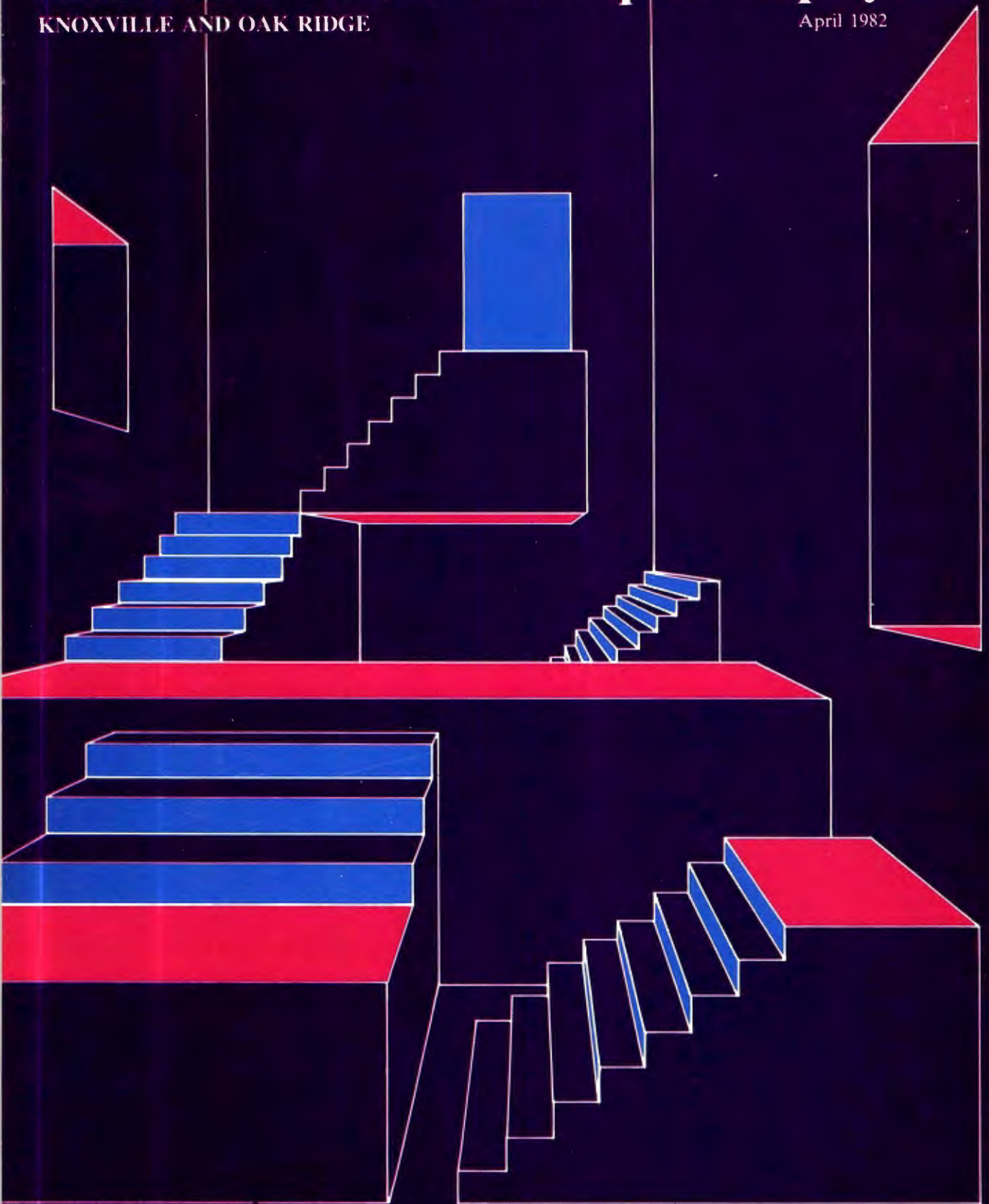


# Affirmative Action and Equal Employment

KNOXVILLE AND OAK RIDGE

April 1982



A report of the Tennessee Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission but only to the Tennessee Advisory Committee.

## **THE UNITED STATES COMMISSION ON CIVIL RIGHTS**

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

## **THE STATE ADVISORY COMMITTEES**

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

# Affirmative Action and Equal Employment

KNOXVILLE AND OAK RIDGE

April 1982

—A Report Prepared by the Tennessee Advisory  
Committee to the U.S. Commission on Civil Rights

1

## **ATTRIBUTION:**

The findings and recommendations contained in this report are those of the Tennessee Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission. This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

## **RIGHT OF RESPONSE:**

Prior to the publication of a report, the State Advisory Committee affords to all individuals or organizations that may be defamed, degraded, or incriminated by any material contained in the report an opportunity to respond in writing to such material. All responses have been incorporated, appended, or otherwise reflected in the publication.

## LETTER OF TRANSMITTAL

Tennessee Advisory Committee to the  
U.S. Commission on Civil Rights  
April 1982

### MEMBERS OF THE COMMISSION

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John Hope III, *Acting Staff Director*

Dear Commissioners:

The Tennessee Advisory Committee submits this report, *Affirmative Action and Equal Employment: Knoxville and Oak Ridge*, as part of its responsibility to advise the Commission about civil rights problems in this State. This report and the Advisory Committee's findings and recommendations are based on information gathered in a field investigation that included an open meeting(s) in Knoxville on April 24-25, 1980.

The report focused upon the governments of the cities of Knoxville and Oak Ridge, the University of Tennessee at Knoxville, Tennessee Valley Authority (TVA), and private employers in the Oak Ridge/Knoxville area.

The city of Knoxville has made several changes in its Civil Service Merit System since the Tennessee Advisory Committee began its study in 1980. The Advisory Committee considers the changes to be positive steps toward providing city officials with a wider selection of qualified candidates for employment, which enhances the integrity of the merit system.

The critical issue in city employment is the unconscionable underrepresentation of women and minorities among sworn personnel of both the police and fire departments. In the police department, the number of black officers has steadily declined since 1977 when 6 percent of the officers were black. In March 1981 only 4.1 percent of the officers, or 13 out of 319, were black. There were only 10 blacks (2.4 percent) among Knoxville's 407 firefighters and there were none among the fire department's civilian employees in March 1981. Among the 124 firefighters with the rank of captain or above, only 3 were black. The same 1981 data showed that there were no women firefighters. Given the lengthy history of complaints which have been unresolved, investigations which have had no effect on affirmative action and the pattern of status quo or decline in numbers of women and minorities within the police and fire departments, the Advisory Committee urges that special attention be focused on these two departments. The Advisory Committee therefore requests that the U.S. Commission on Civil Rights urge the U.S. Treasury Department, Office of Revenue Sharing, to conduct a comprehensive compliance review of the employment practices of the city of Knoxville.

Likewise, the Advisory Committee acknowledges several positive provisions made by the city of Oak Ridge related to affirmative action and equal opportunity. However, the positive signs do not offset the overwhelmingly negative picture

displayed in the city's 1979 employment data. There were no black police officers or firefighters. In other city departments, with one (1) exception, blacks were found only in service, maintenance, or clerical positions. The fact that the city of Oak Ridge does not have a written affirmative action plan and takes no responsibility for ensuring that its revenue sharing funds are used by the school system in a non-discriminatory manner leads many citizens to believe the city is not concerned about equal opportunity. The Advisory Committee urges the City Council to prepare and implement an affirmative action plan, and to re-examine its policy of allocating all revenue sharing funds to a body over which it accepts no responsibility.

An analysis of the 1978 Affirmative Action Plan of the University of Tennessee at Knoxville showed that minorities and women were underutilized in the executive, faculty, and professional job categories. Among tenured faculty members, only 15 percent were women, 2 percent were black, and 3 percent were other minorities. Tenured women were far behind their 21 percent representation on the faculty. The Advisory Committee urges the U.S. Commission on Civil Rights to request the Equal Employment Opportunity Commission to conduct an investigation of the employment, promotion, and tenure-granting practices of the University of Tennessee at Knoxville.

Although women and minorities are represented among a group of district managers (113 minorities or 4 percent and 139 women or 5 percent) and major Tennessee Valley Authority (TVA) administrators (63 minorities or 8 percent and 313 women or 38 percent), 1978 data shows that they were clustered at the lower ends of the salary scale—an indication of low rank despite managerial status. The percentages of women and minorities in managerial and administrative positions decreased as salaries increased in the top level positions. Among the trade and labor workers employed by TVA only 1 percent were women and 8 percent were minorities as of late 1978. These workers accounted for approximately 65 percent of TVA's work force of over 46,000. The Advisory Committee calls upon the U.S. Commission on Civil Rights to urge both the Office of Personnel Management (OPM) and the Equal Employment Opportunity Commission (EEOC) to designate teams of personnel who will, on a regular basis, service and monitor the TVA. A review of the current affirmative action plan to include the equal opportunity recruitment efforts of TVA should be undertaken.

The failure of private employers (Allied Chemical, Union Carbide, Levi Strauss, and Alcoa) to provide copies of their affirmative action plans to the Advisory Committee makes it impossible for the Committee to render specific findings about each employer's affirmative action or equal employment opportunity programs. The Advisory Committee recommends that the U.S. Commission on Civil Rights urge the U.S. Department of Labor, through its Office of Federal Contract Compliance, to conduct civil rights compliance reviews of the facilities of Allied Chemical, Union Carbide, Levi Strauss, and Alcoa in the Knoxville-Oak Ridge area. The findings of those reviews should, in accordance with Department of Labor regulations, be made available to the public.

The Tennessee Advisory Committee calls upon the Commission to support the recommendations contained in this report. Local governments as well as private employers must make positive steps toward eliminating employment discrimination that impacts so heavily on minorities and women.

Sincerely,

MATTIE R. CROSSLEY *Chairperson*

**TENNESSEE ADVISORY COMMITTEE TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS**

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## ACKNOWLEDGMENTS

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The Tennessee Advisory Committee is grateful to the staff of the Commission's Southern Regional Office in Atlanta, Georgia, for its help in conducting this study on equal opportunity and affirmative action in Knoxville and Oak Ridge. The study was the principal assignment of Richmond C. Doyle, Equal Opportunity Specialist. Members of the study team who interviewed Federal and State officials, city officials, private employers, and representatives of civic organizations in preparation for the April 24-25, 1980 factfinding meeting included Edith A. Hammond, Miriam Grayboff, and Courtney Siceloff. The report was written by Katie Harris, Research Specialist, with legal review by Clint Fried, Regional Attorney. Joan Harper furnished secretarial services. Staff worked under the supervision of Bobby Doctor, Regional Director, and Idalia Morales-Miller, Deputy Director.

The staff of the Publications Support Center, Office of Management, was responsible for final preparation of the document for publication.

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## Introduction

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Equal employment opportunity regardless of race, sex, national origin, religion, age or handicap is the law of the land. Since the enactment of the first law prohibiting discrimination in employment an extensive system of laws and regulations involving several Federal agencies has developed. To some employees and employers the system is a labyrinth. To others it provides protection, and an avenue for peaceful redress. To some the system is simply regarded as useless.

Coupled with the law of equal employment is the concept of affirmative action: the efforts of an employer to assure that opportunities are genuinely and equally accessible to all. The Federal government encourages such efforts on a voluntary basis and requires it in others.<sup>1</sup> Court decisions have sustained an employer's right to initiate affirmative action efforts designed to improve the representation of minorities<sup>2</sup> in traditionally segregated job categories.

In this report the Tennessee Advisory Committee to the U.S. Commission on Civil Rights reviews the status of equal employment and affirmative action among major employers in the Knoxville-Oak Ridge area. The Advisory Committee's research entailed private interviews and a 2-day, public factfinding meeting<sup>3</sup> where employment issues were discussed.

Statistical data and other information requested by the Committee were submitted by the following employers whose cooperation is acknowledged: The

University of Tennessee, Knoxville; Tennessee Valley Authority, the City of Knoxville, the Knoxville International Energy Exposition, Inc., and the City of Oak Ridge.

Noticeably absent from the listing above are private employers, many of whom have major Federal contracts. While such firms as Alcoa, Levi Strauss, Allied Chemical, and Union Carbide were asked for employment data and invited to participate in the public meeting, none of the firms submitted the requested data. Levis Strauss did not take part in the meeting and Alcoa's personnel manager was unable to attend due to a previous commitment.<sup>4</sup>

The report concludes with findings and recommendations which are directed to both the local employers and the Federal government.<sup>5</sup> The Tennessee Advisory Committee will review and monitor equal employment and affirmative action efforts in the Knoxville area in the coming months and urge the implementation of recommendations made in this report.

### The Knoxville-Oak Ridge Area

The 1980 population of the Knoxville metropolitan area (including Knox, Anderson, Blount and Union Counties) was 476,617. The non-white residents account for 21 percent of the total; 10.3 percent in Knox County and 16 percent in Knoxville. Knoxville's 1980 population was 183, 139. For Oak Ridge it was 25,300 with 67,346 in the County of Anderson. The non-white population of Oak

letter to Bobby D. Doctor, Regional Director, USCCR, April 15, 1980.

<sup>5</sup> The reader who desires detailed information on relevant equal employment laws, regulations and Federal agencies should consult the appendices.

<sup>1</sup> 29 C.F.R. §1607.13(b) (1980)

<sup>2</sup> *United Steelworkers of America v. Weber*, 443 U.S. 193 (1979).

<sup>3</sup> April 24, 25, 1980, Knoxville, Tn. The transcript of the meeting is cited throughout this report at T. Vol.—, p.—.

<sup>4</sup> K.L. Fair, Personnel Manager, Alcoa Tennessee Operations,

Ridge was 10.2 percent in 1980; for Anderson County, 5.5 percent.<sup>6</sup>

Knoxville is well known for a variety of manufacturing industries. Among them are Allied Chemical with 2900 employees, Standard Knitting Mills with 2500, Levi Strauss with 1800 and Robershaw Control Company (temperature controls) with 1370. Other major employers are the schools and hospitals in the city. The University of Tennessee itself employs almost 7000 people.<sup>7</sup>

By far the major employer in Oak Ridge is Union Carbide Corporation's Nuclear Division which, under contract with the U.S. Department of Energy, has three plants with some 19,000 workers.<sup>8</sup> The Gaseous Diffusion Plant produces uranium; the Oak Ridge National Laboratory conducts nuclear energy research and the Y-12 Plant makes nuclear weapons components and does other work. The Aluminum Company of America (ALCOA) employs 4,463 workers at its plant in Alcoa, south of Knoxville.<sup>9</sup>

The 1970 Census (1980 income data by race and sex are not available) reveals that blacks in the Knoxville area rank far behind the general popula-

tion in earnings. Forty-one percent of the black households were living below the poverty level compared to 19 percent of the white households in 1970.<sup>10</sup> 1970 Census of Population, No. P.C. (1)-C44, pp. 224 and 259. The median earnings for experienced persons in the Knoxville SMSA reflect the national patterns of white and black men having the highest earnings (\$6,885 and \$4,659 respectively) followed next by white women (\$3,421) and black women last (\$2,367). The average for whites is \$5,153; for blacks \$3,513 and for women \$2,894.<sup>11</sup>

Though data are not available by race or sex it is worth noting that the Knoxville SMSA enjoys a lower unemployment rate than the nation or state. In 1978 the unemployment rate for the U.S. was 5.6; for Tennessee it was 5.7, and for the Knoxville SMSA, it was 5.5. A greater difference is seen in the 1979 data: the Knoxville SMSA rate was 4.8 while the state's was 6.0 and the nation's was 5.68.<sup>12</sup>

Given the levels of income cited earlier, albeit 1970 data, it is highly probable that the rates of unemployment for blacks and women are high.

<sup>6</sup> U.S. Department of Commerce, Bureau of the Census, 1980 Census of Population and Housing, Advance Report, PHC 80-V-44, March 1981, pp. 4, 9, 13.

<sup>7</sup> Greater Knoxville Chamber of Commerce, untitled fact sheets, July 1979 (hereafter cited as Chamber Fact Sheet).

<sup>8</sup> T. Vol. III, p. 6.

<sup>9</sup> Chamber Fact Sheet.

<sup>10</sup> U.S. Department of Commerce, Bureau of the Census, *General Social and Economic Characteristics, Tennessee*.

<sup>11</sup> *Ibid.*, pp. 241 and 253.

<sup>12</sup> State of Tennessee, Department of Employment Security, "Labor Market Report, In Knoxville," Feb. 1980.

## University of Tennessee-Knoxville

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Speaking for the University of Tennessee located in Knoxville, Dr. Andrew Kozar, affirmative action coordinator for the statewide university system, defined affirmative action as “. . .the setting of a plan into motion that would assist the University in seeking and employing blacks, females and other minorities, in the way that we should according to the regulations. . . .”<sup>1</sup> Dr. Kozar serves as the executive assistant to Dr. Edward J. Boling, President of the Tennessee University system. There are no women or minorities among the president’s staff.<sup>2</sup>

U.T.-Knoxville received over \$13.2 million in Federal grants and contracts in fiscal year 1979.<sup>3</sup> It employs approximately 4,000 persons at the main campus and nearly 4,000 more at the local Center for Health Sciences the Institute of Agriculture and University-wide Administration.<sup>4</sup> Among U.T.-Knoxville’s 4,054 employees in November 1979 only 360 or 9 percent were black; 72 or 2 percent of the total employed were from other minority groups. The majority of the blacks, 58 percent, were employed in service and maintenance jobs. The next largest concentration, 19 percent, was found among the clerical staff. In the ranks of UT executives and administrators, only 10 of 248 are black (3 percent). Among faculty, only 37 of 1,189 (3 percent) are black. Other minorities comprise over 3 percent of the faculty and less than one half of one percent of

the executives. The greatest concentration of minorities, other than black, is in the faculty category, where 32 Asian and Pacific Islanders, 7 Hispanics and 1 American Indian are employed.

Dr. Kozar explained that included in the University’s affirmative action plan for recruitment is the setting aside of special funds and providing training for employees to enable them to progress into higher level jobs.<sup>5</sup> Vacancy announcements are sent to organizations and publications serving minorities, women and other underrepresented groups. Before candidates are interviewed, and before a job is offered, the department head or other hiring official must submit a written report detailing the extent of the search for candidates. The race and sex of persons contacted, those who apply and those who are chosen for interviews are included in the report (this information is asked to be supplied voluntarily by applicants.)<sup>6</sup>

If blacks or women are not identified, some explanation must be given regarding efforts made to attract them. Throughout the recruitment and hiring process the affirmative action coordinator consults with the hiring officials. “Whenever possible,” according to University guidelines, both blacks and women should be included as interviewers of prospective candidates.<sup>7</sup>

<sup>1</sup> T. Vol. V, p. 5.

<sup>2</sup> Ibid., p. 27.

<sup>3</sup> Ibid.

<sup>4</sup> EEO 6 Forms, 1978.

<sup>5</sup> T. Vol. V, p. 11.

<sup>6</sup> State of Tennessee, University of Tennessee, Affirmative Action Plan, Sept. 1978, pp. 19-24 (hereafter cited as Affirmative Action Plan.

<sup>7</sup> Ibid., p. 20.

Dr. Kozar, however, was careful to point out that notwithstanding the pressure of affirmative action plans, commitment by the hiring official is vital to making affirmative action in higher education a reality:

. . . we need first line supervisors who are committed to affirmative action and we continually work in that area. . . people doing the hiring have to believe in what you are doing. There are all kinds of games people can play. We try to get people to be honest, straightforward and really want to do the right thing.<sup>8</sup>

Despite these sentiments, when asked if progress in and attitude toward affirmative action is a subject reviewed in the annual evaluation of department heads and other supervisors, Dr. Kozar said that he did not know. He further responded by emphasizing the "day-to-day" evaluation is carried out by an affirmative action officer when hiring is underway.<sup>9</sup>

While few would disagree that commitment to affirmative action is a necessity for progress, it can not be measured: the numerical results can be. Exhibit 2.1 shows the status of UT employees as of November 1979 by race and sex, occupation and within salary range. With one exception, white males clearly dominate all occupational categories in both number and in the salaries earned. The exception—the secretarial and clerical category—is dominated by white women. Eighty-six percent of all clericals earn less than \$10,000.

