

CHAPTER 15: CRIMES AGAINST PUBLIC ORDER AND MORALITY

INTRODUCTION

This chapter will cover Texas Penal Code (TPC) Title 9, “Offenses Against Public Order and Decency” That Title contains two chapters. Chapter 42 is “Disorderly Conduct and Related Offenses”

<http://www.capitol.state.tx.us/statutes/docs/PE/content/word/pe.009.00.000042.00.doc>

and ch. 43, “Public Indecency,” which includes offenses involving prostitution and obscenity

<http://www.capitol.state.tx.us/statutes/docs/PE/content/word/pe.009.00.000043.00.doc>

Also covered will be some statutes that are aimed at gang activity. Title 71 “Organized Crime” will be the main focus.

<http://www.capitol.state.tx.us/statutes/docs/PE/content/word/pe.011.00.000071.00.doc>

DISORDERLY CONDUCT

Under the TPC there are 11 ways to commit disorderly conduct:

Sec. 42.01. DISORDERLY CONDUCT. (a) A person commits an offense if he intentionally or knowingly:

(1) uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;

This first subsec. covers what are known under First Amendment theory as “Fighting Words.” The First Amendment does not protect this form of speech because it tends to incite violence. (See the discussion of fighting words in ch. 3 of your text).

(2) makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;

(3) creates, by chemical means, a noxious and unreasonable odor in a public place;

(4) abuses or threatens a person in a public place in an obviously offensive manner;

(5) makes unreasonable noise in a public place other than a sport shooting range, as defined by Section 250.001, Local Government Code, or in or near a private residence that he has no right to occupy;

(6) fights with another in a public place;

(7) discharges a firearm in a public place other than a public road or a sport shooting range, as defined by Section 250.001, Local Government Code;

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- (8) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;
- (9) discharges a firearm on or across a public road;
- (10) exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act; or

Finally, is a section dealing with “Peeping Toms.”

- (11) for a lewd or unlawful purpose:
 - (A) enters on the property of another and looks into a dwelling on the property through any window or other opening in the dwelling;
 - (B) while on the premises of a hotel or comparable establishment, looks into a guest room not the person's own through a window or other opening in the room; or
 - (C) while on the premises of a public place, looks into an area such as a restroom or shower stall or changing or dressing room that is designed to provide privacy to a person using the area.

Notice that most of these sections use the term “public place.” Under subsec. (c) (1) “an act is deemed to occur in a public place or near a private residence if it produces its offensive or proscribed consequences in the public place or near a private residence . . .”

There are also a number of limited defenses in the section. These offenses are Class B or C Misdemeanors.

RIOT AND OBSTRUCTING PASSAGEWAYS

Under sec. 42.02, (b) a person commits a crime if they knowingly participate in a “riot”. A “riot is defined as an assemblage of seven or more people which assemblage results in conduct which

- (1) creates an immediate danger of damage to property or injury to persons;
- (2) substantially obstructs law enforcement or other governmental functions or services; or
- (3) by force, threat of force, or physical action deprives any person of a legal right or disturbs any person in the enjoyment of a legal right.

In an attempt to accommodate the First Amendment right to peaceably assemble, there is a defense: “(c) It is a defense to prosecution under this section that the assembly was at first lawful and when one of those assembled manifested an intent to engage in conduct enumerated in Subsection (a), the actor retired from the assembly.”

Riot is a Class B misdemeanor. However, there is a provision that will sometimes make persons involved in a riot liable for the crimes committed by other rioters (subsec. f). Unlike some states, Texas has no offense of “Aggravated Riot.”

In Texas, as in most states, obstructing streets, alleys, etc. is a crime. “Obstruct” is defined as “render impassable or render passage unreasonably inconvenient or hazardous” (subsec. d). This offense is a Class B Misdemeanor.

