

# Badger Flats Gazette

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April 9<sup>th</sup>, 2011

Merced County Grand Jury  
Grand Jury Foreperson Ellington & Grand Jurors  
P.O. Box 2034  
Merced, California 95340

Re: Tampering with Grand Jury Investigation by James Fincher

Dear Grand Juror Foreperson Ellington and Grand Jurors:

Please find enclosed copies of my email correspondence sent to you between April 7<sup>th</sup>, 2011 and April 8<sup>th</sup>, 2011 along with a CD containing the same emails and audio attachments for your convenience.

As you already know the correspondence addresses the clear violations of California Penal Codes by Merced County Counsel James Fincher. Fincher while knowing that he was the subject of the ongoing Grand Jury investigation willfully, maliciously, and intentionally rendered incorrect legal opinions alleging that I had somehow breached a confidentiality that I owed the Grand Jury that in fact did not, and does not exist.

The purpose of Fincher doing so was to persuade the Grand Jury to terminate the on-going investigation against him and other Merced County public officials that are his clients in his capacity as Merced County Counsel and who are also subjects of the investigation. It is illegal.

Another Machiavellian purpose for Fincher's action was to attempt to drive a wedge between myself and you the Grand Jury members. It is an age old trick of dividing and conquering by instilling distrust and discord. His intent was to mislead and manipulate you to do me harm for his benefit.

Fincher then planned to hide behind you knowing full well that you would be in the uncomfortable position of having to take the brunt of my reaction to his dirty tricks. Fincher's actions are unconscionable.

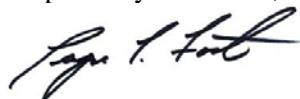
It speaks volumes in support of my allegations against him and his co-conspirators.

With the above said, I wish for you all to understand that I do not blame you for what Fincher tricked you into doing. I sincerely hope that none of you continue to fall prey to his ploys that have been revealed.

There should be no over rationalizations or generous justifications given for his egregious actions. There should be no forgiveness given him at my expense. Everyone is accountable under the law.

If you have any questions, please feel free to call.

Respectfully submitted,



Gene Forte

Enclosed: April 7-8, 2011 emails, Audio CD, Forte Correspondence

**Subject:** Grand Jury Meeting Confirmation

**From:** Gene Forte <geneforte@badgerflats.com>

**Date:** Thu, 07 Apr 2011 10:14:12 -0700

**To:** Grand Juror Tomsha <ambs\_2@yahoo.com>, grandjury@co.merced.ca.us

April 7th, 2011

Hello Grand Jury Foreperson Ellington & Grand Juror Tomsha,

I am awaiting confirmation of the time and place for our first interview.

I did schedule this evening tentatively.

Is there any word as to if it is going to take place this evening so that I can plan accordingly?

Thank you.

Gene Forte

209-894-5040

**Subject:** Bizarre Machinations/Grand Jury Tampering  
**From:** Gene Forte <geneforte@badgerflats.com>  
**Date:** Thu, 07 Apr 2011 19:56:16 -0700  
**To:** grandjury@co.merced.ca.us, Grand Juror Tomsha <ambs\_2@yahoo.com>  
**BCC:**

April 7th, 2011

Dear Grand Juror Foreperson Ellington and Grand Juror Tomsha,

I am more than shocked that I was contacted and informed this afternoon by Grand Juror Tomsha that the Grand Jury has now terminated the ongoing investigation of my complaint filed in May 2010 due to something that I allegedly did.

On March 16th, 2011, I was informed formally by Grand Juror Tomsha that the investigation was officially initiated by a majority of grand juror votes. Grand Juror Tomsha told me that due to such investigation, I was requested to attend at least 3-4 three hour sessions to help guide the jurors through the evidence.

The first interview was set for March 24th, 2010. As you know, that date was moved to March 31st, 2011, and then again moved tentatively to tonight, April 7th, 2011.

Further, I am appalled that the ongoing investigation was terminated due to my allegedly committing a misdemeanor offense of breaching the confidentiality of the Grand Jury that I have never once met with.

It is even more shocking that this alleged offense by me somehow took place during my interview on a radio program aired on KRXA540 in Monterey, California, on April 2nd, 2011. The program was Bob Oliver's "The Quantum Leap."

First, there is nothing confidential about anything I say about my complaint, or what I tell the Grand Jury, or that I announce to the world at large that an investigation of my complaint is underway. If you doubt that, then you should check Rule 6.4 (Attached).

Second, I never had any meeting with the Grand Jury. Therefore, there was nothing confidential that the Grand Jury told me that I could disclose that would be a breach of any confidentiality (if one did apply to me) because I never met with the Grand Jury.

Third, I was informed by Juror Tomsha that the termination of the investigation was suggested by Merced County Counsel James Fincher, who is a subject of the complaint under investigation. Fincher cannot advise the Grand Jury upon such termination (see Penal Code 934-936). Fincher should not even be anywhere near the Grand Jury deliberation during my complaint's investigation.

In lay terms, it is called tampering with a Grand Jury investigation by a subject of the complaint.

With the above said, you will find attached audio clips from the program which was broadcast on April 2nd, 2011 wherein the Merced County Grand Jury investigation was mentioned. I checked with Oliver who confirmed to me what I was already aware of. The program does not

reach any farther than Salinas, California. On the night it was broadcast, it was also put on the Internet. There were a total of 34 internet listeners.

I formally request that the Grand Jury tell me specifically what confidentiality rule applies to me, and what statements of mine allegedly breached such rule.

I am respectfully requesting that the Grand Jury grant me the interviews as they had originally decided to do and continue the ongoing investigation that they voted upon to initiate.

Candidly, something smells very, very rotten.....and I will not let any stone go unturned until I find out where that stink is coming from.

Actually, I don't think I need go any further than the subjects of the complaint tampering with an ongoing Grand Jury Investigation....which of course is a criminal offense for them..... and any and all Grand Jurors that participate and go along with it.

As of this moment I am formally notifying the Grand Jury and will be announcing to the world at large that Merced County James Fincher has tampered with an ongoing Grand Jury Investigation.

Thank you.

Gene Forte

209-894-5040

PS: You will find the flyer that had been spread out through Merced County in May 2010 and which you were provided a copy of. Do you see where I said that this was going to be a transparent investigation and a virtual open book? Do you see where it pointed out PC 934-936 which informed you that Fincher could not be involved in giving opinions?

<b>One Hour nineteen Minutes into Program WS504042.WMA</b>	<b>Content-Type:</b> audio/x-ms-wma <b>Content-Encoding:</b> base64
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— One Hour twelve Minutes into Show WS504042.WMA —

<b>One Hour twelve Minutes into Show WS504042.WMA</b>	<b>Content-Type:</b> audio/x-ms-wma <b>Content-Encoding:</b> base64
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— Rule 6.4 Secrecy and Confidentiality.pdf —

<b>Rule 6.4 Secrecy and Confidentiality.pdf</b>	<b>Content-Type:</b> application/pdf <b>Content-Encoding:</b> base64
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—LB CONFIDENTIAL Grand Jury Complaint 5.5 x 8.pdf

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**LB CONFIDENTIAL Grand Jury Complaint 5.5 x 8.pdf**

**Content-Type:** application/pdf

**Content-Encoding:** base64

Rule 6.4. Secrecy and confidentiality of grand jury proceedings.

