

**JS 185: Federal Indian Law I; Jurisdiction in Indian
Country**
San Jose State University- Department of Justice Studies
JS 185 - SPRING 2022

Instructor Info:

Megan Siaoosi- Primary Instructor [Megan Siaoosi email@sjsu.edu](mailto:Megan.Siaoosi@sjsu.edu)
Sarah Caligiuri- Lecturer
Andrew RedHawk- Lecturer

Office Hours:

Are available by appointment, please email the course instructor to make an appointment.
Regular office hours are available every Friday from 12:00 to 1:00 pm (PST).

ONLINE Class Days / Time: **4:30pm to 5:45 pm Tues/Thurs**

Course Description:

This is a 3 unit course. The study of the historical development of Federal Indian Law, beginning at the inception of the United States of America. This course covers Federal Indian Law from treaty making to current day case laws with a focus on jurisdictional issues that regularly occur in Indian Country. This course provides an Indigenous perspective on Indian Law. Students will have a one week concentration on MOU writing and analysis in order to be best prepared to fill the jurisdictional gaps between Indian Tribes and outside local government entities.

Course Goals & Learning Objectives:

This course seeks to provide an overview of relevant case law and historical concepts that lead to the jurisdictional gaps that currently exist in Indian Country.

	Course Learning Outcomes
1.	Students will be able to apply knowledge in the history of Federal Indian Case Law.
2.	Students will be able to analyze supporting case law and policy while evaluating the jurisdictional complications that arise in and around Indian Country while critically thinking of solutions to resolve the gaps in service areas.
3.	Students will gain the ability to understand the scope of Tribal sovereignty and how it applies to government to government relationships.
4.	Students will be able to locate and research legal sources including case briefs, documents, and treaties as it applies to Federal Indian Law.
5.	Students will apply legal writing by producing two written case briefs.
6.	Students will be able to analyze, understand, and draft an MOU, know when they are required, and to be able to produce an MOU for the review of the District Attorney's office or Tribal Council.

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Assignment/Activities	CLO Assessed	Percent of Grade
Participation	CLO 1, 3, 4	90 Points (18%)
Jurisdiction Project	CLO 3, 6	50 Points (10%)
Quizzes	CLO 1	120 Points (24%)
Midterm	CLO 2, 4, 5	100 Points (20%)
Final Paper	CLO 2, 4, 6	140 Points (28%)
Total Points =		500 Points (100%)

Course Format:

The mode of instruction for this class is completely online, two times per week. All written assignments will be submitted via Canvas Discussions or in the form of Microsoft Word documents which must be *.doc or *.docx file formats, unless otherwise specified.

This Course Fulfills:

- Core Lower Division General Education Units
- Justice Studies Criminology Concentration Units
- Area C: Critical Inquiry
- Area D: Local, Transnational, Historical Courses

REQUIRED TEXTS:

- Documents of United States Indian Policy. Edited by Francis Paul Prucha. University of Nebraska Press (2000). Third Edition
- In the Courts of the Conqueror, the 10 Worst Indian Law Cases Ever Decided. Walter Echohawk. Fulcrum Publishing (2010).
- The Rights of Indians and Tribes. Steven L. Pevar. Oxford University Press (2012).

RECOMMENDED TEXTS:

- Unlearning the Language of Conquest. Edited by Wahinkpe Topa (Four Arrows) AKA Don Trent Jacobs. University of Texas Press (2006)

REQUIRED MATERIAL:

Internet Access, Computer Access, Canvas, Zoom.

EMAIL REQUIREMENTS:

1. When contacting an instructor via email, ensure that you include your name and course number in the subject line and use your university email rather than a personal email account.
2. Please keep email inquiries relatively short in nature. If more time is needed, please request time to chat (via Zoom or phone).
3. You are responsible for regularly checking your email and Canvas regarding announcements, reminders, and updates.