§ 42.03. OBSTRUCTING HIGHWAY OR OTHER PASSAGEWAY. (a) A person commits an offense if, without legal privilege or authority, he intentionally, knowingly, or recklessly:

(1) obstructs a highway, street, sidewalk, railway, waterway, elevator, aisle, hallway, entrance, or exit to which the public or a substantial group of the public has access, or any other place used for the passage of persons, vehicles, or conveyances, regardless of the means of creating the obstruction and whether the obstruction arises from his acts alone or from his acts and the acts of others; or

(2) disobeys a reasonable request or order to move issued by a person the actor knows to be or is informed is a peace officer, a fireman, or a person with authority to control the use of the premises:

(A) to prevent obstruction of a highway or any of those areas mentioned in Subdivision (1); or

(B) to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot, or other hazard.

To better accommodate First Amendment protections of free speech and the right to peaceably assemble, the legislature passed the following statute:

§ 42.04. DEFENSE WHEN CONDUCT CONSISTS OF SPEECH OR OTHER EXPRESSION. (a) If conduct that would otherwise violate Section 42.01(a)(5) (Unreasonable Noise) or 42.03 (Obstructing Passageway) consists of speech or other communication, of gathering with others to hear or observe such speech or communication, or of gathering with others to picket or otherwise express in a nonviolent manner a position on social, economic, political, or religious questions, the actor must be ordered to move, disperse, or otherwise remedy the violation prior to his arrest if he has not yet intentionally harmed the interests of others which those sections seek to protect.

(b) The order required by this section may be given by a peace officer, a fireman, a person with authority to control the use of the premises, or any person directly affected by the violation.

(c) It is a defense to prosecution under Section 42.01(a)(5) or 42.03:

(1) that in circumstances in which this section requires an order no order was given;

(2) that an order, if given, was manifestly unreasonable in scope; or

(3) that an order, if given, was promptly obeyed.

OTHER OFFENSES IN TPC CH. 42

There are also 13 other related offenses in TPC ch. 42. A few of these are reproduced in part below.

Sec. 42.05. Disrupting meeting or procession;

Sec. 42.06. False alarm or report;

Sec. 42.061. Silent or abusive calls to 9-1-1 service;

Sec. 42.062. Interference with emergency telephone call;

Sec. 42.07. Harassment;

Sec. 42.072. Stalking;

(a) A person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct, including following the other person, that:

(1) the actor knows or reasonably believes the other person will regard as threatening:

(A) bodily injury or death for the other person;

(B) bodily injury or death for a member of the other person's family or household; or

(C) that an offense will be committed against the other person's property;

(2) causes the other person or a member of the other person's family or household to be placed in fear of bodily injury or death or fear that an offense will be committed against the other person's property; and

(3) would cause a reasonable person to fear:

(A) bodily injury or death for himself or herself;

(B) bodily injury or death for a member of the person's family or household; or

(C) that an offense will be committed against the person's property.

Although some would argue that harassment and stalking are assaultive offenses, Texas deems it a "disorderly conduct" type of offense. This is Second or Third Degree Felony.

Sec. 42.08. Abuse of corpse;

Sec. 42.09. Cruelty to animals;

(a) A person commits an offense if the person intentionally or knowingly:

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- (1) tortures an animal;
- (2) fails unreasonably to provide necessary food, care, or shelter for an animal in the person's custody;
- (3) abandons unreasonably an animal in the person's custody;
- 4) transports or confines an animal in a cruel manner;
- (5) kills, seriously injures, or administers poison to an animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent;
- 6) causes one animal to fight with another;
- (7) uses a live animal as a lure in dog race training or in dog coursing on a racetrack;
- (8) trips a horse;
- (9) injures an animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent; or
- (10) seriously overworks an animal.

(b) It is a defense to prosecution under this section that the actor was engaged in *bona fide* experimentation for scientific research.

Sec. 42.091. Attack on assistance animal (*e.g.*, seeing-eye dog)

Sec. 42.10. Dog fighting;

Sec. 42.11. Destruction of flag; (This section was found to be a violation of the First Amendment when applied to political protests by the U.S. Supreme Court in *Texas v. Johnson*, 1989. See the discussion of “flag burning” in ch 2 of your text).

