

EEOC: 'Blacks Still Very Much Discriminated Against' Featured

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Matthew Fogg sued the U.S. Marshals Service in 1998 for racial discrimination. Ten years later, he was awarded \$4million in back pay and other damages. Photo by Khalid Naji-Allah

Latest Report Shows Systemic Bias

The U.S. Marshals Service prohibited agent Matthew Fogg from conducting drug busts in predominately white sections of Washington, D.C. Also, the crime-busting federal law enforcement agency frequently left Fogg alone on stakeouts while in search of some of the most notorious fugitives in the county, he said. He often expressed concerns about the constant surveillance of lower-level drug dealers, as opposed to wealthy, white suppliers.

"We were mainly targeting urban areas, and, even when I brought the issue up, I was told that [blacks] were the weakest link in the drug war and that's where we [could] get our numbers up," said Fogg, "there were times after I complained to my supervisors, I was left by myself on a stakeout with armed and dangerous fugitives who we were supposed to be trying to apprehend. My life was in danger," he said. Today, the retired chief deputy, who served more than 15 years at the U.S. Marshals Service, currently holds the position as the national 1st vice president for Blacks in Government (BIG) and the national vice president for the Federally Employed Women's Legal and Education Fund.

Fogg, a lifelong resident of Southeast Washington, D.C., sued the U.S. Marshals Service in 1998 for racial discrimination.

His lawsuit included allegations of illegal termination which occurred after he filed an Equal Employment Opportunity (EEO) complaint. It also alleged non annual performance ratings, non selection in two promotions, and allegations that his department maintained a racially charged and hostile working environment against all African Americans.

In 2008, a jury sided with Fogg and awarded the highly decorated agent \$4 million in back pay and other damages.

Fogg's case counts among the many discrimination complaints and lawsuits throughout the nation that helped to underscore findings in the most recent U.S. Equal Employment Opportunity Commission (EEOC) jobs report.

The report revealed that unconscious biases, insufficient training and mentoring, as well as outdated recruiting and hiring practices have stifled African Americans working in the federal government. Those practices are also widespread in the private sector as well, said EEOC Chair, Jacqueline Berrien. "I've seen a lot of cases and nothing surprises me anymore," said Berrien, 51.

Commission members noted that they've fielded and witnessed complaints which include finding nooses and KKK signs in various workplaces. Berrien said the EEOC receives nearly 100,000 new allegations of discrimination annually from African Americans, Latinos and women of all races.

Despite legislative and other efforts, obstacles exist that continue to prevent equal employment opportunities for blacks in the workplace, EEOC Commissioner Victoria Lipnic said. "There is a question as to how do you get around unconscious biases. Unfortunately, there is a tendency by some to favor or look out for a person or a colleague who looks like [themselves]," said Lipnic, 52.

Both Berrien and Lipnic said a lack of adequate mentoring opportunities and insufficient training assignments continue to affect the hiring or advancement of black people.

Also, commission members have found that when a person files an official complaint, they are often subjected to retaliation, harassment and even termination.

"When you file an EEO complaint, that's basically the end of your career or the end of any chance you have of upward movement," Fogg said.

"But, sometimes you have to think of the big picture and carry the weight for everyone else," he said.
"View it like the civil rights movement, if Martin Luther King didn't step forward, then where would we be?"

The current system of hiring, promoting and firing is flawed because it has few safeguards against racial, gender and other forms of discrimination, said Katherine Kimple, managing partner of the law firm, Sanford Wittels & Heisler, in Northwest Washington, D.C. "There are nasty, vindictive and hateful people out there and with these folks, you have to have a really good Human Resources Department as well as strong and zero tolerance mechanisms in place," said Kimpel, 44, whose firm represented Fogg and is currently the attorney for several U.S. Marshals, who in 2009 filed a class action suit against the agency. In that suit, which is separate from Fogg's, one employee said he was hired at a lower pay grade than white employees even though he had a law enforcement background.

Another employee said, despite being the most senior person in his division, he was passed over for a promotion in favor of a white man who had never worked in the division.

"Each government agency needs to have a true game plan to combat this and not just lip service," **said Shirley Jones, attorney and legal review committee counselor for BIG**, which is located in downtown Washington, D.C.

"African Americans are in a catch-22 because we are not always given the opportunity to shine and when it's time for promotions and other advancement opportunities, our names don't come up," said Jones, 48. The EEOC study, released in March, is a result of two years of discussions with groups that included BIG and the African American Federal Executives Association. The study list seven conditions commission members said were the most formidable obstacles to equal employment opportunities.

Those obstacles include unconscious biases and perceptions about African Americans that continue to play a significant role in employment decisions in the federal sector. Additionally, insufficient training and development assignments perpetuate inequalities in skills and opportunities for African Americans and educational requirements create obstacles for African Americans in the federal work force.

"This should be surprising to most Americans, but not to us," said Dedrick Asante-Muhammad, senior director of the economics department at the National Association for the Advancement of Colored People in Northwest Washington, D.C.

"We've been in dialogue with the heads of different federal agencies and have been speaking about our concerns when it comes to diversity," said Asante-Muhammad, 39. "Diversity is important and it must be accomplished," he said.