The University conducts nationwide searches when filling executive and faculty positions. Its "pool" of candidates therefore consist of persons nationwide who are qualified to teach college English, administer student admissions, etc. Contrasting 1978 U.T. employment data with the national availability data used by U.T. in the category of executives indicates an underutilization of 19 women in 9 departments and of 5 blacks in 4 departments.<sup>10</sup> The University then set goals to overcome the disparity identified. In 1978, 30 people were hired for executive positions: 21 were "non-black" men, 8 were "non-black" women, and 1 was a black woman.<sup>11</sup> Underutilization of blacks and women in executive positions was also noted in 1975 and 1977.

The figures were 2 and 4 black individuals and 16 and 19 women for those respective years.<sup>12</sup> The statistics reveal that the underutilization of blacks increased from 2 to 4, to 5 from 1975 to 1978. For women it increased from 16 to 19, then decreased to 15 in 1978.<sup>13</sup> Despite affirmative action plans and assertions of commitment from officials, in just one year (1978), 70 percent of the executives hired were white men. Even though the 3 percent hiring of minorities and 27 percent women may achieve an established goal, it perpetuates the dominance of one group of people in this job category and maintains the cycle of underrepresentation—only now in a larger size staff.

The same pattern of underutilization is seen in data on faculty. From 1975 to 1978 blacks have been underrepresented in 13 departments by 14 persons each year.<sup>14</sup> The underrepresentation of women has increased from 87 to 89. Their underrepresentation is more widespread: 34 departments have too few women.<sup>15</sup> In 1978, 90 faculty members were hired: 32 were women, including 5 blacks, and 4 were black men.<sup>16</sup>

The results of the University's hiring in 1978 perpetuated the race and sex patterns evident in Exhibit 2.1 in virtually every occupational group. In the skilled craft worker category, 88 persons were hired. None were women, none were black.<sup>17</sup>

Dr. Andrew Kozar maintains that the lack of qualified minorities and women coupled with comparatively low salaries offered by U.T. limit affirmative action advancement.<sup>18</sup> Specifically where faculty is concerned, he believes universities should not be subject to the same standards as business, industry or other employers because of tenure policies.<sup>19</sup>

How tenure is granted and to whom is currently the subject of much discussion among academics, civil rights activists and jurists.<sup>20</sup> Suffice it to say, the procedures involved in granting tenure represent the second hurdle for college teachers. First, one must be hired and hired into a "tenure track" position, i.e., a position which may lead to tenure. Exhibit 2.2 shows the number of faculty members who are tenured and "on track" for tenure. As might be

<sup>8</sup> T. Vol. V, pp. 17-18.

<sup>9</sup> Ibid., p. 26.

<sup>10</sup> Affirmative Action Plan, p. 27.

<sup>11</sup> University of Tennessee, Affirmative Action Annual Report, Sept. 1978, p. 16 (hereafter cited as A.A. Annual Report).

<sup>12</sup> Affirmative Action Plan, pp. 42, 43.

<sup>13</sup> Ibid., pp. 27, 42, 43.

<sup>14</sup> Affirmative Action Plan, pp. 27, 43.

<sup>15</sup> Ibid., p. 27.

<sup>16</sup> A.A. Annual Report, p. 16.

<sup>17</sup> A.A. Annual Report, p. 16.

<sup>18</sup> Ibid.

<sup>19</sup> Interviews in Knoxville, Jan. 17, March 9, 1980.

<sup>20</sup> T. Vol., V, p. 15.

anticipated, the rate of tenure granted to blacks and women lags behind that of white men. While 64 percent of the faculty is tenured, only 35 percent of the blacks are and 45 percent of the women. Sixty-one percent of the other minorities are tenured; most

are Asian and Pacific Islander men. Within the tenured group numbering 783, 85 percent are men (81 percent white), 2 percent are black and 15 percent are women (14 percent white), and 3 percent are other minorities.<sup>21</sup>

<sup>21</sup> B. Haber, "Why Not the Best and the Brightest? Equal Opportunity vs. Academic Freedom," *E.O. Forum*, Jan. 1981, p. 18.

## EXHIBIT 2.1

### University of Tennessee Employees by Race, Sex, Job Category and Salary Range, Nov. 1979

	Male					Female						
	Total (Sum of cols B & H)	Total (Sum of cols C-G)	Non-Hispanic Origin		His- panic	Amer or Asian Pacific Indians or Alas- kan Native		Total (Sum of cols I-M)	Non-Hispanic Origin		Asian or Pacific Indians or Alas- kan Native	
			White	Black		His- panic	Asian Pacific		Alas- kan	White	Black	His- panic
A	B	C	D	E	F	G	H	I	J	K	L	M
1. Executive/ Administrative/ Managerial												
1 Below \$ 7,500												
2 \$ 7,500- 9,999												
3 10,000- 12,999	3						3	3				
4 13,000- 15,999	20	8	7	1			12	11	1			
5 16,000- 18,999	21	12	12				9	9				
6 19,000- 24,999	53	37	37				16	12	4			
7 25,000- 29,999	33	25	25				8	7	1			
8 30,000 and above	118	108	105	2		1	10	9	1			
9 Total	248	190	186	3		1	58	51	7			
%		77	75	1.2		.4	23.4	21	3			
2. Faculty												
10 Below \$ 7,500												
11 \$ 7,500- 9,999	2	2	1			1						
12 10,000- 12,999	35	21	19			2	19	18			1	
13 13,000- 15,999	108	59	58		1		49	47	1	1		
14 16,000- 18,999	192	119	111	5	1	2	73	64	9			
15 19,000- 24,999	467	384	357	13	1	13	83	76	4		2	1
16 25,000- 29,999	252	236	224	2	2	8	16	14	2			
17 30,000 and above	128	122	118	1	1	2	6	5			1	
18 Total	1189	943	888	21	6	28	246	224	16	1	4	1
%		79	75	1.7	.5	2.4	21	19	1.3	.08	.33	.08

## EXHIBIT 2.1 (CONTINUED)

### University of Tennessee Employees by Race, Sex, Job Category and Salary Range, Nov. 1979

	Male							Female					
	Total (Sum of cols B & H)	Total (Sum of cols C-G)	Non-Hispanic Origin		His- panic	Asian or Pacific Islan- ders	Amer Indians or Alas- kan Native	Total (Sum of cols I-M)	Non-Hispanic Origin		His- panic	Asian or Pacific Islan- ders	Amer Indian or Alas- kan Native
			White	Black					White	Black			
	A	B	C	D	E	F	G	H	I	J	K	L	M
<b>3. Professional Non-Faculty</b>													
75 Below \$ 7,500													
76 \$ 7,500- 9,999	27	14	12	1	1		13	12	1				
77 10,000- 12,999	81	44	31	4		9	37	32	5				
78 13,000- 15,999	99	50	44	4		2	49	47	2				
79 16,000- 18,999	80	62	56	5		1	18	17	1				
80 19,000- 24,999	70	62	58	3		1	8	8					
81 25,000- 29,999	31	30	29	1			1	1					
82 30,000 and above	23	22	22				1	1					
83 Total	411	284	252	18	1	13	127	118	9				
<b>4. Secretarial/Clerical</b>													
84 Below \$ 5,000													
85 \$ 5,000- 7,499	444	46	44	1		1	398	353	39	2	4		
86 7,500- 9,999	474	42	38	3		1	432	408	23	1			
87 10,000- 12,999	132	19	18	1			113	113					
88 13,000- 15,999	18	3	3				15	14	1				
89 16,000 and above	5	3	3				2	2					
90 Total	1073	113	106	5		2	960	890	63	3	4		
<b>5. Technical/Paraprofessional</b>													
91 Below \$ 5,000													
92 \$ 5,000- 7,499	8	4	4				4	4					
93 7,500- 9,999	25	20	19	1			5	5					
94 10,000- 12,999	50	34	31	1		1	16	15	1				
95 13,000- 15,999	25	20	20				5	4		1			
96 16,000 and above	42	33	33				9	8				1	
97 Total	150	111	107	2		1	39	36	1	1	1		
<b>6. Skilled Crafts</b>													
98 Below \$ 5,000													
99 \$ 5,000- 7,499	2	2	2										
100 \$ 7,500- 9,999	90	84	80	4			6	5				1	
101 10,000- 12,999	120	120	119	1									
102 13,000- 15,999	27	27	27										
103 16,000 and above	11	11	11										
104 Total	250	244	239	5			6	5				1	
<b>7. Service/Maintenance</b>													
105 Below \$ 3,000													
106 \$ 3,000- 4,999													
107 5,000- 7,499	423	233	166	67			190	107	82			1	
108 7,500- 9,999	205	156	131	25			49	26	22			1	
109 10,000 and above	105	94	83	10	1		11	7	4				
110 Total	733	483	380	102	1		250	140	108			2	

## EXHIBIT 2.2

### University of Tennessee Faculty by Race, Sex, and Tenure Status, Nov. 1979

	Male							Female					
	Total (Sum of cols B & H)	Total (Sum of cols C-G)	Non-Hispanic Origin		His- panic	Asian or Pacific Islan- ders	Amer Indians or Alas- kan Native	Total (Sum of cols I-M)	Non-Hispanic Origin		His- panic	Asian or Pacific Islan- ders	Amer Indian or Alas- kan Native
			White	Black					White	Black			
A	B	C	D	E	F	G	H	I	J	K	L	M	
<b>III</b>													
<b>A. Tenured</b>													
1. Professors	365	350	336	2	3	9	15	13				2	
2. Asso. Professors	339	273	260	4		9	66	62	3			1	
3. Asst. Professors	70	40	36	3		1	30	28	2				
4. Instructors	9	3	3				6	6					
5. Lecturers													
6. Other Faculty													
7. Total	783	666	635	9	3	19	117	109	5			3	
%		85	81	1	4	2.4	15	14	6			4	
<b>B. Non-Tenured on Track</b>													
8. Professors	23	21	21				2	2					
9. Asso. Professors	49	43	38	2		3	6	6					
10. Asst. Professors	249	173	153	11	3	6	76	65	10			1	
11. Instructors													
12. Lecturers													
13. Other Faculty													
14. Total	321	237	212	13	3	9	84	73	10			1	
%		74	66	4	.9	3	26	23	3				
<b>C. Other</b>													
15. Professors	1						1	1					
16. Asso. Professors													
17. Asst. Professors													
18. Instructors	91	43	43				48	44	2	1	1		
19. Lecturers	7	4	4				3	3					
20. Other Faculty	14	8	7			1	6	6					
21. Total	113	55	54			1	58	54	2	1	1		
%		49	48			.8	51	48	2	.8	.8		
22. Section III Total	1217	958	901	22	6	29	259	236	17	1	4	1	

## Tennessee Valley Authority

The Tennessee Valley Authority is a government-owned corporation created in 1933 and managed by a 3-person board of directors appointed by the President. Its responsibilities include such diverse areas as electric power production, flood control, navigation, fertilizer, recreation, forestry and wild-life development. TVA's work and facilities span portions of 7 states. Approximately 50,000 people are employed by the Authority, approximately 6,000 in Knoxville alone.<sup>1</sup>

In addition to being a unique creation of the Federal government, the TVA is also unique in that its employees are not "civil servants" hired through the competitive service system used by virtually all other Federal agencies. Its employees are represented by several unions. Blue collar workers bargain through their Trades Tennessee Valley and Labor Council which includes representatives of all unions; white collar workers do likewise via a "Salary Policy Panel." The vast majority of its employees (65 percent) are trades and labor workers. TVA officials cite this as the major reason that comparatively few women are employed at TVA, i.e., few women are available for construction and other labor intensive work due to the historical perceptions of a woman's place in the working world which limited the training and educational opportunities for women in technical and construction work.<sup>2</sup>

<sup>1</sup> TVA, EEO Report, FY 1979, p. 28 and Greater Knoxville Chamber of Commerce, untitled fact sheet, July 1979, p. 2.

<sup>2</sup> Charlesetta Woodward, Acting E.O. Director, TVA, Interview in Knoxville, Jan. 17, 1980 and T. Vol. VII, pp. 14-16.

In September 1978 TVA's total workforce was 9.7 percent female and 8.4 percent minority,<sup>3</sup> but by December of 1979 those figures had risen to 11.9 percent and 8.9 percent respectively.<sup>4</sup> Among the over 30,000 trades and labor workers representing 65 percent of TVA's employees, 1 percent were women and 8 percent were minority.<sup>5</sup> The greatest concentration of women is found in the clerical-service worker category; most minorities, like 50 percent of all TVA employees, are found in the category of hourly paid (rather than salaried) trade and labor workers. Exhibit 3.1 displays this data.

Among TVA employees most likely to decide or influence who is hired and promoted, white males dominated. In 1978, 58 percent of TVA's administrators were white men and so were 91 percent of all managers and supervisors. Minorities comprised 8 percent of the former and 4 percent of the latter; women comprised 38 percent of the former and 5 percent of the latter, respectively.

Exhibits 3.2 and 3.3 reveal that in 1978 within those policy and decision-making positions, women and minorities are clustered at the lower ends of the salary scales—an indication of low rank despite managerial status. With the exception of one black man employed as a manager at the \$43,000 salary range, the percentages of women and minorities decrease as salaries increase in these top levels positions.

<sup>3</sup> EEO Report, 1979, p. 22.

<sup>4</sup> T. Vol. VII, p. 10.

<sup>5</sup> EEO Report, pp. 22 and 23.



### EXHIBIT 3.1

#### TVA Employees by Race, Sex, Job Category and Salary Range, Sept. 1978

Salary policy		Total (%)	White	Black	American Indian	Hispanic	Oriental	Total Minority	Minority Women	Women
Administrators	SA \$15-29,000	832 (2)	769 (92)	62 (8)	—	—	1 (.1)	63 (8)	25 (3)	313 (38)
Clerical Service	SB 8-19,000	3,793 (8)	3,292 (87)	498 (13)	—	1 (.03)	2 (.05)	501 (13)	328 (7)	2,804 (74)
Engineering Scientific Aides to Engineers	SD 13-33,000	3,871 (8)	3,636 (94)	155 (4)	—	18 (.5)	62 (2)	235 (6)	30 (.8)	266 (7)
Scientists	SE 8-26,000	4,509 (10)	4,093 (91)	395 (9)	3 (.1)	9 (.2)	9 (.2)	416 (9)	86 (2)	600 (13)
Custodians	SF 11-14,000	381 (.8)	153 (40)	226 (59)	1 (.3)	1 (.3)	—	228 (60)	22 (6)	34 (9)
Public Safety Officers	SG 13-15,000	443 (1)	371 (84)	72 (16)	—	—	—	72 (16)	5 (1)	19 (4)
Managers, Supervisors	M 16-43,000	2,756 (6)	2,643 (96)	100 (4)	2 (.1)	3 (.11)	8 (.3)	113 (4)	15 (.5)	139 (5)
Physicians	P	19 (.04)	18 (95)	—	—	1 (5)	—	1 (5)	—	—
Total SP		16,604 (36)	14,325 (90)	1,508 (9)	6 (.04)	33 (.2)	82 (.5)	1,629 (10)	511 (3)	4,176 (25)
Trades & Labor Employees										
Hourly										
	\$6-12.00	23,131 (50)	21,466 (93)	1,628 (7)	14 (.1)	17 (.07)	6 (.03)	1,665 (7)	71 (.3)	289 (1)
Annual										
	12-26,000	7,043 (15)	6,407 (91)	623 (9)	3 (.04)	7 (.1)	3 (.04)	636 (9)	19 (.3)	89 (1)
Total T&L		30,174 (65)	27,873 (92)	2,251 (7.5)	17 (.1)	24 (.08)	9 (.03)	2,301 (8)	90 (.1)	378 (1)
Total TVA		46,778 (100)	42,848 (92)	3,759 (8)	23 (.05)	57 (.12)	91 (.2)	3,930 (8.4)	601 (1.3)	4,554 (9.7)

**EXHIBIT 3.2****TVA Managers and Supervisors by Race, Sex and Salary Range, Sept. 1978**

Managers and Supervisors Grade and Salary Range	Total	White	Black	American Indian	Hispanic	Oriental	Total Minority	Minority Women	Women
M-1 15-18,000	125 (5)	103 (82)	22 (18)	—	—	—	22 (18)	3 (2)	15 (12)
M-2 17-21,000	117 (4)	96 (82)	21 (18)	—	—	—	21 (18)	4 (3)	29 (25)
M-3 20-26,000	253 (9)	232 (92)	20 (8)	1 (.3)	—	—	21 (8)	6 (2)	49 (19)
M-4 23-31,000	521 (19)	500 (96)	21 (4)	—	—	—	21 (4)	—	23 (4)
M-5 30-35,000	1,071 (39)	1,047 (98)	12 (1)	1 (.09)	3 (.3)	8 (.7)	24 (2)	1 (.09)	18 (2)
M-6 33-37,000	372 (14)	369 (99)	3 (.8)	—	—	—	3 (.8)	1 (.2)	5 (1)
M-7 37-40,000	196 (7)	196 (100)	—	—	—	—	—	—	—
M-8 43,000	53 (2)	52 (98)	1 (2)	—	—	—	1 (2)	—	—
M-9 45,000	8 (.2)	8 (100)	—	—	—	—	—	—	—
M-10 48,500	28 (1)	28 (100)	—	—	—	—	—	—	—
M-11 48,500	7 (.2)	7 (100)	—	—	—	—	—	—	—
M-12 49,000	4 (.1)	4 (100)	—	—	—	—	—	—	—
M-13 50,000	1 (.03)	1 (100)	—	—	—	—	—	—	—
<b>TOTAL M</b>	<b>2,756 (100)</b>	<b>2,643 (96)</b>	<b>100 (3.6)</b>	<b>2 (.07)</b>	<b>3 (.1)</b>	<b>8 (.3)</b>	<b>113 (4)</b>	<b>15 (.5)</b>	<b>139 (5)</b>

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**EXHIBIT 3.3****TVA Administrators by Race, Sex, Salary Range, Sept. 1978**

Administrators Grade and Salary Range	Total	White	Black	American Indian	Hispanic	Oriental	Total Minority	Minority Women	Women
SA-1 15-18,000	299 (36)	268 (90)	30 (10)	—	—	1 (.3)	31 (10)	16 (5)	161 (54)
SA-2 16-22,000	281 (34)	261 (93)	20 (7)	—	—	—	20 (7)	8 (3)	107 (38)
SA-3 19-26,000	183 (22)	173 (95)	10 (5)	—	—	—	10 (5)	1 (.5)	41 (22)
SA-4 22-29,000	69 (8)	67 (97)	2 (3)	—	—	—	2 (3)	—	4 (6)
TOTAL	832 (100)	769 (92)	62 (7)	—	—	1 (.1)	63 (8)	25 (3)	313 (38)

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By February of 1980, however, more women and minorities had been brought into positions of high visibility. Of 7 managers named to coordinate TVA's work in the 7 geographic districts, 2 were black and 2 were women. These managers report directly to the general manager (TVA's top staff person) and are ranked in the "highest mid-level" salary positions, according to the director of personnel.<sup>6</sup> Functionally, TVA is organized into 6 offices, one of which (Community Development) was headed by a black woman as of February 1980. The other office heads were white men. In March 1980, there were five black managers at M-8 or above (senior level) and four women managers at M-8 or above.

David Freeman, Chair of the TVA Board of Directors since 1978<sup>7</sup>, is vocal in his commitment to equal opportunity and affirmative action. He believes that affirmative action is the responsibility of all managers and personnel office employees—not just a small group of people who comprise an equal opportunity office. Line managers have been notified by Mr. Freeman that they will be held accountable for progress, or lack thereof, made within their departments. As another sign of Mr. Freeman's dedication to affirmative action, a "decentralized personnel system" was being effected in early 1980 under the direction of a newly recruited personnel director who happens to be a black woman.<sup>8</sup> Under the new plan, each office and division will have its own personnel experts. Among other duties, these experts will coordinate affirmative action measures for their respective office or division. The equal opportunity staff, separate from the personnel division, will monitor and evaluate the affirmative action efforts of each division. In short, the functions of assistance and guidance will now be separate from those of monitoring and complaint processing.<sup>9</sup>

Beyond assistance and guidance, Chair Freeman believes that management must sometimes exert pressure on subordinates before affirmative action will work. When Mr. Freeman assumed the chair, all 65 of TVA's attorneys were white. Mr. Freeman stated that he told the TVA general counsel to "forget hiring any more lawyers" until black attorneys were hired.<sup>10</sup>

<sup>6</sup> T. Vol. VII, p. 9.

