

NEWS

Wisconsin legislator Shae Sortwell was referred for felony child abuse in 2013 before elected, but was never charged

aid he used an object to punish his child, as the Bible instructed. He now sits on the Equal Justice and Public Safety Committee.

Natalie Eilbert and Chris Mueller Green Bay Press-Gazette

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GREEN BAY – Police sought a felony child abuse charge against a man who now serves as a Wisconsin legislator after he was accused of leaving 4-inch bruises on his child and told officers the Bible commanded him to strike his children as punishment, according to newly released records.

The Brown County District Attorney's Office never charged the lawmaker, Shae Sortwell, and did not explain its decision until eight years later in response to a Green Bay Press-Gazette inquiry.

The police investigation took place in January 2013, before Sortwell was elected to the state Assembly, but by then he was active in state and national politics and had served on the Green Bay City Council.

Police were made aware of the alleged abuse after a relative discovered the five bruises while giving the child a bath. The relative took the child to a hospital in Two Rivers, according to 35 pages of documents obtained by the Press-Gazette through an open records request with the Green Bay Police Department.

Sortwell told police the Bible was "very specific" about corporal punishment and loosely quoted a verse from Proverbs: "Whoever spares the rod hates their child," according to the police reports.

Sortwell, now a member of the Assembly's Criminal Justice and Public Safety Committee, told police he and his wife disciplined the child with an object rather than their hands because "hands are for loving." He said if they were not using corporal punishment, they were not loving their child because "they were not teaching what needs to be taught," the police reports said.

Sortwell explained to investigators that he or his wife typically struck the child twice whenever the child was "being defiant," then would hug the child and, sometimes, give the child a Rice Krispies treat. After striking their child, neither parent made a practice of checking for injuries, the police reports said.

Sortwell estimated the most recent time he struck the child was three days before the child was brought to the hospital with the still-visible marks, according to the police reports.

After a four-day investigation involving four police officers, two social workers, a child forensic officer — a trained agent who interviews child victims of physical and sexual abuse — a child advocacy staff member and a nurse practitioner, police recommended a felony child abuse charge against Sortwell and a felony charge of failure to act to prevent bodily harm against his wife. Both charges carry a maximum penalty of six years in prison.

Deputy District Attorney Dana J. Johnson wrote in a Sept. 15 letter to the Green Bay Police Department that he was unable to prove Sortwell's guilt beyond a reasonable doubt and that he had to take into consideration "the defense of the parent using reasonable force to discipline the child." Johnson also declined to charge Sortwell's wife.

The couple avoided a criminal prosecution while the Brown County prosecutor's office was filing child abuse charges against other defendants in similar cases around that same time, with all of those cases leading to convictions.

Police were not provided an update from the district attorney's office until this fall, when the Green Bay Police Department started making inquiries in response to the Press-Gazette's open records request.

The police department redacted pages of information, including any sections that contained the name, age and gender of the child, the object used to strike the child and notes from trained law enforcement and medical professionals who examined the child. Police also gave Sortwell a heads up about the newspaper's inquiry and provided him 13 business days — 10

days more than statute allows — to craft a statement that was then provided to the Press-Gazette, an unusual courtesy that slowed the release of the records by at least two weeks.

In the statement from Sortwell released by the police department, the lawmaker blames the incident on a "disgruntled family member." The letter is dated Sept. 29. The records, including the statement, were released the following day.

“Nearly a decade ago, a disgruntled family member made an accusation against my wife and me. The police appropriately did their jobs and looked into concerns and then forwarded their findings on to the Brown County District Attorney’s Office who rightfully decided to drop the matter,” Sortwell said in the statement. “While relationships among extended family members can sometimes be difficult, we are thankful to those public servants who do their best to get to the full story and protect our families and our communities.”

Sortwell is a Republican whose state Assembly district includes northern Manitowoc County and southern Brown County, including part of De Pere. He lived in Green Bay at the time police sought to charge him but now lives in rural Manitowoc County with his wife and their six children.

