



## Biden Administration Declares That Criminal Background Checks Are Racist Against Black People

### Description

**US : Here's a statistic that, if you have a job in corporate America, may be the single least surprising piece of information you'll hear all year.**

It turns out that every single one of the Fortune 100 companies — 100% of them — has made a public commitment to DEI on their website.

There isn't a single outlier in the top 100 companies in this country. Chris Rufo looked into this, and he found that they all have a stock DEI page.

Whether you go to Amazon or Target or Dell or Verizon or Home Depot, or banks or insurance companies or anywhere else, you'll find the same platitudes — boilerplate about the importance of the alphabet people, parental leave for birthing folks, outreach to historically black colleges, and so on.

This total uniformity took hold relatively quickly, within just the last few years. Publicly, the explanation for this change is that all of these [companies are suddenly](#) very concerned about racial justice.

They're upset about George Floyd and so on. But privately, there's another very clear reason for it.

The leadership of all of these companies understand very well that if they stop practicing DEI — if they, say, start hiring all of their employees based on merit instead of skin color — then the federal government will try to destroy them.

This is a dynamic that normally plays out behind the scenes, away from public scrutiny. But this week, in one very dramatic case, it spilled out into the open.

The convenience store chain Sheetz, which has more than 700 locations all over the country, was just sued by the Biden administration after they rejected the federal government's attempt to shake them down with a settlement.

What was Sheetz's crime, you ask? Did they sell bad gasoline? Poisoned hot dogs? Did their name

violate communications decency laws?

According to the Biden administration, Sheetz broke the [law by refusing to hire](#) applicants who failed a criminal background check.

Apparently, the Biden administration believes this is a racist policy because many of the people who fail these background checks are nonwhite.

And to be clear, that's the entire accusation. The Biden administration is not claiming that Sheetz intentionally discriminated against anyone on the basis of race, or any other legally protected characteristic.

They're not claiming that Sheetz used these background checks as part of a racist white supremacist scheme.

Instead, the Biden administration is using a theory of discrimination known as "disparate impact," which was enshrined into civil rights law many years ago.

Under this theory, a lack of discriminatory intent doesn't matter. All the government has to show is that a policy disproportionately affects members of certain racial groups, without a clear business purpose, in a manner that could reasonably be avoided.

In a moment, I'll get into the lawsuit, and I'll explain why it's a complete farce, even if you buy into the whole "disparate impact" theory.

First, however, I want to contrast two local news reports about what's happening to Sheetz. The first one is from WCNC in Charlotte, North Carolina, and the second one is from CBS 17 in Durham.

You'll notice that the CBS News report doesn't even mention what Sheetz is accused of doing, really. They don't talk about the background checks at all.

They just lead you to believe that Sheetz is accused of discriminating against "black, Native American and multiracial" people, with no context whatsoever.

So maybe you're starting to see how the shakedown works. The federal government shows up to a major corporation.

They accuse them of racism based on no evidence whatsoever. And then they demand millions of dollars, including back pay for a bunch of employees.

And if the company doesn't comply, then the administration sues them, and the media basically accuses the company of racism.

This is why many companies choose to head off the whole problem in the first place, by openly discriminating against white people. If you do that, then the Biden administration won't touch you.

Let's get into the specifics of the case because that's the only way to truly understand how insane this is.

Within the last few months, a couple of job applicants at Sheetz filed complaints with the E.E.O.C., saying they've been discriminated against under Title VII of the Civil Rights Act of 1964.

And the E.E.O.C., which is a federal agency, agreed with them. Here's what the Biden administration wrote in their lawsuit:

[Sheetz] committed a continuing, companywide practice in violation of Title VII with respect to a class of Black, American Indian/Alaska Native, and multiracial job applicants who did not pass [Sheetz's] criminal justice history screening by failing to hire them for all positions because of race. ... For instance, Black job applicants have failed Defendants' criminal justice history screening, and consequently are denied employment, at a rate exceeding approximately 14.5%, while White job applicants have failed Defendants' criminal justice history screening, and consequently are denied employment, at a rate of under approximately 8%.

The complaint notes that the number of Indians and multiracial applicants who are denied on this basis is roughly the same.

A few points here. First, given what we know about black crime rates, these numbers are actually a lot closer than you'd expect.

Nationally, according to FBI data, black people make up more than 26% of total arrests, and the imprisonment rate for black Americans is over five times the rate for whites.

But the Sheetz data only shows a disparity of around 7%. And according to the EEOC, Sheetz is looking at both convictions as well as arrests when it runs its background checks.

More importantly, notice what's being conflated here. The complaint states that Sheetz is failing to hire these applicants "because of race."

But what they're really saying is that Sheetz isn't hiring applicants who failed a criminal background check. Any reasonable person can see that those are two very different rationales.

And indeed, on its website, the E.E.O.C. makes this distinction clear. **They state:**

The lawsuit does not allege that Sheetz was motivated by race when making hiring decisions.

This is the sort of madness that the legal theory of "disparate impact" breeds. The Left knows that it can't find any examples of actual direct discrimination against black people in this country anymore — and certainly not at Sheetz.

So instead, the Left has invented this notion of disparate impact to create discrimination where it doesn't really exist.

The problem is that literally everything — every policy, every rule, every standard, in every context — will have a "disparate impact."

The impact felt by any individual or group will vary according to their situation. If we cannot have standards that create a disparate impact, then we cannot have any standards at all. Which of course is the point.

Supposedly, there are limits to this legal theory of “disparate impact.” The DOJ lists these exceptions on its website.

