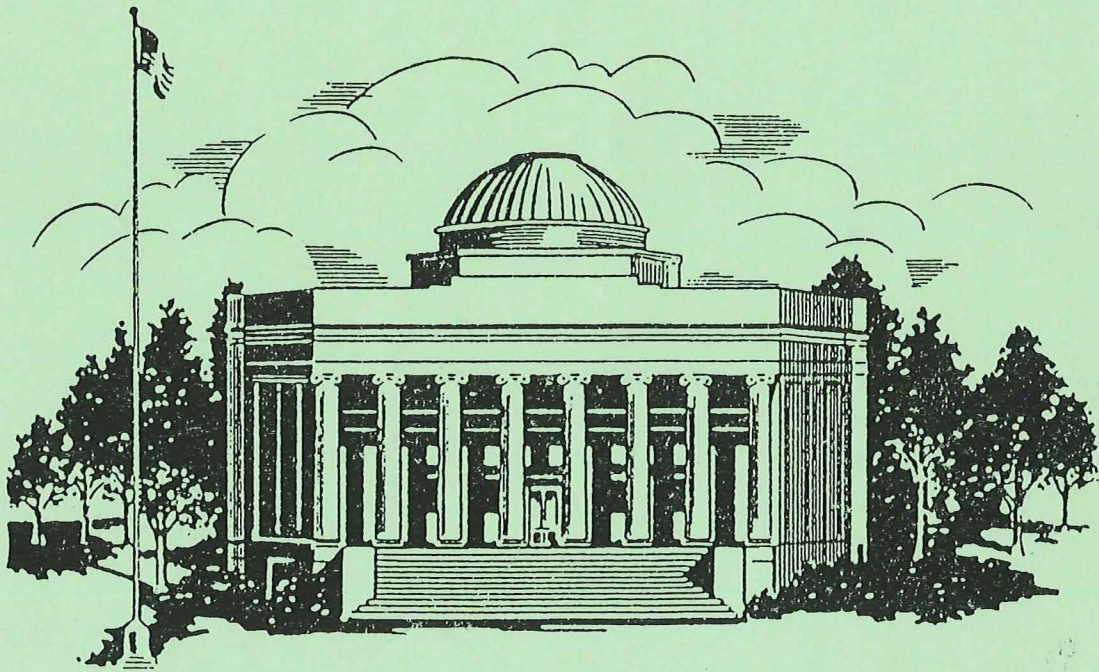


Modoc County Grand Jury



**Fiscal Year 2000/2001
FINAL REPORT**

Modoc County Grand Jury

205 S. East Street
Alturas, CA 96101
(530) 233-6222

July 2, 2001

The Honorable John P. Baker
Modoc County Superior Court
205 South East Street
Alturas, CA 96101

Dear Judge Baker:

The 2000-2001 Modoc County Grand Jury hereby submits its final report as mandated in the California Penal Code, Section 933.

This report is the result of many hours of interviews, investigations and thoughtful consideration by Grand Jury members. Jury members have endeavored to be fair and open minded in all of their investigations and inquiries.

The Jury received many complaints that were all taken seriously, carefully studied and discussed. Some of these were resolved during investigation. Others are addressed in this report.

We sincerely hope our recommendations will be seriously considered and implemented. We strongly believe they will greatly improve the operations of the agencies involved.

The 2000-2001 Grand Jury would like to thank you for the privilege of serving our county in this capacity. It has been an enlightening, satisfying, and, at times, taxing experience. We take pride in the work we have accomplished this year. We also thank you for your guidance, patience and encouragement. We wish to thank District Attorney, Tom Buckwalter for his advice and counsel in legal matters. Thank you also to the agencies and individuals interviewed by the Grand Jury. Last, but not least, I wish to express my personal gratitude to the Grand Jury members for their hard work and dedication.