(a) Who May be Present at Grand Jury Sessions. The grand jury may, at all reasonable times, request the presence and advice of the district judge but unless such advice is asked, the district judge shall not be present during any session of the grand jury after it has been impaneled. No other person shall be permitted to be present during the sessions of the grand jury except:

(1) Jurors of the grand jury.

(2) The prosecuting attorney of the county in which the grand jury is sitting, or a designated deputy or specially appointed deputy.

(3) A witness physically present before the grand jury and under questioning and such person requested by the prosecuting attorney as authorized by section 19-3023, Idaho Code.

(4) The person designated by the district judge or the presiding juror to report the proceedings.

(5) An interpreter designated by the district judge or presiding juror and sworn to correctly interpret the proceedings and sworn to secrecy.

(b) Presence of Persons During Jury Deliberations Prohibited. No person other than the acting grand jurors shall be permitted to be present during the deliberations of the grand jury.

(c) Secrecy of Proceedings and Disclosure. Every member of the grand jury must keep secret whatever was said or done in the grand jury proceedings and which manner each grand juror may have voted on a matter before them; but a grand juror may be required by the district judge to disclose matters occurring before the grand jury which may constitute grounds for dismissal of an indictment or grounds for a challenge to a juror or the array of jurors. No other person present in a grand jury proceeding shall disclose to any other person what was said or done in the proceeding, except by order of any court for good cause shown.

(d) Disclosure of Indictment. The court may seal the indictment and while sealed, no person shall disclose the finding of the indictment.

(Adopted March 30, 1994, effective July 1, 1994.)

# BADGER FLATS GAZETTE



## **L.B. CONFIDENTIAL**

By Gene Forte

### **Is Your Town Just Another L.B. CONFIDENTIAL?**

I would be willing to bet it is! I'm Gene Forte, this is my story, my **Grand Jury**

**Complaint** (pg. 2), and perhaps yours.

The Badger Flats Gazette's **L.B. CONFIDENTIAL** issue tells all. Crooked mayors, crooked city councilmen, crooked cops, crooked district attorneys, crooked judges, crooked city attorneys, and crooked local newspapers cover up the crookedness. Their crookedness is not a unique phenomenon to Los Banos/Merced County. These S.O.B.s are everywhere!

Crooked public officials are supported by crooked developers, crooked businessmen, and crooked locals that have influence over votes. The votes are cast by wannabe-like-them butt kissers... holier than thou hypocrites that say peace be with you and wave when you're dropping your kids off at school, but, they'll all treat you like a leper if you come under attack by crooked public officials you're standing up to.

They'll go against the American principles of justice, and, in a most un-Christian-like way, stand silent while watching crooked public officials assault you. Hell, the wannabes will look for a cross, hammer, and nails to help 'em.

Do you suspect that the newspaper is in the pocket of a crooked city hall but don't have the evidence to prove it? Do friends or relatives continually tell you you're crazy for fighting back? Do they trivialize what happened to you? Want them to eat their words? Buy a Badger at [www.badgerflats.com](http://www.badgerflats.com) and let 'em have it.

The Badger Flats Gazette can ward off an attack by crooked public officials. Throw it in their faces. Do to them what they do to others...and really screw 'em. It's a leverage tool. Let 'em know that you know this little ol' Badger story...and you're wise to their tricks. You've got their number and **The Badger's**, (209) 829-1116.

Within Badgers are actual police reports. When compared to audios of my arrest, they

prove cops lied through their teeth. Deputies attacked me and slammed my head into a door when handcuffed. District Attorney Morse filed retaliatory criminal charges against me for his partner in crime, Sheriff "Deputy Dawg" Mark Pazin. Why? Read **L.B. CONFIDENTIAL**, and then decide for yourself.



The police brutalization of me doesn't mean I'm losing the battle against these crooked dirt bags—quite the opposite. They've taken drastic steps that are now coming back to haunt them.



The **Death Threat** (pg. 3), covered up by LBPD Chief Gary "The Fixer" Brizzee, delivered by a punk kid saying he did it "out of respect and love for my teacher, mayor and close family friend Tommy Jones" are the starting point of my Grand Jury

Complaint. I believe Jones got the kid to do it.

There's proof positive that African American Mayor Tommy Jones, and his minion African American reporter, Corey Pride of the Los Banos Enterprise, accuses anyone that has evidence of crimes by Jones of being a racist. Don't be affronted as I indicate who's white and who's black. Jones threw the race card at the wrong guy when I busted him publicly with the FPPC.

My best man at my wedding to my Chinese American wife was Clinton Galloway, an African American. The moronic Jones told Galloway that he "knew for a fact that I was a dangerous member of the Ku Klux Klan." No way, Jose!

Crooked officials use tactics right out of Hitler's Youth movement to capture juvenile minds for future votes. Want to pop the bubble of the socially pompous who believe you're lower than them? Worth more than a 1,000 hours with an attorney who'll sell you out, or ten shots of tequila to ease your pain...Watch, listen, and read how this Badger is tearing some jackass crooked officials a new one.

Buy **L.B. CONFIDENTIAL** (30 pgs.), 8.5 x 11, full color.

**MERCED COUNTY GRAND JURY COMPLAINT**

**Complainant: Gene Forte**

**SUBJECTS**

No. \_\_\_\_\_ (Office Use Only)

<u>LOS BANOS CITY OFFICIALS</u>	<u>MERCED COUNTY OFFICIALS</u>	<u>PRIVATE ACTOR ACCOMPLICES</u>
<p><b>Mayor Tommy Jones</b></p> <p><b>LB Police Chief Gary Brizzee</b></p> <p><b>LBPD Officers:</b> ex-Chief Knapp, Det. Townsley, Westbrook, Torongo, Parker, Llanez, Dispatcher Strauch.</p> <p><b>LB City Council Members:</b> Joe Sousa, Michael Villalta, Manuel Faria, Elizabeth Stone.</p>	<p><b>District Attorney Larry Morse</b> <b>Deputy DA Alan Turner</b></p> <p><b>Merced County Sheriff Mark Pazin</b> <b>Deputies:</b> Picinich, Leuchner, Perrino.</p> <p><b>County Supervisor Jerry O'Banion</b> <b>County Counsel James Fincher</b></p> <p><b>Merced Superior Court Judge:</b> Frank Dougherty (retired)</p> <p><b>Assist. Attorney General D. Gillette</b></p>	<p><b>The Los Banos Enterprise</b> <b>Merced Sun-Star</b> Reporters: Gene Lieb, Corey Pride. <b>Fresno Catholic Diocese:</b> Connie McGhee, OLF school principal, Sexton, superintendent, and Priest Bob Gamel. <b>Benjamin Ratliff</b> <b>Anthony Donaldson Bates</b> <b>James Pico Padron</b> <b>Merced Defense Associates</b></p>

**DEATH THREAT COVER UP**

**FOR MAYOR TOMMY JONES  
AGAINST GENE FORTE,  
REPORTER FOR THE BADGER FLATS GAZETTE.**

**FALSE ARREST, POLICE BRUTALITY, AND RETALIATORY PROSECUTION OF FORTE.**

**OVERVIEW:** The presentation of evidence for this complaint, which will be frequently supplemented, is best described as the application of two common adages, "the devil is in the details" and "eating an elephant one bite at a time." The complaint will be "transparent" and a "virtual open book" to the public. The Badger Flats Gazette is encouraging additional evidence and support from citizens who have experienced, the "mysteries" of Public Official Corruption, which are, *Officials Commit Crimes, Officials Cover-up Other Officials' Crimes, Newspapers Don't Report About It. Amen!*

The public will be alerted that Morse, Fincher, the California Attorney General's Office, and a disqualified judge of the Merced Superior Court are also specious advisors to this Grand Jury complaint *against themselves*. (That's a no-no according to Penal Code §934-936.)



