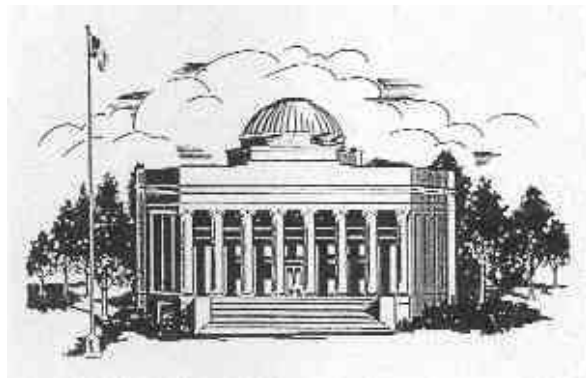


# Modoc County Grand Jury

## FY 2003/04 Report



*Scanned from the Modoc Record  
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Last modified 10/22/2005 11:53:06 AM gts.*

**June 25, 2004**

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# Functions of the Grand Jury

The Grand Jury is part of the judicial branch of the government, mandated by the California Constitution, and an arm of the Superior Court. The primary function of the Grand Jury is to examine local government. 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 the citizens of Modoc County.

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

1. Reports - Published report 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 recommendation as per Penal( 933.05. (When crimes are not charged but suspected, special reports with documentation may refer to specific issues to other authority.)
2. Accusations - Formal written complaints accusing a government official or employee of misconduct. (Conviction would result in removal from office/duties rather than criminal penalties.)
3. Indictments - Formally charging a person with a crime.

The Grand Jury is specifically authorized to:

- Inspect and audit local entity 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**

LARRY L. DIER  
Superior Court Judge

FRANCIS W. BARCLAY  
Superior Court Judge

Robert A. Barclay Justice Center  
205 South East Street Alturas, CA 96101  
Phone (530) 233-6526 Fax (530) 233-6500

VICKI L. HUGEHEES  
Court Executive Office

July 1, 2004

To: Grand Jury Members

Dear Ladies and Gentlemen:

As your service on the 2003-2004 Modoc County Grand Jury comes to an end, it is my pleasure and privilege to write to you to express my sincere gratitude to all of you for your dedication and hard work this year. A special debt of gratitude is owed to Robert "Chico" Pedotti for his capable leadership as Foreperson and Sophie Sheppard for all of her work as Secretary.

I realize that it was a difficult term due to the short period of time you were given to address the varied and complex issues presented to you. However, I have been extremely impressed with your enthusiasm and sincere commitment to quality and congratulate you on the job you have done and the report you have prepared.

Thanks for a job well done and a special thanks to the several of you that have gone beyond the call of duty and agreed to serve a second term on the 2004-2005 Grand **Jury**.

Very Truly Yours,

Francis W. Barclay

## **Acknowledgements**

The Grand Jury acknowledges Judges Dier and Barclay for their counsel on matters both legal and practical.

We express thanks to the Superior Court staff for their generous help in providing the Jury with comfortable and secure quarters for assembly and for staff support.

We extend our thanks to the Modoc County Board of Supervisors, Modoc County department heads and staff for their cooperation in our investigations.

In addition we give special thanks to the special districts for their cooperation and assistance in our investigations.

We appreciate the Modoc County Record for helping to make this Grand Jury report widely available to concerned citizens and for keeping within our limited budget.

**Modoc County Grand Jury  
2003-2004**

*2003/2004 Grand Jury Report*

# Modoc County Grand Jury

205 South East Street  
Alturas, California 9 6101

June 25,2004

To: Judge Barclay,  
the 2003-2004 Modoc County Grand Jury  
and the Citizens of Modoc County

I thank Judge Barclay and the Superior Court for the honor and privilege of selection as a Grand Juror.

I applaud my fellow Jurors, one and all, for their thoughtful consideration, integrity and dedication in accomplishing complex investigations into the operations of local government as well as receiving and investigating citizen complaints while under the time constraints imposed by a half term. This report is the result of that effort.

To the Citizens of Modoc County, I trust that you will find this Jury has served you well as your advocate and I urge you to serve as a Grand Juror when given the opportunity. As one Juror expressed, "it has made a better citizen of me".

