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7 **UNITED STATES DISTRICT COURT**  
8 **WESTERN DISTRICT OF WASHINGTON**  
9 **AT TACOMA**

10 TEAMSTERS LOCAL UNION NO. 117, a  
11 Washington labor organization,

12 **Plaintiff,**

13 **v.**

14  
15 WASHINGTON STATE DEPARTMENT  
16 OF CORRECTIONS,

17 **Defendant.**  
18

**No.** \_\_\_\_\_

**COMPLAINT FOR DECLARATORY  
JUDGMENT AND INJUNCTIVE  
RELIEF**

19  
20 Plaintiff Teamsters Local Union No. 117 complains and alleges as follows:

21 **I. PARTIES**

- 22 1. Teamsters Local Union No. 117 ("Local 117" or "the Union"), is a labor organization  
23 with its principal place of business in King County, Washington. Local 117 is the  
24 exclusive certified bargaining representative of approximately 6,000 State employees  
25

COMPLAINT - 1  
Case No. \_\_\_\_\_

TEAMSTERS LOCAL UNION NO. 117  
14675 INTERURBAN AVENUE SOUTH,  
SUITE 307  
TUKWILA, WASHINGTON 98168  
Office (206) 441-4860 / Fax (206) 441-3153

1 employed by the Washington State Department of Corrections (“DOC” or “Defendant”)  
2 in the Prisons Division.

- 3 2. DOC is a state agency with its principal place of business in Thurston County,  
4 Washington. DOC employs individuals represented by Local 117. DOC operates twelve  
5 (12) adult prison facilities in Washington State, including the Washington Corrections  
6 Center for Women (“WCCW”) and the Mission Creek Corrections Center for Women  
7 (“MCCCW”). WCCW and MCCCW are the only state prisons that house female  
8 inmates, and both male and female DOC employees work at these women’s correctional  
9 facilities.  
10  
11 3. WCCW is located in Gig Harbor, Washington.  
12  
13 4. MCCCW is located in Belfair, Washington.  
14  
15 5. DOC is, and at all relevant times was, an employer engaged in an industry affecting  
16 commerce within the meaning of section 701 et seq. of Title VII, 42 U.S.C., Sections  
17 2000e-(b), (g), and (h).

18 **II. JURISDICTION AND VENUE**

- 19 6. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1331.  
20  
21 7. This action is authorized and instituted pursuant to Title VII of the Civil Rights Act of  
22 1964, as amended, 42 U.S.C. Sections 2000e, et seq. (“Title VII”).  
23  
24 8. Venue in this District is proper as the employment practices alleged to be unlawful were  
25 committed within the jurisdiction of the United States District Court for this District.

### III. STATEMENT OF FACTS

1  
2 9. In July of 2007, a lawsuit was filed on behalf of female inmates against DOC and  
3 individual defendants, alleging that certain staff had engaged in sexual misconduct (“the  
4 *Jane Doe* lawsuit”).

5 10. The *Jane Doe* lawsuit is the first lawsuit of its kind against the State of Washington.

6 11. DOC responded to the *Jane Doe* lawsuit by conducting an investigation and hiring  
7 consultants to review the issue of sexual misconduct within women’s correctional  
8 facilities.

9  
10 12. The consultants hired by DOC recommended, in part, that DOC address sexual  
11 misconduct in women’s correctional facilities by increasing the number of female  
12 correctional officers.

13 13. The consultants hired by DOC never recommended that DOC address sexual misconduct  
14 by decreasing the number of male correctional officers.

15 14. The plaintiffs’ experts in the *Jane Doe* lawsuit argued that an increase in the number of  
16 female correctional officers would limit the potential for sexual misconduct in women’s  
17 correctional facilities.

18  
19 15. The plaintiffs’ experts in the *Jane Doe* lawsuit did not argue for a reduction in the  
20 number of male correctional officers.

21 16. The National Prison Rape Elimination Commission recommends increasing overall  
22 staffing levels and utilizing technological aides to improve safety in women’s  
23 correctional facilities.  
24  
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1 17. The Department of Justice and the National Institute of Corrections Information Center  
2 likewise recommend increasing overall staffing levels at women's correctional facilities  
3 to improve safety.

