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TWELVE: RACE AND GENDER REPRESENTATIONS IN HIDALGO COUNTY PETIT JURY SELECTIONS, 1950-1960

A Thesis

by

RENE RIOS

Submitted to the Graduate School of the
University of Texas-Pan American
In partial fulfillment of the requirements for the degree of

MASTER OF ARTS

May 2011

Major Subject: History

TWELVE: RACE AND GENDER REPRESENTATIONS IN HIDALGO COUNTY PETIT JURY SELECTIONS, 1950-1960

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May 2011

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ABSTRACT

Rios, Rene, Twelve: Race and Gender Representations in Hidalgo County's Petit Jury Selections, 1950-1960. Master of Arts (MA), May, 2011, 125 pp., 3 figures, references, 128 titles.

The purpose of this thesis is to address the composition of Hidalgo County petit (small) juries from 1950-1960 on the basis of race and gender in which I will argue that the racial composition of the County's petit juries was predominantly Anglo. Following the inclusion of women into juror selection pools after 1954, I assert that Anglo females were selected at higher rates than Mexican American males and females during the same time period which continued the political and civic marginalization of the county's Mexican American population. This work addresses the social and political environment of Hidalgo County. Along with this discussion, my use of Hidalgo County's *Juror Time Books* and selected criminal/civil court cases will make evident that socio-political and civic marginalization was present in Hidalgo County; thus, reflecting a distinct bias against Mexican American males and females during the 1950s.

DEDICATION

This is for my beloved Kimmie ... completing this thesis would not have been possible without her unflinching support, her unending words of encouragement, her deep reservoir of patience and her undying love. No man could ask for more from a wife.

For all the time I spent on campus reading and preparing for class, for all the times I was sitting in seminar classes late into the evenings, for all the time I spent reading/writing in the home office and for all the times that I was lost in thought and not entirely attentive to her words.

I'll now rush to catch up on all the time that I spent away from her …

ACKNOWLEDGEMENTS

My thanks begin with George Gause, Special Collections Librarian at the University of Texas-Pan American. He pointed me in the direction of Hidalgo County's Administrative holdings and ultimately, to the County's *Juror Time Books* when this project was an unfertilized seed of an idea. Enormous thanks also go to Hidalgo County Clerk Arturo Guajardo, Jr., and Records Manager Armando Pena. Their office physically holds the bound volumes of Hidalgo County's *Juror Time Books* which began this project and became the backbone of my primary research. They granted me unfettered access to the *Time Books* and their cooperation was instrumental during the initial stages of my primary research. Additional thanks go to Hidalgo County District Clerk Laura Hinojosa, her Chief of Staff Ricardo Contreras, Chief Deputy Nilda Van Hook, and Storage/Expunction Clerk Angela Garcia. Ms. Hinojosa's staff worked patiently to pull together my requests for old, dusty case files and they courteously provided me an empty desk so that I could review the material. For them to take time out of their busy schedules so that I could complete my thesis research is greatly appreciated.

Enormous thanks also go to my thesis committee members, Dr. Brent Campney and Dr. Charles Waite. Their thoughtful insights on the scope/direction of my thesis and their patience with an impatient graduate student meant the world to me as I worked through this project to completion. Final thanks go to my thesis committee chair, Dr. Sonia Hernandez. Her intellectual guidance, her encouraging words, and her unflinching support of graduate students are model behaviors to emulate. I am deeply appreciative for the time and the patience she granted to me as I completed my thesis. There are certain people we meet in life that we take

great pains not to disappoint. She is one of only a handful of individuals who I have encountered in my professional and academic careers that I did not want to disappoint. I hope that I have not done so …

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CHAPTER I

INTRODUCTION AND LITERATURE REVIEW

"[T]he jury system is the greatest guarantee that free people have ever devised against the abuses of tyranny. That is why a juryman, when called upon for service, is asked to help uphold what has come to us as one of our fundamental rights …."[1] So declared W. Rodgers Blalock, 92nd District Court Judge for Hidalgo County, Texas, in a speech delivered to a local Rotary Club on May 3, 1951. Yet in the state of Texas, this "greatest guarantee" was not universally conferred upon Mexican Americans or women when juror qualifications were first codified in 1876. Petit (small) jury duty qualifications in Texas did not appreciably change until 1954 and until then, Mexican Americans were denied this "fundamental right," were subject to the "abuses of tyranny" and regularly excluded from petit jury service in large numbers until the mid-twentieth century.[2] Not until May 1954 with the United States Supreme Court decision in *Hernandez v. Texas* did Mexican Americans obtain the guaranteed right to serve as petit jurors within the state of Texas. The importance of this decision not only granted Mexican Americans the unfettered right to sit as petit jurors in the state of Texas, it would expand the protections of the Fourteenth Amendment to include racial "others" in the United States.

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[1] "Jury System One of U.S. Guarantees of Freedom, Judge Blalock Tells Rotarians," *Valley Evening Monitor*, May 3, 1951, p. 4.

[2] Petit (small) jury service is the most common form of jury duty that many Texans have come to strongly dislike and will seek any manner of reason to be dismissed from such service. For purposes here, petit jury service refers to this commonly understood notion of civic service within Hidalgo County during the 1950s. While the focus of this thesis is petit jury service, some references will be made to grand juror/jury participation in the County as points of discussion and for comparison and contrast.

This thesis will argue that Hidalgo County's Mexican American community experienced socio-political and civic marginalization prior to, and during the emerging Mexican American civil rights movement which gained momentum in the years after World War II. An analysis of Hidalgo County's *Juror Time Books* and selected Hidalgo County Criminal and Civil Court case files will reveal the racial and gendered composition of Hidalgo County's petit juries from 1950 – 1960. While short term legal victories should have opened the door for complete participation in this important civic duty after 1954, equitable representation for Mexican Americans on Hidalgo County's petit or grand juries would not fully occur until 1977 when another Supreme Court decision (*Castaneda v. Partida*) addressed this issue in Hidalgo County's *grand* jury selection process, and by implication the selection of petit jurors. Additionally, by examining the inclusion of women in Hidalgo County's petit juror pools after 1954, this thesis demonstrates that Anglo women were selected at faster rates than the selection of Mexican American males and females during the same time frame, thus delaying full implementation of the *Hernandez* Supreme Court decision. This chapter discusses the importance of the 1954 Supreme Court decision *Hernandez v. Texas* along with a review of the secondary literature associated with the *Hernandez* case. Additionally, it briefly addresses the formation of a distinctive racial identity of Mexican Americans in south Texas and the socio-political marginalization and discrimination the Mexican American community has long endured. One of the major shortcomings of the secondary works contained in this literature review is that they do not actively engage primary research materials from Hidalgo County, such as district court cases or juror roll documents. By utilizing these important primary source materials from Hidalgo County along with thbasic statutory requirements for petit jury duty in the state of Texas, this thesis contributes to the fields of Legal History and Mexican American Civil Rights in a significant manner.

In 1876, the Fifteenth Texas Legislature first established petit jury qualifications for the state of Texas. In order to serve as a juror in any civil or criminal case, eligible persons had to be a freeholder (landholder) in the State, a householder in the County in which *he* may be called to serve and eligible individuals also had to be citizens of the State and legal voters. Additionally, the prospective juror had to be of sound mind, have a good moral character, and had to possess the ability to read and write. The Texas legislature also established that specific individuals could be excluded from petit jury service because of their profession or employment.[3] As originally conceived, the Legislature clearly specified that only males would be allowed to serve as petit jurors and no substantial changes in Texas law were made regarding petit juror qualifications until 1955. Whether modified as a response to the *Hernandez* decision or not, Texas legislators may have seen the indefensibility of excluding women from petit jury service and in a pre-emptive strike, women were eventually granted the right of petit jury service beginning in 1955.[4]

During the World War II years, Pete Hernandez was a laboring farm hand living in Edna, Texas.[5] On August 7, 1951 he found himself in an argument with another Mexican American male in an Edna tavern. Confronted by a third male who sought to calm Hernandez' heated verbal encounter, Hernandez left the tavern, returned with a rifle then shot and killed Joe

[3] *General Laws of the State of Texas*, Session of the 15th Legislature, Chapter LXXVI, Section 1, August 18, 1876, p. 914. Note: the 1876 list of juror qualifications did not specify the language a potential juror had to speak or write. Following Texas' independence from Mexico in 1836, the presumptive language of Texas court proceedings was English. Several of Texas' state court cases accepted that assumption prior to 1876 and English became the preferred language of all court proceedings. However, one state court case in 1876 mentioned this lack of language specificity in the enabling statute. While no decision was made regarding this lack of clarity, the court sheepishly took no further action other than the mere mention of this lack of clarity. Additionally, the exclusion of some individuals from petit jury service included civil officers, undertakers, attorneys, physicians in practice, persons over sixty years of age, school-masters and church ministers to name but a few.

[4] Ignacio M. Garcia, *White But Not Equal: Mexican Americans, Jury Discrimination and the Supreme Court* (Tucson: University of Arizona Press, 2009), p. 202 and footnote 36, p. 228. Women and petit jury service will be discussed in detail in Chapter Four.

[5] Edna is the seat of Jackson County and is located approximately 102 miles southwest from Houston, Texas and approximately 250 miles northeast of Hidalgo County.

Espinoza. Tried before, and convicted by, an all white jury, Hernandez was given a sentence of life imprisonment. During the trial, Hernandez was represented by James De Anda, John J. Herrera, and Gustavo "Gus" Garcia, all affiliated in some form or fashion with the League of United Latin American Citizens (LULAC).[6] The guilt or innocence of Hernandez was not in dispute during the trial. What the attorneys concentrated upon was the racial composition of Hernandez' petit jury and the historic exclusion of Mexican Americans from petit jury service in Jackson County.[7] When Hernandez went to trial in Jackson County in 1951, of the 12,916 residents of Jackson County, 1,865 or about fourteen percent had Spanish or Latin American surnames. Of these 1,865 1,738 were native-born American citizens and 65 were naturalized citizens.[8] However, in the twenty five years leading up to the trial no Spanish surnamed man was selected for petit jury service in the County.[9]

Throughout the Texas appeals process, Herrera and Garcia successfully established Hernandez' racial claim to "whiteness," but had to grapple with the state's contention that Hernandez *was* tried by a jury of his peers. Essentially, since Hernandez was "white," an all white jury sat in judgment of another white person. In its decision, the Supreme Court did not address the concept of race, nor did it attempt to establish the racial identity of Pete Hernandez in its written opinion. Instead, the Court found that Mexican Americans were denied the equal protection of the law under the Fourteenth Amendment of the U.S. Constitution and declared that the community itself (Edna, Texas) imposed an environment of segregation and discrimination against the Mexican American population. In Edna, Mexican Americans were socially regarded and thus treated, as non-whites by the community in which Hernandez lived. In this context, Jim

[6] Ignacio M. Garcia, *White But Not Equal: Mexican Americans, Jury Discrimination and the Supreme Court* (Tucson: University of Arizona Press, 2009), p. 32.
[7] Ibid, pp. 37-38.
[8] Olivas, *'"Colored Men and Hombres Aqui,'"* p. 249.
[9] Garcia, *White But Not Equal,* p. 18.

Crow discrimination and segregation (racism, public facility segregation, barriers to voting by virtue of poll taxes, etc.) were all deemed acceptable by the Anglo majority because of the inferior status assigned to Mexican Americans by the Anglo controlled system in Texas. In its opinion the Court took special effort to address the numerical disparity that this exclusion exerted upon Jackson County's Mexican American population. In delivering the opinion of the Court, Chief Justice Earl Warren concluded that "circumstance or chance may well dictate that no persons in a certain class will serve on a particular jury … but it taxes our credulity to say that mere chance resulted in there being no members of this class among over six thousand jurors called in the past 25 years. The results bespeaks of discrimination …."[10]

Herrera and Garcia successfully convinced the Supreme Court that segregation and social marginalization against Mexican Americans did in fact exist, and that as "another white race," Mexican Americans could not be segregated or treated as another group, or people of color.[11] While the *Hernandez* case is an important civil rights decision for the Mexican American community, in a larger context it is but one in a long line of jury exclusion cases that have dealt with race based exclusions from jury service. From a technical point of view, in order to successfully challenge a method of jury selection, litigants must first show that some clearly identifiable group (a cognizable class) has been deprived of its fair share of seats on the jury panel. Second, litigants must show that the deprivation occurred not by chance, and that the opportunity to discriminate, existed.[12] For comparative purposes here, the exclusion of blacks from juries is the starting point for any rights based analysis of jury service. In 1880 the U.S. Supreme Court struck down a state law that specifically excluded blacks from jury pools

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[10] Olivas, "*'Colored Men and Hombres Aqui,'*" p. 250.
[11] Ibid, pp. 125-126.
[12] Jon M. Van Dyke, *Jury Selection Procedures: Our Uncertain Commitment to Representative Panels.* (Cambridge: Ballinger Publishing Company, 1977), p. 47.

(*Strauder v. West Virginia*), and declared that not only were the equal protection rights of the defendant compromised, but the prospective jurors were stigmatized by the exclusion. "[T]he very fact that colored people are singled out and expressly denied [the right to serve as jurors] is practically a brand upon them, as assertion of their inferiority affixed by the law, and a stimulant to that race prejudiced which is an impediment to securing … equal justice."[13] Following *Strauder*, a line of cases reflected the Supreme Court's awareness of the harm inflicted on potential jurors by race-based exclusions from jury service. [14]

Long before the *Hernandez v. Texas* decision, one of the major difficulties with race and racial formation for the Mexican American community was that of physical appearance. Socially, the phenotypical appearance of many in the Mexican American population was a common hurdle in their struggle for legal and social acceptance within the U.S. polity. The struggle to establish an acceptable racial identity gained significant socio-political importance as the community carved a distinct presence within the American racial and socio-political hierarchy. By asserting and embracing a "white" racial identity, a growing middle class Mexican American community ostensibly built upon the philosophical and legal foundation in the establishment of the legal guarantees of citizenship; thus, setting the stage for a civil rights movement squarely predicated on the assumed privileges of "whiteness" in the years after World War II. However, long before the house of civil rights was built by this middle class community, the legal foundations first had to be established.

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[13] Joanna L. Grossman, "Women's Jury Service: Right of Citizenship of Privilege of Difference." 46 *Stanford Law Review* (May, 1994), pp. 1127-1128. The racial phrase "colored people" is specific language contained within the court decision and ***not*** from the writing of Grossman.

[14] Grossman, p. 1128. Additionally, Grossman lists in her footnote # 72, several cases that address this point. However, the most salient for historical context relating to the circumstances of Hidalgo County and *Hernandez* are *Norris v. Alabama* (a 1935 Supreme Court decision that found a violation of the Fourteenth Amendment where the state's jury lists contained the names of blacks but none were ever called for service) and the decision in *Smith v. Texas* (1940) which will be addressed in more detail in chapter three.

In the legal, social, and political development of a Mexican American identity in the United States, the conclusion of the war with Mexico would be the first steps in the decades long shift from a Mexican identity to the formation of a Mexican American identity in the Southwestern states of Texas, New Mexico, Arizona and California. Signed in 1848, The Treaty of Guadalupe Hidalgo formally concluded the war between the United States and Mexico (1846-1848). Under Article IX, of the Treaty, Mexican Nationals who lived within the ceded lands that were transferred to the United States could choose to remain Mexican citizens or they could become citizens of the United States. Article IX stipulated that "… Mexicans who … shall not preserve the character of citizens of the Mexican Republic … shall be incorporated into the Union of the United States … to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution …."[15] While Article IX may have been fairly straightforward, the application of the Article's language would prove difficult in a daily setting during the nation's westward expansion.

Treaty language aside, the racial identity of Mexican Americans has been a continuous struggle in the south Texas borderland region. Historian Arnoldo De Leon asserts that this racialization began early in Texas' history. Initial contacts between Anglos and the native Mexicans were largely negative as Anglos viewed native Mexicans and Mexican Americans as beastly, including the native inhabitants of Texas who could not be cleanly categorized into white or black racial groups.[16] Of note has been the racial self identification of Mexican Americans in south Texas. Regardless of any legal claims, most Mexican Americans in the Valley have simply referred to themselves as Mexicanos or Mexicanas. For the majority of

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[15] Richard Griswold Del Castillo, *The Treaty of Guadalupe Hidalgo: A Legacy of Conflict* (Norman: University of Oklahoma Press, 1990), p.190.
[16] Arnoldo De Leon, *They Called Them Greasers*, pp. 1-4.

Valley Anglos, Mexicans Americans were simply regarded as "Mexicans," irrespective of nationality or citizenship status. Viewed generically as a "colored" people, Anglos discerned the Indian ancestry in Mexican Americans and would socially identify the population as inferior. In principle and in fact, Mexican Americans in south Texas were regarded not as a group of people related to whites, but as a race apart.[17]

While the racialization of Mexican Americans was a socially constructed concept, socio-political benefits were not far from the minds of the new Anglo settlers in south Texas. For example, in the 1850s newly arriving Anglo males intermarried with leading Spanish/Mexican American families due in part to the lightness of skin, but largely for the social, political and entrepreneurial connections that such intermarriages could provide. These newcomers expressed very little racial animosity or hostility to native Mexican or Mexican American population. Anglos simply adapted to the social conditions of the time by learning Spanish, converting to Catholicism and embracing the culture of the landed Tejano gentry. Once the Valley began a methodical transition from ranching and small parcel farming to commercial farming and agriculture through the 1880s and beyond, the white population dramatically increased and racial attitudes towards the Mexican or Mexican American population changed and racial tensions rose.[18]

In this transition from predominance to subordination, one of the largest hurdles for the Mexican American community to overcome as they sought their place within the polity of the United States was racial status/identity. In May, 1896, Ricardo Rodriguez attempted to become a citizen of the United States by filing naturalization papers with the United States Circuit Court

[17]Ibid, p. 104.
[18] Ibid, p. 41.

in San Antonio. Rodriguez was opposed in court by San Antonio politicians, T.J. McMinn and Jack Evans who asserted that Rodriguez did not qualify for citizenship on the grounds that he was not a "white person, nor an African, [or] of African descent, and is therefore not capable of becoming an American citizen."[19] The politicians not only sought to clarify the matter of individual naturalization, an issue that had not been satisfactorily addressed or adjudicated since the signing of the Treaty of Guadalupe Hidalgo, they ultimately sought to prevent newly arriving Mexicans from voting in local elections. The two attorneys admitted the difficulties inherent in such a socio-political stance, but of essential importance to Rodriguez' application, was the legal determination of his "race" and the inherent claim to "whiteness" as his racial identity.[20]

In legal briefs filed with the court, other opponents of Rodriguez' application asserted that naturalization could only be extended to Caucasians, and Rodriguez' physical appearance indicated that he was a Mexican Indian. These briefs were designed to prove that his racial categorization was based upon "scientific" anthropological evidence. Until 1952, the United States was bound by the precepts of the Naturalization Act of 1790 which limited citizenship to "white" persons. The inherent difficulty of a "white" racial identity reveals the imprecision, the contradictions and the difficulties associated with establishing a bright line between "white" and "non-white" persons.[21] With naturalization limited to only one racial group, McMinn and Evans attempted to illustrate that phenotypical appearance and the varieties of skin tone from fairest hue (Swedish) to the chocolate brown of the Mexican and the brown black of the West African, Rodriguez fell into the Mexican Indian tones of phenotypical characteristics. As a result, Rodriguez was not a "white" person by scientific classification, or by what Anglo/White

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[19] Arnoldo de Leon. In Re *Ricardo Rodriguez: An Attempt at Chicano Disfranchisement in San Antonio, 1896-1897*. (San Antonio: Caravel Press, 1979), p. 1.
[20] Ibid, p.1.
[21] Ian Haney Lopez. *White By Law: The Legal Construction of Race*. Rev. Ed., 10th Anniversary Edition. (New York: New York University Press, 2006), p. 1.

Americans commonly understood and accepted with the term. Short of skin tone, the concepts of civic engagement and Rodriguez' limited understanding of the principles of the U. S. Constitution hindered his fitness for civic participation and was seen as another bar for naturalization.[22]

Supporters of Rodriguez' application pointed out that naturalization and citizenship could be conferred upon individuals born within the United States, and most importantly; by collective naturalization where a country incorporates territory by conquest, annexation, purchase or treaty agreement.[23] Regarding race, supporters of Rodriguez' application explained the mixed nature of Mexican Indians and individuals from Spain produced "copper colored Indian races … [who] had long abandoned their tribal state …."[24] In his final decision, the court judge ran through the lengthy history recounting that the governments of the Republic of Texas, the state of Texas and the United States had conferred upon Mexicans the rights and privileges of American citizenship.[25] Sidestepping the question of race specifically, the judge mentioned that if the strict scientific/anthropological categorizations of Rodriguez' appearance were relied upon, then Rodriguez would probably not be classified as "white." However, the governments of the United States and Mexico recognized that American naturalization laws embraced Mexicans and that Mexicans had the right to begin the formal naturalization process, regardless of their racial identity or racial characteristics.[26] In short, Rodriguez' racial identity was not the primary concern or consideration for the judge in this case. While a process of racialization occurred and was certainly present in the briefs opposing Rodriguez' application, technical language contained

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[22]De León, *In Re Ricardo Rodriguez.* p. 8.
[23] Ibid , p. 5.
[24] Ibid, p. 6.
[25] Ibid, pp. 10-11.
[26] Ibid, p. 12

within the Treaty of Guadalupe Hidalgo contributed to Rodriguez' racial identity and would lay the foundation for Mexican American's "white" racial classification in the United States as a matter of law.

As a result of the decision, Mexican Americans throughout Texas had now become part of a complex contradiction. The court's decision legally recognized and conferred a "white" racial identity upon those wishing to naturalize and become United States citizens. Additionally, birthright citizenship along with the legal protections and civil rights guarantees for individuals of Mexican heritage would be precarious since the court's decision implied and reinforced the concept that they were also a "people of color." If the logic of phenotypical and visual inspection were fully extended, then many Mexican Americans were not white. As such, Mexican Americans were allowed the minimal protections of laws, but simultaneously denied the civil rights enumerated in the United States Constitution in the same manner that the Fourteenth Amendment could theoretically protect the civil rights of African Americans. In short, Mexican Americans were simply ignored in the social and legal framework of the U. S. polity.[27]

While the historiography of the related concepts of race and racial identity are quite extensive in their own rights, it is the combination of these subjects with the *Hernandez* decision that allowed Mexican Americans the right to sit as petit jurors which will run throughout the present chapter and the thesis as a whole. Ultimately, the *Hernandez* decision did not hinge on the racial identity of Pete Hernandez, or by implication, the racial identity of Mexican Americans as an entire group.[28] The historiography that analyzes this decision also acknowledges that the

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[27] Ignacio M. Garcia. *White But Not Equal*, p. 65.
[28] Many would argue that the term Mexican American should include Mexican nationals residing within the U.S. seeking citizenship via immigration. While the Mexican national population can be a fairly large number given the

racial identity of Mexican Americans is a difficult one to define simply because the entire group does not fall into a neat and clean binary racial categorization within the United States (i.e., black/white). What is clear in much of the historiography review to follow is that the political/civic marginalization of Mexican Americans and the Mexican origin born community in Texas and Hidalgo County was profound and long lasting. [29]

In *The American G.I. Forum: Origins and Evolution,* historian Carl Allsup addressed what he viewed as a "gap in the organizational activities … and specific organizational history of Chicanos."[30] Allsup's work concentrates on the efforts and the work of Dr. Hector P. Garcia as he sought to address the second class social status of Mexican Americans in Texas by focusing on Dr. Garcia's efforts to utilize the American G.I. Forum as a method of remedying this status.[31] While general in scope, it is largely accepted as an excellent starting point regarding the social and political grass roots development of Mexican Americans, and is the standard by which subsequent works concerning the American G.I. Forum are measured. Allsup also provides a general description of *Hernandez v. Texas* without the detailed historical analysis of the case or the legal theories that surround the case and Allsup's work would be considered a basic primer for those who have no knowledge of the case. By including the *Hernandez* case into the general history of the G.I. Forum, Allsup ties the appeal effort by Hernandez's legal team into a jointly funded venture by the League of United Latin American Citizens (LULAC) and the G.I.

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fluid nature of the south Texas borderland region since 1836, the nature of legal citizenship is not subject to this thesis project. For specific purposes here, the term "Mexican American" will include all individuals of Mexican descent, living and/or born within the geographic boundaries of the United States. The population and the applicable term as used in this thesis will refer to Mexican Americans as legal citizens of the United States by birth, by naturalization or by treaty establishment.

[29] For purposes of this thesis, I will use the term, "Mexican American community." The term specifically refers to the majority of Mexican Americans who reside within the County and who are engaged in some respects with the civic process. In this way, I attempt to identify a community that has been treated socially and politically as a separate and distinct racial group from the Anglo community in south Texas.

[30] Carl Allsup, *The American G.I. Forum: Origins and Evolution* (University of Texas, Austin: Center for Mexican American Studies, 1982), p. xiii.

[31] Allsup, p. xiv.

Forum.[32] As Mexican American civil rights organizations, both LULAC and the G.I. Forum sought to address the second class status often imposed upon what Allsup describes in his work as the *pobre Mexicano* by the Anglo majority in Texas.[33] Missing in Allsup's work, is an analysis of the implications of the *Hernandez* case within a local, regional or national context involving Mexican American civil rights litigation. In this context, Allsup's work fails to address a Mexican American civil rights litigation strategy. Allsup's chief topic of discussion is the political and social philosophy of the organization and the mechanics surrounding the founding of a Mexican American civic organization. Allsup's work however, lays the foundation for exploring the developing Mexican American civil rights movement in Texas and others would soon follow.

One of the first individuals to dissect and analyze the *Hernandez* case has been Ian Haney Lopez, a leading voice in the field of Latino/a Critical Race Theory (LatCrit Theory). An offshoot of Critical Race Theory, LatCrit Theory expands the discussion of race theory beyond the black/white racial binary and addresses issues of race as they specifically pertain to Mexican Americans in the polity of the United States. In "Race, Ethnicity, Erasure: The Salience of Race to LatCrit Theory,"[34] Haney Lopez was the first to address the *Hernandez v. Texas* case and did so by discussing the social construction of race and its implications for Mexican Americans in Texas, pre and post *Hernandez* (roughly 1945-1960). In this article, Haney Lopez asserts that by embracing the vocabulary of race in discussions of group identity for Mexican Americans as a whole, the idea of race is a *social* construction and not a biological one. Additionally, Haney Lopez argues that the facts and the attitudes surrounding the *Hernandez* case are inextricably tied

[32] Allsup, p. 75.
[33] Allsup, pp. 77-78.
[34] Ian Haney Lopez, "Race, Ethnicity, Erasure: The Salience of Race to LatCrit Theory," *California Law Review*, 85, No. 5, (Oct. 1997), pp. 1143-1211.

to discrimination that is typically associated with race. However, Haney Lopez carefully points out that the Supreme Court did NOT recognize Mexican Americans as a separate and distinct "racial" group of citizens. While the treatment associated with discrimination is usually placed within a racial context, the arguments made by Hernandez' attorneys were grounded in an implication that the *community* itself (Edna, Texas) socially ostracized and racially marginalized the Mexican American segment of the population, even though Mexican Americans were legally classified as a "white" racial group. In short, for Haney Lopez, the line breaks significantly when Mexican Americans are viewed through a social conceptualization of race; i.e., a social construction and application of a racial identity upon another group of people.[35]

While not specifically addressing the daily events of the jury trial, Haney Lopez focuses instead upon the work of Hernandez' attorneys and addresses the philosophical and legal arguments contained within the appellate briefs. As such, it is one of the first analytical studies of the *Hernandez* case, and it addresses the racial implications of the decision within a social context and how it applies to Mexican Americans within the U.S. polity. Legally technical and theoretical in nature, it is explores how race was viewed by the Supreme Court, what the Supreme Court decision meant for the Mexican American community and is an academic foundation upon which other articles and books about the topic are addressed by later scholars. It is also an attempt by Haney Lopez to offer a historical perspective on the implications of the case and to bring a different perspective to the largely black/white racial discussion in the field of Critical Race Theory.