Evidence provided will lead to the clear conclusion that, for the public's safety, a criminal Grand Jury must be assembled to issue indictments. The above named subjects punished Forte for his writings exposing public corruption. They punished him by the concealment of death threats, false arrests, police brutality, and retaliatory prosecutions against Forte for their own Machiavellian motives. An independent prosecutor is required to conduct a thorough investigation. Forte has no doubt that a legitimate law enforcement investigation will reveal that Mayor Tommy Jones (also a Los Banos High School teacher), influenced and/or directed his student, Anthony Donaldson Bates, to send the death threats. It's a trick lifted from a Crimes for Dummies book.

**HOW IT WAS DONE:** Falsified police reports, honest services fraud, media blackout.

**EVIDENCE:** Police Reports, Audio/Video Recordings, court documents, legal opinions, and eye-witness testimony.

**BRIEF BACKGROUND:** Forte is an investigative reporter for the Badger Flats Gazette, which focuses on public official corruption. Forte investigated and filed the complaint with the Fair Political Practices Commission (FPPC) against Jones that found Jones voted on two development matters of Ranchwood Homes Developer, Mr. Greg Hostetler, which "had a foreseeable and material economic effect on Jones' economic interests." In plain English, it's called taking a bribe.

Forte published stories about Jones' arrest for possession of crack cocaine when Jones was a City Councilman in 1999 and the bizarre non-prosecution of Jones by ex-DA/embezzler Gordon Spencer. Forte spearheaded a Recall of Jones in 2008. Forte slammed shut the till of the Underground Storage Tank Fund on the sticky fingers of county and private remediation firms in cahoots with each other. Forte is hated with a passion by corrupt public officials and the newspapers that cover for them.

	<h2 style="color: red;">DEATH THREAT MADE</h2> <p style="color: red;">“out of respect and love for my teacher, mayor, and close family friend Tommy Jones”....</p> <p><b>Preface:</b> Below is the threat that LBPD Commander Gary Brizzee covered up and was rewarded by being appointed LBPD Chief, that City Councilmen haven't said a word about, and that the Los Banos Enterprise hasn't reported upon....it is now the starting point subject of my complaint sent to <b>The Merced County Grand Jury</b>. Will they do anything?</p>	
<p>Donaldson, confessed, but not arrested.</p>		<p>1999 Jones' arrest mug shot for drug possession</p>

**California Penal Code 422.** Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person .... even if there is no intent of actually carrying it out .... is so unequivocal, unconditional, immediate, and specific as to convey .... a gravity of purpose and an immediate prospect of execution of the threat .... and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, shall be punished by imprisonment in the county...or state prison. (PC 422 annotated)

*(Actual threat with typos, emphasis added)*

I swear on my life and my honor if i see Mr. Forte in the streets i will conduct myself in a proper manner and that proper manner will be in such a manner that i knock Mr. Forte back into the past life that he spoke of in this council meeting. Mr. Forte you are lucky I was not at this meeting because **out of respect and love for my teacher, mayor, and close family friend Tommy Jones**, I would knock you so hard you would become color blind and lose your ability to speak so you can never again refer to someone in such a racial manner...

Mr. Forte I swear if I ever catch you in the streets, no matter where it might be I will ask you your name, confirm your identity, and proceed, without further warning, to beat the living hell out of you with my bare hands until my fist are bruised and red from my own blood from hitting you so hard.

I do strongly believe in the first amendment which grants all of us as Americans the freedom of speech which allows us to say what want when we want as long as it is in no way threatening to national security but I also believe in what we call in the streets a trial by fury and if I ever see you in the streets that is what you will be granted, and as expected I will be tried for my "wrong doings" in of court and will be sentenced to jail time for the amount of damage I inflict upon you, but I will know I have served you justice for everyone who could not sleep on the night this council meeting took place, everyone who was present at this council meeting and had to hear it, and every young child who watched this on the community channel and was caught in a maze of confusion as our current mayor was called a "lying \*\*\*\*\*".

I don't know if you Mr. Forte are a man of God but I do know for a fact that **if Tommy Jones was not the Christian he is, and is ignorant as you make him out to be, he would have leaped from his chair and served you the beating you diserved**. You have some nerve. I am not a the type of person who will make threats over the internet knowing you will never read them, or knowing I will never see you to keep up with the words I have typed in this comment box... no that's not the type of person I am. instead I hope everyday that I see you because my fists are burning to meet your knose, jaw, eyes, forehead, and cheek bones, and I hope for your sake that you read this or someone reveals this to you so you can prepare and be ready for the fury I will unleash upon you on sight. I put my life on it. No matter where it may be... no matter who you are with... no matter who is present...

I give you my word I will keep up with everything I have stated on this post and you will know how I feel about what has been said. After which I will turn myself in for what I have done and do my time with a smile on my face.

Your fellow Los Banos Citizen,  
Anthony Donaldson

#### HELP BADGER 'EM!

**Contact:** Gene at 209-829-1116, or go to [www.badgerflats.com](http://www.badgerflats.com). Purchase merchandise, buy Badgers, or paper, every little bit helps. Volunteers and supporters needed to spread flyers, arrange Badger Den meetings, etc.

**DISCLAIMER:** The views, opinions, and commentary expressed in the *Badger Flats Gazette* are solely those of Gene Forte and do not reflect the views and opinions of Badger Flats, LLC. Copyright 2010. All rights reserved. Ver. 1.01

***BADGER 'EM !***

For the past four years, The Badger Flats Gazette has been inflicting some serious damage upon corrupt public officials in Merced County (sometimes incorrectly referred to as "The Good ol' Boys"). There is nothing good about these scurrilous vultures. Their acts of openly defying the principles of truth, justice, and the American way defile the death of every soldier that stood for our freedom.



If every corrupt public official were to be convicted in a court of law and either executed (as done in China), or sent to the front lines as human shields in our war against terrorism, public official corruption would definitely be deterred! Our country is in the trouble it is because of such individuals. However, I would also be the first to say that not all public officials, judges, or attorneys are corrupt. Unfortunately, out of their fear of reprisal, not even the good ones would stand up against those who are corrupt.

When everyone stands up, no one has to hide. That's why it's important to spread the word and stand behind me. I'll be your Badger shield while we Badger 'em!

I have stood firm on the front lines and not backed down, deciding that making money was far less important than seeking justice. What I have dared to do has come at a high personal price. But, when I look at my children who are all outstanding academically, and I see how kind and considerate they are, both my wife and I know that we have done the right thing. It is for their future that I have waged this battle. It was for them that I suffered a heart attack in a courtroom and will not back down from the public corruption that polls say 85% of Americans know exists.



