

TITLE 8B

CROW CRIMINAL CODE

CHAPTER 1

8B-1-101. Short Title. This act shall be known and may be cited as the “Crow Criminal Code.”

8B-1-102. General Purposes and Principles of Construction.

(1) The General Purposes of the provisions governing the definition of offenses are:

- (a) to forbid and prevent conduct that unjustifiably and inexcusably inflicts or threatens harm to individual or public interests;
- (b) to safeguard conduct that is without fault from condemnation as criminal;
- (c) to give fair warning of the nature of the conduct declared to constitute an offense;
- (d) to differentiate on reasonable grounds between serious and minor offenses.

(2) The rule of common law, that penal statutes are to be strictly construed, has no application in this code. All its provisions are to be construed according to the fair import of their terms, with a view to effect its object and to promote justice.

8B-1-103. Application to offenses committed before and after enactment.

(1) The provisions of this code apply to any offense defined in this code and committed after adoption by the Crow Tribal Council.

(2) The provisions of this code do not apply to any offense defined outside of this code committed before the date of adoption. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this code had not been enacted.

8B-1-104. Other limitations on applicability.

(1) This code does not bar, suspend, or otherwise affect any right or liability to damages, penalty, forfeiture, or other remedy authorized by law to be recovered, and the civil injury is not merged into the offense.

(2) No conduct constitutes an offense unless it is described as an offense in this code or in a resolution or ordinance of the Crow Tribe. However, this provision does not affect the power of a court to punish for contempt or to employ any sanction authorized by law for the enforcement of an order, civil judgment or decree.

8B-1-105. Jurisdiction of the Crow Tribal Court.

(1) The Crow Tribal Court shall have jurisdiction of all offenses enumerated in this code, plus any additional offenses enumerated in tribal resolutions or ordinances.

(2) The fact that an offense defined within this code may also be an offense defined by 18 U.S.C. § 1153 (Major Crimes Act) does not preclude the Crow Tribal Court from exercising its lawful jurisdiction over this same offense.

(3) The jurisdiction of the Crow Tribal Court in regard to offenses within this code or offenses defined in tribal resolutions or ordinances shall be limited to Indians, until the U.S. Congress permits the Crow Tribe to take jurisdiction over non-Indians. (For definition of an “Indian” see 8-2-101).

(4) A person is subject to prosecution by the Crow Tribe for any offense which he/she commits, while either within or outside of the Crow Indian Reservation, by his/her own conduct or that of another for which he/she is legally accountable, if:

- (a) The offense is committed either wholly or partly within the Crow Indian Reservation; or
 - (b) The conduct outside the Crow Indian Reservation constitutes an attempt to commit an offense within the Crow Indian Reservation, and an act in furtherance of the offense occurs in the Crow Indian Reservation; or
 - (c) The conduct within the Crow Indian Reservation constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction an offense under the laws of the Crow Tribe and such other jurisdiction.
- (5) An offense is committed within the Crow Indian Reservation, if either the conduct which is an element of the offense, or the result which is an element, occurs within the Crow Indian Reservation.
- (6) An offense which is based on an omission to perform a duty imposed by the law of the Crow Tribe is committed within the Crow Indian Reservation, regardless of the location of the offender at the time of the omission.

(7) The Crow Indian Reservation includes the land, water and the air space above such land and water, within the exterior boundaries of the Crow Indian Reservation, and any land and water subsequently added thereto, notwithstanding the issuance of a patent, and includes rights-of-way running through the Crow Indian Reservation.

8B-1-106. General Time Limitations.

- (1) A prosecution for any act defined as a crime within this code or tribal resolutions or ordinances, unless a different time limitation is prescribed within the resolution or ordinance, must be commenced within one (1) year after it is committed.
- (2) The period prescribed in subsection (1) is extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:
 - (a) If the aggrieved person is a minor or incompetent, during the minority or incompetency or within one (1) year after the termination thereof;
 - (b) In any other instance, within one (1) year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person, or has a legal duty to report the offense and is not himself/herself a party to the offense or, in the absence of such discovery, within one (1) year after the prosecuting officer becomes aware of the offense.
- (3) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.
- (4) A prosecution is commenced when a complaint is filed.

8-1-107. Periods excluded from limitations. The period of limitation does not run:

- (1) During any period in which the offender is not present within the boundaries of the Crow Indian Reservation or is otherwise beyond the jurisdiction of the Crow Tribe; or
- (2) During any period in which the offender is a public officer and the offense charged is theft of public funds while in public office; or
- (3) During a prosecution pending against the offender for the same conduct, even if the indictment, complaint, or information which commences the prosecution is dismissed.

8B-1-108. Penalties. Penalties for punishable offenses are categorized into the following penalty ranges:

- (1) Class A - includes all felony offenses and various repeat offenses. The offender shall be imprisoned in the Crow Tribal jail for any term not to exceed 1 year or be fined an amount not to exceed \$5000.00 payable to the Crow Tribal Court, or both.
- (2) Class B - includes all repeat misdemeanors and those committed in conjunction with other offenses. The offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both..
- (3) Class C - includes all first offense misdemeanors and those offenses specified throughout the following code. The offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
- (4)
 - (a) The Crow Tribal Judge at all times may at his/her own discretion, commute, enhance, or modify any sentence by applying community service or any cultural remedies within the guidelines of the Indian Civil Rights Act provided, however, that any fine imposed shall not exceed the maximum allowable for a violation of the specific offense.
 - (b) The Crow Tribal Court may in appropriate cases order restitution for any damage, loss, or injury sustained by the victim or persons dependant upon the victim for support.

CHAPTER 2

8B-2-101. General Definitions. Unless otherwise specified in this code, all words will be taken in the objective standard rather than in the subjective standard, and unless a different meaning plainly is required, the following definitions apply in this title:

- (1) "ACTS" has its usual and ordinary meaning and includes any bodily movement, any form of communication, and when relevant, a failure or omission to take action.
- (2) "ANOTHER" means a person or persons as defined in this code other than the offender.
- (3) "BENEFIT" means gain or advantage or anything regarded by the beneficiary as gain or advantage, including benefit to any other person or entity in whose welfare he/she is interested. Benefit does not include an

advantage promised generally to a group or class of voters as a consequence of public measures which a candidate engages to support or oppose.

(4) "BODILY INJURY" means physical pain, illness, or any impairment of physical condition and includes mental illness or impairment.

(5) "CHARGE" means a written statement presented to a court accusing a person of the commission of an offense and includes a complaint.

(6) "COHABIT" means to live together regardless of whether the persons are married.

(7) "COMMON SCHEME" means a series of acts or omissions motivated by a purpose to accomplish a single criminal objective or by a common purpose or plan that results in the repeated commission of the same offense or affects the same person or the same persons or the property of the same person or persons.

(8) "COMPUTER" means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all input, output, processing, storage, software, or communication facilities that are connected or related to that device in a system or network.

(9) "COMPUTER NETWORK" means the interconnection of communication systems between computers or computers and remote terminals.

(10) "COMPUTER PROGRAM" means an instruction or statement or a series of instructions or statements, in a form acceptable to a computer, that in actual or modified form permits the functioning of a computer or computer system and causes it to perform specified functions.

(11) "COMPUTER SERVICES" include but are not limited to computer time, data processing, and storage functions.

(12) "COMPUTER SOFTWARE" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system.

(13) "COMPUTER SYSTEM" means a set of related, connected, or unconnected devices, computer software, or other related computer equipment.

(14) "CONDUCT" means an act or series of acts and the accompanying mental state.

(15) "CONVICTION" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.

(16) "CORRECTIONAL INSTITUTION" means the Crow Tribal Jail or other facility utilized for correctional purposes or other institution for the incarceration or custody of persons under sentence for offenses or awaiting trial or sentence for offenses.

(17) "COURT" means a place where justice is judicially administered and includes a Judge thereof.

(18) "DANGEROUS DRUG" means any controlled substance as defined by Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812).

(19) "DECEPTION" means knowingly to:

(a) create or confirm in another an impression which is false and that the offender does not believe to be true;

(b) fail to correct a false impression which the offender previously has created or confirmed;

(c) prevent another from acquiring information pertinent to the disposition of the property involved;

(d) sell or otherwise transfer or encumber property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether the impediment is or is not of value or is or is not a matter of official record; or

(e) promise performance which the offender does not intend to perform or knows will not be performed.

Failure to perform, standing alone, is not evidence that the offender did not intend to perform.

(20) "DEFAMATORY MATTER" means anything that exposes a person or group, class, or association to hatred, contempt, ridicule, degradation or disgrace in society or injury to the person or group or its business or occupation.

(21) "DEPRIVE" means:

(a) to withhold property of another:

(i) permanently;

(ii) for such a period as to appropriate a portion of its value;

(iii) with the purpose to restore it only upon payment of reward or other compensation; or

(b) to dispose of the property and to use or deal with the property so as to make it unlikely that the owner will recover it.

(22) "DEVIATE SEXUAL RELATIONS" means sexual contact or any form of sexual intercourse with an animal.

(23) "FELONY" means an offense in which the sentence imposed may result in imprisonment in a Federal Correctional institution for at least (1) one year.

(24) "A FRISK" means a search by an external patting of a persons clothing.

(25) "FORCIBLE OFFENSE" means any offense which involves the use or threat of physical force or violence against an individual.

(26) "GOVERNMENT" includes any branch, subdivision, or agency of the government of the Crow Tribe or any locality within it.

(27) "HARM" means loss, disadvantage, or injury or anything so regarded by the person affected, including loss, disadvantage, or injury to any person or entity in whose welfare the affected person is interested.

(28) "HOUSE OF PROSTITUTION" means any place where prostitution is regularly carried on by one or more persons under the control, management, or supervision of another.

(29) "HUMAN BEING" means a person who has been born and is alive or a person who has reached the Third trimester of development who has not yet been born. A person who has reached the Third trimester of development is presumed viable and alive for purposes of this code.

(30) "ILLEGAL ARTICLE" means any article or thing which is prohibited by code, resolution, or ordinance from being in the possession of a person subject to official detention.

(31) "INDIAN" means:

(a) any person who is an enrolled member of, or is or was entitled to be enrolled member of, any Indian tribe, recognized or which was at any time recognized by the United States Government;

(b) any person of Indian descent who is recognized by the United States Government as a Native Indian for any purpose whatsoever, but not restricted to enrollment, tribal membership, or receipt of tribal benefits;

(c) any person, who is not a United States citizen, but is an Indian and who is within the territorial limits of the Crow Indian Reservation;

(d) any Eskimo, Aleut, or other member of an Alaskan aboriginal group;

(e) any native Hawaiian or member of a Hawaiian aboriginal group.

(32) "INTOXICATING SUBSTANCE" means any controlled substance as defined in the Crow Tribal Drug Act and any alcoholic beverage including but not limited to any beverage containing ½ of 1 percent or more of alcohol by volume.

(33) "AN INVOLUNTARY ACT" means an act that is:

(a) a reflex or convulsion;

(b) a bodily movement during unconsciousness or sleep;

(c) conduct during hypnosis or resulting from hypnotic suggestion; or

(d) a bodily movement that otherwise is not a product of the effort or determination of the actor, either conscious or habitual.

(34) "JUDGE" means a person vested by law with the power to perform judicial functions.

(35) "JUDGMENT" means an adjudication by the Court that the defendant is guilty or not guilty, and if the adjudication is that the defendant is guilty, it includes the sentence pronounced by the Court.

(36) "JUROR" means any person who is a member of any jury, and also includes a person who has been drawn or summoned to attend as a prospective juror.

(37) "KNOWINGLY" A person acts knowingly with respect to conduct or to a circumstance described by a provision defining an offense when he/she is aware of his/her conduct or that the circumstance exists. A person acts knowingly with respect to the result of conduct described by a provision defining an offense when he/she is aware that it is highly probable that the result will be caused by his/her conduct. When knowledge of the existence of a particular fact is an element of an offense, knowledge is established if a person is aware of a high probability of its existence. Equivalent terms, such as "knowing" or "with knowledge," have the same meaning.

(38) "MENTALLY DEFECTIVE" means that a person suffers from a mental disease or defect that renders the person incapable of appreciating the nature of his/her conduct.

(39) "MENTALLY INCAPACITATED" means that a person is rendered temporarily incapable of appreciating or controlling his/her conduct as a result of the influence of an intoxicating substance.

(40) "MISDEMEANOR" means an offense in which the sentence imposed upon conviction is imprisonment in the Crow Tribal Jail for a term not to exceed six (6) months or a fine not to exceed \$500 or both.

(41) "NEGLIGENTLY" a person acts negligently with respect to a result or to a circumstance described by a provision defining an offense when the person consciously disregards a risk that the result will occur or that the circumstance exist or when the person disregards a risk of which he/she should be aware that the result will occur or that the circumstances exist. The risk must be of a nature and degree that to disregard it involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation. "Gross deviation"

means a deviation that is considerably greater than lack of ordinary care. Relevant terms such as “negligent” and “with negligence” have the same meaning.

(42) “OBTAIN” means:

(a) in relation to property, to bring about a transfer of interest or possession whether to the offender or to another; and

(b) in relation to labor or services, to secure the performance thereof.

(43) “OBTAINS OR EXERTS CONTROL” includes but is not limited to the taking, the carrying away, or the sale, conveyance, transfer of title to, interest in, or possession of property.

(44) “ OCCUPIED STRUCTURE” means any building, vehicle, or other place suitable for human occupancy or night lodging of persons or for carrying on business whether or not a person is actually present. Each unit of a building consisting of two or more units separately secured or occupied is a separate occupied structure.

(45) “OFFENDER” means a person who has been or is liable to be arrested, charged, convicted, or punished for a public offense.

(46) “OFFICIAL DETENTION” means imprisonment resulting from a conviction for an offense, confinement for an offense, confinement of a person charged with an offense, detention by a peace officer pursuant to arrest, detention for extradition or deportation, or any lawful detention for the purpose of the protection of the welfare of the person detained or for the protection of society. “OFFICIAL DETENTION” does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

(47) “OFFICIAL PROCEEDING” means a proceeding heard or that may be heard 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 the proceeding.

(48) “OWNER” means a person, other than the offender, who has possession of or any other interest in the property involved, even though the interest or possession is unlawful, and without whose consent the offender has no authority to exert control over the property.

(49) “PEACE OFFICER” means any person who by virtue of his/her office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses while acting within the scope of his/her authority.

(50) “PECUNIARY BENEFIT” is benefit in the form of money, property, commercial interests, or anything else the primary significance of which is economic gain.

(51) “ PERSON” includes an individual, business association, partnership, corporation, government, or other legal entity and an individual acting or purporting to act for or on behalf of any government or subdivision thereof.

(52) “PHYSICALLY HELPLESS” means that a person is unconscious or is otherwise physically unable to communicate unwillingness to act.

(53) “POSSESSION” is the knowing control of anything for a sufficient time to be able to terminate control.

(54) “PREMISES” includes any type of structure or building and any real property.

(55) “PROPERTY” means any tangible or intangible thing of value. Property includes, but is not limited to:

(a) real estate;

(b) money;

(c) commercial instruments;

(d) admission or transportation tickets;

(e) written instruments that represent or embody rights concerning anything of value, including labor or services, or that are otherwise of value to the owner;

(f) things growing on, affixed to, or found on land and things that are part of or affixed to any building;

(g) electricity, gas, and water;

(h) birds, animals, and fish that ordinarily are kept in a state of confinement;

(i) food and drink, samples, cultures, microorganisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes, or models thereof;

(j) any other articles, materials, devices, substances, and any whole or partial copies, descriptions, photographs, prototypes, or models thereof that constitute, represent, evidence, reflect, or record secret scientific, technical, merchandising, production, or management information or a secret designed process, procedure, formula, invention, or improvement; and

(k) electronic impulses, electronically processed or produced data or information, commercial instruments, computer software or computer programs, on either machine- or human-readable form, computer services, any other tangible or intangible item of value relating to a computer, computer system, or computer network, and any other copies thereof.

(56) "PROPERTY OF ANOTHER" means real or personal property in which a person other than the offender has an interest that the offender has no authority to defeat or impair, even though the offender himself may have an interest in the property.

(57) "PUBLIC PLACE" means any place to which the public or any substantial group has access.

(58) "PUBLIC SERVANT" means any official or employee of Tribal government, including but not limited to Tribal officials, judges, and any person participating as a juror, advisor, consultant, administrator, executor, guardian, or court appointed fiduciary. The term does not include witnesses. The term "public servant" includes one who has been elected or designated to become a public servant.

(59) "PURPOSELY" A person acts purposely with respect to a result or to conduct described by a provision defining an offense if it is the person's conscious object to engage in that conduct or to cause that result. When a particular purpose is an element of an offense, the element is established although the purpose is conditional, unless the condition negates the harm or evil sought to be prevented by the law defining the offense. Equivalent terms, such as "Purpose" and "With the purpose", have the same meaning.

(60) "SENTENCE" means the punishment imposed on the defendant by the court.

(61) "SERIOUS BODILY INJURY" means bodily injury that creates a substantial risk of death, or which causes serious permanent disfigurement or protracted loss or impairment of the function or process of any bodily member or organ. "Serious bodily injury" includes serious mental illness or impairment.

(62) "SEXUAL CONTACT" means any touching of the sexual or other intimate parts of the person of another.

(63) "SEXUAL INTERCOURSE" means penetration of the vulva, anus, or mouth of one person, by any body member of another person, or penetration of the vulva or anus of one person by any foreign instrument or object manipulated by another person. Any penetration, however slight, is sufficient.

(64) "SOLICIT" or "SOLICITATION" means to command, authorize, urge, incite, request, or advise another to commit an offense.

(65) "STOLEN PROPERTY" means property over which control has been obtained by theft.

(66) "A STOP" is the temporary detention of a person that results when a peace officer orders the person to remain in the peace officer's presence.

(67) "TAMPER" means to interfere with something improperly, meddle with it, make unwarranted alterations in its existing condition, or deposit refuse upon it.

(68) "THREAT" means a menace, however communicated, to:

(a) inflict physical harm on the person threatened or any person or property;

(b) subject any person to physical confinement or restraint;

(c) commit any criminal offense;

(d) accuse any person of a criminal offense;

(e) expose any person to hatred, contempt, or ridicule;

(f) harm the credit or business repute of any person;

(g) reveal any information sought to be concealed by the person threatened;

(h) take action as an official against anyone or anything, withhold official action, or cause such action or withholding;

(i) bring about or continue a strike, boycott, or other similar collective action if the person making the threat demands or receives property that is not for the benefit of the groups that the person purports to represent; or

(j) testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(69) "VALUE" means the market value of the property at the time and place of the crime or, if the market value cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time after the crime.

