

Indiana

WOMEN IN PRISON: 1,885 (09/30/05)¹

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§ 35-44-1-5 – *Sexual relations between service provider and detainee*ⁱ

Indiana’s law is in the Criminal Code, under the Offenses Against Public Administration article, in the chapter titled “Bribery, Conflict of Interest, and Official Misconduct.”

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 covers only specific sexual acts involving penetration.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	No	The law specifically provides that consent is not a defense.
Does the statute cover all custodians and staff in contact with inmates?	Yes	The law covers all persons who provide goods or services to a person in detention.
Does the statute cover all places where an inmate might be abused?	No	The law protects individuals “subject to lawful detention,” not parolees or probationers.
Is the penalty a felony?	Yes	Violation is a class D felony.

Custodial Sexual Misconduct – Allegations and Incidents

Indictments/Convictions (answer to AI letter requesting information) ²	<p>Amnesty International received no response from the Indiana Attorney General’s Office in 2000 and 2002.</p> <p>In 2005 the Indiana Attorney General’s Office reported that they do not compile statistics on prosecution or convictions under the state’s CSM statute.³</p>
Incidents reported in select media since January 2000	<p>- Indiana Women’s Prison: A jury acquitted two former guards at the Indiana Women’s Prison of coercing sexual favors from female inmate. A third guard pleaded guilty to sexual misconduct and an unrelated charge and was sentenced to 18 months probation. (AP, 4/20/05)</p>

¹ The text of Indiana’s statute is reprinted at the end of this section.

	<ul style="list-style-type: none"> - Hamilton County Jail: Former part-time jail officer, Christopher Lovell, was charged with felony sexual misconduct and misdemeanor official misconduct. According to court documents, Lovell was accused of leaving his post to engage in a sexual act with a female inmate in the visitation area. Sheriff's officials became aware of the sexual allegation after a different inmate claimed Lovell made inappropriate comments to her on a separate occasion. Sheriff Doug Carter said that the investigation into that allegation did not warrant a criminal charge, but it did lead to Lovell being confronted and resigning from his position, and then to the second allegation. (<i>The Indianapolis Star</i>, 12/18/04) Lovell pleaded guilty to misconduct and was sentenced to one year in jail, which was suspended, and one year probation. He was also to receive counseling for proper behavior and ethics in the workplace, complete 50 hours of community service and write a letter of apology to his co-workers for his actions. (<i>The Nobelsville Ledger</i> 09/09/05) - According to research undertaken by the Indianapolis Star newspaper, 92 disciplinary actions were undertaken against Indiana prison guards in 2000 and 2001 for inappropriate contact with inmates, which is a broad category of improper behavior that can range from granting favors to having sex. At Rockville Correctional Facility, which houses approximately 700 female inmates, 24 disciplinary actions for improper relations were brought in 2000 and 2001. (<i>Indianapolis Star</i>, 08/04/02) - Johnson County: A rookie jailer, Dionandre M. Hawkins, faces a criminal charge of sexual misconduct after allegedly admitting to having sexual contact with a female inmate. (<i>The Indianapolis Star</i>, 12/05/01) - White County Jail: Former jailer Joshua Scott admitted to having sex with a female prisoner and was sentenced to one year in a neighboring county's jail. Scott resigned from the jail in April after another guard reported seeing him having sex with a female inmate. The woman told Indiana State Police investigators she had sex with Scott five times during her time in jail. (<i>AP</i>, 11/09/01) - Indianapolis Women's Work Release: A former corrections officer, Dwayne Brewster, admitted to having sex with a former female inmate. He was charged with two counts of sexual misconduct and sentenced to 30 days in jail, 150 days of house arrest and 80 hours of community service. The inmate, who is nine months' pregnant, was not in court to hear Brewster apologize. The judge ordered a paternity test to determine whether Brewster is the baby's father. (<i>Indianapolis Star</i>, 06/29/01) - Hammond City Jail: Police officer Christopher Kostoff was acquitted of charges that he fondled a female inmate. Kostoff had allegedly been accused by two other female inmates of either fondling them or asking for sexual favors, but prosecutors said no one came forward to testify. (<i>AP</i>, 01/29/01) - Washington County Jail: Officer Jason Combs pleaded guilty to a felony charge of sexual misconduct and was sentenced to 1.5 years probation. Combs allowed male inmates to have sexual contact with female inmates before doing so himself. (<i>The Courier Journal</i>, 11/01/00)
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Other Reported Incidents	<p><i>Robins v Harris, 769 N.E.2d 586 (2002)</i> Tammy Robins sought damages, alleging that deputy Michael Soules sexually assaulted her while she was an inmate at the Vigo County Jail. The Sheriff and Soules were both held liable. Consent was not available to Soules as a defense because of “Robins’ lack of autonomy as an inmate.”</p> <p><i>Pritchett v Heil, 756 N.E.2d 561(2001)</i> Inmate Michelle Heil had sex with jailer Christopher Warren in exchange for drugs, cigarettes and privileges while she was in the Benton County Jail. Both Heil and Warren were charged as a result of their actions, along with another female inmate, Gunckle, who also had sex with Warren in exchange for privileges. A jury found Heil guilty of prostitution. Heil sued for damages, including against the sheriff for the negligent hiring, retention and supervision of Warren, but her claims failed because her sexual contact with Warren was consensual.</p>
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Custodial Sexual Misconduct – Policies, Procedures and Practices of Guarding Specific to Women

