

## Tribal Crime and Justice

Spring 2020

### Faculty

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Office: Lab 1, 3010

Office Hours: By Appointment

\*Appointments can be in person, over the phone

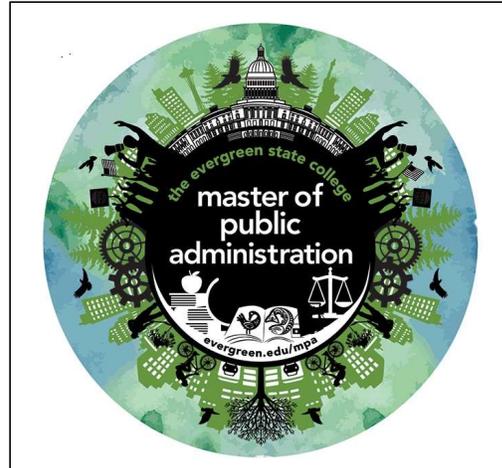
or online via Skype or Facetime

### Time

April 3-5, May 15-17, 5-9p Fri, 9a-5p Sat/Sun

### Location

SEM 2 E3109



**MPA Mission Statement:** Our students, faculty and staff create learning communities to explore and implement socially just, democratic public service. We *think* critically and creatively; *communicate* effectively; *work* collaboratively; *embrace* diversity; we *value* fairness and equity; *advocate* powerfully on behalf of the public; and *imagine* new possibilities to accomplish positive change in our workplaces and in our communities. “Be the change.”

**Course Description:** This course provides an overview of major federal policies that have impacted criminal justice responses in tribal nations. Students will learn about the jurisdictional complexities of tribal, state and federal responses to crime in Indian Country and be able to differentiate the various roles and responsibilities of each branch. Students will also investigate creative policy solutions at the tribal, state or federal level to improve the response to crime in tribal communities. This course includes guest speakers with experience implementing criminal justice policies in tribal nations.

### A Note About Course Content

- Recognize that this is an academic course about depressing and, at times, sensitive topics. Please exercise good self-care and know your limits. See this [self-care assessment](#) for ideas of how to pay attention to yourself.
- Take breaks while reading. Go on a hike, watch some mindless tv or bake some cookies.
- Know that the past experiences of your classmates will vary and be kind and respectful of differences. Your personal experience and the experiences of the people you know are not representative of everyone’s experiences. This is an academic course, so please limit discussions of personal experiences.
- Maintain curiosity and be willing to be open to new ideas / perspectives.

### Learning Objectives

1. Understand major federal policies that have impacted criminal justice responses in tribal nations
2. Explain the historical context of current policies related to the rights of American Indian and Alaska Native people living in the United States
3. Describe the jurisdictional complexities of tribal, state and federal responses to crime in Indian Country
4. Differentiate the various roles and responsibilities of federal, state and local criminal justice personnel

### **Skill Objectives**

1. Improve analytical and formal writing skills
2. Learn and/or improve ability to write a formal policy brief
3. Practice research skills
4. Practice presentation skills

### **Required Textbook**

Pevar, S. L. (2012). *The rights of Indians and tribes*. Oxford University Press.

You can purchase it through the Evergreen bookstore. If you are so inclined you can get a 30% discount off of the list price of the e-textbooks using promo code **STUDENT30** when placing an order online at [rowman.com](http://rowman.com). It should also be available through the library.

**All required readings are either in *The Rights of Indians and Tribes* or posted on Canvas.**

The acronyms used in the list of assigned readings are:

TCL&P: Tribal Criminal Law and Procedure

RI&T: The Rights of Indians and Tribes

### **April 3<sup>rd</sup>**

#### **Session 1: Historical Context, 5pm-9pm**

- A history of federal Indian policy (RI&T, ch. 1, p. 1-16)
- Definitions (RI&T, ch. 2, p.17-28)
- Federal power over Indian affairs (RI&T, ch. 5, p. 55-80)
- Tribal self-government (RI&T, ch. 6, p. 81-108)
- National Conference of State Legislatures. (2020). [Statewide tribal legislation database](#).

### **April 4<sup>th</sup>**

#### **Session 2: Jurisdictional Maze, 9:00-11:30**

- State power over Indian affairs (RI&T, ch. 7, p.109-126)
- Criminal jurisdiction in Indian Country (RI&T, ch.8, p.127-148)
- Limitations on tribal criminal jurisdiction imposed by the United States (TCL&P, ch.7, p.101-113)
- Crane-Murdoch, S. (2013 Feb 22). On Indian land, criminals can get away with almost anything. *The Atlantic*.

