

Journal

Wild West History Association

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Factually Documented Articles on the Wild West

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By James A. Bailey and Kurt House

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A 21st Century Forensic Review of the John Wesley Hardin Killing

By James A. Bailey and Kurt House

John Wesley Hardin has been dead 122 years, but modern forensic science has recently shed new light on some of the more controversial aspects of the shooting that ended the career of one of the Wild West's most notorious outlaws.

Historians, researchers, and investigators often re-examine the details of sensational 19th century shooting cases involving Western lawmen and outlaws, but usually they have only written descriptions of the gunshot wounds to review. When a photograph of the gunshot wounds is available, a more detailed analysis can be made based on the morphological characteristics of the wounds and their anatomical location. Fortunately, in the fatal shooting of Hardin by Constable John Selman, Sr. in El Paso's Acme Saloon on Aug. 19, 1895, in addition to a surviving post mortem photograph, the lethal bullet was collected and preserved. Two other important contemporary sources are a crime scene sketch and the handwritten notes taken by El Paso County Attorney Adrian D. Storms the day after the shooting. The availability of this evidence so many years after the fact makes this a unique case in the annals of Old West gunfights.¹

Named for the founder of Methodism, John Wesley Hardin was born in Fannin County, near Bonham, Texas on May 26, 1853.² The son of James Gibson Hardin, a Methodist minister, John Wesley Hardin began his felonious career at the young age of seventeen. He joined the Taylor faction in the Sutton-Taylor feud and, as one reporter wrote, "his nerve and daring soon placed him at the head of the Taylor faction and between the years 1868 and 1874, 40 or more of the Sutton faction were exterminated, 16 deaths being laid at Hardin's door."³⁻⁴

Though writers disagree on the actual count, the total number of men Hardin allegedly killed ranges from twenty-five to forty-four.⁵⁻⁶ Nevertheless, Hardin's notorious reputation was well known and newspapers frequently made note of it.⁷ In fact, at the time of Hardin's death,



John Wesley Hardin. (El Paso Herald-Post, Feb. 25, 1966.)

one reporter wrote, "John Wesley Hardin was known to everybody who has lived in Texas and New Mexico during the last twenty years."⁸ Another article reported that Hardin had twenty-five trials in different courts but was only convicted of one murder.

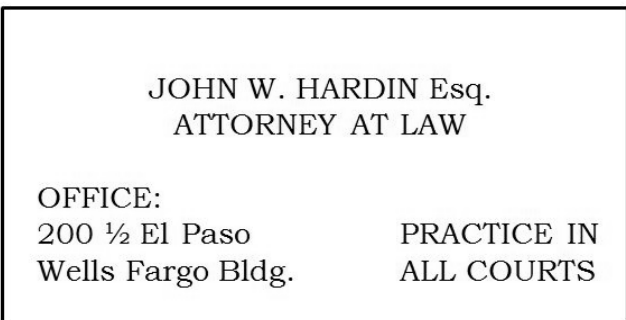
That conviction was for killing a sheriff's deputy in Comanche County in 1874. Hardin initially fled the state, but was captured in Florida by Texas Rangers and other officers in 1877. Following his trial, he spent 14 years in prison. Released in 1894, he drifted west to El Paso.

At common law, murder is defined as the killing of another human being with malice aforethought. Motive is not an element in criminal law that must be proven in court; however, the development of a motive offers some explanation to a person's behavior, actions and reactions in specific situations. In the case of Selman killing Hardin, one possible motive for the confrontation and subsequent shooting was published in a newspaper article three days following Hardin's death:

The dissolute wife [Helen Beulah M 'Rose] of the late Martin M 'Rose, the alleged Eddy County cow thief, was the cause of the killing of John Wesley Hardin at El Paso the other night. It will be remembered that Mrs. M 'Rose manipulated the Mexican officials at Juarez and thereby prevented the extradition of her husband to Eddy County. Later he was enticed across the river and shot by deputy U.S. marshals at El Paso. Mrs. M 'Rose then went on a protracted debauch and was arrested....⁹

John Selman, Jr. arrested Beulah M 'Rose for being drunk and disorderly on July 31, 1895.

Prior to her husband's death and her arrest, the woman retained Hardin (who had read the law in prison) to represent her husband in the Juarez case and also to help her recover money the Mexican officials took from her. However, during Hardin and M 'Rose's lawyer-client association, their relationship went beyond the proper boundaries of lawyer and client.¹⁰ They allegedly had an affair. Three days after Hardin's death, a Santa Fe newspaper reported, "Hardin had become the woman's champion and paragon."¹¹



Facsimile of John Wesley Hardin's business card.

When John Selman, Jr. arrested M 'Rose, it angered Hardin. Consequently, on August 19,

1895, Hardin met Selman's father, 56-year-old John Selman, Sr. on the street and confronted him about his son's role in the matter. In fact, threats were exchanged. Selman, Sr., a popular lawman in El Paso, had been elected constable in a landslide election three years earlier. Yet, like Hardin, Selman, Sr. and his son also had notorious pasts involving plunder and killings. Some accounts alleged Selman, Sr. killed as many as twenty-nine men, with Hardin believed to be the last.¹²⁻¹³

The first item of evidence considered in the review of Hardin's death was a sketch of the crime scene drawn by Sheriff Frank B. Simmons, who gave it to the coroner during the original investigation. The sketch positioned Hardin standing approximately ten feet from the front door of the Acme Saloon near the end of the bar on the west side of the room.¹⁴ According to one witness, Hardin turned toward Selman and reached for his hip pocket as if he were going for a firearm. Selman fired first.¹⁵ If Hardin had been facing the bar as described by the witness, Hardin could have observed Selman enter through the saloon door in his peripheral vision or seen the constable's reflection in the mirror behind the bar and reacted to that. This same account was also presented by Selman.

However, newspapers published conflicting reports concerning the sequence of events in the Hardin shooting. One paper, *The Eagle* (Bryan, Texas) reported, "Sellman [Selman] walked into the Acme with a friend and Hardin was standing at the bar, shaking dice with some friends. When he saw Sellman [Selman], he whirled around and threw his hand on his hip pocket. In an instant Sellman's [Selman's] gun was out and a ball went crashing through Hardin's brain..." While Hardin was falling to the floor, Selman fired two more bullets from his .45 caliber revolver into Hardin's body and a third bullet into the floor. In this account, Selman fired a total of four shots.¹⁶⁻¹⁸

The *Austin Weekly Statesman* (Austin, Texas), reported Hardin and Selman were in the Acme Saloon and threats were exchanged. "One word brought on another, and it ended by his [Hardin] telling Sellman [Selman] to get out in the middle of the street and he [Hardin] would come soon and come 'a smoking."¹⁹ Selman waited several hours but Hardin did not show up. The article

The Terror of the Border

By telegraph to the Times Recorder.
EL PASO, TEXAS, August 20.- John Wesley Hardin, the terror of the border, was shot and killed in the Acme Saloon of this city last night by Constable John Selman. Selman arrested Hardin's mistress for being disorderly a few nights ago, and yesterday Hardin threatened to run Selman out of town. The men met in the saloon and Selman got the drop first. Hardin had a record of killing nine men.