(a) If the offender appropriates a portion of the value of the property, the value must be determined as follows :

(i) the value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, is considered the amount due or collectible. The figure is ordinarily the face amount of the indebtedness less any portion of the indebtedness that has been satisfied.

(ii) the value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation is considered the amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(iii) the value of electronic impulses, electronically produced data or information, computer software or programs, or any other tangible or intangible item relating to a computer, computer system, or computer network is considered to be the amount of economic loss that the owner of the item might reasonably suffer by virtue of the loss of the item. The determination of the amount of economic loss includes but is not limited to consideration of the value of the owner's right to exclusive use or disposition of the item.

(b) When it cannot be determined if the value of the property is more or less than \$500 by the standards set forth in subsection (69)(a), its value is considered to be an amount less than \$500.

(c) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.

(70) "VEHICLE" means any device for transportation by land, water, air, or mobile equipment, with provision for transport of an operator.

(71) "WEAPON" means any instrument, article, or substance that, regardless of its primary function, is readily capable of being used to produce death or serious bodily injury.

(72) "WITNESS" means a person whose testimony is desired in any official proceeding, in a criminal action, prosecution, or proceeding.

8B-2-102. Voluntary Act. A material element of every offense is a voluntary act, which includes an omission to perform a duty which the law imposes on the offender and which he/she is physically capable of performing. Possession is a voluntary act if the offender knowingly procured or received the thing possessed, or was aware of his/her control thereof for a sufficient time to have been able to terminate his control.

8B-2-103. General requirements of criminal act and mental state.

(1) A person is not guilty of an offense, other than an offense which involves absolute liability, unless, with respect to each element described by the section defining the offense, he/she acts while having one of the mental states of knowingly, purposely, or negligently.

(2) The existence of a mental state may be inferred from the acts of the accused and the facts and circumstances connected with the offense.

(3) If the statute defining an offense prescribes a particular mental state with respect to the offense as a whole, without distinguishing among the elements of the offense, the prescribed mental state applies to each element.

(4) Knowledge that certain conduct constitutes an offense or knowledge of the existence, meaning, or application of the statute defining an offense is not an element of the offense unless the statute clearly defines it as an element.

(5) A person's reasonable belief that his/her conduct does not constitute an offense is a defense if:

(a) the offense is defined by a resolution or ordinance that is not known to the person and has not been published or otherwise made reasonably available to the person and he/she could not have acquired such knowledge by the exercise of due diligence pursuant to facts known to him/her;

(b) the person acts in reliance upon a resolution which is later determined to be invalid;

(c) the person acts in reliance upon an order or opinion of the Crow Tribal Court later overruled or reversed; or

(d) the person acts in reliance upon an official interpretation of the provision, regulation, or order defining the offense made by a public officer or agency legally authorized to interpret the statute.

(6) If a person's reasonable belief is a defense under subsection (5), nevertheless the person may be convicted of an included offense of which he/she would be guilty if the law were as he/she believed it to be.

(7) Any defense based upon this section is an affirmative defense.

8B-2-104. Substitutes for negligence and knowledge. When the law provides that negligence suffices to establish an element of an offense, such element also is established if a person acts purposely or knowingly. When acting knowingly suffices to establish an element, such element also is established if a person acts purposely.

8B-2-105. Causal relationship between conduct and result.

(1) Conduct is the cause of a result if:

(a) without the conduct the result would not have occurred; and,

(b) any additional causal requirements imposed by the specific statute defining the offense are satisfied.

(2) If purposely or knowingly causing a result is an element of an offense, and the result is not within the contemplation or purpose of the offender, either element can nevertheless be established if:

(a) the result differs from that contemplated only in the respect that a different person or different property is affected, or that the injury or harm caused is less than contemplated; or

(b) the result involves the same kind of harm or injury as contemplated but the precise harm or injury was different or occurred in a different way, unless the actual result is too remote or accidental to have a bearing on the offender's liability or on the gravity of the offense.

(3) If negligently causing a particular result is an element of an offense, and the result is not within the risk of which the offender is aware, or should be aware, either element can nevertheless be established if:

(a) the actual result differs from the probable result only in the respect that a different person or different property is affected, or that the actual injury or harm is less; or

(b) the actual result involves the same kind of injury or harm as the probable result, unless the actual result is too remote or accidental to have a bearing on the offender's liability or on the gravity of the offense.

8B-2-106. Responsibility-- intoxicated condition. A person who is in an intoxicated condition is criminally responsible for his/her conduct and an intoxicated condition is not a defense to any offense and may not be taken into consideration in determining the existence of a mental state which is an element of the offense unless the defendant proves that he/she did not know that it was an intoxicating substance when he/she consumed, smoked, sniffed, injected, or otherwise ingested the substance causing the condition.

8B-2-107. Consent as a defense.

(1) The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense.

(2) Consent is ineffective if:

(a) it is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense;

(b) it is given by a person who by reason of youth, mental disease or defect, or intoxication is unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense;

(c) it is induced by force, duress, or deception; or

(d) it is against the public policy to permit the conduct or the resulting harm, even though consented to.

8B-2-108. Compulsion. A person is not guilty of an offense, by reason of conduct which he/she performs under the compulsion of threat or menace of the imminent infliction of death or serious bodily harm if he/she reasonably believes that death or serious bodily harm will be inflicted upon him/her if he/she does not perform such conduct.

8B-2-109. Entrapment. A person is not guilty of an offense if his/her conduct is incited or induced by a public servant or his/her agent for the purpose of obtaining evidence for the prosecution of such person. However, this section is inapplicable if a public servant or his/her agent merely affords to such person the opportunity or facility for committing an offense in furtherance of a criminal purpose which such person has originated.

8B-2-110. Accountability for conduct of another. A person is responsible for conduct which is an element of an offense, if the conduct is either that of the person or that of another, and he/she is legally accountable for such conduct as provided in section 8B-2-111, or both.

8B-2-111. When accountability exists. A person is legally accountable for the conduct of another when:

(1) having a mental state described by the statute defining the offense, a person causes another to perform the conduct, regardless of the legal capacity or mental state of the other person;

(2) the statute defining the offense makes the person so accountable; or

(3) either before or during the commission of an offense with the purpose to promote or facilitate such commission, he/she solicits, aids, abets, agrees, or attempts to aid, such other person in the planning or commission of the offense. However, a person is not so accountable if:

(a) he/she is a victim of the offense committed unless the statute defining the offense provides otherwise; or

(b) before the commission of the offense, he/she terminates his/her effort to promote or facilitate such commission and does one of the following:

(i) wholly deprives his/her prior efforts of effectiveness in such commission;

- (ii) gives timely warning to the proper law enforcement authorities; or
- (iii) otherwise makes proper effort to prevent the commission of the offense.

8B-2-112. Separate conviction of person accountable.

(1) A person who is legally accountable for the conduct of another which is an element of an offense may be convicted upon proof that the offense was committed and that he/she was so accountable, although the other person claimed to have committed the offense has not been prosecuted or convicted, has been convicted of a different offense, is not amenable to justice, or has been acquitted.

(2) A person convicted of being legally accountable for the conduct of another is subject to the penalty for the offense that has been committed.

Chapter 3 - JUSTIFIABLE USE OF FORCE

8B-3-101. Definitions.

(1) "FORCIBLE OFFENSE" means any offense which involves the use or threat of physical force or violence against any individual.

(2) "FORCE LIKELY TO CAUSE DEATH OR SERIOUS BODILY HARM" Within this code includes but is not limited to:

(a) the firing of a firearm in the direction of a person, even though no purpose exists to kill or inflict serious bodily harm; and

(b) the firing of a firearm at a vehicle in which a person is riding.

8B-3-102. Use of force in defense of person. A person is justified in the use of force or threat to use force against another when and to the extent that he/she reasonably believes that such conduct is necessary to defend himself/herself or another against such other's imminent use of unlawful force. However, he/she is justified in the use of force likely to cause death or serious bodily harm only if he/she reasonably believes that such force is necessary to prevent imminent death or serious bodily harm to himself/herself or another, or to prevent the commission of a forcible offense.

8B-3-103. Use of force in defense of occupied structure. A person is justified in the use of force or threat to use force against another when and to the extent that he/she reasonably believes that such conduct is necessary to prevent or terminate such other's unlawful entry into or attack upon an occupied structure. However, a person is justified in the use of force likely to cause death or serious bodily harm only if:

(1) the entry is made or attempted in a violent, riotous, or tumultuous manner, and he/she reasonably believes that such force is necessary to prevent an assault upon, or attack of personal violence to the person or another then in the occupied structure; or

(2) the person reasonably believes that such force is necessary to prevent the commission of a forcible offense in the occupied structure.

8B-3-104. Use of force in defense of other property. A person is justified in the use of force or threat to use force against another when and to the extent that he/she reasonably believes that such conduct is necessary to prevent or terminate such other's trespass on or other tortuous or criminal interference with either real property (other than an occupied structure) or personal property lawfully in his possession or in the possession of another who is a member of his/her immediate family or household, or of a person whose property the person has a legal duty to protect. However, a person is justified in the use of force likely to cause death or serious bodily harm in defense of other property only if he/she reasonably believes that such force is necessary to prevent the commission of a forcible offense.

8B-3-105. Use of force by aggressor. The justification described in 8B-3-102 through 8B-3-104 of this code is not available to a person who:

(1) is attempting to commit, committing, or escaping after the commission of a forcible offense; or

(2) purposely or knowingly provokes the use of force against himself/herself, unless:

(a) such force is so great that he/she reasonably believes that he/she is in imminent danger of death or serious bodily harm and that he/she has exhausted

every reasonable means to escape such danger other than the use of force which is likely to cause death or serious bodily harm to the assailant; or

(b) in good faith, he/she withdraws from physical contact with the assailant and indicates clearly to the assailant that he/she desires to withdraw and terminate the use of force but the assailant continues or resumes the use of force.

8B-3-106. Use of force to prevent escape.

(1) A peace officer or other person who has an arrested person in custody is justified in the use of such force to prevent the escape of the arrested person from custody as he/she would be justified in using if he/she were arresting such person.

(2) A jailer or other peace officer is justified in the use of force, which he/she reasonably believes to be necessary to prevent the escape from the jail of a person whom the officer reasonably believes to be lawfully detained in such jail under sentence for an offense or awaiting trial or commitment for an offense.

8B-3-107. Use of force by a parent. A parent or an authorized agent of any parent or a guardian, master, or teacher is justified in the use of such force as is reasonable and necessary to restrain or correct his child, ward, apprentice or pupil.

8B-3-108. Use of force in resisting arrest.

(1) A person is not authorized to use force to resist an arrest which he/she knows is being made either by a peace officer or by a private person summoned and directed by a peace officer to make the arrest, even if the person believes that the arrest is unlawful and the arrest in fact is unlawful.

(2) Resisting arrest is a Class A offense and is punishable by imprisonment in the Crow Tribal Jail for no more than one year and a fine not to exceed \$5000.00 payable to the Crow Tribal Court, or both.

8B-3-109. Affirmative defense. A defense of justifiable use of force based on the provisions of this code is an affirmative defense.

Chapter 4 - INCHOATE OFFENSES

8B-4-101. Solicitation.

(1) A person commits the offense of solicitation when, with the purpose that an offense be committed, he/she commands, encourages or facilitates the commission of that offense.

(2) A person convicted of solicitation shall be punished not to exceed the maximum provided for the offense solicited.

8B-4-102. Conspiracy.

(1) A person commits the offense of conspiracy when, with the purpose that an offense be committed, he/she agrees with another to the commission of that offense. No person may be convicted of conspiracy to commit an offense unless an act in furtherance of such agreement has been committed by the person or by a co-conspirator.

(2) It shall not be a defense to conspiracy that the person or persons with whom the accused has conspired:

- (a) has not been prosecuted or convicted;
- (b) has been convicted of a different offense;
- (c) is not amenable to justice;
- (d) has been acquitted; or
- (e) lacked the capacity to commit the offense.

(3) A person convicted of the offense of conspiracy shall be punished not to exceed the maximum sentence provided for the offense which is the object of the conspiracy.

8B-4-103. Attempt.

(1) A person commits the offense of attempt when, with the purpose to commit a specific offense, he/she does any act toward the commission of such offense.

(2) It shall not be a defense to a charge of attempt that because of a misapprehension of the circumstances it would have been impossible for the accused to commit the offense attempted.

(3) A person convicted of the offense of attempt shall be punished not to exceed the maximum provided for the offense attempted.

(4) A person shall not be liable under this section if, under circumstances manifesting a voluntary and complete renunciation of his/her criminal purpose, he/she avoided the commission of the offense attempted by abandoning his/her criminal effort.

(5) Proof of the completed offense does not bar conviction for the attempt.

Chapter 5 OFFENSES TO THE PERSON PART 1 HOMICIDE

8B-5-101. Deliberate homicide.

(1) A person commits the offense of deliberate homicide if:

(a) the person purposely or knowingly causes the death of another human being; or

(b) the person attempts to commit, commits, or is legally accountable for the attempt or commission of robbery, sexual intercourse without consent, arson, burglary, kidnapping, aggravated kidnapping, felonious escape, felony assault, aggravated assault, or any other forcible offense and in the course of the forcible offense or flight thereafter, the person or any person legally accountable for the crime causes the death of another human being.

(2) A person convicted of deliberate homicide shall receive the maximum penalty under Class A offenses of 1 year imprisonment and a \$1000.00 fine, payable to the Crow Tribal Court, or both.

8B-5-102. Mitigated deliberate homicide.

(1) A person commits the offense of mitigated deliberate homicide when the person purposely or knowingly causes the death of another human being but does so under the influence of extreme mental or emotional stress for which there is reasonable explanation or excuse. The reasonableness of the explanation or excuse must be determined from the viewpoint of a reasonable person in the actor's situation.

(2) It is an affirmative defense that the defendant acted under the influence of extreme mental or emotional stress as provided in subsection (1). This defense constitutes a mitigating circumstance reducing deliberate homicide to mitigated deliberate homicide and must be proved by the defendant by a preponderance of the evidence.

(3) Mitigated deliberate homicide is not an included offense of deliberate homicide.

(4) A person convicted of mitigated deliberate homicide shall receive the maximum penalty under Class A offenses of 1 year imprisonment and/or a \$1000.00 fine, payable to the Crow Tribal Court, or both.

8B-5-103. Negligent homicide.

(1) A person commits the offense of negligent homicide if he/she negligently causes the death of another human being.

(2) Negligent homicide is not an included offense of deliberate homicide.

(3) A person convicted of negligent homicide, a Class A offense, shall be imprisoned in the Crow Tribal Jail for a term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-104. Aiding or soliciting suicide.

(1) A person who purposely aids or solicits another to commit suicide, but such suicide does not occur, commits the offense of aiding or soliciting suicide.

(2) A person convicted of aiding or soliciting a suicide, a Class A offense, shall be imprisoned in the Crow Tribal Jail for a term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-105. Extrajudicial confession- evidence of death. In a homicide trial, before an extrajudicial confession may be admitted into evidence, the prosecution must introduce independent evidence tending to establish the death and the fact that the death was caused by a criminal agency.

8B-5-106. Inference of mental state. In a deliberate homicide, knowledge or purpose may be inferred from the fact that the accused committed a homicide and no circumstances of mitigation, excuse, or justification appear.

PART 2 ASSAULT AND RELATED OFFENSES

8B-5-201. Assault.

(1) A person commits the offense of assault if he/she:

(a) purposely or knowingly causes bodily injury to another;

(b) negligently causes bodily injury to another with a weapon;

(c) purposely or knowingly makes physical contact of an insulting or provoking nature with an individual;
or

(d) purposely or knowingly causes reasonable apprehension of bodily injury in another.

(2) Except as provided in subsection (3), assault is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(3) If the victim is less than 14 years old and the offender is 18 or more years old, the offense is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.

8B-5-202. Aggravated assault.

(1) A person commits the offense of aggravated assault if the person purposely or knowingly causes serious bodily injury to another.

(2) A person commits the offense of felony assault if the person purposely or knowingly causes:

(a) bodily injury to another with a weapon; or

(b) reasonable apprehension of serious bodily injury in another by use of a weapon.

(3)(a) Aggravated and felony assault are Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

(b) In addition to any sentence imposed under (3)(a), if the person convicted of felony assault is a partner or family member of the victim the person shall be required to complete a counseling assessment.

8B-5-203. Intimidation.

(1) A person commits the offense of intimidation when, with the purpose to cause another to perform or to omit the performance of any act, he/she communicates to another, under circumstances which reasonably tend to produce a fear that it will be carried out, a threat to perform without lawful authority any of the following acts:

(a) inflict physical harm on the person threatened or any other person or on a person's property;

(b) subject any person to physical confinement or restraint;

(c) commit any criminal offense;

(d) accuse any person of an offense;

(e) expose any person to hatred, contempt, or ridicule; or

(f) take action as a public official against anyone or anything, or withhold official action, or cause such action or withholding.

(2) A person commits the offense of intimidation if he/she knowingly communicates a threat or false report of a pending fire, explosion, or disaster which would endanger life or property.

(3) A person who has a privilege to ridicule a joking relative, as defined by the customary law of the Crow Tribe, shall not be subject to prosecution under section (e) regarding being ridiculed.

(4) Intimidation is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-5-204. Mistreating Prisoners.

(1) A person commits the offense of mistreating prisoners if, being responsible for the care or custody of a prisoner, he/she purposely or knowingly:

(a) assaults or otherwise injures a prisoner;

(b) intimidates, threatens, endangers, or withholds reasonable necessities from the prisoner with the purpose to obtain a confession from him/her or for any other purpose; or

(c) violates any civil right of a prisoner.

(2) Mistreating prisoners is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-5-205. Negligent vehicular assault --penalty.

- (1) A person who negligently operates a motor vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, and who causes bodily injury to another commits the offense of negligent vehicular assault.
- (2) Negligent vehicular assault is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-206. Partner or family assault-penalty.

- (1) A person commits the offense of partner or family member assault if the person:
 - (a) purposely or knowingly causes bodily injury to a partner or family member;
 - (b) negligently causes bodily injury to a partner or family member with a weapon; or
 - (c) purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.
- (2) For the purpose of this section, the following definitions apply:
 - (a) "Family member" means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.
 - (b) "Partners" means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship with a person of the opposite sex.
- (3)
 - (a) Partner or family member assault is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
 - (b) If there is a repeat occurrence, then the offense becomes a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.
 - (c) Upon a third conviction of the same offender, partner or family member assault becomes a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.
 - (d) In addition to the punishment in 3(a), offenders must complete a counseling assessment.

8B-5-207. Criminal Endangerment - penalty.