Respectfully submitted,



Don Standley, Foreman
2000-2001 Grand Jury

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**Modoc County Grand Jury Members
2000-2001**

Don Standley, Foreperson
Shane McGarva, Assistant Foreperson
Lee Bates, Secretary
Tony Vazquez, Continuity Director

Alice Lybarger, Alturas
Bill McDonald, Canby
Neal Bearden, Alturas
Traci Green, Cedarville
Deborah Holub, Davis Creek

Diane Mello, Adin
John Gilstrap, Alturas
Lauren McFarlan, Cedarville
Laura Vanacker, Alturas

Grand Jury Jurisdiction and Authority for Review

This Grand Jury is sworn to investigate and inquire into County matters of civil concern. The specific duties and jurisdiction of the Civil Grand Jury are set forth in the California Penal Code and Government Code. A summary of the areas and organizations which the Grand Jury may investigate and report on follows:

- Operations, accounts and records of officers, departments or functions of the county
- Willful or corrupt misconduct in office by public officers
- Salaries of elected county officials
- Needs of county officers
- Operations, accounts, and records of officers, departments, or functions of cities and joint power agencies in the county
- Non-profit corporations established by or operated on behalf of a public entity
- Redevelopment agencies and housing authorities
- Special-purpose assessing and taxing districts

The Civil Grand Jury accepts and investigates public complaints involving any matters within the Grand Jury's jurisdiction. To submit confidential complaints to the Grand Jury, send your request for a Complaint Form to:

**Modoc County Grand Jury
205 South East Street
Alturas, CA 96101**

Hospital

Area of Study

Modoc Medical Center
Modoc Medical Rural Health and Dental Clinics
Modoc Medical Skilled Nursing Facility

General Report

The Modoc County Grand Jury members met with the Administrator of the hospital and visited each facility. Grand Jury members attended Modoc Medical Center Board of Trustees meetings from September 2000 through May 2001.

Issues

1. Update of x-ray equipment
2. Lack of qualified interpreters for non-English speaking patients
3. Physician recruitment

Findings

1. Modoc Medical Center received a grant to update the x-ray equipment in the fluoroscopy room. While working on this project a legal issue was encountered involving the ADA (Americans with Disabilities Act). The issue pertains to wheelchair access to the existing bathroom. Any upgrade, even non-structural, must be brought up to the current legal codes. The function of this room does not require wheelchair access to the bathroom and the administrator applied for a waiver, which was denied. The facility has since applied for and received a \$50,000 grant from OSHPD (Office of Statewide Health Planning and Development) to help offset some of the costs of this project. Construction to bring the bathroom up to code has begun.

2. Non-English speaking patients must often rely on family members to interpret in medical situations. This presents two problems: confidentiality is breached and often the patient does not feel able to speak freely and the interpreter does not always understand the medical information they are asked to relay to the patient. Lack of accurate information on both sides can lead to misunderstandings and possible mis-diagnosis. The hospital has set up a trial period with Cyacom. Cyacom is a company that provides translation telephones and access to multiple languages via these phones. If this system proves to be beneficial the minimal cost of approximately \$100 to hook up and a per minute charge when the phone is used to translate would be offset by the benefit to the staff and patients.

3. The loss of Dana Lewis, OD caused a setback for the hospital. The administration is actively seeking two doctors to fill the vacancy. It is felt that with two doctors instead of one there would be more of a support system and more continuity for the patients. The two doctors would work in tandem to accomplish administration tasks and patient care. The use of two doctors instead of one would also eliminate most if not all of the use of traveling doctors. This would allow for better continuity of patient care.

Recommendations

1. None

Issues

1. Modoc Medical Center Rural Health Clinic, General Review
2. Modoc Medical Center Rural Dental Clinic, General Review

Findings

1. The Grand Jury members toured the Rural Health Clinic and were impressed with the efficiency of the staff and timeliness of the treatment received by patients. The atmosphere is positive and cheerful.
2. The Grand Jury Hospital Committee also toured the dental clinic and found things to be functioning well. The third dental workstation was almost completed at the time of the tour. This additions workstation will help to reduce the waiting time for a dental appointment.

Recommendations

1. The health and dental clinics continue to operate at the efficient level observed.

Issue

1. Modoc Medical Center Skilled Nursing Facility, General Review

Findings

1. The Grand Jury members found the skilled nursing facility to be well run. The patient morale is high in part due to personal touches provided by the staff. The

changes to the hall decorations and paintings will provide a cheerful atmosphere for patients and staff when they are complete.

Recommendations

1. None

Response

Response from this report would be appreciated but is not required from

Modoc Medical Center Administration
Modoc Medical Center Board of Trustees

Health and Human Services

Area of Study

Interaction between Probation Department and disruption in school settings

General Report

The Modoc County Grand Jury interviewed the Assistant Director of Probation. The Grand Jury was responding to a complaint received stating that the Probation Department was not responding to disruption by individual students in school settings.

Issue

Probation did not respond in all cases because it was not in their jurisdiction.

Findings

The Probation Department does not have jurisdiction over an individual student that is not in the Probation Program.

