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NYC lawsuit: Census Bureau discriminated in hiring

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NEW YORK (AP) -- Civil rights groups on Thursday accused the U.S. Census Bureau of discrimination in its hiring of more than a million temporary workers to conduct the 2010 census, saying it ignored a warning from a federal agency that its hiring practices might violate the Civil Rights Act.

The Lawyers' Committee for Civil Rights Under Law, the Center for Constitutional Rights and the Public Citizen Litigation Group were among groups that sued the secretary of the U.S. Department of Commerce in April to end the hiring practices and obtain back pay for plaintiffs. They beefed up the lawsuit Thursday with new claims and plaintiffs.

The lawsuit, which seeks class action status in U.S. District Court in Manhattan, alleges the Census Bureau in hiring temporary workers over the past two years illegally screened out applicants with often decades-old arrest records for minor offenses or those who were arrested but never convicted. It accuses the bureau, a division of the Department of Commerce, of discriminating against more than 100,000 blacks, Latinos and Native Americans, who are more likely to have arrest records than whites.

"Census' screening practice effectively imports acute racial and ethnic disparities in the criminal justice system into the employment process," the lawsuit says.

Government lawyers defending the Census Bureau had no immediate comment Thursday, spokeswoman Yusill Scribner said.

In court papers, the government challenged the lawsuit on procedural grounds, saying two named plaintiffs did not file their discrimination complaints in the allowable time period. On Thursday, the civil rights groups added three new named plaintiffs to their lawsuit.

Among new evidence in the lawsuit was a July 10, 2009, letter from the Equal Employment Opportunity Commission to the Commerce secretary and Census Bureau acting director citing complaints that the bureau had notified census worker applicants that arrest records or convictions would disqualify them from employment unless they could prove the records were incorrect.

"This information suggests that the Census Bureau's approach is overbroad and may run afoul of Title VII of the Civil Rights Act of 1964," wrote Stuart J. Ishimaru, then acting chairman of the EEOC, which enforces federal anti-discrimination laws among private employers.

In his letter, Ishimaru, currently one of five EEOC commissioners, warned that the Census Bureau should not disqualify a person based on an arrest record unless there is a conviction.

Even then, Ishimaru added, employers should weigh the nature and gravity of the offense or conduct, the amount of time that had passed since the arrest or conviction and completion of sentence and the nature of the job being sought.

The letter attacked the Census Bureau's practice of requiring people who apply to be census workers and are found to have arrests on their records to provide official court records or fingerprints to challenge the bureau information within 30 days. Ishimaru said the practice was inconsistent with the bureau's obligation under Title VII to objectively assess applicants' criminal histories.

"The Census Bureau should not rely on arrest records for which there was no conviction, and the Census Bureau itself should inquire as to whether the alleged conduct took place," Ishimaru said in the letter. "If the individual did engage in the conduct alleged, moreover, the Census Bureau should not exclude people from employment for offenses that do not predict an unacceptable risk."

Attorney Samuel Miller, who represents plaintiffs in the lawsuit, said it was surprising to see that the Census Bureau had been warned nearly a year ago that its practices might violate civil rights laws.

"They just continued business as usual," he said. "When we first started hearing from people that this was happening to them, I thought maybe this was just bureaucracy in action. The more we've learned, I can't believe that anymore. I think at this point the system was designed to discriminate."

He said it was shocking to learn that 750,000 applicants for census worker jobs were sent letters notifying them of criminal records and 93 percent of them did not respond to the letters. He said the Census Bureau got its information from the FBI database, which has well over 20 percent of the population - more than 70 million people - listed.

"The Census Bureau designed this system in 2000 so they just wouldn't have to deal with people who have ever been arrested," Miller said.

The lawsuit said the FBI database included people who were quickly released by police after it was discovered they were wrongly picked up and those found not guilty or whose cases were dropped for lack of evidence.

The EEOC had no immediate comment Thursday, spokeswoman Christine Saah Nazer said.