



# Wisconsin State Employees Union

## Council #24

**AFL-CIO**

Bill Fendel, President  
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TO: All State Senators  
All State Representatives

FROM: Martin Beil, Executive Director  
Wisconsin State Employees Union

RE: AB 355

DATE: June 17, 1999

During the week of 6/7/99, AB 355 was amended in committee and "exec'ed out" for assembly floor action. While I know this bill is considered "politically correct", and difficult to oppose from a public policy perspective, I feel it is imperative that the union registers strong opposition.

First, I want to make it clear that the union does not condone sexual activity between correctional officers or any other direct care or security staff, and those people confined in facilities. In fact in the Department of Corrections, if there is "just cause" to believe that an employee has participated in this kind of activity, they are terminated from the state service. Termination from state service is the equivalent of economic capital punishment. What is of concern to us is the singling out of one profession, correctional officers, and sending a message that is demoralizing, accusatory and basically a slap in the face of folks who work very hard under incredible stress and duress in worksites that not one of you would think of working in. If the argument is power and control, then why weren't police officers, university professors, doctors, priests, legislators, CEO's of corporations, governors, and presidents included? I am sure that there has been at least one instance of sexual activity between the above listed and someone under their span of control. Why should this kind of activity be a felony charge for correctional officers and not even necessarily a violation of the law for the other professions? I guess we would not care as much if you paid correctional officers as much as some of the others listed.

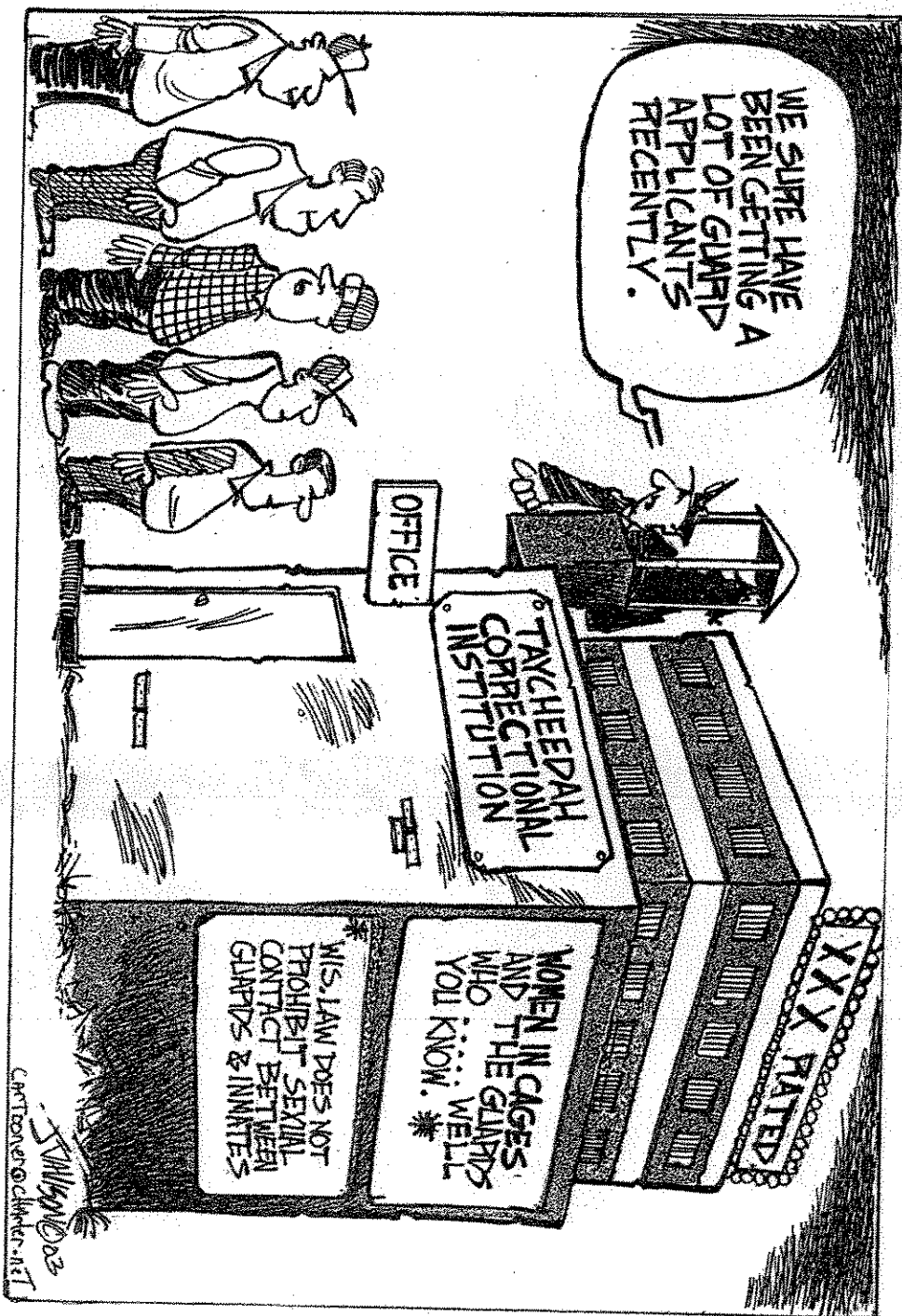
Lastly, I understand that this bill was amended in committee so that two inmates having sexual contact (not sexual assault), consensual if you will, will be charged with a Class D felony. I am sure that the sponsors of this bill did not intend to put correctional officers and inmates on the same level of expectations and behaviors. Maybe some would think that this Bill is intended to keep our burgeoning populations still burgeoning.

On behalf the 6,000+ members we represent in both DOC and DHFS institutions, we would urge you to Vote No on AB 355. Your state correctional and institutional staff deserve a lot more from you than this poke in the eye.

If you wish to discuss this issue further, please contact me.

MB:lm





2003 Assembly Bill 51  
Testimony of Cindy O'Donnell, Deputy Secretary  
Department of Corrections  
Assembly Committee on Corrections and the Courts  
February 26, 2003

I am here today representing Secretary Frank and the Department of Corrections to speak in support of AB 51 for the following reasons:

- 1) According to a report by the Women's Rights Project of Human Rights Watch, sexual abuse of women prisoners is a serious problem throughout the nation. Similar instances have been documented between female staff/male inmates and staff and inmates of the same gender. According to the National Institute of Corrections and other national correctional experts, there can be no consensual sex between an offender and a staff member. Wisconsin is one of only 4 states that do not have a law that prohibits sexual relations between staff and offenders. This law would fill that void.
- 2) Since there is no current law that accurately addresses situations where a DOC employee engages in sexual conduct with an offender, we terminate the employee under state work rules and DOC Fraternalization policy. We have long supported zero tolerance within the system despite the absence of a criminal penalty.
- 3) Our mission statement provides for the humane and respectful treatment of offenders. This law would be consistent with that mission.
- 4) All staff have the ability to impact an offender's release date through the issuance of conduct reports, recommendations to the parole commission, recommendations for lower security, etc. When staff are in positions of control, sexual conduct cannot be deemed consensual. Our experience indicates that many cases of sexual misconduct include female staff and those who are not correctional officers.

The vast majority of our staff does their job professionally and competently. Inappropriate relations with inmates jeopardize the safety of all employees and the security of our facilities. Any time a staff member is compromised, they become vulnerable to requests for weapons, drugs, etc. which endanger all staff and inmates. For these reasons, the Department of Corrections supports this bill.



**Assembly Bill 51 ~ "Prisoner Sexual Assault Bill"**

**Testimony submitted by  
State Representative Bonnie  
February 26, 2003**

Dear Chairman Bies and members of the Assembly Committee on Corrections and the Courts:

Thank you for holding a hearing on Assembly Bill 51 – the "Prisoner Sexual Assault Bill".

The recent news story of Jackie Noyes, a Taycheedah inmate impregnated by a guard, has once again ignited the issue that Wisconsin does not make it a crime for sexual contact between correctional personnel and inmates. In the case of Jackie Noyes, the guard was fired and no further action was taken. However, Jackie was put in solitary confinement.

Even if the parties claim the relations were consensual, there is still a level of control and authority from the guard over the inmate. Anytime one person controls another, sexual contact is assault. The more control the greater power to intimidate and coerce. In a correctional setting, the correctional personnel have the power to make the inmate's life miserable and the inmate is left powerless.

Assembly Bill 51 addresses this issue by prohibiting jail, prison, or community corrections staff and contractors from engaging in sexual activity with inmates. This includes individuals participating in boot camp programs or individuals on probation, parole or extended supervision. This legislation would cover jail and prison staff at municipal, county and state facilities.

Assembly Bill 51 imposes a class C felony (fine of not more than \$100,000 or imprisonment of not more than 40 years or both) for those who violate this prohibition. This penalty applies regardless of whether the other person has consented to the sexual activity.

Current law applies the same standards to crimes against such vulnerable individuals as the mentally ill, those under the influence of drugs and alcohol, and those in care treatment facilities. The individuals covered by this legislation fall into the same category and should be equally protected.

Attorney General Lautenschlager has raised a concern that this legislation will criminalize correctional personnel even if the inmate was responsible for the action. This argument can also be made for current law. For example a mentally ill individual in a treatment facility may become violent and sexually assault a worker. Under current law the worker could be charged with a Class C felony for sexual assault of a mentally ill person.

Please keep in mind that in this scenario as well as the one associated with this bill, we need to let the court system do their job. A district attorney would examine the situation and decide whether or not to even charge the worker before the Class C felony punishment could be considered. A Class C felony also requires no minimums so the district attorney would have complete discretion on the severity of the punishment.

-over-

We cannot legislate everything. We have to trust the justice system to use common sense in these matters.

The state Assembly has unanimously passed this legislation in the 1999 and 2001 sessions, but it always died without a vote before the Senate Judiciary Committee. At the time of its first introduction, Wisconsin was one of 12 states yet to make this act a crime. Since then 8 of those 12 states have passed legislation leaving Wisconsin one of only four states yet to do so.

This bill will right a wrong and I urge your support.

Thank you for your attention and I'd be happy to answer any questions.

Angela Rose  
President, WI Chapter of the National Organization for Women  
Founder, PAVE (Promoting Awareness, Victim Empowerment)  
608-698-7283

I have and will continue to strongly support the Custodial Misconduct Bill. Amnesty, PAVE, WI NOW, and MOSA (Men Opposing Sexual Assault) had a press conference on this crucial piece of legislation back on International Human Rights Day. It is imperative to link violence against women as a human rights violation. However, we cannot stop at just women. Sexual assault is the most underreported crime in the US and we cannot ignore that men are profoundly affected by rape and sexual assault as well. The current statistic that WCASA (WI Coalition Against Sexual Assault) uses is 1 in 4 women and 1 in 10 men will be sexually assaulted in their lifetime. Why don't you think just for a moment of 4 women that you know, 4 women in your life that you care about... and statistics show that 1 will suffer a violation! Every person knows a survivor, though sadly the majority of people will never know it.

