

**COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE 15-009**

**IN RE: JAMES JOHNSON
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 James Johnson (the “Respondent” or “Johnson”), pursuant to KRS 11A.080(1), on November 10, 2014.

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 there was probable cause to believe the Respondent violated provisions of KRS Chapter 11A (also referred to herein as the “Ethics Code”).

The Commission focused upon the Respondent’s possible violation of the Ethics Code by using his official position with the Justice and Public Protection Cabinet to use or attempt to use his influence in any matter which involved a substantial conflict between his personal or private interest and his duties in the public interest; to use or attempt to use any means to influence his agency in derogation of the state at large; to use his official position or office to obtain financial gain for himself or any members of the public servant’s family; and to give himself advantages and privileges for himself or others in derogation of the state at large.

The Commission notified the Respondent of the preliminary investigation by letter dated November 13, 2014. During the course of the investigation, the Commission found probable cause to believe that violations of KRS Chapter 11A had occurred and voted on July 24, 2015, 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 his 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 he 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. Pursuant to KRS 13B.030(2)(b), 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. If the Attorney General's Office cannot provide the requested hearing officer, the Commission will, pursuant to KRS 13B.030(2)(a), employ a hearing officer, contract with another agency for a hearing officer in conjunction with KRS 11A.070, or contract with a private attorney through a personal services contract. The Commission will notify the Respondent or his retained counsel of the designation of a Hearing Officer as soon as possible after the appointment.

6. The Commission is represented by Kathryn H. Gabhart, Interim Executive Director and General Counsel of the Executive Branch Ethics Commission. She may be

contacted through the Commission's office at (502) 564-7954.

7. All original material shall be submitted to the Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601, Attention: Debbie Briscoe. A copy of all materials shall be served on the designated Hearing Officer and the Commission's counsel.

8. 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.

9. 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.

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

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

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

13. 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 24th day of July 2015.

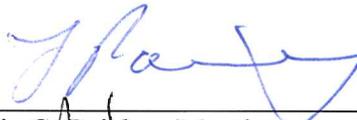
EXECUTIVE BRANCH ETHICS COMMISSION:



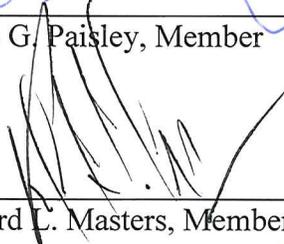
W. David Denton, Chair



William G. Francis, Vice-Chair



Lewis G. Paisley, Member



Richard L. Masters, Member



Martin E. Johnstone, Member

**APPENDIX A
CASE NO. 15-009
INITIATING ORDER**

ALLEGATION OF VIOLATIONS

The Respondent, James Johnson, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Justice and Public Safety Cabinet (also referred to herein as “the 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 James Johnson committed the following violations:

COUNT I

That James Johnson, during his course of employment as a Correctional Officer, Kentucky Correctional Institution for Women, Department of Corrections (“Department”), Justice and Public Safety Cabinet, used his official position to use or attempt to use any means to influence his agency in derogation of the state at large; used or attempted to use his influence in any matter which involved a substantial conflict between his personal or private interest and his duties in the public interest; and used or attempted 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.

Specifically, between 2008 and 2011, on multiple occasions, Johnson used his position as a Correctional Officer, and his access to female inmates, to sexually abuse at least two female inmates under his supervision. Johnson did so to fulfill his own prurient interests, which conflicted with his duties in the public interest. Johnson used his position and access to the inmates 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;

 - (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

That James Johnson, during his course of employment as a Correctional Officer, Kentucky Correctional Institution for Women, Department of Corrections (“Department”), Justice and Public Safety Cabinet, used or attempted 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; used his official position to use or attempt to use any means to influence his agency in derogation of the state at large; used or attempted to use his influence in any matter which involved a substantial conflict between his personal or private interest and his duties in the public interest; and used or attempted 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.

Specifically, between 2008 and 2011, Johnson, while working as a Correctional Officer, provided female inmates items of value, including candy bars and other food items, at the same time that he was also involved in conduct in which he engaged in sexual acts on the female

inmates. Johnson provided these items of value to the inmates in violation of the Department's policies and used his position and access to the inmates 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;
 - ***
 - (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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