

# What Grassroots America Has Asked the Smith County Commissioners Court to Do and Why It Should Matter to You

March 28, 2018

Do you get sick of national news reports about rogue federal government employees who do what they want, when they want, and there's never a consequence for bad behavior even when they lie to Congress? Okay, we are sick of it too. That's why when bad behavior crops up at the local level, we have to speak out. Let's face it, if Grassroots America doesn't, who will?

## Background

On February 27, 2018, Grassroots America's Executive Director JoAnn Fleming – a self-retired Smith County Commissioner and an activist who has served on more than 22 local government committees and task forces over the past 26 years – asked the Smith County Commissioners Court to clarify language in the Smith County Employee Handbook regarding 1) the accurate reporting of time off from work for non-hourly (exempt) employees, and 2) the payout of unused (accrued) vacation hours for Smith County employees when they leave the employment of Smith County government.

Mrs. Fleming asked Judge Moran and the Commissioners to have appropriate statutory references and citations inserted into the Employee Handbook regarding employee reporting of time away from work AND employee benefits – especially unused vacation hours. **Why?**

**To clearly define what is required by law and what can be handled according to the personal preferences of independently elected county officials.**

Now, it does not take an Einstein to figure what that means. We want employees, their elected official bosses, and the public to be able to determine what is dictated by law and what elected officials can choose to do. This is necessary, because as we all know, if you land in a courtroom fighting charges of discrimination, your personal preferences do not trump the law.

## Where did this all begin?

Grassroots America obtained information through a Public Information Request that revealed at least four instances where security key card logs to the courthouse and secure parking indicated several days at a time when District Attorney Matt Bingham's First Assistant April Sikes was absent from work, **but her absences were not reported on the corresponding paycheck stubs.** **Absences of any kind for exempt (non-hourly) employees are required to be reported to the Payroll Division of the Auditor's Office, including Administrative leave. Exempt employees are NOT eligible to accrue compensatory time off.** The Auditor's response to our March 5, 2018, Public Information Request confirms these are requirements for exempt, non-hourly personnel – no matter which county official they work for!

These discrepancies in the Sikes security key access logs and her pay stubs were made worse, when during the course of the recent primary election for district attorney, **Ms. Sikes declared in a press release that the "allegations" had been investigated by the Smith County Sheriff's Office, the Smith County Auditor and the Texas Attorney General – all of which she claimed had cleared her.**

Grassroots America obtained information from the Sheriff, the Auditor, and the Attorney General that prove Ms. Sikes willfully lied about these investigations. **Not one of those three officials had ever been contacted by anybody to investigate the matter!** We find that really odd since a Texas Ranger said he did investigate. Did he do so without talking to, or at least notifying, any of these officials?

Ms. Sikes took an oath when she assumed her role as First Assistant Criminal District Attorney. We think a First Assistant Criminal DA who will purposefully put three lies in writing is more than a little troubling. **The fact that she did so without any repercussions has made us even more determined to get to the bottom of this.**

### **Why this is important**

Concerning today's (March 27) Commissioners Court meeting and the discussion about changes to the Employee Handbook, Mrs. Fleming told us, "Of course, the Smith County Commissioners Court cannot force another elected county official to do anything other than answer for the money budgeted to them and how they spend it. We are frankly tired of hearing that. This is why people are so jaded about government. They seem to want to focus on what they CANNOT do rather than what they should do to set a high standard for ALL of the county officials. It is called accountability. Putting that word on your campaign material does not make it so – your ACTIONS do! **The Commissioners Court does NOT have an obligation to cover up the messy administrative habits of other elected officials that can land the county smack in the middle of a lawsuit.** They should not fear the other elected officials – the brotherhood – more than they value the taxpayers who foot the bill for lawsuits, which are most often settled out of court.

**A responsibility of the Commissioners Court, as the elected policy-making branch of Smith County government, is to set ALL salaries and benefits. They should WANT to make sure their policies are clear to all employees, to all county officials, and to the taxpayers who pay all the costs.** Our request was a reasonable request and well founded, given the evidence we turned over to every single member of the Commissioners Court.

Mrs. Fleming told us today, "Since I spoke to the Commissioners Court on February 27, Judge Moran contacted me. After speaking with Judge Moran, I want to believe that he has every intention of doing what is within his power to protect Smith County taxpayers from exposure to litigation, which can stem from elected officials 'doing their own thing' with payroll reporting and benefits. **If county officials are not documenting employee appraisals and disciplinary actions, and are authorizing cash payouts of vacation benefits to some employees, but not to others with no documentation to explain why, guess where we could end up? **Settling discrimination lawsuits and feeding more attorneys due to the arbitrary and capricious actions of county elected officials!** Grassroots America has a problem with that, and that is why we will continue to pursue this matter."**

### **Troubling Talk**

We are very concerned with some of the comments made in Commissioners Court today by folks who should know better. They wanted to make sure the people know there is NO widespread problem with exempt employees not reporting their time off accurately. A reasonable question follows...so, how do you know that is true? Does it just feel better saying it? Or do you have evidence of audits where the key card logs are compared with time off hours reported to payroll? We are certainly not

aware this is a common practice. Do ALL independently elected officials check up on their own exempt non-hourly employees to make sure the reported time off is accurate? **Do they?** Based on what we have observed, we're pretty dang sure NONE of this happens!

Not so long ago, attorneys and a former county judge told us that the entire traffic camera contract fiasco was a "witch hunt," just no big deal at all. They said, "Oh no, there were no illegal meetings – no, not one." Well, that turned out not to be true at all. We are making an effort to put all that in the rearview mirror and work with the rational members of the court, but when their discussions seem more focused on papering over than addressing it head on, they hurt their credibility all over again. Why? Because they sound like those bureaucrats we see on the national news that forever make excuses.

As we were ending our discussion with Executive Director Fleming to write this update, she concluded her remarks to us by saying, "We have NO problem with any county employee receiving the benefits promised to them **as long as the benefits can be backed up by proper documentation.** Several exempt (non-hourly) assistant district attorneys have gotten their unused vacation hours paid out when they left the DA's office, **and each of those checks were for several thousand dollars.** **We want to make sure everybody understands that nobody gets to double-dip – taking time off, not reporting it, and then getting that unused vacation time converted to cash when they leave. There's a term for that – falsification of government documents, and it happens to be a crime."**

Grassroots America will continue to pursue this matter, not only with the Commissioners Court, but with all county elected officials. In fact, Mrs. Fleming guarantees that the Board will make this an issue for candidates in all future campaigns for county offices.

If the Smith County Commissioners Court will just take care of updating the Employee Handbook and enforcing accountability through the budget process, our record shows we'll take care of our part.