

RACISM ON TRIAL

IAN F. HANEY LÓPEZ

THE CHICANO FIGHT FOR JUSTICE



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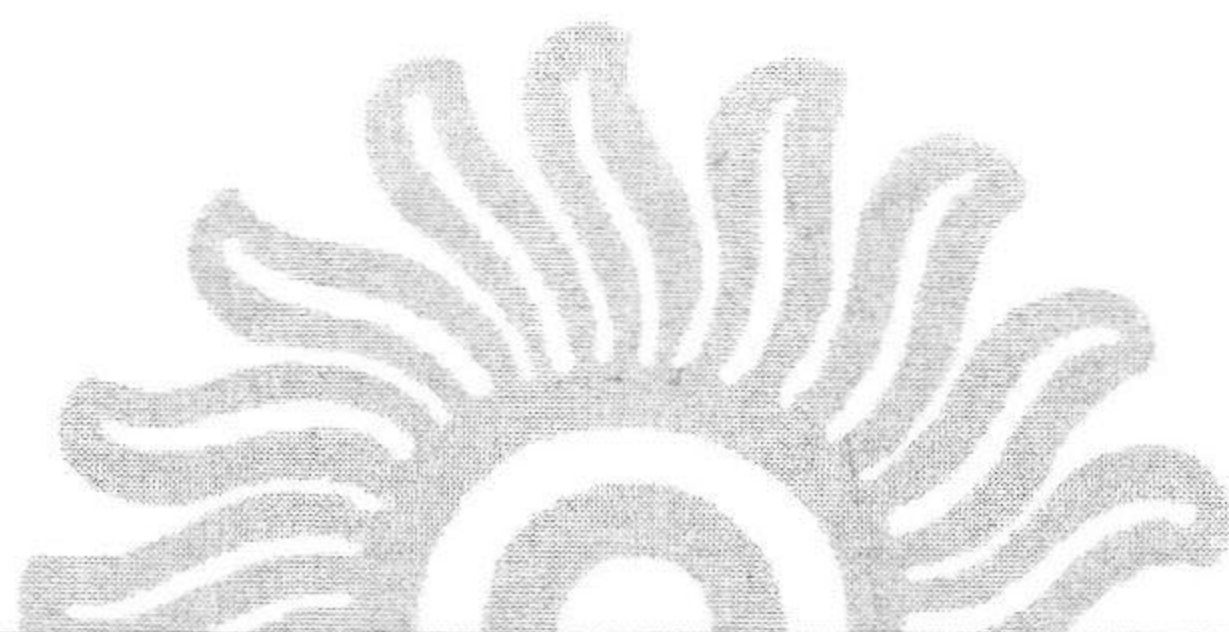
