

# Rhode Island

WOMEN IN PRISON: 200 (2004)<sup>1</sup>

## Custodial Sexual Misconduct

### *Custodial Sexual Misconduct – Statute*

§ 11-25-24 – *Correctional employees -- Sexual relations with inmate -- Felony*<sup>1</sup>

Rhode Island’s law is in the Jails and Prisons section of the Criminal Code. It creates a statutory rape for sexual penetration only, where consent is not defense to prosecution. The law only covers state employees or contractors to the State Department of Corrections.

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 specific to sexual penetration.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	No	The law is a “statutory rape,” and consent is not a permitted defense.
Does the statute cover all custodians and staff in contact with inmates?	No	The law applies to all employees and contractors who provide services to the DOC or a correctional institution. However, it only applies to individuals who have direct custodial supervision and control over those not confined in an institution.
Does the statute cover all places where an inmate might be abused?	Yes	The statute covers inmates confined in a correctional institution or otherwise under the direct custodial supervision and control of a DOC or contractor employee. According to the Rhode Island DOC, the statute covers all instances involving direct control or supervision, including prison facilities, hospitals, courts, and vehicles. <sup>2</sup>
Is the penalty a felony?	Yes	Felony punishable by five years’ imprisonment and/or \$10,000 fine.

### *Custodial Sexual Misconduct – Allegations and Incidents*

Indictments/Convictions (answer to AI letter requesting information) <sup>3</sup>	<p>In 2002, the Attorney General’s Office reported that since the enactment of the statute in the 1995 legislative session, two correctional officers have been indicted for violating it. In both instances, convictions were obtained:</p> <ul style="list-style-type: none"> <li>- In the first indictment, the defendant entered a plea of <i>nolo contendere</i> in June 1998 and received a three-year suspended sentence with probation.</li> <li>- In the second indictment, the defendant entered a <i>nolo contendere</i> plea in February 2001 and received a five-year deferred sentence.<sup>4</sup></li> </ul> <p>According to the AG, as of late September 2005, there have been no additional cases charged under the custodial sexual misconduct statute.<sup>5</sup></p>
Incidents reported in select media since January 2000	<ul style="list-style-type: none"> <li>- Adult Correctional Institutions: A community advocacy group, DARE (Direct Action for Rights and Equality), stormed Corrections Director A. T. Wall’s office after he denied their request for a public board to review prisoners’ complaints. Members recounted numerous complaints from prisoners, such as improper medical care, beatings and rape allegations. (<i>The Providence Journal Bulletin</i> 08/25/00)</li> </ul>

<sup>1</sup> The text of Rhode Island’s statute is reprinted at the end of this section.

- Adult Correctional Institutions: A grand jury indicted a correctional officer for having sexual relations with an inmate on work detail. (*The Providence Journal-Bulletin* 07/12/00)

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

The following is based on data provided by the Rhode Island 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?	<b>Yes</b>	Rhode Island DOC policy includes direct and specific language about the sexual nature of the behaviors prohibited. <sup>6</sup> According to the Rhode Island DOC, the DOC Code of Ethics specifically addresses relationships with offenders, including personal relationships, and also covers reporting requirements and provides examples of misconduct subject to disciplinary action up to and including termination. <sup>7</sup> According to the Rhode Island DOC, it is currently developing a new comprehensive policy on prison sexual assault that will contain even more specific language. It expects to implement the new policy and new training programs by February 2006. <sup>8</sup>
Allow cross-gender pat-down searches?	<b>Yes</b>	According to the Rhode Island DOC, cross-gender pat-down searches are prohibited except in emergency situations. <sup>9</sup>
What is the percentage of female officers in relation to male officers?		According to the Rhode Island DOC, 9.4% of correctional staff are female (84 of the total 892 correctional staff, not including captains, lieutenants, or deputy wardens). <sup>10</sup>
Restrictions on the duties of male guards?	<b>Yes</b>	According to the Rhode Island DOC, certain posts are designated gender specific and cannot be staffed by correction officers of the opposite sex. No further details were provided. <sup>11</sup>
Staff training on sexual misconduct?	<b>Yes</b>	According to the Rhode Island DOC, the DOC’s Chief Inspector conducts pre-service and in-service training for staff, contract employees and volunteers. The Sexual Assault & Trauma Resource Center of Rhode Island is currently developing a comprehensive sexual assault training curriculum for staff for 2006 that will be consistent with the Rhode Island DOC’s forthcoming policy on prison sexual assault. <sup>12</sup>
Inform inmates of agency policies and reporting procedures on sexual misconduct?	<b>Yes</b>	According to the Rhode Island DOC, the Sexual Assault & Trauma Resource Center of Rhode Island is currently developing a comprehensive sexual assault training curriculum for inmates for 2006 that will be consistent with the Rhode Island DOC’s forthcoming policy on prison sexual assault. <sup>13</sup>

