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COLUMBUS, ROBESON & SCOTLAND COUNTIES



*As North Carolina courts work through backlog,  
some counties don't have enough lawyers*

*By Sarah Nagem*

*This story is a collaboration between the Border Belt Independent and [The Assembly](#).*

When Butch Pope walked into the old Columbus County Courthouse in Whiteville, North Carolina for the first time as a new lawyer, he had to ask a man sitting in the lobby for directions to the courtroom. Once he finally found it, the judge moved to appoint him the new defense attorney for a man accused of stealing a ladder.

His client, it turned out, was the guy who told him how to find his way there.

“I know he was thinking, ‘This fool doesn’t even know where to go,’” Pope recalled with a laugh this summer. “People thought I knew what I was doing. They didn’t know I just took the bar like 20 minutes ago.”

In the nearly four decades since that day, Pope has learned his way around. As a court-appointed attorney who defends poor people accused of murder and other serious offenses, cases have taken him from Brunswick to Hoke counties and lots of places in between.

Now 74, Pope is no longer taking on new cases. He plans to finish the 14 cases he’s still working and then retire. The question is: Who will take his place when he does?

“I wish I knew,” he said. “I’d put them on my prayer list.”

North Carolina isn’t exactly overflowing with lawyers. The state has 2.5 attorneys per 1,000 residents, ranking it No. 39 in the nation, according to the [American Bar Association](#). More than 20 states have at least three attorneys per 1,000 residents.

Pope is among an aging and dwindling group of attorneys in North Carolina willing to represent defendants who are too poor to hire a lawyer. Attorneys can choose to sign up to be included on a list judges use to assign court-appointed representation. Last fiscal year, 1,954 attorneys were on the list, a 17 percent decrease from 2018, according to the state’s Indigent Defense Services.

Many lawyers say they simply can’t afford to do the work, especially since the hourly pay has not yet returned to what it was before 2011, when the General Assembly slashed the state budget in the wake of the Great Recession. The hourly pay for appointed attorneys in district court cases is now \$65 an hour—more than the \$55 per hour it was last year, but still below the pre-2011 rate of \$75.

It’s not just a problem on defense. District attorneys say they are also struggling to recruit prosecutors, citing low pay and ever-increasing workloads. As of late August, more than 12 percent of assistant district attorney positions across the state were vacant, according to Kimberly Overton Spahos, executive director of the N.C. Conference of District Attorneys.

The shortfall is particularly acute in rural areas—places so short on attorneys they are considered “legal deserts.” Robeson, a southeastern county home to about 117,000 people, has 112 attorneys, according to a 2020 report by the [American Bar Association](#). Wake County, meanwhile, had nine times as many residents but 50 times the number of attorneys.

Such discrepancies put the entire justice system at stake, said Mary Pollard, executive director of Indigent Defense Services. Without enough public interest attorneys, she said, criminal cases are often delayed, which is unfair to both defendants and victims.

“If you want outcomes that are fair and just,” Pollard said, “all sides have to be well-equipped and have to be able to move their cases.”

Pope, who has tried about 20 capital murder cases during his career, said everyone across the state deserves a competent attorney, especially those facing the harshest punishment.

“My God,” he said, “look at the consequences: death. No one wants to see an innocent person executed.”

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The number of criminal cases in North Carolina’s court system has been climbing since 2016, but the biggest spike came in 2020. The first year of the pandemic saw a 14 percent increase in backlogged cases, according to data from the [N.C. Administrative Office of the Courts](#).

A [rise in violent crime](#) across the state has also contributed to the volume, particularly crimes involving guns. North Carolina saw an 11 percent jump in its violent crime rate between 2019 and 2020.

As of 2021, there were about 925,000 pending criminal cases across the state. While the backlog has declined somewhat since courtrooms reopened, there are still more than 806,000 criminal cases moving through the system.

Only about 40 of North Carolina’s 100 counties have [public defender offices](#), where state-employed attorneys take on mostly criminal cases. Counties without public

defenders rely heavily on court-appointed defense attorneys, many of whom travel hours for cases. Leaders of Indigent Defense Services, a state office the General Assembly created in 2000, have pushed for years for funding to put public defenders in every county.

The General Assembly sets the budget for IDS, which is then responsible for deciding how to spend the money. Its 2022-23 **budget** is roughly \$152.5 million, less than what the office requested but a bump of about \$2 million over last fiscal year. That increase is what allowed the office to **increase hourly rates** for court-appointed attorneys for the first time in more than a decade.

Court-appointed attorneys make \$100 an hour for the most serious criminal cases, which often involve murder or rape. By contrast, private attorneys typically charge \$250 or more per hour.

