

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§18-6110 – Sexual Contact with a Prisonerⁱ

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 including intercourse, anal, or oral sex.
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 as the statute prohibits all sexual contact between inmates and DOC staff.
Does the statute cover all custodians and staff in contact with inmates?	Yes	The law prohibits all employees, officers and agents from sexual acts.
Does the statute cover all places where an inmate might be abused?	Yes	An amendment passed in 2005 extended protection of section 18-6110 to those on parole and probation. The statute is not specific as to place.
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) ²	<p>According to Idaho’s Attorney General’s Office, there were two prosecutions under Idaho code §18-6110 in 1999, and one prosecution in 2000. The deputy Attorney General’s Office states that all three resulted in convictions.³</p> <p>In 2005 Idaho’s Attorney General’s Office told Amnesty International that the office does not compile statistics on prosecutions or convictions under the state’s CSM statute. However, the Office made inquiries with Idaho’s Supreme Court, and reported the following cases filed under §18-6110:⁴</p> <ul style="list-style-type: none"> - 2002: 0 prosecutions - 2003: 1 case (7 counts, 6 dismissed and 1 conviction) - 2004: 1 case (3 counts, convicted on all three) - 2005: no data as yet
Incidents reported in select media since January 2000	<ul style="list-style-type: none"> - Blaine County Jail: A 17-year old teen was reportedly emotionally manipulated and then raped by an Idaho State Prison Inmate working as a jail trustee on a work-release program. Investigators are looking into the allegations. (AP, 07/12/05)

ⁱ §18-6110 was amended in 2003 by the enactment of ID. HB 115, which added manual-anal and manual-genital to the definition of sexual contact. The amended text of Idaho’s law is included at the end of this section. Amendments in 2005 prohibit all employees from engaging in sexual contact with inmates and extend protection of section 18-6110 to those on parole and probation. In addition, the Idaho State Legislature amended the Sexual Offender Registration Notification and Community Right-to-Know Act to apply to those convicted of section 18-6110.

	<ul style="list-style-type: none"> - Gooding County Jail: A new Gooding county sheriff’s deputy was charged with two counts of sexual conduct with an inmate. According to an affidavit, the purported contact occurred at the Gooding County jail on two occasions when the deputy allegedly released the woman from her cell and took her to other areas of the jail. (AP, 1/22/04) - Bonner County: A female jail inmate accused a former deputy of forcing her into sex has filed a \$1 million tort claim against Bonner County. The inmate claims that she had been sent to “lock down” for 15 days and was compelled to perform “sexual favors” for Sheriff’s Deputy John Stricklan, a jail guard. The inmate stated that she had filed a complaint against Stricklan, but authorities did not believe her and installed cameras in the cell without her knowledge. She claims to have been ridiculed by other jailers. She claims to have filed the tort claim to compensate for the alleged intimidation and humiliation. (AP, 1/17/03) The deputy was cleared of two misdemeanor battery charges of groping the female inmate after a jury concluded that she had consented to the advances. (AP & LW 10/04/03) - 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. (The Idaho Statesman, 10/04/00) - Jefferson County Jail: Jailer Mark Riley was charged with two counts of sexual misconduct against female inmates. Riley pleaded guilty to one count. (Idaho Falls Post Register, 01/13/00)
Other Reported Incidents	<p><u>Idaho Department Of Corrections v. Rick Anderson 8 p.3d 675 (2000)</u> Pocatello Women's Correctional Center: In June 1994, a female inmate housed at the RDU reported that correctional officer Pribble approached her from behind, put his arm around her waist, pulled her against his body, and 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.⁵</p> <p><u>ACLU</u> 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)⁶</p> <p>Valley County: Officer Kennedy pleaded guilty to performing oral sex on an inmate. (1998)⁷</p>

Custodial Sexual Misconduct – Policies, Procedures and Practices of Guarding Specific to Women

The following is based on data provided by the Idaho Department of Corrections in response to AI’s survey in 2000, 2002 and 2005. Additional information from other sources is included where available.

