

Idaho

WOMEN IN PRISON: 448 (09/00)ⁱ

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§18-6110 – Sexual Contact with a Prisoner¹

Idaho’s law is in its Criminal Code in the Rape chapter. The law specifies the sexual contact prohibited as well as the relationship of the offender to the institution.

Does the law impose a criminal penalty on the inmate?	No	The law does not penalize the inmate.
Does the statute cover all relevant forms of sexual abuse?	No	The law is limited to specific sexual acts involving penetration, and does not cover all sexual contact.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	No	Though not specifically stated, the consent of the inmate is irrelevant.
Does the statute cover all custodians and staff in contact with inmates?	No	The law prohibits all employees, officers and agents from sexual acts, but does not include persons such as service providers who are affiliated with contractors.
Does the statute cover all places where an inmate might be abused?	No	The law is concerned with the place of detention, and would not cover inmates who are transferred to hospitals or other nontraditional places.
Is the penalty a felony?	Yes	The penalty is up to life in prison.

Custodial Sexual Misconduct – Allegations and Incidents

Indictments/Convictions (answer to AI letter requesting information) ⁱⁱ	According to Idaho’s Attorney General’s Office, the Idaho State Police Bureau of Criminal Identification has reported two violations of the code in 1999. One resulted in a conviction, the other was dismissed. ⁱⁱⁱ
Incidents reported in select media since 10/98	<ul style="list-style-type: none"> - Bonneville County Jail: Deputy Shane Ackerschoot pleaded guilty to having sex with a female inmate. Sentenced to 120 days in jail, \$500 fine, \$250 to a victim’s fund and 100 hours of community service. <i>The Idaho Statesman</i>, 10/04/00 - Jefferson County Jail: Jailer, Mark Riley, charged with two counts of sexual misconduct against female inmates; agreed to plead guilty to one count. <i>Idaho Falls Post Register</i>, 01/13/00 - Valley County: Former jailer, Richard Kennedy, was sent to district court after allegations that he had sexual conduct with Michelle Mellenthin, a female state prisoner who was housed at the jail due to lack of space in the prison. Mellenthin filed a \$150,000 tort claim against the county. Following the allegations, Idaho transferred all women out of the jail. <i>The Idaho Statesman</i>, 02/14/99
Other Reported Incidents	<i>Idaho Department Of Correction v. Rick Anderson</i> 8 p.3d 675 (2000) Pocatello Women's Correctional Center: In June 1994, a female inmate housed at the RDU reported correctional officer Pribble approached her from behind, put his arm around her waist, pulled her against his body, and

¹ The text of Idaho’s law is included at the end of this section.

	<p>told her to "bend over and wiggle." At a meeting with Pribble, the inmate began to cry, apologized to Pribble, and stated, "it wouldn't happen again." At approximately the same time, two inmates at the Pocatello Women's Correctional Center (PWCC) filed written complaints alleging that Pribble had sexually molested female inmates at the RDU. Within a month, another inmate was molested by Pribble. Two months later, the RDU inmate who had originally accused Pribble filed a written report reiterating the allegations that she had made in June. Shortly thereafter, Pribble was criminally charged for having sexual contact with female inmates. He eventually pleaded guilty to these felony charges.^{iv}</p> <p><u>ACLU</u></p> <ul style="list-style-type: none"> - Jefferson County Jail: Jailer Mark Riley was convicted of three rapes (two victims.) He was sentenced to 90 days in his own jail, 3 years probation, and was required to write letters of apology to his victims. He was fined \$1,000 and required to reimburse the cost of victim counseling. (2000)^v - Valley County: Officer Kennedy pleaded guilty to performing oral sex on an inmate. (1998)^{vi}
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Custodial Sexual Misconduct –Policies, Procedures and Practices of Guarding Specific to Women

The following data is based on surveys performed by the National Institute of Corrections in 1996 and 2000, except in cases when further details have been available to AI from alternative sources.

