

## Assembly Line Justice

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**Categories :** [Uncategorized](#)

**Tagged as :** [caseloads](#), [district court](#), [misdemeanors](#), [overcriminalization](#)

**Date :** December 4, 2014

*Have you ever been convicted of or pleaded nolo contendere (no contest) to any violation of the law other than minor traffic tickets?*

Millions of people, many of whom were convicted of petty crimes, must answer this question ([a favorite of employers](#)) in the affirmative. Indeed, the Wall Street Journal reported in a [recent article](#) on the processing of misdemeanor crimes that nearly 1 in 3 Americans has a criminal record. While those records are based on arrests, not convictions, a substantial percentage of people charged with misdemeanor offenses are convicted. North Carolina's district courts, for example, [disposed of more than 450,000 misdemeanor \(non-traffic\) criminal cases in the 2013-2014 fiscal year](#). A third of those cases resulted in convictions.

**“Blindingly swift” justice.** The Wall Street Journal [article](#) highlighted two central problems with the processing of misdemeanor cases in state courts. First, heavy misdemeanor dockets can render the dispensation of justice in such cases “blindingly swift.” One study showed that Florida’s misdemeanor courts disposed of cases in three minutes or less. Second, the lack of state funding for court appointed counsel results in many defendants resolving such cases without the benefit of legal advice. And, even when attorneys are appointed, they often do not have adequate time to consult with their clients. While no North Carolina-specific statistics are highlighted in the article, the issues it raises are familiar to our courts.

**Crushing caseloads.** [Today's docket](#) for a single criminal and infraction courtroom in Mecklenburg County District Court lists 760 cases. [Over in Wake County](#), 742 criminal and infraction cases are set for a single district courtroom. Things appear slightly more reasonable in Orange County, with 176 misdemeanor and infraction cases [on the docket](#). But when you do the math, even that number is overwhelming, allowing for fewer than 3 minutes a case in an 8-hour session of court. No wonder, then, that district courts resemble, as the WSJ put it, “assembly lines where time is in short supply.”

**Scarce funding.** Diminishing funding for court-appointed counsel also is a familiar concern. In an effort to preserve scarce funds, the General Assembly in 2013 [amended the punishment scheme for Class 3 misdemeanors](#) to permit imposition of a fine only for such offenses when committed by a person who had a minimal prior record. Because a defendant has a constitutional right to counsel in a misdemeanor case only if he or she receives a sentence of imprisonment, the removal of imprisonment as an option was designed to eliminate the corresponding state expense for that representation. Yet some would argue that the constitutional standard for appointment of counsel in a misdemeanor case fails to account for the potential lifelong impact of a criminal conviction—even a minor one punished only by a fine.

**Potential solutions.** The WSJ reported that some jurisdictions have removed certain types of cases from the criminal courts through special municipal programs. Spokane, Washington reportedly permits people charged with driving with a revoked licenses to obtain their licenses while paying tickets over time. And Philadelphia and New York reportedly are fining people for small-time marijuana possession rather than arresting them.

North Carolina's Office of Indigent Defense Services [has studied](#) whether decriminalizing certain offenses might be an

appropriate way to reduce the cost to the state of providing appointed counsel. And experts in North Carolina and elsewhere have pondered whether [overcriminalization](#) is cause for concern. The legislature in 2013 did in fact decriminalize a handful of motor offenses, certain boating and water safety, and fishing without a license, though no large-scale decriminalization has occurred. (See item 87 of [this](#) legislative summary.)

**Have your say.** If you've been in district court lately, tell us what you think. Are we dispensing justice assembly-line style in North Carolina? Is that a problem? If so, what can we do about it?