

COUNTY OF BERKS, PENNSYLVANIA

Office of the Controller



Services Center, 12th Floor
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Reading, PA 19601-4311

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Christian Y. Leinbach, Chair
Kevin S. Barnhardt, Commissioner
Mark C. Scott, Esq., Commissioner

Sandra M. Graffius, Controller
Tony Distasio, Esq., Solicitor

October 10, 2017

Senior Magisterial District Judge Nicholas M. Bentz, Jr.
Magisterial District Court 23-2-02
401 Walnut Street
West Reading, PA 19611

Re: Internal Auditor's Report

Dear Senior Magisterial District Judge Bentz:

We have completed our audit of the financial statements for Magisterial District Court 23-2-02 for the year ended December 31, 2016 and have attached the report for your review and response.

I ask that you respond to me no later than September 26, 2017. For each material weakness/significant deficiency, please state whether or not you agree. If you do not agree, please state why. If you agree, please state:

- ◆ The corrective action to be taken;
- ◆ The anticipated date for implementation;
- ◆ Who will perform and implement the corrective action.

Once we receive your response, we will issue a final report, including your response, to the individuals listed on the distribution list. If we do not receive your response to the report by December 22, 2016, the report will be issued without a response. This report is intended for Magisterial District Court 23-2-02's management. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

I would like to thank you for your cooperation and for the courtesies extended by your staff to mine. If you have any questions concerning the attached report, I would be glad to discuss them with you.

Yours truly,

Sandra M. Graffius

**Magisterial District Court 23-2-02
County of Berks, Pennsylvania**

Senior Magisterial District Judge Nicholas M. Bentz, Jr.

Annual Financial Statement Audit

For the Year Ended December 31, 2016

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Report Distribution List

1. Nicholas M. Bentz, Jr., Senior Magisterial District Judge
2. Christian Y. Leinbach, County Commissioner Chair
3. Kevin S. Barnhardt, County Commissioner
4. Mark C. Scott, County Commissioner
5. Christine Sadler, County Solicitor
6. Ronald Seaman, Chief Administrative Officer
7. Paul M. Yatron, President Judge
8. Steve Weber, District Court Administrator
9. Faith I. Phillips, Special Courts Administrator
10. Eugene A. DePasquale, Pennsylvania Auditor General
11. Andrew M. Simpson, Judicial Programs Department
12. Reinsel, Kuntz, Leshier LLP, Certified Public Accountants
13. City of Reading
14. Reading Parking Authority
15. West Reading Borough
16. Wyomissing Borough
17. Audit File

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Internal Auditor's Report

Senior Magisterial District Judge Nicholas M. Bentz, Jr.
Magisterial District Court 23-2-02
401 Walnut Street
West Reading, PA 19611

Report on the Financial Statements

We have audited the accompanying financial statements of Magisterial District Court 23-2-02, which comprise the statement of assets and liabilities – cash basis as of December 31, 2016, and the related statement of receipts, disbursements and changes in cash balance – cash basis for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with the cash basis of accounting described in Note 1; this includes determining that the cash basis of accounting is an acceptable basis for the preparation of the financial statements in the circumstances. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatements, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the

circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets and liabilities arising from cash transactions of the Magisterial District Court 23-2-02 as of December 31, 2016, and its cash receipts, disbursements and cash balance for the year then ended in accordance with the cash basis of accounting described in Note 1.

Basis of Accounting

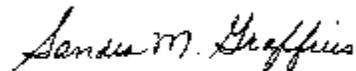
We draw attention to Note 1 of the financial statements, which describes the basis of accounting. The financial statements are prepared on the cash basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Other Matters

The Supplemental information section has not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we do not express an opinion or provide any assurance on them.

Other Reporting Required by Government Auditing Standards

In accordance with Government Auditing Standards, Internal Audit has also issued a separate report dated October 10, 2017 on our evaluation of the Magisterial District Court 23-2-02 internal control over financial reporting and on our tests of compliance with certain provisions of laws, regulations, policies and/or procedures. That report is an integral part of the audit performed in accordance with Government Auditing Standards and is to be read in conjunction with this report in considering the results of the audit.