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ADDITIONAL RESOURCES:

Student Technology Resources:

Computer labs and other resources for student use are available in:

- [Associated Students Print & Technology Center](http://as.sjsu.edu/asptc/index.jsp) at as.sjsu.edu/asptc/index.jsp on the Student Union (East Wing 2nd floor Suite 2600)
- [The Spartan Floor](http://library.sjsu.edu/services/services) at the MLK Library at library.sjsu.edu/services/services (Fourth floor)
- [Student Computing Services](http://library.sjsu.edu/student-computing-services/student-computing-services-center) at library.sjsu.edu/student-computing-services/student-computing-services-center
- [Computers at the Martin Luther King Library](http://www.sjpl.org/wireless) for the public at large at www.sjpl.org/wireless
- Additional computer labs may be available in your department/college

A wide variety of audio-visual equipment is available for student checkout from [Collaboration & Academic Technology Services](#) located in IRC Building. These items include DV and HD digital camcorders; digital still cameras; video, slide and overhead projectors; DVD, CD, and audiotape players; sound systems, wireless microphones, projection screens, and monitors.

For a copy of the texts, videos, and any other non-electronic materials.

Writing Center

The SJSU Writing Center offers a variety of free resources to help students become better writers. Visit the Writing Center website at sjsu.edu/writingcenter.

COURSE REQUIREMENTS:

- Participation
- Thoughtful & Respectful Class Discussion
- Homework
- Course Information Review Quiz
- Jurisdiction Project
- Midterm Exam
- Final Paper

LATE ASSIGNMENTS:

Late / missed work, quizzes, or exams: The syllabus (following) and the website list the dates that work is due. All work is expected to be completed on time so that lectures are more meaningful. Class sessions can be based on common knowledge (and consequently be more interesting and informed). No one benefits from the additional time that others did not have. While assignments are expected to be turned in by the due dates posted on the schedule, it is understood that people face unusual challenges, beyond the ordinary ones. So, if you have good cause for missing the assigned due date (e.g., illness, serious family emergency), please let the primary instructor know as soon as possible if you are unable to turn an assignment in on time because of an emergency.

WORKLOAD & CREDIT HOUR REQUIREMENTS:

Success in this course is based on the expectation that students will spend, for each unit of credit, a minimum of 45 hours over the length of the course (normally 3 hours per unit per week with 1 of the hours used for lecture) for instruction or preparation/studying or course-related activities including but not limited to internships, labs, and clinical practice. Other course structures will have equivalent workload expectations as described in the syllabus.

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COURSE ASSIGNMENTS & GRADING INFORMATION:

Your course grade will be based on the following:

Participation:

To measure participation each student can earn up to 3 points per class. This requires each student to make a minimum of three comments in the group chat at any point during class to get maximum participation points. The comments must reflect and assess the academic class discussion or elaborate on another student's previous comment. This discussion is to create space to enhance learning opportunities and explore new concepts, always keep an open mind and be respectful to others.

Jurisdiction Project:

Students will be provided with an opportunity to prove their knowledge on jurisdiction and/or jurisdictional issues as it relates to Tribal, Federal, and State boundaries, regulations, and case law through a semester project. 80% Activity 20% Written Summary APA Format 500-word count (approx. 2 pages).

Quizzes:

At the beginning of each class, there will be a 4 point quiz to demonstrate knowledge of the course reading materials. Five minutes will be allotted for each quiz.

Midterm:

The midterm will consist of an open book, open notes test over the duration of spring break. The test will be due on the first day of class after break.

Final Paper:

The Final Paper will be an analysis of two Federal Indian Law case studies on how one case precedent supports the other. One case study should be selected from the course calendar before week six and the other case study should be more contemporary. Use a minimum of 5 sources and APA format. 2,000 to 2,500 word count (approx. 8- 10 pages).

Extra Credit:

This course includes intensive class sessions focused on concurrent jurisdiction contract writing to prepare future administrators, law enforcement, and legal professionals to collaborate between tribal and county law enforcement. Students will have an opportunity to submit a contract assignment for extra credit.

Timeline: In order to set students up for a successful final paper, the instructors will require the first case study to be identified and shared with the course instructor before the end of week six. The second case study will be selected before week eight; a rough draft of the final paper will be due before the end of week 14; the final paper will be due the last day of class.

GRADE SCALE:

A plus = 97% and above	A = 93% to 96%	A minus = 90% to 92%
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B plus = 87% to 89%	B = 83% to 86%	B minus = 80% to 82%
C plus = 77% to 79%	C = 73% to 76%	C minus = 70% to 72%
D plus = 67% to 69%	D = 63% to 66%	D minus = 60% to 62%
F is 59% and below		

INCOMPLETES:

An incomplete indicates that a portion of the required material has not been completed within the assignment due date. Earning credit is a possibility for unforeseen and justifiable reasons. It is the responsibility of the student to bring relevant information regarding the circumstances of the incomplete portion of class materials to the instructor along with the remaining course requirements.