<sup>7</sup> Charles Dean was appointed Chair of the TVA in June 1981 by President Ronald Reagan.

<sup>8</sup> Interview in Knoxville, April 2, 1980.

<sup>9</sup> T. Vol. VII, p. 7.

<sup>10</sup> Freeman Interview.

Finding well qualified entry level employees is not a problem for TVA, but recruiting women and minorities for higher level jobs is.<sup>11</sup> Training to prepare minorities and women to move into higher level jobs (i.e., upward mobility training) is the key to affirmative action, according to Mr. Freeman.

While TVA did not, as of early 1980, have one total package of upward mobility training per se, there were 2 easily identifiable programs serving this purpose. One program entails training clerical workers in the \$9-12,000 salary range to be "material control clerks" which pays from \$11-16,000. Promotion from the level of clerks, to an "administrative officer" position paying \$15-30,000 is possible. A need for such administrators has been identified, according to Alan Griswold, Assistant Director of Personnel. With the cooperation of TVA's white collar unions, persons with college degrees are provided 2 years of on-the-job training to prepare for such administrative posts. Of nine persons in the program in 1980, 7 were clerical workers who had earned college degrees while working at TVA. Eight have already been placed as administrative officers; 6 of those persons are black.<sup>12</sup>

A Management Training and Development Program, popularly known as the "fast track," was designed to prepare current employees for mid-level management jobs. The 50 persons selected for the 2-year training program were chosen from 350 candidates who were self-nominated or identified by their managers or the equal opportunity staff. Sixty percent of the participants are minorities or women.<sup>13</sup>

Special recruitment techniques also play an important role in TVA's affirmative action program. Two hundred-forty engineering students are employed under a "co-op" program which enables them to alternate work and study on a quarterly basis. In 1980, 15 percent of the students were women or minorities; up from 5 percent in 1977. Ron Brock, chief of TVA's 8 person recruiting staff, said the goal now is to have minorities and women comprise 20 percent of this group.<sup>14</sup>

TVA regularly participates in programs at the college, high school and even elementary grade

<sup>11</sup> Ibid.

<sup>12</sup> Interview in Knoxville, April 1, 1980.

<sup>13</sup> Griswold Interview.

<sup>14</sup> Telephone Interview, April 9, 1980

levels which are designed to identify students with high math and science aptitudes and help them explore careers in engineering and related fields.

A program known as STEP (Student Training and Education Program) provides summer jobs to engineering students. The experience is designed, according to Mr. Brock, to reinforce the students, especially minorities and women, in the career choice they have made and it also gives TVA an important entre to a special pool of prospective future employees.<sup>15</sup>

The TVA unions, both blue and white collar, have also undertaken recruitment and/or training programs in the interest of affirmative action. Joe Merritt, General Vice President of the International Association of Bridge, Structural and Ornamental Iron Workers and president of the Trades and Labor Council described an ironworker minority training program now in progress at TVA. Through the sponsorship of the Iron Workers Union and cooperation of TVA, persons are trained on the job and paid at a rate commensurate with his or her ability as determined by the supervisor. Even a person who may not be able to read or write will be taught what is needed to become an ironworker.<sup>16</sup>

Mr. Merritt expressed considerable frustration that the approximately 200 persons in this program are not reflected in the TVA employment data. "I have been advised," said Mr. Merritt, "that the . . . individuals, who are predomaintely black, cannot be counted in the affirmative action program, because they are on a personal service contract, and not considered to be legal employees of TVA,

although they are doing the ironworkers work, and we are training them to be ironworkers." Some of the graduates of the ironworker program have become supervisors, Mr. Merritt said.<sup>17</sup>

Charles Harris, spokesman for the white collar unions represented on the Salary Policy Panel, believes that training programs are key to affirmative action. He said 14 training programs were operating in 1980; he referred to them as the "heart and soul" of any affirmative action program. He urged that TVA spend more money on special training programs.<sup>18</sup>

Both union leaders assert that current union contracts are not barriers to affirmative action. Although unions do have influence, ranging from consultation to virtual veto power, on personnel matters, Mr. Merritt and Mr. Harris stated that they are unaware of any waivers requested by management for the sake of affirmative action. They were adamant, however, about the union's right to resist any special treatment for minorities and women *not* in keeping with union policy. The unions will protect, for example, the seniority rights of its members, just as the U.S. Congress does for its members, according to Mr. Merritt.<sup>19</sup>

Chairman David Freeman believes that TVA's unions are definitely barriers to affirmative action. His predecessors, he maintains, conceded too much authority to the unions. The relationship of unions to affirmative action has not received enough attention from the Federal Government in Mr. Freeman's opinion.<sup>20</sup>

<sup>15</sup> Ibid.

<sup>16</sup> T. Vol. VII, p. 21.

<sup>17</sup> T., Vol. VII, pp. 21-22.

<sup>18</sup> Interview in Knoxville, April 2, 1980.

<sup>19</sup> Merritt Interview.

<sup>20</sup> Freeman Interview.

## City of Knoxville

The City of Knoxville employs almost 2,200 people to render municipal services to its 181,534 residents, 13.8 percent of whom are minority. Among the city's employees, 10 percent are minority. Exhibit 4.1 displays the number and percentage of city employees by race and sex within eight broad job categories.

While it is evident that both women and minorities are underrepresented in several job categories, concern was expressed most adamantly about underrepresentation in the "protective services" (police and fire departments) category. Exhibit 4.2 displays the employment statistics for the Knoxville Police Department; Exhibit 4.3 displays data for the Fire Department. Among sworn officers in the police department, there are only 13 blacks—4 percent of the total sworn force and only 15 women (5.1 percent). The highest ranking blacks are 2 captains. There are no black lieutenants among the department's 32. Among the 41 detectives, 3 are black. The other 8 blacks, including one black woman, are at the lowest rank of patrol officer; the rank held by 176 whites, including 8 white women. Six of the 14 white women on the sworn force are officers: one sergeant, one detective, 2 lieutenants and 2 captains.

Reverend Harold Middlebrook is the leader of a local coalition composed of representatives of several churches and community groups as well as citizens interested in equal employment opportunity. Rev. Middlebrook cited "open racism" in the com-

munity as the largest obstacle to affirmative action in both private and public employment. Neither Federal agencies nor the City's own equal opportunity office has been effective in combatting job discrimination, in his opinion. Rev. Middlebrook believes that "E.O. Officers," whether in private companies or working for public employers, are powerless:

...they have the position and the title, but when you place a man in the position where that man is directly answerable to the mayor of the City, how is that individual able to fight the cases effectively, when the person is answerable to the City.<sup>1</sup>

### The Knoxville Police Department

Isaac Rogers, president of the United Law Enforcement Association and a sergeant in the Knoxville Police Department, has been active since 1973 in trying to improve the status of black officers. Charges that black officers were excluded from supervisory positions were filed with the EEOC in November 1973. In January 1977 the EEOC found "reasonable cause to believe that Negroes are excluded from supervisory positions because of their race" and invited the parties involved to conciliate the complaint. It cited the fact that of 46 supervisory positions in the police department, 43 were held by white males. The department employed 333 sworn officers during this time. Females comprised 3 percent and blacks 6 percent.<sup>2</sup> There was never a

Director, EEOC, letter to Shields Minor, Charging Party and Knoxville Police Department, Respondent, January 31, 1977.

<sup>1</sup> T. Vol. VIII, p. 36.

<sup>2</sup> Clarence Bell, District Director, EEOC, letter to Shields Minor, November 6, 1973 and Evelyn Falhowski, District

conciliation of the charges, according to Mr. Rogers.<sup>3</sup>

Charges of discrimination were also filed with the Office of Revenue Sharing (ORS) of the U.S. Department of Treasury, according to Mr. Rogers. In 1979 he received a letter from the ORS saying that the files on his complaint has been lost.<sup>4</sup>

A finding of discrimination was issued in a letter from the ORS on August 24, 1978, stating that it was in response to complaints filed in 1974 specifically against the fire department and against the city overall. The ORS found that 5.1 percent representation of blacks and the 1.6 percent of females among police officers was less than could reasonably be expected given their respective numbers in the community. A *prima facie* case of employment discrimination based on race and sex was found. The City was requested to revise its affirmative action plan by establishing goals and timetables, revise its employment application forms, and plan recruitment and hiring strategies which would "enable the City's workforce to reflect both the female and black composition of the available labor force."<sup>5</sup> The City also was requested to submit annual reports on the race and sex of persons hired and terminated each year for the next three years.<sup>6</sup>

In March 1979 when 5 white officers were promoted to lieutenant, without any promotion of black officers,<sup>7</sup> another round of discrimination complaints were filed with ORS, EEOC and also with the U.S. Department of Justice (DOJ) Law Enforcement Assistance Administration.<sup>8</sup> These complaints have not yet been resolved.

Despite these efforts of the Association and individual black officers, Mr. Rogers maintains that there has been no change in the city's hiring and promotions policies. Attempts at recruiting black applicants and helping them prepare for the police exam, according to Rogers, have been "futile":

. . . you can qualify a hundred million and they are going to hire two. . . . We try every day, but the black kids here have nothing to look up to, not a thing. Who are they

going to look up to? Not me. I've been here twenty years and I'm just a sergeant.<sup>9</sup>

Margikay Waldvogel, Director of the Knoxville Women's Center where women are encouraged to prepare for non-traditional jobs, agrees with Mr. Rogers. The police department is viewed as "closed" to women because there are few women in the department to serve as role models.<sup>10</sup> While the 5 percent representation of women in the police department is viewed as too low by Ms. Waldvogel, the representation of women among Knoxville's firefighters is non-existent.

### The Knoxville Fire Department

Data furnished by the city reveals that out of 407 firefighters all but 10 are white males. The 10 black males account for 2.5 percent of the department. Exhibit 4.3 shows the rank and salary range of the department's employees.

The highest ranking black firefighter, Fire Marshall Luther Bradley, is a 28-year veteran of the department. Similar to what Mr. Rogers reported regarding the police department, no matter how many blacks are recruited, or pass the firefighter exam, few are hired according to Mr. Bradley. Only when the City is investigated by a Federal agency are Mr. Bradley and other blacks asked to help recruit blacks. In one such campaign, 142 blacks were recruited, 42 were tested, 12 passed, but none were hired. Since 1970, 166 firefighters were hired; 4 have been blacks.<sup>11</sup>

In Mr. Bradley's opinion, the City believes that it has its "quota" for blacks in the fire department and only when a black dies or retires does it need to hire another black.<sup>12</sup>

The 1978 findings of the Office of Revenue Sharing investigation stated:

. . . the percentage of blacks and females employed by the [Fire] Department are below the percentages of their

M. Franklin, Program Specialist, ORS, letter to Det. Ronald Osborne, March 27, 1979; James Harris, Acting Director, EEOC, letter to Osborne, April 4, 1979; and Mary Ann Queen, Staff Assistant, Office of Civil Rights Compliance, LEAA, letter to Osborne, April 5, 1979.

<sup>3</sup> T. Vol. VIII, p. 8.

<sup>4</sup> Ibid., p. 8.

<sup>5</sup> Treadwell O. Phillips, Manager, Civil Rights Division, Office of Revenue Sharing, U.S. Department of Treasury, letter to Mayor Randy Tyree, City of Knoxville, August 24, 1978.

Hereafter cited as "Phillips Letter, August 1978."

<sup>6</sup> Ibid.

<sup>7</sup> *Knoxville News-Sentinel*, March 7, 1979, p. N.A.

<sup>8</sup> Det. Ronald Osborne, letter to EEOC, March 19, 1979; Johnnie

<sup>9</sup> T. Vol. VIII, pp. 43-44.

<sup>10</sup> Ibid., p. 64.

<sup>11</sup> T. Vol. VIII, pp. 11-14.

<sup>12</sup> Ibid., p. 66.

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**EXHIBIT 4.1**  
**City of Knoxville, Employment Data—January 1980**

	White		Minority	Total
	Male(%)	Female(%)	M + F(%)	
Officials & Administrators	20(83)	3(12)	1(4)	24
Professionals	38(60)	3(4)	22(34)	63
Technicians	91(81)	15(13)	6(5)	112
Protective Services	782(91)	42(5)	38(4)	862
Para Professional	57(37)	60(39)	34(22)	151
Clerical	17(9)	149(79)	22(11)	188
Skilled Craft	424(93)	2(.4)	28(6)	454
Service Maintenance	229(67)	37(10)	77(22)	343
Total	1,658(75)	311(14)	228(10)	2,197

Source: City of Knoxville, Equal Employment Opportunity Program,  
 Jan. 1980, pp. 26-29.

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**EXHIBIT 4.2**  
**Knoxville Police Department Employees**  
**March 1981**

TITLE	SALARY RANGE	WHITE		BLACK		TOTAL
		M	F	M	F	
Chief	\$25-27,000	1				1
Assistant Chief	20-22,000	3				3
Deputy Chief	18-21,000	2				2
Captains	16-19,000	24	2	2		28
Lieutenants	15-17,000	30	2			32
Detectives	14-17,000	37	1	3		41
Sergeants	14-17,000	27	1			28
Patrolmen	11-15,000					
Class C		26	8	2		36
Class D		29		1		30
Class E		113		4	1	118
<b>TOTAL SWORN</b>		<b>292</b>	<b>14</b>	<b>12</b>	<b>1</b>	<b>319</b>
		(92%)	(4.4%)	(3.8%)	(.3%)	
Chief Clerk	\$20-24,000	1				1
Admin. Aide	16-23,000	1				1
Bldg. & Maint. Supt.	15-20,000	1				1
Legal Sec. & Exec. Sec.	11-15,000		4			4
Prkg. Ticket Mgr.			1			1
Car Pound Supv.			1			1
Maint. Craftsman		2				2
Radio Mech. Others		3				3
Patrol Wagon Driver	10-13,000	4				4
Jailors		5	2	1	4	12
LP Nurse, Admin. Secs.			3			3
Prkg. Control Officer			2		2	4
Humane Officer		8	1			9
Security Guard		1				1
Dispatcher		4	5			9
Community Organizers	9,000		4			4
Cook	8-11,000				2	2
Switchboard Oper., Typist, Sec., Data Operators, etc.	8-11,000	1	30		6	37
Complaints Processors	8-11,000	2	10		2	14
Clerk, Custodian	7-10,000	1	1			2
<b>TOTAL CIVILIAN</b>		<b>34</b>	<b>64</b>	<b>1</b>	<b>16</b>	<b>115</b>
		(29.5%)	(55.6%)	(.9%)	(13.9%)	

Source: City of Knoxville, Earl Nash, Admin. Asst. to the Mayor, letter to Bobby Doctor, Regional Director, U.S. Commission on Civil Rights, Southern Regional Office, April 7, 1981. Hereafter cited as "Nash Letter".

**EXHIBIT 4.3**  
**Knoxville Fire Department Employees**  
**March 1981**

TITLE	SALARY RANGE	WHITE		BLACK		TOTAL
		M	F	M	F	
Chief	\$25-27,000	1				1
Deputy Chief	20-22,000	5				5
Fire Marshall	19-22,000			1		1
Asst. Fire Marshall	18-21,000	1				1
Asst. Chiefs	18-21,000	9				9
Chief Clerk	18-21,000	1				1
Master Mechanic	18-21,000	1				1
Drill Master	18-21,000	1				1
Asst. Supt. Fire Alarms	16-19,000	1				1
Fire Safety Officer	16-19,000	1				1
Supt. HQ Bldg.	16-19,000	1				1
Fire Insp. Captains	16-18,000	6		1		7
Fire Alarm Operators	16-18,000	4				4
Mechanic Captains	16-18,000	3				3
Fire Fighting Captain	16-18,000	84		1		85
Training Captains	16-18,000	2				2
Mechanical Operators	14-16,000	115		2		117
Asst. Mechanical Operators	14-16,000	75		1		76
Privates	11-15,000	86		4		90
<b>TOTAL FIREFIGHTERS</b>		397(97.5%)		10(2.5%)		407
Executive Secretary	\$11-15,000			1		1
Fire Equipment Mechanic	11-15,000	2				2
Maintenance Craftsman	11-15,000	1				1
Administrative Secretary	10-13,000			1		1
Clerk/Typist II	8-11,000			2		2
<b>TOTAL CIVILIANS</b>		3(43%)		4(57%)		7

Source: Nash Letter.

representation in the labor market and that females are segregated into the office/clerical category.<sup>13</sup>

The percentage of blacks employed as firefighters according to the 1978 investigation was 2.6; no women were so employed.<sup>14</sup>

Fire Chief Paul Warwick is pleased with this record of 33 percent minority hiring despite the fact that since 1977 only 3 firefighters have been hired and one was black. He believes that affirmative action requirements may or may not be needed, depending on who is in the position to hire and promote. Currently in the Fire Department, Chief Warwick maintains there is a "good. . . thing going" for affirmative action though progress may be slow simply because limited hiring is possible and cut-backs are more likely.<sup>15</sup> Director of Public Safety, Travis Brasfield, explained that Federal civil rights agency requests are out ranked by another authority:

We have someone higher than you to answer to. We have the taxpayers and the businesses. We have the budget that we have to answer to. That's the reason we haven't hired any more.<sup>16</sup>

Director Brasfield advocates a special recruitment effort to bring in black applicants to the police department but emphasizes that they must meet the same standards as other applicants. While he could not explain the fact that few blacks are attracted to the department, he suggested that perhaps there was some resentment in the black community toward police.<sup>17</sup>

As to why there are few black supervisors in the police department, Director Brasfield explained that few promotions are made due to limited turnover and because of budget limitations. He continued:

The only way I can explain the lack of supervisors is that maybe there is not enough initiative taken on their [black police] part. Maybe there weren't enough slots open at that time.<sup>18</sup>

Promotions were made as joint decisions of the Mayor, Director of Public Safety and the Civil

Service Board 1980.<sup>19</sup> Beginning in 1981, with reform of the Civil Service System, promotions were no longer made in this fashion but through the use of tests and other evaluative techniques.<sup>20</sup>

Both Fire Marshall Bradley and Sergeant Rogers were critical of Federal employment discrimination enforcement. The City will only make improvements in its hiring practices when forced by the Federal government to do so according to Mr. Rogers and while findings of discrimination have been made, the City has not been forced to make any changes.<sup>21</sup> Mr. Bradley was likewise baffled by the inaction:

Well, I don't really know the reason why we are not getting any affirmative action because of the Federal guidelines [which provide for it]. We hear about them, and we read about them in the paper. And it seems that someone representing the City will give lip service and once that's done, then we are back doing business as usual.<sup>22</sup>

The Tennessee Advisory Committee asked both the U.S. Department of Justice (DOJ)<sup>23</sup> and the U.S. Treasury Department's Office of Revenue Sharing (ORS)<sup>24</sup> about the status of their respective investigations. The DOJ Civil Rights Compliance Review Division of the Office of Justice Assistance, Research and Statistics has not responded to a March 25, 1981 request for this information.<sup>25</sup> The ORS did respond to the Advisory Committee's request.<sup>26</sup> ORS Civil Rights Division Manager Treadwell Phillips informed the City of Knoxville in a February 29, 1980 letter that he had

. . . determined that the City of Knoxville has taken the necessary actions to correct the violations cited and has implemented the remedies requested in our letter to the City dated August 24, 1978. I am, therefore, closing our file on this matter. . . .

The City had taken the required "actions" (revising its affirmative action plan, developing special recruitment and hiring strategies, submitting reports

<sup>13</sup> Phillips Letter, August 1978.

