TITLE I
GENERAL PROVISIONS

CHAPTER 1 PRELIMINARY PROVISIONS

Section 1-1-1 Inherent Tribal Authority

The power to legislate for the administration of justice for an Indian tribe extends back to time immemorial if not limited by Congress or itself. This exercise of inherent tribal sovereignty provides the basis upon which this Code is enacted. It is a general act intended as a unified coverage of its subject matter, and no part of it shall be deemed impliedly repealed by subsequent legislation if it can be reasonably avoided.

Section 1-1-2 Name of Code

This law and order code shall be known as the Law and Order Code of the Shoshone and Arapaho Tribes of the Wind River Indian Reservation and may be referred to as the Code and abbreviated as S&A LOC. Subcodes and rules included herein may be cited by the name given in the Subcode or rule heading.

Section 1-1-3 Prior Inconsistent Resolutions and Ordinances Repealed

Any and all resolutions and ordinances of the Joint Business Council, Shoshone and Arapaho Tribes which conflict in any way with the provisions of this Law and Order Code are hereby repealed to the extent that they are inconsistent with or conflict with, or are contrary to the spirit and/or purpose of this Law and Order Code. Those which do not conflict will remain in effect.

Section 1-1-4 Enforcement of Code; Service of Notices, Orders; Warrants

(1) The Indian Police of the Bureau of Indian Affairs (BIA) shall carry out the orders of the Shoshone and Arapaho Tribal Courts and in the community enforce the letter and spirit of this Code in an impartial manner until the Shoshone and Arapaho Tribes create their own police department.

(2) The Indian Police of the BIA shall also promptly serve all notices which the courts request.

(3) Warrants of arrest and for search and seizure based on probable cause are to be executed to insure justice by the Indian police and carried out in a manner that promotes fairness to all parties.

Section 1-1-5 Amendment of Code

(1) This Law and Order Code may be amended by the Joint Tribal Business Council and amendments shall be made a part thereof for all purposes and shall be certified and incorporated herein in a manner consistent with the numbering and organization thereof.

(2) No amendment shall be effective until published by the tribes.

CHAPTER 2 JURISDICTION

Section 1-2-1 Jurisdiction; Tribal Policy

It is hereby declared as a matter of tribal policy and legislative determination, that the public and tribal interests demand that the tribes provide all individuals living within the Wind River Indian Reservation with an effective means of redress for both civil and criminal conflicts against members, non-enrolled members, and other persons who through their residence, presence, business dealings, other acts or failures to act, or other significant minimum contacts with this reservation and/or its residents commit criminal offenses against the tribes or incur civil obligations to persons or entities entitled to the tribes' protection. This action is deemed necessary as a result of the confusion and conflicts caused by the increased contact and interaction between the tribes, their members, and other residents of the reservation and other persons and entities over which the tribes have not previously elected to exercise jurisdiction. The jurisdictional provisions of this Law and Order Code, to insure maximum protection for the tribes, their members and other residents of the reservation, should be applied equally to all persons.

Section 1-2-2 Territorial Jurisdiction

(1) The jurisdiction of the Tribal Courts of the Shoshone and Arapaho Tribes shall extend to the territory within the Wind River Indian Reservation and to such other lands without such boundaries as may have been or may hereafter be added to the reservation or held in trust for the tribes under any law of the United States or otherwise.

(2) The jurisdiction of the Tribal Courts of the Shoshone and Arapaho Tribes shall extend beyond the territorial limitation set forth above, to effectuate the jurisdictional provisions set forth below, to the greatest extent permissible by law.

Section 1-2-3 Personal Jurisdiction

(1) As used in these jurisdictional provisions the word "person" shall include any individual, firm, company, association, corporation or tribe.