4 18. Adding positions for both male and female correctional officers in women's correctional  
5 facilities, or reassigning certain duties to female only staff, could address DOC's  
6 concerns about sexual misconduct without displacing existing male workers.

7 19. On May 15, 2008, DOC submitted a request to the Washington State Human Rights  
8 Commission ("WSHRC") to designate numerous existing correctional officer positions at  
9 several women's correctional facilities as female-only, asserting that gender is a bona  
10 fide occupational qualification ("BFOQ") for those positions.

11 20. The number of BFOQ positions requested was approximately one-hundred and ten (110).

12 21. WCCW and MCCCW were among the correctional facilities affected by the broad-  
13 sweeping BFOQ designation request.

14 22. The *Jane Doe* lawsuit makes no allegations of any misconduct with respect to the large  
15 majority of correctional staff working at WCCW and MCCCW.

16 23. There are no founded allegations of sexual misconduct with respect to existing employees  
17 at WCCW or MCCCW.

18 24. On February 5, 2009, without conducting a hearing, the WSHRC approved DOC's  
19 request to designate all of the requested correctional officer positions as female-only.

20 25. Upon receipt of the WSHRC approvals, DOC indicated to the Union its intent to  
21 designate the positions as female-only and begin recruiting and reassigning employees  
22 accordingly.  
23  
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1 26. The reclassified positions include housing positions, response and movement positions,  
2 programs and activities positions, industries positions, transportation positions,  
3 reception/intake positions, and relief positions.

4 27. Between these various categories of positions, there is a high degree of variation  
5 regarding isolation, search requirements, and reasonable available alternatives to address  
6 privacy and/or safety concerns of female inmates.

7 28. DOC failed to undertake any individualized analysis of each position before designating  
8 all of the approximately 110 positions as female-only.

9 29. Many positions were improperly designated as female-only.

10 30. When choosing between two positions in a single location on the same shift, where one  
11 of the positions had a female correctional officer as the incumbent, DOC chose to  
12 designate the other position that was not occupied by a female as the female-only  
13 position.  
14

15 31. DOC denied the Union's request to have the first position, which already had a female  
16 incumbent, designated as the female-only position.  
17

18 32. Had DOC honored the Union's request, a male incumbent would not have been displaced  
19 and DOC's intended result of having one of the two positions be classified as female-only  
20 would have been achieved.

21 33. The Union and DOC have been parties to a series of collective bargaining agreements  
22 over a period of several years.

23 34. All correctional officers obtained their positions pursuant to the seniority-based bid  
24 system set forth in one of the above referenced collective bargaining agreements between  
25 DOC and the Union.

1 35. On June 30, 2009, the date that the previous collective bargaining agreement expired,  
2 DOC unilaterally moved male correctional officers out of most of the positions it had  
3 decided would be female-only positions.

4 36. DOC has refused to consider male applicants for correctional officer positions designated  
5 as female-only positions.

6 37. DOC has displaced male correctional officers holding positions pursuant to a seniority-  
7 based bid, because those correctional officers were male.

8 38. As a result of the female-only designations, male correctional officers were forced to  
9 transfer to less desirable positions, and in some cases transfer to different facilities,  
10 causing great disruption to their professional and personal lives.

11 39. As a result of the female-only designations, female staff are required to work more  
12 overtime hours, as they are being used for both female-only and gender-neutral  
13 vacancies.

14 40. As a result of the female-only designations, despite having contractual seniority on the  
15 voluntary overtime list, male staff are being skipped-over on overtime opportunities,  
16 since they cannot work overtime in female-only positions.

17 41. As a result of the female-only designations, senior female staff who received layoff  
18 notices and submitted bids for gender-neutral positions, and who should have been  
19 awarded such positions based on their contractual seniority, have been selected for less  
20 desirable positions designated as female-only, while less senior male staff were selected  
21 for the gender-neutral positions.  
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1 42. As a result of the female-only designations, senior male staff are receiving layoff notices  
2 due to limited gender-neutral positions, while junior female staff with less seniority are  
3 still employed due to female-only position vacancies.

4 43. As a result of the female-only designations, probationary female staff and non-permanent  
5 (on-call) female staff were retained, while permanent male staff were laid off.