Is the current Department of Corrections policy on custodial sexual misconduct language explicit	Yes	The policy includes direct and specific language about the sexual nature of the behaviors prohibited. ^{vii}
Allow cross-gender pat-down searches?	Yes	Searches are predominantly same-sex. Cross-sex done only in emergency – "emergency" not defined. ^{viii}
Restrictions on the duties of male guards?		Not known.
Was there staff training on sexual misconduct in 1996?	Yes	Only staff with inmate contact receive training. The training consists of two hours annually. ^{ix}
Has staff training been developed 1996-2000?	No	No details of training available. ^x
Were there special procedures for investigating allegations of sexual misconduct in 1996?	No	Idaho is not specifically mentioned in the National Institute of Corrections report. However, it is noted that most Departments of Corrections use standard investigatory procedures with no special considerations for the nature of the complaint. ^{xi}
Have new investigation procedures been introduced 1996-2000?	No	No new initiatives. ^{xii}
Were inmates informed of agency policies on sexual misconduct in 1996?	No	Idaho Department of Corrections does not make policies available to inmates. ^{xiii}
Have procedures on informing inmates been revised 1996-2000?	No	No new initiatives. ^{xiv}

Custodial Sexual Misconduct – Legislative Proposals 2000-01

<p>2000 SB 1551 – <i>Introduced by Senate Committee of Judiciary And Rules</i> Introduced and read first time: 03/07/00, Passed Senate 03/16/00 Passed House 04/03/00 Signed by Governor 4/12/00 2000 Chapter 272²</p>	<p>This law specified that private prisons as well as prisoners who are commodities and transferred to Idaho facilities are subject to Idaho’s statutes. It changed “jail” to “state, local or private” correctional facilities.</p>
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Parenting and Pregnancy in Custody

Pregnancy - Relevant Statutes/Administrative Rules

Legislation banning shackling in the third trimester or during labor	No	Idaho has no legislation limiting the use of shackling on pregnant inmates.
Administrative rules concerning pregnancy and delivery		Not known.

Pregnancy and Parenting - Policies, Procedures and Practices

Use of restraints in third trimester	Yes	The stated policy of the Idaho DOC is, “When a pregnant inmate has to be restrained, necessary precautions to ensure the fetus is not harmed will be taken.” The policy does not indicate what is considered “necessary precautions.” ^{xv}
Restraints during transport	Yes	According to Idaho DOC policy, inmates are restrained based on security level and normally uses handcuffs and belly chain. The policy also stipulates that, “When a pregnant inmate has to be restrained, necessary precautions to ensure the fetus is not harmed will be taken.” ^{xvi}
Restraints during labor	Yes	Idaho DOC stated policy does not indicate particular procedure specifically for women in labor. According to DOC policy, “Restraints will be removed only when absolutely necessary for medical examination.” ^{xvii}
Officer in delivery room	Yes	Idaho DOC stated policy requires that a correctional officer is always present. The policy has no specific requirement for this to be a same-sex correctional officer. ^{xviii}
Parenting programs specific for women	Yes	Idaho DOC has a parenting program especially for women. ^{xix}
Special visitation rights for women	No	Idaho DOC has no special visitation rights for women with children. ^{xx}
State Mother and Child Residency Program	No	Idaho DOC has no residential program for inmate mothers and their infants/children. ^{xxi}

² The text of this bill has been incorporated into Idaho’s statute; reprinted at the end of this section.

Contact information

IDAHO DEPARTMENT OF CORRECTIONS

Director James Spalding 1299 North Orchard Street Suite 110 Boise, ID 83720 Phone: (208) 658-2000; Fax: (208) 327-7404	Home page: http://www.corr.state.id.us Email: jspaldin@corr.state.id.us
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IDAHO DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

Pocatello Women's Correctional Center <i>Female inmates: 269 (09/00)^{xxii}</i> <i>Guard/inmate ratio: 1: 3.4^{xxiii}</i> Warden: Bona Miller Post office box 6049 1451 Fore Road Pocatello, ID 83205 Phone: (208) 236-6360; Fax: (208) 236-6362