## ***Custodial Sexual Misconduct - Policies and Procedures Guiding Official Response***

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

Is medical help available for the victim of alleged sexual abuse?	<b>Yes</b>	Rhode Island DOC policy #18.55 on sexual assault provides for prompt health treatment to be provided to inmates. The Rhode Island DOC reports that it is developing a new policy for 2006 that will include a more comprehensive medical response. <sup>14</sup>
Are immediate mental health services available for the victim of alleged sexual abuse?	<b>Yes</b>	According to the Rhode Island DOC, this is included in provisions for medical care. <sup>15</sup>
Is counseling available for the victim of alleged sexual abuse?	<b>Yes</b>	According to Rhode Island DOC, policy #18.55 also provides that referrals are to be made to appropriate professionals for mental health counseling. Furthermore, the DOC states that adult counselors

		and a new Sexual Assault Dis charge Planner are available to assist sexual assault victims during their incarceration and transition into the community. <sup>16</sup>
Is a rape kit taken?	<b>Yes</b>	According to the Rhode Island DOC, operating procedure is that a rape kit is taken if the assault occurred within the 72 hours prior to the incident being reported. <sup>17</sup>
Are there special procedures for investigating allegations of sexual misconduct?	<b>Yes</b>	According to the Rhode Island DOC, the DOC's Office of Inspections conducts all investigations of staff-on-inmate sexual assault. <sup>18</sup> According to the Rhode Island DOC, allegations are pursued as criminal complaints. <sup>19</sup>
Is there a system for reporting allegations of custodial sexual misconduct within the DOC?	<b>Yes</b>	According to the Rhode Island DOC, inmates have direct access to the DOC Office of Inspections via telephone. During admissions and orientation, all inmates are provided with the direct access number to the DOC Office of Inspections on their PIN list. In addition, the reporting system is to be explained in detail in the new sexual assault policy and new informational flyers and orientation program being created for inmates for 2006. <sup>20</sup>
Is there a system for reporting allegations of custodial sexual misconduct directly to a body external to the DOC?	<b>No</b>	According to the Rhode Island DOC, there is such a system. However, information it provided indicates that it is internal. The DOC reports that inmates are encouraged to report an allegation or incident of sexual assault to anyone with whom they feel comfortable speaking. All incidents are referred to be the Inspector's Office to begin the investigation. <sup>21</sup>
Is the investigation external?	--	According the Rhode Island DOC, the DOC's Office of Inspections conducts an internal investigation and 'may' turn the results over to the State Police 'if necessary' for further evaluation. <sup>22</sup>
If there is an external investigation, how is it triggered?		See above. No details were provided concerning how decisions are made whether to involve the State Police. <sup>23</sup>
Are special measures taken to shield alleged victims from retaliation?	<b>Yes</b>	According to the Rhode Island DOC, alleged victims are in daily contact with the Office of Inspections until the investigation is completed. Any reported incident regarding possible retaliation is investigated. <sup>24</sup>
If so, do the measures include solitary confinement or lock-down of the inmate?	<b>Yes</b>	According to the Rhode Island DOC, inmates are offered an opportunity to be put in solitary confinement but they may decline 'if they wish.' <sup>25</sup>
Is there an independent body, such as a Corrections Ombudsman, with independent oversight of correctional facilities and the DOC?	<b>No</b>	No details provided.
Is there a system in place to track investigations, indictments and convictions for custodial sexual misconduct?	--	Unclear. According to the Rhode Island DOC, the Office of Inspections monitors all cases from initial complaint until conclusion. <sup>26</sup>

