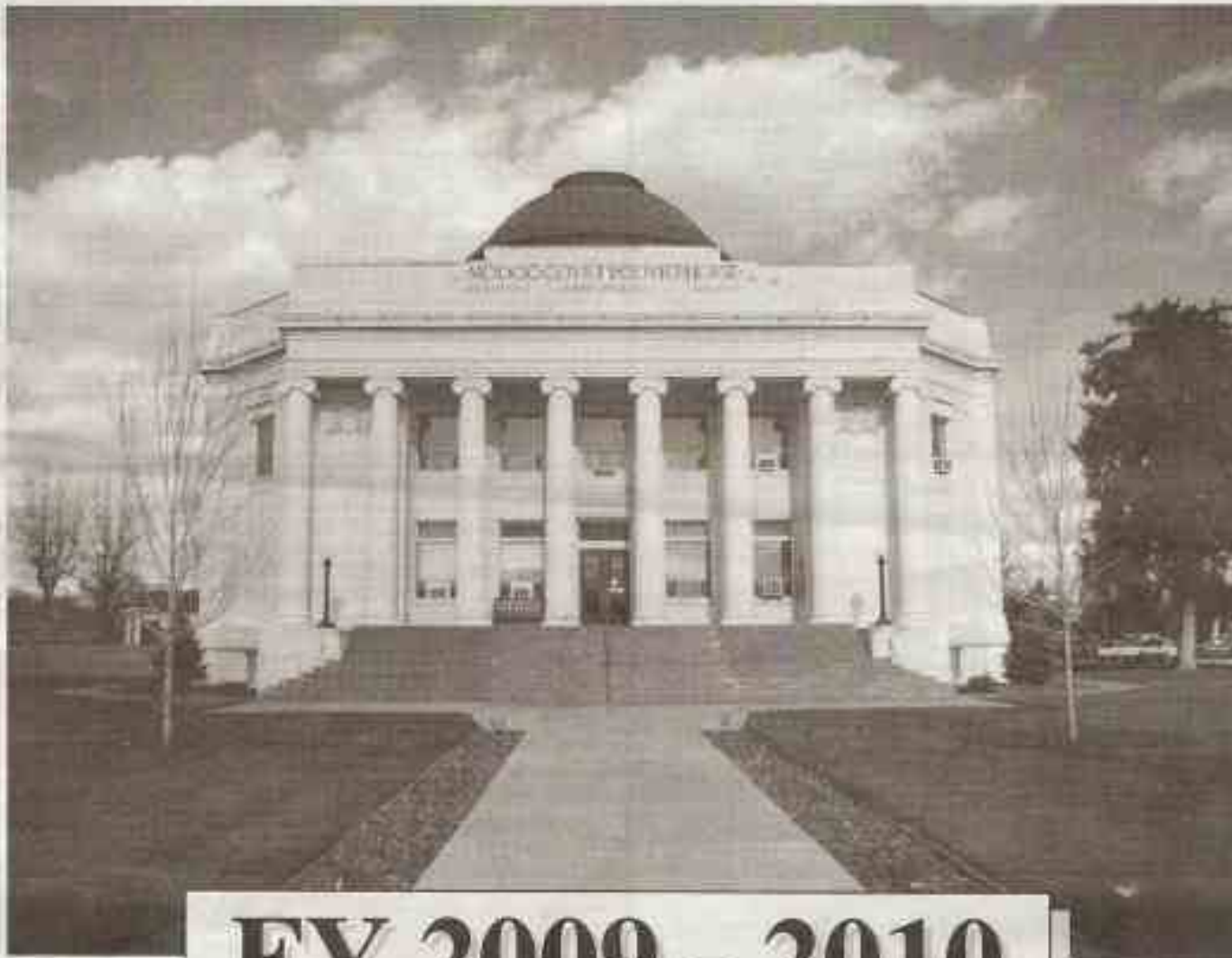




Modoc County Grand Jury Report



FY 2009 - 2010

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

<http://www.modocsuperiorcourt.ca.gov/grandjury.htm>

This is not an official site of the Modoc Grand Jury and has neither been reviewed nor approved by the Modoc Grand Jury. For comments or information contact ModocGrandJury@ gsmall.us