Los Banos Police Department with then Commander (now Chief) Gary "The Fixer" Brizzee (center) at the helm, forcing Forte away from City Hall to prevent him from speaking at the City Council Meeting.

Why? They knew Forte was going to play recordings of ex-Chief Knapp and others admitting no investigation was conducted regarding Jones' involvement in the death threats against Forte.

What I ask of citizens is to help me keep the pressure up on corrupt public officials that I have cornered in a much larger way. The Grand Jury complaint that I have filed is going to be supplemented with evidence on interactive CD's which will contain audios, videos, and documents. You will be able to see and hear the evidence presented to the Grand Jury which will be told in an interesting, provocative way.

Support my efforts by going to [BadgerFlats.com](http://BadgerFlats.com) and making a taxable contribution by purchasing the Grand Jury Complaint CD's, t-shirts, hats, bumper stickers, or a box of paper for The Badger. It takes money to continue the fight. I've proven the seriousness of my commitment and the corrupt public officials' fear of me by putting my life on the line.

Citizens are encouraged to call me at 209-829-1116 with their own stories and evidence of public official mistreatment, but, they must understand that the first focus is upon the overwhelming evidence I have that starts with me. My evidence cannot be attacked, it is rock solid proof. And, it is the Badger's weapon. In the truest sense, I would like the bloodless war cry to be, Badger 'em!

**[WWW.BADGERFLATS.COM](http://WWW.BADGERFLATS.COM)**

***Please support the Badger and tell your family, friends, and neighbors.***

***Help Us Ream 'em By Getting Us a Box of Paper!***

**Subject:** Grand Jury Tampering/PC 934-936.5  
**From:** Gene Forte <geneforte@badgerflats.com>  
**Date:** Thu, 07 Apr 2011 22:19:19 -0700  
**To:** grandjury@co.merced.ca.us, Grand Juror Tomsha <ambs\_2@yahoo.com>  
**BCC:**

April 7th, 2011

Dear Grand Juror Foreperson Ellington & Grand Juror Tomsha,

You will find attached the Penal Codes that Merced County Counsel James Fincher clearly violated in giving his opinion that the Grand Jury should vote to terminate the Grand Jury investigation that he was a subject of. You will also see that the Grand Jury should have already availed itself to PC 936.5.

I am trying rationalize as to how it was voted upon by the majority of the Grand Jurors to investigate the complaint....and how now there was a majority of votes to terminate the investigation based upon some alleged breach of confidentiality by me based upon the legal opinion of the subject of the complaint James Fincher.

I also want to correct a statement I made earlier to Grand Juror Tomsha. After double checking with two Grand Jury experts and a former Grand Jury foreperson I was informed that I could tell anyone, anything I wanted about what Grand Jurors told me.

I incorrectly stated to Grand Juror Tomsha that I could not tell people what Grand Jurors told me.

The confidentiality issue is a one way street for Grand Jurors only. It does not apply to the complainant (me) or witnesses.

With that said, Grand Juror Tomsha had told me earlier that she would be sending me a copy of a letter that she was going to email this evening to Grand Jury Foreperson Ellington.

The letter was to specify that the on-going Grand Jury investigation was voted upon to be terminated due to my alleged breach of confidentiality and that the legal opinion that I did so, and to terminate the investigation due to such, was given by Merced County Counsel James Fincher.

I would very much appreciate a prompt response to this very serious matter.

Thank you again for all of your efforts and hopefully all of this will be addressed....and there will be no further obstruction of the investigation by the subjects of the complaint.

Gene Forte

<b>PC 934-936.5.pdf</b>	<b>Content-Type:</b> application/pdf
	<b>Content-Encoding:</b> base64

CALIFORNIA CODES  
**PENAL CODE**  
SECTION 934-936.5

**934.** (a) The grand jury may, at all times, request the advice of the court, or the judge thereof, the district attorney, the county counsel, or the Attorney General. Unless advice is requested, the judge of the court, or county counsel as to civil matters, shall not be present during the sessions of the grand jury.

(b) The Attorney General may grant or deny a request for advice from the grand jury. If the Attorney General grants a request for advice from the grand jury, the Attorney General shall fulfill that request within existing financial and staffing resources.

935. The district attorney of the county may at all times appear before the grand jury for the purpose of giving information or advice relative to any matter cognizable by the grand jury, and may interrogate witnesses before the grand jury whenever he thinks it necessary. When a charge against or involving the district attorney, or assistant district attorney, or deputy district attorney, or anyone employed by or connected with the office of the district attorney, is being investigated by the grand jury, such district attorney, or assistant district attorney, or deputy district attorney, or all or anyone or more of them, shall not be allowed to be present before such grand jury when such charge is being investigated, in an official capacity but only as a witness, and he shall only be present while a witness and after his appearance as such witness shall leave the place where the grand jury is holding its session.

936. When requested so to do by the grand jury of any county, the Attorney General may employ special counsel and special investigators, whose duty it shall be to investigate and present the evidence in such investigation to such grand jury.

The services of such special counsel and special investigators shall be a county charge of such county.

936.5. (a) When requested to do so by the grand jury of any county, the presiding judge of the superior court may employ special counsel and special investigators, whose duty it shall be to investigate and present the evidence of the investigation to the grand jury.

(b) Prior to the appointment, the presiding judge shall conduct an evidentiary hearing and find that a conflict exists that would prevent the local district attorney, the county counsel, and the Attorney General from performing such investigation. Notice of the hearing shall be given to each of them unless he or she is a subject of the investigation. The finding of the presiding judge may be appealed by the district attorney, the county counsel, or the

Attorney General. The order shall be stayed pending the appeal made under this section.

(c) The authority to appoint is contingent upon the certification by the auditor-comptroller of the county, that the grand jury has funds appropriated to it sufficient to compensate the special counsel and investigator for services rendered pursuant to the court order. In the absence of a certification the court has no authority to appoint. In the event the county board of supervisors or a member thereof is under investigation, the county has an obligation to appropriate the necessary funds.

**Subject:** Grand Jury Tampering by Subjects Under Investigation & Correspondence of a Mr. John Bennett  
**From:** Gene Forte <geneforte@badgerflats.com>  
**Date:** Fri, 08 Apr 2011 04:53:37 -0700  
**To:** grandjury@co.merced.ca.us, Grand Juror Tomsha <ambs\_2@yahoo.com>  
**CC:** eileenforte@badgerflats.com  
**BCC:**

April 8th, 2011

re: Grand Jury Tampering by Merced County Counsel James Fincher, subject under investigation

Dear Merced County Grand Juror Foreperson Ellington & Grand Juror Tomsha,

Upon awakening this morning I checked my voice messages to find that I had received a voice message at 11:32PM from a Mr. Bob Oliver of the radio program "The Quantum Leap". That was the program that I was interviewed on April 2nd, 2011.

Oliver informed me that he had received a package of information set on his motorcycle from a homeless person by the name of Mr. John Bennett to be delivered to me. Oliver was not able to read the entire contents of what the package contained due to a very limited recording time on my voice mail.

Oliver said that apparently Bennett, when not being able to fax the information to me somehow went on line and obtained a Merced County Grand Jury complaint form, filled it out, and then sent the information to you asking that you give it to me prior to my interview. Bennett was apparently hoping that information he had about potential public official corruption in Monterey County and about DA Dean Flippo would be useful to me. It may, however, I already have a trunk load myself.

