

Equal Employment Opportunity In Indianapolis Area Government

January 1982



A report of the 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 Indiana 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.

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EQUAL EMPLOYMENT OPPORTUNITY IN INDIANAPOLIS AREA GOVERNMENT

- A Report prepared by the Indiana Advisory Committee
to the U.S. Commission on Civil Rights

ATTRIBUTION:

The findings and recommendations contained in this report are those of the Ohio 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 Ohio 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 this report and consistent with Commission policy, the Ohio Advisory Committee afforded to all individuals or organizations that may have been 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 this publication.

Indiana Advisory Committee to the
U.S. Commission on Civil Rights
January 1982

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Dear Commissioners:

The Indiana Advisory Committee submits this report on issues of equal employment and affirmative action in the municipal government of Indianapolis, Indiana, as a part of its responsibility to advise the Commission on issues of civil rights in this State.

This report reviews the staffing plans of the Consolidated City-County Government (UniGov) in Indianapolis, and the process to establish and carry out a program of affirmative action in their personnel practices. It also examines the efforts of UniGov to stimulate affirmative action practices by employers with which it does business or enters into contracts (contract compliance).

The report indicates that, while the overall labor force for UniGov is representative of the minority populations in the area, the process of implementing affirmative action programs and programs in contract compliance present administrative problems. The report also makes recommendations for improvement of those programs.

The study and investigation leading to this report have spanned a period of many months. During this time, some of the problems apparent to the Committee have been studied by UniGov, and some corrective actions have already taken place.

In particular, this Committee recommends to the administration of UniGov an increased concern with communicating with, and taking advice from the minority groups and civil rights organizations in the process of implementing an effective affirmative action program. It also makes recommendations to the State of Indiana, in particular that it strengthen the authority and responsibility of the Indiana Civil Rights Commission, to allow it not only to respond to complaints, but to initiate them when conditions warrant.

The Indiana Advisory Committee believes that the steps initiated by UniGov to improve its affirmative action process can result, if fully implemented, and with the cooperation of the community, in better conditions and fuller employment opportunity for all the citizens of Indianapolis.

Sincerely,

Lotte Meyerson
Acting Chairperson
Indiana Advisory Committee

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*Harriette Bailey Conn passed away before this report was completed. She will be missed by all who knew her.

**Former member.

ACKNOWLEDGMENTS

The study was the principal staff assignment of Frank J. Alford, equal opportunity specialist, and Ruthanne DeWolfe, former regional attorney. The report was written by Frank J. Alford and Isidro Lucas, deputy regional director. Ruthanne DeWolfe also provided legal counsel throughout the project. The legal sufficiency review was provided by Melvin L. Jenkins, regional director, Central State Regional Office. Alford and DeWolfe served as principal investigators. Editorial assistance was provided by Gregory D. Squires, research writer. Other assistance in the preparation of this report was provided by Delores Miller, Ada L. Williams and Mary K. Davis, support staff. This project was carried out under the supervision of Clark G. Roberts, regional director.

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INTRODUCTION

The Indiana Advisory Committee to the U.S. Commission on Civil Rights is one of the Committees appointed by the Commission in each of the fifty states and the District of Columbia, initially as an administrative action, and subsequently in implementation of the legislative mandate of the Commission, expressed in P.L. 95-444, of October 10, 1978.¹

Members of the Committee are persons knowledgeable about civil rights issues, serving on a volunteer basis.

The mission assigned to the Advisory Committees is to be the "eyes and ears" of the Commission, studying, researching and carrying out other fact-finding activities at the state and local levels, in furtherance of the general mandate of the U.S. Commission on Civil Rights to advise the President and Congress on civil rights developments in the country.²

In the course of the Indiana Advisory Committee's deliberations, several members reported informal complaints of discrimination and lack of equality in employment opportunities for minorities and women in the consolidated city/county government of Indianapolis (UniGov).. The Committee decided to look into the employment practices of the local government in Indianapolis to examine the number

and type of jobs held by minorities and women, and to review affirmative action plans and procedures utilized by the city-county government.

The Indiana Advisory Committee, assisted by staff from the Commission's Midwestern Regional Office in Chicago, gathered written information and documents, interviewed various public officials, representatives of community groups and other citizens, and held a fact-finding meeting in Indianapolis in June of 1980. ³ As a result of this activity and before the Committee was prepared to publish a formal statement and report, several changes were introduced by the city-county administration in its employment and affirmative action practices. These changes were communicated to the Committee by the Office of the Mayor. ⁴

This report takes into consideration these and other changes which took place in the course of the Advisory Committee's activities in Indianapolis. It analyzes and critiques the changes implemented and proposed and makes further recommendations for improvement in equal employment opportunity and affirmative action by the city-county government of Indianapolis.

The Advisory Committee is prepared to continue its analysis and monitoring of the equal employment opportunity posture of the city- county government of Indianapolis, and will maintain established relationships through informal communications and recommendations as circumstances warrant. It is hoped that this report will assist the city-county government of Indianapolis to achieve equality in employment opportunities for all citizens in the area without regard to race, color, religion national origin, age, sex or handicap.

This report examines the general characteristics of employment and minority and female composition of Indianapolis and the workforce of its government (Chapter I); the posture of the city-county government on affirmative action (Chapter II); the state (Chapter III) and Federal involvement (Chapter IV); and community perspectives of affirmative action in UniGov and other government units in the city of Indianapolis and Marion County, (Chapter V). A summary of findings and recommendations completes this document.

Footnotes for Introduction

1. 92 Stat. 1067 (1978); 42 USC Sec. 1975 d(c) (1978).
2. 45 CFR Sec. 703.2 (1980).
3. The transcript of this fact-finding meeting is on file at the Commission's headquarters and its Midwestern Regional Office in Chicago. References to that transcript will be made throughout this report as Transcript, p.
4. Letter from Joseph A. Slash, Deputy Mayor, to Frank Alford of the Commission Staff, Midwestern Regional Office, May 11, 1981, hereafter referred to as "Slash Letter."

