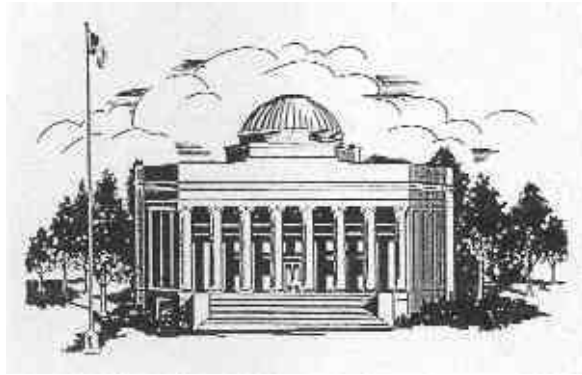


Modoc County Grand Jury

FY 2006-2007 Report



This report, past reports and responses, and other Grand Jury information may be found at the following sites:

<http://www.hdo.net/~liberty/GJ/>

<http://frontiernet.net/~liberty4us/GJ/>

<https://webfiles.berkeley.edu/FreedomIsARight/GJ/>

June 19, 2007

**Modoc County Grand Jury
FY 2006-2007 Report**

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Functions of the Grand Jury

The Grand Jury is an arm of the Superior Court, mandated by the California Constitution. The primary function of the Grand Jury is to examine *local government* and is sometimes referred to as the "Civil Grand Jury". The Penal Code states the Grand Jury is specifically:

Mandated to conduct civil investigations and audits of City and County Government, to insure efficient and proper operation of all local government, and to detect and expose fraud and malfeasance.

The Grand Jury addresses citizen complaints and conducts investigations to act as a "watchdog" for the citizens of Modoc County. The Grand Jury is appointed and sworn in early July of each year and serves until June 30 of the next year.

The jurisdiction of the Grand Jury is limited to *local governments within Modoc County*, such as the County government itself, special districts, joint powers operating in the county, etc. The Grand Jury has no jurisdiction over State or National government or agencies, including the Modoc County Superior Court. Matters currently under litigation or the result of court action cannot be reviewed.

The Grand Jury reviews and evaluates the performance of local government officials and entities, focusing on *procedures, methods, and systems* (not policies), to determine if more efficient and economical measures might be employed and if procedures are being followed. The Grand Jury has three ways to exercise its powers:

1. Reports - Published reports evaluating local government conditions, generally addressing specific issues, with findings and recommendations. The County Board of Supervisors, City Council, or affected agency must comment on each finding and recommendation as per Penal Code 933.05. (When crimes are not charged but suspected, special reports with documentation may refer specific issues to other authority.)
2. Accusations - Formal written complaints accusing a government official or employee of misconduct. (Conviction results in removal from office only).
3. Indictments - Formally charging a person with a crime. Usually indictments are handled by the District Attorney or a Special Grand Jury rather than the Civil Grand Jury.

The Grand Jury is specifically authorized to:

- Inspect and audit local records, insuring proper and legal accountings of public record.
- Investigate and report on performance of special districts or commissions.
- Evaluate conditions of jails and detention centers within the county.
- Investigate charges of misconduct by public officials or employees.
- Investigate and report on "questionable practices" of such agencies or officials.

The Grand Jury also receives complaints from citizens alleging mistreatment by officials, suspicions of misconduct, or government inefficiencies. While keeping all complaints confidential, each is acknowledged and considered by the panel: those accepted under Grand Jury jurisdiction are investigated carefully before any action is taken.



MODOC COUNTY SUPERIOR COURT

Robert A. Barclay Justice Center

LARRY L. DIER
Superior Court Judge

205 South East Street • Alturas, CA 96101
Phone (530) 233-6515 • Fax (530) 233-6500

FRANCIS W. BARCLAY
Superior Court Judge

July 03, 2007

To: Grand Jury Members

Dear Ladies and Gentlemen:

I want to take this opportunity to express my appreciation and the appreciation of the Superior Court to all of the members of the 2006-2007 Modoc County Grand Jury for a job well done. Your diligence, dedication and hard work is reflected in this year's report.

I want to specifically recognize and extend an individual thank you to Greg Small for his effective and objective leadership as this year's Foreperson. Mr. Small is also responsible for creating and maintaining a grand jury website and is due extraordinary recognition for this special effort.

Serving as a Grand Juror is not an easy task and I commend each and every one of you for your sincere effort and commitment to addressing the complex, varied and sensitive issues presented to you.

Thanks once again for a job well done and especially to those of you that are completing your second term and to those of you that have agreed to serve a second term, as your extra service provides valuable guidance and lends necessary continuity to the process.

Sincerely,



Francis W. Barclay
Presiding Superior Court Judge

Modoc County Grand Jury

205 South East Street
Alturas, California 96101

June 16, 2007

The Modoc County Grand Jury began work in July, 2006 with the initial selection of the Jury by Judge Francis Barclay. The Jury had two full days of training with Dr. Bruce Olson and began work with the formation of various committees to cover the aspects of the Jury's jurisdiction.

The committees included Special Districts, Education, General Government, Law Enforcement, Hospital, Health and Human Services, Audit and Finance, and Planning and Environment. Each member was assigned to at least one committee and most members had two committees. The Foreperson was an ex-officio member of each committee. Committees help organize and divide the Jury's work but have no autonomous authority – all decisions are by the whole Jury.