<sup>14</sup> Ibid.

<sup>15</sup> T. Vol. IX, pp. 36-37.

<sup>16</sup> Ibid., p. 37.

<sup>17</sup> T. Vol. IX, pp. 12-14.

<sup>18</sup> Ibid., p. 14.

<sup>19</sup> Ibid.

<sup>20</sup> Earl Nash, EOO., City of Knoxville, letter to USCCR, August 28, 1981.

<sup>21</sup> T. Vol. VIII, p. 9.

<sup>22</sup> Ibid., pp. 13-14.

<sup>23</sup> Bobby D. Doctor, Regional Director, USCCR, letter to Paul Barnes, Director, Civil Rights, Compliance Review Division, Office of Justice Assistance, Research and Statistics, U.S. Department of Justice, March 25, 1981.

<sup>24</sup> Bobby D. Doctor, letters to Treadwell O. Phillips, Manager, Civil Rights Division, Office of Revenue Sharing, U.S. Department of Treasury, March 25 and April 13, 1981.

<sup>25</sup> Treadwell O. Phillips, letter to Katie Harris, Researcher, USCCR, April 28, 1981.

<sup>26</sup> Treadwell O. Phillips, letter to Randy Tyree, Mayor, City of Knoxville, February 29, 1980.

to ORS and altering its employment application forms),<sup>27</sup> but the presence of blacks or other minorities on the police force or in the fire department have not been increased. During the 1978 ORS review, blacks accounted for 2.6 percent of the total of fire department and 5.1 percent of the police department's sworn force. In 1981, they accounted for 2.5 percent and 4.0 percent respectively. Although the presence of women on the police force increased from 1.6 percent in 1978 to 4.7 percent in 1981, the status of women as firefighters has not changed. There were no women firefighters in 1978 and there are not any in 1981.

### The Civil Service Merit System

The Civil Service Merit System plays an important role in hiring as well as in promoting. Once a job vacancy is advertised, applicants are screened and a written test is administered for some positions. Candidates are ranked based on the test or evaluation of their work experience. Until November 1980, only the top 2 certified candidates could be referred for interviews and actually receive a job offer. At the April 1980 factfinding meeting of the Tennessee Advisory Committee, Mintha Roach, the Civil Service Merit Board's Personnel Examination Analyst cited the "rule or two" as a major difficulty in accomplishing affirmative action. Several efforts to revise this policy set forth in the City Charter failed in local referenda.<sup>28</sup>

A successful November 1980 referendum has provided for a change in the rule of two and other provisions. As before, the Civil Service Merit System is governed by a Board of five. The members were still nominated by the current Board members and confirmed by the City Council. One black and two women currently serve on the Board. Members, who are limited to two 5-year terms, may be removed only by majority vote of the Board and elect their own chair. A staff headed by Executive Secretary Preston Phelps is appointed by the Board.<sup>29</sup>

The rules and regulations are set by the Civil Service Merit Board after public hearings are held. The new rules and regulations which became effective

February 17, 1981 state that an affirmative action plan shall be established and implemented and that the Board shall review its effectiveness regularly. The goal of the plan is

not to bias the process in favor of any group. It is to eliminate city procedures that may work against people who have background or other characteristics different from the majority.<sup>30</sup>

The rule of two was changed to a rule of five under the new regulations, i.e., five candidates with the highest ranking are referred to the hiring authority for each job vacancy.<sup>31</sup> The opportunity for minorities and women to be referred for interviews is thus increased.

A provision for "expanded certification" for the purpose of including underrepresented women and minorities among qualified applicants to be interviewed was added. It requires that a minimum of two women or minorities (which ever is underrepresented) be included among the 5 persons referred for a vacant position. The candidates who are the object of the expanded certification must be interviewed by the appointing authority and if not selected for the position, justification must be provided to the Executive Secretary of the Board and accepted by him before hiring can proceed. All other persons who rank higher than the highest ranking women or minorities referred, must also be referred for the vacancy. The EEO staff, on its own initiative, or by request of the appointing authority (e.g., head of the department where the vacancy exists), may request expanded certification.<sup>32</sup>

One section of the rules states that "The use of expanded certification. . . requires the approval of the Board"; another states that "The Executive Secretary shall make a decision on the use of expanded certification."<sup>33</sup> Mintha Roach explained the inconsistency by stating that the ultimate decision rests with the Board, but the Executive Secretary can make a decision on expanded certification without consulting the Board. His decision, however, can be appealed to and overruled by the Board.<sup>34</sup>

Another major change resulting from revision of the City Charter is that the EEO Officer will no

<sup>27</sup> Phillips Letter, August 1978.

<sup>28</sup> T. Vol. IX, pp. 7-8.

<sup>29</sup> City of Knoxville, Ordinance No. 0-158-80, Amending the charter, Chapter 412, August 26, 1980.

<sup>30</sup> City of Knoxville, Civil Service Merit Board, Rules and Regulations, Feb. 17, 1981, Article 3, Sec. 301.

<sup>31</sup> Ibid., Article 17, Sec. 1702.

<sup>32</sup> Ibid., Article 17, Sec. 1720 and 1720.1, 1721 and 1721.1.

<sup>33</sup> Ibid., Article, 17, sections 1720 and 1720.2.

<sup>34</sup> Telephone Interview, April 14, 1981 (hereafter cited as Roach Interview).

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There are two provisions in the Civil Service Board Rules which are significant to women's access to city jobs. While veterans are allowed a 5 point

Roach Interview and Civil Service Rules, Article 3. Ms. Roach stated that the complete process for complaint investigation and duties of the EEO staff are set forth in City Ordinance No. 5559, as amended.

bonus on their test scores, the advantage is extended for only one appointment.<sup>36</sup> Another rule prohibits sex from being specified in a certification request, unless the Board determines that there is "good and sufficient" reason.<sup>37</sup> Board staff explains that this provision was included primarily to accommodate the need for male or female jailers, but it was deemed advisable not to limit the provisions to a specific job title.<sup>38</sup>

<sup>36</sup> Civil Service Rules, Article 12, Section 1205.1.

<sup>37</sup> Ibid., Article 17, Sec. 1722.

<sup>38</sup> Roach Interview.

# Energy Expo '82

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An international exposition on energy will be held in Knoxville May through October 1982. Known as "Energy Expo '82," the special category world exposition is the first world's fair to be held in the United States since the 1974 fair in Spokane, Washington. Planning began in 1975 and the Expo was officially sanctioned in 1977 by international exposition officials, former President Jimmy Carter and the U.S. Congress.<sup>1</sup>

The energy theme of the exposition will highlight the Tennessee Valley Authority, Oak Ridge National Laboratories and energy-related research at the University of Tennessee. Fossil, solar and geothermal energy as well as the "artistic and creative energy of men and women" will be sub-themes of the exposition.<sup>2</sup> Civic and business leaders formed the Knoxville International Energy Exposition, Inc. (KIEE), a private corporation, to develop Expo '82. The \$200 million of financing for the fair involves 4 Federal agencies, 3 city agencies and dozens of developers.<sup>3</sup>

Prior to providing a \$9,900,000 Urban Development Action Grant to Knoxville for the Expo,<sup>4</sup> an official of the U.S. Department of Housing and Urban Development summarized the impact on employment in this manner:

<sup>1</sup> Knoxville International Energy Exposition Inc., "Energy Expo '82," no date, no pagination.

<sup>2</sup> Alexander Aiken, Area Economist, U.S. Department of Housing and Urban Development, memo to C.G. Oakes, Director, Knoxville Area HUD Office, February 27, 1980 (hereafter cited as HUD Memo).

<sup>3</sup> *The Atlanta Journal and Constitution*, February 1, 1981, p. 9-c (hereafter cited as Atl. J.C., Feb. 1, 1981).

A total of 16,926 permanent jobs will be created by the subject proposal, with 20,980 temporary jobs also being created for a net impact of 37,906 jobs. Approximately 4,280 of these jobs will be for minorities.<sup>5</sup>

Three new hotels and restaurants will provide many of the permanent jobs. Temporary positions will be found in the construction of those facilities, exhibition halls, a new expressway system for Knoxville, and in running the exposition itself.<sup>6</sup>

The exposition will impact an inner city area between downtown and the University of Tennessee where approximately 103,000 people live; 28 percent (28,500) are minority. Though unemployment figures for this specific population are not available, it is known that minority unemployment city-wide was 23 percent in 1975.<sup>7</sup> Certainly the inner city unemployment figures would be expected to be the same or higher.

As of April 1980 the KIEE employed only 35 people; 4 were minorities including 3 minority women; 21 were white women.<sup>8</sup> Speaking for the KIEE, Executive Vice President George Siler said the corporation's Board of Directors set a policy of "14-20 percent involvement of minorities" in the project. Recruitment efforts were underway through the Knoxville Urban League which has

<sup>4</sup> Walter N. Lambert, Exec. Vice President and Vice President of Energy Programs, The 1982 World's Fair, letter to USCCR, August 6, 1981 (hereafter cited as Lambert Letter).

<sup>5</sup> HUD Memo.

<sup>6</sup> Atl. J.C., Feb. 1, 1981 and HUD Memo.

<sup>7</sup> KIEE, Affirmative Action Program and Equal Employment Opportunity, January 4, 1979.

<sup>8</sup> Lambert Letter.

referred Asian and Hispanic as well as black candidates. The Tennessee Indian Council will also be consulted.<sup>9</sup>

It is estimated that 2-3,000 persons will be working on the grounds of the exposition during its 6 month life. The KIEE is developing an employment system whereby it will control the recruitment and training of all such employees though KIEE will not be the actual employer.<sup>10</sup>

Among architectural and design firms 20 percent participation by minorities has been achieved by using firms from Knoxville and surrounding areas in addition to firms from Atlanta and Nashville. The KIEE built a provision into its construction management contract requiring a 17 percent set-aside policy for minorities. "Joint ventures," where a minority and a white-owned firm form a temporary partnership, will be encouraged. Mr. Siler stated that eligible minority contractors were difficult to obtain due to a substantial bonding requirement.<sup>11</sup>

By far the most innovative affirmative action technique described by Mr. Siler is what he termed "structuring into the community some residuals." The idea calls for establishing an economic development corporation independent of the KIEE which will give direct assistance to minority firms plus develop minority business (concessions, merchandising, etc.) that will remain in Knoxville after Expo '82 closes. Funding would be sought from governmental and private sources.<sup>12</sup>

Equal opportunity and affirmative action matters are handled through the Office of KIEE Vice President for Economic Development and the highest ranking black employee, Theotis Robinson as well as by George Siler who has official responsibility for affirmative action. Mr. Robinson told the Tennessee Advisory Committee that he is unaware of any particular affirmative action requirements imposed on the KIEE by Federal law, since the corporation does not receive Federal funds directly.

Aside from the KIEE's obligations to equal employment under Title VII of the 1964 Civil Rights Act (just as required of any employer of more than 15 persons), the corporation has other obligations. Its own "Affirmative Action Program for Equal Employment Opportunity" of January 1979 includes a statement of assurance of compliance with Title VI of the Civil Rights Act of 1964 signed by S.H. Roberts, Jr., President of KIEE. The Act prohibits discrimination in the use of Federal funds. The statement further assures compliance with applicable Federal regulations, some of which require set-asides for minorities and affirmative action plans. HUD officials state that the Economic Development Administration of the U.S. Department of Commerce is monitoring all construction contracts for Expo '82.<sup>13</sup> See Appendix F for updated information on minority participation in Expo '82 which was submitted to the Tennessee Advisory Committee in August 1981.

<sup>9</sup> T. Vol. III, pp. 40 and 65.

<sup>10</sup> Ibid., p. 42.

<sup>11</sup> Ibid., pp. 40-45

<sup>12</sup> Ibid., p. 46.

<sup>13</sup> Fred De Bruhl, HUD Area Manager, interview in Knoxville March 17, 1980.

# City of Oak Ridge

Although the City of Oak Ridge with 30,000 residents and under 300 employees is not a major employer, it is important to review its employment patterns. The provision of municipal services is vital to all citizens, and it is important that all citizens—regardless of race or sex—have equal access to compete for the policy and decision-making jobs which influence those services.

As of October 1979, the City employed 294 persons including 20 blacks (6.8 percent).<sup>1</sup> Given that the black population is estimated at 6 percent, it would appear that Oak Ridge's black citizens are adequately represented among city employees. Examination of the positions which the black workers hold, however, reveals that 16 of the 20 are in service or maintenance jobs. One is a craft worker and 2 are clerical workers. Only one black works for the city in a professional capacity (a man in the recreation department in the \$13-15,999 salary range). Three vital departments of the City government which have extensive public contact have no black employees: the police, fire and library services departments.<sup>2</sup>

City Manager Lyle Lacy asserts that Oak Ridge has difficulty in recruiting, hiring and retaining blacks because private employers pay higher salaries. Attracting blacks to the public safety field—police and fire departments—Mr. Lacy maintains is especially difficult when a security job “checking

badges at a gate” with Union Carbide pays better and has less risks than those faced by a police officer. The city pay scales are approximately 20 percent lower than other area employers'. Black candidates are vigorously recruited by the private and Federal employers, and unlike white candidates, there are fewer minorities available.<sup>3</sup> Local black leaders are asked to refer candidates for city jobs but this effort at recruitment has not produced results according to Mr. Lacy.<sup>4</sup>

The president of the local NAACP, Martin Perrote, states, however, that no efforts have been made by the city to recruit blacks.<sup>5</sup> Mr. Perrote is critical of the fact that the city has no affirmative action plan which he believes has a chilling effect on blacks who might otherwise be interested in municipal employment. He maintains that a written plan would have a positive influence on recruiting and retaining minorities:

...the affirmative action program adds a commitment on the part of management, and that commitment is funneled/ on down through the organization. Then you get some cooperation. But if the commitment is not made by the top manager, or the top official, then that's where you have the difficulty.<sup>6</sup>

City Manager Lacy views city government as a provider of services and not in the employment business and thus does not believe there is a need for an affirmative action plan. He noted that the city has

<sup>1</sup> Oak Ridge, EEO-4 Forms, October 29, 1979.

<sup>2</sup> Ibid.

<sup>3</sup> Interview in Oak Ridge, Jan. 15, 1980 (hereafter cited as Lacy Interview).

<sup>4</sup> Lacy Interview.

<sup>5</sup> Interview in Oak Ridge, Jan. 15, 1980.

<sup>6</sup> T. Vol. II, pp. 16-17.



never had an actual charge of discrimination filed against it.<sup>7</sup> Representing the city at the April 1980 factfinding meeting of the Tennessee Advisory Committee, Personnel Director Penny Sissom pointed out that the city charter and a local ordinance promote equal employment. The charter specifies that "employment will be equal for all people," Ms. Sissom said. The ordinance goes further stating that the city shall not "discriminate for or against any applicant because of race, creed, color, sex, national origin, or handicap."<sup>8</sup>

Ms. Sissom discussed an innovative approach to attracting women and minorities into the fire department in which city employees from other departments are eligible for training in a "fire specialist" program. There are no entry requirements other than physical ability to perform the necessary tasks. It is hoped that the specialists will become interested in a fire safety career. As of April 1980 there were 2 women, but no minorities in the program.<sup>9</sup> Likewise, according to Ms. Sissom, women serving as dispatchers in the police department will hopefully become interested in careers as officers.<sup>10</sup>

While the positions of two women employed by the city are high, (one is in financial administration and one is in library services), most are in clerical jobs. For minority women the status is the lowest: of the 4 black women employed, 3 were in maintenance jobs, and 1 in a clerical position. Seventy women are employed; 48 as clericals. Of the 2 female administrators in the \$16-24,999 salary range, one is in the library department, the other in general city administration.

Ms. Sissom also pointed out that the city does not restrict hiring to only the highest ranking 2 or 5 candidates, as some employers do. The officials making the selection may choose any person who meets all criteria for the job.<sup>11</sup> Such a policy is viewed by equal opportunity specialists as positive in that all qualified candidates may be considered.

Despite the articulated hiring policy of the city, its employment data speaks for itself: minorities (with one exception) are not in policy or decision-making positions. Furthermore, Ms. Sissom clearly stated that any affirmative action plan, which is not

required by law but voluntary, would be considered a policy statement. Under the Oak Ridge council-manager form of government the city council would be responsible for issuing such a policy.<sup>12</sup>

In addition to Mr. Perrote of the NAACP, the Chair of the City Human Resources Advisory Board, Peggy Meier and Neil McBride, Director of Rural Legal Services of Tennessee have urged the city to develop an affirmative action plan. Ms. Meier's 9-member Board is appointed by the City Council to conduct studies and publicize the results in matters related to the use of human resources and effects on minorities and others.<sup>13</sup> Although Ms. Meier believes that city officials are trying to implement an affirmative action program, she still believes that a written plan is needed:

. . .if nothing else, to prove their [city officials] good faith. . . . However, I also believe in the weight of a written affirmative action program and feel that this is a necessity, in order to give their good faith to the minority groups and women in the community.<sup>14</sup>

Neil McBride finds it "amazing" that the city has no plan given the numerous Federal grants it receives. Oak Ridge is unique in that it receives a special payment from the U. S. Department of Energy due to the absence of tax revenue and the extraordinary Federal presence in Oak Ridge. Mr. McBride acknowledged that Oak Ridge is making efforts to employ minorities and women, but said that without an affirmative action plan there is no way to determine what the goals are, if they are being met, or if they are adequate.<sup>15</sup>

Rural Legal Services filed a formal complaint with the Department of Energy in 1980 alleging that its responsibility to ensure nondiscrimination in the use of Federal funds was not being met in regard to employment and city services in the City of Oak Ridge.<sup>16</sup> As of April 1980 DOE was reviewing employment, housing, welfare assistance, "the whole thing" according to Ms. Sissom.<sup>17</sup>

The Tennessee Advisory Committee to the U.S. Commission on Civil Rights has asked the DOE for the final results of the review.<sup>18</sup> The March 1981 request was forwarded by DOE Oak Ridge Opera-

<sup>7</sup> Lacy Interview.

<sup>8</sup> T. Vol. IX, p. 39.

<sup>9</sup> Ibid., p. 44.

<sup>10</sup> Ibid., p. 43.

<sup>11</sup> T. Vol. IX, p. 63.

<sup>12</sup> Ibid., p. 45.

<sup>13</sup> Oak Ridge EEO Data.

<sup>14</sup> Ibid., p. 22.

<sup>15</sup> Ibid., p. 36-37.

<sup>16</sup> T. Vol. II, p. 49.

<sup>17</sup> T. Vol. IX, p. 52.

<sup>18</sup> Bobby D. Doctor, Regional Director, USCCR, letter to R.J. Hart, March 18, 1981.

tions Manager, R.J. Hart, to the DOE Washington office which conducted the review. Mr. Hart stated that it was his understanding that the review has been completed although he had not been officially notified of the results.<sup>19</sup> As of June 1981, no response has been received from the DOE Washington office.

Employment patterns in Oak Ridge School System is another issue raised by members of the Tennessee Advisory Committee to the U.S. Commission on Civil Rights when plans for the April 1980 factfinding meeting were made. The already extensive nature of the present research did not permit inclusion of the school system. It should be noted however that the City allocates all of its funds received from the Office of Revenue Sharing, U.S. Department of Treasury, to the school system

<sup>19</sup> R.J. Hart, letter to Bobby D. Doctor, April 14, 1981.

(approximately \$370,000 annually). City manager Lyle Lacy denied that the city had any responsibility with regard to the school system notwithstanding non-discrimination provisions which apply to ORS funds.<sup>20</sup> In fact, 312 U.S.C. §1242 prohibits discrimination on the basis of race, color, national origin, sex, age, or handicap in "any program or activity of a state government or unit of local government," which receives ORS funds. Furthermore, the same statute provides a mechanism by which ORS funds can be suspended where a recipient is found to be in violation of the non-discriminatory provisions. A right of private action is also afforded to enforce compliance with the ban on discriminatory programs or practices by a recipient state government or local governmental unit.

<sup>20</sup> Lacy Interview.