Sandra M. Graffius, Controller
October 10, 2017

**Magisterial District Court 23-2-02
County of Berks, Pennsylvania
Statement of Assets and Liabilities – Cash Basis
As of December 31, 2016**

Assets

Cash - Checking Account	\$ 44,895
Cash - Petty Cash/Change Fund	<u>150</u>
Total Assets	<u><u>\$ 45,045</u></u>

Liabilities

Funds held in escrow	\$ 15,827
Due to the County of Berks	10,305
Due to Commonwealth of PA	9,421
Due to local authorities	9,342
Due to County - Petty Cash/Change Fund	<u>150</u>
Total Liabilities	<u><u>\$ 45,045</u></u>

The accompanying notes are an integral part of these financial statements.

**Magisterial District Court 23-2-02
County of Berks, Pennsylvania
Statement of Receipts, Disbursements and Changes in Cash Balance – Cash Basis
For the Year Ended December 31, 2016**

<u>Receipts</u>	\$ 518,174
<u>Disbursements</u>	
Commonwealth	272,629
County of Berks	116,719
Local authorities	79,752
Restitution, bail and collateral	21,491
Constable fees	6,669
	497,260
Total Disbursements	497,260
Cash receipts in excess of disbursements	20,914
Cash account balance as of January 1	24,131
Cash account balance as of December 31	\$ 45,045

The accompanying notes are an integral part of these financial statements.

Magisterial District Court 23-2-02
County of Berks, Pennsylvania
Notes to Financial Statements
For the Year Ended December 31, 2016

Note 1: Nature of the office and significant accounting policies

Nature of the office:

Magisterial district courts have jurisdiction over the preliminary stages of all criminal cases. They have jurisdiction over all traffic and non-traffic summary cases and jurisdiction in civil cases where the amount in controversy is \$12,000 or less. They do not have jurisdiction over matters pertaining to real estate, except landlord and tenant matters. Magisterial district courts collect fines, costs, restitution, and bail from defendants. The funds are then distributed to the Commonwealth, the County of Berks, local authorities, constables, and victims of illegal activities.

Magisterial district courts are presided over by magisterial district judges. Appeals from magisterial district judge judgments are taken to the Court of Common Pleas.

Magisterial district judges are employees of the Commonwealth and the court secretaries are employees of the County of Berks.

Reporting Entity:

The financial statements of the Magisterial District Court include only those transactions handled directly by the Magisterial District Court. These transactions include the collection of costs, fines, bail, and restitution, as well as the subsequent disbursement of these funds to the Commonwealth of Pennsylvania, to related political subdivisions, and to the citizens served by the Magisterial District Court. As such, the Magisterial District Court acts as a conduit for the Commonwealth, local municipalities, and constituents it serves. Consequently, the Magisterial District Court's cash balance at any point in time represents undisbursed funds to one (or all) of these parties. For financial statement purposes, these undisbursed funds are included as a liability of the Magisterial District Court.

The actual operating expenses of the Magisterial District Court are paid by the County of Berks, except for the Magisterial District Judge's salary which is paid by the Commonwealth. These costs include the salaries and wages of district court employees, fringe benefits, office rent, postage, telephone, office supplies, computer/LAN use, and furniture and equipment. These costs are not included in the audited Statement of Cash Receipts, Disbursements and Changes in Cash Balances.

Basis of accounting:

The books and records of Magisterial District Court 23-2-02 are maintained on the cash basis of accounting. Consequently, receipts are recognized when received rather than when assessed or otherwise due and disbursements are recognized when paid rather than when the obligation is incurred. Accordingly, the accompanying statements do not present the assets, liabilities, receipts, disbursements, and cash balances in accordance with generally accepted accounting principles.