Due to it being 4:01AM I am unable to contact Oliver and ask that he provide me more details. Apparently, this is the written information that Juror Tomsha referred to that she said she was unable to share with me that was received by the Grand Jury.

With that said, let me make this very clear. The actions of Bennett have nothing to do with me. It does not impugn me in any way.

Bennett's decision to send such information to you does not even remotely constitute by any stretch of the imagination, or imply some type of wrong doing by me that would necessitate, or permit, James Fincher, the subject of the complaint, giving a legal opinion to the Grand Jury that it did. It is beyond the mere grasping at straws by a desperate subject under investigation opining a legal opinion that I did something wrong, and that the investigation of the Merced County Grand Jury should be terminated.

It is a Penal Code violation of obstructing justice and tampering with a Grand Jury investigation by a subject of the investigation. I can't say it enough times, and in enough different ways so as to drive that point home to the Grand Jury.

For the record, if it is my firm belief from the evidence that I possess that public officials from Monterey County have involved themselves in a conspiracy to do me harm with Merced County officials that are subjects of the Merced County investigation. It is certainly in the domain of the Merced County Grand Jury to refer evidence of wrongdoings of other public officials in other counties to other Grand juries in such counties for their own investigation if it is discovered through the Merced County investigation.

Such statement by me is not a conjecture on my part, but it is legally well established that it is within the capability of the Grand Jury to do such. It is in fact required of the Grand jury to do such. To do otherwise would be putting the public at risk and defeating the "watchdog" duties of the Grand Jury.

The bottom line is that the subject of the complaint, Merced County Counsel Mr. James Fincher, in collusion with other subjects of the complaint, who by law cannot be involved in anything concerning my Grand Jury investigation, improperly, and in violation of PC 934-936, obstructed an on-going investigation.

I request this matter to be immediately rectified and interviews scheduled with me.

I also request that law enforcement be notified and the public be made aware of this illegal and Machiavellian attempt by the subject of the complaint, Mr. James Fincher, so that the other subjects under investigation are sent a strong message that such illegal activity will be dealt with swiftly and severely..... the investigation will no longer be tampered with.....and for the protection of family and self.

I look forward to communications on this matter as soon as possible.

Thank you.

Gene Forte

209-894-5040

**Subject:** Additional Information Concerning Improper and Incorrect Legal Opinion of Subject Under Investigation: James Fincher  
**From:** Gene Forte <geneforte@badgerflats.com>  
**Date:** Fri, 08 Apr 2011 09:34:39 -0700  
**To:** grandjury@co.merced.ca.us, Grand Juror Tomsha <ambs\_2@yahoo.com>  
**CC:** eileenforte@badgerflats.com  
**BCC:**

Dear Grand Juror Foreperson Ellington and Grand Juror Tomsha,

You will find attached some brief articles that if read disclose the totally inaccurate legal opinion given you by James Fincher who is a subject of the investigation.

Again, a real stretch would to even classify me as a "witness" per se, in that I am the actual complainant and victim of the investigation.

With that said, you will still find from a reading of the articles that there is nothing confidential that I disclosed and that I was prohibited from talking about.

Some excerpts:

"Although the First Amendment allows grand jury witnesses – if one can reach them – to talk to the media about their testimony, recent court decisions restrict the scope of what they can disclose under state law. In September, a California appeals court upheld a warning to witnesses not to divulge anything they learn as a result of testifying before a grand jury. A federal appeals court validated a similar secrecy rule in Colorado last year."

Federal rules and the majority of states, either expressly or impliedly, allow grand jury witnesses to disclose what transpired when they testified.

"There are no restrictions on witnesses before the grand jury," said media attorney Kevin T. Baine of Williams & Connolly in Washington, D.C. "If anybody is called as a witness to the grand jury – whether as a witness to a crime, or a reporter, or someone suspected of a crime – that person is completely free to walk out of the grand jury room, stand in front of a TV camera and recite in detail everything that happened in that grand jury room."

In one vein I would apologize for the number of emails at this time, but on the other I have nothing to apologize for. I am pretty upset that I am having to do all of this additional work to correct what is clearly an illegal act by Fincher. It is all due to James Fincher trying to obstruct a Grand Jury investigation.

Thank you.

Gene Forte

<b>What Reporters can report upon Grand Juries.pdf</b>	<b>Content-Type:</b> application/pdf <b>Content-Encoding:</b> base64
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— Interviewing Witnesses Grand Juries.pdf —

<b>Interviewing Witnesses Grand Juries.pdf</b>	<b>Content-Type:</b> application/pdf <b>Content-Encoding:</b> base64
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[\[Front page\]](#)

## What can reporters report about grand jury testimony?

At a time when reporters are being subpoenaed to appear before grand juries in at least five cases, including one grand jury investigating who leaked the name of CIA operative Valerie Plame to the press, it warrants examining what, if anything, journalists can report after they've testified.

"The issue right now is ripe, because we have . . . reporters [possibly] going to jail for refusing to testify before the grand jury," said media lawyer Gregg D. Thomas of Holland & Knight, who represented a reporter in the 1990 *Butterworth v. Smith* case.

In *Butterworth*, the U.S. Supreme Court ruled that journalists — like any other witnesses — have a First Amendment right to publish the details of their grand jury testimony once the investigation has ended.

Newspaper reporter Michael Smith was summoned to testify before a grand jury after he wrote articles about alleged wrongdoing by the prosecutor's office and sheriff's department of Charlotte County, Fla. Smith was warned that Florida law prohibited grand jury witnesses from ever disclosing their testimony in any way, and that a violation could result in criminal punishment.

Smith planned to write a story and perhaps a book about the investigation, including his own testimony and experiences before the grand jury. He sued in federal court to win a declaration that the state law prohibiting his disclosure unconstitutionally restricted his freedom of speech. He also sought an order preventing the state from prosecuting him.

The federal district court threw out his case, ruling that a total and permanent ban on disclosure of witness testimony was necessary to ensure the proper functioning of the grand jury. The U.S. Court of Appeals in Atlanta (11th Cir.) reversed. The U.S. Supreme Court affirmed the appeals court, agreeing that the reasons for preserving grand jury secrecy did not warrant prohibiting witnesses from ever disclosing their testimony.

"[T]he interests advanced by the portion of the Florida statute [preventing witnesses from revealing their own testimony] . . . are not sufficient to overcome [Smith's] First Amendment right to make a truthful statement of information he acquired on his own," the Supreme Court concluded.

Although the high court specified that witnesses are free to talk once the grand jury has ended its investigation, Thomas said he believes it would have ruled the same way if the grand jury in his client's case had still been in session. He pointed out that the rule governing federal grand jury secrecy — Rule 6(e) — places no restriction on witnesses.

"Which means that if you're a witness before a federal grand jury, and you're not related to the government — you're just sort of a lay witness — you can immediately leave and discuss what happened before the grand jury," he said.

The Supreme Court also limited its holding to the disclosure of witness “testimony,” declining to decide whether witnesses may talk about their “experience” before the grand jury. But Thomas said he thinks such speech would be protected.

