



UNITED STATES CODE SERVICE
Copyright © 2009 Matthew Bender & Company, Inc.
a member of the LexisNexis Group (TM)
All rights reserved.

*** CURRENT THROUGH PL 111-80, APPROVED 10/21/2009 ***

TITLE 18. CRIMES AND CRIMINAL PROCEDURE
PART I. CRIMES
CHAPTER 102. RIOTS

Go to the United States Code Service Archive Directory

18 USCS § 2102

§ 2102. Definitions

(a) As used in this chapter, the term "riot" means a public disturbance involving (1) an act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person or to the person of any other individual or (2) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.

(b) As used in this chapter, the term "to incite a riot", or "to organize, promote, encourage, participate in, or carry on a riot", includes, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written (1) advocacy of ideas or (2) expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness of, or the right to commit, any such act or acts.

HISTORY:

(Added Apr. 11, 1968, P.L. 90-284, Title I, § 104(a), 82 Stat. 76.)

NOTES:

Related Statutes & Rules:

Authorization for interception of wire or oral communications to obtain evidence for offenses under this section, *18 USCS § 2516*.

Research Guide:

Federal Procedure:

3 Fed Proc L Ed, Armed Forces, Civil Disturbances, and National Defense § 5:619.
8A Fed Proc L Ed, Criminal Procedure § 22:250.

18 USCS § 2102

Annotations:

- Right of petition and assembly under *Federal Constitution's First Amendment*--Supreme Court cases. 86 L Ed 2d 758.
- Validity, construction, and application of federal Anti-Riot Act of 1968 (18 USCS §§ 2101, 2102). 22 ALR Fed 256.
- Sufficiency of evidence to establish criminal participation by individual involved in gang fight or assault. 24 ALR4th 243.
- What constitutes sufficiently violent, tumultuous, forceful, aggressive, or terrorizing conduct to establish crime of riot in state courts. 38 ALR4th 648.
- Prosecutions of inmates of state or local penal institutions for crime of riot. 39 ALR4th 1170.
- Validity and construction of terroristic threat statutes. 45 ALR4th 949.
- Larceny as within disorderly conduct statute or ordinance. 71 ALR3d 1156.

Law Review Articles:

- Church, Jr. Conspiracy Doctrine and Speech Offenses: A Reexamination of *Yates v United States* From the Perspective of *United States v Spock*. 60 *Cornell L Rev* 569, April 1975.
- Cunningham. Trial of Gainesville Eight: Legal Lessons of Political Trial. 10 *Crim L Bull* 215, 1974.
- Comment, Riot Legislation: Tale of Two Eras. 68 *Nw UL Rev* 976, 1974-75.
- Lahav. Law and Character: The Chicago Conspiracy Trial: Character and Judicial Discretion. 71 *U Colo L Rev* 1327, 2000.
- Schultz. "The Substance of the Crime was a State of Mind"--How a Mainstream, Middle Class Jury Came to War with Itself. 68 *UMKC L Rev* 637, Summer 2000.
- M. Zalman. Federal Anti-riot Act and Political Crime: the Need for Criminal Law Theory. 20 *Vill L Rev* 897, June 1975.

Interpretive Notes and Decisions:

1. Constitutionality
2. Relationship with other federal laws
3. Riot
4. Other

1. Constitutionality

18 USCS §§ 2101 and 2102 are not such encroachment on free speech nor so vague and indefinite as to present substantial constitutional question warranting convening of three-judge District Court; 18 USCS § 2102(b) prohibits riot-connected overt acts, but only if prescribed intent is present when interstate travel or use of interstate facilities occurs; intent to engage in one of prohibited overt acts is personal prerequisite to punishment and statute is not unwarranted abridgement of free speech or assembly or fatally indefinite. *National Mobilization Committee to End War in Viet Nam v Foran* (1969, CA7 Ill) 411 F2d 934.

Use of word "urge" in 18 USCS § 2102(b) embodies required relation of expression to action; drafters of section were aware of necessity of avoiding categories which do not relate to action; threshold definition of categories as "urging or instigating" puts sufficient gloss of propulsion on expression described that it can be carved away from comprehensive protection of First Amendment's guarantee of freedom of speech. *United States v Dellinger* (1972, CA7 Ill) 472 F2d 340, 22 ALR Fed 159, cert den (1973) 410 US 970, 35 L Ed 2d 706, 93 S Ct 1443.