IDAHO EXECUTIVE

Governor Dirk Kempthorne [R] Office of the Governor 700 West Jefferson, 2 nd floor Boise, ID 83722 Phone (208) 334-2100; Fax (208) 334-3454	Homepage: http://www.state.id.us/governor/ Contact page: http://www2.state.id.us/gov/contact.htm Elected: November 1998
Attorney General Alan G. Lance [R] Office of the Attorney General P.O. Box 83720 700 West Jefferson Boise, ID 83722 Phone: (208) 334-2400; Fax: (208) 334-2530	Homepage: http://www.ag.state.id.us/ Email: kbivens@ag.state.id.us

IDAHO LEGISLATIVE INFORMATION

Legislative Session: The Idaho Legislature convenes each January on the Monday on or closest to January 9 th . Senate: 35 members, 4 year terms House: 70 members, 2 year terms	Legislature home page: http://www2.state.id.us/legislat/legislat.html Bill phone: (208) 334 2475
Senate State Capitol Boise, ID 83720	Home page: http://senate.state.id.us/welcome.htm
House Of Representatives State Capitol Boise, ID 83720	

WOMEN IN PRISON - NGO RESOURCES

The organizations listed are not endorsed by or affiliated with Amnesty International.

Idaho-CURE 3717 Rose Hill Street Boise, ID 83705-1517 Phone: (208) 384-9290
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ACLU of Idaho
P.O. Box 1897
Boise, ID 83701
Phone: (208) 344-5243

Idaho's Custodial Sexual Misconduct Statute

18-6110. SEXUAL CONTACT WITH A PRISONER.

It is a felony for any officer, employee or agent of a state, local or private correctional facility, as those terms are defined in section 18-101A, Idaho Code, to have sexual contact with a prisoner, whether an in-state or out-of-state prisoner, as those terms are defined in section 18-101A, Idaho Code, housed in such facility. For the purposes of this section "sexual contact" means sexual intercourse, genital-genital, oral-genital, anal-genital or oral-anal, between persons of the same or opposite sex.

Any person found guilty of sexual contact with a prisoner is punishable by imprisonment in the state prison for a term not to exceed life.

ⁱ Idaho Department of Corrections, September 2000, <http://www.corr.state.id.us/stats.htm>

ⁱⁱ The information does not reflect prosecutions or convictions under rape statutes.

ⁱⁱⁱ Letter from the Office of the Attorney General, Margaret P. White, Deputy Attorney General, June 26, 2000

^{iv} Idaho Department Of Correction, Petitioner-Appellant, v. Rick Anderson, Respondent. Docket No. 25386, Court Of Appeals Of Idaho, 8 P.3d 675; 2000 Ida. App. LEXIS 56, August 9, 2000, Filed

^v E-mail from Lea Cooper attorney, American Civil Liberties Union, to Amnesty International, 02/22/01

^{vi} E-mail from Lea Cooper attorney, American Civil Liberties Union, to Amnesty International, 02/22/01

^{vii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000

^{viii} National Institute of Corrections, Prisons Division and Information Center, "Cross-sex Pat Search Practices: Findings From NIC Telephone Research," Colorado, January 1999

^{ix} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996

^x US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000

^{xi} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996

^{xii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000

^{xiii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996

^{xiv} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000

^{xv} Division of Prisons directive 02-307 "Use of Force" p. 20, A. Policy sent by mail from the Pocatello Women's Correctional Facility 8/1/00

^{xvi} Division of Prisons directive 02-307 "Use of Force" p. 20, A. Policy sent by mail from the Pocatello Women's Correctional Facility 8/1/00

^{xvii} DOP directive 02-322, p. 3, B. Policy sent by mail from the Pocatello Women's Correctional Facility 8/1/00

^{xviii} DOP Directive 02-322 "Transportation of Inmates Outside Institution/ Transfers" p. 2, IV. Policy sent by mail from the Pocatello Women's Correctional Facility 8/1/00

^{xix} US Department of Justice National Institute of Corrections Information Center, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Colorado, September 1998

^{xx} US Department of Justice National Institute of Corrections Information Center, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Colorado, September 1998

^{xxi} General Accounting Office, "Managing Female Inmate Populations," GAO/GGD-00-22, 2000

^{xxii} Idaho DOC website, September 2000, <http://www.corr.state.id.us/stats.htm>

^{xxiii} US Department of Justice National Institute of Corrections Information Center, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Colorado, September 1998