

**FIFTH LEGISLATURE
OF THE
CHEYENNE AND ARAPAHO TRIBES
REGULAR SESSION
September 13, 2014**

A Bill to Amend the Criminal Code

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DATE INTRODUCED: April 10, 2014
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Article 1. SUBJECT

This Bill amends the Criminal Offenses Code and the Criminal Procedure Code.

Article 2. FINDINGS

- A. The Cheyenne and Arapaho Tribes are a federally recognized Indian tribe, organized under a Constitution approved by Tribal membership on April 4, 2006 and approved by the Secretary of Interior; and
- B. Article VI, Section 5(a) and (c) in the Constitution provides that "Legislative power shall be vested in the Legislature" and "[t]he Legislature shall have the power to make laws and resolutions in accordance with the Constitution which are necessary and proper for the good of the Tribes ...Laws and resolutions which have been enacted shall remain valid until amended or repealed[;]" and
- C. the Tribes have criminal jurisdiction over its territory and an up to date code of criminal offenses is required to maintain peaceful communities and punish criminal behavior; and
- D. the United States Tribal Law and Order Act of 2010 expanded the criminal sentencing power of tribes by amending the Indian Civil Rights Act, which require amendments to the Tribes' Criminal Procedure Law; and
- E. The Cheyenne and Arapaho Tribes Fifth Legislature finds that it is necessary and proper for the good of the Tribes to repeal the 1988 Criminal Offenses Code any other criminal

offenses codes passed prior to this Act, and enact the following Criminal Offenses Act, and make amendments to the Criminal Procedure Law.

Article 3. Amendment of Criminal Offenses Code

A LAW OF THE CHEYENNE AND ARAPAHO TRIBES ENACTING A REVISED CRIMINAL OFFENSES LAW AND CODIFYING SAID LAW IN TITLE II OF THE CHEYENNE AND ARAPAHO TRIBES LAW AND ORDER CODE.

Be it enacted by the Legislature of the Cheyenne and Arapaho Tribes;

SECTION ONE. AMENDMENT. Law and Order Code Subpart D, Criminal Offenses, enacted October 12, 1988, is hereby repealed and replaced in its entirety with the following.

SUBCHAPTER D
CRIMINAL OFFENSES

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SUBCHAPTER ONE - GENERAL; PURPOSE; PUNISHMENTS

§101. Title.

This act shall be known and may be cited as the “Cheyenne and Arapaho Tribes Criminal Offenses Law.”

§102. Purpose and Application.

- A. Purpose - The purpose of this Law is to define the conduct constituting crimes and prescribe the punishment for each. The manner of prosecuting and convicting persons accused of crime is prescribed in the Law of Criminal Procedure.
- B. Application – This title shall apply to all persons violating its provisions within the jurisdiction of the Cheyenne and Arapaho Tribes.

§103. Definition of Crime.

A crime is a social harm which is defined and made punishable by legislative enactment and codified in this Code. This Code does not affect any power conferred by the Tribes upon the Courts to find a person liable for contempt or to employ and sanction authorized by the law for the enforcement of an order of a civil judgment or decree.

§104. Contempt, Direct and Indirect; Definition.

Contempt of Court shall be divided into direct and indirect contempt. Direct contempt shall consist of disorderly or insolent behavior committed during the session of the Court and in its immediate view and presence; the unlawful and willful refusal of any person to be sworn as a witness; the refusal to answer any legal or proper question; or any breach of the peace, noise or disturbance, so near to it as to interrupt its proceedings. Indirect Contempt of court shall consist of willful disobedience of any process or order lawfully issued or made by Court or resistance willfully offered by any person to the execution of a lawful order or process of a Court. Contempt may be summarily punished *sua sponte* by the Court whether direct or indirect.

§105. Forfeiture of Property.

The conviction of a person for any crime shall not cause the forfeiture of property, except when forfeiture is expressly imposed by other law of the Cheyenne and Arapaho Tribes.

§106. Forfeiture of Public Office.

The omission to specify in this Code any grounds for forfeiture of a public office, other trust or special authority conferred by law does not affect such forfeiture. In addition, the omission to specify in this Code any grounds for impeachment, removal or suspension of any public officer or other person holding any trust, appointment or other special authority conferred by law does not affect such impeachment, removal or suspension.

§107. Criminal Charges Controlling.

If two crimes in this Code cover all the facts in a particular occurrence, the crime that is the most specific shall control and serve as the basis for the proper criminal charge.

§108. Conduct Constituting More Than One Crime.

The method of prosecution to be used when conduct constitutes more than one crime is as follows;

- A. When the same conduct of a defendant may establish the commission of more than one crime, the defendant may be prosecuted for each crime. The defendant may only be convicted of one crime if any of the following is true:
 - 1. All of the elements of one crime are included in the other;
 - 2. an inconsistent finding of fact is required to establish the commission of the crimes;
 - 3. The crimes differ only in that one is defined to prohibit a designated kind of conduct generally and the other prohibits a specific instance of such conduct; or
 - 4. The crime is defined as a continuing course of conduct and the defendant's course of conduct was uninterrupted, unless the law provides that specific periods of such conduct constitute separate crimes.
- B. Except as provided in paragraph C. of this section, a defendant shall not be subject to separate trials for multiple crimes based on the same conduct or arising from the same criminal episode, if such crimes are known to the Prosecutor at the time of the commencement of the first trial and are within the jurisdiction of the Court.

- C. When a defendant is charged with two or more crimes based on the same conduct or arising from the same episode, the Court on application of the Tribes or defendant, may order any such charge to be tried separately, if it is satisfied that justice so requires.
- D. A defendant may be convicted of a crime included in any crime charged in the Complaint and Information. A crime is so included when;
 - 1. It is established by proof of the same or less elements required to establish the commission of the crime charged; or
 - 2. It consists of an attempt to commit the crime charges or to commit a crime otherwise included therein.
- E. The Court shall not be obligated to charge the jury with respect to any included crime, unless there is a rational basis for a verdict acquitting the defendant of the crime charged and convicting the defendant of the included crime.

§109. Burden of Proof.

- A. No person may be convicted of a crime unless each element of such crime is proved by the prosecution beyond a reasonable doubt. In the absence of such proof, the innocence of the defendant is presumed.
- B. Subsection A of this section does not require the disproof of an affirmative defense unless there is sufficient evidence supporting such defense. If some evidence of an affirmative defense has been introduced, the Prosecutor must disprove that affirmative defense beyond a reasonable doubt.
- C. A ground of defense is affirmative, within the meaning of subsection B of this section, when;
 - 1. It arises under a section of this Code that so provides; or
 - 2. It involves a matter of excuse or justification peculiarly within the knowledge of the defendant on which the defendant can fairly be required to present evidence.

§110. Capacity to Commit Crime.

All persons are capable of committing crimes except;

- A. Children under seven years of age; and

- B. Children over the age of seven years and under the age of 14 years when there is an absence of proof that at the time of committing the act or committing to act or omitting the act, the child knew its conduct was wrong.
- C. Insane persons. A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law. A person claiming the defense of incapacity due to insanity shall prove that they are insane by clear and convincing evidence.

§111. Civil Actions.

The omission of this Code to refer to any damages, penalty, forfeiture or other remedy imposed by law and allowed to be recovered or enforced in any civil action for any act or omission declared punishable herein does not affect any right to recover or enforce the same.

§112. Definitions.

In this Code, unless a different meaning is specified in reference to a particular crime, the following words and phrases shall have the following meanings;

- A. “Actor” means the person who allegedly committed or omitted the act or acts constituting the crime.
- B. “Bodily injury” means a person suffers physical pain, illness or any impairment of physical condition.
- C. “Carries away” means removing an article of the slightest distance. It is more than a mere change of position. It is a movement for the purpose of permanent relocation.
- D. “Child” or “minor” means a person under 18 years of age.
- E. Child pornography” means
 - 1. any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where
 - a. the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;

- b. such visual depiction is a digital image, computer image, or computer-generated image that is, or is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaging in sexually explicit conduct; or
 - c. such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct;
2. For purposes of this definition “sexually explicit conduct” means
- a. graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast, or pubic area of any person is exhibited;
 - b. graphic or lascivious simulated;
 - (1) bestiality;
 - (2) masturbation; or
 - (3) sadistic or masochistic abuse; or
 - c. graphic or simulated lascivious exhibition of the genitals or pubic area of any person;
- F. “Coercion” means a threat, however communicated, to;
- 1. Physically injure the person threatened or any other person, which by its terms will not be, or based on the circumstances cannot be, carried out at substantially the same time as its utterance or receipt;
 - 2. Physically injure the person threatened or any other person which is not made in the presence of the person threatened, but which may be capable of substantially contemporaneous execution;
 - 3. Injure the property of the person threatened or the property of one with whom such person has a family, social, business or other similar relationship;
 - 4. Accuse the person threatened of a crime or to so accuse one with whom such person has a family, social, business or other similar relationship;

5. Expose the person threatened to hatred, contempt, ridicule or disgrace, or to so expose one with whom such person has a family, social, business or other similar relationship;
 6. Take or withhold action as a public official or employee, or to cause a public official or employee to take or withhold action; or
 7. Expose any secret, fact, report or information sought to be concealed by the person threatened.
- G. “Computer” means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device that only displays alphanumeric characters.
- H. 1. “Court” shall mean the Judicial Branch of the Cheyenne and Arapaho Tribes.
2. “Court official” shall mean the Judge, Prosecutor, Public Defender, any attorney representing a party, Court clerks, Indian Child Welfare personnel, and any other Social Service personnel who actively participate in the Cheyenne and Arapaho Court Judicial system including Court Witnesses and Juries.
- I. “Criminal negligence” means a gross deviation from the standard of care that a reasonable person would observe in the Actor’s situation.
- J. “Custody or control” includes temporary supervision over or responsibility for a minor whether legally or illegally obtained.
- K. “Dangerous weapon” or “deadly weapon” means any firearm, whether loaded or unloaded, or any other instrument, material or substance, whether animate or inanimate, which is likely to produce death or serious bodily injury in the manner it is used or attempted to be used.
- L. “Duty of care” means that one has a legal duty to render aide.
- M. “Extreme indifference to the value of human life” means that a person acts in total disregard of the consequences to others by unjustifiably creating what a reasonable person would realize in an inordinately high degree of risk of death to others.

- N. “Force” means any touching, no matter how slight, of a person or any property on the person’s body. Such touching must be known to a conscious victim at the time of the touching.
- O. “Graphic”, when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted.
- P. “Identifiable minor”
1. means a person
 - a. who was a minor at the time the visual depiction was created, adapted, or modified;
or
 - b. whose image as a minor was used in creating, adapting, or modifying the visual depiction; and
 - c. who is recognizable as an actual person by the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and
 2. shall not be construed to require proof of the actual identity of the identifiable minor.
- Q. “Incapacitated” means any person who by reason of mental or physical condition or situation lacks the ability to effectively engage in self-protection.
- R. “Intent” means that in addition to doing the acts or failing to act which caused the harm, the Actor acted with the specific purpose of accomplishing that harm.
- S. “In the commission of” means the performance of an act which is an inseparable part of a crime or necessary for its completion, or which is performed in the process of fleeing from the immediate scene of the crime before a position of relative safety has been reached.
- T. “Know” means, in addition to doing the acts or failing to act which caused the harm, the Actor has a subjective belief that something exists. Proof of actual or direct knowledge is not required. It is sufficient if the facts and circumstances are such to cause an actual belief on the part of the Actor.

- U. “Law enforcement official” means any federal, state or tribal police officer, sheriff, deputy sheriff, highway patrol officer, investigator or similar public officer or official.
- V. “Legal duty to render aid” means on or more of the following is present;
1. A law imposes a duty to care for another;
 2. One is in a spousal relationship to another or is the parent, guardian or other person having custody of a child;
 3. One has assumed a contractual duty to care for another; or
 4. One has voluntarily assumed the care of another person who acts in reliance on that care. The recipient is or becomes helpless and is in a situation where others cannot reasonably render aid.
- W. “Malicious” means that, in addition to doing the acts or failing to act which caused the harm, the Actor either had specific intent to cause the harm or had a wanton disregard of the pain and strong likelihood of causing that harm.
- X. “vehicle” means any self-propelled instrumentality in, upon, or by which a person or property may be transported.
- Y. “Official proceeding” means a proceeding before any legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or deposition in connection with any such proceeding.
- Z. “Omission” means a failure to act in circumstances where a legal duty to act exists.
- AA. “Organization” means a person other than an individual.
- BB. “Personal property” means chattels and includes such things as money, goods, evidences of rights in action, and written instruments effecting a monetary obligation or right to title or property. The value of the property is immaterial.
- CC. “Prison” means a correctional , detention, or penal facility
- DD. “Producing” means creating, directing the creation or production, manufacturing, issuing, publishing, or advertising

- EE. “Public servant” means any officer or employee of the Tribes, including legislators and judges and any person performing an authorized governmental duty.
- FF. “Serious bodily injury” means bodily injury that includes death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of any bodily member or organ, or mental faculty.
- GG. “Sexual act” means
1. contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however, slight;
 2. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 3. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
 4. the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;
- HH. “Sexual activity” means a sexual act, sexual contact, or the production of child pornography.
- II. “Sexual contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- JJ. “Sexually explicit conduct,” except as provided in the definition of “Child Pornography,” means actual or simulated
1. sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
 2. bestiality;
 3. masturbation;
 4. sadistic or masochistic abuse; or
 5. lascivious exhibition of the genitals or pubic area of any person;

- KK. “Visual depiction” includes undeveloped film and videotape, data stored on computer disk or by electronic means which is capable of conversion into a visual image, and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format.
- LL. “Witness” means any person who;
1. Has knowledge of the existence or nonexistence of facts relating to any crime or claim or any other matter which is or may be the subject of an official proceeding or investigation;
 2. Has made a statement under oath which has been or may be received as evidence in an official proceeding or investigation;
 3. Has been legally served with a subpoena issued under the legal authority of the District Court; or
 4. Would be believed by a reasonable person to be a person described in this paragraph.

SUBCHAPTER TWO

CRIMES ARISING FROM OTHER CRIMES OR POTENTIAL CRIMES

§201. Classification of parties.

All parties to crimes are classified as Principles or Accessories.

- A. Principal: Any person concerned in the commission of a crime, whether they directly commit the act constituting the crime or aid and abet in its commission, although not present, are Principles.
- B. Accessory: The crime of accessory occurs when a person unlawfully conceals or aids another person who has committed a crime knowing that the other person has committed a crime. The aiding or concealing must be done with the intent that the other person avoid or escape from arrest, trial, conviction or punishment.

§202. Attempts.

- A. An attempt to commit a crime occurs when a person performs an act or acts toward the commission of a particular crime and that crime was not completed either because the person was prevented from completing the crime or was intercepted before its completion or withdrew.
- B. The person must;
 - 1. Have the specific intent to commit that crime; and
 - 2. Have committed a perpetrating act toward the commission of the particular crime. To have a perpetrating act there must be apparent proximity both as to time and space. If the attempt is an effort to physically harm a person, that penetrating act must be in dangerous proximity to completion. In all other situations, the perpetrating act must not be too remote from completion of the attempted crime.
- C. Attempts shall be punishable by the same possible punishment as the completed crime.

§203. Conspiracy Crimes; Definitions.

- A. The crime of conspiracy occurs when a person enters into an agreement with another person or persons to commit a crime with the intent that the crime be committed and any one of the persons does an overt act in furtherance of that agreement.
- B. In this section, “overt act” means any act performed by any member of the conspiracy which is done for the purpose of furthering or carrying out the ultimate intent of the agreement, or which would naturally accomplish the object of the conspiracy.
- C. Conspiracy shall be punishable by the same possible punishment as the completed crime.

§204. Solicitation.

- A. It shall be unlawful within the Tribal jurisdiction to entice, advise, incite, order, or otherwise encourage another to commit an offense punishable under the laws of the jurisdiction where the conduct was to be performed.
- B. In any place, entice, advise, incite, order, or otherwise encourage another to commit any offense, with the intent that such other person commit an offense punishable by tribal, federal, or state laws within the Tribal jurisdiction.

- C. Solicitation to commit an offense carries the same possible punishment as the completed offense.

SUBCHAPTER THREE

CRIMES AGAINST A PERSON

§301. Homicide.

- A. The crime of homicide is the killing of one human being by the act, procurement or culpable negligence of a person; unless it is committed under such circumstances as constitute excusable or justifiable homicide. Homicide is a felony and in addition shall be punished by banishment for a period of not less than 10 years. A homicide includes the following;
1. When perpetrated with premeditation;
 2. When perpetrated without a design to effect death by a person while engaged in the commission of another felony crime;
 3. When perpetrated without a design to effect death, and in a heat of passion, but in a cruel and unusual manner, or by means of a dangerous or deadly weapon; or
 4. When perpetrated without a design to effect death by a person engaged in reckless disregard of the safety of others.
- B. Involuntary manslaughter is when a person, while committing a misdemeanor crime, or a crime not tending to great bodily harm, or in committing a lawful act without proper caution or requisite skill, unguardedly or un-designedly kills another. Involuntary manslaughter is a felony.
- C. Voluntary manslaughter is committed voluntarily upon a sudden heat of passion with no cooling off period, after provocation, and before any cooling off period, by an event that would cause a reasonable person to lose self-control. Voluntary manslaughter is a felony.
- D. Causing a Suicide. It shall be unlawful to intentionally cause a suicide by force, duress or deception. Any person convicted of violating the provisions of this paragraph shall be guilty of a felony.

- E. Homicide is excusable in the following cases:
1. When committed by accident and misfortune in doing any lawful act, by lawful means, with usual and ordinary caution, and without any unlawful intent.
 2. When committed by accident and misfortune in the heat of passion, upon any sudden and sufficient provocation, or upon a sudden combat provided that no undue advantage is taken, nor any dangerous weapon used, and that the killing is not done in a cruel or unusual manner.
- F. Justifiable Homicide. A peace officer or any person acting by his command in his aid and assistance, is justified in using deadly force when:
1. The officer is acting in obedience to and in accordance with any judgment of a competent court in executing a penalty of death; or
 2. In effecting an arrest or preventing an escape from custody following arrest and the officer reasonably believes both that:
 - a. such force is necessary to prevent the arrest from being defeated by resistance or escape, and
 - b. there is probable cause to believe that the person to be arrested has committed a crime involving the infliction or threatened infliction of serious bodily harm, or the person to be arrested is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay; or
 3. The officer is in the performance of his legal duty or the execution of legal process and reasonably believes the use of the force is necessary to protect himself or others from the infliction of serious bodily harm; or
 4. The force is necessary to prevent an escape from a penal institution or other place of confinement used primarily for the custody of persons convicted of felonies or from custody while in transit thereto or therefrom unless the officer has reason to know:
 - a. the person escaping is not a person who has committed a felony involving violence, and
 - b. the person escaping is not likely to endanger human life or to inflict serious bodily harm if not apprehended.

5. Homicide is also justifiable when committed by any person in either of the following cases:
 - a. When resisting any attempt to murder such person, or to commit any felony upon him, or upon or in any dwelling house in which such person is; or,
 - b. When committed in the lawful defense of such person, or of his or her husband, wife, parent, or child, when there is a reasonable ground to apprehend a design to commit a felony, or to do some great personal injury, and imminent danger of such design being accomplished; or,
 - c. When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed; or in lawfully suppressing any riot; or in lawfully keeping and preserving the peace.

§302. Assault.

- A. The crime of assault occurs when a person makes an unlawful attempt to batter another person or unlawfully places another person in reasonable apprehension of receiving an immediate battery. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor. provided that if the victim was a law enforcement official or court official, then the crime is a felony
- B. The crime of aggravated assault occurs when a person, through the use of a dangerous or deadly weapon makes an unlawful attempt to commit a serious bodily injury to another person. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- C. The crime of verbal or written assault occurs when a person threatens verbally or in writing to commit any offense involving violence with apparent ability to do so:
 1. With intent to terrorize another or place such other in fear of imminent serious bodily injury, or
 2. To cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise cause serious public inconvenience.

Any person convicted of violating C. 1. shall be guilty of a misdemeanor, provided that if the victim was a law enforcement official or court official, then the crime is a felony. Any person convicted of violating C. 2. shall be guilty of a misdemeanor if fewer than 10 persons are affected and a felony if 10 or more people are affected.

§303. Battery.

- A. The crime of battery occurs when a person unlawfully applies force to another person. Any person convicted of committing battery shall be guilty of a misdemeanor.
- B. The crime of aggravated battery occurs when a person unlawfully applies force to another person resulting in serious bodily harm. Any person convicted of committing aggravated battery shall be guilty of a felony.
- C. The crime of protected status battery is a felony and occurs when all of the elements of battery are present and, in addition, it is knowingly committed against;
 - 1. Law enforcement or court officials, sports referees or umpires, teachers or school officials, during performance of or related to their duties;
 - 2. A child under 15 years of age;
 - 3. A person 62 years of age or older;
 - 4. An incapacitated person;
 - 5. Any person because of that person's race, religion, ancestry, Tribal origin, sexual orientation or disability.
- D. It shall be unlawful for any person in the custody of the Tribal police to throw, transfer or in any manner place feces, urine, semen, saliva, blood, or any other body fluid upon the person of an employee of the Tribe. Any person convicted of the provisions of this paragraph shall be guilty of a felony.

§304. Use of Vehicle to Facilitate Discharge of Weapon in Conscious Disregard to Safety of Others.

It is a crime for a person to use a vehicle to facilitate the intentional discharge of any kind of firearm, crossbow or other weapon in conscious disregard for the safety of another person or persons. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§305. Owner of Mischievous Animal Which Kills or Injures a Person.

It is a crime for a person who is the owner of a mischievous animal, knowing its propensities, to allow the animal to go at large, or keep it without ordinary care, when such animal, while so at large

or not confined, kills, or causes injury to any human being who has taken all the precautions which the circumstances permitted, to avoid such animal.

- A. Any person convicted of violating the foregoing provision that results in the death or serious bodily injury of a person shall be guilty of a felony.
- B. Any person convicted of violating the foregoing provision that results in the injury of a person shall be guilty of a misdemeanor.

§306. Willfully Poisoning Food, Drink, Medicine, Patent or Proprietary Medicine.

- A. It is a crime for a person to willfully mingle any poison or Schedule I through V drug or sharp object, or any other object or substance that if used in a manner which is not customary or usual is harmful to human life, with any food, drink, medicine, patent or proprietary medicine with intent that the same shall be taken, consumed, applied or used in any manner by a human being to his injury. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- B. It is a crime for a person to willfully poison or place any Schedule I through V drug or any other object or substance which is used in a manner which is not customary or usual is harmful to human life in any spring, well or reservoir of water, unless specifically allowed by law. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§307. Unlawful Use of Dangerous Weapon.

It is a crime for a person to unlawfully use a dangerous weapon by placing another person in reasonable apprehension of serious bodily injury. The Actor must know or should know that such apprehension will result. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§308. Harassment.

It is a crime for a person to seriously alarm or annoy another person and cause that person substantial emotional distress through a knowing and willful course of pattern of conduct directed at a specific person which serves no legitimate purpose. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§309. Stalking.

