

# **PROPOSED 2021-2022 PLAN FOR REESTABLISHING THE WESTMORELAND COUNTY MAGISTERIAL DISTRICTS**

Courts are required to reestablish magisterial districts every ten years pursuant to 42 Pa. C.S. Section 1503. In July of 2020, President Judge Rita Donovan Hathaway submitted an anticipatory Petition to Redistrict Magisterial District Courts in the Tenth Judicial District. This was done in an effort to avoid having potential candidates for the office of magisterial district judge spend money campaigning for an office that might be a good candidate for elimination due to the low caseload and workload in the district. Our Pennsylvania Supreme Court granted the petition in part and denied the petition in part, eliminating District Court 10-3-11 (formerly Eckels), and maintaining District Court 10-2-03 (Kistler). These two courts were chosen because they were the two courts in Westmoreland County with the lowest number of case filings. In 2020, the time of the original petition, District Court 10-2-03 (Kistler) had a caseload that was 45% lower than the county average. Recent statistics show that this court's caseload is 49% lower than the county average. In 2020, 10-2-03 was the lowest in workload. At present, this court is the second lowest in workload.

The committee understands that based on numbers alone, 10-2-03 would appear to be a good candidate for closure. However, the committee agreed that deference to our Supreme Court's recent analysis should prevail, and that other factors also should be considered, including access to justice and the public's position regarding closure of the court. These factors must prevail even where a significant savings of taxpayer money and a statistical analysis would appear, at first glance, to make sense. The committee is sensitive to balancing all interests and consciously agreed that recasting the prior request, with essentially similar statistics to support such a request, would be inappropriate. This is explained in further detail within this document.

President Judge Hathaway, complying with her statutory duty, has now appointed a committee to study the magisterial district court alignment in Westmoreland County and to make recommendations with the benefit of official census data and other detailed information. In addition to President Judge Hathaway, the following served on the committee: Magisterial District Judges Jason Buczak, Chris Flanigan, Joseph DeMarchis, Charles Moore, Charles Conway, Rebecca Calisti Tyburski, District Court Administrator Amy DeMatt and Special Courts Administrator Chris Haidze. This document is the recommendation of that Committee.

A key part of the reestablishment process is the solicitation of public comment. In order to facilitate that process, this document is being distributed to the following:

Westmoreland County Board of Judges  
Westmoreland County Board of County Commissioners  
Westmoreland County Magisterial District Judges' Offices  
Westmoreland County District Attorney

Westmoreland County Public Defender  
Westmoreland County Court Administrator  
Municipal Mayors  
Presidents of Municipal Councils  
Board of Township Supervisors  
State and Local Police  
The News Media  
Westmoreland Bar Association  
Public Libraries

Copies of the Plan will be available at Public Libraries, Magisterial District Judge Offices, and at the Court Administrator's Office in the Westmoreland County Courthouse in Greensburg.

In considering the Plan, the Committee is mindful of access to justice. Westmoreland County, a third class county, is the eighth largest judicial district in the state of Pennsylvania from a land area perspective. It is a diverse county, consisting of some areas that are rural, and some that are urban. It is not uncommon for those who live in the rural areas of the county to avoid driving to and in the more urban areas of the county. Those who live in the more urban areas of the county are accustomed to the convenience of having their courts close to major highways. The Committee has taken this phenomenon into account in deciding whether it is reasonable to ask the population of one geographic area of the county to commute to a new area of the county.

Primarily, however, the Committee used judicial workload variance as the primary consideration. Judicial workload considers the time required to be spent by the court to bring each case to resolution. Therefore, a variance of over 15% more or less than the County's average workload is a good indicator of how taxed a particular court may be. The Committee also examined population, caseload equity, statistics and trends, travel time and geography, and accessibility.

The Committee found that three judicial districts exceed the County average by more than fifteen percent, and five judicial districts do not reach the County average by more than fifteen percent. The Committee therefore suggests minor changes in moving district boundaries. By and large, however, the Committee agrees with the Pennsylvania Supreme Court's recent Order in that Westmoreland County should not further decrease the number of courts within the judicial district.