(2) The Tribal Courts of the Shoshone and Arapaho Tribes shall have personal jurisdiction over the following persons:

a) Any person residing, located or present within the reservation for any civil cause of action;

b) Any person who transacts, conducts, or performs any business or activity within the reservation, either in person or by an agent or representative, for any civil cause of action;

c) Any person who owns, uses or possesses any property within the reservation for any civil cause of action;

d) Any person who commits tortious conduct within the reservation, either in person or by an agent or representative, for any civil cause of action arising from such act, conduct or omission; and

e) Any enrolled or non-enrolled member of any indigenous Indian tribe who commits a criminal offense prohibited by this Code or other law of the tribes by his or her conduct or the conduct of another for which they are legally accountable, if:

i) the conduct occurs either wholly or partly within the reservation;

ii) the conduct which occurs outside the reservation constitutes an attempt, solicitation, or conspiracy to commit an offense within the reservation, and an act in furtherance of the attempt or conspiracy occurs within the reservation; or

iii) the conduct which occurs within the reservation constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense prohibited by this Code, tribal law or such other jurisdiction.

(3) None of the foregoing bases of jurisdiction is exclusive, and jurisdiction over a person may be established upon any one or more of them as applicable.

Section 1-2-4 Jurisdiction Over Property

Subject to any contrary provisions, exceptions, or limitations contained in either federal laws and regulations, the Courts of the Shoshone and Arapaho Tribal Court shall have jurisdiction over any real or personal property located on the reservation to determine the ownership thereof or rights therein or to determine the application of such property to the satisfaction of a claim for which the owner of the property may be liable.

Section 1-2-5 General Subject Matter Jurisdiction Limitations

Subject to any contrary exceptions, or limitations contained in either federal or applicable tribal law the Wind River Tribal Court shall have general subject matter jurisdiction over all civil causes of action, arising on the reservation and over all offenses prohibited by this Code which occur within the exterior boundaries of the Wind River Indian Reservation to adjudicate and determine the rights and responsibilities of all parties.

Section 1-2-6 Concurrent Jurisdiction

The jurisdiction invoked by this Code over any person, cause of action, or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any state, or any subdivision thereof; provided, however, this Code does not recognize, grant, or cede jurisdiction to any other governmental entity in which jurisdiction does not otherwise exist in law.

Section 1-2-7 Exclusive Original Jurisdiction

(1) The Shoshone and Arapaho Tribal Court shall have exclusive original jurisdiction in all matters in which the Shoshone and Arapaho Tribes or their officers, employees, or agents are parties in their official capacity.

(2) Nothing in this code shall be construed as a waiver of sovereign immunity of the tribes, their employees, officer and agents unless specifically denominated as such.

CHAPTER 3 ESTABLISHMENT OF COURTS: JUDGES AND OTHER COURT PERSONNEL

Section 1-3-1 Courts Established

(1) There is hereby established a Shoshone and Arapaho Tribal Court to handle all matters of a judicial nature within the jurisdiction of the Shoshone and Arapaho Tribes as provided in this Code. It shall be a court of general civil and criminal jurisdiction and shall hear appeals from administrative bodies of the Shoshone and Arapaho Tribes. It shall consist of one (1) chief judge and three (3) associate judges. Each tribe may appoint two (2) as mutually agreeable.

(2) There is hereby established a Shoshone and Arapaho Tribal Appellate Court to handle all appeals from the Children*s and Tribal Courts. It shall consist of three (3) judges.

(3) There is hereby established a Shoshone and Arapaho Tribal Children*s Court to handle all matters set forth in the Children and Juvenile Code contained in this Law and Order Code.

(4) There is hereby established a Shoshone and Arapaho Tribal Probate Court which shall have exclusive original jurisdiction of all matters relating to the probate and contest of wills and testaments and of administration, and the settlement and distribution of decedent*s estates of all property on the reservation.

(5) Each court will function as a court of record.

Section 1-3-2 Judges

(1) There shall be appointed for a term not to exceed four (4) years:

a) One (1) chief judge; and

b) Three (3) associate judges.

(2) The appointment shall be made by the Joint Business Council and a judge may not be removed prior to the expiration of the term except as provided hereinafter.

(3) Compensation shall be paid the same rate as a GS-9 in the Federal System with a minimum of two (2) hours for a single day for associate judges.

(4) The chief judge shall be paid the same as a GS-12 in the Federal System and the position will be on a full-time and permanent basis.

