

CHAPTER 15: CRIMES AGAINST PUBLIC ORDER AND MORALITY

As explained in the text, crimes against public order are in place to ensure the public peace, and to prevent individuals from being harassed or alarmed in public. The text discusses numerous public order offenses; this chapter will examine some of them in Ohio; in particular, inciting to violence, riot, disorderly conduct, false alarms, and animal cruelty.

Inciting to violence

Inciting to violence may seem synonymous with riot, but it is not the same offense. The Ohio inciting to violence statute provides:

no person shall knowingly engage in conduct designed to urge or incite another to commit any offense of violence, when either of the following apply: (1) the conduct takes place under circumstances that create a clear and present danger that any offense of violence will be committed; (2) the conduct proximately results in the commission of any offense of violence (Ohio Revised Code, §2917.01, 1996, available at <http://codes.ohio.gov/orc/2917.01>).

To be guilty of inciting to violence, one need not create a serious threat to public safety. As the following cases notes, it can be as simple as urging another to engage in violence. The case is *State v. Messer*, 2001 Ohio 4048 (2001), from Ohio's Tenth District Court of Appeals.

State v. Messer

The victim got involved in an argument with his wife and stepson. Afterwards, the stepson went to a neighbor's house and called his Mom's sister, the defendant. Later, the defendant and his Mom's brother went to the victim's house. He was not home at the time, but when he arrived, his wife told him he needed to leave because "they got clubs" and "they're going to beat you." As he left he observed his wife's sister and brother. When the victim returned several hours later the lights were out. As he entered a darkened room in the home he was beaten so severely that he lost his left eye. At the hospital, he initially told police he did not know who beat him, but he later recanted and said that although he could not see anything, he heard and recognized his wife's sister's voice saying "hit him in the head harder or I will shoot him." He also testified that he had initially lied to police because he feared losing his family.

At trial, the victim's wife's sister was convicted of felonious assault and inciting to violence, because of her statements during the beating. The verdict was affirmed, in part, because the statements created a clear and present danger that a violent offense would be committed.

If the offense that is being urged is a misdemeanor, then inciting to violence is considered a first-degree felony. If the offense that is being urged is a felony, then inciting to violence is considered a third-degree felony.

Aggravated riot and riot

In Ohio, riot offenses are those offenses that are committed by a group of individuals. The aggravated riot statute provides that:

no person shall participate with four or more others in a course of disorderly conduct ...

- (1) with purpose to commit or facilitate the commission of a felony;
- (2) with purpose to commit or facilitate the commission of any offense of violence;
- (3) when the offender or any participant...has,,uses, or intends to use a deadly weapon or dangerous ordnance (Ohio Revised Code, §2917.02, 1996, available at <http://codes.ohio.gov/orc/2917.02>).

If an offender commits (1) or (3) above, aggravated riot is considered a fifth-degree felony. If an offender violates (2) above or is an inmate who is facilitating an offense of violence, aggravated riot is considered a third-degree felony.

The Ohio Revised Code also specifies the requirements for the offense of riot. Like aggravated it involves the participation of four or more people in disorderly conduct. However, unlike aggravated riot, that conduct must be done with the intent to commit a misdemeanor, intimidate or hinder government employees from doing their jobs, or disrupt educational institutions. Riot is considered a first-degree misdemeanor (Ohio Revised Code, §2917.03, 1974, available at <http://codes.ohio.gov/orc/2917.03>).

Disorderly Conduct

Although disorderly conduct is an element of riot, it also constitutes its own offense. Disorderly conduct is basically “disturbing the peace;” that can take a number of forms. According the Ohio Revised Code (§2917.11, 2002, available at <http://codes.ohio.gov/orc/2917.11>), “no person shall recklessly cause inconvenience, annoyance, or alarm to another...” by engaging in any of a number of specified behaviors, including:

- fighting or “turbulent behavior”
- unreasonable noise or “grossly abusive” language
- insulting or taunting another to provoke a violent response
- hindering movement on a public right-of-way
- creating conditions that are offensive or potentially harmful to others

Additionally, the disorderly conduct statute contains provisions governing involuntary intoxication. Basically, even while intoxicated, an individual cannot engage in conduct that will offend or harm others.

Disorderly conduct is generally a “minor misdemeanor,” but it becomes a fourth-degree misdemeanor if the offender persists in his conduct despite warnings, if the conduct occurs within a school zone, if the conduct is committed in the presences of a law enforcement officer, or if the offense is committed in the presence of emergency personnel who are engaged in their duties.

False Alarms

The final offense against public order discussed here is “false alarms.” This conduct includes inducing panic and possessing or utilizing a fake weapon of mass destruction.