Hardin death announcement. ("The Terror of the Border," The Times Recorder (Zanesville, Ohio), Aug. 21, 1895, p. 1.)

continued:

Then Sellman [Selman] went into the saloon with a friend, and stepping up to the bar near Hardin they both watched one another through the mirror in front of them. After Sellman [Selman] had taken his drink, he says Hardin reached for his gun, and he pulled his own and turned loose. The first shot crashed through Hardin's brain and killed him instantly. He received two more shots while falling to the floor.²⁰

This article failed to account for one additional bullet fired into the floor. The newspaper account also reported Hardin had a gun in each pocket but was shot before he could pull either.

Perhaps the bar mirror did play a role in the sequence of events leading to Hardin's death. The *Austin Weekly Statesman* provided a description of the mirror, reporting that both Hardin and Selman stood at the bar facing west while observing each other's reflected movements. The mirror had an advertisement etched in the glass that contained three lines of large upper case lettering which read, ACME on the top line, SALOON (with a backward "N") on the second line, and WELLS & STEPHEN P.[roprietors] on the bottom line. Perhaps, if Hardin was facing the mirror, its advertising verbiage obscured or distorted the reflected images, preventing Hardin from seeing Selman pull his revolver.

Two years after the shooting, *The Saint Paul Globe* (Saint Paul, Minnesota) reported different details. This article characterized Hardin as a man who had terrorized El Paso for six months before his demise. The reporter wrote, "There was only one man there who dared cross his path at all times and under all conditions, that man was John Sellman [Selman], a bad man but of a different mood than Wes Hardin. After a bloody career as a soldier, cowboy and border deputy, and with a record of what he called 'twenty-three justifiable killings,' Sellman [Selman], had settled down into an almost placid occupation of patrolling the streets of El Paso."²¹

This version has Hardin hearing about Selman, arming himself with pistols as well as whiskey and setting out in search of the constable. However, according to Selman's account in this article, Selman entered the saloon and confronted Hardin to give him a fair chance to kill or be killed. "Hardin saw his [Selman's] reflection in the glass and had his pistol out in a second. His [Selman's] first shot pierced Hardin's head from hatband to hatband, and even when his victim fell, Sellman [Selman] continued to fire until he had placed five shots in vital parts of his enemy."²²



Mirror from the Acme Saloon. (Kurt House Collection)

In this recounted sequence of events, the reporter also suggested Selman was sober while Hardin was under the influence of alcohol. Clearly, a sober gunman would have had a faster reaction time than Hardin. To the contrary, Selman admitted in a statement to the coroner that he had been drinking just before he shot Hardin. In addition, the 1895 article reported Hardin had a firearm in each pocket but did not draw before he was shot.²³ Also, the 1900

article in the Minnesota newspaper suggested a perforating wound or one that passed through his head, hatband to hatband. It reported Selman fired five shots into vital parts of Hardin's body. And Selman explained at trial he fired multiple times because a gunfighter like Hardin often returned fire after being shot.²⁴

In evaluating the extent of Hardin's wounds, it is essential to eliminate inaccurate information. Plainly, some news reports sensationalized the actual conditions and facts of the case. For example, one newspaper article exaggerated Hardin's head wound. The article declared, "John Wesley Hardin is no more. The top of his head was blown off at El Paso on Monday night by an old man with whom he had quarreled."²⁵ Hardin's postmortem photograph clearly shows three of the four gunshot wounds to his body, a wound to the left eye, right arm, and chest but the top of his head was not "blown off."²⁶ A reported injury to his left little finger is not as visible in the postmortem photograph.²⁷

Hardin had a reputation of being a fast draw and demonstrated accurate shooting skills. Jack Duncan, the officer who helped capture Hardin in Florida in the 1870s, said the fugitive was "the quickest man with a pistol I ever saw and was a dead shot. He could take one in each hand and swing them around his fore-finger and keep one of them going off all the time. If the constable who killed him had been a second later in shooting he would have been the dead man."²⁸ Therefore, according to this characterization of Hardin, if he had felt threatened by Selman, perhaps the outcome would have been different.

LIFE OF JOHN WESLEY HARDIN
 Notorious Texas killer. Written by himself.
 \$1 postpaid anywhere, C. A. Smith,
 1622 W. Magnolia, San Antonio, Texas.

Advertisement for Hardin autobiography. (Shiner [Texas] Gazette, Aug. 14, 1947, p. 2.)

The most detailed newspaper account of Selman's actions that night was published in the *El Paso Daily Herald*, August 20, 1895 and is reprinted at the end of Hardin's posthumously published autobiography, *The Life of John Wesley Hardin, from the Original Manuscript, as Written by Himself*. Smith and Moore Publishing Company (Seguin, Texas) also included the testimony presented to the coroner as reported in

the *El Paso Daily Herald*.²⁹ Following is John Selman, Sr.'s statement to the coroner from the *Herald*:

I [Selman, Sr.] met Wes Hardin about 7 o'clock last evening close to the Acme Saloon. When we met, Hardin said:

You've got a son that is a bastardly, cowardly s-- of a b--.

I said: Which one?

Hardin said: John, the one that is on the police force. He pulled my woman when I was absent and robbed her of \$50, which they would not have done if I had been there.

I said: Hardin, there is no man on earth that can talk about my children like that without fighting, you cowardly s-- of a b--.

Hardin said: I am unarmed.

I said: Go and get your gun. I am armed.

Then he said, I'll go and get a gun and when I meet you I'll meet you smoking and make you pull like a wolf around the block.

Hardin then went into the saloon and began shaking dice with Henry Brown. I met my son John and Capt. [Frank] Carr and told them I expected trouble when Hardin came out of the saloon. I told my son all that had occurred, but told him not to have anything to do with it, but to keep on his beat. I also notified Capt. Carr that I expected trouble with Hardin. I then sat down on a beer keg in front of the Acme Saloon and waited for Hardin to come out. I insisted on the police force keeping out of the trouble because it was a personal matter between Hardin and myself. Hardin had insulted me personally.

About 11 o'clock Mr. E. L. Shackelford came along and met me on the sidewalk. He said:

Hello, what are you doing here?

Then Shackelford insisted on me going inside and taking a drink, but I said, No, I do not want to go in there as Hardin is in there and I am afraid we will have trouble.

Shackelford then said: Come on and take a drink anyhow, but don't get drunk. Shackelford led me into the saloon by the arm. Hardin and Brown were shaking dice at the end of the bar next to the door. While we were drinking I noticed that Hardin watched me very closely as we went in. When he thought my eye was off him he made a

break for his gun in his hip pocket and I immediately pulled my gun and began shooting. I shot him in the head first as I had been informed that he wore a steel breast plate. As I was about to shoot the second time someone ran against me and I think I missed him, but the other two shots were at his body and I think I hit him both times. My son then ran in and caught me by the arm and said:

'He is dead. Don't shoot any more [sic].'