- (1) A person who knowingly engages in conduct that creates a substantial risk of death or serious bodily injury to another commits the offense of criminal endangerment. This conduct includes but is not limited to knowingly placing in a tree, log, or any other wood any steel, iron, ceramic, or other substance for the purpose of damaging a saw or other wood harvesting, processing, or manufacturing equipment.
- (2) Criminal Endangerment is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-208. Negligent endangerment - penalty.

- (1) A person who negligently engages in conduct that creates a substantial risk of death or serious bodily injury to another commits the offense of negligent endangerment.
- (2) Negligent endangerment is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-5-209. Elder Abuse.

- (1) A person commits the offense of elder abuse by knowingly or purposely, physically or mentally abusing, or exploiting an older person.
- (2) "Exploiting" means the unjust use of an individual's money or property for another advantage by means of duress, menace, fraud, or undue influence.
- (3) "Older Person" means a tribal member or other person residing on the Reservation who is:
 - (a) 60 years of age or older;
 - (b) determined by the Court to be an elder; or

(c) a tribal member or other person residing on the Reservation who is at least 45 years of age and unable to protect herself or himself from abuse, neglect, or exploitation because of a mental or physical impairment or because of frailties or dependencies brought about by age or disease.

(4) (a) A first offense of Elder Abuse is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(b) A second conviction of Elder Abuse is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.

(c) A third conviction of Elder Abuse is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

(d) In addition to the punishment in (4)(a) the Court may require a counseling assessment be completed by offender.

8B-5-210. Assault on peace officer or judicial officer.

(1) A person commits the offense of assault on a peace officer or judicial officer if the person purposely or knowingly causes:

(a) bodily injury to a peace officer or judicial officer;

(b) reasonable apprehension of serious bodily injury in a peace officer or judicial officer by use of a weapon;

(c) bodily injury to a peace officer or judicial officer with a weapon; or

(d) serious bodily injury to a peace officer or judicial officer.

(2) As used in this section, the following definitions apply:

(a) "Judicial officer" means all judges vested by law to perform judicial functions;

(b) "Peace officer" has the meaning provided in 8B-2-101 and includes a person, sworn or unsworn, who is responsible for the care or custody of an adult or youth offender.

(3) Criminal endangerment, negligent endangerment, and assault, are not included as offenses of assault on a peace officer or judicial officer.

(4) Assault on peace officer or judicial officer is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-211. Stalking - exemption.

(1) A person commits the offense of stalking if the person purposely or knowingly causes another person substantial emotional distress or reasonable apprehension of bodily injury or death by repeatedly:

(a) following the stalked person; or

(b) harassing, threatening, or intimidating the stalked person, in person or by phone, by mail, or by other action, device, or method.

(2) This section does not apply to a constitutionally protected activity.

(3) Attempts by the accused person to contact or follow the stalked 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 or knowingly followed, harassed, threatened, or intimidated the stalked person.

(a) A first offense of stalking is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(b) A second offense of stalking is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-212. Malicious intimidation or harassment relating to civil human rights - penalty.

(1) A person commits the offense of malicious intimidation or harassment when, because of another person's race, creed, religion, color, national origin, or involvement in civil rights or human rights activities, he/she purposely or knowingly, with the intent to terrify, intimidate, threaten, harass, annoy, or offend:

(a) causes bodily injury to another;

(b) causes reasonable apprehension of bodily injury in another; or

(c) damages, destroys, or defaces any property of another or any public property.

(2) For purposes of this section, “deface” includes but is not limited to cross burning or the placing of any word or symbol commonly associated with racial, religious, or ethnic identity or activities on the property of another without his or her permission.

(3) Malicious intimidation or harassment relating to civil human rights is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-213. Surreptitious visual observation or recordation - place of residence - public establishment - exceptions.

(1) A person commits the offense of surreptitious visual observation or recordation in a place of residence if a person purposely or knowingly hides, waits, or otherwise loiters in the vicinity of a private dwelling house, apartment, or other place of residence for the purpose of:

- (a) watching, gazing at, or looking upon any occupant in the residence in a surreptitious manner; or
- (b) by means of an electronic or mechanical recording device, surreptitiously recording the visual image of any occupant in the residence.

(2) An owner, manager, or employee of a business or a landlord who knowingly surreptitiously records a visual image of a person in a restroom, washroom, shower, bedroom, fitting room, or other room used by a customer, guest, tenant, or member of the public to, with a reasonable expectation of privacy, change or try on clothes, bathe, perform intimate bodily functions, or appear nude or partially nude or in underclothes commits the offense of surreptitious visual recordation in a public establishment.

(3) Subsections (1) and (2) do not apply to a law enforcement officer, an agent or employee of an insurer, or private licensed investigator or to any person engaged in fraud detection, prevention, or prosecution while the officer, agent, employee, or private investigator is acting in the course and scope of employment for legitimate investigative purposes.

(4) (a) A first offense of surreptitious visual observation or recordation is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(b) A second conviction of this offense is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both..

(c) A third conviction of this and any subsequent same offenses is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

PART 3 KIDNAPPING

8B-5-301. Unlawful restraint.

(1) A person commits the offense of unlawful restraint if he/she knowingly or purposely and without lawful authority restrains another so as to interfere substantially with that person’s liberty.

(2) Unlawful restraint is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-5-302. Kidnapping.

(1) A person commits the offense of kidnapping if the person knowingly or purposely and without lawful authority restrains another person by either secreting or holding the other person in a place of isolation or by using or threatening to use physical force.

(2) Kidnapping is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-303. Aggravated Kidnapping.

(1) A person commits the offense of aggravated kidnapping if the person knowingly or purposely and without lawful authority restrains another person by either secreting or holding the other person in a place of isolation or by using or threatening to use physical force, with any of the following purposes:

- (a) to hold for ransom or reward or as a shield or hostage;
- (b) to facilitate commission of any felony, or flight thereafter;
- (c) to inflict bodily injury on, or to terrorize the victim or another;
- (d) to interfere with the performance of any governmental or political function; or

(e) to hold another in a condition of involuntary servitude.

(2) Aggravated kidnapping is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-304. *Custodial interference.*

(1) A person commits the offense of custodial interference if, knowing that he/she has no legal right to do so, he/she takes, entices or withholds from lawful custody any child, incompetent person, or other person entrusted by authority of law to the custody of another person or institution. A person does not commit an offense under this section if he/she voluntarily returns such person to lawful custody prior to trial.

(2) Custodial interference is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

PART 4 ROBBERY

8B-5-401. *Robbery.*

(1) A person commits the offense of robbery if, in the course of committing theft, the person:

(a) inflicts bodily injury upon another;

(b) threatens to inflict bodily injury upon any person or purposely or knowingly puts any person in fear of immediate bodily injury; or

(c) commits or threatens immediately to commit a felony other than theft.

(2) "IN THE COURSE OF COMMITTING THEFT" as used in this section includes acts which occur in an attempt to commit or in the commission of theft or in flight after the attempt or commission.

(3) Robbery is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

PART 5 SEXUAL CRIMES

8B-5-501. *Definitions.* As used in 8B-5-503 the term "WITHOUT CONSENT" means:

(1) the victim is compelled to submit by force against himself/herself or by threat of imminent death, bodily injury, or kidnapping to be inflicted on anyone; or

(2) the victim is incapable of consent because he/she is:

(a) mentally defective or incapacitated;

(b) physically helpless;

(c) less than 16-years old; or

(d) incarcerated in an adult or juvenile correctional, detention, or treatment facility and the perpetrator is an employee, contractor, or volunteer of the facility and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search.

8B-5-502. *Sexual assault.*

(1) A person who knowingly subjects another to any sexual contact without consent commits the offense of sexual assault.

(2) An act "in the course of committing sexual assault" includes a attempt to commit the offense or flight after the attempt or commission.

(3) Consent is ineffective under this section if the victim is less than 14 years old and the offender is 3 or more years older than the victim.

(4) (a) Except as specified in subsection (5) a first conviction of sexual assault is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(b) A second conviction of sexual assault is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both..

(c) A third and any subsequent convictions of sexual assault is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

(5) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offense will be a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

(6) Upon the first conviction of sexual assault the court may require the offender to complete a counseling assessment.

8B-5-503. Sexual intercourse without consent.

(1) A person who knowingly has sexual intercourse without consent with another person commits the offense of sexual intercourse without consent. A person may not be convicted under this section based on the age of the person's spouse, as provided in 8B-5-501 (2)(c).

(2) Sexual intercourse without consent is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-504. Indecent exposure.

(1) A person who, for the purpose of arousing or gratifying the sexual desire of himself/herself or of any person, exposes his/her genitals under circumstances in which he/she knows conduct is likely to cause affront or alarm commits the offense of indecent exposure.

(2) (a) A first conviction of indecent exposure is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(b) A second conviction of indecent exposure is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.

(c) A third or subsequent conviction of indecent exposure is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

(3) In addition to any punishments for indecent exposure, the Crow Tribal Court may require an offender to complete a counseling assessment.

8B-5-505. Deviate sexual conduct.

(1) A person who knowingly engages in deviate sexual relations or who causes another to engage in deviate sexual relations commits the offense of deviate sexual conduct.

(2) Deviate sexual conduct is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-506. Incest.

(1) A person commits the offense of incest if the person knowingly marries, cohabits with or has sexual intercourse or sexual contact with an ancestor, a descendant, a brother or sister of the whole or half blood or any stepson or stepdaughter. "Cohabit" means to live together under the representation of being married. The relationships referred to herein include blood relationships without regard to legitimacy, and relationships of parent and child by adoption.

(2) Consent is a defense for adoption cases where stepson or stepdaughter is over 18 years of age.

(3) Incest is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-507. Provisions generally applicable to sexual crimes.

(1) When criminality depends on the victim being less than 16 years old, it is a defense for the offender to prove that he/she reasonably believed the child to be above that age. Such belief shall not be deemed reasonable if the child is less than 14 years old.

(2) No evidence concerning the sexual conduct of the victim is admissible in prosecutions under this part except evidence of the victim's past sexual conduct with the offender or evidence of specific instances of the victim's sexual activity to show the origin of semen, pregnancy, or disease which is at issue in the prosecution.

- (3) If the defendant proposes for any purpose to offer evidence described in subsection (2), the trial judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence is admissible under subsection (2).
- (4) Evidence of failure to make a timely complaint or immediate outcry does not raise any presumption as to the credibility of the victim.
- (5) Resistance by the victim is not required to show lack of consent. Force, fear, or threat is sufficient alone to show lack of consent.

PART 6 OFFENSES AGAINST THE FAMILY

8B-5-601. Prostitution.

- (1) A person commits the offense of prostitution if such person engages in or agrees or offers to engage in sexual intercourse with another person for compensation, whether such compensation is received or to be received or paid or to be paid.
- (2) Prostitution is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-5-602. Promoting prostitution.

- (1) A person commits the offense of promoting prostitution if he/she purposely or knowingly commits any of the following acts:
 - (a) owns, controls, manages, supervises, resides in, or otherwise keeps, alone or in association with others, a house of prostitution or a prostitution business;
 - (b) procures an inmate for a house of prostitution or a place in a house of prostitution for one who would be an inmate;
 - (c) encourages, induces, or otherwise purposely causes another to become or remain a prostitute;
 - (d) solicits a person to patronize a prostitute;
 - (e) procures a prostitute for a patron;
 - (f) transports a person into or within the exterior boundaries of the reservation with the purpose to promote the person's engaging in prostitution or procures or pays for transportation with that purpose.
 - (g) leases or otherwise permits a place controlled by the offender, alone or in association with others, to be regularly used for prostitution or for the procurement of prostitution or fails to make reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or using other legally available means; or
 - (h) lives in whole or in part upon the earnings of a person engaging in prostitution, unless the person is the prostitute's minor child or other legal dependent incapable of self-support.
- (2) Promoting prostitution is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-5-603. Aggravated promotion of prostitution.

- (1) A person commits the offense of aggravated promotion of prostitution if he/she purposely or knowingly commits any of the following:
 - (a) compels another to engage in or promote prostitution;
 - (b) promotes prostitution of a child under the age of 18 years, whether or not he/she is aware of the child's age;
 - (c) promotes the prostitution of one's spouse, child, ward, or any person for whose care, protection, or support he/she is responsible.
- (2) Aggravated promotion of prostitution is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-5-604. Evidence in cases of promotion.

- (1) On the issue of whether a place is a house of prostitution, the following, in addition to all other admissible evidence, shall be admissible:
 - (a) its general repute;
 - (b) the repute of the persons who reside in or frequent the place; or
 - (c) the frequency, timing, and duration of visits by nonresidents.
- (2) Testimony of a person against his spouse shall be admissible under this section.

8B-5-605. Bigamy.

- (1) A person commits the offense of bigamy if, while married, he/she knowingly contracts or purports to contract another marriage, unless at the time of the subsequent marriage:
 - (a) the offender believes on reasonable grounds that the prior spouse is dead;
 - (b) the offender and the prior spouse have been living apart for (5) consecutive years throughout which the prior spouse was not known by the offender to be alive;
 - (c) a court has entered a judgment purporting to terminate or annul any prior disqualifying marriage, and the offender does not know that judgment to be invalid; or
 - (d) the offender reasonably believes that he/she is legally eligible to remarry.
- (2) Bigamy is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-5-606. Marrying a bigamist.

- (1) A person commits the offense of marrying a bigamist if he/she contracts or purports to contract a marriage with another knowing that the other is thereby committing bigamy.
- (2) Marrying a bigamist is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-5-607. Definitions. As used in 8B-5-609 the following definitions apply:

- (1) "Sexual conduct" means an actual or simulated:
 - (a) sexual intercourse, whether between persons of the same or opposite sex;
 - (b) penetration of the vagina or rectum by any object, except when done as part of a recognized medical procedure;
 - (c) bestiality;
 - (d) masturbation;
 - (e) sadomasochistic abuse;
 - (f) lewd exhibition of the genitals, breasts, pubic or rectal area, or other intimate parts of any person; or
 - (g) defecation or urination for the purpose of the sexual stimulation of the viewer.
- (2) "Simulated" means any depicting of the genitals or pubic or rectal area that gives the appearance of sexual conduct or incipient sexual conduct.
- (3) "Visual medium" means:
 - (a) any film, photograph, videotape, negative, slide, or photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or
 - (b) any disk, diskette, or other physical media that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

8B-5-608. Endangering the welfare of children.

- (1) A parent, guardian, or other person supervising the welfare of a child less than 18 years old commits the offense of endangering the welfare of children if he/she knowingly endangers the child's welfare by violating a duty of care, protection, or support or if he/she knowingly fails to cause a child less than 18 years old to regularly attend school without legal justification.
- (2) A parent or guardian of any person who is 18 years of age or older, whether or not he/she is supervising the welfare of the child, commits the offense of endangering the welfare of children if he/she knowingly contributes to the delinquency of a child less than 18 years old by:
 - (a) supplying or encouraging the use of intoxicating substances by the child; or
 - (b) assisting, promoting, or encouraging the child to:
 - (i) abandon his place of residence without the consent of his parents or guardian;
 - (ii) enter a place of prostitution; or
 - (iii) engage in sexual conduct.

- (3) On the issue of whether there has been a violation of the duty of care, protection, and support, the following in addition to all other admissible evidence, is admissible: cruel treatment; abuse, infliction of unnecessary and cruel

punishment; abandonment; neglect; lack of proper medical care, clothing, shelter, and food; and evidence of past bodily injury.

- (4) Endangering the welfare of children is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$2500.00 \$1000.00 payable to the Crow Tribal Court, or both except that the Court may imprison the offender for one day or may impose a fine of up to \$100 for each day an offender has failed to cause a child less than 18 years old to attend school without legal justification, or both, not to exceed \$1000 or 6 months.
- (5) In lieu of a fine or imprisonment, and upon a showing of intention to comply with the law requiring compulsory school attendance, the Court may order the defendant to perform community service at the child's school under the supervision of the school's Home School Coordinator or other appropriate official, or may impose other community service. The judge may also impose a requirement for parents to enroll in Crow traditional counseling or a certified parenting program or the juvenile officer may enter into an informal adjustment agreement with the parents and juvenile as provided in Title 9.
- (6) Any parent, guardian, or other person who is responsible for the care of any child residing on or near the Crow Reservation who is of kindergarten enrollment age or older prior to the first day of school in any academic year shall cause the child to attend the school in which he or she is enrolled for the school term and each day school is open during the term until the child has either reached the age of eighteen (18) or completed the work of the twelfth (12th) grade. Legal justification for failure to cause the child's attendance include (a) illness of the child; (b) death of a family member; (c) the funeral or feast in remembrance of a family member; (d) legal holidays of the Crow Tribe as defined in Title 5, Rule 28; (e) completion of the GED program; or (f) legal emancipation.
- (7) The Juvenile Officer shall develop a Memorandum of Agreement with the Superintendents of schools located within the boundaries of the Crow Reservation and schools in which a substantial percentage of students are children of Crow tribal members to provide for enforcement of compulsory school attendance under the Crow Law and Order Code.

8B-5-609. Sexual abuse of children.

- (1) A person commits the offense of sexual abuse of children if the person:
 - (a) knowingly employs, uses, or permits the employment or use of a child in an exhibition of sexual conduct, actual or simulated;
 - (b) knowingly photographs, films, videotapes, develops or duplicates photographs, films, or videotapes, or records a child engaging in sexual conduct, actual or simulated;
 - (c) knowingly persuades, entices, counsels, or procures a child to engage in sexual conduct, actual or simulated, for use as designated in subsection (1)(a), (1)(b), or (1)(d);
 - (d) knowingly processes, develops, prints, publishes, transports, distributes, sells, exhibits, or advertises any visual or print medium in which children are engaged in sexual conduct, actual or simulated;
 - (e) knowingly possesses any visual or print medium in which children are engaged in sexual conduct, actual or simulated;
 - (f) finances any of the activities described in subsections (1)(a) through (1)(d) and (1)(g), knowing that the activity is of the nature described in those subsections; or
 - (g) possesses with intent to sell any visual or print medium in which children are engaged in sexual conduct, actual or simulated.
- (2) An offense is not committed under subsections (1)(d) through (1)(g) if the visual or print medium is processed, developed, printed, published, transported, distributed, sold, possessed, as part of a sex offender information or treatment course or program conducted or approved by the department of corrections.
- (3) Sexual abuse of children is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.
- (4) In addition to any punishment the Court may require the offender to complete a counseling assessment program.

8B-5-610. Non-support.

- (1) A person commits the offense of Non-support if the person fails to provide support that the person he/she can provide and which he/she knows he/she is legally obligated to provide to a spouse, child, or other dependent.

- (2) Non-support is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
- (3) The Crow Tribal Court may order that any fines paid into the Court be applied to the support of the dependants of the offender.

8B-5-611. Unlawful transactions with children.