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## Private Employers

Staff of the Commission on Civil Rights met with officials of the 4 companies selected—Alcoa, Levi Strauss, Union Carbide and Allied Chemical—and solicited their cooperation.<sup>1</sup> Each company was invited to participate in the April 24–25, 1980 factfinding meeting although only representatives of Allied Chemical and Union Carbide did so. The personnel director of Alcoa could not attend due to a previous commitment.<sup>2</sup> Each company was also asked to submit copies of their affirmative action plans.<sup>3</sup> Allied Chemical responded negatively;<sup>4</sup> Levi Strauss submitted only a copy of its policy statement on equal employment<sup>5</sup> and the others simply ignored the requests.

A review of the statements made by representatives of Allied Chemical and Union Carbide follows.

### Allied Chemical Corporation

The Automotive Products Division of Allied Chemical Corporation in Knoxville employs approx-

imately 1,400 workers; 80 percent in blue collar jobs. Jay G. Ward, Director of Employee Relations for Allied estimates that 11 percent of the employees are minority and 66 percent are women. Out of approximately 28 managers, Mr. Ward estimates 1 is a minority and 6 are women.<sup>6</sup>

Among Mr. Ward's duties is the development and implementation of an affirmative action plan. When a job is to be filled, the plan is consulted to see what the composition of employees in that category is and ". . . what we might need to do," according to Mr. Ward.<sup>7</sup>

In recent years, when layoffs or salary reductions have been necessary, Allied Chemical maintained a nearly constant workforce in terms of race and sex composition. Mr. Ward attributes this to the fact that Allied has practiced affirmative action for a long time, in an apprenticeship program and elsewhere, and thus has women and minorities with seniority.<sup>8</sup>

<sup>1</sup> Interviews in Alcoa, Tennessee, January 10, 1980, Larry Wyatt, Organization and Compensation Supervisor and Elton Jones, Director of Public Relations, Alcoa. April 2, 1980, Richard E. Ray, Manager, and K.L. Fair, Director of Personnel, Alcoa.

Interviews in Knoxville, April 2, 1980 Howard Mullins, Director of Personnel and Wayne Shever, Assistant Plant Manager, Levi Strauss.

Interviews in Knoxville, April 4, 1980, Robert Clark, Plant Manager and Jay Ward, Director of Employee Relations, Allied Chemical.

Interviews in Oak Ridge, January 11, 1980 Robert Worrell, Director of Recruitment and Employment and JoAnn Gailar, Equal Opportunity Coordinator, Union Carbide.

<sup>2</sup> K.L. Fair, Personnel Manager, Alcoa Tennessee Operations, letter to Bobby D. Doctor, Regional Director, USCCR, April 15, 1980.

<sup>3</sup> Samuel B. Kyles, Chair, Tennessee Advisory Committee to the USCCR, letters to Howard Mullens, Director of the Personnel, Levi Strauss and Company; K.L. Fair, Director of Personnel, Aluminum Company of America; R. F. Hibbs, President, Union Carbide Corporation and J.G. Ward, Manager, Labor Relations and EEO, Allied Chemical, July 23, 1980. Also Bobby D. Doctor, Regional Director, USCCR, letters to the same individuals, March 13, 1981.

<sup>4</sup> Jay G. Ward, Director of Employee Relations, Allied Chemical, letter of S.B. Kyles, Chair, Tennessee Advisory Committee, August 4, 1980.

<sup>5</sup> Howard Mullens, Director of Personnel, Levi Strauss and Company, letter to Bobby D. Doctor, April 1, 1981.

<sup>6</sup> T. Vol. III, pp. 26, 36, 38.

<sup>7</sup> Ibid., p. 26.

<sup>8</sup> Ibid., p. 36

In undertaking any austerity measures, as in hiring, Mr. Ward asserts that his company consults its affirmative action plan.

So we will be very cognizant, obviously, of our affirmative action goals. And there could be times that we find we cannot go strictly by performance, and second, by length of service, and we might make an exception. If we do, we will be in a position to justify that.<sup>9</sup>

Requests by the Tennessee Advisory Committee for a copy of the Allied Chemical affirmative action plan were denied by Mr. Ward. In an August 4, 1980 letter to Advisory Committee Chair Samuel B. Kyles, Mr. Ward stated that the plan

... contains certain information which we consider to be of a proprietary nature. This confidential data relates primarily to manning [use of staff] and salaries which we do not want in the hands of any outsider other than the government agency who [sic] audits our AAP on our premises.

According to Mr. Ward's statement at the fact-finding meeting, Allied Chemical was last reviewed by a Federal agency (OFCCP) in 1977. In his opinion Federal compliance officials have become more consistent in their interpretation of affirmative action matters.<sup>10</sup> The other Federal agency with which he has contact is EEOC. Mr. Ward estimates that 15-20 complaints of discrimination have been filed against Allied Chemical in the last 10 years.<sup>11</sup>

### Union Carbide Corporation

The Nuclear Division of Union Carbide Corporation is the largest employer in Oak Ridge. Its three facilities (the Gaseous Diffusion Plant, the National Laboratory and the Y-12 Plant) employ approximately 19,000 people.<sup>12</sup> The work involves the enrichment of uranium for use as fuel in nuclear power reactors, energy research and development, and the development of nuclear weapons systems.<sup>13</sup> The facilities are operated under contract with the U.S. Department of Energy.

<sup>9</sup> Ibid., p. 34.

<sup>10</sup> Ibid., p. 28-29.

<sup>11</sup> Ibid., p. 30.

<sup>12</sup> Ibid., p. 6.

<sup>13</sup> Career Opportunities, Union Carbide booklet, not dated. p. 1.

<sup>14</sup> T. Vol. III, p. 66.

<sup>15</sup> Samuel B. Kyles, Chair, Tennessee Advisory Committee and Bobby D. Doctor Regional Director USCCR, letters to K. L. Fair, Director of Personnel, Alcoa, July 23, 1980 and March 13, 1981, respectively.

<sup>16</sup> Interview in Oak Ridge, January 11, 1980.

<sup>17</sup> T. Vol. III, p. 8. Ms. Gailar provided the Advisory Committee

At the Tennessee Advisory Committee's April 1980 factfinding meeting, Union Carbide was represented by JoAnn Gailar, Equal Opportunity Coordinator for the Nuclear Division. In describing top management's attitude toward affirmative action, Ms. Gailar told the Committee:

I feel that our top management is sincerely committed to affirmative action. I feel that many of our other managers are also. If every single person were committed, we wouldn't be there to help them do a good job, but I feel they want to do a good job, and their effort is sincere, and I think it shows up in the results.<sup>14</sup>

When asked to make those results public, however, officials of Union Carbide declined to do so. A copy of the Nuclear Division's affirmative action plan which would show the distribution of employees by race and sex within generic job categories and by salary range was requested on several occasions,<sup>15</sup> but it was never submitted.

It was estimated by Ms. Gailar that approximately 9.1 percent of Union Carbide's workforce is minority.<sup>16</sup> Among supervisors she estimated that 6 percent are minority; no estimate for the percentage of women was offered.<sup>17</sup>

There are affirmative action officers at each of the 3 Nuclear Division facilities who work with Ms. Gailar. Their work entails the development and implementation of the affirmative action plan, as well as the processing of any employment complaints. According to Ms. Gailar, there were only 5 complaints filed in 1979 and only 2 by April 1980.<sup>18</sup>

Special recruitment efforts are made to attract women and minorities into jobs with Union Carbide. Ms. Gailar especially noted the difficulty in attracting minority engineers who comprise only 4.9 percent of all engineers; blacks comprise 2 percent. Ten of the 58 colleges where Carbide recruits are predominately black and work co-op programs are established with 5 of those schools.<sup>19</sup> In addition, Ms. Gailar cited apprenticeship programs as one

with the February 21, 1980 edition of the *Nuclear Division News*, the employee newspaper of Union Carbide's Nuclear Division, which focused on the company's affirmative action program. Several articles described affirmative action policy and graphs displayed the growth rate for minority and women workers compared with the total workforce for the years 1962 and 1979. This data lacks the specificity found in an affirmative action plan and is not useful in determining the actual status of women and minorities employed by Union Carbide.

<sup>18</sup> Ibid., pp. 8-13.

<sup>19</sup> Ibid., pp. 15, 24.

way in which Union Carbide takes a qualifiable person and makes them qualified.<sup>20</sup>

...Since the 1978 reorganization of Federal civil rights agencies by former President Jimmy Carter in E.O. 12086, the responsibility for assuring that businesses which have Federal contracts do not discriminate has rested with the Office of Federal Contract Compliance Programs (OFCCP) of the U.S. Department of Labor. Prior to 1978 the Department of Energy of (DOE) had that responsibility. Mrs. Gailar stated that the Nuclear Division was last reviewed for compliance in 1978 by DOE. She declined to discuss the outcome of that review.<sup>21</sup> The results were requested from the DOE in May 1981 and supplied in June 1981.<sup>22</sup>

Ms. Gailar expressed no objections to the EEOC and OFCC requirements to report employment statistics. She believes that since the 1978 reorganization there have been less ambiguities in affirmative action and equal opportunity requirements than previously.<sup>23</sup>

The arrangement by which the Tennessee Commission on Human Development is to investigate employment discrimination charges, and hopefully resolve them, before they go to EEOC is deemed "cumbersome" to Ms. Gailar. The State Commission "does not seem to have organized to the point where they do the investigation." Ms. Gailar said, the result is that Union Carbide ends up having to deal with both the state and the Federal agency at the same time.<sup>24</sup>

<sup>20</sup> Ibid., p. 68.

<sup>21</sup> Ibid., pp. 11-12.

<sup>22</sup> Bobby D. Doctor, Regional Director, USCCR, letter to R.J. Hart, Manager, DOE, Oak Ridge Operations, May 5, 1981. R.J. Hart, letter and enclosures to Bobby D. Doctor, June 25, 1981. The compliance reports submitted are now being reviewed by USCCR staff.

The leaders of minority and women's groups who were asked to comment on Union Carbide's record as an affirmative action employer offered different opinions. Dr. Jerry PeShewa, East Tennessee Area Manpower Coordinator for the Tennessee Indian Council said he did not know of any recruitment efforts of larger businesses or industry which were directed toward Indians.<sup>25</sup> To the contrary, Mary Jane Harlan of the National Organization for Women said she believed Union Carbide had made a good faith effort to get women into non-traditional jobs at its facilities.<sup>26</sup>

Martin Perotte, President of the Oak Ridge NAACP, said he believed Union Carbide's affirmative action plan was working where the initial hiring of minorities was concerned, but not where promotions were concerned. He maintains that few, if any, minorities are above the department head level; the majority are in low level jobs.<sup>27</sup>

A neutral assessment of Union Carbide's efforts was offered by Neil McBride, Director of Rural Legal Services of Tennessee. He said he did not have the information needed to evaluate how well Union Carbide is meeting its own goals. While he acknowledged that general conversations indicate Union Carbide's efforts "have improved dramatically over the last decade," Mr. McBride still emphasized that without access to the employment data ". . .the public can't judge how well it [affirmative action] is being done."<sup>28</sup>

<sup>23</sup> T. Vol. III, p. 19, 72.

<sup>24</sup> Ibid., p. 12-13.

<sup>25</sup> T. Vol. I, p. 14.

<sup>26</sup> Ibid., p. 30.

<sup>27</sup> T. Vol. II, p. 15.

<sup>28</sup> Ibid., p. 42-43.

## Community Opinions

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Representatives of several community organizations participated in the Tennessee Advisory Committee's factfinding meeting on affirmative action. Each was asked to describe the work of their organization, and the effectiveness of affirmative action efforts undertaken by area employers, including the Federal government. Problems were identified by some of the representatives, and some suggestions for improvements were made.

Jerry PeShewa, Manpower Coordinator of the Tennessee Indian Council estimates that there are 3-4,000 Indians in the Knoxville area. The Council, among other services it provides, tries to place Indian workers in permanent jobs. Placing his clients in jobs which are Federally funded (through Comprehensive Employment Training Act grants, for example) is easier than placing them into a regular permanent position, says Dr. PeShewa. He cites an overall low level of education among Indians as a problem in job placement and advancement. Many of the Indians have only 6th, 7th, or 8th grade educations and are further hampered by the cultural differences between Indian and white Americans which make success in the job market even more elusive. Indian women, who are the sole support of their children, have an especially difficult time finding adequate work.<sup>1</sup>

Dr. PeShewa could cite only two employers who have specifically included Indians as a group in their affirmative action efforts: the City of Knoxville and

the Knoxville-Knox County Community Action Committee. Otherwise, he maintains that affirmative action exists only on paper:

... [W]e haven't been asked to help at any time in affirmative action. I can truthfully say that as far as we are concerned, affirmative action, or the intents, haven't helped us at all.<sup>2</sup>

Allied Chemical Corporation and the Tennessee Valley Authority were specifically cited by Dr. PeShewa as employers from which he received no help in trying to resolve employment complaints brought to him by Indians. Employers could improve their affirmative action programs, in Dr. PeShewa's belief, if they would take advantage of the Indian Council's ability to recruit and train Indians who would then be prepared for jobs which will need to be filled in the future.<sup>3</sup>

The Urban League of Knoxville is another organization which provides job-related counseling and placement services. In addition, it accepts complaints of employment discrimination and attempts to mediate them before any charges are filed with the EEOC. Gilbert Francis, Jr., Assistant Director of the Urban League, told the Advisory Committee his office receives 3 or more complaints each week. While some employers will not talk with the Urban League about employee problems, others are cooperative and make an honest effort to comply with the law. Some employers also list available jobs with the Urban League, etc. Mr. Francis views the

<sup>1</sup> T. Vol. I pp. 8-16, 63.

<sup>2</sup> Ibid., 13, 14, 65.

<sup>3</sup> Ibid., pp. 10-11.

Leagues work as a service to the employer who takes advantage of it:

. . . It is documentation and demonstration that they are interested in being in compliance. And if they are reviewed, they have documentation that they have made an effort. . . and to have sought out women and minorities for their work force.<sup>4</sup>

Other employers, according to Mr. Francis, are only interested in circumventing the law and are becoming increasingly sophisticated in doing so.<sup>5</sup>

Mary Jane Harlan of the Knoxville Chapter of the National Organization for Women expressed the same sentiment. Based on her experience it seems that the purpose of affirmative action within some companies is to see "how little they can get away with," that is to say, some employers ask how few minorities need be hired.<sup>6</sup>

Ms. Harlan also set forth another theory about how some employers skirt the law:

. . . if in fact an organization is in the midst of this kind of negative affirmative action, I guess you would call it, then they sometimes, it seems like they sometimes hire people who are doomed to failure. . . and when it happens, they can use that as an excuse. "Well, we tried that once, and it didn't work." Or "we hired 3 women and they just couldn't do this job."<sup>7</sup>

Knoxville NOW monitors the status of working women and counsels those who have employment discrimination problems. Most of the complaints and questions being received currently deal with sexual harassment or discrimination based on pregnancy. Regulations dealing with both issues are relatively new and confusion still exists about exactly what actions are prohibited. Although the issue of sexual harassment is being taken more seriously than even one year ago, says Ms. Harlan, it is still often the case that the woman involved suffers adverse repercussions while her male counterpart does not.<sup>8</sup>

Another major problem noted by NOW is the harassment faced by women in non-traditional and blue collar types of work. Most surprising to Ms. Harlan is the fact that such harassment ". . . isn't just a phenomena the first few months on a job, but continues for years."<sup>9</sup> TVA was cited by Ms. Harlan as one place of employment from which many

complaints of such harassment originate while also noting that positive efforts have been made in affirmative action for women by TVA.<sup>10</sup> The Chair of TVA himself had identified sex discrimination and sexual harassment as a critical problem facing the agency.<sup>11</sup>

The job titles which women often hold are cited as another problem by Ms. Harlan. At times they are doing more work than is reflected in titles such as "aide" or "assistant" and yet are not compensated accordingly. The large number of women found in dead end clerical jobs was cited as an example of the limited upward mobility available to women in stereotypical female jobs. At the University of Tennessee this is more of a problem because the wage scale for clericals is especially low according to Ms. Harlan.<sup>12</sup>

Filing charges of discrimination with the Tennessee Commission on Human Development or the EEOC was described as a frustrating experience by Ms. Harlan. In the past, women who called the Commission on Human Development's main office in Nashville were referred to the Chattanooga area office and then back to the Knoxville NOW Chapter. Ms. Harlan attributed this poor performance to the fact that the agency was new. She noted in April 1980 that personnel changes had been made, an office was to be opened in Knoxville, and improved service was anticipated.<sup>13</sup> See Appendix D for updated information about the State Commission.

Women counseled by NOW also report confusing treatment and advice being received from the EEOC:

They are given advice they can't understand in words they can't understand. And they are given inaccurate and incomplete advice.

They are referred to another agency that refers them to another agency. And about the fourth agency, they get a little tired, and they say, well, maybe this wasn't worth it after all.<sup>14</sup>

The Chair of the Human Resources Advisory Committee to the City of Oak Ridge agreed also that Federal involvement in employment discrimination cases could be improved if the monitoring and

<sup>4</sup> T. Vol. II, p. 9.

<sup>5</sup> Ibid., p. 11-12.

<sup>6</sup> T. Vol. I, p. 61.

<sup>7</sup> Ibid., pp. 61-62.

<sup>8</sup> Ibid., pp. 40-41.

<sup>9</sup> Ibid., p. 23.

<sup>10</sup> Ibid., p. 31.

<sup>11</sup> David Freeman, Interview in Knoxville, April 2, 1980.

<sup>12</sup> Ibid., pp. 44, 57.

<sup>13</sup> T. Vol. I, pp. 45-46.

<sup>14</sup> Ibid., p. 29.

enforcement agencies were located closer to the people. Peggy Meier advocated having such Federal agencies located in Knoxville, for example.<sup>15</sup>

In the area of affirmative action, the committee is encouraging city officials to produce a written affirmative action plan. Members have met with the city manager, and police chief to urge them to do so. Although city officials are trying to recruit minorities and women, Ms. Meier believes a written plan is necessary to show the public what positive steps have been taken.<sup>16</sup> It is her view, however, that the few blacks who have been employed by the city, especially in the public safety field, have been harassed and effectively forced from their jobs.<sup>17</sup>

Martin Perrote, President of the Oak Ridge Branch of the NAACP, echoed the feelings of other organization leaders by saying that the problems with affirmative action do not rest with the requirements but with the Federal government's lack of enforcement. He suggests that more contact should take place between Federal agencies and employers, and that the Federal agencies should constantly monitor and take action on the reports submitted by employers.<sup>18</sup>

While the NAACP has followed the affirmative action efforts of some private employers, it has been attentive most recently to the City of Oak Ridge. The NAACP has urged the City to produce a written plan for improving the representation of blacks in its workforce. Mr. Perrote is especially critical of the Federal government's monitoring of Oak Ridge. City officials ". . . have presented their EEO form [of employment statistics] to the various Federal organizations, and they have not had any repercussions. . . so therefore, they think they are in compliance."<sup>19</sup> Short of Federal action against an employer, Mr. Perrote believes success in affirmative action can be achieved when the top management of any employer is committed to it and sees that positive attitudes toward it "funnel down the organization."<sup>20</sup>

Neil McBride, Director of the Rural Legal Services of Tennessee was also critical of the City of Oak Ridge for not having an affirmative action plan

"by which an advocate of an employee. . . can judge whether they are meeting their responsibility."<sup>21</sup>

Union Carbide was another employer criticized by Mr. McBride for not making its affirmative action plan available to the public. Although Oak Ridge residents tell him Carbide's affirmative action work has "improved dramatically over the last decade," he emphasized that no one has seen information by which an evaluation can be made.<sup>22</sup> Mr. McBride concedes that Union Carbide probably has some legitimate national security reasons for keeping some employment information confidential, but not all information:

. . . we feel strongly that a company that has such an impact on the community employment patterns as Union Carbide Corporation, has a responsibility to make its goals known to the public, to make that information available to people who ask, and to publicly show how they are being met each year.<sup>23</sup>

When asked to identify the weaknesses of the Federal government's affirmative action enforcement work Mr. McBride cited lack of enforcement, as other community leaders have:

The primary weakness is that responsible agencies aren't, I think, carrying out the letter and the intent of contract compliance requirements, and of other forms of antidiscrimination legislation and executive orders.<sup>24</sup>

Aside from vigorous enforcement, Mr. McBride suggests that Federal agencies actively publicize the affirmative action responsibilities of employers.<sup>25</sup>

Millie Walters, Employment Coordinator with the Coal Employment Project, provided suggestions for improving Federal enforcement work based primarily on her dealings with the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) and the TVA. The Coal Project tries to change the attitudes of coal companies toward hiring women and, through training programs, prepares women for jobs in coal mines.<sup>26</sup>

Out of over 4,000 people who worked in the Tennessee mines, according to 1978 State Department of Labor data, 22 were women. By 1980, Ms. Walters estimated, approximately 40 women were in the mines. Although the work is difficult and

<sup>15</sup> T. Vol. II, pp. 23-25.