### Session 3: Comparative Criminal Law, 12:00-2:00

- Introduction to American criminal law concepts (TCL&P, ch.1, p.1-12)
- Comparing tribal criminal law and American criminal law (TCL&P, ch.2, p.13-36)

### Session 4: Laws Affecting Crime and Justice in Indian Country, 2:15-end of the day

- Indian Civil Rights Act (RI&T, ch. 14, p.241-252)
- Tribal criminal jurisdiction reform: The Tribal Law and Order Act and the Violence Against Women Act (TCL&P, ch. 10)
- Robertson, K. (2016). The 'law and order' of violence against Native women: A Native feminist analysis of the Tribal Law and Order Act. *Decolonization: Indigeneity, Education & Society*, 5(1).

## **April 5<sup>th</sup>**

### Session 5: Data Issues, 9:00-11:00

- NCAI Policy Research Center. [Data disaggregation: The asterisk nation.](#)
- Haozous, E. A., Strickland, C. J., Palacios, J. F., & Solomon, T. G. A. (2014). [Blood politics, ethnic identity, and racial misclassification among American Indians and Alaska Natives.](#) *Journal of environmental and public health*, 2014.
- Rosay, A. B. (2016). [Violence against American Indian and Alaska Native women and men: 2010 findings from the National intimate partner and sexual violence survey.](#) (Executive Summary and ch. 1, p. 1-10)
- Connolly, M., Gallagher, M., Hodge, F., Cwik, M., O'Keefe, V., Jacobs, B., & Adler, A. (2019). [Identification in a time of invisibility for American Indians and Alaska Natives in the United States.](#) *Statistical Journal of the IAOS*, 35(1), 71-89.

### Session 6: Reentry, (11:00-12:30 Nancy Dufraine) and 1:00-2:00

- TBD
- Quinn Brien Communications. (2018). [Port Gamble S'Klallam Re-Entry Program.](#)

### Session 7: Restorative Justice, 2:15 - end of the day (Film: *Tribal Justice*)

- Melton, A. (1995). [Indigenous Justice Systems And Tribal Society](#). *Judicature*, 79(3), 126-133.
- Jarrett, Brian and Hyslop, Polly E., Justice for All: An Indigenous Community-Based Approach to Restorative Justice in Alaska (March 2, 2015). *Northern Review* 38 (2014): 239-268. Available at SSRN: <https://ssrn.com/abstract=2572274>
- NAICJA. (2019). [Tulalip Tribes of Washington: Wellness Court & Elders Panel](#).

## May 15<sup>th</sup>

### Session 8: Child Welfare, 5pm-9pm

- Indian Child Welfare Act (RI&T, ch. 17, p.290-306)
- More Perfect Podcast. (2016). [Adoptive Couple v. Baby Girl](#).
- Zug, M. (2012). [Adoptive Couple v. Baby Girl: Two-and-a-Half Ways To Destroy Indian Law](#). *Mich. L. Rev. First Impressions*, 111, 46.

## May 16<sup>th</sup>

### Session 9: Tribal and Fed/State/Local Collaboration (9:30-10:30 Kris Peters) and 10:30 – 11:30

- Conner, T., & Witt, S. (2016). The Role of Capacity and Problem Severity in Adopting Voluntary Intergovernmental Partnerships: The Case of Tribes, States, and Local Governments. *State and Local Government Review*, 48(2), 87-99.
- Thorne, W., & Garcia, S. (2019). [Crossing the Bridge: Tribal-State-Local Collaboration](#). Tribal Law and Policy Institute.

### Session 10: Tribal Law Enforcement, 12:00 - 2:00

- Perry, S. W., Bureau of Justice Statistics (BJS), US Dept of Justice, Office of Justice Programs, & United States of America. (2015). [Tribal Crime Data Collection Activities, 2015](#).
- Myrstol, B. A. (2018). [An Innovative Response to an Intractable Problem--Using Village Public Safety Officers To Enhance the Criminal Justice Response to Violence Committed Against Alaska Native and American Indian Women in Alaska's Tribal Communities](#). (Read p.1-16, 17-24, 82-90; skim the rest)
- Alejandro Martín, F., & Danner, M. (2017). Elusive justice: Tribal police officers' perception of justice in an American Indian community. *Contemporary Justice Review*, 20(2), 175-192.