Federal Anti-Riot Act of 1968 (18 USCS §§ 2101, 2102) effectively avoided infirmities of overbreadth and vagueness, in that adequate statutory guidance, delineating between lawful and unlawful conduct, was given to public in compliance with standards of due process of law. *In re Shead* (1969, ND Cal) 302 F Supp 560, affd (1969, CA9 Cal) 417 F2d 384, cert den (1970) 399 US 935, 26 L Ed 2d 807, 90 S Ct 2253, reh den (1970) 400 US 855, 27 L Ed 2d 93, 91 S Ct 27.

2. Relationship with other federal laws

Fire loss caused by three inmates of maximum security section of adult correctional institution setting fire to facility by pushing burning mop through tiled roof was not caused by "riot" or "civil disorder" within meaning of either Urban Property Protection and Reinsurance Act of 1968, 12 USCS §§ 1749bbb-1749bbb-21, or of 18 USCS §§ 2101, 2102; statutes were passed to achieve very different purposes and Congress may use broader term for identifying activi-

18 USCS § 2102

ties which it chooses to proscribe and use, or allow agency to use, narrower term to identify what losses Federal Government will reimburse. *Providence Washington Ins. Co. v Lynn* (1974, CA1 RI) 492 F2d 979.

3. Riot

Although there is much to be said in favor of definition of "riot" requiring larger assemblage threatening greater public danger, 18 USCS § 2102(a) does not offend First Amendment because section describes disorder of type which is enough of assault on property and personal safety interests of community so that participation in riot or intentionally and successfully causing riot can be made criminal offense. *United States v Dellinger* (1972, CA7 Ill) 472 F2d 340, 22 ALR Fed 159, cert den (1973) 410 US 970, 35 L Ed 2d 706, 93 S Ct 1443.

4. Other








18 USCS § 2101 does not require that situation, nature, and details of riot contemplated at time of travel remain exactly identical until time of overt act, but does require that they be sufficiently similar so that it is reasonable to say that later is same as or evolving product of one intended earlier. *United States v Dellinger* (1972, CA7 Ill) 472 F2d 340, 22 ALR Fed 159, cert den (1973) 410 US 970, 35 L Ed 2d 706, 93 S Ct 1443.




Copyright 2009 SHEPARD'S(R) - 46 Citing references

18 U.S.C. sec. 2102Restrictions: *Comprehensive Report Unrestricted*FOCUS(TM) Terms: *No FOCUS terms*Print Format: *FULL*



Citing Ref. Signal Legend:

-  {Warning} -- Negative treatment is indicated
-  {Warning} -- Negative case treatment is indicated for statute
-  {Questioned} -- Validity questioned by citing references
-  {Caution} -- Possible negative treatment
-  {Positive} -- Positive treatment is indicated
-  {Analysis} -- Citing Refs. With Analysis Available
-  {Cited} -- Citation information available


SHEPARD'S SUMMARY

Unrestricted <i>Shepard's Summary</i>		
Citing References:		
	Positive Analyses:	Constitutional (2)
	Other Sources:	Law Reviews (11), Secondary Sources (2), Statutes (2), Treatises (2), Court Documents (4)




HISTORY (Added Apr. 11, 1968, *P.L. 90-284*, Title I, § 104(a), *82 Stat. 76.*)**CITING DECISIONS** (25 citing decisions)**U.S. SUPREME COURT**

1. **Cited by:**
Smith v. Superior Court of California, 414 U.S. 892, 94 S. Ct. 242, 38 L. Ed. 2d 136, 1973 U.S. LEXIS 941 (1973)
38 L. Ed. 2d 136 *p.136*
2. **Cited by:**
Thompson v. Mississippi, 414 U.S. 890, 94 S. Ct. 241, 38 L. Ed. 2d 135, 1973 U.S. LEXIS 940 (1973) 
94 S. Ct. 241 *p.242*
3. **Cited by:**
White v. Georgia, 414 U.S. 886, 94 S. Ct. 222, 38 L. Ed. 2d 134, 1973 U.S. LEXIS 939 (1973) 
414 U.S. 886 *p.892*

1ST CIRCUIT - COURT OF APPEALS

4. **Cited by:**
Providence Washington Ins. Co. v. Lynn, 492 F.2d 979, 1974 U.S. App. LEXIS 9952 (1st Cir. R.I. 1974) 
 492 F.2d 979 p.980


