



# PROBATE COURT

## PROBATE COURT-380 EXPENDITURES BY CATEGORY:

|                                | Actuals<br>FY 2006 | Actuals<br>FY 2007 | Estimated<br>FY 2008 | Budget<br>FY 2009 | %<br>Var  | Budget<br>FY 2010 | %<br>Var  |
|--------------------------------|--------------------|--------------------|----------------------|-------------------|-----------|-------------------|-----------|
| Salary and Benefits            | 149,309            | 150,676            | 161,633              | 175,140           | 8%        | 175,140           | 0%        |
| Operating Expense              | 4,712              | 3,954              | 4,918                | 8,480             | 72%       | 8,480             | 0%        |
| Capital Expenditures           | -                  | -                  | -                    | -                 | -         | -                 | -         |
| Carryovers                     | 892                | 1,915              | 1,319                | -                 | -100%     | -                 | 0%        |
| <b>PROG EXPENDITURES TOTAL</b> | <b>154,913</b>     | <b>156,545</b>     | <b>167,870</b>       | <b>183,620</b>    | <b>9%</b> | <b>183,620</b>    | <b>0%</b> |

## FUNDING SOURCE SUMMARY

|   |                |                |                |                |           |                |           |
|---|----------------|----------------|----------------|----------------|-----------|----------------|-----------|
| General Fund-Probate Court              | 15,752         | 16,790         | 18,479         | 14,450         | -22%      | 14,450         | 0%        |
| General Fund Contribution               | 139,161        | 139,755        | 149,391        | 169,170        | 13%       | 169,170        | 0%        |
| <b>PROG FUNDING SOURCE TOTAL</b>        | <b>154,913</b> | <b>156,545</b> | <b>167,870</b> | <b>183,620</b> | <b>9%</b> | <b>183,620</b> | <b>0%</b> |
| <b>Authorized Full-time Equivalents</b> | <b>3</b>       | <b>4</b>       | <b>4</b>       | <b>4</b>       | <b>0%</b> | <b>4</b>       | <b>0%</b> |

## PURPOSE:

The Probate Court serves the citizens of Bernalillo County in the probate of the estates of deceased persons. The Probate Court provides more expeditious and cost-effective proceedings than would be possible through the District Court. Probate Courts are constitutionally mandated under the Constitution of the State of New Mexico. The New Mexico Statutes Annotated govern operation of Probate Courts. Specific jurisdiction of the Court is set out in the Uniform Probate Code.

## SERVICES PROVIDED:

Services provided by the Probate Court include probate of the estates of deceased persons and providing information regarding estates filed with the Court. The Court provides information to title companies and others in the course of their work. The Court also provides general information regarding the Probate Code, court files and practice before the Court. The Court is in a unique position to answer questions about the probate process and the Court for *pro se* Applicants and others. Without giving legal advice, the Probate Judge and her staff provide the public with general information about the probate process in a user-friendly environment, creating a positive image of both the Court and Bernalillo County government. While not all of our thousands of contacts result in a case being filed with the Court, providing useful information and directing people requiring information to the appropriate place are also vital functions of the Court.

## PROGRAM HIGHLIGHTS AND MAJOR ACCOMPLISHMENTS:

The Probate Court's caseload has more than doubled since Judge Rudd took office in 2001. *Pro se* filings have increased from 14 in fiscal year 2000 to 137 through February of FY2K8. We expect to reach 225 *pro se* filings for FY2K8. The Court set a new court record of 428 total cases filed in calendar year 2007, and a new monthly record of 47 cases filed in January 2008. Of the 428 cases filed in calendar year 2007, 234 were filed *pro se*.

Our major accomplishment for FY2K07-08 has been to activate the "case lookup" feature on the Probate Court's web site. Now the public, attorneys, creditors, and other judges can view our case docket information online for

cases filed from 1976 through the current date, with our data entry clerk adding older cases daily. We now have a public terminal available for those without access to a computer or wishing to view the documents filed in a case. This saves the court staff time and eliminates wear and tear on court files.

Judge Rudd continues to increase the visibility of the Court through her GOV TV show, *The Judge is In*, and her columns in the Albuquerque Journal.

Judge Rudd continues to update the statewide Probate Judge Training Manual that she created in conjunction with the Judicial Education Center (JEC). The manual is avail-

able on the JEC website and also serves as a resource to attorneys and *pro se* applicants. The Manual was updated in 2007 in conjunction with the training of new probate judges.

We have been using our Probate Court Docketing system since April 2005. All current cases have been entered into the docket system by our full-time staff. The receipting system has simplified our receipting process and can track and report our revenues in a variety of categories. The IT staff and ICON have been very responsive to tailoring the system to fit our needs. We should not need to make any alterations to meet the requirements of the ERP system.

