

New Jersey Disorderly Conduct

1. What is a disorderly conduct charge?

A disorderly conduct charge under the New Jersey criminal code is a serious offense. Generally a disorderly conduct charge addresses street behavior and other conduct in a public place(s) that may disturb people and disrupt a peaceful town. Disorderly conduct can be charged for disruptive, obnoxious and potentially dangerous street behavior. This charge is very useful for the police to use when they are called upon to break up a potentially violent street encounter, or to halt alarming behavior that is caused by intoxicated, angry, volatile, emotional or out of control people.

Disorder conduct is codified under N.J.S.A. 2C:33-2 and it provides as follows:

Disorderly Conduct

a. Improper behavior. A person is guilty of a petty disorderly persons offense, if with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof he;

(1) Engages in fighting or threatening, or in violent or tumultuous behavior; or

(2) Creates a hazardous or physically dangerous condition by any act which serves no legitimate purpose of the actor.

b. Offensive language. A person is guilty of a petty disorderly persons offense if, in a public place, and with purpose to offend the sensibilities of a hearer or in reckless disregard of the probability of so doing, he addresses unreasonably loud and offensively coarse or abusive language, given the circumstances of the person present and the setting of the utterance, to any person present.

"Public" means affecting or likely to affect persons in a place to which the public or a substantial group has access; among the places included are highways, transport facilities, schools, prisons, apartment houses, places of business or amusement, or any neighborhood.

2. What are the two major types of disorderly conduct?

There are two types of behavior that can be charged for disorderly conduct. Each of these categories can give you a criminal record.

A. Improper behavior

The first category for disorderly conduct is for improper behavior. A person is guilty of a petty disorderly persons offense, if with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof he or she (1) Behaves in such a way that may be considered violent, threatening or tumultuous fighting. (2) Creates a condition through no legitimate means that may be considered hazardous or physically dangerous

B. Offensive language

The second category for disorderly conduct is for offensive language. A person is guilty of a petty disorderly persons offense if he or she uses unreasonably loud, offensive, coarse, or abusive language. This language must be used in a public setting and the disorderly person must be in reckless disregard of offended another's sensitivities. For this statute "public" is defined as a place that a substantial group has access to. Some of the places defined as "public" are highways, transport facilities, schools, prisons, apartments, businesses or neighborhoods.

3. What type of behavior is typically charged for disorderly conduct in a Municipal Court?

Disorderly conduct can include any type of action, communication or behavior that results in some type of disturbance. The typical type of behavior that is charged for disorderly conduct is yelling, rioting, loud noise issues, fighting or attempting to provoke a fight or even being intoxicated and disruptive.

4. What is prosecutor's burden of proof in a disorderly conduct case?

The prosecutor must prove that the defendant has engaged in purposeful conduct. A defendant must be shown to have had a purpose to cause a public inconvenience, annoyance or alarm. Thus, in order to satisfy this element, there must be proof beyond a reasonable doubt that it was the defendant's conscious object or intention to cause public inconvenience, annoyance or alarm by engaging in the disorderly conduct.

A defendant can also commit disorderly conduct by engaging in reckless conduct. The reckless conduct must create a risk of public inconvenience, annoyance or alarm. A person acts recklessly when he consciously disregards a substantial and unjustifiable risk that public inconvenience, annoyance or alarm results from his or her conduct. The defendant must be aware of the risk and consciously choose to disregard it.

5. What are the penalties for a disorderly conduct charge?

A conviction for disorderly conduct can include fines, counseling or anger management, restitution, and community service. In the more extreme cases a Municipal Court judge can even impose a short jail term. The court has considerable discretion when determining the sentence to be imposed on a conviction disorderly conduct. Many disorderly conduct charges are dismissed or dropped before the case even gets to the court. A repeat offender often receives a much stiffer sentence.

The punishment for a disorderly conduct charge is as follows:

- a. Fine range 0 to \$500
- b. VCCB Assessment \$50
- c. Safe Neighborhood Assessment \$75
- d. Court Costs \$33
- e. Jail Term \$33
- f. Restitution to victim
- g. Probation

6. Could you please provide a summary of New Jersey disorderly conduct law?

There are two types of disorderly conduct under New Jersey. One type is based on physical conduct, and the other based on speech. Disorderly conduct includes a wide range of obnoxious, disruptive, and/or dangerous conduct.

a. Improper Conduct: To convict a defendant of disorderly conduct based on improper behavior the State must prove beyond reasonable doubt, that the defendant had the purpose to cause a public inconvenience, an annoyance or alarm. based on their fighting, threatening or engaging in violent or tumultuous conduct.

b. Offensive Language: For speech to be the grounds for disorderly conduct and for the conviction to be constitutional, the language must have been uttered in a public place and likely to invite the hearer to an immediate breach of the peace. When the language is directed specifically at another individual, and it is of such a nature and uttered under such circumstances as is likely to result in an immediate breach of the peace, it may be constitutionally safeguarded. See, State v. Brown, 62 N.J. 588, 591 (1973).

The misconduct must be in "public" where a substantial group has

access. The police quite frequently charge a person for disorderly conduct based on offensive language. The police often allege that a defendant committed disorderly conduct by being verbally abusive when he was arrested.

7. Why is it important to have a disorderly conduct charge downgraded to a municipal ordinance violation?

A disorderly conduct charge can include either improper behavior or offensive language. Most experienced municipal court lawyers should be able to have a criminal disorderly conduct charge downgraded to a municipal ordinance violation. If you are convicted of a disorderly conduct charge then you will receive a criminal record. Meanwhile, if a disorderly conduct charge is downgraded to a municipal ordinance then you will not receive a criminal record. You will only receive a modest fine.

8. What is the best defense strategy to use against a disorderly conduct charge based on improper conduct?

The prosecutor must prove that there was a public inconvenience, meaning that if no one other than a police officer was there to witness it. This element of the offense may be difficult to prove. Additionally, the behavior has to be extreme. There has to be some aggressive or threatening about the action taken or of the threat(s). Moreover, the defendant must have an intent to create a public inconvenience.

In my experience most disorderly conduct charges based on improper behavior are the result of some type of a fight, bar brawl, or a scuffle at a party. The key fact is that alcohol was the major factor that caused the defendants to become unruly. In the majority of the cases, I am able to have a disorderly conduct charge dismissed, or downgraded to a municipal ordinance charge.

9. What are the collateral consequences for a disorderly conduct conviction?

State workers, doctors, nurses, attorneys, pharmacists or stockbrokers may lose their jobs. Moreover, if you are convicted of a more serious crime in the future, then your sentence could be enhanced. The more extensive that your criminal record is then the harsher your sentence will be. Finally, a disorderly conduct charge could make it harder for a person to obtain or extend a working visa, or to eventually become a U.S. citizen.