Chapter I

INDIANAPOLIS AND MARION COUNTY: A CONSOLIDATED GOVERNMENT

Indianapolis, the capital of Indiana, is the 12th largest city in the United States. For a long time, its boosters have called it fondly "the crossroads of America", the state motto since 1937. It is indeed a hub of transportation, occupying a central location not only in the state of Indiana, but in the Midwestern United States as well.

Its architectural landmarks, centered around the Monument Circle with its 248-foot Soldier's and Sailor's memorial, are but one manifestation of the vitality of the city. A diversified economy, including heavy and light industry, services and headquarters for major companies, is accompanied by cultural attractions, nationally known sports events and academic resources. Indianapolis enjoys high rating for its municipal bonds, and is engaged in many redevelopment and revitalization efforts.

The population in Indianapolis has experienced changes similar to those in several cities in the Midwest and the East: an increase, from the early fifties, in the non-white population, and at the same time a general decrease of total population. According to the preliminary figures of the

Decennial Census, there were in 1980, in Indianapolis, 700,807 persons, and in Marion County (including the four municipalities excluded from UniGov - see below), 765,233 persons. These figures represent a population decrease from 1970, of 36,049 (4.9%) for Indianapolis, and 28,536 (3.6%) for Marion County.¹

The racial breakdown of the general population according to the 1980 Census is as follows:²

	<u>Indianapolis</u>		<u>Marion County</u>	
White	540,294	77.09%	601,092	78.55%
Black	152,626	21.77%	155,310	20.30%
Am. Indian	994	.15	1,098	.14
Asian and Pac. Islander	3,792	.54	4,260	.56
Other	3,101	.44	3,473	.45
Hispanic (any race)	6,145	.88	6,820	.89

At this time, the Bureau of the Census has not released comparable 1980 data for the labor force in the area. The Indiana State Employment Service provides employers with data on employment and unemployment as a basis for affirmative action planning. According to this agency, for 1980 the pertinent labor force figures are as shown in Table 1.

Table 1

Labor Force in Indianapolis Standard Metropolitan
Statistical Area (SMSA), 1980

	Number	%	Unemployment
Total (Male/Female)	602,060	100.0	7.4
White	526,960	87.5	6.3
Black	73,590	12.2	15.4
Hispanic*	4,040	.7	10.2
Other Races	1,510	.3	5.8
Total Minority	79,150	13.1	14.9
Total Female	236,680	39.3	NA
White	200,990	33.4	8.2
Black	35,030	5.8	15.2
Hispanic*	1,460	.2	9.5
Other Races	670	.1	9.9
Total Minority	37,150	6.8	14.9

*Hispanics may be of any race.

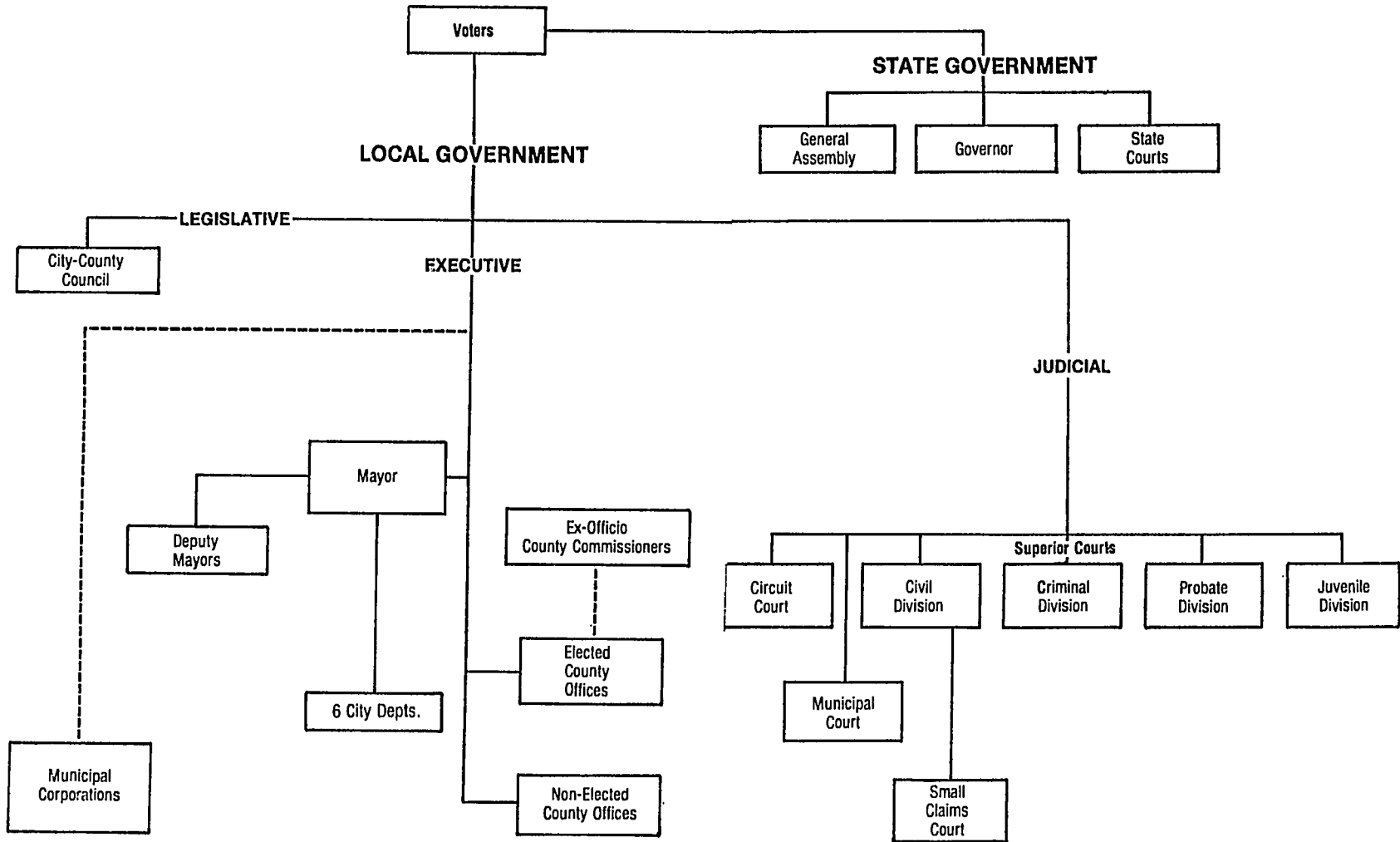
Source: Indiana Employment Security Division, Indiana State
Employment Service, Affirmative Action Information, 1980:
Indianapolis SMSA.