The following is based on data provided by the Indiana Department of Corrections in response to AI’s surveys in 2000 and 2005. AI did not receive data from the Indiana Department of Corrections in 2002. Additional information from other sources is included where available.

Is the current Department of Corrections policy on custodial sexual misconduct language-explicit?	Yes	Indiana Department of Corrections (DOC) policy includes direct and specific language about the nature of the sexual behaviors prohibited. The policy expresses a zero-tolerance policy for sexual conduct between staff (and contractors and volunteers) and offenders, as well as for sexual assault by inmates. ⁴
Allow cross-gender pat-down searches?	Yes	No information provided.
What is the percentage of female officers in relation to male officers?		According to the Indiana DOC, 28.5% of all correction officers are women and 71.4% are men.
Restrictions on the duties of male guards?	Yes	According to the Indiana DOC, restrictions include only allowing indirect contact and access to showers and bathrooms. ⁵
Staff training on sexual misconduct?	Yes	According to Indiana DOC policy, new employee training includes: an explanation of what constitutes inappropriate contact with offenders, how to recognize signs of sexual abuse or misconduct, ways inmates may report inappropriate sexual conduct, instructions for staff on reporting inappropriate sexual conduct, crisis intervention, treatment and crime scene and evidence preservation techniques. Annual training also includes a module on inappropriate sexual conduct. ⁶
Inform inmates of agency policies and reporting procedures on sexual misconduct?	Yes	According to Indiana DOC policy, inmates are educated on sexual misconduct during orientation. The education includes oral and written information that is “easily understandable” about inappropriate sexual conduct, prevention and intervention, self-protection, reporting, and treatment and counseling for victims. ⁷

Custodial Sexual Misconduct - Policies and Procedures Guiding Official Response

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

Is medical help available for the victim of alleged sexual abuse?	Yes	Indiana DOC policy provides that victims be referred to the facility’s Health Care staff. ⁸
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Are immediate mental health services available for the victim of alleged sexual abuse?	Yes	According to Indiana DOC policy, the inmate must be referred to the facility Mental Health staff for evaluation and counseling “as needed.” The inmate may be offered psychological services, chaplaincy services, counseling and group therapy. ⁹
Is counseling available for the victim of alleged sexual abuse?	Yes	See above.
Is a rape kit taken?	Yes	According to the Indiana DOC, inmates are sent to the emergency room, where the hospital takes a rape kit. ¹⁰
Are there special procedures for investigating allegations of sexual misconduct?	Yes	According to Indiana DOC policy, investigations are conducted in accordance with procedures of the Internal Affairs Unit. ¹¹
Is there a system for reporting allegations of custodial sexual misconduct within the DOC?	Yes	According to Indiana DOC policy, inmates are permitted to make reports of sexual misconduct or assault to any staff person. If the inmate is not comfortable making the report to the “immediate point of contact line staff,” the inmate can make the report to another staff person. In addition, any staff person, volunteer or contractor who has reason to believe that actual or threatened inappropriate sexual conduct has occurred has a duty to report to the Facility Head or another designated staff member. Indiana DOC policy further requires staff to report alleged incidents of inappropriate sexual conduct to the Office of Internal Affairs. ¹²
Is there a system for reporting allegations of custodial sexual misconduct directly to a body external to the DOC?	Yes	If the alleged inappropriate sexual conduct involves a juvenile, policy is to report the incident to Child Protective Services. No details were provided about reporting allegations of misconduct against an adult victim to an external body. ¹³
Is the investigation external?	Yes	No details provided.
If there is an external investigation, how is it triggered?	Yes	According to the Indiana DOC, an inmate’s report to DOC staff is automatically transmitted to the State Police. ¹⁴ Indiana DOC policy states that a determination will be made as to whether the Indiana State Police is to be contacted and that the Office of Internal Affairs should work cooperatively with state police if they are involved. ¹⁵
Are special measures taken to shield alleged victims from retaliation?	Yes	According to Indiana DOC policy, the alleged victim and perpetrator are physically separated. This provision appears to be designed for responding to inmate-on-inmate assault as it allows for segregating ‘one of the parties’ and does not explicitly mention measures to protect victims if the alleged abuser is a staff member. The policy also allows for an assessment of the victim’s housing and work assignments to determine if transfer should be offered. ¹⁶
If so, do the measures include solitary confinement or lock-down of the inmate?	Yes	According to Indiana DOC policy, separation may involve placing the victim in administrative segregation or protective custody. In a written response, the Indiana DOC added that these measures are undertaken “if necessary” for separation or change of location. ¹⁷
Is there an independent body, such as a Corrections Ombudsman, with independent oversight of correctional facilities and the DOC?	Yes	According to the Indiana DOC, the Department of Administrations houses a DOC ombudsman. ¹⁸
Is there a system in place to track investigations, indictments and convictions for custodial sexual misconduct?	Yes	According to Indiana DOC policy, each reported incident is discussed at a Sexual Assault Prevention Committee, which determines whether any actions are necessary at the facility to reduce the likelihood of future incidents. In addition, a database is maintained that includes information on the victim and offender, the sanctions imposed for the conduct, and the current status of referrals to criminal prosecution. ¹⁹