[35] Lopez, p. 1152.

Joining Haney Lopez in the social construction of race is historian George A. Martinez and his article "The Legal Construction of Race: Mexican Americans and Whiteness."[36] Focusing upon the expansion of LatCrit Theory, the article addresses multiple categories touching upon the benefits of "whiteness" for Mexican Americans, the social construction of race for Mexican American and focuses upon multiple court cases to establish the arguments contained in the article. However, Haney Lopez and Martinez do little to engage local primary source material to address the social realities of Mexican Americans within a localized setting. For an extended overview of Mexican American civil rights litigation, George Martinez' article, "Legal Indeterminacy, Judicial Discretion and the Mexican-American Litigation Experience: 1930-1980"[37] is also key, while Gilbert Bradshaw and his article "Who's Black, Who's Brown, and Who Cares?: A Legal Discussion of *Hernandez v. Texas*,"[38] provides a differing interpretation of the decision by arguing that the Supreme Court decision helped Mexican Americans be included within Fourteenth Amendment discussions and the legal protections the Fourteenth can provide to racial "others" who fall beyond the black/white binary.

Historian Clare Sheridan has asserted that the decision in *Hernandez v. Texas* is *socially* significant because it assures Mexican Americans a place within the United States polity. Sheridan argues that jury service (the basis for the *Hernandez* decision) was important because it marks a sense of belonging to the community in which one resides and jury service recognizes members of the community as social and moral equals to one another. Jury duty allows individuals to sit in close proximity to one another and in a very public forum; namely, the open

[36] George A. Martinez, "The Legal Construction of Race: Mexican-Americans and Whiteness," 2 *Harvard Latino Law Review*, 321 (Fall, 1997), pp. 321-347.
[37] George A. Martinez, "Legal Indeterminacy, Judicial Discretion and the Mexican-American Litigation Experience: 1930-1980," 27 *University of California, Davis Law Review*, 555 (1994).
[38] Gilbert Bradshaw, "Who's Black, Who's Brown, and Who Cares?: A Legal Discussion of Hernandez v. Texas," Issue 2, *Brigham Young University Education & Law Journal* (2007), pp. 351-382.

courtroom. Jury duty also signifies that one person's vote has equal application in the box regardless of race or gender and the juror's vote has an enormous impact on the legal future of another individual of the community. Sheridan asserts further that when Anglos did come into contact with Mexican Americans it was ordinarily for work purposes and Anglos were invariably in positions of authority. The notion of treating Mexican Americans as social peers would no doubt have been unthinkable to Anglos in Texas prior to the 1954 decision.[39] By analyzing how community norms helped to define and circumscribe the meaning of political participation and peer acceptance, Sheridan's article is a clear indication of the societal implications of the *Hernandez v. Texas* case and it forms a unique perspective on the practical and hidden aspects not previously addressed in the literature prior to her article. Where one aspect of the Haney Lopez article addresses the theoretical aspects of the case and how to look at the decision as an attorney and historian, it is Lopez' and Sheridan's *social* implications that are most at play in the development of the *Hernandez* historiography.

In her 2003 article, "Texas Mexicans and the Politics of Whiteness," historian Ariela J. Gross presciently called for a reassessment of the civil rights struggles of Mexican Americans in Texas. As the struggle for racial identity within the Mexican American community moved into the 1940's and 1950's, LULAC's strategy of asserting a "white" racial identity for Mexican Americans met with little success in Texas. As such, federal and state courts adopted this legal argument and consistently ruled that Mexican Americans *were* "white" racially, and were adequately represented during, and after, the jury selection process. In her article, Gross argues that by challenging that Mexican Americans were subjected to *de facto* school segregation and a

[39] Clare Sheridan, "Another White Race:' Mexican Americans and the Paradox of Whiteness in Jury Selection," *Law and History Review*, 21, No. 1 (Spring, 2003), p. 139.

lack of service or representation on petit or grand juries, Texas and federal courts of law acknowledged that as "whites," Mexican Americans were eligible for selection, but rarely chosen for jury service. Any explanation given by school districts or county officials about the lack of Mexican American civic participation was based largely upon a limited proficiency of the English language and not upon phenotypical/racially based skin tone, which wa accepted by Texas courts as racially neutral and non-discriminatory. The courts also ruled that as a group of people with a white racial classification, Mexican Americas *did* have representation on petit juries and were not subjected to school segregation because (for the courts) race meant skin color and only discrimination based explicitly and intentionally on that skin color counted as racial discrimination.[40] Significantly, Gross points out that in the *Hernandez* case, the Supreme Court accepted the notion that Mexican Americans were *treated* as non-white individuals by Anglos despite their "white" legal classification or as a "class apart." [41] When compared to Haney Lopez, Gomez, and Sheridan, Gross articulates and reinforces not only the social applications of the *Hernandez* decision but addresses the legal ramifications that affect other racial and ethnic minorities in the United States.

Grouped with Sheridan and Gross is Steven Wilson's "Brown over 'Other White:' Mexican Americans' Legal Arguments and Litigation Strategy in School Desegregation Lawsuits." The Sheridan, Gross, and Wilson articles comprise a forum discussion contained in the Spring, 2003 edition of the *Law and History Review*. The forum articles examine the inclusionary and exclusionary aspects of the law and in this case, the racial identity of Mexican Americans during the 1950s. Wilson's article addresses the challenges to the segregation of

[40] Ariela J. Gross, "Texas Mexicans and the Politics of Whiteness," *Law and History Review*, 21, No. 1 (Spring, 2003): p. 199.
[41] Gross, pp. 201-202.

Mexican American school children in Texas and California. He asserts further that the Mexican American lawyers continued to pursue an "other white" legal strategy and were slow to embrace the racial ramifications implied in the *Brown v. Board of Education* decision.[42] While the forum articles are excellent beginning points in the development of the *Hernandez* historiography, they focus on national trends in litigation and on national implications with little review of local primary documents. While the local voices and viewpoints that are reflected in newspapers and first person accounts are largely missing from the forum articles, this larger context is important in order to ground my thesis to what was occurring nationally.

Edited by Michael A. Olivas, *"Colored Men" and "Hombres Aqui:" Hernandez v. Texas and the Emergence of Mexican-American Lawyering,* is a collection of essays taken from a Symposium hosted by the University of Houston Law Center in 2004 which commemorated the 50th Anniversary of the *Hernandez v. Texas* decision.[43] As an edited work, many of the aforementioned scholars presented articles for discussion during the Symposium which addressed the importance of the *Hernandez* case, its place in U.S. legal history, and the decision's implications for the Mexican American community. This volume is indispensible because it contains reproductions of the most important primary materials surrounding the case itself; namely, the full text of the Supreme Court decision, transcripts of the original trial held in Jackson County and James De Anda's (one of Hernandez' trial attorneys who took the case to the Supreme Court) primary news pamphlet "A Cotton Picker Finds Justice" which was independently printed by LULAC as a method of distributing word of the case and the decision's ramifications for the Mexican American community. The Symposium and Olivas' collected

[42] Steven H. Wilson, "Brown over 'Other White': Mexican Americans' Legal Arguments and Litigation Strategy in School Desegregation Lawsuits," 21 *Law and History Review*, No. 1, (Spring, 2003), pp. 145-194.
[43] Michael A. Olivas, ed., *"Colored Men" and "Hombres Aqui:" Hernandez v. Texas and the Emergence of Mexican-American Lawyering*, (Houston: Arte Publico Press, 2006).

volume was an attempt to position the *Hernandez* decision (which was made two weeks before the towering decision of *Brown v. Board of Education*) in its rightful place in American history.[44]

In *Hernandez v. Texas*, issues of group categorization, class status and jury representation combine for a landmark decision regarding the civic inclusion of Mexican Americans at the local level. The first detailed discussion and interpretation in the historiography of the *Hernandez* case is *White But Not Equal: Mexican Americans, Jury Discrimination and the Supreme Court* by Ignacio M. Garcia. For Garcia, the case itself confirmed the work that LULAC and the American G.I. Forum had been conducting for the previous 25 years; namely, the growing belief that Mexican Americans were entitled to all the legal privileges and protections that the U.S. Constitution had to offer them. Second class status for Mexican Americans within the United States polity was no longer acceptable and the decision in favor of Pete Hernandez essentially confirmed that belief.[45] Garcia detailed the day to day circumstances of the case itself, along with a description of the backgrounds and legal experience of the lawyers who were involved in the litigation of the case as it made its way to the U.S. Supreme Court. Garcia also addressed the political maneuverings of both LULAC and the American G.I. Forum as they worked to raise money to fund the appeal efforts and how the organizations sent representatives to Washington, D.C. to oversee the proper expenditure of funds allotted to the attorneys. It is a detailed overview of the case along with the implications of the decision and how it affected the Mexican American community in Texas and across the country.

[44]Olivas, p. xxii.
[45] Ignacio M. Garcia, *White But Not Equal: Mexican Americans, Jury Discrimination and the Supreme Court* (Tucson: University of Arizona Press, 2009), p. 3.

Unlike Haney Lopez, Garcia does not focus on the theoretical nature of law but provides the descriptive details of the litigation activities of those who were intimately involved with the *Hernandez* case. This secondary work provides in rich detail the amount of primary and secondary source material required to guide any reader unfamiliar with the case and the associated literature. By reviewing and analyzing the case records, the briefs and the legal arguments of the attorneys, Garcia's work provides a social context around which the litigation and the legal arguments were structured. Garcia admits that some of his work is speculative in nature given the lack of primary source material from some of the key players in the *Hernandez* decision. For example, Garcia informs us that the thoughts or insights of many of the U.S. Supreme Court justices regarding this particular case are unknown due to the lack of personal notes, letters, or other written material that references the case. This is one of several instances of speculation on I.M. Garcia's part; yet, it does not detract from the overall narrative of the work nor of the contribution to the historiography as a whole. It is a minor negative point and Garcia brings the discussion of *Hernandez v. Texas* into its rightful place in the historiography of this important Supreme Court decision.

Recently however, scholars have re-analyzed the *Hernandez* case in order to assess its lasting legacy and the decision's effect upon Mexican American Civil Rights litigation strategies post-1954. As with any important Supreme Court decision and it long term implications, some of the literature associated with this reassessment addresses not only legal technicalities, but social and political movements. For example, law professor Kevin R. Johnson and his article, "*Hernandez v. Texas*: Legacies of Justice and Injustice" addresses the decision's legal technicalities and its constitutional applicability in great detail. Johnson argues that the decision represented a critical re-interpretation of the Equal Protection Clause of the Fourteenth

Amendment. The Court for the first time recognized that the Equal Protection Clause and the protections that the Clause afforded applied to all races and did not exclusively apply to African Americans.[46] By legally recognizing that Mexican Americans constituted a distinct and separate class, Johnson asserts that the lessons learned from this decision galvanized the development of a growing racial consciousness among Chicano/a activists along with a growing recognition of a sizeable Latino/a community.[47]

While the *Hernandez* decision may have helped galvanize a social movement, the topic of the lack of any celebratory sentiments regarding the decision's impact within the Mexican American community can be found in Richard Delgado's article, "Rodrigo's Roundelay: *Hernandez v. Texas* and the Interest-Convergence Dilemma." Here, Delgado asserts that the working and lower middle class Mexican Americans – the restaurant workers, the gardeners, the tailors and garment workers, do not sing the praises of the decision, but are still waiting to assess the effect of the decision upon their daily lives.[48] While Delgado's article asserts that the lasting effect of the decision is minimal, he also posits that the *Hernandez* case is a nationalized response to quell the fears of Latin American Communism and civil unrest growing within the Mexican American community in the United States. It is an argument that attempts to globalize the implications of the *Hernandez* decision and provides an interesting perspective that places the decision within an international (U.S. and Latin American) context.

Lending weight to Delgado's assertion that the Court's decision contributed to a growing racial consciousness among Chicano/a activists, is Ian Haney Lopez and his *Racism on Trial.*

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[46] Kevin R. Johnson, "*Hernandez v. Texas*: Legacies of Justice and Injustice," 25 *Chicano-Latino Law Review* (2005), pp. 153-198.
[47] Ibid, p. 179.
[48] Richard Delgado, "Rodrigo's Roundelay: Hernandez v. Texas and the Interest-Convergence Dilemma," 41 *Harvard Civil Rights-Civil Liberties Law Review* (2006), pp. 23-65, and 29 specifically.

Here, Haney Lopez suggests that the *Hernandez* case was one step toward the development of a Chicano identity which clearly broke with the "other white" racial identity as a legal strategy so forcefully asserted by the "Mexican American Generation" of the 1950s. Haney Lopez also offers a novel theory of racism rooted in "common sense" during the early 1960s.[49] This theory is related to an earlier article where Haney Lopez argues that the judicial branch in California as an institution actually discriminated against Mexican Americans in the selection of grand jurors. Positing that California's judges unconsciously eliminated Mexican Americans from grand juror pools because of personal friendships and associations, Haney Lopez offers a theory of racial discrimination rooted in the institution itself.[50] In his ongoing writings on race and the social constructions of race, his 2003 article "White Latinos" asserts that the Mexican American middle class embraced a white racial identity which facilitated the mistreatment of Mexican Americans and buttressed social inequality and marginalization as a backlash response by the Anglo community.[51]

Legal historians and attorneys are particularly adept at presenting the legal arguments and litigation strategies concerning the *de facto* and *de jure* segregation of Mexican Americans. However, in the field of cultural history, David Montejano's *Anglos and Mexicans in the Making of Texas* remains the standard work detailing the history of racial discrimination and the civic/socio-political marginalization in south Texas since 1836.[52] Historian Arnoldo De Leon's

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[49] Ian Haney Lopez, *Racism on Trial: The Chicano Fight for Justice* (Cambridge: The Belknap Press of Harvard University Press, 2003), pp. 1-12.
[50] Ian Haney Lopez, "Institutional Racism: Judicial Conduct and a New Theory of Racial Discrimination," 109 *The Yale Law Journal*, No. 8, (June, 2000), pp. 1717-1884.
[51] Ian Haney Lopez, "White Latinos," 6 *Harvard Latino Law Review*, Spring, 2006. p. 1.
[52] David Montejano, *Anglos and Mexicans in the Making of Texas, 1836-1986* (Austin: The University of Texas Press, 1987), pp. 1-11. For a brief discussion of the roots of this social marginalization, examples of racial segregation and the roots of Mexican American political activism, see Benjamin Heber Johnson, *Revolution in Texas: How a Forgotten Rebellion and its Bloody Suppression Turned Mexicans into Americans* (New Haven: Yale University Press, 2003), pp.176-211.

They Called Them Greasers remains the most basic work regarding the discriminatory attitudes of Anglos toward Mexican Americans and the Mexican origin population in the south Texas borderland region from 1836-1900.[53] Neil Foley's *The White Scourge*[54] addresses the social constructions of race imposed upon Mexican Americans from the 1900s to the 1940s. Foley's focus is on the cotton producing counties of East Texas during the late to early 1930s, but places this racialization within the context of the socio-political marginalization of Mexican Americans. While Foley's study is grounded in economic issues in central Texas, the matter of racial identity formation for Mexican Americans is important. Foley asserts that having Mexicans and Mexican Americans in central Texas raised interesting questions about "whiteness" and how this term was structured along race *and* class lines. For Foley, Anglo Texans had a long history of invoking a black/white binary in their interactions with African Americans socially, politically, and economically. This traditional application of the accepted binary was neat, trim, and uncomplicated. However, this form of racialization ran into difficulties when Anglo Texans had to interact with racially mixed peoples; namely, where would the Mexican and Mexican American "fit" in the racial hierarchy of Texas? This essentially meant that socially, politically and economically Mexicans were neither black, nor completely white. In Texas, while a small minority of Mexicans and Mexican Americans could claim a "white" identity due to Spanish ties, the overwhelming majority of Mexicans and Mexican Americans were seen by Anglo Texans as a "mongrelized" race of Indian, African and Spanish ancestry.[55]

As such, Mexican Americans were socially ostracized, politically marginalized, and excluded from participating fully within the U.S. political and legal system. Key to these

[53] Arnoldo De Leon, *They Called Them Greasers* (Austin: University of Texas Press, 1983).
[54] Neil Foley, *The White Scourge: Mexicans, Blacks and Poor Whites in Texas Cotton Culture* (Berkeley: University of California Press, 1997).
[55] Foley, *The White Scourge*, p. 5.

inclusion efforts were legal challenges to the Anglo dominated status quo in the political and civic arena. While the *Hernandez* case is an important civil rights decision for the Mexican American community, in a larger context it is but one in a line of race based jury exclusion cases which will be addressed in more detail in Chapter Three. However, in the years after World War II, a Mexican descent class of leaders rose to prominence as they sought to claim a space in the polity of the U.S. As whites of a different culture than most Anglo/Euro-Americans, this new generation of middle class Mexican Americans sought to distance themselves socially, culturally and politically from the early struggles of the African American community in the nascent stages of their own fight for full citizenship rights as American citizens.[56] This middle class movement was another step on the road "whiteness," but an important one in the development of a Mexican American civil rights movement. Most important to these claims of "whiteness" is the supposed benefits that could be derived from this racial assertion. In the *Hernandez* decision, the Supreme Court did not include race as a core basis for its decision, but the Court did embrace the importance of civic participation and inclusion of the Mexican American community bolstering a philosophical line of reasoning established in the late 1880s. As such, Neil Foley's "The Faustian Pact with Whiteness,"[57] echoes Haney Lopez' assertion that middle class Mexican American leadership and their embrace of "whiteness" may have actually exacerbated the social, political and civic marginalization of Mexican Americans in Texas and across the United States because of the inherently difficulty of how to racially categorize Mexican Americans in south Texas.

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[56] Neil Foley, "Partly Colored or Other White: Mexican Americans and Their Problem with the Color LIne," in *Beyond Black and White: Race, Ethnicity and Gender in the U.S. South and Southwest*, eds. Stephanie Cole & Alison M. Parker. (College Station: Texas A & M University Press, 2004), p. 135.

[57] Neil Foley, "Becoming Hispanic: Mexican Americans and the Faustian Pact with Whiteness." In *Reflexiones, 1997: New Directions in Mexican American Studies.* Neil Foley, ed. (Austin: Center for Mexican American Studies, 1998.), pp. 53-69.

Contributing to this difficulty are works from the 1950s and early 1960s that specifically address the economic development of the Valley but are largely condescending towards Mexican Americans in the Valley. These early studies detailing the development of the Lower Rio Grande Valley include Frank C. Pierce and J. Lee Stambaugh. While both works are brief and concise works concerning the economic development of south Texas, they provide an historical interpretation that is Anglo-centric in nature that does not address the contributions of the Mexican American population and marginalizes Mexican Americans in the process.[58] Joining Pierce and Stambaugh is William Madsen's anthropological review of the Valley that describes the predominant Mexican American population in less than flattering tones. His *Mexican-Americans of South Texas* is also Anglo-centric in nature, but nonetheless helpful in describing the adverse social conditions experienced by Mexican Americans from the late 1940s through the 1950s.[59] Aptly terming these works as"old timer histories," Trinidad Gonzalez' Ph.D. dissertation provides a detailed review of this local literature which addresses the economic development of south Texas. His insights are helpful in understanding the role of Mexican Americans in the economic development of south Texas as well as the socio-economic marginalization experienced by Mexican Americans in south Texas.[60]

Secondary literature discussing the convergence of labor rights and its relation to a burgeoning civil rights struggle for Mexican Americans in the 1920s, have also given shape and meaning to my thesis. As a borderland region, the Valley is a dynamic bi-national region that

[58] Frank C. Pierce, *Texas' Last Frontier: A Brief History of the Lower Rio Grande Valley* (Menasha, Wisconsin: George Banda Publishing Company, 1917); J. Lee Stambaugh and Lillian J. Stambaugh, *The Lower Rio Grande Valley of Texas* (San Antonio: Naylor Company, 1954).
[59] William Madsen, *Mexican-Americans in South Texas*, 2nd Edition (New York: Holt, Rinehart and Winston, Inc., 1962), pp. 1-6.
[60] Trinidad Gonzales, "The World of Mexico Texanos, Mexicanos and Mexico Americanos: Transnational and National Identities in the Lower Rio Grande Valley During the Last Phase of United States Colonization, 1900 to 1930," (Ph.D. diss., University of Houston, 2008), p. 90.

has shaped the land and its people for centuries. This bi-national influence can be found in Emilio Zamora's *Claiming Rights and Writing Wrongs* where his research found that bi-national and collaborative efforts to address segregation, social discrimination and equality in the American workplace were conducted with Mexico. Additionally, Zaragosa Vargas in his *Labor Rights Are Civil Rights*, takes a Marxist perspective and asserts that the foundation of the Mexican American Civil Rights movement is linked to the Mexican labor movement of the 1930s through the late 1940s.

Vargas argues that the period encompassing the 1930s and the World War II years saw Mexican Americans initiating a labor and civil rights movement that was the precursor of a full blown movement post-World War II. He also asserts that women had a key role in the spread of this early civil rights movement.[61] Joining Vargas in the early Civil Rights camp is historian Cynthia Orozco's *No Mexicans, Women or Dogs Allowed.* In this recent work, Orozco argues that the formation of the Mexican American Civil Rights Movement actually had its roots in the early 1920s, earlier than M.T. Garcia's assertion that the Movement began post-World War II. Additionally, Orozco' oft cited doctoral dissertation is a gendered study of LULAC's male leadership group which essentially excluded women from organizational policy making decisions and organizational participation. It is an essential piece in the literature to understanding LULAC's formation and the role of women within the organization.[62] These particular works are salient as these scholars posit that the development of the Mexican

[61] Zaragosa Vargas, Labor Rights Are Civil Rights: Mexican American Workers in Twentieth-Century America. (Princeton: Princeton University Press, 2005), pp. 1-15.
[62] Cynthia Orozco, *No Mexicans, Women or Dogs Allowed* (Austin: University of Texas Press, 2009); Orozco, "The Origins of the League of United Latin American Citizens (LULAC) and the Mexican American Civil Rights Movement in Texas with an Analysis of Women's Political Participation in a Gendered Context, 1910-1929," (Ph.D. Dissertation University of California Press, Los Angeles, 1992).

American civil rights movement began much earlier than the scholars who assert that the impetus of the Mexican American civil rights movement was tied to the post-World War II years.

Especially lean, the *Hernandez* historiography and this chapter provides a snapshot of scholars' efforts to highlight the *Hernandez* decision as an important one in the development of a Mexican American civil rights movement. This thesis not only offers an analysis of Hidalgo County's petit jury selections on the basis of race and gender, it places the County's petit jury selection within broader legal, social and gender contexts. Chapter two reviews the negative social conditions experienced by Mexican Americans in south Texas and Hidalgo County in the 1940s, and these conditions are briefly compared to the circumstances surrounding the 1954 *Hernandez* case. Chapter three specifically analyzes the racial composition of Hidalgo County's male petit juries during the early to mid 1950s by examining Hidalgo County's *Juror Time Books* and select criminal/civil court cases. Chapter four addresses the change in juror qualifications in November, 1954, with women granted the right to sit as petit and grand jurors in Texas. It contextualizes this civic duty to the national women's struggle for jury service and I posit that some of the rhetoric used by the national women's movement closely mirrored the language used by Mexican American civil rights advocates in the 1950s.

I also assert in chapter four that the inclusion of Anglo women in the County's petit juries shortchanged Mexican American access to the jury box, thus delaying the County's compliance with the principle established in *Hernandez.* Chapter five considers the long term effects of the *Hernandez* decision upon Hidalgo County's selection of Mexican American men and women onto various petit jury trials. This chapter also summarizes the study and posits that short term legal victories by Mexican Americans in the 1950s did not translate into immediate legal

compliance and that equitable jury inclusion for Mexican Americans would not be fully addressed until the mid-1970s.

What has been lacking in the historical scholarship are definitive accounts of civic duty inclusion of Mexican Americans in the lower Rio Grande Valley from 1945-1960. While there were political activities and some minor attempts at civic inclusion in south Texas in the mid-1920s, these efforts have been mentioned within the secondary literature in a cursory manner. The historical gap addressing Mexican American's civic participation within the social, political and legal hierarchy of the south Texas region has not been fully analyzed or contextualized. My thesis is the first detailed discussion and analysis of the composition of petit juries on the basis of race and gender in Hidalgo County, Texas during the 1950s. It engages the County's handwritten ledgers which list the names of individuals reporting for jury duty along with the monetary amounts paid to individuals for reporting and serving. Additionally, my thesis employs randomly selected criminal and civil case files from the County, and reviews the contents contained within those files to identify petit jurors selected, the identity of the defendants, the attorneys involved, the district court/judges of record and the outcome of these cases. My thesis is the first study of Valley legal history and places that legal history within larger socio-political contexts.[63] It offers a description of the Mexican American struggle for civic recognition and peer acceptance in a south Texas community whose presence is suppressed, shadowed and like the medieval palimpsests, not quite discernible.

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[63] One scholar's work has been extremely influential because of its research methods and its applicability to my own approach; Laura Gomez' *Manifest Destinies: The Making of the Mexican American Race* (New York: New York University Press, 2007), and her article entitled "Race, Colonialism, and Criminal Law: Mexicans and the American Criminal Justice System in Territorial New Mexico," *Law & Society Review*, 34, No. 4 (2000), pp. 1129-1202. Both address the inclusion of Mexican Americans in petit and grand juries in New Mexico's Territorial Courts in the late 1880s. Her use of petit jury rolls and Territorial Court cases in one northern New Mexican county provided the impetus for my own primary research path.

CHAPTER II

MEXICAN AMERICANS IN THE 1940S

In the 1940s, Mexican Americans struggled with civic and political exclusion as well as social marginalization in Hidalgo County. Long having experienced public segregation by *de facto* means, the Mexican American community in Hidalgo County continued to be deprived of many essential civil rights as enumerated in the United States Constitution. Jury duty has been considered one of these essential civil rights; but, even in Texas counties where large numbers of Mexican Americans or Mexican-origin born citizens were eligible and willing to serve, selection was another matter entirely.[1] This chapter will address the racial discrimination and the socio-political marginalization of Mexican Americans in Hidalgo County in the 1940s and early 1950s. It argues that during the post World War II period, Mexican Americans were treated as second class citizens in the Rio Grande Valley, deprived them of equitable jury service in the County because of this marginalization. It also addresses the meaning of jury duty as it has evolved in United States history and it will place the Mexican American community in Hidalgo County within the context of civic inclusion as an essential civil right.