- A. A person commits the offense of stalking if the person purposely or knowingly causes another person substantial emotional distress or reasonable apprehension of bodily or death by repeatedly:
 - 1. following the stalked person; or
 - 2. harassing, threatening, or intimidating the stalked person, in person or by phone, by mail, or by other action, device, or method.
- B. A person convicted of a first offense for stalking shall be guilty of a misdemeanor and jailed for not less than 30 days and fined not less than \$500.00. A person convicted a second time for stalking shall be guilty of a felony and jailed not less than 90 days and fined not less than \$1000.00. A person convicted for the third or subsequent times shall be guilty of a felony and jailed for not less than 180 days and fined not less than \$2000.00.
- C. Upon presentation of credible evidence of violation of this ordinance, an order may be granted, restraining a person from engaging in the activity described in subsection A.
- D. For the purpose of determining the number of convictions under this Ordinance, "conviction" means: (a) a conviction, as defined in this ordinance (b) and, bail put forth cannot be forfeited in lieu of court appearance. Appearance before a Judge is mandatory.
- E. Attempts by the accused person to contact or follow person after the accused person has been given actual notice that the stalked person does not want to be contacted or followed constitutes prima facie evidence that the accused person purposely and knowingly followed, harassed, threatened, or intimidated the stalked person.

§310. Robbery.

- A. In this section, "fear" means the placing of a robbery victim in reasonable apprehension of an immediate personal bodily injury or a bodily injury to anyone in the immediate vicinity at the time of the robbery.
- B. The crime of robbery occurs when a person wrongfully takes and carries away the personal property of another from the other's person or immediate presence through means of force or

fear with the intent to permanently deprive the other person of the property. Any person convicted of violating the foregoing provision shall be guilty of a felony.

- C. The crime of aggravated robbery occurs when all of the elements of robbery are present and, in addition;
1. A dangerous weapon is used in the commission of the robbery; or
 2. Serious bodily injury is inflicted upon a person as a result of the commission of the robbery.

Any person convicted of violating the foregoing provision shall be guilty of a felony.

§311. Custodial Interference

- A. Interference with Custody of Committed or Entrusted Person.

The crime of interference with custody of a committed or entrusted person occurs when a person unlawfully takes or entices away any person who has been committed or entrusted by authority of law to the custody of a third person or agency. The taking or enticement must be done with the intent to conceal and detain that person from the agency or third person to whom commitment or entrustment was granted. Any person convicted of violating the foregoing provision shall be guilty of a felony.

- B. Visitation Interference. It shall be unlawful to wrongfully take, entice, conceal or detain a child under the age of sixteen (16) years of age from his parent, guardian or other lawful custodian, knowing he has no legal right to do so, and:

1. with the intent to hold the child for a period substantially longer than any visitation or custody period previously awarded by a court of competent jurisdiction; or
2. with the intent to deprive another person of their lawful visitation or custody rights.

§312. Exposing Other to Sexually Transmitted Disease.

The crime of exposing others to a sexually transmitted disease occurs when a person who is infected with a sexually transmitted disease engages in sexual intercourse or sodomy with another person with the intent to infect that person with the sexually transmitted disease or when a person who is infected with the Human Immunodeficiency Virus engages in sexual intercourse, sodomy, donating blood, transferring blood through the skin or membrane of another person or biting another person. To be guilty the person must act without using proper barrier protection and without informing the

other person of the presence of the sexually transmitted disease and the act or acts must be done with the intent to infect any other person with the sexually transmitted disease. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§313. Indecent Exposure.

- A. A person is guilty of indecent exposure if he or she intentionally makes any open and obscene exposure of his or her person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm. The act of breastfeeding or expressing breast milk is not indecent exposure.
- B. Except as provided in C and D of this section, indecent exposure is a misdemeanor.
- C. Indecent exposure is a felony on the first offense if the person exposes himself or herself to a person under the age of fourteen years.
- D. Indecent exposure is a felony if the person has previously been convicted under this section or of a sex offense

§314. False Imprisonment.

It shall be unlawful for any person to confine a person, or cause a person to be confined, without his or her valid consent and without lawful authority or justification. Such unlawful confinement shall result from:

- A. Any unlawful exercise or show of force by which a person is compelled to remain in any place where they do not wish to remain;
- B. Any unlawful arrest, detention or imprisonment of another person or persons; or
- C. Any unlawful restriction of any person's freedom by means of causing that person to be in any place without that person's consent and without a reasonable means of escape.

Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§315. Kidnapping/Abduction.

- A. Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds, for ransom or reward or otherwise, any person, except in the case of a minor by the parent thereof, with intent, either:

1. To cause such other person to be confined or imprisoned in this Tribe against the will of the other person; or
 2. To cause such other person to be sent out of this Tribe against the will of the other person; or
 3. To cause such person to be sold as a slave, or in any way held to service against the will of such person,
shall be guilty of a felony.
- B. Upon any trial for a violation of this section, the consent thereto of the person kidnapped or confined, shall not be a defense, unless it appears satisfactorily to the jury, that such person was above the age of 12 years, and that such consent was not extorted by threat, or by duress.
- C. Whoever attempts to violate subsection A. shall be guilty of a felony.
- D. Special rule for certain offenses involving children. The sentence under this section for such offense shall include imprisonment for not less than 2 years If:
1. the victim of an offense under this section is a minor; and
 2. the offender has attained the age of 18 years; and
 3. is not
 - a. a parent;
 - b. a grandparent;
 - c. a brother;
 - d. a sister;
 - e. an aunt;
 - f. an uncle; or
 - g. an individual having legal custody of the victim;
 4. “parent” does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court order.

§316. Physical Abuse of a Child.

Any person who causes or permits any harmful or offensive contact to a child's body; or, any communication or transaction of any kind which humiliates, shames, or frightens the child;

- A. Any parent or other person who shall willfully or maliciously engage in child abuse shall, upon conviction, be guilty of a felony.
- B. Any parent or other person who shall willfully or maliciously engage in enabling child abuse shall be guilty of a felony.

§317. Video voyeurism.

- A. Whoever has the intent to capture an image of a private area of an individual without their consent, and knowingly does so under circumstances in which the individual has a reasonable expectation of privacy shall be guilty of a felony.
- B. In this section;
 - 1. “capture” with respect to an image, means to videotape, photograph, film, record by any means, or broadcast;
 - 2. “broadcast” means to electronically transmit a visual image with the intent that it be viewed by a person or persons;
 - 3. “a private area of the individual” means the naked or undergarment clad genitals, pubic area, buttocks, or female breast of that individual;
 - 4. “female breast” means any portion of the female breast below the top of the areola; and
 - 5. “under circumstances in which that individual has a reasonable expectation of privacy” means;
 - a. circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the individual was being captured; or
 - b. circumstances in which a reasonable person would believe that a private area of the individual would not be visible to the public, regardless of whether that person is in a public or private place.
- C. This section does not prohibit any otherwise lawful law enforcement, correctional, or intelligence activity that is not intended to violate this section.

§318. Incest.

It shall be unlawful for a person who marries or engages in sexual activity, whether consensual or not, with another person within the degrees of consanguinity within which marriages are, by the laws of the Cheyenne and Arapaho Tribes, declared incestuous and void. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§319. Sex trafficking of children or by force, fraud, or coercion.

A. Whoever knowingly;

1. recruits, entices, harbors, transports, provides, obtains, or maintains by any means a person;
or
2. benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph 1, knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion as described in subsection E.2., or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection B.

B. Any person convicted of violating the foregoing provision shall be guilty of a felony.

C. In a prosecution under subsection A.1. in which the defendant had a reasonable opportunity to observe the person so recruited, enticed, harbored, transported, provided, obtained or maintained, the Government need not prove that the defendant knew that the person had not attained the age of 18 years.

D. Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be guilty of a felony.

E. In this section:

1. The term “abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

2. The term “coercion” means;
 - a. threats of serious harm to or physical restraint against any person;
 - b. any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
 - c. the abuse or threatened abuse of law or the legal process.
3. The term “commercial sex act” means any sex act, on account of which anything of value is given to or received by any person.
4. The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.
5. The term “venture” means any group of two or more individuals associated in fact, whether or not a legal entity.

§320. Aggravated sexual abuse.

- A. By force or threat. Whoever, knowingly causes another person to engage in a sexual act
 1. by using force against that other person; or
 2. threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; or attempts to do so, shall be guilty of a felony.
- B. By other means. Whoever knowingly
 1. renders another person unconscious and thereby engages in a sexual act with that other person;
 2. administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby
 - a. substantially impairs the ability of that other person to appraise or control conduct; and
 - b. engages in a sexual act with that other person; or
 - c. causes a pregnancy by sexual abuse under §321.
- C. or attempts to do so, shall be guilty of a felony.

- D. With children. Whoever knowingly engages in a sexual act with another person who has not attained the age of 12 years, or knowingly engages in a sexual act under the circumstances described in subsections A and B with another person who has attained the age of 12 years but has not attained the age of 16 years (and is at least 4 years younger than the person so engaging), or attempts to do so, shall be guilty of a felony.
- E. State of mind proof requirement. In a prosecution under subsection D of this section, the Nation need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.

§321. Sexual abuse.

- A. Whoever knowingly causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping); or
- B. engages in a sexual act with another person if that other person is:
1. incapable of appraising the nature of the conduct; or
 2. physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;
- or attempts to do so, shall be guilty of a felony.

§322. Sexual abuse of a minor or ward.

- A. Of a minor. Whoever knowingly engages in a sexual act with another person who;
1. has attained the age of 12 years but has not attained the age of 16 years; and
 2. is at least four years younger than the person so engaging;
- or attempts to do so, shall be guilty of a felony.
- B. Of a ward. Whoever knowingly engages in a sexual act with another person who is;
1. in law enforcement custody; and
 2. under the custodial, supervisory, or disciplinary authority of the person so engaging;
- or attempts to do so, shall be guilty of a felony.
- C. Defenses.

1. In a prosecution under subsection A of this section, it is a defense, which the defendant must establish by a preponderance of the evidence that the defendant reasonably believed that the other person had attained the age of 16 years.
2. In a prosecution under this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the persons engaging in the sexual act were at that time married to each other.

D. State of mind proof requirement. In a prosecution under subsection A. of this section, the Government need not prove that the defendant knew

1. the age of the other person engaging in the sexual act; or
2. that the requisite age difference existed between the persons so engaging.

§323. Abusive sexual contact

A. Sexual conduct in circumstances where sexual acts are punished by this chapter. Whoever knowingly engages in or causes sexual contact with or by another person, if so to do would violate;

1. subsection A or B of §320 (aggravated sexual abuse) of this title had the sexual contact been a sexual act, shall be guilty of a misdemeanor.
2. §321 (sexual abuse) of this title had the sexual contact been a sexual act, shall be fined under this title, shall be guilty of a misdemeanor, or both;
3. subsection A of §322 (sexual abuse of a minor 12-16) of this title had the sexual contact been a sexual act, shall be guilty of a misdemeanor;
4. subsection B of §322 (sexual abuse of a ward) of this title had the sexual contact been a sexual act, shall be guilty of a misdemeanor; or
5. subsection D of §320 (aggravated sexual abuse <12) of this title had the sexual contact been a sexual act, shall be guilty of a felony.

B. In other circumstances. Whoever knowingly engages in sexual contact with another person without that other person's permission shall be guilty of a misdemeanor.

C. Offenses involving young children. If the sexual contact that violates this section (other than subsection A.5.) is with an individual who has not attained the age of 12 years, the person shall be guilty of a felony.

§324. Offenses resulting in death.

In general. A person who in the course of an offense under this chapter murders an individual shall be guilty of a felony.

§325. Mandatory restitution.

A. In general. In addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

B. Scope and nature of order.

1. Directions. The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to this section.
2. Enforcement. An order of restitution under this section shall be issued and enforced in accordance with court rules.
3. Definition. For purposes of this subsection, the term “full amount of the victim's losses” includes any costs incurred by the victim for
 - a. medical services relating to physical, psychiatric, or psychological care;
 - b. physical and occupational therapy or rehabilitation;
 - c. necessary transportation, temporary housing, and child care expenses;
 - d. lost income;
 - e. attorneys' fees, plus any costs incurred in obtaining a civil protection order; and
 - f. any other losses suffered by the victim as a proximate result of the offense.

C. Order mandatory. The issuance of a restitution order under this section is mandatory.

D. A court may not decline to issue an order under this section because of

1. the economic circumstances of the defendant; or
2. the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

E. Definition. For purposes of this section, the term “victim” means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.

§330. Sexual exploitation of children.

- A. Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct, shall be guilty of a felony.
- B. Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct shall be guilty of a felony
- C. Any person who knowingly makes, prints, or publishes, or causes to be made, printed, or published, any notice or advertisement seeking or offering
 - 1. to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct; or
 - 2. participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct;shall be guilty of a felony.

§331. Selling or buying of children.

- A. Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either

1. with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or
 2. with intent to promote either
 - a. the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or
 - b. the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;shall be guilty of a felony.
- B. Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either
1. with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or
 2. with intent to promote either
 - a. the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or
 - b. the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;shall be guilty of a felony.

§332. Material involving the sexual exploitation of minors.

- A. Any person who knowingly possesses, receives, distributes transports or ships by any means including by computer or mails, any visual depiction, or accesses with intent to view, one or more books, magazines, periodicals, films, video tapes, electronic images, or other matter which contain any visual depiction, shall be guilty of a felony if
1. the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and
 2. such visual depiction is of such conduct;

B. Affirmative Defense. It shall be an affirmative defense to a charge of violating subsection A that the defendant

1. possessed less than three matters containing any visual depiction proscribed by that paragraph; and
2. promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof;
3. took reasonable steps to destroy each such visual depiction; or
4. reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

§333. Certain activities relating to material constituting or containing child pornography.

A. Any person who

1. knowingly mails, or transports or ships using any means or facility, including by computer, any child pornography;
2. knowingly receives or distributes
 - a. any child pornography by any means, including by computer; or
 - b. any material that contains child pornography by any means, including by computer;
3. knowingly
 - a. reproduces any child pornography for distribution; or
 - b. advertises, promotes, presents, distributes, or solicits any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material is, or contains
 - i. an obscene visual depiction of a minor engaging in sexually explicit conduct; or
 - ii. visual depiction of an actual minor engaging in sexually explicit conduct;
4. knowingly sells or possesses with the intent to sell any child pornography; or
5. knowingly possesses, or knowingly accesses with intent to view, any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography.

6. knowingly distributes, offers, sends, or provides to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct for purposes of inducing or persuading a minor to participate in any activity that is illegal; or
 7. knowingly produces with intent to distribute, or distributes, by any means, including a computer, child pornography that is an adapted or modified depiction of an identifiable minor, shall be guilty of a felony.
- B. It shall be an affirmative defense to a charge of violating paragraph 1, 2, 3.a., 4, or 5 of subsection A. that
1. the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and
 2. each such person was an adult at the time the material was produced; or
 3. the alleged child pornography was not produced using any actual minor or minors.
- C. No affirmative defense under subsection B.3. shall be available in any prosecution that involves child pornography as defined in this Chapter. A defendant may not assert an affirmative defense to a charge of violating paragraph 1, 2, 3.a, 4, or 5 of subsection A unless, within the time provided for filing pretrial motions or at such time prior to trial as the judge may direct, but in no event later than 14 days before the commencement of the trial, the defendant provides the court and the prosecutor with notice of the intent to assert such defense and the substance of any expert or other specialized testimony or evidence upon which the defendant intends to rely. If the defendant fails to comply with this subsection, the court shall, absent a finding of extraordinary circumstances that prevented timely compliance, prohibit the defendant from asserting such defense to a charge of violating paragraph 1, 2, 3.a, 4, or 5 of subsection A or presenting any evidence for which the defendant has failed to provide proper and timely notice.
- D. Affirmative Defense. It shall be an affirmative defense to a charge of violating subsection A.5 that the defendant
1. possessed less than three images of child pornography; and

2. promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof
 - a. took reasonable steps to destroy each such image; or
 - b. reported the matter to a law enforcement agency and afforded that agency access to each such image.

E. Admissibility of Evidence. On motion of the government, in any prosecution under this section, except for good cause shown, the name, address, social security number, or other nonphysical identifying information, other than the age or approximate age, of any minor who is depicted in any child pornography shall not be admissible and may be redacted from any otherwise admissible evidence, and the jury shall be instructed, upon request of the prosecution, that it can draw no inference from the absence of such evidence in deciding whether the child pornography depicts an actual minor.

F. Civil Remedies.

1. In general. Any person aggrieved by reason of the conduct prohibited under subsection A or section §337 (Obscene Visual Representations), may commence a civil action for the relief set forth in paragraph 2.
2. Relief. In any action commenced in accordance with paragraph 1, the court may award appropriate relief, including
 - a. temporary, preliminary, or permanent injunctive relief;
 - b. compensatory and punitive damages; and
 - c. the costs of the civil action and reasonable fees for attorneys and expert witnesses.

G. Child Exploitation Enterprises.

1. Whoever engages in a child exploitation enterprise shall be guilty of a felony.
2. A person engages in a child exploitation enterprise for the purposes of this section if the person violates §319 (Sex trafficking), §315 (kidnapping) if the victim is a minor, or §320 (aggravated sex abuse)(involving a minor victim), §330 (Sexual Exploitation), or §339 (Transportation of a minor), as a part of a series of felony violations constituting three or

more separate incidents and involving more than one victim, and commits those offenses in concert with three or more other persons.

§334. Engaging in the business of selling or transferring obscene matter.

- A. Whoever is engaged in the business of producing with intent to distribute or sell, or selling or transferring obscene matter, who knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, shall be guilty of a felony.
- B. As used in this section, the term “engaged in the business” means that the person who produces, sells or transfers or offers to sell or transfer obscene matter devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the production, selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or more such publications and articles, shall create a rebuttable presumption that the person so offering them is “engaged in the business” as defined in this subsection.

§335. Misleading domain names on the Internet.

- A. Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a person into viewing material constituting obscenity shall be guilty of a felony.
- B. Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a minor into viewing material that is harmful to minors on the Internet shall be guilty of a felony.
- C. For the purposes of this section, a domain name that includes a word or words to indicate the sexual content of the site, such as “sex” or “porn”, is not misleading.
- D. For the purposes of this section, the term “material that is harmful to minors” means any communication, consisting of nudity, sex, or excretion, that, taken as a whole and with reference to its context
 - 1. predominantly appeals to a prurient interest of minors;

2. is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
 3. lacks serious literary, artistic, political, or scientific value for minors.
- E. For the purposes of subsection D, the term “sex” means acts of masturbation, sexual intercourse, or physical contact with a person’s genitals, or the condition of human male or female genitals when in a state of sexual stimulation or arousal.

§336. Misleading words or digital images on the Internet.

- A. In General. Whoever knowingly embeds words or digital images into the source code of a website with the intent to deceive a person into viewing material constituting obscenity shall be guilty of a felony.
- B. Minors. Whoever knowingly embeds words or digital images into the source code of a website with the intent to deceive a minor into viewing material harmful to minors on the Internet shall be guilty of a felony.
- C. Construction. For the purposes of this section, a word or digital image that clearly indicates the sexual content of the site, such as “sex” or “porn”, is not misleading.
- D. Definitions. As used in this section
1. the terms “material that is harmful to minors” and “sex” have the meaning given such terms in §121; and
 2. the term “source code” means the combination of text and other characters comprising the content, both viewable and non-viewable, of a web page, including any website publishing language, programming language, protocol or functional content, as well as any successor languages or protocols.

§337. Obscene visual representations of the sexual abuse of children.

- A. In general. Any person who knowingly produces, distributes, receives, or possesses with intent to distribute, a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that
1. a. depicts a minor engaging in sexually explicit conduct; and
 - b. is obscene; or

2. a. depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and
b. lacks serious literary, artistic, political, or scientific value;
or attempts or conspires to do so, shall be guilty of a felony.
- B. Additional offenses. Any person who knowingly possesses a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that
1. a. depicts a minor engaging in sexually explicit conduct; and
b. is obscene; or
 2. a. depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and
b. lacks serious literary, artistic, political, or scientific value; or attempts or conspires to do so, shall be guilty of a felony.
- C. Non-required element of offense. It is not a required element of any offense under this section that the minor depicted actually exist.
- D. reserved.
- E. Affirmative defense. It shall be an affirmative defense to a charge of violating subsection B that the defendant
1. possessed less than three such visual depictions; and
 2. promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any such visual depiction
 - a. took reasonable steps to destroy each such visual depiction; or
 - b. reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.
- F. Definitions. For purposes of this section
1. the term “visual depiction” includes undeveloped film and videotape, and data stored on a computer disk or by electronic means which is capable of conversion into a visual image,

and also includes any photograph, film, video, picture, digital image or picture, computer image or picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means;

2. the term “sexually explicit conduct” has the meaning given the term in §113; and
3. the term “graphic”, when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted.

§338. Penalties for registered sex offenders.

Whoever, being required by any law to register as a sex offender, commits an offense involving a minor under this chapter shall be guilty of a felony in addition to the imprisonment imposed for the offense under that provision. The sentence imposed under this section shall be consecutive to any sentence imposed for the offense under that provision.

§339. Transportation of a minor for illegal sexual activity,

- A. Transportation with intent to engage in criminal sexual activity. A person who knowingly transports an individual who has not attained the age of 18 years into Tribes’ jurisdiction, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be guilty of a felony.
- B. Travel with intent to engage in illicit sexual conduct. A person who travels into the Tribes’ jurisdiction for the purpose of engaging in any illicit sexual conduct with another person shall be guilty of a felony.
- C. Attempt and conspiracy. Whoever attempts or conspires to violate subsection A or B, shall be punishable in the same manner as a completed violation of that subsection.
- D. Definition. As used in this section, the term “illicit sexual conduct” means (1) a sexual act with a person under 18 years of age that would be in violation of §320 (Aggravated Sexual Abuse), §321 (Sexual Abuse), §322 (Sexual Abuse of a minor or ward), §323 (Abusive Sexual Contact); or (2) any commercial sex act (as defined in §319E) with a person under 18 years of age.
- E. Defense. In a prosecution under this section based on illicit sexual conduct, it is a defense, which the defendant must establish by a preponderance of the evidence that the defendant reasonably

believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years.

§340. Coercion and enticement.

- A. Whoever knowingly persuades, induces, entices, or coerces any individual to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be guilty of a felony.
- B. Whoever knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be guilty of a felony.

§341. Transportation for criminal sexual activity.

Whoever knowingly transports any individual into Cheyenne and Arapaho Tribal jurisdiction, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be guilty of a felony.

§342. Transmitting information about a minor.

Whoever, using the mail or any facility or communication means, knowingly initiates the transmission of the name, address, telephone number, social security number, or electronic mail address of another individual, knowing that such other individual has not attained the age of 16 years, with the intent to entice, encourage, offer, or solicit any person to engage in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be guilty of a felony.

§343. Forfeitures.

- A. In general. The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of other law that such person shall forfeit to the Cheyenne and Arapaho Tribes:
 - 1. such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and
 - 2. any property, real or personal, constituting or derived from any proceeds that such person obtained, directly or indirectly, as a result of such violation.

B. Property subject to forfeiture.

1. In general. The following shall be subject to forfeiture to the Cheyenne and Arapaho Tribes and no property right shall exist in them:
 - a. Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.
 - b. Any property, real or personal, that constitutes or is derived from proceeds traceable to any violation of this chapter.
2. Applicable law. The provisions of law relating to forfeitures shall apply to any seizure or forfeiture under this subsection.

§344. Causing a Suicide.

- A. It shall be unlawful to intentionally cause a suicide by force, duress, or deception.
- B. Causing a suicide shall be a felony.