Sexual assault and rape ARE violations of human rights and we will not sit back. We must consider all of the survivors who have suffered the traumatic aftermath of an assault. I was abducted by knifepoint when I was 17 and sexually assaulted by a repeat offender. These are the crimes that you see in the media and the general public believes is the norm, but it is not! The perpetrators are most often people who we know and who we trust. Moreover, a physical weapon is not used in the majority of cases, but many times an emotional weapon such as coercion.

That is why the Custodial Misconduct Bill is crucial. I remember reading an article about a year ago titled *Police: Prison Assault did not Occur*. It was a story of a woman in prison who confided that a guard was sexually assaulting her and the police denied that it happened. One commonly believed myth about rape and sexual violence is that people "cry rape" for personal motives. This is a lie for the vast amount of sexual assaults. What does happen, however, is the survivor will recant after seeing how harsh the criminal justice system can be to victims. And it complicates things even further when you are behind prison walls, where there is a stark hierarchy of power. People get confused and think that sexual assault can only happen when a weapon is used. Such as in my case, there was a clear-cut crime committed against me and it often makes it more difficult to heal when coercion is used. I urge you to recognize that sexual assault, coercion, rape, and prison violence are violations of fundamental human rights and please support the Custodial Sexual Misconduct bill.



**Wisconsin Coalition Against Sexual Assault, Inc.**  
600 Williamson Street, Ste. N-2  
Madison, WI 53703

Thank you Chairman Bies and members of the Corrections and the Courts Committee for giving me the opportunity to speak today in favor of Assembly Bill 51, which would criminalize sexual activity between corrections staff and inmates. My name is Lisa Macaulay and I am the Policy Specialist for the Wisconsin Coalition Against Sexual Assault, Inc.

Wisconsin is currently one of only four states that does not address this serious issue. I am sure you are aware of the recent newspaper articles regarding several of these incidents here in Wisconsin. Reading these accounts is most likely the first time many citizens of Wisconsin realized that this behavior is not criminal and merely results in the possibility of employment termination.

We have addressed the issue of sexual abuse in community-based residential facilities, foster homes, group homes, state treatment facilities and residential care centers for children and youth operated by licensed child welfare agencies among others. Those who work in

these facilities are entrusted to care for the day-to-day needs of residents. Due to the high level of trust and power placed on these individuals, our state has recognized the need to protect the residents from the possibility of coercion by their caretakers. Correctional staff are also entrusted with the day-to-day supervision of inmates in very intimate detail, yet our state law does not recognize the same level of potential abuse of power for them as we do for other positions.

Claiming the defense of consent in relationships between guards and inmates flies completely in the face of logic. Guards and inmates are not on an equal status. In other parts of the law, we already recognize this. Students cannot give consent to a sexual relationship with a teacher; neither can patients in community based residential facilities or clients with their therapists. Each of these situations involve an authority figure who we do not allow to twist the situation to be one of consent, neither should we allow correctional staff to use that as an excuse to justify their inappropriate behavior.

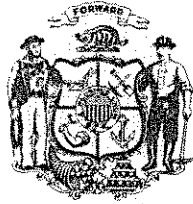
Inmates must follow the orders guards give or face disciplinary action. Inmates must account for their time and behavior at all times to correctional staff. Correctional staff have access to inmates' records and are often part of the disciplinary process. This gives correctional staff power over portions of inmates' lives that are not a part of a normal consensual relationship.

Sexual assault is one of the least reported crimes outside prison walls where there is a greater opportunity to escape from their assailants. It



could be a greater risk to report a sexual assault within prison walls. Wisconsin needs this legislation to protect all who reside within our state's borders. Sentences handed down within the criminal justice system do not include sexual abuse by those put in charge of one's safety and every day activities.

We ask that you support this legislation as is and vote in favor of this bill. WCASA applauds Rep. Ladwig and Sen. Fitzgerald for their work on this very sensitive issue.



# SCOTT FITZGERALD

WISCONSIN STATE SENATOR

## **Testimony from Senator Scott Fitzgerald on Assembly Bill 51 Prisoner Sexual Assault**

Assembly Committee on Corrections and the Courts  
Wednesday February 26, 2003

Chairman Bies and Members of the Committee:

Thank you for your consideration of Assembly Bill 51, which makes it a felony for jail, prison, or community corrections staff to engage in sexual activity with an inmate.

Under current law, sexual contact with people under the influence of drugs, those who are mentally ill, and those in care treatment facilities is prohibited. In correctional facilities, guards hold a complete position of power over inmates and therefore sexual contact cannot be consensual. This bill will place inmates under the same category and protect them from sexual assault.

Wisconsin is one of only four states that does not have a law forbidding sexual contact between a guard and inmate. The overwhelming majority of prison guards take their jobs seriously and do not abuse their position, however, it is clear with the recent case of sexual misconduct that such a law is necessary to protect inmates from guards that continue to misuse their power. The state must pass a law criminalizing these acts and punish all the guilty parties involved, not just the inmate.

This is the third time that I have introduced this legislation. In both previous sessions it passed the Assembly on a voice vote, but never received a vote in the Senate. I urge you to vote yes on this bill and make this conduct a crime.

I thank you for your time and if you have any questions Representative Ladwig or I would be glad to try to answer them.

STATE CAPITOL

P.O. BOX 7882 • ROOM 106 SOUTH • MADISON, WISCONSIN 53707-7882

TELEPHONE: (608) 266-5660 • FAX: (608) 267-6795

**ASSEMBLY BILL 51  
MAKING SEXUAL RELATIONS BETWEEN CORRECTIONAL  
EMPLOYEES AND INMATES A CRIMINAL OFFENSE**

**TESTIMONY OF STATE REPRESENTATIVE JOHN TOWNSEND  
FEBRUARY 26, 2003**

Mr. Chairman thank you for the opportunity to speak on Assembly Bill 51 that makes a clear statement concerning the conduct of correctional employees and inmates as related to sexual relations. This bill is a strong statement that the citizens of Wisconsin do not approve sexual relations between correctional employees and inmates under any circumstances, consensual or otherwise.

Recently we have been shocked about three reported incidents of sexual relations between correctional employees and inmates at the Taycheedah Correctional Institute. Taycheedah is the State's largest correctional institution for females. The Institution is also in my District. Many of the Institute's employees are constituents, neighbors, acquaintances and fellow church members. Almost all of them are hard working dedicated individuals with solid principles of morality. Unfortunately there is a very small number correctional employees that do not fit this description.

The action of these few individuals is tarnishing the reputation and image of the dedicated correctional employees. This cartoon that appeared in a newspaper conveys the image that many people have of correctional employees. Adopting Assembly Bill 51 into law will help to change this image of correctional employees.

Why is this bill needed? Wisconsin is one of four states that does not have a law making it a criminal offense for correctional employees having sexual relations with inmates. Yes, we have a policy that correctional employees are not to have sexual relations with inmates. If employees violate this policy they can be dismissed from their jobs. They can be charged with sexual assault if there is evidence of force or coercion. However, under Wisconsin law sexual relations between consenting adults is not a criminal offense.

**Consensual sexual relations between correctional employees and inmates does occur.**

The reasons why this occurs are complex. When they do occur all of society suffers. Let us use a Taycheedah incident as an example. Recently, the Milwaukee Journal Sentinel reported that a male Taycheedah correctional employee had impregnated a female inmate. When this act came to the attention of correctional officials, the Fond du Lac police department was requested to conduct an investigation.. The investigation found that the correctional employee and the inmate had engaged in consensual sexual relations on multiple occasions. Because the acts were consensual, under Wisconsin law the correctional employee could not be prosecuted for a sexual offense.

The correctional employee was dismissed, so he suffers. The inmate is pregnant and she suffers. The taxpayers suffer as they will pay the costs of bringing the child into this world and its support. Most important the child will suffer as a result of not having a normal parent relationship.

Assembly Bill 51 will protect inmates and correctional employees. This may sound contradictory. The bill will protect both parties by discouraging either party by using their power position for their benefit. In a normal situation the correctional employee is in power authority position. An unethical employee can use this power position to gain sexual favors. The inmate may consent to a sexual act knowing the correctional employee is in a position to deny privileges. At the same time, the inmates knows that if the correctional employee engages in a sexual act with an inmate, the employee is subject to dismissal. The inmate may consent to a sexual act with a correctional employee to gain a power position over the correctional employee.

Assembly Bill 51 will:

- State the citizens of Wisconsin do not condone or sanction sexual relations between correctional employee and inmates.
- Deter correctional employees and inmates from using their power positions for personal gain.

I strongly urge the Committee to support Assembly Bill 51.



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

PEGGY A. LAUTENSCHLAGER  
ATTORNEY GENERAL

Daniel P. Bach  
Deputy Attorney General

February 26, 2003

Post-it® Fax Note	7671	Date	1-27	# of pages	▶ 16
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Co./Dept.	DOC	Co.	Rep. Bies		
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Fax #	240-3305	Fax #			

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Representative Garey Bies, Chairman  
Representative Sheryl Albers, Co-Chairperson  
Assembly Committee on Corrections and the Courts

Dear Representative Bies and Representative Albers and Members of the Committee:

I am sorry I cannot be present today to give you my testimony in person. I am in the process of hiring a legislative liaison and hope to have our legislative efforts fully coordinated with you and your legislative colleagues very soon. I am grateful for the opportunity to share with you my concerns about Assembly Bill 51 in this letter.

I strongly support the aims of AB 51.

However, it is my belief that the bill as drafted would make a crime any incident in which a correctional officer is a victim of a sexual assault.

To correct this unintentional aspect of the bill as drafted, I recommend an amendment be drafted and adopted incorporating into the language the requirement that in order to be considered a criminal action, the sexual contact must be knowing and voluntary on the part of the correctional officer.

Thank you for your consideration of this modification, which I believe corrects an error with potentially critical consequences.

Sincerely,

Peggy A. Lautenschlager  
Attorney General  
State of Wisconsin

PAL:br

FORTY YEARS



AB 51  
SB 32

**Protect the Human Rights of Women in Wisconsin's Prisons**  
Statement by Nancy J. Bothne,  
Amnesty International Midwest Regional Director  
February 25, 2003

The basis of internationally recognized human rights is that they apply to all people, without regard to race, nationality, gender, economic status, religion. Human rights are the fundamental components by which a person's humanity is acknowledged and protected. Respect for human rights is the foundation by which a society guards the humanity of us all.

Under international law, rape of a prisoner by correctional staff is considered to be an act of torture. Other forms of sexual abuse are clearly violations of the internationally recognized prohibition of cruel, inhuman or degrading treatment.

Women in prison do not relinquish their humanity, nor their human rights, at a cellhouse door. Women who commit crimes may be held accountable for violating the law, however, the state of Wisconsin is accountable for respecting and protecting the human rights of those in its custody.