In some cases, the problem should be handled within the school. There are internal guidelines.

In some cases either the Alturas City Police Department or the Modoc County Sheriff's Department should handle the problem.

The Grand Jury found that the Probation Department did respond to all the student disturbances in their jurisdiction.

Recommendations

Continued inter-department cooperation.

Response

No response required.

Health and Human Services **Department of Social Services**

Area of Study

Mismanagement of Department of Social Services

General Report

The Modoc Grand Jury interviewed the Acting Director (now Director) of the Department regarding a number of alleged problem areas in the daily operation of the department. The complaint was received from a former Probationary employee of the Department who was terminated during his Probationary period, and does not question the dismissal, as it is permissible to release a probationary employee during the probationary period. A part of the complaint was in regard to sexual discrimination on the part of some female employees toward the complainant.

We have interviewed the Director who was Interim Director at that time, having since been appointed to regular (permanent) status as the Director.

Issue

Are there severe management problems in the Department of Social Services that may affect the service levels provided to the needful public?

Findings

In interviewing the (now) Director, she acknowledged that there are operating problems, most of which happened during the term of a previous Director. She has, and is taking steps to correct this. She has engaged the services of Elizabeth Varney, LCSW, and Vickie Lynn Cochran, Attorneys at Law, for specialized services, on an "as needed basis" in her pursuit of improvements in the Department. The recent action by the Board of Supervisors in appointing Vickie Cochran, as County Counsel will be of great help.

In regard to the alleged sexual discrimination, the Director has taken steps to correct this situation, which consisted mainly of verbal comments between female employees while in the complainant's presence.

Recommendations

Continue the ongoing efforts to improve the operation of the Department.

Response

No response required.

Law Enforcement

Area of Study

Devil's Garden Conservation Camp Correctional Facility
Modoc County Sheriff's Department Correctional Facility
Modoc County Sheriff's Department

General Report

The Modoc County Grand Jury members toured both the correctional facilities housed within the county. Grand Jury members also investigated several complaints against the Modoc County Sheriff's Department. Areas of concern are addressed in the individual reports that follow under department headings.

Devil's Garden Conservation Camp Correctional Facility

Issue

Annual inspection of the Devil's Garden Conservation Camp Correctional Facility

Findings

California Department of Forestry and Fire Protection (CDF) Division Chief John Hughes, Water Treatment Operator Byron Gibbons and California Department of Corrections (CDC) Sergeant Lindsay Shaver, guided a tour through the facility and answered questions presented by the Grand Jury members. Chief Hughes and Sergeant Shaver gave the Grand Jury a camp profile, discussed segregation of CDF and CDC's responsibilities regarding inmates, inmate benefits, camp staffing, crew work projects and emergency activity. The Devil's Garden Conservation Camp Correctional Facility was found to be in compliance with the applicable California State laws.

Recommendations

None

Modoc County Sheriff's Department Correctional Facility

Issue

Annual inspection of the Modoc County Sheriff's Department Correctional Facility

Findings

Sergeant Nelson guided a tour through the facility and answered all questions of the Grand Jury. Evacuation Plans were not available for review as the Department was in the process of manual revisions. The Grand Jury found that the Deep Freeze door does not close properly enabling a build up of ice. Also, there was no thermometer installed inside the freezer to monitor the temperature.

Recommendations

The Modoc County Sheriff's Department replace the chest freezer door or entire chest freezer as soon as possible.

Response

Response to this report is required from:

Modoc County Board of Supervisors

Modoc County Sheriff's Department

Issue

Annual inspection of the Modoc County Sheriff's Department

Findings

Sergeant Nelson guided a tour through the facility and answered all questions of the Grand Jury. The Grand Jury found that the Evacuation Plans were not available for review as the Department was in the process of manual revisions; the Department is short staffed; and that the Modoc County Sheriff does not always advise on site staff of events or activities that affect the Department during his absence.

Recommendations

1. The Modoc County Sheriff's Department make arrangements to have the Safety Manuals and Evacuation Plan available to the Grand Jury for the annual inspection.
2. The Modoc County Sheriff informs on-site staff of information that affects the functions of the department in his absence.

Response

Response to this report is required from:

The Modoc County Sheriff

Complaint I

The Modoc County Grand Jury received a complaint from a Tulelake resident alleging the Modoc County Sheriff's Department and the Tulelake Police Department have harassed him.