§345. Aiding or Soliciting a Suicide.

- A. It shall be unlawful to intentionally aid or solicit another to attempt or commit suicide.
- B. Aiding or soliciting a suicide shall be a felony if the other person suffers serious bodily injury or death. Otherwise aiding or soliciting a suicide shall be a misdemeanor.

SUBCHAPTER FOUR

ARSON, BURGLARY AND RELATED CRIMES

§401. Definitions.

In this subchapter, the following words and phrases shall have the following meanings;

- A. “Breaks” means any act of physical force, however slight, by which obstructions to entering are removed. It also means entry immediately gained through the use of trickery, deceit, fraud or threat.
- B. “Burns” means the slightest ignition which results in any damage.

- C. “Dwelling” means any house, similar structure or motor home, any part of which is the residence of any person.
- D. “Enters” means the insertion of any part of a person’s body into a dwelling, building, similar structure or vehicle. If an inanimate object is used and inserted without any part of the person going into the structure of vehicle, it is an entry only if the inanimate object is capable of completing the Actor’s intended purpose.

§402. Arson.

- A. It is a crime for a person to willfully and maliciously set fire to, or burn, by the use of any explosive device, accelerant, ignition device, heat-producing device or substance, destroy in whole or in part, or cause to be burned or destroyed, or aid, counsel or procure the burning or destruction of;
 - 1. any building, dwelling or structure or contents thereof, whether inhabited or uninhabited and whether occupied or unoccupied;
 - 2. any property whatsoever, including automobiles, trucks, trailers, motorcycles, boats, standing farm crops, pasture lands, forest lands, or any property not herein specifically named, such property being worth more than fifty dollars; or
 - 3. another person.
- B. It shall be a crime for a person, after having started a fire, even though started lawfully, to fail to either take reasonable measures to put out or control the fire, or to give prompt alarm if the fire is spreading in such manner that it may endanger the life or property of another.

Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the value of the property destroyed is less than \$1000 and no serious bodily injury results, and a felony if the value of the property destroyed is more than \$1000 or if serious bodily injury results.

§403. Breaking and Entering.

The crime of breaking and entering occurs when a person breaks and enters a building, structure or vehicle of another person. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§404. Burglary.

- A. The crime of burglary occurs when a person breaks and enters any building, similar structure, or vehicle of another person with the intent to commit a crime. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- B. The crime of aggravated burglary occurs when a person breaks and enters the dwelling of another person with the intent to commit any crime when a human being is present. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§405. Carrying Burglar's Tools.

The crime of carrying burglar's tools occurs when a person knowingly carries upon or about the person the following tools; a channel-lock, a chisel, a pick-lock, a pry bar, a sledgehammer, bolt cutters or other tool capable of achieving the same result; provided, the carrying must occur with the intent to commit a burglary. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§406. Criminal Trespass.

- A. The crime of criminal trespass occurs when a person unlawfully and knowingly crossed the boundary of or remains upon the real property of another person after receiving notice that such crossing or remaining is forbidden by;
 - 1. Actual express communication to the Actor; or
 - 2. Posting in a manner reasonably likely to be noticed and which forbids crossing the boundary.
- B. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.
- C. The crime of criminal trespass of a gaming facility occurs when a person enters a gaming facility or premises after having been banned by the Gaming Commission or the gaming facility's management or it's duly authorized representative or enters in violation of Cheyenne and Arapaho Tribes gaming laws or regulations. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.
- D. On rural lands fenced with barbed wire or other types of fencing normally intended to enclose or exclude domestic animals, signs prohibiting entry or use that are at least six inches by eight

inches placed upon or in plain sight next to such fence not more than one hundred fifty feet apart shall create a rebuttable presumption that reasonable notice against entry or entry for certain purposes had been given.

§407. Illegal Dumping.

The crime of illegal dumping occurs when a person places or discards any waste, debris or other similar substance on a roadway or the real property of another person without the consent of that person. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the quantity of dumped material is under 50 pounds, and a felony if the quantity exceeds 50 pounds.

§408. Forgery and Related Crimes; Definitions.

In this subchapter, the following words and phrases shall have the following meanings;

- A. “Apparent legal significance” means that it seems to be legal. Such an instrument need not create a valid and enforceable obligation. It is sufficient that the instrument could deceive another person.
- B. “Defraud” means to misrepresent the validity of a writing.
- C. “False writing” means one which was false from its inception or which became false through tampering with what was originally genuine. It is not a true and genuine instrument which merely contains false statements. A false writing includes all forms of printing.
- D. “Making” means to create, sign, procure to be signed or to falsify by materially altering, erasing, marking or obliterating.

§409. Forgery.

The crime of forgery occurs when a person makes a false writing which has apparent legal significance and is made with the intent to defraud. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the transaction is worth \$500 or less and a felony if the transaction is worth more than \$500.

§410. Uttering a Forged Instrument.

The crime of uttering a forged instrument occurs when a person offers as genuine a false writing which the Actor knows is false and which is offered with the intent to defraud. Any person convicted

of violating the foregoing provision shall be guilty of a felony when the amount of the check written is equal to or greater than \$500 and shall be guilty of a misdemeanor when the amount of the check written is less than \$500.

§411. Tampering with Identity of Personal Property and Related Crimes;

A. Definitions. In this subchapter, the following words and phrases shall have the following meaning;

1. "Alter" means to counterfeit, cover, deface, destroy, disassemble, disguise, dismantle, erase, falsify, forge, obliterate, reassemble, remove, store or supplant and replace.
2. "Identification mark" means any factory serial or identification number, trademark, a vehicle identification number or any other number or mark placed on personal property by any person for the purpose of identifying such property or its owner.
3. "Vehicle identification number" means a vehicle license plate or any identifying number, serial number, engine number or other distinguishing number or mark placed upon a motor vehicle or part thereof by the manufacturer or used by a state, for the purpose of identifying such motor vehicle or the parts thereof.

B. Tampering with Identity of Personal Property.

The crime of tampering with the identity of personal property occurs when a person alters an identification mark placed upon any personal property or alters the appearance of any personal property with the intent to deprive another person of a lawful interest in that personal property or with the intent to prevent the detection of a crime.

C. Promoting Tampering with Identity of Personal Property.

1. The crime of promoting tampering with the identity of personal property occurs when a person;
 - a. Buys, receives, acquires, sells, gives, pawns, uses or receives as security for a loan, or otherwise disposes of any item of personal property knowing that its identity or any identification mark on it has been altered.; or
 - b. Sells or otherwise transfers any item of personal property to, or transports any item of personal property to or from, any location knowing it to be a place where tampering with the identity of personal property is conducted.

- D. The crime of aggravated promoting tampering with the identity of personal property occurs when a person owns, controls, manages, supervises or otherwise keeps any facility knowing that tampering with the identity of personal property is being conducted.
- E. Punishment. Any person convicted of violating the foregoing provisions shall be guilty of a misdemeanor if the transaction is worth \$500 or less and a felony if the transaction is worth more than \$500.

F. Exceptions to Tampering With Identity of Personal Property.

The following are exceptions to tampering with the identity of personal property;

1. A motor vehicle scrap processor, acting in good faith in the normal and legal course of business, who processes a motor vehicle or a motor vehicle part, provided that no vehicle identification number is removed from the motor vehicle or motor vehicle part to such processing;
2. Any owner or other person resuming lawful possession of a motor vehicle or motor vehicle part or other personal property which has been recovered and returned to such person by law enforcement authorities after having been the subject of a violation of this Section;
3. Any person who violates this Section by engaging in good faith in any act of or in compliance with the laws or regulations of the United States or of any state or territory of the United States; or
4. The placement or any charge of identification marks authorized and made by the original manufacturer in the regular course of business.

§412. Malicious Mischief.

The crime of malicious mischief occurs when a person maliciously damages, defaces or destroys any property of another person.

- A. If value of property is less than \$500.00, then the crime is a misdemeanor.
- B. If value of property is equal to or more than \$500.00, then the crime is a felony.

§413. Theft

- A. Definitions. In this subchapter, the following words and phrases shall have the following meanings:

1. “Appropriate” means;
 - a. In relation to property, to take, obtain, conceal or to bring about a transfer or purported transfer of title or interest;
 - b. In relation to property other than real property, to use in a manner not authorized by the true owner or possessor or to exercise control over the property;
 - c. In relation to property other than real property, to receive, retain or dispose of property which the Actor knows or should know was stolen or otherwise illegally obtained;
 - d. In relation to property that has been lost or mislaid, such property is appropriated if the circumstances give the finder knowledge or reasonable means of inquiry as to the person entitled to have the property and the finder fails to make a reasonable effort to find the person entitled to have the property and restore the property to that person; or
 - e. In relation to services, to secure performance of services, or to use in a manner not authorized by the person entitled to the services, or to use in a manner not authorized by the person providing the services.
2. “Deception” means making a false representation of a past or present fact.
3. “Permanently deprive” means;
 - a. To withhold forever property from the person entitled to have the property or for such a period of time that a major portion of the value or enjoyment of the property is lost to that person;
 - b. To use or dispose of property in a manner that makes recovery of the property unlikely by the person entitled to have the property unlikely by the person entitled to have the property; or
 - c. To accept or use services without giving proper consideration in return and without reasonable justification or excuse for not giving proper consideration.
4. “Property” means any real or personal property of value including the following;
 - a. Property severed from the land;
 - b. Cancellation of a legal obligation;
 - c. Checks, credit cards, debit cards, money or documents;

- d. Animals, birds and fish and which are not free in nature;
 - e. Trade secrets;
 - f. Computer data in any form;
 - g. The rights to record or authorize the recording of any live or broadcast performance not yet fixed in a tangible medium of expression; or
 - h. The master or original of any sound or audiovisual recording or other material now known or later developed on which sounds or images are or can be recorded or otherwise stored.
5. "Services" includes labor, professional assistance, public utilities, telephone services, transportation, food, drink, entertainment, lodging or leased premises, cable television or other similar services.

B. Theft.

The crime of theft occurs when a person appropriates the property or services of another person without the other's consent or with consent obtained through deception. It must be with the intent to permanently deprive the other person of the property or services or in the alternative, with the intent to convert entrusted property to a use not authorized by the other person. Any person convicted of violating the foregoing provision when the value of the property is in excess of \$500 shall be guilty of a felony and shall be guilty of a misdemeanor when the value of the property is \$500 or less.

C. Intent to Permanently Deprive Another Person of Property or Services.

1. For the purposes of Section 416, the following circumstances are prima facie evidence of intent to permanently deprive another person of property or services when payment is made by check or similar order other than post-dated check or similar order;
 - a. When the person issuing the check had no account with the bank or other drawee at the time the check or similar order was issued; or
 - b. When payment is refused by the bank or other drawee for lack of funds, insufficient funds or a closed account, on presentation within 30 days after issue, and the person

issuing the check fails to pay the holder the full amount of the check within 10 days after receiving notice by either the bank, drawee or payee of that refusal.

2. Nothing in this section prevents the establishment of the requisite by direct evidence.

D. Theft of the Tribes' Funds, Program Income or Other Federal Funds.

It is a crime for a person who is an officer, director, agent or employee of, or connected in any capacity with the Cheyenne and Arapaho Tribes, including without limitation all contractors receiving payment from Native American Housing Assistance Self-Determination Act funds, CDBG funds, IHBG funds, Program Income, IHS funds and all other persons that conduct business with the Cheyenne and Arapaho Tribes to embezzle, willfully misapply, steal or obtain by fraud any tribal, IHBG funds, Program Income, or other federal money, funds, assets or property held or administered by the Tribes. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the amount is under \$500 and a felony if the amount is over \$500.

§414. Cutting Down Trees.

A. It is a crime for a person to willfully, maliciously and with intent to do harm unlawfully enter upon the lands of another, cut down, injure, remove or destroy any live tree or trees planted or growing for ornament, shelter, shade or profit in any forest, woods, woodland, town, village, city, avenue, yard, garden, orchard or plantation, or remove or destroy any logs without the permission of the owner or his/her authorized representative. This crime does not include the necessary maintenance of an easement, lawful access by a mineral rights owner, or other lawful actions. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the property is worth less than \$500, and a felony if the property is worth more than \$500.

B. In addition to the punishment prescribed in subsection A of this section, said person shall be liable for up to treble damages for the injury done, said damages to be recovered in a civil action by the owner of the property or the public officer having charge of the property; provided no governmental entity shall be liable for treble damages and no award shall exceed the value of the property. It shall be a defense that the cleared land is more valuable than the tree covered land.

§415. Failure to Return Certain Leased or Rented Property.

It is a crime for a person having any item of personal property in his possession or under his control by virtue of a lease, rental agreement or rental-purchase agreement to willfully and fraudulently fail to return said item of personal property within 10 days after the lease, rental agreement or rental-purchase agreement has expired, or to fraudulently secrete or appropriate said property to any use or purpose not within the due and lawful execution of his/her lease, rental agreement or rental-purchase agreement. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the property is worth less than \$500, and a felony if the property is worth more than \$500.

§416. Defrauding Casinos, Hotels, Inns, Restaurants.

It is a crime for a person to obtain food, lodging, services or other accommodations at any casino, hotel, inn, restaurant, boarding house, rooming house, motel or camping ground, with intent to defraud the owner or keeper thereof or to obtain shelter, lodging or any other services at any apartment house, apartment, rental unit, rental house or trailer camp, with intent to defraud the owner or keeper thereof. Proof that such accommodations were obtained by false pretense or by false fictitious show or pretense of any baggage or other property, or that the Actor gave a check on which payment was refused, or that the Actor left the casino, hotel, inn, restaurant, boarding house, rooming house, motel, apartment house, apartment, rental unit or rental house, trailer camp or camping ground, without payment or offering to pay for such food, lodging, services or other accommodation, or that he surreptitiously removed or attempted to remove his baggage, or that he registered under a fictitious name, shall be prima facie proof of the intent to defraud mentioned in this section; but this act shall not apply where there has been an agreement in writing for the delay in payment. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the property is worth less than \$500, and a felony if the property is worth more than \$500.

§417. False making or embossing of credit or debit card.

It is a crime for a person, with intent to defraud (1) a purported issuer, (2) a person or organization providing money, goods, services or anything else of value; or (3) any other person, to falsely make or falsely emboss a purported credit card or debit card or utter such a credit card or debit card.

- A. A person, other than the purported issuer, who possesses any credit card or debit card which is falsely made or falsely embossed is presumed to have violated this section.
- B. A person “falsely makes” a credit card or debit card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit card or debit card of a named issuer but which is not such a credit card or debit card because the issuer did not authorize the making or drawing, or when he alters a credit card or debit card which was validly issued.
- C. A person “falsely embosses” a credit card or debit card when, without the authorization of the named issuer, he completes a credit card or debit card by adding any of the matter, other than the signature of the cardholder, which an issuer required to appear on the credit card or debit card before it can be used by a cardholder. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§418. Signing of Card; Possession of Signed or Unsigned Card.

- A. It is a crime for a person other than the cardholder or a person authorized by him/her to, with intent to defraud (1) the issuer, (2) a person or organization providing money, goods, services or anything else of value, or (3) any other person, sign a credit card or debit card. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the amount involved is less than \$500, and a felony if the amount involved is more than \$500.
- B. It is a crime for a person, other than the cardholder or a person authorized by him/her, to possess any credit card or debit card which is signed or not signed. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if only one card is possessed, and a felony if more than one card is possessed.

§419. Forged or Revoked Card.

It is a crime for a person to, with intent to defraud (1) the issuer; (2) a person or organization providing money, goods, services or anything else of value; or (3) any other person, use for the

purposes of obtaining money, goods, services or anything else of value, a credit card or debit card unlawfully obtained or retained, or a credit card or debit card which the Actor knows is forged or revoked, or to obtain money, goods, services or anything of value representing, without the consent of the cardholder, that the Actor is the holder of a specified card or to represent that the Actor is the holder of a card and such card has in fact not been issued. Knowledge of revocation shall be presumed to have been received by a cardholder 14 days after it has been mailed to him/her at the address set forth on the credit card application or at his/her last-known address by mail. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§420. Poisoning Animals.

It is a crime for a person to willfully administer poison to any animal which is the property of another, or to maliciously expose any poisonous substance with intent that the same shall be taken by any such animal. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§421. Cruelty to Animals.

- A. It is a crime for a person to willfully or maliciously overdrive, overload, torture, kill, cruelly beat, injure, maim or mutilate, any animal, whether wild or tame, and whether belonging to himself/herself or to another, or deprive any such animal of necessary food, drink or shelter; or who shall cause, procure or permit any such animal to be over driven, overloaded, tortured, killed or cruelly beaten, injured, maimed or mutilated or deprived necessary food, drink or shelter; or to willfully instigate, engage in, or in any way further any act of cruelty to any animal, or any act tending to produce such cruelty;
- B. Any officer finding an animal so mistreated or abused shall cause the same to be properly cared for, and the necessary and proper expenses shall be a lien upon such animal and the real or personal property of the person so convicted, to be collected thereon as upon a pledge or lien.
- C. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the conviction is a first offense, only one animal is involved, the animal is capable of making a full recovery, and the person convicted pays all necessary rehabilitation expense. If the conviction is a second offense, or one or more animals suffer permanent injury or death, or if

the necessary veterinary expenses are not paid before sentencing, then the crime shall be a felony.

§422. Instigate Fight Between Animals/Keeping Place for Fighting Animals.

- A. It is a crime for a person to maliciously, or for any bet, stake or reward, instigate or encourage any fight between animals or instigate or encourage any animal to attack, bite, wound or worry another. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- B. It is a crime for a person to keep any house, pit or other place to be used in permitting any fight between animals or in any other violation of subparagraph four of this Chapter. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if there are less than 10 animals involved, and a felony if there are 10 or more animals involved.
- C. Forfeiture. Upon a conviction, plea of guilty or plea of nolo contendere for a felony crime under this subsection, all animals, equipment, and property used in violation of this act shall be forfeited to the Tribes. Upon a conviction, plea of guilty or plea of nolo contendere for a misdemeanor crime under this subsection, all animals, and equipment used in violation of this section shall be forfeited to the Tribes.

§423. Cockfighting.

- A. Definitions.
 - 1. “Cockfight” or “cockfighting” is a fight between birds, whether or not fitted with spurs, knives or gaffs and whether or not bets or wagers are made on the outcome of the fight and includes any training fight in which birds are intended or encouraged to attack or fight with one another.
 - 2. “Equipment used for training or handling a fighting bird” includes, but is not limited to, knives or gaffs, cages, pens, feeding apparatuses, training pens and other related devices and equipment.
- B. Criminal Offenses. It shall be unlawful to:
 - 1. willfully instigate or encourage any cockfight;
 - 2. keep a pit or other place for the purpose of cockfighting;
 - 3. knowingly provide any equipment or facility to be used for cockfighting;

4. further or facilitate any cockfight, including such activities as promotion, refereeing, advertising or serving as a stakes holder of any money wagered;
 5. own, possess, keep or train any bird with the intent that such bird shall be engaged in a cockfight. It shall be presumed that the possession of only male birds or the possession of predominately male birds is possession with the intent to engage in cockfighting;
 6. be present as a spectator at any place building or other site where preparations are being made for cockfighting with the intent to be present at a cockfight.
- C. Punishment. Any person convicted of violating paragraph B 1-5 shall be guilty of a felony. Any person convicted of violating paragraph B 6 shall be guilty of a misdemeanor.
- D. Forfeiture. Upon a conviction, plea of guilty or plea of nolo contendere for a crime under this section, all birds, knives, gaffs or other equipment used in violation of this law shall be forfeited to the Tribes.
- E. Hunting. Nothing in this section shall prohibit the lawful hunting of birds or fowl or the agricultural production of fowl for human consumption.

§424. Receiving Stolen Property; Presumption.

- A. It is a crime for a person to buy or receive in any manner, upon any consideration, any personal property of any value that has been stolen, embezzled, obtained by false pretense or robbery, knowing or having reasonable cause to believe the same to have been stolen, embezzled, obtained by false pretense or robbery, or to conceal, withhold or aid in concealing or withholding such property from the owner. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the property is worth less than \$500, and a felony if the property is worth more than \$500.
- B. Any person who, without making reasonable inquiry, buys, receives, conceals, withholds or aids in concealing or withholding any property which has been stolen, embezzled, obtained by false pretense or robbery, or otherwise criminally obtained, under such circumstances as should cause such person to make reasonable inquiry to ascertain that the person from whom such property was bought or received has the legal right to sell or deliver it shall be presumed to have bought or received such property knowing it to have been so stolen or wrongfully obtained.

This presumption may, however, be rebutted by proof. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the property is worth less than \$1000, and a felony if the property is worth more than \$1000.

§425. Larceny of Domestic Animals.

It is a crime for a person to steal any horse, jackass, jennet, mule, cow, hog, sheep, goat, dog or cat. The word “horse” as used herein shall include all animals of the equine species and the word “cow” shall include all animals of the bovine species. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if one animal is stolen, and a felony if more than one animal is stolen or if the conviction is a second offense.

§426. Tapping Pipeline.

It is a crime for a person to unlawfully make or cause to be made any connection with or any way tap or cause to be tapped, or drill or cause to be drilled a hole in any pipe or pipeline or tank laid or used for the conduct or storage of crude oil, naphtha, gas or casing head gas or any of the manufactured or natural products thereof, with intent to deprive the owner thereof of any of said crude oil, naphtha, gas, casing head gas or any of the manufactured or natural products thereof. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the property is worth less than \$500, and a felony if the property is worth more than \$500.

§427. Chattels Encumbered by Mortgage, Conditional Sales Contract or Security Agreement; Removal or Destruction.

- A. It is a crime for a person, who is also a mortgagor or conditional sales contract vendee or pledgor or debtor or a legal representative under a security agreement of personal property to, while such mortgage, security agreement or conditional sales contract remains in force and unsatisfied, conceal, sell, or in any manner dispose of such property, or any part thereof, or remove such property, or any part thereof, or materially injure or willfully destroy such property, or any part thereof, without the written consent of the holder of such mortgage or conditional sales contract, secured party or pledgee under a security agreement;
- B. provided, that the writing containing the consent of the holder of the mortgage of conditional sales contract, secured party or pledgee under a security agreement, as before specified, shall

be the only competent evidence of such consent, unless it appears that such writing has been lost or destroyed.

- C. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the property is worth less than \$500, and a felony if the property is worth more than \$500.

§428. Trafficking in Communication Theft Devices.

The crime of trafficking in communication theft devices occurs when a person knowingly manufactures or possesses with the intent to sell any device or equipment designed to be used to commit theft of telecommunication services, or adapts any device or equipment with the intent that it be used to commit theft of telecommunication services. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the property is worth less than \$500, and a felony if the property is worth more than \$500.

§429. Unauthorized Use of Vehicle or Boat.

- A. The crime of unauthorized use of a vehicle, boat, or trailer occurs when a person appropriates the vehicle, boat, or trailer of another person without the other's consent and with the intent to deprive the other person of the vehicle or boat, either temporarily or otherwise.
- B. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the property is worth less than \$1000, and is returned within 24 hours, and a felony if the property is worth \$1000 or more, or the property is not returned within 24 hours.

§430. Extortion.

- A. The crime of extortion occurs when a person appropriates the property or services of another person by consent obtained through coercion with the intent to permanently deprive the other person of the property or services. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- B. Coercion in this Section means threatening to:
1. Cause bodily harm to any person,
 2. Commit any offense,
 3. Unlawfully injure or destroy any property,

4. Expose any personal information or secret not public knowledge tending to expose any person to hatred, contempt, or ridicule, or to impair his business or reputation, except by institution of legal proceedings to recover debt demanded or proper reports to bona fide credit agencies, or
5. Unlawfully take or withhold official action.

