

CHAPTER 15: CRIMES AGAINST PUBLIC ORDER AND MORALITY

Crimes Against Public Order

As stated in the text, crimes against public order are in place to ensure the public peace, to prevent individuals from being harassed or alarmed in public. The text discusses numerous public order offenses and this chapter will examine some of them; 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. According to Ohio law, inciting to violence is defined as,

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).

Inciting to violence does not need to be as serious as threatening 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

In this case, the victim and his stepson were involved in an argument. The victim's wife intervened and this resulted in the victim pushing his wife. The stepson went to a neighbor's house and called the wife's sister, who is the defendant in this case. The defendant went to her sister's home and found that the victim was not present. After a while, she left the house, thinking the situation was under control. The victim returned to the house later, whereupon his wife stated that, "they got clubs" and "they're going to beat you." The victim saw his wife's brother in the house holding a bat. The victim then left again and went to a local bar.

Later in the evening, the victim returned home to find that there were no lights on in the house. He testified that, when he entered the house, he was beaten. As the beatings progressed, the victim heard someone say, "hit him in the head harder, or I will shoot him." The victim recognized the voice as his wife's sister. The victim sustained bruises to his entire body and lost his left eye due to severe injury.

The defendant (the wife's sister) and the wife's brother were arrested and convicted of felonious assault. The defendant was also convicted of inciting to violence, due to her words during the course of the beating. As she told her brother to hit the victim harder, she 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 the Ohio Revised Code, the riot offenses are offenses committed by a group of individuals. Aggravated riot is defined as,

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).

Aggravated riot contains the requirements regarding commission of a felony, an offense of violence, or use of a deadly weapon. The statute also singles out inmates in a detention facility who facilitate a crime of violence while incarcerated. 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. It is much like aggravated riot with regard to working with four or more persons in a course of disorderly conduct, but it contains much different provisions than aggravated riot. First, the purpose of the riot must be to commit a misdemeanor. Second, the riot cannot be used to intimidate or hinder government employees from doing their jobs. Finally, the riot cannot be used to disrupt educational institutions. Riot is considered a first-degree misdemeanor (Ohio Revised Code, §2917.03, 1974).

Disorderly Conduct

Although mentioned as an element of riot in the above definitions, disorderly conduct is an offense all on its own. Disorderly conduct is basically considered “disturbing the peace” and can take a number of forms. According the Ohio Revised Code (§2917.11, 2002), “no person shall recklessly cause inconvenience, annoyance, or alarm to another...” by engaging in a variety of behaviors. These include

- 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 for those who are voluntarily intoxicated. Basically, while intoxicated, an individual cannot engage in conduct that will offend or harm others.

Disorderly conduct is considered a “minor misdemeanor,” but increases to 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 to be discussed here is “false alarms.” This conduct includes inducing panic and possessing or utilizing a fake weapon of mass destruction.

According to the Ohio Revised Code, inducing panic is defined as,

no person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by... (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, 2002).

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. Generally, inducing panic is considered a first-degree misdemeanor; however, if there was physical harm to another, it is considered a fourth-degree felony.

The Ohio Revised Code enacted a section called “hoax weapon of mass destruction” after the attacks of September 11, 2001. This is defined as,

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 traditional offenses. These offenses are found in Chapter 959: Offenses Related to Domestic Animals. There are a number of offenses listed in this chapter; these include,

- 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 considered misdemeanors and some offenses are increased to felonies if there are multiple offenses (Ohio Revised Code, §959.99, 2003).

Crimes Against Morality

Crimes against morality are usually victimless crimes, in that there is no true victim of the crime. Crimes against morality are those that may offend another's sensibilities; in effect, another may be offended if a person engages in sexual activity for hire or has multiple wives. With these offenses, there is nothing inherently harmful to others; thus, some feel that the criminal law overreaches its authority by criminalizing conduct that poses no harm to others or conduct that is consensual.

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 and simply states that, "no person shall engage in sexual activity for hire" (1996). 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 a chapter for "Offenses Against the Family." These offenses would be considered crimes against morality because they are considered harmful to the family, even if some are victimless. 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).

Bigamy is considered a first-degree misdemeanor. The bigamy statute specifies an affirmative defense to bigamy. It reads,

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.

REFERENCES

Ohio Revised Code, www.ohio.gov/ohio/ohiolaws.html

State v. Messer 2001 Ohio 4048 (2001)

REVIEW QUESTIONS

1. What is the difference between riot and aggravated riot?
 - a. riot is considered a misdemeanor, while aggravated riot is considered a felony
 - b. the riot statute specifies disruption of government services and educational institutions
 - 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 offense as inciting to violence
 - 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 some offenses, offenders can avoid jail time and some feel that this is not strict enough. How do you feel about the punishment of animal cruelty? Browse the Ohio Revised Code for some animal cruelty statutes and see what the punishments are. Do you agree with these punishments? Why or why not?

WEB RESOURCES

- www.liberator.net/articles/prostitution.html - website that offers information about the history of prostitution and arguments for and against its legalization in the U.S.

- www.ohiospca.org/ - website for the Ohio Society for the Prevention of Cruelty to Animals provides information on cases as well as membership