

Mississippi

WOMEN IN PRISON: 2,334 (07/05)¹

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§ 97-3-104ⁱ – *Sexual penetration of incarcerated offenders by law enforcement officers or employees; offense; punishment.*ⁱⁱ

Mississippi’s law is in the Sexual Offenses section of the criminal code. It limits the violation to specified officers and the acts prohibited to penetration.

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 sexual penetration and carnal knowledge.
Does the law allow an officer to claim an inmate consented to the sexual acts and therefore not be charged?	No	The law states explicitly that consent is irrelevant.
Does the statute cover all custodians and staff in contact with inmates?	No	The law covers only specified public servants and custodians including jailers, guards, and employees of the DOC; sheriffs, constables, marshals, and other officers. It does not apply to private contractors and service providers, or to other employees at agencies other than the DOC (e.g. kitchen employees at a county jail).
Does the statute cover all places where an inmate might be abused?	Yes	The law is not concerned where the abuse occurred, and it applies to those on probation, parole, and other forms of correctional supervision.
Is the penalty a felony?	Yes	Violation is a felony.

Custodial Sexual Misconduct – Allegations and Incidents

Indictments/Convictions (answer to AI letter requesting information) ²	Amnesty International did not receive a response from the Mississippi Attorney General’s Office.
Incidents reported in select media since January 2000	- Hancock County Jail: A former inmate filed a lawsuit against city officials claiming they are directly responsible for alleged sexual and physical abuse to female inmates in the county jail. The suit claims prison guards used the local government’s inadequate supervision of the jail to “initiate sexual relations with female inmates” in exchange for cigarettes or drugs. The suit claims that female inmates who refused sexual advances from the guards were beaten or forced to have sex, and in some cases, favored male inmates were allowed to have unwanted sex with female inmates. Jail medical records allegedly indicate that between 1995 and 2004, two female inmates became pregnant during extended periods of incarceration. (<i>Biloxi Sun Herald</i> , 6/11/05)

ⁱ The statute was amended in 2004. The 2004 amendment substituted "It is" for "It shall be" and "or have carnal knowledge of any offender" for "with any offender" in the first sentence. 2005 H.B. 612, which was approved on 4/20/05, amended the statute once again. The amendment adds to those protected by the statute persons who are serving on probation, parole, earned release supervision, post release supervision, earned probation or any other form of correctional supervision. This amended statute is effective as of 7/1/05.

ⁱⁱ The text of Mississippi’s statute is reprinted at the end of this section

	<ul style="list-style-type: none"> - Lowndes County Detention Facility: Two jailers face sexual battery charges stemming from allegations that they had sex with an inmate. The officers are on administrative suspension with pay until the investigation is complete. (AP, 1/12/05) - Moss Point City Jail: Police are investigating the alleged rape of a female inmate by a Moss Point officer. The officer has been placed on paid leave. The woman had been incarcerated at the city jail for less than 24 hours on a misdemeanor offense. (AP, 6/5/04) - Lauderdale County Detention Facility: A Sheriff's deputy has been fired after being charged with soliciting sex from a female inmate. <i>AP State and Local Wire</i> 6/23/01) - Raymond Detention Center, Hinds County: A detention officer was arrested and charged with raping a female inmate. (AP, 02/02/01) - Alcorn County Jail: A lawsuit claiming that a jailer forced a female inmate to perform oral sex was settled. (AP, 11/07/00) - Flowood Restitution Center: A former female inmate is suing the police commander, alleging that he used his supervisory authority in order to have sex with her while she was in detention. (AP, 09/12/00)
Other incidents reported	<p><u><i>Stockman v. Lowndes County, Mississippi</i></u>. 2000 U.S. Dist. LEXIS 16677 (N.D. Miss. 2000)</p> <p>Lowndes County Adult Detention Center: In May 1998, Jessica Stockman entered the Lowndes County Adult Detention Center in Columbus. A week later, after attempting suicide, Stockman was transferred to a holding cell in the booking area where she could be closely monitored. Around June 13, Stallings approached the duty officer in charge of the booking area and instructed her to take a lunch break in a separate area of the jail. Stallings remained present, acting as a lookout for Hill. Shortly thereafter, Hill entered Stockman's holding cell and raped her. Roughly two months later, Stockman reported the sexual assault; an investigation was initiated; and Hill and Stallings were placed on administrative leave pending the investigation. Ultimately, Hill and Stallings were terminated from employment and Hill pleaded guilty to criminal charges in connection with the assault.³</p>

