When House Bill 1495 was passed by the Washington State legislature in 2005, a powerful opportunity for teachers arose. The state officially recommended inclusion of tribal history in all common schools. Since Time Immemorial: Tribal Sovereignty in Washington State is the result. This curriculum uses three approaches:

a. An inquiry based approach with five essential questions:
   i. How does physical geography affect the distribution, culture, and economic life of local tribes?
   ii. What is the legal status of tribes who negotiated or who did not negotiate settlement for compensation for the loss of their sovereign homelands?
   iii. What were the political, economic, and cultural forces consequential to the treaties that led to the movement of tribes from long established homelands to reservations?
   iv. What are the ways in which tribes responded to the threats to extinguish their cultures and independence, such as missionaries, boarding schools, assimilation policies, and the reservation system?
   v. What have tribes done to meet the challenges of reservation life? What have these tribes, as sovereign nations, done to meet the economic and cultural needs of their tribal communities?

b. A place-based approach—Our approach encourages teachers and students to address the essential questions in the context of tribes in their own communities.

c. An integrated approach—Teachers choose how much time to spend on tribal sovereignty content to complete their units throughout the year. The integrated approach provides three levels of curriculum for each of the OSPI recommended social studies units, each level building on the last. Where appropriate, units build toward successful completion of Content Based Assessments (CBA).

NOTE: IN SEPTEMBER 2011, NATIVE CASE STUDIES RELEASED A SHORTER ARTICLE WITH TEACHING GUIDE THAT MIGHT BE MORE ACCESSIBLE TO YOUR STRUGGLING READERS: HTTP://NATIVECASES.EVERGREEN.EDU/COLLECTION/CASES/DISTRIBUTIVE-JUSTICE-IN-INDIAN-COUNTRY.HTML
A. Level 1: (Approx. 2, 50 minute class period)

By the end of instruction, students will:

- Recognize landmark court decisions and legislation that affected and continue to affect tribal sovereignty (Objective 1)
- Understand that tribal sovereignty enables tribes to protect their ways of life and the development of their nations (Objective 2)
- Understand that tribal, state, and federal agencies often work together toward common goals (Objective 3)
- Evaluates the role of the U.S. government in regulating a market economy in the past or present. (GLE 2.3.1, grade 11)
- Evaluates how well court decisions and government policies have upheld key ideals and principles in the United States. (GLE 1.1.2, Grade 11)

1. Students will read an article and participate in a class discussion of Indian Gaming and Self-Governance.
2. Students will illustrate Indian Gaming and Criminal Jurisdiction in Indian Country by creating a class storyboard for each topic.
3. Students will compare the similarities in how Indian Gaming and Criminal Jurisdiction have been shaped by federal legislation and litigation.

B. Level 2: (Approx. 5, 50 minute class period)

By the end of instruction, students will:

- Understand that tribal sovereignty enables tribes to protect their ways of life and the development of their nations (Objective 2)
- Understand that tribal, state, and federal agencies often work together toward common goals (Objective 3)
- Analyzes the incentives for people’s economic choices in the United States in the past or present. (GLE 2.1.1, grade 11)

1. Students will analyze an economic enterprise of a local tribe and its effects on the larger community and neighboring economies.
2. Students will understand the complicated maze of jurisdiction on Indian lands.
3. Students will synthesize the impact Indian gaming has on drawing people to the reservations with the jurisdictional and law enforcement needs of the Indian community.
C. Level 3: (Approx. 9, 50 minute class period in addition to Levels 1 & 2)

By the end of instruction, students will:

- Recognize landmark court decisions and legislation that affected and continue to affect tribal sovereignty (Objective 1)
- Understand that tribal sovereignty enables tribes to protect their ways of life and the development of their nations (Objective 2)
- Understand that tribal, state, and federal agencies often work together toward common goals (Objective 3)
- Evaluates how well court decisions and government policies have upheld key ideals and principles in the United States. (GLE 1.1.2, grade 11)
- Analyzes and evaluates ways of influencing local, state, and national governments to preserve individual rights and promote the common good (GLE 1.4.1, 11).

