

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
v.	)	Civil Action No.: _____
	)	
THE CITY OF CORPUS CHRISTI,	)	
TEXAS	)	
	)	
Defendant.	)	

**COMPLAINT**

Plaintiff, United States of America (“United States”), alleges:

1. This action is brought on behalf of the United States to enforce provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, as amended (“Title VII”).
2. This Court has jurisdiction of this action under 42 U.S.C. §§ 2000e-(2) and 6(b), 28 U.S.C. §§ 1331 and 1343, and 28 U.S.C. § 1345.
3. Defendant, the City of Corpus Christi, Texas (“Corpus Christi”), is a governmental body created pursuant to the laws of the State of Texas and located within this judicial district.
4. Corpus Christi is a “person,” within the meaning of 42 U.S.C. § 2000e(a), and an “employer,” within the meaning of 42 U.S.C. § 2000e(b).
5. Corpus Christi maintains a police department and employs entry-level police officers.
6. Corpus Christi is responsible for establishing the terms and conditions of, as well as other practices that relate to, the employment of entry-level police officers.

7. Corpus Christi has maintained and continues to maintain selection procedures by which applicants for the position of entry-level police officer are selected.

8. Since 2005, the selection process for entry-level police officers for Corpus Christi has included the following steps: an application screening, a written entrance examination, a physical ability test (“PAT”), a personal history statement, a polygraph examination, a background investigation, an oral board interview, a psychological examination, and a physical examination.

9. Since 2005, Corpus Christi has administered and used the PAT in connection with selecting entry-level police officers. The PAT is comprised of four events: (1) push-ups; (2) sit-ups; (3) a 300-meter run; and (4) a 1.5-mile run. The PAT has cut-off scores for each event.

10. Corpus Christi has required that applicants for entry-level police officer jobs pass each event in the PAT in order to continue in the selection process for entry-level police officer jobs; if an applicant fails a PAT event, s/he fails the PAT.

11. From 2005 to 2009, approximately 19% of the female applicants for entry-level police officer jobs who took the PAT passed the test. During the same time period, approximately 63% of the male applicants for entry-level police officer jobs who took the PAT passed the test. If women had passed the PAT at the same rate as men, approximately 62 additional women would have been available for further consideration for the position of entry-level police officer.

12. The difference in pass rates between female and male applicants from 2005 to 2009 is statistically significant, and the female pass rate is less than 80% of the male pass rate.

13. When each administration of the PAT from 2005 to 2009 is considered separately, the difference in pass rates between female and male applicants is statistically significant for each administration, and the female pass rate is less than 80% of the male pass rate.

14. In 2011, Corpus Christi used the same events for the PAT but changed the cut-off scores for each event.

15. In 2011, approximately 33% of the female applicants for entry-level police officer jobs who took the PAT passed the test. During the same time period, approximately 82% of the male applicants for entry-level police officer jobs who took the PAT passed the test. If women had passed the PAT at the same rate as men, approximately 24 additional women would have been available for further consideration for the position of entry-level police officer.

16. The difference in pass rates between female and male applicants in 2011 is statistically significant, and the female pass rate is less than 80% of the male pass rate.

17. Because female applicants failed the PAT at statistically significantly higher rates than male applicants, female applicants were less likely to proceed through the selection process and, thus, less likely to be hired as entry-level police officers than male applicants.

18. From 2005 to 2011, Corpus Christi hired 12 female and 113 male entry-level police officers. Accordingly, females were approximately 10% of those hired, and males were approximately 90% of those hired.

19. Corpus Christi's use of the PAT in the screening and selection of applicants for entry-level police officer jobs has had a disparate impact on women.

20. Corpus Christi's use of the PAT in the screening and selection of applicants for entry-level police officer jobs is not job-related, for the entry-level police officer position,

and consistent with business necessity, and it does not otherwise meet the requirements of Section 703(c) of Title VII, 42 U.S.C. § 2000e-2(k).

21. Corpus Christi has pursued and continues to pursue policies and practices that discriminate against women and that deprive or tend to deprive women of employment opportunities because of their sex, in violation of Title VII, 42 U.S.C. § 2000e-2, including, without limitation, by:

- a. failing or refusing to hire women for entry-level police officer jobs on the same basis as men;
- b. using the PAT in the screening and selection of applicants for entry-level police officer jobs where such use results in disparate impact on women and is not job-related for the jobs in question and consistent with business necessity;
- c. failing or refusing to take appropriate action to correct the present effects of its discriminatory policies and practices; and
- d. failing or refusing to “make whole” those female applicants for the position of entry-level police officer who have been harmed by its unlawful use of the PAT.

22. The policies and practices of Corpus Christi described above constitute a pattern or practice of resistance to the full enjoyment by women of their rights to equal employment opportunities regardless of their sex, in violation of Title VII, 42 U.S.C. § 2000e-2. The pattern or practice is of such a nature and is intended to deny the full exercise of the rights secured by Title VII. Unless restrained by an order of this court, Corpus Christi will continue to pursue policies and practices that are the same as or similar to those alleged in this Complaint.

23. All conditions precedent to the filing of suit have been performed or have occurred.

WHEREFORE, the United States prays for an order enjoining Corpus Christi, its officers, agents, employees, successors, and all persons in active concert or participation with it, from engaging in discriminatory employment practices against women based on their sex in violation of Title VII, and specifically from:

- a. failing or refusing to hire women for entry-level police officer jobs on an equal basis as men;
- b. using the PAT in the screening and selection of applicants for entry-level police officer jobs where such use results in disparate impact on women and is not job-related for the jobs in question and consistent with business necessity;
- c. failing or refusing to provide make-whole relief, including backpay with interest, offers of employment, retroactive seniority, and other benefits to women who have suffered losses or will suffer losses as a result of the discriminatory policies and practices alleged in this Complaint; and
- d. failing or refusing to take other appropriate measures to overcome the effects of its discriminatory policies and practices.

Plaintiff United States prays for such additional relief as justice may require, together with its costs and disbursements in this action.

Dated: July 3, 2012

Respectfully submitted,

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