

CHAPTER II

GENERAL DEFINITION OF LEGAL TERMS

EXCEPT WHERE A DIFFERENT DEFINITION IS PROVIDED WITHIN ANY CHAPTER OR SECTION WITHIN THIS CODE, THESE GENERAL DEFINITIONS OF TERMS SHALL BE APPLICABLE TO THE TERMS USED WITHIN THIS CODE.

ABET	To encourage, incite, or assist another to commit a crime.
ABORTION	The illegal procuring of a miscarriage; specific intent is required, as used in this code: the intentional termination of human pregnancy for purposes other than delivery of a viable birth.
ABROGATE	To annual, repeal, or cancel. such as to repeal a former law by legislative act or by usage.
ABSCOND	To depart from the jurisdiction of the courts; to hide, conceal, or absent oneself with the intent of avoiding legal process.
ACCESSORY	Any person who, while not actually present, assists in a criminal act or one who aids or shelters an offender in order to defeat justice.
ACCOMPLICE	One who is involved in the commission of a crime, though not as a principal.
ACQUITTAL	The dismissal of a criminal charge resulting from a verdict of Not Guilty.
ACQUITTED	Set free, discharged, found not guilty of a crime.
ADMISSION	A statement made by a person that can be used in evidence against him.
ADULTERY	The act of sexual intercourse between two people, at least one of whom is married to someone else.
AFFIDAVIT	A sworn statement made before a person who has the legal authority to administer an oath.
AFFIRMATION	A solemn declaration made before an authorized magistrate by persons who conscientiously decline taking an oath. In law, it is equal to an oath.
AFFRAY	The fighting of two or more persons in a public place, to the terror of others.
ALIAS	A name used instead of the real name of the person.
ALIBI	An excuse in which the accused insists that he was in another place at the time an alleged crime was committed.

AMEND To correct an error of deficiency.

APPEAL A complaint in a superior court of an injustice or error committed by an inferior court. The superior court above is called upon to correct or reverse the judgment or decision of the inferior court.

ARRAIGNMENT A legal procedure whereby a court informs a defendant of the charges against him, ascertains if defendant is the person wanted, advises defendant of his legal rights, and asks for his plea.

ARREST The taking of a person into custody in a manner authorized by law.

ARSON The malicious and intentional burning of property specified in the statute.

ASPORTATION The carrying away of goods. This is one of the conditions required to constitute the crime of larceny.

ASSAULT An unlawful attempt coupled with the present ability to commit violent injury on the person of another.

ATTEMPT A try to commit a crime. The attempt alone is punishable by law.

ATTESTATION The act of witnessing the signature or execution of a deed or other instrument and of subscribing the name of the witness in testimony of such fact.

AUTOPSY The dissection of a dead human body by an authorized person in order to determine the cause of death.

BAIL Security required to guarantee appearance of a person for trial at a later date so that he can be released from jail.

BAIL BOND Bond given by the defendant with one or more sureties conditioned on the appearance of the defendant at a specified time.

BAILEE The person for whom bail is given.

BALLISTICS The science of projectiles. The use of guns, shells, powder marks, and bullets in tests as a means of criminal identification.

BARRISTER An attorney or a lawyer admitted to practice law. In England, a common word used to describe a lawyer who can practice in any court.

BATTERY The unlawful use of force by one person upon another; this includes beating, wounding, and touching, no matter how trifling, of another's person or clothes in an angry, insolent or hostile manner. Legally, the offense may be a civil wrong, a tort, or a criminal offense.

BENCH WARRANT A warrant issued by a court of law. A process for the arrest of the party against whom an indictment has been found. Generally issued by the judge when an individual fails to appear in answer to a court request.

BEQUEATH To leave or to give personal property by will.

BIAS To foster prejudice; also the tendency to favor and support a certain point of view.

BIGAMY To act of marrying one person while married to another.

BLACKMAIL To extort money or services by threats of exposure to public accusation, censure, or disgrace; also, money or services extorted from one by threats of exposure, force, and fear.

BONA FIDE In good faith or with good faith.

BOUND OVER A term used to describe the preliminary examination whereby a Court of limited authority - Police Court, Municipal Court, et., - holds a defendant charged with a serious offense (usually a felony) for further investigation by a Grand Jury. The defendant is said to be "bound over to the Grand Jury."