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Family member alleges couple were ‘beating the sin out’

The Sunday morning ritual of getting the family ready for church came to an abrupt halt on Jan. 6, 2013, when a family member noticed five marks approximately 4 inches in length on the child’s body during bath time. The child did not appear to be in pain, according to the family member, but the bruises prompted the relative to take the child to a hospital in Two Rivers. Police began investigating that Sunday afternoon.

The family member told a police officer and social worker they had witnessed the Sortwells spank the child on multiple occasions, the police reports say.

The family member also told officers they had previously heard one of the parents make a comment about “beating the sin out” of the child, according to the reports. The same family member told police they had forbidden any physical punishment from taking place at their home when the Sortwell family visited.

When contacted by phone earlier this month, the family member told the Press-Gazette they did not want to comment on the incident.

When Sortwell was being interviewed by a Green Bay police officer, the officer expressed concern over the treatment of the child. The officer told Sortwell: “It’s obvious the child is being hurt,” according to police reports.

“That is the idea of corporal punishment,” Sortwell told the officer, according to the reports. “It causes some pain, but damage is not intended in corporal punishment.”

Wisconsin law allows parents to use corporal punishment when it's "reasonable discipline of a child by a person responsible for the child's welfare."

"Reasonable discipline may involve only such force as a reasonable person believes is necessary," the state statute reads.

“When you leave marks like that, that is not reasonable,” the responding officer told Sortwell while showing him photos of the child’s bruises, the police reports said.

After a back-and-forth conversation, the officer told Sortwell he would have arrested him if he had been working on the day the incident was reported, according to the police reports.

In an interview Oct. 19 with the Press-Gazette concerning the specifics of the Sortwell case, Brown County District Attorney David L. Lasee said reasonable circumstances allow for parents to strike their child under state law.

"You have to take into consideration that you're trying to evaluate whether the parent hit the child out of anger or frustration with an intent to actually hurt the child, or if the parent used reasonable physical discipline," Lasee said. "That's a challenging evaluation."

In Sortwell's case, police questioned his use of force related to his child's injuries. One of the responding officers told Sortwell the bruises appeared to be the result of "anger or rage."

Sortwell repeatedly denied they were anything other than evidence of loving discipline, the police reports say.

Similar cases led to felony charges

Between Dec. 28, 2012, and Feb. 4, 2013, the weeks surrounding the Green Bay Police Department's recommendation to charge Sortwell, the Brown County District Attorney's Office pressed charges against eight other people for child abuse.

In one of those cases, a defendant was convicted in 2013 of a Class I felony — a lesser charge than what was recommended by police in Sortwell's case. That case involved a Howard resident who spanked an infant in April 2012 and left two distinct bruises.

The bruises on the child in the Sortwell case were four times the size of those described on the child in the Howard case, and the Sortwell child suffered five bruises as opposed to two, according to Brown County court records.

The actions of the Howard resident were determined to be reckless, done after he "momentarily lost his cool." The Howard resident stated that he "did not intend to cause injuries." Sortwell also said he didn't intend to cause bodily harm to the child, according to police records.

The same nurse practitioner examined children involved in both the Sortwell case and the Howard resident's case. The nurse practitioner's medical assessment of the Howard resident found the quarter-sized bruises were "nearly diagnostic for physical abuse and inflicted trauma."

In the Sortwell reports, the nurse practitioner's examination and testimony have been redacted from the record.

The Howard resident served 30 days in jail for his crime, according to court records.

"A lot of that has to do with the judgment of the prosecutor based on all of the facts and circumstances of the case," Lasee said when asked why a felony of a lesser degree would be charged compared with his office's decision not to charge in Sortwell's case.

Those "facts and circumstances" include the relationship of the alleged abuser to the child, the age of the child, and whether there was frustration or anger associated with the

discipline, Lasee said.

