

## **HISTORY 600**

Law and Legality the American West  
University of Wisconsin-Madison  
Spring 2021

*Professor Allison Powers Useche*

[auseche@wisc.edu](mailto:auseche@wisc.edu)

Office Hours (remote): Wednesdays 11am-1pm or by appointment

### **COURSE DESCRIPTION**

The historical American West is often depicted as a site of lawlessness, where the chaos of “frontier justice” was gradually replaced by forces of “law and order.” But despite the persistence of this trope, legal regimes profoundly shaped power relations in the region both before and after the creation of the current borders of the United States. By looking past the myth of a “Wild West” operating in a legal vacuum, we will uncover in this seminar a different history of the region—one in which Indigenous models of republicanism predated and outlasted centuries of colonial incursions; where enslaved men and women fled southern plantations to gain freedom in Mexico; where victims of racial violence appealed to international law to hold the US government accountable; and where the rhetoric of illegality has been used to justify policies ranging from settler land grabs to draconian immigration restrictions. Throughout the course, we will examine how terms denoting criminality such as the illegal alien, the vagrant, and the felon emerged as historically constructed categories with far-reaching effects on American society. By interrogating the ways in which legal institutions have been used to both naturalize and challenge social, economic, and political hierarchies in the region that has come to be called West, the seminar offers insight into the historical dimensions of some of the most enduring controversies in the United States today.

This is an advanced seminar designed to support you as you produce an original piece of historical scholarship. Each meeting we will divide our time between discussion of the assigned readings to ground you in the broad historiography of the field, and workshops designed to teach you how to research and write a 15-page paper that uses both primary and secondary sources to make an argument about some aspect of the legal history of the American West.

### **COURSE ATTRIBUTES**

3 Credits | Advanced Level | Department Consent Required | Remote Synchronous Instruction  
Counts towards 50% graduate coursework requirement | Humanities | Counts as Liberal Arts & Science  
Credit in L&S

### **CREDIT HOURS**

The credit standard for this 3-credit course is met by an expectation of a total of 135 hours of student engagement with the course’s learning activities (at least 45 hours per credit or 9 hours per week), which include regularly scheduled meeting times (group seminar meetings of 115 minutes per week), dedicated online time, reading, writing, individual consultations with the instructor, and other student work as described in the syllabus. The expectation is that you will work at least 2 hours outside of the class for every hour in the classroom.

## **COURSE WEBSITE, LEARNING MANAGEMENT SYSTEM & DIGITAL INSTRUCTIONAL TOOLS**

All course materials are available on our [Canvas site](#).

All seminar meetings, office hours, and appointments can be accessed through this Zoom link:  
<https://uwmadison.zoom.us/j/8395182126>

### **Campus Spaces for Virtual Learning & Testing**

Dedicated on-campus spaces with high-speed internet are available for students to [reserve](#) for any exam/quizz taken during the semester. Computers can also be requested.

### **REQUIRED READINGS:**

\*All required texts can be accessed as e-books through the library website. Additional articles and chapters will be posted to Canvas.\*

Maurice Crandall, *These People Have Always Been a Republic: Indigenous Electorates in the U.S.-Mexico Borderlands, 1598–1912* (Chapel Hill: The University of North Carolina Press, 2019)

Beth Lew-Williams, *The Chinese Must Go: Violence, Exclusion, and the Making of the Alien in America* (Cambridge: Harvard University Press, 2018)

Monica Muñoz Martínez, *The Injustice Never Leaves You: Anti-Mexican Violence in Texas* (Cambridge: Harvard University Press, 2018)

Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004)

Kathleen Belew, *Bring the War Home: The White Power Movement and Paramilitary America* (Cambridge: Harvard University Press, 2018)

Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley: University of California Press, 2007)

### **OBJECTIVES:**

Upon successful completion of this course, students will be able to:

- 1) Understand how ideas about law and legality are historically constructed
- 2) Examine the ways in which legal institutions have shaped power relations in the North American West
- 3) Evaluate the major historical arguments that have characterized scholarship on the legal history of the American West
- 4) Interpret a variety of primary sources and connect them to existing scholarly interpretations of the past
- 5) Produce a paper based on primary source research on a topic related to legal history of the American West

### **FORMAT:**

This course will meet in a remote synchronous format on Mondays from 8:50 to 10:45am. The first half of each seminar will be devoted to discussion of the assigned readings. The second half will include a series of

research and writing workshops designed to help you work toward your final papers. Since we meet only once a week, it is crucial that you are present at each session.