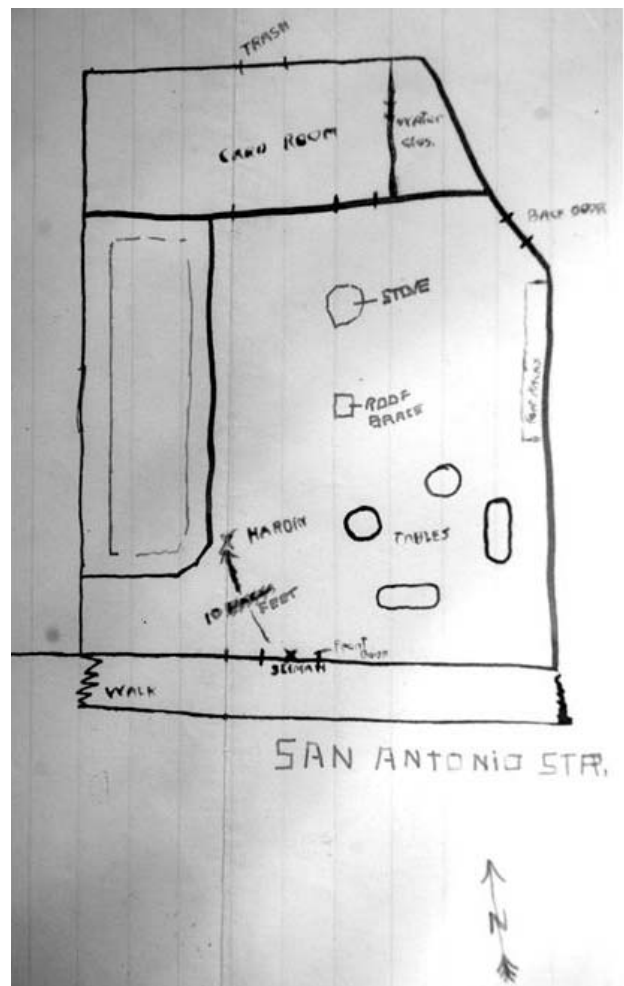
I was not drunk at the time, but was crazy mad at the way he had insulted me.

My son and myself [sic] came out of the saloon together and when Justice Howe came I gave my statement to him. My wife was very weak and was prostrated when I got home. I was accompanied home by Deputy Sheriff J.C. Jones. I was not placed in jail, but considered myself under arrest. I am willing to stand any investigation over the matter. I am sorry I had to kill Hardin, but he had threatened mine and my son's life several times and I felt that it had come to that point where either I or he had to die.

(Signed)
JOHN SELMAN³⁰⁻³¹

Frank Patterson, Acme Saloon bartender, also gave an account to the coroner. The bar-keep said Hardin was standing with Henry Brown shaking dice when Selman walked in the door and shot Hardin. The first shot struck Hardin's head. Patterson said: "Hardin was standing with his back to Mr. Selman. I did not see him face around before he fell or make any motion."³²⁻³⁴

Although another witness, E.L. Shackelford, a general brokerage businessman, did not see Selman shoot Hardin, he was in the saloon and described the events leading to the shooting. He said he was aware Hardin had made threats against Selman. Shackelford went to the saloon and saw Selman drinking with some others and advised him to stop drinking because if there was any trouble it would be advantageous not to be intoxicated. Shackelford and Selman went outside for a while and when Shackelford returned to the saloon he was ahead of Selman near the rear of the saloon when he heard shots. Shackelford turned around and saw that the room was full of smoke.³⁵



Sketch of Acme Saloon made by Sheriff Frank B. Simmons at the time of Hardin's death. (William I. Koch Collection)

Like Shackelford, R.B. Stevens, Acme Saloon proprietor, also told the coroner that he was present in the bar but did not witness the shooting. However, Stevens said at one point he was outside the saloon but re-entered when someone alerted him that there was going to be trouble between Selman, Sr. and Hardin. When Stevens re-entered his establishment, he went into the reading room but sat down so he could see the bar. The unidentified editor of Hardin's book wrote that Stevens heard Selman challenge Hardin to go outside but Stevens did not see them go out. So Stevens relaxed, leaned against a post and engaged in a conversation with Shorty Anderson. Stevens said Selman and Shackelford eventually came back in the saloon and took a drink at the bar while Hardin and Brown stood at the end of the bar close to the door. He said he did not see Selman during the shooting but he saw Hardin "lying on the floor

near the door" and that he was dead. He continued: "I walked to the door and looked out. Selman was standing in front with several others, and Captain Carr."³⁶

At Stevens' request, Captain Carr took charge of Hardin's body. A .44 caliber Smith and Wesson frontier model double action revolver was taken from Hardin's body. Stevens said, "The bullet that passed through Hardin's head struck a mirror frame and glanced off and fell in front of the bar at the lower end. In the floor where Hardin fell are three bullet holes in triangular shape about a span across. They range straight through the floor."³⁷⁻³⁸

An El Paso grocer, H.S. Brown, told the coroner he was shaking dice with Hardin a little before 11 o'clock. Brown rolled the dice once and then Hardin rolled them. Just before the shooting, Brown said Hardin bet him a quarter on the side that he could beat him shaking the dice. Brown said he shook first and then heard a shot. Hardin fell to the floor on Brown's left side. As Brown fled to the back door, he heard three or four more shots. Brown recalled, "When the shot was fired Mr. Hardin was against the bar, facing it, as near as I can say, and his back was towards the direction the shot came from. I did not see him make any effort to get his six-shooter. The last words he spoke before the first shot was fired were, 'You have four sixes to beat,' and they were addressed to me. For a moment or two before this he had not spoken to anyone but me...."³⁹⁻⁴⁰

In addition to the witnesses' accounts, three physicians provided expert testimony to Justice of the Peace Walter D. Howe at the preliminary hearing. Physicians S.G. Sherard, W.N. Vilas and Alward White testified that they examined the gunshot wounds on "the deceased, John Wesley Hardin, and it is our opinion that the wound causing death was caused by a bullet; that the bullet entered near the base of the skull posteriorly and came out at the upper corner of the left eye."⁴¹ Following the physicians' signed statement, an additional paragraph described Hardin's injuries, "The wounds on Hardin's body were on the back of the head, coming out just over the left eye. Another shot in the right breast, just missing the nipple, and another one through

