

**SAFEGUARDING PUBLIC MONIES IN THE NAVAJO COUNTY JUSTICE COURTS**

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# **SAFEGUARDING PUBLIC MONIES IN THE NAVAJO COUNTY JUSTICE COURTS**

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## **Abstract**

The Justice Courts in Arizona collect millions of dollars each year from court ordered fines and fees. As part of the financial operations of the court, sound cash handling procedures are vital to minimize the opportunity for the mishandling or theft of money. The consequences to the court of mishandled or theft of money is a loss of court productivity, disruption of court operations, adverse publicity and diminished trust and confidence in the courts by the public. All of these consequences distract and detract from the purpose and responsibility of the court, which is to ensure a fair and impartial judicial system.

The Arizona Supreme Court has administrative supervision over all of the courts in the state and has adopted policies and procedures to guide the courts in conducting their administrative functions. The Minimum Accounting Standards were adopted to ensure the safety of public monies and requires that the courts have written policies, procedures and guidelines that reflect the court's financial practices.

This project focuses on five justice courts in Navajo County. The objective of the project is to minimize the opportunity for the mishandling or theft of money. The following areas were reviewed:

- The current written financial policies, procedures and guidelines of each court
- The actual financial practices of each court, and

- The court clerks' understanding, competency and frequency of training on the policies, procedures and guidelines.

Three different sources informed this review including a financial clerk questionnaire, a review of each courts' most recent Court Operational Review Evaluation, and a clerk self-assessment. The findings indicate that the courts lack most of the policies, procedures and guidelines that are required by the Minimum Accounting Standards for the financial operations of the court. Also, at the time of the review, many of the clerks' actual financial practices were not in compliance with the Minimum Accounting Standards. And finally, the clerks' knowledge, competency, and training was insufficient to assure compliance with the Minimum Accounting Standards.

Navajo County Justice Courts should originate and adopt written financial policies, procedures and guidelines that ensure compliance with the Minimum Accounting Standards. The courts' compliance program should include oversight and assessment by utilizing a monthly compliance check-up report. This will ensure that the courts' actual financial practices conform to the Minimum Accounting Standards. And finally, clerks with financial operation responsibilities should be required to complete frequent and comprehensive training on the Minimum Accounting Standards. These recommendations will improve the financial operations of the Navajo County Justice Courts and minimize the opportunity for mishandling or theft of money.

## Introduction

It is arraignment day in the Navajo County Superior Court. The defendants that are in-custody file into the courtroom escorted by armed guards. They are dressed in orange jumpsuits bearing metal restraints. One defendant is not new to the courthouse. Not because she has served on a jury or has had other cases with the court, but because she is a former court clerk. Part of her clerk responsibilities while employed with the court included accepting payments for fines and fees and applying those payments to the appropriate cases. Instead, the money was stolen and the evidence of the theft was removed from the court and deleted from the automated case management system. This former clerk is in court today to answer to the charges of theft, computer tampering, fraudulent schemes and practices, and tampering with physical evidence.

“The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society” (Arizona Supreme Court, Administrative Office of the Courts, 2010). Judicial employees must respect and honor judicial employment as a public trust and strive to maintain confidence in the legal system. Public confidence in the judiciary is eroded by occurrences such as the theft by this former court clerk.

The theft described occurred in a Justice Court in Navajo County, Arizona. The Arizona court system has three levels - limited, general and appellate jurisdiction. Justice courts have limited jurisdiction, meaning that their authority is restricted to

certain cases. Justice courts resolve small claims, civil lawsuits where the amount in dispute is less than \$10,000, landlord and tenant controversies, civil and criminal traffic offenses, misdemeanor offenses, orders of protection and harassment injunctions. General jurisdiction courts or superior courts are statewide trial courts which have the widest variety of cases. Each county in Arizona has at least one division of the superior court. The appellate court includes both the court of appeals and the supreme court. Appellate courts have jurisdiction to review trials and decisions appealed to them.

Navajo County is a rural county and is ranked ninth in population of the 15 counties in Arizona. During fiscal year 2014, 732,852 cases were filed in justice courts statewide; 29,847 of those cases were filed in the justice courts in Navajo County.

Justice court clerks in Navajo County and throughout Arizona provide clerical assistance to the justice of the peace, maintain case records, safeguard and account for public money by receipting and making timely deposits, protect accounting records and conduct daily and monthly reconciliations. Clerks ensure all disbursements are made accurately and timely, including restitution payments to victims, and submit monthly remittances to the local treasurer.

Justice court clerks must account for large amounts of money on a daily basis. During fiscal year 2014, 106 million dollars was collected from payment of court ordered fines and fees in the Arizona Justice Courts; \$4.2 million dollars of that was collected in the Navajo County Justice Courts. Sound cash handling procedures are vital to minimize the opportunity for the mishandling or theft of monies collected in the justice courts.

The Arizona Constitution specifies that the Arizona Supreme Court has administrative supervision over all of the courts in the state. The Arizona Supreme Court has adopted policies and procedures to guide all courts throughout Arizona in conducting their administrative functions. The Arizona Code of Judicial Administration is a compilation of these policies and procedures. To ensure the safety of public monies the following policies have been adopted: A.C.J.A. §1-401, The Minimum Accounting Standards, which includes the requirement of the Annual Minimum Accounting Standards Compliance Checklist, and A.C.J.A. §1-702, the Court Operational Review Evaluation. These Codes can be found at <http://www.azcourts.gov/AZ-Supreme-Court/Code-of-Judicial-Administration>.