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Modoc County Superior Court

ROBERT A. BARCLAY JUSTICE CENTER

205 South East Street, Alturas , CA 96101

www.modocsuperiorcourt.ca.gov

(530) 233-6233

FRANCIS W. BARCLAY
PRESIDING JUDGE

LINDA OSTOJA
EXECUTIVE OFFICER

Dear Ladies and Gentlemen:

To all the members of the 2009-2010 Modoc County Grand Jury, please accept my sincere appreciation and the appreciation of the Superior Court for a job well done during these very difficult economic times. Your diligence, dedication and hard work is reflected in this year's report.

I want to specifically recognize and extend a special thank you to Shirley Swallow for her steadfast leadership as this year's foreperson. In particular, I would like to commend Ms. Swallow and other members who went above and beyond the call of duty by serving an additional term. You provided valuable guidance and continuity to the process. I also want to recognize those of you who have agreed to serve an additional term to provide guidance and continuity for next year's panel. Special recognition is also due to Mr. Glenn Lantz for his technical expertise and countless additional hours committed to generating this year's report.

As in previous years, I want to recognize and thank the Modoc Sheriff's Dept. for providing our grand jury with excellent meeting room facilities and greatly assisting them in performing their duties.

Finally, I want to recognize and give special tribute to Ms. Karen Kendall, who passed away during her tenure on this year's grand jury. Ms. Kendall was one of the few grand jurors who volunteered for multiple terms on the panel. Her guidance will be missed but she will remain in our thoughts and prayers.

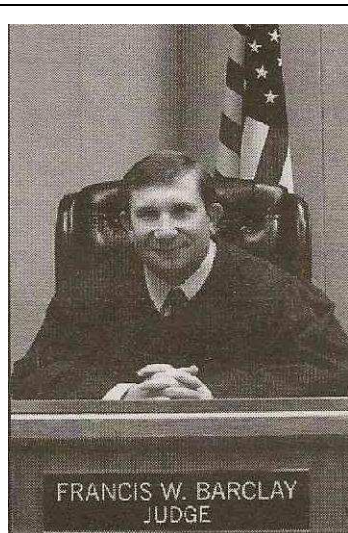
Serving as a grand juror is by no means an easy task and I commend each and every one of you for your sincere effort and commitment to addressing the complex, varied and sensitive issues presented to you.

Thanks once again for a job well done.

Sincerely,

Francis W. Barclay

Presiding Judge, Modoc Superior Court



I certify that the Modoc County Grand Jury Final Report complies with Title Four of the California Penal Code and direct the Court Executive Officer to accept and file the final report as a public document.

/s/ Francis W. Barclay date 06/30/2010

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PREFACE

The grand jury is part of the judicial branch of the government, mandated by the California Constitution, and is an arm of the Superior Court. The California Constitution requires grand juries of every county to inquire each year into the books, records, accounts, methods, systems and procedures of designated local governments. By completing its function your **civil** (non-criminal) grand jury encourages local government officials to use your tax dollars fairly and effectively. Although the constitution does not allow grand juries to manage local government, many local government officials carefully review and implement the recommendations in grand jury reports.

The 2009-2010 Modoc County Grand Jury was impaneled in July 2009 following the initial selection of jurors by Judge Francis W. Barclay and serve until June 30, 2010.

To fulfill its civic duties and general oversight responsibilities, your grand jury examines all aspects of county and city government, including special districts and joint power agencies. It investigates allegations of misconduct, malfeasance or misfeasance of public, city or county officials. The grand jury also receives complaints from citizens. While keeping all complaints confidential, each is acknowledged and considered by the panel. Those accepted under the grand jury jurisdiction are investigated carefully before any action is taken.

Your grand jury's final report was approved on May 19, 2010 and submitted to presiding Judge Francis W. Barclay as defined in Penal Code 933(a). This report covers local government issues and contains findings and recommendations that directly concern each taxpayer and citizen. Copies of the entire report and past reports and responses are made available on the Internet at <http://gsmall.us/GJ/> or <http://modocsuperiorcourt.ca.gov> and from your local public libraries. The report is also printed for distribution through the local newspaper.