§431. Unlawful Removal of Dead Body or Damage to Casket or Burial Vault.

- A. It is a crime for a person to intentionally remove the dead body of a human being or any part thereof from the initial site where such dead body is located for any purpose, unless such removal is duly authorized (i.e. by the Prosecutor, Assistant Prosecutor, his or her authorized representative, or by a state or county medical examiner, his or her authorized representative). The Prosecutor having jurisdiction may refuse to prosecute a violation of the subsection if the Prosecutor determines that circumstances existed which would justify such removal or that such removal was not an act of malice or wantonness. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- B. It is a crime for a person to remove any part of the dead body of a human being from any grave or other place where the same had been buried, or from any place where the same is deposited while awaiting burial, with intent to sell the same or to dissect it without authority of law, or with malice of wantonness. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- C. It is a crime for a person to willfully or with malicious intent to violate or cause damage to the casket or burial vault holding deceased human remains. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§432. Unlawful Interference with Place of Burial.

It is a crime for a person to open any grave or any place of burial, temporary or otherwise, or to break upon any building wherein a dead body of a human being is deposited while awaiting burial, with intent either to remove the dead body of a human being for the purpose of selling the same or for the purpose of dissecting or stealing the coffin, or any part thereof, anything attached thereto or

connected therewith, or the vestments or other articles buried with the same. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§433. Unauthorized Use of the Seal of the Cheyenne and Arapaho Tribes.

It shall be unlawful for any person or entity majority-owned or controlled by persons to use the Seal of the Cheyenne and Arapaho Tribes or any pattern, imitation or presentment thereof, either by printing the Seal on or attaching or affixing it to any advertisement, product or device, for the purpose of personal or private gain or profit or as a trademark, service mark or label without having first received permission of the Cheyenne and Arapaho Tribes by way of a duly adopted law or tribal resolution. This section shall not apply to the non-commercial use of said Seal by any agency of the Cheyenne and Arapaho Tribes. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the value of the use is less than \$250, and a felony if the value of the use is more than \$250.

§434. Tax Evasion.

It shall be unlawful for any person to willfully, intentionally and knowingly solicit sales or engage in the business of selling goods or time for which they are required to collect sales tax on behalf of the Cheyenne and Arapaho Tribes and failing to collect and remit said sales tax to the Cheyenne and Arapaho Tribes. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the tax is less than \$500, and a felony if the tax is more than \$500.

§435. Misuse of Tribal Vendor's Sales License.

It shall be unlawful for any person to willfully and intentionally display a false or expired Vendor's Sales License. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

SUBCHAPTER FIVE

CONTROLLED DANGEROUS SUBSTANCES

§501. Dangerous Substances

A. **Definitions** - In this subchapter the following words and phrases shall have the following meanings:

1. “Administer” means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient, animal or the research subject by a Practitioner, or by the patient, the research subject, or another person in the presence and at the direction of the practitioner.
2. “Agent” means a law enforcement official or peace officer ,who acts on behalf of a tribal, federal or state agency assisting in enforcement of tribal, state or federal laws. It also means an authorized person who acts on behalf or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers, or uses for scientific purposes controlled dangerous substances. It does not include a common or contract carrier, public warehouseman or employee thereof, or any person required to register pursuant to applicable tribal, state or federal law regarding dangerous substance violations.
3. “Coca leaves” includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine or ecgonine.
4. “Control” means to add, remove or change the placement of a drug, substance or immediate precursor as defined by this subchapter.
5. “Controlled dangerous substance” means any drug, substance or its immediate precursor named in Schedules I through V in this subchapter.
6. “Controlled dangerous substance analogue” means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled dangerous substance classified in Schedule I or Schedule II, in which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater

than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled dangerous substance; classified in Schedule I or Schedule II; or with respect to a particular person, which such person represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled dangerous substance classified in Schedule I or Schedule II. Controlled dangerous substance analogue does not include a controlled dangerous substance, any substance for which there is an approved new drug application, with respect to a particular person, any substance if an exemption is in effect for investigational use for that person under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §355, to the extent conduct with respect to such substance is pursuant to such exemption, or any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance. A controlled dangerous substance analogue shall to the extent intended for human consumption be treated for purposes of this subchapter as a controlled dangerous substance classified in Schedule I.

7. “Counterfeit substance” means a controlled dangerous substance or the container or labeling of which without authorization bears the trademark, trade name or other identifying marks, imprint, number or device or any likeness thereof, of a manufacturer, distributor or dispenser other than that of the actual manufacturer, distributor or dispenser thereof.
8. “Cultivate” means to sow, tend, grow, raise or harvest plants in any location.
9. “Deliver” or “delivery” means the actual or constructive transfer from one person to another, whether or not an agency relationship exists.
10. “Dispense” means to deliver a controlled dangerous substance to an ultimate user, patient or research subject by or pursuant to the lawful order of a medical practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.
11. “Dispenser” means a Practitioner who dispenses.

12. “Distribute” means to deliver a controlled dangerous substance other than by administering or dispensing.
13. “Drug” means:
- a. Substances recognized in the official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
 - b. Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;
 - c. Substances other than food intended to affect the structure or any function of the human body or other animals; or
 - d. Substances intended for use as a component of any substance specified above. It does not include devices or their components, parts or accessories.
14. “Drug dependent person” means a person who is using a controlled dangerous substance on a continuous basis and as a result of its continuous use is in a state of physic or physical dependence or both. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its physic effects or to avoid the discomfort of its absence.
15. “Drug Enforcement Administration” means the Drug Enforcement Administration of the United State Department of Justice or any successor agency.
16. “Drug paraphernalia” means all equipment, products and material of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance. It includes, but is not limited to.
- a. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived;

- b. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substance;
- c. Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled dangerous substance;
- d. Testing equipment used or intended for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substance;
- e. Scales and balances used or intended for use in weighing or measuring controlled dangerous substance;
- f. Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose used or intended for use in cutting controlled dangerous substance;
- g. Separation gins and sifters used or intended for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
- h. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled dangerous substances;
- i. Capsules, balloons, envelopes, plastic bags and any other containers used or intended for use in packaging small quantities of controlled dangerous substances;
- j. Container and other objects used or intended for use in parenterally injecting controlled dangerous substances into the human body;
- k. Hypodermic syringes, needles and other objects used or intended for used in parentally injected controlled dangerous substances into the human body;
- l. Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls, water pipes, arburetion tubes and devices, smoking and carburetion masks, roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand, miniature cocaine spoons and cocaine vials, chamber pipes, carburetor pipes, electric pipes, air-driven pipes, chillums, bongs, ice pipes or chillers.

17. "Hazardous materials" means substances, whether solid, liquid or gas, which are toxic to human, animal aquatic or plant life, and the disposal of which is controlled by applicable tribal, federal or state regulation.
18. "Illegal plant" means any species of plant from which a controlled dangerous substance classified in Schedule I or Schedule II may be derived.
19. "Immediate precursor" means a substance that is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used, in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail or limit such manufacture.
20. "Isomer" means the optical isomer, unless otherwise expressly including the positional or geometric isomer.
21. "Laboratory" means a state or tribally approved facility as proper to be entrusted with the custody of controlled dangerous substances and the use of controlled dangerous substances for scientific and medical purposes and for purposes of instruction.
22. "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled dangerous substance, either directly or indirectly, by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis, including any packaging, repackaging of the substance or labeling or re-labeling of its container. Manufacture does not include preparing, compounding, packaging or labeling of a controlled dangerous substance by a Practitioner, or an authorized person under a Practitioner's supervision, which is incident to the course of each Practitioner's professional practice or for the purpose of, or incident to, research, teaching or chemical analysis and not for sale.
23. "Marijuana" means all parts of the plant Cannabis Sativa, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture sale derivative, mixture or preparation of

such mature stalks (except the resin extracted there from), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination. The substance “Cannabis Sativa L.” includes all forms, varieties and species of the plant genus, “Cannabis”.

24. “Medical purpose” means an intention to utilize a controlled dangerous substance for physical or mental treatment, diagnosis or for the prevention of a disease condition, not in violation of any tribal, state or federal law and not for the purpose of satisfying physiological dependence or other abuse.
25. “Narcotic drug” means any of the following, whether produced directly or Indirectly, by extraction from substances of vegetable origin, independently by means of chemical synthesis or by combination of extraction and chemical synthesis;
 - a. Opium, coca leaves and opiates;
 - b. A compound, manufacture, salt, derivative or preparation of opium, coca leaves, or opiates;
 - c. Cocaine, its salts, optical and geometric isomers and salts of isomers;
 - d. Cocaine base;
 - e. Ecgonine, its derivatives, their salts, isomers and salts of isomers; or
 - f. A substance, and any compound, manufacture, salt, derivative or preparation thereof which is chemically identical with any of the substances referred to in subparagraphs 1 through 5 of this section, except the words “Narcotic drug” as used in this Title shall not include decocainized coca leaves or extracts if coca leaves which extracts do not contain cocaine or ecgonine.
26. “Nitrite” means butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, amyl nitrite, isopropyl nitrite, isopentyl nitrite or mixtures containing any of the preceding substances or any of their esters, isomers or analogues, or any other similar compound.
27. “Opiate” means any substance having an addiction forming or addiction sustaining liability similar to morphine or being capable of conversion into a drug having such addiction forming or addiction sustaining liability. It does not include the dextrorotatory isomer of 3-

methoxy-n-methyl morphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

28. “Opium poppy” means the plant of the species *Papaver Somniferum*, except its seeds.

29. “Poppy straw” means all parts except the seeds of the opium poppy after mowing;

30. “Possession” means;

- a. Actual physical control of, or
- b. Knowledge of the presence of a substance or an article together with the intent to control its use or disposition.

31. “Practitioner” means”

- a. A physician, dentist, podiatrist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to deliver, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in a State or tribe; or
- b. A pharmacy, hospital, laboratory or other institution licensed, registered or otherwise permitted to deliver, dispense, conduct research with respect to, use for scientific purposes, or administer a controlled dangerous substance in the course of a professional practice or research in a State or tribe.

32. “Production” includes the manufacture, planting, cultivation, growing or harvesting of a controlled dangerous substance.

33. “Registrant” means a person who has a current registration from the State Bureau pursuant to applicable state law.

34. “State” means the State of Oklahoma or any other State of the United States. The following terms are also used herein with regard to Oklahoma entities and officials involved in dangerous substances enforcement outside of Indian Country;

35. “State Board” means the Advisory Board to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, or any successor agency;

36. “State Bureau” means the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or its successor agency;

37. "State Commission" means the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission;
38. "State Director" means the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.
39. "Tetrahydrocannabinol" means any substance which has been chemically synthesized to emulate the tetrahydrocannabinol of marijuana.
40. "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for such person's own use or the use of a member of such person's household or for administration to an animal owned by such person or be a member of such person's household.
41. "Use" means to employ, hire, persuade, induce, entice or coerce a person to violate or assist in avoiding detection or apprehension for a violation of this subchapter.
42. "Youth center" means any recreational facility or gymnasium intended primarily for use by children which regularly provides athletic, civic or cultural activities.

B. Terms not defined herein shall be as defined in other law or common use.

§502. Schedule I Characteristics.

Schedule I includes substances with the following characteristics:

- A. High potential for abuse; and
- B. No accepted medical used in the United State or lacks accepted safety for use in treatment under medical supervision.

§503. Schedule I.

The controlled substances listed in this section are considered Schedule I.

- A. Any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, unless specifically excepted, when the existence of theses isomers, esters, ethers, and salts is possible within the specific chemical designation;
 1. Acetylmethadol;
 2. Allylprodine;
 3. Alphacetylmethadol;

4. Alphameprodine;
5. Alphamethadol;
6. Benzethidine;
7. Betacetylmethadol;
8. Betameprodine;
9. Betamethadol;
10. Betaprodine;
11. Clonitazene;
12. Dextromoramide;
13. Dextrorphan (except its methyl ether);
14. Diampromide;
15. Diethylthisambutene;
16. Dimenoxadol
17. Dimepheptanol;
18. Dimethylthiambutene;
19. Dioxaphetyl butyrate;
20. Dipipanone;
21. Ethylmethylthiambutene;
22. Etonitazene;
23. Etoxidine;
24. Furethidine;
25. Flunitrazepam;
26. Hydroxypethidine;
27. Ketobemidone;
28. Levomoramide;
29. Levophenacymorphan;
30. Morpheridine;
31. Moracymethadol;

32. Norlevorphanol;
33. Normethadone;
34. Norpipanone;
35. Phenadoxone;
36. Phenampromide;
37. Phenomorphan;
38. Phenoperidine;
39. Piritramide;
40. Proheptazine;
41. Ppproperidine;
42. Racemoramide; and
43. Trimeperidine

B. Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically expected, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation;

1. Acetorphine;
2. Acetyldihydrocodeine;
3. Benzylmorphine;
4. Codeine Methylbromide;
5. Codeine-N-Oxide;
6. Cyprenorphine;
7. Desomorphine;
8. Dihydromorphine;
9. Etorphine;
10. Heroin;
11. Hydromorphanol;
12. Methyl-desorphine;
13. Methylhydromorphine;

14. Morphine Methylbromide;
15. Morphine Methylsulfonate;
16. Morphine-N-Oxide;
17. Myrophione;
18. Nicocodeine;
19. Nicomorphine;
20. Normorphine;
21. Phoclodine; and
22. Thebacon.

C. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation;

1. Methcathinone;
2. 3, 4-Methylenedioxy amphetamine;
3. 3, 4-Methylenedioxy methamphetamine;
4. 5-Methoxy-3, 4-Methylenedioxy Amphetamine;
5. 3, 4, 5-Trimethoxy Amphetamine;
6. Bufotenine;
7. Diethyltryptamine;
8. Dimethyltryptamine;
9. 4-Methyl-2, 5-Dimethoxyamphetamine;
10. Ibogaine;
11. Lysergic Acid Diethylamide;
12. Marijuana;
13. Mescaline, except as allowed by the Constitution;
14. N-Ethyl-3-Piperidyl Benzilate;
15. N-Methyl-3-Piperidyl Benzilate;

16. Psilocybin;
 17. Psilocin;
 18. 2, 5 Dimethoxyamphetamine;
 19. 4 Bromo-2, 5-Dimethoxyamphetamine;
 20. 4 Methoxyamphetamine;
 21. Cyclohexamine;
 22. Thiophene Analog of Phencyclidine. Also known as; 1-(1-(2-Thienyl) Cyclohexyl) Piperidine; 2-Thienyl Analog of Phencyclidine; TPCP, TCP;
 23. Phencyclidine (PCP); and
 24. Pyrrolidine Analog for Phencyclidine. Also known as 1-(1-Phencyclohexyl)BPyrrolidine, PCPy, PHP.
- D. Unless specifically excepted or unless listed in a different schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having stimulant or depressant effect on the central nervous system;
1. Fenethylamine;
 2. Mephedrone;
 3. N-ethylamphetamine;
 4. Methamphetamine;
 5. Gamma-hydroxybutyrate (GHB); and
 6. Gamma-Butyrolactone (GBL) as packaged, marketed, manufactured or promoted for human consumption.
- E. The following industrial uses of Gamma-Butyrolactone are excluded from all schedules of controlled substance under this title;
1. Pesticides;
 2. Photochemical etching;
 3. Electrolytes of small batteries or capacitors;
 4. Viscosity modifiers in polyurethane;
 5. Surface etching of metal coated plastics

6. Organic paint disbursements for water soluble inks;
7. pH regulators in the dyeing of wool and polyamide fibers;
8. Foundry chemistry as a catalyst during curing; and
9. Curing agents in many coating systems based on urethanes and amides.

§504. Schedule II Characteristics.

Schedule II includes substances with the following characteristics;

- A. High potential for abuse;
- B. Currently accepted medical use in the United States, or currently accepted medical use with severe restrictions; and
- C. The abuse of the substance may lead to severe psychological or physical dependence.

§505. Schedule II.

The controlled substances listed in this section are considered Schedule II;

- A. Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis;
 1. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 2. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph 1 of this subsection, but not including the isoquinoline alkaloids of opium;
 3. Opium poppy and poppy straw; and
 4. Coca leaves except coca leaves and extracts of coca leaves from which cocaine, ecgonine and derivatives of ecgonine of their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers and salts of isomers; or any compound, mixture or preparation which contains any quantity of any of the substances referred to in this paragraph.

- B. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.
1. Alphaprodine;
 2. Anileridine;
 3. Bezitramide;
 4. Dihydrocodeine;
 5. Diphenoxylate;
 6. Fentanyl;
 7. Isomethadone;
 8. Levomethorphan;
 9. Levorphanol;
 10. Metazocine;
 11. Methadone;
 12. Methadone- Intermediate, 4-Cyano-2-Dimethylamino-4, 4-Diphenyl Butane;
 13. Moramide- Intermediate, 2-Methyl-3-Morpholine-1, 1-Diphenyl-Propane-Carboxylic Acid;
 14. Pethidine. Meperidine;
 15. Pethidine- Intermediate- A, 4-Cyano-1-Methyl-4-Phenylpiperidine;
 16. Pethidine- Intermediate- B, Ethyl-4-Phenylpiperidine-4-Carboxylate;
 17. Pethidine- Intermediate- C, 1-Methyl-4-Phenylpiperidine-4-Carboxylic Acid;
 18. Phenazocine;
 19. Piminodine;
 20. Racemethorphan;
 21. Racemorphan;
 22. Etorphine Hydrochloride salt only;
 23. Alfentanil Hydrochloride; and
 24. Levo-Alphacetylmethadol.

- C. Any substance which contains any quantity of:
 - 1. Methamphetamine, including its salts, isomers and salts of isomers; and
 - 2. Amphetamine, its salts, optical isomers and salts of its optical isomer.
- D. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having stimulant or depressant effect on the central nervous system;
 - 1. Phenmetazine and its salts;
 - 2. Methylphenidate;
 - 3. Amobarbital;
 - 4. Pentobarbital;
 - 5. Secobarbital; and
 - 6. Tetrahydrocannabinols.

§506. Schedule III Characteristics.

Schedule III includes substances with the following characteristics;

- A. A potential for abuse less than the substances listed in Schedules I and II;
- B. Currently accepted medical use in treatment in the United States; and
- C. Abuse may lead to moderate or low physical dependence or high psychological dependence.

§507. Schedule III Substances.

The controlled substances listed in this section are considered Schedule III;

- A. Unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances or any other substance having a potential for abuse associated with a stimulant or depressant effect on the central nervous system;
 - 1. Any substance which contains any quantity of a derivative or barbituric acid, or any salt of a derivative of barbituric acid unless specifically excepted or unless listed in another schedule;
 - 2. Chlorhexadol;
 - 3. Glutethimide;
 - 4. Lysergic Acid;

5. Lysergic Acid Amide;
6. Methyprylon;
7. Sulfondiethylmethane;
8. Sulfonethylmethane;
9. Sulfonmethane;
10. Benzphetamine and its salts;
11. Chlorphentermine and its salts;
12. Clortermine;
13. Mazindol;
14. Phendimetrazine;
15. Phenylacetone (P2P);
16. 1-Phenylcyclohexylamine;
17. 1-Piperidinocyclohexanecarbo Nitrile (PCC);
18. Ketamine, its salts, isomer and salts of isomers;
19. Any material, compound, mixture, or preparation which contains any quantity of the following hormonal substances or steroids, including their salts, isomers, esters and salts of isomers and esters, when the existence of these salts, isomers, esters, and salts its isomers and esters is possible within the specific chemical designation;
 - a. Boldenone;
 - b. Chlorotestosterone;
 - c. Clostebol;
 - d. Dehydrochlormethyltestosterone;
 - e. Dihydrotestosterone;
 - f. Drostanolone;
 - g. Ethylestrenol;
 - h. Fluoxymesterone;
 - i. Formebolone;
 - j. Mesterolone;

- k. Methandienone;
- l. Methandranone;
- m. Methandriol;
- n. Methandrostenolone;
- o. Methenolone;
- p. Methyltestosterone, except as provided in subsection E of this section;
- q. Mibolerone;
- r. Nandrolone;
- s. Norethandrolone;
- t. Oxandrolone;
- u. Oxymesterone;
- v. Oxymetholone;
- w. Stanolone;
- x. Stanozolol;
- y. Testolactone;
- z. Testosterone, except as provided in subsection E of this section, and
- aa. Trenbolone. Livestock implants as regulated by the Federal Food and Drug Administration shall be exempt.

B. Nalorphine.

C. Unless listed in another Schedule, any material, compound, mixture or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof;

1. Not more than 1.8 grams of Codeine or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an Isoquinoline Alkaloid of Opium;
2. Not more than 1.8 grams of Codeine or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

3. Not more than 300 milligrams of Dihydrocodeine or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an Isoquinoline Alkaloid of Opium;
 4. Not more than 300 milligrams of Dihydrocodeine or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;
 5. Not more than 1.8 grams of Dihydrocodeine or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;
 6. Not more than 300 milligrams of Ethyl Morphine or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients therapeutic amounts;
 7. Not more than 500 milligrams of Opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;
 8. Not more than 50 milligrams of Morphine or any of its salts, per 100 milliliters or per 100 grams, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
- D. A compound, mixture or preparation containing any stimulant or depressant substance listed in subsections A and B of this section may be excepted from the application of all or any part of this Code if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixture are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.
- E. The following hormonal substances or steroids are exempt from classification as Schedule III controlled dangerous substances;
1. Estratest, containing 1.25 mg esterified estrogens and 2.5 mg Methyltestosterone;
 2. Estratest HS, containing 0.625 mg esterified estrogens and 1.25 mg Methyltestosterone;

3. Preparing with Methyltestosterone, containing 1.25 mg conjugated estrogens and 10.0 mg Methyltestosterone;
4. Preparing with Methyltestosterone, containing 0.625 mg conjugated estrogens and 5.0 mg Methyltestosterone;
5. Testosterone CiliolateBEstropdiol Cypionate injection, containing 50 mg/ml Testosterone Cypionate; and
6. Testosterone EnanthateBEstradiol Valerate injection, containing 90 mg/ml Testosterone Enanthate and 4 mg/ml Estadiol Valerate.

§508. Schedule IV Characteristics.

Schedule IV includes substances with the following characteristics;

- A. Low potential for abuse relative to substances listed in Schedule III;
- B. Currently accepted medical use in treatment in the United States; and
- C. Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances listed in Schedule III.

§509. Schedule IV Substances.

The controlled substances listed in this section are considered Schedule IV.

- A. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential or abuse associated with a stimulant or depressant effect on the central nervous system;
 1. Chloral betaine;
 2. Chloral hydrate;
 3. Ethchlorvynol;
 4. Ethinamate;
 5. Meprobamate;
 6. Paraldehyde;
 7. Petrichloral;
 8. Diethylpropion;
 9. Phentermine;

10. Pemoline;
11. Chlordiazepoxide;
12. Chlordiazepoxide and its salts, but not including Chlordiazepoxide Hydrochloride and Clidinium Bromide or Chlordiazepoxide and water-soluble esterified estrogens;
13. Diazepam;
14. Oxazepam;
15. Clorazepate;
16. Flurazepam and its salts;
17. Clonazepam;
18. Barbitol;
19. Mebutamate;
20. Methohexital;
21. Methylphenobarbital;
22. Phenobarbital;
23. Fenfluramine;
24. Pentazocine;
25. Dextropropoxyphene;
26. Butorphanol;
27. Alprazolam;
28. Halazepam;
29. Lorazepam;
30. Prazepam;
31. Temazepam;
32. Triazolam;
33. Carisoprodol;
34. Ephedrine, its, salts, optical isomers and salts of optical isomers as the only active ingredient, or in combination with other active ingredients; or
35. Dichloralphenazone.

