

## Hot Topics!

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Your Local Union is engaged in tough fights with the State over a number of important issues. View the latest news on the most critical topics below. If you have questions, talk to your [Business Representative](#).

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### 1. STAFF SAFETY

Your Local Union's number one priority continues to be the fight to improve staff safety for all Teamsters at the Department of Corrections. Local 117 has worked through the Washington State Legislature, the collective bargaining process, and through the media to pressure the Department to improve safety conditions for correctional employees. You can read more about your Union's position with respect to staff safety in an [editorial on the topic written by Secretary-Treasurer Thompson](#) and published in the Walla Walla Union Bulletin and the Everett Herald.

**EARLY RELEASE:** In the 2012 legislative session, your Local Union successfully fought back the Governor's proposal that called for releasing low and moderate risk offenders (including sex offenders) five months early, closing minimum security units and repurposing the Washington State Reformatory from a medium to a minimum security facility. Dozens of members and Union staff testified against these cuts and for the protection of jobs as well as staff and public safety. Legislators heard us loud and clear: Not only was the Governor's proposal bad public policy, but it would place our communities at risk.

### 2. INTEREST ARBITRATION

[BREAKING NEWS! DOC Teamsters win interest arbitration!](#)

### 3. BFOQ

The Union is appealing a Federal Court decision that came out on March 8 in the BFOQ case. The DOC and Columbia Legal Services sought dismissal of the case before trial.

The trial court granted the DOC's motion to dismiss based on two theories. First, the Court ruled that the Union did not present sufficient evidence of actual injury. In other words, general evidence of members' displacement from bid posts, layoffs and excessive overtime was not specific enough as to any particular individual harmed by the BFOQ designations. The Union's legal

team believes we have a strong case for appeal on this theory.

The Court also dismissed the case because it gave substantial deference to the DOC's determination of whether BFOQ designations were really necessary. This has always been a fundamental argument in this case. How much leeway does the law give an Employer when it comes to the narrow BFOQ exception to federal anti-discrimination laws? It is an important question in this case and one that will now have to be answered by the Ninth Circuit Court of Appeals.

The Union will file the appeal within the next two weeks but the busy Ninth Circuit is unlikely to actually hear arguments until sometime in 2014 or 2015.

#### **4. RETALIATION ULP**

On May 23, 2011, Local 117's Legal Department filed a comprehensive Unfair Labor Practice [complaint](#) against the DOC alleging discrimination and interference by the employer at five different facilities. In particular, your Union was seeking relief for Shop Stewards who had been unlawfully retaliated against by the Department for voicing concerns about staff safety issues.

In early February 2012, the Union completed an eight-day, statewide hearing in the case. The transcript of the hearing alone was almost 1,300 pages long, and your Union submitted a [53-page legal brief](#) to the Public Employment Relations Commission's Hearing Examiner.

The [decision](#) in the case, issued on December 10, 2012 found that the DOC engaged in numerous unlawful actions. The DOC was found to have unlawfully:

- Interfered with employees' ability to appeal denied requests for use of CBA days
- Interfered with employees' ability to discuss union tactics with other employees
- Interfered with employees' right to discuss workplace safety and training safety
- Interfered with employees' right to participate in union activities
- Interfered with employees' ability to communicate with the union
- Interfered with an employee's right to union representation (Weingarten rights)

PERC has ordered the DOC to immediately cease and desist from engaging in its unlawful conduct and to post copies of [this notice](#) at DOC facilities.

In challenging the DOC for its unlawful conduct, your Union has sent an unequivocal message to the Department that we will not tolerate retaliation against any union member for engaging in protected activities (especially when it is directed against shop stewards), and that we will take vigorous action to protect your rights when they are violated.

Your Union issued an appeal in the case with respect to some portions of the decision in which the Hearing Examiner found no violation. [The appeal can be viewed here.](#)

#### **5. UNIFORMS**

In the 2012 legislative session, your Union was successful in working to pass legislation (HB 2346) that prevents inmates from producing uniforms for sergeants and officers at the DOC.