The analysis and recommended changes follow:

**No changes recommended**

**Districts over 15% of County workload average**

**10-1-05 (Northern Region – MDJ Pallone) (caseload -31%, workload +55%) and  
10-1-04 (Northern Region – MDJ Peck-Yakopec) (caseload -11%, workload +24%)**

Two courts, 10-1-05 (Judge Pallone; New Kensington and Arnold) and 10-1-04 (Judge Peck-Yakopec, Upper and Lower Burrell, as well as Boroughs of East Vandergrift, Hyde Park, Oklahoma, Vandergrift, West Leechburg and Allegheny Township) have workloads that exceed 15% of the County average workload. Neither court leads in the caseload rank for Westmoreland County, however. Court 10-1-05 is 13<sup>th</sup> in caseload rank, and 10-1-04 is 7<sup>th</sup> in caseload rank. Both courts have experienced wide swings in civil filings. For example, 10-1-04 had 164 civil filings in 2016 and 396 in 2019, and 10-1-05 had 115 civil filings in 2016 and 252 in the next year, 2017. Criminal filings in both districts also do not demonstrate a clear upward trend in case filings. With no clear trends in civil or criminal filings, the Committee is concerned that realignment would not correct a problem, but would be aimed toward “correcting” what is actually an aberration in statistics. Geographically, these courts are located in the northernmost area of the county, and would not lend themselves well to realignment because of their geographic location, travel time and inconvenience that it would entail to redirect litigants and law enforcement to other areas of Westmoreland County.

The only district that cases from 10-1-05 could transfer to would be 10-1-04, as 10-1-04 completely surrounds 10-1-05. 10-1-04 already has a workload of +24%. Due to the fact that 10-1-04 has a such high workload and due to the location, travel time and inconvenience to the litigants that use 10-1-05, moving cases from 10-1-05 would affect their access to justice and is not recommended by the committee.

Additionally, 10-1-04 is bordered by 10-3-05 (Judge Buczak) and 10-3-02 (Judge Conway). If district court 10-1-04 were to be divided and cases from the voting district that abuts 10-3-02 were realigned, it would divide the Burrell school district and put it into a different magisterial district. The Committee believes such a plan would be confusing to the school district and to the public.

District 10-3-05 (Judge Buczak) abuts District Court 10-1-04, and also, based on supplied statistics, falls below the County average workload by in excess of 15%. On first glance, this would appear to make District Court 10-3-05 a candidate for absorbing some of 10-1-04; however, because 10-3-05 does not show clear trends losing cases (and in fact, at least in the criminal area) shows some signs of increase in filings, the Committee does not recommend shifting a boundary from 10-1-04 to 10-3-05.

**10-2-10 (City of Greensburg – MDJ Flanigan) (caseload +24%, workload +42%)**

At first glance, court 10-2-10 would appear to be a good candidate for realignment based on the statistics for the period provided, as this court has the second highest traffic, landlord-tenant, miscellaneous and criminal workload in county, second only to district court 10-1-05. However, a more nuanced analysis reveals that statistics do not, in fact, support realignment. For example, when only the most recent three years of data provided (2017 to 2019), are considered, there has been a decline, as opposed to an increase, in this district in case filings in criminal, private criminal, private summary, traffic, civil and landlord tenant cases. With respect to non-traffic cases from 2017 to

2019, there was a slight increase from 2017 to 2018<sup>1</sup>, and then a precipitous drop in 2019.<sup>2</sup>

Moreover, population in this district has remained stable from 2010 to 2020.<sup>3</sup> One would expect that if a rising number of case filings (and future anticipated filings or workload) were a concern, population in this district would also correlate, reflecting growth. It has not. Rather, this appears to be evidence of aberration in the statistics. In fact, there is a difference in the statistics of over 200 filings between successive years in two areas: non-traffic cases and private summary cases. It appears that 2018 was an anomaly, with 678 non-traffic cases (compared to 474 in 2019) and that 2017 was an anomaly in having 409 filings in private summary cases in 2017 (as compared to 276 and 145 in 2018 and 2019, respectively). These few instances of skewed statistics might explain why the workload appears, at first glance, to be high. However, re-alignment is based upon the idea that inferences (such as future anticipated growth) can be drawn from the statistics. The more considered view of the statistics recognizes that overall workload over a six year period includes anomalous figures and is not an accurate reflection of what may be anticipated over the next ten years, particularly when recent statistics show an overall decline in filings rather than an increase.