(5) All associate judges will be appointed by majority vote of the Joint Business Council for successive terms of office when retained by their tribes at a general election of the tribal business councils on a separate ballot when fifty percent (50%) of the voters choose to retain.

(6) Initial appointments are to be made so that one expires every two (2) years on the calendar year.

Section 1-3-3 Qualifications of Judges

(1) All judges appointed and contractual must be in Good Standing of The Wind River Tribal Bar Association and have no disbarments on their record; and

(2) No judge shall have been convicted of a felony; or a misdemeanor involving moral turpitude.

(3) Any judge not a licensed attorney must obtain within one year a license issued by the court which will require that he successfully passed by a score of seventy percent (70%) an examination conducted by the court to test competence.

Section 1-3-4 Training

All judges shall receive at least fifteen (15) hours of training in the area of civil or criminal law, juveniles, appeals therefrom or any other subject that relates to their job description each year.

Section 1-3-5 Removal of Judges

Any judge may be removed from office prior to the expiration of his term of office by an affirmative vote of three-fourths (3/4) of the Joint Business Council only upon the grounds of neglect of duty or gross misconduct, and only after the holding of a public hearing, at which the judge, after being given at least five (5) days' notice, is given an opportunity to answer all charges and present evidence in defense. This shall also apply to the prosecutor, court administrator, juvenile and probation officer.

Section 1-3-6 Powers and Duties of Judges

(1) The chief judge shall be responsible for the administration of all courts and shall supervise the court administration. The chief judge shall be responsible for the assignment of cases and the management of the courts calendar and business. He shall also be responsible for conducting and administering an examination to test competence and issuing a license to practice to those who are successful as lay counselors or as judges.

a) The Chief Judge shall have the authority to appoint Pro Tem (Contractual Judges) on an as-needed basis, as determined by the Court. With limitations being:

i In Good Standing with The Wind River Tribal Bar Association.

ii No conflict of interest with either party.

(2) All judges shall administer justice and discharge all duties imposed upon them by law and shall hear and decide matters of a judicial nature and enter judgments and orders disposing of such matters. They shall perform civil marriages any place.

(3) All judges of the Shoshone and Arapaho Tribal Court System shall conform their conduct to the Code of Judicial Conduct as adopted by the American Bar Association.

(4) Every judicial officer has power to:

a) Preserve and enforce order in his immediate presence and in proceedings before him, when he is engaged in the performance of his official duty;

b) Compel obedience to his lawful orders;

c) Compel the attendance of person to testify in a proceeding before him and to bring any material along;

d) Administer oaths to persons in proceedings before him and in any other

case where such shall be necessary in the exercise of his powers and duties; and

e) Punish for contempt to assure the effectual exercise of these powers.

Section 1-3-7 Disqualification of Judges

(1) A judge shall disqualify himself from hearing any matter in which he has a direct interest or in which any party to the matter is a relative by blood in the fourth degree (first cousins), or where he feels that he will not be able to render a just decision.

(2) Any party to a legal proceeding may request a change of judge by filing an affidavit giving sufficient, reasonable grounds why another judge is necessary.

Section 1-3-8 Oath of Office of Judge

(1) Every judge prior to taking office or acting in such office shall take the following oath of affirmation:

> "I, _____, do solemnly affirm that I will support and defend the laws of the United States which apply; that I will support, defend and uphold the laws and treaties of the Shoshone and Arapaho Tribes and support and defend the best interest of the Shoshone and Arapaho Tribes and members; and that I will faithfully and impartially discharge the duties of my office to the best of my ability."

(2) Said oath may be administered by the Chairman of the Joint Business Council or a judge of the court.

Section 1-3-9 Clerks of Court

(1) There shall be six (6) clerks in the court system who shall be assigned to their various positions by the court administrator, with additional assistant clerks selected as deemed necessary.

(2) The appointment, qualifications, terms of employment and compensation of clerks shall be determined by the chief judge and the court administrator.