The Grand Jury met once a month in the Alturas City Hall chambers. At each meeting the whole Jury reviewed the progress of investigations, discussed the information available, and approved any further action by the committees including review and assignment of citizen complaints.

This report contains the result of the investigations required by law or suggested by citizen complaints and within Jury jurisdiction. Most of our investigations were completed; some are not reported for lack of complete or compelling factual basis. There were some that we were prevented from completion by time constraints and are being recommended to the incoming 2007-2008 Grand Jury.

I wish to thank the members of this year's Grand Jury that stayed the course and completed the work of this term. The members worked diligently and gave hours of their time on behalf of this civic duty. It was an honor for me to serve with such a group.

We all come away from our service with a heightened awareness and respect for the role of the Grand Jury in the Modoc community.

Greg Small, Foreman
2006-2007 Modoc County Grand Jury

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Acknowledgements

The Grand Jury wishes to acknowledge the help of Judge Francis Barclay during the year in dealing with various issues, both legal and practical.

We also wish to thank Modoc Superior Court Executive Officer Linda Ostoja for help and logistical support.

Our thanks go also to all individuals, County department heads and employees for their cooperation and assistance in our investigations.

Finally, we thank the City of Alturas, and the office staff, for providing the Grand Jury with a meeting room for our regular and committee meetings.

2006-2007 Modoc County Grand Jury

2006-2007 Modoc County Grand Jury Roster

Jayne Biggerstaff, Alturas
Darrel Brewer, Alturas
John Callaghan, Alturas
Dean Cockrell, Lake City
Nancy Gardner, Davis Creek
Willy Hagge, Alturas
Carol Judy, Likely
Robin McManus, Alturas
Roy M Moore, Alturas
Ray Page, Cedarville
Tom Parnow, Alturas
Greg Small, Fort Bidwell
Steven Smith, Fort Bidwell
Davis Wellman, Alturas
Carol White, Canby
Larry Wissmath, Alturas

Notice to Respondents

Response Requirements

On January 1, 1997, an extensive change in the legal requirements affecting respondents and responses to the Grand Jury Findings and Recommendations took effect (California Penal Code Section 933.05). Each respondent identified in this report should become familiar with the law and, if in doubt, should consult legal counsel before responding.

How to Respond to Findings

To assist the respondents, California Penal Code Section 933.05 is summarized as follows:

The Respondent (person or entity) must respond to Findings in one of two (2) ways, stating that:

1. You agree with the Finding.
2. You disagree wholly or partially with the Finding; in which case, the response shall specify the portions(s) of the Finding that is disputed, and shall include an explanation of the reasons for the disagreement.

How to Report Action in Response to Recommendations

Recommendations by the Grand Jury require actions(s). The Respondent must identify action(s) on all recommendations in one of four (4) ways, stating that the recommendation:

1. Has been implemented, with a summary of implemented activities.
2. Has not yet been implemented, but will be implemented in the future, with activities and time frames for implementation.
3. Requires further analysis or study. In such case, the law requires a detailed outline of the analysis and time frame not to exceed six (6) months. Further, the complete analysis or study must be submitted to the officer, director or governing board of the entity being investigated.
4. Will not be implemented because it is either unwarranted or unreasonable with an explanation(s) and supporting facts.

Timing of Responses and Actions to Findings and Recommendations:

As stated in Penal Code Section 933(c), for 45 days after the end of the term, the Grand Jury foreperson or designees shall, upon reasonable notice, be available to clarify recommendations in the report. No later than 90 days after the Grand Jury submits a final report on the operations of any public agency, the governing body of any public agency subject to Grand Jury reviewing authority, shall comment to the presiding judge of the superior court on findings and recommendations. Every elected official or agency head for which the Grand Jury has responsibility shall comment within 60 days to the judge of the superior court with a copy sent to the Board of Supervisors.

Grand Jury Reports

AUDIT AND FINANCE

Areas of Study

- New Organization of Clerk/Recorder/Auditor/Registrar of Voters
- Hiring Needs
- Accounting Practices
- Payment Process
- Hospital Debt

General Report

Grand Jurors met twice with Clerk/Recorder/Auditor/Registrar of Voters to review operations and functions. There were no official complaints received by the Grand Jury. The Jurors reviewed department organization and efficiencies of combining department responsibilities. We reviewed the accounting practices, voucher system, and hiring needs, and how large payments were handled to prevent another overpayment to a vendor. We also reviewed the debt to the County General Fund for the Hospital. One question was "How would the County pay for the mounting debt to the County General Fund if the Hospital became a District".

Findings:

1. The new organization of Clerk/Recorder/Auditor/Registrar of Voters was effective 1/1/2007. Jurors observed that the office functioned at a professional level. The departmental workers are being cross-trained to ensure added efficiency.
2. The Clerk/Recorder/Auditor/Registrar of Voters is also being trained on the new duties of County Clerk and Registrar of Voters. The election process is a very important part of the training. There is sufficient time before the next elections to complete this process.
3. The Clerk's office has been moved to the basement. The new area has been nicely remodeled and is sufficient to accommodate the combined offices.
4. New computer software and a laser printer will help with their operation.
5. The Auditor/Clerk needs at least one part-time position.
6. Part of the former, separate Clerk's salary will help fund a Clerk of the Board of Supervisors.
7. The Auditor's office is audited annually. The last audit was completed by Carlos E. Soler, Certified Public Accountant out of Sacramento, for the date of June 30, 2005. As of that audit, the assets of the county exceeded its liabilities, and conformed to accounting practices generally accepted in the United States of America.
8. Steps have been taken to prevent duplicate payments. Each Department head is required to thoroughly review all requests for payments sent to the Auditor. However, Jury members still believe the possibility for duplication of payments does exist..
9. As of 5/30/2007 the debt of the Modoc Medical Center is \$7,894,881.36. This debt is the responsibility of Modoc County General Fund. In addition to the short fall in income versus expenses, the hospital is also charged interest that exceeds \$52,000 each quarter. The interest is legally due the departments. The hospital debt was borrowed from their reserve funds. The County and community are concerned over the mounting debt which is also reflected in concern from the State Controller's Office.