The purpose of the requirements in the Minimum Accounting Standards is to ensure the safety of public monies and to define the role and responsibilities of court personnel in complying with the requirements. As a measure of accountability, courts are required to conduct an annual self-assessment by completing the Minimum Accounting Standards Compliance Checklist to determine and document the court's compliance with all the Minimum Accounting Standards. The purpose of Court Operational Review Evaluations, in part, is to ensure operational consistency with the Minimum Accounting Standards.

In the last seven years the Navajo County Justice Courts have routinely reported 100% compliance on their Annual Minimum Accounting Standards Compliance Checklist. Yet in that same time period, each of the justice courts in Navajo County has received at least one Court Operational Review Evaluation in which there has been findings of non-compliance with the Minimum Accounting Standards. The inconsistency

between the Annual Minimum Accounting Standards Compliance Checklist and the Court Operational Review Evaluation is an indicator that the process is in need of review and was the impetus for this project.

## Literature Review

To provide access to justice, courts must continually strive to improve upon existing processes that ensure a fair and impartial judicial system. The 2005 to 2010 Arizona Supreme Court Strategic Agenda, “Good to Great” Goal 3, “Being Accountable,” focused on the obligation of the courts to be accountable to the public and to establish standards to measure court operations and performance. One of the initiatives of this goal was to establish performance and operational standards and measures for courts to enhance public confidence and trust in the judiciary (Arizona Supreme Court, Administrative Office of the Courts, 2014-2019). The *CourTools* 10 Core Court Performance Measures created by the National Center for State Courts provided the framework for this Arizona initiative (National Center for State Courts, 2005).

The current 2014-2019 Arizona Supreme Court Strategic Agenda, “Advancing Justice Together” Goal 3, “Improving Court Processes to Better Serve the Public,” continues to challenge the Arizona Courts to improve the judicial system processes (Arizona Supreme Court, Administrative Office of the Courts, 2014-2019).

The ten *CourTools* performance measures provide the judiciary with tools judges and court managers can use to gauge how well the courts are achieving basic goals, such as access and fairness, timeliness, and managerial effectiveness. However, these measures are considered more “justice” measures and have less significance in measuring and improving the day-to-day financial processes of a justice court clerk, according to the article *Defining Operational Successes: Measuring the Performance of*

*a Court's Front-Line Staff* (Chatters, 2008). The author, Chatters, suggests that just as performance measurement systems such as *CourTools* are vital for management and planning, “front-line” measurement of day-to-day work is equally vital for improving court performance. Courts need to develop “Operational Performance Measures” that focus on timeliness and quality of the activities performed by front line staff that will be meaningful to front line staff and valuable for measurement purposes (Chatters, 2008).

The financial operations of the court as well as many other day-to-day tasks are part of the infrastructure of the court that allows judges to perform their constitutionally assigned duties. The financial operations are not secondary to the purposes and responsibilities of the court but rather, “mission critical” and essential for the proper and effective operation of the court (Aikman, 2007). This further confirms the need to incorporate the use of “operational performance measures” for the financial operations of the court. The Minimum Accounting Standards are an effective operational performance measure that addresses both timeliness and quality of the financial functions performed by the justice court clerks.

The Minimum Accounting Standards were developed to standardize accounting practices and procedures, and to assist all court personnel to bring the financial operations of the court into compliance with statute and Generally Accepted Accounting Principles (GAAP) (Arizona Supreme Court, Administrative Office of the Courts, 2012). The Standards are the minimum requirements a court must meet to ensure adequate internal controls are in place to detect accounting errors and irregularities.

The Chubb Group of Insurance Companies, *Guide to Preventing Workplace Fraud* (KPMG LLP, 2006), believes that prevention is the most cost effective way to

deal with fraud. Opportunity is one of the conditions that exists in the “Fraud Triangle,” first created by Dr. Donald R. Cressey (2006) while studying criminology. “Opportunity” refers to the situations and circumstances that make it possible for fraud to take place. Opportunity is the most important factor to consider and generally, the element that an organization can most effectively influence, impact and control. Fraud-related losses and other consequences can be minimized through effective control measures. Control measures recommended in the *Guide* are written policies and procedures for handling cash and check management, segregation of duties, reconciliations and internal audits.

The Minimum Accounting Standards require that courts adopt written financial policies, procedures and guidelines that reflect the court’s current financial practices. The Standards also address segregation of duties, reconciliations as well as internal and external audits, all elements recommended by the *Guide* (KPMG LLP, 2006).

According to the New York State Society of CPAs Not-for Profit Organizations Committee (NYSSCPA), *Preventing Embezzlement and Fraud in Nonprofit Organizations*, the best prevention of fraud and theft is a strong compliance program that must be more than a paper program. NYSSCPA recommends that the compliance program be specific to the organization, be owned by proactive management with oversight and control and include regular education and training (Devaney & Tenenbaum, 2011).