Section 1-3-10 Duties of Clerks

It shall be the duty of the clerks of the tribal, juvenile and appellate courts to supervise and keep all records, files, dockets or other records required to be kept by the Law and Order Code, by rule of court, tribal ordinance or resolution, or as otherwise established, and further to keep a written record of all proceedings of the court, to administer oaths and to further assist the court in any way required to facilitate the performance of its duties, to aid private citizens in their dealings with the court, and render advice and assistance to individual members of the tribes in the drafting of documents incidental to proceedings in the courts.

Section 1-3-11 Oath of Clerks

(1) Every clerk shall take the following oath upon assuming office:

"I, _____, having been appointed clerk of the Wind River Tribal Court, do solemnly affirm that I will truly, faithfully, honestly and impartially discharge all of the duties of my office to the best of my ability and understanding."

(2) Such oath shall be administered by a judge of the Tribal Court.

Section 1-3-12 Court Administrator

The Joint Business Council shall appoint a full-time court administrator whose job it will be to aid the chief judge in administering the courts, scheduling cases, processing papers related to the court system, and do other things as the chief judge directs to assure the orderly and efficient operation of all the courts. This shall include supervision of all clerks, preparing, submitting and administering the budget, administering examinations for licenses, keeping a roll of certified attorneys and licensed lay counselors and judges, and other general clerical duties.

Section 1-3-13 Prosecutor

The Joint Business Council shall appoint a full-time and permanent prosecutor to prosecute all violations of the Code on behalf of the tribes, adult and juvenile. The prosecutor

shall also assist the police officers and private citizens in the drafting of complaints, subpoenas, search warrants, and any other needs relating to prosecuting offenses, including involuntary commitments.

Section 1-3-14 Juvenile Officer

The Joint Business Council shall appoint a juvenile officer full-time whose duties include looking after the interests of neglected, dependent or delinquent juveniles, making investigations and filing petitions, being present in court when juvenile cases are heard, preparing pre-sentence or pre-dispositional reports and recommendations, supervising probations and furnish assistance as requested by any judge in matters relating to all juvenile cases.

Section 1-3-15 Probation Officer

The Joint Business Council shall appoint a probation officer full-time who shall be considered an employee of the court whose duties include supervising and following up probation and parole of adults and juveniles, preparing recommendations for imposition, modification, or revocation of sentences, probation or parole, being present in court for dispositional hearings, sentences, and modification or revocation hearings, and further assisting the court as requested by any judge in matters relating to any case.

Section 1-3-16 Bonding of Court Personnel

(1) All prosecutors and certain trustworthy clerks shall be bonded at the tribes* expense to secure the honest collection of bonds, fines and other monies which are paid into the court system.

(2) The Joint Business Council may also provide for the bonding of jailers at tribal expense for receiving of bonds and fines to secure the release of persons incarcerated.

Section 1-3-17 Seal of the Tribal Courts

(1) The seal of the Shoshone and Arapaho Tribal Courts shall contain the words, "Tribal Courts for the Wind River Indian Reservation, Wyoming" in a circular fashion and the word "Seal" shall be in the center thereof.

(2) The Court Administrator shall be the custodian of the seal, which shall be kept in the Court Administrator*s office and shall be attached to all writs, orders, or other instruments that he is or may be required or permitted to sign or certify in his official capacity.

CHAPTER 4 CONTEMPTS

Section 1-4-1 Direct and Indirect

(1) Any person coming under the jurisdiction of the Shoshone and Arapaho Tribal Court guilty of disorderly, contemptuous, or insolent behavior toward any judge or judicial officer, while they are engaged in the trial of a case, or in rendering any judgment, or engaged in any judicial proceedings; or who commits any action which would tend to interrupt such judicial proceedings, or to impair the respect rightfully due to the court shall be deemed guilty of a misdemeanor. If the offender is present during court proceedings, he may be summarily arraigned by the judge and proceeded against in the same manner as if a warrant had been previously issued, and the offender arrested immediately and removed from the court room. Any violations of the foregoing by any Indian person or persons shall be deemed a misdemeanor and upon conviction thereof the guilty person or persons shall be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine of $150.00.