Generally speaking, jury duty along with the right to vote is considered one of the most democratic of U.S. institutions. The very idea itself, that ordinary citizens without legal or judicial experience are impaneled to decide the legal fate of others is unusual. In most countries,

[1] Carl Allsup, *The American G.I. Forum: Origins and Evolution* (University of Texas, Austin: Center for Mexican American Studies, 1982), p. 26.

legal experts – namely judges – rather than ordinary citizens weigh evidence and render verdicts.[2] As one of the few obligations that a nation state asks of its citizens, petit jury duty randomly selects a group of citizens from the community in which they reside which includes a cross-section of the community's citizens to sit in judgment of others when a crime has been committed against the peace and dignity of the community. The roots of the jury trial go back to Anglo-Saxon England as a creation of the crown which was composed of elite land owners.[3] In direct opposition to the early English principles of exclusivity, the jury and the jury trial evolved in the United States as a democratic institution meant to safeguard the populace and the accused from the oppressive nature of centralized government intervention. Seen as a fundamental right, the American colonists recognized the importance of trial by jury and it was guaranteed in the constitutions of the thirteen original states and eventually within the U.S. Constitution. For the accused, the jury constitutes a barrier between the individual and the state, preventing oppression by the government. As such, it is commonly accepted as one of the foundations of liberty and the legitimacy of the jury has rested in its capacity to fairly express the community's conscience.[4]

The question, however of *who* should sit in judgment of others in the community has been subject to differing interpretations and applications. Under Article III of the United States Constitution, an individual is promised a "trial by jury" in criminal cases in the state where the crime(s) were committed. The Sixth Amendment of the Constitution states that the trial is to be "speedy," "public" and the jury shall be "impartial" and drawn from "the district wherein the crime shall have been committed." The Constitution does not specify the size of the jury; it does

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[2] Jon M. Van Dyke, *Jury Selection Procedures: Our Uncertain Commitment to Representative Panels.* (Cambridge: Ballinger Publishing Company, 1977), p. 1.
[3] Ibid, p. 2.
[4] Ibid, pp. 6-9.

not mention or guarantee a jury of one's "peers," nor does it mandate that a jury be drawn from a "cross section" of the community. However, long standing custom has embraced the "peer" and community "cross section" concepts of jury selection/representation, and raised both to the level of inviolability.[5] Since the Constitution is silent on this point, "peer" was first defined by the Supreme Court in the 1880 case of *Strauder v. West Virginia*. In that case, Associate Justice William Strong wrote that "[t]he very idea of a jury is a body of men composed of peers or equals of the person whose rights it is selected or summoned to determine; that is, of his neighbors, fellows, associates, persons having the same legal status in society as that which he holds."[6] While the notion that a jury composed of the defendant's "peers" meant someone of the same class, many would accept that it is unrealistic to limit juror participation to only one socio-economic or racial "class." It is, therefore, incumbent to broaden the pool of consideration to accurately reflect the social realities of the community under consideration.[7] However, in south Texas, the social inequities and the application of the law and equitable legal principles were decidedly different for Mexican Americans during the 1940s.

In describing many of these social inequities and the instances of segregation and unequal public facilities in south Texas, Pauline Kibbe's *Latin Americans in Texas* describes much of this unequal treatment.[8] Published in 1946, Kibbe's work details segregation in the workplace, the public schools, the negative stigma associated with Mexican Americans and the unequal social conditions which plagued Mexican Americans in south Texas. She also documented instances of this social marginalization in Hidalgo County during the mid to late 1940s. For example, Kibbe asserts that Mexican Americans who were not working in agriculture

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[5] Linda K. Kerber. *No Constitutional Right to be Ladies: Women and the Obligations of Citizenship*. (New York: Hill and Wang, 1998), pp. 131-132.
[6] Van Dyke, p. 9 and quotes therein.
[7] Ibid.
[8] Pauline Kibbe, *Latin Americans in Texas* (Albuquerque: University of New Mexico Press, 1946).

were often employed in menial occupations, such as domestic services, serving as hotel porters/waiters/busboys or on highways and railroad tracks.[9] Additionally, agricultural wages paid to Mexicans or Mexican Americans were insufficient to be termed a living wage (to use the modern term) and socio-economic levels of moderate to severe poverty were the result for a community dependent on the migratory nature of agricultural labor.[10] Mexican Americans also remained overwhelmingly working class in composition and the population was affected to a disproportionate degree by malnutrition, disease, poor to inadequate housing and the illiteracy rate was extensive. In short, Mexican Americans in the Valley and other Southwestern states remained largely untouched by the comfortable amenities of middle class American society.[11]

The social and labor environment of the Valley's Mexican American workers was supported in a written statement to the President's Committee on Civil Rights in November, 1947 by academician Carlos E. Castañeda. In his statement, Castañeda declared that "[t]he Mexican American has been and is the victim of discrimination throughout the Southwest from Texas to California … his condition is inferior to that of the Negro in the deep South. At the basis of these discriminatory practices lies the economic status to which he is condemned as a result of discrimination in employment, wages and opportunities for advancement."[12] In describing the wages and the working condition of the Mexican American agricultural laborers, Castañeda asserted that "[t]he wages paid to Mexican Americans and the opportunities afforded for employment are … plain and simple, exploitation, based on the assumption that the Mexican American is inferior to the Anglo-Saxon in ability and in physical endurance … he is employed

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[9] Ibid, p. 158.
[10] Ibid, pp. 191-193.
[11] Zaragosa Vargas, *Labor Rights Are Civil Rights: Mexican American Workers in Twentieth-Century America* (Princeton: Princeton University Press, 2005), p. 203.
[12] Carlos E. Castaneda, "Statement on Discrimination Against Mexican-Americans In Employment," in *Are We Good Neighbors,* ed. Alonso Perales (San Antonio, TX: Artes Graficas, 1948), p. 59.

in the hardest and filthiest type of work in the … agriculture fields … he is, therefore, paid an inferior wage for hard work that no else will do for that or any other wage."[13] Paying particular attention to the Valley, Castañeda wrote by way of example that "… the fruit growers in the Lower Rio Grande Valley in Texas have declared recently that the prevailing wage in the industry is 25 cents an hour. The fruit growers in California who have to compete on the open market with Texas fruit, can … and do pay, 60 cents an hour for the same type of work …. [t]here is no federal or state law setting a minimum agricultural wage. As a result the employers in the various regions and areas are left to determine what the prevailing wage is – the wage they think is best to pay …."[14] The lasting result in Castañeda's opinion was that "[e]conomic discrimination, or rather, exploitation of the Mexican American in the payment of an inferior wage and by the denial of equal opportunities for promotion and improvement, will retard and make impractical the operation of American democracy in the Southwest."[15]

Mirroring much of Kibbe's and Castañeda's observations, one Valley resident expressed surprise at the amount of discrimination and racial prejudice routinely experienced by Mexican American residents. In a 1947 letter to the *Valley Morning Star*, Weslaco resident Wayne Thomas became "… shockingly aware of the prevailing racial prejudice against our Latin American citizens. I find it almost impossible to believe that here in the United States such actions are allowed and practiced. We recently completed a war against a nation steeped in racial prejudice … it is an appalling and entirely shameful thing that these same anti-American principles are being lived right here …. Do these people actually believe that they are a better race, and have the privilege of maintaining a superior attitude towards our good Latin American

[13] Ibid. p. 61.
[14] Ibid, p. 61-62.
[15] Ibid, p. 62.

citizens?"[16] Another Valley resident who had family members serving in the military wrote to the same newspaper in July, 1947 noting that many Anglos of the Valley " … do not admit us in their establishments … because we are cheaply dressed, and because most of us Mexican are farmer, hard workers, and very ignorant to fight for our rights … this discrimination exists only in the Rio Grande Valley where we are supposed to be more friendly, but like everything else, the Anglo-Saxon wants to be number one in everything … [w]e are all Americans. We fight for the same reasons and ideals, so why not be real democrats?"[17]

Kibbe's key observation about the role of Latin Americans in Texas' jury selection process is particularly apt. Kibbe asserted that in at least fifty Texas counties where the Latin American population ranged from fifteen to forty percent, persons of Mexican descent have never been known to be called for jury service, even in the trial of civil suits. Additionally, she described an instance where a Latin American male was charged with killing an Anglo. He was indicted for murder by a grand jury composed entirely of Anglo men, although thirty percent of the population was of Mexican origin. When the trial date was set, 100 men were summoned as prospective jurors, all were Anglo males. The defendant's attorney challenged the indictment on the grounds that never in the history of the Central Texas county had a person of Mexican or Latin extraction been summoned for jury duty. Kibbe asserts that rather than establish the precedent of allowing a Latin American to serve on either a grand or petit jury, the authorities released the accused and had not been brought to trial, even though the crime had taken place in 1943.[18] While the county was not specifically identified, Kibbe's observation is important to note since the trial and the actions taken by defense attorneys took place ten years prior to the

[16] Wayne Thomas, "Valley Race Discrimination Appalling and Shameful," in Perales, p. 234-235.
[17] George Esqueda, "The Wishes of God," in Perales, p. 236-237.
[18] Kibbe, p. 229.

events of the *Hernandez* case. Additionally, this early legal precedent of challenging the composition of jury pools and the selection of individuals as petit jurors is important as it would later set the stage for the development of Pete Hernandez' trial strategy in 1951.

Returning home from World War II, Mexican American servicemen continued to experience second class status throughout the United States and Hidalgo County was no exception. The defense of American institutions and the commitment to defeating Nazi Germany and Imperial Japan was a profound experience for Mexican American servicemen. Participation in the war effort left a long lasting effect upon their attitudes toward American society and especially toward second class treatment at home at the conclusion of World War II. This changed attitude clarified their own status as citizens of the United States and accentuated the contradictions of American democracy which they valiantly defended.[19] Mexican American participation in the Second World War was significant, with general estimates of between 300,000 and 500,000 servicemen. Additionally, Mexican Americans received more decorations than any other ethnic group during the War and the high percentage of Mexican Americans appearing on casualty lists was a testament to their willingness to defend and die for, the country.[20] However, upon their return home these distinctions did little to elevate their social or legal status within the community in which they lived.

Recognizing this marginalization and their status as second class citizens, a Mexican American middle class sought to remedy this marginalization and a new civic organization took root in south Texas. Historian Mario T. Garcia describes how this new generation of Mexican Americans laid the groundwork for the Mexican American civil rights. Garcia's work provided

[19] Guadalupe San Miguel, *"Let All of Them Take Heed:" Mexican Americans and the Campaign for Educational Equality in Texas, 1910-1986*. (College Station: Texas A & M University Press, 1987), p. 114.
[20] Ibid, pp. 114-115.

a comprehensive history and analysis of the development of a Mexican American identity by a new leadership group and the formation of the League of United Latin American Citizens (LULAC).[21] By establishing the idea/concept of first class citizenship and a secure identity as Americans of Mexican descent, the children of Mexican immigrants were born in the United States, grew up in the 1930s and then came of age socially and politically throughout the 1940s and into the 1950s. This Mexican American generation became increasingly acculturated to living in the United States, they grew up bilingual (Spanish and English) and became increasingly aware of their political and legal rights as United States citizens. Not only did this group believe in achieving civil rights for a marginalized and socially ostracized group of people, they sought to protect and advance a group of people by actively engaging in political and civic integration.[22]

However, some historians have asserted that the rhetoric surrounding civil rights and civic inclusion for Mexican Americans began as early as the 1920s and only gained momentum in the years immediately after World War II. Unlike Mario Garcia's work on the development of a Mexican American leadership in the late 1940s, historian Cynthia Orozco asserts that a concerted effort was already underway to address the civic and political marginalization of the Valley's Mexican American community as early as the 1920s. Founded largely by middle class Mexican Americans, the Order of the Sons of America, the Order of the Knights of America and the League of Latin American Citizens were all formed with the goal of establishing a Mexican *American* identity. As such, they were politically entitled to first class political rights guaranteed in the Constitution and organization members actively organized voter registration, poll tax

[21] Mario T. Garcia, *Mexican Americans: Leadership, Ideology, & Identity, 1930-1960* (New Haven: Yale University Press, 1989), p. 2.
[22] Ibid, p. 15 and 20.

payment campaigns as well as insisting on increased Mexican American representation on Texas juries.[23]

Evidence of a localized effort is apparent in the following letter addressed to Clemente Idar, from future founding LULAC member, Alonso S. Perales on October 9, 1927. The typewritten letter is an invitation for Idar to speak at the organizational meeting of the Brownsville Chapter of the Order Sons of America scheduled for October 1, 1927. The Order of the Sons of America was a civic organization founded in November, 1921. Its objective was to "work for the intellectual and social progress of the Spanish speaking community residing in the United States."[24] Its main purpose was "the intellectual, musical, educational and physical development of its members, by the promotion of economic and educational conditions among members and their families."[25] Addressed to "[M]y dear friend Idar," Perales wrote "[t]here will be a meeting in Brownsville, on October 19th at 8 p.m., for the purpose of organizing the Brownsville Council in a formal manner … Mr. Canales [J.T.] tells me that there is a great deal of enthusiasm over the coming meeting and the prospect of having in the very near future a strong, worthy organization that will be a credit and an asset to us Mexican-Americans."[26]

In a postscript, Perales informed Idar that he "invited the San Antonio, Corpus and Alice Councils of the Order Sons of America to the meeting of the 19th. I hereby authorize you to invite all your friends with whom you may come in contact between now and then." Perales carefully reminded Idar that "Mr. [J.T.] Canales suggests that all invitees wear their best suit of clothes and be cleanly shaven that evening in order to create an excellent impression." Given the

[23] David Gutierrez, *Walls and Mirrors*, pp. 75-76.
[24] Quoted in Orozco, *No Mexicans, Women or Dogs Allowed*, p. 74.
[25] Ibid.
[26] Alonso Perales to Clemente Idar, October 9, 1927. The Clemente N. Idar Collection, The Nettie Lee Benson Library, The University of Texas, Austin, TX. Letter in the possession and courtesy of, Sonia Hernandez.

conservative nature of the Valley during the early stages of Mexican American civic activism, appropriate dress, demeanor, along with the appearance of respectability and formality were all important requirements for the meeting's leadership. This sort of impression seems to have been *de rigueur* for the era given the likelihood of newspaper coverage of the meeting and to dispel any negative interpretations of the purposes of the organization.

In a follow up letter to Idar on October 20, Perales reported that "last night's meeting is the talk of the town to-day. Everyone seems to be of the opinion that it was a complete success. I understand to-morrow's [Oct. 21st] Brownsville Herald will carry an editorial bearing on our meeting … I feel very much encouraged and more firmly than ever to do all within my power to bring about the organization in Texas of American citizens of Latin descent."[27] *The Brownsville Herald* did in fact print an account of the meeting and an editorial addressed the meeting as Perales indicated. *The Herald* wrote that "Americanism, the duties of the American citizen and the necessity for Mexican-Americans to educate themselves and their children in the precepts and ideals of the American government and institutions were the themes discussed at the installation of the Brownsville Council of the League of Latin American Citizens of the Valley …. [T]he Brownsville Council, which is the sixth to be organized in the Valley has a membership of 150 and expects to have over 500 enrolled."[28] The article was quick to note that the league was strictly "non-political, but every member would be required to secure a poll tax … to exercise every function of an American citizen and … it is the object of the league to

[27] Alonso Perales to Clemente Idar, October 20 1927. The Clemente N. Idar Collection, The Nettie Lee Benson Library, The University of Texas, Austin, TX. Letter in the possession and courtesy of, Sonia Hernandez. I capitalized the word "Latin." The original, typewritten letter is not capitalized.
[28] "Americanism Is Urged At Meeting Here," *The Brownsville Herald*, October 20, 1927, p. 1.

inculcate in the minds of the Mexican-Americans, by precept and example, the duties of American citizenship."[29]

The Herald made clear for its readers the intentions of the Council and described it "[as] an organization of American citizens of Mexican extraction which is working for the advancement of their race in other parts of the Southwest ….[30] Additionally, education was the benchmark for the local Mexican American community. J.T. Canales of Brownsville not only urged Mexican Americans to learn English but that an education was essential for the development of the highest type of citizen. While not specifically mentioned during the meeting, the local school system was not racially integrated and Mexican American children experienced segregated schooling throughout the Valley during this time frame. Nonetheless, the obligations and duties of American citizenship were reiterated time and again by the speakers and this was reflected in the news article itself. Both Idar and Canales spoke about the benefits of citizenship at the ballot box and to learn and utilize the English language so that the benefits of citizenship could be taken advantage of by the Mexican American community.

Clearly, this rhetoric implied that jury duty, while unspoken here, was an important component of inclusive civic engagement activities for Mexican Americans in the Valley and throughout south Texas. In a concluding editorial titled "Improving Citizenship," *The Herald* declared that "[t]he work inaugurated by the League … designed to carry on an aggressive campaign to inculcate in the minds of the Mexican-Americans greater respect and reverence for the fundamentals of American government and to disseminate and promote American ideals, is a movement that deserves the unstinted cooperation of the entire Valley … the leaders in the new

[29] Ibid, p. 1.
[30] Ibid, p. 1.

organization … point out … it is the duty of a citizen to participate in government; to express his or her preference at the polls … and above all, to educate themselves, their children and their friends relative to these duties and the privileges of the American citizen."[31] Offering unwavering written support for the work of the League and high praise for the local leaders of the organization, *The Herald* would not go so far as to mention the prevalent examples of *de facto* discrimination nor the numerous instances of public school segregation long endured by Mexican American children of the Valley.

In the long run, the formation of the Order Sons chapter in Brownsville aligns with a distinct Mexican American civil rights movement in the Rio Grande Valley earlier than the middle class movement described by M.T. Garcia in the years following World War II. For Mexican Americans in the Valley, civic responsibility, active civic engagement and inclusion were the foremost goals in the 1920s. The very nature of the Order Sons meeting, the discussion and numerous references to "citizenship" and *The Herald*'s emphasis on United States citizenship in its editorial strongly suggests that the privileges of civic engagement were front and center for Canales, Idar, and all Mexican Americans in attendance at the organizational meeting. This active struggle for civic inclusion and the efforts to obtain petit jury service for Mexican Americans can also be found during the same time frame in other parts of south Texas.

For example, the Corpus Christi Chapter of the Order Sons of America (OSA) initiated an attempt to have Mexican Americans selected as *grand* jurors in the county in December, 1925. Part of a concerted effort to address segregation from public facilities and segregation within the public schools, the Corpus OSA also addressed the lack of grand juror representation in the county. Laying the foundation for that inclusion, a petition was drafted which asserted that

[31] "Improving Citizenship," *The Brownsville Herald*, October 21, 1927, p. 4.

as taxpayers, and whose racial numbers composed up to one-half of the county's population, Mexican Americans should be selected for such services. In order to obtain some measure of civic inclusion, one chapter member wrote a letter to local judges explaining that as United States citizens, Mexican Americans were entitled to serve as jurors. By appealing to those in civic and political power, the OSA chapter grounded their arguments on the basis of U.S. citizenship and civic duty.[32] In the years to come, World War II and the underlying reasons for the protection of democracy at home only galvanized the struggle for jury inclusion among others. Orozco asserts that the south Texas movement was spearheaded by Perales and J. Luz Saenz during the 1920s and they addressed issues pertaining to education, unity and political action as they delivered lectures in several towns in the Rio Grande Valley.[33]

Moving into the 1930s, these social organizations sought to integrate Mexican Americans into the political and social arenas of the United States through the use of law and the establishment of a racial and legal identity. Mario Garcia's comprehensive history and analysis of the development of a middle class Mexican American leadership group is reflected in part, in the civic engagement activities of Perales, Canales, and Idar in the Valley during the 1920s. Garcia's description of this burgeoning middle class leadership group and their coming of age socially and politically during the 1940s and into the 1950s as they refined the idea/concept of first class citizenship and a secure identity of Americans of Mexican descent so carefully laid almost 20 years prior. This Mexican American generation became increasingly acculturated to living in the United States and most important, they became increasingly aware of their political and legal rights as United States citizens.[34] They believed that by achieving civil rights for a

[32] Orozco, *No Mexicans*, pp. 81-82.
[33] Ibid, p. 89
[34] Garcia, *Mexican Americans*, p. 15.

marginalized and socially ostracized group of people, they would protect and advance an entire group of people by engaging in a process of political and legal integration.[35]

As Mexican Americans sought a foothold into the socio-political mainstream of American life, this new generation sought the rights and privileges of full citizenship. Along with this new leadership group, LULAC became instrumental in the struggle to establish a political and legal identity for Mexican Americans. Building upon the activist roots firmly established in the OSA and the League of Latin American Citizens, LULAC's socio-political strategy was to embrace the rhetoric of political and civic inclusion. The Mexican American generation and LULAC stressed the need to embrace the prevailing social and cultural values of U.S. society.[36] LULAC's ultimate goal was to break the predominant pattern of social and legal discrimination being experienced by Mexican Americans throughout Texas and the American Southwest.

This effort began in earnest after World War II as Mexican Americans sought to move into the mainstream of American life socially, politically and legally. As a social organization committed to advancing and protecting the civil rights of Mexican Americans, LULAC became instrumental in the struggle to establish a political and legal identity for Mexican Americans. The strategy embraced by LULAC was to convince Mexican Americans and the majority Anglo population, that they were just as "American" as anyone else in the United States. Armed with the rhetoric of political and civil inclusion, the Mexican American generation and LULAC stressed the need to embrace the prevailing social and cultural values of U.S. society.[37]

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[35] Ibid, p. 20.
[36] Ibid, p. 34.
[37] Ibid, p. 34.

The post-World War II period was profound for thousands of Mexican Americans who returned home from service fully immersed in the fundamental ideas of fighting for equality and freedom from tyranny and domination at the hands of Nazi Germany, fascist Italy and Imperial Japan. The goals of equality and democracy promoted in the conflict allowed the Mexican American generation to utilize these broad themes upon which to promote the social and political advancement of an entire group of people.[38] Utilizing a social and political strategy of acculturation and "Americanization," LULAC's legal goal entailed active litigation to break the predominant pattern of social and legal discrimination being experienced by Mexican Americans. Legally and politically, Mexican Americans were socially ostracized, politically marginalized and excluded from participating fully within the U.S. political and legal system. Key to this inclusion were electoral challenges to the Anglo dominated status quo in the political and civic arena. But for many Mexican Americans in south Texas, electoral campaigns were an expensive proposition. As a result, social and political acceptance was difficult to obtain and was only afforded to a very select class of individuals.

As a large numerical group in Hidalgo County and the Rio Grande Valley, Mexican Americans had little control or influence in the civic engagement process during this time frame. Elected positions of political power were rarely held by Mexican Americans or Spanish surnamed individuals in Hidalgo County from 1850 through 1963. In addition, the existence of a poll tax in Texas effectively deprived many Mexican Americans from being able to fully participate in the electoral process. For example, the position of Hidalgo County Judge, an elected position popularly compared to the Chief Executive Officer of major corporations, only one Mexican American, Juan M. de la Viña held the post from 1894-1900. From 1900 to 1963,

[38] Benjamin Marquez. *LULAC: The Evolution of a Mexican American Political Organization*. (Austin: The University of Texas Press, 1993), p. 40.

no Spanish surnamed individuals were elected to the position.[39] For the position of Hidalgo County Sheriff, Salvador Dominguez held the position in 1858, Sixto Dominguez was appointed to the position in 1859 and Leon Estapa briefly held the position from April, 1869 to April, 1870. From 1870 through 1962, Estapa was the last Mexican American to hold the elected office of Hidalgo County Sherriff.[40] For the office of County Attorney and Criminal District Attorney, the only Mexican American to hold the office was Joe R. Alamía who was appointed to the position in May, 1950 and held office until 1952.[41] Alamía certainly had the social standing and the political acceptance among the Valley's Anglo community to warrant his initial appointment and subsequent election to this powerful position.

Politically, Joe Alamía's father, Jose Ramon Alamía served as Hidalgo County's tax assessor/collector and was very active in County politics. Joe Alamía was descended from José María Ballí through his mother, Olivia Vela Alamía. Ballí's children became the heirs of the Hinojosa/Ballí Spanish land grant, or *porcion*, which originally encompassed roughly one-third the size of the present day Lower Rio Grande Valley. With a powerful social and landed elite background in hand, Alamía could move fluidly between south Texas' predominant racial binaries (i.e., Anglo and Mexican). As Hidalgo County's old line cultural and ethnic *patrones/jefes* (boss) lost political power and influence in the post-World War II years, Alamía was one of the first Mexican Americans in almost fifty years to hold such a high office.[42] However, Alamía's appointment to one of the County's most important political and social

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[39] J. Lee Stambaugh. *History of Hidalgo County Elected Officials, 1852 to 1963* (Austin, Texas. Re-printed from Issues of *The Pharr Press,* 1963). P. 3.
[40] Ibid, p. 4.
[41] Ibid, p. 5.
[42] Dorothy Abbott McCoy, "Joe R. Alamia, District Judge," In *Valley By-Liners, Rio Grande Roundup: Story of Texas Tropical Borderland.* (Burnet, Texas: Border Kingdom Press, 1980), pp. 304-305.

positions reflects a heightened social status for only a select few within the Mexican American community.

Prior to the modest electoral gains made by a handful of Mexican Americans in the Valley, some Valley war veterans recognized this civic marginalization and the unacceptability of second class citizenship status. For example, one reader of the *Evening Monitor* took strong exception to employment advertisements calling for positions to be filled by Anglo Americans. The writer reiterated much of the political agenda of LULAC, the American G.I. Forum, and the viewpoints of a growing Mexican American middle class in south Texas. Titled "Race-Specifying Ads Are Rapped" by the *Evening Monitor*, letter writer R. García offered the following sentiments to the editor:

> Lately there have appeared in your employment classified ads announcements asking for Anglo-American men or women for this or that position. I would like to know how many nationalities come under the term Anglo-American. Would you refer to the English, Germans, Russians, Italians … to mention a few … and exclude, of course, the Mexicans, for this, in my opinion, is what you mean when you ask for Anglo-American [sic]. Why not say "No Mexicans Apply?" I am of Mexican descent and a veteran of the U.S. Army, and believe that since we fought side by side with the so-called Anglo-American, and did equally as well, we are entitled to every opportunity, and should not, merely for being of Mexican descent, be excluded for certain positions … Uncle Sam never took into consideration our nationality to induct us … and many soldiers of Mexican descent won honorary medals, fighting to free the oppressed peoples which the then considered super race had seen fit to enslave … it isn't difficult for you [the editor] to understand how depressing it must be for us to find that the ideals for which so many fought and gave their lives are trampled in one's own community. It is indeed very disgusting to know that in this country where freedom and equality should be a pattern for the world to follow, there exist many people of the same kind we fought, people who consider themselves to be of a super race ….[43]

[43] R. Garcia, Letters to the Editor, *Valley Evening Monitor*, October 28, 1949, p. 4.