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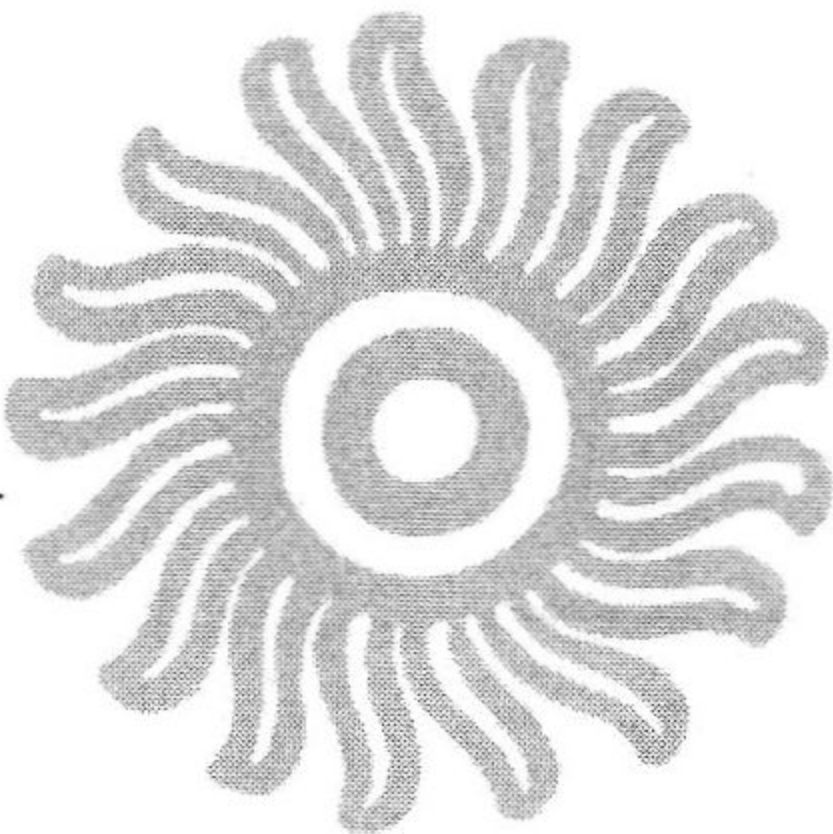
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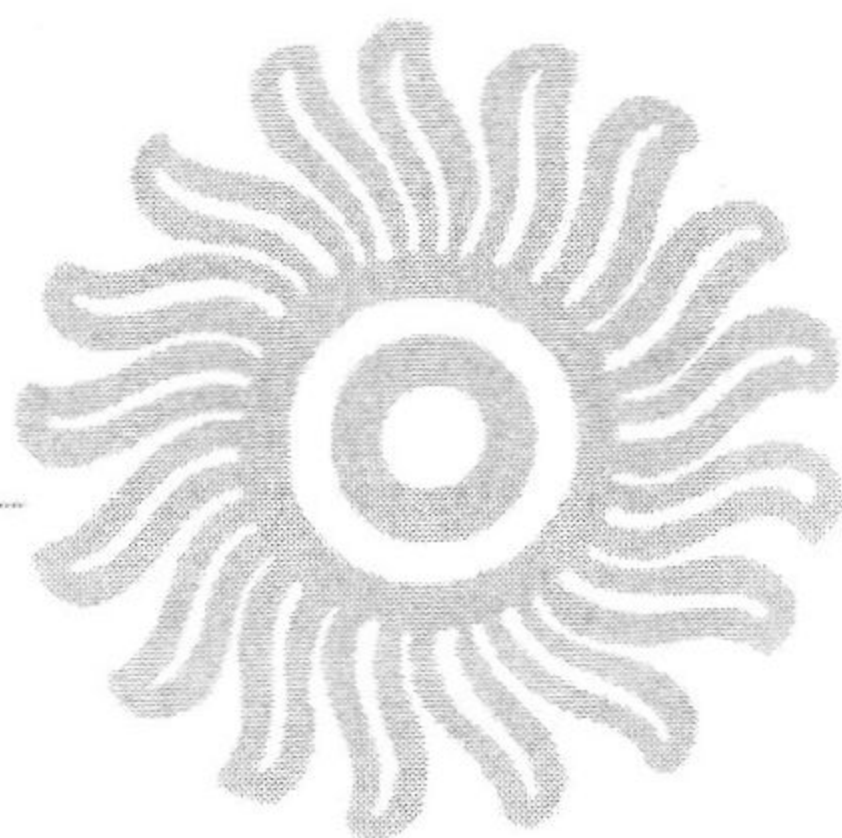