Custodial Sexual Misconduct – Pending Legislative Proposals

None

Pregnancy in Custody

Pregnancy - Statute

Legislation banning shackling in the third trimester or during labor	No	Indiana 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 Indiana Department of Corrections response to AI's surveys, please see above.

Use of restraints in third trimester	Yes	Women may be restrained in the third trimester. According to information sent by the Indiana DOC, the Department has no policy or formal procedure covering this area. ²⁰
Restraints during transport	Yes	According to information sent by the Indiana DOC, there is no policy on this issue. But according to conversation with a DOC official, the procedure is for medical status to determine the use of restraints. Specific information is not available. ²¹
Restraints during labor	Yes	Inmates may be shackled during labor. According to the Indiana DOC, there is no policy on the issue. ²²
Officer in delivery room	--	Not known. According to an Indiana DOC official, there is no policy on the issue. ²³

Contact information

INDIANA DEPARTMENT OF CORRECTIONS

Commissioner J. David Donahue 302 W. Washington St. I. G. C. S. Room E334 Indianapolis, IN 46204 Phone:(317) 232-5711	Homepage: http://www.state.in.us/indcorrection/index.html
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INDIANA DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

Indiana Women's Prison <i>Female inmates: 419²⁴</i> Superintendent: Dana Blank 401 N. Randolph St. Indianapolis, IN 46201 Phone: (317) 639-2671 Fax: (317) 684-9643 Security level: High/ medium	Rockville Correctional Facility Female inmates: 1,144 ²⁵ Superintendent: Walter Martin R.R. #3, Box 282 Rockville, IN 47872 Phone: (765) 569-3178 Security level: medium	Madison Correctional Facility Female Inmates: 168 ²⁶ Superintendent: Doris Parlette P.O. Box 1079 Madison, IN 47250 Phone: (812) 265-6154 Security level: minimum
Atterbury Correctional Facility <i>Female inmates: 84²⁷</i> Superintendent: John Hardwick P. O. Box 95	Indianapolis Women's Work Release <i>Female inmates: 70²⁸</i> Superintendent: Mike Lloyd	

Edinburgh, IN 46124 Phone: (812) 526-9829 Security level: minimum	512 E. Walcott St. Indianapolis, IN 46203 Phone: (317) 232-1443 Security level: minimum	
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INDIANA EXECUTIVE

Governor Mitch Daniels 206 State House Indianapolis, IN 46204 Phone: (317) 232-4567	Homepage: http://www.state.in.us/gov/ Elected: 2004
Attorney General Steve Carter Indiana Government Center 302 W. Washington St. Indianapolis, IN 46204 Phone: (317) 232-6201; Fax: (317) 232-7979	Homepage: http://www.state.in.us/attorneygeneral/ Elected: 2000; Reelected: 2004

INDIANA LEGISLATIVE INFORMATION

Legislative Session: Each session convenes annually in regular session the Tuesday after the second Monday in January. The session length is 61 session days in odd-numbered years with adjournment no later than April 30, and 30 session days in even-numbered years with adjournment no later than March 15. Senate: 50 members, 4 year term Assembly: 100 representatives, 2 year term	Legislative home page: http://www.state.in.us/legislative Bill search: http://www.state.in.us/legislative/billwatch.html or You can e-mail inquiries to: BillWatch@ai.org
Senate Indiana State Senate 200 W. Washington St. Indianapolis, IN 46204-2785 Phone: (317) 232-9400	Home page: http://www.state.in.us/legislative/
House of Representatives Indiana House of Representatives 200 W. Washington St. Indianapolis, IN 46204 (317) 232-9600 / (800) 382-9842	Home page: http://www.state.in.us/legislative/