Functions of the Civil Grand Jury

The primary function of the **civil** grand jury is to examine local government. The panel can exercise its power by publishing reports evaluating local government conditions and generally addressing specific issues with findings and recommendations. The County Board of Supervisors, City Council or affected agency must comment on each recommendation per California Penal Codes 933(c) and 933.05.

Under its review authority, the **civil** grand jury is specifically mandated and authorized to:

- Evaluate conditions of jails and detention centers within the county
- Investigate and report on questionable practices of such agencies or officials

Modoc County Grand Jury Roster 2009-2010

Michelle Anderson, Alturas
Pamela Baseheart, Alturas
Jean Bilodeaux, Cedarville
Kara Binning, Alturas
Mary Brown, Tulelake
Jeanne Cain, Alturas
Catherine Christensen, Likely
Ben Gooch, Cedarville
Del Howard, McArthur
Carol Irwin, Alturas
Carol Kuhn, New Pine Creek
Glenn Lantz, Alturas
T.J. (Jerry) Shea, Alturas
Shirley Swallow, Canby
Karen (Tena) Kendall, Canby (In Memoriam)

As foreperson of this year's grand jury, I would like to acknowledge and thank each and every member for their hard work and dedication. Being a panel member is a huge responsibility. You have spent many hours, driving hundreds of miles to fulfill your obligations. I am proud and honored to have been your foreperson.

Acknowledgements

The 2009-2010 grand jury extends a sincere thank you to Judge Francis W. Barclay for dealing with our issues, both legal and practical. We also wish to thank District Attorney Gary Woolverton for guidance on specific issues, and his overview of grand jury responsibilities.

The jury thanks Linda Ostoja, Modoc County Superior Court Executive Officer, for her professional and prompt response to grand jury needs.

The jury extends appreciation to county and city department heads and employees for their cooperation and assistance in its investigations.

The jury thanks the Modoc County Sheriff's Office and staff for providing the meeting room for regular and committee meetings.

Finally, we wish to thank Bruce T. Olson, American Grand Jury Foundation for the presentation of his expert training program and copyright permission.

ADDITIONAL ACKNOWLEDGEMENTS - The grand jury would like to thank the following departments and/or department heads for responding to the findings and recommendations of the 2008-2009 Grand Jury final report. All required responses were received in the allowable time limit set forth in the Response Required instructions.

California Department of Corrections and Rehabilitation * Cal Fire *
Modoc County Environmental Health Department * Modoc County Public
Health Department * Modoc County Sheriff-Coroner * Modoc County
Sheriff's Office Jail

Modoc County Department of Social Services * Modoc Joint Unified
Elementary Schools * Modoc Medical Center * Modoc County Board of
Supervisors * Modoc County Administration Office * Lookout Fire Distr.

REVIEW OF THE ALTURAS POLICE DEPARTMENT

AREA OF STUDY

Alturas Police Department

ISSUE

Required annual review

GENERAL

The Alturas Police Department is overseen by the Chief of Police. There are eight officers, of which two are reserve officers.

METHOD OF INVESTIGATION

- Toured police station
- Interviewed officer on duty
- Interviewed City of Alturas Treasurer regarding the Alturas Police Department budget.

FINDINGS

1. Officer is on duty at all times in the office or field.
2. CHP has a K-9 Unit that can be requested.
3. Their live scan (fingerprinting) machine is broken. Awaiting replacement.
4. Report writing software needs to be updated.

RECOMMENDATIONS

1. Pursue funding for new equipment and software.

FORMAL RESPONSE REQUIRED

Police Chief to respond to findings #3, 4 and recommendation #1 to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 933.05.

REVIEW OF DEVIL'S GARDEN CONSERVATION

CAMP #40

AREA OF STUDY

Devil's Garden Conservation Camp #40

ISSUE

Required annual review

GENERAL

The Devil's Garden Conservation Camp #40 is operated by the California Department of Corrections and Rehabilitation (CDCR) in cooperation with Cal Fire. A department of corrections lieutenant and sergeant supervise inmates while in camp. Cal Fire captains

supervise inmates on work details. This camp was established in 1988.