**Who are women in prison?**


In Wisconsin, approximately 1,312 women are held in custody by the Wisconsin Department of Corrections (as of February 14.) About half are Black. The majority of those women are incarcerated for non-violent offenses.

National statistics about women in prison and jails indicate that:

- African American women are 8 times more likely to be imprisoned than European Americans.
- Women inmates experience more health problems than the general population; an estimated 48 - 88% have experienced physical or sexual abuse, and many are in need of drug treatment.
- 74 - 76% of women in custody have children.
- Perceived or actual sexual orientation is one of four categories that make a female prisoner a more likely target for sexual abuse, as well as a target for retaliation for reporting that abuse.

AMNESTY INTERNATIONAL USA

MIDWEST REGIONAL OFFICE T. 312.427.2060 F. 312.427.2589 53 WEST JACKSON BLVD SUITE 731 CHICAGO IL 60604-3606 [www.amnestyusa.org](http://www.amnestyusa.org)

Amnesty International is a worldwide grassroots movement that promotes and defends human rights. 

- Convictions for drug offenses have led to the burgeoning prison population experienced today.

**Sexual misconduct in Wisconsin's prisons and jails may be greater than we know**  
Reports of sexual misconduct in Wisconsin's prisons and jails have come from Waukesha, Racine and Milwaukee County jails. They have come from Dodge and Taycheedah Correctional Institutes. The women who have made these reports have been subject to retaliation and punishment, so the incidents we are familiar with are likely to underrepresent the actual problem.

Correctional staff who commit these acts must be prohibited from moving on to other prisons only to engage in the same conduct. Sexual misconduct in prisons and jail must be criminalized so that prosecutors have the tools they need to protect vulnerable women and to hold accountable those who perpetrate this human rights violation. Those who make these reports must be protected from retaliation for making the reports.

#### **Amnesty International supports AB 51 and SB 32**

Representative Bonnie Ladwig and Senator Fitzgerald have taken a first step in ensuring that the human rights of women in Wisconsin's prisons are protected. Assembly Bill 51 and Senate Bill 32 meet the requirements that Amnesty International believes are needed to adequately ensure women are not subject to custodial sexual misconduct. They make sexual misconduct in prisons and jails a criminal violation. They cover all forms of sexual abuse. There is no defense that inmates provided consent, and all custodians and staff in contact with a prisoner are covered.

Amnesty International wholeheartedly supports this legislation, and believes its passage will significantly protect women in Wisconsin's prisons from sexual abuse.

#### **Amnesty International**

Amnesty International's vision is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. Amnesty International undertakes research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of its work to promote all human rights.




## A bill of human rights for women in prison

### Women in custody:

- have the right to be free of sexual misconduct from their custodians. They have the human right to be free from rape and sexual assault, sexually offensive language and innuendo, verbal aggression, sexual suggestiveness, ogling by male guards while they are undressing or going to the bathroom, and other forms of sexual misconduct.
- have a right to complain of sexual assault and misconduct, and to expect their reports will be investigated independently, promptly and thoroughly.
- must be able to seek protection of their own human rights without fear of retaliation. They must be able to make complaints secure from punishment. Indeed, the staff of jails and prisons should be offered a complaint procedure that will protect them from retaliation from other guards as well.
- have a right to be transported and to deliver their children free of shackles unless essential to prevent escape or to protect people or property.
- have a right to health. Medical or mental health neglect, and the over-reliance on solitary confinement can have serious consequences on women in custody.
- Women have the right to be guarded by only female officers. If that is not possible, male guards should always be accompanied by female guards and men should not be allowed to "pat-down" women inmates unless a clear emergency situation exists.
- Women in prison have the right to know what their rights are.
- Women in prison have a right to be pre-screened for access to medical care by appropriately trained medical staff.

AMNESTY INTERNATIONAL USA

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Amnesty International is a worldwide grassroots movement that promotes and defends human rights. 



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Our Mission

Helping formerly  
incarcerated women  
reintegrate into the  
community, advocating the  
protection of our civil rights  
& saving our children  
through education.



March 2, 2003

TO: Assembly Committee on Corrections and the Courts

Dear Chairman Bies,

Thank you for the opportunity to speak in support of AB 51 on February 26, 2003.

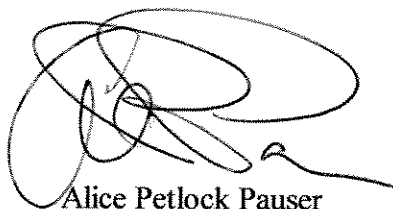
We have enclosed some additional information on the continuing problems with the Wisconsin Dept. of Corrections. Wisconsin ranks #1 in the incarceration of African-Americans. The following reporting agencies continually rank our state as one of the worst criminal justice systems in the country regarding prisoner health care, abuse and racism.

U.S Bureau of Justice Statistics  
Human Rights Watch  
Amnesty International  
NAACP  
Money, Education and Prison Taskforce  
Prison Watch  
BET.com

UW-Madison Sociology Professor, Pam Oliver, has researched racial disparities and prison abuse in Wisconsin's Criminal Justice System and her findings are disturbing.

By passing AB 51, Wisconsin will be taking a step in the right direction to correcting these serious matters.

Respectfully,



Alice Petlock Pauser



Charles T. Pauser

January 22, 2003

Secretary Matt Frank  
Department of Corrections  
3099 East Washington  
Madison, WI  
Hand-Delivered

COPY

Dear Secretary Frank,

In August 2002, I wrote to Taycheedah Correctional Institution (TCI) Warden Jodine Deppisch regarding serious allegations my office has been receiving from inmates, family, friends, clergy members, and other interested parties. These repeated allegations pertain to racial tensions in the facility, the over-use of segregation as punishment, and inappropriate sexual conduct by TCI staff. While my letter and the warden's response (attached) were issued before you became Secretary, an article in today's *Milwaukee Journal Sentinel* entitled "Inmate Punished for Sex with Guard" demonstrates that the issues I raised in August remain unaddressed.

To say that the conduct of the staff at TCI in this incident was egregious is an understatement. In my letter to the warden, I addressed my concerns with sexually inappropriate conduct at TCI:

*...My office has also received reports about male correctional officers harassing female inmates while these women shower, change clothes, or use the restroom. Does TCI have any policies restricting male guards' access to female inmates in general and, specifically, while they are undressed? How do you handle reports of sexual harassment and/or misconduct by staff? Please provide me with copies of any policies or internal management procedures TCI uses in relation to these matters.*

*Given the recent reprimanding of seventy-two employees at the Dodge Correctional Institution for using state e-mail and computers to exchange "inappropriate jokes, cartoons, and pornographic pictures", there is reasonable cause for concern that sexually inappropriate staff behavior may be far-reaching within the Department of Corrections (DOC). Moreover, the fact that the majority of these employees were allowed to return to work with a mere letter of reprimand in their files indicates that the DOC does not consider this appalling behavior to be a serious employee infraction. In the interest of safety and security, I encourage you to review your existing policies on sexual harassment of inmates and employees alike, as well as your policy of allowing male guards full access to female inmates.*

Please note the warden's response, which, in addition to glossing over my concerns, seems quite contrary to TCI's conduct in this most recent action pertaining to Ms. Noyes.

Offenders are able to communicate allegations of misconduct through the Inmate Complaint review systems. Allegations that would rise to the level of work rule violations must be investigated outside of the Inmate Complaint system. I have not received any information that would indicate that male guards are harassing female inmates. I can assure you that complaints of this nature would be investigated immediately.

Considering the disturbing revelations in today's *Milwaukee Journal Sentinel*, I am not reassured about the reliability and/or competency of such investigations and their ensuing punishments. Upon learning of Ms. Noyes' pregnancy, TCI staff saw it fit to sentence her to one year in solitary confinement. Notwithstanding the questionable movement of a mentally ill inmate into segregation, the length and the timing of the sentence gives me pause. If not intentional, the length of this sentence to solitary confinement would have kept her pregnancy and the repulsive conduct of the guard secret. Only after Ms. Noyes met with a lawyer was her solitary confinement sentence reduced to 180 days, a punishment that still seems quite severe. As demonstrated in this case, as with other inmates and families who have contacted my office, it seems that TCI inappropriately uses segregation as punishment. In the same vein, I find it intriguing that Ms. Deppisch claimed in her response to my August 2002 letter that she had "not received any information that would indicate that male guards are harassing female inmates", given the volume of reports brought to my attention that describe precisely that kind of behavior.

In the future, under your leadership, I hope that the Department will institute policies requiring inmate complaints to be given the utmost scrutiny, rather than dismissing inmate complaints outright; review and update existing policies on investigations into sexual harassment of inmates; and review and update policies governing the use of segregation as punishment, particularly for mentally ill inmates. Further, I urge your Department to investigate all of the matters addressed in my August letter, including, but not limited to, the sexual harassment of female inmates by male guards, the inappropriate use of segregation, and the unequal treatment of African American inmates.

Finally, as a new Secretary, I understand that you will be reviewing the organization of your Department, as well as the placement or replacement of current DOC employees. I trust that you will ensure that DOC is comprised of the best possible employees, each of whom demonstrate sound thinking, a history of appropriate actions, and are able to balance the well-being and rights of inmates with the security needs of the Department.

Sincerely,

Senator Gwendolynne S. Moore  
State Senator  
4<sup>th</sup> Senate District

Cc: Warden Jodine Deppisch, Taycheedah Correctional Institution

**CHANNEL 3000**

## **Walworth Co. Prisoner Sues After Staying In Bloody Cell**

### ***Man Says He Was Exposed To Hepatitis C***

POSTED: 8:18 a.m. EDT September 23, 2002

**ELKHORN, Wis.** -- A prisoner in the Walworth County Jail is suing the county for allegedly placing him in a cell covered with possibly infected blood.

Eric LaRue, 23, claims a jail guard forced him into a cell July 14, where a mattress was soaked with blood. He said blood was also spattered on the floor, walls and mirror of the cell.

LaRue said he complained to guards but wasn't moved for several hours.

The lawsuit said the inmate believes the blood was infected with Hepatitis C, a disease that attacks the liver and can sometimes cause death.

His suit claims LaRue is suffering depression and sleeplessness as he worries about the threat of infection. He's seeking \$50,000.

LaRue is serving a 210-day sentence for felony substantial battery and a misdemeanor in a fight outside a Lake Geneva tavern.

County officials will decide whether to pay the claim or refer it to the county's insurance company.

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June 19,2001

Jon E. Litscher, Secretary  
 Department of Corrections  
 3099 East Washington Avenue  
 Post Office Box 7925  
 Madison, Wisconsin 53707-7925

Dear Secretary Litscher,

It has come to my attention that an inmate at the Taycheedah Correctional Institution was allegedly raped and forced to perform sex acts by a correctional officer on the morning of June 16, 2001. This heinous and despicable act of abuse against a person entrusted to the care of your Department cannot be tolerated if proven true.