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

The following is based on data provided by the Mississippi 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	Mississippi DOC policy entitled General Standards of Professional Conduct prohibits sexual penetration or carnal knowledge of an inmate with or without consent, but does not deem any other form of sexual conduct inappropriate. ⁴
Allow cross-gender pat-down searches?	Yes	According to the Mississippi DOC, searches are predominantly same-sex. Searches of female inmates by male officers are permitted only in emergencies. According to the Mississippi DOC, circumstances have never required that a male staff member pat-search a female inmate. ⁵
What is the percentage of female officers in relation to male officers?		According to the Mississippi DOC, as of June 2002, 65.3% of the officers employed in the Mississippi women's facility were female (34.7% male). ⁶
Restrictions on the duties of male guards?	Yes	According to the Mississippi DOC, male officers are not permitted to work any duty post inside the living area of a female housing unit. They are not allowed to perform any type of body search on female inmates. They may not enter the living area or hold a conference with a female offender without a female officer present as a witness.

		However, male officers are allowed to work entry points and control rooms of female housing areas since these are separate from living areas. ⁷
Staff training on sexual misconduct?	Yes	From December 1999, all new employees of the Mississippi DOC received training on sexual misconduct. ⁸
Inform inmates of agency policies and reporting procedures on sexual misconduct?	No	According to Mississippi DOC, no initiatives exist for informing inmates about sexual misconduct. ⁹

Custodial Sexual Misconduct - Policies and Procedures Guiding Official Response

The following is based on the Mississippi 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 the Mississippi DOC, victims are sent to medical services for treatment. ¹⁰
Are immediate mental health services available for the victim of alleged sexual abuse?	Yes	According to the Mississippi DOC, the University Medical Center refers all sexual assault cases to a Sexual Assault Nurse Examiner. ¹¹
Is counseling available for the victim of alleged sexual abuse?	Yes	According to the Mississippi DOC, counseling is available. However, no details were provided. ¹²
Is a rape kit taken?	Yes	According to the Mississippi DOC, a rape kit is administered. ¹³
Are there special procedures for investigating allegations of sexual misconduct?	No	No details provided.
Is there a system for reporting allegations of custodial sexual misconduct within the DOC?	Yes	The Mississippi DOC reports that a system does exist, but no details were provided. ¹⁴
Is there a system for reporting allegations of custodial sexual misconduct directly to a body external to the DOC?	No	No details provided.
Is the investigation external?	No	According to the Mississippi DOC, the investigation remains internal (carried out by Internal Audit Department) until criminal charges are filed. ¹⁵
If there is an external investigation, how is it triggered?		No information provided.
Are special measures taken to shield alleged victims from retaliation?	Yes	Measures may be taken. However, according to the DOC, this occurs only on the recommendation of the Internal Audit Department. No details were provided. ¹⁶
If so, do the measures include solitary confinement or lock-down of the inmate?	No	According to the DOC, these measures are not included. ¹⁷
Is there an independent body, such as a Corrections Ombudsman, with independent oversight of correctional facilities and the DOC?	--	According to the Mississippi DOC, an auditor from the Joint Legislative Committee on Performance Evaluation and Expenditure Review (a standing committee of the legislature) is assigned to the DOC. ¹⁸
Is there a system in place to track investigations, indictments and convictions for custodial sexual misconduct?	Yes	According to the Mississippi DOC, the Internal Audit Department maintains a tracking system. However, no details were provided. ¹⁹

Custodial Sexual Misconduct – Pending Legislative Proposals

None

Pregnancy in Custody

Pregnancy – Statute

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

Use of restraints in third trimester	Yes	According to the Mississippi DOC, policy requires that full restraint always be utilized in transporting inmates except when medical personnel recommend otherwise. ²⁰ In a written response, the Mississippi DOC further states that pregnant inmates are not shackled during the third trimester unless their security class necessitates such practice. ²¹
Restraints during transport	Yes	See above.
Restraints during labor	No	According to a Mississippi DOC official, pregnant inmates are not customarily shackled during labor, unless the delivery will be via c-section and the custody security class warrants such practice. ²²
Officer in delivery room	Yes	According to the Mississippi DOC, a female officer is present. It is unclear whether this is determined by policy or procedure. ²³

