

**COMMONWEALTH OF KENTUCKY  
EXECUTIVE BRANCH ETHICS COMMISSION  
CASE NO. 16-001**

**IN RE: GERRI MESMER  
ALLEGED VIOLATION OF KRS CHAPTER 11A**

**INITIATING ORDER  
Initiation of Administrative Proceeding  
And Formal Complaint**

The Executive Branch Ethics Commission (the "Commission"), upon its own motion, initiated a preliminary investigation of Gerri Mesmer (the "Respondent"), pursuant to KRS 11A.080(1), on July 24, 2015.

At all relevant times the Respondent was a "public servant" as defined in KRS 11A.010(9), and thus subject to the jurisdiction of the Commission.

The Commission initiated the preliminary investigation to determine whether it has sufficient probable cause to believe the Respondent violated provisions of KRS Chapter 11A, the Executive Branch Code of Ethics (also referred to herein as the "Ethics Code").

The Commission focused its investigation upon the Respondent's possible violation of the Ethics Code by using her influence in a matter that involved a substantial conflict between her personal or private interest and her duties in the public interest; influencing a public agency in derogation of the state at large; using her official position to give herself a financial gain and an advantage in derogation of the public interest at large; using her official position to secure or create privileges, exemptions, advantages, or treatment for herself in derogation of the public interest; and failing to avoid all conduct which might in any way lead members of the general public to conclude that she was using her official position to further her professional or private interest.

The Commission notified the Respondent of the preliminary investigation by letter dated October 12, 2015.

During the course of the investigation, the Commission found probable cause to believe that violations of KRS Chapter 11A had occurred and voted January 11, 2016, to initiate an administrative proceeding, pursuant to KRS 11A.080(4)(b) and KRS Chapter 13B, to determine whether the Respondent violated the Ethics Code as set forth in the Allegations of Violations, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.

**IT IS THEREFORE ORDERED that:**

1. This Initiating Order and Appendix shall be served on the Respondent pursuant to KRS 13B.050(2) by certified mail, return receipt requested, to the last known address of the Respondent.

2. The Respondent shall file her answer to this Initiating Order within twenty (20) days from the date of service, verifying the truth and accuracy of any answer submitted.

3. The Respondent shall appear at a hearing to be scheduled by subsequent order and be prepared to defend against the Commission's allegations that she committed the Ethics Code violations set forth in the Allegation of Violations, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.

4. The Commission will request the designation of a Hearing Officer by the Administrative Hearings Branch of the Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601-8204.

5. The Commission is represented by Misty Dugger Judy, General Counsel,

and Kathryn H. Gabhart, Executive Director as co-Counsel. They may be contacted through the Commission's office at (502) 564-7954.

6. All original material shall be submitted to the Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601. A copy of all materials shall be served on the designated Hearing Officer.

7. The Respondent has the right to legal counsel during this proceeding. If the Respondent retains legal counsel, that person shall file an appearance with the Commission, and thereafter all correspondence from the Commission to the Respondent shall be mailed or delivered to the Respondent's attorney.

8. The Respondent has the right to examine upon request, at least five (5) days prior to the hearing, a list of witnesses the Commission expects to call at the hearing, any evidence that will be used at the hearing and any exculpatory information in the Commission's possession.

9. The Respondent has the right to subpoena witnesses on her own behalf. If the Respondent subpoenas witnesses, she shall pay for all costs associated with the subpoenas' issuance, including any applicable witness fees.

10. If the Respondent fails to attend or participate as required at any stage of the administrative hearing process without good cause shown, she may be held in default pursuant to KRS 13B.050(3)(h).

11. The Respondent has a right to appeal any final Commission order to the Franklin Circuit Court within thirty (30) days of service.

12. This proceeding is subject to KRS Chapter 11A, the Commission's regulations, the provisions of KRS Chapter 13B, and any Order issued by the

Commission or its hearing officer issued during this administrative proceeding.

So ordered this 11th day of January 2016.

**EXECUTIVE BRANCH ETHICS COMMISSION:**

*Absent*

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W. David Denton, Chair

*William G. Francis*

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William G. Francis, Vice-Chair

*Richard L. Masters*

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Richard L. Masters, Member

*Martin E. Johnstone*

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Martin E. Johnstone, Member

*Sheila R. Isaac*

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Sheila R. Isaac, Member

**APPENDIX A  
CASE NO. 16-001  
INITIATING ORDER**

**ALLEGATION OF VIOLATIONS**

The Respondent, Gerri Mesmer, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Department of Juvenile Justice, Justice and Public Safety Cabinet. As such, the Respondent was subject to the jurisdiction of the Commission. KRS 11A.010(9)(h).

During the course of its preliminary investigation, the Commission found probable cause to believe that Gerri Mesmer committed the following violations:

**COUNT I**

Gerri Mesmer, during her course of employment as a Social Service Clinician I, Westport Group Home, Department of Juvenile Justice (“Department”), Justice and Public Safety Cabinet, used her official position to use or attempt to use any means to influence her agency in derogation of the state at large; used or attempted to use her influence in any matter which involved a substantial conflict between her personal or private interest and her duties in the public interest; and used or attempted to use her official position to secure or create privileges, exemptions, advantages, or treatment for herself or others in derogation of the public interest at large.

Specifically, during 2012, Mesmer used her position as a Social Service Clinician at the Westport Group Home, and her access to juvenile male offenders, to engage in sexual acts with at least one male juvenile under her supervision. Mesmer did so to fulfill her own prurient interests, which conflicted with her duties in the public interest. Mesmer also used her position and access to the juvenile offenders to violate the Department’s policies.

These facts constitute a violation of KRS 11A.020(1)(a), (b), and (d), which provide as follows:

(1) No public servant, by himself or through others, shall knowingly:

(a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

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(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

## COUNT II

Gerri Mesmer, during her course of employment as a Social Services Clinician with the Westport Group Home, Department of Juvenile Justice, ("Department"), Justice and Public Safety Cabinet, used or attempted to use her influence in any matter which involves a substantial conflict between her personal or private interest and her duties in the public interest; used her official position to use or attempt to use any means to influence her agency in derogation of the state at large; used or attempted to use her influence in any matter which involved a substantial conflict between her personal or private interest and her duties in the public interest; and used or attempted to use her official position to secure or create privileges, exemptions, advantages, or treatment for herself or others in derogation of the public interest at large.

Specifically, while working as a Social Service Clinician at the Westport Group Home during 2012, Mesmer provided a male juvenile offender under her supervision with items of value, including Xbox game console, Xbox video games, food items, and cash money at the same time that she was attempting to or engaging in sexual acts with the male juvenile offender. Mesmer provided these items of value to the juvenile in violation of the Department's policies and used her position and access to the juvenile to do so.

These facts constitute a violation of KRS 11A.020(1)(a), (b), and (d), which provide as

follows:

(1) No public servant, by himself or through others, shall knowingly:

- (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
- (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

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- (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

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