These figures highlight the extreme unemployment faced by minorities in the SMSA, with black males and females showing an unemployment rate over twice that of the overall population, and even higher if compared with the white population in the area.

Indianapolis offers an unusual government structure. In 1969, the state of Indiana enacted legislation permitting the consolidation of certain city and county governments. As a result of this legislation, which became effective January 1, 1970,³ the city of Indianapolis expanded its boundaries, to include most of Marion County, with the exception of four cities (Speedway, Southport, Beach Grove and Lawrence), and created for this consolidated area a unified government, which became popularly known as "UniGov". This term will be used in this report when referring to the consolidated government of the City of Indianapolis and Marion County. An overview of UniGov is offered on Chart I. UniGov is a single city/county government, headed by a Mayor and a 29 member city/county council elected from 25 districts (plus 4 at-large).⁴

In the consolidation process, not only did small geographic areas remain outside of UniGov, but there were also some government functions and elected offices that because of constitutional mandate or for other reasons were retained,

GOVERNMENT IN INDIANAPOLIS AND MARION COUNTY — AN OVERVIEW



Source: League of Women Voters of Indianapolis, UniGov Handbook, 1980. Reprinted by permission.

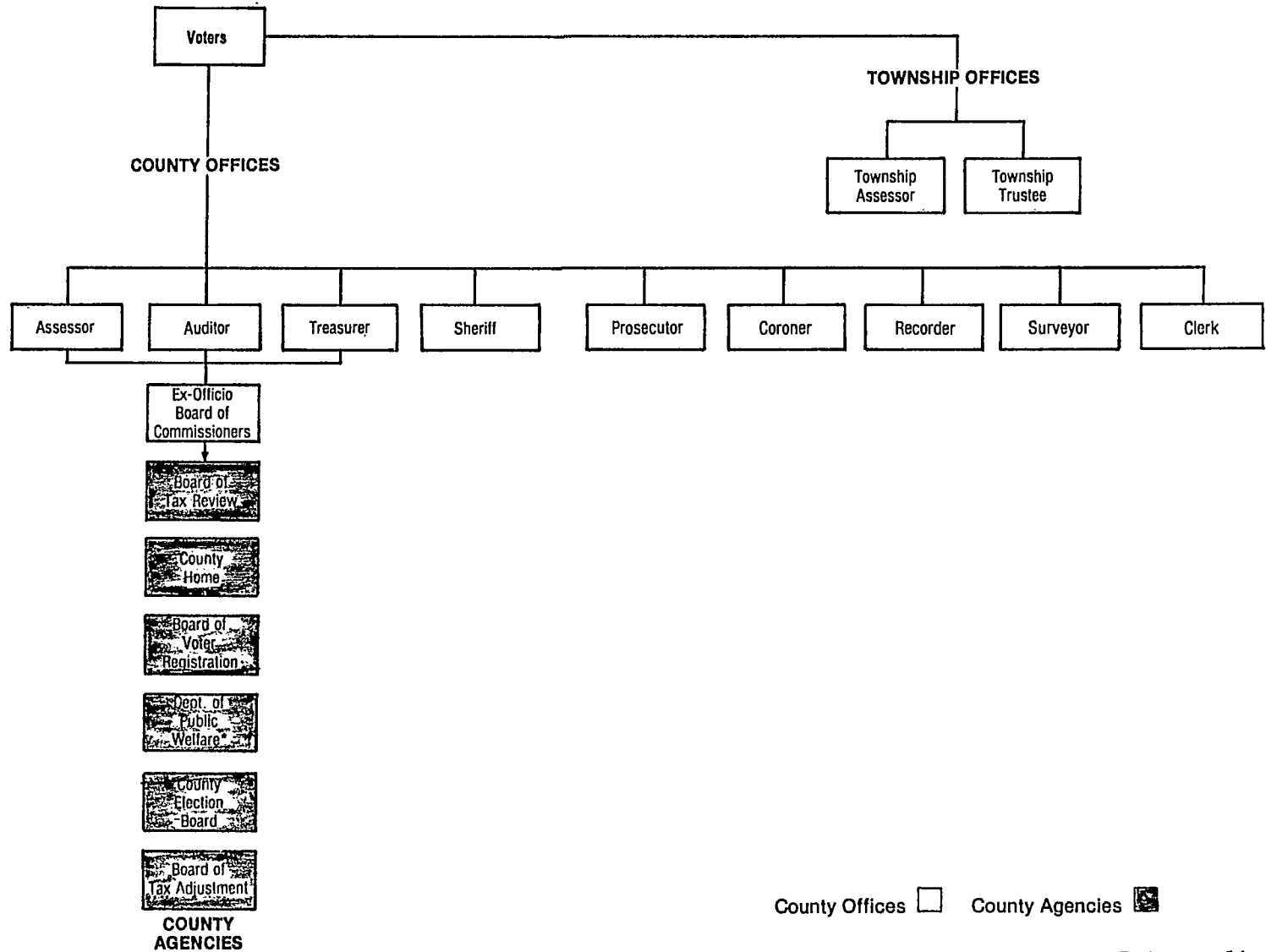
with varying relationships to UniGov. Among those are the offices of Marion County Assessor, Auditor, Sheriff, Treasurer, Recorder, Prosecutor, and the school system.⁵ Chart II shows the various County offices of Marion County, independent from UniGov.