In addition, practical considerations do not support dividing this district. This court's jurisdiction is the City of Greensburg, a single municipality. This is the only district court for the municipality. In theory the City could be divided by voting district; however, the Committee does not recommend this. Such a division would be confusing to the public, local law enforcement and court staff. Even at present, the public considers the City of Greensburg generically to include surrounding townships and boroughs with a Greensburg mailing address. To divide jurisdiction of the City would increase confusion.

Further, the court has been handling the greater caseload effectively and efficiently. 10-2-10 encompasses the voting districts of the City of Greensburg, the county seat. In years 2018, 2019 and 2020, dispositions have outpaced filings significantly, showing that the clearance rate of cases is healthy and that the office is able to dispose of more cases than are being filed. For these reasons, the Committee does not recommend any change to the boundaries of this district.

### **Districts Under 15% of County Workload Average**

#### **10-3-05 (Avonmore Borough, Bell, Loyalhanna, Washington Township and Salem Townships – MDJ Buczak) (caseload -9%, workload -23%)**

The court's jurisdiction consists of Avonmore Borough, Bell Township, Loyalhanna Township, Washington Township and Salem Township other than the voting district of New Salem. This district is geographically in the northern central area of Westmoreland County. Census data is equivocal on population in this district. For

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<sup>1</sup> In 2017, there were 661 filings. In 2018, there were 678 filings.

<sup>2</sup> In 2019, the number of non-traffic cases filed dropped by over 200 cases.

<sup>3</sup> Population in 2010 was 14,892 and in 2020 was 14,976, an increase of 84 people.

example, census data shows that Salem Township, other than the voting district of New Salem, has increased in population over the last ten years. However, other portions of this magisterial district have decreased in population, with a net decrease of only about 300 overall, a negligible number. Based on the census figures, the committee cannot conclude that there is a trend of population loss in the district. In fact, at least in the majority of Salem Township, population is increasing. Therefore, analysis of population does not justify adjusting caseload and workload in this district.

Caseload and workload data are likewise equivocal. The district is 13th in workload ranking, but 6th in caseload ranking. A closer look at statistics demonstrates that this district cannot be said to be trending downward in work. For example, civil workload has fluctuated from 1523 to 1918 in the span of four years. Criminal workload has been between 10,000 and 11,000, with no clear trend. Non-traffic cases, traffic cases, and private summary complaints all fluctuate, with no clear trend, and with aberrational years in each category. The committee is concerned that the overall average workload is not representative of what is happening in the district, since the average includes aberrational years in every category of cases other than landlord-tenant filings, which have decreased slightly generally. With no downward trend, the committee worries that adding cases is not correcting a problem in the district, but potentially creating one, because there is no indication that case filings and workload will decrease, and they could, in fact, increase.

The annual average case filings for this district exceed the annual average case filings for Westmoreland County as a whole. Among third class county average filings, this district would rank 6<sup>th</sup> (in comparison to average filings in ten Judicial Districts) and would even exceed average filings in one Class 2A County, Delaware County. This factor would also lead the Committee to believe that realigning this district should not be a priority at present.

Based on the lack of clear trends in population, caseload and workload, and based on the fact that annual case filings demonstrate a greater than average caseload relative to the rest of the county, and a middle ranking among third class judicial districts, the committee recommends no changes to this district.

**10-3-02 (Delmont Borough, Export Borough, Municipality of Murrysville, Salem Township – District of New Salem, MDJ Charles Conway)** (caseload -26%, workload -24%)

This district lies in the northern region of Westmoreland County. Geographically, it is bordered to the north by 10-1-04, to the east by 10-2-03 and to the south by 10-2-03. It is on the westernmost border of Westmoreland County and therefore does not have another Westmoreland County district court to the west of it. The only magisterial district that surrounds 10-3-02 that exceeds the average county workload by over 15% is 10-1-04. As noted above, 10-1-04 should not be divided, because to do so would divide a school district in 10-1-04 and because the driving distance from Upper Burrell is more burdensome for most residents of Upper Burrell and the Upper Burrell police.