The Arizona Constitution specifies that the Arizona Supreme Court has administrative supervision over all the courts in the state and has adopted policies and procedures to guide the courts. The Code of Judicial Administration is a compilation of these policies and procedures and includes the Minimum Accounting Standards. The

Minimum Accounting Standards were first adopted by administrative order by the Chief Justice in 1993. As a measure of accountability incorporated within the Standards, the courts are required to conduct an annual self-assessment by completing a compliance checklist to determine and document the court's compliance with the Standards. It is also a requirement of the Standards that employees assigned money handling responsibilities receive appropriate training (Arizona Supreme Court, Administrative Office of the Courts, 2012).

The Supreme Court also exercises part of its responsibility over the courts through the use of Court Operational Review Evaluations. The objective of the Court Operational Review Evaluation is to maintain accountability and public trust in the Arizona court system, and to identify opportunities for improvement. One of the three areas assessed and evaluated in a Court Operational Review Evaluation is the financial management of the court to ensure operational consistency with the Minimum Accounting Standards (Arizona Supreme Court, Administrative Office of the Courts, 2007).

The Supreme Court's requirement of compliance with the Minimum Accounting Standards (which includes the Annual Minimum Accounting Standards Compliance Checklist, appropriate training, and the Court Operational Review Evaluations) conforms to the recommendations made by the NYSSCPA for a strong compliance program.

In summary, the Minimum Accounting Standards have the elements necessary for a good compliance program and serve as a meaningful measurement tool of the quality and timeliness of the financial operations of the justice courts. The Standards are

mandated by the Arizona Supreme Court and include the requirements of effective control measures such as written policies, procedures and guidelines; segregation of duties; reconciliations; regular education and training; as well as self-assessments and internal and external audits.

When addressing court mandates in *The Art and Practice of Court Administration*, the author, Alexander Aikman (2007) writes, “Some laws and rules simply are not enforced, not because of a conscious effort to ignore them but simply because of inattention, lack of training, lack of monitoring or performance by supervisors, or any number of other reasons” (p.195). He expands further in his footnote,

As a consultant to hundreds of courts across the nation, it seems that a substantial number of my clients would not have needed my advice if they had simply followed their own rules and codified procedures. There normally are several reasons why they are not doing so, but the fact remains that the existing rules and procedures often would go a long way, if not all the way, toward addressing the problem I had been hired to address”(p. 209).

*The Performance-Based Management Handbook* volume 2 (Artley & Stroh, 2001), on the topic of establishing an integrated performance measurement system, indicates that,

Bypassing internal controls or noncompliance with laws and regulations may expedite operations and thus result in a “favorable performance” statistic which does not necessarily indicate good performance. For example, a building could be constructed more quickly if safety controls and funding limitations were

ignored. Because compliance and internal controls often have a direct effect on performance, care should be taken to supplement performance measurement with other oversight activities to ensure that controls are in place and working as intended and that activities are adhering to laws and regulations (p. 7).

The editor also notes that, “Performance measures can be constructed in such a way that ensures compliance with laws and regulations. However, it shouldn’t be automatically assumed that they do ensure compliance” (Artley & Stroh, 2001, p. 7).

The Minimum Accounting Standards require employees who are assigned money handling responsibilities to receive appropriate training on the Standards. The Institute for Court Management Course on *Education, Training & Development* (National Center for State Courts, 2010), indicates that the goal for education training and development for an organization is a well-trained workforce, common/shared practices, organizational development and risk management. Education, training and development is effective if it is expected to develop awareness among participants, provide new information, develop new skills, demonstrate effective practices, sensitize participants to certain issues, explore reasons for actions/reactions, and facilitate change. Education however, is limited and is not effective if expected to compensate for administrative issues such as ineffective practices and to guarantee a desired behavior.

The literature reviewed here affirms that the requirements in the Minimum Accounting Standards are an effective operational measurement tool and control measure to ensure the safety of public monies. However, some questions remain as to whether the required written policies, procedures, guidelines and actual practices of the Navajo County Justice Courts are working as intended. As illustrated by the former

court clerk with criminal charges in the earlier example, the lack of standards may result in loss of public monies, loss of productivity, disruption of court operations, adverse publicity, and diminished trust and confidence in the court – all of which distract and detract from the purpose and responsibility of courts, which is to ensure a fair and impartial judicial system.

This project specifically seeks to answer the following questions: (1) does the Navajo County Justice Courts' written financial policies, procedures and guidelines ensure compliance with the Minimum Accounting Standards; (2) does the actual financial practices of the Navajo County justice court clerks align with the courts' written policies, procedure and guidelines and with the Minimum Accounting Standards; and (3) have the Navajo County justice court clerks received adequate training on the Minimum Accounting Standards?

The results of this project will be utilized to make improvements to policies, procedures, guidelines and actual practices that will ensure compliance with the Minimum Accounting Standards. This project will also identify improvements in employee training on the Minimum Accounting Standards. Compliance to the Standards will ensure proper and effective financial operations of the court, which in turn, will minimize opportunity for the mishandling or theft of money.

## **Methods**

Five of the six Justice Courts in Navajo County were selected for this project because of their similar case volume and staff size.<sup>1</sup> Data was gathered from three different sources: a financial clerk questionnaire, a clerk self-assessment and an examination of past Court Operational Review Evaluations. To obtain support and cooperation in the data collection process, the judges and clerks were informed of the project and its goals.