Recommendations: None.

Response: No response required.

EDUCATION

Areas of Study:

- Modoc County Office of Education (MCOE)
- Tulelake Basin Joint Unified School District (TJUSD)
- Modoc Joint Unified School District (MJUSD)
- Surprise Valley Joint Unified School District (SVJUSD)

Issues:

No formal complaints were received regarding any school district; however, issues of concern surfaced through public commentary. These are discussed in the assessment.

General Report:

Members of the Grand Jury interviewed the Modoc County Superintendent of Schools as well as the Superintendents of Tulelake Basin Joint Unified School District and Modoc Joint Unified School District, and the Principle of the Surprise Valley Joint Unified School District. Jurors discussed budgets and funding sources, school leadership and the School Accountability Report Card (SARC). The public may access this valuable report through www.modoccoe.k12.ca.us and select Schools. Jurors randomly reviewed board meeting agenda notices and minutes for compliance with the “Brown Act” and MJUSD Superintendent contracts from 2000 to 2007.

Modoc County Office of Education (MCOE)

The MCOE directs a number of programs in the County and serves as oversight to the three joint unified school districts – Modoc, Surprise Valley and Tulelake, and their entities. The office also serves as the liaison and intermediate unit operating between the local school districts and the State Department of Education.

Tulelake Joint Unified School District (TJUSD)

The Superintendent retires in 2007 after serving many years in the Tulelake Basin; consistent leadership has provided stability to schools and programs.

Findings:

1. The Board of Trustees approved a qualified staff member to transition into the Superintendent’s position next year. In 2006-07 the staff member received on-the-job Superintendent training. When she assumes the Superintendent’s job, her current position will be eliminated.
2. In budget preparation, the District is meeting required timeframes. At issue are the multiple direction changes from the State of California throughout the year.
3. The District aggressively seeks grants.
4. Technology is excellent as per California State standards.
5. The District has a prudent reserve.

Recommendations: None

Response: No response required.

Modoc Joint Unified School District (MJUSD)

Superintendent indicated that predicting and balancing the budget is the most perplexing issue. After four years, Superintendent resigned effective June 30.

Findings:

1. The District has a prudent reserve.
2. The District reached an impasse regarding teacher salaries and entered into mediation this spring; the issue was settled in June.
3. The Board of Trustees will recruit to fill the position of MJUSD Superintendent. The Board is the hiring authority for the Superintendent. While the Superintendent and Board work as a “governance team”, in the end the Superintendent works for the Board. The Board involves the community in developing a common vision, goals, and policies for the district.

Recommendation:

1. The Board of Trustees must take the lead and determine district policy and not act as an adjunct to the District Superintendent.

Response: No response required.

Modoc Joint Unified School District Supervisor Salary

Issue: Public perception that the MJUSD Superintendent’s salary is inflated.

General Report:

The Grand Jury reviewed the Superintendent’s Employment Agreements (referred to as contracts) for 2000 – 2003; 2003 – 2006; 2005 – 2008; and 2006 – 2009. Jurors compared base salary, health benefits, car allowance for personal vehicle use, sick leave, personal leave, personal necessity leave, work year vacation, memberships paid by District, and the clause to modify or amend agreement/contract.

Findings:

SUPERINTENDENT EMPLOYMENT AGREEMENTS MJUSD

| Contract | 2000 – 2003 | 2003 – 2006 | 2005 - 2008 | 2006 - 2009 |
|---|---|---|---|--|
| Base Salary | \$84,000 | \$94,300 | <i>Revised base</i> <u>\$117,033</u> \$99,300 base salary plus Add-ons: Car: \$ 4,800 Health: \$12,933 | <u>\$122,475</u> \$117,033 plus COLA or 2.5% whichever is greater |
| Health benefits | Included in base salary as provided to teachers | As provided to Board of Trustees | In lieu of District health benefits – added to base salary (\$12,933) | Not provided |
| Car allowance for personal vehicle use | District vehicle available | Included in base salary @ \$150/mo for 11 months (\$1650) | Added to base salary @ \$400/mo for 12 months (\$4,800) | Not provided within Modoc County – car allowance outside County |
| Sick Leave | 12 days | Same | Same | 18 days |
| Personal Leave | 7 days (4 deducted from | Same | Same | same |

| | | | | |
|--|--|--|------|---|
| | sick leave) | | | |
| Personal Necessity Leave | No reference in contract | Included in contract but not defined | Same | Same |
| Work year | 245 days | Same | Same | 225 days |
| Vacation | 20 days | Same | Same | - 0 - |
| Memberships Paid by District | *Assoc. of Calif. School Admins. *Am. Assoc. of School Admins. | *Assoc. of Calif. School Admins. *Professional organization approved by Trustees and Superintendent | Same | Same *One local service organization & related expenses. |
| Modification or Amendment to Agreement (contract) | May be amended or altered thru mutual agreement – 30-day notice required | Same | Same | Same |