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. ⁸
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Allow cross-gender pat-down searches?		No information provided.
What is the percentage of female officers in relation to male officers?		According to Idaho DOC, 20% of officers in the department are women (80% men). At the women's facility, 44% of officers are women (56% men). ⁹
Restrictions on the duties of male guards?		No information provided.
Staff training on sexual misconduct?	Yes	All staff members receive an annual four hours of training on sexual harassment. ¹⁰
Inform inmates of agency policies and reporting procedures on sexual misconduct?	No	Idaho DOC does not make policies available to inmates. ¹¹

Custodial Sexual Misconduct - Policies and Procedures Guiding Official Response

The following is based on the Idaho Department of Corrections response to AI's surveys, please see above.

Is medical help available for the victim of alleged sexual abuse?	Yes	According to Idaho DOC, medical help is available. ¹² No details were provided.
Are immediate mental health services available for the victim of alleged sexual abuse?	Yes	According to Idaho DOC, immediate mental health services are available. ¹³ No details were provided.
Is counseling available for the victim of alleged sexual abuse?	Yes	According to Idaho DOC, counseling is available. ¹⁴ No details were provided.
Is a rape kit taken?	Yes	A rape kit is taken by the county sheriff's department. ¹⁵
Are there special procedures for investigating allegations of sexual misconduct?		No information provided.
Is there a system for reporting allegations of custodial sexual misconduct within the DOC?	Yes	According to Idaho DOC, a reporting system does exist. ¹⁶ No details were provided.
Is there a system for reporting allegations of custodial sexual misconduct directly to a body external to the DOC?		No information provided.
Is the investigation external?	Yes	According to Idaho DOC, an external investigation is undertaken. ¹⁷ No details were provided.
If there is an external investigation, how is it triggered?		No information provided.
Are special measures taken to shield alleged victims from retaliation?	Yes	Staff or inmate may be moved to another facility. ¹⁸
If so, do the measures include solitary confinement or lock-down of the inmate?		No information provided.
Is there an independent body, such as a Corrections Ombudsman, with independent oversight of correctional facilities and the DOC?		No information provided.
Is there a system in place to track investigations, indictments and convictions for custodial sexual misconduct?	Yes	According to Idaho DOC, a tracking system is maintained by the Office of Professional Standards, which was established in 2001. ¹⁹

Custodial Sexual Misconduct – Pending Legislative Proposals

None.	
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Pregnancy in Custody

Pregnancy - Statute

Legislation banning shackling in the third trimester or during labor	No	Idaho has no legislation limiting the use of shackling on pregnant inmates.
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Pregnancy - Policies, Procedures and Practices

The following is based on the Idaho Department of Corrections response to AI's surveys, please see above.

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." ²⁰
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." ²¹
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." ²²
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. ²³

Contact information

IDAHO DEPARTMENT OF CORRECTIONS

Director Tom Beauclair 1299 North Orchard Street Suite 110 Boise, ID 83720 Phone: (208) 658-2000 Email: inquire@corr.state.id.us	Home page: http://www.corr.state.id.us
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IDAHO DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

Pocatello Women's Correctional Center <i>Female inmates: 306 (05/05)²⁴</i> Operating capacity: 279 Warden: Dan Copeland Post office box 6049 1451 Fore Road Pocatello, ID 83205 Phone: (208) 236-6360; Fax: (208) 236-6362	South Boise Women's Correctional Center Female Inmates: 116 ²⁵ Operating Capacity: 120 Warden: Dan Mahoney 13200 S. Pleasant Valley Rd, Kuna, ID 83634 208-334-2731
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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) 334-2175	Homepage: http://www2.state.id.us/gov/index.htm Elected: November 1998
Attorney General Lawrence Wasden [R] P.O. Box 83720 700 West Jefferson Boise, ID 83722 Phone: (208) 334-2400; Fax: (208) 334-2530	Homepage: http://www2.state.id.us/ag/ Elected: 2002

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
ACLU of Idaho P.O. Box 1897 Boise, ID 83701 Phone: (208) 344-5243 Website: www.acluidaho.org

Idaho's Custodial Sexual Misconduct Statute

18-6110. SEXUAL CONTACT WITH A PRISONER.