Sec. 42.12. Discharge of firearm in certain municipalities; and

Sec. 42.13. Use of laser pointers

The TPC has no statutes dealing specifically with loitering, vagrancy or homelessness. Many cities, however, have ordinances dealing with these topics.

GANGS

The primary statute aimed at gangs is TPC ch. 71 “Organized Crime.” This chapter is aimed at two types of organizations. First is the “Criminal Street Gang” which is defined as “three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.” Second is the “Combination” which is defined as

three or more persons who collaborate in carrying on criminal activities, although:(1) participants may not know each other's identity;(2) membership in the combination may change from time to time; and(3) participants may stand in a wholesaler-retailer or other arm's-length relationship in illicit distribution operations.

Sec. 71.02. ENGAGING IN ORGANIZED CRIMINAL ACTIVITY. (a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, he commits or conspires to commit one or more of the following:

- (1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;
- (2) any gambling offense punishable as a Class A misdemeanor;
- (3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;
- (4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;
- (5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;
- (6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;
- (7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;
- (8) any felony offense under Chapter 32;

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- (9) any offense under Chapter 36;
- (10) any offense under Chapter 34 or 35;
- (11) any offense under Section 37.11(a); or
- (12) any offense under Chapter 20A.

Depending upon the type of crime in which the gang or combination is involved, the penalties can range from a Class A Misdemeanor to First Degree Felony.

Another tactic utilized against gangs and drug dealers is obtaining injunctions against their activity based on a theory of public nuisance. (See the discussion under “gangs” in ch. 15 of your text.) Violation of such a civil order is a Class A Misdemeanor.

Sec. 71.021. VIOLATION OF COURT ORDER ENJOINING ORGANIZED CRIMINAL ACTIVITY. (a) A person commits an offense if the person knowingly violates a temporary or permanent order issued under Section 125.065(a) or (b), Civil Practice and Remedies Code.

- (b) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

Like a number of states, Texas (in 1999) made it a crime to solicit gang membership:

Sec. 71.022. SOLICITING MEMBERSHIP IN A CRIMINAL STREET GANG. (a) A person commits an offense if the person knowingly causes, enables, encourages, recruits, or solicits another person to become a member of a criminal street gang which, as a condition of initiation, admission, membership, or continued membership, requires the commission of any conduct which constitutes an offense punishable as a Class A misdemeanor or a felony.

- (b) Except as provided by Subsection (c), an offense under this section is a felony of the third degree.

- (c) A second or subsequent offense under this section is a felony of the second degree.

PROSTITUTION

The basic prostitution statute in the TPC is sec. 43.02.

Sec. 43.02. PROSTITUTION. (a) A person commits an offense if he knowingly:

- (1) offers to engage, agrees to engage, or engages in sexual conduct for a fee; or
- (2) solicits another in a public place to engage with him in sexual conduct for hire.

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(b) An offense is established under Subsection (a)(1) whether the actor is to receive or pay a fee. An offense is established under Subsection (a)(2) whether the actor solicits a person to hire him or offers to hire the person solicited.

Note that the statute is gender-neutral, and applies to both the customer and prostitute. Because many prostitutes are repeat offenders, the penalty is enhanced if there are prior convictions:

(c) An offense under this section is a Class B misdemeanor, unless the actor has previously been convicted one or two times of an offense under this section, in which event it is a Class A misdemeanor. If the actor has previously been convicted three or more times of an offense under this section, the offense is a state jail felony.

There are also two offenses covering those who promote or benefit from prostitution: Sec. 43.03. Promotion of prostitution, and sec. 43.04. Aggravated promotion of prostitution. Compelling prostitution is also crime (felony of the second degree):

§ 43.05. COMPELLING PROSTITUTION. (a) A person commits an offense if he knowingly:

- (1) causes another by force, threat, or fraud to commit prostitution; or
- (2) causes by any means a person younger than 17 years to commit prostitution.

Note that as is the case with statutory rape sexual assault, TPC sec. 22.011 (a) (2), the age of consent is 17.

