JURISDICTION
Understanding the Authority of Tribes over Land
Overview

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WHAT IS JURISDICTION

AREA OF AUTHORITY

over geographic area

over subject matter

over persons
GEOGRAPHIC

Indian Country; (legally defined at 18 U.S.C. 151)

includes reservations, independent indian communities, individual indian allotments.
SUBJECT MATTER

CRIMINAL-PROHIBITARY

CIVIL-REGULATORY
PERSONS

Members of the Tribe

Non-Members (non-Indian or non-members)
• Cultural =
• sacred sites
Legal/proprietary:

- Land ownership
  - fee
  - trust
Political/jurisdictional

Civil Jurisdiction:

Tribes exercise jurisdiction over Indians located on Indian lands. States generally do not.

Exception: Public Law 280 states have civil adjudicatory jurisdiction, but not civil regulatory jurisdiction.
TRIBAL/FEDERAL RELATIONSHIP

- STATES GENERALLY LACK JURISDICTION OVER TRIBES
- WHOLLY FEDERAL UNLESS CONGRESS DELEGATES
- FEDERAL LAW CONFUSING
RELEVANT HISTORY
1700 - 1850 - Congressional limitation on Tribe’s authority
1850 - 1877 - Large cession of land from Tribes to the United States through treaties
1877 - 1934 - Allotment of tribal lands into 80 - 160 parcels to individual Tribal members
1877 - 1934 - Assimilation and Boarding Schools
1953 - Termination Era
1968 - Tribal Self-Determination
1970 - End of Federal Termination Policy
· JURISDICTIONAL MAZE
· WHO DOES WHAT
· WHERE
· TO WHOM
· ON WHAT LAND
NOW WHAT?

- Tribes are distinct, sovereign nations
- Jurisdiction over activities vary
- Know the tribe opens doors to understanding the process
- Two way communication creates partnerships, new opportunities for efficiency
QUESTIONS?