

# **The Ins and Outs of Indian Law: Federal Indian History and Policy**

## **Description:**

This course will explore the historical, legal, and political background necessary to understand Federal Indian Law. This class will provide a survey of Federal Indian Law including jurisdiction and sovereignty, as well as various historical and contemporary issues facing Indigenous Peoples. We will examine developments that shape Indian policy and law by focusing on sociological aspects of the times including specific federal acts and case law that effect Indian Tribes.

Through Seminar, lecture, and debate we will cover vast ground and examine the veins of thinking that have shaped and controlled Indian Policy in the United States, to understand a complicated and difficult area of Federal Law.

We will examine court cases, treaties, acts, and other documents to help us in our understanding.

## **Needed Supplies:**

Please come prepared with a fully charged laptop capable of internet connection. Also bring a notebook and old fashioned writing implement like a pencil or pen.

## **Suggested Readings:**

Readings will be assigned in class.

There are some books, not required, that will help with your understanding of this course and the subjects covered.

**Documents of United States Indian Policy:** Francis Paul Prucha ISBN 978-0-8032-8762-4

**Indian Law Stories:** Caroline Goldberg, Kevin K. Washburn, Philip P. Frickey ISBN 978-1-59941-729-5

## **Course Schedule:**

This weekend intensive course will be organized into five sections, each section exploring specific areas of Indian law and Policy.

The following schedule is aspirational and will progress according to the pace and needs of the class. Cases not included in this syllabus will be assigned and dissected.

**Section 1:**

Introduction.

What is Sovereignty?

Origins of Federal Indian Policy

How do the concepts of “discovery” and “conquest” shape Indian policy?

Colonial Influences, concepts, and repercussions

Writing a case brief

**Section 2:**

Experiments in Federal Indian Policy: Marshall trilogy

Removal

The Reservation Period 1848- 1886

Allotments and Assimilation

Federal power in Indian affairs

**Section 3:**

Tribal Jurisdiction

Criminal Jurisdiction

State-Tribal struggles over jurisdiction

Authorization of State Jurisdiction in Indian Country, Public Law 280

Decline of tribal authority

Taxation

**Section 4:**

Miriam and Kennedy Reports

Self-governance

Gaming

Indian Child Welfare

**Section 5:**

The missing pieces Tribes and the Environment, Boldt Decision (Us v Washington)

Indian Religious Freedom Act

NIAGPRA

Tribal Consultation

VAWA

Conclusion

**Participation:**

Participation is crucial for this course. Students will be required to engage in the course materials. We will examine a multitude of source material including court cases, federal acts,

reports, academic papers, books, and new reports. Students will report on these materials and actively seminar on the meanings of chosen materials.

### **Presentation:**

Students will write a research paper (due at the beginning of the second class weekend). Students will present this research paper to the class. (instructions on presentations will be given during class.) The research paper and presentation are required for students to receive full credit for the course.

### **Research Paper:**

A second more in depth research paper will be required from each student on a topic within the broad umbrella of Tribal Sovereignty or Federal Indian Policy. The paper will strive to define the topic, describe multiple views of the topic (either in a pro- con fashion, or a more nuanced approach) and explain why the subject was chosen. For example, it will be important to answer the following questions:

Why did you choose this subject?

Why is this important?

When did this happen?

Who does this effect?

What is the history of this subject?

Do you forecast anything to change regarding this topic/subject?

What are the arguments in both support and against this topic/subject?

### **Evaluation:**

The final evaluation of this course will be based on participation and a final paper. Each student will earn graduate credits upon completion and submission of their papers and presentation.

Failure to submit a paper or participate in class will result in loss of credits.

Papers will be written in an appropriate academic format. APA and Chicago will both be accepted. The paper will be as long as it needs to be, but no shorter than 5 pages. Papers must include citations.

### **Faculty:**

Peter Boome, JD MES

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