Magisterial District Court 23-2-02
County of Berks, Pennsylvania
Notes to Financial Statements - Continued
December 31, 2016

Note 2: Cash and equivalents

The following cash account is in the name of Magisterial District Court 23-2-02, County of Berks, and is not reflected in the County of Berks financial statements:

<u>Bank</u>	<u>Account Type</u>	<u>Bank Balance</u>	<u>Carrying Value</u>
M&T Bank	Checking	\$ 42,134	\$ 44,895
Cash on Hand	Change Fund/Petty Cash	<u>\$ 150</u>	<u>\$ 150</u>
		<u>\$ 42,284</u>	<u>\$ 45,045</u>

Magisterial District Court 23-2-02 is a component unit of Pennsylvania's Unified Judicial System. The cash account for Magisterial District Court 23-2-02 is assigned its own tax identification number.

The account holds funds received by Magisterial District Court 23-2-02 primarily in a trust and agency capacity and use of these funds by Magisterial District Court 23-2-02 is restricted.

Amounts on deposit do not exceed \$250,000 and therefore are fully covered by FDIC insurance.

Note 3: Legal Matters

Magisterial District Judge Timothy M. Dougherty is a defendant in a lawsuit brought against him by the Pennsylvania State Attorney General's Office. While it is not feasible to determine the outcome of these matters, in the opinion of management, any total ultimate liability would not have a material effect on the Magisterial District Court's financial statements.

Note 4: Presiding Judge during audit period

Magisterial District Judge Timothy M. Dougherty was the presiding judge over District Court 23-2-02 for the period under audit up to May 13, 2016. After May 13, 2016, Senior Magisterial District Judge Nicholas M. Bentz, Jr. became the active presiding judge and remains as the presiding judge at the present time.

SUPPLEMENTAL INFORMATION

**Magisterial District Court 23-2-02
County of Berks, Pennsylvania
Schedule of County of Berks
Revenues and Direct Expenditures
For the Year Ended December 31, 2016
(Unaudited)**

<u>Revenues</u>	<u>\$ 118,662</u>
<u>Direct Expenditures</u>	
Salaries & Wages	158,562
Constable Costs	71,105
Fringe Benefits	52,401
Rent Expense	36,861
Postage	17,256
Contracted Services	7,227
Professional Fees/Interpreter	5,970
Office Supplies	4,251
Telephone/Internet	2,589
Utilities	2,193
Books & Subscriptions	2,002
Software/Hardware/Maintenance	1,512
Other General Expenditures	1,393
Conference/Training	<u>17</u>
Total Direct Expenditures	<u><u>\$ 363,339</u></u>

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Internal Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters

Senior Magisterial District Judge Nicholas M. Bentz, Jr.
Magisterial District Court 23-2-02
401 Walnut Street
West Reading, PA 19611

In planning and performing our audit of the financial statements of Magisterial District Court 23-2-02 as of and for the year ended December 31, 2016, in accordance with auditing standards generally accepted in the United States of America, we considered Magisterial District Court 23-2-02's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Magisterial District Court 23-2-02's internal control. Accordingly, we do not express an opinion on the effectiveness of the Magisterial District Court 23-2-02's internal control.

A *deficiency* in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. We did identify certain deficiencies in internal control, described in the Schedule of Findings and Recommendations that we consider to be significant deficiencies.

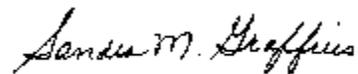
- Backlog of unserved warrants subject to recall

The Magisterial District Court 23-2-02's responses to the findings identified in our audit are described in the accompanying Schedule of Findings and Recommendations. The Magisterial District Court 23-2-02's response was not subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we express no opinion on the responses.

As part of obtaining reasonable assurance about whether the Magisterial District Court 23-2-02's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect in the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

We noted certain matters that we reported to management of the Magisterial District Court 23-2-02 in a separate letter dated October 10, 2017, regarding missing or incomplete Services of Process forms, untimely remittances to the County, missing receipts and voided receipts, voided transactions, receipts not distributed in a timely manner, return deposit items, and backlog of warrants and pre-warrant notices.

This report is intended for the information and use of the County of Berks Board of Commissioners and Magisterial District Court 23-2-02's management. This report is, however, a matter of public record and its distribution is not limited.