For my wife,

Deborah Drickersen C3rtez



PROLOGUE



Racial beliefs and practices harm large segments of our population. Yet few of us see society's current state as unnatural or unjust; most deny that race or other structural forces limit the life chances of individuals and groups. We do not believe that our attitudes or actions are based on racial considerations. Instead, race has become common sense: accepted but barely noticed, there though not important, an established fact that we lack the responsibility, let alone the power, to change. The color line has come to seem a fiction, so little do we apprehend its daily mayhem.

In contrast, activists in the civil rights and racial pride movements of the late 1960s forcefully challenged the common sense of race by demanding new rights and by building new identities. In 1968 the residents of East Los Angeles, then and now the heart of the largest Mexican community in this country, took to the streets to fight for better schools and to protest police brutality in their community.¹ To understand and define their place in the United States, the Mexican insurgents articulated a new racial identity for themselves. Before 1968, leaders of the Mexican community had claimed to be white. After that year, and still to this day, many Mexicans insisted instead that they were Chicanos, proud members of a brown race. This book uses two criminal prosecutions of Chicano activists to explore efforts by the Mexican community to grapple with racism and, more importantly, with the nature of their racial identity.

Latino identity may hold the key to the future of race relations in this country. The 2000 census ranks Latinos as the largest minority group in the United States, comprising 12.5 percent of the population.² Latinos are also one of the fastest growing groups, having increased in size by more than 50 percent during the 1990s. They already outnumber African Americans, and within a few years will outnumber all other minority groups combined.³ While California accounts for almost a third of the total Latino population, Latinos are dispersed throughout the United States. They represent a quarter of the West's population and one tenth of the people in the South and the Northeast. Nine states claim a Latino population greater than 500,000 and twenty-two more have Latino populations over 100,000.

But if Latinos are the largest minority group, what race are they? Consider the situation of Mexicans in the United States. Long the predominant Latino group, people of Mexican descent account for roughly 60 percent of all Latinos. Puerto Ricans and Cubans, the next two largest Latino groups, constitute respectively only 9.6 percent and 3.5 percent of that population. In 1930 the census counted Mexicans as a part of a "Mexican race"; from 1940 through 1970 the census enumerated them as white; and since 1980 the census has included that group as part of a broader Hispanic category that supposedly is independent of race.⁴

These conflicting understandings of Mexican identity currently co-exist in the United States. Many non-Mexicans consider Mexicans to be racial inferiors, although many also consider them to be an ethnic group rather than a race. Meanwhile, Mexicans are almost evenly divided in whether they think that they're white, and some insist that Mexicans are a cultural but not a racial group.⁵ The question of Mexican identity mirrors a larger conundrum that applies to all Latinos. Non-Latinos do not know how to consider this group, while 42 percent of Latinos identify themselves as "some other race" and 48 percent claim that they are white.⁶

Contradictory notions of Mexican or Latino identity do not

stem primarily from mistakes about how to apply terms like race, nationality, ethnicity, culture, and so on. Confusion inheres in those labels themselves and not simply in how they are applied, for these terms denote overlapping ways of conceptualizing group differences.⁷ Discomfort about whether a group is “truly” a race rather than an ethnicity, a culture, and so forth should exist for all groups. Mexicans should be considered no less, though no more, a race than whites, blacks, Asians, Native Americans, and Pacific Islanders—the categories currently used by the census—for all are races only to the extent that they have been socially constructed as such.⁸

Uncertainty regarding Mexican identity principally stems from the fact that Mexicans in the United States have straddled the border between white and non-white identity for the last 150 years. It is not that Mexicans are a race but not an ethnicity, or a nationality but not a culture. Rather, such labels have served as ammunition in the longstanding fight over the social status of Mexicans. The question of Mexican identity elicits strongly contradictory intuitions because no consensus exists, among non-Mexicans or within the Mexican community, on where to place Mexicans in the prevailing racial order.

Meanwhile, racial dynamics continue to change. Historically, Anglo society constructed Mexicans and other Latino groups as non-white. But now various Latino and Asian communities, for instance the Cubans and the Japanese, increasingly hold nearly white status. And growing numbers of minority individuals—those with fair features, wealth, political connections, or high athletic, artistic, or professional accomplishments—can achieve virtually a white identity. This is not to say that these groups and individuals are fully white, for that racial designation, like all others, operates on a sliding scale. Some people remain more white than others. Nevertheless, the boundaries of whiteness are expanding to incorporate communities and individuals who would have been constructed as non-white just a few decades ago. In turn, this expansion fuels the growing sense among many, particularly among those who regard themselves as white, that