The fact that the Howard resident was not related to the child and the child's young age factored into the district attorney's decision to prosecute and subsequently win a conviction in that case, Lasee said.

Law experts interviewed by the Press-Gazette said vague legal terminology can blur the line between punishment and abuse, especially when words like “reasonable” punishment exist in the statute.

When cases are “on the fence,” prosecutors tend “not to want to touch them,” said Ryan Poe-Gavlinski, director of the Restraining Order and Survivor Advocacy Clinic at the University of Wisconsin Law School.

“They (district attorneys) can pretty much do whatever they want,” said Shawn Peters, a professor of law and religion at UW-Madison.

Peters said it is “unusual” that a district attorney would not press charges following an incident with clear evidence of injury, other young children in the home and an admission that the practice of hitting children was a repeated behavior.

The experts said religious freedom often is wrongly used as a defense for punishment that may amount to criminal abuse.

“When dealing with a case involving all this spare-the-rod stuff, there’s no protection when it’s abuse in the context of proactive discipline,” said Peters, who also is author of “When Prayer Fails: Faith Healing, Children and the Law.”

“There’s nothing in the statutes that I’m aware of that would protect against that,” he said.

In 2014, a Dane County judge heard a case in which the parents abused their children by striking them with objects in the name of religion. In *State vs. Alina and Matthew Caminiti*, the parents used wooden spoons or dowels on the upper thighs or bare bottoms of their two young children. They claimed to be “very careful,” administering bruise-causing blows a few times a week to a few times a month and never in the same spot.

The beatings in the Caminiti case began when the children were 2 to 3 months old and progressed from there. Similar to the Sortwells, the couple said religious doctrine guided

their discipline.

In March 2014, a Dane County jury found the Caminitis guilty of multiple counts of child abuse, a Class H felony, the same charge police recommended bringing against Sortwell. Both were sentenced to 18 months of probation.

Lasee said religious belief is "arguably relevant" in determining whether punishment is done out of anger, but he acknowledged that religion does not give "added protection that you wouldn't otherwise have under Wisconsin law."

In 2019 during his first year in the Assembly, Sortwell introduced a bill that would have allowed the courts to expunge Class H felonies or lower from any defendants' records, regardless of age.

Under the current law, the crime can be expunged from somebody's record only if they committed the offense when they were 25 or younger and the sentence was served. Sortwell was 27 years old in January 2013.

The bill did not pass.

District Attorney Lasee says politics not involved

Sortwell's ascent in the Republican Party began while he was a student at the University of Wisconsin-Green Bay. During his four years there, he was recruited by the Republican National Committee to be the campus coordinator of former President George W. Bush's reelection bid and founded the campus' first anti-abortion group, Phoenix Students for Life.

At the end of college in 2006, Sortwell went to work for former state lawmaker John Gard's congressional campaign and two years later worked for the late John McCain's presidential bid. He then won a seat on the Green Bay City Council in 2010, but left the job after serving one year of the two-year term to be the legislative aide for Brown County Director of Administration Chad Weininger who, at the time, was serving in the Legislature.

In 2013, Sortwell was named Brown County chair of Wisconsin Right to Life, the same year Green Bay police were recommending felony child abuse charges against him.

Two years later, Sortwell ran unsuccessfully for a seat in the state Assembly, losing to Eric Genrich, now the mayor of Green Bay. Following the loss, he and his family moved from

Green Bay to Gibson, a town of about 1,300 people in Manitowoc County. He won a seat on the Gibson Town Board in 2017 and in 2018 ran for Assembly District 2.

He earned an endorsement from Alan Lasee, a powerful, well-known Republican who served in the Legislature for more than 30 years. A family with some political clout, Lasee's cousin, Frank Lasee, succeeded him in office. However, District Attorney David Lasee, who was first elected to office in 2012, said he and Frank are "distant relatives," that he didn't grow up with him and very rarely interacted with him.