Please visit [Incompletes SJSU School of Information](#) for details.

TIPS FOR SUCCESS:

- Read all of the assigned materials
- Come to class every session
- Prepare for your Semester Final Paper
- Lesson Readings should be completed before class, always come prepared to engage in discussions on the readings
- Attend open office hours.

COURSE ETIQUETTE & ACADEMIC INTEGRITY:

This class was developed and will be instructed through an Indigenous lens by Native American legal professionals. Our responsibility as your course instructors is to present you with the information needed to understand, analyze, and apply Federal Indian Law in regard to jurisdiction issues. It is your responsibility as a student in this course to be available to discussions surrounding sensitive topics while listening, understanding, and respecting your classmates. There may be moments when the instructors will need to address racially biased language and tone. Be advised that those corrections are not an accusation of your character, as we all make mistakes in ignorance in communication from time to time. Be gracious in accepting criticism. It is helpful to expect such corrections at some point in learning. If you do this, then you will be much more capable of navigating the course material.

We expect the most honorable behavior from you in all aspects of your conduct and communication. When contacting your instructors, please use precise and clear language. There may be times during the course where we will be receiving a lot of questions and comments, using concise language will make it easier for us to efficiently answer your questions in a timely manner.

UNIVERSITY POLICIES:

Per [University Policy S16-9](#) [pdf]

Academic Integrity

Please review the University's policy at [Academic Integrity Policy F15-7](#) [pdf]

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Accessibility

Please review the University’s policy at [Presidential Directive 97-03](#) [pdf]

Recording Classes

Please review the University’s policy at [University Policy S12-7](#) [pdf]

COURSE CALENDAR:

COURSE LECTURE(s): Sarah Caligiuri (SC) Andrew Perera (AP) Megan Siaoasi (MS)



Each homework assignment is due in the following class. Please come prepared for class discussion.

Week	Date	Assignment/Activity/Assigned Text & Readings
1.	Thurs 1/27/22	<p>Topic: Intro Class: Indigenous Lens, Class overview, Writing a Case Brief</p> <p>Homework Assigned Texts & Readings: Unlearning the Language of Conquest; (pg 18 to 27) Documents of United States Indian Policies; Prucha (pg. 84 to 85). In the Courts of the Conqueror (pg. 1 to 51)</p> <p>Course Instructor: SC, AP, MS</p>
2.	Tues 2/1/22	<p>Topic: Origins of Federal Indian Law</p> <p>Treaties</p> <ul style="list-style-type: none"> - Congressional treaty abrogation - US Constitution Article VI - Ft. Laramie - Delaware Treaty - Andrew’s Memo <p>Homework Assigned Text & Readings: In the Courts of the Conqueror (pg.161 to 186) Course Instructor: AP</p>
	Thurs 2/3/22	<p>Topic: Origins of Sovereignty Inherent Sovereignty Doctrine of Discovery</p> <p>Homework: Robert Miller Watch Video https://youtu.be/7BOuK-ztL_w</p> <p>Course Instructor: SC</p>
3.	Tues	<p>Topic: Historical Context:</p>

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	2/8/22	<p>Pre-United States Class Review & Discussion Papal Bulls Requirement to Roadmap Eras</p> <p>In-Class Video: The Doctrine of Discovery</p> <p>Homework Assigned Text & Readings: Documents of United States Indian Policies; Prucha (pg. 35 to 37); In the Courts of the Conqueror: Chapter 4 (pg. 55 to 84)</p> <p>Course Instructor: SC</p>
	Thurs 2/10/22	<p>Topic: Case Law Basics: Manifest Destiny Case Law; Marshall Trilogy- Johnson v. McIntosh</p> <p>Homework Assigned Text & Readings: Documents of United States Indian Policies; Prucha (pg. 57 to 59) In The Courts of the Conqueror: Chapter 5 (pg. 87 to 120)</p> <p>Course Instructor: SC, AP, MS</p>
4.	Tues 2/15/22	<p>Topic: Case Law Basics: Case Law; Marshall Trilogy- Cherokee v. Georgia</p> <p>Homework Assigned Text & Readings: Documents of United States Indian Policies; Prucha (pg. 60 to 62); Video:  Cherokee Cases (3/3): Worcester v. Georgia</p> <p>Course Instructor: MS</p>
	Thurs 2/17/22	<p>Topic: Case Law Basics: Case Law; Marshall Trilogy- Worcester v. Georgia</p> <p>Homework Assigned Text & Readings: Documents of United States Indian Policies; Prucha (pg. 239 to 240, 234) Video:  Broken Treaties: full documentary</p> <p>Course Instructor: SC</p>
5.	Tues 2/22/22	<p>Marshall Trilogy Case Law Review & Discussion Course Instructor: SC, AP, MS</p>
	Thurs 2/24/22	<p>Topic: Preview of Termination: PL-280</p>