6 44. As a result of the female-only designations, female staff have an increased workload  
7 since they must perform all of the pat searches and strip searches of female inmates, and  
8 the second correctional officer must now also be female.

9 45. As a result of the female-only designations, female staff are frequently missing scheduled  
10 rest breaks and lunch breaks while serving in female-only positions due to a lack of  
11 female relief staff, while male staff are receiving scheduled rest breaks and lunch breaks.

12 46. As a result of female-only designations, DOC has had to move female staff out of their  
13 gender-neutral bid posts to cover for vacant female-only positions, thereby violating the  
14 contractual bid rights of female staff.

15 47. As a result of female-only designations, female staff are more frequently left alone with  
16 offenders because they cannot self relieve for breaks while male correctional officers can.

17 48. DOC employees have reported that violence against staff by inmates has increased since  
18 the creation of female-only positions.

19 49. DOC employees have reported that violence between inmates has increased since the  
20 creation of female-only positions.

21 50. DOC employees have reported that a lack of male staff presence in the female living  
22 units has emboldened violent offenders to act out.  
23  
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1 51. All conditions precedent to the institution of this lawsuit have been fulfilled. More than  
2 thirty (30) days prior to the institution of this lawsuit, Plaintiff filed charges of unlawful  
3 discrimination with the Equal Employment Opportunity Commission ("EEOC"), alleging  
4 that Defendant violated Title VII.

5 52. EEOC investigated the claim, and on July 18, 2011 issued its Right to Sue Notice to  
6 Plaintiff, who then timely filed this complaint.  
7

#### 8 IV. CAUSES OF ACTION

##### 9 Count I: Gender Discrimination in Violation of Title VII

10 53. Plaintiffs herein re-allege each and every fact set forth above.

11 54. DOC improperly designated many positions as female-only without undertaking a proper  
12 analysis of those positions to determine whether being female was, in fact, a bona fide  
13 occupational qualification for each designated position.  
14

15 55. Many of the positions are wrongfully designated as female-only without adequate proof  
16 that being female is, in fact, a bona fide occupational qualification for the designated  
17 position.  
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19 56. The male correctional officers impacted by DOC's female-only designations were  
20 qualified for the positions they held, and despite those qualifications, DOC wrongfully  
21 denied the male correctional officers the right to continue to hold those positions because  
22 of their gender.

23 57. As a direct and proximate result of the aforesaid acts of Defendant, male correctional  
24 officers have been laid-off, displaced, and transferred to less desirable positions or  
25 different correctional facilities.



1 58. As a direct and proximate result of the aforesaid acts of Defendant, male correctional  
2 officers have suffered a loss of earnings and other damages.

3 59. As a direct and proximate result of the aforesaid acts of Defendant, male correctional  
4 officers have suffered loss of status, diminished sense of self-worth, anxiety, emotional  
5 distress, embarrassment, humiliation, mental anguish, and other related damages.

6 60. As a direct and proximate result of the aforesaid acts of Defendant, female correctional  
7 officers have been forced to work excessive overtime.

8 61. As a direct and proximate result of the aforesaid acts of Defendant, female correctional  
9 officers have been subjected to unsafe working conditions.

10 62. As a direct and proximate result of the aforesaid acts of Defendant, both male and female  
11 correctional officers have been subjected to violations of contractual protections in  
12 working conditions guaranteed by collective bargaining agreements between the Plaintiff  
13 and Defendant.  
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16 **V. PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays for relief as follows:

18 A. Order of equitable remedies and remedial relief, including an injunction  
19 prohibiting Defendant from denying male correctional officers the right to hold positions  
20 for which they are qualified and for which there is no legitimate need for a female-only  
21 designation;  
22

23 B. Order requiring Defendant to undertake an individual analysis of each position  
24 before designating it as female-only, including those positions already designated as  
25

1 such, and an opportunity for the Union to present evidence to an impartial arbitrator who  
2 will have the ultimate authority to rule regarding such designations;

3 C. Order requiring Defendant to cure all Title VII violations;

4 D. Award Plaintiff its attorneys' fees; and

5 E. Award such other relief as the Court may deem just, proper and equitable.

6  
7 RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of September, 2011.

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