In addition, there are also in Indianapolis a series of Municipal Corporations, special-purpose government units, with independent taxing power, that maintain differing relationships with UniGov.

Among those are the Indianapolis Public Transportation Corporation (in charge of urban transit services), the Capital Improvement Board, the Health and Hospitals Corporation, the Indianapolis Airport Authority and the Indianapolis-Marion County Building Authority. These Municipal Corporations are run by boards appointed according to the law by the Mayor, the City/County Council, the County Commissioners, the Judge of the Circuit Court or other designated officials.⁶ Chart III shows an overview of these Municipal Corporations.⁷

This report is concerned with the equal employment opportunities within UniGov, the consolidated city/county government. Although in interviews and informal fact-finding meeting the Indiana Advisory Committee acquired information about other government units or functions, the focus of the inquiry centered on UniGov. As the Committee

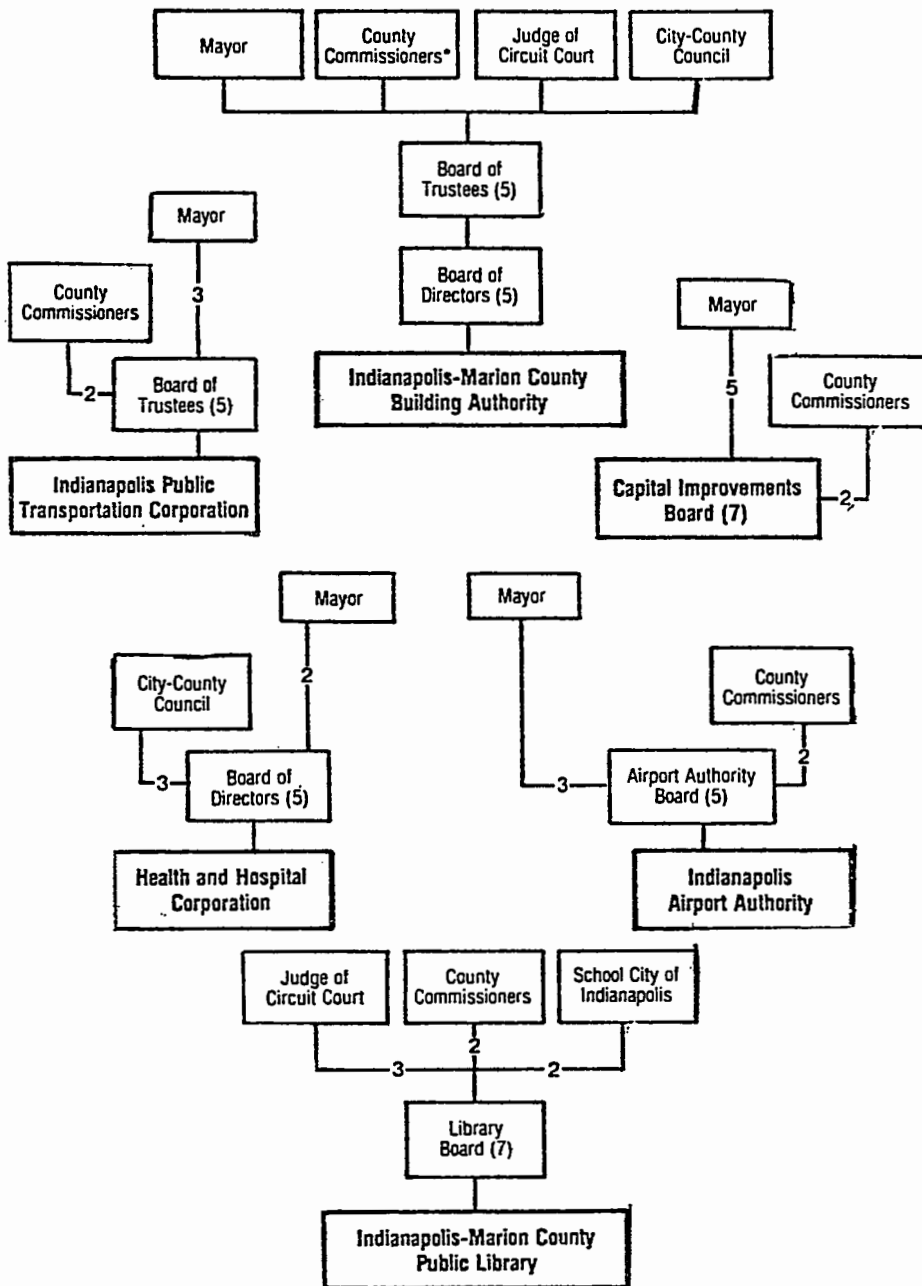
MARION COUNTY AGENCIES AND OFFICES



Source: League of Women Voters of Indianapolis, UniGov Handbook, 1980. Reprinted by permission.

CHART III

MUNICIPAL CORPORATIONS



*Ex-officio.

Numbers within boxes indicate number of members on respective governing boards. Numbers along appointment lines indicate the number of members appointed by that official or organization.

Source: League of Women Voters of Indianapolis, UniGov Handbook, 1980. Reprinted by permission.

continues its activities and concern with equality of employment opportunities in Indianapolis, it may eventually present other reports dealing with those other units of government.

In 1979 UniGov employed a total of 4,434 persons.⁸ This figure does not represent the entire employment picture of local government in Indianapolis, as it does not include employees of the various government agencies excluded from UniGov as discussed above. The racial and sex distribution of the UniGov workforce is shown in Table 2.