- (1) A person commits the offense of unlawful transactions with children if the person knowingly:
- (a) sells or gives explosives to a child under the age of majority except as authorized under appropriate tribal ordinances;
 - (b) sells or gives intoxicating substances other than alcoholic beverages to a child under the age of majority;
 - (c) sells or gives an alcoholic beverage to a person under 21 years of age;
 - (d) being a junk dealer, pawnbroker or second-hand dealer he/she receives or purchases goods from a child under the age of majority without authorization of the parent or guardian; or
 - (e) tattoos a child under the age of majority without the explicit in-person consent of the child's parent or guardian.
- (2) Unlawful transactions with children is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
- (3) A second offense or subsequent conviction of unlawful transactions with children is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.

8B-5-612. Interference with parent - child contact.

- (1) A person who has been granted parent - child contact under a parenting plan or court order commits the offense of interference with parent-child contact if the person knowingly or purposely prevents, obstructs, or frustrates the rights of another person entitled to parent-child contact under an existing court order.
- (2) Interference with parent-child is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-5-613. Aggravated interference with parent - child contact.

- (1) A person commits the offense of aggravated interference with parent - child contact by changing the residence of the minor child from the Crow Reservation to the State of Montana or any other reservation, state, or country without giving written notice, unless the notice requirement has been precluded or has been given from the person entitled to parent-child contact pursuant to an existing court order.
- (2) Aggravated interference with parent-child contact is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.

8B-5-614. Defenses to interference with parent - child contact and aggravated interference with parent - child contact.

- (1) A person does not commit the offense of interference with parent - child contact or aggravated interference with parent - child contact if the person acts:
- (a) with the consent of the person entitled to parent - child contact;
 - (b) under an existing court order; or
 - (c) with reasonable cause.
- (2) Return of the child before arrest is a defense only with respect to the first commission of interference with parent - child contact.

8B-5-615. Parenting interference.

- (1) A person commits the offense of parenting interference if, knowing that the person has no legal right to do so, the person:
- (a) before the entry of a court order determining parenting rights, takes, entices, or withholds a child from the other parent when the action manifests a purpose to substantially deprive that parent of parenting rights; or
 - (b) is one of two persons who has parenting authority of a child under court order and takes, entices, or withholds a child from the other when the action manifests a purpose to substantially deprive the other parent of parenting rights.

(2) With respect to the first alleged commission of the offense only, a person who has not left the reservation does not commit the offense under this section if the person voluntarily returns the child before arraignment. With respect to the first alleged commission of the offense only, a person who has left the reservation does not commit an offense under this section if the person voluntarily returns the child before arrest.

(3) Parenting interference is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.

8B-5-616. Unlawful possession of intoxicating substances by children.

(1) A person under 21 years of age commits the offense of possession of an intoxicating substance if he/she knowingly consumes or has in his/her possession an intoxicating substance.

(2) A person commits the offense of unlawful attempt to purchase intoxicating substance if the person knowingly attempts to purchase alcoholic beverages.

(3) Unlawful possession of intoxicating substances by children is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-5-617. Tobacco possession or consumption by persons under 18 years of age prohibited.

(1) A person under 18 years of age who knowingly possesses or consumes a tobacco product, commits the offense of possession or consumption of a tobacco product.

(2) Tobacco possession or consumption by persons under 18 years of age is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(3) All violations under this section shall be prosecuted in youth court.

CHAPTER 6 OFFENSES AGAINST PROPERTY

PART 1 - CRIMINAL MISCHIEF AND ARSON

8B-6-101. Criminal mischief.

(1) A person commits the offense of criminal mischief if he/she knowingly or purposely:

(a) injures, damages or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) fails to close a gate previously unopened which he/she has opened leading in or out of any enclosed premises. This does not apply to gates located in cities and towns.

(2) Except as specified in (3) a person convicted of criminal mischief has committed a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(3) If the offender causes pecuniary loss in excess of \$500.00, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, power, or other public services, then the offense is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-6-102. Negligent arson.

(1) A person commits the offense of negligent arson if he/she purposely or knowingly starts a fire or causes an explosion, whether on his/her own property or the property of another, and thereby negligently:

(a) places another person in danger of death or bodily injury; or

(b) places property of another in danger of damage or destruction.

(2) Except as specified in (3), negligent arson is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(3) If the offender places another person in danger of death or bodily injury, then the offense is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-6-103. Arson.

- (1) A person commits the offense of arson when, by means of fire or explosives, the person knowingly or purposely:
 - (a) damages or destroys a structure, vehicle, personal property (other than a vehicle) that exceeds \$500 in value, crop, pasture, forest, or other real property that is property of another without consent;
 - (b) damages or destroys a structure, vehicle, crop, pasture, forest, or other property that the person owns or has a possessory interest in, with the purpose of obtaining a pecuniary or other gain through fraud or deception; or
 - (c) places another person in danger of death or bodily injury, including a firefighter responding to or at the scene of a fire or explosion.
- (2) Arson is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

PART 2 CRIMINAL TRESPASS AND BURGLARY

8B-6-201. Definition. "ENTER OR REMAIN UNLAWFULLY."

- (1) A person enters or remains unlawfully in or upon any vehicle occupied structure, or premises when he/she is not licensed, invited, or otherwise privileged to do so. A person who enters or remains upon land does so with privilege unless notice is personally communicated to him/her by any authorized person or unless such notice is given by posting in a conspicuous manner.
- (2) In no event shall civil liability be imposed upon the owner or occupier of premises by reason of any privilege created by this section.

8B-6-202. Criminal trespass to vehicles.

- (1) A person commits the offense of criminal trespass to vehicles when he/she purposely or knowingly and without authority enters any vehicle or any part thereof.
- (2) Criminal trespass to vehicles is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-6-203. Criminal trespass to property.

- (1) A person commits the offense of criminal trespass to property if he/she knowingly:
 - (a) enters or remains unlawfully in an occupied structure; or
 - (b) enters or remains unlawfully in or upon the premises of another.
- (2) Criminal trespass to property is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-6-204. Burglary.

- (1) A person commits the offense burglary if he/she knowingly enters or remains unlawfully in an occupied structure with the purpose to commit an offense therein.
- (2) A person commits the offense of aggravated burglary if he/she knowingly enters or remains unlawfully in an occupied structure with the purpose to commit the offense therein and:
 - (a) in effecting entry or in the course of committing the offense or in immediate flight thereafter, he/she or another participant in the offense is armed with explosives or a weapon; or
 - (b) in effecting entry or in the course of committing the offense or in immediate flight thereafter, he purposely, knowingly, or negligently inflicts or attempts to inflict bodily injury upon anyone.
- (3) Both burglary and aggravated burglary are Class A offenses for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-6-205. Possession of burglary tools.

- (1) A person commits the offense of possession of burglary tools when he/she knowingly possesses any key, tool, instrument, device, or any explosive, suitable for breaking into an occupied structure or vehicle or any depository designed for the safekeeping of property, or any part thereof with the purpose to commit an offense therewith.

(2) Possession of burglary tools is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

PART 3 - THEFT AND RELATED OFFENSES

8B-6-301. *Theft.*

(1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over the property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property in such a manner as to deprive the owner of the property;

(2) A person commits the offense of theft when he/she purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when he/she purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of such property.

(4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over any part of the public assistance provided by the Tribe, or any other governmental agency, regardless of the original source of assistance, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) a fraudulent scheme or device.

(5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) deception or other fraudulent action.

(6) A person commits the offense of theft when the person purposely or knowingly commits insurance fraud.

(7) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.

(8) Except as specified in (9) the penalties for theft of property are as follows

(a) A first conviction of theft of property not exceeding \$500.00 in value is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(b) A second conviction of theft of property not exceeding \$500.00 in value is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.

(c) A third subsequent conviction of theft of property not exceeding \$500.00 in value is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

(9) Theft of property exceeding \$500.00 in value or theft of any commonly domesticated

hoofed animal is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-6-302. *Theft of lost or mislaid property.*

(1) A person who obtains control over lost or mislaid property commits the offense of theft when he/she:

- (a) knows or learns the identity of the owner or knows, or is aware of, or learns of a reasonable method of identifying the owner;
 - (b) fails to take reasonable measures to restore the property to the owner; and
 - (c) has the purpose of depriving the owner permanently of the use or benefit of the property.
- (2) Theft of lost or mislaid property is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-6-303. Theft of labor or services or use of property.

- (1) A person commits the offense of theft when he/she obtains the temporary use of property, labor or services of another which are available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the property, labor, or services.
- (2) Theft of labor or services or use of property is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-6-304. Obtaining communication services with intent to defraud. In prosecution for theft of telephone, telegraph, or cable television services, the element of deception is established by proof that the defendant obtained such services by any of the following means:

- (1) by use of a code, prearranged scheme, or other similar stratagem or device whereby said person, in effect, sends or receives information;
- (2) by installing, rearranging, or tampering with any facilities or equipment, whether physically, inductively, acoustically, or electronically;
- (3) by any other trick, stratagem, impersonation, false pretense, false representation, false statement, contrivance, device or means; or
- (4) by making, assembling, or possessing any instrument, apparatus, equipment, or device or the plans or instructions for the making or assembling of any instrument, apparatus, equipment, or device which is designed, adapted, or otherwise intended to be used to avoid the lawful charge, in whole or in part, for any telecommunications services by concealing the existence, place of origin, or destination of any telecommunications.

8B-6-305. Aiding the avoidance of telecommunications charges.

- (1) A person commits the offense of aiding the avoidance of telecommunications charges when he/she:
- (a) publishes the number or code of an existing, canceled, revoked, expired, or nonexistent telephone credit card or the numbering or coding which is employed in the issuance of credit cards with the purpose that it will be used to avoid the payment of lawful telecommunications charges;
 - (b) publishes, advertises, sells, gives, or otherwise transfers to another plans or instructions for the making or assembling of any apparatus, instrument, equipment, or device with the purpose that such will be used or with the knowledge or reason to believe that such will be used to avoid the payment of lawful telecommunications charges; or
 - (c) manufactures, assembles, possesses, sells, gives, or otherwise transfers any apparatus, instrument, equipment, or device with the purpose that such will be used to avoid the payment of lawful telecommunications charges.
- (2) For the purposes of this section, the term "publish" means to communicate information to any one or more persons, either orally; in person; by telephone, radio, or television; or in a writing of any kind, including but not limited to a letter, memorandum, circular, handbill, newspaper, or magazine article, or book.
- (3) Aiding the avoidance of telecommunications charges is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-6-306. Unauthorized use of motor vehicles.

- (1) A person commits the offense of unauthorized use of motor vehicles if he/she knowingly operates the automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle of another without his/her consent.
- (2) Unauthorized use of motor vehicles is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
- (3) It is an affirmative defense that the offender reasonably believed that the owner would have consented to the operation had he/she known of it.

8B-6-307. Offender's interest in the property.

(1) It is no defense to a charge of theft of property that the offender has an interest therein when the owner also has an interest to which the offender is not entitled.

(2) It is no defense that theft was from the offender's spouse, except that misappropriation of household and personal effects, or other property normally accessible to both spouses is theft only if it occurs after the parties have ceased living together.

8B-6-308. Failure to return rented or leased personal property.

(1) A person commits the offense of failure to return rented or leased personal property if, without notice to and permission of the lessor, the person purposely and knowingly fails to return the property within 48 hours after the time provided for return in the rental agreement, provided that clear written notice, in bold print, of the date and time when return of the property is required and of the penalty prescribed in this section is stated in the rental or lease agreement.

(2) Presentation to the lessor by the lessee of identification that is false for the purpose of obtaining a rental agreement constitutes prima facie evidence of commission of the offense.

(3) After the rental or lease period specified in the rental or lease agreement has expired, failure to return rented or leased personal property within 72 hours of written demand by the lessor, sent by certified mail to the renter or lessee at the address given at the time of entering the rental or lease agreement, constitutes prima facie evidence of commission of the offense.

(4) Failure to return rented or leased personal property not exceeding \$500.00 is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(5) Failure to return rented or leased personal property exceeding \$500.00 is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-6-309. Definition - computer use. As used in 8B-6-310, the term "obtain use of" means to instruct, communicate with, store data in, retrieve data from, cause input to, cause input from, or otherwise make use of any resources of a computer, computer system, or computer network or to cause another to instruct, communicate with, store data in, retrieve data from, cause input to, cause input from, or otherwise make use of any resources of a computer, computer system, or computer network.

8B-6-310. Unlawful use of a computer.

(1) A person commits the offense of unlawful use of a computer if the person knowingly or purposely:

(a) obtains the use of any computer, computer system, or computer network without consent of the owner;

(b) alters or destroys or causes another to alter or destroy a computer program or computer software without consent of the owner; or

(c) obtains the use of or alters or destroys a computer, computer system, computer network, or any part thereof as part of a deception for the purpose of obtaining money, property, or computer services from the owner of the computer, computer system, computer network, or part thereof or from any other person.

(2) Unlawful use of a computer involving property not exceeding \$500.00 is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(3) Unlawful use of a computer involving property exceeding \$500.00 is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-6-311. Unauthorized acquisition or transfer of food stamps.

(1) A person commits the offense of unauthorized acquisition or transfer of food stamps if the person knowingly:

(a) acquires, purchases, possesses, or uses any food stamp or coupon that the person is not entitled to; or

(b) transfers, sells, trades, gives, or otherwise disposes of any food stamp or coupon to another person not entitled to receive or use it.

(2) Unauthorized acquisition or transfer of food stamps in value not exceeding \$500 is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(3) Unauthorized acquisition or transfer of food stamps in value exceeding \$500.00 or as part of a common scheme is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

(4) As used in this section, "food stamp or coupon" means any stamp, coupon, or type of certification provided for the purchase of eligible food pursuant to the Food Stamp Act of 1977, 7 U.S.C. 2011 through 2029, or any similar public assistance program.

8B-6-312. Medicaid fraud.

(1) A person commits the offense of Medicaid fraud when:

(a) the person obtains a Medicaid payment or benefit for the person or another person by purposely or knowingly:

(i) making, submitting, or authorizing the making or submitting of a false or misleading Medicaid claim, statement, representation, application, or document to a Medicaid agency for a service or item when the person knows or has reason to know that the person is not entitled under applicable statutes, regulations, rules, or policies to Medicaid payment or benefits for the service or item or for the amount of payment requested or claimed; or

(ii) making, submitting, or authorizing the making or submitting of a Medicaid claim, statement, representation, application, or document under the Medicaid program for a service or item when the person knows or has a reason to know that the person is not entitled under applicable statutes, regulations, rules or policies to Medicaid payment or benefit for the service or item or for the amount of payment requested or claimed;

(b) the person purposely or knowingly:

(i) solicits, accepts, offers, or provides any remuneration, including but not limited to a kickback, bribe, or rebate, other than an amount legally payable under the medical assistance program, for furnishing services or items for which payment may be made under the Medicaid program or in return for purchasing, leasing, or ordering of any services or items from a provider for which payment may be made under the Medicaid program; or (ii) makes, offers, or accepts a remuneration, a rebate of a fee, or a charge for referring a receipt to another provider for the furnishing of services or items for which payment may be made under the Medicaid program; or

(c) the person, with respect to a managed care contract, health maintenance program, purposely or knowingly fails or refuses to provide covered medically necessary services to eligible recipients as required by the contract.

(2) Any conduct or activity that does not violate or that is protected under the provisions of, or federal regulations adopted under, 42 U.S.C. 1395nn or 42 U.S.C. 1320a-7b(b), as may be amended, is not considered an offense under subsection (1)(b), and the conduct or activity must be accorded the same protections allowed under federal laws and regulations.

(3) In a prosecution for a violation of this section, it is a defense if the person acted in reliance upon the written authorization or advice of the department.

(4) The establishment of the criminal offenses specified in this section does not preclude the application of any other provision of the law.

(5) Except as specified in (6) the penalties for medicaid fraud involving values or benefits less than \$500.00 are as follows:

(a) First conviction of medicaid fraud is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(b) Second conviction of medicaid fraud is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.

(c) A third or subsequent conviction of medicaid fraud is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

(6) Medicaid fraud involving values or benefits exceeding \$500.00 is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-6-313. Theft by disposal of stolen property. A pawnbroker or dealer who buys and sells secondhand merchandise and allows stolen property to be sold, bartered, or otherwise disposed of after a peace officer has requested him to hold the property for 30 days, commits the offense of theft as defined in 8B-6-301.

8B-6-314. Defrauding creditors.

(1) A person commits the offense of defrauding secured creditors if he/she destroys, conceals, encumbers, transfers, removes from the reservation, or otherwise deals with property subject to a security interest with the purpose to hinder enforcement of that interest.

(2) (a) "Security interest" means an interest in personal property or fixtures that secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer is limited in effect to a reservation of a "security interest". The term also includes any interest of a buyer of accounts or chattel paper. Unless a consignment is intended as security, reservation of title thereunder is not a "security interest", but a consignment in any event is subject to the provisions on consignment sales. Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee and:

(i) the original term of the lease is equal to or greater than the remaining economic life of the goods;

(ii) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(iii) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or

(iv) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(b) A transaction does not create a security interest merely because it provides that:

(i) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(ii) the lessee assumes risk of loss of the goods or agrees to pay taxes, insurance, filing, recording, or registration fees or service or maintenance costs with respect to the goods;

(iii) the lessee has an option to renew the lease or to become the owner of the goods;

(iv) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market value for the use of the goods for the term of the renewal at the time the option is to be performed; or

(v) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(c) For purposes of this subsection (2):

(i) additional consideration is not nominal if:

(A) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or

(B) when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed;

(ii) additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(iii) "reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(iv) "present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(3) A person who destroys, conceals, encumbers, transfers, removes from the reservation, or otherwise deals with property subject to a security interest with the purpose of depriving the owner of the property or of the proceeds and value therefrom may be prosecuted under 8B-6-301.

(4) Defrauding creditors is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-6-315. *Issuing a bad check.*

(1) A person commits the offense of issuing a bad check when, with the purpose of obtaining control over property or to secure property, labor or services of another, he/she issues or delivers a check or other order upon a real or fictitious depository for the payment of money, knowing that it will not be paid by the depository.

(2) If the offender has an account with the depository, failure to make good the check or other order within five (5) days after written notice of nonpayment has been received by the issuer is prima facie evidence that he/she knew that it would not be paid by the depository.

(3) Issuing bad checks for the value of any property, labor, or services obtained or attempted to be obtained, not exceeding \$500.00 is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(4) Issuing bad checks that are part of a common scheme or if the value of any property, labor, or services obtained or attempted to be obtained exceeds \$500.00, the offense is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-6-316. Deceptive practices.