Contact information

MISSISSIPPI DEPARTMENT OF CORRECTIONS

Commissioner Christopher B. Epps Mississippi Department of Corrections 723 N. President St. Jackson, MS 39202 Tel: (601) 359-5600; FAX: (601) 359-5624 Email: cepps@mdoc.state.ms.us	Homepage: http://www.mdoc.state.ms.us/
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MISSISSIPPI DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

WOMEN'S FACILITY

Central Mississippi Correctional Facility Female Inmates: 1,377 ²⁴ Superintendent: Margaret Bingham P.O. Box 88550, Pearl, MS 39208-8550 Phone: (601) 932-2880 Fax: 601-664-0782
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MISSISSIPPI EXECUTIVE

Governor Haley Barbour Post Office Box 139 Jackson, MS 39205 Phone: (601) 359-3680 Fax: (601) 359-3741	Homepage: http://www.governor.state.ms.us/ Elected 2003
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Attorney General Jim Hood Office of the Attorney General P.O. Box 220 Jackson, MS, 39205 Phone: (601) 359-3680	Homepage: http://www.ago.state.ms.us/ Elected: 2003
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MISSISSIPPI LEGISLATIVE INFORMATION

House: 122 members Senate : 52 members Legislative Session: Meets annually from the Tuesday after the first Monday in January for 90 calendar days. Bills may carry over.	Legislature Homepage: http://www.ls.state.ms.us/ Bill status information: http://billstatus.ls.state.ms.us Bill text search: http://index.ls.state.ms.us Bill information phone number: House and Senate: (601) 359-3135
Senate P.O. Box 1018 Jackson, MS 39215-1018	Homepage: http://www.ls.state.ms.us/senate.htm
House of Representatives P.O. Box 1018 Jackson, MS 39215-1018	Homepage: http://www.ls.state.ms.us/house.htm http://clerkweb.house.gov/106/mbrcmtee/members/mbrstate/UnOfLMbr.htm#MISSISSIPPI

WOMEN IN PRISON - NGO RESOURCES

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

Mississippi-CURE P.O. Box 1620 Philadelphia, MS 39350-9998 Phone: 877-819-9663
ACLU of Mississippi P.O. Box 2242 Jackson, MS 39225 Phone: (601) 355-6464 Web site: www.msaclu.org

Mississippi's Custodial Sexual Misconduct Statute

§ 97-3-104. Crime of sexual activity between law enforcement personnel and prisoners; sanctions

It is unlawful for any jailer, guard, employee of the Department of Corrections, sheriff, constable, marshal or other officer to engage in any sexual penetration, as defined in Section 97-3-97, or have carnal knowledge of any offender, with the offender's consent, who is incarcerated at any jail or any state, county or private correctional facility or who is serving on probation, parole, earned-release supervision, post-release supervision, earned probation or any other form of correctional supervision. . Any person who violates this section is guilty of a felony and upon conviction shall be fined not more than Five Thousand Dollars (\$ 5,000.00) or imprisoned for a term not to exceed five (5) years, or both.

¹ Monthly Fact Sheet, Mississippi Department of Correction (DOC), July 2005, available at <http://www.mdoc.state.ms.us/>, as per 01/27/06.

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

³ *Stockman v. Lowndes County, Mississippi*, 2000 U.S. Dist. LEXIS 16677 (N.D. Miss. 2000).

⁴ Mississippi DOC, Policy Number 03-01, "General Standards of Professional Conduct," effective 07/01/05.

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- ⁵ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ⁶ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ⁷ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ⁸ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ⁹ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ¹⁰ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ¹¹ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ¹² Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ¹³ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ¹⁴ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ¹⁵ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ¹⁶ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ¹⁷ Fax from Gay Marsali, Special Projects Officer III, DOC, 08/17/05.
 - ¹⁸ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ¹⁹ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ²⁰ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ²¹ Fax from Gay Marsali, Special Projects Officer III, DOC, 08/17/05.
 - ²² Fax from Gay Marsali, Special Projects Officer III, DOC, 08/17/05.
 - ²³ Email from Sherry Robinson, Legislative Liaison, DOC, 07/10/02.
 - ²⁴ Mississippi DOC, Monthly Fact Sheet, as of July 2005, available at <http://www.mdoc.state.ms.us/>, as per 01/27/06.