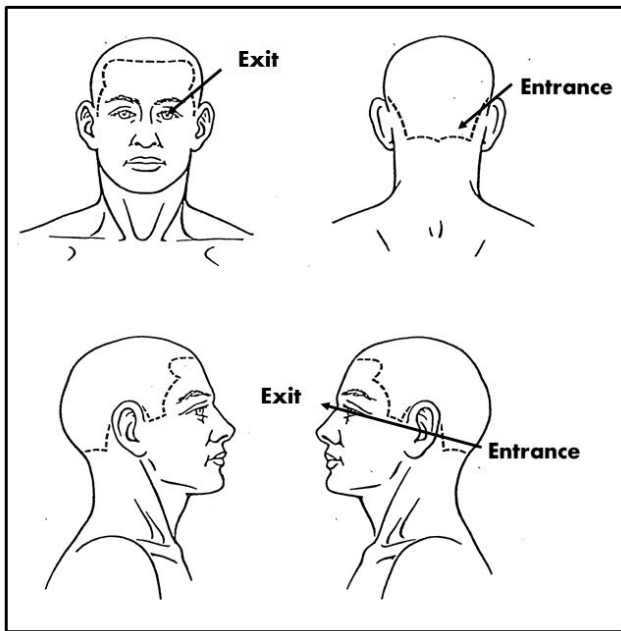
the right arm."⁴² An additional comment following the testimony indicated Undertaker Powell [Tom Powell] embalmed Hardin's body which was interred at Concordia Cemetery.⁴³

When compared to the observations of other witnesses, there are some discrepancies in the account of the shooting that Selman presented to the coroner. Namely, Frank Patterson said Hardin's back was to Selman and that Hardin never turned around before receiving the first shot to the head and falling to the floor. E.L. Shackelford heard the shots but neither he nor R.B. Stevens witness the shooting. H.S. Brown saw Hardin fall to the floor and said the shots originated in the opposite direction in which Hardin was facing.

Selman, however, claimed in his statement that Hardin reached for his hip pocket to draw a firearm. The constable said that he fired at Hardin's head because he believed that Hardin may have been wearing a steel breast plate. Selman fired a second time missing the body but then he put two more rounds into Hardin's body.⁴⁴ Based on Selman's recollection of events, the shooting was in self-defense. Otherwise, it would have been a case of murder. Thus, Selman's account appears to be self-serving.

Witnesses' testimonies given to the coroner as well as the wound characteristics depicted in the postmortem photograph were considered and evaluated to develop theories concerning how Hardin was shot. Specifically, the accounts were weighed in an effort to determine whether the wounds in the photograph corroborate Selman's statement or any of the statements given by other witnesses.

Foremost, physicians in the late 19th century identified gunshot wounds as either penetrating or perforating.⁴⁵ Identifying the type of wound is helpful in determining whether the injury was caused by a bullet's entry or exit. For example, when a bullet remains inside the body, it creates a penetrating wound. However, if the bullet passes completely through the body, it makes a perforating wound.⁴⁵ According to the three physicians in this case, Sherard, Vilas and White, the bullet to Hardin's head was a perforating wound. Correspondingly, according to the testimony presented to the coroner by witnesses, a bullet entered the base of the skull and exited Hardin's skull near the upper corner of his left eye.⁴⁶



Anterior, posterior and lateral views of head illustrating path of the bullet.

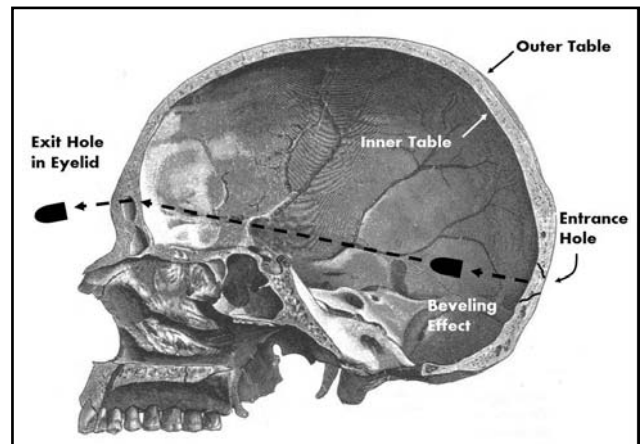
The physicians' descriptions of Hardin's wounds were consistent with entrance and exit wounds. In 1895, the U.S. Surgeon General's report to Congress described gunshot wounds to different parts of the body which are still consistent with today's description of gunshot wounds. Following is the description of a .45 caliber gunshot wound to the skull as published in that report. "The wound of entrance is round, 0.47 inch in diameter; the wound of exit is star-shaped, 1.18 inches in its greatest diameter; the vault of the cranium is fissured into many fragments."⁴⁷

Today, forensic textbooks describe entry wounds as smaller than exit wounds and exit wounds are generally irregular in shape. Entrance wounds can be smaller than the caliber of the bullet because skin is elastic and it stretches as the bullet breaks through the skin and the skin returns to a diameter smaller than the bullet diameter.⁴⁸ In addition, two classic features of an entry wound are an abrasion ring, also referred to as an abrasion collar around the margin of the hole, followed by an adjacent circular contusion ring. The tissue is abraded as a bullet breaks the skin and the contusion is caused by damage to the nearby tissue. The abrasion and contusion rings are concentric if the bullet strikes the body at a perpendicular angle and eccentric if it strikes at an oblique angle. But, abrasion and contusion rings are not

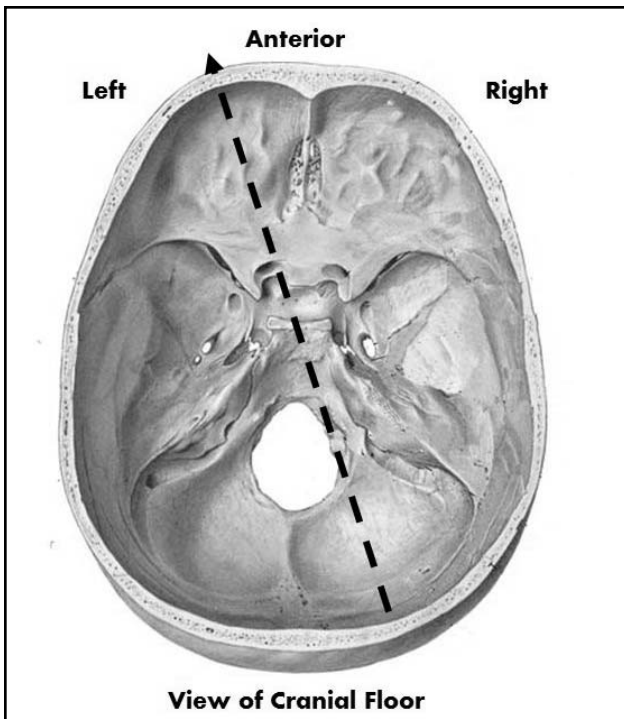
present in exit wounds.⁴⁹⁻⁵⁰

Selman shot Hardin with a .45 caliber Colt single-action revolver.⁵¹ Some, based on Hardin's postmortem photograph, have suggested that the wound in Hardin's eye was an entrance wound. However, other factors need to be taken into account which may affect the appearance of exit wounds. Some forensic radiologists have observed that "the anatomic area of exit also affects the size and configuration of the exit wound. If the bullet exits in an area of lax skin, the wound is usually small or slit like."⁵² Bullets that exit through tightly stretched skin are generally round or stellate (star like). The shape of the bullet hole in Hardin's left eye was "slit like" in appearance in the postmortem photograph; therefore, based on the current knowledge of exit wounds, Hardin's wound above the eye is consistent with an exit wound.