<sup>16</sup> Ibid., pp. 21-22.

<sup>17</sup> Interview in Knoxville, January 15, 1980.

<sup>18</sup> T. Vol. II, p. 17.

<sup>19</sup> T. Vol. II, pp. 14-15.

<sup>20</sup> Ibid., pp. 16-17.

<sup>21</sup> Ibid., p. 37.

<sup>22</sup> Ibid., pp. 40-42.

<sup>23</sup> Ibid., p. 40.

<sup>24</sup> Ibid., p. 43.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid., pp. 26-27.



dangerous, the approximately \$65 a day to be earned is far more attractive than the wages paid in traditional women's work. Minorities in the coal mines fair even worse according to Ms. Walters. In a 4 county mining area near Knoxville, she knows of no minorities who are so employed.<sup>27</sup>

Ms. Walters criticized “. . .the interlocking agencies that are supposed to be . . .working together. . .” for getting bogged down in their own bureaucracies.<sup>28</sup> Federal enforcement, she says, needs to be brought to the local level where coal company operators can be worked with directly:

. . .they [coal operators] have learned by now that they are not too worried about a complaint that we file in Washington that may not get processed for years.<sup>29</sup>

The OFCCP, responsible for equal employment by government contractors, cooperated with the Project and TVA in meeting with coal companies in August 1979, and affirmative action requirements were reviewed. While Ms. Walters noted that some women were hired as a result, she also stated that some companies became more sophisticated in avoiding the law due to their increased knowledge.<sup>30</sup>

<sup>27</sup> Ibid., p. 31, 50.

<sup>28</sup> Ibid., p. 32.

<sup>29</sup> Ibid., p. 33

<sup>30</sup> Ibid., pp. 28-29.

## Federal Government Role

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Many of the community leaders who made recommendations to the Tennessee Advisory Committee for improvements in the enforcement of equal employment law suggested that the Federal agencies with civil rights enforcement responsibility should be brought physically closer to employers. Another frequently heard suggestion was that affirmative action requirements and compliance with settlement agreements be vigorously monitored.

The most frequent request made by both private and public employers was that Federal agencies need to be more concise and explicit in stating affirmative action requirements and that their work be coordinated so that several different agencies do not request the same information, conduct reviews, etc.

Officials representing the offices of the Equal Employment Opportunity Commission (EEOC), Office of Federal Contract Compliance Programs (OFCCP) and Office of Personnel Management (OPM) serving the Knoxville area were asked to discuss the relevant enforcement and monitoring work of their agencies at the April 1980 factfinding meeting. Summaries of their statement follow. For a review of the mandates of EEOC and OFCCP, see Appendices A and B.

### **Equal Employment Opportunity Commission**

The District Office of the Equal Employment Opportunity Commission which serves Tennessee is

located in Memphis; it has an area office in Nashville. Kentucky is also served by the Memphis office and an area office in Louisville. This mode of geographic organization was created in January 1979. Prior to that time, the District Office serving Tennessee was located in Birmingham. There was no effort on the part of EEOC to inform the public about the realignment of the territory or the establishment of new EEOC offices. When the district director was asked how the public was expected to know of the Nashville office which opened in March 1979, for example, he replied that the workload already exceeded the staff allocated there “. . . without us putting up posters all over the place.” Use of the offices was set in motion by “word of mouth.”<sup>1</sup> As to whether he would follow the same plan in opening other offices and if he felt responsible for letting the public know where assistance can be received, Mr. Bell replied “The public knows.”<sup>2</sup>

In March 1979, the Tennessee Commission for Human Development (TCHD)<sup>3</sup> through contractual agreement, stipulated that most charges of discrimination in Tennessee would be investigated by the TCHD. Essentially, the TCHD was granted the right to investigate and try to resolve charges without the involvement of the Federal Government. Such contracts have been executed between EEOC and numerous state and local civil rights agencies empowered by their respective governing bodies to assume such duties. Most direct costs of

<sup>1</sup> T. Vol., V, p. 122

<sup>2</sup> Ibid.

<sup>3</sup> See Appendix D.

the state or local agency's work are paid by EEOC. The provisions of such agreements vary extensively depending on local legislation.

The EEOC-TCHD agreement specified that charges of discrimination filed in person at the Memphis office will be handled by EEOC. All others, according to former District Director Sam Bell, are to be handled by the TCHD.<sup>4</sup> The State Commission is headquartered in Nashville with offices in Chattanooga, Memphis and Knoxville. The Knoxville office was established in August 1980 and has 2 investigators.<sup>5</sup>

The final assessment of discrimination charges made by the TCHD is subject to the review and approval of the EEOC.<sup>6</sup> Because the TCHD Knoxville office was not established prior to the Tennessee fact-finding meeting, assessment of its work is not within the scope of the study. Suffice it to say that several Knoxville-Oak Ridge residents did express concern that there was no local office where they could go for information about employment matters. The establishment of the Knoxville office may now have filled that void.

The District EEOC office employs 130 people who received 1,039 charges of discrimination from October 1, 1979 until March 1980. Over one-third of those charges (373) were settled for a total of \$906,625, benefiting the 490 complainants. Mr. Bell estimated that approximately 200 of the remaining 666 charges were determined to be unfounded.<sup>7</sup> Sixty-four percent of the charges were still being processed. EEOC staff was also working on charges filed prior to October 1979 known as "backlog" cases. While no specific number was provided, Mr. Bell stated that some cases were 4 or 5 years old. It is anticipated that the backlog will be eliminated by October 1, 1981.<sup>8</sup>

In addition to its work investigating and conciliating the charges of individuals, the EEOC can file suit, conduct systemic investigations and file "Commissioners' charges." During the 6 month period cited by Mr. Bell, 21 suits were filed against private employers (suits against public employers can be filed only by the U.S. Department of Justice on the recommendation of EEOC, another Federal agency,

or due to its own initiative). Consent decrees were entered into in 9 of the cases representing \$122,004 settlements for 38 people.<sup>9</sup>

The systemic investigations are initiated after analysis of employment data, submitted by an employer, as required by law, reveals an "improper profile" sufficient to warrant further investigation.<sup>10</sup> In such cases, investigators request and review additional information to determine if there are any patterns or practices in personnel procedures which are discriminatory resulting in an underrepresentation of minorities. As with individual charges, EEOC's first objective is to obtain voluntary compliance from the employers. If this is not possible, the District Office may seek to have the EEOC itself file a Commissioner's charges against the employer. Such charges can involve into court cases or be settled before that stage.

Systemic investigations may also be initiated through what EEOC calls "early litigation identification." When numerous complaints are filed against an employer, or when EEOC staff identifies employer procedures while investigating an individual charge which may be affecting more persons than the single complainant, the employer may be selected for a systemic review.<sup>11</sup>

Mr. Bell declined to state the number of active Commissioner's charges in the Tennessee-Kentucky district because ". . .the number is not large enough to be able to cloak individual employers."<sup>12</sup> EEOC has stringent regulations forbidding the disclosure of employment data or other information about charges it investigates.

While clearly stating that ". . .EEOC is not in the affirmative action business. . . .," Mr. Bell also said that EEOC can, and on occasion does, require an affirmative action plan when settling a charge.<sup>13</sup>

Title VII of the 1964 Civil Rights Act, as amended, the Equal Pay Act, the Age Discrimination Act, none of those parts of our jurisdiction directly address the production of affirmative action plans. This is not within our jurisdiction. . . .

We are strictly in the business of dealing with allegation of injury by people and efforts to fashion remedy for those injuries. Occasionally, on a case-by-case basis, part of the

<sup>4</sup> T. Vol. V, p. 97

<sup>5</sup> Jeannette Denis, Field Representative, TCHD, Knoxville Office, telephone interview, April 9, 1981.

<sup>6</sup> T. Vol. V, p. 97.

<sup>7</sup> Ibid., p. 75

<sup>8</sup> Ibid., p. 81

<sup>9</sup> T. Vol. V, p. 76.

<sup>10</sup> Ibid., p. 80.

<sup>11</sup> Ibid., pp. 81, 84, 87.

<sup>12</sup> Ibid., p. 80.

<sup>13</sup> Ibid., p. 80.

remedy is a plan of some sort to redress the injuries, but it's not the EEOC saying . . . "you have an affirmative action plan to do. Send us a copy and we will review it."<sup>14</sup>

When a plan is requested as part of a charge settlement, the employer is asked to tailor it to address the specific injury involved. The EEOC tries not to ask for provisions which contradict those required by other Federal agencies such as the OFCCP. If an employer already has a plan, by virtue of other Federal agency requirements, EEOC officials may request to review it and determine if it addresses EEOC's concerns. Requests for plans or the creation of plans may result from individual or systemic charges, although Mr. Bell offered that it was probably too early in the systemic program to say for sure.<sup>15</sup>

Mr. Bell could not estimate the number of investigations which have involved some review of affirmative action plans.<sup>16</sup> He did state that he believes the number of instances where EEOC seeks an affirmative action remedy have been reduced since January 1979 when the agency was reorganized.<sup>17</sup> The system established under reorganization has become known as "rapid charge processing" due to its emphasis on keeping up with the daily workload of individual charges. If necessary, staff who work in other areas, i.e., backlog cases, systemic etc., are temporarily assigned to process current cases.

The rapid charges system seems to have encouraged employers to put their own houses in order, according to Mr. Bell. The knowledge that EEOC now investigates cases promptly instead of allowing cases to languish 4-5 years is a positive impetus.<sup>18</sup>

If a charge is settled by a conciliation agreement, an employer may be requested to report annually to EEOC regarding enactment of the terms. Mr. Bell estimated that perhaps less than 5 percent of staff time is spent monitoring conciliation agreements or consent decrees.<sup>19</sup>

Almost as confusing to some persons as EEOC's role in affirmative action, is its role in providing technical assistance or just information to employers and the latter to the interested public. No requests for technical assistance have been received according to Mr. Bell, but even if they had, the district

director maintained he does not have enough staff to respond. His solution, should requests be received, is to refer the party to OFCCP if government contracts are involved, or OPM if a state of local government is involved.<sup>20</sup>

The EEOC has, however, established a division to provide technical assistance to Federal agencies as well as to evaluate affirmative action plans. Every Federal agency is required to submit its plan to the EEOC headquarters in Washington.<sup>21</sup>

Larry Moore, Manager of the EEOC Federal Affirmative Action Program in the Southeast, emphasizes that the evaluation of plans is not aimed at approval or disapproval. He told the Tennessee Advisory Committee:

. . . [w]hat we are trying to do is have agencies develop affirmative action plans that are result oriented. . . For that reason, we identify problems with those plans, we have worked out systems to try and contact these agencies and help them to move forward. . . .<sup>22</sup>

The Director of Equal Opportunity at TVA stated in April 1980 that no assistance had been available from EEOC.<sup>23</sup> After the new EEOC guidelines for affirmative action were received in mid-December 1979, Mrs. Woodward-Thompson tried to contact EEOC officials for clarification, and to request assistance in translating the guidelines to conform to TVA's unique personnel system which is unlike the rest of the Federal government's. An extension of the EEOC February 1980 due date was also requested. EEOC responded in a form letter saying no extension would be granted.

The responsiveness of EEOC to TVA changes during the course of this study by the Tennessee Advisory Committee, Mrs. Woodward-Thompson told the Commission at the April 24, 1980 factfinding meeting:

Between the time that we first had our conversations with the Civil Rights Commission [January 1980] and very recently, we have gotten quite a bit of support from EEOC. Maybe they had gotten the word from someone, but we had our meeting, as I said, on Tuesday [with Alfredo Matthew, the national chief of EEOC's affirmative action program for Federal agencies] where we requested some. . . revisions in the affirmative action planning process.

<sup>14</sup> Ibid., pp. 71 and 77.

<sup>15</sup> Ibid., pp. 77-79.

<sup>16</sup> Ibid., p. 94.

<sup>17</sup> Ibid., p. 82.

<sup>18</sup> Ibid., p. 83.

<sup>19</sup> Ibid., pp. 74 and 91.

<sup>20</sup> Ibid., pp. 74 and 92.

<sup>21</sup> Ibid., p. 105.

<sup>22</sup> Ibid., p. 106.

<sup>23</sup> Charlesetta Woodward-Thompson, interview in Knoxville, April 1, 1980.

We made some concessions and EEOC made some concessions. I think this was a very good omen. And, also, Larry Moore. . . came in yesterday and held a technical assistance meeting. . . . So in the past couple of weeks we have gotten all we want.<sup>24</sup>

### Office of Personnel Management

There is one facet of Federal affirmative action which involves both the EEOC and the Office of Personnel Management (OPM). It is the development and implementation of a special recruitment effort aimed at people who are underrepresented in a given agency's workforce. The OPM is responsible for evaluating this "Federal Equal Opportunity Recruitment Program" (FEORP)<sup>25</sup> which is also included as part of an agency's affirmative action plan required by EEOC as well as OPM. Both Larry Moore of EEOC and OPM officials, maintain that their work in the Southeast is coordinated.<sup>26</sup>

Initially, EEOC was given the responsibility for providing guidance to Federal agencies in developing the FEORP. OPM was responsible for assisting in implementing the plan, i.e. recruiting qualified candidates to meet the needs of an agency.<sup>27</sup> As of April 1980, the Washington headquarters of OPM and EEOC were drafting a memorandum of understanding to coordinate their dual interests in the FEORP.<sup>28</sup> Neither criteria by which plans would be selected for review nor standards by which they would be judged, were yet established.<sup>29</sup>

Beverly Edmond, Regional OPM Manager for the FEORP stated that if an agency's plan was reviewed and found unacceptable, OPM would ask the agency to improve the plan and assist it in doing so.<sup>30</sup>

Jack Owens, Director of OPM's Memphis area office (which serves the Knoxville-Oak Ridge area) explained what is done to help an agency implement its FEORP:

. . . . [W]e are asked continually by our agencies to target recruitment for them. We maintain a minority mailing list which is likely to produce minorities and females. We go out and work with the agencies in setting up comprehensive staffing plans, to identify underrepresentation and

then, of course, we try to link those plans to the targeted area that will produce the qualified eligibles. . . we have conducted workshops where we show agencies how to go about identifying and eliminating underrepresentation.<sup>31</sup>

### Office of Federal Contract Compliance, Department of Labor

Since October 1978 the sole responsibility for administering equal employment requirements (as required under Executive Order 11246, Section 503 of the Rehabilitation Act of 1973 and Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974) among Federal contractors has been with the OFCCP. Previously, 16 different Federal agencies were responsible for equal employment requirements.

Throughout the country there are now 71 area offices of the OFCCP including one each in Memphis and Nashville. The Tennessee offices report to a regional office in Atlanta headed by Donald Webster. As would be expected, the first year after the reorganization in 1978 was devoted to training and other means to standardize the work of each office. An official "compliance manual" for OFCCP's work was published in October 1979 and additional training ensued. This period of transition accounts for the fact that only 229 compliance reviews were conducted from October 1978-1979 and all conciliation agreements were reached in the 8-state southern region, according to Mr. Webster.<sup>32</sup> Mr. Webster urged, however, that dramatic numerical increases in compliance reviews not be anticipated: quality rather than quantity is the goal. During the 4 months between October and December 1979, 90 reviews were completed.<sup>33</sup>

Because of the period of transition stretching to almost 2 years, Mr. Webster acknowledged that some contractors and other interested parties may be confused as to their new relationship with his office. Employers, who have not been reviewed since the 1978 reassignment of responsibility, may still think

explored in this study because neither Knoxville or Oak Ridge currently receive funds under the Act.

<sup>24</sup> T. Vol. V, p. 108.

<sup>27</sup> Ibid., p. 61.

<sup>28</sup> Ibid., pp. 61, 62.

<sup>29</sup> Ibid., p. 63.

<sup>30</sup> Ibid., pp. 63, 64.

<sup>31</sup> Ibid., pp. 65, 66.

<sup>32</sup> Ibid., p. 44, 45, 47.

<sup>33</sup> Ibid.

<sup>24</sup> T. Vol. VII, pp. 46, 47.

<sup>25</sup> OPM is also responsible for five affirmative employment programs in addition to the FEORP. They are: the Federal Women's Program, the Hispanic Program, the Veterans Employment Program, the Selective Placement Program for the Handicapped and the Outreach and Upward Mobility Program for Minorities. All are beyond the scope of this study. OPM also has equal employment responsibilities where state and local government merit systems are concerned when the jurisdiction receives grants from certain Federal agencies and/or from OPM under the Intergovernmental Personnel Act. This OPM responsibility is not

that another Federal agency has review responsibility.<sup>34</sup>

Mr. Webster defines affirmatives action as “. . . those procedures to which contractors commit themselves in order to provide equal opportunity.”<sup>35</sup> There is no question but that OFCCP regulations call not only for nondiscrimination in employment but require that positive measures be taken to make up for past discrimination and that minorities and women be employed in numbers comparable to their numbers in the available labor force. Such measures include a variety of personnel practices:

. . . recruitment, hiring, rates of pay, ungrading, promotion and selection for training. . . targeted outreached efforts, cooperative activities with local interested groups, job restructuring. . .<sup>36</sup>

Under Executive Order 11246, contractors are required to set “goals and timetables” for correcting any underrepresentation of women or minorities. Contractors with more than 50 employees, or with contracts exceeding \$50,000, must produce a written affirmative action plan for each of their facilities. In the southern region almost 5,200 contractors employing 2,600,000 workers are in this category. Minorities represent about 20 percent of those workers; women, about 40 percent.<sup>37</sup>

Given that it is a “physically impossible” task to review the affirmative action plans of 5,200 employers, according to Mr. Webster, the OFCCP sets priorities as to which ones will be reviewed.<sup>38</sup> Currently, insurance, banking and energy related industries are selected for review because they are growth industries in which patterns of underrepresentation of minorities and women are being seen. Approximately 16 percent of the agency’s resources are to be devoted to reviews of these industries.<sup>39</sup>

In the South, specifically in Tennessee and Kentucky, Mr. Webster stated that the coal industry has priority in the energy-related field; however, no specific information was offered about such reviews.<sup>40</sup>

<sup>34</sup> Webster Interview.

<sup>35</sup> *Ibid.*, p. 38.

<sup>36</sup> Donald Webster, Assistant Regional Administrator, USDOL-OFCCP, Opening Remarks, Factfinding Meeting, April 1980, p. 8 (hereafter cited as “Webster, Opening Remarks”).

<sup>37</sup> Donald Webster, letter to Katie Harris, Researcher, USCCR, April 16, 1980.

<sup>38</sup> T. Vol. V., p. 42.

<sup>39</sup> Donald Webster, interview in Atlanta, March 17, 1980 (hereafter cited as Webster Interview).