METHODS OF INVESTIGATION

- Interviewed (CDCR) Lieutenant and Cal Fire Division Chief.
- Toured facilities.

FINDINGS

1. There are approximately 120 inmates who perform conservation work and maintain facility grounds.
2. Continuing education is available by correspondence or on-line to inmates.
3. CDCR officers have received a 15% pay cut.
4. Inmates perform many duties including site cleanup, fire breaks, campground maintenance, cemetery clean up, community maintenance and fire hazard reduction.
5. Inmates provide additional services for county and city.

RECOMMENDATIONS

None

FORMAL RESPONSE REQUIRED

CDCR Lieutenant to respond to findings #1, 2 and 3 to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 933.05.

Cal Fire Chief to respond to findings #4 and 5 to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 933.05.

REVIEW OF MODOC COUNTY DEPARTMENT OF SOCIAL SERVICES

AREA OF STUDY

Modoc County Social Services

ISSUE

Periodic review

METHODS OF INVESTIGATION

- Interviewed director
- Toured facility
- Reviewed documents
- Reviewed state, federal and local statutes

FINDINGS

1. Department of Social Services funded by federal (50%), state (35%) and county funds (15%).
2. Department has experienced budget cuts for this fiscal year.

3. A budget forecast report is done on a quarterly basis for the state due to changing county needs and annually for federal.
4. County used restricted funds in past, funds have been replaced.
5. Director of department is also county public guardian.

RECOMMENDATIONS

1. Review and follow county fiscal procedures to ensure that Modoc County maintains compliance with federal and state law.
2. Continue monitoring this department regarding county's misuse of their restricted funds.

FORMAL RESPONSE REQUIRED

Social Services Director to respond to findings #1, 2, 3, 4 and 5 and recommendations # 1 and 2 to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 933.05.

REVIEW OF MODOC COUNTY LIBRARY

AREA OF STUDY

Modoc County Library

ISSUE

Periodic review

GENERAL

Modoc County Library provides services to the residents of Modoc County. These services are continually being updated with technological advances and staff training.

METHODS OF INVESTIGATION

- Interviewed Modoc County Librarian
- Reviewed documents
- Toured facility

FINDINGS

1. Full automation of the library and three branch libraries has been completed.
2. A new microfilm scanner system was provided by a grant from a non-profit foundation.
3. Library staff training opportunities are available and used from different sources.
4. Library reserve funds are being used for current budgeting. These funds are expected to be depleted within two years due to current county funding problems.
5. The library is functioning and advancing with new sources of revenue from non-profit foundations and matching grants.
6. The Davis Creek Library was closed due to budget constraints in current fiscal year.
7. Modoc County Office of Education's Media Center (The

River Center) adjacent to the library will be used as additional area for their technical services department and donated materials storage.

8. Internet availability at the library has provided a positive and valued impact by expanding the library's resources to those not having computers at home.
9. Internet availability at the library has allowed staff to answer reference questions in a timely manner.

RECOMMENDATIONS

1. Continue pursuing funding opportunities.
2. Reopen the Davis Creek Library Branch when budget constraints allow.

FORMAL RESPONSE REQUIRED

Modoc County Librarian to respond to findings #1, 2, 3,4,5,6,7, 8 and 9 and recommendations #1 and 2 to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 933.05.

REVIEW OF MODOC COUNTY

SHERIFF/CORONER JAIL INSPECTION

AREA OF STUDY

Modoc County Sheriff/Coroner

ISSUE

Mandatory annual inspection

GENERAL

- The Modoc County Jail is operated and managed by the Sheriff/Coroner and Undersheriff. The jail is located in Alturas adjacent to the Modoc County Sheriff's Office.

