



Census Bureau Sued Over Discriminatory Hiring Practices

By David R. Jones
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Forget working on the 2010 Census if you were convicted of a crime or even if you just had an arrest record. You didn't get hired. That's what happened to thousands of Americans – including many Latinos – who tried to get a job with the U.S. Census Bureau during this time of recessionary unemployment. The Community Service Society – and a number of other organizations across the country – calls it discrimination. They have filed a class action lawsuit against the Secretary of the U.S. Department of Commerce, the Census Bureau's parent agency, in the U.S. District Court for the Southern District of New York.

The Census Bureau illegally screened out applicants with often decades-old minor offenses or just arrests that would not have deterred other employers, including other federal agencies with high security concerns such as the Transportation Security Administration. It required applicants who had ever been arrested – even people who worked for the Census in 1990 or 2000 and had not been in trouble with the law in the many years since – to produce official court documentation within 30 days showing the disposition of all arrests, no matter how long ago they took place.

The Census Bureau knew full well that the burden of obtaining these records would be too great an obstacle for almost all of these applicants. In fact, the Equal Employment Opportunity Commission (EEOC) had explicitly warned the Bureau that its screening process for hiring more than one million temporary census workers could result in massive racial and ethnic discrimination. In a detailed letter dated July 10, 2009, the EEOC criticized the Census Bureau for potential racial discrimination saying the screening process "suggests that the Census Bureau's approach is overbroad and may run afoul" of the law. "Unless there is a record that an arrest resulted in a conviction, an arrest in itself is not evidence that a person engaged in the conduct alleged. Therefore, without confirmation, the Census Bureau should not disqualify people based on an arrest record," the EEOC letter said.

But the Census Bureau forged ahead with its discriminatory hiring practices. The result: more than 90 percent of those with arrest records never pursued applications, and thousands of Latino workers were denied well-paid census jobs.

The lawsuit charges the Census Bureau with being reckless, if not intentional, in using hiring practices it knew would adversely impact minorities more than whites. The case seeks an end to these practices, as well as compensation for more than 100,000 people who were not selected for census work because of unprosecuted arrests and old, minor, and irrelevant convictions for offenses such as unlawful assembly and loitering. The plaintiffs seek to create a national class of all those African Americans, Latinos, and Native Americans illegally deprived of their opportunity to obtain census jobs at a time when the salary from these jobs could have made a real difference in the lives of so many people.

Besides the Community Service Society, the coalition supporting the lawsuit includes the New York law firm of Outten & Golden; the Lawyers' Committee for Civil Rights Under Law of Washington, D.C.; the Center for Constitutional Rights, New York; the Indian Law Resource Center, Helena, Montana; Community Legal Services of Philadelphia; Latino Justice PRLDEF, New York; and the Public Citizen Litigation Group of Washington, D.C.

Given the unemployment rates of people of color – 15.6 percent for blacks, 12.1 percent for Latinos in July compared to 8.6 percent for whites – census jobs, even if temporary, would have helped to alleviate the burden of joblessness for a number of months. And the jobs would have been evidence of work experience when looking for the next job.

Latinos in New York City know all too well that an arrest often has little to do with criminality and more to do with police meeting numerical performance goals. It would be illegal to allow private businesses to refuse to hire people of color simply because of an arrest; for an instrument of the federal government to do so is outrageous.

David R. Jones is president and CEO of the Community Service Society (CSS), the leading voice on behalf of low-income New Yorkers for over 160 years. For over 10 years he served as a member of the board of directors of the Puerto Rican Legal Defense and Education Fund. The views expressed in this column are solely those of the writer.