Poignant in its expression, reader Garcia described the prevailing sentiment about the social and political marginalization of Hidalgo County's Mexican American population that was largely unaddressed in the pages of the *Evening Monitor.* Similar sentiments were expressed some two years earlier when a Valley war veteran wrote to the *Evening Monitor's* sister publication, *The Valley Morning Star.* Denied entrance to a public dance in Pharr honoring Valley firemen on February 12, 1947, World War II veterans and fireman Refugio Reyes expressed the general frustrations of Valley war veterans when they encountered the continuing segregationists practices upon their return home in the post war years. Reyes wrote that "… among us three Latin American firemen refused by the club was a World War Two veteran … we know that we fought for democracy but sometimes we Latin American veterans wonder if this is the type of compensation all of us Latin American veterans are going to get throughout the state …. [44]

Garcia's letter was one of the few first person opinions from the Mexican American community that the *Evening Monitor* placed into its pages during the late 1940s, while Reyes' was one of several that touched upon this particular incident in Pharr, a small town just five miles east of McAllen.[45] Garcia could well have been inspired by the work of the McAllen chapter of the American G.I. Forum to pen his letter. Just two weeks earlier, the *Evening Monitor* ran a story describing the organizational meeting and socio-political goals of the McAllen chapter on October 3, 1949. Accompanied by a photo of the leadership of the Hidalgo County chapter of the American G.I. Forum on page one, the *Evening Monitor* wrote a largely

[44] Refugio Reyes, "Discrimination Smacks of Nazis, Firemen Write," in Perales, pp. 243-244.
[45] See Perales, especially pages 234-236 for other letters supporting reader Reyes and decrying the discriminatory treatment of Mexican Americans in the Valley. For additional descriptions of discrimination occurring in the Valley throughout 1947, see pages 236-257 for these specific actions and the public response to these described instances.

descriptive account of the socio-political goals of the chapter on page two of its October 3rd issue.

Entitled "GI Forum Sets Out to Establish Self as Bulwark Against Segregation," the *Evening Monitor's* staff writer took the reader through the Forum's meeting and the new civic organization was described in generally positive tones. Meeting on Sunday, October 3 in McAllen, the local chapter was characterized as "[t]he newest civic club here … [with] a membership of 120 young men who are almost all World War II veterans. It also has a few rather vocal critics who apparently are mystified by the organization's aims and methods – and, being mystified, are worried about its strength."[46] Taking the reader descriptively through the meeting from set up to conclusion, the *Evening Monitor's* reporter described in detail how the meeting was conducted. For any reader not in attendance, the description of the formalities that occurred during the meeting is typical of any organizational meeting. The tone of the article was an attempt to illustrate that an organization comprised of Mexican American men was no different than any other civic/business meeting that served a predominantly Anglo audience and clientele.

Without offering any additional interpretive comments, any negative tones or connotations, the article walks a very thin line describing the Forum's prime agenda item, the segregation practices of Mexican American children in the McAllen School District. Listing all leadership positions by name, the article detailed the school attendance campaign discussion led by chapter president J. Luz Saenz. In his presentation, president Saenz "… criticized the McAllen school district for segregation of Latin and Anglo children. State law permits

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[46] *Valley Evening Monitor*, October 3, 1949, p. 3.

segregation in only the first grade in case of language difficulties, he pointed out, but McAllen has segregation to the eighth grade. Continued enlargement of present buildings, he said, would preserve segregation … [and] as long as we [the McAllen School District] build up these schools, segregation will continue and Latin children will never have a chance to measure their intellectual capacity with Anglo children, and never learn they can do just as well."[47]

Largely unknown to the *Evening Monitor's* staff writer, J. Luz Saenz was an instrumental figure in LULAC history. As one of the founders of LULAC, Saenz carried with him a long history of social and political activism prior to his death in 1953. Born Jose de la Luz Saenz on May 17, 1888 in Realitos (Texas), Saenz began school at the age of twelve graduating from Alice High School (Texas) in 1908 and was the first Mexican American to do so. Teaching in the public schools for several years prior to World War I, Saenz witnessed firsthand, the educational segregation being experienced by school aged Mexican American and Mexican born origin children in south Texas. This firsthand exposure would define his activist tendencies for the remaining years of his life. Volunteering for military duty during World War I, he did so in order to refute and counter any accusations that Mexican Americans or the Mexican origin population of south Texas was disloyal to the country while at war. Eventually serving in Army intelligence units he spent eighteen months in Europe, served as a private and would also teach Mexican nationals in his company to read and write. Following his military service, Saenz would eventually earn his bachelor's and master's degree at Sul Ross State University in 1948.[48]

Philosophically, the G.I. Forum was dedicated "to strive for the procurement of all veterans and their families, regardless of race, color or creed, the equal privileges to which they

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[47] Ibid.
[48] Orozco. *No Mexicans, Women or Dogs Allowed,* pp. 97-100.

are entitled under the laws of our country and … the preservation of the democratic ideals for which this country has fought in all wars."[49] As a veteran of World War I, Saenz met the simple rules for membership for the G.I. Forum. All persons, male or female, who served honorably in the Armed Services were eligible to join. Additionally, all women over the age of twenty one and related through marriage to veterans were eligible to join. By embracing the ideals of the Forum and by virtue of his veteran status, Saenz was uniquely positioned to offer the experience and the leadership needed in Hidalgo County in the nascent years of Mexican Americans political and civic engagement.

Labor was another agenda item up for discussion by the chapter, and while not mentioned by name in the article, the *bracero* program was front and center on the minds of the Forum leadership. Described as "cheap labor," president Saenz "… criticized importation of cheap labor to compete with workers trying to maintain a higher standard of living. Santos Fonseca, secretary, spoke briefly, pointing out the need for using proper methods in combating segregation or other practices. "We must be remember to fight segregation like good Americans … we must be interested not in just Mexicans, or Chinese, but interested in people, people with ideas who will make good citizens."[50] While never serving as a national president for LULAC, Saenz' presence in, and his leadership of the McAllen council serves notice that the Mexican American community in Hidalgo County was not only led effectively, but was actively addressing socio-political needs in Hidalgo County despite a lack of regular coverage in the predominant newspaper within the county. As previously mention, much of what Castañeda provided to the Presidential Commission in November, 1947 can be seen in Saenz' comments.

[49] Allsup, p. 51.
[50] *Valley Evening Monitor*, October 3, 1949, p. 3.

The historian Zaragosa Vargas also addressed this economic and social marginalization in his work *Labor Rights Are Civil Rights*.

Vargas asserts that the Mexican American and Spanish speaking workers struggle for labor rights throughout Texas and the other Southwestern states from the 1930s through the World War II years, was a means to improve their social and economic condition as a rise in ethnic and class consciousness coalesced into labor organizing campaigns.[51] Vargas also asserts that the labor organizing efforts and the ties to the Communist Party because of the Party's fight for the real economic needs of the jobless, the working poor, its leadership role in organizing the notoriously difficult realm of the migrant farm worker population and especially its forceful opposition to racism were particularly appealing to Mexican American laborers.[52] Mexican American laborers sought to make fundamental changes in their social, economic and political status. Vargas strongly asserts that the period encompassing the 1930s and the World War II years, Mexican Americans initiated a labor and civil rights movement that was the precursor of the early civil rights movement of the post-War years and would form the basis for the modern Chicano movement of the 1960s.[53] While service in World War II galvanized the push toward a civil rights mindset within an international context, at home Vargas maintains that in the 1930s and into the early 1940s, labor unionism was tied to social and racial justice on the home front.

The McAllen G.I. Forum's political agenda of citizenship rights, and the negative impact of *de facto* segregationist practices being experienced by school children in Hidalgo County were the equivalent to the second class status that political and civic marginalization being experienced by an entire community. Their local efforts are evidence that Mexican Americans in

[51] Vargas, *Labor Rights Are Civil Rights,* p. 3.
[52] Ibid, p. 4.
[53] Ibid, p. 6.

the Valley were socially active as they emphasized local issues of segregation and discrimination long prevalent in the Valley. In the background of these social matters, the U.S. Supreme Court's relationship with the state of Texas and Texas' method of filling the jury box was also beginning to come under scrutiny. As put so aptly by World War II veteran R. Garcia on the subject of racial exclusion, discriminatory hiring practices and the lack of equality for Mexican Americans in Hidalgo County in his letter to the *Valley Evening Monitor*, "Hitler's Super Race was defeated by the world's most [racially] mixed army. I wonder when we will see an end to our problem?"[54]

[54] R. Garcia, Letters to the Editor, *Valley Evening Monitor*, October 28, 1949, p. 4.

CHAPTER III

RACE AND HIDALGO COUNTY'S PETIT JURY SELECTIONS

In a speech at the organizing meeting of Brownsville's Chapter of the League of Latin American Citizens on October 19, 1927, union organizer Clemente Idar declared that " … American citizens of Mexican extraction … must hasten that time when every Mexican American will fully understand the duties and privileges of American citizenship and … discharge [those] duties … conscientiously and faithfully." [1] Throughout the 1950s, Mexican American men were generally not allowed to "conscientiously and faithfully" discharge those civic duties in Hidalgo County. This chapter addresses the presence of a racial bias against Mexican American men in the selection of Hidalgo County's petit juries in the early 1950s. This exclusion severely limited Mexican American men's civic participation and deprived this group from proportional representation in an essential civic/legal process. In the Anglo dominated society of south Texas, any attempts by Mexican Americans to reform the political and social conservatism of Jim Crow Texas and disrupt the Anglo dominated status quo in Hidalgo County was met with racial animosity and hostility. While my thesis acknowledges that some Mexican Americans were selected for service as petit jurors in Hidalgo County during the time period reviewed, the number was insignificant; thus, reflecting a significant under-representation of the

[1] "Americanism Is Urged At Meeting Here," *The Brownsville Herald*, October 20, 1927, pp. 1-2.

County's Mexican American population given the region's racial and ethnic demographics of the time.[2]

At the conclusion of the 1950 Census, data figures revealed that the total population for Hidalgo County was 160,446. The total number of Native White residents in 1950 was 160,446. Of that number, Native White males numbered 60,560 while Native White females numbered 61,058 for a total Native White population of 121,618. Foreign-born White males numbered 21,320 while Foreign-born White females numbered 16,097 for a total of 37,417. Conversely, only 609 residents were African American in Hidalgo County, with 272 African American males and 337 African American females.[3] Additionally, the 1950 Census does not list Mexican Americans as a separate racial category, and the racial identification of "whites" in Hidalgo

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[2] The secondary literature discussing the socio-political and economic marginalization along with the *de facto* segregation experiences of the Mexican American and Mexican origin population along the south Texas border is fairly extensive. For current purposes, the following scholars have been most influential and in some cases, more detail regarding some of these titles can be found in Chapter One: David Montejano's *Anglos and Mexicans in the Making of Texas, 1836-1986* (Austin: The University of Texas Press, 1987) is the standard work detailing the history of this marginalization while Neil Foley's *The White Scourge: Mexicans, Blacks, and Poor Whites in Texas Cotton Culture* (Berkeley: University of California Press, 1997) addresses social constructions of race imposed upon Mexican Americans from the 1900s through the 1930s;, Elliott Young's recent work, *Catarino Garza's Revolution on the Texas-Mexico Border* (Durham: Duke University Press, 2004) addresses the foundation upon which socio-economic and political marginalization against Mexican Americans began in south Texas prior to 1915, while Benjamin Heber Johnson's *Revolution in Texas*: *How a Forgotten Rebellion and Its Bloody Suppression Turned Mexicans into Americans* (New Haven: Yale University Press, 2003) briefly describes Mexican American social marginalization, the establishment of *de facto* segregation practices and the roots of Mexican American political activism after 1915; Cynthia E. Orozco's *No Mexicans, Women or Dogs Allowed* (Austin: University of Texas Press, 2009) and her dissertation, "The Origins of the League of United Latin American Citizens (LULAC) and the Mexican American Civil Rights Movement in Texas with an Analysis of Women's Political Participation in a Gendered Context, 1910-1929" (Ph.D. Dissertation, University of California, Los Angeles, 1992) are tandem works essential to the understanding of the development of a Mexican American civil rights movement in south Texas beginning in the early 1920s, while Mario T. Garcia's, *Mexican Americans: Leadership, Ideology, & Identity, 1930-1960* (New Haven: Yale University Press, 1989) asserts that a Mexican American civil rights movement began in the years after World War II. For an extended discussion of Jim Crow Texas, the conservative socio-political nature of Texas politics and the general societal/attitudinal temper of the state regarding racial minorities (including Mexican Americans), see George Norris Green's *The Establishment in Texas Politics: The Primitive Years, 1938-1957* (Westport, CT: Greenwood Press, 1979) and Julie Leininger Pycior's *LBJ & Mexican Americans: The Paradox of Power* (Austin: University of Texas Press, 1997); additionally, Arnoldo De Leon's *They Called Them Greasers* (Austin: University of Texas Press, 1983), remains the basic work regarding the discriminatory attitudes of Anglos toward Mexican Americans and the Mexican origin population in the south Texas borderland region.

[3] 1950 Census. General Characteristics of the Population, For Counties. Table 42, p. 209.

County is somewhat misleading. Prior to the 1950 Census, LULAC vociferously lobbied the United States Census Bureau to have the racial designation for Mexican Americans changed from "Mexican" to "White" for racial and socio-political reasons. This categorization confounds the racial and social realities of Hidalgo County in the 1940s and 1950s. As discussed more fully in chapter two, the social inequities and the application of legal principles were decidedly different for Mexican Americans during the 1940s.

Racially, Mexican Americans throughout Texas had now become part of a complex contradiction. As a result of the *In Re Rodriguez* decision in 1870, the court's decision legally recognized and conferred a "white" racial identity upon a Mexican national who sought naturalization and become a United States citizen. However, birthright citizenship and civil rights guarantees for individuals of Mexican heritage were precarious since the *Rodriguez* decision reinforced the concept that Mexican Americans were implicitly regarded as a "people of color." As such, Mexican Americans were allowed the minimal protections of laws on paper, but in reality, were simultaneously denied the full protections enumerated in the United States Constitution in the manner that the Fourteenth Amendment could theoretically protect the civil rights of African Americans. Mexican Americans were simply ignored in the social and legal framework of the U. S. polity.[4]

The *Hernandez v. Texas* case was an important civil rights decision for the Mexican American community who were socially ostracized and politically marginalized from full participation in the U.S. political and legal system. Within a larger context however, *Hernandez* is one in a long line of Supreme Court decisions that have dealt with race based exclusions from

[4] Ignacio M. Garcia. *White But Not Equal*, p. 65.

jury service. From a technical point of view, in order to successfully challenge a method of jury selection, litigants must first show that some clearly identifiable group (a cognizable class) has been deprived of its fair share of seats on the jury panel. Second, litigants must show that the deprivation occurred not by chance, and that the opportunity to discriminate, exists.[5] Following *Strauder* which was discussed in chapter one, a line of cases reflected the Supreme Court's awareness of the harm inflicted on potential jurors by race-based exclusions from jury service.[6] Prior to the 1950s and the beginning of civic inclusion litigation by the Mexican American generation, the state of Texas was no stranger to the Supreme Court regarding its discriminatory jury selection practices. The most important of these early exclusion cases was *Smith v. Texas* decided in 1940.

In *Smith*, the method of selecting grand jurors in the city of Houston went before the Supreme Court and the conviction of a black defendant was reversed when he successfully argued that blacks were intentionally and systematically excluded from grand jury service.[7] In a unanimous decision, Associate Justice Hugo Black wrote "... [i]t is part of the established tradition in the use of juries as instruments of public justice that the jury be a body truly representative of the community."[8] The Court also asserted that " … for racial discrimination to result in the exclusion from jury service of otherwise qualified groups not only violates our Constitution and the laws enacted under it but it is at war with our basic concepts of a democratic

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[5] Jon M. Van Dyke, *Jury Selection Procedures: Our Uncertain Commitment to Representative Panels.* (Cambridge: Ballinger Publishing Company, 1977), p. 47.
[6] Grossman, p. 1128. Additionally, Grossman lists in her footnote # 72, several cases that address this point. However, the most salient for historical context relating to the circumstances of Hidalgo County and *Hernandez* are *Norris v. Alabama* (a 1935 Supreme Court decision, that found a violation of the Fourteenth Amendment where the state's jury lists contained the names of blacks but none were ever called for service) and the decision in *Smith v. Texas* (1940).
[7] Grossman, p. 1119, footnote # 14.
[8] *Smith v. Texas*, 311 U.S. 128, 130 (1940).

society and a representative government." [9] While the Supreme Court in the *Hernandez* decision did not include race as a core basis for its decision, the Court embraced the importance of civic participation and inclusion of the Mexican American community which bolsters the philosophical line of reasoning established in *Strauder*.

In essence, the prime goal of jury duty and juror selection is to ensure that the community itself is represented in the box. The problem with a jury that is drawn from only a narrow group of individuals in the community is that the petit jury fails to adequately recognize the diverse population that comprise the community. The jury's role is not only to protect the accused but to represent the public (the community) which has been victimized by the actions of the accused. As a result, the term "community" must be broadly defined to include *all* members who reside in and around, the bounds of the community.[10] When a jury is composed of this representative sampling, the modern definitions of "peer" and "community" recognize that no one group should be systematically excluded from jury service on the basis of poverty, age, race, sex, age, nationality or religion. The Supreme Court recognized the importance of a diverse "community" in 1940 with the decision of *Smith v. Texas* and that idea was further reinforced with its decision in *Hernandez v. Texas*.[11] In the *Hernandez* decision, the percentage of Mexican Americans in Jackson County's total population was only 14%. What would petit jury pools and the petit jury box look like in a county when the Mexican American portion of the county's total population was much higher during the same time frame?

[9] Ibid, p. 130.
[10] Van Dyke, pp. 10-11.
[11] Ibid, pp. 12-13.

Hidalgo County's Petit Jury Selections

A review of Hidalgo County's handwritten *Juror Time Books* from 1950 through 1954 revealed that certain cause or case numbers appeared to distinguish themselves above others. Many pages of the handwritten ledgers also contained typewritten lists of special venires or, the names of individuals who comprised a juror pool for select case/cause numbers. These individuals were paid for reporting, but were ultimately dismissed from service. The ledger also identified individuals who were selected for service and were paid for their days of jury duty. These specific cause numbers and a random sampling of other cause numbers were identified, requested from the Hidalgo County District Clerk's Office and closely reviewed for what the case files might contain and how they related to the *Juror Time Books*. Following detailed review and analysis, these cases had many similarities and some surprising information.

Of the twenty six case/cause numbers selected for review, the majority of criminal case files were prosecuted by the Hidalgo County District Attorney (D.A.) or by another deputy prosecutor within the D.A's Office. All the criminal cases were felonies ranging from murder to rape. The cases involved defendants who were Anglo, African American, and Mexican American. From 1950 to 1954, the criminal cases were tried in the 92nd or the 93rd District Courts, and both District Courts still exist in Hidalgo County. No apparent geographic boundaries for the District Courts were in effect at the time and criminal cases were assigned to the District Courts simply on a first come, first served basis. Additionally, the majority of the civil cases reviewed were held in the 92nd District Court and the presiding Judge was S.N. McWhorter. In the 1950s, Judge McWhorter was a resident of Weslaco, located twenty miles east of Edinburg. Elevated to the bench in 1949 as a result of an illness to then sitting 92nd

District Court Judge Bryce Ferguson, McWhorter was selected by other attorneys in Hidalgo County. A native of Mississippi, he was a graduate of the University of Mississippi and practiced law there before moving to Weslaco in 1924. Prior to being selected to the bench, McWhorter was the city attorney for the town of Weslaco.[12]

As previously mentioned, African Americans in the United States had gained the right to sit as petit jurors in the United States in 1877. This right was not lost on Valley attorneys in the early 1950s and it was used as a defense strategy to question the fairness of juror representation. For example, in Cause No. 6907, *The State of Texas v. Ed Taylor*, the defendant was an African American male, indicted for the shooting death of Cristobal Gonzalez. During trial, Taylor's attorney, Sidney Farr filed a motion in June, 1951 to quash the grand jury indictments brought against Taylor. Taylor, through his attorney, argued that the grand jury who had twice indicted him in June, 1950 did not have any African American representation on the grand jury panels and "… the prosecuting attorney [J.R. Alamia] in fear of the validity of said indictment caused a second indictment to be returned because no negro was included on the grand jury."[13] The motion to quash then asserted that "… the second indictment was prepared and the … evidence submitted to a grand jury which, in this second instance, included one 'negro,'* which … was willfully, intentionally, deliberately and systematically placed upon the grand jury with specific instructions from the prosecuting attorney or the Court."[14] In his Motion to Quash, Farr specifically stated that since at least 1935, no African Americans were summoned to serve as grand jurors in Hidalgo County, lending support to the overall assertion that racial minorities of

[12] "Judge Ferguson Takes Leave, McWhorter Will Occupy Bench," *The Valley Evening Monitor*, September 30, 1949, pp. 1-2.
[13] Motion to Quash Indictment, p. 1, Cause No. 6907: *The State of Texas v. Ed Taylor*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[14] Ibid.

the county were not granted full societal acceptance and inclusion to the civic process for which they were entitled. While the motion was apparently denied, none of the twelve jurors who were selected for this case could be identified as black nor were any of the selected jurors Spanish surnamed.[15]

Census data from 1950 revealed that 272 African American men and 337 African American women lived within the County, totaling 609 African Americans and comprising only 0.37 percent of the County's entire population.[16] Thus, the vast majority of potential jurors residing in the county were either Anglo or Spanish surnamed with African American participation difficult to ascertain and likely to be extremely limited in number. Unfortunately, a petit jury list was not present in the *Taylor* case file, but when Hidalgo County's *Juror's Time Books* were consulted, it appears that ninety seven individuals were summoned as prospective jurors, forty four were Spanish surnamed but none were selected for service, which constituted approximately forty five per cent of the available jury pool.[17] While the case file did not contain information that would explain the dismissal of this sizable number of Mexican Americans, it is the lack of representation despite the sizable number of available Mexican American petit jurors that is paramount here. Other cases would also reflect this lack of proportional representation of the County's Mexican American population.

For example, in Causes No. 7057 and 7058, *The State of Texas v. William Bonewald*, the defendant was an Anglo male accused of the rape of a thirteen year old Mexican girl. Of the 175 individuals called for potential jury service, approximately sixty individuals were Spanish

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[15] No. 6907: *The State of Texas v. Ed Taylor*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[16] 1950 Census. General Characteristics of the Population, For Counties. Table 42, p. 209.
[17] *Juror's Time Book, Hidalgo County*. Book No. 75618, p. 114, 115, 118 and 120.

surnamed, which constituted about thirty four percent of the available petit juror pool.[18] Ultimately, of the twelve individuals chosen as jurors for Cause 7057, only one Spanish surnamed individual was selected to serve with the remainder apparently Anglo.[19] Numerically, this constitutes less than one percent of Mexican American representation as a petit juror in a major criminal action in 1952. In Cause No. 7058, of the twelve individuals selected to serve as jurors for this particular case, three Spanish surnamed individuals were selected for service.[20] Numerically, this representation constitutes less than two percent of Mexican American representation as a petit juror in a major criminal action in 1952 and the lack of representation is essential here. Additionally, Mexican American defendants did not appear to receive any special treatment or allowances to have a sizeable Mexican American representation when petit jurors were selected for their trials.

In Cause No. 7129, *The State of Texas v. Porfirio Diaz*, thirty four Spanish surnamed individuals of out of 208 individuals were called for potential jury duty. This figure constituted approximately sixteen percent of Spanish surnamed potential jurors.[21] Ultimately, only one Mexican American was selected to serve as a petit juror which constituted less than one half of one percent of Mexican American representation as a petit juror in a major criminal action in 1952. Called to trial October, 27, 1952 Diaz was on trial for murder, found guilty on October 27 and sentenced to thirty five years in prison. Additionally, in Cause No. 6965: *The State of Texas v. Santiago Nino,* 200 individuals were called for potential jury service. Of this number, only

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[18] *Juror's Time Book, Hidalgo County*. Book No. 75618, p. 133 and 134.
[19] Cause No. 7057: *The State of Texas v. William Bonewald*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[20] *Juror's Time Book, Hidalgo County*. Book No. 75618, p. 133 and 134; Cause No. 7058: *The State of Texas v. William Bonewald*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[21] *Juror's Time Book, Hidalgo County*. Book No. 75618, p. 169, 174, 175. Cause No. 7129: *The State of Texas v. Porfirio Diaz.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

two Spanish surnamed males were selected to serve on the jury. Numerically, this constitutes less than one percent of Mexican American representation as a petit juror in a major criminal action in 1952.[22] While the proportion of Mexican American representation was extremely small in an area predominated by Mexican Americans, or by individuals of Mexican-born origin, the racial composition of jurors continued to be mentioned by defense attorneys.

In the *Diaz* case, defense attorney Sidney Farr again questioned the lack of black grand jurors (arguably, a similar motion could have been extended to the lack of black petit jurors, but no such motion was contained in the case file) was of paramount concern. Farr was certainly cognizant of the racial composition of the grand jury which handed down the original indictments, and at least brought the district attorney's office to task for making only marginal efforts to fairly represent the community with the grand jury. No doubt relying upon the precedents established by the *Strauder* decision, Farr's logic could certainly have been embraced by local attorneys if they had sought to challenge the lack of Mexican American men in the petit jury box and the subsequent denial of equitable justice for Mexican American defendants.

In the early 1950s, several criminal cases were conducted with little to no Mexican American male representation on petit juries. For example in *State of Texas v. Juan Sanchez*, 150 men were available for selection with twenty three being Spanish surnamed and 127 men being Anglo surnamed. When the twelve jurors were chosen on March 23, 1950, only two Spanish surnamed men were selected with the remaining ten being Anglo surnamed.[23] Earlier in the same month, Felipe Cruz Ruiz went to trial and was accused of the statutory rape of Nieves

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[22] Cause No. 6965: *The State of Texas v. Santiago Nino.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[23] Cause No. 6135: *The State of Texas v. Juan Sanchez.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

Ybarra who was under the age of eighteen at the time of the alleged event which was on or about December 12, 1949. When the matter went to trial, of the twelve jurors who were selected for Ruiz' trial, only one Spanish surnamed male was selected with the remaining jurors being Anglo surnamed men. Ruiz pled not guilty to the charge but was found guilty by the jury in November, 1950 and was sentenced to five years in prison.[24] About the time of the conclusion of Ruiz' trial, Jesus Espinoza was indicted for the murder of Macario Villareal in November, 1950. Two years later when Espinoza went to trial, a special venire of 250 men was summoned for jury duty in this case. Of the 250 summoned to report on May 26, 1952, fifty seven were Spanish surnamed and 128 were Anglo surnamed.[25] When the twelve jurors were selected for trial on June 3, 1952, only one was Spanish surnamed. Espinoza ultimately pled guilty to the murder charge just before trial ensued and the jury sentenced him to serve ten years in the state penitentiary.[26]

As a point of comparison and contrast to the criminal issues, of the cases reviewed from 1950 to 1954, eight were civil matters. These cases ranged from negligent loss of life due to motor vehicle accidents, the spoilage of produce as a result of inadequate chilled storage/transport and real estate disputes, among others. All the reviewed civil matters were held before petit juries in McWhorter's 92nd District Court and civil actions differed somewhat from criminal matters. For example, the civil case files did not contain large numbers of potential jurors or special jury calls from which petit jurors would be selected. The civil case files

[24] Cause No. 6811: *The State of Texas v. Felipe Cruz Ruiz*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas. **Note:** Contained within the Ruiz case file was a copy of a pardon for Ruiz. On January 2, 1962, Ruiz was granted a full pardon from Texas Governor Price Daniel with a complete restoration of all civil rights.
[25] Cause No. 6955: *The State of Texas v. Jesus Espinoza*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas. Note: contained within the case file was information that noted sixty six men could not be located or were ineligible for jury duty. Of original sixty six who were ineligible to serve, twenty four were Spanish surnamed and forty one were Anglo surnamed.
[26] Ibid.

contained lists of thirty to forty individuals who were available for selection, rather than the 150-250 individuals normally found in many of the criminal case files. Additionally, the racial composition of the men selected to serve as petit jurors in these civil matters diverged somewhat when compared to the criminal cases reviewed during the same time frame. When the civil jury lists were analyzed, more Spanish surnamed men were generally selected for civil matters than on criminal petit jury trials.