## ***Custodial Sexual Misconduct – Pending Legislative Proposals***

*None*

## **Pregnancy in Custody**

### ***Pregnancy - Statute***

Legislation banning shackling in the third trimester or during labor	<b>No</b>	Rhode Island 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 Rhode Island Department of Corrections response to AI's surveys, please see above.

Use of restraints in third trimester	No	According to the Rhode Island DOC, inmates are not routinely shackled in the third trimester. The formal Standard Operational Procedure (SOP) states that pregnant inmates are not to be restrained. If an inmate were to try to harm herself or others she would be restrained using "soft restraints," not metal restraints. Belly chains are not to be applied to pregnant inmates. <sup>27</sup>
Restraints during transport	Yes	According to Rhode Island DOC, the SOP states that inmates are handcuffed during transportation and that belly chains are never used. <sup>28</sup>
Restraints during labor	No	Rhode Island DOC policy states that restraints are never to be used on pregnant inmates admitted to an outside hospital for delivery unless the inmate attempts to escape or engages in violent behavior that presents a danger of injury. <sup>29</sup>
Officer in delivery room	No	According to the Rhode Island DOC, the SOP states that correctional officers are to be posted outside the delivery room. <sup>30</sup>

## **Contact information**

### **RHODE ISLAND DEPARTMENT OF CORRECTIONS**

<b>Director: Ashbel T. Wall, II</b> 40 Howard Avenue Cranston, RI 02920 Phone: (401) 462-2611; Fax: (401) 462-2630 Email: <a href="mailto:director@doc.state.ri.us">director@doc.state.ri.us</a>	Homepage: <a href="http://www.doc.state.ri.us/">http://www.doc.state.ri.us/</a>
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### **RHODE ISLAND DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN**

<b>Dorothea Dix Women's Facility</b> Inmates: 77 <sup>31</sup> Cranston, RI 02920 Phone: (401) 462-2364 Fax (401) 462-1842 Security Level: female minimum security	<b>Gloria McDonald Women's Facility</b> Inmates: 64 <sup>32</sup> P.O. Box 8312 Cranston RI 02920 Phone: (401) 462-2361 Security Level: female medium and awaiting trial
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### **RHODE ISLAND EXECUTIVE**

<b>Governor Donald L. Carcieri [R]</b> Office of the Governor 222 State House, Room 115 Providence, RI 02903-1196 Phone: (401) 222-2080; Fax: (401) 222-8096 Email: <a href="mailto:rigov@gov.state.ri.us">rigov@gov.state.ri.us</a>	Home page: <a href="http://www.governor.state.ri.us/">http://www.governor.state.ri.us/</a>  Elected: 2002
<b>Attorney General Patrick C. Lynch [D]</b> 150 South Main Street Providence, RI 02903 Phone: (401) 274-4400	Home page: <a href="http://www.riag.state.ri.us">www.riag.state.ri.us</a>  Elected: 2002