### **Financial Clerk Questionnaire**

To determine if the courts' written policies, procedures and guidelines ensure compliance with the Minimum Accounting Standards, the financial clerk of each court was asked to complete a questionnaire based on their court's current financial practices. The financial clerk is the lead clerk or a senior clerk in each court responsible for the financial operations of the court as well as to ensure financial policies, procedures and guidelines are followed. The questionnaire covered the 21 fundamentals of the Minimum Accounting Standards. The respondents were asked to check one of the following for each element:

1. If your court has a written policy, procedure or guideline for the indicated financial process, please mark the "written" box and attach a copy of the policy, procedure or guideline.

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<sup>1</sup> A Justice Court was not included as it has a significantly lower volume of filings and did not have a clerk during this project.

2. If the court has a verbal but not a written policy, procedure or guideline for the indicated financial process, please mark the box “verbal” and explain the policy, procedure or guideline in the text box. If more space is needed, please attach additional pages and refer to the question for clarification.
3. If the court does not have a written or verbal policy, procedure or guideline for the indicated financial process, please mark the box “none.”

The questionnaire was pre-tested by a financial clerk with knowledge of the terminology and job duties to determine if there were any questions about the questionnaire and to ascertain the length of time that would be needed to complete the questionnaire. A copy of the questionnaire can be found in Appendix A.

The questionnaire was distributed to all five justice courts by email with information about the purpose of the questionnaire, the length of time required to complete it, and the date the questionnaire was due. The questionnaire was distributed to the justice courts on September 29<sup>th</sup>, 2015. All five questionnaires were completed and returned within 30 days.

### **Court Operational Review Evaluations**

To determine if the actual financial practices of the court clerks align with the courts' written policies, procedures and guidelines and with the Minimum Accounting Standards, a review was made of each court's most recent Court Operational Review Evaluation. Part of the purpose of the Court Operational Review Evaluation is to ensure operational consistency with the Minimum Accounting Standards. The administrative director, on behalf of the Supreme Court, may authorize a Court Operational Review

Evaluation of any court. Courts are selected for review based on a request by the judge, a reported issue, or in the course of an ongoing schedule, to review all of the courts in the state.

Reviews are conducted by the Operations Unit of the Arizona Administrative Office of the Courts. The review process consists of a pre-review of reports and written policies as well as fieldwork which includes on-site data collection, a review of financial processes, observations and staff interviews. Ultimately the Operations Unit review staff sends a final report to the court that includes any findings of non-compliance, and includes recommendations for remedies to align financial operational practices with the Minimum Accounting Standards. The court has an opportunity to respond. Based on the court's response, findings may be modified, deleted, or affirmed. Once the court receives the final report, the court must address and/or correct outstanding findings of non-compliance. The court must complete and submit a compliance report within 30 days, recognizing that some findings may not be resolved within that time frame.

All five justice courts in Navajo County received a Court Operational Review Evaluation in the last seven years. A review was completed on the findings of non-compliance with the Minimum Accounting Standards on each courts' Operational Review Evaluation. Three of the court evaluations were completed in 2008, one was completed in 2014 and one in 2015.

### **Clerk Self-Assessment**

To determine if the clerks have received adequate training on the Minimum Accounting Standards, a written self-assessment was completed by the clerks to

identify the frequency of training, level of understanding and competency on the Minimum Accounting Standards. The self-assessment was administered during a visit to each court beginning September 23<sup>rd</sup>, 2015. All visits were completed within two weeks. There were 26 clerks and 26 assessments completed. The clerks were asked to only indicate their court so that the assessment would be anonymous.

On the assessment, the clerks indicated how long they had worked with the courts in Arizona. They also indicated the frequency with which they received training on the Minimum Accounting Standards. The choices were “very frequently,” “frequently,” “occasionally,” “rarely” and “never.” The clerks indicated the statement that best described their knowledge of the Standards. The choices were “not knowledgeable,” “somewhat knowledgeable,” “knowledgeable” and “very knowledgeable.” The court staff rated their competence on 21 fundamentals of the Minimum Accounting Standards by using a scale of 1 to 5 with 1 representing “not competent” and 5 representing “fully competent.” A copy of the self-assessment can be found in Appendix B. See Table 1 for all data collected.

**Table 1: Response Rates for Assessments and Year of Evaluations**

Court	Financial Clerk Assessment		Clerk Self-Assessment		Year of Court Operational Review Evaluation
	Distributed	Returned	Administered	Completed	
1	1	1	5	5	2008
2	1	1	5	5	2008
3	1	1	5	5	2008
4	1	1	6	6	2014
5	1	1	5	5	2015

## Findings

The methods described in the previous section resulted in the following findings.

### **Finding 1: The courts do not have written financial policies, procedures and guidelines that will ensure compliance with the Minimum Accounting Standards.**

The Minimum Accounting Standards indicate that “the court shall adopt written financial policies, procedures or guidelines that reflect the court’s current financial practices” (Arizona Supreme Court, Administrative Office of the Courts, 2012). Based on the review of the financial clerk questionnaires, only 30% of the existing financial policies, procedures and guidelines of the courts were written and 68% were verbal. Of the written policies, procedures and guidelines, only 53% included all of the elements required by the Minimum Accounting Standards. The most often missed elements were concerning manual receipt processes.