BRIBERY Act of giving or taking a favor with a view to corrupting the conduct of a person in a position of trust.

BURGLARY Forcible entry into any house, store, or building with intent to commit larceny or felony.

CATALEPSY A seizure in which consciousness is lost and the muscles become rigid.

CIRCUMSTANTIAL EVIDENCE Conditions and surroundings from which the existence of the main fact may be inferred logically and reasonably.

CONTINUANCE A postponement of any specific step in any judicial proceedings such as arraignments or trials, etc.

COERCION The act of forcing someone to commit a crime.

COLLUSION A deceitful agreement or compact between two or more persons for one party to bring an action against another for some evil purpose or to defraud a third person of his rights.

COMMITMENT A court order that officially directs the taking of a person to a jail, prison, or institution.

COMMON LAW Unwritten law as derived chiefly from the laws of England. The common law has been superseded by statute in most of our states.

COMPLAINT A charge made to a court of law that a crime has been committed. A Police Citation shall be considered a complaint.

COMPOUNDING An act by which a person having knowledge of the actual commission of a crime takes some reward or forebears to assist in the prosecution of a criminal or allows him to escape.

CONCUSSION A violent shock to some part of the human body caused by a heavy blow.

CONFESSION A voluntary statement by an accused person acknowledging that he committed a crime.

CONSPIRACY A criminal partnership wherein two or more persons agree to commit a crime. An act of preparation will suffice.

CONTEMPT Willful disregard to the order or process of the Court. It is an act against the dignity of the court.

CONTRABAND Merchandise which the law forbids to be sold or purchased, imported or exported.

CONUSION A bruise on some part of the human body.

CONVEYANCE A carrier such as a taxi, bus, or private vehicle. Also, in law, an instrument in writing by which property or title to property is transferred from one person to another.

CONVICTION A ruling by a court that a person is guilty of the crime alleged.

CORONER An officer whose duty is to determine the cause of violent or unusual death.

CORONER'S JURY A jury appointed by a coroner to determine the cause of death.

CORPUS DELICTI The basic facts necessary to prove the commission of a crime.

CORROBORATION Additional evidence to confirm or support the testimony of a witness.

COUNCIL Shall mean the Shoshone Bannock Tribal Council, also, known as Fort Hall Business Council.

COUNTERFEIT To make an imitation of something genuine such as a coin without lawful authority and with intent to deceive.

COURT Shall mean the Shoshone Bannock Tribal Court.

CREDIBILITY The extent of worthiness of belief.

CRIME	A public offense against the Tribe, punishable upon conviction.
CRIMINAL NEGLIGENCE	An aggravated form of negligence. It is conduct which shows a wanton or reckless disregard for the safety of others; for example, throwing a child into the water without knowing whether he can swim.
CROSS-EXAMINATION	The questioning of a previously examined witness in the same manner by the side that did not produce him as a witness.
DEMURRER	A reply to an accusation. Although not a denial, the reply states that the accusation itself is defective or legally faulty.
DEPOSITION	A written statement signed and sworn to and obtained through questions and answers.
DIRECT EXAMINATION	The examination of a witness by the party producing the witness.
DIRECTED VERDICT	In jury trials, where the judge orders the jury to find the defendant not guilty on the grounds that the State has not made out a case and that no reasonable jury could convict the defendant on the evidence presented.
DISORDERLY CONDUCT	Conduct offensive to and incompatible with good morals and public decency.
DOCKET	A book kept by the Clerk of Court containing a list of the cases to be tried.
DOUBLE JEOPARDY	The danger which a person is exposed to when being tried the second time for the same offense.
DURESS	Restraint by force on a person to do something against his will.
EMBEZZLEMENT	The taking by a person of money or other property entrusted to him.
ENTRAPMENT	The act by police of inducing a person to commit a crime not contemplated by him for the purpose of prosecuting him. The idea of the crime originates with the police.
EVIDENCE	All the means by which an alleged fact is established or disproved. Evidence consists of testimony of witnesses, documents, and other physical matter that can be seen. Evidence may be direct, real or circumstantial.
EXECUTION	The act of complying with court orders against a person or his property.

EX POST FACTO After the fact; pertains to a law that is designed to punish acts that were committed before the passage of the law.