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		<p>Homework Assigned Text & Readings: None</p> <p>Course Instructor: AP, MS</p>
6.	Tues 2/28/22	<p>Topic: Introduce Jurisdiction Memo Presentation</p> <p>Homework Assigned Text & Readings: Documents of United States Indian Policies; Prucha (pg. 160 to 161, 166, 201 to 202, 166 to 167); The Rights of Indians & Tribes; Pevar (pg. 341, 339) In the Courts of the Conqueror: Chapter 8 (pg. 189 to 214) Select Case Study for Final Paper</p> <p>Course Instructor: SC, AP, MS</p>
	Thurs 3/3/22	<p>Topic: Case Law: Congressional Plenary Power; Ex Parte Crowdog, Major Crimes Act; Lone Wolf v Hitchcock, Kagama</p> <p>Homework Assigned Text & Readings: None</p> <p>Assignment Due Today: Identify Case Study 1 for Final Paper</p> <p>Course Instructor: SC</p>
7.	Tues 3/7/22	<p>Topic; Jurisdiction In Indian Country: Victim, Perpetrator, and Location: Why does it matter?</p> <p>Homework Assigned Text & Readings: Documents of United States Indian Policies; Prucha (pg. 287 to 289, 223 to 225)</p> <p>Course Instructor: SC, MS, AP</p>
	Thurs 3/10/22	<p>Topic: Who is an Indian? Slideshow Exercise 1491's- I'm an Indian Too Indian Reorganization Act Santa Clara Pueblo v. Martinez</p> <p>Homework Assigned Text & Readings: Documents of United States Indian Policies; Prucha (pg. 223 to 225, 328 to 329) In the Courts of the Conqueror: Chapter 10 & 11(pg. 237 to 322)</p> <p>Course Instructor: AP, MS, SC</p>
8.	Tues	<p>Topic: Who is an Indian?</p>

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	3/15/22	<p>US v. Wheeler Duro v. Reina; Duro Fix</p> <p>Assigned Text & Readings: Documents of United States Indian Policies; Prucha(pg. 285 to 286, 234); In the Courts of the Conqueror: Chapter 12 (pg. 325 to 356) Select Case Study 2 for Final Paper</p> <p>Course Instructor: MS</p>
	Thurs 3/17/22	<p>Topic: Who is Non-Indian? Oliphant v. Suquamish Indian Tribe Termination</p> <p>Assigned Text & Readings: Documents of United States Indian Policies; Prucha (pg. 170 to 173, 233) In the Courts of the Conqueror: Chapter 13 (pg. 359 to 394)</p> <p>Assignment Due Today: Case Study 2 for Final Paper Course Instructor: AP</p>
9.	Tues 3/22/22	<p>Topic: Boundaries & Territory Allotment Act Definition of Indian Country</p> <p>Homework Assigned Text & Readings: Read Nationalaglawcenter.org Read United States v. Dann</p> <p>Course Instructor: AP</p>
	Thurs 3/24/22	<p>Topic: Boundaries & Territory Discuss Rosebud Sioux Tribe v. McDivitt Discuss US v Dann</p> <p>In-Class Video American Outrage</p> <p>Homework Assigned Text & Readings: The Rights of Indians & Tribes; Pevar (pg. 81 to 107) This reading will prepare you for discussion in class 11 following Spring Break. Content will not be in the midterm. Complete Midterm over Spring Break</p> <p>ASSIGNMENT DUE: MIDTERM; submit in Canvas on Sunday, April 3, 2022 by Midnight.</p>

