

Wyoming

WOMEN IN PRISON: 175 (12/03)¹

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§6-2-303 – *Sexual assault in the second degree.*

§6-2-304 – *Sexual assault in the third degree.*ⁱ

Wyoming’s laws are in the Sexual Offenses section in the criminal code. They do not specifically mention persons in custody, but they do mention custodians.

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?	Yes	All forms of sexual abuse are covered.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	Yes	The law requires proving the custodian “used” their position of authority in order to get the victim to submit. Consent is a valid defense.
Does the statute cover all custodians and staff in contact with inmates?	No	The law requires not only that the actor be in a position of authority but also that they have used this position to cause the victim to submit.
Does the statute cover all places where an inmate might be abused?	Yes	The law is not concerned where the person was at the time of the violation, as long as the status of the persons is established.
Is the penalty a felony?	Yes	Violation is a felony. Punishment is imprisonment for up to twenty years for acts involving sexual intrusion and up to fifteen years for sexual contact.

Custodial Sexual Misconduct – Allegations and Incidents

Indictments/Convictions (answer to AI letter requesting information) ²	<p>As of a June 2002 communication from the Wyoming Officer of the Attorney General there had been one prosecution and conviction of a correction officer under W.S. §6-2-301. There had also been two investigations of institutional staff under the above statute. Those cases were not prosecuted.³</p> <p>Amnesty International did not receive a response to its 2005 follow up inquiry with the Wyoming Attorney General’s Office.</p>
Incidents reported in select media since January 2000	<p>- Platte County Detention Center: Former detention officer Jeremy Michael King has been charged with repeatedly sexually abusing three female inmates who were in custody at the detention center. King is charged with felony accounts of second-degree sexual assault, mistreating a person in institution and official misconduct. He was fired after the allegations surfaced. He waived his initial appearance and was scheduled to appear in Platte County Circuit Court on Sept 12, 2005 for a preliminary hearing. An investigation into alleged misconduct at the detention center is ongoing. (<i>AP State & Local Wire</i>, 6/28/05, 9/13/05).</p>

ⁱ The relevant portion of Wyoming’s law is reprinted at the end of this section.

¹ Wyoming

	- Wyoming Women’s Center, Lusk: Six inmates claim that Officer West sexually assaulted them. West has been fired and was found guilty of previous sex charges. (AP, 02/16/00)
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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 Wyoming Department of Corrections in response to AI’s survey in 2000. AI did not receive data from the Wyoming Department of Corrections in 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	According to a written response from the Wyoming Department of Corrections (DOC), the policy is explicit. ⁴
Allow cross-gender pat-down searches?	Yes	No details provided. ⁵
What is the percentage of female officers in relation to male officers?		As of August 2005, there are 39 female officers and 32 male officers. ⁶
Restrictions on the duties of male guards?	Yes	According to the Wyoming DOC, male guards are not permitted to perform strip searches on incarcerated women. ⁷
Staff training on sexual misconduct?	Yes	According to the Wyoming DOC, all staff are trained on sexual misconduct at pre-service and annual in-service training. ⁸
Inform inmates of agency policies and reporting procedures on sexual misconduct?	Yes	According to the Wyoming DOC, the Department makes the policy available to inmates; no further details were provided. ⁹

Custodial Sexual Misconduct - Policies and Procedures Guiding Official Response

The following is based on the Wyoming Department of Corrections response to AI’s survey in 2000, please see above.

Is medical help available for the victim of alleged sexual abuse?	Yes	No details provided. ¹⁰
Are immediate mental health services available for the victim of alleged sexual abuse?	Yes	No details provided. ¹¹
Is counseling available for the victim of alleged sexual abuse?	Yes	No details provided. ¹²
Is a rape kit taken?	Yes	No details provided. ¹³
Are there special procedures for investigating allegations of sexual misconduct?	No	According to the Wyoming DOC, ‘except for collection of forensic evidence,’ all investigations follow ‘accepted practices.’ ¹⁴
Is there a system for reporting allegations of custodial sexual misconduct within the DOC?	Yes	No details provided.
Is there a system for reporting allegations of custodial sexual misconduct directly to a body external to the DOC?	No	According to the Wyoming DOC, a committee working on implementation of the Prison Rape Elimination Act is reviewing possible external reporting mechanisms. ¹⁵
Is the investigation external?	Yes	According to the Wyoming DOC, an external investigation occurs unless law enforcement declines to investigate. ¹⁶
If there is an external investigation,		According to the Wyoming DOC, either the chief operating officer