Because of HIPPA regulations and restrictions on the use of social security numbers, our data entry clerk has also been removing death certificates from our old files. While this has entailed extra work for our staff, including Judge Rudd,

it is an extension of our policy of not filing death certificates in new cases. Once Judge Rudd has reviewed a death certificate she issues a Certificate stating that she has reviewed the Death Certificate. The Death Certificate is then returned to the Applicant.

Judge Rudd has trained new probate judges regarding our procedure for docketing cases, where all cases that meet the statutory requirements should be docketed at the time they are presented to the Court, instead of being held for further review. The use of a checklist helps to ensure that all statutory requirements are met. This has also helped decrease the time that funds are held before they are deposited with the treasurer.

In addition to official court business, Judge Rudd set a new Court record for marriages in 2007 by officiating at 104 weddings, mostly at the court.

## SERVICE IMPROVEMENT GOALS & OBJECTIVES:

### FY09

#### Improve Access to Court Records

- **Automate Docketing System**
  - Finish entering cases for the past 50 years. Earlier case will assistance from someone who specializes in dealing with archival materials. **Time Line: Ongoing**
- **Continue to improve internet access with automated docket, searchable database and other features that was implemented in FY08.**
  - Our docket information is finally available online via the county web site; we continue to receive positive feedback on its usefulness. We will continue to improve the information that is available on the case lookup site. **Timeline: by 12/31/08**

#### Continue to Improve Relationships with Community

- **Work with estate planning community to draft legislation for 2009 session that permits family members to obtain medical records without the need for a probate.**
  - Most medical facilities are now requiring a probate in order for family members to obtain medical records, even when a probate is not otherwise necessary. This places an unnecessary and undue burden on them. Amending the statutory affidavit of successor in interest language to allow for this would alleviate this problem. While this would probably result in a decrease in cases, it would be a vital service to certain members of the community. **Timeline: by 12/31/08**

#### Improve Probate Practice

- Judge Rudd and staff will continue to work with the New Mexico Supreme Court to further amend and add do-it-yourself *pro se* forms to clarify issues encountered by them and other probate judges. **Timeline: by 12/31/08**
- Judge Rudd will continue to meet with estate planners and other attorneys to form legislative goals and priorities for the 2009 session re: probate code and related issues. Along with the trial lawyers, we also hope to amend the Wrongful Death Statute to include a definition of “personal representative” to clear up confusion between probate and wrongful death requirements. **Timeline: by 10/31/08**

#### Improved communication with:

- Other Courts
- Attorneys
- Title Companies
- Banks and Other Financial Institutions
- Title Companies
- We intend to accomplish this through the use of our brochures and web page as outlined above and periodic speaking engagements by Judge Rudd.

**Timeline: Ongoing**

#### Court Space

We are delighted to report that our critical space shortage issues are resolved, and the Court anticipates no further space needs through the end of Judge Rudd’s term in 2010. cases. We will also need to find space for a computer terminal for public searches. **Timeline: none**

**FY10**

**Preservation of Permanent Records**

- Formation of a records preservation policy.
- Possible cooperative project with Hispanic Cultural Center to archive our oldest records and make them available to the public.
- Repair old records based on recommendations of consultant.
- Attend workshops on record preservation sponsored by the State Archives Division and other institutions.

**Timeline: apply for grant assistance by 12/31/08 for target completion by 12/31/10**

**Continue to support internet access to automated docket with searchable database and other features.**

- At this point we may want to consider allowing for online filing of court documents.

**Timeline: Ongoing, but would collaborate with district court procedures for possible online filing**

**Probate Court Policy & Procedures Manual.**

Once ERP procedures are in place, we will create an updated Policies and Procedures Manual for the Probate Court. **Timeline: 12/31/10**

**PERFORMANCE DATA:**

| <b>Performance Measures</b> | <b>Actual FY 2006</b> | <b>Actual FY 2007</b> | <b>Estimated FY 2008</b> | <b>Target FY 2009</b> | <b>Target FY 2010</b> |
|-----------------------------|-----------------------|-----------------------|--------------------------|-----------------------|-----------------------|
| New Estates Opened          | 402                   | 419                   | 402                      | 420                   | 430                   |
| Pro Se Filings              | 219                   | 219                   | 225                      | 231                   | 236                   |
| Pleadings Filed             | 5,301                 | 4,382                 | 4,094                    | 4,200                 | 4,300                 |
| Telephone Calls             | 5,783                 | 5,791                 | 5,676                    | 5,700                 | 5,700                 |
| Visitors to the Court       | 1,888                 | 2,204                 | 2,042                    | 2,100                 | 2,100                 |
| Weddings                    | 69                    | 73                    | 100                      | 105                   | 110                   |