Recommendations:

1. The Board of Trustees needs to take leadership in contract preparation. Salary and benefits cited in the contracts must be in the best interest of the District not only the individual. For example, eliminating vacation time and reducing the work year may seem equal; however, it eliminates the Board's oversight of the employee (Superintendent).
2. Retirement benefits are based on the base salary. The Board should note that all add-ons to a base salary result in higher retirement payments paid by taxpayers. For example, one year at an additional \$18,000 could lead to 80 percent over 20 years or \$288,000.
3. Board of Trustees needs to abide by the Modification clause in the existing contract. The Superintendent's contract should remain in force through the duration of the contract and not be rewritten annually. All changes should be made by an addendum to the contract for the duration of the contract.
4. Define/describe the term *personal necessity leave*; how does it differ from personal leave; is it an important addition to the contract?

Response: Modoc District Board of Trustees to Recommendations 1, 3, and 4 above.

Surprise Valley Joint Unified School District (SVJUSD)

The Superintendent's position remains vacant; in light of the budget crisis, the Board of Trustees is wrestling with the issue whether to rehire or reduce the position.

Findings:

1. The Board of Trustees has retained an individual to fill-in as temporary Superintendent 4 -5 days a month until December.
2. The Reserve is being depleted.
3. Student enrollment is declining but the number of administrators has remained high.
4. Over 20 students are being home-schooled. The District does not receive ADA (average daily attendance) funds from the state for home-schooled children. The loss is roughly \$110,000 annually. Alternative programs are being offered to bring them back into the system.

Recommendation:

1. The Board and the temporary Superintendent work as a "governance team", and involve the community in developing a common vision, goals, and policies for the district, including the budget/reserve shortfall. Board needs to take the lead and involve the community now and in the future of children within the SVJUSD.

Response: SVJUSD Board of Trustees

Issue: SVJUSD Board meetings may not be meeting the requirements of the "Brown Act." Jurors randomly pulled school board meeting agendas and minutes for the 2006/07 school year. These were reviewed for compliance with the "Brown Act." Board Chairman received "Brown Act" training this spring.

Findings:

1. Jurors could not determine if the postings were within the 72 hour requirement.
2. Board of Trustee minutes indicate a high local interest in the schools; 10 – 30 people are attending every meeting.
3. Of those reviewed, posted agendas and meeting notes matched; however, some items were not clearly stated. The "Act" directs that a posted agenda should describe each item sufficiently so that members of the public can decide whether to participate in the item or not. For example, one item to be discussed was entitled "windows." Jurors questioned whether this referred to a safety issue or a new computer program.

Recommendation:

1. Clearly describe every item for discussion in the posted agenda such that the public can decide whether to become involved. This includes closed sessions.

Response: SVJUSD Board of Trustees

Suggestion to 2007-2008 Grand Jury:

1. Follow up and review of meeting agendas and minutes for 2007/08 school year.

GENERAL GOVERNMENT

Areas of Study:

- Complaint about hiring practices of a County contractor
- Complaint about misuse of a County vehicle and travel
- How does the loss of Secure Rural Schools and Community Self-Determination Act funds affect road maintenance

General:

Jury members received two written complaints from citizens. The first complaint was about hiring practices by a county contractor. The complaint believed that there was discrimination in hiring and that only those who were friends were being hired. The second complaint was about the misuse of a county vehicle and travel reimbursement by a County Supervisor. Jury members also looked into how the loss of Secure Rural Schools and Community Self-Determination Act funds affect road maintenance.

Findings:

1. Grand Jury members met with the county contractor in regards to their hiring procedures. The contractor uses a nondiscriminatory outside agency to review all applications. All applications are submitted directly to them. The outside agency then initially screens each application to see that it meets specific job qualifications. All applicants meeting the specific job qualifications are then submitted to the contractor for interview. Jurors found no opportunity for discriminatory hiring.
2. A citizen complaint took issue with travel reimbursement and use of county vehicles by an individual County Supervisor. At the time of these incidents there was no policy or procedure regarding the usage of county vehicles or travel reimbursement. At the November 14th Board of Supervisors meeting, the board passed a "Board of Supervisors Travel Policy" which outlines the policies and procedures for Modoc County Supervisors travel and expenses.
3. Grand Jury members met with Modoc County Road Department officials. It was explained that if Secure Rural Schools and Community Self-Determination Act funds were cut from their budget, the effect would be a loss of approximately \$1,300,000 or 30% of the County Road budget. Due to other sources of funding, planned road projects will continue and bridge projects will not be affected. Both road maintenance and maintenance of road equipment would be affected. Higher road maintenance costs and less revenue will impact the ability to provide the current level of road maintenance. For example such things as plowing of roads, filling of potholes, maintaining deteriorating low-traveled roads will all be reduced. At this time, legislation has been passed to secure these funds for one more year.

Recommendations:

1. Modoc County is largely made up of Federal lands and as such is not receiving taxes from these lands. In order to compensate Modoc County the Jury recommends that the Board of Supervisors continue to make the Federal Government aware of the necessity of continuing legislation providing funds for the Secure Rural Schools and Community Self-Determination Act.