## **COURSE REQUIREMENTS AND ASSESSMENT:**

### **GRADING**

Participation: 20%

Leading Discussion: 10%

Weekly Reading Reflections: 15%

Topic and Research Question 5%

Paper Proposal: 10%

Rough Draft: 10%

Final Paper: 30%

### **GRADING SCALE**

A (92.50+); AB (87.50-92.49); B (82.50-87.49); BC (77.50-82.49); C (69.50-77.49); D (60-69.49); F (Below 60)

### **PARTICIPATION (20%)**

For full participation credit, you will need to contribute to conversations about the weekly readings, engage the ideas of your classmates, and complete all assigned research activities. This is a discussion-based class and therefore regular attendance and participation are essential to succeed. That said, we are in the middle of a pandemic and absences resulting from illness and personal emergencies will be excused. If you get sick, you will have the opportunity to make up missed classes through alternative assignments created in consultation with the professor. No medical documentation of the illness will be required. Please take care of yourselves.

### **WEEKLY READING REFLECTIONS (15%)**

You will submit a short post on Canvas before each weekly discussion in response to the week's readings. Each post should be 1-2 paragraphs in length and address the following questions: what argument does the author make? What is one primary source that they use as evidence, and what conclusions do they draw from that source? What is something you learned from the readings? What is one question you have after finishing them?

During the first half of the course, you will additionally post one primary source that you found in the week's online archives accompanied with a one-paragraph analysis of the source. Questions to consider in your analysis include who produced this source? For what purpose or audience? What can it tell us about the past? During the second half of the seminar, the additional assignment will be related to your research papers. Due dates are outlined in the course schedule below. **All weekly assignments must be completed by 11:59 PM on Saturday evenings.**

### **LEADING DISCUSSION: (10%)**

Each student will select one week to lead discussion for our seminar. During this week, you will open our seminar with a brief response to the readings and a series of discussion questions for us to consider together.

### **TOPIC AND RESEARCH QUESTION (5%)**

Submit a one paragraph explanation of the topic and research question you plan to explore in your final paper. This can be preliminary and it is fine if your topic and question change as you progress in your research.

**PAPER PROPOSAL: (10%)**

Build on your research question to include an annotated bibliography with at least four secondary sources and three primary sources.

**PAPER OUTLINE (10%)**

Build on your paper proposal to outline the argument you plan to make in the paper, a literature review assessing what historians have already written about your topic, primary source analysis, and possible conclusions.

**ROUGH DRAFT (10%)**

You will be graded on the completion of your rough draft and on the quality of your comments on another student's draft during peer review. Rough drafts will be returned with comments from the professor that should be addressed in your revisions.

**RESEARCH PAPER (30%)**

You will write a 15-page research paper that draws on both primary and secondary sources to make an argument that answers a specific historical question.

**COURSE EXPECTATIONS AND GUIDELINES:**

**PRIVACY OF STUDENT INFORMATION & DIGITAL TOOLS: TEACHING & LEARNING ANALYTICS & PROCTORING STATEMENT**

The privacy and security of faculty, staff and students' personal information is a top priority for UW-Madison. The university carefully reviews and vets all campus-supported digital tools used to support teaching and learning, to help support success through [learning analytics](#), and to enable proctoring capabilities. UW-Madison takes necessary steps to ensure that the providers of such tools prioritize proper handling of sensitive data in alignment with FERPA, industry standards and best practices.

Under the Family Educational Rights and Privacy Act (FERPA which protects the privacy of student education records), student consent is not required for the university to share with school officials those student education records necessary for carrying out those university functions in which they have legitimate educational interest. 34 CFR 99.31(a)(1)(i)(B). FERPA specifically allows universities to designate vendors such as digital tool providers as school officials, and accordingly to share with them personally identifiable information from student education records if they perform appropriate services for the university and are subject to all applicable requirements governing the use, disclosure and protection of student data.

**PRIVACY OF STUDENT RECORDS & THE USE OF AUDIO RECORDED LECTURES**

See information about [privacy of student records and the usage of audio-recorded lectures](#).

Lecture materials and recordings for this course are protected intellectual property at UW-Madison. Students in this course may use the materials and recordings for their personal use related to participation in this class. Students may also take notes solely for their personal use. If a lecture is not already recorded, you

are not authorized to record my lectures without my permission unless you are considered by the university to be a qualified student with a disability requiring accommodation. [Regent Policy Document 4-1] Students may not copy or have lecture materials and recordings outside of class, including posting on internet sites or selling to commercial entities. Students are also prohibited from providing or selling their personal notes to anyone else or being paid for taking notes by any person or commercial firm without the instructor's express written permission. Unauthorized use of these copyrighted lecture materials and recordings constitutes copyright infringement and may be addressed under the university's policies, UWS Chapters 14 and 17, governing student academic and non-academic misconduct.

