

Whistle-blower Act

Number: INFORMAL

Date: July 22, 2003

The Honorable Ron Klein
Senator, District 30
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Senator Klein:

Thank you for your letter of July 17, 2003, requesting that this office investigate various potential criminal violations related to a whistle-blower's complaint by Mr. Robert Metty, an employee of the Department of Education. All of the allegations you cite stem from the complaints of Mr. Metty, the whistle-blower.

The statutory scheme created by the "Whistle-blower's Act," sections 112.3187–112.31895, Florida Statutes, contemplates the orderly investigation of suspected violations of those provisions. Pursuant to the statute, reports of a violation of the act are to be directed initially to the Office of the Chief Inspector General in the Executive Office of the Governor or the Florida Commission on Human Relations.[1] Your letter indicates that this has been done.

Section 112.31895, Florida Statutes, provides that the Commission shall take corrective action and provides the Commission with the authority to "receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds." [2] Thus, the statute recognizes that a whistle-blower complaint may well involve criminal violations either directly or tangentially and provides a method for the referral and investigation of those allegations. As section 112.31895(3)(g)1., Florida Statutes, specifically provides: "If, in connection with any investigation under this section, it is determined that reasonable grounds exist to believe that a criminal violation has occurred which has not been previously reported, the Florida Commission on Human Relations shall report this determination to the Department of Law Enforcement and to the state attorney having jurisdiction over the matter."

The accounts that you cite report that the alleged activity occurred in Leon County. If this is the case, and the Human Relations Commission suspects that a criminal violation has occurred, it would be appropriate for the Commission to report that violation to the State Attorney for Leon County, Mr. Willie Meggs. If the Commission were to determine that a criminal violation had taken place in more than one circuit, it would then be appropriate for the Florida Department of Law Enforcement to investigate such a claim and, at that point, the jurisdiction of the Statewide Prosecutor may be implicated under section 16.56, Florida Statutes.

I understand your interest in ensuring that these allegations are properly investigated. The Legislature has prescribed an orderly and sequential process for investigating these matters

which must be respected. This office cannot ignore this legislative directive. Should an investigation by the Florida Commission on Human Relations and the appropriate law enforcement agencies result in evidence of any multi-jurisdictional criminal activity such that the jurisdiction of the Office of the Statewide Prosecutor is invoked, I am confident that the Statewide Prosecutor will vigorously pursue any charges referred to that office.

Sincerely,

Charlie Crist
Attorney General

CC/tgh

[1] Section 112.31895(1)(a), Florida Statutes.

[2] Section 112.31895(3)(a)5., Florida Statutes.