In terms of dissolving the court, the Committee defers to our Pennsylvania Supreme Court's prior analysis of the western area of Westmoreland County. Prior to the census, that area of Westmoreland County had been analyzed with an eye towards eliminating district court 10-2-03. District court 10-2-03 falls significantly below 10-3-02 and in both workload ranking and caseload ranking, and the timing would have been such that no judge would have been unseated or spent unnecessary funds on running for office. In addition, the court facility at 10-2-03 was less than ideal in terms of security and needed to be relocated. By contrast, there were a large number of comments in response to the prior proposed petition that emphasized the need for a local court.

Westmoreland County's proposed elimination of 10-2-03 was not supported by public comment. There were suggestions that land would be developed in 10-2-03 and that changes to the highway would result in an increased caseload, potentially leading to an overburdened court.

The Committee considered whether it would make sense to consolidate 10-3-02 and 10-2-03 in some fashion. To a certain extent, this concept is merely recasting the suggestion that was made in the prior petition, since the court facility at 10-3-02 is owned by the County and is superior to the facility at 10-2-03. If these districts were consolidated, the Committee would not want to make the court facility at 10-2-03 the facility for the new district. The Committee has deference for our Supreme Court's decision and to the question of the impact of anticipated developments. The Committee does not wish to recast the prior request as though it were a new suggestion.

In addition, district 10-3-02 includes the municipality of Murrysville, which has grown in population over the past ten years.<sup>4</sup> Murrysville is a relatively urban area in Westmoreland County and has a major highway (US Route 22) which passes through it. It would not make sense for the population of Murrysville to travel to a different court that is further removed from them and more difficult to access. Further, the same considerations of highway widening that applied to 10-2-03 apply at 10-3-02.

According to information received from James Morrison, the Chief Administrator of the Municipality of Murrysville, "Murrysville is one of only five communities in Westmoreland County showing positive growth, according to the 2020 census data. Murrysville has averaged 40 new housing starts per year over the last 5 years. There has been significant growth in the number of new businesses in the community, especially restaurants that have secured liquor licenses. The amount of traffic using route 22 is increased steadily over the years. There is an estimated number currently of 22,000 trips per day. This has resulted in an increase in the number of traffic stops on the highway."

Statistics also do not support redrawing boundaries of 10-3-02. The Court is 11<sup>th</sup> in caseload rank. Its low criminal caseload likely factors in to cause the workload to be less than in other districts. The civil filings, however, show a general upward trend. The committee believes that if it does not make sense to close 10-2-03, it would make even

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<sup>4</sup> 17,280 in 2010, compared to 21,006 in 2020.

less sense to close 10-3-02. Likewise, it would not make sense to divest the surrounding districts of their caseloads and workloads, as they all (other than 10-1-04) have workloads that are less than the average in the county by at least 15%. For these reasons, the committee recommends that this district remain as it is.

**10-3-08 (Derry Borough, Derry Township, New Alexandria Borough, MDJ Hammers)** (caseload -20%, workload -18%).

This district is in the eastern region of the county. Several areas in this district are largely rural. The Committee is mindful that relocating the court might affect access to justice. In addition, the district does appear to be trending upward. The civil filings for 2014, 2015 and 2016 were 143, 139 and 165 respectively. However, for 2017, 2018 and 2019 those numbers were 213, 223 and 200. Civil workload for the same periods mirrored the case filings. The civil workload for 2014 through 2016 was 1613, 1568 and 1861. For 2017 through 2019, the workload increased to 2403, 2515 and 2256. The caseload and workload in this district are historically affected by the leadership in the state and local law enforcement agencies. As such, no change is recommended for 10-3-08.

**10-3-09 (Bolivar Borough, Cook Township, Donegal Borough, Donegal Township, Fairfield Township, Laurel Mountain Borough, Ligonier Borough, Ligonier Township, New Florence Borough, St. Clair Township, Seward Borough, MDJ Thiel)** (caseload -12%, workload -40%).