Pursuant to Ohio’s inducing panic statute:

no person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following

- (1) initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other

catastrophe, knowing that such report or warning is false; (2) threatening to commit any offense of violence;
(3) committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm (§2917.31, , available at <http://codes.ohio.gov/orc/2917.31>).

An example of inducing panic would be to yell, “someone’s got a gun” in a crowded movie theatre, knowing that no one has a gun. Inducing panic can range from a first degree misdemeanor to a second degree felony depending upon what type and how much harm the panic causes, where the panic is caused, and whether the panic involves use or the threatened use of a weapon of mass destruction.

The Ohio legislature has also enacted a statute called “unlawful use or possession of a hoax weapon of mass destruction.” It provides that:

no person, without privilege to do so, shall manufacture, possess, sell, deliver, display, use, threaten to use, attempt to use, conspire to use, or make readily available to others a hoax weapon of mass destruction with the intent to deceive or otherwise mislead one or more persons into believing that the hoax weapon of mass destruction will cause terror, bodily harm, or property damage (§2917.33, 2002).

Utilizing a hoax weapon of mass destruction is considered a fourth-degree felony. Animal cruelty

Animal cruelty and other related offenses are not found in the same part of the Ohio Revised Code as other, more traditional, offenses. Instead these offenses are found in Chapter 959: Offenses Related to Domestic Animals (available at <http://codes.ohio.gov/orc/959>). There are a number of them, including:

- abandoning animals
- injuring animals
- poisoning animals
- trespassing animals
- destruction of domestic animals
- cruelty to animals
- cruelty to companion animals
- animal fights
- dog fighting
- prohibition against killing a carrier pigeon

Most of these offenses are misdemeanors but some can be felonies if there are multiple counts (Ohio Revised Code, §959.99, 2003).

Crimes Against Morality

Crimes against morality are often considered “victimless” crimes. Crimes against morality may offend another’s sensibilities. Nonetheless, because they do not cause physical or economic harms, some critics argue that the criminal law overreaches by criminalizing such conduct.

Prostitution

Crimes related to prostitution have already been discussed, such as soliciting, compelling, and procuring prostitution (Chapter 7). Prostitution itself is found in Section 2907.25 of the Ohio Revised Code, which

simply states that, “no person shall engage in sexual activity for hire” (1996) (<http://codes.ohio.gov/orc/2907.25>) . Sexual activity encompasses both sexual conduct and sexual contact, as defined in Chapter 10 on sex offenses. Prostitution is considered a third-degree misdemeanor.

Crimes against the family

The Ohio Revised Code contains several statutes under a chapter entitled: “Offenses Against the Family.” One example discussed here is bigamy.

Ohio’s bigamy statute is defined as,

no married person shall marry another or continue to cohabit with such other person in this state (Ohio Revised Code, §2919.01 (A), 1974, available at <http://codes.ohio.gov/orc/2919.01>).

The bigamy statute also contains an affirmative defense Specifically,

it is an affirmative defense...that the actor’s spouse was continuously absent for five years immediately preceding the purported subsequent marriage, and was not known by the actor to be alive within that time (Ohio Revised Code, §2919.01 (B), 1974).

Therefore, if a married person has not seen his or her first spouse for five years AND believes that his or her first spouse is dead, the married person will not be guilty of bigamy. Otherwise, Bigamy is a first-degree misdemeanor.

REFERENCES

Ohio Revised Code - <http://codes.ohio.gov/orc>

State v. Messer, 2001 Ohio 4048 (2001)

REVIEW QUESTIONS

1. Which of these is a difference between difference between riot and aggravated riot?
 - a. riot is considered a misdemeanor, while aggravated riot is considered a felony
 - b. riot applies to the activities of three or more people
 - c. aggravated riot does not involve any act of violence
 - d. b and c are correct

2. Which of the following is true with regard to inducing panic?
 - a. it applies to private residences as well as public areas
 - b. it is considered a high-level felony
 - c. it is the same as the offense of riot
 - d. none of the above are true

DISCUSSION QUESTIONS

Critics of animal cruelty laws feel that the punishments for such offenses are not severe enough given the amount of harm that an animal endures. For many, if not most offenses, offenders can avoid jail time. Browse the Ohio Revised Code for some animal cruelty statutes and see what the punishments are. Are these punishments severe enough? Why or why not? When formulating your answer keep the purposes and goals of punishment that were discussed in Chapter 3 of the text in mind.

WEB RESOURCES

- <http://www.pcsao.org/WeeklyUpdate/2008/HumanTraffickingResourceGuide.pdf> - a resource for learning more about human trafficking in Ohio, including forced prostitution, prepared by researchers at the University of Toledo.
- www.ohiospca.org/ - website for the Ohio Society for the Prevention of Cruelty to Animals which provides information about animal cruelty issues in Ohio