#### **ADDITIONAL RESOURCES:**

**THE HISTORY LAB:** A resource center where experts (Ph.D. students) will assist you specifically with your history related courses and papers. No matter your stage in the writing process — choosing a topic, conducting research, composing a thesis, outlining your argument, revising your drafts — the History Lab staff can help you sharpen your skills and become a more successful writer. Schedule a one-on-one consultation at <http://go.wisc.edu/hlab> or drop by Humanities 4255.

**THE WRITING CENTER:** Another writing resource on campus that provides one-on-one consultations with students to assist them with writing assignments. The writing center is open to all courses (not only history related ones). You can find more information about hours & how to schedule an appointment on their website: <http://www.writing.wisc.edu/index.html>.

#### **STUDENTS' RULES, RIGHTS & RESPONSIBILITIES**

During the global COVID-19 pandemic, we must prioritize our collective health and safety to keep ourselves, our campus, and our community safe. As a university community, we must work together to prevent the spread of the virus and to promote the collective health and welfare of our campus and surrounding community.

#### **UW-Madison [Badger Pledge](#)**

##### **[Campus Guidance on the use of Face Coverings](#)**

Face coverings must be [correctly worn](#) on campus at all times and in all places (both outside and inside), except by students in their assigned residence hall rooms; by employees when alone in a private, unshared lab or office; when traveling alone in a private vehicle; and when exercising outside in a way that maintains 6 feet of distance from other people.

Students with disabilities or medical conditions who are unable to wear a face covering should contact the [McBurney Disability Resource Center](#) or their Access Consultant if they are already affiliated. Students requesting an accommodation unrelated to disability or medical condition, should contact the Dean of Students Office.

Students who choose not to wear a face covering may not attend in-person classes, unless they are approved for an accommodation or exemption. All other students not wearing a face covering will be asked to put one on or leave the classroom. Students who refuse to wear face coverings appropriately or adhere to other stated requirements will be reported to the [Office of Student Conduct and Community Standards](#) and will not be allowed to return to the classroom until they agree to comply with the face covering policy. An

instructor may cancel or suspend a course in-person meeting if a person is in the classroom without an approved face covering in position over their nose and mouth and refuses to immediately comply.

**Quarantine or Isolation Due to COVID-19** Student should continually monitor themselves for COVID-19 symptoms and get [tested](#) for the virus if they have symptoms or have been in close contact with someone with COVID-19. Student should reach out to instructors as soon as possible if they become ill or need to isolate or quarantine, in order to make alternate plans for how to proceed with the course. Students are strongly encouraged to communicate with their Instructor concerning their illness and the anticipated extent of their absence from the course (either in-person or remote). The instructor will work with the student to provide alternative ways to complete the course work.

#### **DIVERSITY & INCLUSION STATEMENT**

[Diversity](#) is a source of strength, creativity, and innovation for UW-Madison. We value the contributions of each person and respect the profound ways their identity, culture, background, experience, status, abilities, and opinion enrich the university community. We commit ourselves to the pursuit of excellence in teaching, research, outreach, and diversity as inextricably linked goals. The University of Wisconsin-Madison fulfills its public mission by creating a welcoming and inclusive community for people from every background – people who as students, faculty, and staff serve Wisconsin and the world.

#### **ACADEMIC INTEGRITY STATEMENT**

By virtue of enrollment, each student agrees to uphold the high academic standards of the University of Wisconsin-Madison; academic misconduct is behavior that negatively impacts the integrity of the institution. Cheating, fabrication, plagiarism, unauthorized collaboration, and helping others commit these previously listed acts are examples of misconduct which may result in disciplinary action. Examples of disciplinary action include, but is not limited to, failure on the assignment/course, written reprimand, disciplinary probation, suspension, or expulsion.

#### **ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES STATEMENT**

The University of Wisconsin-Madison supports the right of all enrolled students to a full and equal educational opportunity. The Americans with Disabilities Act (ADA), Wisconsin State Statute (36.12), and UW-Madison policy (Faculty Document 1071) require that students with disabilities be reasonably accommodated in instruction and campus life. Reasonable accommodations for students with disabilities is a shared faculty and student responsibility. Students are expected to inform faculty [me] of their need for instructional accommodations by the end of the third week of the semester, or as soon as possible after a disability has been incurred or recognized. Faculty [I], will work either directly with the student [you] or in coordination with the McBurney Center to identify and provide reasonable instructional accommodations. Disability information, including instructional accommodations as part of a student's educational record, is confidential and protected under FERPA. (See: [McBurney Disability Resource Center](#))