This district is in the eastern region of the county. This district ranks 8th out of 16 for caseload. Geographically, this district is approximately one third of the county. The court is located in Ligonier which is in the approximate center of the district. To move other portions of the county into this district would move court users away from a district that is much closer. For instance, a person in Donegal Township, currently traveling to their local magisterial district court in Ligonier could drive over 40 minutes. This is an area of the county in which requiring court users to travel to a more urban area is likely to have a chilling effect on access to the courts. Therefore, due to the caseload of this district and the geographical coverage of the district, and concerns for access to justice, no changes are being recommended.

**Recommended changes**

The Committee recommends the following changes:

- 1. Penn Borough and the Hempfield Township voting district of Wegley (currently part of 10-1-01 jurisdiction) should become part of 10-2-03 in order to increase the caseload and workload of 10-2-03.**
- 2. Add North Huntingdon voting precinct 6-1, Irwin Borough and North Irwin Boroughs from neighboring 10-2-09 to 10-2-03 to help correct the reduced caseload and workload in 10-2-03.**

**3. Move three voting districts, North Belle Vernon Borough, Rostraver Township and Lynnwood Voting Districts (all of which border 10-1-03) from 10-2-06 into 10-1-03.**

**Districts affected by the proposed changes:**

**10-1-01** (Adamsburg Borough, Penn Borough, City of Jeannette and the following voting districts of Hempfield Township: Alwine, East Adamsburg, Grapeville, High Park, Valley, Wegley, West Hempfield, MDJ DeMarchis) (caseload +15%, workload +11%).

**10-2-09** (Irwin Borough, North Irwin Borough, North Huntingdon Township, MDJ Wayne Gongaware) (caseload -32%, workload +3%)

**10-2-03** (Manor Borough, Trafford Borough, Penn Township, MDJ Kistler, will be MDJ Rebecca Tyburski as of January 3, 2022) (caseload -49%, workload -33%)

District court 10-1-01 is part of the central region of the county. As part of the reestablishment plan, the Committee suggests that Penn Borough and the Hempfield voting district of Wegley be moved to 10-2-03 in order to increase the caseload and workload of 10-2-03 (Kistler/Tyburski). 10-2-03 (Kistler/Tyburski) is in the western area of the county. This district court was the subject of a realignment petition in 2020. The proposal was to close this district court along with 10-3-11. The Pennsylvania Supreme Court granted the motion in relation to 10-3-11 and denied the motion in relation to 10-2-03. To increase caseload and workload in 10-2-03 to approach equity with other districts in the county, the Committee proposes realigning 10-2-03 by adding North Huntingdon voting precinct 6-1 and North Irwin and Irwin Boroughs from neighboring 10-2-09.

Currently, 10-2-03 consists of Penn Township (population 20,079), Manor Borough (population 3585 and Trafford Borough (population 3227), district 10-2-03 has a population of 26,891. Realigning Irwin Borough (population 3902), North Irwin Borough (population 823) and precinct 6-1 (population 609) will result in a population increase of 5,334 or a total of 32,225 for 10-2-03. Additionally, realigning Penn Borough (population 435) and the Wegley voting district of Hempfield Township (population 538) by moving them from 10-1-01 to 10-2-03, would result in a total population increase to 10-2-03 of 33,198.

For caseload and workload of 10-2-03:

District	Caseload Increase	Workload Increase
North Huntingdon precinct 6-1	55	591
North Irwin Borough	17	217
Irwin Borough	358	3736
Penn Borough	191	811
Wegley voting district	152	1003
Total Increase	773	6358

The average caseload of 10-2-03 could increase from 2,476 to 3,249. This would reduce the caseload deficit from -49% to -34%. The workload of 10-2-03 would increase from 22,606 to 28,964. This would increase the workload deficit from -33% to -14%.