OBSCENITY

To comply with U.S. Supreme Court standards (see the discussion of "Obscenity" in ch. 15 of your text), Texas adopted the following definitions in TPC sec. 43.21 (a)

(1) "Obscene" means material or a performance that:(A) the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;

(B) depicts or describes:

- (i) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or
- (ii) patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

(C) taken as a whole, lacks serious literary, artistic, political, and scientific value. . . .

The term "patently offensive" (subsec. 4) means the material is so offensive on its face that is an "affront current community standards of decency." Note that obscenity can be in the form of writings,, drawings, photographs, motion pictures, videos, etc.

TPC sec. 43.22 deals primarily with non-commercial activity involving obscenity. Sec. 43.23 deals with commercial activity involving obscene materials.

Sec. 43.22. OBSCENE DISPLAY OR DISTRIBUTION. (a) A person commits an offense if he intentionally or knowingly displays or distributes an obscene photograph, drawing, or similar visual representation or other obscene material and is reckless about whether a person is present who will be offended or alarmed by the display or distribution.

(b) An offense under this section is a Class C misdemeanor.

Sec. 43.23. OBSCENITY. (a) A person commits an offense if, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device.

(b) Except as provided by Subsection (h), an offense under Subsection (a) is a state jail felony.

(c) A person commits an offense if, knowing its content and character, he:

(1) promotes or possesses with intent to promote any obscene material or obscene device; or

(2) produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

Does sec. 43.23 (c) (1) "knowing its content and character," require that the defendant know the material is obscene? The CCA dealt with this in *Burden v. State*, 55 S.W. 3d 608 ((Tex.Crim.App. 2001)

On October 9, 1996, Detective Reynerson, an undercover police officer in the Dallas Police Department's Vice Division, entered Star Adult Video Center. After viewing a display of videotape boxes, Reynerson selected the videotape box for "Hardcore Schoolgirls Volume 5" and presented the box to the appellant, who was the sales clerk. The appellant checked the videotape number on the side of the box, retrieved the videotape from the back of the video store, and then sold it to Reynerson. Reynerson later viewed the videotape and arrested the appellant for promotion of obscenity. . . .

The appellant testified that the video store had between twenty-five and thirty thousand videotapes on site. The appellant testified that he knew the character of the films sold was sexually explicit and that he had a general understanding of what was on most of the videotapes. Although the appellant admitted he knew that some kind of sex act was depicted on all the videotapes, he testified that he did not know the exact content of this particular videotape. 55 S.W.3d at609.

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Burden argued that the State was required to prove that he knew the material met the statutory definition of “obscenity.” The (CCA) rejected his contention.

Here, the appellant was charged with the offense of promotion of obscenity, specifically that “knowing its content and character, he promote[d] or possesse[d] with intent to promote any obscene material or obscene device.” Tex. Penal Code § 43.23(c)(1). We will give effect to the plain language of a statute. *Boykin v. State*, 818 S.W.2d 782, 785 (Tex. Crim. App. 1991). We see nothing in the language of section 43.23(c)(1) that requires a defendant to have knowledge that what he promotes is legally obscene. All section 43.23(c)(1) requires is that a defendant have knowledge of the material’s sexually explicit character and content. Tex. Penal Code § 43.23(c)(1). The plain language of the statute does not support the appellant’s position. 69 S.W.3d at 614.

The TPC has a separate section dealing with materials that might be harmful to minors:

Sec. 43.24. SALE, DISTRIBUTION, OR DISPLAY OF HARMFUL MATERIAL TO MINOR.

(a) For purposes of this section:

- (1) "Minor" means an individual younger than 18 years.
- (2) "Harmful material" means material whose dominant theme taken as a whole:
 - (A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;
 - (B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and
 - (C) is utterly without redeeming social value for minors.

(b) A person commits an offense if, knowing that the material is harmful:

- (1) and knowing the person is a minor, he sells, distributes, exhibits, or possesses for sale, distribution, or exhibition to a minor harmful material;
- (2) he **displays** harmful material and is reckless about whether a minor is present who will be offended or alarmed by the display; or
- (3) he hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any of the acts prohibited in Subsection (b)(1) or (b)(2).