### Session 11: Juvenile Justice, 2:15 – end of the day (Library Computer Lab 2:15 – 3:30)

- Rolnick, A. C. (2016). Untangling the Web: Juvenile Justice in Indian Country. *NYUJ Legis. & Pub. Pol'y*, 19, 49.

## May 17<sup>th</sup>

Session 12: Violence Against Native Women, 9:00 – 12:00 and 12:30 – 2:00

- Rosay, A. B. (2016). [Violence against American Indian and Alaska Native women and men: 2010 findings from the National intimate partner and sexual violence survey](#). (ch. 2-6, p. 11-50)
- Maxwell, D., & Robinson, S. (2019). Safety for American Indian Women. *Advances in Social Work, 19*(1), 181-200.

Session 13: Presentations, 2:15 - end of the day

**Assignments**

**Policy Brief**

**Policy Brief Work Sheet #1 Due:** April 19<sup>th</sup> posted on Canvas by 1:00am

**Annotated Bibliography Due:** May 1<sup>st</sup> posted on Canvas by 1:00am

**Instructions:** This is the bibliography that will accompany your policy brief. List the specific decision-maker to whom you are directing your policy brief at the top of the document. There should be at least 10 sources, at least 5 must be peer-reviewed. Using APA citation cite the source then underneath provide a 3-5 sentence description and 1-3 sentence assessment of the source. [Purdue Owl](#) provides a sample of an APA annotated bibliography. Remember this is aimed at a decision maker who might want to read more about the topic. Your description and assessment should have that audience in mind.

**Policy Brief Rough Draft for Peer Review:** May 8<sup>th</sup> posted on Canvas by 6:00pm

**Policy Brief Peer Review:** May 10<sup>th</sup> posted on Canvas by 1:00am

A form will posted on Canvas with guidelines.

**Final Policy Brief Due:** May 17<sup>th</sup> posted on Canvas by 9:00am

**Length:** Undergraduates will write a 5 page double spaced (page length does not include works cited page) brief. Graduates will write a 7 page double spaced brief Use APA format for references and cite all of your sources (direct quotes and paraphrases).

**Description:** A policy brief requires succinct consideration of policy options for a particular audience (e.g., officials, bureaucrats, politicians, development practitioners, donors). This means that the format will be different from a typical research paper. Some might say that a policy brief is more “professional” because it is geared towards readers who have a limited amount of time to make a practical decision, while a research paper is more “academic” because it pays more attention to the scholarly roots of particular arguments and judges their merit on intellectual and logical criteria.

- Identify a topic related to tribal crime and justice.
- Identify a target for your brief (who has the power to do something about the topic?)
- Outline specific, actionable steps this policymaker/stakeholder can take to address the issue.

**Instructions:** Your brief should have at least 10 sources and the following nine components:

1. **Executive Summary:** This should be a short summary (approx. 150 words) of the purpose of the brief and its recommendations. It typically appears single-spaced on the cover of a brief or position paper. *[Because you are not really writing this brief as part of your job, please indicate in an additional sentence the audience for whom the brief is intended, e.g., a particular non-profit organization, government agency, legislator/politician, branch of an international organization. Be as specific as possible. Assume that someone beyond Evergreen would appreciate your research and recommendations, and this assignment may turn into a ticket for an internship or full-time employment upon graduation.]*
2. **Statement of the Issue/Problem:** Indicate the topic of the brief concisely.
3. **Background of the Issue/Problem:** Include only the essential facts that a decision maker “needs to know” to understand the context of the problem. Assume that you have been hired to filter through reams of information on behalf of a very busy and sleep-deprived person. Be clear, precise, and succinct. Visuals (like graphs) can help make your point. If you use a graph or visual that you did not create, its source must be cited.
4. **Statement of your audience’s interests in the issue:** What is the hook? This is meant to remind the reader of why the issue matters for them. Why should they pay attention to you or this issue? Why should they care enough to devote limited resources and energy to the issue?
5. **Pre-existing Policies:** This summarizes what has been done by others about the problem thus far. Depending on your topic, some of the information may have already been presented in #3. The objective of this section is to inform the reader of policy options that have already been pursued, if any. Note that the absence of action may be considered a policy decision.
6. **Policy Options:** This section delineates the possible courses of action or inaction that your audience may pursue. Please provide the decision maker with at least three potential courses of action. Some of them may be wildly unrealistic in your opinion, but please pose them as policy options nonetheless. At the same time, it would not be prudent to overwhelm the decision maker with too many choices. I recommend capping the menu of options at 3 – 5 choices.
7. **Advantages and Disadvantages of Each Policy Option:** Write this section from the perspective of the person or entity that you are targeting. For clarity, you may present the pros and cons of the options in bullet points or outline format. This may seem like stacking the deck since some options may have only one advantage and several downsides, but it isn’t always that obvious.