In response to this alleged atrocity, I am most concerned about the safety and health of the woman involved and request that you immediately inform my office of what initial measures your office has taken in this matter. In fact, you may want to exercise your powers of emergency removal under Section 304.115 of the Wisconsin State Statutes. Please advise me as to how you have begun to investigate this matter and whether the correctional officer involved has been separated from all inmates during the pending investigation. Further, please provide my office with written copies of the Department's official policy on how to handle such matters.

I am sure the Department will be making the investigation of these serious charges its highest priority. According to Section 940.225 of the Wisconsin State Statutes, 1st degree sexual assault is a Class B felony and 2nd degree sexual assault is a Class BC felony. According to section 940.29, "any person in charge of or employed in a penal or correctional institution or other place of confinement who abuses, neglects or ill-treats any person confined in or a resident of any such institution or place or who knowingly permits another person to do so is guilty of a Class E felony". Further, according to Section 302.08, "the wardens and the superintendents and all prison officials shall uniformly treat the inmates with kindness. There shall be no corporal or other painful and unusual punishment inflicted upon inmates". Clearly, the allegations are in violation of state law and breach any departmental policies of employee conduct.

The Taycheedah Correctional Institution and your Department came under intense fire last year after the needless death of inmate Michelle Greer. It would be disappointing to see the gains that your Department has made in the area of inmate health and gender equity eroded by improper or insufficient action in this situation.

Please feel free to contact me with any questions or comments you might have at 608-266-5810

Gwendolynne S. Moore  
 State Senator, 4th Senate District  
 Chair, Legislative Black and Hispanic Caucus  
 Cc: Members, Wisconsin Legislative Black and Hispanic Caucus  
 Attorney General James Doyle  
 Mary Zahn, Milwaukee Journal Sentinel



# [PRISONACT] Taycheedah nurses protest health care

Grassroots Media Network rootmedia@mail.com

Fri, 14 Apr 2000 14:21:25 -0500

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Taycheedah nurses protest health care

During union-backed rally, 15 workers demand better services for inmates

By Jessica McBride  
of the Journal Sentinel staff

Last Updated: April 13, 2000

Fond du Lac - Nurses and other corrections workers demanded better health care for inmates during a protest Thursday outside Taycheedah Correctional Institution in which they wore yellow armbands and released balloons that said "Keep TCI Safe."

The protest was called by the labor union that represents about 100 health care professionals who work at Department of Corrections facilities. It was designed to take place simultaneously outside the gates of all state prisons during an 11 a.m. work break. About 15 people protested outside Taycheedah.

"This symbolic gesture will be our way of asking the State of Wisconsin, Department of Corrections, to give meaning to the death of inmate Michelle Greer of Taycheedah Correctional Institution by taking immediate steps to improve the provision of health care in the state penal system," said LeNore Wilson, senior staff representative for the union, in a written release announcing the protest.

Participants at Taycheedah on Thursday were succinct.

"They just have a huge staff turnover at Taycheedah," said Charlene Reitz, a nurse at the prison. "It's hard to work short-staffed. You can only do that so long. There is not sufficient health care."

"We need more staff at TCI," echoed Tracy Hoepfner, another Taycheedah nurse.

Greer collapsed and died Feb. 2 in the prison dining hall, clutching an inhaler. She had repeatedly pleaded for medical help but was refused. A state Assembly committee is looking into the matter, as is the Fond du Lac County district attorney.

Union officials last month declared health care at Taycheedah in a "state of crisis" with physicians' orders being delayed for a week or more, too few nurses to handle inmate health complaints and a lack of adequate supplies. The state Department of Corrections declared an "emergency" in health care staffing at Taycheedah and ordered nurses from other prisons to work at the facility after

nurses refused to volunteer for the assignment.

During an interview after the protests Thursday, Corrections Secretary Jon Litscher strongly denied accusations by nurses and the union that health services were understaffed.

Litscher disputed figures provided by nurses outside Taycheedah, saying additional staff has been added and that no positions are unfilled. He said there was no emergency situation at the prison.

"What we're trying to accomplish with all this is that we want to eliminate completely the backlog for health services requests, we want all inmates to be seen within 48 hours in non-emergency requests, and we're having all inmates have in-person visits when they're transferred to Taycheedah," he said.

Prisons housing male inmates are still being evaluated in terms of staffing, but Litscher said he believed "the delivery of health services is taken care of" in those institutions.

Litscher said Thursday's protests drew less support at prisons around the state than organizers probably had hoped. He said Taycheedah's crowd was the largest, and that some prisons apparently had no protest at all.

"I assume they would have liked to have more people involved," Litscher said.

Litscher said he was not invited to the protest.

The nurses who protested at Taycheedah posed for pictures in the empty parking space of Warden Kristine Krenke, whom many criticize for her management style.

"It's obvious the warden chose not to be here," Wilson said. "That's saying something, and it's very typical. It's saying she's not interested in talking to us and solving the problems."

Krenke's secretary said she was out of the office all day attending a committee meeting in Waupun. Krenke did not return a message left for her at the prison.

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Austin, TX 78723

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Original URL: <http://www.jsonline.com/news/state/oct00/apriz22102100.asp>**Wisconsin's Death Penalty: Part 1****Secrecy veils more than 100 deaths**

*A Wisconsin prison term can equal a death sentence. State inmates die from asthma, appendicitis and other treatable conditions. That much is certain. But the ability to learn much else about how prisoners die - or how they are treated - is hindered by a system that operates with scant outside oversight.*

By **MARY ZAHN** and **JESSICA McBRIDE**  
 of the Journal Sentinel staff

*Last Updated: Oct. 21, 2000*

Dozens of Wisconsin inmates have died under questionable circumstances during the last decade in a flawed Corrections health care system that keeps internal reviews of prison deaths secret.

After the February death of asthmatic inmate Michelle Greer at Taycheedah Correctional Institution, the Journal Sentinel investigated virtually every inmate death since 1994, along with several revealing cases from the early 1990s.

Thousands of pages of police, coroner and state Department of Corrections records illustrate that concerns about health care go far beyond Greer and Taycheedah. The deaths researched involved 14 correctional facilities in 11 Wisconsin counties.

The eight-month newspaper investigation found:

- One case after another in which gravely ill inmates were given questionable medical care and sometimes, like Greer, were ignored when they pleaded for help. One inmate, for example, died of a ruptured appendix after complaining of severe abdominal pain for two days - and not being taken to the hospital until it was too late.
- Police and coroner investigations into inmate deaths often are cursory or non-existent, and record-keeping is slipshod. In one case, a coroner incorrectly listed AIDS as the inmate's cause of death; in another, no death certificate was filed, a violation of state law.
- Only about one-third of prison officers are up-to-date in CPR. In one case, two inmates performed CPR on a dying fellow prisoner as guards stood by helplessly.
- At least six doctors and two nurses now employed - or employed in the last few years - by Corrections have had their licenses limited or suspended by the state Medical Examining Board.
- Corrections officials have refused to release the final mortality review reports on deaths of inmates and on the health care they received, even to the inmates' families.

The one exception is the case of Greer, whose life began at Taycheedah in 1970 and ended there 29 years later, as she died gasping for air on the Fond

<http://www.jsonline.com/news/state/oct00/apriz22102100.asp?format=print>

## Wisconsin's Death Penalty



*Photo/Erwin Gebhard*  
 Dodge County Coroner John Omen (left) and his twin brother and chief deputy coroner, James Omen, visit the Cattaraugus Cemetery in Waupun while a grave is being dug for a prison inmate. Prisoner deaths rarely get reviewed by law enforcement in that county.

### ABOUT THE SERIES

An eight-month Journal Sentinel investigation has found dubious medical decisions and a pervasive lack of accountability in the deaths of Wisconsin inmates.

**DAY 1:** Dozens of Wisconsin inmates have died under questionable circumstances during the last decade. And the final Department of Corrections reviews of prison deaths are kept secret - even from family



du Lac prison's dining room floor. A review of her case prompted legislative hearings and an ongoing legislative audit of prison health care.

But the Journal Sentinel investigation found numerous other cases that received much less publicity and were just as troubling.

Take the case of Robert Pawelczyk, who died Sept. 29, 1995. Pawelczyk, 70, told prison medical workers he had experienced three days of chest pain but was not sent to a hospital, despite his extensive history of heart problems.

Pawelczyk, incarcerated for sexual assault, saw a prison doctor the day before he died, but records show that no electrocardiogram was done because his chest pain was "relieved by belching." He was given medication for gas, and the doctor said he should be seen again if he was not feeling better.

The next morning, Pawelczyk saw a prison nurse, and still no electrocardiogram was performed. The nurse noted that he "does not appear in acute distress." Less than two hours later, Pawelczyk was found dead in his cell of a heart attack.

And there was Gerald Dobs, 50, a withdrawn chronic schizophrenic in prison for sexual assault. He was so sick with diarrhea June 4, 1996, that officers reported feces all over his segregation cell. He spent the day silently on his bed. A nurse sent a bottle of Pepto-Bismol to the cellblock but did not come to see him. When the medicine was offered, Dobs just looked at officers and lay back down. The officers took his actions as a refusal.

Health Services Unit workers also were told that Dobs refused two meals that day, which was unusual. They later told police "the agency did not become involved until three meals are missed."

The next morning, Dobs was found dead in his cell. He had bled to death internally.

"We've been extremely lucky not to have more deaths in Corrections," said Paul Persson, a Corrections nurse and a former minister. "There is a lack of staffing and lack of funding and lack of training. Corrections is spending so much money on building, they don't want to spend the extra money on health care. They just do a token thing. I won't stay after a year if there isn't change. I'm not going to be hung out to dry and have the liability if something happens."

In response to 20 pages of questions on specific cases, Corrections officials said in a prepared statement: "The documents speak for themselves."

And in an interview a short time after that response, Department of Corrections Secretary Jon Litscher refused to comment on dozens of cases that raised health care questions, citing medical confidentiality. He also refused to say whether anyone had been disciplined in any of the death cases.

Litscher said he did not believe any inmates had died in the past six years as the result of improper medical care. Offenders in the prison system receive "quality care," he said.

Nevertheless, his proposed 2001-'03 Corrections budget includes a request for 42.45 more positions for health care workers. That includes 33 positions for nurses and 2.5 for doctors. It also proposes 24-hour health care coverage at four more prisons. Only two have it now; the others use on-call nurses after-

members.

- **Secrecy:** System operates with little health care oversight
- **Charles Jordan:** 'Why wouldn't they have treated him?'
- **Record-keeping:** Many examples of inadequate reporting
- **It's a right:** Courts have spoken
- **Our role:** 'Please help'
- **Audio:** Interview with Corrections Secretary Jon Litscher
- **Forum:** Voice your opinion

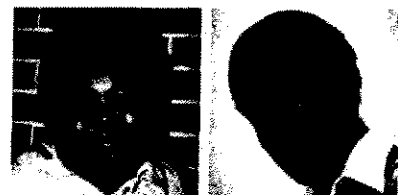
**DAY 2:** Three asthmatic inmates found themselves in prisons with similar medical shortfalls. Only one survived.