#### **ACADEMIC CALENDAR & RELIGIOUS OBSERVANCES**

See: <https://secfac.wisc.edu/academic-calendar/#religious-observances>

## SCHEDULE OF CLASSES AND READING ASSIGNMENTS:

### Week 1: Introduction and Welcome

### Week 2: Law and Empire

*Readings:*

Maurice Crandall, *These People Have Always Been a Republic: Indigenous Electorates in the U.S.-Mexico Borderlands, 1598–1912*

*Online Archives:* Court Records

[Proquest Supreme Court Insight](#)

[Nexis Uni](#)

*Due before class:*

Reading reflection

Primary source post

### Week 3: Laws of Slavery and Freedom

*Readings:*

Alice Baumgartner, *South to Freedom: Runaway Slaves to Mexico and the Road to the Civil War*  
Introduction + Chapter 5

Stacey Smith, *Freedom's Frontier: California and the Struggle over Unfree Labor, Emancipation, and Reconstruction* Chapters 4-6

*Online Archive:* Historical Newspapers

[Proquest Historical Newspapers](#)

*Due before class:*

Reading reflection

Primary Source post

### Week 4: The Violence of Exclusion

*Readings:*

Beth Lew-Williams, *The Chinese Must Go: Violence, Exclusion, and the Making of the Alien in America*

*Online Archives:* Congressional Debates

[Proquest Congressional](#)

*Due before class:*

Reading reflection

Primary Source post

### Week 5: State Violence and International Law

*Readings:*

Monica Muñoz Martínez, *The Injustice Never Leaves You: Anti-Mexican Violence in Texas*

Online Archives: International Law and Diplomacy  
[United States-Mexico General Claims Commission \(1923\)](#)  
[Foreign Relations of the United States](#)

Due before class:  
Reading reflection  
Primary Source post

### Week 6: Inventing the Illegal Alien

Readings:  
Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America*

Online Archives: Oral Histories  
[Japanese American Relocation Digital Archive \(JARDA\)](#)  
[Bracero Archive](#)

Due before class:  
Reading reflection  
Primary Source post

### Week 7: Law and Economic Inequality

Readings:  
Keeanga-Yamahtta Taylor, *Race for Profit: How Banks and the Real Estate Industry Undermined Black Home Ownership* Introduction + Chapter 1  
Robert Self, *American Babylon: Race and the Struggle for Postwar Oakland* Introduction + Part II  
Michelle L. Cook, “Striking at the Heart of Capital: International Financial Institutions and Indigenous Peoples’ Human Rights” in Nick Estes and Jaskiran Dhillon, eds., *Standing With Standing Rock: Voices from the #NODAPL Movement*

Online Archives: Historical Maps  
[HOLC Redlining Maps](#)

Due before class:  
Reading reflection  
Primary Source post

### Week 8: Litigating Toxic Landscapes

Readings:  
Joseph Masco, “Econationalisms: First Nations in the Plutonium Economy” in *The Nuclear Borderlands: The Manhattan Project in Post-Cold War New Mexico*  
Elizabeth Ellis, “Centering Sovereignty: How Standing Rock Changed the Conversation” in Nick Estes and Jaskiran Dhillon, eds., *Standing With Standing Rock: Voices from the #NODAPL Movement*  
Monica Perales, “Fighting to Stay in Smelertown: Lead Contamination and Environmental Justice in a Mexican American Community” *Western Historical Quarterly* 39:1



*Due before class:*

Reading reflection

One paragraph analysis of “Point Scenarios” in “Expert Judgement on Inadvertent Human Intrusion into the Waste Isolation Pilot Plant,” 1991 (on Canvas)

### **Week 9: Paramilitary America**

*Readings:*

Kathleen Belew, *Bring the War Home: The White Power Movement and Paramilitary America*

*Due before class:*

Reading reflection

*Paper topic and research question*

### **Week 10: Origins of Mass Incarceration**

*Readings:*

Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*

Elizabeth Hinton, “From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America” in *Racism in America: A Reader*

*Due before class:*

Reading reflection

*Paper proposal*

### **Week 11: The Turn to “Crimmigration”**

*Readings:*

Ana Raquel Minian, *Undocumented Lives: The Untold Story of Mexican Migration* Introduction + Chapters 6-8

Torrie Hester, “Deportability and the Carceral State,” *Journal of American History* 102:1 (2015)

Geraldo Cadava, “Violence and Sanctuary” in *Standing on Common Ground: The Making of a Sunbelt Borderland*

*Due before class:*

Reading reflection

### **Week 12: Individual Meetings with the Professor**

*Paper Outlines due*

### **Week 13: Peer Review**

*Rough Drafts Due*

### **Week 14: Final Research Presentations**

*Final Papers are due Friday, May 7 by 11:59pm. Please email them to the professor.*