For instance, one measly advantage may conform most fully with the interests of the organization summarized in #4. It is up to you to advise the decision maker if it is worth it.

8. **Your Recommendation:** After prioritizing the relative pros and cons of the above options, please recommend one option to your employer. Yes, this may require going out on a limb on an extremely complex issue that challenges your ethical instincts. But if you have agreed to advise a particular country/organization/person, then you will be asked to make a recommendation on their behalf.
9. **Sources Consulted or Recommended:** This is an annotated bibliography in the event that the decision maker has the interest and time to read up on a specific issue. Please provide a one to three sentence description and evaluation of each source listed in this section. Aside from standard books and articles, on-line sources and personal interviews may be cited. Please contact me if you have any questions about the acceptability of your research materials.

**Visual Aid and Presentation Due:** May 17<sup>th</sup>, in class<sup>[SEP]</sup>

**Presentation:** 15 minutes. Highlight the main points and take away messages of your analysis.

**Q and A Session:** 5 minutes. I will facilitate a question and answer session with the class after the presentation is done.<sup>[SEP]</sup>

*A visual aid is required* for the presentation. Consider using one or more of the following tools: slide show (powerpoint, prezi.com, haikudeck.com, projeqt.com), word cloud (wordle.net or woritout.com), website (wix.com or weebly.com), infographics (piktochart.com, thinglink.com, infoogr.am.com), animation (sparkol.com, powtoon.com), timeline (timetoast.com, dipity.com, tiki-toki.com). All photographs or graphs/charts should be cited with their source. <sup>[SEP]</sup>

- Accessibility: contrast (dark background, light font), limit red and green (color blindness), font size, readability, universal design accessibility.

<http://www.vetpd.qld.gov.au/resources/pdf/universal-design-checklist.pdf><sup>[SEP]</sup>

**Format:** Unless otherwise stated, all papers should be typed, double spaced, 12 point font, and follow APA format and citation style. [APA Style <http://www.apastyle.org/learn/index.aspx> Purdue Writing & Grammar Guide <http://owl.english.purdue.edu/>] All written work will be of high quality, grammatically correct, clear and without spelling errors.

Students may request resource writing assistance from faculty and/or the Graduate Writing Assistant. You can contact our graduate programs writing support at: EvergreenWritingAssistant@gmail.com. Additional writing resources can be accessed through the campus Writing Center: <https://www.evergreen.edu/writingcenter/resources>

**Participation & Attendance:** Students are required to attend each class meeting in its entirety. Participation includes focusing on class content, speaking in class and seminar, listening to others, taking notes, completing class interactive exercises, avoiding distractions, and listening to and dialoging with the guest speakers. If an absence is unavoidable, seminar faculty should be notified prior to a class and/or seminar absence.

After one 4-hour absence per quarter, make-up work may be assigned. Makeup work must be completed by the end of the quarter in question for course credit. After reoccurring absences (being late to class; regularly missing more than one class), you may be denied credit. Finally, if you do miss a class, you are expected to do the reading for that class meeting and turn in any assignments that were due that class date.

**Late Assignments:** Turning in assignments late is **unacceptable**. If there is an unavoidable need to turn in an assignment late, the student should contact me via email no later than the original assignment due date to discuss options. Late assignments must be completed by the end of the quarter to ensure full receipt of course credit. I will not give feedback on late assignments.

**Credit:** Students will receive 4 graduate credits at the end of the course if all requirements have been satisfactorily completed. Students will be evaluated based upon their progress towards the learning objectives, assessed from classroom, seminar, and assignment performance.

Plagiarism (i.e., using other peoples' work as your own) may result in total loss of credit for the class and may result in dismissal from the MPA program. See the [MPA Handbook](#) and [College statement on academic honesty](#) for more information.

Failing to meet course requirements (ex. not completing one or more assignments, completing one or more assignments late, or multiple absences) may constitute denial of total credit at the discretion of the faculty. Students at risk of losing credit will receive written notification prior to the end of the quarter.