- **Only one survived:** The stories of three prisoners with asthma
- **No answers:** Family members feel stonewalled
- **Speaking out:** Treatment of inmate upsets prison workers
- **Graphic:** Inmate deaths, 1994-'00

**DAY 3:** Tight staffing, an overwhelming number of inmate requests to be seen, tense working conditions and occasionally poor communication create a prison environment that endangers inmates.

- **Health care:** Inadequate training, staffing, equipment
- **Doctors:** Some in system have limits placed on licenses
- **Power:** Insights into how medical decisions are made
- **Editorial:** Capital punishment the Wisconsin way
- **Forum:** Voice your opinion

#### VICTIMS OF QUESTIONABLE PRISON HEALTH CARE



Michelle Greer, 29, an asthmatic patient, died gasping for air on dining room floor. Donald Woods, 35, died while strapped down in a segregation building.

hours.

At the close of the interview, Litscher said: "I think your research has been thorough. I think you are doing a service not only to the public, but to the Department of Corrections, and I compliment you on the depth, time and effort you have put into this."

Litscher said his department has begun to make changes in the delivery of health care services. He would not say whether he believed changes should have been made years ago, when the circumstances surrounding some inmate deaths were already raising concerns.

Litscher replaced former Secretary Michael Sullivan in January 1999; Sullivan declined to talk to the newspaper.

**MORE THAN 100 DEATHS:**  
Families told to get records that may not exist

Many of the 123 death cases reviewed by the newspaper involved unavoidable natural deaths in which the medical care was adequate - and in some cases excellent.

But the investigation also found that:

- Coroners and medical examiners are usually the first outside officials at inmate death scenes, and Litscher said that inmate family members wanting to know what happened to their loved ones should get the information from coroner and medical examiner reports.

But there is no state law saying coroners or medical examiners even have to be notified of all deaths in prison, or that they have to keep any records on them, unless it is believed the deaths are suspicious. Not surprisingly, the quality of investigations varies greatly.

In dozens of cases, the investigation at the scene was minimal; the coroner essentially identified a cause of death and sent the body out for autopsy. In one county, the coroner's report often amounted to scribblings on pieces of paper. In 18 cases, there were no coroner's reports; in at least three of those, the coroner was never notified. In one case, there was no death certificate filed, contrary to state law; in another, no autopsy was performed.

- In the majority of cases, the Department of Corrections apparently violated its own policy by not notifying police or sheriff's officials each time an inmate died. No police reports could be found in almost two-thirds of the cases reviewed by the newspaper.

That can leave a host of unanswered questions.

For example, William Brown, 52, was rushed May 3, 1998, from Oshkosh Correctional Institution to Mercy Medical Center, where he died of a heart attack. Oshkosh police were never notified.

When Police Capt. Harold Graves - told of the sex offender's death by a reporter this summer - called prison officials to find out why he was not notified, he was told it was because the death was routine.

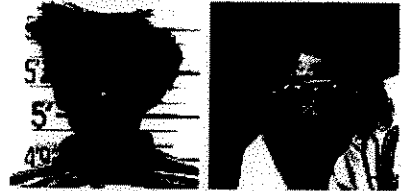
However, a preliminary mortality review report by the Corrections health care

<http://www.jsonline.com/news/state/oct00/apriz22102100.asp?format=print>



Gerald Dobs, 50, died from internal bleeding a day after he was found sick in his cell.

Robert Pawelczyk, 70, died of a heart attack a day after telling prison medical workers of three days of chest pains.



Fredell Frazier, 67, a diabetic, died after rapidly deteriorating and suffering from severe dehydration.

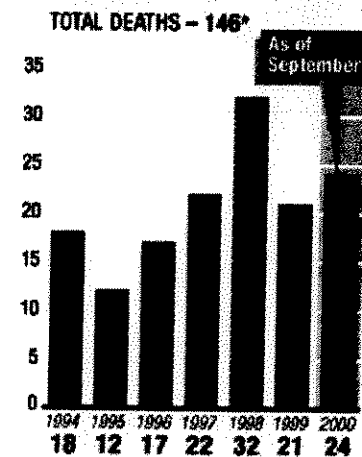
Charles Jordan, 47, died of heart disease after questionable treatment.



Angel Duran, 55, died from a ruptured appendix two days after persistent complaints of abdominal pain.

Gerald Musolf, 47, died after corrections officers repeatedly sought help for his deteriorating condition. *Coming in Day 3*

**WISCONSIN PRISONS  
INMATE DEATHS**



\*Figures include seven deaths of Wisconsin prisoners housed in out-of-state facilities.

Source: Wisconsin Department of Corrections

JOHN PINCHARD  
Journal Sentinel

**FOLLOWUP COVERAGE**

- Taycheedah: Warden sent to

staff showed that an ambulance was not called until 13 minutes after Brown was found "breathing but unresponsive." He had complained of chest pain for five minutes before that. The ambulance took seven minutes to arrive. Two reports state that no CPR was attempted by prison workers; another report states that it was "unknown" whether CPR had been performed. The nurse was not at the prison, which does not have a 24-hour medical staff on site, when Brown first had chest pains. Brown's family has been denied the final prison mortality review report into his death.

- Police investigations into inmate deaths often are closed without a review for potential medical neglect or criminal negligence once a natural cause of death is established. The natural cause can range from asthma to appendicitis - virtually anything short of a homicide or suicide.

Under state law, it is a felony to abuse, neglect or ill-treat people confined in prison or to allow any mistreatment. However, almost none of the inmate deaths reviewed by the Journal Sentinel was referred to the local district attorney for review, even when there was a potential question of medical neglect.

- Unlike Greer's death - which led to outraged legislators demanding a public accounting - the majority of inmate deaths are reviewed far from the public spotlight. All deaths are reviewed by a largely secret internal Corrections mortality review committee.

That committee, made up of prison system workers, is supposed to decide if an inmate's health care was properly handled before the inmate died. But members of that committee often are reviewing their own medical decisions or the decisions of people they supervise or work alongside.

For example, when a 39-year-old inmate collapsed of a heart attack at Columbia Correctional Institution in Portage on Oct. 1, 1997, a prison nurse called Columbia Health Services Manager Pat Siedschlag for assistance. An officer's incident report states: "Steve (the nurse) notified Pat Siedschlag on the phone and told her what was going on and that he would like her assistance. Steve got off the phone and said she refused to come down." Further, an ambulance did not arrive at the institution for 25 minutes.

Siedschlag - who refused to comment on the case to the newspaper - subsequently wrote one of the preliminary mortality review reports into the inmate's death.

Litscher said having prison staffers write reviews of inmate deaths they may have had a role in was not a conflict of interest unless "you think those people are dishonest. We don't."

But preliminary reviews, handwritten by prison medical workers sometimes weeks after an inmate dies, are often sloppily done and contain sketchy information. They frequently don't even list the cause of death. One review, written by Corrections medical director George M. Daley in April, did not even have the name of the dead inmate filled in.

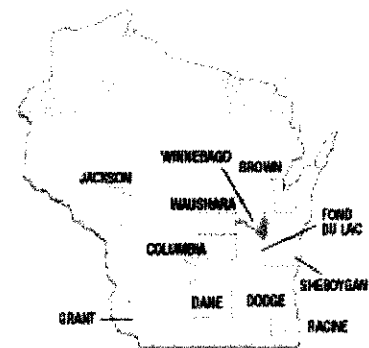
- The final reports of the committee are denied to the dead inmates' families and to the public. In fact, family members generally do not even know such a report exists.

The one exception was when Corrections officials released a report in Greer's death that was stamped "Final Report of the Mortality Review Committee" on the cover. David Whitcomb, chief legal counsel for the Department of Corrections, said in a written statement that the document was "not in fact such a report." He said the internal investigative committee in Greer's case "had a different purpose and membership" from the regular Corrections mortality review committee.

**juvenile division**

- **Letters:** Prison health care workers need support
- **Editorial:** Keep prison reports open
- **Reports:** Prisons seek more secrecy
- **Reaction:** Series just scratches surface
- **Reaction:** Lawmakers, governor urge changes at prisons

**WISCONSIN PRISONS  
MAJOR PRISON SITES**



\*As of mid-October    \*\*To open next year

COUNTY	ADULT PRISONS	POPULATION*
BROWN	Green Bay	998
COLUMBIA	Columbia	825
DANE	Oak Hill	560
DODGE	Dodge	1,282
	Fox Lake	1,121
	Waupun	1,220
FOND DU LAC	Taycheedah	802
GRANT	Supermax	313
JACKSON	Jackson	978
RACINE	Racine	1,439
	Racine Youthful Offender	399
SHEBOYGAN	Kettle Moraine	1,238
WAUSHARA	Pedgranite**	—
WINNEBAGO	Oshkosh	1,893

Source: Wisconsin Department of Corrections

JOHN PINCHARD/Journal Sentinel

The Department, he said, refused to release the final mortality review committee reports in other inmate death cases because

they are considered peer reviews and hence confidential under state law. However, the statute cited by Whitcomb states that such reviews may be released "to any person with the consent of the health care provider or facility whose services are being reviewed or evaluated."

"Confidentiality encourages health staff to discuss patients' deaths frankly which improves the quality of health care delivery," Whitcomb wrote. "We believe that nonrelease is in the best interests of inmate patients."

Litscher said Corrections employees "can investigate ourselves" and do a thorough and honest job. Asked how the public would know how to measure that, Litscher replied: "I think there is an element of trust. I want them to judge our actions. If the public deems that inappropriate - or the Legislature - they probably would change that."

"It's absolutely not acceptable," said Jerry Buting, an attorney who represented the family of an 18-year-old state prison inmate who died in 1992 while serving time on drug charges.

That inmate, Fred Patrick III, collapsed while gasping for air during an asthma attack while Corrections officers who weren't trained in CPR stood by helplessly. The state settled with his family for \$475,000.

It's a conflict of interest for the prisons to be reviewing inmate deaths "when they're the ones potentially liable," Buting said.

**COMPARING REPORTS:**

**Secret document offers far greater details of man's death**

The differences between the final, secret mortality review committee reports and the preliminary reports that the department is willing to release can be glaring.

Through sources, the Journal Sentinel obtained the secret final mortality review on the death of Oshkosh Correctional Institution inmate Fredell Frazier and compared it with the preliminary reviews that had been officially released to reporters.

Frazier was convicted of homicide in 1989 for shooting his roommate. Then 60 and disabled, Frazier told police his roommate had been drinking and using cocaine. Frazier told him to leave; when the roommate refused, Frazier shot him, then turned himself in.

Frazier died in April 1998.

The two four-page preliminary reviews note that Frazier's health rapidly deteriorated over a week with almost no medical intervention. The reports do indicate that there were problems with his care, but do not go into great detail. Several parts of the review are left blank.

The final secret report, however, is much more detailed - it puts all the pieces together in a scathing indictment of the care Frazier received in his last days.