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		<p>ASSIGNMENT DUE: Submit Jurisdiction Memo Presentation in Canvas</p> <p>Course Instructor: SC</p>
10.	3/28-4/1	SPRING BREAK
11.	Tues 4/5/22	<p>Topic: Jurisdiction Review & Discussion</p> <p>ASSIGNMENT DUE: Present Jurisdiction Memo Presentation; In class activity</p> <p>Course Instructor: SC, AP, MS</p>
	Thurs 4/7/22	<p>Topic: Basics Intro to Jurisdiction Federal, State, Tribal, Concurrent jurisdiction and how it affects Tribal Nations</p> <p>Homework Assigned Text & Readings: Article: Protecting All Women: Tribal Protection Orders and Required Enforcement Under VAWA The Rights of Indians & Tribes; Pevar (pg. 127 to 148)</p> <p>Course Instructor: MS</p>
12.	Tues 4/12/22	<p>Topic: Criminal Jurisdiction VAWA TLOA</p> <p>In-Class Video: Diane Milch Video</p> <p>Assigned Text & Readings: The Rights of Indians & Tribes; Pevar (pg. 81 to 107)</p> <p>Course Instructor: AP, SC</p>
	Thurs 4/14/22	<p>Topic: Civil Jurisdiction History of Tribal Courts Tribal Courts and Restorative Justice Methods</p> <p>Homework Assigned Text & Readings: In the Courts of the Conqueror: Chapter 14 (pg. 399 to 420) The Rights of Indians & Tribes; Pevar (pg. 109 to 125, 333 to 335)</p> <p>Course Instructor: MS</p>
13.	Tues 4/19/22	<p>Topic: PL-280 History of PL-280 State Relationships criminal and civil Tribal and Concurrent Jurisdiction Fundamental Issues</p>

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		<p>State Authority to tax Indian Tribes</p> <p>Homework Assigned Text & Readings: In the Courts of the Conqueror: Chapter (pg. 423 to 460) The Rights of Indians & Tribes; Pevar (pg. 165 to 204; pg. 275 to 306) California v. Cabazon of Mission Indians</p> <p>Course Instructor: MS</p>
	Thurs 4/21/22	<p>Topic: Tribal & State Gaming Compacts</p> <p>Discuss California v. Cabazon of Mission Indians State Authority to tax Indian Tribes</p> <p>Homework Assigned Text & Readings: The Rights of Indians & Tribes; Pevar (pg. 149 to 164) Nevada v. Hicks</p> <p>Course Instructor: MS</p>
14.	Tues 4/26/22	<p>Topic: Tribal /State Conflicts Over Jurisdiction: National Farmers Union Strate v. A-1 Montana Exceptions Discuss Nevada v. Hicks</p> <p>Homework Assignment: Complete Final Paper Rough Draft</p> <p>Course Instructor: AP</p>
	Thurs 4/28/22	<p>Topic: Jurisdiction Review & Discussion</p> <p>Homework Assigned Text & Readings: Tribal Courts, Contracting with Tribal Nations, American Indian Tribal Law; Fletcher (Chapter 10, pg. 531 to 572) Improving the Relationship between Indian Nations, the Federal Government, and States</p> <p>Come to the next class prepared to share your Final Paper Rough Draft for peer review.</p> <p>Assignment Due Today: Final Paper: Rough Draft Due</p> <p>Course Instructor: SC, AP, MS</p>
15.	Tues 5/3/22	<p>In-Class Activity Peer Review Final Paper</p>

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	Thurs 5/5/22	<p>Topic: How to Close the Jurisdictional Gaps in Indian Country</p> <p>Homework Assigned Text & Readings: Myths & Realities of Tribal Sovereignty</p> <p>Course Instructor: SC, AP, MS</p>
16.	Tues 5/10/22	<p>Topic: How to Close the Jurisdictional Gaps in Indian Country Lecture & MOA Activity</p> <p>Homework Assignment: Work on Final Paper</p> <p>Course Instructor: AP</p>
	Thurs 5/12/22	<p>Topic: How to Close the Jurisdictional Gaps in Indian Country Lecture & MOA Activity</p> <p>Homework Assignment: Work on Final Paper</p> <p>Assignment Due Today: Extra Credit MOA</p> <p>Course Instructor: AP</p>
17.	Tues 5/17/22	<p>Topic: How to Close the Jurisdictional Gaps in Indian Country Lecture and Discussion</p> <p>Homework Assignment: Complete Final Paper</p> <p>Course Instructor: AP, SC, MS</p>
	Thurs 5/19/22	<p>DUE TODAY: FINAL PAPER</p> <p>Course Instructor: SC, AP, MS</p>