Manual receipts are used to accept payments when the automated financial management system is inoperable. Money received but not recorded in the automated financial management system creates “opportunity” for theft (KPMG LLP, 2006). This is particularly important to monitor, as manual receipts were one of the methods used by the former court clerk to steal money in the introductory example.

The Minimum Accounting Standards address nine elements that must be included in a manual receipt policy, procedure or guideline. Only one court had a written policy, procedure or guideline for manual receipts; the other four were verbal. Of the nine required elements, one court had five elements, three courts had four elements and one court had three elements in the written or verbal policy, procedure or guidelines.

**Finding 2: The courts' actual practices and procedures are not compliant with the Minimum Accounting Standards.**

All five courts had a Court Operational Review Evaluation within the last seven years. The Court Operational Review Evaluations of each court consisted of an assessment of financial reports and written policies, procedures and guidelines. The evaluations also included on-site data collection, a review of actual financial processes, observations and staff interviews.

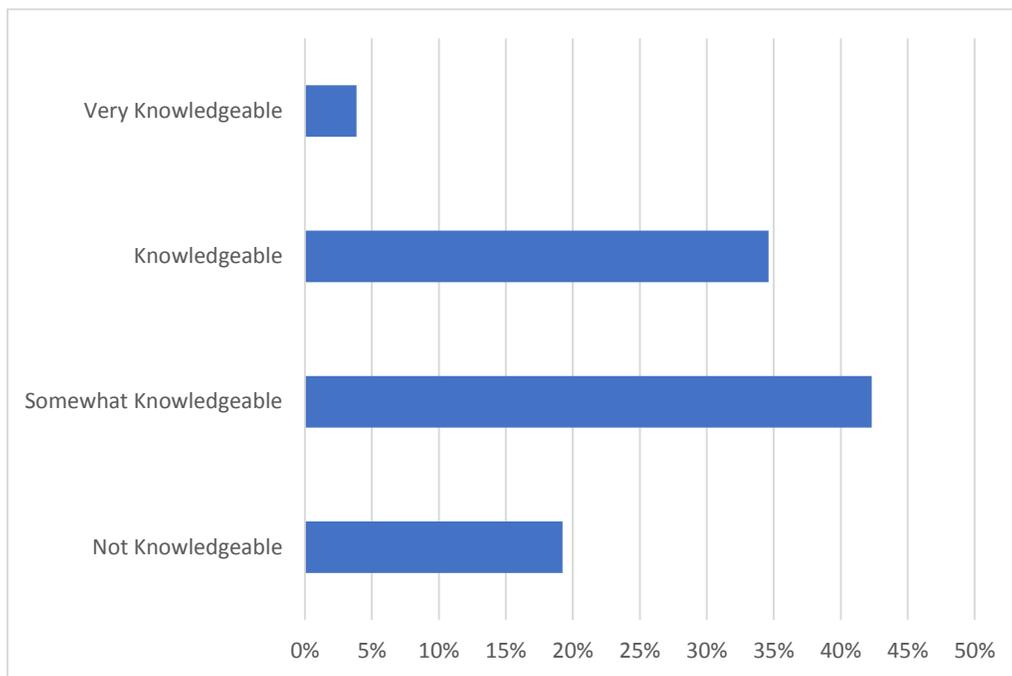
All five courts had findings of non-compliance with the Minimum Accounting Standards. The maximum number of findings for a court was sixteen findings and the least number for a court was nine findings, with an overall average of twelve non-compliance findings per court. Of the findings of non-compliance on the Court Operational Review Evaluations, 44% were related to the courts' written financial policies, procedures and guidelines, and 54% were related to the courts' verbal financial policies, procedures and guidelines. All five courts had findings of non-compliance regarding their manual receipt processes. Other common findings of non-compliance were lack of segregation of duties and insufficient safeguarding of monies, unused checks and manual receipt books.

**Finding 3: A majority of clerks were not knowledgeable about the Minimum Accounting Standards.**

On the clerk self-assessment, 62% of clerks indicated that their knowledge of the Minimum Accounting Standards was "not knowledgeable" to "somewhat knowledgeable." Only 35% of the clerks reported they were "knowledgeable." Only one

clerk indicated that his or her knowledge of the Standards was “very knowledgeable.” See Figure 1.