Dehydrated and disoriented, with a weight loss of 13 pounds, Frazier, 67, was barely eating or drinking for days leading up to his death. Joseph G. Smith, an inmate health care worker who cared for Frazier, repeatedly alerted Corrections officers and nurses to his deteriorating condition. Eight days before he died, Frazier was already so dehydrated that a nurse tried three times without success to draw blood.

The prison nurse clinician's plan was to "observe" Frazier, without consulting a doctor. On April 19, Smith wrote that Frazier was unable to hold up his head, had developed tremors in his left hand, and had not had a bowel movement or urinated in more than 48 hours.

On April 20, Frazier finally was sent to the hospital. He died two days later.

A diabetic with numerous medical problems, Frazier used a wheelchair and was mentally limited. In a letter that was part of the secret final review, inmate Smith wrote, "I did voice concern at Mr. Frazier's state of health, and the nurse responded that, 'I know what I want to do, but my hands are tied.'"

**WISCONSIN PRISONS  
INMATE POPULATION**

END OF FISCAL YEAR	HOUSED IN STATE *	HOUSED OUT OF STATE
June 30 1995	10 700	8

Later in the letter, he wrote: "I was frustrated and angry that something more wasn't done to help my friend. It was my belief that when it was so difficult to draw blood from Mr. Frazier, he should have been hospitalized at that time, and the extra days of waiting probably contributed to Mr. Frazier's death. I believe that mistakes in judgment were made."

The secret final review concurred.

"There's a failure to provide any intervention," it states. "The assessment indicates a severe condition. There is a failure by the (nurse) practitioner to act. . . . The plan to OBSERVE is inappropriate for an inmate whose condition has been monitored for four days and has not improved. There is no intervention or direction to the nursing staff. . . . The nursing staff demonstrated an over-reliance on the role of the inmate aide which is totally unacceptable. . . . It is apparent that staff expected the aide to accept responsibility for hydrating the inmate. . . . The physician was never consulted."

The case was never referred to the Oshkosh Police Department or the Winnebago County coroner for investigation. This apparently was because before his death, Frazier had been transferred to the University of Wisconsin Hospital in Madison, which is in Dane County.

The Dane County coroner's report simply stated the cause of death as a heart attack, noted Frazier had been transferred from the prison because of severe chest pains and listed the attempts to notify Frazier's family of his death.

Corrections officials refused to disclose whether any employees were disciplined as a result of Frazier's case.

**DEPARTMENT DEFENDED:  
Chief says there's no need for outside reviews**

Without media and legislative attention, there is evidence that Greer's death also might have been handled in the manner of most other prison deaths: quietly and quickly. And even with the public attention, questions remain about the thoroughness of the Greer investigation.

Records show that Greer's death was reported to both the Fond du Lac Police Department and coroner's office by prison officials. However, their investigations were closed without a request for a review by the Fond du Lac district attorney until the Journal Sentinel wrote about the circumstances of Greer's death.

Fond du Lac city Deputy Police Chief Tony Barthuly said: "If it looks like a sudden death, those aren't referred to the district attorney, unless the coroner sees something suspicious. If it's natural causes, that's pretty much the end of it."

Litscher adamantly has maintained that no outside review of Greer's death was necessary and that his department would do a complete and honest report on the situation. An initial review of Greer's death concluded the staff had performed in an "exemplary" manner. Later, after the case became well-publicized, Litscher handpicked a group of 10 Corrections employees to investigate the death, and they produced two thick public reports that were presented to a Legislative committee.

However, Taycheedah Warden Kristine Krenke, Taycheedah Security Director James A. Zanon, four Corrections officers and a captain interviewed by the committee all have protested that the summaries of their testimony were either inaccurate or incomplete. None of the testimony was taken down verbatim; rather, committee members took notes and later summarized them.

"We did a thorough investigation, whether everyone agreed (or not)," Litscher said. "We have a standard of care when we do investigations. We feel very comfortable with the information we received. We don't have court reporters taking it down."

Litscher said that other than Greer's death, he knew of no other inmate deaths that would merit such a large-scale investigation, at least since he took over in January 1999. If another such death came to his attention, he said, he would launch a similar investigation - but the public would not necessarily know about it or its results.

"I will launch the type and the depth of investigation I feel is necessary to gain the facts that I need to make the decisions that have to be made," Litscher said.

His department, he said, was under no "political pressure" to investigate Greer's death and launched its inquiry when "facts came to us that raised an element of concern."

Eight months after Greer's death, Fond du Lac County District Attorney Tom Storm said he still has not decided whether to call an inquest into Greer's death - in which testimony on the circumstances of the death would be taken under oath - despite requests from Greer's family and Milwaukee County District Attorney E. Michael McCann. The Milwaukee district attorney was interested in Greer, who was in prison for a bungled robbery attempt, because she was one of many people from Milwaukee convicted and sent to Taycheedah.

Storm said he was waiting for a Legislative audit to be completed. But that audit is looking at health care in the prison system overall, not the Greer case specifically.

#### **LACK OF TRUST:**

##### **Pathologist says prison workers don't give all the facts**

For at least a decade, some former Corrections officials and legal experts have advocated outside reviews of inmate deaths, but to no avail.

Armond Start, who was the Corrections medical director from 1988 until 1991, said earlier this year that internal reviews of inmate deaths were not enough. Start, who has since died, said he had pushed for an outside review of inmate deaths, and legislation was drafted to that effect. It failed.

"They (Corrections officials) said it was not needed," said Start, who also served as medical director for the Oklahoma and Texas state prison systems. "We're capable of doing it ourselves." Typical coverup. Typical response to serious problems on health care in the Department of Corrections. They don't want the truth out because the truth would incense the legislators and the people of Wisconsin. No matter how bad these guys (the inmates) are and how rejected they are, the people don't want them treated this way."

Walter Dickey, who is now a University of Wisconsin-Madison law professor and was head of the Department of Corrections from 1983 to 1987, said he also fought a losing battle to create an outside panel of experts to review inmate deaths.

Dickey said a review should be done by an independent panel of objective experts from outside the department who also should have the authority to order an inquest.

"When you put inquest decisions in the hands of the district attorney in a county that houses that institution, there is a whole set of relationships that make it difficult," Dickey said.

He said he began lobbying for the changes after the death of inmate Donald Woods, 35, who died while strapped down in a segregation building cell at Waupun Correctional Institution in 1990. A state pathologist report stated that the death was "asphyxial" (having to do with oxygen deprivation) and that "no adequate natural or drug cause" explained the death.

In prison for sexual assault, Woods was HIV-positive and disruptive, and prison officials said Corrections officers placed a towel over his mouth to prevent spitting and biting, and that he was wheeled to the segregation unit in a soft-sided laundry cart. Two nurses - Beth Dittmann and Holly Meier - were disciplined in that case for failing to conduct a complete neurological assessment of Woods.

"It is below the standards of the profession for a registered nurse to fail to conduct a complete neurological assessment of a patient who is non-responsive to verbal stimulation and in failing to do so, nurses Dittmann and Meier exposed (Woods) to a risk of harm to which a minimally competent nurse would not expose a patient," the state board of nursing wrote in its decision.

A report by a Green Bay lawyer who was appointed as a special prosecutor to investigate Woods' death concluded that no crime had been committed. Litscher refused to say whether any correctional officers had been disciplined.

But the licenses of both nurses were suspended for 30 days in 1997, seven years after Woods' death, in connection with the case. Since Woods' death, both have been promoted: Dittmann supervises the Dodge prison's health care unit, and Meier supervises Taycheedah prison's health care unit.

"We feel very comfortable with both of these appointments," Litscher said.

The aftereffects of the Woods case linger. Pathologist Robert Huntington III, who performed autopsies on more than 60 of the inmates in the cases investigated by the newspaper - and on Woods - said during a recent interview: "It is true that I don't trust the penitentiary people to give me the full set of facts." He cited the Woods case as "an unfortunate episode" in which he didn't get relevant information from Corrections workers until after he did the autopsy. "It was a real stink."

Howard Eisenberg, dean of the Marquette University law school, said he also would like to see an outside review process. "I think there has to be some medical professionals from outside the Department of Corrections who would review these cases and have the authority to refer them to appropriate agencies if necessary," Eisenberg said.

He added that he would also like to see outside reviews of medical grievances that did not involve inmate deaths.

#### **CLIMATE OF SECRECY:**

##### **Department won't release names, causes of death**

The climate of secrecy extends beyond the final mortality reviews. Last spring, after Greer's death, state Rep. Sheldon Wasserman (D-Milwaukee) requested a list of all inmates who died in the state prison system since 1990, along with their causes of death. Litscher refused.

In a June letter to Wasserman, Litscher wrote that he would release the causes of death, but without names attached to them. Litscher wrote that Wisconsin autopsy reports and causes of death identified in coroner or medical examiner reports are considered patient health care records and must be kept confidential. Releasing that information could result in civil liability or criminal sanctions, he wrote.

Whitcomb elaborated that while autopsy reports and death certificates are public record when obtained from a county coroner's or register of deeds' office, his department was prohibited from releasing them because the prison system is a health care provider and hence must keep all medical records confidential.

Eisenberg questioned that interpretation. "Death certificates, which should have the cause of death indicated, are public documents and are connected to the individual," he said. "What they are saying they can't disclose is what's in the public domain."

As that decade-long debate over public disclosure and accountability continues, inmates have been quietly buried - more than a dozen of them - in state-paid graves in a prisoner cemetery in Waupun. Among them is Angel Duran.

Duran, 55, came to America from Cuba in 1979 and spoke broken English.

On Sept. 17, 1996, while at Dodge Correctional Institution for armed robbery, he repeatedly complained of abdominal pain, accompanied by vomiting and a failure to eat. He saw a nurse, some lab tests were ordered, and a prison doctor was notified. A nurse wondered whether his impending deportation to Cuba was causing anxiety.

The following day, his face was numb and his speech slurred, and he continued to complain of abdominal pain. He used a wheelchair to visit the prison chapel and did eat some supper. But because he wasn't feeling well, nurses ordered him confined to his cell, where he was observed in the evening walking with some difficulty. He still was not taken to the hospital.

On Sept. 19, a Corrections officer found Duran on the floor of his cell at 6:30 a.m., complaining of abdominal and back pain. He was "assisted to bed."

At 9:30 a.m., for the first time since the abdominal pain started, a doctor checked him over. Two hours later, Duran was found hyperventilating in bed and semiconscious, grimacing with pain. His vital signs were unstable. Again, a doctor checked him. Again, nurses suggested that anxiety over his deportation could be the cause.

## **Training**

Corrections officers are often the first people ailing inmates turn to for help, yet first aid accounts for only 4.3% of new officers' training hours.

New officers get 280 hours of training, with 12 hours devoted to first aid. CPR accounts for four of those 12 hours.

After that, many officers go for years without a refresher course. About 35% of Corrections security staffers are currently certified in CPR.