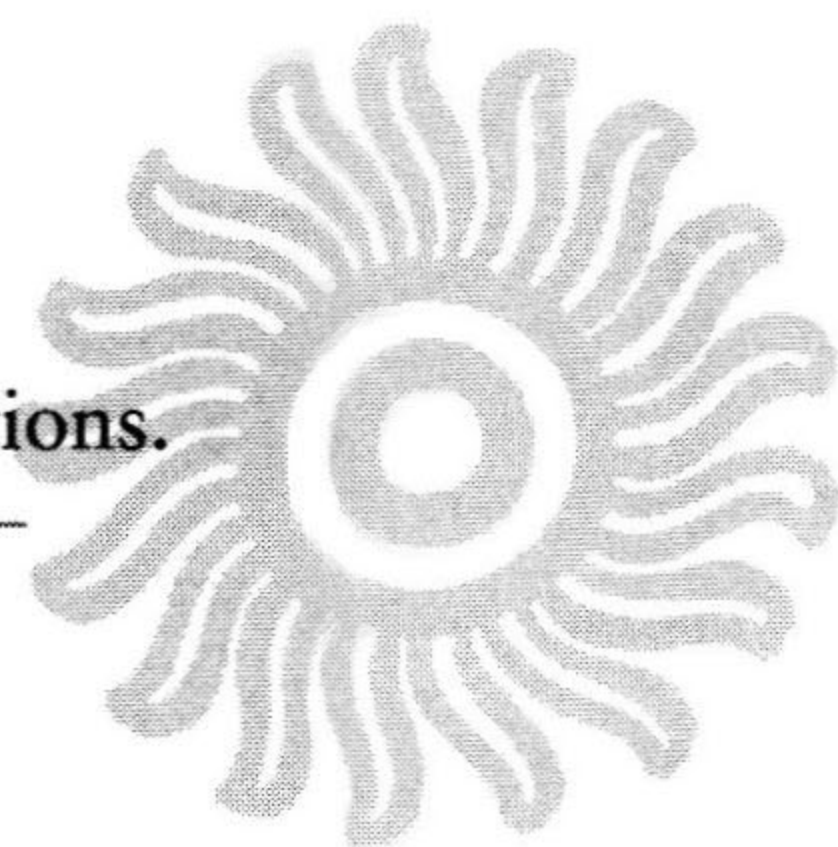
race is now an artifact of the past. The fair treatment and high status of some minorities ostensibly proves that our society has reached the end of race and racism.

But race and racism continue to distort almost every social encounter and warp almost every facet of our social structure. While whites have preserved their superior status, in part by extending privileges to some, many in our society remain victimized by the brutal politics of race. Our society still constructs whole populations as non-white: large numbers of us remain beyond the care of the rest, impoverished and incarcerated, disdained and despised, feared and forsaken. Is this our future? How will those historically considered to be non-white respond to current racial barriers? Should they agitate for a white identity, or organize around a non-white self-conception? What will be the reaction of those secure in their white status, and of those whose claim to white identity is more tenuous? I contend that these questions come down to this: As a society, will we confront and remake the racial common sense that perpetuates inequality? The answer will set the trajectory of race relations in the twenty-first century.

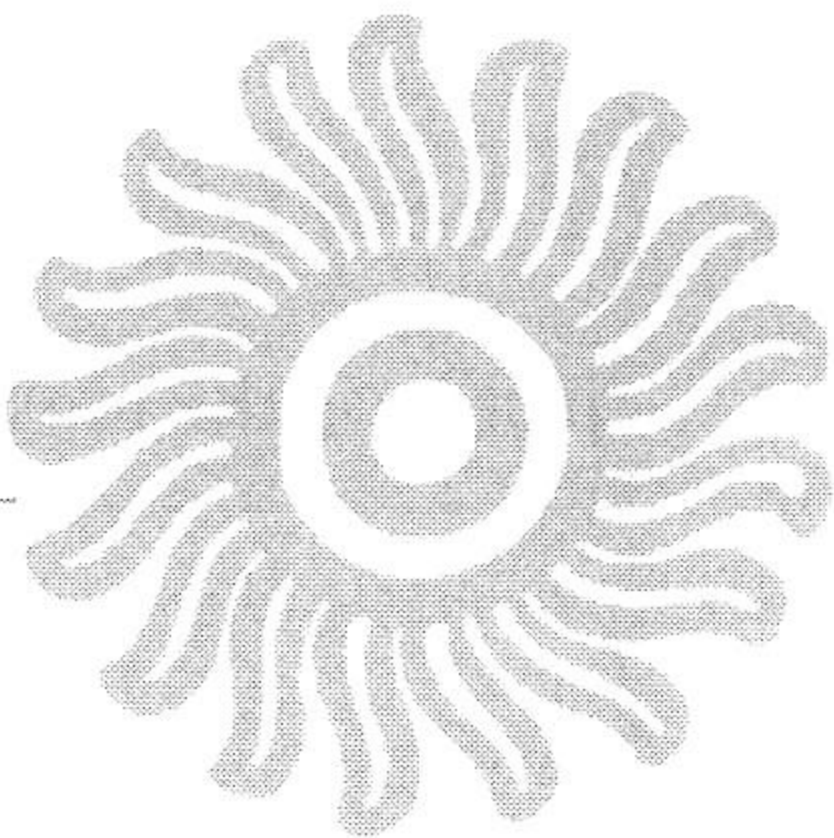
In this book I examine a critical moment of racial transformation within the Mexican community in East Los Angeles during the late 1960s. I do so partly because the story of Mexican militancy is not well known, but more importantly because it tells us something about the nature and future of race in the United States. The legal history of the Chicano movement in Los Angeles illuminates a sustained struggle by a key constituency to negotiate the tension between white and non-white status. The activists' efforts emphasize the potentially emancipatory consequences of directly engaging with racial ideas and practices. This book is about the racial world we continually recreate in our daily lives, and about how we might improve that world. It is written especially for those who understand, like many of the Chicano insurgents, that justice is the most important word in race relations.⁹

Justice is the most important word in race relations.