how is it triggered?		of a facility or the investigations unit makes a request to law enforcement.
Are special measures taken to shield alleged victims from retaliation?	Yes	According to the Wyoming DOC, victims are protected from retaliation as “per policy.” No details were provided. ¹⁷
If so, do the measures include solitary confinement or lock-down of the inmate?	Yes	According to the Wyoming DOC, these measures are not utilized unless they are necessary for the protection of the inmate from other inmates. ¹⁸
Is there an independent body, such as a Corrections Ombudsman, with independent oversight of correctional facilities and the DOC?	No	No details provided.
Is there a system in place to track investigations, indictments and convictions for custodial sexual misconduct?	--	According to the Wyoming DOC, investigations are tracked and all substantial cases are turned over for prosecution. The Department does not track indictments or convictions. ¹⁹

Custodial Sexual Misconduct – Pending Legislative Proposals

<i>None</i>

Pregnancy in Custody

Pregnancy - Statute

Legislation banning shackling in the third trimester or during labor	No	Wyoming 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 Wyoming Department of Corrections response to AI’s survey in 2000, please see above.

Use of restraints in third trimester	No	According to Wyoming DOC, no restraints are applied during the third trimester.
Restraints during transport	No	Wyoming DOC written policy states that no restraints are applied during transportation. The policy stipulates that deviation may only occur if an inmate is disruptive, poses an extreme risk of escape, or is a threat to herself or others. If restraints are deemed necessary, they must be limited to handcuffs. The use of restraints must be documented by staff, along with explanation for the need. ²⁰
Restraints during labor	No	Wyoming DOC written policy states that no restraints are to be applied during hospitalization or medical procedures, unless specific circumstances strongly dictate otherwise, as described above. During the hours immediately following delivery, restraints will only be applied upon authority of the Director, Deputy Director or Administrator of Prisons. ²¹
Officer in delivery room	Yes	According to Wyoming DOC, an officer is present at all times. ²²

Contact information

WYOMING DEPARTMENT OF CORRECTIONS

Director: R.O. (Bob) Lampert 700 W.21 St. Cheyenne, WY 82002 Phone: (307) 777-7208	Homepage: http://doc.state.wy.us/corrections.asp
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WYOMING DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

Wyoming Women's Center <i>Female inmates: 83(02/01)²³</i> Capacity: 144 Warden: Nola Blackburn P.O. Box 20 1000 West Griffith Lusk, WY 82225 Phone (307) 334-3693; Fax (307) 334-2254 E-mail: nblack@misc.state.wy.us Security Level: All levels security

WYOMING EXECUTIVE

Governor Dave Freudenthal [D] Wyoming State Capitol, Room 124 Cheyenne, WY 82002 Phone: (307) 777-7434 Email: governor@state.wy.us	Homepage: http://www.state.wy.us/governor/governor_home.asp Elected: 2002
Attorney General Pat Crank [D] 123 Capitol Building 200 West 24 th Street Cheyenne, WY 82002 Phone: (307) 777-7841; TDD: (307) 777-5351 Fax: (307) 777-6869	Homepage: http://attorneygeneral.state.wy.us/ Elected: 2002

WYOMING LEGISLATIVE INFORMATION

Legislative Session: The Wyoming Legislature meets for not more than 40 days in odd numbered years in General Session. General sessions convene at noon on the second Tuesday in January. Senate: 30 members, 4 year terms House: 50 members, 2 year terms	Legislature home page: http://legisweb.state.wy.us Bill Tracking: Same web address as above. Bill information phone number: House: (307) 777-7852 Senate: (307) 777-7711
Senate 213 Capitol Bldg. Cheyenne, WY 82002	Senate Home Page: http://legisweb.state.wy.us/members/99/leaders.htm
House of Representatives 213 Capitol Bldg. Cheyenne, WY 82002	Home Page: http://legisweb.state.wy.us/members/99/leaders.htm

WOMEN IN PRISON - NGO RESOURCES

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

Wyoming-CURE
P.O. Box 1894
Rawlins, WY 82301

ACLU of Wyoming
P.O. Box 20706
Cheyenne, WY 82003
Phone: (307) 637-4565; Fax: (307) 637-4565
Email: wyoaclu@aol.com
Website: www.aclu-wy.org

Wyoming's Custodial Sexual Misconduct Statute

6-2-301. Definitions. (a) As used in this article: ...