Moreover, gunshot wounds to the head can be complex. The skull has two tables of compact bone, an outer table and inner table separated by another type of bone in the middle known as spongy or cancellous bone.⁵³ Typically, when a round-nose lead bullet strikes the outer table of bone in the skull and travels through the second table, it slows the velocity of the bullet, deforms the bullet and produces a larger, more irregular exit hole on the inner table of bone. If Hardin's skull were available for examination, plausibly the alleged entry hole to the posterior skull could be confirmed or disputed. The inner table of bone would be larger than the outer layer of bone of the entry wound. Also, there would have been some bullet deformation resulting from the bullet passing through Hardin's brain tissue.



Lateral view of cranium illustrating inner and outer table of bone and path of bullet.



Cranial floor view illustrating path of bullet angle.

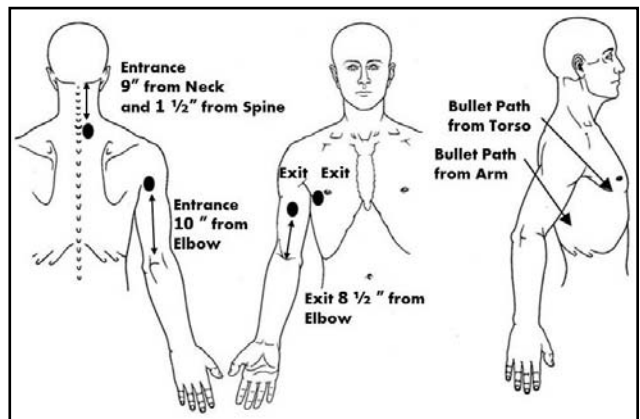
Other entrance wound characteristics include the presence of bullet wipe. Bullet wipe appears as a dark or gray ring around the margin of the gunshot wound. It comes from the unburned, partially burned and burned black powder residue, soot, and bullet lubricant components and trace material from the bullet metal. As the bullet and residue contact clothing or skin, these components are deposited around the margin of the entrance wound. The presence of bullet wipe may be on the clothing or skin even though they may not always be visible. Also, some bullet wipe may be deposited around the abrasion ring.⁵⁴⁻⁵⁶

Within certain distances, a powder pattern on clothing or skin may occur when sufficient powder residue exits the muzzle of the firearm. Other factors affecting the powder pattern include: the caliber of the firearm, length of barrel and type of ammunition. In this case, the exact distance between Selman and Hardin was unknown at the time of the shooting. Furthermore, if Hardin was wearing dark clothing, the powder pattern would not have been visible on the fabric without chemical enhancement since the powder pattern is generally not visible on dark-colored clothing. Also, the powder pattern to the back of his head would not have been visible either because of his dark colored hair.

Based on witness testimony, Hardin was shot in the head and subsequently the gunshot wounds in his right arm and chest were inflicted. Although the three gunshot wounds are visible in the postmortem photograph, the photographic resolution is not high enough to determine the presence or absence of an abrasion or contusion ring. Besides, Drs. Sherard, Vilas and White did not identify the anterior wounds to the arm and chest as entrance or exit wounds. Possibly, in the postmortem photograph, the elongated shaped wounds that are discernible on his right arm and chest provide some evidence to Hardin's position when the bullets struck him. According to the description of Hardin's injuries the coroner wrote on the back of Hardin's postmortem photograph, the "1st shot to effect over in left eye/2nd to little finger left hand/3rd to upper right breast/4th to right arm."⁵⁷

In testimony to the coroner, Selman admitted firing four times. Selman said, "I shot him in the head first as I had been informed he wore a steel breast plate. As I was about to shoot the second time someone ran against me and I think I missed him, but the other two shots were at his body and I think I hit him both times."⁵⁸⁻⁵⁹

The directionality of the elongated wounds in Hardin's chest and arm would place Hardin on the floor before receiving those wounds. After being shot in the head, Hardin would have immediately begun to fall. Selman said he missed the second shot, but by this time Hardin likely would have been on the floor. Then, the third and fourth shots were fired. Also, witnesses' testimonies indicated that Hardin received gunshots while on the floor.



Anatomical diagram indicating bullet entry and exit wounds on Hardin's torso and upper extremities.



Hardin postmortem photograph (Burge Photo, 212 and 216 Santa Fe Street, El Paso, Texas.)

R.B. Stevens told a reporter "the bullet that passed through Hardin's head struck a mirror frame and glanced off and fell in front of the bar at the lower end. In the floor where Hardin fell there are three bullet holes in triangle shape and about a span apart."⁶⁰⁻⁶¹ Stevens' statement is consistent with Selman standing behind Hardin when the constable fired.

Joseph Campbell "J.C." Burge photographed Hardin's body. The photographer disagreed with the medical evidence describing the entrance and exit wounds. Burge justified his conclusion by saying he had "thirty-five years' experience on the border, and made critical examinations of any number of gunshot wounds, and he declares that Hardin was shot directly in the face and not in the back of the head."⁶²⁻⁶³

In his notes, County Attorney Storms described Hardin's injuries and provided some details of the shooting scene. On August 20, the




Image of J. C. Burge, photographer. Burge took post-mortem photograph of John Wesley Hardin. (*El Paso Herald*)


day after the shooting, Storms wrote the following description:⁶⁴

I learned of the shooting of Hardin and during the day I went to the undertaking rooms with Maurice McKillegon and Joe Woodson and I had Dr. Race's tape line and Tom Powell and I took the following measurements on Hardin's body. Bullet hole in back of head was even in height with large cavity of right ear and 3 ¼ in. from edge of rim of right ear. Bullet hole in left eye between eye brow and edge of eye lid and at the extreme left of eye lid, thus: [See Storms' notes for wound diagram.] Bullet hole just 9 in. from base of neck and about 1 ½ in. from back bone on right side. Thus: [See Storms' notes.] and just at right of right nipple where Powell said Drs. said it went in. Another through right arm. Drs. said through right arm. Drs. said it went in back side. It was in back of arm 10 in. from point of elbow and on front side 8 ½ in. from point of elbow. We three (Maurice, Joe and I) then went to Acme Saloon where Hardin was killed and I

Tuesday, Aug 20, 1895

I learned of the shooting of Hardin and during the day I went to the undertaking rooms with Maurice Mc Killegor and Joe Woodson and I had Dr. Ravis tape line and Tom Powell and I took the following measurements on Hardin's body.