2ND CIRCUIT - COURT OF APPEALS

5. **Cited by:**
United States v. Markiewicz, 978 F.2d 786, 1992 U.S. App. LEXIS 28918 (2d Cir. N.Y. 1992) 
6. **Cited by:**
United States v. Barnes, 604 F.2d 121, 1979 U.S. App. LEXIS 15208 (2d Cir. N.Y. 1979) 
 604 F.2d 121 p.138
7. **Cited by:**
Fullilove v. Kreps, 584 F.2d 600, 1978 U.S. App. LEXIS 8822, 25 Cont. Cas. Fed. (CCH) P82718, 18 Empl. Prac. Dec. (CCH) P8816 (2d Cir. N.Y. 1978) 
 584 F.2d 600 p.605


2ND CIRCUIT - U.S. DISTRICT COURTS

8. **Cited by:**
In re Kinoy, 326 F. Supp. 400, 1970 U.S. Dist. LEXIS 9021 (S.D.N.Y. 1970) 
 326 F. Supp. 400 p.400


3RD CIRCUIT - COURT OF APPEALS

9. **Cited by:**
United States v. Cerilli, 603 F.2d 415, 1979 U.S. App. LEXIS 13532 (3d Cir. Pa. 1979) 
 603 F.2d 415 p.421


3RD CIRCUIT - U.S. DISTRICT COURTS


10. **Cited by:**
Paton v. La Prade, 471 F. Supp. 166, 1979 U.S. Dist. LEXIS 12673 (D.N.J. 1979) 
 471 F. Supp. 166 p.174

5TH CIRCUIT - COURT OF APPEALS



11. **Cited by:**
Livingston v. Garmire, 437 F.2d 1050, 1971 U.S. App. LEXIS 12250 (5th Cir. Fla. 1971) 
 437 F.2d 1050 p.1051

5TH CIRCUIT - U.S. DISTRICT COURTS


12. **Cited by:**
Murley v. Smith, 322 F. Supp. 991, 1971 U.S. Dist. LEXIS 14698 (N.D. Tex. 1971) 
 322 F. Supp. 991 p.996

13. **Cited by:**
Douglas v. Pitcher, 319 F. Supp. 706, 1970 U.S. Dist. LEXIS 9420 (E.D. La. 1970) 
 319 F. Supp. 706 p.712



7TH CIRCUIT - COURT OF APPEALS

14. **Constitutional by:**
United States v. Dellinger, 472 F.2d 340, 1972 U.S. App. LEXIS 6620, 22 A.L.R. Fed. 159 (7th Cir. Ill. 1972) 
 472 F.2d 340 p.340
 472 F.2d 340 p.341
 472 F.2d 340 p.357
15. **Cited by:**
National Mobilization Committee to End War in Viet Nam v. Foran, 411 F.2d 934, 1969 U.S. App. LEXIS 12229 (7th Cir. Ill. 1969) 
 411 F.2d 934 p.935


7TH CIRCUIT - U.S. DISTRICT COURTS

16. **Constitutional by:**
National Mobilization Committee, etc. v. Foran, 297 F. Supp. 1, 1968 U.S. Dist. LEXIS 7935 (N.D. Ill. 1968) 
 297 F. Supp. 1 p.1

9TH CIRCUIT - COURT OF APPEALS

17. **Cited by:**
Wiener v. FBI, 943 F.2d 972, 1991 U.S. App. LEXIS 14655, 91 D.A.R. 8424 (9th Cir. Cal. 1991) 
 943 F.2d 972 p.986
18. **Cited by:**
Carter v. United States, 417 F.2d 384, 1969 U.S. App. LEXIS 10499 (9th Cir. Cal. 1969) 
 417 F.2d 384 p.385

9TH CIRCUIT - U.S. DISTRICT COURTS

19. **Cited by:**
In re Shead, 302 F. Supp. 560, 1969 U.S. Dist. LEXIS 13434 (N.D. Cal. 1969) 
 302 F. Supp. 560 p.561


D.C. CIRCUIT - COURT OF APPEALS


20. **Cited by:**
Zweibon v. Mitchell, 516 F.2d 594, 170 U.S. App. D.C. 1, 1975 U.S. App. LEXIS 14083 (1975) 

516 F.2d 594 p.688
170 U.S. App. D.C. 1 p.95


21. **Cited by:**
In re Evans, 452 F.2d 1239, 146 U.S. App. D.C. 310, 1971 U.S. App. LEXIS 8777 (1971) 

FLORIDA SUPREME COURT


22. **Cited by:**
State v. Beasley, 317 So. 2d 750, 1975 Fla. LEXIS 3355 (Fla. 1975) 
317 So. 2d 750 p.752