It is a felony for any employee of the Idaho department of correction or 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, not their spouse, whether an in-state or out-of-state prisoner, as those terms are defined in [section 18-101A, Idaho Code](#). For the purposes of this section "sexual contact" means sexual intercourse, genital-genital, manual-anal, manual-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.

¹ Idaho Department of Corrections (DOC), *Monthly Standard Reports*, May 2005, available at http://www.corr.state.id.us/facts/monthly_stats/2005/StandReportPDFMay05.pdf, as per 02/01/06.

² The information does not reflect prosecutions or convictions under rape statutes.

³ Letter from Margaret P. White, Deputy Attorney General, Idaho Attorney General's Office, 06/27/02.

⁴ Letter from Stephen A Bywater, Deputy Attorney General, Idaho Attorney General's Office, 08/12/05.

⁵ Idaho Dept. of Correction v. Anderson, 8 P.3d 675, (Idaho Ct. App. 2000).

⁶ E-mail from Lea Cooper, attorney, American Civil Liberties Union, to Amnesty International, 02/22/01.

⁷ E-mail from Lea Cooper, attorney, American Civil Liberties Union, to Amnesty International, 02/22/01.

⁸ 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.

⁹ Fax from Terrie Rosenthal, Administrative Support Manager, Division of Prisons, Idaho DOC, 08/28/02.

¹⁰ Fax from Terrie Rosenthal, Administrative Support Manager, Division of Prisons, Idaho DOC, 08/28/02.

¹¹ 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.

¹² Fax from Terrie Rosenthal, Administrative Support Manager, Division of Prisons, Idaho DOC, 08/28/02.

¹³ Fax from Terrie Rosenthal, Administrative Support Manager, Division of Prisons, Idaho DOC, 08/28/02.

¹⁴ Fax from Terrie Rosenthal, Administrative Support Manager, Division of Prisons, Idaho DOC, 08/28/02.

¹⁵ Fax from Terrie Rosenthal, Administrative Support Manager, Division of Prisons, Idaho DOC, 08/28/02.

¹⁶ Fax from Terrie Rosenthal, Administrative Support Manager, Division of Prisons, Idaho DOC, 08/28/02.

¹⁷ Fax from Terrie Rosenthal, Administrative Support Manager, Division of Prisons, Idaho DOC, 08/28/02.

¹⁸ Fax from Terrie Rosenthal, Administrative Support Manager, Division of Prisons, Idaho DOC, 08/28/02.

¹⁹ Fax from Terrie Rosenthal, Administrative Support Manager, Division of Prisons, Idaho DOC, 08/28/02.

²⁰ Division of Prisons directive 02-307 "Use of Force," p. 20 (A) Policy sent by mail from the Pocatello Women's Correctional Facility 08/01/00.

²¹ Division of Prisons directive 02-307 "Use of Force," p. 20 (A) Policy sent by mail from the Pocatello Women's Correctional Facility 08/01/00.

²² DOP directive 02-322, p. 3, (B) Policy sent by mail from the Pocatello Women's Correctional Facility 08/01/00.

²³ DOP Directive 02-322 "Transportation of Inmates Outside Institution/ Transfers" p. 2, (IV) Policy sent by mail from the Pocatello Women's Correctional Facility 08/01/00.

²⁴ Idaho DOC, *Monthly Standard Reports*, May 2005, available at http://www.corr.state.id.us/facts/monthly_stats/2005/StandReportPDFMay05.pdf, as per 02/01/06.

²⁵ Idaho DOC, *Monthly Standard Reports*, May 2005, available at http://www.corr.state.id.us/facts/monthly_stats/2005/StandReportPDFMay05.pdf, as per 02/01/06.