Bullet hole in back of head was even in height with large cavity of right ear and $3\frac{1}{4}$ in from edge of rim of right ear. Bullet hole in left eye between eye brow and edge of eye lid and at the extreme left of eye lid, thus: 

Bullet hole just 9 in. from base of neck and about $1\frac{1}{2}$ in. from back bone on right side. thus:  and just at right of right nipple where Powell said Dr. said it went in. Another through right arm. Dr. said through right arm. Dr. said it went in back side. It was in back of arm 10 in. from point of elbow and on front side $8\frac{1}{2}$ in. from point of elbow.

We three (Maurice, Joe and I) then went to Acme saloon where Hardin was killed and I measured from edge of bar where they said Hardin stood to where bullet struck back of bar and it was just 6 ft. and where bullet struck, ^{lower edge of mark} was $46\frac{1}{8}$ in. from floor. There were three holes in the floor and closest one was 37 in. from door and East one was shot toward door. It was hard to tell about others.

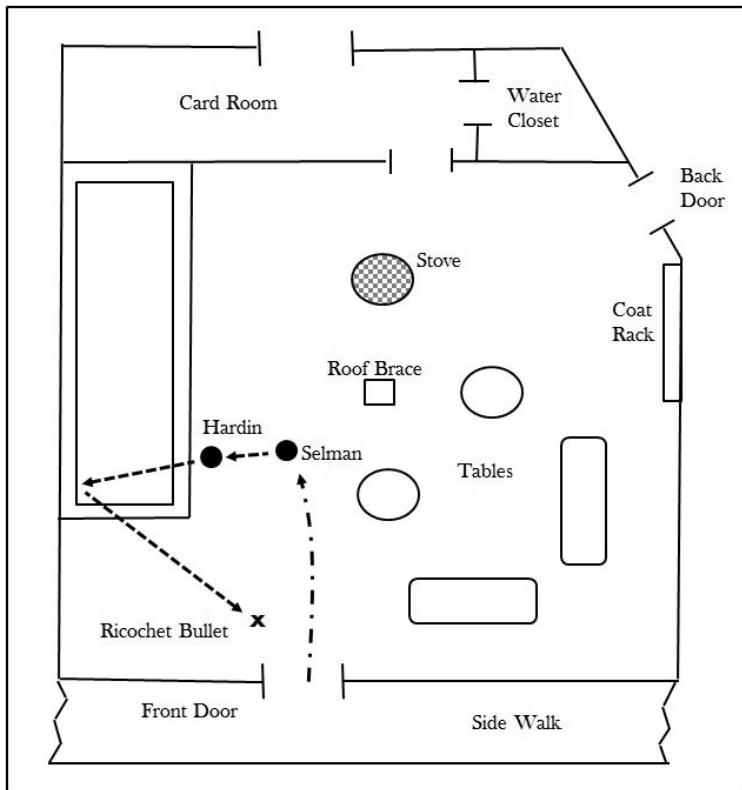
Handwritten notes from County Attorney Adrian D. Storms following the death of Hardin. (John Wesley Hardin Collection, MS 030, C. L. Sonnichsen Special Collections Dept., The University of Texas at El Paso Library, D. Storms' Handwritten Notes, August 20, 1895.)

measured from edge of bar where they said Hardin stood to where bullet struck back of bar and it was just 6 ft. and where bullet struck lower edge of mark was $46\frac{1}{8}$ in. from floor. There were three holes in the floor and closest one was 37 in. from door and East one was shot toward door. It was hard to tell about others.⁶⁵

Based on Storm's notes, the muzzle of Selman's revolver may have been lower than Hardin's head and pointed slightly upward to create the path of the bullet through Hardin's head. Some have speculated that Hardin was glancing in a mirror behind the bar when he was shot. If this did occur, the path of the bullet through Hardin's head is consistent with an entry wound in the back of the head and exit wound in the left eye. Storm questioned why the exit bullet to the eye struck the bar at a low angle and asked Dr. Sherard to reexamine the

exit wound in the eye. Dr. Sherard reexamined the wound and "found that the ball struck the lower side of the arched cavity of bone above the eye and ruffed that bone for some little distance and undoubtedly deflected downward."⁶⁶⁻⁶⁷

According to Storms' description and measurement of bullet holes in the wooden floor at the Acme Saloon, it appears Selman approached Hardin on his right side from the rear. Three bullet holes were found in the floor and one of the three bullet holes was found thirty-seven inches from the door. The bullet to the back of Hardin's head entered the cranium posteriorly just to the right of the midline and exited his left eyelid. After exiting Hardin's eyelid, the bullet struck a feature six feet behind the bar and ricocheted to the floor. The bullet found on the floor was collected by R.C. Stevens, owner of the Acme Saloon, as a souvenir. Stevens preserved the bullet in a corked glass vial



Sketch of Acme Saloon illustrating Selman's position in the saloon at the time of the shooting. Also depicted are the bullet path, ricochet and location of the recovered bullet. (Authors' Collection)

Glass vial containing bullet collected at time of Hardin's death. (William I. Koch Collection)

cushioned by cotton. An examination of the bullet revealed some deformation to its nose. The deformed nose of the bullet could have been caused by passing through Hardin's cranium or from striking a hard surface after leaving Hardin's cranium. In addition, the deformation to the bullet nose is consistent with a bullet ricochet.

John Selman, Sr. was tried in El Paso for the murder of Hardin; however, the trial ended in a hung jury. During the trial, a reporter quoted a witness who testified, "If Hardin was shot in the eye it was excellent marksmanship. If Hardin was shot in the back it was excellent judgment."⁶⁸

Sometime shortly after the trial, U.S. Deputy Marshall George Scarborough and Selman, Sr. got into an argument over a card game after which, they did not have cordial relations.⁶⁹ On April 6, 1896, Selman, Sr. and Scarborough were in El Paso's Wigwam Saloon drinking. Selman, Sr. asked Scarborough to meet him in the alleyway outside the bar to discuss Selman, Jr.'s situation. Selman, Jr. was in jail in Juarez

and Selman, Sr., wanted to enlist Scarborough's help to get his son released. The two men got into an argument and Selman, Sr. said, "I believe I'll kill you."⁷⁰ Hearing that, Scarborough drew his gun and shot Selman, Sr. two times. The constable fell to the ground and when he attempted to stand, Scarborough shot him two more times. Selman, Sr. died a protracted death from his gunshot injuries, unlike Hardin who died instantly.⁷¹⁻⁷²

In reviewing Hardin's death, the postmortem photograph taken of the frontal view of Hardin, witnesses' testimonies, a diagram of the shooting scene, Storms' notes and three physicians' statements all support the hypothesis that Selman, Sr. shot Hardin in the back of the head without warning. Although a verdict was never rendered in the case, the authors believe an impartial jury likely would have convicted Selman, Sr. of some degree of murder based on the evidence. Today, the remains of the two adversaries, Selman, Sr. and Hardin, rest just yards apart in El Paso's storied Concordia Cemetery.⁷³