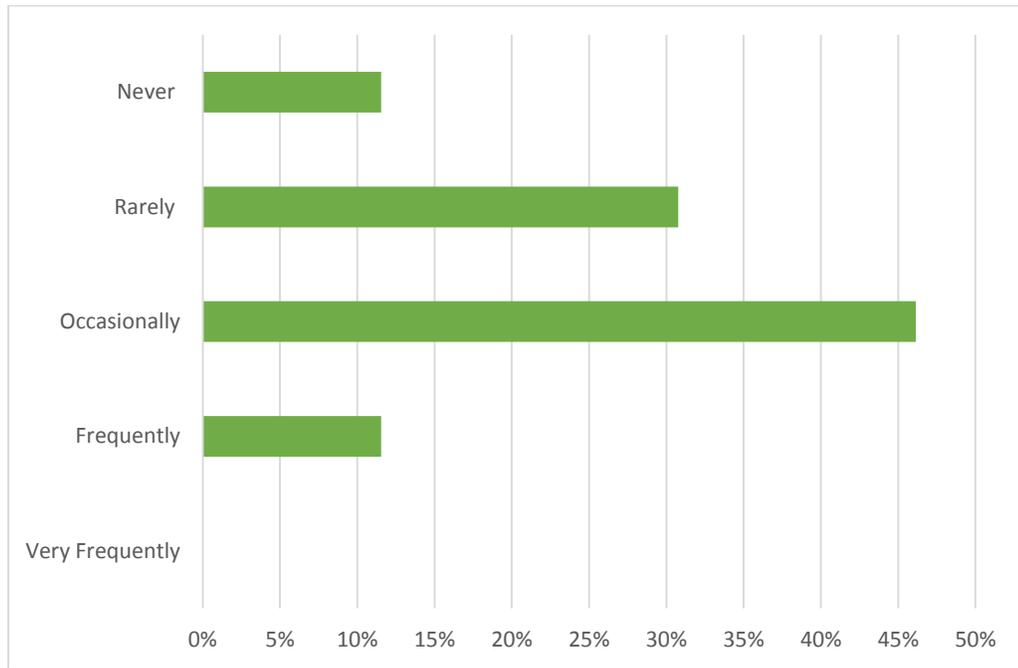
**Figure 1: Clerk Self-Assessment on Knowledge of Minimum Accounting Standards**



**Finding 4: The frequency of clerk training on the Minimum Accounting Standards is inadequate.**

On the clerk self-assessment, 46% of court staff indicated that they received training on the Minimum Accounting Standards only “occasionally” and 42% “rarely” or “never.” Merely 12% of the clerks answered “frequently” and 0% answered “very frequently.” See Figure 2.

**Figure 2: Clerk Self-Assessment on Training Frequency**



**Finding 5: There is inconsistency among the clerks’ self-assessments concerning competency versus knowledge of the Minimum Accounting Standards.**

On the clerk self-assessment, the clerks were asked to rate their competence on 21 fundamentals of the Minimum Accounting Standards using a scale of 1 to 5 with 1 representing “not competent” and 5 representing “fully competent.” On the self-assessment, 57% of the court staff rated their competency as 4 or 5 (“competent” or “fully competent”). Yet only 38% of court staff indicated that their knowledge of the Minimum Accounting Standards was “knowledgeable” to “very knowledgeable.”

## **Conclusions and Recommendations**

The previously presented findings framed the following conclusions and recommendations.

**Conclusion 1: To ensure compliance with the Minimum Accounting Standards, all financial operation policies, procedures and guidelines for the justice court must be written.**

The Minimum Accounting Standards indicate that courts shall adopt written financial policies, procedures or guidelines that reflect the court's current financial practices. However, as indicated in the findings, none of the Justice Courts in Navajo County have all of the required written policies, procedures or guidelines for financial practices. Those that are written do not cover all of the required elements that would ensure compliance with the Standards. Written policies, procedures and guidelines are an effective control measure to prevent fraud and ensure the safety of public monies (KPMG LLP, 2006).

**Recommendation 1: The justice courts should write, adopt and implement written policies, procedures and guidelines that comply with the Minimum Accounting Standards.**

The financial clerk is the lead clerk or a senior clerk in each court responsible for the financial operations of the court. These responsibilities are only part of the clerks' ever-expanding workloads, greater output demands and competing priorities. However, as indicated in the literature review, "bypassing internal controls or noncompliance with laws and regulations may expedite operations and thus result in a 'favorable

performance' statistic which does not necessarily mean a good performance" (Artley & Stroh, 2001, p. 7). In the justice courts, the daily demands of court operations have taken priority over the Minimum Accounting Standards requirement for originating, writing and complying with financial operation policies, procedures and guidelines. As the Compliance Checklist is only completed annually and Court Operational Review Evaluations are infrequent, there are always more immediate demands that take precedence on a daily basis. So consequently, it has been easier for the court to accept a 'favorable performance' instead of a 'good performance.'

Additionally, as only one clerk out of 26 described their knowledge of the Minimum Accounting Standards as "very knowledgeable" on the clerk self-assessment, the clerks may not have the knowledge of the Minimum Accounting Standards to write policies, procedures and guidelines. According to the findings, only 53% of the policies, procedures, and guidelines written by the courts had all of the elements required by the Minimum Accounting Standards.

Justice Court Administration has subject matter experts who can write a financial operations manual that complies with the Minimum Accounting Standards. The manual should be presented to the justice court judges and financial clerks for review and comment. Upon approval, the manual should be adopted and implemented by all of the justice courts in Navajo County.

**Conclusion 2: To ensure the justice courts' actual financial practices conform to the Minimum Accounting Standards, the courts' compliance program must include oversight and a more frequent assessment.**

Completion of an annual self-assessment Compliance Checklist and a Court Operational Review Evaluation dispensed, at the most, once in seven years is insufficient and too infrequent to ensure that the courts' actual financial operations comply with the Minimum Accounting Standards. This was evident by the inconsistency between the courts' annual report of 100% compliance on the self-assessment and the findings of non-compliance on the Court Operational Review Evaluations. Consequently, oversight is required along with a more frequent assessment.