FINDINGS

1. A serious staffing shortage puts the jail in non-compliance under state law.
2. Non-compliance was created by the Board of Supervisors eliminating a second position under advisement of a former county administrative officer.
3. Possible lawsuit would not be defended by California State Board of Corrections resulting from non-compliance.
4. High tech 911 tracking equipment has been installed

RECOMMENDATIONS

1. Bring staffing requirements into compliance with state law.

FORMAL RESPONSE REQUIRED

Sheriff/Coroner to respond to findings #1, 2, 3 and 4 and recommendation #1 to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 933.05.

REVIEW OF MODOC JOINT UNIFIED SCHOOL

DISTRICT (MJUSD)

AREA OF STUDY

Modoc Joint Unified School District

ISSUE

Periodic review

GENERAL

The Modoc Joint Unified School District oversees Modoc County Schools within their jurisdiction adhering to state and federal mandated requirements, including budgetary concerns and quality education.

METHODS OF INVESTIGATION

- Interviewed Superintendent of MJUSD
- Reviewed documents

FINDINGS

1. "Instant Messenger" program allows faster communication to parents for absences, school closures and emergencies.
2. Salaries and insurance costs have increased.
3. MJUSD is faced with a declining student enrollment.
4. Arlington School in Canby to be closed at end of the current school year.
5. Reduced school funding from the state and county has affected the budget in a negative manner. This has caused a reduction and/or elimination of some programs, school jobs and extracurricular activities.
6. School busing is not a mandated service. Some bus services have been cut and/or curtailed due to funding reduction and increased cost.

RECOMMENDATIONS

1. Continue close monitoring of state and county education funds, including restricted funds.
2. Continue to implement long-term planning goals.

FORMAL RESPONSE REQUIRED

Superintendent of MJUSD to respond to findings #1, 2, 3, 4, 5 and 6 and recommendations #1 and 2 to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 933.05.

REVIEW OF MODOC MEDICAL CENTER (MMC)

AREAS OF STUDY

Administration

Billing Department

Clinic

Finance Department

ISSUE

Continuing review

GENERAL

Modoc Medical Center is reviewed annually due to their debt to Modoc County, turnover of administrative leadership, past billing inadequacies and clinic facilities.

METHODS OF INVESTIGATION

- Interviewed current interim Chief Executive Officer (CEO)
- Interviewed former CEO
- Interviewed Chief Financial Officer (CFO)
- Interviewed Department Head of Medical Records
- Interviewed Medical Chief of Staff/Clinic Director
- Reviewed documents

AREA OF STUDY

Administration

FINDINGS

1. MMC has had seven chief executive officers in the past four years, three were permanent, four were interim.
2. The previous permanent CEO started the process of reversing MMC's debt to the county and improving the morale of employees throughout the hospital.
3. The previous permanent CEO's policy was "return to the basics."
4. The previous permanent CEO reported to the Modoc County Board of Supervisors and resigned due to the BOS "not letting me do my job." He further stated "the CEO position is paralyzed due to personal agendas by the BOS."
5. A hospital board of directors was established, passed and adopted by the BOS on April 6, 2010.

RECOMMENDATIONS

1. The new hospital board of directors should have a balance of disciplines including a working knowledge of health care services and health care administration.
2. Hire a well qualified permanent CEO who will maintain a long term and positive relationship with MMC and Modoc County.

FORMAL RESPONSE REQUIRED

MMC current interim CEO to respond to findings #1 and 5 and recommendations #1 and 2 within time frame listed at end of this report.

AREA OF STUDY

Billing Department

FINDINGS

1. An extensive review of accounts receivable/payable was done this past year.
2. Accounts receivable identified as non-collectible were tallied and written off.
3. A restructuring of the business office was completed.
4. A contract for billing services was requested. In lieu of a contract, a copy of an Engagement Letter for Billing Services was obtained and reviewed.
5. MMC has an Engagement Letter for Billing Services with an outside medical billing service which results in timely, accurate billings with faster receipt of revenue. Billing service fee is \$12,000 per month plus incentive.
6. There was no evidence that a bidding process was used when obtaining the billing service.
7. The monthly average billings are \$3 million with a realistic return of approximately \$1.5 million.
8. The Chargemaster software, which provides a list of every service MMC provides, has now been updated with current reimbursement rates.