Response: No response required..

HEALTH AND HUMAN SERVICES

Areas of Study:

- Modoc County Child Custody Mediator
- Child Protective Services
- Complaint from a father about a Modoc County Family Court decision to leave custody with the child's mother.

Modoc County Child Custody Mediator

Members of the Grand Jury interviewed the Modoc County Child Custody Mediator. Information and an overview of the mediation process was presented to the Jury members and the mediator asked for a correction to the 2005-2006 Grand Jury description of the position. The position is mandated by a 1981 California State law to meet with parents (not children as stated in the 2005-2006 report). Mediation is a process of the Court and is utilized to develop a parenting plan prior to a custody hearing. The mediator helps determine who the primary caregiver is and makes a "respectful suggestion" to the Judge. This plan becomes an agreement and is entered into the court. The final agreement becomes a court order. A Grand Jury does not have the authority to investigate the operations of the Superior Court. The Grand Jury members also studied the process the court uses for a review and accounting of the mediator.

Child Support Services

Grand Jury members met with Modoc County Child Support Services. Information and an overview regarding their responsibility and authority was provided. There were no complaints or issues identified and members felt the office was fulfilling its duties adequately.

Child Custody Complaint

A complaint from a father was received about a Modoc County Family Court decision to leave custody with the child's mother. Child Support Services reports that the number of fathers with custody is increasing but is still less than eight percent. Because child custody is a court matter, the Grand Jury has no jurisdiction to investigate child custody decisions.

Recommendation: None.

Response: No response required.

HOSPITAL

Area of Study:

- Modoc Medical Center (MMC) General Operations and Facilities

Background:

The Modoc Medical Center (MMC) facilities include the acute care hospital, the clinic and the nursing facility. MMC is owned and operated by the County of Modoc and administered by a joint staff of medical, administrative and Board of Supervisors (BOS) members. General administration and direction is provided by a strategic plan.

According to the MMC website, www.modocmedicalcenter.com, MMC provides up to 87 licensed beds and is available for general surgeries, diagnostic imaging, clinical laboratory, physical therapy, respiratory therapy, social services, skilled nursing care and rural health clinic. The skilled nursing facility maintains 71 beds and is staffed to provide long-term care as well as rehabilitation. MMC also manages the ambulance service for the greater Alturas and Adin areas, covering some 1,300 square miles of Modoc County.

According to the MMC CEO, a staff of about 200 people provides patient care, administration, facility maintenance and other necessary functions. Along with providing medical services, MMC contributes some \$4,000,000 to the local economy in annual salaries.

General Report:

The Grand Jury interviewed two individuals from MMC administration, the Corporate Executive Officer (CEO) and Human Resources Manager, and made two site visits to the facilities. An interview with the Editor of the Modoc County Record (MCR) also provided additional information into aspects of communication within the community. Interviews were conducted with the Modoc County Clerk/Auditor/Recorder (Clerk) and with the Chairman of the Board of Supervisors (BOS).

No complaints were filed with the Grand Jury on which any action could be taken during this session. One complaint received in mid-June will be remanded to the 2007-2008 Grand Jury. Issues were identified through the interviews, public comments to Grand Jury members, and public communications in local papers and "Careline," MMC's information publication.

Issues:

- Communications with the community
- Continued operation of MMC
- Facility condition and seismic retrofit
- Technology
- Human Resources

Findings:

Commendations

- To those who continue to provide patients and their families with often life-saving quality compassionate and professional care, including the auxiliary that has steadfastly worked to make difficult life circumstances more bearable for patients and families.
- To those who maintain the facilities and keep them in a clean and safe condition.
- To management for pursuing payments that provide reimbursement for actual cost of patient care (Critical Access Hospital status).
- To management for pursuing and completing a contract with the Veterans Administration to house and care for disabled and aging veterans.

Communications with the Community

Communications between MMC and the community it serves was identified by MMC (CEO), as the most significant issue facing the success and future of MMC. The BOS Chairman also stressed that providing information to the public and opening full lines of communication is critical to the continuation of MMC.

Methods used by MMC to let the public know of activities and professional services available include the newsletter "Careline" and website at www.modocmedicalcenter.com. MMC has also provided news items and advertisements to the two local newspapers and hosted public meeting(s). The monthly 2nd Tuesday meeting of the BOS deals with MMC business and provides another opportunity for the public to gather information.

Though difficult to assess, consensus of the MMC CEO and MCR Editor is that written information may be provided to the reading public but does not generate productive criticism or response by the general community. It was suggested by those interviewed that the most successful, and often damaging, method of communication, is word of mouth.

The MMC CEO and the BOS Chairman have indicated that some of the most damaging publicity has come directly from employees and former employees. If that is the case, the reverse would also seem to be true – that employees and former employees can become one of the most effective sources of supportive publicity.

The MMC CEO stated during an interview that his door is open and comments from the community are welcomed, as any organization needs to know the good and the bad in order to improve. The MMC CEO also indicated that MMC has conducted an employee survey to identify areas that work well and areas in which improvement is needed. In spite of the policies of openness, the publicity MMC as an organization receives, whether published or passed on by word-of-mouth, is almost entirely negative.

Tied to communications is the effort of MMC to reclaim patients who have chosen other facilities for whatever reason. Some progress has been made in this area. As of 2006 patient numbers were down 25% over the previous year; however, this year has shown a 6% recovery. The MMC administration sees the loss of patients largely as a result of the loss of key medical staff and general confidence.