EXTRADITION The process of returning an accused or convicted person to a State in which he is wanted.

FALSE IMPRISONMENT Any unlawful violation of the personal liberty or freedom of another.

FALSE PRETENSE A deceitful and fraudulent act used to unlawfully gain money or other property owned by another.

FELONY A major crime that is punishable by imprisonment in a state or Federal prison.

FIDUCIARY One who holds property goods in trust for another.

FINE A monetary or property payment to the court, not to exceed the statutory maximum.

FORFEITURE The loss of goods or other property as a punishment for a criminal act.

FORGERY The like making or altering of a writing, such as a check or other instrument.

GAMING A contract between persons by which they gamble with dice, cards or other contrivances.

GARNISHEE A party in whose hands money or property is attached by the creditor of another and who has had warning of garnishment not to pay or deliver it to the debtor.

GROSS NEGLIGENCE Obvious failure to exercise care demanded by circumstances.

HABEAS CORPUS A writ commanding a person having another in his custody to produce the detained person before a court.

HABITUAL CRIMINAL A person sentenced to prison for a long term or for life because of two or more previous convictions.

HEARSAY Information received indirectly such as evidence which a witness has heard from others but which did not originate with him.

HOMICIDE	The killing of a human being by another human being.
IMPRISONMENT	Means any detention in the Tribal Rehabilitation Center (Jail) or other such facility as the court shall direct.
INDICTMENT	An indictment is a formal charge of crime based on legal testimony of witnesses and the concurring judgment of the grand jury. If approved by the grand jury, it is presented to the court as a "true bill."
INFORMATION	An accusation or complaint of a crime, presented by the district attorney to the court. The grand jury is not involved.
INQUEST	A judicial inquiry by a court or coroner into the cause of sudden or unusual death.
JUDGMENT	The sentence or final order of a court in a civil or criminal proceeding. The official declaration by a court as the result of a lawsuit.
JUDICIAL NOTICE	The notice a judge takes of facts of common knowledge which it is not necessary to prove.
JUVENILE	An offender under a specified age. Usually tried under special procedures.
KIDNAPPING	The forcible stealing, taking, enticing or carrying away of a human being for the purpose of extorting money or property.
KLEPTOMANIAC	A person with an uncontrollable, morbid impulse to steal.
LABOR FOR THE BENEFIT OF THE TRIBAL (TRIBE) COMMUNITY	Any type of labor which the Judge shall prescribe so long as it is for the benefit of the Tribal (tribe) community, and not for the benefit of any particular individual.
LARCENY	The crime of intentionally taking and carrying away the property of another person against his will.
LIBEL	A malicious defamation expressed in writing or by signs or pictures tending to blacken the memory of a dead person or the reputation of a living person.
LOTTERY	A scheme or device for the distribution of prizes by chance among the buyers of the chances.
MAGISTRATE	A judge, usually a lower court. A justice of the peace is a magistrate.
MALICE	A wish to vex, annoy, or injure another. An evil state of mind leading to the intentional performance of a wrongful act.

MALICIOUS MISCHIEF	Maliciously injuring or destroying any real or personal property.
MAYHEM	The unlawful and malicious deprivation of a human being or a member of his body, or disabling, disfiguring or rendering it useless, or cutting out or disabling the tongue, putting out an eye, slitting the nose, ear or lip.
MINOR	Any person under the age of eighteen (18) years.
MISDEMEANOR	Any crime not a felony.
MISPRISION	The concealment of a crime, especially of treason or a felony.
MISTRIAL	Where the Judge orders the trial to be discontinued, either because of some prejudicial event during the trial or because the jury cannot agree on a verdict.
NEGLIGENCE	The failure to use the degree of care that an ordinarily prudent man would use under similar circumstances.
NOLO CONTENDERE	A plea by a defendant in a criminal action that he will not contest the accusation. It is not an admission of guilt.
NON-MEMBER	Shall include all persons, Indian and Non-Indian, whose names do not appear on the official tribal roll of the Shoshone Bannock Reservation, or who are not members or are not entitled to be members under the Constitution and Bylaws of the Shoshone Bannock Tribes, Idaho, approved April 17, 1937.
NUISANCE	A condition which annoys, vexes or interferes with the use of property by other , such as smell, noise, or a health hazard.
OBSTRUCTING JUSTICE	The crime of interfering with the activities of those who seek justice in a court or of those who have the power or duty of administering justice or enforcing the law.
ORDINANCE	A law, order, or decree of a municipal body such as a city, county or Tribal Council.