(2) Any person coming under the jurisdiction of the Shoshone and Arapaho Tribal Court duly subpoenaed and obliged to attend court as a witness, who shall fail to do so, shall be considered guilty of contempt, unless he shall show reasonable cause to the satisfaction of the judge of the Shoshone and Arapaho Tribal Court, for his failure to attend and testify. No person shall be punished for contempt in this regard until an opportunity has been given him to be heard in his own defense; and for this purpose the judge of the Shoshone and Arapaho Tribal Court shall issue a warrant to arrest and bring the defendant before him for such hearing. Any violation of the foregoing without reasonable cause for absence at the time of the hearing shall be deemed a misdemeanor and upon conviction thereof the guilty person shall be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine of $150.00.

CHAPTER 5 ADVOCATES AND PROFESSIONAL ATTORNEYS

Section 1-5-1 Advocates and Attorneys

(1) Any person appearing as a party in any judicial proceeding before a court of the Shoshone and Arapaho Tribes shall have the right to be represented by an advocate or anyone of their choice, if admitted to practice before the court, including a professional attorney, at their own expense.

(2) The Shoshone and Arapaho Tribes shall have no obligation to provide or pay for such representation and such obligation shall rest entirely with the person desiring such representation.

(3) Any person appearing as a representative shall be subject to the same ethical standards of competence, honesty, and confidentiality towards his clients as would a professional

attorney, and the attorney-client privilege shall apply in appropriate circumstances. He shall never have been convicted of a felony nor a misdemeanor involving moral turpitude.

Section 1-5-2 Eligibility for Admission

Any attorney who is an active member in good standing of any state bar, certified and eligible to practice before the highest court of any state or of the United States Supreme Court or any of the federal courts is eligible to be admitted to practice before the courts of the Shoshone and Arapaho Tribes.

Section 1-5-3 Procedure for Admission - Attorneys

(1) Any professional attorney desiring to be admitted to practice before the courts of the Shoshone and Arapaho Tribes shall apply for admission and certify under oath orally or in writing to the following statement:

a) That he is an active member in good standing of any federal or state bar association; and

c) That if admitted to practice before the courts of the Shoshone and Arapaho Tribes, he will take the required oath as prescribed in the Law and Order Code and be bound thereby.

(2) An admission fee of $25.00 shall be tendered with a written application, subject to return if denied. (Form I-1)

(3) Upon receipt of an application for admission to practice before the courts of the Shoshone and Arapaho Tribes, the chief judge shall review the application. If satisfied that the qualifications are met, he shall notify such person who shall then forward the written signature of the oath prescribed.

(4) Upon receipt of the written oath the chief judge shall cause a certificate to be issued evidencing the admission of the attorney to practice before the courts of the Shoshone and Arapaho Tribes.

Section 1-5-4 Procedure for Admission - Nonattorney

(1) Any person desiring to practice before the tribal courts of the Shoshone and Arapaho Tribes as advocate, lay counselor, judge, prosecutor, except as a spokesperson shall be required to pass an examination administered by the court to test competence by a score of seventy percent (70%) prior to becoming eligible to obtain a license. (Form I-2)

(2) A license fee of $25.00 shall be imposed and due prior to it being issued.

(3) A written application for a license shall show that the applicant has successfully passed an examination. (Form I-3)

(4) The examination shall be conducted once yearly with an examination fee of $25.00 due with the application which can be a letter stating the desire to take the examination necessary to become eligible to obtain a license. The court shall utilize experts in the areas of law in general, Indian law, and local customs as the source of material for the examination and create an ad hoc examination board and staff to administer the examination, score it and render the results.

Section 1-5-5 Disbarment and Discipline

(1) Whenever it is made to appear to the chief judge that any attorney admitted to practice before the courts of the Shoshone and Arapaho Tribes has been disbarred or suspended from the practice of law in the state to which reference for admission to practice was made as a condition to obtaining admission to the tribal courts, he shall immediately be given notice that he shall be suspended from practice before the courts of the Shoshone and Arapaho Tribes indefinitely unless he appeals within fourteen (14) days and shows good cause why such suspension should not be made.