—*Rubén Salazar*



CONTENTS



Introduction	1
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Part One: Litigating Mexican Identity

1. The Chicano Movement Cases	15
2. Proving Mexicans Exist	41
3. The Mexican Race in East L.A.	56

Part Two: Common Sense and Legal Violence

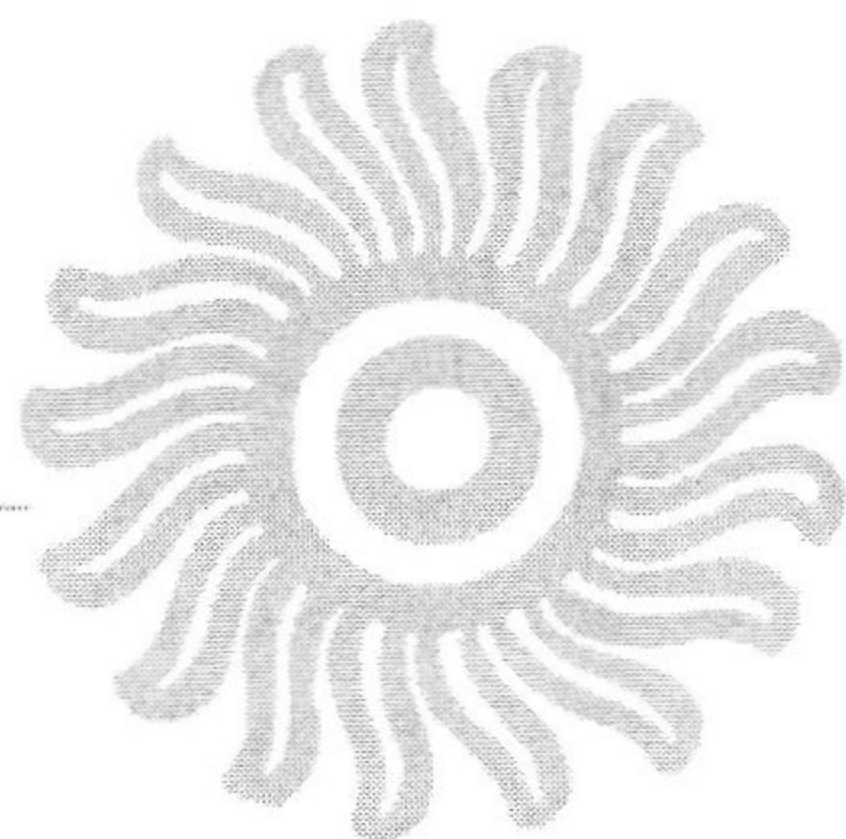
4. Judges and Intentional Racism	91
5. Race and Racism as Common Sense	109
6. Law Enforcement and Legal Violence	134

Part Three: The Chicano Race

7. The Chicano Movement and East L.A. Thirteen	157
8. From Young Citizens to Brown Berets	178
9. Inventing Chicanos	205
Epilogue	230

Notes	253	Acknowledgments	312	Index	314
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INTRODUCTION



During a single week in March 1968, ten thousand East Los Angeles students charged into the streets to protest abysmal conditions in the local high schools. For years, parents and community leaders had fruitlessly complained to local school officials about dilapidated buildings, gross overcrowding, hostile teachers, and prison-like environments that consistently produced nothing but high drop-out rates. That spring, fed up with their mistreatment and inspired by the protest politics sweeping the country, students took matters into their own hands. Their walkout drew the largest Mexican community in the United States onto the turbulent field of popular protest. Shouting “Education for All” and “Chicano Power,” the young demonstrators not only vented years of community frustration with indifferent officials and inferior schools, they voiced a new identity for Mexicans in the United States. After that violent spring, they were Chicanos.