RECOMMENDATIONS

1. Billing department employees should be required to review their department's procedures manual on a regular basis.
2. All non-collectable accounts should be reviewed and written-off in a timely manner.
3. All contracts providing services should include a clear and concise description of services being contracted. All contracts should be subject to a bidding process.

FORMAL RESPONSE REQUIRED

Head of MMC Billing Department to respond to findings #1, 2, 3, 4, 5, 6, 7 and 8 and recommendations #1, 2 and 3 within time frame listed at end of this report.

AREA OF STUDY

Clinic

FINDINGS

1. Clinic director has contracted with MMC under eight changes of administration since 2007.
2. Clinic director considered it a blow to have the previous permanent CEO leave
3. The number one community health issue is obesity which affects all age groups. Obesity contributes directly to diabetes, hypertension and heart disease. Smoking is also a top issue.
4. There are few providers in the community who deal in prevention, as providers don't get paid to deal with prevention issues.
5. The Clinic Directors biggest challenge is to attract health care providers who want to stay in the area and will work full

time. Many medical providers do not want full time work. MMC salaries are competitive.

6. There is a serious need for anesthesiology services in Modoc County.
7. Storage space within the clinic is inadequate.
8. A new medical data program computer system is needed.
9. Clinic Director is in favor of a hospital district with a Board of Directors who would have sole responsibility and authority for the hospital's direction.

RECOMMENDATIONS

1. Continue to pursue employment of additional doctors for clinic, hospital and anesthesiology.
2. Acquire additional storage space when fiscally possible.
3. Acquire new updated computer equipment when fiscally possible.

FORMAL RESPONSE REQUIRED

Clinic Director to respond to findings #1, 2, 3, 4, 5, 6, 7, 8 and 9 and recommendations #1, 2 and 3 within time frame listed at end of this report.

AREA OF STUDY

Finance Department

FINDINGS

1. Chief Financial Officer (CFO) has been employed by MMC since 9/2007 and is a Certified Public Accountant (CPA) licensed in California and Nevada.
2. The CFO works closely with the Modoc County Auditor to prioritize hospital accounts payable on a weekly basis.
3. MMC's debt to Modoc County was \$12,073,772 as of May 31, 2010.
4. This debt must be repaid to Modoc County with interest.
5. Medicare has overpaid MMC accounts since Critical Access designation was awarded. This amount must be refunded to Medicare with interest. This includes amounts prior to 6/30/09. Medicare has accepted a 5 year extended payment plan for the amount due prior to 6/30/09 of \$741,770. Scheduled payments are \$16,732 per month including interest at 10.875%.
6. MMC has applied for the same payment terms for an estimated additional amount due Medicare through 6/30/10 of \$455,026.
7. MediCal has overpaid MMC which must be refunded with interest. The amount owed is \$124,269. An extended payment plan has been requested for this amount.
8. Overpayment from Medicare and MediCal was not a result of anything that MMC did or any of their billing procedures.
9. California and federal laws require medical services be

provided to all patients, regardless of their ability to pay.

10. Charity care is provided in the hospital budget.
11. Since last year's grand jury review, MMC has made progress in reimbursing the county. From 6/30/09 to 4/30/10 MMC reported a net profit of \$351,000.
12. The number of CT scans average 83.75 per month generating revenues of approximately \$125,625.
13. Additional services offered MMC patients include outpatient surgeries and Saturday clinic services. New services under consideration are respiratory therapy, wound care program, cataract surgeries and visiting cardiologist.

RECOMMENDATIONS

1. CFO to continue working closely with Modoc County Auditor to prioritize payments on MMC's debts. This open communication should continue until Modoc County's crisis relating to the hospital debt is rectified.

FORMAL RESPONSE REQUIRED

MMC CFO to respond to findings #1, 2, 3, 4, 5, 6, 7, 8, 9,10,11,12 and 13 and recommendation #1 within time frame listed at end of this report.