(2) If an attorney is found to be in contempt of court before the courts of the Shoshone and Arapaho Tribes, in addition to any other sanction imposed the court may order him to appear within ten (10) days and show cause why he should not be suspended.

(3) The chief judge may, upon receiving a written, verified complaint which alleges improper or unethical behavior of an attorney or representative, order him to appear and defend himself at a hearing to consider all relevant matter and order the suspension of such an attorney or representative, if such appears reasonably necessary or appropriate.

(4) All suspensions from practice before the courts of the Shoshone and Arapaho Tribes shall be for an indefinite period unless ordered otherwise. At the end of the specified period or one (1) year, the person suspended from practice may petition the tribal court for permission to re-apply or terminate the suspension. Upon a showing that he now appears willing to conduct himself in a proper manner or has been reinstated to practice if disbarred or suspended elsewhere, the court may allow the reapplication and terminate the suspension.

(5) Any lay counsel or advocate may be suspended from further appearance as provided above.

Section 1-5-6 Standards of Conduct

Every attorney, lay counselor, advocate, or representative who holds themselves out as being available to act as such shall conform their conduct in every respect to the requirements and suggested behavior of the Code of Professional Responsibility as adopted by the American Bar Association.

Section 1-5-7 Oath of Attorneys, Lay Counselors, Advocates, Etc.

(1) Upon admission to practice as provided herein, an attorney shall take the following oath, either verbally before the court, or subscribe his signature to such oath if admitted without personally appearing (Form I-4):

> "I do solemnly affirm that I will support the Constitution and Laws of the United States and all resolutions and ordinances of the Shoshone and Arapaho Tribes; that I will maintain the respect due the courts and judicial officers of the tribes; that I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land; that I will employ for the purposes of maintaining the causes confided in me such means only as are consistent with truth and honor, and will never seek to mislead a judge or jury by any artifice or false statement of fact or law; that I will maintain the confidences and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval; that I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required in justice by the cause with which I am associated; that I will never reject, from my consideration personal to myself, the cause of the defenseless or oppressed, or delay any man*s cause for lucre or malice. SO HELP ME GOD."

(2) All lay counselors, advocates, or representative hired, retained, appointed or employed to represent another before any court of the Shoshone and Arapaho Tribes, shall take the foregoing oath at the time of his first appearance in court.

Section 1-5-8 License Fees - Waiver

A judge may waive the formal admission procedure and payment fee as required herein only in the case of an appearance for a limited purpose of a single, specific case, and only if an attorney, advocate or lay counselor is associated in such case with an attorney formally admitted to practice or with an advocate, lay counselor, or representative admitted to practice.

CHAPTER 6 JURORS

Section 1-6-1 Eligibility for Jury Duty

(1) Any enrolled or non-enrolled member of the Shoshone or Arapaho Tribes over the age of eighteen who has not been convicted of a felony and who resides on the Wind River Indian Reservation shall be eligible to be a juror.

(2) The chief judge may by rule adopt procedures whereby non-Indians may be summoned for jury duty in cases in which one or more non-Indian parties are involved.

Section 1-6-2 Jury List

Each year the Joint Business Council or the chief judge at the request of the Council, shall prepare a list of eligible jurors, which list shall contain not less than fifty (50) names and which shall contain names of persons from each community prorated as nearly as possible to the relative population of the communities.

Section 1-6-3 Trial Juries

(1) The clerk shall subpoena not less than twenty (20) persons from the list of eligible jurors to appear and be available to serve as jurors whenever a jury trial is scheduled in a civil or criminal matter.

(2) The selection from the list of eligible jurors shall be by lot or some other means of random, impartial selection.

(3) Selection of jurors to hear the case shall be accomplished as provided in the Tribal Rules of Civil and Criminal Procedures elsewhere in the Law and Order Code.

Section 1-6-4 Power to Excuse Jurors

The judge assigned to hear the case shall have the power to excuse a person subpoenaed to appear as a juror on account of sickness, disability, extreme hardship or other good cause shown upon the request for such excuse by the person subpoenaed.