(c) It is a defense to prosecution under this section that:

- (1) the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification; or
- (2) the sale, distribution, or exhibition was to a minor who was accompanied by a consenting parent, guardian, or spouse.

(c) [provides for certain defenses]

(d) An offense under this section is a Class A misdemeanor unless it is committed under Subsection (b)(3) in which event it is a felony of the third degree.

CHILD PORNOGRAPHY

To protect children from being exploited by producers of child pornography, the U.S. Supreme Court has allowed government to ban visual sexually explicit material that does not rise to the level of obscenity. (See the discussion of "Obscenity" and Ferber v. N.Y. in ch. 15 of your text). Unlike obscenity, to be banned, child pornography does not have to be as hard-core as obscenity and is limited to visual material involving real minors. Such statutes are aimed at protecting children from being exploited and abused by attempting to dry up the demand for such materials.

TPC sec. 43.26 (a) and (e) contain two separate offenses related to child pornography.

Sec. 43.26. POSSESSION OR PROMOTION OF CHILD PORNOGRAPHY. (a) A person commits an offense if:

- (1) the person knowingly or intentionally possesses visual material that visually depicts a child younger than 18 years of age at the time the image of the child was made who is engaging in sexual conduct; and
- (2) the person knows that the material depicts the child as described by Subdivision (1).

(b) In this section:

- (1) "Promote" has the meaning assigned by Section 43.25.
- (2) "Sexual conduct" has the meaning assigned by Section 43.25.
- (3) "Visual material" means:
 - (A) any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or
 - (B) any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

(c) The affirmative defenses provided by Section 43.25(f) also apply to a prosecution under this section.

(d) An offense under Subsection (a) is a felony of the third degree.

(e) A person commits an offense if:

- (1) the person knowingly or intentionally promotes or possesses with intent to promote material described by Subsection (a)(1); and
- (2) the person knows that the material depicts the child as described by Subsection (a)(1).

(f) A person who possesses visual material that contains six or more identical visual depictions of a child as described by Subsection (a)(1) is presumed to possess the material with the intent to promote the material.

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(g) An offense under Subsection (e) is a felony of the second degree.

In *Savery v. State* 819 S.W.2d 837 (Tex.Crim.App. 1991) the CCA dealt with a defendant's argument that the First Amendment gave him the right to possess child pornography in the privacy of his home. Note the distinction drawn between obscenity and child pornography.

Appellant was convicted for the possession of child pornography. See V.T.C.A., Penal Code, Section 43.26(a). The Beaumont Court of Appeals affirmed appellant's conviction. *Savery v. State*, 782 S.W.2d 321 (Tex.App.--Beaumont 1989). This Court granted appellant's petition for discretionary review to determine whether Section 43.26(a) violated the First Amendment to the United States Constitution. We affirm.

The evidence used against appellant at his trial for the possession of child pornography was taken from his home. On appeal he argued that *Stanley v. Georgia*, 394 U.S. 557, 89 S.Ct. 1243, 22 L.Ed.2d 542 (1969), [involving obscene material] precluded the State from prosecuting him for possession of material [child pornography] in his house and asked that Section 43.26(a) be declared unconstitutional. . . .

After we chose to review this case the Supreme Court decided *Osborne v. Ohio*, 495 U.S. 103, 110 S.Ct. 1691, 109 L.Ed.2d 98 (1990). In that case, the Court specifically held that the states may constitutionally prohibit the private possession of child pornography. Distinguishing *Stanley v. Georgia*, the Court wrote that:

"In *Stanley*, Georgia primarily sought to proscribe the private possession of obscenity because it was concerned that obscenity would poison the minds of its viewers. We responded that 'whatever the power of the state to control public dissemination of ideas inimical to the public morality, it cannot constitutionally premise legislation on the desirability of controlling a person's private thoughts.' The difference here is obvious: the State does not rely on a paternalistic interest in regulating Osborne's mind. Rather, Ohio has enacted § 2907.23(A)(3) in order to protect the victims of child pornography; it hopes to destroy a market for the exploitative use of children.