At 11:30 a.m., he finally was sent to the emergency room of Waupun Memorial Hospital.

He died about 2 p.m. from a ruptured appendix, a poisonous infection having spread throughout his body.

The four-paragraph Dodge County Sheriff's Department report stated that prison authorities notified them that an inmate was sent to the hospital with "apparent" chest pains, that the inmate had died and that the coroner said there were "no suspicious circumstances."

The case was then closed without a referral to the district attorney.



## **Ex-Inmate: Sex Between Guards, Prisoners Common**

Thu. EST February 27, 2003

**MADISON, Wis.** -- Sex-related incidents between prison guards and inmates are a constant in the state's corrections facilities, a former inmate testified before an Assembly committee.

Maria Ochs told legislators Wednesday that she rejected a guard at the Taycheedah Correctional Institution when he hit on her for sex, but she never reported the proposition to prison officers.

"I was actually scared to say anything," the 24-year-old said.

Ochs said the fear of punishment prevents other women inmates from reporting guards who either demand sex or have sex with prisoners.

Ochs and others testified before the Assembly Corrections and the Courts Committee, which is considering a proposal that would make it a felony for guards to have sex with anyone they supervised.

The committee is scheduled to vote on the change March 26. Wisconsin is one of only four states that do not make it a crime for a guard to have sex with an inmate or others in the criminal justice system.

The proposal would create a maximum penalty of 25 years in prison for staff members who have sex with inmates. It also would apply to staff in county jails and to probation and parole agents.

No legislator objected to the bill Wednesday but instead debated the length of the maximum prison sentence and whether it should apply to probation and parole agents who start affairs with former inmates they did not directly monitor.

Cindy O'Donnell, deputy secretary of the state Corrections Department, said the agency wants the state to make it a felony for guards to have sex with inmates.

"Any time a (guard) is compromised, they become vulnerable," she said.

O'Donnell estimated that prison officials conduct five to 10 investigations a year regarding guard-inmate sex.

Alice Petlock Pauser, who started the female inmate advocacy group Demeter Foundation, called that number too low.

"This is happening to five to 10 (female inmates) a month," she said.

State Attorney General Peggy Lautenschlager said she supports the bill's goal but wants it

modified so a guard who is a victim of a sexual assault wouldn't face possible prosecution.

Leaders of unions for the state's prison guards have said the new law isn't needed because getting fired for sexual misconduct is punishment enough.

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# Wisconsin State Journal

## NEWS

### Wisconsin's rate of black prisoners highest in country

10:31 PM 4/11/02  
AP, State Journal staff

COPY

Wisconsin incarcerates black offenders at a higher rate than any other state, a report from the U.S. Bureau of Justice Statistics says.

The report released Wednesday said the state's overall incarceration rate is below the national average, but the percentage of blacks serving time behind bars tops the nation.

In Wisconsin, there were 4,058 black prison and jail inmates per 100,000 black residents in mid-2001, the report said. Iowa was second, with 3,302 black inmates for every 100,000 black residents.

Nationally, black incarceration rates were six times higher than those for whites, but in Wisconsin the rate for blacks was more than 10 times the rate for whites.

The numbers come as no surprise to Thomas White of Racine, president of the Wisconsin arm of the National Association for the Advancement of Colored People.

"It doesn't surprise me because we live here in Wisconsin and quite frankly (prisons) are an industry here," White said. "We're the worst right here."

White said he thinks blacks accumulate police records faster than their white counterparts because police are more likely to document contacts with blacks. When it's time to be sentenced, he said, those records make black defendants appear more prison-bound.

Sentences for probation, parole revocations and drug offenses rose in the black population during the 1990s, while the number of sentences for violent crimes declined, said Pam Oliver, a UW-Madison sociology professor who studies racial disparities in sentencing and imprisonment.

"What's driving new prison sentences for African Americans in this state are drug offenses," she said. "You're seeing declining serious crimes: robbery, burglary and violent crimes."

Arrests for drug crimes often come in areas already plagued by crime, she said.

"It has an enormous impact on women and children. You can't lock up that high a percentage of the young black male population without devastating black communities," Oliver said.

White said it's also difficult for poor people of any race to get

adequate legal representation because the state public defender's office is overwhelmed with cases. As a result, poorer defendants get to spend very little time preparing cases with their lawyers. Wisconsin also led the United States in sending prisoners out of state: 4,526 state inmates were housed in other states or federal institutions at the time of the study, far outpacing second-place Hawaii, with 1,225.

The number has dropped significantly since then, to about 3,318 inmates in out-of-state institutions, state Department of Corrections spokesman Bill Clausius said. **If you go**

- **What:** "Racism and Justice," a presentation by UW-Madison sociology professor Pam Oliver on racial disparities in arrest rates and incarceration in Dane County.
- **When:** 3 to 4 p.m. April 21.
- **Where:** Edgewood College's Predolin Center, 1000 Edgewood College Drive off Monroe Street.

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## State ranks highest in incarceration rate of African-Americans

By DENNIS CHAPTMAN  
of the Journal Sentinel staff

Last Updated: April 10, 2002

Wisconsin led the nation in the rate of incarceration for black offenders, according to a federal report released Wednesday.

The U.S. Bureau of Justice Statistics report also found that the incarceration rate for blacks in Wisconsin is more than 10 times what is it for whites.

Wisconsin paced the 50 states with 4,058 black prison and jail inmates per 100,000 black residents as of mid-2001, the report says. Iowa was second, with 3,302 for every 100,000 black residents, and in Texas there were 3,287 black inmates for every 100,000 black residents.

Nationally, the study found that black incarceration rates were six times higher than those for whites. In Wisconsin, the incarceration rate for whites is 350 per 100,000 white residents, and for Hispanics it is 974 per 100,000.

Wisconsin has typically ranked in the upper tier of states in incarceration rate of blacks, said Pam Oliver, a sociology professor at the University of Wisconsin-Madison who has studied racial disparities in sentencing and imprisonment.

During the 1990s, Oliver said, the number of sentences for violent crimes among the black population declined, while probation and parole revocations and drug offenses rose.

"What's driving new prison sentences for African-Americans in this state are drug offenses," she said. "You're seeing declining serious crimes: robbery, burglary and violent crimes. New sentences for drugs continue to climb."

### A long-range impact

Oliver said arrests for drug crimes tend to come in areas that are already plagued by high crime and can lead to the erosion of black communities and families.

"What drives drug arrests are decisions about where to police," she said. "The decision to police certain areas intensively arises because the drug trade is associated with violence and other crime in those areas, and there is a call by the community to police those areas."

She added: "It has an enormous impact on women and children. You can't lock up that high a percentage of the young black male population without devastating black communities."

Wisconsin's overall incarceration rate is 605 for every 100,000 residents, well below the 1,013 for Louisiana, which leads the nation in that category. Wisconsin's rate is below the national rate of 639 inmates per 100,000 residents.

### Are alternatives needed?

Milwaukee Pastor Joseph Ellwanger, an official with the church-based group WISDOM that is pushing for alternatives to prison sentences for non-violent offenders, said Wisconsin needs to rely more on treatment than incarceration.

"It's rather clear that we have not found alternative methods of helping people with addictions deal with those addictions," Ellwanger said. "We

### Wisconsin Jails

**4,058**

Number of black inmates in Wisconsin jails and prisons per 100,000 black residents in the state, the highest incarceration rate in the nation.

**2,209**

Number of black inmates in state prisons and local jails nationwide per 100,000 black residents.

**350**

Number of white inmates in Wisconsin jails and prisons per 100,000 white residents in the state.

**366**

Number of white inmates in state prisons and local jails nationwide per 100,000 white residents.

Source: U.S. Bureau of Justice Statistics

have used prison as the route to go. We have been very punitive."

Ellwanger said his group wants to require judges to send offenders to treatment programs rather than to prison.

Oliver said statistics also have shown that generally the smaller the proportion the black population is of the entire population, the higher the black incarceration rate is.

"On a proportional basis, blacks are more likely to be incarcerated where they are a smaller percentage of the population," Oliver said.

In Wisconsin, blacks make up about 5.7% of the population; nationally, the black population is 12.4%, according to the latest U.S. Census Bureau figures.

### **Most out-of-state inmates**

The federal study also found that Wisconsin continues to lead the nation in the export of prisoners. Wisconsin had 4,526 inmates housed in other states or federal institutions, far outpacing second-place Hawaii, with 1,225 in mid-2001, according to the report. Wisconsin was one of four states that had more than 20% of its prison population housed in out-of-state facilities as of June 30, 2001.

The number has dropped significantly since then, however. As of this week, there were 3,318 inmates placed in out-of-state institutions, said Department of Corrections spokesman Bill Clausius.

The decline is due to several factors, including a number of inmates who reached their 48-month limit in placements outside Wisconsin; openings in state prisons; and some inmates reaching mandatory release dates.

The out-of-state inmate population could decline significantly when the state opens an already-built 1,500-bed prison in Stanley. It could open as early as this September or as late as March 2004, depending on how state lawmakers resolve their differences over the budget adjustment bill.

The report issued Wednesday also showed that nationwide the number of people in prison grew last year at the slowest rate in three decades.

The total population in all prisons and jails rose a bit more than 1%, nearing 2 million, according to the annual report. Tougher anti-crime policies, more facilities and longer sentences are the reasons cited for the decades-long increase in the prison population.

Appeared in the Milwaukee Journal Sentinel on April 11, 2002.



# State of Wisconsin

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REFERENCE SECTION: (608) 266-0341  
REFERENCE FAX: (608) 266-5648

March 25, 2003

## MEMORANDUM

**To:** Members of the Assembly Committee on Corrections and the Courts

**From:** Michael Dsida   
Legislative Attorney

**Subject:** Minor Error in Analysis of AB 51

---

I am writing to you to inform you of a minor error in the Legislative Reference Bureau Analysis of 2003 Assembly Bill 51, which relates to sexual activity involving jail, prison, or community corrections staff or contractors and jail inmates or persons in the custody or under the supervision of the Department of Corrections. The analysis correctly describes the changes that the bill would make to current law, but it incorrectly describes one set of circumstances under which a person is guilty of second-degree sexual assault under current law. The material beginning with "1)" on the seventh line of the first paragraph should have read: "1) a person who is under the influence of drugs or *drugs and alcohol*...." Under current law, consent is not an issue in cases in which the victim is under the influence of drugs or drugs and alcohol. It *is* an issue in cases in which a victim is under the influence of alcohol alone, regardless of the extent of the victim's intoxication. The mistake in the analysis, however, has little or no bearing on the substance of the bill.

I apologize for this error. If you have any questions about this matter, please let me know.

cc. Honorable Bonnie Ladwig  
Philip Cardis



STATE REPRESENTATIVE  
**Garey Bies**  
1<sup>ST</sup> ASSEMBLY DISTRICT

## Memorandum

To: Members, Assembly Corrections and the Courts Committee

From: Rep. Garey Bies, Chair

Date: March 25<sup>th</sup>, 2003

Re: Assembly Bill 51 Amendment

Attached to this memo please find a copy of LRB 40/2, a substitute amendment to AB 51 which is scheduled for Executive Action before the Assembly Committee on Corrections and the Courts tomorrow, 3/26.