“I absolutely think the First Amendment protects that — that is, what it felt like being before a grand jury, what the questions were that were asked by the grand jury. I think the First Amendment protects that sort of compelled interaction,” he said. “You’re not there on your own, you’re not there as a volunteer, you’re there because the government says you have to be there. And I really think you have the ability to talk about or discuss what your experience was before the grand jury.”

At least one court, however, has narrowly interpreted *Butterworth* to permit grand jury witnesses to divulge only what they knew *before* they testified.

In 2003, the U.S. Court of Appeals in Denver (10th Cir.) ruled that a housekeeper for the parents of murdered child JonBenet Ramsey could not disclose anything she learned through testifying before the grand jury in a book she intended to write. In upholding a Colorado admonition to all grand jurors to keep their testimony secret “until and unless” an indictment issued, the court cited the importance of preserving the state’s interest in grand jury secrecy. (*Hoffmann-Pugh v. Keenan*)

“[W]e are convinced a line should be drawn between information the witness possessed prior to becoming a witness and information the witness gained through her actual participation in the grand jury process,” the court said. The U.S. Supreme Court in January declined to review the decision.

Thomas said the issue of reporters disclosing their grand jury testimony could arise in the current climate, noting that a few journalists actually have testified before the Plame grand jury.

“It would be interesting to see what some of those reporters had to say,” he said.

[\[Front page\]](#)

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[\[Front page\]](#)

## Interviewing witnesses

Federal rules and the majority of states, either expressly or impliedly, allow grand jury witnesses to disclose what transpired when they testified.

“There are no restrictions on witnesses before the grand jury,” said media attorney Kevin T. Baine of Williams & Connolly in Washington, D.C. “If anybody is called as a witness to the grand jury — whether as a witness to a crime, or a reporter, or someone suspected of a crime — that person is completely free to walk out of the grand jury room, stand in front of a TV camera and recite in detail everything that happened in that grand jury room.”

In fact, President Clinton appeared on national television on the same day he testified before the grand jury and revealed his status as a witness. “I’m not saying it’s inconceivable that a judge could ever gag a witness, but I’m not aware of it ever happening,” Baine said.

But in September, the California Court of Appeal in Santa Clara County upheld a warning given to grand jury witnesses not to disclose their testimony, or anything they learned during their appearance before the grand jury, until the transcript is made public.

The case arose after a newspaper unsuccessfully tried to interview grand jury witnesses in connection with the criminal investigation of a local judge. The *San Jose Mercury News* complained that a witness declined to talk to one of its reporters after a prosecutor told the reporter, within earshot of the witness, that anyone who spoke publicly about his testimony could be thrown in jail. Another prospective witness refused to be interviewed without the district attorney’s permission. The appeals court ruled that the admonition read to all witnesses was not an unconstitutional “prior restraint” on the press. (*San Jose Mercury News, Inc. v. Criminal Grand Jury of Santa Clara County*)

The ruling appears to conflict with a 1990 U.S. Supreme Court case, *Butterworth v. Smith* (see sidebar, page 5), which holds that all grand jury witnesses have a First Amendment right to disclose the contents of their testimony, at least once the grand jury has concluded its activities. But because the court in *San Jose Mercury News* limited its discussion to the single issue of prior restraint, it expressly declined to analyze the constitutionality of the warning under *Butterworth*.

One thing is certain: witnesses are completely free to discuss anything they knew prior to testifying before the grand jury. That doesn’t mean they will be willing to do so, however — especially when a prosecutor may threaten to throw them in jail for talking, *San Jose Mercury News* lawyer James Chadwick noted.

## Obtaining materials

The general rule of secrecy also applies to materials used in the course of grand jury proceedings, and even ancillary proceedings. It applies to civil — or watchdog — grand juries as well as criminal ones.

As previously noted, Rule 6(e)(6) of the Federal Rules of Criminal Procedure provides that records, orders and subpoenas pertaining to grand jury proceedings are kept sealed from the public “to the extent and for such time as is necessary to prevent disclosure of matters occurring before a grand jury.”

The U.S. Court of Appeals in Philadelphia (3rd Cir.) held in 1997 that there is no presumptive First Amendment or common law right of access to court documents involving materials presented before a grand jury. The court in that case determined that a sentencing memorandum that mentioned the names of grand jury witnesses, in apparent violation of the federal rules, and other pertinent documents were sufficiently related to the grand jury proceedings to justify sealing them. (*United States v. Smith*)

The same court later relied on *Smith* to deny a newspaper’s request to unseal court documents related to an apparent contempt proceeding against federal prosecutors for leaking secret grand jury information to the media. (*In re Newark Morning Ledger Co.*)

Grand juries that act as government watchdogs often issue to a court reports of their findings and recommendations, which then become public records. In 1988, the Supreme Court of California concluded that a grand jury could not disclose as part of its report “raw evidentiary materials,” including hearing transcripts and interviews conducted by the prosecutor, gathered during a watchdog investigation that failed to yield any indictments.

Numerous media organizations had challenged a lower court judge’s refusal to file the report and his sealing of the evidentiary materials, arguing such actions violated the public’s right to scrutinize public affairs. But the state high court, emphasizing the importance of grand jury secrecy, upheld the trial judge’s actions. (*McClatchy Newspapers v. Superior Court*)

### Ancillary proceedings

Under federal rules, not only are grand jury proceedings themselves closed to the public, but so are hearings on matters “affecting a grand jury proceeding.” Such ancillary proceedings often involve matters such as motions to quash grand jury subpoenas, motions requesting immunity from prosecution and motions to compel testimony. Federal courts therefore first must determine whether a particular proceeding is related to or affects a grand jury proceeding. This is done on a fact-specific, case-by-case basis.

Once determined to be ancillary to a grand jury proceeding, a matter is presumed secret. The press, in theory, can overcome the presumption by showing that the need for disclosure outweighs the need for secrecy. But case law indicates that such an argument has a slim chance of succeeding, especially if the grand jury’s investigation is ongoing.

Federal courts have held that the media had no right of access to papers or proceedings involving: a claim by an anonymous grand jury witness that he was the victim of illegal electronic surveillance by the government (*In re Grand Jury Subpoena*); allegations of government misconduct in releasing a sentencing memorandum that allegedly violated the grand jury secrecy rule (*United States v. Smith*); and objections from Monica Lewinsky’s lawyer to a grand jury subpoena and other ancillary matters during the investigation of President Clinton. (*In re Dow Jones & Co., Inc.*) At the state level, a California appeals court last year extended the rule of grand jury secrecy to motions to quash grand jury subpoenas served on an archdiocese in a priest sex abuse case. (*Los Angeles Times v. Superior Court*)

That is not to say the press can get no information at all about grand jury ancillary proceedings. In the *Dow Jones* case, the U.S. Court of Appeals in Washington, D.C., recognized that a local rule of criminal procedure allowed the trial court to open

matters “upon a finding that continued secrecy is not necessary to prevent disclosure of matters occurring before the grand jury.” Pursuant to this “limited means for disclosing non-secret matters,” the court suggested that cases before the grand jury could appear on the public docket under a nondescript caption such as “In re Grand Jury Proceedings,” followed by a “miscellaneous” case number. It sent the case back to the trial court to consider this option.

