen civil society;
- provide effective leadership;
- restore relationships;
- repair harm.

The aim of restorative practices is to develop community and to manage conflict and tensions by repairing harm and building relationships. This statement identifies both proactive (building relationships and developing community) and reactive (repairing harm and restoring relationships) approaches. Organizations and services that only use the reactive approaches without building the social capital beforehand are less successful than those that also employ the proactive approaches. Zero-tolerance and similar policies are usually harmful to youth and do not enhance school or public safety. The Juvenile Justice Task Force recommended Tennessee to pursue school-based strategies to reduce student referrals to juvenile court. Legislation that potentially helps keep children out of the juvenile justice system while building community and improving school and community safety is in the best interest of Tennessee youth.

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MAINTAINING NECESSARY CONTACTS AND SUPPORT

Tennessee should continue to limit the use of solitary confinement for Tennessee youth. The American Academy of Child and Adolescent Psychiatry says solitary confinement can lead to depression, anxiety and even psychosis. Research indicates social isolation is harmful. Solitary confinement denies children needed contact with and support from adults who can help them understand and deal with the circumstances that resulted in their incarceration. Solitary confinement increases the potential for mental health problems and further damage from the experiences these children have had. Children in the juvenile justice system need therapeutic environments that contribute to the goal of rehabilitation, rather than further traumatizing them.

Separation from family is traumatic for youth placed in or committed to youth development centers, jails or detention. Toxic stress, the kind of stress family separation can generate, can have adverse effects on lifelong health and wellness. Youth are often located in remote areas hours away from their homes, making it difficult or impossible for parents or guardians to visit. Common barriers include difficulties with transportation, distance, cost and insufficient visiting hours.

Safe, stable and nurturing environments can prevent re-entry into the juvenile justice system. Maintaining family connections is essential in reducing recidivism and preparing parents or guardians for the eventual release of their child back to their families and communities. Many children return home with trauma stemming from separation from their homes and families, and far too many children suffer post-traumatic stress. Periodic phone calls between minors and their parents and guardians, without the worry of cost, can mitigate this stress resulting in better outcomes for children, families and communities.

TCCY supports legislation to reform the juvenile justice system in the state to ensure it utilizes evidence-based programming and improved community resources to meet the needs of youth involved with the justice system. It is appropriate to reserve detention and out-of-home placement for youth who have committed serious crimes or pose a public safety risk and to implement research-based reasonable time limits on length of custody so youth are not placed in the system indefinitely. The juvenile justice system is like a maze, it is too easy to get into the system, and too hard and takes too long to get out.

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OCTOBER 2021

TN.GOV/TCCY