This amendment is authored by Rep. Frank Lasee and will be introduced as a Committee Amendment.

*First for Wisconsin!*

**Capitol:** P.O. 8952, Madison, WI 53708-8952 • (608) 266-5350 • Fax: (608) 282-3601  
Toll-Free: (888) 482-0001 • Rep.Bies@legis.state.wi.us

**Home:** 2590 Settlement Road, Sister Bay, WI 54234 • (920) 854-2811



## Nowlan, Andrew

---

**From:** Cardis, Philip  
**Sent:** Thursday, March 27, 2003 3:24 PM  
**To:** Nowlan, Andrew  
**Subject:** Sub to AB 51

Andrew -

Enclosed is the description of Assembly Substitute Amendment 1, to AB 51.

Under current law a person who has sexual contact or sexual intercourse with another person without the other person's consent commits the crime of sexual assault. In addition, current law prohibits a person from having sexual contact or sexual intercourse with another person under certain circumstances regardless of whether the other person has consented. Under those provisions a person commits the crime of sexual assault when he or she has sexual contact or sexual intercourse with any of the following: 1) a person who is under the influence of drugs or alcohol or suffers from a mental illness, so as to preclude him or her from effectively consenting; 2) a person who is unconscious; 3) a patient or resident in an adult family home, a community-based residential facility, or a health or mental health treatment facility that employs the other person; or 4) a person under the age of 16.

*Assembly Substitute Amendment 1 to Assembly Bill 51* prohibits a person who works at a correctional institution from having sexual contact or sexual intercourse with a person who is confined in a correctional institution. The Substitute Amendment also prohibits a probation, parole, or extended supervision agent from having sexual contact or sexual intercourse with an individual who is on probation, parole, or extended supervision if either: 1.) the agent supervises the individual, either directly or through a subordinate; or 2.) the agent has influenced or has attempted to influence another agent's supervision of the individual.

The main thing the Substitute Amendment is getting at is the parole agent and the parolee factual scenario where coercion is possible. Under the substitute amendment, a parole agent is guilty of sexual assault **if** the agent supervises the individual, either directly or through a subordinate; or the agent has influenced or has attempted to influence another agent's supervision of the individual. If the parole agent does **not** have the supervisory oversight over the parolee, then the parole agent is not liable for sexual assault. Under the original bill, the parole agent would be liable for sexual assault regardless of whether he or she had supervisory oversight over the parolee. Therefore, the Substitute Amendment narrows the parties that could be affected by the new law.

A person who violates this prohibition may be fined not more than \$100,000 or imprisoned for not more than 40 years or both.

Talk to you later.

Phil

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(608) 267-0683 FAX (608) 266-3830  
philip.cardis@legis.state.wi.us

②

State work rules dictate termination of employee currently. The state has maintained "zero tolerance" in these ~~sex~~ situations. 5-10 cases per year of sexual contact.

What if two individuals meet in a social setting & the corrections officer was unaware the other was under supervision. → To put in a knowledge component would require placement elsewhere.

AB 51

①

To make it illegal for guards to have sexual contact with prisoner.

This is a control issue. The guard can make life miserable for inmates.

Is consensual sex truly consensual?

Class C Felony  
100,000 or 40 yrs or both.

Penalty applies whether sex is "consensual" or not.

WI on of 4 states w/out this law.

# National Task Force Review of Prisons

---

Insure the reporting process sufficiently protects the individual reporting misconduct.

③ There is a health issue as well: STDs which can be easily transmitted (?) in a confined situation such as a prison.

Sexual Predators? -

Contraband into prisons. The inmate can exert control here as well.

183 Court of Appeals case

Female guard → ~~if~~  
~~the~~ Court did not consider instance of misconduct in public office

State vs Schmit  
115 WI 2nd 657  
340 NW 2d

AB 51

Sub -> Prohibits anyone working at a correctional institution from having contact.

Limits Sub to direct supervision

Class C Felony

40 yr / 10,000 fine

Orig Bill covered anyone in DOC oversight.

Sub. deals with confinement & direct oversight/supervisor

- "Direct Supervisory relationship"
- Could stay where it is
- Alleviate Lasee issue
- > Non-supervisory employee. Would need to be defined.



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## Proposed law would punish guards for sex with inmates

### Push comes after string of cases; felony would draw up to 40 years in prison

By MARY ZAHN  
[mzahn@journalsentinel.com](mailto:mzahn@journalsentinel.com)

*Last Updated: Feb. 14, 2003*

A state law that would make sexual contact between guards and inmates a felony punishable by up to 40 years in prison has been proposed in the Legislature with strong bipartisan support.

Wisconsin is one of only four states that do not specifically ban sexual contact between inmates and guards. Two attempts to make it a felony have failed in recent years after the union that represents prison guards opposed the effort.

"Why would you be opposed to this?" said Garey Bies (R-Sister Bay), who is chairman of the Assembly's Committee on Corrections and the Courts and a co-sponsor of the bill. "To me it's a no-brainer. If they have sexual contact with an inmate, they should join the people that they're guarding, because they are no better than they are. It's the ultimate power and control situation where you're a guard and a person is in prison. The inmates really have no way of crying out about what is going on."

Marty Beil, executive director of the Wisconsin State Employees Union, did not return phone calls seeking comment. In an interview last month, Beil said his union continues to oppose such legislation. He said a criminal penalty is not needed "if a person's job is taken away from them because of this activity."

The legislation, which was introduced in both the Senate and Assembly this week, is co-sponsored by 44 state representatives in the Assembly, including 11 Democrats, and has 11 co-sponsors in the state Senate, including two Democrats.

The bill prohibits prison guards, and others who provide services to people confined in correctional institutions, boot camp supervisors and probation, parole and extended supervision agents from having sexual contact with a person who is under their control. The bill applies to state prisons, county or municipal jails and juvenile correctional facilities. The penalty is a fine of up to \$100,000 or up to 40 years in prison or both.

Attorney General Peg Lautenschlager said she supports the bill "conceptually," but would like to see some changes in the way the legislation is written. Under the proposed bill, she said, if an inmate sexually assaults a prison guard, both could be held criminally accountable.

"There is no exception for a prison guard who is sexually assaulted," she said. "So if you have a female prison guard sexually assaulted by a prisoner, she is guilty of sexual assault under this law. What the bill says is that any time a prison guard has sexual contact with an inmate, it's sexual assault by the guard against the inmate. The DAs seem to believe that no DA would ever do that, but why would you just leave it to the discretion of the DAs?"

Since November, three guards at Taycheedah Correctional Institution have been investigated on allegations of sexual contact with inmates. One impregnated a 24-year old mentally ill prisoner and was fired. Another guard resigned rather than face an investigation into possible sexual misconduct. And a sergeant is being investigated on allegations he asked an inmate to expose her breasts and perform oral sex.

As the result of these investigations, at least four inmates have been placed in solitary confinement on allegations that they had personal relationships with guards overseeing them or that they lied about the guards. Three of the women were released from solitary after reports about them in the Journal Sentinel.

Prison officials launched a new investigation into a fourth case in which an inmate had been accused of "lying about staff" after a reporter began asking questions about her case. She was released from solitary after she passed a lie detector test last week.

A public hearing on the proposed legislation will be held at 10 a.m. Feb. 26 before the Assembly's Committee on Corrections and the Courts in Room 328 Northwest, in the state Capitol.

A version of this story appeared in the Milwaukee Journal Sentinel on Feb. 15, 2003.

## Concerns about Assembly Bill 51

### **This legislation should include a provision that punishes an inmate if they initiated the sexual contact.**

The Department of Corrections already has a rule in place that a prisoner can be punished for a maximum of 360 days in solitary confinement. This is not statutory language, not a criminal penalty and does not change the prisoner's sentence.

WI Coalition Against Sexual Assault and Amnesty International opposed

### **The legislation punishes correctional personnel even if they did not initiate the contact.**

Correctional personnel should know this type of behavior is wrong and refrain. This is similar to any peer pressure situation.

### **The Class C felony is too severe**

A Class C felony requires a fine of not more than \$100,000 or imprisoned for not more than 40 years. The court does not have to impose the maximum penalty.

A Class C felony also applies to sexual assault with individuals under the influence of drugs or alcohol, the mentally ill, and those in care treatment facilities. Prisoners fall into the same category as these vulnerable individuals.

Class F felony (12.5 year max) for sex with therapist. Difference is person chooses to be in that environment, inmates do not choose to be in prison.

### **Legislation is singling out one profession**

Already laws in place for sexual assault by a therapist, teacher, etc.

Correctional personnel have a unique responsibility to protect the public and their behavior can mean a breach of security.

## Assembly Committee on Corrections and the Courts

DATE \_\_\_\_\_

Moved by Albers Seconded by Pocan  
 AB 51 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_  
 A \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt 0047/1  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

- Be recommended for:
- Passage
  - Introduction
  - Adoption
  - Rejection
  - Indefinite Postponement
  - Tabling
  - Concurrence
  - Nonconcurrence

Intro

	Committee Member	Aye	No	Absent	Not voting
1.	Rep. Garey Bies, chair	✓			
2.	Rep. Sheryl Albers, vice-chair	2			
3.	Rep. Greg Underheim	3			
4.	Rep. Carol Owens	4			
5.	Rep. Frank Lasee	5			
6.	Rep. Scott Suder				
7.	Rep. Mark Pocan	6			
8.	Rep. Pedro Colon	9			
9.	Rep. Tony Staskunas	7			
10.	Rep. Sheldon Wasserman	8			
Totals		9	0	1	

MOTION CARRIED  MOTION FAILED



# Assembly Committee on Corrections and the Courts

DATE \_\_\_\_\_  
 Moved by Stask Seconded by Pocan  
 AB 51 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_  
 A \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

<input checked="" type="checkbox"/> Passage	<input type="checkbox"/> Indefinite Postponement
<input type="checkbox"/> Introduction	<input type="checkbox"/> Tabling
<input type="checkbox"/> Adoption	<input type="checkbox"/> Concurrence
<input type="checkbox"/> Rejection	<input type="checkbox"/> Nonconcurrency

	Committee Member	Aye	No	Absent	Not voting
1.	Rep. Garey Bies, chair	1			
2.	Rep. Sheryl Albers, vice-chair	2			
3.	Rep. Greg Underheim	3			
4.	Rep. Carol Owens	4			
5.	Rep. Frank Lasee	5			
6.	Rep. Scott Suder				
7.	Rep. Mark Pocan	6			
8.	Rep. Pedro Colon	9			
9.	Rep. Tony Staskunas	7			
10.	Rep. Sheldon Wasserman	8			
	Totals	9	0	1	

MOTION CARRIED       MOTION FAILED