Reviews of other contractors may be initiated due to complaints from employers or their advocates. Complaints from individuals are referred to the EEOC. Given this procedure, Mr. Webster sees no duplications in the work of EEOC and OFCCP. The OFCCP tries to limit its reviews based on complaints to about 7 percent of the workload,<sup>41</sup> Mr. Webster was adamant in stating that the OFCCP wants to “move away” from what in the past was heavier emphasis on complaints. Reviews based on complaints solve problems for fewer people than does “good affirmative action” according to Webster.<sup>42</sup>

The OFCCP’s pre-award review of contractors is seen by Mr. Webster as the tool for affirmative action progress in a most positive form.<sup>43</sup> Through this process Federal agencies which anticipate executing contracts of over \$1 million (construction is excluded) inform OFCCP. The contractor must submit to a review of his employment practices before the contract is awarded.

EEOC is notified as to what employers the OFCCP will be reviewing. OFCCP is permitted to review any complaints EEOC may have on the employer and is advised if EEOC is conducting a systemic investigation or is involved in litigation with the employer.<sup>44</sup>

If problems are uncovered in an OFCCP review, a “letter of commitment” to correct the problems may be requested of the contractor. More serious deficiencies in contractor affirmative action plans are pursued through a conciliation process which may lead to a formal “conciliation agreement.” OFCCP monitors compliance with such agreement.<sup>45</sup>

When conciliation efforts fail, OFCCP initiates administrative enforcement procedures through a formal hearing. If conciliation is not reached, a contractor may lose its contract, have payments withheld or be barred from doing business with the Federal government in the future.

<sup>40</sup> T. Vol. V. pp. 121 and 123.

<sup>41</sup> Webster Interview, T. Vol. V., p. 47 and Webster, Opening Remarks.

<sup>42</sup> T. Vol. V, p. 124.

<sup>43</sup> *Ibid.*

<sup>44</sup> Webster Interview.

<sup>45</sup> T. Vol. V. pp. 45-46.

OFCCP can refer cases to the U.S. Department of Justice for litigation if that option is deemed most effective.<sup>46</sup>

For a government contractor to be in compliance with OFCCP regulations he must remedy any problems by providing relief to the persons affected,

<sup>46</sup> Webster, Opening Remarks.

<sup>47</sup> 41 C.F.R. §60-21(b) (1980).

e.g., back pay.<sup>47</sup> An OFCCP review of major settlement achieved in 1978-79 does not mention any for employers in the southern region.<sup>48</sup> The largest monetary settlement was with Uniroyal Incorporated in 1979 for \$5.2 million to be paid to current and former workers at an Indiana plant.<sup>49</sup>

<sup>48</sup> Attachment to Webster's Opening Remarks.

<sup>49</sup> Webster, Opening Remarks.

## Findings and Recommendations

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### **The University of Tennessee at Knoxville**

The 1978 Affirmative Action Plan of the University of Tennessee at Knoxville showed that minorities and women were underutilized in the executive, faculty and professional job categories. While goals for hiring both minorities and women were set and were sometimes fully achieved, the underrepresentation has been perpetuated due to increases in the numbers of personnel which offset the small numbers of women and minorities hired. Such hiring patterns maintain cycles of underrepresentation year after year in an increasingly larger staff and faculty.

Among tenured faculty members, only 15 percent were women, 2 percent were black and over 3 percent were other minorities. The percentage of tenured blacks fell slightly behind the proportion of blacks in the faculty overall; tenured women were far behind their 21 percent representation in the faculty and other minorities who were tenured approximated their number in the faculty.

#### **Recommendation**

The Tennessee Advisory Committee urges the U.S. Commission on Civil Rights to call upon the Equal Employment Opportunity Commission to conduct an investigation of the employment, promotion and tenure-granting practices of the University of Tennessee at Knoxville.

### **The Tennessee Valley Authority**

Among the trade and labor workers employed by TVA only 1 percent were women and 8 percent were minorities as of late 1978. These workers

accounted for approximately 65 percent of TVA's workforce of over 46,000. TVA's white collar workers accounted for the remaining approximately 16,000 employees. Again the vast majority were male (75 percent). Only 25 percent were women and over 67 percent of them were found in clerical jobs. Only 10 percent were minorities and over half of them were found in either clerical jobs or were categorized as "aides to" engineers, scientists, etc. Women and minorities who were found in administrative or managerial positions in 1978 were clustered at the lower ends of the salary scale—an indication of low rank despite managerial status. With the exception of one black man employed as a manager at the \$43,000 salary range, the percentages of women and minorities decreased as salaries increased in these top level positions.

The Tennessee Advisory Committee does recognize that women and minorities are now found among a highly visible group of district managers and major TVA office heads. The Committee commends the TVA for its upward mobility, "fast track" program and its recruitment programs aimed at women and minorities. It is hoped that such actions will enhance the agency's image as an equal opportunity employer and will soon be reflected in TVA employment statistics.

#### **Recommendation**

The unique status of the TVA as a Federal employer is recognized by the Tennessee Advisory Committee. While the vast resources of the U.S. Office of Personnel Management (OPM) and the



Equal Employment Opportunity Commission (EEOC) Federal affirmative action staff focus on the majority of the other Federal agencies, the TVA is also in need of the assistance and oversight which OPM and EEOC can provide.

There are approximately 403,000 Federal employees in the region. TVA personnel account for a significant portion—over 11 percent—of the total. The Advisory Committee calls upon the U.S. Commission on Civil Rights to urge both the OPM and EEOC to designate teams of personnel who will, on a regular schedule, service and monitor the TVA. A review of the current affirmative action plan and Federal Equal Opportunity Recruitment Program of TVA should be undertaken. Appropriate Federal officials should assist TVA personnel and union leadership in their continuing efforts to recruit, train and hire eligible minorities and women.

### **The City of Knoxville**

The City of Knoxville has made several changes in its Civil Service Merit System since the Tennessee Advisory Committee began its study in 1980. The Advisory Committee considers the changes to be positive steps toward providing city officials with a wider selection of qualified candidates for employment and by enhancing the integrity of the merit system. The changes included increasing from 2 to 5 the number of candidates referred for interviews and thus eligible for appointment to position. Another new rule permits the use of "expanded certification" whereby a minimum of two qualified women or minorities (whichever is underrepresented) can be included among the other qualified persons referred for an interview.

Changes affecting the membership of the Civil Service Merit Board itself include the establishment of a fixed term of office for the members, and the nomination of members by current Board members with confirmation made by the City Council. The Board members elect their own chairperson and all will now serve a fixed term of office. They can be removed only by majority vote of the Board. The Board is now empowered to appoint the City's equal employment opportunity officer who reports directly to them.

The Tennessee Advisory Committee also endorses the new rules which prohibit preferences for males or females from being specified in the recruitment and hiring process and which limit veterans preference to a one time use in acquiring a city job.

The status of women and minorities among some categories of city employees needs to be improved. Among the city's 24 top ranking officials and administrators in 1980, only 3 were women and 1 was a minority. Minority men and women were well represented among professional workers; they accounted for 34 percent of the 63 people in this category. Other women, however, comprised only 4 percent of the professional workers.

The critical issue in city employment is the unconscionable underrepresentation of women and minorities among sworn personnel of both the police and fire departments. In the police department, the number of black officers has steadily declined since 1977 when 6 percent of the officers were black. In March 1981 only 4.1 percent of the officers, or 13 out of 319, were black. Women have made a slight gain in representation during the same period of time: they were 3 percent of the force in 1977 and were 4.7 percent in March 1981. Among the 66 officers with the rank of lieutenant or above, only 2 were black and 4 were women.

There were only 10 blacks (2.4 percent) among Knoxville's 407 firefighters and there were none among the fire department's civilian employees in March 1981. Among the 124 firefighters with the rank of captain or above, only 3 were black. The same 1981 data showed that there were no women firefighters. Data available from 1978 showed that neither blacks nor women have made any gains in the fire department. There were no women firefighters in 1978 and blacks in the department's workforce (civilians and firefighters) accounted for only 2.6 percent.

### **Recommendation**

The Tennessee Advisory Committee calls upon the U.S. Commission on Civil Rights to urge the U.S. Treasury Department through its Office of Revenue Sharing, to conduct a comprehensive compliance review of the employment practices of the City of Knoxville. While the Advisory Committee recognizes that some positive changes related to the City's hiring policies and equal opportunity program have been made, it also recognizes that positive changes in the representation of minorities and women have not yet taken place. Given the lengthy history of complaints which have been unresolved, investigations which have had no effect on affirmative action and the patterns of status quo or decline seen in numbers of women and minorities

within the police and fire departments, the Advisory Committee urges that special attention be focused on these two departments.

### **The City of Oak Ridge**

The Tennessee Advisory Committee acknowledges several positive provisions made by the City of Oak Ridge related to affirmative action and equal opportunity. First, the City Council does appoint a Human Resources Committee which is permitted to study and publicize matters related to the welfare of the City. Equal employment is an issue with which the city committee has been somewhat involved. Second, a new "fire specialist program" makes training in firefighter skills available to any city employee with the goal of possibly attracting them to positions in the fire department. Two women were taking part in the program in 1980; there were, however, no minorities involved at that time. Third, city officials are permitted to hire any qualified person to fill a job vacancy; they are not restricted to hiring only the 2 or 5 candidates who have been ranked highest through testing and screening processes.

These positive signs in Oak Ridge do not, however, offset the overwhelmingly negative picture displayed in the City's 1979 employment data. There were no black police officers or firefighters. There were 2 women police officers, but no women firefighters. In other city departments blacks were found only in service, maintenance or clerical positions with the exception of one black man employed in a professional capacity in the recreation department. Among the staff of 10 in library services, there were no blacks or other minorities.

The fact that the city of Oak Ridge does not have a written affirmative action plan leads many people in the community to believe that city officials are not concerned about the lack of representation of minorities among city workers or the lack of female representation in the protection services departments.

Likewise, the fact that the city takes no responsibility for ensuring that its Revenue Sharing funds are not used by the school system in a discriminatory manner, or to perpetuate discrimination, also leads many people to believe the city is not concerned about equal employment opportunity. While the Tennessee Advisory Committee does recognize the autonomy with which the Oak Ridge school system operates, it also recognizes the City's responsibility

under Federal law to ensure the proper use of Revenue Sharing funds which it receives. The Advisory Committee believes that the City has abdicated its responsibility in this regard.

### **Recommendations**

The City Council is urged to prepare and implement an affirmative action plan immediately. The highest priority should be accorded the recruitment and hiring of minorities and women for the police and fire departments. The aid of the City's Human Resources Committee should be sought in both the development and management of the plan.

The Tennessee Advisory Committee also urges the City Council to re-examine its policy of allocating all Revenue Sharing funds to a body over which it has no control. The City is obligated to see that such Federal funds are properly used and the City Council is urged to fulfill that responsibility.

If the City Council of Oak Ridge does not take action on both matters related to equal employment and affirmative action as discussed above, the Tennessee Advisory Committee recommends that the U.S. Commission on Civil Rights urge both the Equal Employment Opportunity Commission and the U.S. Treasury Department, Office of Revenue Sharing to conduct compliance reviews of the City of Oak Ridge.

### **Private Employers**

The failure of Allied Chemical, Union Carbide, Levi Strauss and Alcoa to provide copies of their affirmative action plans to the Tennessee Advisory Committee makes it impossible for the Committee to render specific findings about each employer's affirmative action or equal employment posture. If these employers, as representatives of some publicly contended, are truly committed to abiding by non-discrimination laws, have developed and are implementing an acceptable affirmative action plan, the employers should be pleased to reveal the information requested. Given that none of the employers wished to do so, the Tennessee Advisory Committee must seriously doubt whether minorities or women are employed in adequate numbers or are found in managerial and other decision-making positions.

### **Recommendation**

The Tennessee Advisory Committee recommends that the U.S. Commission on Civil Rights urge the U.S. Department of Labor, through its Office of

Federal Contract Compliance, conduct civil rights compliance reviews of the facilities of Allied Chemical, Union Carbide, Levi Strauss, and Alcoa in the

Knoxville-Oak Ridge area. The findings of those reviews should, in accordance with Department of Labor regulations, be made available to the public.

## Appendix A

### Equal Employment Opportunity Commission

Title VII of the Civil Rights Act of 1964, as amended, (1.) prohibits discrimination by employers, employment agencies, and labor organizations on the basis of race, color, religion, sex, or national origin. It applies to discrimination in all employment practices, including recruitment, hiring, promotion, discharge, classification, training, compensation, and other terms, privileges, and conditions of employment. As amended in 1972, Title VII was extended to cover Federal, State and local employers and educational institutions as well as private firms.

The Equal Employment Opportunity Commission (EEOC), an independent Federal agency created by the act, has five Commissioners appointed by the President. It is charged with enforcing the provisions of Title VII. In addition, several major transfers of authority took place in 1978 and 1979 pursuant to the President's Reorganization Plan No. 1 of 1978(2.) that established EEOC as the lead Federal agency for equal employment opportunity.

The President's reorganization shifted the inter-agency equal employment coordination function previously vested with the Equal Employment Opportunity Coordinating Council to EEOC.(3.). EEOC now has responsibility for eliminating duplication, conflict and inconsistencies in Federal equal employment opportunity programs and activities.(4.) Executive Order 12067 requires EEOC to coordinate the efforts of all Federal departments and agencies enforcing equal employment laws through the development of uniform standards, guidelines, policies, and strengthened enforcement procedures.

Effective July 1, 1979, administration and enforcement of the Equal Pay Act of 1963, as amended(5.) and the Age Discrimination in Employment Act of 1967, as amended (ADEA)(6.) were transferred to the EEOC from the Wage and Hour Division, U.S. Department of Labor. The Equal Pay Act, actually an amendment to the Fair Labor Standards Act of 1938, prohibits wage discrimination based on sex. The ADEA contains a broad prohibition against discrimination based on age in all aspects of employment.

EEOC also assumed authority for the enforcement of equal employment within the Federal government in 1979 in accordance with the President's reorganization. The responsibilities shifted from the former U.S. Civil Service Commission, now Office of Personnel Management (OPM), consisted of Title VII complaint processing, Federal sector appeals, and Federal agency affirmative action plans required under section 717 of the Civil Rights of 1964(7.) and Section 501 of the Rehabilitation Act of 1973 covering handicapped persons in the Federal service.

EEOC has jurisdiction under Section 701(b) of the 1964 Civil Rights Act, as amended, if the employer meets the following tests;

- a. is engaged in an industry affecting commerce
- b. employs a total of 15 or more persons for each working day in each of 20 or more calendar weeks either in the current or preceding calendar year. (8.)

In addition, labor organizations are covered if:

- a. they maintain or operate a hiring hall or hiring office which procures for employees opportunities to work for an employer
- b. the number of its members is 15 or more and the organization is the certified representative of employees or, is a national or international labor union, has been chartered by a labor organization representing or seeking to represent employees, is a conference, general committee, joint or system board or joint council.(9.)

Employment agencies that procure workers for an employer or jobs for an employee are covered, whether they do this for compensation or not. (10.) State and local subdivisions are covered but not if the job in question is an elective post or that of an appointed aide of an elected official.(11.)

Persons eligible to file charges include any person claiming to be aggrieved, others filing on behalf of an aggrieved person, or one of EEOC's Commissioners. Once a charge of discrimination has been made, EEOC will make a "determination" whether there is "reasonable cause" to believe the charge is true, and, if such determination is made, attempt to eliminate discrimination "by informal methods of conference, conciliation and persuasion." If after investigating a charge, EEOC believes

it based on fact, the agency may reach an agreement or "pre-determination settlement" between the employer and the aggrieved parties before actually issuing a determination. If no settlement is reached prior to a determination of reasonable cause, EEOC may seek to reach agreement by conciliation:

The Commission shall attempt to achieve a just resolution and to obtain assurances that the respondent will eliminate the unlawful employment practice and take appropriate affirmative action. (29 C.F.R. s 1601.22).

If the Commission is unable to settle the matter by conciliation, it may file suit against the employer on behalf of the complainant in Federal district court.

If the Court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate... (42 U.S.C. s 2000e-5(g) (Supp. V, 1975)).

At any point prior to a court determination, the court may approve a consent decree among the parties to the suit, whereby the employer agrees to a certain course of action without an admission or finding of discrimination. These decrees may commit the employer to some type of affirmative action, often including goals and timetables.

Private employers with 100 or more employees are required to submit employment data by March 31 of each year, indicating the number of employees by race/ethnicity, sex, and job category. Employers with 15 to 100 employees must file, if the establishment is owned by or affiliated with another company, or part of a single company which has a total of 100 or more employees. Furthermore, all government contractors with 50 or more employees and a contract of at least \$50,000 must file. State and local governments, primary and secondary school systems, institutions or higher education, also submit employment data though on a different schedule.

Among employers exempted from the 1964 Civil Rights Act are the United States Government, Indian tribes, the District of Columbia, private membership clubs and employers with fewer than 15 employees, employers providing a preference to Indians who operate near a reservation, and employers claiming national security requirements. (12.) Section 703(h) exempts from Title

VII's prohibited employment practices those differences in terms or conditions of employment that result from the operation of a "bona fide seniority or merit system." (13.)

Although Title VII does not explicitly require affirmative action, Congress has empowered the Federal courts to order appropriate remedial affirmative action when they have found employment discrimination in violation of Title VII.(14) For example, affirmative action in the form of goals and timetables may be imposed by a Federal court when it has been established that an employer has traditionally excluded minority group persons or females from certain job classifications in violation of Title VII. However, another provision of the statute limits the circumstances under which the courts can require affirmative action. Under section 703(j) employers cannot be required to grant preferential treatment to minority group persons because the number of such persons employed is disproportionate to their number in the relevant available work force. (15.)

No private employer is required to file an affirmative action plan with the EEOC unless a plan has been made part of a settlement or conciliation agreement with EEOC, a consent decree, or a court order. EEOC, however, does encourage employers to establish voluntary affirmative action plans where discrimination has neither been charged nor proved. In January 1979, EEOC issued "Guidelines on Affirmative Action Appropriate Under Title VII, as amended." (16.) It issued these guidelines in part to protect employers who take appropriate voluntary affirmative action against claims that their efforts constitute "reverse" discrimination under Title VII, noting that "Congress did not intend to expose those who comply with the Act to charges that they are violating the very statute they are seeking to implement." (17.) The guidelines are also EEOC's response to two major court case challenging affirmative action, Regents of the University of California v. Bakke (18.) and United Steelworkers v. Weber (19.) Following the Supreme Court's decision in Weber, EEOC interpreted the decision as a reinforcement of its affirmative action guidelines. (20.)

The guidelines define affirmative action as "actions appropriate to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity," (21.) Further, they outline permissible voluntary steps which employers may take, without an admission or formal finding of a Title VII violation, to correct present and past discriminatory employment patterns. (22.) Voluntary affirmative action taken by employers in conformity with the guidelines are protected from subsequent charges of "reverse" discrimination.

## The EEOC Complaint Process

All EEOC activity to provide remedies for persons or groups who are the victims of discrimination in employment must begin with a complaint. The largest number of such complaints come from aggrieved persons or groups representing such persons. A very small number of complaints originate as the result of EEOC's staff determination that an employer's discriminatory treatment of its employees results from systemic discrimination. These eventually may become "Commissioner Charges" instituted by the Commissioners of EEOC. EEOC obtains affirmative action plans from employers only as part of the remedy for discriminatory actions proved in the investigation of complaints.



## Footnotes

### Appendix A.

1. 42 U.S.C. ss2000e--12000e--17.
2. 43 Fed. Reg. 19807 (1978).
3. *Id.*, at 19808.
4. Exec. Order No. 12067, 43 Fed. Reg. 28967 (1978).
5. 29 U.S.C.s206(d) ( ).
6. 29 U.S.C. s621--634 ( ).
7. 42 U.S.C. 2000e--16 ( ).
8. 42 U.S.C. 20003(b).
9. 42 U.S.C. 2000e(e).
10. 42 U.S.C. 2000e(c).
11. 42 U.S.C. 2003.
12. 42 U.S.C. 2000e(f) and Commerce Clearinghouse, EEOC Compliance Manual, para. 3504.
13. Section 703(h).
14. 42 U.S.C. s2000e--2(h).
15. 42 U.S.C. s 2000e--2(j).
16. 29 C.F.R. Part 1608 (1979).
17. Id., s 1608--1(a).
18. 98 S.Ct. 2733 (1978).
19. 99 S.Ct. 2721 (1979).
20. EEOC, News, June 29, 1979.
21. 29 C.F.R. s1608--1(c) (1979).
22. Id., s1608.4.