Examples:

1. *Students will compare the competing perspectives on Indian gaming and defend a position on Indian gaming on a local reservation.*

2. *Students will analyze and evaluate how the outcome of Oliphant v Suquamish Tribe affects tribal sovereignty, examine civil or criminal jurisdiction of a local tribe, and defend a position on the criminal jurisdiction a local tribe has over non-Indians on a local reservation.*

- Corresponding CBAs: Constitutional Issues

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**US Entering a New Era**

**SELF-GOVERNANCE AND GAMING**

**Level 1**

Level 1: Student will read a primer on Indian Governments and Gaming and recognize that federal legislation such as the Indian Gaming Regulatory Act of 1988 and court cases such as *California v. Cabazon* 1987 paved the way for tribal nation-building efforts.

Students will recognize federal legislation, such as the Major Crimes Act and Public Law 280, that affects tribal law enforcement and non-tribal jurisdiction over tribal people.

In addition, students will understand that conflict between states and tribes has often brought up issues of tribal sovereignty and lead to federal legislation regarding both jurisdiction and gaming.
Day 1

• Students may read the article
  o “A Policy Primer on American Indian Governments and their Gaming Operations” and “Introduction” which is pages iv - xii of a larger article published by The Harvard Project on American Indian Economic Development. This article is available from http://www.indiangaming.org/info/pr/databook/Databook-HPAIED_Gaming_Study.pdf
  OR
    (This article is originally available as a word document from the Evergreen State College Enduring Legacies Native Cases website: http://www.evergreen.edu/tribal/cases/Case Collection >> Native American Studies >> Native Gaming in the U.S.)

• Lead a classroom discussion about the article including the following questions:
  o What explains the economic condition of Native Americans in the 20th century? Has cultural domination by non-Indians and federal legislation played a part in shaping it?
  o How does the financial success of tribal casinos vary by location?
  o What is Class I, Class II, and Class III gaming? Why is it important to distinguish between these classes? Which type of gaming is most controversial? Why?
  o How have state and federal efforts to have a hand in controlling tribal gaming raised issues of tribal sovereignty?
  o How has litigation affected the direction of tribal gaming?
  o How did California v. Cabazon instigate IGRA?
  o Does IGRA contribute to or “chip away from” tribal sovereignty? Explain.

Day 2

• Tell students the state of Native Nations today and tribal sovereignty has been shaped by landmark court decisions and federal legislation. To demonstrate that, today they will learn about two aspects of tribal sovereignty that have been shaped in much the same way. Both criminal jurisdiction and Indian gaming have been greatly influenced by a landmark court decision and major federal legislation.

• Students will work in groups to create a storyboard which will visually tell the story and timeline of Criminal Jurisdiction and Indian Gaming across Indian Country.

Steps for Using Storyboards in the Classroom

| 1. Plan ahead: | An Example Storyboard for |
Print and cut-out the cards for the storyboards from “Criminal Jurisdiction Storyboard Prompts” and “Indian Gaming Storyboard Prompts”

2. Students must work in cooperative groups. Recommended roles are: Leader, Drawer, Writer, Time-Keeper, Supply Monitor.

3. Instruct students that they will receive a card with 2-3 sentences.

   As a group they must decide on a picture to draw that goes with these sentences.

   There will be a time limit (recommended time limit is 1 minute)

4. Distribute one card from the “Criminal Jurisdiction Storyboard Prompts” to each group.

   It is ok for the cards to be out of order

5. After the time limit is reached, repeat step #4.

   Continue until all cards have been given to each of the groups.

6. After all the storyboards have been created, decide as a class what the correct order of the storyboards is.

   Ask for a group to volunteer who believes they have the first storyboard. Ask them to read the caption and share their drawing.