For example, *Eckler v. Raglund*, was a civil case involving an auto accident resulting in the death of Annis Eckler's husband and small child just east of Mission. Conducted from March 27 – 29, 1950, the jury ultimately concluded that Ragland was not at fault in the accident and chose not to award any monetary damages to Mrs. Eckler, but the racial composition of the entire petit jury pool is important here. Out of forty three men available for selection, thirty five were Anglo surnamed and eight were Spanish surnamed. Of the twelve jurors selected, nine were Anglo surnamed and three were Spanish surnamed.[27] Several months earlier, a civil case was filed by a Valley produce company alleging mishandling of produce. In *Post Produce Company v. Guy A. Thompson*, Post alleged that loads of tomatoes, carrots, cabbage and eggplants were damaged, decayed and deteriorated to an overripe and unsellable condition. When the case came to trial in January, 1950 a list of jury finalist's was absent but the list of chosen jury members was in the case file. Of the twelve men selected for this jury trial, two were Spanish surnamed while the remainder were Anglo surnamed. Additionally, the case file did not indicate who was selected as foreman of the jury.[28]

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[27] Cause No. A-7107: *Annis W. Eckler et. al. v. J.R. Ragland, et. al*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[28] Cause No. A-7567: *Post Produce Company v. Guy A. Thompson, Trustee; St. Louis, Brownsville and Mexico Railway Company*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

In another vehicular accident case, J.S. Barksdale sued a passenger bus line for damages to his vehicle and for physical/mental pain and suffering as a result of the collision. In a jury trial conducted January 30-February 1, 1950, the jury ultimately found in favor of Barksdale and he was monetarily awarded for damages to vehicle and his personal injuries. Of the thirty seven men eligible for selection in this matter, three were Spanish surnamed and thirty four were Anglo surnamed. When the jury was chosen, two were Spanish surnamed, ten were Anglo surnamed and the jury foreman in this case was Anglo surnamed.[29]

One month later, another civil case was heard in the 92nd District Court and involved a vehicular accident which resulted in the death of Raul Davila on September 3, 1946. In *Davila v. Richards*, the case file indicated that two trials were conducted in this matter. The first was held from June 13-17, 1949. In that trial, thirty three men were available for selection with four being Spanish surnamed and the remaining twenty nine were Anglo surnamed. When the jury was chosen, all twelve were Anglo surnamed. While the case file did not indicate reasoning, a second jury trial was conducted in this matter from April 12-14, 1950. In the second trial, the case file indicated that twenty eight men were available for selection with four being Spanish surnamed and the remaining twenty four were Anglo surnamed. When the second jury was chosen, all twelve men were Anglo surnamed and in both jury trials, foremen for both jury trials were Anglo surnamed.[30]

In another civil matter one month later, *Farris v. Valley Seed Company* involved a vehicular accident which resulted in the untimely death of a seventeen year old high school boy.

[29] Cause No. A-7605: *J.S. Barksdale v. Missouri Pacific Transportation Company*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[30] Cause No. A-7532: *Mrs. Jesusa A. Davila, et.al. v. W.E. (Evan) Richards*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

In late May, 1950 the boy's parents sued the Valley Seed Company for damages in the amount of $19,672. In a jury trial lasting three days, the jury ultimately found in favor of the Farris'. While the file did not contain a larger list of men available for selection, the racial composition of the selected jurors is important here. Of the twelve men selected to serve on this jury, seven were Anglo surnamed while five were Spanish surnamed men but the man who was selected to act as jury foreman was Anglo surnamed.[31]

Also reflecting the higher selection rate of Mexican American men in civil jury trials was *Vernon v. Rabe* in 1951. Here, Barbara Vernon sued Clara Jo Rabe who struck the Vernon vehicle causing injury to Barbara and her husband. Of the twelve men selected for this civil jury trial, eight were Anglo surnamed, four were Spanish surnamed men and an Anglo surnamed man was selected as jury foreman. Additionally, of the forty seven men listed as potential jurors, seven were Spanish surnamed and forty were Anglo surnamed.[32] In a protracted real estate matter, Julian Avila alleged that monthly rent and a revenue share of the restaurant/cafe business was due to him. His suit asked for proper share of rents, revenues and profits from the business since September, 1949 on the property held/owned in co-tenancy. The file indicated that two trials were heard in this matter and the first petit jury trial was held in March, 1951. In that trial, twenty five men were available for selection with six being Spanish surnamed. Of the twelve men selected for this jury, three were Spanish surnamed, nine were Anglo surnamed. There was no indication of who was selected as jury foreman and the case file did not contain an apparent outcome or a final decision from this petit jury. The second jury trial was held in May, 1951. In

[31] Cause No. A-7592: *J.A. Farris, et. ux. v. Valley Seed Company, A Partnership*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[32] Cause No. A-7787: *Mrs. Barbara Vernon, et.vir. v. Clara Jo Rabe, et. vir*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

the second trial, thirty two men were listed as finalists or eligible for selection as petit jurors. Of the thirty two, five were Spanish surnamed. When the twelve jurors were selected on May 24, three were Spanish surnamed, nine were Spanish surnamed and the jury foreman was an Anglo surnamed man. Ultimately, Avila did not prevail in this matter and the defendant was judged to be owner of the land and Avila would take nothing from the suit.[33]

While more research is needed in order to conclusively determine the racial composition of Hidalgo County's *civil* jury trials, the trend of having more Mexican American male representation in civil matters by no means alters the striking disparity and the lack of proportional representation by Mexican American men on Hidalgo County's petit juries. When the Mexican American community in Hidalgo County was inadequately represented in proportional numbers, then the county itself was bereft of what may be considered equitable justice. Since the community as a whole has been victimized by a crime, then the justice rendered should legitimately express the best interests of the community as a whole. A jury that includes a representative cross-section of the community fulfills the needs of impartiality, reliability and legitimacy essential to the jury system. [34] In the years leading up to 1954, the Mexican American male population was systematically deprived of their place in the jury box. All told, when surnames of individuals are utilized as a common denominator for availability and selection in all the case files reviewed from 1950 – 1954, the representation rates are striking when shown below.

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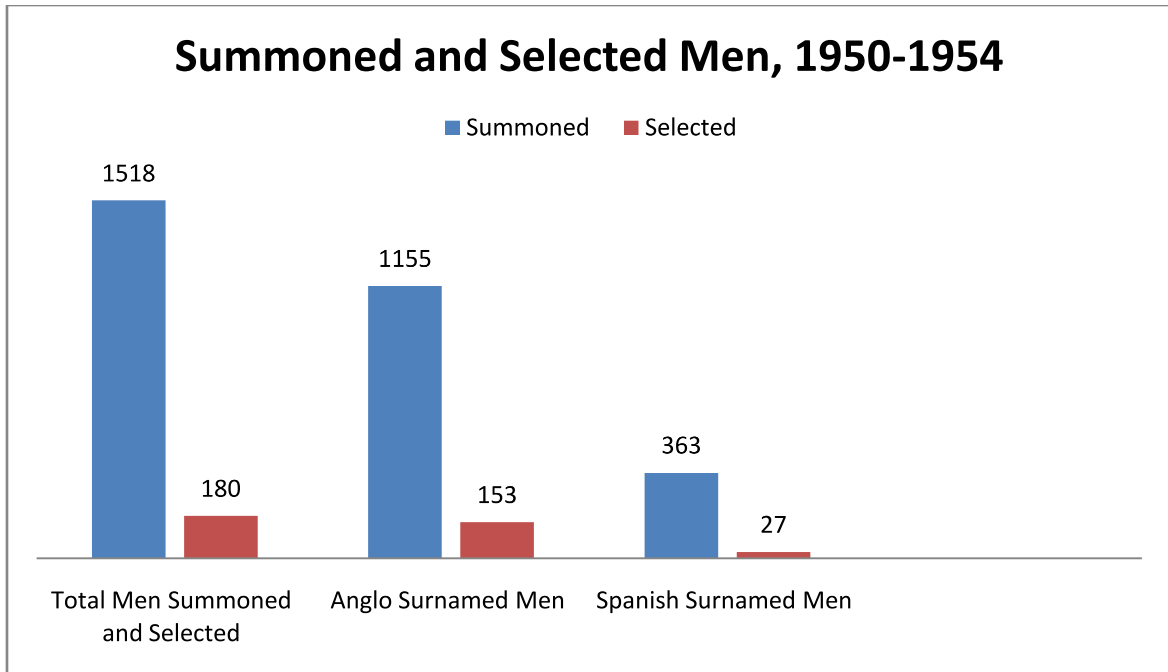
[33] Cause No. A-8298: *Julian Avila, et. al. v. Candelario Munoz*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[34] Van Dyke, p. 12.



Based upon a random selection of twenty four Hidalgo County criminal and civil case files from 1950 – 1954, 1518 men were summoned for potential jury service.[35] Of that number, 1155 were Anglo surnamed while 363 were Spanish surnamed. Anglo surnamed males constituted seventy six percent of the available pool, while Spanish surnamed men constituted 24% of the available pool. When selection is parsed out of the case files on the basis of racial surnames, Anglo surnamed men constituted approximately eighty five percent of those selected for petit juries, while Spanish surnamed men mustered only a fifteen percent selection rate. As previously mentioned, federal Census records from 1950 are inaccurate when the exact numbers

[35] The criminal and civil cases described in this chapter are representative of the type of actions brought in the County from 1950-1954. The following cases from the same time frame were also reviewed and analyzed. Cause No. 7463: *State of Texas v. Daniel Aleman*; Cause No 7120: *The State of Texas v. J. Sam Miller*; Cause No. 6582: *The State of Texas v. Onesimo Gonzalez*; Cause No. 6773: *The State of Texas v. Cecilio Anzaldua*; Cause No. 6630: *The State of Texas v. Camilo Vela*; Cause No. 6790; *The State of Texas v. Robert Weir*; Cause No. 6966: *The State of Texas v. Jose Rodriguez*; Cause No. A-7812: *Flavio Escobar v. Jack Eberle*; Cause No. A-7851: *Paula Mendoza de Salazar v. Francisco v. de Lugo, et. al.* All cases are stored with the Hidalgo County District Clerk's Office in Edinburg, Texas. **Note:** The graph excludes cases where no jurors were selected, or where venire lists were not present within the case files. However, the data represents a consistent numerical reflection of the realities of juror selection in Hidalgo County for the time period under review. As with any statistical analysis, the resulting graph is subject to some numerical variance.

of the Mexican American population. However, during the time frame under review, the Mexican American population of Hidalgo County constituted approximately fifty four percent of the county's total population.[36] As previously noted, census data figures for 1950 reveals that the total population for Hidalgo County was reported to be 160,446. Of that number, white males numbered 82,589 and females numbered 77,857. Working from the numerical assumption that Mexican Americans made up fifty f our percent of the county's total population, Mexican Americans males would number 44,598 and Mexican American women would number 42,042.

As this chapter has shown, the presence of a racial bias against Mexican Americans regarding the selection of individuals to Hidalgo County's petit juries from 1950-1954 is striking. What these Hidalgo County court cases and the *Juror Time Books* have shown, is the continued marginalization and exclusion of Mexican American males from the petit jury box in Hidalgo County. This exclusion severely limited Mexican Americans' political and civic participation within the County and deprived an entire group from proportional representation in an essential civic/legal process. As litigation for Mexican American civic inclusion swirled in other areas of the state, Hidalgo County was ultimately left by the wayside and little was done locally to address this disparity. In short, no active voice for Mexican American civic and political inclusion was present in the County during the 1950s. While this chapter has acknowledged that some Mexican Americans were selected for service as petit jurors in the first half of the 1950s, the number was insignificant. Hidalgo County's criminal and civil court cases are prime evidence of the biased nature of the Valley's legal community and the social realities

[36] Orozco, *No Mexicans,* p. 21. See also Terry G. Jordan. "A Century and a Half of Ethnic Change in Texas, 1836-1986." Vol. 89, *The Southwestern Historical Journal*, No. 4 (Apr., 1986)., pp. 385-422.

of community based discrimination that has long been endured by the Mexican American community. However, when criminal and civil jury trials were compared, the selection rate of Mexican American men for civil trials appeared to be slightly higher than the selection rate of Mexican American men in criminal matters.

One possible explanation for this selection rate could be geared to the moral implications accorded to criminal and civil matters. When the types of laws/crimes are taken at face value, any violation of criminal laws takes into account the moral implications of these actions. For example, the taking of human life implies that the alleged has little regard for the value of human life. As such, those who are called and selected to serve as petit jurors are inherently asked to judge the morality of an individual accused of capital murder. Couple this moral judgment with the higher level of evidence required to convict an individual of such a crime (evidence beyond a reasonable doubt) and this heightens the concept that community members are on "equal" moral footing which further compounds the nature of peer and communal acceptance. Since civil matters require a lower burden of proof (preponderance of evidence) than do criminal matters, no moral judgments are being passed by civil petit jurors. Civil juries are generally asked to sit in judgment of actions that would not be considered moral in nature; rather, these jurors are to determine which party should incur more blame than the other. These are questions of fact rather than rendering a judgment about the moral character of the accused. It is doubtful that Hidalgo County's Anglo community would accept that Mexican Americans were their moral equals in Jim Crow Texas during the 1950s.

Additionally, where the reviewed case files contained information that specifically identified a foreman, none of the juries from 1950-1954 selected a Spanish surnamed male to

serve as a foreman. The "equal" voice that is best exemplified by service in the jury box, was largely absent for the Mexican American community in south Texas before the *Hernandez* decision. The lack of civic participation is palpable when the raw numbers of individuals selected for petit jury service are parsed out of the Hidalgo County court cases pre-*Hernandez v. Texas*. Clearly, Hidalgo County prosecutors and District Court judges contributed to the continued civic marginalization of Mexican Americans in south Texas. Defense attorney Sidney Farr recognized the implications of this marginality as early as 1951. Farr's June motion to quash the original grand jury indictment brought against his African American client speaks to Farr's level of recognition that the County's African American community was not adequately represented on the grand jury which originally indicted Taylor. With the total African American population constituting less than one percent of Hidalgo County's total population in the 1950s, the implication of societal and peer acceptance for Hidalgo County's African American population tints Farr's motion. With no active voice speaking or acting for the County's Mexican American population, the marginalization of the community continued as before.

Within a few short years, a new group of available petit jurors emerged that would push the Mexican American community further to the edges of inequitable representation in this essential civic duty. This new group would have similar arguments that the Mexican American community did for inclusion to the jury box. Seeking their place in the jury box, women won the right to serve as petit jurors in Texas after November, 1954. Anglo surnamed women would begin to serve as petit jurors in large numbers in Hidalgo County and their presence in petit juror pools would allow the County to delay full implementation of the *Hernandez v. Texas* decision for many years.

CHAPTER IV

WOMEN AND HIDALGO COUNTY JURY DUTY

When the Fifteenth Texas Legislature first established petit jury qualifications in 1876, this important civic duty did not include women. Legally excluded from civic participation, women would not be allowed to serve as petit or grand jurors in Texas until 1954. Following voter approval of their inclusion in the November, 1954 general elections, the Texas Legislature enacted an amended juror qualifications statute that would, for the first time, allow women to serve as petit and grand jurors in Texas. Worded simply, Chapter 288 of the General and Special Laws of the State of Texas stipulated that "all persons both male and female over twenty-one (21) years of age are competent jurors, unless disqualified under some provision of this chapter."[1]

In general, female participation in Hidalgo County's civic activities has been un-addressed within the jury inclusion literature pertaining to south Texas.[2] This chapter asserts that female participation on Hidalgo County's petit juries beginning in September, 1955 was immediate and it specifically demonstrates that Anglo surnamed women had much higher

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[1] *General and Special Laws of the State of Texas*. Regular Session of the Fifty-Fourth Legislature, Chapter 288, Section 1, Article 2133, May 20, 1955. p. 795.

[2] For example, some of the very brief discussions pertaining to juror inclusion efforts on the behalf of Mexican Americans in Corpus Christi, 1925-1926, can be found in Cynthia Orozco's *No Mexicans, Women or Dogs Allowed*, pp. 81-83. Julie Leininger Pycior's, *LBJ & Mexican Americans: The Paradox of Power* (Austin: The University of Texas Press, 1997), pp. 94-95 mentions juror inclusion efforts, as does Richard Griswold Del Castillo's, *World War II and Mexican American Civil Rights* (Austin; The University of Texas Press, 2008), p. 85, 101, among others. However, these works mention juror inclusion efforts as they pertain to Mexican American *men*. No definitive accounts of jury inclusion efforts on the behalf of women (Anglo, African American or Mexican American) during the 1950s in Hidalgo County, or in the greater south Texas region could be located in the secondary literature.

participation rates within nine months of voter approval than did Mexican American males and females during the same time frame. This new source of Anglo surnamed individuals reinforced the civic and political marginalization of Mexican Americans as second class citizens in Hidalgo County and perpetuated the Jim Crow practices of Texas. Additionally, this chapter describes the civic inclusion efforts of women as petit jurors in the County beginning in the late 1940s and it contextualizes local and regional opinions of women's service with the national Women's Movement effort to secure women's inclusion as petit and grand jurors. By laying claim to *their* rights as first class citizens, this chapter demonstrates that the rhetoric used by Anglo women's civil rights advocates mimicked the language of inclusion used by Mexican American civil rights adherents as both groups sought their place in the jury box during the 1950s.

Historian Clare Sheridan has argued that jury service is not only a legitimating service for those called to serve, but the assumption of the community's acceptance of the individual as a peer is inherent in the call and selection for service. The act of sitting in judgment of others from the community implies a symbolic and mutual acceptance of the individual and their racial, ethnic or gendered make up from which they are drawn.[3] Sheridan's concept of community acceptance is important to any minority group's struggle for civic inclusion, but her racial analysis does not specifically address or mention gender. However, the concept of community acceptability and the access to full citizenship rights as historically argued by Mexican Americans is paramount and particularly applicable to women's claim here.

1949 Amendment Approval Efforts

The commonly held wisdom of excluding women from the jury box is largely derived from the overriding need to protect female sensitivities from graphic and/or brutal descriptions of

[3] Clare Sheridan, "'Another White Race:' Mexican Americans and the Paradox of Whiteness in Jury Selection," *Law and History Review*, 21, no. 1 (Spring, 2003), p. 138-140.

criminal activities. A review of Valley newspapers from November, 1940 to November, 1948 revealed no local or statewide efforts were initiated to change Texas' juror qualifications to include women. However, in a round of constitutional amendments on the statewide ballot in November, 1949, one of the proposed amendments called for the inclusion of women on grand and petit juries.

In the state capitol of Austin, *The Austin American* addressed the issue of women in the jury box. In an informational piece titled, "Women Jurors? Texans to Decide," the article was a wire service report describing that voters would take to the polls on November 9, 1949 to decide this issue among several others. Writing that women's jury service was the subject of extensive debate and filibuster in the Texas legislature, the article reported that the "… amendment provides that persons should neither be denied nor excused from jury service because of their sex."[4] Rather than editorialize or opinionate, *The Austin American* wrote that "opponents hang to the time tested arguments that a women's place is in the home, that few courthouses have facilities for women jurors and that the so-called weaker sex should be protected from the sordid details of criminal trials."[5] Addressing the view of the opponents, the paper wrote that "proponents of this reasoning for modern-day womanhood argue that there is no valid reason why this one citizenship function should be withheld from women, who have taken their place alongside men in all other citizenship functions and in business, professions and politics."[6] In 1949, the ballot proposal was simply worded "For (against) the amendment to the State Constitution qualifying women as grand and petit jurors."[7]

[4]*The Austin American*, October 4, 1959, p. 3
[5]Ibid.
[6]Ibid.
[7]Ibid.

Locally, the proposal was not lost on the voters of Hidalgo County and much was made of it throughout the month of October. For example, the *Valley Evening Monitor* echoed *The Austin American* in its reporting and by-lined one article "Jury Service Changes Proposed to Voters" from its Austin Bureau. Informational in nature, the *Evening Monitor* identified the supporting organization along with the amendment's wording:

> Proposal 10 is the legislative baby of the Federated Business Clubs of Texas … [and] they are now campaigning for its adoption. The amendment proposes to make the Constitution read this way: The Legislature shall proscribe by law the qualifications of grand and petit jurors; provided that the qualification of no person for service on grand juries or on petit juries shall be denied or abridged on account of sex, and no person shall be exempt from service on grand juries or on petit juries on account of sex.[8]

The *Evening Monitor* wrote that opposition to the initiative was largely unorganized and relatively silent. Further, the editors opined that opposition to the amendment was significant without identifying where the bulk of the opposition was based. Offering for its readers only the prevailing philosophical and social opposition to the amendment, the *Evening Monitor* recounted that one opposing view "… was best expressed by Sen. Carlos Ashley of Llano, who read a poem to the Senate, declaring that women's [*sic*] place is in the kitchen and not in the jury room and praising the old-fashioned girl who didn't want to be on juries."[9] Again echoing *The Austin American*, the article reiterated that proponents "… favored [the amendment] on the ground that it will remove one more barrier between women and full citizenship."[10]

In an editorial dated October 14, 1949, the *Evening Monitor* threw its hat into the ring and offered unequivocal support for the amendment. Tag lined "Women on Juries? Yes!" the *Evening Monitor's* editorial offered its readers the amendment's language verbatim and roundly

[8] *Valley Evening Monitor*, October, 13, 1949, p. 12.
[9] Ibid.
[10] Ibid.

supported passage of the proposal. Stating that the amendment " was not submitted in the first place without a battle, it had to overcome a considerable amount of opposition in the Legislature, [b]ut now that it has been approved there it is up to the voters-including the women-to see that it is adopted."[11] Describing to its readers the general notion of the acceptability for service, the editors declared that the amendment "… recognizes that women … have made their own way in businesses and the professions; women who have exercised the privilege of suffrage for many years; women who have ably carried heavy responsibilities of many types, may now share in the equally important public service of joining as members of the juries of our courts." The editors then summed up the prevailing attitudes of the amendment's opponents as "… a record for shallow argument and faulty logic … based almost entirely upon the complaint that the flower of Texas womanhood should not be called upon to sit in the same jury boxes with rough old men. [T]he jury box is not more frightening to the ladies than that ballot box, [a]nd they are well capable of giving justice a firm supporting hand.[12]

Absent from this article and from the discussions of political inclusion and civic engagement is the role of women and their specific activities in Hidalgo County politics. The first person voice of politically active women is largely missing from Valley newspaper articles. It is confined largely to descriptions of their presentations to predominantly women social/civic organizations, but the importance of their efforts cannot be underestimated. Historian Vicki L. Ruiz' work, *From Out of the Shadows* addresses Mexican American women and their socio-political involvement in the mid-twentieth century. Ruiz brings Mexican American and Mexican born origin females out of the shadows of the American Southwest. A particularly apt term in women's political and social activism, Ruiz' "shadow lands" signifies the muted presence of

[11]*Valley Evening Monitor*, October 14, 1949, p. 4.
[12]Ibid.

Mexican American women across the American Southwest as they have been relegated to background roles in the course of Mexican American civic struggles and their attempts to gain full citizenship status. In this regard, women have not been seen as primary actors; they do not have primary voices and they blend into the background of these political/civic engagement efforts.[13] As a form of comparison, Ruiz' description of the Americanization activities of Mexican immigrants to El Paso from 1920 to the 1960s, is particularly constructive and enlightening to the political and civic engagement process in Hidalgo County.

Ruiz has asserted that the Houchen Settlement located in south El Paso, Texas illustrates that the process of Americanization was accomplished by providing classes in citizenship, cooking and English instruction to name just a few.[14] The purpose of these classes and the intent of the Settlement house itself, were to inculcate within the participants an idealized aspect of American life. However, as Ruiz has critically observed, while in the United States, Mexican immigrants found themselves continuing to experience racial/ethnic prejudice without regard to class and social standing. By attempting to "pass" as Spanish and ostensibly white, they would cherish hopes of melding into American society and obtain all that first class citizenship offered.[15] While the focus of this particular settlement's efforts were in west Texas, historian Cynthia Orozco makes special effort to include the Valley in her historical analysis of women's participation in the civic engagement efforts in south Texas.

Echoing much of Ruiz' interpretation of women as pivotal, important background participants during the establishment of a Mexican American civil rights initiative, historian Cynthia Orozco asserts that this Americanization effort was part of a larger effort which stressed

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[13] Vicki L. Ruiz. *From Out of the Shadows: Mexican Women in Twentieth Century America*. Oxford: Oxford University Press, 1998, 2008. 10th Anniversary Edition, p. xi.
[14] Ruiz, p. 35.
[15] Ruiz, pp. 39 and 45

U.S. citizenship, patriotism, and civic participation.[16] Orozco asserts that Mexican American women were actively involved in civic engagement activities and political action as early as the 1920s. Working on the periphery and behind the scenes, Mexican American women deferred to the organization's male leadership cadre, who were considered the voices and faces of the organization. For many who were married to active LULAC leaders, Mexican American women still managed active participation by serving in women's clubs, in ladies auxiliaries and in the Ladies LULAC. While these women were generally responsible for child rearing, caring for husbands, cooking meals and tending to housework, they contributed where they could to the principles and goals of the movement from the mid 1920s to the early 1960s.[17] By organizing, meeting and contributing separately from the LULAC men, women were essentially segregated from front line participation by the male hierarchy because of sexist beliefs and practices. Orozco asserts that the division was due to sexism, and the overriding belief by Mexican American men that women would not be taken seriously in their commitment to the organization and its goals by Anglo men. Most important, women were excluded because LULAC leaders believed that the proper societal roles for Mexican American women were as wives and mothers.[18]

These sexist attitudes by the Mexican American male leadership would certainly have contributed to the belief that the jury box should not be opened to women. In a time of dogged political and ideological conservatism, Texas in the 1940s through the 1950s was generally dedicated to the political, social and economic repression of blacks and Mexican Americans.[19] Given this socio-political climate, Anglo Texans would certainly believe that Anglo women

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[16] Orozco, *No Mexicans, Women or Dogs Allowed*, p. 48.
[17] Ibid, pp. 206-209.
[18] Ibid, p. 210.
[19] George Norris Green. *The Establishment in Texas Politics: The Primitive Years, 1938-1957*. (Westport, Conn., Greenwood Press, 1979), p. 17.

would be an acceptable alternative to the jury box than allowing racial minority groups unfettered access to the box. Historian Ignacio M. Garcia has asserted that Texas legislature had come to clearly understand that the reasons for excluding women from the jury box had become untenable and indefensible.[20] Conversely, flush with the victory in the *Hernandez v. Texas* decision, attorney Carlos Cadena noted that the "class apart" argument could be used on behalf of women, but the main women's organizations had virtually no Mexican American members and thus, no knowledge of the precedent set in *Hernandez*.[21] With this background, the modifications for jury service were placed on the general election ballot and submitted to the voting public in early November, 1949. The amendment failed to pass in 1949 and the initiative would not return to Texas voters until 1954.