Findings

The Modoc County Grand Jury interviewed the complainant, reviewed Modoc County Sheriff's Department complaints, responses and reports dating back to 1992 and has listened to Modoc County Sheriff's Department tape of a telephone call between a deputy at the Sheriff's Department and the complainant.

It is the determination of the Grand Jury that the Modoc County Sheriff's Department has acted within the law. It may *appear* the complainant was harassed, however, the complainant's spirituous state and family feud played a major role in his belligerent behavior and distrust toward law enforcement.

Recommendations

None

Complaint II

The Modoc County Grand Jury received a complaint from an Alturas resident alleging the Modoc County Sheriff's Department, specifically the Modoc County Sheriff, is verbally abusive and unprofessional as an employer.

Findings

The Modoc County Grand Jury interviewed the complainant and several witnesses. Through interviews, the Grand Jury finds the Modoc County Sheriff to be verbally abusive and unprofessional. The Sheriff was unable to meet the scheduled Grand Jury appointment; therefore, the Grand Jury could not obtain a statement from him.

Recommendations

The Modoc County Sheriff attend semi-annual educational training to improve his "employee management" skills.

Response

Response to this report is required from:

The Modoc County Sheriff

Public Safety

Area of Study

E-911 System
Modoc County Sheriff's Department

General Report

The 1998 E-911 System is a legal property-addressing system. It requires individuals to post their address in a visible location to enable emergency response agencies to rapidly find a specific location. The Board of Supervisors unanimously passed the property-addressing ordinance on September 5, 2000. A major portion of the addresses are posted, however, the public should be aware that it is important to continue to visibly post your address for emergency purposes.

Public Safety **Police Pursuit Procedures**

Area of Study

Actions of Police Officer while pursuing complainant

General Report

An incident took place at the Dorris Reservoir between the complainant and another party involving some dogs. The other party left the Reservoir area and proceeded to the Modoc County Sheriff's Office and filed a complaint against complainant for assault with a deadly weapon (dogs) and possible DUI.

The Sheriff's Dispatch person went on the air with, "all officers to be on the lookout for a described vehicle, including the license plate number."

At approximately 1900 hours, a police officer spotted the vehicle in the East area of the City of Alturas. The officer activated his red light to stop the vehicle. The vehicle left the area at a high rate of speed, whereupon the Officer activated his siren and pursued the suspect vehicle. After a high-speed chase of about five blocks in the East area of the city, complainant entered an alley, stopped, entered a gate in the back yard of a residence and proceeded into the house. With weapon drawn, the Officer followed, kicking in the back door and proceeded to arrest complainant and took him to the Sheriff's Office for booking.

A complaint has been filed with the Grand Jury regarding the actions of the Police Officer while pursuing the complainant.

A hearing was held in the Superior Court on this matter. The Court stated that the doctrine of "hot pursuit" did apply in this situation, as defined in P.O.S.T. training. Please note that all police officers in the State of California must attend the P.O.S.T. Academy.

Findings

This matter has been ruled upon by the Superior Court, which clearly stated that "hot pursuit" was proper and could apply in either a felony or misdemeanor situation.

Recommendations

None.

Response

No response required.

Public Safety
Law Enforcement

Area of Study

Alturas City Police Department

Issue

Availability of Citizen Complaint Forms

Findings

Complaint forms are not accessible with out personal contact with the Chief of Police.

The City Police Department requires that any citizen wishing to file a complaint must meet with the Chief of Police, or his designee, in person, to determine if the complaint is legitimate. This has potential to be intimidating.

Recommendations

Complaint forms be made available to the public, prior to an interview with the Chief of Police.

The process of determining legitimacy of a complaint should be handled after the written form is completed.

Response

Responses to this report are required from:

Alturas City Council
Alturas City Police Department

General Government **Building/Facility Acquisition**

Issue

The Grand Jury received a complaint concerning the Task Force trailer set up in the Sheriff's Department parking lot.

Former District Attorney Comisky donated the trailer to the Task Force during his last days as District Attorney. The trailer belonged to Bill Long. Mr. Comisky then asked to be paid for the trailer. The Task Force voted to pay Mr. Comisky \$7,500 for the trailer, as verified by the Task Force minutes.

Findings

1. There are no identifying numbers on the frame of the trailer.
2. Mr. Comisky or Mr. Long has no title to turn over to the county.
3. The State Attorney General looked into this matter and determined there was no illegal activity on the part of the sheriff or the Task Force.
4. The Grand Jury was informed that Mr. Long has a civil suit against Mr. Comisky for the \$7,500 Mr. Comisky was paid for the trailer.