Section 1-6-5 Compensation of Jurors

Each juror who is called and reports for jury duty or who serves on a jury shall be entitled to receive such fees for daily services and/or mileage, if any, as established by rule of court or order.

Section 1-6-6 Compensation of Witnesses

(1) The courts shall pay each witness who is legally notified and personally appears or who serves as a witness for either party, fees for daily services and/or mileage, if any, as established by rules of court or order, in any criminal trial or hearing.

(2) In any civil matter the party requesting that a witness be subpoenaed or appear voluntarily and does, is responsible for compensating that witness, if he so appears.

CHAPTER 7 SUBPOENAS AND SERVICE OF OTHER PAPERS

Section 1-7-1 Issuance of Subpoenas

(1) The clerk shall issue subpoenas to compel the attendance of witnesses, jurors or such other persons as a judge may direct for a trial, hearing or other proceeding before a court of the Shoshone and Arapaho Tribes.

(2) In a criminal case, the complaining witness and all witnesses for the Shoshone and Arapaho Tribes may be subpoenaed to appear at the date and time set for trial or a reasonable period before such time, plus the defendant shall have the right to have witnesses subpoenaed to appear in his behalf by notifying the clerk of court of the names and addresses of such witnesses not less than three (3) days prior to the scheduled trial date.

Section 1-7-2 Service of Subpoenas; Return of Service

(1) Subpoenas in criminal cases shall be served by a BIA or tribal policemen, or other persons designated by a judge.

(2) Subpoenas in non-criminal cases may be served by any person over eighteen (18) years of age not a party to the action.

(3) Except by order based upon good cause shown therefore, no subpoena shall be served between the hours of 9:00 p.m. and 7:00 a.m.

(4) The person serving a subpoena shall endorse upon the copy served his name, title and the place, date and time of service.

(5) The person serving a subpoena shall make a return to the clerk stating the name of the case, the name of the person served, the place, time and date of service, and shall subscribe his name thereto under penalty of perjury for the intentional making of a false return.

CHAPTER 8 GENERAL PROVISIONS

Section 1-8-1 Copies of Laws

There shall be kept available for public inspection during regular business hours at the office of the clerk copies of this Law and Order Code, and any amendments thereto, plus copies of all laws or rules which have been incorporated by reference from other jurisdictions, plus a copy of the Code of Professional Responsibility of the American Bar Association.

Section 1-8-2 Signature Defined

The term "signature" or any term relating thereto as used in this Law and Order Code or subsequent amendments, shall mean a written signature, official seal, or the mark or thumb print of any individual witnessed by two disinterested persons subscribing their names therewith.

Section 1-8-3 Records of Court Open to Public Inspections; Exceptions

The files and records of the courts of the Shoshone and Arapaho Tribes shall be open for public inspection, except that the files and records of adoptions, incompetency proceedings, and Tribal Juvenile Court proceedings shall not be open to public inspection but may be inspected with proper specific judicial authorization.

Section 1-8-4 Adoption by Reference Not a Waiver of Sovereign Power of the Tribes

The adoption by reference of any law, code or other document by reference into this Law and Order Code shall in no way constitute a waiver or cession of any sovereign power of the Shoshone and Arapaho Tribes to the jurisdiction whose law or code is adopted or in any way diminish such sovereign power, but shall result in the law or code thus adopted becoming the law of the Shoshone and Arapaho Tribes.

Section 1-8-5 Sovereign Immunity

Except as required by controlling law or as specifically waived by resolution or ordinance of the tribes specifically referring to as such, the Shoshone and Arapaho Tribes shall be immune from suit in any civil action and their officers and employees immune from suit for any liability arising from the performance of their official duties, except for gross abuse or intentional tortious conduct.

Section 1-8-6 Limitations in Civil Actions

Unless otherwise specifically provided in this Law and Order Code, the following limitations on the bringing of civil actions will apply:

(1) Any action against any individual, any Indian tribe or their officers and employees, must be commenced within two (2) years of the date the cause of action accrued.