"It is evident beyond the need for elaboration that a State's interest in safeguarding the physical and psychological well-being of a minor is compelling. The legislative judgment as well as the judgment found in relevant literature is that the use of children as subjects of pornographic material is harmful to the psychological, emotional, and mental health of the child. That judgment, we think, easily passes muster under the First Amendment." *Osborne*, 495 U.S. at ----, 110 S.Ct. at 1696, 109 L.Ed.2d at 109 (citations omitted).

Appellant only raises federal constitutional claims. [FN1] No independent state grounds are asserted. Consequently, pursuant to the holding in *Osborne*, the judgment of the Court of Appeals is affirmed.

FN1. *Osborne* also dealt with whether the Ohio statute was facially unconstitutional since included within the proscribed possession was material depicting "nude" children. Although the

Osborne Court determined that "depictions of nudity, without more, constitute protected expression," 495 U.S. at ----, 110 S.Ct. at 1698, 109 L.Ed.2d. at 111, it refused to find the statute facially unconstitutional. The Supreme Court noted that the Ohio Courts had narrowly interpreted the "nude" provision. Id. 495 U.S. at ----, 110 S.Ct. at 1702, 109 L.Ed.2d at 117. That issue is not involved in this case. First, the Texas statute prohibits the display of children "engaging in sexual conduct," and second, appellant merely seeks to have the statute declared unconstitutional as applied to his particular case. See *Brief for Petitioner* at p. 6. ("The petitioner in this case is clearly not asking that the statue (sic) as a whole be ruled unconstitutional, but that its application, to the extent that it violates *Stanley*, should be prohibited.") 819 S.W.2d at 837.

Legislation on child pornography has gone beyond regulating more than just creating, possessing or selling such material. In 2003 the Legislature passed a statute (sec. 43.27) that requires businesses that process or handle visual materials to report any child pornography they find to a local law enforcement agency. Interestingly, there is no penalty provided. This lack of a penalty provision may preclude prosecution under this statute.

REVIEW QUESTIONS

1. To be crimes, most forms of disorderly conduct in Texas must
 - a. involve dangerous weapons.
 - b. occur in a public place.
 - c. create the potential for riots
 - d. result in bodily injury
 - e. involve 3 or more persons.

2. To be a riot in Texas, the disturbance must involve at least _____ people.
 - a. 3
 - b. 4
 - c. 5.
 - d. 6.
 - e. 7

3. The age of consent for the offense of compelling prostitution is the same as the age of consent for the statutory rape version of sexual assault. That age is
 - a. 14
 - b. 15.
 - c. 16
 - d. 17
 - e. 18

4. Under Texas' prostitution statute _____ can be convicted.
 - a. only the prostitute
 - b. only the customer
 - c. only the person first mentioning sex for hire

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- d. only females
 - e. customers, prostitutes, males and females
5. To comply with First Amendment limitations, only child pornography involving _____ can be punished.
- a. obscenity
 - b. children under 6
 - c. visual depictions of real children
 - d. production of child pornography
 - e. children under 14
6. A number of sections of statutes involving public order and morality have exceptions or defenses to accommodate _____ Amendment rights.
- a. First
 - b. Fifth
 - c. Sixth
 - d. Eighth
 - e. Ninth

REFERENCES AND RESOURCES

Belbow, B. A. (2005). *Guide to Criminal Law for Texas*, 3rd ed. Belmont, CA: Thomson-Wadsworth, ch 12.

Teague, M.O. & Helft, B. P. (2006). *Texas Criminal Practice Guide*. San Francisco: Matthew Bender, ch. 130.

Texas Jurisprudence 3rd (2006). *Criminal Law*, sec. 1290-1538.

ANSWER KEY - CH. 15: CRIMES AGAINST PUBLIC ORDER AND MORALITY

1. b
2. e
3. d
4. e
5. c
6. a