Acknowledgments

This research would not have been possible without assistance from several individuals. First and foremost, we would like to express our appreciation to William I. Koch, collector of Western memorabilia, for granting us special permission to examine the 1895 Hardin death bullet in his collection. Also, a number of Koch's staff members, including Natasha Khandekar, Curator; Tracy Edling, Collections Manager; Thomas and Mary Glor, Managers, Bear Ranch, Colorado assisted us and coordinated the arrangements to examine the bullet at Koch's Western town in October 2017. We sincerely appreciate their efforts in assisting with this research. In addition, we would like to extend our thanks to Claudia M. Ramirez, Library Information Services Specialist, El Paso Public Library, Border Heritage Center, El Paso, Texas; Alexis R. Van Pool, Archivist, MLIS, Border Heritage Center, El Paso Public Library, El Paso, Texas; and Claudia Rivers, Head of Library, University of Texas El Paso for locating and providing important documents contemporary with John Wesley Hardin's death. Without the assistance of these individuals, the research on the death of John Wesley Hardin would have been incomplete.



James A. Bailey, former Special Agent for the North Carolina State Bureau of Investigation and Professor Emeritus, Minnesota State University, Mankato, conducts research on 19th century westerners. Kurt House is a longtime collector of firearms and western memorabilia with a particular interest in John Wesley Hardin.

Endnotes

¹The bullet collected in this case is in the private collection of William Koch.

²"Ten Things You Might Not Know About John Wesley Hardin," presentation by Kurt House, Wild West History Association Roundup, Fort Worth, Texas, July 15, 2017.

³"John Wesley Hardin's Life: Remarkable Career of the Noted Killer Desperado and Ex-Convict," *Weekly Democratic Statesman*, (Austin, Texas) Aug. 22, 1895, p. 5.

⁴"The Wild West Experts at Triggernometry," *Milwaukee Journal-Sentinel* (Milwaukee, Wisconsin) Jan. 12, 1935, p. 4.

⁵"Eclipse of a Bad Man," *The Daily Republican* (Monongahela, Pennsylvania) May 29, 1903, p. 2.

⁶"Shooting of John Wesley Hardin in 1895 Became Celebrated Event," *El Paso Herald-Post*, May 7, 1973, p. 82.

⁷"An Old Razor is Reminder of a Character Story of John Wesley Hardin and a Portion of His Career in Western Texas Years Ago," *Fort Worth Star-Telegram*, Oct. 7, 1904, p. 2.

⁸"The Hardin Killing," *Dallas Morning News*, Aug. 21, 1895, p. 1.

⁹"A Frontier Killing: Details of the Tragic Death of a Noted Desperado at El Paso-Hardin's Record," *Santa Fe Daily New Mexican* (Santa Fe, NM) Aug. 22, 1895, p. 1.

¹⁰Metz, Leon C., *John Wesley Hardin, Dark Angel of Texas* (Norman, Oklahoma: University of Oklahoma Press, 1996), pp. 233-35.

¹¹"A Frontier Killing," *op. cit.*

¹²Metz, *op. cit.*, pp. 225; 264-265.

¹³"Bad Man of the Border: Life and Death of John Wesley Hardin Affords a Striking Type," *The Saint Paul Globe* (Saint Paul, MN) Oct. 28, 1900, p. 9.

¹⁴Metz, *op. cit.*, p. 264.

¹⁵"A Noted Outlaw Killed: John Wesley Hardin Shot Down in El Paso Saloon," *The Eagle* (Bryan, Texas) Aug. 22, 1895, p. 5.

¹⁶*Ibid.*

¹⁷"Territorial: Clipped and Condensed from Late Exchanges," *The Graham Guardian* (Safford, AZ) Aug. 30, 1895, p. 1.

¹⁸Several newspaper accounts spell Selman's name with two "l's," however, according to Find-A-Grave, a grave marker donated by Western Outlaw and Lawmen Association in 2003, his surname was Selman. His birth information on the website is recorded as Nov.10, 1839 in Madison County, AR and his death date as April 6, 1896 in El Paso County, Texas.

¹⁹ "John Wesley Hardin's Life," *op. cit.*

²⁰ *Ibid.*

²¹ "Bad Man of the Border," *op. cit.*

²² *Ibid.*

²³ "John Wesley Hardin's Life," *op. cit.*

²⁴ "Bad Man of the Border," *op. cit.*

²⁵ "Death of John Wesley Hardin: Bloody End of a Man Who Had a Killing Record of his Own," *Arizona Daily Star* (Tucson, AZ) Aug. 22, 1895, p. 4.

²⁶ *Ibid.*

²⁷ *The Estate of Richard C. Marohn, M.D.* (San Francisco: Butterfield and Butterfield, 1996) p. 126.

²⁸ "John Wesley Hardin: Jack Duncan Relates the History of His Capture in Florida," *Dallas Morning News*, Aug. 22, 1895, p. 8.

²⁹ Hardin, John Wesley, *The Life of John Wesley Hardin, from the Original Manuscript, as Written by Himself* (Seguin, Texas: Smith and Moore Publishers, 1896), p. 138.

³⁰ *Ibid.*, pp. 139-140.

³¹ The editors of the 1896 Hardin autobiography did not include expletives in the text. However, modern interpretations include some expletives. For example, the scatological expletive "sh.." was inserted for the word "pull" in the phrase, "Then he said, I'll go and get a gun and when I meet you I'll meet you smoking and make you "pull" [sh..] like a wolf around the block." The quote with the expletive is taken from Metz's *John Wesley Hardin: Dark Angel of Texas, op. cit.*, p. 264.

³² Hardin, *op. cit.*, pp. 139-40.

³³ J. Robert Nash, *Encyclopedia of Western Lawmen and Outlaws* (Guilford, CT: Rowman & Littlefield Publishing Group, 1992) p. 143-150.

³⁴ W. C. Jameson, *Unsolved Mysteries of the Old West* (Lanham, MD: Taylor Trade Publishing, 2013) p. 126.

³⁵ Hardin, *op. cit.*, p. 141.

³⁶ *Ibid.*, 141-142.

³⁷ *Ibid.*

³⁸ The revolver used to shoot Hardin is in Dr. James H. Earle's collection of Western memorabilia, College Station, Texas. Dr. Earle is Professor Emeritus, Civil Engineering, Texas A&M University.

³⁹ Hardin, *op. cit.*, p. 142.

⁴⁰ The editor of Hardin's book was unidentified, and events subsequent to Hardin's death were included in the book. Without viewing a copy of Hardin's original manuscript, it is difficult to know what content may have been changed by the publisher.

⁴¹ Hardin, *op. cit.*, p. 143.

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*, p. 140.

