

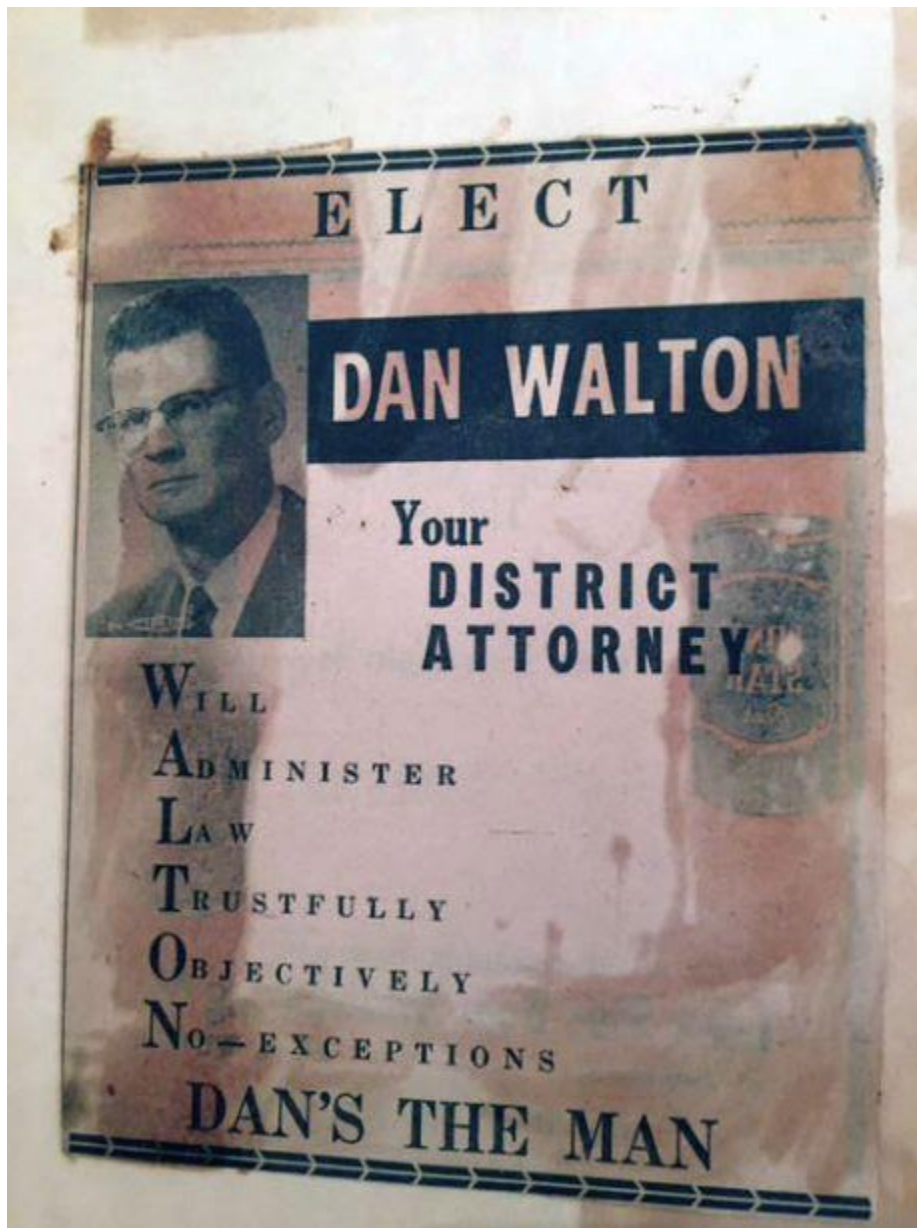
Daniel: Jury panels weren't always inclusive

By Chris Daniel

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As Harris County district clerk, I summon about 400,000 citizens to jury service annually.

The district clerk in the 1950s performed a similar role except he did not summon women, who were not allowed to serve, and few African-Americans.

The list of prospective jurors was drawn from registered voters then, and many African-Americans did not vote because they had to pay a poll tax. Even if they came to jury service in Harris County in the early 1950s, African-Americans were not seated on juries. Prosecutors, lawyers and judges had a gentleman's agreement to strike them.

By disenfranchising African-Americans from jury service and other forms of civic participation, our county planted many seeds of distrust and disillusionment in the American way of life.

Those who work to increase civic participation are among my heroes. Locally, few today remember the role former Harris County District Attorney Dan Walton played in increasing the specific type of civic participation that is of great interest to me, jury service. It's fitting to remember Walton, who served from 1954-1960, during Black History Month.

"When I first started trying lawsuits originally, you didn't have blacks on the jury. The lawyers, generally by agreement, excused all the black jurors," said Walton during a videotaped interview with State District Judge Mark Davidson in the 1990s.

Walton, who died in 2008, did not agree with the practice of striking prospective African-American jurors. He grew up in Alabama during the Depression and saw around him people who were hurting. "What he used to tell us was that at that time, that people weren't given a fair chance, white or black," said his son, Dan Walton of Laguna Niguel, Calif.

In 1954, local Democrats urged Walton to run for district attorney because the sitting D.A. had been indicted for helping run a brothel across from the courthouse.

During the campaign, Walton vowed that the D.A.'s Office would stop honoring the gentleman's agreement not to seat African-Americans on juries. "I went to the black community and churches," Walton said. "I assured them that jurors would be selected on merit, with no regard to race, color or creed."

After he won and assumed office, Walton instructed prosecutors to begin seating African-American jurors. "And that's the way we proceeded," Walton said. "Never had been done that way before."

Also in 1954, Texas voters passed a referendum giving women the right to serve on juries.

U.S. District Judge Ewing Werlein Jr. said of Walton's motives for seating African-American jurors: "It was just the innate goodness of the man that led him to the decision. He saw that it was not right to strike a certain segment of people from the jury. He saw there was a lack of fairness in excluding people. I don't think he saw a political advantage in taking this stance."

In 1958, George Moses, who was African-American, stood trial on charges that he shot and killed a white Houston police officer during a drug raid.

Walton, who served as state district judge from 1966-1984, prosecuted the case himself. "I accepted a black juror in the case," he said. "Judge (Langston) King nearly fell off the bench." Courtroom observers were stunned.

Cain H. Nelson, the African-American juror, ran a grocery store near North Shepherd in north Houston. He and the rest of the jury voted to convict Moses and approved a death sentence.

Some in the African-American community were outraged by Nelson's vote. Nelson's grocery store was ransacked.

Walton's son, Dan, said his father told him, "The worst part of that case was that (the protesters) damaged that man's store."

Despite what some protesters may have felt about the outcome in the Moses case, I believe that part of the black community and part of the entire Houston community then had more faith in the verdict because the jury included an African-American.

Maybe seating an African-American juror here or there in the 1950s seems like baby steps today. But they were steps, and they have brought us to where we are today. Blacks, Hispanics, Asians, Native Americans and non-Hispanic whites serve together on juries.

My office works hard to increase turnout for jury service among all groups, including minorities. Jury panels that reflect the county's demographics increase the community's faith in the justice system.

When we, as a society, exclude, we lose. We lose the insights, skills and achievements that those who are excluded would make. We lose by creating a segment of society that always is on the outside, looking in.

Daniel is the Harris County district clerk.