## Appendix B

### U.S. Department of Labor, Office of Federal Contract Compliance Program

Executive Order No. 11246, as amended, (1.) prohibits discrimination on the basis of race, color, religion, sex, or national origin in all employment practices by Federal contractors, subcontractors, and federally assisted construction contractors. It requires that as a condition of doing business with the Federal Government, certain employers take affirmative action to ensure equal employment opportunity for both applicants and employees.

The Executive order is administered and enforced by the Secretary of Labor through the Office of Federal Contract Compliance Programs (OFCCP). Until 1978, designated compliance agencies (3.) were responsible for enforcing the provisions of the contract compliance program under the coordination and general policy direction of OFCCP. In reorganizing the Federal Government's equal employment opportunity enforcement activities, President Jimmy Carter issued Executive Order No. 12086(4.) on October 5, 1978 which consolidated the contract compliance program in OFCCP.

In addition to its affirmative action responsibilities under Executive Order 11246, as amended OFCCP also administers statutes requiring Federal contractors to take affirmative action to employ handicapped individuals, (5.) disabled veterans, and Vietnam veterans. (6.)

In general, the Executive order covers contracts or subcontracts involving more than \$10,000 in any 12-month period or having an aggregate total value exceeding \$10,000.(7.) It mandates the inclusion of a standard equal employment opportunity clause that commits firms to take affirmative action to eliminate discriminatory employment practices. It requires also that contractors notify employees and labor organizations of these obligations. (8.)

The Executive order applies to contractors and subcontractors who supply the Federal Government with goods or services as well as those who receive Federal funds for construction projects. Recognizing that significant differences exist in employment practices within the construction industry, OFCCP has issued a separate set of regulations for construction

contractors, (9.) Although OFCCP requires construction contractors to undertake affirmative action programs and to meet goals and timetables for hiring minorities and women, it does not require written affirmative action plans.

Nonconstruction contractors must comply with a set of regulations issued under Executive Order No. 11247, as amended, known as Revised Order No. 4, (10.) which requires covered contractors to develop written affirmative action plans. OFCCP also has established procedures it follows prior to imposing sanctions for failure to meet affirmative action requirements. (11.)

Revised Order No. 4 requires any contractor or subcontractor with 50 or more employees and a contract of \$50,000 or more or which serves as a depository of Federal funds or issues U.S. savings bonds or notes to have a written affirmative action plan. (12.) In addition, OFCCP has extended the affirmative action requirement to include all freight shipping companies with 50 or more employees holding government bills of lading which in any 12-month period total, or can reasonably be expected to total, \$50,000 or more. State and local governments, with the exception of educational institutions and medical facilities, are exempted from the requirement of maintaining a written affirmative action plan. (13.)

Revised Order No. 4 requires that within 4 months after a contract has begun, the contractor must develop a written affirmative action plan, including numerical goals and timetables where underutilization is found. (14.) Underutilization is defined as "having fewer minorities or women in a particular job group than would reasonably be expected by their availability." (15.) To perform a utilization analysis of its workforce, an employer must determine the percentage of minorities and women in each job title and compare it to the percentage of minority and female representation in the area labor force from which the contractor hires its employees. (16.) OFCCP has prescribed eight specific factors (17.) for measuring the availability of minorities and women in the area labor force.

Underutilization must be remedied by the development of goals and timetables or measurable targets directed at correcting identifiable deficiencies. (18.) Generally, goals are to be established by job classification and organizational unit with all minorities grouped in each goal. Separate goals and timetables are required for each minority and sex group when there is a "substantial disparity in the utilization of a particular minority group or men or women of a particular minority group." (19.)

Other required elements of an affirmative action plan include the development and implementation of "action-oriented programs," the development of reaffirmation of an equal employment opportunity policy and dissemination of this policy, efforts to gain the support of community groups whose programs are aimed at improving employment opportunities of minorities and women, and the implementation of internal auditing systems designed to measure program effectiveness,(20.) In addition, Revised Order No. 4 outlines suggested methods for carrying out the requirements of an affirmative action plan. (21.) For example, results-oriented actions might consist of validating all tests and other selection procedures in accordance with the Uniform Guidelines (22.) to ensure that they are job-related and free from bias.(23.)

Revised Order No. 4 also requires that in order for a contractor to be held in compliance it must remedy any "affected class"(24.) problems by providing relief, including back pay where appropriate.(25.) That is, the contractor is obligated to afford relief to those incumbent employees, former employees, and applicants who have been subjected to discrimination in the past and continue to suffer the present effects of that discrimination.

OFCCP has also issued specific guidelines to aid employers in complying with Revised Order No. 4. These include sex discrimination guidelines(26.) and guidelines on discrimination because of religion or national origin.(27.) Contractors covered by Executive Order No. 11246 as amended, must comply with these guidelines as well as the "Uniform Guidelines on Employee Selection Procedures."(28.)

The key element in OFCCP's program to enforce the provisions of Executive Order No. 11246 is the compliance review. It consists of a thorough evaluation and analysis of all aspects of a contractor's employment practices. Contractors are not regularly required to submit their affirmative action plans to OFCCP, except in connection with a compliance review or preaward review.(29.) In a nonconstruction contract of \$1 million or more, the prospective contractor must undergo a compliance review of its employment practices prior to the awarding of the contract. This is known as a preaward review.

If OFCCP finds a violation of the Executive Order, the equal employment opportunity clause, or the regulations and is unable to resolve it through conciliation, it may then initiate administrative enforcement procedures(33.) to enjoin the violation and seek remedial relief such as back pay or retroactive seniority. The administrative procedures provide for a hearing before an administrative law judge. OFCCP may also refer

the matter to the Department of Justice so that enforcement can be sought through the courts.(34.) A finding of a violation by OFCCP may result from, among other things, a preaward review, a complaint investigation, a compliance review of a contractor's affirmative action plan, or an onsite review.

The Executive Order authorizes sanctions, including cancellation and suspension of contracts and debarment from further contracts for firms found in noncompliance.(35.)

While individuals may file complaints of discrimination with OFCCP, the employers to be reviewed are most often selected by OFCCP officials based on national priorities including available statistical data on employers. An individual complaint may be pursued in the course of a compliance review, or referred to the EEOC. An ongoing pattern of individual complaints may prompt a compliance review.

## Appendix B.

### Footnotes

1. Exec. Order No. 11246, 3 C.F.R. (1964—1965 Comp.) as amended by Exec. Order No. 11375, 3 C.F.R. (1966—1970 Comp..) and Exec. Order No. 12086, 43 Fed. Reg. 46501 (Oct. 10, 1978). Exec. Order No. 11375 substituted "religion" for "creed" and added sex as a prohibited basis of discrimination.
2. "The Furor Over 'reverse' Discrimination." Newsweek, Sept. 26, 1977.
3. These included the Departments of Commerce; Defense; Energy; Health, Education and Welfare; Housing and Urban Development; Interior, Transportation; and Treasury; Environmental Protection Agency; General Services Administration; and Small Business Administration.
4. Exec. Order No. 12086, 42 Fed. Reg. 46501, Oct. 10, 1978.
5. Section 503 of the Rehabilitation Act of 1973, 29 U.S.C. s793 (1976). This law requires Federal contractors to take affirmative action to employ qualified handicapped persons.
6. Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. s2012 (1976). This law requires Federal contractors to take affirmative action to employ Vietnam-era veterans and disabled veterans of all wars.
7. 41 C.F.R s60—1.5 (1979).
8. Exec. Order No. 11246, as amended, ss202, 204. See note 1, supra. The EEO clause is described at 41. C.F.R. s601.4(a) (b) (1979).
9. 41 C.F.R. Part 60—4 (1979).
10. 41 C.F.R. Part 60—2 (1979).
11. 41 C.F.R. Part 60—30 (1979).
12. 41 C.F.R. s60—1.40 (1979).
13. 41 C.F.R. s60—1.5 (1979).

14. 41 C.F.R. ss60—2.1 & 60—1.40 (1979).
15. 41 C.F.R. s60—2.11(b) (1979).
16. 41 C.F.R. s60—1.11 (1979).
17. 41 C.F.R. s60—2.11(o) (1979).
18. 41 C.F.R. s60—2.12 (1979).
19. 41 C.F.R. s60—2.12 (1) (1979).
20. 41 C.F.R. s60—2.13 (1979).
21. 41 C.F.R. ss60—2.20 to 2.26 (1979).
22. Uniform Guidelines of Employee Selection Procedures, 41 C.F.R. Part 60—3 (1979).
23. 41 C.F.R. s60—2.24 (1979).
24. For OFCCP's definition of "affected class," see Department of Labor, Office of Federal Contract Compliance Programs, Federal Contract Compliance Manual, Glossary (1979)
25. 41 C.F.R. s60—2.1 (b) (1979).
26. 41 C.F.R. Part 60—20 (1979).
27. 41 C.F.R. Part 60—50 (1979).
28. 41 C.F.R. Part 60—3 (1979).
29. 41 C.F.R. s60—1.20(d) (1979).
30. 41 C.F.R. Part 60—60 (1979).
31. 44 Fed. Reg. 77008, Dec. 28, 1979 .
32. See Note 24 supra.
33. 41 C.F.R. s60—1.26 (1979).
34. 41 C.F.R. s60—1.26(e) (1979).
35. Exec. Order No. 11246, as amended, s209.

## Appendix C

### U.S. TREASURY DEPARTMENT OFFICE OF REVENUE SHARING (ORS)

The ORS was created by Congress in 1972 as a means of sharing the revenue obtained by the progressive Federal income tax with state and local governments. (31 U.S.C. Sec. 1221 et seq.) Under the 1976 amendments revenue sharing funds may be used for any purpose which is a legal use of the government's own funds under state and local law.

An important limitation on the use of revenue sharing funds prohibits the use of entitlement funds in any programs or activity which discriminates on the base of race, color, sex, national origin, age or handicap. Furthermore, in order to qualify for funds each governor of a state or each executive officer of a unit of local government must execute prior to each entitlement period an assurance that all programs and activities will be free from discrimination. Failure to do so will result in the withholding of funds from the recipient government. (31 C.F.R. Sec. 51.58).

The ORS regulations adopted EEOC guidelines in determining whether nondiscrimination provisions have been met, but ORS does not require that an affirmative action plan be prepared in order to be eligible for revenue sharing funds.

The ORS has also adopted the Equal Employment Opportunity Coordinating Council's statement on affirmative action which provides some guidelines to state and local governments in meeting their affirmative action requirements.

Complaints of discrimination may be filed by individuals and will be investigated by ORS. Each recipient government must permit access to representatives of ORS and the Department of Justice to such records and sources of information relevant in determining compliance and submit such information and reports as requested. (31 C.F.R. Sec. 51.59.) A recipient government found to be in non-compliance has 30 days after notification to either demonstrate compliance or enter into a compliance agreement with the Director of ORS to avoid the withholding of revenue sharing funds. (31 C.F.R. Sec. 51.85.)



## Appendix D

### TENNESSEE COMMISSION FOR HUMAN DEVELOPMENT

The Tennessee Commission for Human Development (TCHD), established in March 1978, enforces the State's Fair employment Practices Law. Under an agreement with the U.S. Equal Employment Opportunity Commission (EEOC), charges of discrimination are deferred to the state Commission for investigation and conciliation. It has power to subpoena records and witnesses in the course of its work. Cases which cannot be resolved are turned back to EEOC.<sup>1</sup>

Fifteen citizens are appointed to the Commission by the governor for 6-year terms; a chair is elected by the members. Currently 9 black men, 5 white men and 1 black woman comprise the Commission. They are reimbursed for expenses and paid a set fee for their days of service. A fulltime staff is appointed by the Commission members.<sup>2</sup>

In addition to its investigative duty, the Commission is empowered to conduct studies and make the findings public. It may furnish technical assistance to individuals and employers covered by the law. An annual report required of the Commission may contain recommendations for legislation or other action by the governor.<sup>3</sup>

The Commission may create local or statewide advisory agencies that "will aid in effectuating the purpose" of the law. Such agencies may study and report on problems of discrimination, promote goodwill in a given community and make recommendations to the Commission regarding policies and practices that will aid in carrying out the state's nondiscrimination law.<sup>4</sup> As of April 1981 there were no active committees of the TCHD and no studies on employment were underway.<sup>5</sup>

In the 12-month period from March 1980 until March 1981, the Tennessee Commission processed 232 cases and submitted them to EEOC under their contractual arrangement. During the same period, 293 new complaints were filed with the agency<sup>6</sup>. The TCHD

<sup>1</sup>Tn. State. Ch. 21. 4-21-101, et. seq.

<sup>2</sup>Warren Moore, Executive Director, TCHD, telephone interview, April 2, 1981.

<sup>3</sup>Tn. Stat. Ch. 21. 4-21-101, et. seq.

<sup>4</sup>Id.

<sup>5</sup>Warren Moore telephone interview, April 2, 1981.

<sup>6</sup>Warren Moore, Executive Director, TCHD, letter to Katie Harris, Researcher/Writer, USCCR, April 7, 1981.

has offices in four cities Nashville, Chattanooga, Memphis and Knoxville. The Knoxville office was opened in August 1980 with two field representatives on the staff.<sup>7</sup>

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<sup>7</sup>Jeanette Dennis, Field Representative, Knoxville Office, TCHD, telephone interview, April 9, 1981.

## Appendix E

TENNESSEE VALLEY AUTHORITY  
KNOXVILLE, TENNESSEE 37902

OFFICE OF THE BOARD OF DIRECTORS

AUG 7 1981

Mr. Bobby D. Doctor  
Regional Director  
United States Commission on  
Civil Rights  
75 Piedmont Avenue, Room 362  
Atlanta, Georgia 30303

Dear Mr. Doctor:

Thank you for providing the Tennessee Valley Authority (TVA) with a copy of the draft report on Equal Employment and Affirmative Action in Knoxville and Oak Ridge and for allowing us to review and comment on the sections relevant to the Tennessee Valley Authority.

I appreciate your favorable comments on our affirmative action efforts. I am also aware of our need to work toward a more heterogeneous work force at all levels of our organization. In this regard, we are pointing out in the enclosure a few corrections necessary for your report to more accurately reflect the posture of TVA.

Since 1978 appears to be the benchmark used throughout your report for comparison purposes, and although you have made some positive statements about TVA's efforts up to 1980, I have gathered some additional data from 1978 forward to give you an idea of TVA's progress. Agency work force data for fiscal year 1980 indicates that TVA's total work force was 14 percent female and 9 percent minority. In our trades and labor work force, the representation of females has increased approximately 67 percent over their fiscal year 1978 representation. The number of minority "administrators" (SA Schedule) increased by approximately 70 percent over their 1978 representation to 9 percent of the total number of SA Schedule employees while females increased by approximately 65 percent to a total of 44 percent of the Agency SA Schedule employees.

Among managers and supervisory personnel (M Schedule), minority representation increased more than 100 percent between 1978 and 1980. Minorities now hold 5.6 percent of the managerial positions. Women have increased 180 percent on the M Schedule during the 1978-1980 time period and now hold approximately 8 percent of these positions. In the mid and senior levels of the M Schedule (grades M-5 through M-12), minorities held 3.6 percent and females 2.8 percent

An Equal Opportunity Employer

Mr. Bobby D. Doctor

of the positions in 1980 as compared to 1.6 percent and 1.3 percent, respectively, in 1978. In 1978, there were only 28 minorities in grades M-5 through M-12 with only one at or above M-8. In 1980, there were 57 minorities in grades M-5 through M-12 with 5 at or above M-8. In 1978, there were 23 women in grades M-5 and M-6. None were above M-6. In 1980, there were 67 women in grades M-5 through M-12 with 6 at or above M-8.

I believe our efforts have resulted in significant progress in providing full representation for minorities and women in our work force.

Again, thank you for an opportunity to review the report and comment on the portion of the report relevant to TVA. I look forward to reviewing the final report and to assisting your organization in achieving its mission.

Sincerely,



C. H. Dean, Jr.  
Chairman

Enclosure

## Appendix F

Statement Submitted by Walter N. Lambert, Executive Vice President, Expo '82, August 6, 1981.

Since the April, 1982 hearing before the Tennessee Advisory Committee, to the U.S. Commission on Civil Rights, the Knoxville International Energy Exposition, Inc., (KIEE) has continued to make progress toward its corporate goals for minority participation in the 1982 World's Fair. The KIEE goals for minority participation are broad in scope and include:

- A. 14-20% minority participation in jobs created by the 1982 World's Fair.
- B. 14-20% minority participation in the business opportunities created by the 1982 World's Fair.
- C. The creation and development of a institutionalized economic development infrastructure to promote minority economic development beyond the World's Fair.

As the Fair has continued to develop toward its 1982 opening date, so has minority participation in the Fair. A joint venture between two minority owned construction companies has been formed with the assistance of KIEE. This joint venture differs from the typical joint venture in that both firms are Black owned. This joint venture has contracted with KIEE to construct two international pavilions at a cost of approximately \$750,000. The uniqueness of this joint venture has created a "new capacity" for the Knoxville minority business community. In addition, the metal siding used for the international pavilions has been purchased from a minority-owned (Cherokee Indian) firm at a cost of \$500,000.

In May, 1980, through the assistance of KIEE, the Greater Knoxville Economic Development Corporation was established. This is a minority controlled economic development corporation. This corporation provides technical assistance to the minority business community and develops businesses under its charter. GKEDCO has structured two limited partnerships that will operate food concessions at the 1982 World's Fair. Limited partners purchase shares in the partnership with GKEDCO as the general and managing partner. Through this vehicle, small minority investors can participate in business opportunities in the Fair that otherwise might be closed to them. GKEDCO is also planning to open an aluminum recycling business in August. Participating in

this aluminum recycling venture with GKEDCO are Alcoa and Coca-Cola. This is a typical example of the kind of corporate participation in minority economic development that was envisioned through the World's Fair.

To date, nine contracts have been approved for twelve food and beverage stands. Of these, two minorities have been approved for a total of twelve stands. This is in addition to the food stands that GKEDCO will operate at the Fair. Two minorities have been granted licenses to manufacture and distribute official souvenirs with the World's Fair logo. The licenses were granted for T-shirts and eighteen and fourteen carat gold jewelry. Staff efforts are underway to have minorities qualify as merchandise concession owners.

## Appendix G

### COMMENTS FROM CITY OF KNOXVILLE'S EEO OFFICE

Earl Nash, Equal Employment Opportunity Officer for the City of Knoxville submitted these comments about affirmative action efforts undertaken by the City since January 1981:

1. Hired a Personnel Analyst I to assist in all matters of EEO, e.g., recruitment, compilation of statistics for EEO reports, assisting department heads in goal setting, assisting in training, etc.

2. Launched an aggressive recruitment program for candidates for the Knoxville police Department. We first met with leaders of the black community at the YWCA to request their support. Subsequently, two letters were sent at 30-day intervals to about 25 predominantly black churches for the purpose of soliciting support for the recruitment campaign. Next, we met with the PTA at Austin-East High School to discuss the recruitment program and to solicit their support. A Ph.D. from Knoxville College, Dr. Ralph Martin, held several sessions for candidates to prepare them for the Civil Service exam. The Knoxville Area Urban League assisted by supplying six candidates from their files. Finally, a team consisting of the Chief of Police, the EEO Officer, the Personnel Analyst, and a member of the Civil Service staff visited Chattanooga (City Police Department and Sheriff's office). In about two weeks, we will advertise in that city for recruits for the Knoxville Police Department.

At present, the Affirmative Action program for the Police Department and the City of Knoxville is being rewritten, along with new goals and timetables. Short-range goals include immediate recruitment of minorities and women for the Fire Department. First, we will canvas the local communities. If necessary, we will recruit in cities such as Boston, Chicago, and Cleveland. (These areas have been targeted because of their high employment rates.) We are being assisted in these cities through the Urban League.

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