Continued operation of MMC

The BOS has contracted with Chico State for a study to determine what economic impact the community and County could expect should MMC close its doors. Information on the pending study was shared by the BOS Chairman during interview and underlines how serious the MMC issues really are.

The hospital debt, held by the County, is approaching \$8 million as of this writing. The BOS Chairman indicated that the debt is not the only consideration in the future of MMC; however, it certainly is significant relative to decisions that must be made. More specific information about this debt is provided in the Audit and Finance section of this report.

According to the State of California 2006 report of small and rural hospitals, MMC is one of only three medical facilities in the State that continue to be operated by a County. As of the interview with BOS Chairman on June 5, 2007, MMC is now the only County-owned/operated small, rural facility. One of the previous two is now operated as a district and the other closed its doors in 2007. All other small, rural hospitals in California are either privately owned, non-profit, or operated as districts, such as the Surprise Valley and Fall River facilities.

The Trinity County BOS presented hospital district information to the Modoc County BOS, after having gone through that process in Trinity County very recently. In order to set up a hospital district the following are some of the things that must take place:

Create a special district (ex. Recreation district voted on recently)

Identify district boundaries and services

Determine tax assessment

Get voter approval for the district and tax assessment

At the present time 37% of the population using MMC is Medi-Cal/Medicare patients. The average in California is 19%. Additionally, MMC supports about \$400,000 every year in non-paying patients. Although the Critical Access Hospital payment system, for which MMC is making application, will provide a greater reimbursement, a short-fall in payments versus costs is still expected. As a district, MMC would receive tax funds at a rate estimated to cover the short-fall. The hospital, clinic and senior nursing facility, are operated by the County as a single MMC entity and would presumably continue to be managed together.

Voting for a district is expected to come as soon as the November 2008 elections, according to both MMC CEO and BOS Chairman.

Facilities

Seismic retrofit of the MMC buildings, that is construction or reconstruction of facilities to meet the State earthquake code, is being delayed as provided by State law. As long as MMC remains open, the delay to make the required retrofit by 2013 will remain in effect. It is possible the delay can be extended to 2030. In the mean time a determination of seismic hazard specific to Modoc County may provide some relief in meeting code appropriate to this area rather than a standard applicable to facilities located in known high hazard areas. Substantial retrofit requiring construction or reconstruction applies almost entirely to the older acute care hospital.

Should the facilities close for any reason, the delay would no longer apply and reopening the facilities would require immediate upgrade to State code. This must be given serious consideration in deciding the future of MMC.

MMC has undertaken various cosmetic improvements throughout the past year. When asked about the expenditure of funds for cosmetic purposes rather than spending funds on something more substantial, it was noted that, while cosmetics may not be long-lasting or add to the quality or breadth of services provided, it is important in terms of recruiting professional medical staff and for the comfort and confidence of patients.

The single issue in implementing reconstruction or construction to comply with State code standards is, of course, funding, and as long as the hospital remains open is not of imminent consequence.

Technology

The most pressing technological need identified by MMC management is the acquisition of a CT scanner. This is considered an essential piece of equipment for accurate diagnostic services. This is particularly true for emergency evaluation and transfer decisions. MMC CEO has indicated the cost of this equipment is estimated at some \$300,000.

MMC has access to telemedicine. However, as is well known, constant progress in technology makes it virtually essential to keep pace with the best provided. Software has and will continue to be purchased in order to keep up with the needs of patients, human resource and financial management.

Human Resource

Human resource management is identified as an issue because of public comments received by Grand Jury members, as a follow-up to the 2005-2006 Grand Jury report, and as a subject of local conversation. Both the MMC CEO and BOS Chairman recognized in interviews that the morale of the MMC workforce in general and as individual employees, plays a role in how MMC is perceived by the community. MMC and BOS awareness of the state of the workforce is

indicated in interview statements acknowledging the impact that unhappy, “disgruntled” current and former employees can have on the reputation of MMC.

Issues identified in public comments and the 2005-2006 report include the treatment of employees at time of dismissal, employee fear of reprisal, and inclusion of volunteers in the decision-making process. No illegal activities have been identified to date but there is ample room to question the ethical and political soundness of some administrative actions in the manner of dismissal, the use of volunteer(s) in matters of employee and patient confidentiality, and the use of volunteer(s) in any capacity normally reserved for upper management.