While an examination of those figures shows an adequate representation of minorities in the city-county workforce the small number of minority workers other than blacks merits attention by the UniGov system. Women, constituting 21.6 percent of the UniGov workforce are substantially under-represented in that workforce, since in 1980 women made up 39.3 percent of the labor force in the Indianapolis SMSA from where the city/county government is expected to recruit and hire its workers. (Compare Tables 1 and 2).

A second element to be considered in analyzing the UniGov workforce is the type of job categories where minorities and women can be found. The figures in Table 2 suggest that female workers are concentrated in traditional female jobs such as clerical and office occupations. Minorities are

Table 2

UniGov: Minority and Female Workforce Profile, 1979

Job Category	Total	White		Black		Hispanic		AsianPac		Am. Ind.		Total Min. (%)	Total Females (%)
		M	F	M	F	M	F	M	F	M	F		
Officials/Administrators	123	88	11	19	4	-	-	-	-	1	-	24 (19.5)	15 (12.2)
Professionals	738	582	55	77	17	1	-	4	-	2	-	101 (13.7)	72 (9.8)
Technicians	459	271	85	73	24	1	1	-	1	2	1	103 (22.4)	112 (24.4)
Protective Service	1,065	838	60	73	20	2	-	-	-	-	-	167 (15.7)	80 (7.5)
Para-Professionals	382	158	78	77	64	2	2	-	-	1	-	146 (38.2)	144 (37.7)
Office/Clerical	551	45	329	20	153	-	1	1	1	-	1	177 (32.1)	485 (88.0)
Skilled Craft	348	181	5	160	-	2	-	-	-	-	-	162 (46.6)	5 (1.4)
Service/Maintenance	768	228	20	490	24	6	-	-	-	-	-	520 (67.7)	44 (5.7)
Totals (full time)	4,434	2,391	643	1,061	306	14	4	5	2	6	2	1,400 (31.6)	957 (21.6)

Source: EEO 4 Report, City of Indianapolis, 1979.

shown in this table to be distributed throughout the various job categories considered, although their presence in lower level occupations such as service/maintenance is substantially higher than in the professional and administrator categories.

A different approach to workforce utilization analysis is suggested by Table 3, provided to the Advisory Committee by the city-county Affirmative Action Office. The figures in Table 3 can be interpreted to mean that for a white male worker in UniGov the chances to be an official or administrator are 3.7 in one hundred, while for a minority person the same chances are only 1.7. Conversely, a woman working for UniGov has better than a 50/50 chance to be a clerical worker. For a minority person, his/her chances to be in the lower paying/lower prestige service/maintenance occupations are 37.1 while for a white employee the chances are only 9.5.

An important factor that needs to be considered in looking at this workforce utilization is the comparability of UniGov workforce figures with the labor force availability (the number of persons available for employment) present in the SMSA, the natural employing area. The Committee was not able to secure any evidence that the city-county government had put together the detailed labor force availability data that could make this comparison

Table 3

Workforce Utilization Analysis, UniGov

EEO JOB CATEGORIES	#1 POSITIONS DISTRIB. %	#2 MINORITY UTILIZ. %	#3 FEMALE UTILIZ. %	#4 WHITE MALE UTILIZ. %
Officials/Administrators	2.8	1.7	1.6	3.7
Professionals	16.6	7.2	7.5	24.3
Technicians	10.4	7.4	11.7	11.3
Protective Services	24.0	12.0	8.4	35.0
Para-Professionals	8.6	10.4	15.0	6.6
Office/Clerical	12.4	12.6	50.7	1.9
Skilled Craft	7.8	11.6	0.5	7.6
Service/Maintenance	17.3	37.1	4.6	9.5
TOTAL	100.0	100.0	100.0	100.0

Data as of June, 1979.

Source: "Affirmative Action Report, 1979," a memo from the Affirmative Action Officer, UniGov.

meaningful. This report will discuss this aspect of minority employment later when it analyzes the affirmative action program of UniGov.

The above analysis of workforce composition and utilization for UniGov reflects data for 1979, the latest available. At the Advisory Committee's fact-finding meeting several participants referred to the current difficult financial conditions of Indianapolis governments, suggesting that hiring activity was substantially reduced because of it.⁹ Assuming this is the case, it is reasonable to accept the 1979 data as representative of the employment conditions at this time. As for employment of minorities and women in the past, figures for 1973-1979 are shown in Table 4.

This Table shows a slight decline in overall employment by UniGov from 1973 to 1979, with consistent minority representation and only minor fluctuations. The 1979 data shows a large increase in minority employment in total numbers as well as percentage of UniGov workforce. Employment for women shows increases in the last three years of available data, both in total numbers and in proportions to the UniGov workforce.

Table 4

Employment of Women and Minorities, 1973-1979

Year	Total Workforce	Number of Minorities	Percent of the Workforce	Number of Women	Percent of the Workforce
1973	4910	1258	25.6	775	15.8
1974	4713	1211	25.7	773	16.4
1975	4695	1230	26.2	769	16.4
1976	4762	1314	27.6	767	16.1
1977	4573	1253	27.4	827	18.1
1978	4650	1279	27.6	893	19.2
1979	4430	1400	31.6	957	21.6

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Source: 1979 Affirmative Action Report, City of Indianapolis (Ms. Kris Maroon, Affirmative Action Officer), copy on file at the Commission's Midwestern Regional Office, Chicago.

Chapter 4 of this report will review legal actions leading to consent decrees that have called for affirmative action programs for minorities and women in specific departments of UniGov. The changes in employment statistics noted may reflect the impact of those consent decrees.

Finally, the data provided to this Advisory Committee by UniGov show aggregate figures for all departments. These departments are shown on Chart IV. In the absence of detailed breakdowns for departments and other government functions, it is not possible to point out areas that may be of particular concern in a thorough equal employment opportunity and affirmative action review.