1954 Amendment Approval

Following the defeat of the juror proposal in 1949, the initiative would not be offered again to Texas voters until 1954. In the run-up to the November 2 general election, much was made locally about the issue and the *Valley Evening Monitor* again led the way with educational and informational articles. On October 24, 1954 the *Evening Monitor's* headline on page four trumpeted "Experts Say Women Jurors Just as Good as Men." In the article's subheading, the paper declared that "Legal Observers Hand Male Prejudice a Jolt." In an editor's note, the *Evening Monitor* explained that "… since Texans will go to the polls November 2 to vote on a proposed amendment to the State Constitution that would allow women to serve on petit and grand juries, the *Monitor* asked the San Francisco Bureau of the United Press for an article on

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[20] Ignacio M. Garcia. *White But Not Equal,* p. 202 and 228, footnote 36.

[21] Julie Leininger Pycior. *LBJ & Mexican Americans: The Paradox of Power*. (Austin: The University of Texas Press, 1997), p. 94.

whether or not women make as good jurors as men. Following is a story from California where women have served on juries for many years."[22]

Positive and supportive in nature, the article specifically quoted some of California's practicing attorneys who declared that women in jury boxes served just as well as men, regardless of the percentage of male or female representation in the box. "Leaders in the legal profession, all of whom have had long experience with women jurors were asked if the presence of the fair sex on the jury panel was apt to change things. With a few minor exceptions they all said no," reported the *Evening Monitor*.[23] When queried about the gender composition of California's petit juries, one California attorney responded that having women "… on juries makes the juries much the better. Oft times women are more practical and not as cold-blooded in their approach. And women, especially housewives, are more relaxed. The man sitting on the jury is often worried. His office needs him [and], [h]is taxes are due." This same attorney also responded with typical male bravado when he asserted later in the article that he believed that women should be excused from cases involving "… degrading moral conduct, but added that even in murder cases, 'women have greater understanding.'" The attorney also explained that "[m]urder … usually involves a husband and wife situation. And women have greater understanding of these trials and tribulations from being in the home."[24]

In its continuing effort to inform and educate, the *Monitor* offered its readers the basic pros and cons of the juror amendment on October 13, 1954. Described in its opening line as a highly controversial topic, the *Monitor* reminded its readers that Texas, Alabama, Georgia, Mississippi, South Carolina and West Virginia were the last states to bar women from petit jury

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[22]*Valley Evening Monitor*, October 24, 1954, p. 4.
[23]Ibid.
[24] Ibid.

service. While the amendment was strongly endorsed by the League of Women Voters, the article went on to list the grounds for opposition by those who did not support the measure. To the claim that women would have to neglect children if called to serve, the League asserted that it would press for stature modification that would allow "… persons having the custody of children under 16 years of age the right to jury exemption. Opponents also warned that women and men would be locked up in the same room overnight (jury recusal was required if no verdict was reached by day's end); however, the League also clarified by stating that the recusals would only apply to felony cases and that the counties would have to provided alternative lodging arrangements should the need arise and that many counties across the state (Hidalgo included) already were equipped for just such an eventuality.

Opponents also claimed the fragility of the female constitution and asserted that courtroom testimony might be unfit for female ears and women would be too emotional to serve in the box rendering them unwilling to serve on juries.[25] In all instances, the League discounted these arguments by stating that newspapers print accounts of jury testimony in which attorneys cautiously use their words so as not to prejudice jurors to their side of the case. As for emotion, the League recalled that in New York State, one jury trial contained eight women on the twelve person panel and the jury foreman was a woman; and for women who do not want to serve, men also expressed the same sentiment. In all, the League of Women Voters argued that there remained no acceptable excuses to deny women one of the fundamental responsibilities of U.S. citizenship.[26]

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[25] *Valley Evening Monitor*, October 13, 1954, p. 2.
[26] Ibid.

The accounts presented in the *Evening Monitor* closely corresponded with the League's national campaign to include women on petit juries. The National League of Women's Voters provided practical suggestions for activists pressing the issue locally and regionally. When women activists campaigned for a state constitutional amendment, argued for an amendment to a statute, or litigated a test case, the National League proffered several reasons why women should serve on juries and these reasons remained central to the League's philosophy of inclusion since the late 1800s. First, jury duty is a civic duty and responsibility in which all citizens, men and women alike should participate. Second, women's viewpoints and participation would complement those of men and make for improved and more balanced, jury verdicts. Third, having women included in the process would double the available number of qualified jurors; and last, why should women not serve? After all, women are already in the courts serving as plaintiffs, defendants, clerks, attorneys, judges and stenographers so why should the jury box be closed to women? [27]

Compared to the historical development and philosophical discussions posited by the Women's Suffrage and Mexican American civil rights movement, the issues are pertinent to both genders as they battled for civic inclusion, peer/societal acceptance, and first class citizenship status. Historically and constitutionally, the concept of jury service has raised broader issues about the structure and meaning of citizenship in the United States. In most states, a common qualification for jury service is tied to the right to vote. Following suffrage, the most significant civic obligation or duty that citizens commonly fill, is that of grand and petit jury service.

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[27]Joanna L. Grossman, "Women's Jury Service: Right of Citizenship or Privilege of Difference?" 46 *Stanford Law Review,* No. 5 (May, 1994), pp. 1140-1141 and footnote # 152.

Women's historic exclusion from this role suggests that, even after obtaining universal suffrage in 1920, women had yet to gain the status of equal citizens within the U.S. polity.[28]

Historically, women had been barred from jury service for many reasons. Most of those reasons were male-centric, owning to generally accepted interpretations of legal systems being a male domain dating to the mid-nineteenth century. Among those reasons were the following: as the basic, but flawed, key to English law, *Blackstone's Commentaries* made no mention of women serving as petit jurors. With *Blackstone* used as a primary tool for the establishment of U.S. common law, jury duty became an exclusively male domain.[29] Second; most Anglo women were not accepted, or regarded as "persons" before the law under the medieval concept of *coverture* which made its way to the American colonies from England and Europe. In essence, women were "covered" by a husband's civic identity which ensured that a married woman's obligations were to their husband and their families which overrode their duties to the state.[30] Third; most states defined the pool of qualified jurors as electors (voters), so until women gained the right to vote they could not serve on juries. Fourth; some states (Texas included) had specific statutory or constitutional provisions that explicitly limited the class of eligible jurors to men.[31]

The goal of jury service, whether as petit or grand jurors for women was similar to the Mexican American struggle for jury inclusion. Voting and jury service were not only civic activities, they were markers of civic status and societal/peer acceptance. Women's rights advocates saw voting as the pre-eminent right of citizenship from which other rights were obtained. By securing the right to vote, women believed they were more likely to be recognized

[28] Gretchen Ritter. "Jury Service and Women's Citizenship Before and After the Nineteenth Amendment." 20 *Law and History Review*, No. 3 (Autumn, 2002), p. 481.
[29]Ibid, p. 485.
[30] Linda K. Kerber. *No Constitutional Right to be Ladies: Women and the Obligations of Citizenship*. New York: Hill and Wang, 1998. P. xxiii.
[31] Ritter, p. 485.

as first class citizens and accorded other political and civil rights, including the right to serve on juries.[32] Along with universal suffrage, jury duty is a significant civic duty and is one of the few obligations that the state and nation asks of its citizens..

In Hidalgo County, while not as effusive as in 1949, the *Evening Monitor* did offer its support for the passage of the petit jury Amendment in its October 29, 1954 editorial. By-lined "11 Amendments Before Texas Voters on Nov. 2," the paper's editorial staff wrote that "[I]t is conceit of newspaper editors that the populace puts any store by their recommendation … but the editors light their candles and tell the electors where to put the X and why."[33] The editorial then proceeded to offer a short explanation of each of the eleven amendments and how they advised the readership to vote on each amendment. Of the Amendment permitting women to serve on grand and petit jurors, the *Evening Monitor* offered only this terse declaration; "… if they [women] want to serve on juries, they should have the opportunity."[34] This lukewarm editorial stance is diametrically opposed to the effusive nature of the *Evening Monitor's* 1949 support of the women's initiative for a reason.

In November, 1951 newspaper magnate R.C. Hoiles of Santa Ana, California spent about $2 million of his estimated $20 million fortune and purchased all three of the Valley's leading newspapers: the *Brownsville Herald*, the *Valley Evening Monitor* and Harlingen's *Valley Morning Star*. Rather than act as an absentee owner, Hoiles immediately fired the editorial staff and made sweeping changes to the philosophical direction of all three dailies. The largest newspaper of the time for the Rio Grande Valley, the *Valley Evening Monitor* cast a wide net in terms of Hidalgo County news coverage. Printed in English and with daily coverage of local,

[32]Ibid, p. 498.
[33]*Valley Evening Monitor*, October 29, 1954, p. 4.
[34]Ibid.

county, state and national news, the publication was a decidedly conservative voice for the region and a reflection of the era when placed within a national context.

While the Korean Conflict raged during this period, the national goal of preserving democracy while preventing the international spread of Communism dominated the headlines of the *Evening Monitor* and it was not shy about trumpeting a conservative political philosophy for its readership. Hoiles also made it clear that he, along with his Valley newspapers opposed the United Nations, organized labor unions, social welfare laws and the mixing of Anglo-Americans with blacks and Mexican Americans.[35] Even with the subdued nature of the *Evening Monitor's* support, the initiative passed in November, 1954 by nearly a two to one margin. Generally reflecting statewide return ratios, 5,296 Hidalgo County voters voted for the measure, while 2,388 voted against.[36] In the weeks following approval, no editorials appeared in Valley newspapers to trumpet the passage of the proposal and no reactions were garnered from women residing in Hidalgo County. While Anglo women of the Valley did not appear to joyously celebrate this landmark collectively, at least one woman seemed to recognize the level of responsibility accorded this civic duty.

Following the approval of the ballot initiative, an informational article was published in the "Women's News" section of the *Evening Monitor* on November 19, 1954. In the article, Mrs. E.A. McDaniel spoke to members of the Women's Tuesday Club in Mission about the details concerning jury duty. Introduced to the membership as "… a woman of varied interests and familiar with native shrubs, and trees, law and politics," Mrs. McDaniel was a former teacher in the Mission Public Schools and a member of the Tuesday Club. Acknowledging her

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[35] Green, pp. 132-133.
[36] *Valley Evening Monitor*, November 4, 1954, p. 2.

introduction, Mrs. McDaniel … said that her qualifications for talking on her subject developed from the fact that her husband was a trial lawyer and she had spent most of her time with him in the courts and their lives revolved around juries. She is now the librarian of the Hidalgo County Law Library."[37] The article reported that "… she [McDaniel] told in outline form of the origin of jury service, the functions of judge and jury, the qualifications of juries and how they are selected. She stressed the importance of the finality of jury decision[s]."[38]

A daily feature of the *Monitor*, the "Women's News" described Valley societal news and service sorority/social club related information of primary interest to Hidalgo County's Anglo women. Mexican American women were rarely mentioned in the section. In fact, their socio-political interests/activities were largely absent, the section did not regularly contain a female Mexican American voice or presence, nor did the section report on the interests of Mexican American females in the County. To be sure, the occasional wedding or engagement announcements of Mexican American women could be found, but civic activities and any descriptions of their political involvement were conspicuously absent. The "Women's News" section or the *Evening Monitor* was focused primarily on style, fashion and household/housewife concerns to the County's Anglo female population. Little to nothing was reported in the "Women's News" pages about local Anglo women's civic/political activities or the socio-political agenda of the national women's movement in the 1950s. The inclusion of Mrs. McDaniel's speech in this specific section implies the importance of jury duty for Anglo women locally, but subordinates the issue to a secondary concern for Mexican American women of the Valley.

[37] *Valley Evening Monitor*, November 19, 1954, p. 5.
[38] Ibid.

Contrary to the lack of concerted media coverage of civic engagement, in *Survival in the Doldrums*, feminist historian Leila J. Rupp, argues that the Anglo women's movement was quite active between 1940 and 1960. She also asserts that membership in the women's movement was racially homogeneous and overwhelmingly composed of white (Anglo) women. Additionally, most women involved in the movement were by birth, marriage or occupation, middle to upper middle income and social class. Racial minorities were largely absent from this middle/upper class feminist movement because of racial segregation within the women's movement itself, which reflected the social realities of the era itself. In terms of education, most women involved in the movement were well educated possessing at least a college education and in many cases, advanced academic degrees.[39] Three main issues received the lion's share of attention for the women's rights movement and these were securing an Equal Rights Amendment, adding women to policy-making roles, and the advocacy of women's history which would celebrate women's past as a way to improve women's future.[40] Mexican American women in south Texas harbored no illusions about securing any of these political positions as a part of their everyday life. Ruiz and Orozco have both reiterated this marginality but have also asserted that Mexican American women did contribute to the struggle for civic engagement and inclusion but did so in the background and their efforts were often unpublicized.

Closer to home, Hidalgo County's Anglo and Mexican American surnamed women began to appear on the *grand* juror rolls as early as January, 1955. For example, fourteen individuals were selected for service during the January, 1955 term. Of the fourteen four Anglo surnamed females selected, constituting approximately twenty eight percent of the seated jurors

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[39]Leila J. Rupp and Verta Taylor. *Survival in the Doldrums: The American Women's Rights Movement, 1945-1960s*. (New York: Oxford University Press, 1987), pp. 50-51.
[40] Ibid, pp. 59-68.

while five Spanish surnamed males were selected, which constituted thirty six percent of the seated grand jurors. The remaining five grand jurors were Anglo surnamed males, which constituted the remaining thirty six percent of the seated jurors.[41] In this instance, Anglo surnamed individuals outnumbered those with Spanish surnamed jurors statistically and numerically, and that trend would only continue. In Hidalgo County, women's civic engagement was just beginning in January, 1955 but came to full fruition six months later.

Following approval of the 1954 ballot proposal, the Hidalgo County District Attorney's Office sought a clarification from the state's Office of the Attorney General regarding the County's use of the jury wheel. Procedurally, Texas counties using the jury wheel normally filled it with the names of potential jurors once a year (normally in the month of August) and individual names would then be regularly drawn from the wheel for potential service. Since voter approval of women to serve was done in November, the County's District Attorney asked the Attorney General's Office whether the wheel could be opened to allow women's immediate inclusion into the call rotation. Describing Hidalgo County as one of several counties statewide to use the wheel, the *Evening Monitor* reported that the method of filling the wheel with potential jurors could only be done each August and could not be legally opened to insert new individuals into the rotation.[42] This was put to legal test in the County as early as February, 1955 in Cause No. 7463, *The State of Texas v. Daniel Aleman*. In his February 14, 1955 Motion for Special Venire, defendant Aleman requested that a jury pool of 500 persons be summoned for potential selection. In requesting such a large number, defendant's attorney argued the following:

> … it is well known fact … that more than two-thirds of the persons summoned for jury service in Hidalgo County … are either Aliens, citizens of

[41] Hidalgo County *Juror's Time Book*. Book No. 49137, p. 51.
[42] *Valley Evening Monitor*, November 19, 1954, p. 1.

> Mexico; citizens of the United States, who can not speak, read or write the English language; American citizens over sixty years of age; and a great number of farmers and citrus growers … so it is almost certain that at least one-half or more of the special veniremen summoned will be excused for legal and sufficient reasons … this will make it certain that no twelve fair and impartial jurors could be secured from the remaining persons on the jury panel. [43]

Seeking a greatly expanded pool, Aleman's attorney asked the court to grant him " … special venire of at least five hundred persons, composed of men *and* women … without discrimination as to sex … [to] serve as prospective jurors in the trial of this case."[44] In reply, the presiding judge denied the motion and declared that the "… County operates under the law under what is commonly known as the jury wheel system, and that the jury wheel at this time contains the name of men only (unless the women names are included by mistake and error) and the Court further finds that according to existing law the jury wheel can not be refilled until August, 1955, and that names of women can not be placed in the jury wheel until that time."[45]

On September 12, 1955, six months after the *Aleman* case, the first women called for petit jury service appeared in Hidalgo County's *Juror Time Books*. On that date, seventy eight individuals (male and female) reported to the court house for potential service. Of this total number, thirty three women were eligible for selection constituting about forty two percent of the juror pool. Of this pool of candidates, only eleven Spanish surnamed men were available for selection which constituted approximately fourteen percent. Ultimately, seventeen individuals appear to have been selected for petit jury service and of the seventeen, six were Anglo surnamed women which constituted thirty five percent of the selected jurors.[46]

[43] "Motion by Defendant for Special Venire," Cause No. 7463, *The State of Texas v. Daniel Aleman*.
[44] Ibid. The italicized emphasis is mine.
[45] "Order of the Court Overruling Defendant's Motion for a Special Venire." Cause No. 7463: *The State of Texas v. Daniel Aleman*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[46] Hidalgo County *Juror's Time Book*. Book No. 49137, pp. 81, 82, and 86.

A few days later on September 19, the *Time Books* indicate that approximately 112 individuals were called for potential service. Of those reporting for potential duty, forty five were women, which constituted approximately forty percent of the available pool. On that date, sixty seven males were in the available pool. Thirty were Spanish surnamed men and thirty seven appeared to be Anglo surnamed males. Spanish surnamed men constituted twenty seven percent while Anglo surnamed men made up thirty three percent of the pool. There is no indication that women or men were selected as petit jurors from this particular call, however, the number of women who could be selected was very high in comparison to Mexican American males in the September 19 juror pool.[47]

After September 1955, female participation in the petit jury box accelerated at a phenomenal rate. For example, on June 21, 1954 L.B. Foster was charged with swindling and was alleged to have written a check in the amount of $156.25 without sufficient funds in a Tennessee bank to cover the check. However, on June 24 he was judged to be of unsound mind and conveyed to the San Antonio State Hospital the same day. Later certified by the Hospital's Superintendant to have regained his sanity, Foster was returned to Hidalgo County and a sanity hearing was conducted before a jury on September 10, 1955 in Judge S.N. McWhorter's 92nd District Court. The jury for the hearing consisted of four women (one woman was Spanish surnamed) and eight men (one of the men was Spanish surnamed). One woman, Mrs. C.R. Parliman, was identified in the case file as the foreman of the jury. Women in the selected jury panel constituted about forty percent and men the other sixty percent. As one of the first cases tried in the county involving women, this is an extremely high rate of selection for a new group of juror participants and the speed with which the selection rate occurred was extraordinarily

[47] Ibid, pp. 84-85.

swift. The case file also indicated that six other individuals were eligible to serve, but were *not* chosen for this particular panel. One was an Anglo surnamed woman and the remaining five appeared to have been Anglo surnamed men. Ultimately, the women who were eligible to serve constituted forty two percent of the available pool, while Spanish surnamed males constituted only one half of one percent.[48] Ultimately, the jury found Foster sane on September 10, but the court released Foster since no criminal charge was pending against him at the time of the sanity hearing.

Later in the year, a criminal trial was held in Judge McWhorter's 92nd District Court for Guadalupe Concepcion Guerra who was indicted on September 15, 1955 for possession of marihuana.[49] The jury selected for this trial on November 28, 1955 appeared to have been made up of three women (one was Spanish surnamed) and the remaining nine appeared to have been Anglo surnamed males. R.W. McKay was selected as foreman of the jury (presumably, an Anglo male). Statistically, women constituted about twenty five percent of the selected jury. The case file indicated that there were twenty three individuals available for selection; four were women (all Anglo surnamed) while the remaining nineteen were males (seven of whom were Spanish surnamed). Statistically, Anglo surnamed women represented about nine percent of the remaining pool, while Spanish surnamed males represented about sixty four percent of the non-selected jurors. Rather than go to trial, Guerra plead guilty on November 28 and the jury found him guilty of possession of marihuana and assessed his punishment at five years imprisonment.[50] Ultimately, Guerra pled guilty to possession of marihuana and the jury assessed his punishment at five years confinement in the state penitentiary. Significantly, the rate of women's

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[48]Cause No. 7494: *The State of Texas v. L.B. Foster*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[49] Cause No. 7721: *The State of Texas v. Guadalupe Concepcion Guerra*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas. The case file spelling for the drug *marihuana* was common for the era.
[50]Ibid.

participation was higher and that trend continued to exceed Mexican American male participation during the early months of women's inclusion.

A few months later, a civil case involving the non-payment of a $3600 debt, came before Hidalgo County's 139th District Court with Fidencio M. Guerra the presiding judge. The case involved prominent Valley resident Lloyd M. Bentsen, Jr., who in later years, would serve as a United States Senator for the state of Texas from 1971 to 1993. In this civil matter, the jury chosen was made up of three women, all of whom were Anglo surnamed, and nine men (two Spanish surnamed). Anglo surnamed women constituted twenty five percent of the jurors, and Spanish surnamed men constituted about seventeen percent of the jury box. The jury foreman for this case was identified as Mrs. Orval Stites and the trial was held December 12-14, 1955 with the jury ultimately deciding in favor of Bentsen.[51]

Additionally, in February, 1956, another civil case involving a vehicle accident was heard in the 92nd District Court with juror composition being of prime importance. Of the twelve individuals selected to hear this matter, three were women (two were Spanish surnamed) while the remaining nine jurors (three were Spanish surnamed) being male. June T. Martin was identified as the foreman of the jury, but nothing in the case file could be found to determine the gender of the jury foreman. However, given the general propensity of county employees to identify female jurors as "Mrs.," or unless the individual had a decidedly feminine sounding first name (Agnes, Julia or Juana, for example) it seems likely that Martin was a male.[52] As exemplified by these cases, the ratio of Anglo surnamed women selected during this time frame remained quite high and it continued into the next year.

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[51]Cause No. C-190: *Lloyd M. Bentsen, Jr. v. Joe A. Cunningham*, *Jr.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[52]Cause No. A-9404: *J.L. Portman v. Wiley Hahn, et. al*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

In a criminal case held in January, 1956, Bob Jaynes was alleged to have assaulted Luis Ramos with the intent to murder him. The case was held before McWhorter in the 92nd District Court, and of the twelve individuals selected for the jury trial on January 30, 1956, seven were women and five were men. Of those selected as petit jurors, none were Spanish surnamed men or women and Anglo surnamed women made up fifty eight percent of the jury while Anglo surnamed men constituted the remaining forty two percent. The jury eventually found Jaynes guilty of aggravated assault on February 1 and sentenced him to two years in prison along with a $500 dollar fine.[53] In another criminal case conducted in McWhorter's 92nd District Court, Urbano Morin was alleged to have murdered Tomas Gomez, with malice aforethought. A jury was selected on March 28, 1956 and of the twelve individuals selected, one was an Anglo surnamed female, nine were Anglo surnamed men with the remaining two men being Spanish surnamed.[54]

In a civil case held in the County's 139th District Court with Fidencio M. Guerra, Jr. presiding, Edward L. Ostlund brought suit against Nettie Baldridge on behalf of his 14 month old daughter. Baldridge was alleged to have run over the legs and torso of Ostlund's daughter with an automobile, acting with negligence and recklessness. Apparently, two trials were held to hear the merits of the case, but the case file did not indicate the reason for two trials. The first jury, selected on December, 19, 1955, was composed of three women (two were Anglo surnamed and one was Spanish surnamed) and nine men (all Anglo surnamed). The second petit jury was selected on March 19, 1956 and was composed of five women (all Anglo surnamed) and seven men (all Anglo surnamed). Regardless of the outcome in this case, it is the racial and gendered

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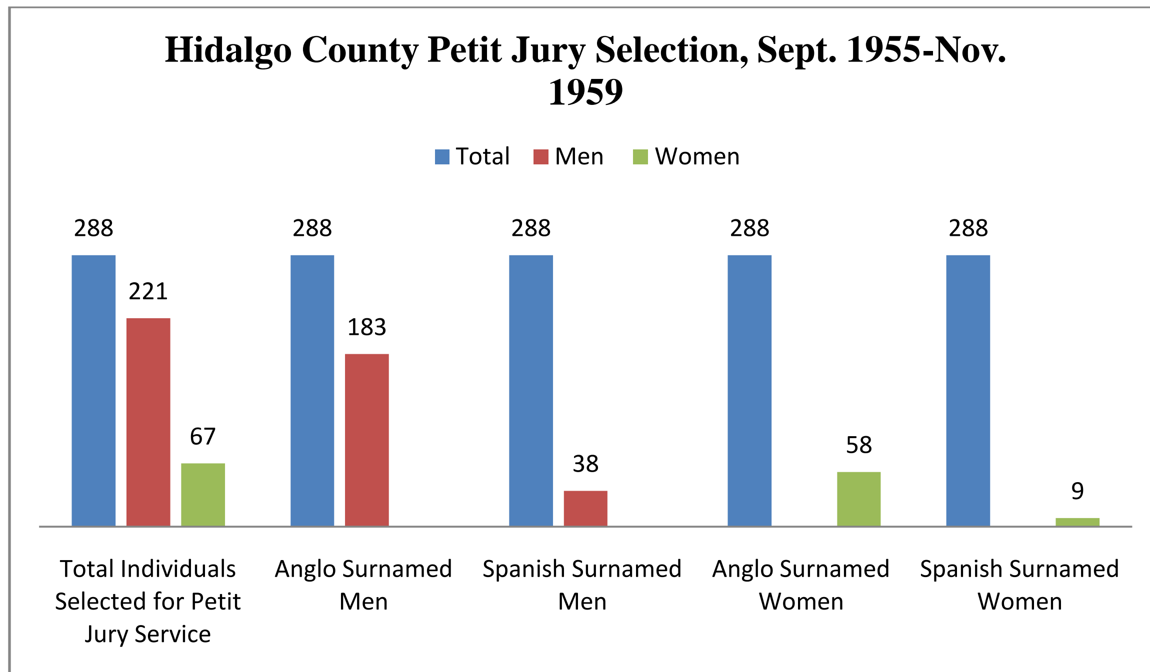
[53]Cause No. 7720: *The State of Texas v. Bob Jaynes.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[54]Cause No. 7807: *The State of Texas v. Urbano Morin*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

composition of the juries that is especially applicable. Of the twenty four petit jurors chosen to hear this specific case, eight were women constituting thirty three percent of the selected jurors, while only one Spanish surnamed individual was selected to hear this cause, making up only four percent of the all the selected petit jurors.[55] In a striking example of the lack of Spanish surnamed representation, two cases were heard in September, 1956 with only one Spanish surnamed male being selected to hear these criminal causes.[56] Also, from February, 1957 to November, 1959 eleven additional cases were randomly selected for review and analysis.[57] The selection rates of Spanish surnamed men and women continued to spiral downward throughout the decade.

