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# HOWARD MARKLEIN

STATE SENATOR • 17<sup>TH</sup> SENATE DISTRICT

**January 30, 2020**

## **Assembly Committee on Criminal Justice and Public Safety Testimony on Assembly Bill 758**

Thank you Chairman Spiros and committee members for hearing Assembly Bill (AB) 758, which clarifies state law for patients at Sand Ridge Secure Treatment Center (Sand Ridge) who commit battery. AB 758 aligns penalties for those who commit battery and are being held at Sand Ridge awaiting trial with the penalties for those who are officially committed at the facility and commit battery.

Rep. Kurtz and I were alerted to the need for this legislation by the Juneau County District Attorney. The District Attorney's office is responsible for charging patients housed at Sand Ridge who commit crimes and found that a clarification to state law is necessary. Sand Ridge is responsible for housing all of Wisconsin's sexually violent persons who are committed under Chapter 980 of the statutes. This includes sexually violent persons who are moved from prison to Sand Ridge and are awaiting trial.

Generally, when a person commits simple battery they are guilty of a Class A misdemeanor. Under current law, when a sexually violent person who is committed at Sand Ridge commits battery against an officer, employee, agent, visitor, or other Sand Ridge patient, there is a penalty enhancer which allows these patients to be charged with a felony as opposed to a simple misdemeanor. This is an important tool that is used to protect the staff at Sand Ridge by promoting deterrence through the threat of potential additional prison time.

**However, under current law, this penalty enhancer does not apply to all patients held at Sand Ridge. Specifically, it does not apply to patients who are held at Sand Ridge, but are awaiting full adjudication of their case.** These patients, who are in "legal limbo", are not technically committed at Sand Ridge, but are still housed at the facility. The time between leaving prison, being sent to Sand Ridge, and having a trial is increasing and the process can often take years. **According to the Director of Sand Ridge, about 10-15% of the population (typically 25-35 patients) falls into this "pre-commitment" category at any one time.**

AB 758 simply clarifies state law to ensure that any patient housed at Sand Ridge, regardless of commitment status, can be charged with a felony for committing battery. This simple law change will continue to ensure the safety of employees, visitors, and other patients at Sand Ridge by providing a necessary deterrent. This helps ensure that patients are held responsible for their actions. Once again, this very narrowly tailored legislation only impacts Sand Ridge.

This bill is supported by the Wisconsin District Attorneys Association. Thank you again to the committee for hearing this proposal, and your timely action on the bill.

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MARGARET L. DELAIN**

**VICTIM/WITNESS COORDINATOR  
MICHELE MEHNE**

Dear members of the Wisconsin State Assembly,

I am writing to ask you to support 2019 Assembly Bill 758. This bill will amend Wis. Stat. §940.20(1g), which is the Statute that governs any battery committed by a person committed to "a facility" under Wis. Stat. §980.065, which is the commitment of sexually violent persons. This statute uniquely affects Juneau County, as Sand Ridge Treatment Center, which is located in the City of Mauston, Juneau County, houses all persons committed under Wis. Stat. 980.065. This statute is necessary to help ensure the protection of all parties who work at Sand Ridge to include counsellors, staff, visitors, and all others who come into contact with patients at Sand Ridge and ensure their security, and that of the facility, generally.

The issue that has recently come to light is that the statute, as written, requires that in order to be charged under this statute, a person must already be formally committed pursuant to Wis. Stats. §980.065 and §980.06, meaning that a jury or a court has already made the ultimate finding of fact that the person is sexually violent and placed under commitment. The problem is that Sand Ridge not only houses patients already formally committed under Wis. Stat. §980.06, but also patients whom have had a finding of probable cause against them that they are sexually violent per Wis. Stat. §980.04, but who have not yet been adjudicated as sexually violent under Wis. Stat. §980.06, and are still awaiting trial but being held at Sand Ridge. This process is lengthy, and can often take years. During this time, these individuals are housed at Sand Ridge and managed by staff, but not formally committed under Wis. Stat. §980.06. As the law is presently written, it would not seem to cover these patients being held in Sand Ridge, who per Sand Ridge staff, I have been told usually compromise around fifteen to twenty percent of their population at any given time. There is therefore a gap in the protection offered to Sand Ridge treatment staff when they deal with these particular patients. The ability for the State to charge such patients has recently been challenged in Juneau County Circuit Court.