**Evaluation:** A written self-evaluation and faculty evaluation are required for credit. All final evaluations are to be submitted via our online evaluation system no later than one week after the last class. Evaluation conferences may occur in person or over the phone.

**Multiculturalism & Diversity:** Faculty and students will actively work towards contextually weaving multiculturalism and diversity throughout our learning as related to readings, lectures, seminar, and group projects. In a learning community students and faculty share the responsibility for the teaching and learning environment. Multiculturalism and diversity is to be understood as: aiming to promote constructive community discourse about issues of culture, power, and differences.

**Holidays for Reasons of Faith or Conscience:** Please inform me in writing within the first two weeks of class if you will miss specific class sessions because of holidays of faith or conscience, or for an organized activity conducted as part of a religious denomination, church, or organization. Students are entitled to up to two days of excused absences per academic year for

holidays for reasons of faith or conscience or for organized activities conducted under the auspices of a religious denomination, church, or religious organization. I will offer you reasonable accommodations, and the absence(s) will be excused. For more information, please refer to the Evergreen policy at: <https://www.evergreen.edu/policy/religious-observance>.

**Technology Use & Learning Styles:** We all have different ways of learning. Faculty will actively work towards providing information in multiple formats: tactile, auditory, visual, experiential, etc. However, these are limited to means appropriate for the classroom environment. Surfing the internet, checking social media, reading e-mail, playing with cell phones are not appropriate behaviors in a learning community. I reserve the right to ask for no technology in the classroom if it becomes a distraction. Also, please shut your laptops when we have guest speakers.

**Reasonable Accommodations** will be provided for any student who qualifies for them through a working relationship with Access Services. To request academic accommodations due to a disability, please contact the office of Access Services for Students with Disabilities (867-6348 or 6364). If the student is already working with the office of Access Services the faculty should have received a letter clearly indicating the student has a disability that requires academic accommodations. If any student has a health condition or disability that may require accommodations in order to effectively participate in this class, please do the following: Contact faculty before class and Contact Access Services to receive a letter of accommodation. Information about a disability or health condition will be regarded as confidential. Please refer to TESC's [Students with Disabilities Policy](#).

**Permission to Record Lecture, Workshop and Other Similar Discussion:**

If a participant in class would like to obtain an audio or video recording of another participant in class speaking, discussion, lecture or other related communications in class, and this falls beyond the scope of *Reasonable Accommodations*, then this participant would need written permission, via email or other acceptable forms of documentation, and would need to give a reasonable time period in advance of the recording; usually a week (5 business days) and written consent would need to occur before the recordings begin.

**Conduct & Conflict Resolution:** Discuss any problems involving others in the learning community directly with the individuals involved (so long as the concerned party feels safe doing so). Possessing respect for others is fundamental to an open, free, and educational dialogue. All students are expected to support and contribute to a well-functioning MPA classroom and learning community. Behavior that disrupts the learning community may be grounds for disciplinary action, including dismissal from the MPA program. All students will be held accountable for maintaining the highest of academic standards.

The procedure to resolve conflict is outlined in the MPA Student Handbook:

<https://www.evergreen.edu/mpa/studenthandbook/conflictresolution>

Included on this page is the Evergreen State College Conflict Resolution Process Matrix.

**We will abide by the [social contract](#):** WAC 174-121-010 College philosophy.

**We will abide by the [student conduct code \(including academic integrity and plagiarism\)](#):**  
Chapter 174-123 WAC, Student Conduct Code & Grievance/Appeals Process

**We will abide by the [non-discrimination policies and procedures at TESC](#)**

**Guest Policy:** Guests are welcome to visit our learning community during class time and seminar meetings with discretionary approval from course faculty in advance of the requested visit. It is the host student's responsibility to contact the faculty with details about the requested guest visit and await approval. Guests must abide by all social contract conduct code, and nondiscrimination policy guidelines as aforementioned in this syllabus.

**Inclement Weather:** In the event of bad weather or emergencies students should check with for announcements of campus closures. Students can call the main campus line 867-6000 to get the latest news regarding a campus closure or delay. Faculty may decide to cancel a class meeting even if campus is open and we will send an all-class email prior to 3:00 pm the day of class. Students are responsible for checking email and ensuring viable transportation options are available to them <https://evergreen.edu/emergencyresponse>

**Communicating:** Email and Canvas are our primary means of communication. Students are responsible for checking their Evergreen email and Canvas regularly.