CHART IV

VOTERS

MAYOR
MAYOR'S
OFFICE

CITY-COUNTY

CITY DEPARTMENTS

METROPOLITAN DEVELOPMENT COMMISSION	BOARD OF PUBLIC WORK	BOARD OF TRANSPORTATION	BOARD OF SAFETY	BOARD OF PARKS AND RECREATION	
Department of Administration (Director)	Department of Metropolitan Development (Director)	Department of Public Works (Director)	Department of Transportation (Director)	Department of Public Safety (Director)	Department of Parks and Recreation (Director)
Finance (Controller)	Planning and Zoning	Property Management	Maintenance	Police (Merit Board)	Park Maintenance
Personnel	Buildings	Liquid Waste	Street Engineering	Fire (Merit Board)	Community Recreation
Purchasing	Code Enforcement	Solid Waste	Traffic Engineering	Civil Defense	Sports and Special Facilities
Legal (Corporation Counsel)	Economic and Housing Development	Air Pollution Control	Administrative Service	Dog Pound	Eagle Creek
Records & Microfilm	Housing Authority (Commission)	Engineering		Weights and Measures	Administration
Human Rights (Commission)	Historic Preservation (Commission)	Sewer Maintenance		Criminal Justice Coordinating Council	
Community Services Program		Drainage & Flood Control			
Employment & Training					
Central Equipment Management					

Source: City of Indianapolis, Personnel Policies and Procedure Manual,
March, 1981. Reprinted by permission.

Footnotes for Chapter I

1. U.S. Department of Commerce, Bureau of the Census, 1980 Census of Population and Housing, Advance Report, Indiana Final Population and Housing Units, PHC80-V-16. Washington, D.C., U.S. Government Printing Office, 1981, Tables 1 & 2.
2. Ibid.
3. IC Sec. 36-3-1-1 to 36-3-24-25 (1981).
4. IC 36-3-3-1 et seq.
5. Ibid.
6. Ibid.
7. For a complete common language description of government in Indianapolis, see League of Women Voters of Indianapolis, UniGov Handbook, 1980.
8. EEO Report, City of Indianapolis, 1979.
9. Thomas E. Parker, Personnel Director, Transcript, p. 478.

Chapter II

EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION IN UNIGOV

Federal, state and local governments can affect employment of minorities and women and seek equality of opportunities in two principal ways: through affirmative action programs for government jobs, and through enforcement of compliance with affirmative action guidelines in government contracts. These two aspects are examined in this chapter.

Affirmative Action

Employment with UniGov is governed by a set of personnel directives codified in the Personnel Policies and Procedures Manual.¹ In the course of the Advisory Committee's review there was a question whether the system described in the manual constitutes a civil service or merit system program, as defined in Federal regulations. The issue is relevant to the inquiry on equal employment opportunity because the presence or absence of civil service in a municipal government determines the degree of leeway left to officials in personnel actions, and consequently in shaping the composition of the workforce. A civil service system lessens or displaces a patronage system where political

affiliation plays a major role in hiring and retention policies. In the fact-finding meeting, the Director of Personnel did not claim that UniGov had a merit system of employment. As he described the hiring method, he made reference to posting, and at that point he was asked if that was a merit system. He answered: "No, it is not....It is a posting system."²

While posting alone would not, of course make the hiring process a merit system, the question offered the opportunity to emphasize overall merit system principles. Such emphasis was not made.

Rozelle Boyd, Minority Leader of the City-County Council, stated "a number of persons...have indicated that they are sure there has been some political screening in terms of availability of jobs."³ On the other hand, Deputy Mayor Joseph Slash, at the meeting, stated, "I don't think we have a patronage system as such."⁴

The Office of Personnel Management (OPM) of the Federal Government (formerly the U.S. Civil Service Commission) has responsibilities under the Intergovernmental Personnel Act (IPA) to review personnel systems in local and state governments.⁵ After having examined the UniGov systems in 1979, OPM found it in compliance with merit principles, although it made recommendations for improvement.⁶ Two of

the most important personnel policies that provide a test for a local government's adherence to merit principles are those related to hirings and terminations. The UniGov manual does not explicitly include political or discretionary authority for hiring or termination, and at the same time it does not include a prohibition of such considerations. Among the hiring procedures, in reference to testing, a benchmark for merit principles, the Manual is weak: "appropriate testing may be used in the recruitment and placement process."⁷ Termination is discussed in the Manual only in the context of discipline. The issue of termination for political reasons is not mentioned. There is a preponderance of language insisting on "show of just cause" for dismissal, which would seem to bar political motivations for separating employees, and rely primarily on merit for those decisions.⁸

Among some state and local officials in Indianapolis there is no clear belief expressed that a civil service system is favorable to affirmative action,⁹ and there was even a defense of patronage systems as being more conducive to affirmative action.¹⁰ The information provided to this Committee leads us to believe that the city-county government of Indianapolis, while perhaps following basic merit principles in employment, cannot be said to have a complete civil service system, and patronage would seem to play a role in the personnel process. To the extent that such personnel

procedures contribute to the disadvantage of minority applicants for UniGov jobs, they are harmful to an equal employment opportunity policy and bear scrutiny by the appropriate officials.