For example, it’s acceptable to have a policy that yields a “disparate impact” — if the policy is “important” and justified by the organization’s mission.

This is an exception that clearly applies to this situation. There is a blindingly obvious reason why a convenience store wouldn’t want to hire criminals: They don’t want to get robbed.

This is a point that should not need any elaboration whatsoever in a sane society.

But we don’t live in a sane society anymore, so I will elaborate. Also, it’s an excuse to show one of the best videos to come out of Georgia this year.

This is footage of a robbery at a convenience store that may be the single worst inside job ever recorded on camera.

“It’s unclear if the robber’s fist actually connected to Patel’s face.” That’s the polite way of putting it. It takes the cops a little while but they eventually blew the whole scheme wide open — mainly because the accomplice was hanging out right outside the store when they arrived, and cash started falling out of his pocket when they questioned him.

In any event, the point is that if this clerk applies to Sheetz, they should be able to reject him because of his criminal history. His ethnicity does not matter.

The fact he’s a criminal matters. Convenience stores get robbed all the time — including by their own employees. It’s clearly “important” to the business of a convenience store to root out criminals.

I read the entire complaint from the Biden administration, and I couldn’t find a single argument to the contrary.

Instead, they fault Sheetz for failing to contact applicants to request additional information after they fail their criminal background checks.

The Biden administration doesn’t say what “additional information” might be relevant, but they say that Sheetz is racist because they don’t request it.

Additionally, the Biden administration faults Sheetz for failing to name the “specific condition” that’s the basis for their decision, when applicants have multiple criminal convictions.

And apparently, Sheetz doesn’t have a whole committee making these decisions, nor is there a “procedure” for appeals.

None of this is remotely relevant to racism, nor does it disprove the obvious fact that hiring criminals is

a bad idea for a convenience store. So it doesn't really address the relevant legal issues in any way.

You get the sense that Sheetz was stunned by the Biden administration's claims to the contrary. The federal government's complaint goes on to state that:

The Commission engaged in communications with Defendants to provide Defendants an opportunity to remedy the discriminatory practices. ... [but] the Commission was unable to secure from Defendants a conciliation agreement acceptable to the Commission.

In other words, Sheetz didn't back down in the face of this blackmail. So now they have a massive lawsuit to deal with, along with defamatory media coverage.

Obviously, this is one of the more egregious examples you'll ever see of the soft bigotry of low expectations — or the soft bigotry of no expectations, in this case.

If I were black, I would be highly insulted by the idea that a criminal background check presents some kind of insurmountable hurdle for me specifically.

It's a lot like saying black people can't possibly obtain voter identification, which is another common claim you'll hear from the Biden administration.

What the Left is effectively saying is that there's simply no chance for black, Indian, or "multiracial" job applicants to stop committing a disproportionate amount of crimes.

So, instead of doing anything to get them to commit less crime, we have to pretend that business owners are the real criminals.

If they refuse to hire nonwhite applicants for any reason, they'll get a lawsuit. But of course, they can continue to discriminate against whites all they want.

Sheetz seems to understand that. And there are already signs they're going to cave. In response to this lawsuit, Sheetz issued a statement saying:

Diversity and inclusion are essential parts of who we are ... We take these allegations seriously. We have attempted to work with the EEOC for nearly eight years to find common ground and resolve this dispute.

It's not exactly a full-throated defense of their position, which is obviously the correct one. And as their statement notes, this has been going on for a long time — eight years in fact. So there's some history here.

I looked into it, and it turns out that this isn't the first time the EEOC has filed a lawsuit like this. Back in 2019, the EEOC under the Trump administration sued Dollar General for:

...denying employment to African Americans at a significantly higher rate than white applicants for failing the company's broad criminal background check.

What was the result? A \$6 million settlement and a three-year consent decree.

This case is important because Dollar General is not just providing relief for a past practice but for the future as well. ... If the company plans to use criminal history, it must retain a criminologist to develop a fair process.

Unlike other background checks based on unproven myths and biases about people with criminal backgrounds, Dollar General's new approach will be informed by experts with knowledge of actual risk.

It's hard to believe it's a real quote. They're saying it's an "unproven myth and bias" to believe that someone with a previous history of criminal behavior is more likely to commit other crimes in the future.

You don't need any statistics to know how absurd that is. You just need common sense. But here are the statistics anyway. According to the DOJ's own numbers:

... at least half of citizens released from incarceration will recidivate in some way following release.

And according to other estimates, including a survey from Prison Policy, roughly a third of people who are arrested report that they're re-arrested for another offense within a year.

There are about a million other data points you can find. But suffice it to say, it's not a "myth" that criminals are more likely to reoffend. It's an extremely basic and obvious fact.

And yet the EEOC pretended it's not real. Now Dollar General needs an "expert" to tell them they're being racist if they reject a black guy with five prior convictions.

How did that go completely unnoticed at the time? Why didn't the Trump White House override what the EEOC was doing and fire everyone involved?

Who knows. The most likely answer is that the White House wasn't aware of it.

And if that's the case, it's hard to think of a better argument that the federal government needs to be cut in half immediately, for starters, and most of these unelected bureaucrats need to find new jobs.

They have gone rogue and they're implementing policies that defy all logic, and they should be fired en masse.

That should be the first executive order if, in fact, there is a second Trump administration.

With the Sheetz case, the Biden administration is trying to shake down yet another company in order to erase the distinction between criminals and noncriminals. This is economic sabotage. And it simply can't be allowed to succeed.

**By Matt Walsh**

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