B. The following non-narcotic substances, which may, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C., Section 301), be lawfully sold over the counter without a prescription, are excluded from all schedules of controlled substances under this title;

1. Breathe-Aid;
2. BronCare;
3. Bronchial Congestion;
4. Bronkaid Tablets;
5. Bronkaid Dual Action Caplets;
6. Bronkolixir;
7. Bronkotabs;
8. NeoRespin;
9. Pazo Hemorrhoid Ointment and Suppositories;
10. Primatene Tablets;
11. Primatene "Dual Action" Formula;
12. Quelidrine;
13. Resp, and
14. Vatronal Nose Drops.

C. A compound, mixture, or preparation containing any depressant substance listed in subsection A of this section may be excepted from the application of all or any part of this sub-chapter, if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

§510. Schedule V Characteristics.

Schedule V includes substances with the following characteristics;

- A. Low potential for abuse relative to the controlled substances listed in Schedule IV;
- B. Currently accepted medical use in treatment in the United States; and

C. Limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

§511. Schedule V.

The controlled substances listed in this section are considered Schedule V;

- A. Any compound, mixture or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone;
- B. Not more than 200 milligrams of Codeine, or any of its salts, per 100 milliliters or per 100 grams;
- C. Not more than 100 milligrams of Dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;
- D. Not more than 100 milligrams of Ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;
- E. Not more than 2.5 milligrams of Diphenoxylate, and not less than 25 micrograms of Atropine Sulfate per dosage unit; and
- F. Not more than 100 milligrams of Opium per 100 milliliters or per 100 grams.

§512. Possession of Controlled Dangerous Substances.

The crime of possession of controlled dangerous substances occurs when a person knowingly possesses any substance listed in Schedule I, II, III, IV or V. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§513. Trafficking in Controlled Dangerous Substances.

- A. The crime of trafficking in controlled dangerous substances occurs when a person knowingly;
 - 1. Manufactures a controlled dangerous substance;
 - 2. Distributes a controlled dangerous substance; or
 - 3. Possesses a controlled dangerous substance with the intent to manufacture or distribute a controlled dangerous substance;

B. It shall be presumed that a person in possession of the following quantities of controlled dangerous substances or marijuana are trafficking;

- | | |
|-------------------------------------|-------------------------|
| 1. Marijuana | 25 lbs or more |
| 2. Cocaine or coca leaves | 28 lbs or more |
| 3. Heroin | 10 g or more |
| 4. Amphetamine or Methamphetamine | 20 g or more |
| 5. Lysergic Acid Diethylamide (LSD) | 50 dosage units or more |
| 6. Phencyclidine (PCP) | 1 oz or more |
| 7. Cocaine base | 5 g or more |

C. Any person convicted of trafficking in controlled dangerous substances shall be guilty of a felony and shall not be subject to statutory provisions for deferred judgments.

§514. Trafficking in Counterfeit Substances.

The crime of trafficking counterfeit substances occurs when a person knowingly;

- A. Manufactures a counterfeit substance;
- B. Distributes a counterfeit substance; or
- C. Possesses a controlled dangerous substance with the intent to manufacture or distribute any counterfeit substance;

Any person convicted of violating the foregoing provision shall be guilty of a felony.

§515. Trafficking in Imitation Controlled Dangerous Substances.

- A. The crime of trafficking in imitation controlled dangerous substances occurs when a person knowingly delivers or possesses with the intent to deliver, a non-controlled substance;
 - 1. Representing it to be a controlled dangerous substance;
 - 2. With the intent that it be used or distributed as a controlled dangerous substance; or
 - 3. Under circumstances in which the person knows or should know that the non-controlled substance will be used or distributed or distributed.
- B. This section shall not apply to any person authorized by subchapter five or by the Food and Drug Administration of the United States Department of Health and Human Services to do any of the acts otherwise prohibited by this section.

C. It is not a defense to this section that the accused believed the imitation controlled substance to be to a controlled dangerous substance.

D. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§516. Trafficking in Controlled Dangerous Substances by Distributing to or Using a Child.

A. The crime of trafficking in controlled dangerous substances by distributing to or using a child occurs when a person knowingly;

1. Distributes a controlled dangerous substance to a person whom the actor knows or should know is a child; or
2. Uses a person whom the Actor knows or should know is a child to:
 - a. Manufacture a controlled dangerous substance
 - b. Distribute a controlled dangerous substance; or
 - c. Possess a controlled dangerous substance with the intent to manufacture or distribute a controlled dangerous substance.

B. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§517. Possessing or Trafficking in Drug Paraphernalia.

A. The crime of possessing or trafficking in drug paraphernalia occurs when a person knowingly;

1. Uses tincture of Opium, tincture of Opium Camphorated or any derivatives thereof by the hypodermic method, with or without a medical prescription therefore;
2. Uses or possesses with the intent to use drug paraphernalia to cultivate, manufacture, store, conceal or introduce in any manner into the human body a controlled dangerous substance; or
3. Possesses, delivers or manufactures drug paraphernalia with knowledge that it will be used to cultivate, manufacture, store, conceal or introduce in any manner into the human body a controlled dangerous substance.

B. This section shall not apply to any person whose conduct is authorized by subchapter five.

C. In determining whether an object is drug paraphernalia, as defined in sub chapter five, the Court shall consider in addition to all other relevant evidence the following;

1. Statements by an owner or by anyone in control of the object concerning its use;

2. The proximity of the object, in time and space, to a violation of subchapter five;
3. The proximity of the object to controlled dangerous substances;
4. The existence of any residue of controlled dangerous substances on the object;
5. Direct or circumstantial evidence of the intent of any owner or of anyone in control of the object to deliver it to persons intended to use the object to facilitate a violation of subchapter five. The innocence of an owner or of anyone in control of the subject, as to violations of subchapter five shall not prevent a finding that the object is drug paraphernalia.
6. Instructions, oral or written, provided with the object which either state directly or imply that the object is to be used for the consumption of controlled dangerous substances;
7. Descriptive materials accompanying the object which explain or depict its use as an object for the consumption of controlled dangerous substances;
8. The manner in which the object is displayed for sale;
9. Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
10. Direct or circumstantial evidence of the rate of sales of the object or objects to the total sales of the business enterprise;
11. The existence and scope of legitimate use for the object in the community; and
12. Expert testimony concerning its use.

Any person convicted of violating the foregoing provision shall be guilty of a felony.

§518. Unlawful Use of Proceeds or Illegal Investments.

- A. The crime of unlawful use of proceeds or illegal investments occurs when
- B. a person knowingly;
 1. Gives, receives, obtains, conceals, transports or engages in any transaction with, or transfer of proceeds known to be derived from a violation of subchapter five;
 2. Gives, sells, transfers, trades, invests, conceals, transports or maintains an interest in or otherwise makes available anything of value which that person knows is intended to be used for the purpose of committing or furthering the commission of any violation of subchapter five;

3. Directs, plans, organizes, initiates, finances, manages, supervises or facilitates the transportation or transfer of proceeds known to be derived from any violation of subchapter five; or
 4. Conducts a financial transaction involving proceeds derived from a violation of subchapter five, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the proceeds known to be derived from a violation of subchapter five or to avoid a transaction reporting requirement under applicable tribal, federal or state law. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- C. This section does not apply to any transaction between a person and the counsel of the person necessary to preserve any right of representation of the person which may be guaranteed by the Constitution of the Cheyenne and Arapaho Tribes or the Federal Indian Civil Rights Act. The exception does not create any presumption against or prohibition of the right of the Tribes to seek and obtain forfeiture of any proceeds derived from a violation of this code.

§519. Cultivation of Illegal Plants.

The crime of cultivation of illegal plants occurs when a person knowingly;

- A. Cultivates or produces an illegal plant;
- B. Permits the cultivation or production of an illegal plant on or use in any property owned or controlled by that person; or
- C. Fails to notify a law enforcement official of the known existence of or fails to destroy any known illegal plant growing, by human effort or wildily, on or in any property owned or controlled by that person.

Any person convicted of violating the foregoing provision shall be guilty of a felony.

§520. Trafficking in Nitrites or Ethylchloride.

- A. The crime of trafficking in Nitrites or Ethylchloride occurs when a person knowingly possesses buys, sells or otherwise transfers any compound, liquid or chemical containing Ethylchloride or Nitrite, or mixtures containing any Nitrite, with the intent to induce or aid any other person to inhale or ingest such substance.

- B. This section shall not apply to persons;
1. Possessing and using a Nitrite as part of the care or treatment by a state licensed physician of disease, condition, or injury, or pursuant to a prescription of a State licensed physician;
or
 2. Possessing a Nitrite as part of a known manufacturing process or industrial operation when the possessor has obtained a permit from the State Department of Health.
- C. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§521. Solicitation to Violate Controlled Dangerous Substances Laws.

The crime of solicitation to violate controlled dangerous substances laws occurs when a person with the intent to cause a violation of subchapter five urges, requests or commands another person to violate subchapter five. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§522. Facilitating Trafficking in Controlled Dangerous Substances.

The crime of facilitating trafficking in controlled dangerous substances occurs when a person knowingly keeps, maintains, manages, controls, rents, leases or makes available for use any store, shop, warehouse, dwelling, building, vehicle, vessel, aircraft, room, enclosure or any other structure or place which such person knows is resorted to for the purpose of distributing, unlawfully possessing or manufacturing, or up-keeping or transporting for distribution any controlled dangerous substance. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§523. Possession/Sale or Manufacture of Precursor Substances.

- A. It shall be a crime for a person, individually or through their business, to possess, sell, manufacture, transfer or otherwise furnish any of the following precursor substances without first having a permit or license issued by the Tribes or State Director.
1. D-Lysergic Acid;
 2. Ergotamine and its salts;
 3. Ergo ovine and its salts;
 4. Methylamine;

5. Ethylamine;
 6. Phenyl-2-Propanone;
 7. Phenylacetic acid and its salts;
 8. Ephedrine, its salts, optical isomers and salts of optical isomers;
 9. Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers;
 10. Phenylpropanolamine, its salts, optical isomers and salts of optical isomers;
 11. Benzyl cyanide;
 12. N-metyephedrine, its salts, optical isomers and salts of optical isomers;
 13. Pseudoephedrine, its salts, optical isomers and salts of optical isomers;
 14. Chloroephedrine, its salts, optical isomers and salts of optical isomers;
 15. Piperodine and its salts;
 16. Pyrrolidine and its salts;
 17. Propionic anhydride;
 18. Isosafrole;
 19. Pirperonal; and
 20. Red Phosphorus.
- B. This law shall not apply to the sale or transfer of a non-narcotic product that includes a precursor substance defined above, if the product may be sold lawfully with a prescription or over the counter without a prescription pursuant to the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§301 et seq., or a rule adopted pursuant thereto. Furthermore, this law shall not apply to common carriers in the transaction of business.
- C. It shall be unlawful for any person to knowingly sell, transfer, distribute, or dispense any product containing Ephedrine, Pseudoephedrine or Phenylpropanolamine, or their salts, isomers or salts of isomers if the person knows that the purchaser will use the product as a precursor to manufacture Methamphetamine or another controlled illegal substance or if the person sells, transfers, distributes or dispenses the product with reckless disregard as to how the product will be used. Any person convicted of violating the foregoing provision shall be guilty of a felony;

- D. Any person who sells, transfers, distributes, dispenses or in any manner furnishes any product containing Pseudoephedrine or Phenylpropanolamine, or their salts, isomers or salts of isomers in a negligent manner, with knowledge or reason to know that the product will be used as a precursor to manufacture Methamphetamine or any other illegal controlled substance, or with reckless disregard as to how the product will be used, shall be liable for all damages, whether directly or indirectly caused by the sale, transfer, distribution, dispensation, or furnishing.
1. Such damages may include, but are not limited to, any and all costs of detecting, investigating, and cleaning up or remediating clandestine or other unlawfully operated or maintained laboratories where controlled dangerous substances are manufactured, any and all costs of prosecuting criminal cases arising from such manufacture, and any and all consequential and punitive damages otherwise allowed by law.
 2. A civil action to recover damages against persons, corporations or other entities violating this subsection may be brought only by the Attorney General. Any funds recovered from such an action shall be used for payment or reimbursement of costs arising from investigating or prosecuting criminal or civil cases involving the manufacture of controlled dangerous substances, for drug education programs, or for payment or reimbursement of remediating contaminated methamphetamine laboratory sites.
- E. Any person who offers, solicits, attempts, endeavors, or conspires to commit any offense defined in the Uniform Controlled Dangerous Substances Act, Sections §501 *et seq.* of this Title shall be subject to the penalty prescribed for the offense, the commission of which was the object of the offer, solicitation, attempt, endeavor or conspiracy.

SUBCHAPTER SIX

CRIMES AGAINST PUBLIC SAFETY

§601. Definitions.

In this subchapter the following words and phrases shall have the following meanings;

- A. "Hazardous waste" shall mean waste whether solid, liquid or gas which is toxic to human, animal, aquatic or plant life, and the disposal of which is controlled by tribal, or federal statute or regulation.
- B. "Health care professional" means a physician, resident, intern, physician's assistant or registered nurse.
- C. "Incapacitated person" means a person who by reason of mental illness, mental deficiency, or intoxication is disabled to such an extent that the person is incapable of making a rational decision.
- D. "Mind altering condition" means a change, distortion or disturbance of a person's senses, emotions, thought processes, judgment, balance, mobility, or coordination.
- E. "Substance" means gasoline, glue, fingernail polish, adhesive cement, mucilage, dope, paint dispensed from pressurized containers or any other substance or combination of substances containing solvents releasing toxic vapors. It does not include alcoholic beverages or any substance consumed pursuant to the lawful direction of prescription of a physician as defined by state law.
- F. "Waste" means at least 28 gallons or 220 pounds, whether liquid or solid, of discarded material and by-products, including trash, refuse, garbage, biomedical waste, sewage, ash, sludge, deleterious substances, oil field wastes, commercial and industrial waste and chemical waste.

§602. Unlawful Disposal of Hazardous Waste.

The crime of unlawful disposal of hazardous waste occurs when a person without a lawful permit or authorization knowingly disposes of hazardous waste;

- A. Into a sanitary sewer system without appropriate pretreatment; or
- B. At a solid waste landfill, transfer station, processing facility or at any site without a permit for hazardous waste.
- C. Any person convicted of violating the foregoing provisions shall be guilty of a felony.

§603. Exposing Others to Concealed Hazardous Waste.

The crime of exposing others to concealed hazardous waste occurs when a person exposes another person to hazardous waste by knowingly;

- A. Concealing the unlawful disposal of hazardous waste;
- B. Concealing the fact that hazardous waste is being transported; or
- C. Misrepresenting the type of hazardous waste that is being transported.

Any person convicted of violating the foregoing provision shall be guilty of a felony.

§604. Exceptions to Waste Crimes.

Exceptions to waste crimes are as follows;

- A. The discharge of household domestic sewage into a sanitary sewer system or into an individual sewer disposal system that has been approved by a federal or tribal agency;
- B. The placement of household domestic trash, refuse or garbage in a collection system used for solid waste disposal;
- C. The disposal of one's personal household or farm wastes on one's own property;
- D. The discharge of domestic sewage and waste from business or industry into a sanitary sewer system or into a publicly or privately owned industrial treatment works in compliance with a permit or specific authorization from a governmental agency;
- E. The placement of trash, refuse and garbage, other than hazardous waste, from business or industry in a collection system for solid waste disposal; and
- F. The recycling of waste, other than hazardous waste, by resource, separating scrap material for collection and processing as industrial raw materials.

§605. Consuming a Mind-Altering Common Substance.

The crime of consuming a mind-altering common substance occurs when a person inhales or ingests any substance containing ketones, aldehydes, organic acetones, ether, chlorinated hydrocarbon, or metallic powders, knowing that the substance contains an intoxicant. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor on the first conviction and a felony on the second conviction.

§606. Selling a Mind-Altering Common Substance to an Intoxicated Person.

The crime of selling a mind-altering common substance to an intoxicated person occurs when a person, knowing that another person is intoxicated, sells or otherwise provides to that person any substance containing ketones, aldehydes, organic acetones, ether, chlorinated hydrocarbon or

metallic powders, knowing that the substance contains an intoxicant. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§607. Furnishing Alcoholic Beverage to Youth or Incapacitated Person.

The crime of furnishing alcoholic beverage to a youth or incapacitated person occurs when a person sells or otherwise provides a beverage containing greater than ½ of 1% of alcohol by weight to a person who the Actor knows or should know is under 21 years of age or is incapacitated. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the person receiving is the age 18 or over, or incapacitated, and shall be a felony if the person receiving is under the age of 18. A second offense, violation on more than one occasion, or furnishing alcoholic beverage to more than one person shall be a felony.

§608. Possession of Alcohol on Cheyenne and Arapaho Tribes Properties or Ceremonial Grounds.

It is a crime for a person to possess beer or alcohol on property owned by the Cheyenne and Arapaho Tribes; property held in trust by the United States for the benefit of the Cheyenne and Arapaho Tribes; or on Cheyenne and Arapaho Tribes ceremonial grounds, unless the sale of alcohol on the property has been approved pursuant to a license granted by the Cheyenne and Arapaho Tribes. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§609. Sale of Liquor and/or beer.

- A. It shall be unlawful for a person to sell or offer to sell liquor and/or beer to any other person, unless said sale or offer is authorized under separate laws of the Tribes.
- B. For purposes of this section, the term “liquor” shall mean the four varieties of liquor, commonly referred to as alcohol, spirits, wine and beer in excess of 5% of alcohol, and all fermented, spirituous, vinous or malt liquors or any other intoxicating liquid, solid, semi-solid or other substance patented or not, containing alcohol, spirits, wine or beer, in excess of 5% of alcohol and is intended for oral consumption.
- C. For purposes of this section, the term “beer” shall mean any beverage containing more than 3.2% alcohol by weight and obtained by the alcoholic fermentation of an infusion or decoction or pure hops, pure extract of barley or other grain, malt, sugar or similar product.

- D. Provided, however, nothing in this section shall be construed to authorize the sale of liquor or beer within Indian Country, unless said sale or offer is authorized under separate laws of the Tribes.
- E. Every person convicted of violating this section shall be guilty of a misdemeanor if the sale involved less than 1 liter and was made to a person over the age of 21, and a felony if the sale involved more than 1 liter or was made to a person under the age of 21.

§610. Smoking Where Prohibited.

The crime of smoking where prohibited occurs when a person knowingly possesses a lit tobacco product in any of the following public places in which are posted with one or more “No Smoking” signs in sufficient quantity to be visible from all sections of the no smoking area and intentionally refuses to extinguish it upon request by any person: public elevator, indoor theater, courtroom, health care facility, educational facility or in the offices of the Cheyenne and Arapaho Tribes and its agencies. Any person convicted of violating the forgoing provision shall be guilty of a misdemeanor on the first and second offense and a felony for any third or further convictions.

§611. Sale or Delivery of Tobacco Products to a Child.

- A. It shall be unlawful for a person to sell, deliver or otherwise furnish any tobacco product to a child, or to purchase in any manner any tobacco product on behalf of any such child.
- B. It shall be unlawful for any person engaged in the sale or distribution of tobacco of any tobacco products to sell or deliver tobacco products to any person without first demanding and verifying that the person attempting to purchase tobacco is at least 18 years of age if such person reasonably appears to be 25 years of age or younger. Verification of the person’s age may be done by any government issued photograph identification card.
- C. Every person convicted of violating any of the provisions of this section shall be guilty of a misdemeanor and shall be subject to the following penalties:
 - 1. Upon the first conviction, a fine of not more than \$500
 - 2. Upon the second conviction, a fine of not more than one thousand dollars and up to 10 days in jail.

§612. Sale of Tobacco Products by a Child.

It shall be unlawful for any person who is an owner, manager or other supervisory employee of any smoke shop or business where tobacco products are sold to allow any child to sell or deliver tobacco products in or from such shop or business to any person. Every person convicted of violating this section shall be guilty of a misdemeanor.

§613. Prostitution.

It shall be unlawful for any person to engage in, solicit for or make any arrangements, plans or dealings for any act of sexual intercourse with another person who is not then said person's spouse, or have any other lewd or sexual contact with such person, in exchange for money or anything of value. Every person convicted of violating this section shall be guilty of a misdemeanor.

§614. Failure to Report Criminally Injurious Conduct.

The crime of failure to report criminally injurious conduct occurs when a person who is a health care professional, examines, attends or treats a person who the health care professional knows or should know has suffered a gunshot wound or serious bodily injury from a weapon and fails to promptly report the fact of such wound or injury to a law enforcement official. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§615. Disorderly Conduct.

A. Definitions. In this subchapter the following words and phrases shall have the following meanings;

1. "Excessive noise" means an unreasonably loud or harsh sound to the extent that it would be offensive to a person of common sensibilities.
2. "Obstruct" means to block, impede or hinder. The obstruction must be physical.
3. "Official order" means one issued by an identified law enforcement official, firefighter, other official or paramedic.
4. "Security guard" means a person engaged for hire to protect persons or property. It does not include a law enforcement official while in the performance of official duties.

B. Disorderly Conduct. The crime of disorderly conduct occurs when a person unlawfully causes reasonable public inconvenience or alarm by:

1. Being obviously intoxicated from the consumption of alcohol or other drugs;
 2. Continuing to make excessive noise after having been warned to stop such by a law enforcement official, security guard or other person in authority at that location;
 3. Engaging in fighting;
 4. Refusing to obey a lawful official order to disperse issued to maintain public safety; or
 5. Improperly obstructing vehicular traffic or continuing to improperly obstruct pedestrian traffic after having been warned by a law enforcement official to stop such conduct.
- C. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if a first offense and no property or bodily harm is caused, and shall be guilty of a felony on any second offense or if property or bodily harm is caused.

§616. Peeping Tom.

- A. A person who shall peep secretly into any place occupied by another person shall be guilty of a misdemeanor.
- B. Unless covered by another provision of law providing greater punishment, any person who secretly or surreptitiously peeps underneath or through the clothing being worn by another person, through the use of a mirror or other device, for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent shall be guilty of a misdemeanor.
- C. A person shall be guilty of a felony if conviction pursuant to this section occurs after conviction for substantially this crime or any other sex crime, in any jurisdiction.

§617. Terroristic Threats.

- A. It is a crime for a person to make a false report of a crime, fire, bomb threat or other catastrophe to the appropriate public authority or threaten to commit any crime of violence with the purpose to:
1. Terrorize another;
 2. Cause evacuation of a building, place of assembly or facility of public transportation; or
 3. Otherwise cause serious public inconvenience with reckless disregard of the risk of causing such terror or inconvenience.

B. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§618. Riot.

The crime of riot occurs when a person, acting in conjunction with five or more other persons together unlawfully use force or violence or threaten to unlawfully use force or violence if accompanied by immediate power of execution. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§619. Weapons Crimes; Definitions.