(1) A person commits the offense of deceptive practices when the person purposely or knowingly:

(a) causes another, by deception or threat, to execute a document disposing of property or a document by which a pecuniary obligation is incurred;

(b) makes or directs another to make a false or deceptive statement addressed to the public or any person for the purpose of promoting or procuring the sale of property or services;

(c) makes or directs another to make a false or deceptive statement to any person respecting the financial condition of the person making or directing another to make the statement for the purpose of procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting to procure a loan or credit regarding that person's financial condition ; or

(d) obtains or attempts to obtain property, labor, or services by any of the following means:

(i) using a telephone card or a credit card which was issued to another without the other's consent;

(ii) using a telephone or a credit card that has been revoked or canceled;

(iii) using a telephone or a credit card that has been falsely made, counterfeited, or altered in any material respect;

(iv) using the pretended number or description of a fictitious telephone or credit card;

(v) using a telephone or credit card that has been expired when the cards clearly indicate the expiration date.

(2) Deceptive practices for the value of any property, labor, or services obtained or attempted to be obtained, not exceeding \$500.00, is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(3) Deceptive practices that are part of a common scheme or if the value of any property, labor, or services obtained or attempted to be obtained exceeds \$500.00, the offense is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-6-317. Deceptive Business Practices.

(1) A person commits the offense of deceptive business practices if in the course of engaging in a business, occupation, or profession he/she purposely or knowingly:

(a) uses or possesses for use a false weight or measure or any other device for falsely determining or recording any quality or quantity;

(b) sells, offers, exposes for sale, or delivers less than the represented quantity of any commodity or service;

(c) takes or attempts to take more than the represented quantity of any commodity or service when as buyer he/she furnished the weight or measure;

(d) sells, offers, or exposes for sale adulterated commodities;

(e) sells, offers, or exposes for sale mislabeled commodities; or

(f) makes a deceptive statement regarding the quantity or price of goods in any advertisement addressed to the public.

(2) "ADULTERATED" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage.

(3) "MISLABELED" means:

(a) varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage; or

(b) represented as being another person's produce though otherwise labeled accurately as to quality and quantity .

(4) Deceptive business practices is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-6-318. Chain distributor schemes.

(1) As used in this section, the following definitions apply:

(a) "Chain distributor scheme" means a sales device whereby a person, under a condition that he/she make an investment, is granted a license or right to recruit for consideration one or more additional persons who are also granted such license or right upon condition of making an investment and may further perpetuate the chain of persons who are granted such license or right upon such condition.

(b) "Person" means a natural person, corporation, partnership, trust, or other entity; and in the case of an entity it shall include any other entity which has a majority interest in such entity or effectively controls such other entity as well as the individual offices, directors, and other person in act of control of the activities of each entity.

(2) It is unlawful for any person to promote, sell, or encourage participation in any chain distributor scheme.

(3) The first conviction of a chain distributor scheme is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(4) The second or subsequent conviction of a chain distributor scheme is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-6-319. Forgery.

(1) A person commits the offense of forgery when, with purpose to defraud, he/she knowingly:

(a) without authority makes or alters any document or other object apparently capable of being used to defraud another or at another time, or with different provisions, or of different composition;

(b) issues or delivers such document or other object knowing it to have been thus made or altered;

(c) possesses with the purpose of issuing or delivering any such document or other object knowing it to have been thus made or altered; or

(d) possesses with the knowledge of its character any plate, die, or other device, apparatus, equipment or article specifically designed for use in counterfeiting or otherwise forging written instruments.

(2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter or terminate any right, obligation or power with reference to any person or property.

(3) A document or other object capable of being used to defraud another includes, but is not limited to, one by which any right, obligation, or power with reference to any person or property may be created, transferred, altered or terminated.

(4) If the value of the property, labor, or services obtained or attempted to be obtained does not exceed \$500.00 then the forgery is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(5) If the value of the property, labor, or services obtained or attempted to be obtained exceeds \$500.00, then the forgery is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-6-320. Obscuring the identity of a machine.

(1) A person commits the offense of obscuring the identity of a machine if he/she:

(a) removes, defaces, covers, alters, destroys, or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark upon any machine, vehicle, electrical device, or firearm with the purpose to conceal, misrepresent, or transfer any such machine, vehicle, electrical device, or firearm; or

(b) possesses with the purpose to conceal, misrepresent, or transfer any machine, vehicle, device, or firearm knowing that the serial number or other identification number or mark has been removed or otherwise obscured.

(2) The fact of possession or transfer of any such machine, vehicle, electrical device, or firearm creates a presumption that the person knew the serial number or other identification number or mark had been removed or otherwise obscured.

(3) Obscuring the identity of a machine is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-6-321. Illegal branding or altering or obscuring a brand.

(1) A person commits the offense of illegal branding or altering or obscuring a brand if he/she marks or brands any commonly domesticated hoofed animal or removes, covers, alters, or defaces any existing mark or brand on any commonly domesticated hoofed animal with the purpose to obtain or exert unauthorized control over said animal or with the purpose to conceal, misrepresent, transfer or prevent identification of said animal.

(2) Illegal branding or altering or observing a brand is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-6-322. Effect of criminal possession of stolen property. Possession of stolen property shall not constitute proof of the commission of the offense of theft; such fact shall place a burden on the possessor to remove the effect of such fact as a circumstance to be considered with all other evidence pointing to his/her guilt.

CHAPTER 7 OFFENSES AGAINST THE TRIBAL ADMINISTRATION

PART 1 BRIBERY AND CORRUPT INFLUENCE

8B-7-101. Bribery in official and political matters.

(1) A person commits the offense of bribery if he/she purposely or knowingly offers, confers, or agrees to confer upon another, or solicits, accepts or agrees to accept from another:

(a) any pecuniary benefit as a consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion as a public servant, party official, or voter;

(b) any benefit as consideration for the recipient's decision, vote, recommendation or other exercise of official discretion in a judicial or administrative proceeding; or

(c) any benefit as consideration for a violation of known duty as a public servant or party official.

(2) It is no defense to prosecution under this section that a person whom the offender sought to influence was not qualified to act in the desired way whether because he/she had not yet assumed the office, or lacked jurisdiction, or for any other reason.

(3) Bribery in official and political matters is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-7-102. Compensation for past official behavior. A person commits an offense under this section if he/she knowingly solicits, accepts, or agrees to accept any pecuniary benefit as compensation for having, as a public servant, given a decision, opinion, recommendation, or vote favorable to another, for having otherwise exercised a discretion in another's favor, or for having violated his/her duty. A person commits an offense under this section if he/she knowingly offers, confers, or agrees to confer compensation which is prohibited by this section.

8B-7-103. Threats and other improper influence in official and political matters.

(1) A person commits the offense under this section if he/she purposely or knowingly:

(a) (i) threatens unlawful harm to any person with the purpose to influence his/her decision, or opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;

(ii) threatens harm to any public servant with the purpose to influence his/her decision, opinion, recommendation, vote, or other exercise of discretion in a judicial or administrative proceeding;

(iii) threatens harm to any public servant or party official with the purpose to influence him/her to violate his/her duties;

(iv) privately addresses to any public servant who has or will have official discretion in a judicial or administrative proceeding, any representation, entreaty, argument, or other communication designed to influence the outcome on the bases of considerations other than those authorized by law;

(v) as a juror or officer in charge of a jury receives or permits to be received any communication relating to any matter pending before such jury, except according to the regular course of proceedings; or

(b) Injures the person or property of a public servant or injures the servant's spouse, child, parent, or sibling because of the public servant's lawful discharge of the duties of the office or to prevent the public servant's lawful discharge of the duties of the office or to prevent the public servant from discharging the public servant's official duties.

(2) It is no defense to prosecution under subsections (1)(a)(i) through (1)(a)(iv) that a person whom the offender sought to influence was not qualified to act in the desired way, whether because he/she had not yet assumed office or lacked jurisdiction or for any other reason.

(3) Threats and other improper influence in official and political matters is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-7-104. Gifts to public servants by person subject to their jurisdiction.

(1) No public servant in any department or agency exercising regulatory function, conducting inspections or investigations, or carrying on a civil or criminal litigation on behalf of the Crow Tribal government, or having custody of prisoners, shall solicit, accept or agree to accept any pecuniary benefit from a person known to be subject to such regulation, inspection, investigation, or custody, or against whom such litigation is known to be pending or contemplated.

(2) No public servant having any discretionary function to perform in connection with contracts, purchases, payments, claims or other pecuniary transactions of the Crow Tribal government shall solicit, accept, or agree to accept any pecuniary benefit from any person known to be interested in or likely to become interested in any such contract, purchase, payment, claim, or transaction.

(3) No public servant having judicial or administrative authority and no public servant employed by or in a court or other tribunal having such authority or participating in the enforcement of its decision, shall solicit, accept, or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before such public servant or tribunal with which he/she is associated.

(4) No council person or public servant employed by the council or by the committee or agency thereof shall solicit, accept, or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before the council or any committee or agency thereof.

(5) Exceptions. This section shall not apply to:

(a) fees prescribed by law to be received by a public servant, or any other benefit for which he/she is otherwise entitled; or

(b) trivial benefits incidental to personal, professional, or business contacts and involving no substantial risk of undermining official impartiality.

(6) No person shall knowingly confer, or offer, or agree to offer, or agree to confer, to any benefit prohibited by the foregoing subsections.

(7) Gifts to public servants by persons subject to their jurisdiction is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

PART 2 - PERJURY AND OTHER FALSIFICATION IN OFFICIAL MATTERS

8B-7-201. Perjury.

(1) A person commits the offense of perjury if in any official proceeding he/she knowingly makes false statement under oath or equivalent affirmation, or swears or affirms the truth of a statement previously made, when the statement is material.

(2) Falsification is material, regardless of the admissibility of the statement under rules of evidence, if it could have affected the course or outcome of the proceeding. It is no defense that the declarant mistakenly believed the falsification to be immaterial. Whether a falsification is material in a given factual situation is a question of law.

(3) It is not a defense to prosecution under the section that the oath or affirmation was administered or taken in an irregular manner or that the declarant is not competent to make the statement. A document purporting to be made under oath or affirmation at any time when the offender presents it as being so verified shall be deemed to have been duly sworn or affirmed.

(4) No person shall be guilty of an offense under this section if he/she retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding.

(5) Where the defendant made inconsistent statements under oath or equivalent affirmation, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the alternative that one or the other was false and not believed by the defendant. In such case it shall not be necessary for the prosecution to prove which statement was false, but only that one or the other was false and not believed by the defendant to be true.

(6) No person shall be convicted of an offense under this section where proof of falsity rests solely upon the testimony of a single person other than the defendant.

(7) Perjury is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-7-202. False swearing.

(1) A person commits the offense of false swearing if he/she knowingly makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made when he/she does not believe the statement to be true, and:

- (a) the falsification occurs in an official proceeding;
- (b) the falsification is purposely made to mislead a public servant in performing his/her official function; or
- (c) the statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths.

(2) Subsections (3) to (6) of section 8B-7-201 apply to this section.

(3) False swearing is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-203. Unsworn falsification to authorities.

(1) A person commits an offense under this section if, with a purpose to mislead a public servant in performing his/her official function the person:

- (a) makes any written false statement which he/she does not believe to be true;
- (b) purposely creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading;
- (c) submits or invites reliance on any writing which he/she knows to be forged, altered, or otherwise lacking in authenticity; or
- (d) submits or invites reliance on any sample, specimen, map, boundary mark or other object which he/she knows to be false.

(2) Unsworn falsification to authorities is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-204. False alarms to agencies of public safety.

(1) A person commits an offense under this section if he/she knowingly causes a false alarm of fire or other emergency to be transmitted to or within any organization, official or volunteer, which deals with emergencies involving danger to life or property.

(2) False alarms to agencies of public safety is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-205. False reports to law enforcement authorities.

(1) A person commits an offense under this section if he/she knowingly:

- (a) gives false information to any law enforcement officer with the purpose to implicate another;
- (b) reports to law enforcement authorities an offense or other incident within their concern knowing that it did not occur; or
- (c) pretends to furnish such authorities with information relating to an offense or incident when he/she knows he/she has no information relating to such offense or incident.

(2) False reports to law enforcement authorities is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-206. Tampering with witnesses and informants.

(1) A person commits the offense of tampering with witnesses and informants if, believing that an official proceeding or investigation is pending or about to be instituted, he/she purposely or knowingly attempts to induce or otherwise cause a witness or informant to:

- (a) testify or inform falsely;
- (b) withhold any testimony, information, document or thing;

- (c) elude legal process summoning the person to testify or supply evidence; or
 - (d) absent himself/herself from any proceeding or investigation to which he/she has been summoned.
- (2) Tampering with witnesses and informants is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-7-207. Tampering with or fabricating physical evidence.

- (1) A person commits the offense of tampering with or fabricating physical evidence if, believing that an official proceeding or investigation is pending or about to be instituted, he/she:
- (a) alters, destroys, conceals, or removes any record, document, or thing with purpose to impair its verity or availability in such proceeding or investigations; or
 - (b) makes, presents, or uses any record, document, or thing knowing it to be false, and with purpose to mislead any person who is or may be engaged in such proceeding or investigation.
- (2) Tampering with or fabricating, physical evidence is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-7-208. Tampering with public records or information.

- (1) A person commits the offense of tampering with public records or information if he/she:
- (a) knowingly makes a false entry in, or false alteration of, any record, document, legislative bill or enactment, or thing belonging to, or received or issued, or kept by the government for information or record, or required by law to be kept by others for information of the government;
 - (b) makes, presents, or uses any record, document or thing knowing it to be false and with purpose that it be taken as a genuine part of information or records referred to in subsection (a) ; or
 - (c) purposely destroys, conceals, removes or otherwise impairs the verity or availability of such record, document or thing.
- (2) Tampering with public records or information is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-7-209. Impersonating a public servant.

- (1) A person commits the offense of impersonating a public servant if the person falsely pretends to hold a position in the public service with the purpose to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.
- (2) Impersonating a public servant is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-7-210. False claims to public agencies.

- (1) A person commits an offense under this section if the person purposely and knowingly presents for allowance or for payment any false or fraudulent claim, bill, account, voucher, or writing to any public agency, public servant, or contractor authorized to allow or pay claims presented to public agencies if genuine.
- (2) If the value of a false claim to a public agency does not exceed \$500.00 payable to the Crow Tribal Court, then the offense is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
- (3) If false or fraudulent claims are submitted purposely and knowingly as part of a common scheme or if the value of the claim or the aggravated value of all claims exceeds \$500.00, then the offense is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

PART 3 - OBSTRUCTING TRIBAL GOVERNMENT OPERATIONS

8B-7-301. Resisting Arrest.

- (1) A person commits the offense of resisting arrest if he/she knowingly prevents or attempts to prevent a peace officer from effectuating an arrest by:
- (a) using or threatening to use physical force or violence against the peace officer or another; or

- (b) using any other means which creates a risk of causing physical injury to the peace officer or another.
- (2) It is no defense to a prosecution under this section that the arrest was unlawful, provided the peace officer was acting under color of his/her official authority.
- (3) Resisting arrest is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-302. Obstructing a peace officer or other public servant.

- (1) A person commits the offense of obstructing a peace officer or other public servant if the person knowingly obstructs, impairs or hinders the enforcement of the criminal law, the preservation of the peace, or the performance of governmental function.
- (2) It is no defense to a prosecution under this section that the peace officer was acting in an illegal manner, provided that the peace officer was acting under the color of his/her official authority.
- (3) Obstructing a peace officer or other public servant is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-303. Obstructing justice.

- (1) For the purpose of this section "AN OFFENDER" means a person who has been or is liable to be arrested, charged, convicted or punished for a public offense.
- (2) A person commits the offense of obstructing justice if, knowing a person is an offender, he/she purposely:
 - (a) harbors or conceals an offender; or
 - (b) warns an offender of impending discovery or apprehension, except this does not apply to warning given in connection with an effort to bring an offender into compliance with the law;
 - (c) provides an offender with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension;
 - (d) prevents or obstructs, by means of force, deception or intimidation anyone from performing an act that might aid in the discovery or apprehension of an offender;
 - (e) suppresses by act of concealment, alteration or destruction any physical evidence that might aid in the discovery or apprehension of an offender; or
 - (f) aids an offender who is subject to official detention to escape from such official detention.
- (3) If the offender has been or is liable to be charged with a felony in connection with obstructing justice, then the offense is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.
- (4) If the offender has been or is liable to be charged with a misdemeanor in connection with obstructing justice, then the offense is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-304. Failure to aid a peace officer.

- (1) Where it is reasonable for a peace officer to enlist the cooperation of a person in:
 - (a) effectuating or securing an arrest of another; or
 - (b) preventing the commission by another of an offense, a peace officer may order such person to cooperate.
- (2) A person commits the offense of failure to aid a peace officer if he/she knowingly refuses to obey such an order.
- (3) Failure to aid a peace officer is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-305. Compounding a misdemeanor or felony.

- (1) A person commits the offense of compounding a misdemeanor or felony if he/she knowingly accepts or agrees to accept any pecuniary benefit in consideration for:
 - (a) refraining from seeking prosecution of a misdemeanor or a felony; or
 - (b) refraining from reporting to law enforcement authorities the commission or suspected commission of any misdemeanor or a felony or information relating to a misdemeanor or a felony.

(2) Compounding a felony is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-306. Escape.

(1) "OFFICIAL DETENTION" means imprisonment which resulted from a conviction for an offense, confinement for an offense, or confinement of a person charged with an offense, detention by a peace officer pursuant to an arrest, detention for extradition or deportation, or any lawful detention for the purpose of the protection of the welfare of the person detained or for the protection of society;

(2) "OFFICIAL DETENTION" does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

(3) A person subject to official detention commits the offense of escape if he/she knowingly or purposely removes himself/herself from official detention or fails to return to official detention following temporary leave granted for a specific purpose or limited time.

(4) If the offender escapes by the use or threat of force, physical violence, a weapon, or a simulated weapon, or if the offender has been charged with a felony, then the offense is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

(5) If the person escapes under circumstances other than those described in (4), then the offense of escape is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-307. Transferring illegal articles or unauthorized communication.

(1) A person commits the offense of transferring illegal articles if he/she knowingly or purposely transfers any illegal article or thing to a person subject to official detention or is transferred any illegal article or thing by a person subject to official detention.

(2) A person commits the offense of unauthorized communication if he/she knowingly or purposely communicates with a person subject to official detention without the consent of the person in charge of such official detention.

(3) If the offender conveys a weapon or dangerous drug to a person subject to official detention, then the offense is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

(4) If the offender conveys any other illegal article or thing to a person subject to official detention or if the offender is convicted of unauthorized communication then the offense is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-308. Bail-jumping.

(1) A person commits the offense of bail-jumping if, having been set at liberty by court order, with or without security, upon condition that he/she will subsequently appear at a specified time and place, he/she purposely fails without lawful excuse to appear at that time and place.

(2) This section shall not interfere with the exercise by any court of its power to punish for contempt.