Sandra M. Graffius, Controller
October 10, 2017

**Magisterial District Court 23-2-02
County of Berks, Pennsylvania
Schedule of Audit Findings and Recommendations**

Material Weakness/Significant Deficiency and Management's Responses

1. Backlog of unserved warrants subject to recall

Condition: During our review of the timeliness of recalling warrants, we noted that Magisterial District Court 23-2-02 was not current in performing this duty. At the time of the audit, there were 2,973 outstanding warrants with an issue date aged beyond sixty (60) days.

As a result, the court is not in compliance with the Magisterial District Judge System manual and the Court of Common Pleas of Berks County, Pennsylvania, Administrative Order Concerning Warrant Procedures dated March 14, 2007.

The Magisterial District Judge System manual states:

"For summary traffic and non-traffic cases, outstanding warrants should be returned to the Magisterial District Judge office within 60 days of issuance."

The Court of Common Pleas of Berks County, Pennsylvania, Administrative Order Concerning Warrant Procedures dated March 14, 2007 states:

"Where the ordinary means of service of a warrant in a misdemeanor or felony case have failed after sixty (60) days, the Magisterial District Judge shall recall the warrant (REIS) and the server shall immediately return the warrant."

Recommendation: We recommend Magisterial District Court 23-2-02 staff review warrant control reports and notify servers to return warrants where the ordinary means of service has failed after sixty days. Returned warrants can either be recorded in the Magisterial District Judge System (MDJS) as unserved, if the defendant is unable to be located; or they can be recalled for reissue, if the server has not exhausted all means of finding the defendant.

Management's Response: No response provided by management.

Magisterial District Court 23-2-02
County of Berks, Pennsylvania
Schedule of Prior Audit Findings and Recommendations

1. Untimely deposit of receipts

Condition: We tested to determine the timely depositing of cash and check receipts in the bank for audit year 2015. The following is a summary of our findings that shows the time elapsed from the date of collection to the date of deposit as well as the number of occurrences for each time period:

2 - 9 Business days to date of deposit	50
10 - 19 Business days to date of deposit	113
20 - 29 Business days to date of deposit	31
30 - 35 Business days to date of deposit	3
Total number of occurrences	197

As a result, there was lack of compliance with the *Magisterial District Judge System Manual* and the *Court of Common Pleas of Berks County, Pennsylvania, Court Order Concerning Magisterial District Judge Office Procedures dated November 21, 1994*, and an increased risk of misappropriation.

Internal accounting controls require that all moneys collected be deposited in the bank at the end of every day. The *Magisterial District Judge System Manual* established the uniform internal control structure policies and procedures for all district courts. The daily cash balancing section of the manual states:

“All money, including partial payments received by the Magisterial District Judge office (e.g. cash, checks, and money orders), must be deposited in the bank at the end of every business day. A bank night depository may be used by all (night) courts as well as by any court that cannot get to the bank during banking hours. Money should not be taken home, left in the office overnight or unattended. The Daily Cash Balancing procedures must be completed every day.”

The *Court of Common Pleas of Berks County, Pennsylvania, Court Order Concerning Magisterial District Judge Office Procedures dated November 21, 1994* states:

“All cash, checks and money orders received in the magisterial district court office must be deposited in the appropriate checking account at the end of every day. Monies shall not be left in the office overnight.”

Recommendation: We recommend Magisterial District Court 23-2-02:

- Consistently deposit cash and check receipts in the bank on a daily basis in a manner consistent with the *Magisterial District Judge System Manual* and the *County of Berks Court of Common Pleas Court Order of November 21, 1994*.
- Document and retain an explanation with any deposit that is not made at the end of the business day.

Magisterial District Court 23-2-02
County of Berks, Pennsylvania
Schedule of Prior Audit Findings and Recommendations – Continued

Management's Response: Since Sr. Judge Bentz has been assigned to this court in May of 2016, he has met with staff and deposits are being made daily in a timely manner.