**Recommendation 2: The justice courts should be required to submit a monthly compliance checkup report to Justice Court Administration.**

The Minimum Accounting Standards specify that courts are required to perform monthly reviews, reports, audits and reconciliations on their financial operations. Courts need to develop "Operational Performance Measures" that focus on timeliness and quality of the activities performed (Chatters, 2008). A monthly compliance checkup report would be just such a measure. Many of the required monthly reviews, reports audits and reconciliations are forwarded to the Navajo County Court Administration for review and distribution. Court Administration should require that all justice courts submit a monthly compliance checkup report that specifically documents completion of required daily and monthly financial functions. In addition, the checkup report should require the documentation of any exceptions or outstanding items. The courts must also indicate the actions being taken to move towards compliance.

The best prevention of fraud and theft is a strong compliance program that must be more than a paper program. It should be specific to the organization and be owned by proactive management with oversight and control (Devaney & Tenenbaum, 2011). By obtaining a monthly compliance checkup report, Court Administration can assist the courts with problem solving on outstanding exceptions and can also assist the courts to devise and implement financial processes that will improve operational compliance with the Minimum Accounting Standards.

**Conclusion 3: Frequent training is necessary to ensure the clerks are knowledgeable about the Minimum Accounting Standards.**

The Minimum Accounting Standards indicate that the court shall ensure employees who are assigned money handling responsibilities receive appropriate training and are familiar with the Standards. Based on the findings on the clerk self-assessment, the clerks indicated that they received training on the Standards at most, “occasionally.” A majority of clerks also indicated their knowledge of the Standards was “somewhat knowledgeable” to “not knowledgeable.”

**Recommendation 3: Courts should adopt a Minimum Accounting Standards training requirement for the court clerks.**

The courts should require clerks to receive training on the Minimum Accounting Standards upon assignment of financial operation responsibilities and then annually thereafter. As indicated by the self-assessment questionnaire, a majority (62%) of clerks indicated their knowledge of the Minimum Accounting Standards was described as “somewhat knowledgeable” to “not knowledgeable.” Therefore, the training must be comprehensive and facilitated by a subject matter expert in the Standards.

The training should also emphasize the purpose of the Minimum Accounting Standards, which is to ensure the safety of public monies. Education and training is effective not only to provide information, develop skills and demonstrate effective practices but is also effective to develop awareness, sensitize participants to certain issues and to explore reason for actions (National Center for State Courts, 2010). It is important the training include information on financial areas with the highest risk for theft and fraud and how adherence to the Minimum Accounting Standards can minimize these risks. It is also important to communicate the effects that theft and fraud have on the public's trust and confidence in the judicial system.

Clerks are required by the Arizona Supreme Court to obtain 16 hours of continuing education annually, so this training would be counted towards the required 16 hours. Upon completion of the training, the clerks should acknowledge, by signature, that they understand and agree to comply with the Minimum Accounting Standards.

**Conclusion 4: Because of the incongruity between the clerks' knowledge of the Standards and the clerks' perception of competence and compliance, a comprehensive approach is required to ensure compliance with the Minimum Accounting Standards.**

Just over a third of clerks indicated that their knowledge of the Minimum Accounting Standards was "knowledgeable" to "very knowledgeable," yet at the same time over half indicated that their competency on the Standards was comparable to an A or B grade. Combined with the fact that most clerks indicated they received training on the Standards, at the most, "occasionally" leads to the conclusion that the clerks "do not know what they do not know." In other words, since there has been minimal training,

the clerks' knowledge of the Standards is insufficient as indicated in the clerk self-assessment.

At the same time, the clerks rate themselves "competent." It can then be concluded that they feel competent in what they do know. That may also explain the 100% report of compliance with the Annual Minimum Accounting Standards Compliance Checklist. The clerks thought they were compliant based on their existing knowledge of the Minimum Accounting Standards. Only upon receiving a Court Operational Review Evaluation does the court obtain a complete picture of actual deficiencies. Once a court has addressed and/or corrected findings of non-compliance on the Court Operational Review, there is no further follow up. Unfortunately, these reviews happen too infrequently and do not have a long-term system to effect long-lasting changes.

**Recommendation 4: The adoption and implementation of recommendations 1, 2 and 3 are all necessary to ensure compliance with the Minimum Accounting Standards.**

The Minimum Accounting Standards have the elements necessary for a good compliance program and serve as a meaningful measurement tool of the quality and timeliness of the financial operations of the justice courts (Artley & Stroh 2001). However, the findings have indicated that the requirements in the Standards are not completely followed in practice. The adoption and implementation of recommendations 1, 2 and 3 are necessary to ensure compliance with the Minimum Accounting Standards.

As indicated in the literature review, rules are often not enforced because of inattention, lack of training and monitoring (Aikman, 2007). Clerks must have thorough training and a complete understanding of the requirements and there must be more frequent monitoring. Nevertheless, as also addressed in the literature review, education is not effective if expected to compensate for administrative issues such as a lack of or inadequate policies, procedures and guidelines or to guarantee actual practices (National Center for State Courts, 2010). Therefore, the policies, procedures and guidelines must be in writing. More frequent checkups are also necessary to ensure that the actual financial practices of the court are in line with the written policies, procedures and guidelines. So the three recommendations are necessarily linked to ensure compliance with the Minimum Accounting Standards. This will, in turn, minimize the opportunity for theft and fraud-related losses.