District court 10-2-09 is in the western area of the county. The district encompasses a portion of US 30 that has a high amount of retail and business traffic. The district also includes a portion of Interstate 76 (PA Turnpike) which also has increasing traffic. There is to be a “Total Reconstruction and Widening Project” of the Pennsylvania Turnpike between Mileposts 57 to 67 which will occur in the municipalities of Murrysville, Hempfield Township, Penn Township, Manor Borough, Irwin Borough, North Irwin Borough and North Huntingdon Township (see attached Turnpike Design). Such construction brings with it an increase in highway monitoring and violations. Thus, the workload for each of these municipalities will conceivably rise. In order to ease the growing workload of 10-2-09 and to increase the low caseload and workload of 10-2-03, Irwin Borough, North Irwin Borough and North Huntingdon voting precinct 6-1 will be moved to 10-2-03. Traffic workload for North Huntingdon alone increased each year from 3445 in 2017, 3776 in 2018 and 4669 in 2019. Criminal workload for North Huntingdon increased from 15,900 in 2017, 14,064 in 2018 to 23,501 in 2019. Realigning Irwin Borough (population 3902), North Irwin Borough (population 823) and precinct 6-1 (population 609) will result in a population decrease of 5,334 for this district.

**10-2-06** (Madison Borough, North Belle Vernon Borough, Smithton Borough, Sutersville Borough, West Newton Borough, Rostraver Township – voting districts Collinsburg, Concord, Crossroads, Fellsburg, Lynnwood and Van Meter, Sewickley Township, South Huntingdon Township – voting district Wayne, MDJ Christner, retires by July 2022) (caseload -9%, workload -9%)

**10-1-03** (City of Monessen, Rostraver Township – voting districts Pricedale and Webster, MDJ Vlastic) (caseload -45%, workload -7%).

District court 10-1-03 is located in a high crime urban area in the City of Monessen. It is in the southwestern most corner of the county. It is bordered by 10-2-06 to the east, and by other counties to the west and south. The Committee suggests moving three voting districts which border 10-1-03 from 10-2-06 into 10-1-03. The reason for this is that the Committee expects the caseload and workload of 10-2-06 to increase over the next several years, and the change would be a step towards putting both districts on par.

Magisterial District Judge Charles Christner lives in North Belle Vernon Borough, one of the areas that would be moved. The other area to be moved is Rostraver Township, Lynnwood Voting District. This proposed realignment would move a population of 2,613 from 10-2-06 to 10-1-03. To avoid redrawing boundaries in a manner that moves an incumbent magisterial district judge’s residence into another district, this realignment would not occur until Magisterial District Judge Charles Christner retires, which will happen sometime in 2022, as he turns 75 years old in July 2022.

District	Caseload Increase	Workload Increase
North Belle Vernon Borough	383	2633
Linwood voting district	151	1040
Total	534	3673

The average caseload of 10-1-03 would increase from 2,700 to 3,234. This would reduce the caseload deficit from -45% to -34%. The workload would increase from 31,638 to 35,311. This would reduce the workload deficit from -7% to +4%.

District Court 10-2-06 is in the southwest portion of the county. It is generally suburban and rural. It has been the long-term plan to transfer the North Belle Vernon districts to 10-1-03. However, since Magisterial District Judge Charles Christner lives in that area, it cannot be transferred until he retires in 2022. Additionally, there is a new housing plan being developed on the same street as this Court. The housing plan is expected to add population and caseload. Several other developments are underway as well, including Willowbrook, Quinta Plan and Marian Woodlands. The caseload and workload of 10-2-06 is expected to increase as a result.

Effect of Reestablishment				
Court	Old Caseload	Old Workload	New Caseload	New Workload
10-1-01	+15	+11	+8	+6
10-1-03	-45	-7	-34	+4
10-2-03	-49	-33	-34	-14
10-2-06	-9	-9	-19*	-19*
10-2-09	-32	+3	-41*	-10*
*Anticipated business and housing growth as described in plan				

### Public Comment

The Public is invited to comment on this Proposal **in writing by February 10, 2022.** Comments should be addressed to:

Court Administrator  
 2 North Main Street  
 Greensburg, Pa. 15601

OR by fax to the Court Administrator at (724)830-3680.

Or by e-mail to [redistrict@co.westmoreland.pa.us](mailto:redistrict@co.westmoreland.pa.us)