Sincerely,

Robert C. Pedotti, foreman  
The 2003-2004 Modoc County Grand Jury

*Additional copies of this FY 2003-04 Grand Jury Report are available at the Superior Court. The legally required responses to this report as outlined on page 6 are a matter of public record and may be obtained by making a request to the Superior Court.*

## 2003-2004 Modoc County Grand Jury Roster

Carrie Lee Anderson	Johnalynn O'Malley
Beverly Carstens	Peggy Page
Debra Cockrell	Robert Pedotti
Doug Dollarhide	Virginia Pierce
Jodi Frey	Lynne Schluter
Robert Hagerud	Sophie Sheppard
Mike Hickman	Don Steger
Jerome Hoxsey	Hans Van Nes
Linda Moore	

# Notice to Respondents

## **Response Requirements**

On January 1, 1997, an extensive change in the legal requirements affecting respondents and responses to 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**

For the assistance of all 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 disagreement.

## **How to Report Action in Response to Recommendations:**

Recommendations by the Grand Jury require action(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 frame 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 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 the 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**

### **Areas of Study**

#### **Special Districts**

#### **County Auditor/Recorder**

#### **Informing County Supervisors on Proposed Special Districts Reform Legislation – SB 1272**

### **General Report:**

Grand Jurors met with County Auditor/ Recorder, Board of Supervisors, and Administrative Services Director. These functions were investigated and reviewed:

- General functions of the county auditor and office.
- Proposed changes in statutes for special districts by Senate Bill 1272
- The consequences to special districts in the county if current code requirements are not met regarding these districts.
- Written request of 38 special districts for copies of audit, organizational charts and policy and procedures.

### **Issues:**

**Auditor/Recorder** - Jurors met with the Auditor/Recorder and discussed the following:

- Department organization.
- Audit trails (print outs) prepared for each department and special district in the county.
- The 2003 county audit results.
- The lack of audits on special district funds.

**Special Districts** - Jurors requested copies of current audit, organizational charts and policy procedures from 38 special districts, such as fire, irrigation, cemetery, community service, and school districts in the county.

Jurors met with the Board of Supervisors regarding proposed S B 1272 and audits of special districts.

### **Findings:**

Jurors observed that the office of the Auditor/Recorder is run on a professional level and general accounting procedures are followed. There are audit trails for each county department or special district for which the county receives and disburses funds.

There are two kinds of special districts:

- Dependent, with advisory boards, elected or appointed, governed by a larger entity, for example the Board of Supervisors; and
- Independent, governed by their own elected or appointed bodies.

For the most part, special districts have not had audits done for several years due to a lack of funds. Government Code Section 26909 requires special districts to have an audit annually, but, under certain conditions, the district can substitute a biennial audit covering a two year period, or the Board of Supervisors may substitute a financial review if the Board of Supervisors is the governing board of the district and the revenues do not exceed \$100,000, and the districts revenues/expenditures are transacted through the county financial systems and other special conditions are met.

Jurors found there have been certain county funds that were not run through the county accounting system and therefore were not included in the county audit.

**Recommendations:**

- All county funds/financial transactions should be detailed in the county auditor/recorder's records.
- The county should have an unqualified audit of **all** funds that are **administered or expended by the County**.
- Finances of special districts must be audited annually, biennially or a financial review must be done annually in accordance with Government Code Section 26909.
- Board of Supervisors must meet their obligations to special districts as required by Government Code Section 26909.
- County auditor/recorder must request copies of annual audits from those special districts that are required by code to provide them.

**Respondents:**

Board of Supervisors  
County Counsel  
County Auditor/Recorder

**Special District/Non-Profit/General Government**

**Areas of Study**

Hot Springs Valley Irrigation District (HSVID)  
Modoc County Special Districts  
Modoc County Administration  
District Attorney Conflict of Interest  
Contracts of Modoc Medical Clinic Doctors  
Nepotism in County Government

**Hot Springs Valley Irrigation District (HSVID)**

**Issues:**

The Grand Jury reviewed the legally required response from HSVID to the FY 2002-03 Grand Jury recommendations.

- Elections procedures are being followed satisfactorily.
- Conflict of dual elective office issues has been resolved by the resignation of the involved board member.
- The State Water Resources Control Board cease-and-desist orders are covering district and downstream water rights issues.

**Procedures:**

Since satisfactory answers for the following questions were not received in response to the FY 2002-03 Grand Jury Report, the FY 2003-04 Grand Jury submitted the following questions:

- Has the recommended and required audit been completed?
- Requested HSVID provide Code support to its contention Board members are not required to file Form 700.

