

By Michael K. Jeanes, Clerk of the Superior Court

### **Why even have a Clerk's office?**

Have you ever had a filing rejected? Has the Clerk's office ever called your office to say it cannot distribute funds or take an action because the underlying order lacked specific direction? As an office, the Clerk of the Court shares your frustration with these delays. Why not just automate the Clerk's operations? Couldn't all submissions just be filed directly into their cases and let the court take it from there? Couldn't the court just add the responsibilities of filing and distributing funds to what they already do? These are questions that have come up in Arizona and they will keep coming up as people look for better, faster, more convenient ways of operating a justice system. This article looks beyond what the Clerk's office does and explains why the office exists.

This article explains the reason for having a Clerk's office that serves the public. It answers the common statement, "I don't understand why you can't just..." (fill in the blank with any given frustration). The short answer is this: There is a lot at stake in superior court. People can be sentenced to death, lose their freedom, their children, their rights to determine their own choices, and the list goes on. Arizona's original constitution created a clerk of superior court, arguably to ensure that the court imposing these difficult decisions should not also oversee the public records that detail each step that make up the complete record. The Clerk of the Superior Court is an independent agency that supports the court's operations by overseeing the filing and distribution of records and accounting for restitution, fees, bonds, and other details of the justice system. The Clerk and Court are a partnership by design and the constitution requires the Clerk to operate the office within the requirements of rule and law.

Arizona's constitution created a clerk of the court in each county and requires the qualified electors to decide every four years whether to re-elect their clerk or to elect a new one. Clerks are often viewed as county officials and Arizona's original constitution required Clerks to run for office when the judge of their county ran for election. Recent history clarified there is one superior court in Arizona that is placed in each of the 15 counties. As a result, the Clerks are considered part of the state judicial branch and their terms run with other state-elected offices such as the governor, secretary of state, and attorney general. Each Clerk has to staff their county's office and determine its operations to fit each county's needs, resources, caseloads, and demands.

There are a few authorities that direct the Clerk's office to make substantive decisions, such as statutory proceedings decided by the Probate Registrar. Most of what the Clerk's office does is ministerial; documents are filed-in to the official record and a judicial officer makes a determination. Allowing documents to be directly filed-in to cases based only on a case number, for example, would not promote justice. Superior Court receives high-volume filings like civil collection actions and criminal complaints. Those filings

often have similar content and only the party names, case numbers, and other limited information are adjusted for specific cases. One thing the Clerk's office ensures is that names and case numbers match, which prevents direct-filing documents into the wrong cases.

Other procedural matters like paper and electronic filing, minimum accounting standards, and timely submitting records on appeal are among the hundreds of rules and laws that define the Clerk's mandates. The operations of a Clerk's office are complex, ever-changing, and highly specific. Speed, accuracy, and customer service are invaluable, as is having an independent office of professionals committed to supporting both the courts and the people who interact with them.

Last month's article stated that the Clerk's office values innovation, collaboration, excellence and diversity. What that means is, the people who work in the Clerk's office are looking for ways to do things differently and better. They look for ways to say yes and to distribute work and answers in ways that make sense without staking claims and taking credit or placing blame. This office seeks input from other perspectives to see things in ways that recognize other experiences, backgrounds, viewpoints and opinions for the end result of doing the best we can with what we have.

The Clerk exists to ensure an accurate court record and financial services (office operations) within the requirements of rule and law (Constitution, statutes, case law, court rules and court directives). That is the foundation explaining why there is a Clerk's office. Those goals and actions show that we are not in the business of filing documents and distributing money. We are in the business of access to justice.