⁴⁵ Klepinger, Linda L., *Fundamentals of Forensic Anthropology* (Hoboken, NJ: John Wiley and Sons, Inc., 2006), p. 109.

⁴⁶ Hardin, *op. cit.*, pp. 141-142.

⁴⁷ U. S. House of Representatives, *Executive Document of the House of Representatives for the Second Session of the Fifty-Third Congress, 1893-'94*, (Washington, D.C.: GPO, (1895) Vol. 1, pp. 477- 478.

⁴⁸ An unpublished research study was conducted by James A. Bailey in 2016 firing bullets perpendicular to the target at a range of 1 meter. Porcine skin was used as human simulant because of its histological and biochemical properties as well as the thickness of the stratum corneum. The vascular anatomy and collagen fiber arrangement in the porcine dermis is also similar to the dermis of humans. The pistols used to produce the bullet holes included: a .22 caliber, .25 caliber, .380 caliber, and 9 mm. Forty bullet holes using round-nosed jacketed ammunition were examined and measured with Vernier calipers to determine the bullet-hole diameter. All bullet-hole diameters were a few thousandths inches less than the bullet diameter. Lead round-nosed bullets perform similarly on the dermis because the dermis is a soft tissue and does not deform the bullet upon entry.

⁴⁹ Dettmeyer, Reinhard, Marcel A. Verhoff, and Harald F. Schütz, *Forensic Medicine: Fundamentals and Perspectives*, (Springer, NY: Springer (2014), p. 159.

⁵⁰ Jones, Nancy Lynne, *Atlas of Forensic Pathology*, (New York: Igaku-Shoin Publisher, 1996), p. 62.

⁵¹ Selman's revolver was displayed in El Paso's Coney Island Saloon for many years.

⁵² Levy, Angela D. and H. Theodore Harcke, Jr., *Essentials of Forensic Imaging: A Text-Atlas* (Boca Raton, FL: CRC Press, 2011), p. 63.

⁵³ Dana, S.E. and V.J.M. Di Maio, *Gunshot Trauma in Forensic Medicine: Clinical and Pathological Aspects*, Jason Payne-James, Anthony Busuttill, and William Smock, eds. (London: Greenwich Medical Media, Ltd., 2003), pp. 149-168.

⁵⁴ In some cases, bullet wipe may not be visible on clothing or skin; however, traces of lead may be detected when treated with Sodium Rhodizonate.

⁵⁵ Bailey, J.A., D.J. Swart and H.L. Finch, "Limit of Detection with Sodium Rhodizonate: Bullet Wipe Patterns with Selected Ammunition Examined for Lead," *AFTE Journal*, Volume 39 Number 2 (Spring 2007), pp. 95-96.

⁵⁶ On occasion, Hardin would shoot playing cards with his revolver, sign his name or initials and sell the cards to earn money. Some of the playing cards contain bullet wipe around the margin of the entrance hole in the card.

⁵⁷ *The Estate of Richard C. Marohn, M.D., op. cit.*

⁵⁸ This article is from the John Wesley Hardin Collection, MS 030, C.L. Sonnichsen Special Collections Dept., The University of Texas at El Paso Library, "Wes Hardin is Killed: This Noted Character Dies by John Selman's Pistol," *Herald Post* (El Paso, Texas) Aug. 20, 1895, p. 86.

⁵⁹ If Selman fired four times, one bullet could have hit the saloon furniture or some other structure in the building and not have been discovered by the coroner or other investigators. In some modern shooting incidents involving multiple shots, the shooter has no recollection of the number of shots fired in the shooting aftermath. Therefore, if Selman only fired three shots, the injury to the little finger on the left hand could have resulted from either the exit bullet in the right arm or exit bullet from the right chest traveling from a right to left path downward.

⁶⁰ This article is from the John Wesley Hardin Collection, MS 030, C.L. Sonnichsen Special Collections Dept., The University of Texas at El Paso Library, "Wes Hardin is Killed: This Noted Character Dies by John Selman's Pistol," *Herald Post* (El Paso, Texas) Aug. 20, 1895, p. 86.

⁶¹ To better understand the proximity of the three bullet holes in the saloon floor, a "span" is approximately nine inches in length or the length between the tip of the thumb and the tip of the little finger when the hand is extended.

⁶² John Wesley Hardin Collection, MS 030, C.L. Sonnichsen Special Collections Dept., The University of Texas at El Paso Library, "Hardin Aftermath: Several New Witnesses Give Their Testimony" *Herald Post* (El Paso, Texas) Aug. 21, 1895, n.p.

⁶³ "Photographer Burge Dead," *El Paso Herald*, Jan. 2, 1897, p. 4. "J.C. Burge, the well-known photographer, died at 9 a.m. New Year's Day from the results of la grippe [influenza], at the age of 58. He had successfully weathered the disease, and was thought to be on the way to recovery, but he was too feeble to successfully rally. Arrangements are now made for the funeral which is expected to be held tomorrow under the Odd Fellows auspices. The deceased came here about five years ago from Las Cruces where he was a prominent Odd Fellow, and in fact was past grand master of the order in New Mexico. He has been a well-known and respected citizen here. Mr. Burge leaves a wife, and a son in Kerrville, and one or two sons and a daughter in California. His funeral will be largely attended. Later - it is decided to hold the funeral at 3 p.m. tomorrow from the house under the auspices of Border Lodge, 374, I.O.O.F., with interment at the masonic cemetery."

⁶⁴ John Wesley Hardin Collection, MS 030, C.L. Sonnichsen Special Collections Dept., The University of Texas at El Paso Library, D. Storms' Handwritten Notes, Aug. 20, 1895.

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ Even though an autopsy was not performed on Hardin's body, the physicians viewed and probed the wounds as part of their examination.

⁶⁸ "Plaque Tells Story: El Paso Remembers Day Gunman Killed," *The Corpus Christi Caller-Times* (Corpus Christi, Texas) Dec. 26, 1962, p. 11.

⁶⁹ "John Selman Dying," *Austin Weekly Statesman* (Austin, Texas), April 9, 1896, p. 1.

⁷⁰ "Didn't Draw Quick Enough: An Outlaw Exterminator Gets Several Bullets in His Body," *The Philadelphia Inquirer* (Philadelphia, PA) April 6, 1896, p. 2.

⁷¹ *Ibid.*

⁷² Different numbers of killings are reported by different news sources; however, according to the newspaper article, "John Selman Shot," *The Richmond Item*, (Richmond, IN) April 6, 1896, p. 2, Selman killed 20 men in Texas.

⁷³ John Wesley Hardin married Jane Ann Bowen in 1872 and they had three children, Mary Elizabeth "Mollie" Hardin (1873-1938), John Wesley Hardin, Jr. (1875-1931) and Jane Martina "Jennie" Hardin (1877-1931). After the death of Hardin's first wife in 1892, he married Carolyn Jane "Callie" Lewis in 1895. Hardin and Callie Lewis did not have any children.