Recommendations

1. The BOS implement a comprehensive communication plan to provide the MMC service community with complete and understandable information on the status of MMC and all reasonable options available to continue, limit, or discontinue MMC medical services. The public should be provided full information about what decisions must be made, who must ultimately make the decisions, when decisions will be made, and expected consequences of the each alternate final decision. Following is a non-inclusive list of information to which the public should be given easy access through an aggressive information campaign.
 - Continue to present factual information on the growing debt in a manner that it does not overshadow other important aspects of MMC health care services.
 - Emphasize completely open, honest, accurate information, assuming the community at large will distrust any appearance of political maneuvering.
 - Include information on all options with advantages and disadvantages of each, and the potential effects on the community.
 - Elicit and encourage public comment to determine what constituents and current potential MMC users want and need in local medical facilities.
2. The BOS and MMC to implement a communication plan to increase the visibility and general understanding of MMC business and operations. Use methods such as posting to the MMC website, providing a brief at public locations with full text available at MMC facility sites, or provide mailers to MMC service area residents.
 - Make documents such as the MMC strategic plan easily available to the public.
 - Make available the strategy for acquiring, housing and using a CT scan, including total cost, what funds are currently available, what may be available through grants or matching funds, and the diagnostic and financial benefits of providing this service.
 - Identify funds such as income, expenses, and access to discretionary or ear-marked funds. Clarify management of funds such as Hospital Auxiliary, donations, grants and so forth and for what those funds are specifically targeted.
3. The BOS and MMC continue to manage and monitor workforce trends and working conditions present at MMC, and do so in a demonstrably even-handed manner. Previous Grand Jury reports, rumors, personal experience accounts, and individual stories passed on by neighbors, friends, relatives, patients and employees indicate that the MMC workforce is not disgruntled with the work they do. What has come across is displeasure in how employees are treated in the workplace and a negative and divisive atmosphere. Employees can become the most effective positive communication tool in getting information throughout the community. Consider use of outside third-party mediation agreeable to all parties in order to identify specific problem areas and implement the solutions.
4. The BOS identify what funds are currently available for purchase of a CT scanner, auxiliary, donation, match funds, whatever, and considering improvement of service and revenue, provide the remaining funds necessary from County coffers.

Response: Modoc County Board of Supervisors

LAW ENFORCEMENT

Areas of Study:

- Modoc County Sheriff's Office and Required Annual Jail Inspection
- Alturas City Police Department
- Modoc County District Attorney Office
- Complaint about Alturas PD Over-charge for School Resource Officer (SRO)
- Required Annual Inspection of Devil's Garden Conservation Camp

Modoc Count Sheriff's Office and Required Annual Jail Inspection

The Sheriff was 22 days into his newly elected position. The Sheriff provided a copy of the newly adopted organizational chart and discussed an employee issue that came up as a result of the implementation of this chain of command. He upgraded training, sending four officers to training – two of these will be evidence technicians. There are 26 full time employees at the Sheriffs Office. The Jail has a capacity of 72 inmates and currently has 26 inmates. In response to a question regarding jail management training he responded that the funding for this required training had been cut, he has sent his jail sergeant to the basic peace officer course as it is still funded by POST. The jail sergeant was away at training at this time. Both the Sheriff and the Under Sheriff have attended jail management training. Currently a new jail fire suppression system is under construction. When questioned about a rumor that the Drug Task Force was going to be discontinued the Sheriff said that the rumor was not true and provided information about the task force and its status. A tour of the jail, kitchen, dispatch, storage, supplies, facility, evidence, and task force office was provided.

Findings:

1. Soap scum removal and cleaning is needed in most cells inspected.
2. Damage to metal screen barrier at main tank window, damage to padding on the door of the isolation cell.
3. Maintenance needed in the shower in the dormitory—metal corner support behind the sheetrock exposed at shower entrance near the floor.
4. The evidence room was not in an acceptable condition and needs a complete cleaning, reorganization, and update.

Recommendations:

1. Fix jail problems reported in findings 1, 2, and 3.
2. The evidence room needs a complete cleaning, reorganization, and update.

Response: Modoc County Sheriff

Alturas City Police Department

The Police Department has two positions vacant with officers away at training to get their POST Basic certificate and will then have to complete field training for several months after that. The Modoc Joint Unified School District is not funding the School Resource Officer position at this time and that position will not be refilled unless another grant is acquired. There are two fully trained reserve officers currently being utilized on an hourly basis. The Jury toured the police facility. The building has recently been enlarged and renovated and looks good. The renovation was mostly funded by grants.

Findings:

1. The evidence room needs shelves, and organization.

Recommendation:

1. Organize and provide more shelves in the evidence room.

Respondent: Alturas Chief of Police

Modoc County District Attorney's Office

The District Attorney (DA) has restructured the office to suit his method of operation. He has 75 criminal filings to date, compared to 47 criminal filings for the same time period last year. Additionally a large unfinished workload was left from the outgoing District Attorney, including two murder cases. He is working 80 hour weeks and is still unable to complete all of his work.

The District Attorney met with the Board of Supervisors on Tuesday, March 20, to request additional funding. Statistics were provided comparing Modoc County with other small counties and their staffing ratios. In the past Modoc County had a part time prosecutor but the previous DA didn't utilize this resource for his full term. Currently there are three major law enforcement agencies plus some other agencies that submit cases for prosecution. There are two Judges to preside over those cases that do go forward for prosecution. There is only one District Attorney, to evaluate, negotiate and prosecute, plus the other duties expected of a District Attorney. The DA shares an investigator which is funded 90% by Social Services. Consequently Social Services guards the investigators time very closely leaving little time for the DA. Follow-up work, when needed for prosecution, can not always be accomplished with this position, and some submitting agencies have refused to provide follow-up.

Plea bargain negotiations have been hampered because defense attorneys know the work load exceeds the capability of prosecution.

Findings:

1. An assistant has been recently hired, but there are minimal funds to attract and keep a part time assistant.
2. Investigations are hampered by inadequate investigator time – either directly by the DA's office or by submitting law enforcement agencies.

Recommendations:

1. The Board of Supervisors investigate the possibility of hiring a full-time investigator.

Response: No response required.