The trial court subsequently refused to create a generic rule that would require public docketing of all grand jury ancillary proceedings. The case then went to the appeals court a second time. In upholding the lower court’s decision, the appeals court noted that the media may seek a redacted public docket in a specific case. If the trial court denies the request, it must give a reason for doing so beyond the fact that it burdens administrators. The court also cannot deny the request based simply on the fear of leaks. The appeals court agreed with the media that the local rule “means what it says in providing a limited right to access with respect to grand jury ancillary proceedings.” (*In re Sealed Case, No. 99-3024*)

So what does all this mean to journalists seeking access? There is no First Amendment right of access to grand jury proceedings. The longstanding rule of secrecy covers participants, documents, and other materials, as well as matters that are related to grand jury proceedings. It may even apply to witnesses to some extent.

Unless the law specifically permits disclosure, the presumption of secrecy most likely will trump the interest in openness. As one federal district judge noted, in a recent case questioning the government’s authority to hide investigations from the public: “[T]he government has at least some power to control information which is its ‘own creation,’ and to which there is otherwise ‘no First Amendment right of access.’” (*Doe v. Ashcroft*)

#### Cases cited in this article:

*Butterworth v. Smith*, 494 U.S. 624 (1990)

*Doe v. Ashcroft*, 334 F. Supp. 2d 471 (S.D.N.Y. 2004)

*Hoffmann-Pugh v. Keenan*, 338 F.3d 1136 (10th Cir. 2003)

*In re Dow Jones & Co., Inc.*, 142 F.3d 496 (D.C. Cir. 1998)

*In re Grand Jury Subpoena (John Doe No. 4 v. John Doe No. 1)*, 103 F.3d 234 (2d Cir. 1996)

*In re Newark Morning Ledger Co.*, 260 F.3d 217 (3d Cir. 2001)

*In re Sealed Case No. 99-3024*, 199 F.3d 522 (D.C. Cir. 2000)

*In re Sealed Case No. 99-3091 (Office of Independent Counsel Contempt Proceeding)*, 192 F.3d 995 (D.C. Cir. 1999)

*Los Angeles Times v. Superior Court*, 7 Cal. Rptr. 3d 524 (Cal. Ct. App. 2003)

*McClatchy Newspapers v. Superior Court*, 751 P.2d 1329 (Cal. 1988)

*San Jose Mercury News, Inc., v. Criminal Grand Jury of Santa Clara County*, 19 Cal. Rptr. 3d (Cal. Ct. App. 2004)

*United States v. Aisenberg*, 358 F.3d 1327 (11th Cir. 2004)

[\[Front page\]](#)

**Subject:** Fwd: John Paul Bennett Merced County Grand Jury Citizens Complaint Form April 3, 2011  
**From:** Gene Forte <geneforte@badgerflats.com>  
**Date:** Fri, 08 Apr 2011 13:55:29 -0700  
**To:** grandjury@co.merced.ca.us, Grand Juror Tomsha <ambs\_2@yahoo.com>  
**BCC:**

April 8th, 2011

Grand Juror Foreperson Ellington & Grand Juror Tomsha and Other Grand Jury members,

You will find below the email I received today from Mr. Bob Oliver of "The Quantum Leap" with his attachments which were delivered to him for me from a Mr. John Bennett. I vaguely recall Bennett making contact with me sometime in 2002 or 2003 as a caller to my radio program on KSCO in Santa Cruz at the time.

I have never met Mr. Bennett nor heard from him since such time.

It is readily obvious that Bennett did not intend to file a Merced County Grand Jury Complaint against me.

I regret any confusion that Bennett's contact may have caused. He is a homeless person. I suggest that a great deal of passion and understanding be granted him for his actions. I will also say that just because he is homeless, it does not mean that he does not have his story to tell about what I know to be a very despicable group of public officials in Monterey County. I only suggest that his allegations should be taken with an added grain of salt.

I have no knowledge as to what the "29 documents" he has forwarded to you for me are. I also think it appropriate under the circumstances that the Grand Jury provide me the documents clearly delivered to me by Mr. Bennett

With that said, I redirect my attention to the fact that Merced County Counsel James Fincher ( a subject of the complaint under investigation) has no excuse for his actions. Fincher knowingly obstructed a Grand Jury investigation of himself and other subjects of the complaint.

Fincher knowingly did so under the guise of being an "advisor to the Grand Jury," when he knew he legally could not be, by running like chicken little crying the sky was falling by proffering an illegal and wholly inaccurate legal opinion to the Grand Jury.

Fincher is not homeless and presumably of sound mind and body.

I am in the hopes that this is my last email on the subject. I simply felt it imperative to transmit to you the email received from Mr. Oliver.

I will await to hear confirmation from you that the investigation has been put back on track and my interviews scheduled.

Again, thank you for your continued patience and have a pleasant weekend.

Gene Forte

PS: I have left intact the email from Mr. Oliver for your information. I also add that he, like any other citizen easily recognizes that even if there were some "confidentiality agreement" between myself and the Grand Jury, how in the world could it exist if we never even met. Oliver is not an attorney.....Fincher is.

I intend to bring such glaring point to the attention of the California State Bar.

----- Original Message -----

**Subject:** John Paul Bennett Merced County Grand Jury Citizens Complaint Form April 3, 2011  
**Date:** Fri, 8 Apr 2011 12:56:15 -0700  
**From:** bob oliver <[boboliver9@gmail.com](mailto:boboliver9@gmail.com)>  
**To:** [geneforte@badgerflats.com](mailto:geneforte@badgerflats.com)

Gene,

I found these two page documents on the seat of my motorcycle on or about April fourth at the KRXA540 radio station. The documents to the Grand Jury of Merced are apparently from John Bennett. John is a local homeless person who has been very knowledgeable about the corruption in Monterey County. He has made many claims to me about things he knows or suspects about our government and about our local politics. Most I have not verified.

He has made claims about the local corruption and the way the DA's office and Dean Flippo are all part of a Good Ol Boys Network.

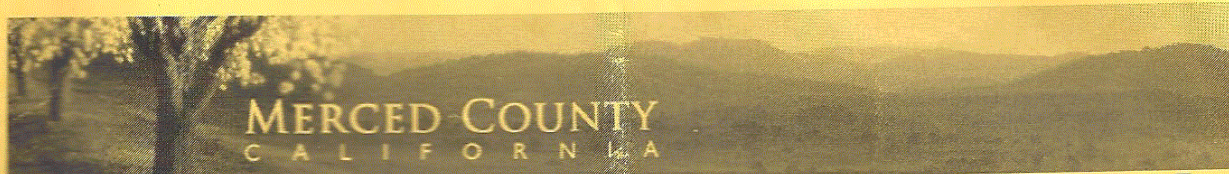
I have never talked with him about you and your problems. Apparently he listened to the show we did on April 2, 2011 (last Saturday). I have not seen or talked with John for over a month, but I will try to reach him. The phone number on his Grand Jury form is the one I also have for him.

I understand from our conversation of today that you have no confidentiality agreement with the Merced Grand Jury, and that they have given you several meeting dates in the past - ALL OF WHICH THEY HAVE CANCELED AT THE LAST MOMENT. How could you have a confidentiality agreement with them if you have never met with them.

Get Um Badger!

