

Prison Preview/Prison Tour Programs and the JJDP Act

In the Commonwealth of Pennsylvania, the Pennsylvania Commission on Crime and Delinquency (PCCD) is responsible for monitoring compliance with the core requirements of the federal Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as supported by state law (42 Pa.C.S. §6326-6327). The JJDP Act defines the conditions under which a juvenile may be held in secure confinement. Specifically relevant to prison tour type programs are the core requirements of **jail removal** (removing juveniles from adult jails and lockups) and **sight and sound separation** (juveniles must be sight and sound separated from adults in those instances when they are held).¹

With the reauthorization of the federal JJDP Act in 2002, a renewed emphasis has been placed on the states (by the federal Office of Juvenile Justice & Delinquency Prevention) to ensure that sight and sound separation requirements are not being violated, in particular with regard to Prison Preview/Scared Straight programs. Some types of Scared Straight or “Shock Incarceration” programs may violate, i.e., be out of compliance with, the federal separation requirement (as well as state law).

These types of programs involve bringing juveniles into jails or correctional facilities and into contact with the adult inmates being held there for the purpose of “scaring” them out of their delinquent behaviors. Although traditional Scared Straight type programs are not known to be operating in PA, we want to inform you of the ways in which similar programs can be in violation of federal and state laws (especially those calling for removal of juveniles from adult facilities and for sight and sound separation of adults and juveniles).

According to Federal law accused or adjudicated delinquent offenders, status offenders and nonoffenders cannot have contact with adult inmates, including adult inmate trustees. Contact is defined to include any physical or sustained sight and or sound contact. Sight contact is defined as clear visual contact between adult inmates and juveniles within close proximity to each other. Sound contact is defined as direct oral communication between adult inmates and juvenile offenders.² Adult offenders include those who are incarcerated because they have been convicted of a crime and those awaiting trial on criminal charges. States are required to verify that no juvenile offender shall enter under public authority, for any amount of time, into a secure setting or secure section of an adult jail or lockup, or a correction facility as a disposition of an offense or a means of modifying their behavior.

In order for a situation to be out of compliance, all three of the following criteria must be true:³

- **The juvenile is participating in the program under public authority** (e.g., if the juvenile is detained or confined in the institution/facility under some form of public order such as a probation requirement, or held securely as part of committing an offense).
- **The facility in which the juvenile meets with adult offenders (as part of a program) is a physically secure facility** (“secure” includes a juvenile being cuffed to a stationary object or being in a locked room that cannot be unlocked by the juvenile from the inside).
- **The juvenile has sight or sound contact with adult offenders.**

¹ The federal transfer or waiver exception provides that juveniles who have been transferred or waived or are otherwise under the jurisdiction of criminal court do not have to be separated from adult criminal offenders: however, state law (42 Pa. C.S. § 6326(c)(3)) requires that “a child must be separated by sight and sound from incarcerated adult offenders...” Pennsylvania State law (42 Pa. C.S. §6327) also requires that “under no circumstances shall a child be detained in any facility with adults...”

² “Guidance Manual for Monitoring Facilities Under the JJDP Act of 2002,” Office of Juvenile Justice & Delinquency Prevention, U.S. Dept. of Justice, January 2007.

³ From “Scared Straight/Prison Preview Programs and JJDP Act Compliance,” Governor’s Crime Commission, North Carolina Dept. of Crime Control and Public Safety, June 2003.

Examples that are not violations:

- A program that brings an incarcerated adult offender to a community center or church to speak to juvenile offenders would not be a violation of the separation requirement because the juveniles presumably would not be detained or confined securely in the community center or church.
- A juvenile visiting his parent in an adult prison would be confined in an institution (the prison) in which he/she has contact with an adult offender (the parent), but would not be there under a public order, so separation would not apply.
- A juvenile touring an adult jail as part of a high school class would not be there under a public order, so separation would not apply.
- In the case of a juvenile whose parent decides to arrange a jail or prison tour for their child, separation would not apply unless the juvenile has been instructed (either verbally or in writing) to participate by the courts or a public official.

Instances that would be violations:

- A juvenile offender who is placed in a juvenile detention center or youth development center or secure residential facility that participates in a jail/prison visit would be counted as a violation because the juvenile is participating as part of their public order which placed them in the juvenile facility.
- A juvenile offender who is required to visit incarcerated adults as part of the juvenile's probation agreement would be in violation because he/she would be visiting under the public order of their probation agreement.
- 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 of dismissing charges.
- If adult offenders who are currently incarcerated are brought to a juvenile detention center or secure residential program, this is a violation of the separation requirement.