In addition, the Grand Jury requested HSVID furnish copies of recent cease-and-desist orders from the State Water Resources Control Board. The Grand Jury also informed HSVID that the special district is subject to conflict of interest code requirements according to the Fair Political Practices Commission (FPPC).

**Findings:**

- HSVID acknowledges its responsibility for but has not yet attained the required audit.
- Forms 700 for each current HSVID Board member have been completed and filed with the County Clerk.
- HSVID acknowledges its responsibility for having a conflict of interest code, and for meeting state requirements in this regard. As of this writing, the code has not been filed with the county.

**Recommendations:**

The FY 2004-05 Grand Jury should follow this issue to assure that the findings listed above are fulfilled and that HSVID has filed a copy of their annual audit with the CA State Controller and the Modoc County Auditor.

**Respondents:**

HSVID

**Special Districts:****Issues:**

After finding that some levels of county government were not in compliance with code requirements for audit, conflict of interest and up-date of bylaws, the Grand Jury requested this information from all special districts.

**Procedures:**

- The Grand Jury informed the Board of Supervisors and the County Administrative Office of the above lack of compliance and informed them of proposed legislation, S B 1272, which, if enacted could place enforcement of current code in state hands instead of at the county level.
- The Grand Jury met with the auditor to determine the cost of bringing the County into compliance regarding its obligations to audit dependent special districts, and the requirement for independent districts to file copies of their audits with the county.

**Findings:**

- The Grand Jury found and brought to the attention of the Board of Supervisors violations of Government Code Section 26909 regarding the audit of some special districts.
- The Grand Jury found that the County Administrative Office was unaware of, or had not communicated, the above requirements to the Board of Supervisors or the special districts.
- Special district volunteers have received little advice or help from the county as responses to Grand **Jury** questions indicate that most special districts are unaware of audit, conflict of interest and other legal issues pertaining to special districts.
- Most special districts in the county are made up of volunteers who perform many vital county functions with little or no compensation.

**Recommendations:**

- The Board of Supervisors provide for aid to special districts, both dependent and independent, in achieving compliance with existing codes.
- The Board of Supervisors provide adequate legal counsel to review the status of special districts and county responsibility to those districts on a regular basis and to advise county staff and special district volunteers.

- The Board of Supervisors meet its obligations regarding audits of special districts.
- The Board of Supervisors review the policies of all special districts not specifically exempted by resolution 95-08 to ensure that those special districts are in compliance with Government Code Section 87300 regarding conflict of interest.

**Respondents:**

Board of Supervisors  
 County Counsel  
 County Auditor

**County Administration**

**Issues:**

Grand Jury review of several county programs -- Public Guardian, Special Districts, Tobacco Settlement Funds and lack of compliance with various codes -- reveals problems in county administration. These issues reach the top of county government-the County Administrative Office (CAO) and the Board of Supervisors (BOS). The Grand Jury finds that the CAO is unaware of, or indifferent to, certain code and procedural requirements of county governance.

**Findings:**

Granting the fact that Modoc County is a small rural governmental entity with limited funding, we offer these findings:

- It appears the BOS is overly reliant on the CAO regarding issues that rightfully should be the BOS responsibility.
- There are issues that should go before the BOS without having to receive prior submittal approval from the CAO. Some budgetary and financial issues come before the BOS. Other equally important issues such as code compliance, performance evaluations for department heads, and public service issues do not.
- The BOS is receiving some of these issues only when they are at crisis level. To wit: the current imbroglio regarding the overpayment of some several hundred thousand dollars for surface maintenance to a contractor.
- The Grand Jury found that the BOS has not conducted annual performance reviews of the County Administrative Services Director.
- The CAO serves at the pleasure and under the direction of the Modoc County Board of Supervisors. Without closer direction by the BOS and clearer delineation of authority and responsibility, this office is operating too independently for the good of the county and the public served.

**Recommendations:**

- The BOS should require that the Board Chairperson be consulted by the CAO before proposed agenda items are rejected.
- The Board of Supervisors should conduct an annual performance review of the County Administrative Services Director.
- An annual performance review should be conducted by the CAO on all department heads under CAO supervision and these reviews should be analyzed by the BOS with the County Administrative Services Director in closed session. If an employee reviewed disagrees significantly with the evaluation, that employee should be heard by the BOS in closed session.