After several months of negotiating, your Local Union's bargaining committee reached an agreement with the Department of Corrections on uniforms in accordance with the new law (HB2346).

The Department will furnish professional quality and gender appropriate uniforms for custody staff as follows:

1. Four BDU style pants;
2. Four BDU style shirts – any combination of long or short sleeve shirts the employee elects; and as necessary,
3. Safety, cold and/or foul weather apparel, including jackets and hats.

The DOC will provide [Flying Cross](#) dark blue short-sleeve shirts ([model #85R5456](#)) and/or Flying Cross dark blue long-sleeve shirts ([model #35R5456](#)) and Flying Cross dark blue pants ([model #47300](#)); and [Blauer](#) dark blue jackets ([2012 Tacshell 4 in 1 jacket model #9820-60](#)).

Finally, after years of ill-fitting, low-quality uniforms, you will have the professional uniforms that you deserve!

#### **APRIL 29, 2013 UPDATE**

Due to initial orders delivered without the proper badging, the distribution of uniform items under the January 23 tentative uniform rollout schedule has been delayed roughly six to eight weeks. The new rollout document reflects a revised schedule that covers distribution into July. Further rollout information will be forthcoming.

[For an updated uniform rollout schedule, click here.](#)

#### **6. WALKING TIME SETTLEMENT**

The Local 117 Legal Department has achieved a significant settlement with the DOC that will provide retroactive compensatory time to members who have been regularly required to walk at least nine minutes or more from master control to their posts.

The agreement also requires that the Department reduce travel time to work stations to ten minutes or less for all employees by April 1, 2013, or begin paying a premium to members if the walk to their posts takes them in excess of the 10-minute threshold.

#### **HOW WAS THE LIST OF IMPACTED POSTS DETERMINED?**

Members, together with their Business Representatives, timed the walks from master control to posts at different facilities. Your Union presented the information during the PERC mediation process. The parties then generated two lists of posts: one for all posts that require travel time of at least nine minutes or more and a second list for all posts that require travel time of ten minutes or more.

[The lists can be viewed in Annex A and Annex B at end of the settlement agreement.](#)

(There are a few posts still under dispute, including work stations in the Fox and Golf units at WSP and all work stations at WCCW. If the parties are not able to reach agreement with respect to these posts, then the PERC mediator will make a final determination.)

#### **HOW DID THE PARTIES SETTLE ON THE TEN-MINUTE THRESHOLD?**

Under federal and state wage law, there is an established 10-minute rule, whereby an employer is required to compensate its employees who must spend more than “de minimis” time working off the clock. The claim here was disputed (as to whether the walking time constitutes work time), but

many courts have held that the “de minimis” line is drawn at 10 minutes.

### **HOW MUCH WILL ELIGIBLE MEMBERS RECEIVE IN BACK PAY COMPENSATION?**

The settlement provides that the DOC must grant two-tenths of one hour of compensatory time to members working at posts on the 10-minute list, and one-tenth of one hour of compensatory time for members at posts on the 9-minute list for the period commencing on January 1, 2012, and ending on March 31, 2013. \

As a result, impacted members will be eligible for between 12 and 60 hours of retroactive comp time depending on assignment and number of shifts worked. These numbers are approximate and may vary dramatically depending on the frequency of work performed in the posts in question during the relevant time frame.

### **HOW WILL WORKING CONDITIONS CHANGE MOVING FORWARD?**

If the DOC has not reduced travel time to ten minutes or less for all posts by April 1, 2013, members who work at a work station having travel time in excess of 10 minutes will be entitled to premium pay of two-tenths of one hour of overtime for each shift worked.

This settlement represents a significant win for Local 117 members at the DOC who have not been adequately compensated for time traveling to their work stations. In total, the back pay in compensatory time is worth in excess of \$250,000.

If you have questions about this agreement, please talk to your Business Representative.