What Assembly Bill 758 seeks to accomplish is to fix this oversight in the statute by making §940.20(1g) cover all patients being held pursuant to Wis. Stat. 980 at Sand Ridge. The Bill does this by expanding the definition of "persons committed," to include anyone formally committed under Wis. Stat. §980.06, or who is in the process of adjudication under §980.04. This change will help ensure the safety of staff and other patients by extending this violation to all patients at Sand Ridge who commit batteries. I therefore respectfully ask you to consider supporting this bill.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth Hamm", with a long horizontal flourish extending to the right.

Kenneth Hamm  
Juneau County District Attorney

Select Geometry

Police District

Specific Location  
within Geographic Area

(All)



# Milwaukee Police Department

Data current through:  
1/16/2020

## CompStat Part I Crimes

4 Week - 4 Week

Incident Map  
2020

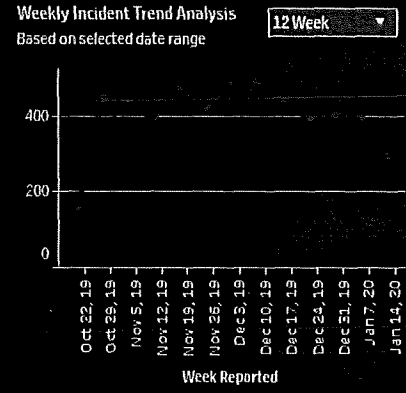
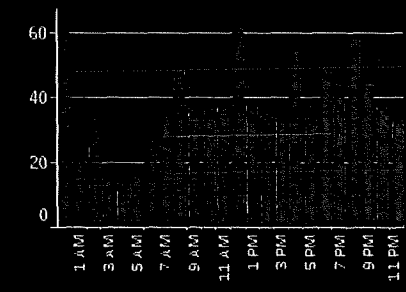
Filter Crime  
Type

<All Part 1 Crimes>

2020 Incident Time Analysis  
Based on selected time period

Hour

UCR/Incident	Full Year			Year-to-Date			Comparison Time Frame Date Ranges auto-update		
	2018	2019	% Change 2018-2019	2019	2020	% Change 2019-2020	11/22/2019 -12/19/2019	12/20/2019 -1/16/2020	% Change Time Frame
Homicide	99	97		7	1		5	4	
Rape	499	487		40	25		48	35	
Robbery	2,320	1,994		125	86		158	147	
Aggravated Assault	5,802	5,757		322	210		469	405	
Burglary	4,432	3,683		231	139		260	263	
Theft - Larceny	8,458	7,973		515	329		686	558	
Motor Vehicle Theft	4,651	3,481		235	154		340	256	
Arson	263	202		9	11		14	14	
<b>Grand Total</b>	<b>26,317</b>	<b>23,511</b>		<b>1,468</b>	<b>949</b>		<b>1,967</b>	<b>1,672</b>	



Uniform Crime Reporting (UCR) guidelines for Part 1 Offenses include counting Homicide, Rape, and Aggravated Assault by victims. All other crime types are counted by incidents. Geographic areas are based on reporting districts. Incidents without an identified reporting district in the incident report are coded as null locations. Specific locations and names of persons involved have not been included to protect the identity of the individuals. Information is not yet verified and may include mechanical or human error. Preliminary crime classifications may be changed at a later date based upon further investigation(s).



# NIBRS CITYWIDE PART I CRIME

<b>Offense</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>17-19 % Change</b>	<b>18-19 % Change</b>
Homicide	119	99	97	-18%	-2%
Rape	445	499	460	3%	-8%
Robbery	2,950	2,326	1,993	-32%	-14%
Aggravated Assault	6,097	5,794	5,720	-6%	-1%
Burglary	5,719	4,430	3,678	-36%	-17%
Auto Theft	5,448	4,646	3,488	-36%	-25%
Theft	10,559	8,450	7,960	-25%	-6%
Arson	315	262	203	-36%	-23%
<b>Violent Crime</b>	<b>9,611</b>	<b>8,718</b>	<b>8,270</b>	<b>-14%</b>	<b>-5%</b>
<b>Property Crime</b>	<b>22,041</b>	<b>17,788</b>	<b>15,329</b>	<b>-30%</b>	<b>-14%</b>
<b>Total</b>	<b>31,652</b>	<b>26,506</b>	<b>23,599</b>	<b>-25%</b>	<b>-11%</b>

Part I crime data was obtained from the Wisconsin Department of Justice (DOJ) and reflects preliminary UCR Summary Statistics for the time period of January 1 - December 31, 2017-2019. UCR statistics are subject to change for a period of up to two years. Homicide data was obtained from the OMAP Homicide database and counts victims for the time period of January 1 - December 31, 2017-2019.