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**Marshall’s Trilogy Case**

**Johnson v. M’Intosh**

1. A non-Indian named Johnson buys land from the Piankeshaw tribe of Illinois

2. Another non-Indian named William M’Intosh bought the same land, but from the United States government.

3. Johnson and M’Intosh go to court to decide who owns the land.

4. The supreme court rules that Johnson didn’t own the land because he bought it from the tribe. Based on the Doctrine of Discovery, the tribe has right to live on the land, but cannot sell it.
Decide as a class if their group truly has the first storyboard or if another group has the first storyboard.

Continue until all your storyboards have been arranged in the correct order.

7. Now distribute the “Indian Gaming Storyboard Prompts” and repeat the exercise.

- Lead students to compare and contrast how criminal jurisdiction developed compared to Indian gaming. What explains the similarities? What explains the differences?

**US Entering a New Era**

**SELF-GOVERNANCE AND GAMING: COMMUNITY PROFILE**

**Level 2**

Students will analyze an economic enterprise of a local tribe and its effects on the larger community and neighboring economies.

Students will understand the complicated maze of jurisdiction on Indian lands.

Students will synthesize the impact Indian gaming has on drawing people to the reservations with the jurisdictional and law enforcement needs of the Indian community.

**Day 1-2**

- Students will read Case 1: The Economics Frame
  “All In? Economic Factors to Consider in Native Gaming”
Have students work in cooperative groups.

Each group will choose one local tribe to study.

Using Case 1 as a guide, students will create an economic profile of a local tribe using the graphic organizer “The Economic Frame for [Name of Local Tribe]”

Day 3

Tell students that yesterday they created an economic profile of an Indian community, but there is much more to learn about the community beyond the economy especially where jurisdiction is concerned. Consider that as Indian gaming operations have increased more and more non-Indians are crossing reservation border lines to go to the casinos. In the next part of the lesson they will study how the rights of Indians on reservations differ from the rights of non-Indians on reservations with regards to criminal jurisdiction.

Tell students they will be listening to an NPR radio broadcast and they must take notes as they listen to incorporate some of the ideas in a written summary later on. Inform students that the topic is rape and may be sensitive; remind them to be respectful listeners.

Play the NPR broadcast of “Lawmakers Move to Curb Rape on Native Lands” at http://www.npr.org/templates/story/story.php?storyId=103717296

Have students work in their groups discuss what they heard. You may recommend the discussion include:

- How does a jurisdictional maze of authority contribute to the “epidemic of rape in Indian Country?”
- Why does sexual assault of Native women on reservations go largely unreported and unprosecuted?
- How is most law enforcement on reservations funded? Can money solve the problems of law enforcement on reservations?
- Even when tribes have their own police departments and courts what stops tribes from prosecuting non-Indians?
- Why are Indian lands described as being lawless communities?
- What is the federal government doing to alleviate jurisdictional problems in Indian Country?
- What do you think would happen if a non-Indian man assaults a native tribal officer on reservation lands?

Day 4

As a group have students analyze the major Supreme Court Oliphant vs. Suquamish Tribe, 435 U.S. 191 (1978) case dealing with tribal sovereignty and Indian lands. Their
write-up should identify the parties, demonstrate an understanding of the circumstances of the case, the facts of the dispute, the historical era, and include a summary of the arguments, a summary of the decision, and an explanation of how this decision is relevant to Indians and their lands today.

Day 5

• Students will write a summary of an economic enterprise and criminal jurisdiction of a local tribe of their original choosing. Students should include an explanation of how Oliphant v. Suquamish Tribe affects that tribe’s sovereignty.

Level 3: Students will compare the competing perspectives on Indian gaming and defend a position on Indian gaming on a local reservation.

Students will analyze and evaluate how the outcome of Oliphant v Suquamish Tribe affects tribal sovereignty, examine civil or criminal jurisdiction of a local tribe, and defend a position on the criminal jurisdiction a local tribe has over non-Indians on a local reservation.

Day 1

• Plan Ahead:
  o Contact local tribal and/or city law enforcement.
  o Ask for four situations involving tribal, state, and federal jurisdiction. Be prepared to modify the scenario appropriately for your class if needed. Ask the law enforcement individual to be a guest speaker in your class in approximately a week.