Bob Oliver 831 383-2676 [boboliver9@gmail.com](mailto:boboliver9@gmail.com) The Quantum Leap Mondays 8pm, Saturdays 9-11pm on [www.krxa540.com](http://www.krxa540.com)

— Forte 1.jpg —



About Us County Departments County Services Business Resources Search

HOME AGENDAS RSS You are here: Home > County Departments > Departments A-H > Grand Jury > Contact the Grand Jury

- About the Grand Jury
- Contact the Grand Jury
- File a Complaint
- Forms
- Grand Jury Members
- History of Grand Jury
- How It Works
- Reports
- Who Can Serve
- Who Would Make a Good Grand Juror

### Contact the Grand Jury

#### Contact Us

Any matters referred to the Civil Grand Jury for possible investigation must be submitted in writing with supporting background information and documents. If documents are available, but too voluminous to mail, indicate that in correspondence.

Correspondence should be directed to:

Grand Jury Foreperson  
P.O. Box 2034  
Merced, CA 95344  
Ph: (209) 777-2516

#### Serving on the Merced County Civil Grand Jury

Interested citizens who wish to serve on the Merced County Civil Grand Jury should direct correspondence to:

Kathleen Goetsch  
Court Executive Officer  
670 West 22nd St.  
Merced, CA 95340

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NOTIFY me

**MERCED**  
COUNTY  
2222 M STREET  
MERCED, CA 95344  
PH. (209) 385-7434  
TOLL FREE (800) 226-6452

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TO: BOB OLIVER

PHONE CALL SUNDAY TO  
CONFIRM FAX # TO GENE FORTE  
DIDN'T WORK (209) 894  
5040  
DENTED  
GENE LIVED THEIR.

MERCED COUNTY GRAND JURY  
CITIZENS COMPLAINT FORM

PO Box 2034  
Merced, CA 95344-2034

(Please print type or print clearly)

Certification: I certify (or declare) under penalty of perjury that the foregoing is true and correct.

APRIL 3, 2011

Date

The Civil Grand Jury of Merced County, in an attempt to carry out its duties, encourages Merced County residents to report concerns related to local and county government and the conduct of Merced County public officials.

We recognize that many citizens are reluctant to put details of their concerns in writing. Your name will never be used by the Grand Jury. All Civil Grand Jury members are bound by an oath of secrecy. Civil Grand Jury documents, including this complaint form, are never available to anyone outside the Civil Grand Jury and cannot be subpoenaed.

Date: APRIL 3, 2011

No.: \_\_\_\_\_  
(Office Use Only)

COMPLAINANT

Name: JOAN PAUL BENNETT

Address: P.O. BOX 2051 City & Zip: SEASIDE 93955

Tel: SAME → Tel: (831) 235-3129 (NOON-6PM)  
(Home) (Work or Cell)

Signature  
*John Bennett*

SUBJECT OF COMPLAINT (PERSON OR AGENCY)

Name/Title/Agency: EUGENE FORTE

Address: 688 BIRCH COURT City & Zip: LOS BANOS 93635

Tel: (209) 894-5040 Department: GRAND JURY WITNESS  
(209) 829-1952

COMPLAINT

Be specific; include names and dates. Describe the problem in your own words. Use additional pages if necessary.

MR. EUGENE FORTE ANNOUNCED SATURDAY (APRIL 2, 2011) KXRA 540 AM  
(SAND CITY, CALIF.) OF HIS APPEARANCE BEFORE THE  
"MERCED COUNTY GRAND JURY" ON (APRIL 7, 2011)  
CONCERNING THE MONTEREY COUNTY (D.A.) DEAN RILPO  
I WAS UNABLE TO CONFIRM (209) 829-1952 AS BEING  
FORTE FAX#. THEIR FORE I'm MAILING THESE PAPERS  
TO THE (M.C.J.S.) FOR MR. EUGENE FORTE ATTN. AT  
P.O. BOX 2034 29 DOCUMENT ENROUTE TO YOU.

**Subject:** Federal Rules of Criminal Procedure, Rule 6. The Grand Jury  
**From:** Gene Forte <geneforte@badgerflats.com>  
**Date:** Fri, 08 Apr 2011 18:30:41 -0700  
**To:** grandjury@co.merced.ca.us, Grand Juror Tomsha <ambs\_2@yahoo.com>  
**CC:** eileenforte@badgerflats.com  
**BCC:**

April 8th, 2011

re: Obstruction of Justice by James Fincher, etc.

Dear The Merced County Grand Jurors, Grand Juror Ellington & Grand Juror Tomsha,

I was hoping to hear from the Grand Jury prior to the weekend, even in a minor way, to assuage my mind that the Grand Jury is addressing the deliberate obstruction and tampering with the investigation by a subject of the investigation James Fincher acting in violation of [Penal Code 934-936](#) as an adviser.

The Grand Jury is aware that there had been no contact with me since May 2010 when I originally filed the complaint that the investigation was initiated upon albeit for one boilerplate letter stating that you had received my complaint.

Then, after informing me that the Grand Jury commenced an investigation, canceling three tentatively scheduled interviews and then striking me with an illicit lightning bolt forged by the subject of the investigation, Merced County Counsel James Fincher, you go completely silent.

Doesn't the Grand Jury have any compassion for what myself and family have been enduring? I would hope so, but the silence is deafening..and speaks volumes as to a potential lack of compassion.

So be it. They do say that justice is blind so that the law is applied to all equally.

I intend to have the Grand Jury keep such in mind now that it is time to hold James Fincher accountable for illegal actions which are above and beyond those he was already under investigation for.

I have done as much as could reasonably be expected to circumvent the Grand Jury from sending out an improper notice of termination of the investigation based upon the advice it received from James Fincher.

It should not need to be said, but due to the illegal actions of James Fincher, the Grand Jury is respectfully reminded that it should not be discussing any of this matter with James Fincher. An independent counsel should have already been assigned. That is what the rule was made for ([PC 934-938.5](#)).

It is so the illegal actions by those that are subjects of the investigation cannot undermine the credibility of the Grand Jury.

Frankly, Grand Jurors, one and all, should be madder than a bunch of proverbial wet hens at James Fincher for putting you in such an incredibly embarrassing position by undermining your credibility....and bringing into question your required neutrality.

With that said, you will find below from the **Cornell University Law School: [Federal Rules of Criminal Procedure \(2010\) Rule 6. The Grand Jury](#)**. I had inadvertently provided you a reference to Rule 6 of the State of Idaho (which actually is still in line with the Federal Rules.

I am pleading to your good conscience as a citizen and as Americans to not let this investigation be obstructed.

Thank you.

Respectfully submitted,

Gene Forte

Federal Rules of Criminal Procedure (2010)

[Rule 6. The Grand Jury](#)

(2) Secrecy.

**(A) No obligation of secrecy may be imposed on any person except in accordance with Rule 6(e)(2)(B) (as follows).**

(B) Unless these rules provide otherwise, the following persons must not disclose a matter occurring before the grand jury:

- (i) a grand juror;
- (ii) an interpreter;
- (iii) a court reporter;
- (iv) an operator of a recording device;
- (v) a person who transcribes recorded testimony;
- (vi) an attorney for the government; or
- (vii) a person to whom disclosure is made under Rule 6(e)(3)(A)(ii) or (iii).

**NOTE: None of the above describes me, the complainant.---- Gene Forte**