(3) This section shall not apply to a person set at liberty by court order upon condition that he/she will appear in connection with a charge of having committed a misdemeanor, except it shall apply where the judge has released the defendant on his/her own recognizance.

(4) If the offender is convicted of bail jumping in connection with a felony, then the offense is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

(5) In all other cases bail jumping is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-309. Criminal contempt.

(1) A person commits the offense of criminal contempt when he/she knowingly engages in any of the following conduct:

- (a) disorderly, contemptuous, or insolent behavior, committed during the sitting of a court, in its immediate view and presence and directly tending to interrupt its proceedings or to impair the respect due to its authority;
 - (b) breach of the peace, noise, or other disturbance, directly tending to interrupt a court's proceedings;
 - (c) purposely disobeying or refusing any lawful process or other mandate of a court;
 - (d) unlawfully refusing to be sworn as a witness in any court proceeding or, after being sworn, refusing to answer any legal and proper interrogatory;
 - (e) purposely publishing a false or grossly inaccurate report of a court's proceeding; or
 - (f) purposely failing to obey any mandate, process or any notice relative to juries.
- (2) Criminal contempt is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-7-310. Official misconduct.

- (1) A public servant commits the offense of official misconduct when, in official capacity, he/she commits any of the following acts:
- (a) purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;
 - (b) knowingly performs an act in official capacity which he/she knows is forbidden by law;
 - (c) with the purpose to obtain advantage for himself/herself or another, he/she performs an act in excess of his/her lawful authority; or
 - (d) solicits or knowingly accepts for the performance of any act a fee or reward which he/she knows is not authorized by law.
- (2) A public servant who has been charged may be suspended from his/her office without pay pending final judgment. Upon final judgment of conviction, he/she shall be reinstated in his/her office and receive all back pay if not impeached or removed under the Crow Tribal Constitution and By-Laws or other applicable Tribal Law.
- (3) Final judgment occurs only after an individual has exhausted all avenues of appeal.
- (4) This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect impeachment or removal.
- (5) Official misconduct is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

CHAPTER 8 OFFENSES AGAINST PUBLIC ORDER
PART 1 - CONDUCT DISRUPTIVE OF PUBLIC ORDER

8B-8-101. Disorderly conduct.

- (1) A person commits the offense of disorderly conduct if he/she knowingly disturbs the peace by:
- (a) quarreling, challenging to fight or fighting;
 - (b) making loud or unusual noises;
 - (c) using threatening, profane or abusive language;
 - (d) discharging firearms, except at a shooting range during established hours of operation;
 - (e) rendering vehicular or pedestrian traffic impassable;
 - (f) rendering the free ingress or egress to public or private places impassable;
 - (g) disturbing or disrupting any lawful assembly or public meeting;
 - (h) transmitting a false report or warning of fire, impending explosion or other catastrophe in such a place that its occurrence would endanger human life; or
 - (i) creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.
- (2) In all cases of disorderly conduct, except as explained in (1)(h), the offense is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
- (3) Disorderly conduct as defined in (1)(h) is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-102. Failure of disorderly persons to disperse.

- (1) Where two (2) or more persons are engaged in disorderly conduct, a peace officer, judge, or chairman may order the participants to disperse. A person who purposely refuses or knowingly fails to obey such an order commits the offense of failure to disperse.
- (2) Failure of disorderly persons to disperse is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-103. Riot.

- (1) A person commits the offense of riot if he/she purposely and knowingly disturbs the peace by engaging in an act of violence or threat to commit an act of violence as part of an assemblage of five (5) or more persons, which act or threat presents a clear and present danger of or results in, damage to property or injury to persons.
- (2) Except as provided in subsection 3, riot is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
- (3) A person who commits the offense of riot by engaging in an act of violence while incarcerated at any Crow Tribal Correctional facility shall have committed a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-104. Incitement to riot.

- (1) A person commits the offense of incitement to riot if he/she purposely and knowingly commits an act or engages in conduct that urges other persons to riot. Such act or conduct shall not include the mere oral or written advocacy of ideas, or expression of belief, which advocacy or expression does not urge the commission of an act of immediate violence.
- (2) Except as provided in subsection (3), incitement to riot is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
- (3) If the incitement to riot is committed while the offender is incarcerated in a Crow Tribal Correctional facility, the offense is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-105. Criminal syndicalism.

- (1) "Criminal syndicalism" means the advocacy of crime, malicious damage or injury to property, violence, or other unlawful methods of terrorism as a means of accomplishing industrial or political ends.
- (2) A person commits the offense of criminal syndicalism if he/she purposely or knowingly:
 - (a) orally or by means of writing, advocates or promotes the doctrine of criminal syndicalism;
 - (b) organizes or becomes a member of any assembly, group, or organization which he/she knows is advocating or promoting the doctrine of criminal syndicalism; or
 - (c) for or on behalf of another whose purpose is to advocate or promote the doctrine of criminal syndicalism, distributes, sells, publishes, or publicly displays any writing advocating or advertising such doctrine.
- (3) Criminal syndicalism is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.
- (4) Whoever, being the owner or in possession or control of any premises knowingly permits any assemblage of persons to use such premises for the purpose of advocating or promoting the doctrine of criminal syndicalism shall have committed a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-106. Bringing armed persons into the reservation.

- (1) A person commits the offense of bringing armed persons into the reservation when he/she knowingly brings or aids in bringing into the reservation an armed person or armed body of persons for the purpose of engaging in criminal or socially disruptive activities or to usurp the powers of law enforcement authorities.
- (2) Bringing armed persons into the reservation is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-107. *Purpose.* The Council recognizes every member's constitutional right to express beliefs on any subject, to associate with others who share similar beliefs, and to keep or bear arms in defense of home, person, or property. Sections 8B-8-107 through 8B-8-109 are not intended to interfere with the exercise of rights protected by the United States Constitution or the Crow Tribal Council. The Council finds that conspiracies and training activities in the furtherance of unlawful acts of violence against persons or property that are not constitutionally protected, pose a threat to public order and safety, and are subject to criminal penalties.

8B-8-108. *Definitions.* As used in 8B-8-107 through 8B-8-109, unless the context requires otherwise, the following definitions apply:

- (1) "Civil disorder" means a public disturbance involving unlawful acts of violence by a group of two or more persons that causes an immediate danger of or results in injury to the property or person of any other individual.
- (2) "Law enforcement agency" means any department of public safety within the Crow Tribal boundaries whose employees are authorized to make arrests for detecting and preventing crime and enforcing resolutions and ordinances.
- (3) "Peace officer" has the meaning given in 8B-2-101.

8B-8-109. *Civil disorder - prohibited activities - exceptions.*

- (1) A person is guilty of a crime if, with one or more other persons, the person purposely or knowingly assembles for the purpose of training in, instructing in the use of, or practicing with any technique or means capable of causing property damage, bodily injury, or death, with the purpose of employing the training, instruction, or practice in a civil disorder.
 - (2) Subsection (1) does not prohibit:
 - (a) a constitutionally protected act;
 - (b) an act of a peace officer performed in the lawful performance of the officer's duties;
 - (c) training in nonviolent civil disobedience techniques;
 - (d) lawful self-defense or defense of others or an activity intended to teach or practice self-defense or self-defense techniques; or
 - (e) a facility, program, or lawful activity related to firearms instruction or training intended to teach the safe handling and use of firearms or activities or sports related to recreational use or possession of firearms.
 - (3) Civil disorder as specified in section (1) is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-110. *Public nuisance.*

- (1) "PUBLIC NUISANCE" means:
 - (a) a condition which endangers safety or health, is offensive to the senses, or obstructs the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;
 - (b) any premises where persons gather for the purpose of engaging in unlawful conduct; or
 - (c) a condition which renders dangerous for passage any public highway or right-of-way or waters used by the public.
- (2) A person commits the offense of maintaining a public nuisance if he/she knowingly creates, conducts, or maintains a public nuisance.
- (3) Maintaining a public nuisance is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-111. *Action to abate a public nuisance.*

- (1) Every public nuisance may be abated and the persons maintaining such nuisance and the possessor of the premises who permits the same to be maintained may be enjoined from such conduct by an action in equity brought in the name of the Crow Tribe by the Tribal Attorney or any resident of the Crow Reservation.
 - (2) Upon the filing of the complaint in such action the judge may issue a temporary injunction.
 - (3) In such action evidence of the general reputation of the premises is admissible for the purpose of provoking the existence of the nuisance.

8B-8-112. *Creating a hazard.*

- (1) A person commits the offense of creating a hazard if he/she knowingly:
 - (a) discards in any place where it might attract children a container having a compartment of more than 1½ cubic feet capacity and a door or lid that locks or fastens automatically when closed and cannot easily be opened from the inside and fails to remove the door, lid, or locking or fastening device;
 - (b) being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, mine shaft, or other hole of depth of four (4) feet or more and a top width of twelve (12) inches or more, fails to cover or fence it with a suitable protective construction;
 - (c) tampers with an aircraft without the consent of the owner;
 - (d) being the owner or otherwise having possession of property upon which there is a steam engine or steam boiler, continues to use a steam engine or steam boiler which is in an unsafe condition.
 - (e) being a person in the act of game hunting, acts in a negligent manner or knowingly fails to give all reasonable assistance to any person whom he/she has injured; or
 - (f) deposits any hard substance upon or between any railroad tracks which will tend to derail railroad cars or other vehicles.
- (2) Creating a hazard is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-113. Creating a hazard with a dangerous animal.

- (1) A person commits the offense of creating a hazard with a dangerous animal if he or she knowingly or purposely possesses but does not keep in immediate control:
 - (a) any animal which has the propensity or past history of inflicting bodily injury or causing reasonable apprehension of bodily injury; or
 - (b) any animal which is of a type or breed known to have the propensity of inflicting bodily injury or causing reasonable apprehension of bodily injury.
- (2) If a person is convicted of the offense as specified in (1)(a) or (1)(b) and the animal inflicts serious bodily injury then the offense is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.
- (3) If a person is convicted of the offense as specified in (1)(a) or (1)(b) and the animal creates a reasonable apprehension of bodily injury then:
 - (a) The first offense is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
 - (b) The second offense is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.
 - (c) The third offense is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.
- (4) The Crow Tribal Court Judge may if circumstances warrant, order the owner to surrender the animal to the Crow Tribal Police for proper disposal

PART 2 - OFFENSIVE, INDECENT, AND INHUMANE CONDUCT

8B-8-201. Obscenity.

- (1) A person commits the offense of obscenity when, with knowledge of the obscene nature thereof, he/she purposely or knowingly:
 - (a) sells, delivers, or provides, or offers or agrees to sell, deliver, or provide any obscene writing, picture, record, or other representation or embodiment of the obscene to anyone under the age of 18;
 - (b) presents or directs an obscene play, dance, or other performance, or participates in that portion thereof which makes it obscene, to anyone under the age of 18;
 - (c) publishes, exhibits, or otherwise makes available anything obscene to anyone under the age of 18;
 - (d) performs an obscene act or otherwise presents an obscene exhibition of his/her body to anyone under the age of 18;
 - (e) creates, buys, procures, or possesses obscene matter or material with the purpose to disseminate it to anyone under the age of 18; or
 - (f) advertises or otherwise promotes the sale of obscene material or materials represented or held out by him to be obscene.
- (2) A thing is obscene if:

- (a) (i) it is a representation or description of perverted ultimate sexual acts, actual or simulated;
 - (ii) it is a patently offensive representation or description of normal ultimate sexual acts, actual or simulated; or
 - (iii) it is a patently offensive representation of masturbation, excretory functions, or lewd exhibition of the genitals;
- and
- (b) taken as a whole the material:
 - (i) applying contemporary community standards, appeals to the prurient interest in sex;
 - (ii) portrays conduct described in subsection (2)(a)(i), (2)(a)(ii), or (2)(a)(iii) in a patently offensive way ; and
 - (iii) lacks serious literary, artistic, political, or scientific value.
- (3) In any prosecution for an offense under this section, evidence shall be admissible to show:
- (a) the predominant appeal of the material and what effect, if any, it would probably have on the behavior of people;
 - (b) the artistic, literary, scientific, educational, or other merits of the material;
 - (c) the degree of public acceptance of the material in the community;
 - (d) appeal to prurient interest or absence thereof in advertising or other promotion of the material;
 - (e) purpose of the author, creator, publisher, or disseminator.
- (4) Obscenity is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-202. *Definitions.* As used in 8B-8-202 through 8B-8-204, the following definitions apply:

(1) "Display or dissemination of obscene material to minors" means that quality of a description, exhibition, presentation, or representation, in whatever form, of sexual conduct or sadomasochistic abuse when the material or performance, taken as a whole, has the following characteristics:

- (a) its dominant theme appeals to a minor's prurient interest in sex;
- (b) it depicts or describes sexual conduct or sadomasochistic abuse in a manner that is patently offensive to contemporary standards in the adult community with respect to what is suitable for minors; and
- (c) it lacks serious literary, scientific, artistic, or political value for minors. If the court finds that the material or performance has serious literary, scientific, artistic, or political value for a significant percentage of normal or older minors, the material or performance may not be found to lack such value for the entire class of minors.

(2) "Material" means a book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, or videotape (except a motion picture or videotape rated G, PG, PG-13, or R by the motion picture association of America).

(3) "Minor" means a person under 18 years of age.

(4) "Newsstand" means a stand that distributes or sells newspapers or magazines.

(5) "Performance" means any motion picture, film, or videotape (except a motion picture or videotape rated G, PG, PG-13, or R by the motion picture association of America); phonograph record; compact disk, tape recording; preview; trailer; play; show; skit; dance; or other exhibition played or performed before an audience of one or more, with or without consideration.

(6) "Person" means any individual, partnership, association, corporation, or other legal entity of any kind.

(7) "Prurient interest in sex" means a shameful or morbid interest in sex or excretion.

(8) "Sexual conduct" includes:

- (a) vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted. A sexual act is simulated when it gives the appearance of depicting actual sexual activity or the consummation of an ultimate sexual act;
 - (b) masturbation, excretory functions, or lewd exhibition of uncovered genitals or female breasts;
 - (c) sadomasochistic abuse, meaning an act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a nude person or a person clad in undergarments or in a revealing or bizarre costume.
- (9) "Ultimate sexual act" means vaginal or anal sexual intercourse, fellatio, cunnilingus, or bestiality.

8B-8-203. *Public display or dissemination of obscene material to minors.*

(1) A person having custody, control, or supervision of any commercial establishment or newsstand may not knowingly or purposely:

- (a) display obscene material to minors in such a way that minors, as a part of the invited public, will be able to view the material; provided, however, that a person is considered not to have displayed obscene material to minors if the material is not kept behind devices commonly known as blinder racks so that the lower two-thirds of the material is not exposed to view of the material by a minor;
- (b) sell, furnish, present, distribute, or otherwise disseminate to a minor or allow a minor to view, with or without consideration, any obscene material; or

(c) present to minor or participate in presenting to a minor, with or without consideration, any performance that is obscene to minors.

(2) A person does not violate this section if:

(a) he/she had reasonable cause to believe the minor was 18 years of age. "Reasonable cause" includes but is not limited to being shown a draft card, driver's license, marriage license, birth certificate, educational identification card, governmental identification card, or other official or apparently official card or document purporting to establish that the person is 18 years of age;

(b) the person is, or is acting as, an employee of a bona fide public school, college, or university or a retail outlet affiliated with and serving the educational purposes of a school, college, or university and the material or performance was disseminated in accordance with the policies approved by the governing body of the institution;

(c) the person is an officer, director, trustee, or employee of a public library or museum and the material or performance was acquired by the library or museum and disseminated in accordance with policies approved by the governing body of the library or museum;

(d) an exhibition in a state of nudity is for bona fide scientific or medical purpose for a bona fide school, library, or museum; or

(e) the person is a retail sales clerk with no financial interest in the material or performance or in the establishment displaying or selling the material or performance.

(3) Public display or dissemination of obscene material to minors is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-204. Notice of violation. Before a tribal attorney may prosecute a person for continuing violation of 8B-8-203, he/she shall determine that the material or performance is obscene to minors, give the alleged violator actual notice of the determination and notice that he/she will be prosecuted if he/she does not desist, and determine that the violation continued for at least 3 days after notice was received. The person may seek a declaratory judgment on the question whether the material or performance is obscene to minors. The statute of limitations for the offense is tolled while the declaratory judgment or an appeal from it is pending.

8B-8-205. Causing animals to fight - owners, trainers, and spectators - exception - definition.

(1) A person commits the offense of causing animals to fight if he/she:

(a) owns, possesses, keeps, or trains any animal with the intent that such animal fight or be engaged in an exhibition of fighting with another animal;

(b) allows or causes any animal to fight with another animal or causes any animal to menace or injure another animal for the purpose of sport, amusement, or gain;

(c) knowingly permits any act in violation of subsection (1)(a) or (1)(b) to take place on any premises under this charge or control, or aids or abets any such act;

(d) participates in any exhibition in which animals are fighting for the purpose of sport, amusement, or gain.

(2) Nothing in this section prohibits the following:

(a) accepted husbandry practices used in the raising of livestock or poultry;

(b) the use of animals in the normal and usual course of rodeo events; or

(c) the use of animals in hunting and training as permitted by law.

(3) For the purposes of this section, "animal" means any cock, bird, dog, or mammal except humans.

(4) Causing animals to fight is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-206. Cruelty to animals.

(1) A person who commits the offense of cruelty to animals if without justification he/she knowingly or negligently subjects an animal to mistreatment or neglect by:

(a) overworking, beating, tormenting, injuring or killing any animal; carrying or confirming any animal in a cruel manner;

(b) failing to provide an animal in his/her custody with proper food, drink, or shelter or in the cases of serious illness or injury, proper medical care;

(c) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger or exposure or become a public charge; or

(d) promoting, sponsoring, or conducting or participating in an animal race of more than two miles; or promoting, sponsoring, or conducting or participating in any fight between any animals.

(2) Nothing in this section prohibits:

(a) a person from humanly destroying an animal for just cause; or

(b) the use of commonly accepted agricultural and livestock practices on livestock.

(3) (a) A first conviction of cruelty to animals is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(b) A second or any subsequent convictions of cruelty to animals are a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.

(c) If the convicted person is the owner, the person may be required to forfeit to the Crow Tribe any animal affected. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

8B-8-207. Criminal defamation.

(1) Defamatory material is anything which exposes a person or group, class or association to hatred, contempt, ridicule, degradation or disgrace in society, or injury to the persons or its business or occupation.

(2) Whoever with knowledge of its defamatory character, orally, in writing or by any other means, communicates any defamatory material to a third person without the consent of the person defamed commits the offense of criminal defamation.