Current Status: No longer an audit finding for audit year 2016

2. Backlog of unserved warrants subject to recall

Condition: During our review of the timeliness of recalling warrants, we noted that Magisterial District Court 23-2-02 was not current in performing this duty. At the time of the audit, there were 3,249 outstanding warrants with an issue date aged beyond sixty (60) days.

As a result, the court is not in compliance with the Magisterial District Judge System manual and the Court of Common Pleas of Berks County, Pennsylvania, Administrative Order Concerning Warrant Procedures dated March 14, 2007.

The Magisterial District Judge System manual states:

“For summary traffic and non-traffic cases, outstanding warrants should be returned to the Magisterial District Judge office within 60 days of issuance.”

The Court of Common Pleas of Berks County, Pennsylvania, Administrative Order Concerning Warrant Procedures dated March 14, 2007 states:

“Where the ordinary means of service of a warrant in a misdemeanor or felony case have failed after sixty (60) days, the Magisterial District Judge shall recall the warrant (REIS) and the server shall immediately return the warrant.”

Recommendation: We recommend Magisterial District Court 23-2-02 staff review warrant control reports and notify servers to return warrants where the ordinary means of service has failed after sixty days. Returned warrants can either be recorded in the Magisterial District Judge System (MDJS) as unserved, if the defendant is unable to be located; or they can be recalled for reissue, if the server has not exhausted all means of finding the defendant.

Magisterial District Court 23-2-02
County of Berks, Pennsylvania
Schedule of Prior Audit Findings and Recommendations – Continued

Management's Response: Since being assigned to this office I have been holding meetings with staff to address the deficiencies in the warrant procedures. Significant staffing changes have subjected this office to staffing shortages. This has impacted our ability to process areas of required duties in a consistent manner, and forced the staff to prioritize tasks.

Current Status: Management has not adequately addressed the condition.

3. Missing docket files

Condition: Sixteen case files could not be located by Internal Audit or by Magisterial District Court 23-2-02 office personnel.

Recommendation: We recommend Magisterial District Court 23-2-02 create a temporary file to include reprinted documents from the MDJS and a copy of the citation from the issuing agency for each of the above listed dockets if the original files cannot be located. The office personnel created temporary files for eleven of the missing sixteen case files at the time of audit and will complete creating the remaining five missing case files. We further recommend that care be exercised going forward when handling and processing docket files.

Management's Response: Judge has meet with the staff on this matter and now has staff filing all cases in proper files. The missing case files have all been recreated and are now in proper location. Hopefully this will not be a problem in the future.

Current Status: No longer an audit finding for audit year 2016

4. Service of Process forms

Condition: In sixteen of the twenty case files tested, the Service of Process form was either not completed or not in the case file.

As a result, there is an incomplete audit trail with regard to services provided by the court's constables.

Recommendation: We recommend Magisterial District Court 23-2-02 obtain a completed Service of Process form when applicable and retain said form in the case file.

Management's Response: When meeting with staff they were made aware of the importance of these returns being in the proper files, on a timely manner.

Current Status: No longer a significant deficiency.

Magisterial District Court 23-2-02
County of Berks, Pennsylvania
Schedule of Prior Audit Findings and Recommendations – Continued

5. Marriage ceremony fee was not collected

Condition: For six of the twelve marriage ceremonies performed by the Magisterial District Judge during 2015, the \$42.50 fee was not collected by the Magisterial District Court.

According to the Docketed Cases Report, MDJS 4090, there was only six marriage ceremonies listed on the report and entered into the district justice system. Therefore, the number of marriages listed on the Docketed Cases Report does not equal the number of marriage license copies retained by the MDC.

As a result, the Magisterial District Court did not comply with Section 1725.1 of the Pa. Judicial Code. This section of the code provided the basis for President Judge Scott Keller in his memorandum dated November 30, 1998 to all District Justices and Senior District Justices. The memorandum directed that all District Justices collect the required fee for performing a marriage.

Recommendation: We recommend that Magisterial District Court 23-2-02 collect the appropriate fee for each marriage ceremony going forward.

Management's Response: I have not performed any marriages but if I do I will collect the proper fee.

Current Status: No longer an audit finding for audit year 2016