23. **Cited by:**
Hutchin v. State, 290 So. 2d 35, 1974 Fla. LEXIS 4393 (Fla. 1974) 
290 So. 2d 35 p.36

MICHIGAN SUPREME COURT

24. **Cited by:**
People v. Tyburski, 445 Mich. 606, 518 N.W.2d 441, 1994 Mich. LEXIS 1563 (1994) 
445 Mich. 606 p.639
518 N.W.2d 441 p.456

MISSISSIPPI SUPREME COURT

25. **Cited by:**
Thompson v. State, 269 So. 2d 641, 1972 Miss. LEXIS 1230 (Miss. 1972) 
269 So. 2d 641 p.641

ANNOTATED STATUTES (2 Citing Statutes)

26. *18 U.S.C. sec. 2101*
27. *28 U.S.C. sec. 2284*

LAW REVIEWS AND PERIODICALS (11 Citing References)

28. *THEATER IN THE COURTROOM: THE CHICAGO CONSPIRACY TRIAL*, 16 Cardozo Stud. L. & Lit. 381 (2004)
29. *THE MARYLAND SURVEY: 2005-2006: Recent Decision: THE COURT OF APPEALS OF MARYLAND: SCHLAMP v. STATE: READING THE RIOT ACT: THE VAGARIES OF MARYLAND'S COMMON LAW RIOT REQUIRE CODIFICATION OF THE CRIME*, 66 Md. L. Rev. 1013 (2007)
30. *ARTICLE: Congressional Power to Expand Judicial Definitions of the Substantive Terms of the Civil War Amendments **, 67 Minn. L. Rev. 299 (1982)
67 Minn. L. Rev. 299 p.335

31. *ARTICLE: Blyew: Variations on a Jurisdictional Theme.*, 41 Stan. L. Rev. 469 (1989)
41 Stan. L. Rev. 469 p.524
32. *ARTICLE: The Supreme Court's Recent "National Security" Decisions: Which Interests are Being Protected?*, 40 Tenn. L. Rev. 1 (1972)
33. 121 U. Pa. L. Rev. 189
121 U. Pa. L. Rev. 189 p.198
34. *ESSAY ON THE TRIALS OF THE CENTURY: "The Substance of the Crime was a State of Mind"--How a Mainstream, Middle Class Jury Came to War with Itself*, 68 UMKC L. Rev. 637 (2000)
35. *ARTICLE: A JUDGE'S USE OF HISTORY -- THOMAS E. FAIRCHILD INAUGURAL LECTURE.*, 1989 Wis. L. Rev. 223 (1989)
1989 Wis. L. Rev. 223 p.227
36. *ARTICLE: RECALIBRATING THE COST OF HARM ADVOCACY: GETTING BEYOND BRANDENBURG*, 41 Wm. & Mary L. Rev. 1159 (2000)
37. *ARTICLE: Policing Speech on the Airwaves: Granting Rights, Preventing Wrongs*, 15 Yale L. & Pol'y Rev. 447 (1997)
38. *COMMENT: A Blueprint for Applying the Rules Enabling Act's Supersession Clause*, 117 Yale L.J. 1225 (2008)

TREATISE CITATIONS (2 Citing Sources)

39. *5f-143f Appleman on Insurance Supp. to @ 3111*
40. *9-172 Banking Law @ 172.04*

SECONDARY SOURCES (2 Citing Sources)

41. *73 A.B.A.J. No. 7 32, 73 A.B.A.J. No. 7 32*
73 A.B.A.J. No. 7 32 p.33
42. *56 A.B.A.J. 1070*
56 A.B.A.J. 1070 p.1075

BRIEFS (4 Citing Briefs)

43. *NOW v. JOSEPH M. SCHEIDLER*, 1992 U.S. Briefs 780, 1993 U.S. S. Ct. Briefs LEXIS 459 (U.S. Sept. 29, 1993)
44. *FULLILOVE v. KREPS*, 1978 U.S. Briefs 1007, 1979 U.S. S. Ct. Briefs LEXIS 1008 (U.S. Oct. 9, 1979)
45. *FULLILOVE v. KREPS*, 1978 U.S. Briefs 1007, 1979 U.S. S. Ct. Briefs LEXIS 1167 (U.S. June 27, 1979)
46. *FULLILOVE v. KREPS*, 1978 U.S. Briefs 1007, 1978 U.S. S. Ct. Briefs LEXIS 76 (U.S. Dec. 21, 1978)