In this subchapter the following words and phrases shall have the following meanings;

- A. “Automatic firearm” means any firearm designed or specifically adapted to fire a succession of cartridges with a single function of the trigger.
- B. “Chemical dispensing device” means a mechanism or tool that is designed, made or adapted for the purpose of causing an adverse physiological effect on a human being. It does not include a pocket sized chemical dispenser such as is sold commercially for personal protection.
- C. “Explosive device” means an explosive, incendiary, poison gas bomb or similar device designed or adapted for the purpose of inflicting death, serious physical injury or substantial property damage.
- D. “Firearm” means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant and includes an unloaded firearm and any firearm which is inoperable but which can be readily made operable.
- E. “Illegal knife” means any;
 - 1. Hand instrument that has a blade that folds, closes or retracts into the handle or sheath and that;
 - a. Opens automatically by pressure applied to a button or other device located on the handle;
 - b. Opens or releases a blade from the handle or sheath by the force of gravity or by the application of centrifugal force;
 - c. Has a blade which is greater than five inches in length; or
 - 2. Hand instrument with a detachable blade that is propelled by a spring operated mechanism.

- F. “Knuckles” means any instrument that consists of finger rings or guards made of a hard substance that is designed or adapted for the purpose of inflicting serious bodily injury or death.
- G. “Prohibited weapon” means any automatic firearm, chemical dispensing device, explosive device, restricted bullet, sawed-off firearm, silencer, spring gun or any other similar weapon which is not adapted for hunting, fishing or other lawful purpose.
- H. “Projectile weapon” means any bow, crossbow, pellet gun, slingshot or other weapon that is not a firearm that is capable of expelling or propelling a projectile that could inflict serious bodily injury or death.
- I. “Public gathering” means where people are assembled in any courtroom, the Tribal office, or school. It also means where people are assembled for public worship, entertainment, athletic events, educational or scientific purposes, cultural , employment or a political convention or other similar event. It does not include events where people are assembled for lawful hunting, shooting or displaying weapons; provided the weapon is appropriate for the hunt, shooting or display of weapons.
- J. “Restricted bullet” means a round or elongated missile with a core of less than 60% lead and having a fluorocarbon coating, which is designed to travel at a high velocity and is capable of penetrating a vest or shirt of 10 piles or more of bullet resistant material, as defined by the United States Department of Justice.
- K. “Sawed off firearm” means a shotgun with a barrel or barrels less than 18 inches long or a rifle with a barrel or barrels less than 16 inches long. The firearm must be less than 26 inches in overall length.
- L. “School Property” means any real property used by any private or public school, childcare or Headstart Program and any school bus or other means of transporting students owned or operated by or for any private school or public school, childcare or Headstart Program.
- M. “Secured”, as it related to firearms, means;
 - 1. That no round of ammunition if present in the chamber and that the firearm is:
 - a. Closed in the trunk or non-passenger part of the vehicle;
 - b. Placed in a closed and locked container;

- c. Rendered inoperative by the use of a trigger, hammer, cylinder, slide or barrel locking device that renders the firearm incapable of firing until the device is unlocked and removed; or
- d. So disassembled or disabled as to be rendered incapable of firing.

2. An unloaded shotgun or rifle in plain view.

N. “Silencer” means any device designed or adapted to substantially reduce

O. the noise made by firing any firearm.

P. “Spring gun” means any fused, timed or non-manually controlled trap or

Q. device or adapted to set off an explosion for the purpose of inflicting serious bodily injury or death.

§620. Carrying Concealed Weapon.

It shall be unlawful for any person to carry and conceal on or about his person any firearm, pistol, rifle or other deadly weapon whether loaded or unloaded. Provided, that this section will not be applicable to law enforcement officers and security guards duly authorized or certified to carry arms or persons issued a valid Concealed Weapons Permit or licensed by another Indian Tribe, State or the Federal Government in accordance with other applicable law. Provided, nothing in this section shall authorize a carrier of a Concealed Weapons Permit or license to carry weapons into gaming establishments. Provided further, nothing in this section shall prohibit the carrying of firearms for the lawful purpose of hunting game in areas designated for such purpose in accordance with the hunting and fishing laws of the Cheyenne and Arapaho Tribes; provided the carrier is not a prohibited person under §623 of this Title. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor on the first conviction and a felony for any additional convictions pursuant to §620, §621, §622, §623, §624, or §625.

§621. Carrying Weapons in or about Buildings Located on Tribal Lands.

It shall be unlawful for any person to carry on or about his person any firearm, pistol, rifle or other deadly weapon whether loaded or unloaded within any building or within one-quarter mile of any building located on lands owned by or held in trust by the United States for the benefit of the Cheyenne and Arapaho Tribes or within any public building or store located on lands subject

to federal restrictions against alienation. Provided, that this section will not be applicable to law enforcement officers and security guards duly authorized or certified to carry arms and persons issued a valid Concealed Weapons Permit or license by another Indian Tribe, State or the Federal government. Provided, nothing in this section shall authorize a carrier of a Concealed Weapons Permit or license to carry weapons into gaming establishments. Provided further, nothing in this section shall prohibit the carrying of firearms for the lawful purpose of hunting game in areas designated for such purpose in accordance with the hunting and fishing laws of the Cheyenne and Arapaho Tribes; provided the carrier is not a prohibited person under §623 of this Title. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor on the first conviction and a felony for any additional convictions pursuant to §620, §622, §623, §624, or §625.

§622. Unlawful Control of Illegal Weapon.

The crime of unlawful control of an illegal weapon occurs when a person unlawfully and knowingly possesses, manufactures, transports, repairs or sells any knuckles, illegal knife or prohibited weapon. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§623. Unlawful Possession of Firearm.

The crime of unlawful possession of a firearm occurs when a person unlawfully and knowingly possesses or has within that person's immediate control any firearm and;

- A. The person has been convicted of a felony by a court of competent jurisdiction;
- B. The person has been ordered not to possess firearms by a protective order issued by a court of competent jurisdiction;
- C. The person has been convicted of violation of a protective order or domestic assault and battery by a court of competent jurisdiction;
- D. The person is under adjudication of mental incompetency, has been declared mentally defective or is committed to a mental health facility when the commitment was based on finding of dangerousness to the defendant or others; or
- E. The person has been dishonorably discharged from the armed forces.

Any person convicted of violating the foregoing provision shall be guilty of a felony.

§624. Unlawful Transactions in Firearms.

The crime of unlawful transactions in firearms occurs when a person knowingly sells, gives, lends, trades or otherwise causes the transfer of any firearm to;

- A. Any person prohibited from possessing firearms, in §622 of this Title; or
- B. A child, unless the transferor is the parent, guardian or other person having custody or control of the child.

Any person convicted of violating the foregoing provision shall be guilty of a felony.

§625. Unlawful Transportation of Firearm.

The crime of unlawful transportation of a firearm occurs when a person unlawfully and knowingly carries in any motor vehicle a firearm which is not secured. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor on the first conviction and a felony for any additional convictions pursuant to §620, §621, §622, §623, or §624.

§626. Exceptions to Weapons Crimes.

The following are exceptions to weapons crimes;

- A. In reference to unlawful control of an illegal weapon, displaying any weapon in a museum or public exhibition;
- B. In reference to aggravated unlawful control of an illegal weapon, when dealing with a prohibited weapon solely as a curio, ornament or keepsake; provided it is inoperable; that is, it must be in such non-functioning condition that it cannot readily be made operable;
- C. In reference to unlawful control of an illegal weapon, a person or entity which has a weapons license from the United States Secretary of the Treasury or if the weapon has been designated a collector's item by the United States Secretary of Treasury;
- D. In reference to carrying a dangerous weapon and unlawful transportation of a firearm, any firearm manufactured in 1898 or before and any firearm that uses ammunition that is obsolete or otherwise not readily available;
- E. When dealing with a weapon in a manner reasonably related to the making of a commercial film, or to participation in a rodeo or dramatic performance;

- F. The possession or use of a restricted bullet by a law enforcement agency;
- G. On-duty law enforcement officer, including cross-commissioned officers when carrying their cross-commission card; and
- H. An off-duty, full-time law enforcement officer certified by the Council on Law Enforcement Education and Training (C.L.E.E.T.) pursuant to the requirements of state law or certified by the Indian Police Academy with respect to carrying a weapon certified and approved by the officer's employing agency when the officer is not on active duty. If the off-duty officer is not wearing a law enforcement uniform prescribed by the employing agency, the officer must both;
 - 1. Have in such officer's possession at all times when carrying the weapon the officer's official badge, commission card and C.L.E.E.T. or IPA certification card, and
 - 2. Keep the weapon concealed from view at all times other than when it is being used within the guidelines, rules and regulations by the employing agency.

§627. Federal Law Applicable to Purchase of Weapons.

- A. Residents of Indian Country in the Cheyenne and Arapaho Tribes may purchase rifles, shotguns, ammunition, cartridge and shotgun shell hand loading components and equipment outside the Cheyenne and Arapaho Tribes, provided that such residents conform to the applicable provisions of the federal Gun Control Act of 1968, as amended, and regulations thereunder, as administered by the United States Secretary of the Treasury, and provided further that such residents conform to the provisions of law applicable to such purchase in the Cheyenne and Arapaho Tribes and in the contiguous state in which the purchase is made.
- B. Residents of the State of Oklahoma may purchase rifles, shotguns, ammunition, cartridge, shotgun shell hand loading components and equipment in Indian Country in Cheyenne and Arapaho Tribes provided that such residents conform to the applicable provisions of the federal Gun Control Act of 1968, as amended, and regulations thereunder, as administered by the United States Secretary of the Treasury, and provided further that such resident conform to the provisions of law applicable to such purchase in the Cheyenne and Arapaho Tribes and in the State of Oklahoma.

SUBCHAPTER SEVEN

CRIMES RELATED TO LICENSING, TRIBAL OFFICERS AND PUBLIC RECORDS

§701. Definitions.

In this subchapter, the following words and phrases shall have the following meanings:

- A. “Benefit” means any gain or advantage or anything regarded by the beneficiary as gain or advantage, including gain or advantage to another person or entity in whose welfare the beneficiary is interested. In bribery of a tribal officer, benefit does not include remuneration, wages, salary, reimbursement of expenses or other compensation paid to a tribal official by the government as provided by law governing the tribal official’s compensation, nor does it include a political exchange. In commercial bribery, benefit does not include remuneration, wages, salary, reimbursement of expenses or other compensation paid to an agent, employee or fiduciary by such person’s principal, employer or beneficiary.
- B. “Official Act” means a decision, award of contract, judgment, opinion, report, recommendation, vote or other exercise of discretion of the performance of a legal duty by a tribal official.
- C. “Political exchange” means:
 - 1. Arrangements among legislators for reciprocal support or commitments on matters of public policy, which arrangements do not include any financial gain or advantage to such legislators; or
 - 2. An advantage promised or general commitment made with respect to a public issue by a candidate in the course of seeking votes in an election, which is made generally to a large enough number of people so as to make the promise or commitment essentially a matter of public record.
- D. “Tribal Employee” means any full time, part time, permanent or temporary employee of the Cheyenne and Arapaho Tribes, its agencies, and enterprises.
- E. “Tribal Official” shall mean any individual who has been duly elected or appointed pursuant to the Cheyenne and Arapaho Constitution to exercise governmental authority.

§702. Bribery.

- A. It is a crime for a person, having corrupt or deceitful intent, to give or offer to give any benefit, money, property or other thing of value to a Tribal Official or employee, in exchange for or to induce the performance of any act which is within the scope of or is in any manner related to his official duties or responsibilities. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- B. It is a crime for a Tribal Official, or employee and having corrupt or deceitful intent, to accept or agree to accept any benefit, money, property or other thing of value in exchange for the performance of any act which is within the scope of or is in any manner related to his or her official duties or responsibilities as such an official or employee. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§703. Preventing Performance of Official Acts.

It is a crime for a person who alone or in concert with others, willfully either by force, physical interference, fraud, intimidation, threats of violence or by means of any independently unlawful act, prevents or attempts to prevent any Tribal Official, or employee from performing any official act, function, power or duty imposed upon such individual by law. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§704. Conflict of Interest by Tribal Official.

- A. The crime of conflict of interest by a Tribal Official occurs when a Tribal Official knowingly received any consideration:
 - 1. In exchange for furnishing any personal property or transferring any real property to or for the use of the entity with which the Tribal Official is associated.
 - 2. Beyond the person's approved salary and benefits in exchange for furnishing services or information to or for use of the entity with which the Tribal Official is associated.
- B. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the value of the transaction was less than \$500, and a felony if the value of the transaction was \$500 or greater. The Tribes may also require restitution of illegally transferred funds or the value of property.

§705. Retaliation for Past Official Action.

- A. It shall be unlawful to harm any person by any unlawful act in retaliation for any official act done by another in his or her capacity as a tribal official.
- B. Retaliation for past official action shall be a misdemeanor if the harm is \$500 or less and causes no serious bodily injury, and shall be a felony if the harm is more than \$500 or causes serious bodily injury.

§706. Oppression in Office.

- A. It shall be unlawful when acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity, with knowledge that such conduct is illegal, to:
 - 1. Subject another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien or other infringement of personal or property rights, or
 - 2. Deny or impede another in the exercise or enjoyment of any right, power, or immunity.
- B. Oppression in office shall be a misdemeanor if the harm caused is less than one hour, monetary damage is less than \$500, and no bodily harm is suffered. Oppression in office shall be a felony otherwise.

§707. Misusing Public Money.

- A. It shall be unlawful for a person charged with the receipt, safekeeping, transfer, use, or disbursement of public monies to:
 - 1. Without lawful authority appropriate the money or any portion of it to his or her own use or the use of another,
 - 2. Loan the money or any portion thereof without lawful authority, or
 - 3. Fail to keep the money in his or her possession until lawfully disbursed or paid out according to the law,
 - 4. Deposit the money in an unauthorized bank or with a person not lawfully authorized to receive such,
 - 5. Knowingly keep any false account, or make a false entry or erasure in any account of or relating to the money,
 - 6. Fraudulently alter, falsify, conceal, destroy, or obliterate any such account, or

7. willfully refuses or omits to pay over, on demand, any public money in his hands, upon the presentation of a draft, order, or warrant drawn upon such money by competent authority,
 8. willfully omits to transfer the money when the transfer is required by law, or
 9. willfully omits or refuses to pay over, to any officer or person authorized by law to receive it, any money received by him under any duty imposed by law so to pay over the same.
- B. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the amount involved was less than \$500, and a felony if the amount involved was \$500 or greater.

§708. Crimes Related to Jury Proceedings.

The crime of listening, observing or recording jury proceedings occurs when;

- A. A person, other than a juror in the case under deliberation, knowingly listens to, observes or records by means of any device, the deliberations of voting of any jury. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.
- B. A person who is a juror records jury proceedings, other than by taking notes to assist in the jury's deliberations, with the intent to violate the juror's oath. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§709. Crimes Related to Witnesses.

In this subchapter the following words and phrases shall have the following meanings;

- A. "Persuasion" means to prevail upon another person by means other than bribery, coercion or deception.
- B. "Unlawful harm" means loss, disadvantage or injury which does not constitute a crime but which would be the basis of a civil action.

§710. Tampering with a Witness.

The crime of tampering with a witness occurs when a person knowingly induces a witness through deception or persuasion to give false testimony or information or to withhold unprivileged testimony, information or physical evidence. The tampering must be done with the intent to subvert an official proceeding or investigation. Any person convicted of violating the foregoing provision

shall be guilty of a misdemeanor.

§711. Preventing Witness from Appearing.

The crime of preventing a witness from appearing occurs when a person knowingly prevents a witness from appearing at an official proceeding or investigation, either by obstructing service of process summoning the witness to testify or supply evidence, or by causing the witness to be absent from an official proceeding or investigation to which the witness has been legally summoned. The prevention must be done with the intent to subvert an official proceeding or investigation. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§712. Retaliation Against Witness.

The crime of retaliation against a witness occurs when a person knowingly inflicts unlawful harm upon a witness or upon another person with whom the witness has a family, social, business or other similar relationship and the harm is done with the intent to retaliate for any unlawful act done by a person as a witness. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§713. Suppressing Evidence.

The crime of suppressing evidence occurs when a person maliciously and through fraud, deceit or intimidation prevents any party to an official proceeding from;

- A. Obtaining any article which may be physical evidence in that proceeding. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.
- B. Procuring the attendance or testimony of any witness in that proceeding. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§714. Tampering with Physical Evidence.

The crime of tampering with physical evidence occurs when a person knowingly alters, damages, destroys, conceals, or removes any physical evidence with the intent to impair or prevent its use in an official proceeding or investigation. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§715. Escape.

- A. The crime of escape occurs when a person knowingly;

1. Departs without authorization from official custody. Any person convicted of violating the foregoing provision shall be guilty of a felony.
 2. Fails to return to official custody following a temporary authorized leave. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- B. “Official custody” means arrest, detention in a facility for custody of person charged with or convicted of a crime or alleged or found to be delinquent, or detention while awaiting extradition or deportation or detention for any other law enforcement purpose. It does not include supervision of persons on probation or parole or conditions attached to a suspended sentence or to release pending appearance at proceedings.

§716. Default in Court Appearance.

The crime of default in court appearance occurs when a person intentionally fails to appear or surrender knowing such appearance or surrender is required by the conditions of release from official custody by court order. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§717. Perjury and Related Crimes; Definitions.

In this subchapter the following words and phrases shall have the following meanings;

- A. “Oath” means a promise or affirmation to tell the truth, administered according to law.
- B. “Statement” means any oral or written representation of a fact.

§718. Perjury.

The crime of perjury occurs when a person in an official proceeding or official proceedings knowingly;

- A. Makes a false statement under oath. Any person convicted of violating the foregoing provision shall be guilty of a felony;
- B. Swears to confirm the truth of a previously made false statement. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- C. Makes inconsistent statements under oath when at least one of the statements is false. In a prosecution under this section, the Prosecutor need not allege or prove which of the statements is false, by only that one or the other was known by the Actor to be false. Any person convicted

of violating the foregoing provision shall be guilty of a felony.

§719. False Swearing.

- A. The crime of false swearing occurs when a person in other than an official proceeding:
 - 1. Makes a false statement under oath with the intent to mislead a Tribal Official from performing an official duty.
 - 2. Knowingly makes a false statement under oath when the statement is required by law to be sworn or affirmed before a Notary or other person authorized to administer oaths. Any person convicted of violating the foregoing provision shall be guilty of a felony.
 - 3. Swears to or reaffirms the truth of a false statement previously made with the intent to mislead a Tribal Official in performing an official duty. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- B. Any person convicted of violating the foregoing provisions shall be guilty of a misdemeanor if the financial consequences of the false swearing are \$500 or less and no other harm is caused, and a felony if the financial consequences of the false swearing are over \$500 or other significant harm is caused.

§720. Unsworn Falsification.

- A. The crime of unsworn falsification occurs when a person communicates with a Tribal Official or employee in the performance of the Tribal Official's or employee's official duty by:
 - 1. Making a false statement in writing with the intent to mislead the Tribal Official or employee.
 - 2. Omitting information from a written application for any benefit knowing that such information is necessary to prevent statements therein from being misleading.
 - 3. Making use of any writing or object knowing that it is not authentic or that it is false.
- B. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the value of the transaction is less than \$500, and a felony if the value of the transaction is \$500 or more.

§721. Impersonation of Tribal Official or Employee.

- A. The crime of impersonation of Tribal Official or Employee occurs when a person falsely poses

as a Tribal Official or Employee with the intent to induce another person to submit to such pretended official authority or otherwise to act in reliance on such pretense and;

1. the Actor performs any act in the pretended capacity; or
2. another person acts in reliance upon such pretense.

B. “Falsely poses” means to misrepresent oneself in any manner as Tribal Official or Employee, including wearing or displaying without authority any uniform, badge, insignia, identification card, or any other token by which a Tribal Official or Employee is distinguished.

C. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if impersonating a Tribal employee and a felony if impersonating a Tribal Official.

§722. Obstructing an Officer in the Performance of Duties.

It is a crime for a person with the purpose to hinder the apprehension, prosecution, conviction or punishment of another for a crime, to harbor or conceal the other, provide a weapon, transportation, disguise to other means of escape, warn the other of impending discovery or volunteer false information to a law enforcement officer. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the crime of the other person was a misdemeanor and a felony if the crime of the other person was a felony.

§723. Obstructing Fire Fighting.

The crime of obstructing firefighting occurs when a person engages in any conduct with the intent to prevent or dissuade any person, other than a law enforcement official, fire fighter or other similar official, from extinguishing a fire. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the value of the property destroyed is less than \$500, and a felony if the value of the property destroyed is \$500 or more.

§724. Unlawful Use of Radio Sets Capable of Receiving on Police Frequencies.

It is a crime for a person to operate a mobile radio capable of receiving transmission made by any law enforcement agency for illegal purposes or while in the commission of a crime. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§725. Fraud Crimes; Definitions.

In this subchapter the following words and phrases shall have the following meanings:

- A. “Adulterated” means failing to meet the standard of composition or quality prescribed by statute or set by established commercial usage.
- B. “Health care profession” means any occupation which consists of the diagnosis, cure, treatment of physical disease or injury or mental illness or conditions, as well as any support personnel requiring licensure offering direct patient care.
- C. “License”, in addition to its usual meaning, with respect to hazardous waste, means a registration, manifest or disposal plan approved pursuant to applicable federal law or law of the Cheyenne and Arapaho Tribes, or a permit or authorization from a federal agency or from the Cheyenne and Arapaho Tribes.
- D. “Mislabeled” means failing to meet the standard of truth or disclosure in labeling prescribed by statute or set by established commercial usage.
- E. “Misrepresentation” means a false representation of a past or present fact or omission to provide a past or present fact which the Actor had a duty to provide.
- F. “Practices” means to represent oneself to be a practitioner of an occupation or profession and;
 - 1. To perform any act in that capacity, or
 - 2. To cause another person to act in reliance upon that representation.

§726. Commercial Fraud.

- A. The crime of commercial fraud occurs when a person in the course of business knowingly:
 - 1. Possesses for use a false weight or measure or any other device for falsely determining or recording any quantity or quality.
 - 2. Offers or exposes for sale, less than the represented quantity of commodities or services or other than the represented kind or variety of a commodity;
 - 3. Offers or exposes for sale as an auctioneer any damages property representing that such property is sound;
 - 4. Removes any tag, seal or mark placed pursuant to law, or required to be place by law, on any property without the prior written authorization of the proper authority;
 - 5. Offers or exposes for sale, any adulterated or mislabeled commodity; or
 - 6. Makes a false, misleading or deceptive statement of fact in any advertisement addressed to

the public or to a substantial segment thereof for the purpose of promoting or increasing the sale of property or services.

- B. Any person convicted of violating this section shall be guilty of a misdemeanor if the value of the transaction is less than \$500, and a felony if the value of the transaction is \$500 or more.

§727. Criminal Fraud.

The crime of criminal fraud occurs when a person, under circumstances not constituting theft, knowingly makes a material misrepresentation to another person that either causes that person to suffer financial loss, or which is made with the intent to violate a law of the Cheyenne and Arapaho Tribes. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the value of the transaction is less than \$500, and a felony if the value of the transaction is \$500 or more. If the fraud is made with the intent to violate a law, then the punishment for Criminal Fraud shall be the same as the underlying crime.

§728. Licensure Fraud.