(3) Violation of subsection (2) is justified if:

(a) the defamatory material is true;

(b) the communication is absolutely privileged;

(c) the communication consists of fair comment made in good faith with respect to persons participating in matters of public concern;

(d) the communication consists of a fair and true report or a fair summary of any judicial, legislative or other public or official proceedings; or

(e) the communication is between persons each having an interest or duty with respect to the subject matter of the communication and is made with the purpose to further such interest or duty.

(4) A person may not be convicted on the basis of an oral communication of a defamatory matter except upon the testimony of at least two (2) other persons that they heard and understood the oral statement as defamatory or upon a plea of guilty.

(5) A person who has a privilege to ridicule a relative, as defined by the customary law of the Crow Tribe, shall not be subject to prosecution under section (1) that portion relating to ridicule.

(6) Criminal defamation is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-208. Privacy in communications.

(1) A person commits the offense of violating privacy in communications if he/she knowingly or purposely:

(a) with the purpose to terrify, intimidate, threaten, harass, annoy, or offend, communicates with any person by telephone and uses any obscene, lewd, or profane language, suggests any lewd or lascivious act, or threatens to inflict injury or physical harm to the person or property of any person (the use of obscene, lewd, or profane language or the making of a threat or lewd or lascivious suggestions is prima facie evidence of an intent to terrify, intimidate, threaten, harass, annoy, or offend);

(b) uses a telephone to attempt to extort money or any other thing of value from any person or to disturb by repeated telephone calls the peace, quiet, or right of privacy of any person at the place where the telephone call or calls are received;

(c) records or causes to be recorded any conversation by use of a hidden electronic or mechanical device which reproduces a human conversation without the knowledge of all parties to the conversation. Subsection (c) does not apply to duly elected or appointed public officials or employees when the transcription or recording is done in the performance of official duty, to persons speaking at public meetings, or to persons given warning of the recording.

(d) by means of any machine, instrument, or contrivance or in any other manner:

(i) reads or attempts to read any message or learn the contents thereof while it is being sent over a telegraph line;

- (ii) learns or attempts to learn the contents of any message while it is in a telegraph office or is being received thereat or sent therefrom; or
 - (iii) uses, attempts to use, or communicates to others any information so obtained;
 - (e) discloses the contents of a telegraphic message or any part thereof addressed to another person without the permission of such person, unless directed to do so by the lawful order of a court; or
 - (f) opens or reads or causes to be read any sealed letter not addressed to himself/herself without being authorized to do so by either the writer of the letter or the person to whom it is addressed or, without the like authority, publishes any of the contents of the letter knowing the same to have been unlawfully opened.
- (2) The first offense of violating privacy in communication is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
- (3) A second offense of violating privacy in communications is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.
- (4) A third conviction or subsequent offenses of violating privacy in communications is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-209. Bribery in contests.

- (1) A person commits the offense of bribery in contests if he/she purposely or knowingly offers, confers, or agrees to confer upon another, or solicits, accepts, or agrees to accept from another:
- (a) any pecuniary benefit as a consideration for the recipient's failure to use his/her best efforts in connection with any professional or amateur athletic contest, sporting event or exhibition; or
 - (b) any benefit as consideration for a violation of a known duty as a person participating in, officiating or connected with a professional or amateur athletic contest sporting event or exhibition.
- (2) Bribery in contests is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-210. Desecration of flags.

- (1) In this section "FLAG" means anything which is or purports to be the official flag of the Crow Tribe, the Crow Tribal Emblem, or a copy, picture, or representation of any of them.
- (2) A person commits the offense of desecration of flags if he/she purposely or knowingly:
- (a) publicly mutilates, defiles, or casts contempt upon the flag;
 - (b) places on or attaches to the flag any work, mark, design, or advertisement not properly a part of such flag or exposes to public view a flag so altered;
 - (c) manufactures or exposes to public view an article of merchandise or wrapper or receptacle for merchandise upon which the flag is depicted; or
 - (d) uses the flag for commercial advertising purposes.
- (3) This section does not apply to flags depicted on written or printed documents or periodicals or on a stationary, ornaments, pictures, or jewelry, provided there are not unauthorized words or designs on such flags and provided the flag is not connected with any advertisement.
- (4) Desecration of flags is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

PART 3 - WEAPONS

8B-8-301. Uniformity of interpretation. This section shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those governments which enact them.

8B-8-302. Definitions. The following definitions apply:

- (1) "Crime and violence" means any of the following crimes or an attempt to commit any of the same: any forcible felony, robbery, burglary, or criminal trespass.

(2) "Machine Gun" means a weapon of any description by whatever name known, loaded or unloaded, from which more than six shots or bullets may be rapidly, automatically, or semiautomatically discharged from a magazine by a single function of the firing device.

(3) "Person" includes a firm, partnership, association, or corporation.

(4) "Concealed weapon" means any weapon mentioned in 8B-8-303 through 8B-8-308 that is wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing the weapon, except that for the purposes of 8B-8-306 and 8B-8-307, concealed weapon means a handgun or a knife with a blade 4 or more inches in length that is wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing the weapon.

8B-8-303. Carrying concealed weapons.

(1) Every person who carries or bears concealed upon his/her person a dirk, dagger, pistol, revolver, slingshot, sword cane, billy, knuckles made of metal or hard substance, knife having a blade of four (4) inches long or longer, razor, not including a safety razor, or other deadly weapon shall be punished for carrying a concealed weapon.

(2) Section 8B-8-303 does not apply to:

(a) any peace officer of the Crow Tribe;

(b) any person in actual service as a national guardsman;

(c) a person authorized by a Crow Tribal Judge to carry a weapon; or

(d) the carrying of arms on one's own premises or at one's home or place of business.

(3) Carrying concealed weapons as defined in subsection (1) is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-304. Unlawful possession of firearm by convicted person.

(3) (a) A person commits the offense of unlawful possession of a firearm by a convicted person if the person purposely or knowingly purchases or possesses a firearm after the person has been convicted of using a weapon to commit an offense.

(b) A person who has been issued a permit may not be convicted of a violation of this section.

(2) Unlawful possession of a firearm by a convicted person is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-305. Possession of deadly weapon by prisoner or youth in facility.

(1) A person commits the offense of possession of a deadly weapon by a prisoner if the person purposely or knowingly possesses or carries or has under the person's custody or control without lawful authority a dirk, dagger, pistol, revolver, slingshot, sword, cane, billy, knuckles made of any metal or hard substance, knife, razor not including a safety razor, or other deadly weapon while the person is:

(a) incarcerated in the Crow Tribal Jail and is:

(i) being conveyed to or from a place listed in this subsection; or

(ii) under the custody of the Crow Tribal Jail or jail officials, officers, or employees; or

(b) in a youth facility or conveyed to or from the Crow Tribal Jail

(2) Possession of a deadly weapon by a prisoner or a youth in a facility is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-306. Carrying a concealed weapon while under the influence.

(1) A person commits the offense of carrying a concealed weapon while under the influence if he/she purposely or knowingly carries a concealed weapon while under the influence of an intoxicating substance.

(2) It is not a defense that the person had a valid permit to carry a concealed weapon.

(3) Carrying a concealed weapon while under the influence is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-307. Carrying a concealed weapon in a prohibited place.

(1) A person commits the offense of carrying a concealed weapon in a prohibited place if he/she purposely or knowingly carries a concealed weapon in:

- (a) a building owned or leased by the federal government or Crow Tribal Council; or
- (b) a bank, credit union, savings and loan institution, or similar institution.
- (2) It is not a defense that the person had a valid permit to carry a concealed weapon.
- (3) Carrying a concealed weapon in a prohibited place is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-308. Switchblade knives.

- (1) It is an offense for any person to carry or bear upon his/her person, or carry or bear within or in any motor vehicle or other means of conveyance owned or operated by the person, or who owns, possesses, uses, stores, gives away, sells, or offers for sale a switchblade knife.
- (2) A bona fide collector whose collection is registered with the Crow Tribal police in which said collection is located is hereby exempted from the provisions of this section.
- (3) For the purpose of this section a switchblade knife is defined as any knife which has a blade 1 ½ inches long or longer which opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife.
- (4) An offense concerning switchblade knives is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-309. Definitions.

- (1) "Destructive device", as used in this chapter, includes but is not limited to the following weapons:
 - (a) a projectile containing an explosive or incendiary material or any other similar chemical substance, including but not limited to that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns;
 - (b) a bomb, grenade, explosive missile, or similar device or a launching device therefor;
 - (c) a weapon of a caliber greater than 60 caliber which fires fixed ammunition or any ammunition therefor, other than a shotgun or shotgun ammunition;
 - (d) a rocket, rocket propelled projectile, or similar device of a diameter greater than 0.60 inch or a launching device therefor and a rocket, rocket-propelled projectile, or similar device containing an explosive or incendiary material or any other similar chemical substance other than the propellant for the device, except devices designed primarily for emergency or distress signaling purposes;
 - (e) a breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and which has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

8B-8-310. Reckless or malicious use of explosives.

- (1) Every person who shall recklessly or maliciously use, handle, or have in his or her possession any blasting powder, giant or Hercules powder, giant caps, or other highly explosive substance whereby any human being is intimidated, terrified, or endangered shall be guilty of a misdemeanor.
- (2) Reckless or malicious use of explosives is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-311. Possession of a destructive device.

- (1) A person who with the purpose to commit a felony, has in his/her possession any destructive device on a public street or highway, in or near any theater, hall, school, college, church, hotel, other public building, or private habitation, in, on, or near any aircraft, railway passenger train, car, vessel engaged in carrying passengers for hire, or other public place ordinarily passed by human beings is guilty of the offense of possession of a destructive device.
- (2) Possession of a destructive device is a Class A defense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-312. Possession of explosives.

(1) A person commits the offense of possession of explosives if he/she possesses, manufactures, transports, buys, or sells an explosive compound, flammable material, or timing, detonating, or similar device for use with an explosive compound or incendiary device and:

- (a) has the purpose to use such explosive, material, or device to commit an offense; or
- (b) knows that another has the purpose to use such explosive, material, or device to commit an offense.

(2) Possession of explosives is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-313. Possession of a silencer.

(1) A person commits the offense of possession of a silencer if he/she possesses, manufactures, transports, buys, or sells a silencer and has the purpose to use it to commit an offense or knows that another person has such purpose.

(2) Possession of a silencer is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-314. Possession prima facie evidence of unlawful purpose. Possession of a silencer or of a bomb or similar device charged or filled with one or more explosives is prima facie evidence of a purpose to use the same to commit an offense.

8B-8-315. Sawed-off firearm.

(1) A person commits the offense of possession of a sawed-off firearm if he/she knowingly possesses a rifle or shotgun that when originally manufactured had a barrel length of:

- (a) 16 inches or more and an overall length of 26 inches or more in the case of a rifle; or
- (b) 18 inches or more and an overall length of 26 inches or more in the case of a shotgun; and
- (c) the firearm has been modified in a manner so that the barrel length, overall length, or both, are less than specified in subsection (1)(a) or (1)(b).

(2) The barrel length is the distance from the muzzle to the rear-most point of the chamber.

(3) This section does not apply to firearms possessed:

- (a) by a peace officer of the Crow Tribe or one of its political subdivisions;
- (b) by an officer of the United States government authorized to carry weapons;
- (c) by a person in actual service as a national guardsman;
- (d) by a person called to the aid of one of the persons named in subsections (3)(a) through (3)(c);
- (e) for educational or scientific purposes in which the firearms are incapable of being fired;
- (f) by a person who has a valid federal tax stamp for the firearm, issued by the bureau of alcohol, tobacco, and firearms; or
- (g) by a bona fide collector of firearms if the firearm is a muzzle loading, sawed-off firearm manufactured before 1900.

(4) The first offense of possession of a sawed-off firearm is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(5) If the offender has one or more prior convictions under this section or one or more prior Class A offenses under the Crow Criminal Code, then the second or any subsequent offenses under this section are Class A offenses for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-316. Possession or allowing possession of weapon in school building - exceptions - seizure and forfeiture or return authorized - definitions.

(1) A person commits the offense of possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores a weapon in a school building.

(2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon in a school building.

(3) (a) Subsection (1) does not apply to law enforcement personnel.

(b) The trustees of a district may grant persons and entities advance permission to possess, carry, or store a weapon in a school building.

- (4) (a) The court shall consider alternatives to incarceration that are available in the community.
- (b) (i) A weapon in violation of this section may be seized and, upon conviction of the person possessing or permitting possession of the weapon, may be forfeited to the Crow Tribal police or returned to the lawful owner.
- (ii) If a weapon seized under the provisions of this section is subsequently determined to have been stolen or otherwise taken from the owner's possession without permission, the weapon must be returned to the lawful owner.
- (5) As used in this section:
- (a) "school building" means all buildings owned or leased by a local school district that are used for instruction or for student activities. The term does not include a home school.
- (b) "weapon" means any type of firearm, a knife with a blade four (4) or more inches in length, a sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles.
- (6) A conviction under this section is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-317. Use of firearms by children under age of fourteen (14) prohibited.

- (1) It is unlawful for a parent, guardian, or other person having charge or custody of a minor child under the age of fourteen (14) years to permit the minor child to carry or use in public any firearms of any description loaded with powder and lead, except when the child is accompanied by a person having charge or custody of the child or under the supervision of a qualified firearms safety instructor who has been authorized by the parent or guardian. (2) Any parent, guardian, or other person violating the provisions of this act shall be guilty of a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-318. Possession or use of machine gun for offensive purposes.

- (1) Possession or use of a machine gun for offensive or aggressive purposes including the commission of a crime is an offense.
- (2) A conviction under this section is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-319. Presumption of offensive or aggressive purpose. Possession or use of a machine gun shall be presumed to be for offensive or aggressive purpose:

- (1) when the machine gun is on premises not owned or rented for bona fide permanent residence or business occupancy by the person in whose possession the machine gun may be found;
- (2) when the machine gun is in the possession of or used by a person who has been convicted of a crime of violence in any court of record, in the United States of America or its territories or insular possessions;
- (3) when the machine gun is the kind described in 8B-8-323 and has not been registered as required in that section; or
- (4) when empty or loaded pistol shells of 30 (.30 in. or 7.63 mm) or larger caliber which have not been or are susceptible of being used in the machine gun are found in the immediate vicinity thereof.

8B-8-320. Presence of gun as evidence of possession or use. The presence of a machine gun in any room, boat, or vehicle shall be evidence of the possession or use of the machine gun by each person occupying the room, boat, or vehicle where the weapon was found.

8B-8-321. Exceptions. Nothing contained in 8B-8-301 and 8B-8-318 through 8B-8-323 shall prohibit or interfere with:

- (1) the possession of a machine gun for scientific purpose or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake;
- (2) the possession of a machine gun other than one adapted to use a pistol cartridges of 30 (.30 in. or 7.63 mm) or larger caliber for a purpose manifestly not aggressive or offensive.

8B-8-322. Manufacturer's register of machine guns.

- (1) Every manufacturer shall keep a register of all machine guns manufactured or handled by him.
- (2) This register shall show, for every machine gun:
- (a) the model and serial number;

- (b) the date of manufacture, sale, loan, gift, delivery, or receipt;
 - (c) the name, address, and occupation of the person to whom the machine gun was sold, loaned, given, or delivered or from whom it was received; and
 - (d) the purpose for which it was acquired by the person to whom the machine gun was sold, loaned, given, or delivered or from whom received.
- (3) Upon demand every manufacturer shall permit a marshal, or Crow Tribal Police officer to inspect his/her entire stock of machine guns, parts, and supplies thereof and shall produce the register herein required for inspection.
- (4) A violation of any provisions of this section is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-8-323. Registration of machine guns - presumption from failure to register.

- (1) Every machine gun now in this reservation adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber shall be registered with the Crow Tribal Police annually on February 20. If acquired hereafter it shall be registered within 24 hours after its acquisition.
- (2) Forms for registration shall be prepared by the Crow Tribe and furnished upon application.
- (3) To comply with this section the application as filed must show the model and serial number of the gun, the name, address, and occupation of the person in possession, and from whom and the purpose for which the gun was acquired.
- (4) The registration data shall not be subject to inspection by the public.
- (5) Any person failing to register any gun as required by this section shall be presumed to possess the same for offensive or aggressive purpose.

8B-8-324. Lifetime firearms supervision of certain convicted persons.

- (1) For the purposes of rehabilitation and public protection, a person convicted of an offense referred to in 8B-8-304 shall, as part of the sentence imposed, be sentenced to life supervision by the Crow Tribe for the purpose of restricting the person's right to purchase and possess firearms. Active supervision by a probation or parole officer is not required but may be imposed by the court. "Supervision" means that the person may not violate 8B-8-304 and must comply with other Tribal and federal law restrictions on the purchase and possession of firearms.
- (2) (a) A person subject to subsection (1) may apply to the Crow Tribal Court for a permit to purchase and possess one or more firearms. The person shall show good cause for the possession of each firearm sought to be purchased and possessed. The grant or denial of the application does not prevent the person from making another application, except that if an application is denied, another application may not be made for the next 12 months.
- (b) The application must contain the following information:
- (i) the person's full name and any past or present aliases;
 - (ii) the person's date and place of birth;
 - (iii) the person's address;
 - (iv) the person's occupation;
 - (v) the make and model of each firearm sought to be purchased and possessed;
 - (vi) the date and place of conviction of an offense referred to in occurred, the sentence imposed, the place or places of incarceration, and the date of discharge from supervision of the last offense;
 - (vii) the name and business address of the person's last probation or parole officer; and
 - (viii) any other information considered necessary by the court.
- (c) The person shall, at the time of filing the application with the court, mail a copy to the General Council for The Crow Tribe and Crow Tribal Police.
- (d) The General Council for The Crow Tribe or Crow Tribal Police may file a written objection with the court. If no objection is filed, the court may grant the permit if it finds that the person has shown good cause to purchase and possess the firearm or firearms listed in the application. If an objection is filed, a hearing must be held within 60 days after the filing of the objection. If the court first finds that the person has shown good cause to purchase and possess the firearm or firearms listed in the application and that, but for objection, the court would have granted a permit, the court shall decide whether the objection is valid and overrides the good cause showing and requires denial of the permit.

PART 4 - GANG MEMBERSHIP CRIMES

8B-8-401. Definitions. As used in this part, the following definitions apply:

(1) “Criminal street gang” means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in 8B-8-404, having a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal street gang activity.

(2) “Pattern of criminal street gang activity “ has the meaning provided in 8B-8-404.

8B-8-402. Use of threat to coerce gang membership - use of violence to coerce gang membership.

(1) A person commits the offense of use of threat to coerce criminal street gang membership if the person purposely or knowingly threatens a person under 18 years of age with physical violence on two or more separate occasions with the intent to coerce, induce, or solicit the minor to actively participate in any criminal street gang whose members engage in a pattern of criminal street gang activity.