(2) Any cause of action based on fraud or mistake shall not be deemed to have accrued until the aggrieved party has discovered or reasonably should have discovered the facts constituting the fraud or mistake.

Section 1-8-7 Principles of Construction

The following principles of construction will apply to all of the Law and Order Code unless a different construction is obviously intended:

(1) Masculine words shall include the feminine, and singular words shall include the plural, and vice versa.

(2) Words will be given their plain meaning and technical words shall be given their usually understood meaning unless otherwise specified.

(3) Any typographical errors or omissions shall be ignored whenever the intended meaning of the provision containing the error or omission is otherwise reasonably certain to the courts.

Section 1-8-8 Definitions

The following definitions shall apply to this Law and Order Code:

(1) "Accrued" shall mean to come into existence as a legally enforceable claim.

(2) "Indian" a person who is:

a) A member of any Indian tribe;

b) Eligible for enrollment in any Indian tribe and a biological child of an enrolled member of an Indian tribe; or

c) A descendant of a member of any Indian tribe, who is a resident or domiciliary of the Wind River Reservation or who has significant family or cultural contacts with the Wind River Reservation.

(3) "Indigenous" shall mean originating in what is known today as the Western Hemisphere.

(4) "Judicial Officer" shall mean any person vested with authority to decide causes or exercise powers appropriate to a court.

(5) "Member" shall mean any person who is an enrolled or non-enrolled member of any Indian tribe.

(6) "Spokesperson" shall mean any person who verifies by affidavit that he is appearing on behalf of the named without compensation from any person in return for his services.

(7) "Tribe" shall mean any indigenous Indian tribe, or any of the aboriginal peoples of the Western hemisphere who have been traced to that region prior to the arrival of Europeans.

(8) "The Tribes" shall mean the Shoshone and Arapaho Tribes of the Wind River Indian Reservation, Wyoming.

CHAPTER 9 RECOGNITION OF FOREIGN JUDGMENTS

Section 1-9-1 Definition

Foreign judgment means any judgment, decree or order issued by a court in a jurisdiction other than the jurisdiction of the Shoshone and Arapaho Tribes.

Section 1-9-2 Applicability

This foreign judgments chapter is applicable to judgments which are final, conclusive and enforceable where issued. It is applicable to default judgments.

Section 1-9-3 Petition for Recognition

(1) A petitioner seeking recognition of a foreign judgment in the Shoshone and Arapaho Tribal Court must file a "Petition for Recognition of a Foreign Judgment" setting out the following:

a) The name of the court which issued the judgment;

b) The cause number and the date of the judgment;

c) The name and last known address of the judgment debtor; and

d) The name and address of the petitioner or his advocate or lawyer.

(2) The judgment creditor must attach:

a) An affidavit setting out the following:

i) that the subject matter jurisdiction over the respondent was proper
in the foreign court;

ii) that personal jurisdiction was proper in the foreign court; and iii)

That the judgment has not been fully satisfied.

Section 1-9-4 Notice of Filing

Promptly upon the filing of the petition and the affidavit, the clerk of court shall authorize service of notice of the filing of the petition to the respondent according to the requirements of service of process in this jurisdiction.

Section 1-9-5 Request for a Hearing; Recognition; Enforcement

The respondent shall have ten (10) days after the receipt of process to request a hearing in the Shoshone and Arapaho Tribal Court. The respondent may raise the defenses of:

a) Lack of proper jurisdiction in the original action; or

b) Lack of due process in the original action.

If, upon the conclusion of the hearing, the judgment is recognized, it shall issue as a judgment of the Tribal Court.

If the respondent does not request a hearing, the Tribal Court, after fourteen (14) days have passed and after being satisfied that the requirements of Section 1-9-3 are met, may recognize the foreign judgment as a judgment of the Tribal Court.

Section 1-9-6 Stay

If the respondent shows the Tribal Court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

Section 1-9-7 Fees

Any person filing a petition for Recognition of a Foreign Judgment shall pay to the clerk of court $25.00 dollars.

History: Adopted 1987. Restated Nov. 1, 2004, by the Shoshone & Arapaho Tribal Court.