(iv) "Position of authority" means that position occupied by a parent, guardian, relative, household member, teacher, employer, custodian or any other person who, by reason of his position, is able to exercise significant influence over a person;

6-2-303. Sexual assault in the second degree.

(a) Any actor who inflicts sexual intrusion on a victim commits sexual assault in the second degree if, under circumstances not constituting sexual assault in the first degree:

...

(vi) The actor is in a position of authority over the victim and uses this position of authority to cause the victim to submit; or

6-2-304. Sexual assault in the third degree.

(a) An actor commits sexual assault in the third degree if, under circumstances not constituting sexual assault in the first or second degree:

...

(iii) The actor subjects a victim to sexual contact under any of the circumstances of W.S. 6-2-302(a)(i) through (iv) or 6-2-303(a)(i) through (vi) without inflicting sexual intrusion on the victim and without causing serious bodily injury to the victim.

¹Bureau of Justice Statistics, *Prisoners in 2003*, NCJ205335, November 2004, available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/p03.pdf>, as per 01/27/06.

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

³Letter from Lori L. Gorseth, Senior Assistant Attorney General, Wyoming Attorney General's Office, 06/17/02.

⁴Facsimile update from Leslie Snyder and Jill Watson, Division of Prisons Administrator, the Wyoming Department of Corrections (DOC), 02/20/01.

⁵Letter from R.O. Lampert, Director, Wyoming DOC, 08/23/05.

⁶Letter from R.O. Lampert, Director, Wyoming DOC, 08/23/05.

⁷Facsimile update from Leslie Snyder and Jill Watson, Division of Prisons Administrator, Wyoming DOC, 02/20/01.

⁸Letter from R.O. Lampert, Director, Wyoming DOC, 08/23/05.

⁹Facsimile update from Leslie Snyder and Jill Watson, Division of Prisons Administrator, Wyoming DOC, 02/20/01.

¹⁰Letter from R.O. Lampert, Director, Wyoming DOC, 08/23/05.

¹¹Letter from R.O. Lampert, Director, Wyoming DOC, 08/23/05.

¹²Letter from R.O. Lampert, Director, Wyoming DOC) 08/23/05.

¹³Letter from R.O. Lampert, Director, Wyoming DOC, 08/23/05.

¹⁴Letter from R.O. Lampert, Director, Wyoming DOC, 08/23/05.

¹⁵Letter from R.O. Lampert, Director, Wyoming DOC, 08/23/05.

¹⁶Letter from R.O. Lampert, Director, Wyoming DOC, 08/23/05.

¹⁷Letter from R.O. Lampert, Director, Wyoming DOC, 08/23/05.

¹⁸Letter from R.O. Lampert, Director, Wyoming DOC, 08/23/05.

¹⁹Letter from R.O. Lampert, Director, Wyoming DOC, 08/23/05.

²⁰State of Wyoming DOC, Policies and Procedures, Use of Restraints. 3.001.3 Part IV L. Pregnant Inmates. Policy sent by, Leslie Snyder and Jill Watson, Division of Prisons Administrator, the Wyoming DOC, 02/20/01.

²¹State of Wyoming DOC, Policies and Procedures, Use of Restraints. 3.001.3 Part IV L. Pregnant Inmates. Policy sent by, Leslie Snyder and Jill Watson, Division of Prisons Administrator, the Wyoming DOC, 02/20/01.

²²Phone Conversation with Dawn Sides, Wyoming Women's Center Health Services, 01/2001.

²³Facsimile update from Leslie Snyder and Jill Watson, Division of Prisons Administrator, Wyoming DOC, 02/20/01.