For many, particularly those who practice solo or in a small office, the pay from the state doesn't cover the overhead costs of rent, utilities, insurance, and support staff. And many lawyers have considerable student loan debt—an **average of nearly \$165,000 as of 2020**.

“I don't know how a kid fresh out of law school can afford to go work in public interest law,” said Joshua Malcolm, an attorney in Robeson County who used to do court-appointed defense work.

Some debt-repayment help is available to new, qualifying public-interest attorneys. **NC LEAF**, a Raleigh-based foundation that supports legal education, says it has provided over \$7.1 million to more than 1,400 prosecutors, public defenders, and nonprofit lawyers in the state since 1991.

President Joe Biden announced in August that student-loan borrowers could get up to \$20,000 forgiven.

The School of Law at the University of North Carolina-Chapel Hill also offers some financial support to graduates who do public-interest work through its **Loan Repayment Assistance Program**, which says it has doled out more than \$2 million since 2010.

The program, which isn't limited to graduates who practice law in North Carolina, may help make public interest work more viable for new attorneys, said the school's dean, Martin Brinkley.

Luring recent graduates to rural areas can be a tough sell. "The opportunities to have a thriving law practice are, let's face it, not the same in Tyrrell County as they are in Wake County. That's just the world we live in," Brinkley said. "A county like Robeson, which has a pretty high crime rate and a significant poverty issue, is a very difficult place for a younger lawyer to come and make a living."

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Matt Scott knows all about the struggles in Robeson County.

As the largest county in the state geographically, Robeson spans 950 square miles of swampy marshes and farmlands. But its **population, just 117,000, is shrinking.**

Robeson has gained a reputation over the decades for being a rough place, plagued by drugs and hurricanes and lacking economic opportunity. It **led the state in violent crime** per 100,000 residents in 2020 and saw a 35 percent spike in violent crime between 2019 and 2020. More than **26 percent of residents live in poverty**, double the statewide rate.



Matt Scott, the Robeson County district attorney, says the judicial system in North Carolina needs an overhaul.

Scott, a Democrat who was elected as the Robeson district attorney in 2018 and is running unopposed in November, says the county suffers from “a lack of hope” that creeps into every aspect of life, including the judicial system.

Robeson County has more than 1,500 pending felony superior court cases, data shows. That’s only about 500 fewer cases than in Forsyth County, which has roughly twice as many residents.

More than 100 of the pending felonies are murder cases, Scott said—a number that climbed while the pandemic shuttered courtrooms for more than a year. “When you have that volume and limited resources,” he said, “it creates problems. ... We do the best we can with what we’ve got.”



Robeson has a public defender's office, but it can't keep up with all of the cases, Scott said. The county needs more defense attorneys, particularly experienced lawyers who put their names on court-appointed lists to take on high-level felony cases, he said. And, he said, his office needs more prosecutors.

The General Assembly decides how many assistant prosecutors are assigned to each of the 43 district attorney's offices in the state. Robeson County has 13 positions. Two of those were vacant as of August, Scott said, and lawyers weren't beating down his door for a chance to be hired. Another position was vacant for more than a year before Scott hired the lone applicant.

"We're like McDonald's," he said. "We've got help-wanted signs."

Low pay, burnout, and racial inequities within the system are contributing to a rising number of prosecutorial vacancies across the country, [\*Reuters reported\*](#) in April.

While the problem is acute in many rural areas, urban counts are also affected. Mecklenburg County has one of the most understaffed district attorney's offices in the country, [\*The Charlotte Observer\*](#) reported last year. The national average is 12.5 prosecutors per 100,000 residents, the newspaper reported; Mecklenburg had about 8.

In Robeson, Scott said it would take as many as 20 prosecutors to work through the case backlog, even if some of them would fill temporary positions.

Scott said he had to get creative even before the pandemic. When he was elected, he asked N.C. Attorney General Josh Stein's office to take over the prosecution of about 15 murder cases. That relationship continues, Scott said, although Stein, a Democrat, has had his budget cut in recent years.

The U.S. Attorney's office also took over some cases in Robeson.

Even without a pandemic, few felony cases ever make it to trial, as prosecutors make plea agreements with defendants. But Scott says he is dismayed by how long it's taking for trials to begin.

One defendant, Terrance Paige, was 19 when he was accused of [\*shooting and killing a county fair employee\*](#) in 2014. Paige has been out on bond awaiting trial, which was

initially set for March 2020. Then the pandemic arrived, and then his court-appointed attorney took on a capital murder case that would last months in another county. Just as the trial was finally set to begin last month, a new issue arose with the attorney and the judge agreed to assign someone new, who now must get up to speed on the case.

There's a financial cost to the delay. In cases where a pre-trial defendant is being held in jail, extended backlogs can cost taxpayer dollars \$85 to \$192 per inmate per day, according to a 2015 report from the nonprofit [Vera Institute of Justice](#).