These are vital recommendations for the courts to adopt as non-compliance with the Minimum Accounting Standards has led to the opportunity for theft, as was illustrated by the example of the former court clerk charged with theft, computer tampering, fraudulent schemes and practices, and tampering with physical evidence. Although prosecution and conviction can recoup some of the money, as was the case in the example, other losses can never be recovered. Losses such as diminished trust and confidence in the courts by the public, adverse publicity, disruption of court operations, loss of productivity and loss of time spent with law enforcement and others during the investigation and prosecution of the theft cannot be recovered. All of these losses distract and detract from the courts' purpose and responsibility to ensure a fair and impartial judicial system.

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## Appendix A

### Questionnaire

#### Minimum Accounting Standards Arizona Code of Judicial Administration §1-401 Questionnaire

- ✓ Before you begin, please read all of the instructions.
- ✓ Answer the questions based on your courts current financial practices.
- ✓ Please complete the questionnaire in its entirety.

Court I.D. Number:

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Deputy I.D. Number of Clerk completing checklist:

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#### Instructions:

Please select the appropriate check box for each question as it relates to your courts financial practices.

1. If your court has a written policy, procedure or guideline for the indicated financial process, please mark the "written" box and attach a copy of the policy, procedure or guideline.
2. If the court has a verbal but not a written policy, procedure or guideline for the indicated financial process, please mark the box "verbal" and explain the policy, procedure or guideline in the text box. If more space is need, please attach additional pages and refer to the question for clarification.
3. If the court does not have a written or verbal policy, procedure or guideline for the indicated financial process, please mark the box "none".

**A. Payment acceptance.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**B. Cash drawer assignment, opening and balancing.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**C. Cash drawer overage/shortage.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**D. Overpayments.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**E. Manual receipting.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**F. Voided receipts.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**G. Credit card transactions.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**H. Bond payments.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**I. Mail payments.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**J. Restitution payments.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**K. Counterfeit cash.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**L. Dishonored payments.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**M. Unidentified monies.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**N. Deposits.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**O. Disbursements.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**P. Bank reconciliation.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**Q. Outstanding checks.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**R. Bond reconciliation.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**S. Escheatment.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**T. Daily reports.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

**U. Monthly reports.**

- Written (please attach).
- Verbal (explanation required).
- None.

Click here to enter text.

## Appendix B

### Self-Assessment

#### Self-Assessment

The purpose of the Arizona Code for Judicial Administration Section 1-401 Minimum Accounting Standards is to ensure the safety of public monies and to define the role and responsibilities of court personnel in complying with the standards.

This assessment tool will be used to identify your level of understanding of the policies, procedures and guidelines in the Minimum Accounting standards and to determine where training is needed.

Court Number: \_\_\_\_\_

Deputy Code: \_\_\_\_\_

How long have you worked with the courts in Arizona? \_\_\_\_\_

Check the words that best describe how frequently you receive training on the Minimum Accounting Standards.

- \_\_\_\_\_ Very Frequent
- \_\_\_\_\_ Frequent
- \_\_\_\_\_ Occasionally
- \_\_\_\_\_ Rarely
- \_\_\_\_\_ Never

Check the statement that best describes your knowledge of the Minimum Accounting Standards.

- \_\_\_\_\_ Not Knowledgeable
- \_\_\_\_\_ Somewhat knowledgeable
- \_\_\_\_\_ Knowledgeable
- \_\_\_\_\_ Very Knowledgeable

**For each of the areas listed below use the scale of 1 to 5 with 1 representing “no “not competent” and 5 representing “fully competent”.**  
**If the area is not part of your job responsibility, please indicate N/A.**

<b>Policy, Procedure or Guideline</b>	<b>N/A</b>	<b>Not Competent</b>			<b>Fully Competent</b>	
<b>Payment acceptance policies:</b> Method of payments accepted, receipts, dishonored payments.		1	2	3	4	5
<b>Cash drawer:</b> Assignment, safeguards, change making, opening and balancing.		1	2	3	4	5
<b>Cash drawer:</b> Overage/shortage process.		1	2	3	4	5
<b>Cash handling and receipting:</b> When a receipt is required, correction process, check endorsement, timeliness of receipting.		1	2	3	4	5
<b>Safeguarding monies and accounting records:</b> Access and storage of unused checks, manual receipt books, cash drawer funds, deposits and safe keys and/or combinations.		1	2	3	4	5
<b>Segregation of duties:</b> Verification and documentation methods for disbursements, deposits, voided receipts, daily and monthly reconciliations.		1	2	3	4	5
<b>Unidentified monies:</b> BN case process, timeliness of receipting, documentation and file requirements.		1	2	3	4	5
<b>Manual receipt:</b> When permissible, review requirements, timeliness in entering into AZTEC, cross reference and form requirements.		1	2	3	4	5
<b>Voided receipt:</b> Process for manual and automated receipts, documentation and cross reference requirements.		1	2	3	4	5
<b>Counterfeit cash:</b> Identification and handling requirements.		1	2	3	4	5