The crime of licensure fraud occurs:

- A. When a person engages in the practice of law and represents himself as an attorney, knowing that he has no tribal licensure or that his tribal licensure has expired. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- B. When a person engages in the practice of medicine and represents himself as a doctor, nurse, or other medical professional, knowing that he has no state license or that his state license has expired, provided that no licensure fraud shall be deemed committed by a person who practices Indian medicine. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- C. When a person knowingly and without a license engages in any activity which requires a license from the Cheyenne and Arapaho Tribes or an agency of the Cheyenne and Arapaho Tribes. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§729. Insurance Fraud.

The crime of insurance fraud occurs when a person destroys or damages any property, by whoever owned, to collect insurance for such loss. Any person convicted of violating the

foregoing provision shall be guilty of a misdemeanor if the value of the transaction is less than \$500, and a felony if the value of the transaction is \$500 or more.

SUBCHAPTER EIGHT

TRAFFIC OFFENSES

§801. Definitions.

(a) The term "motor vehicle" shall mean every device in, upon, or by which any person or property is or may be drawn or transported upon a public road and which device is self-propelled, but not including any vehicle which is an implement of husbandry and is designed principally for agricultural purposes, nor any mechanical device designed or used principally for construction or maintenance purposes excepting trucks.

(b) A "Public Road" shall be defined as the entire width between the boundary lines of every right of way or parking lot within the exterior boundaries of the Tribal jurisdiction that is maintained by any governmental agency, and, when open to the use of the public, is for the purpose of travel or parking by motor vehicles.

§802. Driving While License is Suspended or Revoked.

(a) It shall be unlawful to drive any motor vehicle upon any public road at a time when one's driver's license or permit or other driving privilege has been denied, suspended, canceled or revoked by any State or Indian Tribes, or when one's driving privilege has been suspended by the Tribal Court.

(b) Driving while license is suspended or revoked is punishable by a fine not to exceed \$250.00, or by a term of imprisonment in the Tribal jail not to exceed three months, or by supervision or revocation of one's driver's license, or any combination of the above punishments.

§803. Careless Driving.

(a) It shall be unlawful to operate any motor vehicle upon any public road in a careless or imprudent manner, without due regard for the width, grade, curves, corners, traffic, or existing weather conditions, and the use being made of such road or other attendant circumstances.

(b) Careless driving shall be punishable by a fine not to exceed \$250.00, or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

§804. Reckless Driving.

(a) It shall be unlawful to drive any motor vehicle upon any public road within the Tribal jurisdiction in such a manner as to indicate either a wanton or willful disregard for the safety of persons or property.

(b) Reckless driving shall be punishable by a fine not to exceed \$250.00, or by a term of imprisonment in the Tribal jail not to exceed three months, or by suspension of driving privileges for a period not to exceed one year or any combination of the above punishments.

§805. Driving While Intoxicated.

(a) It shall be unlawful to drive or be in actual physical control of any motor vehicle upon any private or public road within the Tribal jurisdiction while under the influence of intoxicating liquor, or controlled dangerous substances, or any other drugs which impair the ability to control or operate a vehicle.

(b) A person is presumed to be under the influence of intoxicating liquor if there is 0.08% or more of alcohol in the blood by weight, and a person is presumed not to be under the influence if there is less than 0.05% of alcohol in their blood, by weight. Between such percentages, results of tests showing such fact may be received in evidence, with other tests or observations, for consideration by the court or jury. A breath or blood test must be administered with the consent of the subject, by a qualified operator using a properly maintained apparatus in order to be admissible, provided, that if any person refuses to take such test when requested to do so by an Officer having a reasonable suspicion that such person may be intoxicated, the persons driving privileges within the Tribal jurisdiction shall be suspended by the Court for a period of six months whether or not such person is convicted of any offense. Such suspension is mandatory.

(c) Driving under the influence shall be punishable by a fine not to exceed \$500.00, or by a term of imprisonment in the Tribal jail not to exceed six months, or by suspension of driving privileges for a period not to exceed two years or any combination of the above punishments. A second or subsequent conviction under this section, or a violation resulting in serious injury shall be a felony.

§806. Duties of Drivers in Accidents involving Death or Personal Injury.

(a) It shall be unlawful for the driver of any motor vehicle directly involved in an accident resulting in injury to or death of any person or damage to any other moving or attended vehicle to fail to immediately stop his vehicle at the scene of the accident or as close thereto as possible; or fail to return to and remain at the scene of the accident and render such aid and assistance as may be necessary in the circumstances; or fail to give his name, address and the registration number of his motor vehicle and his operator's or chauffeur's license number and security verification information to all other drivers involved in the accident; or to fail to render to any injured person such assistance as may be necessary in the circumstances; or to fail to notify, or have another notify, the Tribal Police of the accident and its location as soon as possible.

(b) Failure to perform the duties of drivers involved in accidents involving deaths or personal injuries shall be punishable by a fine not to exceed \$500.00, or by a term of imprisonment in the Tribal jail not to exceed six months, or by suspension of driving privileges for a period not to exceed one year.

§807. Duty upon Striking Unattended Vehicle.

(a) It shall be unlawful for the driver of any motor vehicle which collides with any unattended vehicle to fail to immediately stop and attempt to locate and notify the operator or owner of such vehicle of both the name and address of the driver and owner of the vehicle striking the unattended vehicle; or to fail to leave securely attended in a place where it may be easily seen in the vehicle struck, a written notice giving the name and address of the driver and the circumstances thereof; or to fail to inform the Tribal Police of the accident and its location as soon as possible.

(b) Failure to perform the duty of a driver upon striking an unattended vehicle shall be punishable by a fine not to exceed \$250.00, or by a term of imprisonment in the Tribal jail not to exceed three months, or by suspension of driving privileges for a period not to exceed one year.

§808. Duty upon Striking Highway Fixtures.

(a) It shall be unlawful for the driver of any motor vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a highway to fail to take reasonable steps as soon as possible to locate and notify the owner or person in charge of such property of such fact, and provide the name, address, phone, of the driver, the insurance company name, address, and phone, and policy number, and the license plate number of the vehicle; or to fail to report such accident to the Tribal police as soon as possible.

(b) Failure to perform the duty of a driver upon striking highway fixtures shall be punishable by a fine not to exceed \$250.00, or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

§809. When Driver Unable to Report.

(a) It shall be unlawful for another occupant in the vehicle at the time of an accident who is capable of making the report, or any part of the report, to fail to do so when the driver of the motor vehicle is physically unable to make a required accident report to the Tribal Police.

(b) Failure to make such a report shall be punishable by a fine not to exceed \$100.00.

§810. Driver's License in Possession.

(a) It shall be unlawful to operate a motor vehicle upon any private or public road within the Tribal jurisdiction without possession of a valid Federal, Tribal, or State operator's license, which must be exhibited upon demand by tribal law enforcement.

(b) Failure to have a driver's license in possession shall be punishable by a fine not to exceed \$100.00

§811. Permitting Unauthorized Person to Drive.

(a) It shall be unlawful to knowingly cause, permit, or take reasonable precautions to prevent, any unauthorized person to operate a motor vehicle upon any public road.

(b) Permitting an unauthorized person to drive shall be punishable by a fine not to exceed \$100.00.

§812. Traffic Control and Signal Devices.

(a) It shall be unlawful to turn a vehicle from a direct course on a public road until such movement can be made with safety, and then only after giving an appropriate signal, either by hand or arm or by a directional signal device.

(b) Failure to properly signal shall be punishable by a fine not to exceed \$100.00.

(c) It shall be unlawful to disobey the lawful command or instruction of any law enforcement officer. Failure to obey a lawful command shall be punishable by a fine not to exceed \$100.00.

§813. Following Too Closely.

(a) It shall be unlawful to follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon the condition of the highway.

(b) Following too closely shall be punishable by a fine not to exceed \$100.00.

§814. Stopping for School Bus.

(a) It shall be unlawful, when meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging passengers, to fail to stop immediately and not proceed again until all passengers are received or discharged and the bus is again in motion.

(b) Failure to stop for a school bus shall be punishable by a fine not to exceed \$100.00.

§815. Entering Public Road from Private Road.

(a) It shall be unlawful for the driver of a motor vehicle about to enter or pass a public road from a private road or driveway to fail to yield the right of way to all vehicles approaching on said public road.

(b) Failure to yield the right of way when entering a public road from a private road shall be punishable by a fine not to exceed \$100.00.

§816. Right of Way at Intersection.

(a) It shall be unlawful for the driver of a motor vehicle approaching an intersection to fail to yield the right of way to any vehicle approaching from the right, unless otherwise directed by sign, traffic light, or a proper official directing traffic.

(b) Failure to yield the right of way at an intersection shall be punishable by a fine not to exceed \$100.00.

§817. Failure to Stop at Stop Sign and Yielding Right of Way.

(a) It shall be unlawful for the driver of a motor vehicle to fail to come to a complete stop at all intersections marked by a stop sign before entering an intersection, unless otherwise directed by an officer directing traffic.

(b) It shall be unlawful for the driver of a motor vehicle approaching an intersection marked by a sign requiring him to yield the right of way to fail to decrease the speed of such vehicle and yield the right of way to any traffic proceeding on the road given the right of way by such sign.

(c) Failure to stop at a stop sign or to yield the right of way shall be punishable by a fine not to exceed \$100.00.

§818. Driving on Right Side.

(a) It shall be unlawful to fail to drive on the right half of the roadway, except when overtaking and passing another vehicle proceeding in the same direction.

(b) Failure to drive on the right side shall be punishable by a fine not to exceed \$100.00.

§819. Passing on-coming Vehicles.

(a) It shall be unlawful for drivers proceeding in opposite directions to fail to pass each other to the right and to give to the other at least half of the main traveled portion of the roadway.

(b) Improper passing of oncoming vehicles shall be punishable by a fine not to exceed \$100.00.

§820. Passing and Turning on Curve or Crest.

(a) It shall be unlawful to pass a vehicle going in the same direction unless the driver can see the road for a sufficient distance ahead to pass safely and such passing can be accomplished safely without colliding with oncoming traffic.

(b) It shall be unlawful for a vehicle to be driven so as to pass or turn in any direction on a curve or crest or on any approach to a crest or on a bridge on any approach to a bridge unless such vehicle can pass or be turned safely and seen by traffic approaching in either direction.

(c) Improper passing or turning on a curve or crest shall be punishable by a fine not to exceed \$100.00.

§821. Unsafe Vehicles.

(a) It shall be unlawful for any person to drive or cause or knowingly permit to be driven on any public road any motor vehicle which is in such unsafe condition so as to endanger any person or is not at all times equipped with the following:

(1) HEADLIGHTS: One on each side of the front of the motor vehicle, said lights to be multi-beam so that the driver can adjust lights from bright to dim, and such lights must be in proper working order at all times so as to be seen by oncoming traffic for a reasonable distance during hours of darkness or other times when light conditions require the use of headlights.

(2) REAR LAMPS: One lighted red lamp on each side of the back of the motor vehicle that will be plainly visible for a reasonable distance to the rear, and such lamp must be in proper working order at all times.

(3) STOP LIGHTS: All motor vehicles shall be equipped with a stop light in good working order at all times, such stop lights to be automatically controlled by brake adjustment.

(4) BRAKES: Every motor vehicle shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle.

(5) HANDBRAKE: Every motor vehicle shall be equipped with a handbrake.

(6) HORN: Every motor vehicle shall be equipped with a horn in good working order.

(7) WINDOWS UNOBSTRUCTED WIPERS: No person shall drive any motor vehicle with any sign or other nontransparent material upon the windshield, side wings, side or rear windows of such vehicle that would obstruct the driver's view, other than a paper or certificate required to be so displayed by law. The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other obstructions from the windshield and must be in proper working order at all times.

(8) LICENSE TAG LIGHT: All motor vehicles shall be equipped with a rear tag light in good working order at all times.

(9) PROOF OF VEHICLE INSPECTION TO BE DISPLAYED: All motor vehicles shall display a valid state motor vehicle inspection decal.

(b) Violation of this section is punishable by a fine not to exceed \$100.00.

§822. Speed Limits.

(a) Speed limits on any public road shall be set by Tribal Resolution, provided that if no Resolution is in effect then the Tribal Police Chief. Speed limits may be posted at such places and at such maximum allowable speeds as deemed necessary by the Chief of the Tribal Police.

(b) In any area of the Tribal jurisdiction where the speed limit is not posted and where no special hazard exists, the following speeds shall be lawful, but any speed in excess of said limits shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

(1) School Zones, grounds, and crossings, designated areas - 20 MPH

(2) Residential areas - 30 MPH

(3) Open roads - 55 MPH

(4) Highways – 70 MPH

It shall be unlawful to exceed the above limits, the limits set by Resolution and posted by authority of the Chief of the Tribal Police, or a speed which is reasonable and proper under the conditions prevailing upon the roadway.

(c) The fact that the speed of a motor vehicle is lower than the foregoing prima facie limits does not relieve the driver from the duty to use due care.

(d) Exceeding the speed limit or operating a motor vehicle at a speed which is not reasonable and proper under the circumstances shall be punishable by a fine not to exceed \$100.00.

§823. When Lights are Required to be Used.

(a) It shall be unlawful for a vehicle to be on a public roadway at any time from a half hour after sunset to a half hour before sunrise or at any other time when objects on the road cannot be seen clearly at a distance of five hundred feet because of light conditions without displaying lighted lamps on the vehicle.

(b) Every vehicle stopped or parked on the side of any road or highway during the hours set forth above, shall burn lamps, flares, or otherwise alert other drivers of the potential danger, unless the vehicle is positioned at least 30 inches from the main traveled portion of the roadway in such fashion that no part of the main traveled portion of the roadway, nor the 30 inch safety zone is impeded.

(c) Violation of this section shall be punishable by a fine not to exceed \$100.00

§824. Pedestrians.

(a) It shall be unlawful for a pedestrian crossing a roadway at any point other than a marked crosswalk or within an unmarked crosswalk at an intersection to fail to yield the right of way to all motor vehicles on the roadway.

(b) Notwithstanding the provisions of Subsection (a) herein, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian on any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any person upon a public road.

(c) Violation of this section shall be punishable by a fine not to exceed \$100.00.

§825. Throwing Trash on Roads and Roadways.

(a) It shall be unlawful to discard trash or refuse of any type on a roadway or public highway or right-of-way within the Tribal jurisdiction.

(b) Throwing trash on roads and roadways shall be punishable by a fine not to exceed \$100.00.

§826. Illegal Parking.

(a) It shall be unlawful to stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main traveled part of a public roadway when it is practical to stop, park, or leave such vehicle off such part of said roadway, but in every event a clear and unobstructed width of at least 20 feet of such part of the roadway opposite such standing vehicle shall be left for the free passage of other vehicles, a clear view of such stopped vehicle shall be available from distance of 200 feet in each direction upon said roadway, and the vehicle must be positioned at least thirty inches outside the main traveled portion of the roadway.

(b) This Section shall not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position, provided that reasonable provision is made by the driver thereof for the warning and safety of other vehicles traveling upon such roadway until the vehicle can be removed.

(c) It shall be unlawful to stop, park, or leave standing a vehicle except when necessary to avoid collision with other traffic or in compliance with the directions of a police officer or traffic control sign, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within twenty-five feet of a fire hydrant;
- (5) On a crosswalk.

(d) A violation of this Section shall be punishable by a fine not to exceed \$100.00.

§827. Failure to Stop When Directed by Police.

(a) It shall be unlawful to fail to immediately pull over to the right- hand edge or curb of the public road clear of any intersection and stop and remain when approached by a police vehicle making use of audible and/or visual signals.

(b) Failure to stop when directed by a police officer shall be punishable by a fine not to exceed \$250.00, or by a term of imprisonment in the Tribal jail not to exceed three months, or by suspension of driving privileges for a period not to exceed one year or any combination of the above punishments.

§828. Failure to Yield Right of Way to Emergency Vehicles.

(a) Upon the approach of any emergency vehicle making use of audible and/or visual signals, it shall be unlawful to fail to immediately pull over to the right-hand edge or curb of the public roadway and stop and remain until the emergency vehicle has passed, unless otherwise directed by a police officer.

(b) Failure to stop when directed by a police officer shall be punishable by a fine not to exceed \$250.00, or by a term of Imprisonment in the Tribal jail not to exceed three months, or by suspension of driving privileges for a period not to exceed one year or any combination of the above punishments.

§829. Unlawfully Transporting an Alcoholic Beverage.

The crime of unlawfully transporting a regulated beverage occurs when a person drives any motor vehicle and knowingly carries any alcoholic beverage which is not secured. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor on the first conviction and a felony if after or concurrent with convictions pursuant to §629, §630, §631, §632, §633, §634, or §635.

§830. Eluding Law Enforcement Officer.

The crime of eluding a law enforcement officer occurs when a person who is operating a motor vehicle knowing that a law enforcement officer has signaled for the person to stop;

- a) Fails to bring the vehicle to stop in a reasonable time or distance;
- b) Takes any other action with the intent to evade the law enforcement officer; or
- c) Approaches a roadblock and knowingly proceeds through the roadblock without stopping or without receiving permission to proceed from a law enforcement officer.

Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor on the first conviction and a felony on any subsequent conviction.

§831. Resisting Arrest.

The crime of resisting arrest occurs when a person physically resists a person known to the actor to be a law enforcement officer affecting an arrest. Any person convicted under this section shall be guilty of a misdemeanor.

SUBCHAPTER NINE

CRIMES INVOLVING FAMILY AND CHILDREN

§901. Bigamy.

The crime of bigamy occurs when:

- A. A married person enters into an apparent marriage with another person and knowing that he or she is ineligible to remarry. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- B. A person knowingly enters into two or more marriages with other persons simultaneously. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§902. Children; Definitions.

A child is a person under the age of 18.

§903. Contributing to the Delinquency of Child.

The crime of contributing to the delinquency of a child occurs when a person:

- A. Knowingly permits a child to have access to a loaded firearm or an unloaded firearm with available ammunition, without active and immediate supervision by a parent, guardian, or other appropriate adult supervision. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor in the case of an unloaded and secured firearm, and a felony in the case of a loaded, unsecured firearm.
- B. Knowingly sells or furnishes to a child tobacco in any form. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if less than 20 cigarettes or the equivalent of other tobacco is transferred, and a felony if 20 or more cigarettes or the equivalent of other tobacco is transferred.
- C. Knowingly causes or permits a child to enter or remain in a place where unlawful activity involving a controlled dangerous substance is maintained or conducted or where prostitution, unlawful gambling or the manufacture or production of pornography takes place. Any person convicted of violating the foregoing provision shall be guilty of a felony.
- D. Knowingly causes or encourages a child to become or remain a delinquent child or a child in

need of supervision. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§904. Abandonment; Definitions.

In this subchapter the following words and phrases shall have the following meanings:

- A. “Abandons” means to completely forsake the performance of the duty of care, protection and support owed to the child or incapacitated spouse without court approval.
- B. “Incapacitated spouse” means a married person who by reason of mental or physical illness is disabled to such an extent that the person lacks the ability to provide for that person’s own needs.

§905. Abandonment of Child.

The crime of abandonment of a child occurs when a parent, guardian or other person having custody or control of a child less than 15 years of age:

- A. Knowingly abandons the child. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.
- B. Persistently fails to provide support which he or she can provide and which he or she is legally obliged to provide to a child or other dependent. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§906. Abandonment of Incapacitated Spouse.

The crime of abandonment of an incapacitated spouse occurs when a person knowingly abandons an incapacitated spouse or persistently fails to provide support which he or she can provide and which he or she is legally obliged to provide to that spouse. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§907. Interference of Custody of Child.

The crime of interference with custody of child occurs when a parent or other person violates an order of a court of competent jurisdiction which grants the custody of the child to a person, agency or institution. Such violation must be committed with the intent to deprive the custodian of the custody of that child. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor if the interference is less than 24 hours, and a felony if the interference is 24 hours

or longer.

§908. Failure to Report Child Abuse.

The crime of failure to report child abuse occurs when a person who is required under law to report suspected instances of child abuse knowingly fails to make that report. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§909. Neglect of a child.

The crime of neglect if a child occurs when a parent, guardian or other person supervising the welfare of a child:

- A. Knowingly endangers the child's welfare by violating a duty of care, protection or support. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.
- B. Omits to do an act which places the child's welfare at substantial risk. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.
- C. Neglects or refuses to send the child to school. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

§910. Child Abuse.

The crime of child abuse occurs when a parent, guardian or other person responsible for the welfare of a child willfully or maliciously injures, bruises, strikes, beats, kicks, bites, physically tortures, maims or uses any other form of unreasonable force upon a child or cause or procures any of said acts to be committed upon a child by another person. Provided, that this section shall not prohibit any parent, guardian or other person responsible for the child's health or welfare from using reasonable, ordinary force as a means of discipline, including but not limited to spanking; provided said disciplinary action does not cause unreasonable harm or injury to the child. Any person convicted of violating the foregoing provision shall be guilty of a felony.

§911 – 919. Reserved.

§920. DOMESTIC VIOLENCE

§921. Purpose

- A. The Cheyenne and Arapaho Tribes recognize that existing laws do not adequately protect victims of domestic violence.

B. The Tribes declare that the official response to cases of domestic violence in the Community shall be that violent behavior is not to be tolerated or excused.

For these reasons, the Tribes hereby enacts this Domestic Abuse law to promote safety, respect and honor of all elders adults and children in families throughout the community.

§922. Definitions

As used in this Chapter, or when used for purpose of application on this chapter, the terms set forth below shall have the following meanings:

- A. COMMUNITY - The Cheyenne and Arapaho Tribes
- B. COURT - Cheyenne and Arapaho Tribes' Tribal Court
- C. DOMESTIC VIOLENCE - Endangerment, threatening or intimidating, assault, aggravated assault, custodial interference, unlawful imprisonment, kidnapping, criminal trespass, criminal mischief, disorderly conduct or crimes against children occurring between persons of the opposite sex who are family members or household members.
- D. ELDERLY PERSON - A person fifty-five (55) or more years old.
- E. FAMILY MEMBER OR HOUSEHOLD MEMBER - A spouse, a former spouse, a person related by blood, a person related by existing or prior marriage, a person who resides with the person, or a person with whom the person has a child in common regardless of whether the parents of the child have been married or have lived together at any time.
- F. MANDATORY ARREST - A police officer shall immediately arrest, without having to obtain an arrest warrant and take into custody any person whom the officer has probable cause to believe has committed the crime of domestic abuse. The victim need not sign a complaint. The officer shall make the arrest even though an arrest may be against the expressed wishes of the victim.
- G. ORDER FOR PROTECTION - A court order granted for the protection of victims of domestic violence.
- H. PERPETRATOR - The person who has committed an act of domestic violence on a family member or household member.
- I. PROBABLE CAUSE - Means that the police officer making the arrest has probable cause

to believe that the person to be arrested has committed an offense as defined by this law or that the victim is in immediate danger of domestic violence based on all the facts known to the officer, including statements made by parties involved in the incident, statements made by witnesses if any, and any other reliable information, provided, however, that an officer need not witness an act of domestic violence in order to make the arrest or sign a protective order.

- J. RESERVATION - The Cheyenne and Arapaho Tribes jurisdiction as established and geographically defined under the laws of the United States, encompassing all territory within its exterior boundaries as now or hereafter prescribed or ascertained.