The Personnel Manual refers to affirmative action and establishes the following policy:

It is the Policy of the City of Indianapolis to provide equal employment opportunity in all aspects of the employer-employee relationship. Except where a bona fide occupational qualification stipulates a physical or sex requirement, appointments, promotion, transfer, termination, compensation, terms, conditions or privileges of employment, shall be determined without regard to race, color, religion, sex, national origin, handicap, age, disabled veteran, or Vietnam era veteran status.¹¹

It also gives the Affirmative Action Officer for the city a role in the recruitment process for new applicants by stating: "In placing an advertisement (for a vacancy) please contact the City's Affirmative Action Officer."¹² The wording of such a role would seem weak in a regulatory document where directives, not requests, are usually found. However, the fact that it was added to the Personnel Manual

at all in the April 1981 edition is a sign of progress. Also added to the 1981 edition is a statement under the same section on Recruitment and Placement requiring that:

In accordance with EEOC regulations and Affirmative Action Standards, no advertisement relevant to position openings is to have any reference made to age, sex, or race unless such can be determined a bona fide requirement prescribed by job duties and responsibilities.¹³

There are other modifications to the Personnel Manual from the 1978 to the 1981 edition that in the opinion of this Advisory Committee strengthen the affirmative action posture of UniGov. Of particular importance among those modifications is the clarification for the processing of discrimination complaints. It is clearly separated from grievance and other labor relations actions, and sets out specific steps to investigate and resolve such complaints of discrimination. These steps include discussion and possible solution of the complaint at the supervisory level, and as an alternative, the lodging of a formal complaint with the Affirmative Action Officer.¹⁴ In the event these internal procedures do not bring about a resolution, the complainant has the option to turn to "outside agencies" to pursue the matter.¹⁵ This regulation represents progress as compared with previous documents.

A few areas would require further attention:

1) The decision on providing a remedy, even when the Affirmative Action Officer has found "probable cause for discrimination,"¹⁶ rests with the supervisor of the complainant, but there is lack of specificity in the statement that "corrective action to resolve the complaint shall be taken."¹⁷ This final authority of the supervisor to accept or refuse the results of the complaint investigation and proposed remedy by the Affirmative Action Officer was described at the fact-finding meeting held by the Advisory Committee.¹⁸ As it remains in the 1981 Personnel Manual, it would not seem to be conducive to resolution of complaints, or to the confidence of employees in the discrimination complaint process.

2) The reference to "the Indiana Civil Rights Commission (ICRC), Equal Employment Opportunity Commission (EEOC), or any other appropriate external agency,"¹⁹ as the next step for the complaint after the UniGov internal process is completed is not as helpful as it could be. Several participants in the fact-finding meeting suggested a role in the process by the City and County Human Relations Commission,²⁰ a role that the Commission seems to have exercised in the past.²¹ UniGov rejected this role as inappropriate because of the potential conflict of interest (the City and County Human Rights

Commission is a component of the city-county government,)22 while proponents of the role suggested lack of resources in that agency to carry out those activities.23

The Indiana Civil Rights Commission and the Equal Employment Opportunity Commission have work-sharing and dual-filing agreements in discrimination complaints, except on age complaints where the Indiana Commission lacks state jurisdiction.24 For the complainant in discrimination cases, those agreements mean the need to file a complaint with one of those agencies, and the limitation in pursuing other avenues such as the court, until both the local and the state or federal processing are concluded.

Contract Compliance

UniGov has adhered to a policy of affirmative action in dealings with private contractors since the signing of the Memorandum of Understanding of March 4, 1970, commonly known as the Indianapolis Plan or Hometown Plan. This is a voluntary compliance agreement entered into by contractors, building unions, and industries to foster employment of minorities throughout Indianapolis.

Executive Order 3A, of November 23, 1976, from the Mayor (and County Executive) of Indianapolis, reiterates the commitment of the city-county government to the principles

of the Indianapolis Plan. It also establishes mandatory affirmative action for UniGov contractors, and creates for the first time the Office of Contract Compliance in the Central Purchasing Division of the Department of Administration.

Executive Order 3A demands assurances of nondiscrimination in all bids for city-county contracts.²⁵ For construction contracts it incorporates affirmative action provisions²⁶ similar to those enforced by the Office of Federal Contract Compliance Programs (OFCCP) of the Department of Labor in implementation of Executive Order 11246, as amended, issued by the President of the United States. It also specifies equal employment of apprentices in proportion to the number of journeymen employed by contractors, and requires the payment of prevailing wages within the meaning of Indiana legislation, as specified by the Indiana State Division of Labor.²⁷ For non-construction contracts, the Order mandates coverage for all contracts over \$20,000, and it requires from all bidders a statement of nondiscrimination and the preparation and submission of an affirmative action plan as part of the bidding and/or contract execution procedures.²⁸

Subsequent to the issuance of Executive Order 3A, instructions were issued by the Contract Compliance Office specifying the type and content of documentation required

separately for construction and non-construction contracts and bids. These instructions are undated in the copy obtained by the Advisory Committee.

Executive Order 3A specifies that compliance with its affirmative action provisions is mandatory if a bidder is to succeed in obtaining a city contract. It also foresees a compliance review program during the life of the contract.²⁹

The Office for Contract Compliance was staffed from the beginning with the Contract Compliance Officer and one clerical assistant. A previous incumbent to the office suggested to the Advisory Committee that this staffing was insufficient for meaningful on-going compliance review, other than the initial pre-award review and approval.³⁰ The current staff level seems to have remained the same due to budgetary constraints.³¹

The Advisory Committee also obtained a copy of a "revised Executive Order 3A," codifying at length the provisions relating to contract compliance. It is not clear whether this revised order was ever fully implemented or even promulgated.

Examination of this contract compliance program indicates that its linkage with the Indianapolis Plan presents both a favorable and a possibly disruptive aspect: while it is commendable to back an areawide affirmative action effort entered into voluntarily, the danger is that bidders and potential contractors may become signatories of the Plan and commit themselves to an affirmative action plan only for the workforce employed on a specific contract. By moving those workers around from contract to contract (the practice known as "checkerboarding") a contractor could show compliance and at the same time frustrate the purpose of the program of affirmative action. The problem would be lessened, if the adherence of each contractor or bidder to the plan would mean acceptance of its affirmative action provisions for the contractor's entire workforce, and not only for the specific contract under review.

Additionally, the provisions of Executive Order 3A would seem imprecise as to the time and characteristics of the affirmative action plan demanded by the Purchasing Division.³² A procedure whereby some aspects of an affirmative action plan, such as a labor force and workforce utilization analysis, would be made a part of the very bidding package could strengthen any contract compliance program.