Since the 1930s, members of the Mexican community had insisted, in the face of a strong presumption by Anglo society to the contrary, that Mexicans were white. Indeed, community leaders promoted the term “Mexican American” to convey an assimilationist ideology stressing white identity. Now, for the first time, Mexicans asserted a different racial conception: Chicanos defined themselves as proud members of a brown race,

thereby rejecting not only the previous generation's assimilationist orientation but their racial pretensions as well. In East Los Angeles, this sea-change in racial identity took months, not years.

To be sure, the Chicano rejection of whiteness occurred within the larger context of longstanding Anglo-Mexican tensions in the Southwest. In addition, even before the late 1960s, many members of the Mexican community had understood themselves in other terms. More recent immigrants, people in the working class, and those with darker features often identified themselves not in terms of race but rather through their cultural and familial ties to Mexico. More directly anticipating the Chicano movement, many Mexican youths in the 1940s and 1950s rejected their parents' racial aspirations, developing a hip, alienated Pachuco culture that fashioned itself as neither Mexican nor American. Nevertheless, prior to the Chicano movement, no segment of the Mexican community had self-consciously embraced and affirmatively proclaimed a brown identity. The Chicano movement heralded the emergence of a new, quintessentially racial politics that sought to turn non-white status into a badge of pride. This book traces the advent of that new racial politics and explores its significance today.

I have three principal goals in this book: to describe the evolution of a non-white racial identity among Mexicans in East Los Angeles during the Chicano movement years; to illustrate how racial thinking leads to and stems from legal violence; and to offer a general theory of race as common sense that helps us to fathom not only the rise of the Chicano movement but also current racial dynamics.

I use "Mexicans" here in a particular fashion. By this term I mean people in the United States descended from the inhabitants of the southwestern region acquired from Mexico in the mid-nineteenth century, as well as permanent immigrants from Mexico and their descendants. I do not mean nationals of Mexico but United States residents. I adopt this definition in order to have a

term that carries no racial connotation. In contrast, I reserve for more particular usage the labels “Mexican Americans” and “Chicanos.” “Mexican Americans” refers to Mexican community members who insisted that Mexicans are white, and “Chicanos” refers to those who argued instead that Mexicans constitute a non-white race.¹ Few scholars make this distinction, and many community members today accept Chicano and Mexican American as synonyms.² Nevertheless, I emphasize these labels’ original racial connotations both to sharpen my discussion of the Chicano movement and to emphasize that, like all racial ideas, Mexican racial identity is a cultural product that cannot be taken for granted.

Two criminal prosecutions arising directly from the 1968 student demonstrations provide the primary vehicle for examining the Chicano movement in East Los Angeles. The first case began in late May 1968, when the Los Angeles Grand Jury indicted thirteen community leaders and college students for allegedly encouraging the high school protesters. These defendants were charged with a variety of misdemeanors, ranging from disturbing the peace to trespassing on school grounds—offenses that would usually result in fines or, at worst, a few days of incarceration. But they were also accused of conspiracy, a felony charge routinely used by law enforcement at that time against groups engaged in civil disobedience or protest actions. Because of the conspiracy charge, the defendants faced potential sentences of up to forty-five years in prison. These defendants became popularly known as the East L.A. Thirteen. Their court case, even more than the initial demonstrations at the high schools, politically mobilized the Mexican community.

In response to the community’s agitation, the State of California hosted an educational conference in the spring of 1969 at the Biltmore Hotel in downtown Los Angeles to address the “needs” of Mexican students. When Governor Ronald Reagan rose to give the keynote address, East Los Angeles residents in the audience stood to boo him. Simultaneously, fires ignited with road

flares erupted on several floors of the hotel. As a result of these events, the Los Angeles Grand Jury indicted six persons on felony charges of burglary, arson, and conspiracy; the defendants, who became known as the Biltmore Six, faced possible life sentences.

Together these two cases provide an important window onto the Chicano movement, partly because the defendants included leaders from such prominent Chicano organizations as the United Mexican American Students (UMAS) and the Brown Berets and partly because the cases frame the rise and collapse of the Chicano movement in Los Angeles. More importantly for our purposes, though, these cases provide a unique view of one of the Chicano movement's definitive features—they reveal the insurgents' struggle to understand not only the constant discrimination they faced but also the nature of their own identity.