OVERT ACT	An open act from which intent to commit a crime can be implied.
PAROLE	The conditional release from incarceration of a person who has served part of his sentence in an institution.
PERJURY	The wilful giving of false testimony while under oath.
PERSON	Any natural person, Indian or Non-Indian, member or non-member of the Tribe, and where relevant, a corporation or an unincorporated association.
PLAINTIFF	Used in civil cases; the title of the party who commences an action.
PLEA	An answer made by the defendant to a criminal allegation.
PLEADING	The formal documents of the case including the complaint, answer, replies, memoranda, etc.
POLICE POWER	The power under which the Tribe can restrain private rights for the general welfare of the people. Authority delegated to the police by the people.
PRESUMPTION	The inference of a fact. It is assumed that an act is so until proved to the contrary. The presumption of innocence is an example.
PRIMA FACIE EVIDENCE	Evidence which is sufficient to establish a particular fact unless rebutted or overcome by other evidence.
PRINCIPAL	Any person principally involved in a criminal act.

PRIVILEGED COMMUNICATION Conversation that may not be introduced in evidence, as communication between husband and wife, or physician and client.

PROBABLE CAUSE Finding by the court that there is enough evidence to believe that a crime may have been committed.

PROBATION A method of permitting a convicted person to stay out of jail on condition that he observe specific terms.

PROCESS A judicial writ or order issued by a court, such as a summons, citation or subpoena.

PROSECUTION Proceeding in court conducted by the Tribal Prosecutor against another on behalf of the tribe.

PROSTITUTION Engaging in sexual intercourse for consideration and or a fee arrangement.

REHABILITATIVE MEASURES Shall include, but is not limited to, counselling, alcohol or drug abuse programs or any other program that the court shall recommend, on or off the reservation.

RELEVANT In the law of evidence, relevant means relating to the case at hand; pertinent, meaningful, and having to do with the matter before the court.

REPLEVIN The recovery of goods claimed to have been wrongfully seized. The owner gets the property back by a writ or order.

REPRIEVE A delay in the execution of a sentence.

REPUDIATE To reject; to refuse to acknowledge or pay.

RES JUDICATA A case that has been tried in a court of law. The matter has been legally adjudicated.

RESERVATION The area within the exterior boundaries of the Fort Hall Indian Reservation, as designated by the United States Government.

RESPONDENT The party who makes an answer to a pleading or who contends against an appeal.

RETURN The certificate by the officer as to his activities in connection with a warrant or other legal order.

SEARCH WARRANT A written order by a judge authorizing an officer of the law to search a specific area or person for certain unlawful goods.

SENTENCE	The judgment of the Court passed upon a defendant after a finding of guilty.
SEXUAL CONDUCT	Human masturbation, sexual intercourse, or any direct or indirect touching of the genitals, pubic area or anus of the human male or female, whether alone or between members of the same or opposite sex, or between humans and animals in an act of apparent sexual stimulation or gratification.
SUBPOENA	A writ from the court commanding the attendance or appearance of a witness or party in court, or before a judicial officer, under a penalty in case of disobedience.
SUBPOENA DUCES TECUM	A writ from the court commanding a person to produce certain documents or papers or tangible items in court.
SUMMONS	A writ from the court to a defendant summoning him to appear in court to answer the plaintiff's action.
SUSPENDED SENTENCE	Decision by a judge imposing a sentence to relieve the defendant from the effect of it.
TORT	A civil wrong independent of a contract.
TRESPASS	Invasion of another's rights or territory; also to enter unlawfully upon another's land.
VERDICT	The finding of a jury in favor of one or the other party to an action at law.

VOID

Of no force or effect; absolutely null; unable to be confirmed or made effectual.

WARRANT

Legal order issued by a magistrate commanding the officer to arrest a specified person on a given complaint.

WILLFULLY

Describes the way in which a person purposefully and willingly commits an act or an omission. Having intent to violate the law or injure another is not required.

WRIT

A judicial instrument by which a court commands some act to be done by the person to whom it is directed.