Graphic representations best illustrates the selection rate of Hidalgo County's Anglo surnamed and Spanish surnamed males and females. Within five years of Texas voters approving the inclusion of women on petit juries, the selection rate of Anglo women vastly outstripped any possible gains that could have been made by Mexican American males or females in the wake of the *Hernandez v. Texas* decision. As shown in the figure below, titled "Hidalgo County Petit Jury Selection, Nov. 1954-Nov. 1955," the participation rate of Anglo females was more than three times the selection rate of Mexican American males *and* females selected for the same cases/juries. Participation rates of Anglo surnamed men continued to

[55] Cause No. C-605: *Edward L. Ostlund, et. al. v. Nettie Baldridge.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[56] Cause No. 7849: *The State of Texas v. Carlos M. McGuyre* and Cause No. 7863: *The State of Texas v. Benito Aguirre.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[57] The criminal and civil cases described in this chapter are representative of the types of actions brought in the County from 1955-1959. The following cases were also reviewed and analyzed for this time frame. Cause No. 9697: *J.A. Boler v. William U. Coughran, Jr., et. ux;* Cause No. A-9358: *Richard T. Yelton v. Evelyn B. Davenport, Executrix of the Estate of Della Yates, Deceased;* Cause No. A-9378: *Claude J. Mergele v. Evelyn B. Davenport, Executrix of the Estate of Della Yates, Deceased;* Cause No. A-9201: *Wroe Owens, et. al. v. Pure Oil Company*; Cause No. 7438: *The State of Texas v. Miguel Vega, alias Mike Vega*; Cause No. 8179: *The State of Texas v. Dolores Nunez Alaniz*; Cause No. 8227: *The State of Texas v. Elmer Joe Meckel*; Cause No. 8448: *The State of Texas v. Pablo Renteria*; Cause No. 8539: *The State of Texas v. Eusebio Hernandez*; Cause No. 8575: *The State of Texas v. Robert L. Morrow*; Cause No. 7831: *The State of Texas v. J. Loy Ramsour.* All cases are stored with the Hidalgo County District Clerk's Office in Edinburg, Texas.

dominate the county's petit jury selections and the Hernandez decision had little effect on the inclusion rates for the county's Mexican American community.



In short, of the criminal and civil cases randomly selected for review and discussion from September, 1955 through November, 1959, 288 individuals (male and female regardless of race) were selected for jury duty. Of that number, fifty eight were Anglo surnamed female constituting twenty percent of the entire total selected, while nine Spanish surnamed females were selected for jury duty which constituted five percent of the entire total selected for service. For all males selected for petit jury service, the rates of inclusion and exclusion are similar.

Of the 288 individuals selected for jury service, 221 were male; 183 were Anglo surnamed, which constituted sixty four percent of the total number selected. The remaining thirty eight men were Spanish surnamed constituting just thirteen percent of Mexican American

men selected for petit jury service in the County.[58] Even with a Supreme Court decision on their side, the civic and political marginalization of Mexican American men *and* women continued in Hidalgo County after May, 1954. While short term legal victories were certainly important during the early years of the Mexican American civil rights movement, the lack of compliance with the Supreme Court is evident in Hidalgo County and *de facto* discrimination practices against Mexican Americans continued in south Texas. Hidalgo County's court cases and petit jury lists are prime evidence of the segregated nature of the Valley's legal community and the social realities of community based discrimination that has long been endured by Hidalgo County's Mexican American community. In general terms, trial attorneys may have any number of reasons, both logical and illogical, for rejecting impaneled individuals as petit jurors. However, the most common denominator when any person is called for jury duty is the immutable characteristic of racial appearance and gender. As noted earlier, defense attorney Sidney Farr began raising the question of equitable racial representation on the county's grand jury pools. This numerical analysis provides additional *prima facie* evidence for the racial exclusion of Mexican American males and Mexican American females in the selection of Hidalgo County's petit juries in the mid to late 1950s.

In summation, this chapter has addressed the civic inclusion efforts of women as petit jurors in Hidalgo County from 1949 through 1956. It has also asserted that female participation in Hidalgo County's petit juries was nearly immediate and that Anglo surnamed women had much higher participation rates in the early years of female inclusion than did Mexican American men and women. This new source of Anglo surnamed individuals continued the civic and

[58] **Note:** The graph excludes cases where no jurors were selected, or where venire lists were not present within the case files. As mentioned in chapter three, the graph represents a consistent numerical reflection of the realities of juror selection in Hidalgo County for the time period under review. As with any statistical analysis, the resulting graph is subject to some numerical variance.

political marginalization of Mexican Americans and their socio-political status as second class citizens in Hidalgo County. This chapter has also contextualized local and regional opinions about women's inclusion with the national Women's Movement in its effort to secure petit and grand jury service. By laying claim to their rights as first class citizens, the rhetoric used by women's civil rights advocates mimicked the language of inclusion used by Mexican American civil rights adherents as both groups sought their place in the jury box in the 1950s.

As noted earlier, historian Clare Sheridan has asserted that jury service is not only a legitimating service for those called to serve, it assumes that the community's acceptance of the individual as a peer within the community is inherent in the call and selection for service. The act of sitting in judgment of others from the community implies a symbolic and mutual acceptance of the individual and their racial, ethnic or gendered make up from which they are drawn.[59] After 1954, as more Anglo surnamed women made their way onto petit juries in the County, they were sometimes selected by other jury members as foremen of the jury. This act of selection is significant given the role of the jury foreman. In essence, the duty of the jury foreman is to guide the deliberations of the jury behind closed doors and to speak for the jury in open court when delivering the jury's verdict against another community member accused of a crime. Once the case goes to the jury, the jurors are sequestered during their deliberation and the equal status amongst jurors is clearly acknowledged. The act of conferring this designation upon, and by others in the jury box is the highest form of symbolic acceptance. Significantly, of the court cases randomly selected for review and analysis and where the case files contained information that specifically identified a foreman, none of the juries after 1954 selected a Spanish surnamed individual (male or female) to serve as a jury foreman except for one.

[59] See footnote # 5, supra (in this chapter).

In October, 1958 a grand jury indictment was brought against two men alleging that on, or about May 4, 1958 Ellis Cole and Haynes Duncan unlawfully took one head of cattle from W.H. Drawe. In a typed and notarized statement from Drawe's son Jack, Jack stated that he noticed "… two colored men in a red Ford convertible pulling a four wheel trailer containing cattle." The notarized statement clearly indicates that both Cole and Duncan were African American defendants. Upon further review, the file revealed that Cole and Duncan were tried together and of the twelve jurors selected for this trial, three were Spanish surnamed males, seven were Anglo surnamed males and two were Anglo surnamed females. The file also indicated that I. C. (Inez) Escobar was selected as the foreman for this petit jury. Ultimately, both men pled guilty to the charge of cattle theft and the jury assessed their punishment at four years in the state penitentiary.[60] Of all the case files randomly selected for review, at no other time was there any indication that Mexican American men or women were actively selected to speak for the petit jury and by implication, the community at large. What remains to be determined is if Mexican Americans were regularly selected to jury foreman when African Americans were brought to trial, or if this act was merely rubber stamped because the defendants chose to plead guilty in the face of Hidalgo County's racially imbalanced petit and grand jury selections.

The act of selecting an Anglo surnamed man or woman to serve as a spokesperson for a group of strangers, who are drawn from the community at large, sitting in judgment of others from the community bespeaks to the level of acceptance and equality largely unknown to Hidalgo County's Mexican Americans who were rarely selected as petit jurors in the 1950s. The "equal" voice that is best exemplified by service in the jury box, was largely absent for the

[60] Cause No. 8367: *The State of Texas v. Ellis Cole* and Cause No. 8368: *The State of Texas v.Haynes Jackson Duncan*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

Mexican American community in south Texas before *and* after the *Hernandez v. Texas* decision. The lack of compliance with the *Hernandez* decision is palpable when the raw numbers of individuals selected for petit jury service are parsed out of the Hidalgo County court cases post-*Hernandez*. Clearly, Hidalgo County prosecutors and District Court judges not only failed to follow the holding in the *Hernandez* decision, they contributed to the continued discrimination and civic marginalization of Mexican Americans in south Texas. At the close of the decade, Mexican Americans in Hidalgo County were left with the stark realization that the civil rights protections enumerated in the United States Constitution and as supported by the U.S. Supreme Court, did not amount to much in south Texas legal circles. It would not be until the late 1970s when the issue of proportional representation on the county's juries would be specifically addressed by the United States Supreme Court. Until then, the idea of equitable Mexican American representation on petit juries would continue its downward spiral into early 1960.

CHAPTER V

1960 AND BEYOND

As the 1950s came to an end, the Mexican American community in Texas and Hidalgo County had gained some measure of equality under the law. By the end of May, 1954 the Supreme Court had ruled in *Hernandez v. Texas* that Mexican Americans were systematically excluded from petit jury service in Texas. Acknowledging that Mexicans Americas had been treated as a "class apart," Mexican Americans were finally accorded the equal protection of the laws as guaranteed under the Fourteenth Amendment. The *Hernandez* decision extended the protections of the Fourteenth Amendment to include other racial minorities and the Supreme Court legally recognized that the United States racial categories extended beyond the black/white racial binary.

While the decision paved the way for Mexican American men to serve on juries, the decision gave Mexican American *women* this right in name only. As discussed earlier, Texas statutes would exclude women from Hidalgo County's petit juries until September, 1955 but women (predominantly Anglo surnamed) were quickly summoned to serve on Hidalgo County's *grand* juries beginning in January, 1955. If the state of Texas (and others across the country) had not rectified the inclusion of women so soon after the *Hernandez* decision, women could certainly have used the logic established in the *Hernandez* decision as the basis for challenging state statutes limiting jury duty only to men. For example, attorney Carlos Cadena noted that women could have used the "class apart" theory to challenge these exclusionary statutes. However, the main women's organizations then in existence across the country had virtually no

Mexican American members and thus, no knowledge of the *Hernandez* case or the useful precedent it presented to women's organizations. Additionally, LULAC and the G.I. Forum were largely busy fighting against ethnic/racial discrimination and largely ignored Mexican American women's concerns.[1]

As we have seen, the post-World War II years were a significant time in the development of a political and social consciousness for Mexican Americans in Texas. This so called Mexican American Generation embraced a "white" racial identityin an attempt to moveMexican Americans away from the negative stereotypes of a "colored" or "black" racial designation which carried with it the ***legal*** basis for discrimination in Jim Crow Texas. Butthis "white" racial designation did little to alleviate the marginalization that Mexican Americans experienced in the Rio Grande Valley. As the decade faded, so too did the legal protections called for in the *Hernandez* case and Hidalgo County increasingly failed to follow the law as stipulated by the Supreme Court. While the *Hernandez* case called for an end to the systematic exclusion of Mexican Americans from petit juries, the decision did not address the issue of proportional representation. This matter was not part of the original litigation, nor was it addressed by Hernandez' attorneys throughout the jury trial or the appeal process. Additionally, Hernandez' attorneys and the Supreme Court did not address how often or how quickly individuals could serve as petit jurors. Preoccupied with the exclusionary practices of Jackson County, little effort was made to determine how often Anglo surnamed jurors in Jackson County may have served within a given space in time. By comparison, in the random sampling of Hidalgo County's District Court cases from the latter half of the 1950s and into early 1960, there are at least two

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[1] Julie Leininger Pycior. *LBJ & Mexican Americans: The Paradox of Power*. (Austin: University of Texas Press, 1997), pp. 94-95.

instances when the County allowed some petit jurors to serve on two different jury trials conducted within days of each other.

For example, on September 21, 1959 and September 23, 1959 two criminal trials were conducted before Judge McWhorter's 92nd District Court. In both cases, not only were several individuals selected to serve as petit jurors in both cases, but the list of individuals from which attorneys were to select petit jurors in both cases was also identical. In Cause 8451, Francisco Valdez was charged with unlawfully taking two doors from a home under construction. In an apparent one day trial, the jury found Valdez guilty of the charge of felony theft and assessed his punishment at two years confinement in the state penitentiary.[2] Two days later in Cause 8455, Baldomero Villalpondo went to trial for the charge of assault with the intent to murder Reyes Moreno. At the conclusion of another one day trial, Villalpondo was found guilty and the jury sentenced him to serve three years in the state penitentiary.[3] In these two jury trials, the same fifty seven individuals were available for selection as petit jurors. Of that number, the entire pool was composed of five Spanish surnamed females, four Spanish surnamed males, fourteen Anglo surnamed females and thirty four Anglo surnamed males. Of the twenty four jurors ultimately selected for these two jury trials, two were Spanish surnamed females, no Spanish surnamed males were selected for service, six Anglo surnamed females were selected and sixteen Anglo surnamed males dominated the representation of these two jury panels. The case files also revealed that jurors Jack M. Rankin, Melvin O. Drake, Noemi Molina, C.P. Cruce, A.G.

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[2]Cause No. 8451: *The State of Texas v. Francisco Hernandez Valdez.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

[3]Cause No. 8455: *The State of Texas v. Baldomero Villalpondo.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas. ***Note:*** A deeper review of Villalpondo's case file found that he would eventually be granted a full pardon (Proclamation No. 62-3146) by Texas Governor Price Daniel on September 11, 1962 with a restoration of all civil rights that may have been lost as a result of the conviction of set out in Cause Number 8455.

Schlichter and Mrs. R.A. Fickel served in *both* trials, which were conducted within two days of each other.[4]

A few months later, on February 23 and February 24, 1960 two criminal matters were again before Judge McWhorter's 92nd District Court. In Cause Number 8593 and 8503, six individuals were selected to serve as petit jurors in both cases which involved Mexican American defendants. In Cause 8593, Jose Savedra was charged with breaking and entering into a home owned by Agustin Urquiso Garcia on October 15, 1959. Savedra pled not guilty to the charge on February 23, and the case file shows that the jury assessed his punishment at twelve years confinement in the state penitentiary.[5] In Cause 8503, Adan Valdez Garza was charged with the unlawful possession of marihuana on June 17, 1959. Here, Garza's jury found him guilty of the charge in a one day trial, and sentenced him to the state penitentiary for not less than two years and no more than fifteen years.[6] While the crimes do not seem particularly egregious in nature, it is the racial composition of the juries and the particular individuals who served on ***both*** juries that is of special interest.

In the same manner as the September, 1959 cases, when the petit juries of Cause 8593 and 8503 were compared side by side, jurors L.H. Freeman, Clarence Penland, Roy Blackburn, Don Jorgensen, W.A. Nicholson and Truman D. Kerr served on *both* cases which were conducted within one day of each other. Additionally, of the twenty four jurors selected in these two cases, none of the jurors selected were Spanish surnamed men or women, only one Anglo surnamed woman was selected to serve on these two juries and the remaining twenty three jurors

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[4]Cause No. 8451: *The State of Texas v. Francisco Hernandez Valdez* and Cause No. 8455: *The State of Texas v. Baldomero Villalpondo*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[5]Cause No. 8593: *The State of Texas v. Jose Villalon Savedra*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[6]Cause No. 8503: *The State of Texas v. Adan Valdez Garza*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

were Anglo surnamed men.[7] While no juror availability lists were present in either of these case files, when the *Juror Time Books* were consulted it appears that for the week of February 23, 1960 (which includes these two cases), sixty five individuals were called for jury service including those individuals selected as jurors for these two cases. Of the sixty five, forty were Anglo surnamed men, thirteen were Anglo surnamed women, nine were Spanish surnamed men and three were Spanish surnamed women.[8] Clearly, Spanish surnamed men and women were available for selection in both of these cases but neither prosecutors, nor the defense attorneys elected to choose them for the box. Additionally, the low numbers of Spanish surnamed men and women in the available pool also reflected the downward spiral of Mexican American representation in the county's petit jury boxes in the years immediately following the *Hernandez* decision.

No plausible explanation could be found in these four case files that would explain why so many individuals repeated their jury service or why the same list of finalists comprised the pool of available jurors in two of them. The enabling statute for Texas' petit juries in the 1950s, specifically stipulated that petit jurors could ***not*** be selected again if they had "… served for six days during the preceding six months in the District Court."[9] When read in this context, the statute implies that individuals could be repeatedly selected as jurors so long that they had not served for six *consecutive* days. Should this interpretation of the statute be accurate, the fact that half of the selected petit jurors in these four trials had served within days of each other in the same district court, before the same district court judge (McWhorter's 92nd District Court) and all with Mexican American defendants suggests a highly suspect and biased system of petit juror

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[7] Ibid.
[8] Hidalgo County *Juror Time Book,* Book No. 74330, pp. 95-96.
[9] General and Special Laws of the State of Texas, Regular Session of the Fifty-Fourth Legislature. Chapter 288, Section 4, p. 795 (1955).

selection. When Spanish surnamed individuals were available in these matters and when the presiding district court judge allowed this action locally, the "abuses of tyranny" are certainly guaranteed against a very few. What is clear about all these matters is that there were Spanish surnamed men and women in the availability pool, but there was little regard for the community's acceptance of the Mexican American community in the County's civic engagement process.

With these examples of unequal judicial protections, a deeper analysis of randomly selected criminal and civil case files from 1960 continued to illustrate a striking decline in the juror participation rates of Spanish surnamed individuals. Along with the two cases mentioned above from February, 1960 six additional cases were randomly selected and reviewed for analysis. In March, 1960, Phillip Brown was employed as a laborer with Coastal States Drilling Company in Hidalgo County when he was injured during the course of his employment with the drilling company. Suing Indemnity Insurance Company for a worker's compensation claim in Judge W.R. Blalock's 93rd District Court, Brown's petit jury trial on March 21, 1960 was largely dominated by Anglo surnamed individuals. Of the twelve jurors selected for this civil trial, eight were Anglo surnamed men, two were Anglo surnamed women, one was Spanish surnamed woman and one was a Spanish surnamed man.[10] While no testimony was heard as the result of an out of court settlement two days later, it is the composition of the jury on the basis of race and gender that is paramount in this civil matter.

In a criminal case one month later, Francisco Luna, Jr. went to trial on the charge of driving while intoxicated. Indicted on January 21, 1960 it was Luna's second offense for driving

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[10] Cause No. B-21405: *Phillip H. Brown v. Indemnity Insurance Company of North America*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

under the influence. On his first offense, he had been found guilty in Hidalgo County's County Court at Law on December 12, 1955. When his second offense came to trial on April 19, 1960, the composition of the petit jury largely mirrored Brown's case one month earlier. Of the twelve jurors selected for Luna's trial, eight were Anglo surnamed men, two were Anglo surnamed women, two were Spanish surnamed men and no Spanish surnamed women were selected for this petit jury. Found guilty in a one day trial, Luna was sentenced to confinement in the county jail for one year and ordered to pay a one hundred dollar fine.[11] Also reviewed and analyzed were three more civil cases conducted during the month of May, 1960. In Cause C-2101, K.E. Calvert sued Herb's Super Market on behalf of his wife Ann who had fallen in the market on August 6, 1956. Finally coming to jury trial on May 2, 1960 in Hidalgo County's 139th District Court, before Judge Fidencio M. Guerra, Jr., the twelve jurors were composed of eleven Anglo surnamed men and one Anglo surnamed woman. Of the thirty six individuals who were available to be selected for this petit jury, twenty eight were Anglo surnamed men, six were Anglo surnamed women, two were Spanish surnamed men and no Spanish surnamed females were in the availability pool. Ultimately, the jury found in favor of the supermarket and ruled that Mrs. Calvert's fall was an unavoidable accident.[12]

A week later, another civil matter came to trial on a suit that was originally brought on September 11, 1958. In this case, Carmen Escobar filed suit against a railroad company and alleged that a vehicle accident claimed the life of her husband Dionicio Escobar because the rail company had failed to properlymaintain a train crossing sign. When the matter came to trial on May 16, 1960 of the twelve jurors selected to hear the Escobar suit, nine were Anglo surnamed

[11] Cause No. 8595: *The State of Texas v. Francisco Luna, Jr.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[12] Cause No. C-2101: *K.E. Calvert v. Herbert Scurlock, et. al., d/b/a Herb's Super Market.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

and three were Anglo surnamed women. No Spanish surnamed men or women were selected for this jury trial. Following a four day trial, the jury ultimately found in favor of the railroad company.[13] When the *Juror Time Books* were consulted for the week of May 16, it appears that seventy five individuals were available for jury selection. Of that number, seventeen were Spanish surnamed men, four were Spanish surnamed women, forty three were Anglo surnamed men and eleven were Anglo surnamed women.[14] Again, Spanish surnamed men and women were available for selection but were ignored in the selection process by attorneys representing both sides.

In the last of the civil matters reviewed in early 1960, a land title action came to trial on May 23, 1960. Wilfred Fisher sued Ynez Villareal over approximately 200 acres of *Porcione* (Portion) #39 in the Los Ebanos area just outside of Mission.[15] Apparently, Villareal never registered his deed claim to the land under Texas law, but claimed title/ownership to a portion of the land by asserting that his ancestors had been "… granted *Porcione* 39 by the King."[16] Presumably, Villareal meant the King of Spain while Mexico was a part of the Spanish empire during the mid-16th Century.[17] Conducted from May 23-27, the petit jury was composed of ten Anglo surnamed men and one Anglo surnamed woman. No Spanish surnamed men or women were on the petit jury and the jury ultimately decided in favor of Fisher. Of the thirty eight individuals available for petit jury service, one was a Spanish surnamed woman, four were Spanish surnamed men, seven were Anglo surnamed women and twenty six were Anglo

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[13] Cause No. C-2988: *Carmen Sosa Escobar v. Texas & New Orleans Railroad Company*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[14] Hidalgo County *Juror's Time Book*. Book No. 74330,pp. 112-1123.
[15] Cause No. A-10186: *Wilfred s. St. Claire Fisher, et.ux. v.Ynez Villareal*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[16]" Deposition of Ynez Villareal," pp. 6-7.
[17] For a fascinating accountof early settlers and land distribution in the Lower Rio Grande Valley, see Armando Alonzo's *Tejano Legacy: Rancheros and Settlers in South Texas, 1734-1900.*(Albuquerque: University of New Mexico Press, 1998). See especially pp. 1-13, 38-40, and 145-159.

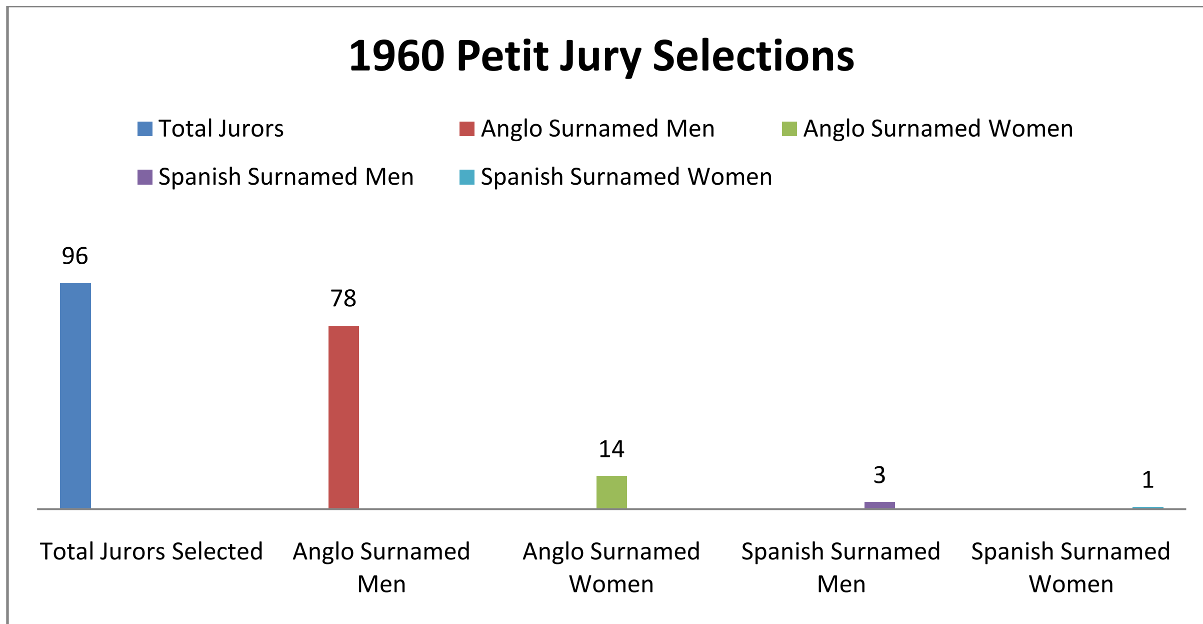
surnamed men.[18] Again, Spanish surnamed individuals were available, but not selected by attorneys on both sides. As an enlightening aside, in one of the very few instances of attorney's notations contained within a case file, Villareal's attorney made note of the apparent occupations of some of the potential jurors.

For example, Villareal's attorney noted that juror Charles A. Martin's occupation was that of a "Hygea [sic] salesman" (a local milk producing company, Hygeia Dairy was based in Edinburg). Villareal's attorney also noted that juror finalist John A. Levermann's occupation was apparently that of a "service manager" (Levermann was selected as a petit juror in this case); L.A. Ruffner appeared to have been employed with "Texsun," a local citrus juice production company (Ruffner was selected as a petit juror in this case); Clyde Loganwell was identified as an "engineer, Cont. Oil Co" and he was also selected as a petit juror. Others ***not*** selected as petit jurors, but whose occupations or personal friendship were recorded by Villareal's attorney included the following; A.E. Schwarz ("farmer-Mercedes-600 acres"), J.P. Thomas ("McAllen-Welding Supply"), A.J. Stephens ("retired") and Roy E. Garrison ("knows Fisher").[19]

Occupation was apparently uppermost in the mind of Villareal's attorney as the jury was being selected for this particular case trial. While these occupations can indicate a level of class status and the individual's standing in the community, more research is needed in order to definitively tie the issue of class standing to jury selection for the time frame under study. However, given what little information that has been found in Hidalgo County's existing case/cause files, could the racial and class based composition of *this* jury completely understand

[18] Cause No. A-10186: *Fisher v. Villareal.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.
[19] Cause No. A-10186, "Defendant's List." While not clearly explained in the case file, "Cont. Oil Co" could refer to Continental Oil Company.

or sympathize with the emotional and familial ties to Spanish/Mexican land grants in an area that had little regard for the history of the Valley and the people who were recipients of these *Porciones?* In another criminal case later in the year, seventeen year old Baldemar Flores was indicted on October 21, 1960 for unlawfully taking an automobile from Imer Garcia. Charged with felony theft, Flores pled not guilty and went to trial on November 22, 1960. Of the twelve individuals selected for his jury, nine were Anglo surnamed men and three were Anglo surnamed females. No Spanish surnamed men or women were chosen for this petit jury, and the available pool was largely devoid of any Spanish surnamed individual. Of the forty individuals available for selection, twenty seven were Anglo surnamed men, eleven were Anglo surnamed women, two were Spanish surnamed men and no Spanish surnamed females were in the available pool.[20]



When represented graphically, Hidalgo County continued to systematically bar Mexican Americans and Spanish surnamed individuals from petit jury service and the racial representation supports the contention that Hidalgo County did not comply with the *Hernandez* decision. This

[20] Cause No. 8743: *The State of Texas v. Baldemar Flores*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

data also supports my assertion that social and legal marginalization of Mexican Americans continued in Jim Crow south Texas even with the strength of a Supreme Court decision on their side.