In Part One of this book, I describe the legal and racial battles that took place in the *East L.A. Thirteen* and *Biltmore Six* cases. Both groups of defendants chose for their lawyer Oscar Acosta, a volcanic figure who shared the militants' antipathy for the police and the courts. He billed himself as the only genuine Chicano lawyer on the grounds that he truly hated the law. For Acosta and most of the defendants, the cases represented an opportunity to publicize the Chicano cause. The defense principally argued that discrimination against Mexicans tainted the selection of those who sat on the indicting grand juries and that the Los Angeles Superior Court judges who chose the grand jurors were responsible. To provide a basis for this defense, Acosta called to the witness stand as many judges as he could subpoena, and one by one, hour by hour he interrogated them about their alleged discriminatory conduct. Over the course of both cases, Acosta cornered more than a hundred judges in the witness box, "snap[ping] for their throats," he would say, "with a smile, a slight twist of the eyes."³

To prevail on the discrimination claim, not only did Acosta have to demonstrate bias but, first and foremost, he had to prove

that Mexicans constituted an identifiable and distinct minority group in Los Angeles. This seemed straightforward: Mexicans comprised one in every eight Los Angeles county residents, with a vast population concentrated into the relatively tiny area of East Los Angeles, by choice but also by a history of *de jure* and *de facto* segregation in housing, the labor market, and schools. Nevertheless, Acosta and the defendants struggled to show in court that Mexicans existed as a distinct group that could be discriminated against. To some extent, this difficulty stemmed from the Mexican community's past successes in arguing that Mexicans were white. I use Part One to explore how the defendants understood themselves in terms of both race and racism. In addition, I trace the rise of East Los Angeles and examine historically the racial construction of Mexicans.

In Part Two I analyze the allegations raised in the Chicano cases that the Los Angeles Superior Court judges discriminated against Mexicans. Chicanos often claimed that racism generally, and legal racism in particular, proved that they were not white. This claim is something of a surprise, because overt racism against Mexicans was waning by the time of the Chicano movement. Yet discrimination against that group continued, and the Chicano cases exemplify this paradox. Judge after judge seemed to testify honestly that he (the overwhelming majority of judges were men) did not intend to discriminate against Mexicans or any other group. Yet between 1959 and 1969, when Mexicans made up one of every eight Los Angeles residents, they accounted for only one of every fifty-eight Los Angeles grand jurors. Only four Mexicans served on a Los Angeles grand jury during this period, out of a total of 233 grand jury members.⁴

To explain this paradox of declining overt prejudice and persistent discrimination, I offer an analysis of the Chicano cases that draws on the now widely accepted view that race is a social construction. In this view, race is not a fundamental biological division but rather reflects a given society's understanding of various superficial differences among people, both physical and cul-

tural.⁵ But simply stating that race is socially constructed does not answer the key questions raised by the Chicano movement cases. If race is a matter of social beliefs, how do ideas about race operate—how do they arise, spread, and gain acceptance? What is the relationship between race as a set of ideas and racism as a set of practices? How have racial ideas created the structures of inequality that mar our social world?

I introduce the notion of race as “common sense” to answer these questions.⁶ I suggest that what we think we know often takes the form of common sense—a complex set of background ideas that people draw upon but rarely question in their daily affairs. These background ideas do much of our thinking for us, for they provide ways to comprehend and act in the world that we constantly draw upon, thus sparing ourselves the need to repeatedly reconsider the already familiar. Our breakfast routines, the route we drive to work or walk home from school, our style of dress—these are stock ideas and practices that we have absorbed and heavily rely upon but to which we give little thought. They are codes of thinking and acting that facilitate the minutiae of our lives. That minutiae takes on great significance, for it helps to constitute our identities and our world views. We are not fully rational beings carefully considering anew each decision, the contours of who we are, or the nature of the world around us. Instead, our beliefs, our selves, and our sense of reality reflect what we understand to be common sense.

I argue that racial ideas operate within this sphere of common sense—that we regularly rely on, yet infrequently examine, assumptions about race. Most people think little about race, save perhaps to deny its continued importance. Yet most people uncritically accept racial distinctions as a natural and necessary component of society. We depend upon racial ideas in conceiving of ourselves, in conducting our relationships with others, and in comprehending the social world. We “know” what race we are with great certainty, and yet we give this question little or no thought. Race informs how we view, and treat, the “white,”