• Students should work in the same cooperative groups from level 2. They will continue studying the economy and jurisdictional issues of the same tribe from level 2.

• Students will read Case 2: The Social and Cultural Frame
  “Smallpox or New Buffalo: What’s the right analogy for Indian gaming?”

(This article is originally available as a word document from the Evergreen State College Enduring Legacies Native Cases website: http://www.evergreen.edu/tribal/cases/ Case Collection >> Native American Studies >> Native Gaming in the U.S.)
• Distribute the hand-out “QUESTIONS: ‘Smallpox or New Buffalo: What’s the right analogy for Indian gaming?’” As students answer the questions in their group have them decide as a group whether Indian gaming is analogous to smallpox or ‘new buffalo’ for their tribe.
• Distribute poster paper and markers.
• Tell students to create a poster representing their position of the social and cultural impact of Indian Gaming on the tribe by putting either “Smallpox” or “New Buffalo” at the top of the poster.
• Tell students to give 4-10 reasons to support their position.

Day 2
• Allow students time at the beginning of class to complete their posters making them attractive.
• Tell students to practice their presentation at least once in their group before presenting to the class.
• Have students present their posters defending their position and take questions from the audience.

Day 3
• Students should work in the same cooperative groups.
• Students will read Case 3: The Political Frame “Setting the Rules for Indian Gaming”
  (This article is originally available as a word document from the Evergreen State College Enduring Legacies Native Cases website: http://www.evergreen.edu/tribal/cases/Case Collection >> Native American Studies >> Native Gaming in the U.S.)
• Distribute the hand-out “QUESTIONS: ‘Setting the Rules for Indian Gaming’” As students answer the questions in their group have them decide as a group to think about the future of Indian gaming in terms of the tribe they’ve been profiling. Specifically, students must consider how the tribe off-sets heavy federal, state, and tribal regulation of their gaming enterprise with effective leadership.
• After students have answered all the questions, distribute poster paper and markers.
• Tell students to create a poster representing their position of the political impact of Indian Gaming on the tribe by putting creating a slogan they believe represents the future of Indian Gaming and writing it at the top of the poster.
• Tell students to give 6-10 reasons to support their position.
• Ask students to contribute a question to a class quiz based on their presentation. The class should be able to answer the question at the end of their presentation.
• Collect the questions from each group and create a class quiz.

Day 4
• Allow students time at the beginning of class to complete their posters making them attractive.
• Tell students to practice their presentation at least once in their group before presenting to the class.
• Have students present their posters defending their position and take questions from the audience.
• Distribute the class quiz.

Day 5-6
• Students will work in cooperative groups.
• Students will analyze and evaluate the effect that Oliphant v. Suquamish case has on tribal sovereignty. They may use the article, “Oliphant and Its Discontents: An Essay Introducing the Case for Reargument before the American Indian Nations Supreme Court” at http://www.law.ku.edu/publications/journal/pdf/v13n1/royster.pdf
• Students will create a storyboard (like in level 1) of Oliphant vs. Suquamish Tribe. In the storyboard, students will create both narrative descriptions and illustrations that give the background of the case and the outcome.

Day 7
• Students will write an speech, make a poster, or create a PowerPoint slide(s) to criticize the ultimate outcome of the case in terms of economic, social, and political factors.
• Groups will share their final product with the class.

Day 8
• Distribute the scenarios collected from the law enforcement individual earlier.
• Ask students to create a response to the situation describing whether the tribe, state, or federal law enforcement has jurisdiction in the case. Explain their choice.
• Ask students to weigh the pros and cons of jurisdiction in the case. For example: if they group decided the federal government has jurisdiction in the scenario, how might it be better or worse if the tribe had jurisdiction?

Day 9
• Welcome the law enforcement officer to your class.
• Students will share their scenario with the class and defend their choice of jurisdiction and share their analysis of the pros and cons of tribal, state, and federal jurisdiction.
• Allow the officer to explain who has jurisdiction in the scenario after each presentation.