Recommendations

The Grand Jury recommends that any county agency get clear title and/or bill of sale for any purchase or gift.

Response

None

General Government **Education**

Area of Study

Modoc County Office of Education - Community School

Issue

There was a complaint concerning the condition of the facility the county community day school is housed in and also a concern about the quality of education the students are receiving.

Is the school actually needed with all the other alternative education available?

The Modoc County Grand Jury met with Carol Harbaugh, Modoc County Superintendent of Schools, Steve Pine, former Assistant Superintendent of Schools, Vanston Shaw, acting Assistant Superintendent of Schools, John Clark, teacher, Bette Carroll, aide, and students.

Findings

1. The facility the school is housed in is part of the T.E.A.C.H. building. The ceiling of the extra curriculum (gym) room had insulation falling down. The insulation had been secured but the students throw balls against the insulation and knock it down. When this happens the students lose their privileges and cannot use the room.

This facility was intended as a temporary location for the community day school. The facility is shared with other T.E.A.C.H. offices and this is not the most appropriate location for this type of school.

2. The quality of education while adequate at this point is continually undergoing changes. The administration is working with a new discipline plan using a level system. There have also been curriculum improvements.

3. It was discussed whether the school is actually needed. The State requires the county provides a means of education when none other is available.

Recommendations

1. Modoc County Office of Education find a permanent appropriate location for the county community day school.

2. Curriculum continues to be improved. Discipline actions at the county community day school need to be supported by all levels of local law enforcement and the probation department.

3. None

Response

Responses to this report are required from:

Modoc County Office of Education
Alturas City Council
Modoc County Board of Supervisors
Modoc County Probation Department

General Government
Planning Department

Issue

The Grand Jury received a complaint that the Planning Director Scott Kessler was mis-using county time and vehicles, developed his own sub-division while being in a position of influence, and intentionally used his position to influence whether certain projects would be accepted or not.

Findings

1. After a yearlong investigation and several interviews, the Grand Jury found that many of the claims against Mr. Kessler may be hearsay or actual. The Grand Jury was unable to prove or disprove certain claims.
2. The Grand Jury found that Mr. Kessler removed himself from the decision-making procedures concerning his sub-division.
3. Mr. Kessler is the City/County Planning Director plus the Director for Economic Development. Mr. Kessler feels that 50% of his time is taken up by Economic Development.

Recommendations

1. The vehicle Mr. Kessler drives for his work is uneconomical as well as falling apart. The Grand Jury recommends a different vehicle be appropriated for the Planning Department/Economic Development Department.
2. Board of Supervisors adopt a county ordinance prohibiting department heads from participating in any activity in which they have jurisdiction. Thus preventing conflict of interest.
3. Mr. Kessler has excessive responsibilities and is spread too thin. The Grand Jury suggests he be given more help.

Responses

Responses to this report are required from:

Modoc County Board of Supervisors
Alturas City Council

Special District

Area of Study

Management of Hot Springs Valley Irrigation District (HSVID)

General Report

Modoc County Grand Jury met with HSVID board members and Water Master, Joe Battram.

The Modoc County Grand Jury is responding to the following complaints.

Complaint I

Issue

A board member received payment for a job without the job being put out to bid. Payment was made prior to the start of work on the job.

Findings

Modoc County Grand Jury found the complaint to be true. The Grand Jury also found the county requires all jobs over \$10,001 be put out to formal bid.

Recommendations

The Hot Springs Valley Irrigation District follow county ordinance requiring all jobs over \$10,001 be put out to formal bid. No work is paid for prior to completion.

Complaint II

Issue

Unfair distribution and allotment of monies from the Hydroelectric Company to the members of the District that requests coordination of water release after the irrigation season is over.

Findings

The coordination of water release is important in generation of hydroelectric power. Water Master, Joe Battram, did coordinate release of water from the dams after close of irrigation season. Mr. Battram received compensation for

this work from the hydroelectric company. The hydroelectric company also compensated the owners of the dams as negotiated by Mr. Battram. Irrigation district members without dams were not compensated.

It was determined that Mr. Battram was acting for the hydroelectric company in negotiating scheduled water release after the irrigation season.

Recommendations

Hot Springs Valley Irrigation District board members determine if the actions of Mr. Battram constitute a conflict of interest.

Response

Response to this report is required from:

Hot Springs Valley Irrigation District Board Members

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