But Scott also noted that the cases themselves suffer the longer they linger.

“Witnesses,” he said, “don’t get better with time.”

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Butch Pope is one of just a handful of court-appointed attorneys qualified and willing to defend people accused of murder in Robeson County.

Many lawyers hate the courtroom, but Pope embraces every aspect of it. He likes meeting with defendants. “Most of my clients, no matter how heinous the crime, I can easily find something that I like about them,” he said.

Pope got a late start to his law career. After high school in Columbus County, he earned a degree from Appalachian State University and spent a couple years as a high school science teacher. During summer breaks, he sold tires at a Firestone store in Charlotte.

When he realized teaching wasn't for him, he went to work for the chemical plant DuPont. The job took him and his growing family to South Carolina, Alabama, and back to North Carolina.

He was in his early 30s when he decided to go to law school at North Carolina Central University. Then he returned to Whiteville.

“I came back here and hung up a shingle,” Pope said, “because I figured at least it's my hometown, even though I'd been gone a while.”



Pope knew he could make more money practicing other types of law. But his background in science drew him to criminal cases that involved DNA, an emerging legal tool in the 1990s. He likes studying blood spatter and autopsy reports—“all of those pleasant things to be reading at 11 o’clock at night.”

Even with retirement looming, Pope said he still works up to 12 hours a day and on weekends.

So does Danny Britt.



Britt, a Republican state senator, spent five years working as a prosecutor in the Robeson County District Attorney’s Office in the 2000s. His salary was \$49,000 a year—less than what his soon-to-be wife was making as a teacher in Texas, he said.

The pay could barely put a dent in his student loan debt of \$185,000. Britt said he earned slightly more than the cutoff to qualify for assistance from NC Leaf.

The state recently freed up some money to allow district attorneys to give raises to their assistant prosecutors. However, he noted, prosecutors typically don’t work extra-long hours. “Their obligation ends when that court day ends. If court is over at 1 p.m.,” he said, “they’re done for the day. Most courts are wrapping up around lunch.”

It’s a different story for defense attorneys, according to Britt. “Simply,” he said, “it’s hard work.”

When he started a private criminal defense practice 13 years ago, Britt signed up for state court-appointed lists. At the time, he said, he was among roughly 10 attorneys on the list to defend the most serious felony cases in Robeson County. Currently, he said, there are four attorneys on the list.

But reversing the trend, particularly as more and more court-appointed attorneys near retirement, isn't as simple as throwing more taxpayer money at Indigent Defense Services, Britt said.

Britt said he questions the agency's spending habits, including the number of administrative employees and fees for experts who testify in court.

"When the attorney is making \$65 an hour and the expert is making \$250 an hour," Britt said, "that's a gross inequity."

Pollard, the executive director of IDS, said the organization manages its money well, it just needs more. "I feel somewhat helpless. All I can do is go and make the pitch," she said. "But ultimately the General Assembly has to support it."

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Scott said the entire judicial system needs overhauled. Even with more defense attorneys and prosecutors, he said, a limited number of judges and courtrooms would hinder progress when it comes to plowing through backlogs.

"We've got a huge problem," he said. "Therefore we need drastic change."

It all comes down to money, said Brinkley, the UNC-CH law school dean. Malcolm, the defense attorney, also pointed to the medical field which has also struggled to recruit doctors to rural areas.

He pointed to programs like the Early Assurance Program, which grants accepted freshmen at East Carolina University, the University of North Carolina at Pembroke, and N.C. Agricultural and Technical State University guaranteed spots at the ECU's Brody School of Medicine, as a way of keeping doctors closer to home.

North Carolina needs similar programs for would-be lawyers, said Malcolm.

"You talk about return on investment," he said. "I believe if there's going to be any effort focused on this, it needs to be focused on recruiting and showing young people the pathway of how they could become a lawyer and return to their community."

Pope said a significant increase in pay would go a long way to convincing attorneys to take on these jobs. But he said the state can make bigger changes to save money and help cases flow more efficiently through the judicial system.

For starters, Pope said, North Carolina could get rid of the death penalty. Despite keeping the punishment on the books, the state has not executed a prisoner since 2006.

Pope has moral qualms about capital punishment, but economics are also a big factor. Defendants in capital-murder cases are automatically assigned two court-appointed attorneys. These cases can drag out for months, taking up courtroom space and resources for much longer than regular murder trials.

“Somebody (at the General Assembly) with a lot of courage is going to have to stand up with some support and say, ‘It’s high time we do away with the death penalty. We frankly can’t afford it’—without getting into whether it’s right or wrong,” Pope said.

If and when that happens, Pope knows he will be long retired. But he doesn’t know who will be doing his job.