## RHODE ISLAND LEGISLATIVE INFORMATION

<p><b>Legislative Session:</b> The General Assembly convenes each year on the first Tuesday in January.</p> <p><b>Senate:</b> 38 members, 2-year terms  <b>House:</b> 75 members, 2-year terms</p>	<p>Legislature home page:  <a href="http://www.rilin.state.ri.us/gen_assembly/genmenu.html">http://www.rilin.state.ri.us/gen_assembly/genmenu.html</a>            Bill search:  <a href="http://www.state.ri.us/submenus/leglink.htmor">http://www.state.ri.us/submenus/leglink.htmor</a>  <a href="http://www.state.ri.us/">http://www.state.ri.us/</a></p> <p>Bill information phone number:            (401) 277- 2473</p>
<p><b>Senate</b>            State House            Providence, RI. 02903</p>	<p>Home page:  <a href="http://www.rilin.state.ri.us/senate.html">http://www.rilin.state.ri.us/senate.html</a></p>
<p><b>House of Representatives</b>            State House            Providence, RI. 02903</p>	<p>Home page: <a href="http://www.rilin.state.ri.us/hofrep.html">http://www.rilin.state.ri.us/hofrep.html</a></p>

## WOMEN IN PRISON - NGO RESOURCES

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

<p>Rhode Island Civil Liberties Union            128 Dorrance St, Suite 220            Providence, RI 02903            Phone: (401)-831-7171</p>
<p>Rhode Island CURE            501 Eaton St.            Providence, RI 02908            Phone: (401) 751-6538</p>

### Rhode Island's Custodial Sexual Misconduct Statute

**§ 11-25-24 Correctional employees – Sexual relations with inmates – Felony.**

Every employee of the department of corrections or the employee of a contractor who is under contract to provide services in a correctional institution who engages in sexual penetration, as defined in § 11-37-1, with an inmate confined in that institution, or who is otherwise under the direct custodial supervision and control of that employee, is guilty of a felony punishable by imprisonment for not more than five (5) years, by a fine of not more than ten thousand dollars (\$10,000), or both.

<sup>1</sup> Rhode Island Department of Corrections (DOC), *Annual Report 2004*, available at <http://www.doc.state.ri.us/pdf/2004/2004AnnualReport.pdf> (Average Population), as per 01/27/06.

<sup>2</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.

<sup>3</sup> The information does not reflect prosecutions or convictions under rape statutes.

<sup>4</sup> Letter from William Ferland, Assistant Attorney General, Rhode Island Attorney General's Office, 06/13/02.

<sup>5</sup> Letter from Alan R. Goulart, Assistant Attorney General, Vision Chief, Criminal Division, Department of Attorney General, State of Rhode Island, 09/27/05.

<sup>6</sup> 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.

<sup>7</sup> Fax from Albert A. Bucci, Assistant to the Director, Office of the Director, Rhode Island DOC, 07/01/02, citing policy #3.14-1 DOC, Code of Ethics and Conduct, effective 07/01/98.

<sup>8</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 11/07/05

<sup>9</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.

<sup>10</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.

<sup>11</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.

<sup>12</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.

<sup>13</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.

<sup>14</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.

<sup>15</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.

<sup>16</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.

<sup>17</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.

<sup>18</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.

<sup>19</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.

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- <sup>21</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.  
<sup>22</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.  
<sup>23</sup> Fax from Ashbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.  
<sup>24</sup> Fax from Asbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.  
<sup>25</sup> Fax from Asbel T. Wall, II, Director, Rhode Island DOC, 08/26/05  
<sup>26</sup> Fax from Albert A. Bucci, Assistant to the Director, Office of the Director, Rhode Island DOC, 07/01/02.  
<sup>27</sup> Fax from Asbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.  
<sup>28</sup> Phone conversation with Roberta Richmond, Assistant Director Rehabilitative Services and Community Corrections, 02/13/01; Fax from Asbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.  
<sup>29</sup> Fax from Asbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.  
<sup>30</sup> Fax from Asbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.  
<sup>31</sup> Fax from Asbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.  
<sup>32</sup> Fax from Asbel T. Wall, II, Director, Rhode Island DOC, 08/26/05.