

Disorderly Conduct

Example of a so-called "Disorderly Conduct" arrest from a local police department shift summary. . .

DISORDERLY CONDUCT ARREST: Officer XXXX contacted the subject in the 100blk of W. Stewart as part as a fire response. It was quickly determined that he was very drunk. He was repeatedly asked to get up and leave the area. He crawled a few feet and then collapsed in front of an opened businesses door and would not move. He was arrested without incident.

This is a great example of how police officers overuse/abuse the Disorderly Conduct law. Many officers use Disorderly Conduct for anything and everything that doesn't obviously fit into another crime. But if you look at the actual law, there are only four distinct situations where the law can be used (and the story above is NOT one of them).

Disorderly Conduct can be used when a person:

- Uses abusive language to intentionally instigate a fight,
- Intentionally disrupts a meeting,
- Intentionally blocks foot or vehicle traffic,
- Intentionally disrupts a funeral ceremony.

RCW 9A.84.030 Disorderly conduct.

(1) A person is guilty of disorderly conduct if the person:

- (a) Uses abusive language and thereby intentionally creates a risk of assault;
- (b) Intentionally disrupts any lawful assembly or meeting of persons without lawful authority;
- (c) Intentionally obstructs vehicular or pedestrian traffic without lawful authority; or
- (d) (i) Intentionally engages in fighting or in tumultuous conduct or makes unreasonable noise, within five hundred feet of:
 - (A) The location where a funeral or burial is being performed;
 - (B) A funeral home during the viewing of a deceased person;
 - (C) A funeral procession, if the person described in this subsection (1)(d) knows that the funeral procession is taking place; or
 - (D) A building in which a funeral or memorial service is being conducted; and
- (ii) Knows that the activity adversely affects the funeral, burial, viewing, funeral procession, or memorial service.

(2) Disorderly conduct is a misdemeanor.

At first glance, one might think that the subject in this incident committed Disorderly Conduct. But the story is missing a key element: the mental state of Intent. The drunk, passed-out subject is most likely not *intending* to block pedestrian traffic. Without the required mental state, you don't have the crime here.

However, we have another option – the correct option for this scenario. RCW 70.96A (the *Treatment for Alcoholism, Intoxication, and Drug Addiction Act*) gives law enforcement officers the legal authority to take protective custody of drunk and drugged people that are gravely disabled or incapacitated by drugs or alcohol. These laws give the same kind of authority as the *Involuntary Treatment Act* does for mentally ill subjects. Law enforcement officers can take a drunk into custody and deliver him to "Detox," the "drunk tank," the hospital, or another facility qualified to handle the subject.