David Lasee said Sortwell's status as a public figure did not factor into Deputy District Attorney Johnson's decision not to press charges.

"Mr. Johnson is not political in any way, shape or form," Lasee told the Press-Gazette.

In his Sept. 15 letter, Johnson characterized Sortwell's actions as a "spanking" while explaining why he never filed charges.

"Shae Sortwell indicated that he believes that some physical punishment is appropriate because of his religious beliefs," Johnson wrote. "He believes he has a responsibility to teach his child what needs to be taught."

Lasee said he remembers Johnson asking him to weigh in with advice on whether to press charges against the Sortwells.

Lasee said he had been working on a similar child abuse case, one that he had prosecuted and lost. In that case, the defense attorney was able to win by questioning what role the state has in telling parents how to discipline and raise their child.

The case was based on an incident that took place in June 2012 and went to trial in April 2013. It involved a father who began disciplining a teenager for defying orders by striking the teen's bare rear end with a leather belt three times every five minutes for an hour. The father ceased using his belt after 20 minutes when he realized marks had begun blooming from the blows.

Despite photographic evidence that showed a "large bruise area on the left buttocks and upper back," according to the police reports, as well as interviews and medical examinations of the teen, and a history of belt beatings, jurors found the defendant not guilty on April 10,

"The jury (in that case) was out for 15 minutes," Lasee said. "It sent a very clear message to me."

Lasee said the Sortwell complaint, which had been referred to his office three months before the verdict in the other case, was "essentially closed ... quite some time ago." But he said he couldn't locate the date the case was closed "anywhere in the file."

Corporal punishment creates 'negative cycle,' child advocates say

In 2018, the American Academy of Pediatrics released a statement that described corporal punishment as "minimally effective in the short-term and not effective in the long-term," then urged pediatricians to teach parents "positive and effective parenting strategies" to avoid physical punishment and verbal abuse of children.

The American Professional Society on the Abuse of Children had previously released a statement that called for the "elimination of all forms of corporal punishment and physical discipline of children in all environments, including in schools and at home," citing studies that show it increases children's risk of physical abuse.

The organization, which describes itself as the "leading national organization supporting professionals who serve children and families affected by child maltreatment," describes a number of potential negative outcomes for children who experience corporal punishment, including increased aggression and antisocial behavior.

If an object is used to inflict physical discipline, it tends to raise red flags for child protective services workers, said Elizabeth Champion, executive director of the Child Advocacy Centers of Wisconsin.

"With an object, it definitely escalates to something that child protective services would want to talk to the child about," Champion said.

Brown County Child Protective Services became involved in the Sortwell case, placing the children with a relative, citing the reason as "Parent is out of control (mental illness or other significant lack of control)," though Sortwell "objected to this designation," according to police records.

The Sortwells spent the night with their children at the relative's home, according to police records.

A bruise may be a normal injury for children, according to Dr. Hillary Petska, a child abuse pediatrician with Children's Wisconsin, but it becomes a concern when it has a pattern — a sign that some type of implement was used to inflict the injury — or appears on an area of the body less likely to be injured by accident.

Petska said it's sometimes difficult to convince parents that physical discipline is actually harmful.

Whatever the reason for its use, physical discipline often leads to what Petska described as a “negative cycle” — a child is physically disciplined, which makes them more aggressive and, as a result, leads to worse behavior and, in turn, more severe punishment.

“We know better,” Petska said. “We should do better.”

Editor's note: This story has been updated to remove an inaccurate identity of the executive director of Wisconsin Right to Life in 2013.

Natalie Eilbert is a government watchdog reporter for the Green Bay Press-Gazette. You can reach her at neilbert@gannett.com or view her Twitter profile at [@natalie_eilbert](https://twitter.com/natalie_eilbert).

Contact Chris Mueller at 920-996-7267 or cmueller@gannett.com. Follow him on Twitter at [@AtChrisMueller](https://twitter.com/AtChrisMueller).