All told, of the eight cases reviewed from early 1960, ninety six individuals were selected to serveas petit jurors in various criminal and civil case matters. Of those selected, seventy eight were Anglo surnamed male, fourteen were Anglo surnamed female, three were Spanish surnamed male and only one was a Spanish surnamed female. The Spanish surnamed female participation rate in these matters equals one percent, Spanish surnamed men's participation rate equals three percent, Anglo surnamed female participation equals fifteen percent and the Anglo surnamed men's participation equals eighty one percent. The total Spanish surnamed participation rate equals four percent, while the total Anglo surnamed participation rate equals ninety six percent. Admittedly, this is a very small sampling of case files, but the continued trend of non-participation by Mexican American men and women in Hidalgo County's civic juror process ***after*** the 1954 *Hernandez* decision is striking.

In the long run, the *Hernandez* decision spoke only to immediate petit jury representation and by extension, civic inclusion. The broader question of equitable proportionality and the non-discriminatory mechanics of grand jury selection would not be addressed for another twenty three years. In the 1977 case of *Castañeda v. Partida*, the Supreme Court decided a case in which Mexican Americans constituted about eighty percent of the population in a south Texas county, but from 1962 to 1972, averaged less than forty percent of the county's seated grand jurors. Challenging the racial composition of seated *grand* jurors in the county, appellant Rodrigo Partida successfully challenged the state of Texas' method of selecting and impaneling

grand juries that had been in place for years.[21] Significantly, the litigation associated with *Castañeda v. Partida* began in Hidalgo County, Texas.

By comparison, the state of California underwent a similar grand jury case in the early 1960s. Historian Ian Haney Lopez has detailed how Mexican American defendants in a pair of jury trial cases, challenged the racial composition of California's grand juries that indicted these defendants. Relying upon similar statistical evidence, Haney Lopez has posited that in determining the individuals who would sit as grand jurors, California's Superior Court judges often nominated their friends, neighbors or acquaintances. These individuals that the California judges nominated often gravitated in the same social and political circles that the judges inhabited. By utilizing the grand juror rolls, Haney Lopez identified Spanish surnamed individuals who were selected as a comparison with those non-Spanish surnamed individuals who were selected as grand jurors. In his statistical analysis, Haney Lopez found that approximately eighty nine percent of the individuals nominated for grand jury service were from the judge's social circle. Mexican Americans were often not within the social circles of the judges, were rarely personal friends of Superior Court judges, and were largely excluded from grand jury service.[22] Particularly relevant are the use of juror rolls and the strategy of identifying Spanish surnamed individuals as a method of establishing marginalization in a socio-political context.

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[21] Kevin R. Johnson, "*Hernandez v. Texas*: Legacies of Justice and Injustice," in *"Colored Men and Hombres Aqui;"Hernandez v. Texasand the Emergence of Mexican-American Lawyering*, (Houston: Arte Publico Press, 2006), p. 77. Technically, the "key man" method of grand jury selection was at issue in the *Castañeda*case. In the "key man" manner of selection, a grand jury commissioner nominates individuals to serve as grand jurors who are known personally to the commissioner or,who are merely second hand acquaintances of the commissioner; in short, a friend of a friend. The "key man" method is extremely subjective, acutely arbitrary; and as the Court ruled in 1977, is highly suspect given the likelihood of discrimination. According to Johnson, Texas' "key man" method of grand juror selection had been before the Supreme Court on several occasions, but the Court has never invalidated, or ruled illegal, this method of selecting grand jurors in Texas.

[22] Ian Haney Lopez. *Racism on Trial: The Chicano Fight for Justice*. (Cambridge: The Belknap Press of Harvard University Press, 2003). Pp. 91-103.

When compared to the socio-political circumstances of Pete Hernandez and Jackson County, Texas in 1951, understanding the civic and political participation by Mexican Americans in the lower Rio Grande Valley is essential in this unique borderlands region. Given the racial/ethnic composition of the region and the history of political and civic exclusion experienced by an entire group of people in Hidalgo County, such historical analysis and detailed discussion of petit jury lists and criminal/civil case files is only a beginning point in the examination of theValley's legal history. The value of these grand jury comparisons emphasizes that the importance of petit jury service has implications far beyond its original purpose. Designed largely as a hedge against the power of government, petit jury trials have also come to represent the community and should ideally reflect the community's diverse population. When the community is poorly represented in the box, the community's opinion that jurors bring to the courtroom is missing and some "voices" of the community are silent. When Hidalgo County's Mexican American population comprised approximately fifty four percent of the County's total population yet consistently failed to reflect that proportionality within the box, then Judge Blalock's "abuses of tyranny" are not only proverbial, but in some cases, utterly undeniable.

As we have seen during the 1950s and into the early months of 1960, of the fifty one cases reviewed for this study, no Mexican American men or women were regularly selected to serve as jury foremen with one exception. The only exception was the *Cole/Duncan* case that was jointly tried in 1959. In that case, both defendants were African American men and Inez Cardenas was selected as the jury foreman. While both men plead guilty and no testimony was heard, the jury had to assess punishment for both men. However, the selection of Cardenas as jury foreman raises other questions and issues for discussion. For example, does Cardenas' selection indicate that there was a simmering dislike between Mexican American's and African

Americans in the Rio Grande Valley? In his study of African Americans in the Rio Grande Valley from 1860-1930, Alberto Rodriguez asserts that Mexican Americans, particularly those Mexican Americans who were landed elites and Anglo newcomers to the Rio Grande Valley essentially cooperated to impose and strengthen Jim Crow segregation and discrimination which subjugated the Valley's African Americans, placing them at the bottom of the Valley's racial and social hierarchy.[23] In his provocative study of the Valley's African American community, Rodriguez has shown that a racial animosity did exist between Mexican Americans and African Americans, but one that was historically based upon the Spanish/Mexican racial caste system. For example the continued segregation of African Americans in south Texas is evident by Mexican Americans and Anglos not allowing African Americans to be buried in the same cemeteries as their loved ones. In the communities of Edinburg, Raymondville and La Feria, where African American cemeteries were located, there are also Mexican American and Anglos cemeteries, often adjacent to each other.[24]

Rodriguez has also asserted that when LULAC was formed in south Texas in 1929s, many LULAC members believed that allying with African Americans was counterproductive, that associating with African Americans or others of a darker race as insulting and socially unacceptable. Facing legal segregation in the form of Jim Crow Laws African Americans were excluded from LULAC membership and forced to take a position of accommodation in the Rio Grande Valley. Ironically, by excluding a potential ally in their attempt to gain the soico-political benefits of "whiteness," many Mexican American members of LULAC found themselves in the same segregated and politically limiting situations as African Americans, but

[23] Alberto Rodriguez. "Ethnic Conflict in South Texas: 1860-1930." (Master's Thesis, The University of Texas-Pan American, 2005). Pp. 13-14.
[24] Rodriguez, p. 109.

would assert a secondary position in the Valley's social and racial order in order to maintain an arm's length distance from the Valley's African Americans.[25] Additionally, historian Neil Foley in his recent work *Quest for Equality,* argues that the relationship between Mexican American and African American civil rights attorneys who were simultaneously pursuing (and winning) school desegregation cases failed to achieve a joint strategy in the struggle for civil rights after the 1954 Supreme Court decision, *Brown v. Board of Education.* Along with LULAC, the American G.I. Forum shied away from any use of the term "civil rights" because it was so firmly linked to the post-World War II era of African Americans that founder Hector P. Garcia thought it best not to suggest any solidarity with the African American community.[26]

As discussed in chapter three, those who are called and selected to serve as petit jurors are inherently asked to judge the morality of an individual accused of criminal actions. Couple this moral judgment with the higher level of evidence required to convict an individual of such a crime (evidence beyond a reasonable doubt) and this heightens the concept that community members are on "equal" moral footing further compounds the nature of peer and communal acceptance. Since civil matters require a lower burden of proof (preponderance of evidence) than do criminal matters, no moral judgments are being passed by civil petit jurors. Civil juries are generally asked to sit in judgment of actions that would not be considered moral in nature; rather, civil juries are asked to ascertain which party should incur more blame than the other. These are questions of fact rather than passing judgment on the moral character of the accused. It is doubtful that Hidalgo County's Anglo community would accept that Mexican Americans were moral equals in Jim Crow Texas during the 1950s. But in the case of Cardenas, would it

[25] Rodriguez, p. 112. See also Ian Haney Lopez, *Racism on Trial*, pp. 76-77.
[26] Neil Foley. *Quest for Equality: The Failed Promise of Black-Brown Solidarity*. (Cambridge: Harvard University Press, 2010). Pp.126-127.

have been considered acceptable for a Mexican American to pass “moral” judgment on an African American in Hidalgo County in the late 1950s?

While the socio-political marginalization and history of overt racial discrimination has been most prevalent in the secondary literature concerning south Texas, what is largely unaddressed in the historical scholarship is the strategy taken by LULAC in their efforts to have Mexican Americans classified as “white” for census concerns. Such a racialized strategy essentially backed the organization and its advocates into an indefensible position with unintended legal and jurisprudential consequences. By undertaking this “other white” legal strategy, the middle class leadership group of Mexican Americans left the masses of their own group at the hands of an Anglo majority largely hostile to accepting a group of people that had been historically ignored and politically marginalized. By 1954, Mexican Americans were well on their way to breaking out of the box of legal separation largely imposed by their own leadership. While the concepts of political participation and civic inclusion was at play for a miniscule Mexican American middle class, the day to day battles for the remaining population of Mexican Americans in south Texas were not intellectual in nature, but one of survival as they contested for a civic and participatory space within the U.S. polity. As seen by the criminal court cases reviewed in this thesis, Mexican American defendants generally did not face a jury that accurately reflected the racial composition of the County from 1950-1960. What these defendants saw, were Anglo juries who had little regard for the equitable pursuit of justice.

As one of the most unique areas of the country and arguably one of the most historically ignored areas within the United States, the racial push/pull in the immediate borderland regions of south Texas is apparent. While historians have discussed the civic and political marginalization of Mexican Americans within a national context during this time frame, no in

depth analysis or discussions of local occurrences had taken place. What was lacking in the historical scholarship were definitive accounts and discussions of the civic inclusion of Mexican Americans in the lower Rio Grande Valley from 1950-1960. While there were political activities and minor attempts at civic inclusion in the Valley due in large part to the efforts of LULAC, the Order Sons of America, and the G.I. Forum beginning in the 1920s, the historical gap addressing Mexican American participation within the social, political and legal hierarchy of the region had not been fully analyzed or addressed. This thesis has filled that gap and is the first detailed discussion and analysis of Hidalgo County's petit juries on the basis of race and gender.

Analysis of petit juries within Hidalgo County indicate that the racial/ethnic composition of petit jury lists continued to be Anglo-centric and Hidalgo County made no real attempts to comply with the terms of the *Hernandez* ruling after 1954. On the contrary, with the approval of women as an additional source of petit and grand jurors in Hidalgo County, the inclusion rate of Anglo surnamed women on the County's petit jury panels was stunningly swift, and served to maintain the region's racial and socio-political status quo. After 1954, the addition of Anglo surnamed women recharged the well of civic marginalization and Mexican American males and females were left dry and parched for thirst at the wellspring of equality.

REFERENCES

<u>Primary Sources</u>

Cause No. 7463: *The State of Texas v. Daniel Aleman.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 7494: *The State of Texas v. L.B. Foster.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 7721: *The State of Texas v. Guadalupe Concepcion Guerra*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. C-190: *Lloyd M. Bentsen, Jr. v. Joe A. Cunningham*, *Jr.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-9404: *J.L. Portman v. Wiley Hahn, et. al*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 7720: *The State of Texas v. Bob Jaynes*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 7807: *The State of Texas v. Urbano Morin*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. C-605: *Edward L. Ostlund, et. al. v. Nettie Baldridge*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 7849: *The State of Texas v. Carlos M. McGuyre*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 7863: *The State of Texas v. Benito Aguirre.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 9697: *J.A. Boler v. William U. Coughran, Jr., et. ux.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-9358: *Richard T. Yelton v. Evelyn B. Davenport, Executrix of the Estate of Della Yates, Deceased.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-9378: *Claude J. Mergele v. Evelyn B. Davenport, Executrix of the Estate of Della Yates, Deceased.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-9201: *Wroe Owens, et. al. v. Pure Oil Company*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 7438: *The State of Texas v. Miguel Vega, alias Mike Vega*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8179: *The State of Texas v. Dolores Nunez Alaniz*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8227: *The State of Texas v. Elmer Joe Meckel*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8448: *The State of Texas v. Pablo Renteria*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8539: *The State of Texas v. Eusebio Hernandez*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8575: *The State of Texas v. Robert L. Morrow*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 7831: *The State of Texas v. J. Loy Ramsour.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8367: *The State of Texas v. Ellis Cole.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8368: *The State of Texas v. Haynes Jackson Duncan*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 6907: *The State of Texas v. Ed Taylor.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 7057: *The State of Texas v. William Bonewald.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 7129: *The State of Texas v. Porfirio Diaz.* Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas

Cause No. 6965: *The State of Texas v. Santiago Nino*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 6135: *The State of Texas v. Juan Sanchez.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 6811: *The State of Texas v. Felipe Cruz Ruiz*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 6955: *The State of Texas v. Jesus Espinoza*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-7107: *Annis W. Eckler et. al. v. J.R. Ragland, et. al.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-7567: *Post Produce Company v. Guy A. Thompson, Trustee; St. Louis, Brownsville and Mexico Railway Company*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

Cause No. A-7605: *J.S. Barksdale v. Missouri Pacific Transportation Company*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-7532: *Mrs. Jesusa A. Davila, et.al. v. W.E. (Evan) Richards.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-7592: *J.A. Farris, et. ux. v. Valley Seed Company, A Partnership.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-8298: *Julian Avila, et. al. v. Candelario Munoz.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-7787: *Mrs. Barbara Vernon, et.vir. v. Clara Jo Rabe, et. vir*. Hidalgo County District Clerk's Office, Hidalgo, County, Edinburg, Texas.

Cause No 7120: *The State of Texas v. J. Sam Miller*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 6582: *The State of Texas v. Onesimo Gonzalez*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 6773: *The State of Texas v. Cecilio Anzaldua*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 6630: *The State of Texas v. Camilo Vela*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 6790: *The State of Texas v. Robert Weir*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 6966: *The State of Texas v. Jose Rodriguez.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-7812: *Flavio Escobar v. Jack Eberle*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-7851: *Paula Mendoza de Salazar v. Francisco v. de Lugo, et. al.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-7787: *Mrs. Barbara Vernon, et.vir. v. Clara Jo Rabe, et. vir*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8451: *The State of Texas v. Francisco Hernandez Valdez*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8455: *The State of Texas v. Baldomero Villalpondo.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8503: *The State of Texas v. Adan Valdez Garza.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8593: *The State of Texas v. Jose Villalon Savedra*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. B-21405: *Phillip H. Brown v. Indemnity Insurance Company of North America.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8595: *The State of Texas v. Francisco Luna, Jr*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. C-2101: *K.E. Calvert v. Herbert Scurlock, et. al., d/b/a Herb's Super Market* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. C-2988: *Carmen Sosa Escobar v. Texas & New Orleans Railroad Company.* Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. A-10186: *Fisher v. Villareal*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

Cause No. 8743: *The State of Texas v. Baldemar Flores*. Hidalgo County District Clerk's Office, Hidalgo County, Edinburg, Texas.

General Laws of the State of Texas, Session of the 15th Legislature, Chapter LXXVI, Section 1, August 18, 1876.

General and Special Laws of the State of Texas. Regular Session of the Fifty-Fourth Legislature, Chapter 288, Section 1, Article 2133, May 20, 1955

General and Special Laws of The State of Texas, January, 11, 1955.

Hidalgo County *Juror's Time Book*. Book No. 49137. Hidalgo County, County Clerk's Office, Hidalgo County, Edinburg, Texas.

Hidalgo County *Juror's Time Book.* Book No. 75618. Hidalgo County, County Clerk's Office, Hidalgo County, Edinburg, Texas.

Kibbe, Pauline. *Latin Americans in Texas.* Albuquerque: University of New Mexico Press, 1946.

Perales, Alonso. *Are We Good Neighbors?* San Antonio, Texas: Artes Graficos, 1948.

Perales, Alonso to Clemente N. Idar, October 9, 1927. The Clemente N. Idar Collection, The Nettie Lee Benson Library, the University of Texas, Austin. Letter in the possession of Sonia Hernandez.

Perales, Alonso to Clemente N. Idar, October 20 1927 The Clemente N. Idar Collection, The Nettie Lee Benson Library, the University of Texas, Austin. Letter in the possession of Sonia Hernandez.

1950 Census. General Characteristics of the Population, For Counties, Table 42.

Smith v. Texas, 311 U.S. 128 (1940).

The Austin American

The Brownsville Herald

Valley Evening Monitor

Vernon's Annotated Codes Annotated: Government Code, Sections 51.001 to 80. Thomson, West, 2005.

Secondary Sources

Allsup, Carl. *The American G.I. Forum: Origins and Evolution*. Austin: University of Texas Press, 1982.

Alonzo, Armando C. *Tejano Legacy: Rancheros and Settlers in South Texas, 1734-1900*. Albuquerque: University of New Mexico Press, 1998.

Almaguer, Tomas. *Racial Fault Lines: The Historical Origins of White Supremacy in California.* Berkeley: University of California Press, 1994, 2009.

Bradshaw, Gilbert. "Who's Black, Who's Brown, and Who Cares?: A Legal Discussion of *Hernandez v. Texas*," Issue 2, *Brigham Young University Education & Law Journal* (2007), pp. 351-382

De Leon, Arnoldo. *In Re Ricardo Rodriguez: An Attempt at Chicano Disfranchisement in San Antonio, 1896-1897*. San Antonio: Caravel Press, 1979.

De Leon, Arnoldo. *They Called Them Greasers*. Austin: University of Texas Press, 1983.

Delgado, Richard. "Rodrigo's Roundelay: Hernandez v. Texas and the Interest-Convergence Dilemma," 41 *Harvard Civil Rights-Civil Liberties Law Review* (2006), pp. 23-65.

Foley, Neil. "Becoming Hispanic: Mexican Americans and the Faustian Pact with Whiteness." In *Reflexiones 1997: New Directions in Mexican American Studies*, edited by Neil Foley, 53-70. Austin: University of Texas Press, 1998.

Foley, Neil. “Partly Colored or Other White: Mexican Americans and Their Problem with the Color Line.” In *Beyond Black and White: Race, Ethnicity and Gender in the U.S. South and Southwest*, edited by Stephanie Cole & Alison M. Parker, 123-144. College Station: Texas A & M University Press, 2004.

Foley, Neil. *The White Scourge: Mexicans, Blacks, and Poor Whites in Texas Cotton Culture*. Berkeley: University of California Press, 1997.

Foley, Neil. “Becoming Hispanic: Mexican Americans and the Faustian Pact with Whiteness.” In *Reflexiones, 1997: New Directions in Mexican American Studies.* Neil Foley, ed. (Austin: Center for Mexican American Studies, 1998.), pp. 53-69.

Garcia, Ignacio M. *White But Not Equal: Mexican Americans, Jury Discrimination and the Supreme Court* (Tucson: University of Arizona Press, 2009).

Garcia, Mario T. *Mexican Americans: Leadership, Ideology, & Identity, 1930-1960.* New Haven: Yale University Press, 1989.

Gomez, Laura E. *Manifest Destinies: The Making of the Mexican American Race.* New York: New York University Press, 2007.

Gomez, Laura E. “Race, Colonialism, and Criminal Law: Mexicans and the American Criminal Justice System in Territorial New Mexico,” *Law & Society Review*, 34, No. 4 (2000), pp. 1129-1202.

Green, George Norris. *The Establishment in Texas Politics: The Primitive Years, 1938-1957*. Westport, Conn.: Greenwood Press, 1979

Griswold Del Castillo, Richard. *The Treaty of Guadalupe Hidalgo: A Legacy of Conflict.* Norman: University of Oklahoma Press, 1990.

Griswold Del Castillo, Richard. *World War II and Mexican American Civil Rights.* Austin; The University of Texas Press, 2008.

Gross, Ariela J. “Texas Mexicans and the Politics of Whiteness,” *Law and History Review*, 21, No. 1 (Spring, 2003), pp. 199-205.

Gross, Ariela J. *What Blood Won’t Tell*: *A History of Race on Trial in America*. Cambridge: Harvard University Press, 2008.

Grossman, Joanna L. “Women’s Jury Service: Right of Citizenship or Privilege of Difference?” 46 *Stanford Law Review,* No. 5 (May, 1994), pp. 1115-1160.

Gutierrez, David G. *Walls and Mirrors: Mexican Americans, Mexican Immigrants, and the Politics of Ethnicity.* Berkeley: University of California Press, 1995.

Haney Lopez, Ian. “White Latinos.” *Harvard Latino Law Review,* 6, (Spring, 2003), pp. 1-7.

Haney Lopez, Ian. “Race, Ethnicity, Erasure: The Salience of Race to LatCrit Theory,” *California Law Review*, 85, No. 5, (Oct. 1997), pp. 1143-1211

Haney Lopez, Ian. *Racism on Trial: The Chicano Fight for Justice*. Cambridge: The Belknap Press of Harvard University Press, 2003.

Haney Lopez, Ian. *White By Law: The Legal Construction of Race.* Rev. Ed., 10th Anniversary Edition. New York: New York University Press, 2006.

Haney Lopez, Ian. "Institutional Racism: Judicial Conduct and a New Theory of Racial Discrimination," 109 *The Yale Law Journal*, No. 8, (June, 2000), pp. 1717-1884.

Heidenreich, Linda. "*This Land Was Mexican Once:" Histories of Resistance from Northern California.* Austin: University of Texas Press, 2007.

Horsman, Reginald. *Race and Manifest Destiny: The Origins of American Racial Anglo-Saxonism*. Cambridge: Harvard University Press, 1981.

Jacobson, Matthew Frye. *Whiteness of a Different Color: European Immigrants and the Alchemy of Race*. Cambridge: Harvard University Press, 1998.

Johnson, Benjamin Heber. *Revolution in Texas*: *How a Forgotten Rebellion and Its Bloody Suppression Turned Mexicans into Americans.* New Haven: Yale University Press, 2003.

Johnson, Kevin R. "*Hernandez v. Texas*: Legacies of Justice and Injustice," 25 *Chicano-Latino Law Review* (2005), pp. 153-198.

Jordan, Terry G. "A Century and a Half of Ethnic Change in Texas, 1836-1986." Vol. 89, *The Southwestern Historical Journal*, No. 4 (Apr., 1986), pp. 385-422.

Kerber, Linda K. *No Constitutional Right to be Ladies: Women and the Obligations of Citizenship*. New York: Hill and Wang, 1998.

Madsen, William. *Mexican-Americans in South Texas*, 2nd Edition. New York: Holt, Rinehart and Winston, Inc., 1962.

Marquez, Benjamin. *LULAC: The Evolution of a Mexican American Political Organization*. Austin: University of Texas Press, 1993.

Martinez, George A. "The Legal Construction of Race: Mexican-Americans and Whiteness," 2 *Harvard Latino Law Review*, 321 (Fall, 1997), pp. 321-347.

Martinez, George A. "Legal Indeterminacy, Judicial Discretion and the Mexican-American Litigation Experience: 1930-1980," 27 *University of California, Davis Law Review*, 555 (1994).

McCoy, Dorothy Abbott. "Joe R. Alamia, District Judge," In *Valley By-Liners, Rio Grande Roundup: Story of Texas Tropical Borderland.* Burnet, Texas: Border Kingdom Press, 1980.

Montejano, David. *Anglos and Mexicans in the Making of Texas, 1836-1986.* Austin: The University of Texas Press, 1987.

Olivas, Michael A., Ed., *"Colored Men" and "Hombres Aqui:" Hernandez v. Texas and the Emergence of Mexican-American Lawyering*. Houston: Arte Publico Press, 2006.

Orozco, Cynthia. *No Mexicans, Women or Dogs Allowed.* Austin: University of Texas Press, 2009.

Pierce, Frank C. *Texas' Last Frontier: A Brief History of the Lower Rio Grande Valley.* Menasha, Wisconsin: George Banda Publishing Company, 1917.

Pycior, Julie Leininger. *LBJ & Mexican Americans: The Paradox of Power.* Austin: University of Texas Press, 1997.

Ritter, Gretchen. "Jury Service and Women's Citizenship Before and After the Nineteenth Amendment." 20 *Law and History Review*, No. 3 (Autumn, 2002), pp. 479-515.

Ruiz, Vicki L. *From Out of the Shadows: Mexican Women in Twentieth Century America*. Oxford: Oxford University Press, 1998.

Rupp, Leila J. and Verta Taylor. *Survival in the Doldrums: The American Women's Rights Movement, 1945-1960s*. New York: Oxford University Press, 1987.

San Miguel, Guadalupe. *"Let All of Them Take Heed:" Mexican Americans and the Campaign for Educational Equality in Texas, 1910-1986*. College Station: Texas A & M University Press, 1987.

Sheridan, Clare. "Another White Race:' Mexican Americans and the Paradox of Whiteness in Jury Selection," 21 *Law and History Review*, No. 1 (Spring, 2003), pp. 109-144.

Stambaugh, J. Lee and Lillian J. Stambaugh. *The Lower Rio Grande Valley of Texas.* (San Antonio: Naylor Company, 1954.

Van Dyke, Jon M. *Jury Selection Procedures: Our Uncertain Commitment to Representative Panels.* Cambridge: Ballinger Publishing Company, 1977.

Vargas, Zaragosa. *Labor Rights Are Civil Rights: Mexican American Workers in Twentieth-Century America.* Princeton: Princeton University Press, 2005.

Wilson, Steven H. "Brown over 'Other White': Mexican Americans' Legal Arguments and Litigation Strategy in School Desegregation Lawsuits," 21 *Law and History Review*, No. 1, (Spring, 2003), pp. 145-194.

Young, Elliott. *Catarino Garza's Revolution on the Texas-Mexico Border.* Durham: Duke University Press, 2004.

Unpublished Sources

Gonzales, Trinidad. "The World of Mexico Texanos, Mexicanos and Mexico Americanos: Transnational and National Identities in the Lower Rio Grande Valley During the Last

Phase of United States Colonization, 1900 to 1930," (Ph.D. Dissertation, University of Houston, 2008).

Orozco, Cynthia. "The Origins of the League of United Latin American Citizens (LULAC) and the Mexican American Civil Rights Movement in Texas with an Analysis of Women's Political Participation in a Gendered Context, 1910-1929," (Ph.D. Dissertation, University of California Press, Los Angeles, 1992).

Rodriguez, Alberto. "Ethnic Conflict in South Texas: 1860-1930." (Master's Thesis, University of Texas-Pan American, 2005).

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