§923. Crime of Domestic Violence

- A. Any person who shall knowingly commit an act of domestic violence as defined by §922 C. of this chapter shall be guilty of the offense of domestic violence and upon conviction thereof shall be sentenced to confinement. A conviction of a first offense for domestic abuse shall be guilty of a misdemeanor and jailed for not less than 30 days and fined not less than \$500.00. A person convicted a second time for domestic abuse shall be guilty of a felony and jailed not less than 90 days and fined not less than \$1000.00.
- B. In addition to or in lieu of the sentence in paragraph A, the court shall order the person convicted of the offense of domestic violence to participate in a domestic violence treatment program.
- C. Prosecution for the offense of domestic violence shall not preclude prosecution for any other offense under the Cheyenne and Arapaho Tribes law arising under the same circumstances provided, however, that this section does not create a separate offense if the defendant is charged for the same offense under any other applicable provision of the law.

§924. Mandatory Arrest

- A. A police officer shall arrest an alleged perpetrator of domestic violence if an arrest warrant has been issued, or without a warrant if the officer has probable cause to believe that the person to be arrested has committed domestic violence, without regard to any other requirements imposed by law. If the conditions for arrest established by this Section are

present, the officer shall arrest the alleged perpetrator of domestic violence whether or not the alleged victim signs a complaint and whether or not the arrest is against the expressed wishes of the alleged victim.

- B. Whenever a police officer investigates an allegation of domestic violence, whether or not an arrest is made, the officer shall make a written incident report of the alleged abuse and file the report with the BIA.
- C. In all domestic violence arrests, the assigned BIA police officer and/or the Tribal Detective shall, after notifying the alleged perpetrator of his/her rights and the alleged perpetrator consents, interview or attempt to interview the alleged perpetrator within 24 hours of the arrest, excluding week-ends and holidays.
- D. Immediately following a domestic violence arrest, the police officer shall advise all known victims of the availability of Domestic Violence programs and shall give the victims information describing their legal rights and available services. Upon request of the victim, the police officer or Victim/Witness Advocate shall provide transportation of the victim to a medical facility or place of shelter.
- E. Within 24 hours of an arrest of an alleged perpetrator under this Section, excluding week-ends and holidays, the arresting police officer shall present a written report to the Department of Justice, who shall forthwith file with the Court a criminal complaint of the alleged violence. If the alleged incident occurred on a week-end, the officer shall report the incident to the Prosecutor the following Monday.
- F. Whether or not the alleged perpetrator has been arrested, the Prosecutor shall assist the alleged victim or other appropriate person in the prosecution and filing of a criminal complaint under this Section and/or a petition for protective order under Section 926 of this Chapter.
- G. The Bureau of Indian Affairs Law Enforcement Services shall develop and maintain a protocol for implementation of its obligations under this Chapter.
- H. Any alleged perpetrator arrested under this section shall be held in custody without bail for a period not less than 36 hours mandatory cooling off period.

No bail put forth cannot be forfeited in lieu of court appearance. Appearance at court before a Judge is mandatory.

§925. Special Court Rules

In addition to the rules of court generally applicable to criminal proceedings, the court is authorized to take the following actions in a proceeding involving alleged domestic violence offenses.

- A. At the arraignment hearing, if the alleged perpetrator is to be released from custody, the Court in its discretion and as a condition of release, may issue an order for protection temporarily, excluding the alleged perpetrator from the home of the alleged victim and restraining the alleged perpetrator from any contact with the alleged victim.
- B. If it appears to the Court that alcohol and drugs played a part in the act of domestic violence, a chemical dependency evaluation with a treatment plan may be ordered, at the discretion of the Court, prior to sentencing.
- C. Upon a guilty plea or conviction, the perpetrator shall be ordered to participate in an appropriate domestic violence program consisting of at least the following:
 - 1. The perpetrator shall attend and cooperate in an intake session for evaluation.
 - 2. The evaluation shall be completed by the Family Services Counselor not later than 10 calendar days after the entry of the order requiring evaluation, unless the Court extends that time period.
 - 3. A copy of the evaluation and recommended treatment plan shall be provided to the Court.
 - 4. In the discretion of the Court, the Court may order the perpetrator to participate in treatment sessions provided by the Family Service Counselor in lieu of confinement and/or fine, or the execution of any such penalty may be suspended pending completion of the treatment ordered by the Court.
 - 5. The Family Service Counselor or other service provider shall submit progress reports to the Court every six weeks when treatment is ordered.
- D. Willful failure or refusal to comply with a Court order requiring a perpetrator to attend and cooperate in evaluation and/or to undergo treatment as described in a treatment plan shall

constitute contempt of court. If the Court has suspended execution of any penalty imposed under Section 923 of this Chapter on the condition that the perpetrator undergo court-ordered evaluation and/or treatment, the Court may also order execution of any such suspended sentence.

- E. Any written statement made by the alleged victim under oath and signed by the victim which describes the alleged acts of domestic violence shall not be considered inadmissible hearsay evidence, but shall be admissible in any proceeding related to a prosecution under Section 3 of this Chapter.

§926. Orders for Protection

A. Availability of Petition.

1. No order of protection may be granted, unless the party requests the order, files a petition for an order.
2. A petition to obtain an order of protection under this section may be filed by:
 - i. any person claiming to be the victim of domestic violence;
 - ii. any family member or household member of a person claimed to be the victim of domestic violence, on behalf of the alleged victim; or
 - iii. the Department of Justice.
3. A petition shall allege the existence of domestic violence, and shall be verified or supported by an affidavit made under oath stating the specific facts and circumstances justifying the requested order.
4. A petition may be filed regardless of the pendency of any other civil or criminal proceeding related to the allegation in the petition.
5. No filing fee shall be required for the filing of a petition under this Section. If an alleged perpetrator has been arrested for the offense of domestic violence, the arresting officer shall advise the alleged victim of the right to file a petition under this Section without cost.
6. The petitioner, or the victim on whose behalf a petition has been filed, is not required to file for annulment, separation, or divorce as a prerequisite to obtaining an order

of protection; but the petition shall state whether any other action is pending between the petitioner or victim and the respondent.

7. Standard, simplified petition forms with instructions for completion shall be available to persons not represented by counsel. The Bureau of Indian Affairs Law Enforcement Services and Cheyenne and Arapaho Tribes' Tribal Court shall keep such forms and make them available upon request to victims of domestic violence.
- B. Procedure for Issuance of an Order of Protection
- C. Upon the filing of a petition for order of protection, the Court shall:
1. Immediately grant an order of protection if based on the specific facts stated in the affidavit or the verified petition, the Court has reasonable cause to believe that the petitioner or the person on whose behalf the petition has been filed is the victim of an act of domestic violence committed by the respondent, and issuance of the order is necessary to protect the victim from further abuse.
 2. Cause an order of protection, together with notice of hearing, to be served immediately on the respondent. Service must be made by posted notice if personal service cannot be completed within 24 hours.
 3. Within 30 days after granting of the order of protection, hold a hearing to determine whether the order should be vacated, extended, or modified in any respect. If exclusive use of the home is granted, the respondent may request a hearing to be held within five days from the date requested.
- D. Content of an Order of Protection
- E. An order of protection may include the following provisions:
1. Restraining the respondent from committing any acts of domestic violence.
 2. One party may be granted the use and exclusive possession of the parties' residence on a showing that there is reasonable cause to believe that physical harm may otherwise result.
 3. Restraining the respondent from any contact with the victim upon a showing there is reasonable cause to believe that physical harm may otherwise result.

4. Awarding temporary custody or establishing temporary visitation rights with regards to minor children of the respondent on a basis which gives primary consideration to the safety of the claimed victim or domestic violence and the minor children.
 - i. If the Court finds that the safety of the claimed victim or the minor children will be jeopardized by unsupervised or unrestricted visitation, the Court shall set forth conditions or restrict visitation as to the time, place, duration, or supervision, or deny visitation, entirely, as needed, to guard the safety of the claimed victim and the minor children.
 - ii. Any temporary custody order shall provide for child support and temporary support for the person having custody of the children, any amounts deemed proper by the Court.
5. Ordering temporary guardianship with regard to an elderly or handicapped victim of domestic violence if necessary for the safety of the elderly or handicapped person.
6. Awarding temporary use and possession of property of the respondent.
7. Restraining one or both parties from transferring, encumbering, concealing, or disposing of property except as authorized by the Court and requiring that an accounting shall be made to the Court for all such transfers, encumbrances, dispositions and expenditures.
8. Ordering the respondent to timely pay any existing debts of the respondent, including rental payments, necessary to maintain the claimed victim in his/her residence.
9. Describing any prior orders of the Court relating to domestic matters which are superseded or altered by the order of protection.
10. Notifying the parties that the willful violation of any provision of the order constitutes contempt of court punishable by a fine or imprisonment or both.
11. Ordering in the Court's discretion, any other lawful relief as it deems necessary for the protection of any claimed or potential victim of domestic violence, including orders or directives to the Cheyenne and Arapaho Tribes' police department.

F. Duration and Modification of Order of Protection

1. The provisions of the order shall remain in effect for the period of time stated in the order, not to exceed one year unless extended by the Court at the request of any party for a permanent protection order.
2. Either party may request a hearing to modify and order of protection.

§927. Service of Order of Protection

Orders of protection are to be served personally upon the respondent by a police officer. If the respondent cannot be located, the order will be mailed by certified mail to the respondent's last known address, and upon application with Court, the notice will be posted.

§928. Assistance by the Police Department

When an order of protection is issued, upon request of the petitioner, the Court shall order the police to accompany and assist any claimed victim of domestic violence in taking possessions of the claimed victim's residence or otherwise to assist in execution of the order.

§929. Right to Apply for Relief

A person's right to apply for relief under this Section 926 of this Chapter or to file a criminal complaint under Section 923 of this Chapter shall not be affected by his/her leaving the residence or household to avoid abuse.

§930. Copy to Law Enforcement Agency

Each order of protection granted pursuant to Section 926 of this Chapter and each order issued under Section 925 (a) of this Chapter shall be forwarded by a Clerk of Court immediately to the Cheyenne and Arapaho Tribes police department.

§931. Violation of Court Orders - Mandatory Arrest

- A. Willful violation of an order issued under Section 5 (a) or Section 6 of this Chapter shall constitute contempt of court.
- B. A police officer shall arrest without a warrant and take into custody any person who the police officer has probable cause to believe has violated an order issued under Section 5 (a) or Section 6 of this Chapter.
- C. All provisions of an order issued under Section 5 (a) or Section 6 of this Chapter shall remain

in full force and effect until the order terminates or is modified by the Court. Violation of the order, including any prohibition against entering a residence is not excused by the consent or permission of the alleged victim or any other person.

- D. Any person who knowingly violates an order issued under Section 6 of this Chapter may, after notice and hearing, be assessed a civil penalty in an amount not to exceed \$500.00 and 5 days in jail. This civil penalty cannot be suspended.

§932. Liability

No police officer shall be held criminally and civilly liable for making an arrest authorized by this Chapter, provided the officer acted in good faith and without malice.

SUBCHAPTER TEN – DEFENSES

§1001. Effect of Affirmative Defense.

The effect of an affirmative defense is to allocate to the defendant the burden of producing sufficient evidence to support a finding that the facts giving rise to the defense exist.

§1002. Other Consistent Defenses.

The provisions of this Code shall not be construed as precluding a court from recognizing other defenses not inconsistent with these provisions.

§1003. Defenses Cumulative.

The defenses in this Code are cumulative. Unless otherwise indicated, the unavailability of one defense does not preclude the possible availability of any other defense.

§1004. Defenses; Definitions.

In this Code, unless a different meaning is specified in reference to a particular defense:

- A. “Deadly force” means force that is intended or known by the Actor to cause or in the manner of its use or intended use is capable of causing, death or serious bodily injury.
- B. “Force” means any bodily impact, restraint or confinement that is employed without the consent of the person against whom it is directed.

- C. “Great bodily harm” means serious and severe bodily harm. Such harm must be of a greater degree than a non-aggravated battery.
- D. “Involuntary intoxication” means a disturbance of mental and physical capacities resulting from the introduction of substances into the body that results from:
 - 1. Fraud, trickery or duress of another;
 - 2. Force of another;
 - 3. Accident or mistake on the Actor’s part;
 - 4. A pathological condition; or
 - 5. Ignorance as to the effects of prescribed medication.
- E. “Mental Illness” means a psychiatric disorder which substantially disturbs a person’s thinking, feelings or behavior and impairs the person’s ability to function. “Mental illness” also includes any mental retardation or organic brain damage.

§1005. Exculpating Affirmative Defense.

An exculpating affirmative defense is a complete defense. The following are included in exculpating defenses:

- A. Defense of Another by the Use of Deadly Force
 - 1. The defense of another by the use of deadly force is a defense when the crime charges involves the use of deadly force and the defendant believes the use of deadly force is immediately necessary to protect another person from danger of death or great bodily harm;
 - 2. The defense of another by use of deadly force is not available if the defendant knows, at the time of committing the act of force, that the defendant could avoid the necessity of using deadly force, with complete personal safety and with complete safety as to others, by causing the person protected to retreat. The defense is available if the person protected is not the aggressor and is on premises which the person protected owns or leases;
 - 3. The defense of another by use of deadly force is not available if the person protected is the aggressor, provokes the other person with the intent to cause the altercation or voluntarily enters into mutual combat. The defense is available if the person protected withdraws or attempts to withdraw from the altercation;

4. The defense of another by use of deadly force is not available to the defendant if the person protected enters the land of another without consent or refuses to leave the land of another after lawful request to leave. The defense is available if the person protected takes advantage or attempts to take advantage of an opportunity to retreat with complete safety from an imminent danger of injury before repelling or attempting to repel an unlawful attack; and
 5. The defense of another by the use of deadly force is a defense when the crime involves the use of non-deadly force and the degree of force is reasonable and appropriate under the circumstances as viewed by a reasonable person in the defendant's situation and the defendant reasonably believes such use of force is immediately necessary to protect a third person from bodily injury.
 - a. This defense is not available to protect a person who is the aggressor, who provokes another person with the intent to cause the altercation or who voluntarily enters into mutual combat. The defense is available if the person protected withdraws or attempts to withdraw from the altercation, and
 - b. The defense is not available to protect a person who enters the land of another person without consent, or who refuses to leave the land of another after lawful request to leave. The defense is available if the person protected takes advantage or attempts to take advantage of an opportunity to retreat with complete safety from an imminent danger of injury before the defendant repels or attempts to repel an unlawful attack.
- B. Duress.** The defense of duress is a defense when the defendant engages in acts or omissions constituting the crime charged under compulsion or threat of imminent infliction of death or serious bodily injury, if the defendant reasonably believes that death or serious bodily injury will be inflicted upon the defendant or a member of the defendant's immediate family. The defense is not available to a defendant who fails to use a reasonably safe opportunity to escape from imminent danger of death or serious bodily injury.
- C. Provocation.** The defense of provocation excuses the defendant when the defendant experiences a sudden or temporary loss of control as a response to another's provocative conduct sufficient to justify an acquittal, a mitigated sentence, or a conviction for a lesser

charge.

- D. **Entrapment.** The defense of entrapment is a defense when the defendant engages in the conduct charged because the defendant is induced or persuaded to do so by a law enforcement official or by a person acting in cooperation with a law enforcement official or by a person acting in cooperation with a law enforcement official. The defendant must have no predisposition to commit the alleged crime prior to being so induced or persuaded.
- E. **Habitation.** The defense of habitation is defense when the defendant is lawfully present in a dwelling and uses force of degree which the defendant reasonably believes is immediately necessary to use against another person who has made an unlawful entry into that dwelling, and the defendant has reasonable belief that such other person will use physical force, no matter how slight, against any occupant of the dwelling.
- F. **Law Enforcement Officer Using Deadly Force.** The defense of a law enforcement official who uses deadly force is a defense available when the defendant is a law enforcement official or when the defendant is a person acting at the direction of the law enforcement official while in aid and assistance of such official in the reasonable belief that such official's actions are lawful. It is a defense when the defendant reasonably believes that such deadly force is immediately necessary to affect an arrest or prevent an escape from custody following arrest and the defendant reasonably believes that both:
1. Such force is necessary to prevent the arrest from being defeated by resistance or escape; and
 2. There is probable cause to believe that the person to be arrested has committed a crime involving the infliction or threatened infliction of serious bodily injury, or the person to be arrested is attempting to escape through the use of a dangerous weapon.
- G. **Law Enforcement Officer Using Non-Deadly Force.** The defense of a law enforcement official who uses non-deadly force is a defense when the defendant is a law enforcement official or is a person acting at the direction of a law enforcement official, or is a person aiding and assisting a law enforcement official, and the crime charged involves the use of non-deadly force against another which the defendant believes is reasonable and appropriate under the

circumstances as viewed by a reasonable person in the defendant's situation. The defense is available to a defendant, who reasonably believes the force used is immediately necessary to make or assist in making an arrest or search, or to prevent or assist in preventing an escape after arrest, if:

1. The defendant has probable cause to believe the arrest or search is lawful or, if the arrest or search is made under warrant, the defendant reasonably believes the warrant is valid; and
2. Before using force, the defendant manifests the purpose of arresting or searching and provides identification as a law enforcement official or as one acting at a law enforcement official's direction, unless the defendant reasonably believes the defendant's purpose and identity are already known by, or cannot be made known to the person arrested.

H. **Defense of Property.** The defense of property is a defense when the a crime charge involves the use of non-deadly force against another and the defendant believes the degree of force used in reasonable and appropriate under the circumstances. The defense of property is a defense when a defendant, lawfully in possession of real or personal property, uses non-deadly force against another which the defendant reasonably believes is necessary to prevent or attempt to prevent an imminent taking or harm to the property.

§1006. Defense of Ceremonial Use of Substances.

Nothing herein shall prohibit the use of tobacco by adults or minors at ceremonial grounds strictly for ceremonial purposes. In addition, nothing herein shall prohibit the use of peyote or its derivatives by official members of the Native American Church strictly for ceremonial purposes of the Native American Church.

Article 4. Amendment of Criminal Procedure Code

The Criminal Procedure Code be amended as follows:

§403. General Sentencing Provisions, is amended by:

1. numbering the first paragraph as paragraph (a).
2. adding a new paragraph (b).:

(b) All crimes subject to the jurisdiction of the Court are classified as either misdemeanors or felonies and unless otherwise stated in other law, are punishable as follows:

1. Misdemeanors: Every person who is convicted of any criminal offense in this code that is denominated a misdemeanor shall be punished by a fine of not more than \$2,500, or not more than one year imprisonment, or both. In addition to any punishment provided for in this paragraph, the Court may also order community service and/or counseling as authorized by other law.

2. Felonies: Every person who is convicted of any criminal offense in this law that is denominated a felony shall be punished by a fine of not more than \$5,000, not more than three years imprisonment, and/or banishment if provided in the criminal offenses code. Punishment for a felony may be up to three years of imprisonment or a fine of up to \$15,000, or both, if the defendant is a person accused of a criminal offense who has been previously convicted of the same of a comparable offense by any jurisdiction in the United States, or is being prosecuted for an offense comparable to an offense that would be punishable by more than one year of imprisonment if prosecuted by the United States or any of the States. In addition to or in lieu of any punishment provided for in this paragraph, the Court may also order community service and/or counseling as authorized by other law.

3. Renumber paragraph (a) as paragraph (c).
4. Renumber paragraph (b) as paragraph (d).
5. Amend the dollar amount in paragraph (b), now (d), subparagraph (1), to read: “Allow such offender to exchange actual work performed for the Tribes in lieu of a fine or imprisonment, at the rate of eight hours of work per \$ _____ of fine; or”

§601. Search and Seizure, subparagraph (k) is amended by adding the words “computer, electronic, or digital information” after the word “papers,”.

§801. Persons 16 or 17 Years of Age to be Considered as Adult for Committing Certain Offenses, is amended by repealing the paragraph and replacing it with the following:

Any person 16 or 17 years of age who is charged with Homicide, Aggravated Assault, Kidnapping/Abduction, Aggravated Sexual Abuse, or Trafficking in Controlled Dangerous Substances, shall be considered as an adult. Upon the arrest and detention, such 16 or 17 year old accused shall have all the statutory and constitutional rights and protections of an adult accused of a crime, but shall be detained in a jail cell or ward entirely separate from prisoners who are 18 years of age or over.

END OF SUBSTANTIVE PROVISIONS

Article 5. Construction

This Act shall be liberally construed to carry out its purpose. The effectiveness and enforceability of this Act shall not be dependent upon the adoption of any regulations unless otherwise required by law. Nothing contained in this Act or regulations promulgated hereunder shall be construed to diminish, limit or otherwise adversely affect any right, remedy held or available to the Cheyenne and Arapaho Tribes.

Article 6. Severability.

The provisions of this act are severable and if any part or provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

Article 7. Effective Date

This law shall be effective as provided by the Constitution.

Bruce Whiteman
Speaker of the Fifth Legislature
Cheyenne and Arapaho Tribes

ATTEST:

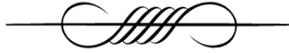
I, Ramona Tall Bear, hereby certify that the foregoing is a true and correct copy of Bill number 5L-RS-2014-05-005 which was passed by the Legislature of the Cheyenne and Arapaho Tribes in the Fifth Legislature Special Session, by a roll call vote on the 24th day of June 2014, by a vote of for, __ against, __ abstaining, and __ absent.

The Roll Call Vote

Dist	Legislator	Yes	No	Dist		Yes	No
C1	Bruce Whiteman			A1	Eugene Mosqueda		
C2	Alan Fletcher			A2	Christine Morton		
C3	Cheevers Heap of Birds			A3	Patrick Spottedwolf		
C4	Kyle Orange			A4	Winslow Sankey		

Ramona Tall Bear, Legislative Clerk

Cheyenne and Arapaho Tribes



The Bill number 5L-RS-2014-05-005 was received by the Governor’s office of the Cheyenne and Arapaho Tribes on the _____ day of _____, 2014 at _____ o’clock ____ m. pursuant to §7 Article VI of the Constitution and will become effective 30 days after signature by the Governor or the Legislature’s veto override or as otherwise provided by law unless repealed by the Tribal Council.

Governor’s Representative
Cheyenne and Arapaho Tribes



{ } SIGNED
{ } VETOED: Attachment ____; Governor’s written explanation of any objections.

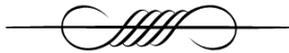
On the _____ day of _____, 2014.

Eddie Hamilton, Governor
Cheyenne and Arapaho Tribes



This Bill number 5L-RS-2014-05-005 signed or vetoed by the Governor was returned to the Office of the Legislature on the _____ day of _____, 2014 at _____ o’clock ____ m., by the Office of the Governor.

Legislative Representative



A copy of Bill number 5L-RS-2014-05-005 was submitted to the Tribal Council Coordinator of the Cheyenne and Arapaho Tribes on the _____ day of _____, 2014 at _____ o’clock ____ m. pursuant to Article VI, Section 7(iv), of the Tribes Constitution and will become effective thirty days after signature by the Governor or thirty days subsequent to a successful veto override, unless otherwise provided by this law or unless validly repealed by the Tribal Council.

Coordinator of the Tribal Council
Cheyenne and Arapaho Tribes



A copy of Bill number 5L-RS-2014-05-005 was submitted to the Office of Records Management of the Cheyenne and Arapaho Tribes on the _____ day of _____, 2014 at _____ o'clock ____ m. pursuant to Article VI, Section 7(v), of the Tribes Constitution and shall be compiled into a comprehensive Code in an orderly manner that shall be published annually.

Representative
Office of Records Management
Cheyenne and Arapaho Tribes