AREA OF STUDY

Medical Records Department

FINDINGS

1. The department head has been with MMC since 1990, the last five years as head of the Medical Records department.
2. This department has three full time employees.
3. An additional employee budgeted for was eliminated due to the county's financial crisis.
4. The physical space housing this department is crowded.
5. Due to a reduction in department budgets, funding for employee's continuing education is this department head's biggest challenge.

RECOMMENDATIONS

1. More storage area is needed to accommodate a growing number of medical records.
2. Hire an additional employee for this department as soon as fiscally possible.
3. Provide continuing education to department employees as required.

FORMAL RESPONSE REQUIRED

Head of MMC Medical Records Department to respond to findings #1, 2, 3, 4 and 5 and recommendations #1, 2 and 3 within time frame listed at end of this report.

FORMAL RESPONSE REQUIRED TIME FRAME

Provide all responses to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 913.05.

REVIEW OF MODOC TRANSPORTATION AGENCY

(MTA) AND SAGE STAGE

AREA OF STUDY

Funding and operation

ISSUE

Review

GENERAL

Sage Stage provides pick up and transportation for the residents of Modoc County. Transportation areas include Modoc County, southern Oregon, Reno, NV and northern California. The Modoc County Transportation Commission (MCTC) was created in 1972 by the Board of Supervisors (BOS) per California Code 29535. The Modoc Transportation Agency (MTA) was created in 1997. The MTA is operated by three officers which include the Executive Director handling all day to day operations and two Modoc County Representatives, one of which is a MV Transportation person.

METHODS OF INVESTIGATION

Interviewed executive director Reviewed documents

FINDINGS

1. The MTA operates on California State Transit Assistance Funds (65%), a Modoc County transportation sales tax (1/4%), California fuel tax (17%) and federal funds (18%).
2. Additional funds and funding are generated from grant writing by the executive director of Sage Stage.
3. Executive director monitors budget, tracking costs to ensure continued operation.
4. Sage Stage reported an annual operating profit.
5. MCTC and MTA oversee operations run by contractor MV Transportation.
6. MCTC and MTA are separate and stand alone from any other county entity.
7. Drivers are employed by MV Transportation, Inc., a third-party contract operator for the MTA/Sage Stage.

RECOMENDATIONS

1. Continue researching and writing grants.
2. Continue monitoring of state and county budgets to ensure continued operation.

FORMAL RESPONSE REQUIRED

Executive Director to respond to findings #1, 2, 3, 4, 5, 6 and 7 and recommendations #1 and 2 to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 933.05.

COMPLAINT AGAINST MODOC COUNTY
SHERIFF/CORONER PROCEDURES

AREA OF STUDY

Modoc County Sheriff's Office

ISSUES AND/OR COMPLAINT

The grand jury received a citizen's complaint alleging misconduct, improper practices, policies and procedures.

METHOD OF INVESTIGATION

- Interviewed Sheriff/Coroner on status of complaint.

FINDINGS

1. Sheriff/Coroner assured the grand jury that an internal investigation was on going for this citizen's complaint.
2. Grand jury cannot address departmental policy matters.

RECOMMENDATIONS

1. 2010-2011 Grand Jury to follow up on complaint.

FORMAL RESPONSE REQUIRED

Sheriff/Coroner to respond to finding #1 and recommendation #1 to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 933.05.

COMPLAINT OF MISUSE OF RESTRICTED USE FUNDS BY
MODOC COUNTY BOARD OF SUPERVISORS AREA OF
STUDY

Modoc County Board of Supervisors

ISSUES AND/OR COMPLAINT

The grand jury received a citizen's complaint alleging misuse of entrusted (restricted use) funds which has been occurring for several years.

METHODS OF INVESTIGATION

- Interviewed Board of Supervisors
- Reviewed documents

FINDINGS

1. Restricted school and road department funds were used to support Modoc Medical Center.
2. Paper trail verified misuse of restricted funds began at least two years ago.
3. Board of supervisors stated they were unaware of the use of restricted funds.
4. Any borrowed funds must be repaid no later than June 30th of

that fiscal year with accrued interest paid at that time.