**Respondents:**

Board of Supervisors  
Administrative Services Director

**District Attorney Conflict-of-Interest**

**Issues:**

The Grand Jury received a letter from the California Department of Justice, Attorney General's Office in response to a request made by the FY2002-03 Grand Jury to review the evidence it had collected on an investigation. That jury had no available legal counsel because of a written declaration of conflict of interest from the District Attorney, a declaration of conflict of interest from the Judge, and County Counsel could not provide advice other than for civil issues.

**Procedures:**

The Grand Jury reviewed the investigation by the FY 2002-03 Grand Jury. The 2003-04 Grand Jury wrote a letter asking the District Attorney to explain his actions.

**Findings:**

- The Attorney General's Office declined to review the evidence collected by the FY 2002-03 Grand Jury, citing an opinion from the District Attorney.
- The 2003-04 Grand Jury's review indicated that the 2002/03 Grand Jury's investigations gathered evidence of possible criminal issues.
- The 2003-04 Grand Jury finds that the District Attorney, after declaring conflict-of-interest, submitted an opinion regarding the ongoing 2002-03 Grand Jury investigation to the Attorney General that may have interfered with access to counsel by the 2003-04 Grand Jury.

**Recommendations:**

The 2003-04 Grand Jury recommends that the Office of the District Attorney refrain from offering any opinion on any matter in which it has declared a conflict of interest.

**Respondents:**

Modoc County District Attorney

**Contract with Modoc Medical Clinic Doctors**

**Issues:**

A complaint was received alleging violation of IRS rules governing independent contractor status in the contracts with doctors at Modoc Medical Center Clinic.

**Procedures:**

The Grand Jury obtained and compared the contracts of the two doctors to the IRS rules.

**Findings:**

Evidence supports the status of the contracts as for independent, contractors, not county employees.

**Recommendations:**

None

**Respondents:**

None

## **Nepotism in County Government**

**Issues:** In reviewing the 2002-03 Modoc County Management Report, the Grand Jury found that the outside auditor expressed nepotism in county offices as a concern.

**Findings:** Review of county ordinances and positions held within county government shows evidence of nepotism.

**Recommendations:** The Grand Jury recommends that the Modoc County Board of Supervisors review relevant county ordinances and all county departments to be sure that nepotism provisions are not being violated.

### **Respondents:**

Modoc County Board of Supervisors  
Modoc County Counsel

## **Public Works/Schools**

### **Area of Study**

**Modoc County Road/Public Works Departments  
Schools, Modoc County Office of Education**

### **Modoc County Road/Public Works Departments**

The Grand Jury interviewed the Modoc County Road Commissioner, Deputy Road Commissioner and the Deputy Public Works Director. Jurors reviewed organizational charts, job descriptions, status of projects and available funding sources and department policies.

### **Issues:**

Two (2) separate complaints were received during this abbreviated tenure of the Grand Jury. Individuals raised concerns alleging:

- Negligence by the Department of Public Works regarding the enforcement of its condemnation and building habitability policy/procedures.
- The Road Department's inappropriate changing of county road designations.

### **Procedures:**

On January 8, 2004 the Jury met with the Director and Deputy Director of the Public Works Department. The jurors were made aware of the laws that apply to condemnation as well as the procedure for enforcing living conditions when a building is being occupied under what is believed to be less than desirable conditions. Jury members also reviewed the statutes relating to the alleged violations. On April 19, 2004 the Jury met with the Modoc County Road Commissioner/ Director of Public Works, and the Deputy Road Commissioner to discuss the second complaint regarding road signs. A thorough explanation was presented regarding the mandates involving the distribution and maintenance of county road signs. The jurors also reviewed the applicable statutes governing this procedure.

### **Findings:**

- There are laws and mandatory procedures governing the condemnation and habitability of buildings. The Modoc County Public Works Department appears to be following those laws and procedures. Currently, there are no condemned buildings in Modoc County.
- There are state laws and mandatory policies that dictate how and when road signs shall be used at such time that a private road becomes a county road. The Modoc County Road Department

appears to be following those laws and guidelines. Modoc County roads are assigned consecutive numbers as they are accepted into the county maintained road system.

**Recommendations:**

None

**Schools, Modoc County Office of Education**

**General Report:**

The Grand Jury interviewed the outgoing Modoc County School Superintendent as well as the Superintendent who will be taking over the administration effective July 6, 2004. Jurors reviewed organizational charts, job descriptions, status of projects, available funding sources, and department policies.