(2) A person commits the offense of use of violence to coerce criminal street gang membership if the person purposely or knowingly uses physical violence to coerce, induce, or solicit a person under 18 years of age to actively participate in any criminal street gang whose members engage in a pattern of criminal street gang activity.

(3) This section may not be construed to limit prosecution under any other provision of law.

(4) A person may not be convicted of violating this section based on speech alone, except on a showing that the speech itself threatened violence against a specific person, that the defendant had the apparent ability to carry out the threat, and that physical harm was imminently likely to occur.

(5) The use of threat and/or force to coerce criminal street gang membership is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-403. Additional sentence for criminal street gang - related felony.

(1) (a) A person who is convicted of a felony that the person committed for the benefit of, at the direction of, or in association with any criminal street gang for the purpose of promoting, furthering, or assisting any criminal street gang members shall, in addition to the punishment provided for the commission of the underlying offense, be sentenced to an additional term of imprisonment in the Crow Tribal Jail.

(b) If the underlying felony described in subsection (1) (a) is committed on the grounds of, or within 1,000 feet of, a public school, during the hours when the facility is open for classes or school-related programs or when minors are using the facility, the maximum penalty shall be given.

(2) The imposition or execution of the minimum sentences prescribed by this section may not be deferred or suspended.

(3) An additional sentence prescribed by this section shall run consecutively to the sentence provided for the underlying offense.

8B-8-404. Pattern of criminal street gang activity.

(1) For purposes of this part, “pattern of street gang activity” means the commission, solicitation, conspiracy, attempt; adjudication as a delinquent youth for the commission, attempt, or solicitation; or conviction of two or more of the offenses listed in subsection (2) within a 3 year period, and that the offenses were committed on separate occasions.

(2) The offenses that form a pattern of criminal street gang activity include:

- (a) deliberate homicide;
- (b) felony assault;
- (c) intimidation;
- (d) kidnapping;
- (e) aggravated kidnapping;
- (f) robbery;
- (g) sexual intercourse without consent;
- (h) aggravated promotion of prostitution;
- (i) criminal mischief;
- (j) arson;
- (k) burglary;
- (l) theft;
- (m) forgery;
- (n) tampering with witnesses and informants;

- (o) bringing armed persons onto the reservation;
- (p) unlawful possession of a firearm by a convicted person;
- (q) carrying a concealed weapon;
- (r) possession of a deadly weapon by a prisoner;
- (s) possession of a destructive device;
- (t) possession of explosives;
- (u) possession of a sawed-off firearm;
- (v) the sale, possession for sale, transportation, manufacture, offer for sale, offer to manufacture, or other offense involving a dangerous drug as prohibited;
- (w) use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership.

8B-8-405. Supplying firearms to criminal street gang.

- (1) A person commits the offense of supplying firearms to a criminal street gang if the person purposely or knowingly supplies, sells, or gives possession or control of any firearm to another, and the person has actual knowledge that the other person will use the firearm to commit an offense while actively participating in any criminal street gang whose members engage in a pattern of criminal street gang activity.
- (2) Subsection (1) does not apply to a person who is convicted as a principal to the offense committed by the person to whom the firearm was supplied, sold, or given.
- (3) Supplying firearms to a criminal street gang is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-8-406. Exceptions. This part does not apply to employees engaged in lawful concerted activities for their mutual aid and protection or to the lawful activities of labor organizations or their members or agents.

8B-8-407. Adoption of local regulations. This part does not prevent a local government from adopting and enforcing ordinances or resolutions consistent with this part relating to criminal street gangs and criminal street gang violence.

CHAPTER 9 DANGEROUS DRUGS
PART 1 - OFFENSES INVOLVING DANGEROUS DRUGS

8B-9-101. Criminal sale of dangerous drugs.

- (1) A person commits the offense of criminal sale of dangerous drugs if the person sells, barter, exchange, gives away, or offers to sell, or barter, exchange, or give away any dangerous drug.
- (2) Practitioners and agents under their supervision acting in the course of a professional practice, are exempt from this section.
- (3) The criminal sale of dangerous drugs is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-9-102. Criminal possession of dangerous drugs.

- (1) A person commits the offense of criminal possession of dangerous drugs if he/she possesses any dangerous drug.
- (2) Ultimate users and practitioners and agents under their supervision acting in the course of a professional practice, are exempt from this section.
- (3)
 - (a) A first conviction of criminal possession of marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
 - (b) A second conviction of that offense specified in (3)(a) is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.

(4) Possession of an anabolic steroid is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(5) Possession of an opiate or any other dangerous drug is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-9-103. Criminal possession with intent to sell.

(1) A person commits the offense of criminal possession with the intent to sell if he/she possesses with the intent to sell any dangerous drug.

(2) Practitioners and agents under their supervision acting in the course of a professional practice, are exempt from this section.

(3) Criminal possession of any dangerous drug with the intent to sell is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-9-104. Fraudulently obtaining dangerous drugs.

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(1) A person commits the offense of fraudulently obtaining dangerous drugs if he/she obtains or attempts to obtain a dangerous drug by:

(a) fraud, deceit, misrepresentation, or subterfuge;

(b) falsely assuming the title of or representing himself/herself to be a manufacturer, wholesaler, practitioner, pharmacist, owner of a pharmacy, or other person authorized to possess dangerous drugs;

(c) the use of a forged, altered, or fictitious prescription;

(d) the use of a false name or a false address on a prescription; or

(e) the concealment of a material fact.

(6) Fraudulently obtaining dangerous drugs is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-9-105. Altering labels on dangerous drugs.

(1) A person commits the offense of altering labels on dangerous drugs if he/she affixes a false, forged, or altered label to or otherwise misrepresents a package or receptacle containing a dangerous drug.

(2) Altering labels on dangerous drugs is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-9-106. Criminal possession of precursors to dangerous drugs.

(1) A person commits the offense of criminal possession of precursors to dangerous drugs if he/she possesses:

(a) phenyl-2-propanone (phenylacetone) with the intent to manufacture amphetamine or methamphetamine, or both;

(b) both piperidine and cyclohexanone at the same time, or a combination product thereof, with the intent to manufacture phencyclidine (PCP).

(2) Practitioners and agents under their supervision acting in the course of a professional practice, are exempt from this section.

(3) Criminal possession of precursors to dangerous drugs is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-9-107. Criminal sale of dangerous drugs on or near school property - penalty - affirmative defense.

(1) A person commits the offense of criminal sale of dangerous drugs on or near school property if he/she is in, on , or within 1,000 feet of the real property comprising a public or private elementary or secondary school.

(2) It is not a defense to prosecution under subsection (1) that the person did not know the distance involved.

(3) It is an affirmative defense to prosecution for a violation of this section that:

(a) the prohibited conduct took place entirely within a private residence; and

(b) no person 17 years of age or younger was present in the private residence at any time during the commission of the offense.

(4) A conviction under this section is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-9-108. Criminal production or manufacture of dangerous drugs.

(1) A person commits the offense of criminal production or manufacture of dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates, compounds, or processes a dangerous drug.

(2) Criminal manufacture or production of dangerous drugs is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-9-109. Imitation dangerous drugs - definitions.

(1) "Imitation dangerous drug" means a substance that is not a dangerous drug but that is expressly or impliedly represented to be a dangerous drug or to stimulate the effect of a dangerous drug and the appearance of which, including the color, shape, size and markings, would lead a reasonable person to believe that the substance is a dangerous drug.

(2) "Person" includes any individual, business association, partnership, or corporation.

8B-9-110. Imitation drugs.

(1) A person commits the offense of criminal sale of an imitation dangerous drug if he/she knowingly or purposely sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any imitation dangerous drug.

(2) A person commits the offense of criminal possession of an imitation dangerous drug with purpose to sell if he/she possesses with purpose to sell any imitation dangerous drug.

(3) A person commits the offense of criminal advertisement of an imitation dangerous drug if he/she knowingly or purposely places in any newspaper, magazine, handbill, or other publication or posts or distributes any advertisement or solicitation to promote the manufacture, sale, exchange, or distribution of an imitation dangerous drug.

(4) A person commits the offense of criminal manufacture of an imitation dangerous drug if he/she knowingly or purposely manufactures, prepares, or cultivates any imitation dangerous drug.

(5) A conviction of any offense under sections (1-4) is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-9-111. Imitation dangerous drugs - exemptions - rules.

Sections 8B-9-109 through 8B-9-110 do not apply to:

(1) (a) a person authorized by rules adopted by the board of pharmacy to possess with purpose to sell or sell imitation dangerous drugs;

(b) law enforcement personnel selling or possessing with purpose to sell imitation dangerous drugs while acting within the scope of their employment; and

(c) a person registered to sell or possess with purpose to sell imitation dangerous drugs for use as a placebo, by that person or any other person so registered, in the course of professional practice or research.

8B-9-112. Possession of intoxicants.

(1) Any person who shall introduce into the Crow Indian Reservation or any person who shall possess or have in his/her possession anywhere within the exterior boundaries of the Crow Indian Reservation any intoxicating beverage shall be guilty of possession of intoxicants. All intoxicants discovered within the Crow Indian Reservation shall be confiscated and destroyed after they are no longer needed for evidentiary purposes.

(2) (a) A first conviction under this section is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(b) A second offense of possession of intoxicants is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.

(c) A third or any subsequent offenses under this section is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-9-113. Inhalation of noxious fumes.

(1) Any person who engages in the deliberate inhalation of noxious fumes for the purpose of producing an intoxicated or other unnatural state of mind, such as results from inhaling the fumes from glue, gasoline, or other substances, shall be guilty of inhalation of noxious fumes. Provided, that in the case of a minor charged with this offense the court will require the presence in court at arraignment or trial of the minor's natural parents, guardian, foster parents, or other legal custodian.

(2) (a) A first offense of inhalation of noxious fumes is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

(b) A second offense under this section is a Class B offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.

(c) A third or any subsequent offenses of inhalation of noxious fumes is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-9-114. Continuing criminal enterprise.

(1) A person who engages in a continuing criminal enterprise is guilty of a crime and upon conviction is punishable by a term of imprisonment and a fine not exceeding two times those authorized for the underlying offense. For purposes of this subsection, a person is engaged in a continuing criminal enterprise if:

- (a) the person violates any provision of this chapter that is a felony; and
- (b) the violation is a part of a continuing series of two or more violations of this chapter on separate occasions:
 - (i) that are undertaken by the person in concert with five or more other persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management; and
 - (ii) from which the person obtained substantial income or resources.

(2) A sentence for a conviction under this section runs consecutively with the conviction for the underlying offense.

8B-9-115. Use or possession of property subject to criminal forfeiture-property subject to criminal forfeiture.

(1) (a) A person commits the offense of use or possession of property subject to criminal forfeiture if the person knowingly possesses, owns, uses, or attempts to use property that is subject to criminal forfeiture under this section.

(b) Use or possession of property subject to criminal forfeiture or property subject to criminal forfeiture is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

(2) The following property is subject to criminal forfeiture under this section:

(a) money, raw materials, products, equipment, and other property of any kind that is used or intended for use in manufacturing, preparing, cultivating, compounding, processing, delivering, importing, or exporting a dangerous drug in violation of 8B-9-101, 8B-9-103, or 8B-9-108 or of 8B-4-102 when the object of the conspiracy was a violation of 8B-9-101, 8B-9-103, or 8B-9-108;

(b) property used or intended for use as a container for property enumerated in subsection (2) (a);

(c) except as provided in subsection (3), a conveyance, including an aircraft, vehicle, or vessel, used or intended for use to facilitate a violation of 8B-9-101, 8B-9-103, or 8B-9-108 or 8B-4-102 when the object of the conspiracy was a violation of 8B-9-101, 8B-9-103, or 8B-9-108;

(d) books, records, research products and materials, formulas, microfilm, tapes, and data used or intended for use in connection with a violation of 8B-9-101, 8B-9-103, or 8B-9-108 or of 8B-4-102 when the object of conspiracy was a violation of 8B-9-101, 8B-9-103, or 8B-9-108;

(e) (i) everything of value furnished or intended to be furnished in exchange for a dangerous drug in violation of 8B-9-101, 8B-9-103, or 8B-9-108 or of 8B-9-103, or 8B-9-108; and

(ii) all proceeds traceable to such an exchange.

(f) money, negotiable instruments, securities, and weapons used or intended to be used to facilitate a violation of 8B-9-101, 8B-9-103, or 8B-9-108 or of 8B-4-102 when the object of the conspiracy was a violation of 8B-9-101, 8B-9-103, or 8B-9-108;

- (g) personal property constituting or derived from proceeds obtained directly from a violation of 8B-9-101, 8B-9-103, or 8B-9-108 or of 8B-4-102 when the object of the conspiracy was a violation of 8B-9-101, 8B-9-103, or 8B-9-110; and
 - (h) real property, including any right, title, and interest in a lot or tract of land and any appurtenances or improvements, that is directly used or intended to be used in any manner to facilitate a violation of or that is derived from or maintained by proceeds resulting from a violation of 8B-9-101, 8B-9-103, or 8B-9-108 or of 8B-4-102 when the object of the conspiracy was a violation of 8B-9-101, 8B-9-103, or 8B-9-108. An owner's interest in real property is not subject to criminal forfeiture by reason of act or omission unless it is proved that the act or omission was the owner's or was with the owner's express consent.
- (3) A conveyance is not subject to criminal forfeiture under this section unless the owner or other person in charge of the conveyance knowingly used the conveyance to violate or knowingly consented to its use for the purpose of violating 8B-9-101, 8B-9-103, or 8B-9-108 or of 8B-4-102 when the object of the conspiracy was a violation of 8B-9-101, 8B-9-103, or 45-9-108.
- (4) Criminal forfeiture under this section of property that is encumbered by a bona fide security interest is subject to that interest if the secured party did not use or consent to the use of the property in connection with the violation of 8B-9-101, 8B-9-103, or 8B-9-108 or of 8B-4-102 when the object of the conspiracy was a violation of 8B-9-101, 8B-9-103, or 8B-9-108.
- (5) Property subject to criminal forfeiture under this section may be seized under the following circumstances:
- (a) A peace officer who has probable cause to make an arrest for a violation of 8B-9-101, 8B-9-103, or 8B-9-108 or of 8B-4-102 when the object of the conspiracy was a violation of 8B-9-101, 8B-9-103, or 8B-9-108 may seize a conveyance obtained with the proceeds of the violation or used to facilitate the violation and shall immediately deliver the conveyance to the peace officer's law enforcement agency, to be held as evidence until a criminal forfeiture is declared or release ordered.
 - (b) Property subject to criminal forfeiture under this section may be seized by a peace officer under a search warrant issued by a court having jurisdiction over the property.
 - (c) Seizure without a warrant may be made if:
 - (i) the seizure is incident to an arrest or a search under a search warrant issued for another purpose or an inspection under an administrative inspection warrant;
 - (ii) the property was the subject of a prior judgment in favor of the Crow Tribe in a criminal proceeding or a criminal forfeiture proceeding;
 - (iii) a peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or
 - (iv) a peace officer has probable cause to believe that the property was used or intended to be used in violation of 8B-9-101, 8B-9-103, or 8B-9-108 or of 8B-4-102 when the object of the conspiracy is a violation of 8B-9-101, 8B-9-103, or 8B-9-108.
- (6) A prosecution under subsection (1) must be commenced within 45 days of the seizure of the property involved

CHAPTER 10 DRUG PARAPHERNALIA

8B-10-101. Definitions.

- (1) As used in this part, the term "drug paraphernalia" means all equipment, products, and materials of any kind that are used, intended for use, or designed 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 dangerous drug. It includes but is not limited to:
- (a) kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant that is a dangerous drug or from which a dangerous drug can be derived;
 - (b) kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing dangerous drugs;
 - (c) isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant that is a dangerous drug;
 - (d) testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of dangerous drugs;

- (e) scales and balances used, intended for use, or designed for use in weighing or measuring dangerous drugs;
- (f) dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting dangerous drugs;
- (g) separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
- (h) blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding dangerous drugs;
- (i) capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of dangerous drugs;
- (j) containers and other objects used, intended for use, or designed for use in storing or concealing dangerous drugs;
- (k) objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, or other dangerous drugs into the human body, such as, but not limited to the following:
 - (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens hashish heads, or punctured metal bowls;
 - (ii) water pipes;
 - (ii) carburation, tubes and devices;
 - (iv) smoking and carburation masks;
 - (vi) 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;
- (vi) miniature cocaine spoons and cocaine vials;
- (vii) chamber pipes;
- (viii) carburetor pipes;
- (ix) electric pipes;
- (x) air-driven pipes;
- (xi) chillums;
- (xii) bongs;
- (xiii) ice pipes or chillers.

8B-10-102. Determination of what constitutes paraphernalia. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (1) statements by an owner or by anyone in control of the object concerning its use;
- (2) prior convictions, if any, of an owner or of anyone in control of the object, under any tribal or federal law relating to any controlled substance or dangerous drug;
- (3) the proximity of the object, in time and space, to a direct violation of this part;
- (4) the proximity of the object to dangerous drugs;
- (5) the existence of any residue of dangerous drugs on the object;
- (6) direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of 8B-10-103 through 8B-10-106. The innocence of an owner or of anyone in control of the object as to a direct violation of 8B-10-103 through 8B-10-106 does not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;
- (7) instructions, oral or written, provided with the object concerning its use;
- (8) descriptive materials accompanying the object which explain or depict its use;
- (9) national and local advertising concerning its use;
- (10) the manner in which the object is displayed for sale;
- (11) 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;
- (12) direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (13) the existence and scope of legitimate uses for the object in the community;
- (14) expert testimony concerning its use.

8B-10-103. Criminal possession of drug paraphernalia.

- (1) It is unlawful for any person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug.
- (2) Criminal possession of drug paraphernalia is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-10-104. Manufacture or delivery of drug paraphernalia.

- (1) It is unlawful for any person to deliver, or possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing or under circumstances where one reasonably should know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, re-pack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug.
- (2) The manufacture or delivery of drug paraphernalia is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-10-105. Delivery of drug paraphernalia to a minor.

- (1) Any person 18 years of age or over who violates 8B-10-104 by delivering drug paraphernalia to a person under 18 years of age who is at least 3 years his junior is guilty of delivering drug paraphernalia to a minor.
- (2) Delivery of drug paraphernalia to a minor is a Class A offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.

8B-10-106. Advertisement of drug paraphernalia.

- (1) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement knowing or under circumstances where one reasonably should know that the purpose of the advertisement, in whole or part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (2) Advertisement of drug paraphernalia is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

8B-10-107. Exemptions. Practitioners and agents under their supervision acting in the course of a professional practice are exempt from this chapter.