5. Modoc County Government fiscal year ends June 30 and starts new July 1 of each year.

RECOMMENDATIONS

1. Board of Supervisors should become more knowledgeable of all county budgetary items, including use of restricted funds.
2. Board of Supervisors should review and comply with laws associated with restricted funds.
3. All restricted funds should be monitored and disclosed on a monthly basis at open board of supervisor's public meetings.

FORMAL RESPONSE REQUIRED

Board of Supervisors required response to findings #1, 2, 3, 4 and 5 and recommendations #1, 2 and 3 to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 933.05.

COMPLAINT MODOC COUNTY BOARD OF SUPERVISORS LEAKED CONFIDENTIAL INFORMATION FROM CLOSED SESSION MEETING.

AREA OF STUDY

Modoc County Board of Supervisors

ISSUES AND/OR COMPLAINT

The grand jury received a citizen's complaint alleging leaking of confidential information, both written and oral, from closed sessions of board of supervisors meetings. Further alleged that this practice has been going on for several years.

METHODS OF INVESTIGATION

- Interviewed board of supervisors
- Interviewed complainant
- Interviewed witness by telephone

FINDINGS

1. Confidential report was distributed to members of the public.
2. Confidential report was incomplete.
3. Leak caused two people to be terminated from employment.
4. The complainant can initiate action against the board of supervisors.

RECOMMENDATIONS

1. When in closed session, board of supervisors to follow legal procedures regarding confidential information.
2. Require training and/or retraining of all board of supervisors,

Page 10 - Modoc County Grand Jury Report, 2010

including review of Brown Act and confidentiality procedures.

3. Board of Supervisors to immediately cease this kind of illegal and inappropriate behavior.

FORMAL RESPONSE REQUIRED

Board of Supervisors to respond to findings #1, 2, 3 and 4 and recommendations #1, 2 and 3 to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 933.05.

COMPLAINT MODOC TREASURER AND PREVIOUS MODOC COUNTY AUDITOR ACTED FISCALLY IRRESPONSIBLE WITH COUNTY FUNDS.

AREA OF STUDY

Modoc County Treasurer

Previous Modoc County Auditor

ISSUES AND/OR COMPLAINTS

The grand jury received a citizen's complaint alleging fiscal irresponsibility, lack of fiduciary responsibilities, mismanagement and misappropriation of county funds.

METHODS OF INVESTIGATION

- Interviewed complainant
- Interviewed treasurer
- Interviewed former auditor

FINDINGS

1. The alleged actions took place from 2003-2008.
2. Treasurer and past auditor had power to refuse to pay warrants.
3. Treasurer and past auditor were intimidated to make payments for Modoc Medical Center.
4. Board of Supervisors had been advised individually of shortage of county funds.
5. Board of Supervisors receive a monthly report of the budget provided by county treasurer.

RECOMMENDATIONS

1. County Treasurer to take fiduciary responsibility in protecting county funds.
2. Current County Auditor to take fiduciary responsibility in protecting county funds.
3. 2010-2011 grand jury to follow up on this investigation.

FORMAL RESPONSE REQUIRED

County Treasurer to respond to findings #1, 2, 3, 4 and 5 and recommendation # 1 to Judge Francis W. Barclay within 90 days of publication of this report pursuant to Penal Code 933(c) and 933.05.

Current County Auditor to respond to recommendation #2 to Judge

Response Required

On September 30, 1996, a law was signed approving extensive changes in the legal requirements for parties responding to Grand Jury Findings and Recommendations (California Penal Code 933.05). Each respondent identified in this report should become familiar with this penal code and, if in doubt, consult legal counsel before responding.

How to Respond to Findings

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

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

How to Report Action in Response to Recommendations

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

1. Has been implemented, with a summary of implemented activities.
2. Have 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 cases, the law requires a detailed outline of the analysis and time frame not to exceed six months. The complete analysis or study must be submitted to the officer, director or governing board of the entity in question.
4. Will not be implemented because it is either unwarranted or unreasonable with an explanation and supporting facts.

Timing of Responses to Findings and Recommendations

Per Penal Code 933(c) states: "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. 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.