Suggestion to 2007-2008 Grand Jury:

1. Follow-up to see how the flow of cases is improving.

Complaint about Alturas Police Department Over-Charge for School Resource Officer

A complaint alleged that the Alturas Police Department (APD) was paid about \$45,000 in school year 2005-2006 by the Modoc Joint Unified School District (MJUSD) for a School Resource Officer (SRO) but no officer was assigned.

Background:

Grand Jurors met with MJUSD Superintendent, the Principal of Modoc High School, the Chairman of the MJUSD Board, and the Alturas Police Chief and gathered testimony and documents relating to the SRO agreements and activities.

Findings:

1. An officer was assigned and by all accounts the School Resource Officer program was successful and positive.
2. The Jurors found confusion between school and APD officials as to the monies paid and the service received. No records appear to have been kept at the schools and the schools did not pursue getting records from the APD.

Recommendations:

1. In future agreements, the MJUSD and APD need to pay some attention to clarifying and verifying compliance with the agreement (in this case service provided). This measure will generally prevent misunderstandings or at least make them easier to repair.

Respondents: No response required.

Alturas Area California Highway Patrol (CHP)

The Grand Jury interviewed the CHP Area Commander. Although the CHP is a State agency and beyond the Jury's jurisdiction, they work with local law enforcement, the County Road Department, and the District Attorney (DA).

1. The Alturas Police Department (APD) dropped out of the Drug Task Force. The Modoc County Sheriff's Office (MCSO) will fill the APD slot with a deputy and continue on. The APD will initiate its own drug enforcement program. Previously the Task Force operated with a supervisor from the MCSO, a CHP officer, and an APD officer.
2. Law enforcement and the Modoc County Judicial System are facing a bottleneck at the DA's office. The current DA is working diligently and putting in extra hours but will be unable to keep up and will burn out at this rate.
3. Modoc County Road Department received favorable comments regarding their efforts in road maintenance, but speed zones do not have a current speed survey which prevents use of radar for speed enforcement. Therefore complaints about speeding in posted speed zones can not effectively be enforced. The one road which receives most of these complaints is Pencil Road.

A tour of the CHP office was provided, including evidence locker. The evidence locker was neat and well organized. Their volume of evidence was considerably less than the other two agencies inspected. The CHP shares a problem that was common with all of the law enforcement agencies inspected—disposal of illegal controlled substances, because there is no incinerator available and regulations imposed. Most large seizures are handled by the Drug Task Force.

Devil's Garden Conservation Camp

Members of the Grand Jury inspected the Devil's Garden Conservation Camp. The camp is operated by the California Department of Corrections and Rehabilitation and Cal-Fire.

During 2006 crews provided Local Government (Modoc County, City of Alturas, MJUSD and the Modoc District Fair) 28,760 hours of conservation work. State and Federal Agencies (Cal-Fire, BLM, USFS and BIA) with 27,928 hours of Fire Defense, Forest and Range Improvement. In addition the crews provided 90,048 of fire fighting.

The Jurors were sorry to find that the camp is no longer involved in the bike refurbishing program.

The camp is commended for all the community services it provides.

Recommendations: None

Respondents: No response required.

PLANNING AND ENVIRONMENT

Areas of Study:

- Modoc County Environmental Health Department
- Modoc County Planning Department
- Modoc County Agricultural Department

General:

Members of the Grand Jury met with each director of the Environmental Health, Planning, and Agricultural Departments. There were no complaints filed against any of these departments. Jurors found each department to be competent, organized, and managed efficiently. Given the multitude of responsibilities of each department, we are listing below those reviewed.

1. The Environmental Health Director discussed notable new regulations regarding septic systems (AB 885). He reported that a Draft Environmental Impact Report (EIR) regarding AB 885 is due out January 2007.
2. The Planning Director stressed the importance of updating the County's General Plan. He said that most of the plan was still accurate, but it did need to be updated in parts to reflect new planning practices and zoning. He also said that a new fee structure was needed to cover costs attributed to each particular planning task. Fees have not been updated in 10 years.
3. The Agricultural Commissioner discussed in depth the ongoing Noxious Weed Program. The program has limited funding to eradicate and control A-rated weeds (a list of noxious weeds can be obtained at the Ag. Dept.). The department uses only selective herbicides in eradicating these weeds. Invasive plants can cause economic and ecological damage to crops, range and forest lands if not controlled. There are B-rated invasive weeds in the County for which there is no control funding (e.g. Dyer's Woad and Mediterranean Sage).

Modoc County Environmental Health Department

| | |
|--|--------------------------------|
| Hazard Waste Emergency Services (AB 885) | On Site Waste Treatment System |
| Underground Tanks | Food Inspection |
| Medical Waste | Swimming Pools |
| Well Inspection | Landfill |
| Environmental Review | Rabies/Vectors |

Modoc County Planning Department

| | |
|------------------------------------|---|
| General Plan | Fee Structure |
| Subdivision Ordinance | State Mines and Reclamation Act (SMARA) |
| Williamson Act | Zoning Ordinance |
| Newell water system | Biomass Project |
| Geothermal Project | Boundary line adjustments |
| Rail Line Right of Way Acquisition | |

Modoc County Agricultural Department

| | |
|--------------------------|-----------------------------|
| Noxious Weed Program | Weights and Measures |
| Air Pollution | Hazardous Material Response |
| Predatory Animal Control | |

Findings: None

Recommendations: None

Respondents: No response required.