



GOVERNOR'S CRIME COMMISSION SCARED STRAIGHT/PRISON PREVIEW PROGRAMS AND JJDP ACT COMPLIANCE

The following is an overview of how Scared Straight-type programs might run afoul of the federal JJDP Act (Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. §§ 5601, et seq.)

The federal Office of Juvenile Justice and Delinquency Prevention (OJJDP, part of the U.S. Department of Justice) has informed states that "Scared Straight" and similar programs *may* violate the Separation core protection of the JJDP Act. The Separation core protection is violated when delinquent juveniles (accused or adjudicated), juvenile status offenders (persons subject to delinquency or criminal court jurisdiction for offenses that are not a crime as to most adults), and nonoffenders (persons subject to juvenile court jurisdiction for reasons of dependency, neglect, or abuse) are detained or confined in an institution in which they have sight- or sound-contact with adult offenders.

In order for a juvenile's Scared Straight participation to be out of compliance with the JJDP Act, ALL of the following must be true:

- **The juvenile is participating in the program under public authority** (e.g., the juvenile is detained or confined in the institution under some form of public order, such as a probation requirement or a court order, the juvenile is under arrest or is held securely for committing an offense), **AND**
- **The facility in which the contact with adult offenders occurs qualifies as a "secure facility" within the meaning of the JJDP Act** (in addition to jails and other facilities with holding cells, the term "secure facility" includes buildings that allow for cuffing of a juvenile offender to a stationary object, as well as buildings with rooms/enclosures that can be locked to prevent exit from within), **AND**
- **The juvenile has sight- or sound-contact with an adult offender while the juvenile is in a secure area.**

Instances that are not violations of the JJDP Act:

1. A program that brings incarcerated adult offenders to a community center or church to speak to juvenile offenders would not violate the Separation protection because the juveniles would presumably not be securely detained or confined in the community center or church.
2. A juvenile visiting his parent in an adult prison would be in a secure institution (the prison) in which he has contact with an adult offender (the parent), but he would not be there under a public order, so the Separation core protection of the JJDP Act would not apply.
3. A juvenile touring an adult jail as part of a high school journalism class would not be there under a public order; as such, the Separation core protection would not apply.
4. In the case of a juvenile whose parents decide to arrange a jail or prison tour for their child, Separation would not apply unless the juvenile had been instructed (either orally or in writing) to participate by an officer of the courts or some other public official.

Instances that are violations of the JJDP Act:

1. A juvenile offender committed to a juvenile detention center or youth development center who participates in a jail or prison visit would be counted as a Separation violation because that juvenile is participating pursuant to the public order which placed her in the juvenile facility.
2. A juvenile offender who is required to visit incarcerated adults as part of his conditions of probation would be in violation because he would be visiting under the public authority of the order placing him on probation.
3. A juvenile who is instructed to participate in a prison/jail tour as a condition of dismissing (or not filing) charges would be counted as a violation because the juvenile would be under public authority to participate as a condition for the charges to be dismissed or deferred.
4. If adult offenders under active sentence are brought to a juvenile detention center, this is a violation of the Separation core protection as to each juvenile they come into contact with.

Sources: OJJDP; the Governor's Crime Commission division of the Department of Crime Control and Public Safety