WOMEN IN PRISON - NGO RESOURCES

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

Indiana-CURE P.O. Box 199256 Indianapolis, IN 46219 Phone: (317)274-4525
Indiana Civil Liberties Union 1031 East Washington St. Indianapolis, IN 46202 Phone: (317) 635-4056 Website: www.iclu.org

Indiana's Custodial Sexual Misconduct Statute

35-44-1-5 Sexual relations between service provider and detainee

- (a) As used in this section, "service provider" means a public servant or other person employed by a governmental entity or another person who provides goods or services to a person who is subject to lawful detention.
- (b) A service provider who knowingly or intentionally engages in sexual intercourse or deviate sexual conduct with a person who is subject to lawful detention commits sexual misconduct, a Class D felony.
- (c) It is not a defense that an act described in subsection (b) was consensual.
- (d) This section does not apply to sexual intercourse or deviate sexual conduct between spouses.
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¹ Fax from Kathy Lisby, Indiana Department of Correction (DOC), 10/06/05.

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

³ Email from Rhonda Burris, Administrative Assistant to the Attorney General, 08/23/05.

⁴ Indiana DOC, Policy and Administrative Procedures 02-01-115, "Sexual Assault Prevention and Reporting," effective 07/01/05. Received by fax from Kathy Lisby, Indiana DOC.

⁵ Fax from Kathy Lisby, Indiana Department of Correction (DOC), 10/06/05.

⁶ Indiana DOC, Policy and Administrative Procedures 02-01-115, "Sexual Assault Prevention and Reporting," effective 07/01/05. Received by fax from Kathy Lisby, Indiana DOC.

⁷ Indiana DOC, Policy and Administrative Procedures 02-01-115, "Sexual Assault Prevention and Reporting," effective 07/01/05. Received by fax from Kathy Lisby, Indiana DOC.

⁸ Indiana DOC, Policy and Administrative Procedures 02-01-115, "Sexual Assault Prevention and Reporting," effective 07/01/05. Received by fax from Kathy Lisby, Indiana DOC.

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¹⁰ Fax from Kathy Lisby, Indiana DOC, 10/06/05.

¹¹ Indiana DOC, Policy and Administrative Procedures 02-01-115, "Sexual Assault Prevention and Reporting," effective 07/01/05. Received by fax from Kathy Lisby, Indiana DOC.

¹² Indiana DOC, Policy and Administrative Procedures 02-01-115, "Sexual Assault Prevention and Reporting," effective 07/01/05. Received by fax from Kathy Lisby, Indiana DOC.

¹³ Indiana DOC, Policy and Administrative Procedures 02-01-115, "Sexual Assault Prevention and Reporting," effective 07/01/05. Received by fax from Kathy Lisby, Indiana DOC.

¹⁴ Fax from Kathy Lisby, Indiana DOC, 10/06/05.

¹⁵ Indiana DOC, Policy and Administrative Procedures 02-01-115, "Sexual Assault Prevention and Reporting," effective 07/01/05. Received by fax from Kathy Lisby, Indiana DOC.

¹⁶ Indiana DOC, Policy and Administrative Procedures 02-01-115, "Sexual Assault Prevention and Reporting," effective 07/01/05. Received by fax from Kathy Lisby, Indiana DOC.

¹⁷ Fax from Kathy Lisby, Indiana DOC, 10/06/05.

¹⁸ Fax from Kathy Lisby, Indiana DOC, 10/06/05.

¹⁹ Indiana DOC, Policy and Administrative Procedures 02-01-115, "Sexual Assault Prevention and Reporting," effective 07/01/05. Received by fax from Kathy Lisby, Indiana DOC.

²⁰ Information faxed by Pam Pattison, Public Information Officer, 01/09/01.

²¹ Information faxed by Pam Pattison, Public Information Officer, 01/09/01. Phone conversation with Indiana DOC Public Information Officer, Pam Pattison, 01/2001.

²² Information faxed by Pam Pattison, Public Information Officer, 01/09/01.

²³ Information faxed by Pam Pattison, Public Information Officer, 01/09/01.

²⁴ As of 09/30/05. Fax from Kathy Lisby, Indiana DOC, 10/06/05.

²⁵ As of 09/30/05. Fax from Kathy Lisby, Indiana DOC, 10/06/05.

²⁶ As of 09/30/05. Fax from Kathy Lisby, Indiana DOC, 10/06/05.

²⁷ As of 09/30/05. Fax from Kathy Lisby, Indiana DOC, 10/06/05.

²⁸ As of 09/30/05. Fax from Kathy Lisby, Indiana DOC, 10/06/05.