**Issues:**

While there were no specific issues to be addressed regarding this department, the Grand Jury was concerned about the transition of the department's administration from one superintendent to another.

**Findings:**

It was determined by the Grand Jury that the upcoming change in administration will be of no consequence to the department and the existing programs and department functions will remain undisturbed.

**Recommendations:**

None

**Health and Human Services/ Hospital**

**Areas of Study**

**County Departments of Social Services, Mental Health, Public Health, and Drug & Alcohol**

**Hospitals**

**Issues:**

The Grand Jury received only one written complaint pertaining to these departments; but because of the importance of the Public Guardian position in providing essential services to conservatees, the Jury focused on the Social Services Department and met with the Director several times. Grand Jurors also met with various Directors/Deputy Directors of Mental Health, Public Health & Drug & Alcohol.

The Grand Jury visited Hospital Board Meetings of Surprise Valley Hospital and Modoc Medical Center. The Grand Jury received one complaint pertaining to Modoc Medical Center.

**County Departments of Social Services**

**Issues:**

- Qualifications of Public Guardian.
- Inventories of conservatee assets.
- Educational information pertaining to public guardianship.
- Timely payment of conservatee financial obligations.

## **Findings:**

- Reviewing Class Specifications for Public Guardian as defined by Modoc County, the Jury determined the current job description for the position of Public Guardian is adequate. The county attempted to rectify staffing the Public Guardian position by combining the positions of Director of Social Services with that of Public Guardian. The effect of combining these two positions interferes with the system of checks and balances intended for the Public Guardian position.
- Conservatee physical assets presently in storage have been inventoried.
- After appointment of guardianship, ninety (90) days is the time limit to inventory a new client's assets pursuant to California Probate Code Sections 2610 through 2615. This Grand Jury has been assured that assets are being inventoried within the ninety day limit.
- Modoc County does have a brochure for family or friends explaining the formality of entering a conservatorship.
- The Jury was assured that timely payments of conservatees' financial obligations are being accomplished.
- The Department of Social Services is currently responsible for 30 conservatees, twenty in-county and ten outside the county, yet does not have a full-time Public Guardian.

## **Recommendations:**

The Grand Jury recommends that the Department of Social Services seek to fill the important position of Public Guardian as soon as possible.

## **Respondents:**

County Board of Supervisors  
Department of Social Services

## **Hospitals**

### **Issues:**

Late in May 2004, the Grand Jury received a complaint concerning the approximate \$4 million debt that Modoc County is carrying for the Modoc Medical Center. The complaint alleges that this is unfair to Modoc County taxpayers. The complaint further alleges it is also unfair to other departments in the county to function with decreased budgets due to this debt.

The complaint was received so late in the FY 2003-04 Grand Jury's six month term that this jury is referring this new complaint to the Grand Jury of 2004/2005 for investigation.

### **Respondents:**

None

## **Law Enforcement**

### **Areas of Study**

**Required Annual Inspection of Devil's Garden Conservation Camp**

**Required Annual Inspection of Modoc County Jail 911 Dispatch**

### **Devil's Garden Conservation Camp**

Members of the Grand Jury visited the Devil's Garden conservation Camp. They observed excellent cooperation and a great working relationship between the staffs of the California Department of

Corrections and the California Department of Forestry. Additionally, the jurors noted concerted efforts to purchase as many supplies as possible from local businesses. They provide a wide variety of worthwhile services to the Modoc community.

**Recommendations:**

None

**Respondents:**

None

**Required Annual Inspection of Modoc County Jail**

Members of the Grand Jury met with the Sheriff and Under-Sheriff who discussed ongoing operations of the jail, answered questions about operations and procedures of the jail. Jurors inquired about inmate treatment, toured the jail and found the facility to be clean, well-kept, and operations organized.

**Recommendations:**

None

**Respondents:**

None

**911 Dispatch**

**Issues:**

Because of a complaint regarding 911 dispatch operations, jurors conducted a detailed inspection of 911 dispatch. They were briefed on policies and procedures of the dispatch system.

**Findings:**

It was explained that retaining trained dispatchers was difficult and could be the cause of dispatch errors. A new system has been implemented and training is an ongoing procedure.

**Recommendations:**

The Grand Jury recommends that the sheriff's office have adequate, trained dispatch staff to provide 24 hour emergency dispatch service to the county.

**Respondents:**

Modoc County Sheriff