It is the understanding of the Advisory Committee that currently UniGov is preparing a new version of the basic provisions of its affirmative action requirements for contractors, and that it plans to issue it as a new Executive Order, incorporating more precise procedures, and clarifying the meaning of those provisions.

Contract compliance with affirmative action was also the object of Executive Order 6, of 1977, creating an Advisory Committee for Contract Compliance for the city and the county, composed of 6 members representing the local government (for the most part the directors of city departments) and 6 members representing private enterprise, all appointed by the Mayor.

Although at the time of the fact-finding meeting this advisory committee had been appointed but inactive for over a year,³³ UniGov reports that since that date the committee has been reconstituted, and in addition to its regular membership, subcommittees have been established with inclusion of minority organization representatives. This committee is meeting regularly now, and among its assigned duties have been the review of the Indianapolis Plan and to advise in the drafting of the proposed new Executive Order.³⁴

Affirmative Action Plan

The city of Indianapolis, apart from its statement on affirmative action and the procedure for discrimination complaint resolution, both included in the Personnel Policies and Procedures Manual, has an affirmative action program.

The Indiana Advisory Committee has obtained several documents with the title of Affirmative Action Plan. They are undated, and they refer to the city of Indianapolis. It is reported³⁵ that there have been Affirmative Action Plans for the city workforce since 1973. Given the staff turnover in this area, it is difficult for the Advisory Committee to determine what plan is the latest.

The following comments refer to the plan identified for the Indiana Advisory Committee by city employees as current, and reportedly issued in 1979.³⁶ As indicated, that identification may be suspect. (In addition, there is a document entitled "Affirmative Action Program for Marion County," dated August 1, 1979. There is no official identified as responsible for this document, and again staff turnover makes it very hard to identify the document further. It would seem that the only official empowered to issue this Affirmative Action Plan for Marion

County would be the Mayor in his capacity as "successor at law to the Marion County Commissioners." It is the Mayor also who would issue the plan for the city of Indianapolis. Nor does it seem that the Marion County Plan would refer to the Independent Municipal Corporations or to the staffs of the county elected offices, as they are administratively independent from UniGov.)

The Affirmative Action Plan for the city of Indianapolis sets up a staffing system for affirmative action, composed of an affirmative action officer in the Department of Administration, and part time departmental affirmative action officers and affirmative action advisory committees. It describes the responsibilities of each of those offices, and then devotes sizeable space to program development and implementation, including proposed analysis of position descriptions, promotion policy, recruitment and selection standards, upward mobility, training, and evaluation. The plan also includes a section on discrimination complaint process that is substantially at variance with the provisions of the Personnel Manual cited above: there are at least two intermediate steps to be followed by the complainant, i.e., lodging the complaint with the Departmental Affirmative Action Officer, and review of proposed resolutions by the Affirmative Action Advisory Committee of the Department.

In addition, the Plan includes contract compliance, reproducing the Executive Order 3A, discussed above, and provides some general guideline on workforce analysis, utilization and projections.³⁷

The Affirmative Action Plan thus described is more a programmatic statement than a true plan. In its present format, it could prove confusing to managers and employees alike. Specifically, the plan needs major revisions on the following points:

1. It does not contain a clear statement of affirmative action policy, based on appropriate legislation, ordinances, Personal Manual and other regulations.
2. It does not contain a formal adoption process, with the authority of the appropriate top official issuing the Plan, nor does it include dissemination guidelines and directives.
3. It does not specify coverage of its provisions within UniGov: this element would seem particularly appropriate given the complex administrative and political structure of the local government in Indianapolis.

4. There are no defined responsibilities for directors and other managers, nor specified reporting structures for the affirmative action functions. As indicated, the complaint process is at variance with other city regulations.
5. The inclusion of contractors' affirmative action requirements is not appropriate in the context of internal affirmative action programs.
6. There is no plan per se that includes actual workforce analysis, labor force availability analysis, identification of areas of under- or over-representation of minority and female employment, and subsequent goals and timetables for improvement of affirmative action posture.
7. There is no organized training for employees and supervisors-managers in the provisions and purpose of the Affirmative Action Plan.
8. There is no Upward Mobility program.
9. There is no evaluation process.

Some elements noted in #6 above, were available at least for 1977, 1978 and 1979 in the annual Affirmative Action Report, issued in yearly memoranda from the Affirmative Action Officer (AAO) to the Director of Administration.³⁸ But those elements were only basic statistical information and not followed by meaningful analysis and establishment of goals and timetables.

During the time of this Advisory Committee's examination of UniGov affirmative action efforts, a new affirmative action officer was appointed. The appropriation for the position is in the Corporation Counsel budget, and the incumbent reports to the Mayor's office, through the Director of Administration.³⁹ Also, staffing to include two assistant Affirmative Action Officers has been proposed but no decision has been made due to budgetary considerations.⁴⁰ The fact remains that the Affirmative Action Office needs to restructure the entire function, prepare the basic programmatic documents, prepare on-going operational procedures, and streamline whatever processes are in place now to make the affirmative action program for the city and county operational.⁴¹

In addition to the city Affirmative Action Plan some departments have devised their own plans, in some cases as a result of intervention of external agencies.⁴² Independent Municipal Corporations and (elected) County Officers also

have developed their own Affirmative Action Plans. At this time, this Advisory Committee is not prepared to analyze each individual plan, but as indicated it may issue in the future findings and recommendations pertaining to them.

There is precedent for a role of UniGov in the personnel administration of at least county offices, and there may be the possibility of similar roles with Independent Municipal Corporations. The position analysis and classification system present in the City's Personnel Manual have been adopted and are used by county offices,⁴³ with the cooperation of the Central Personnel Office for the city. A similar relationship in the area of affirmative action might be considered, within the state and local legislation and ordinances, to simplify and streamline affirmative action guidelines throughout the Indianapolis local government.

Sanctions

Like any other government policy, affirmative action programs to be appropriately enforced, need to include explicit provisions for sanctions to insure implementation. In internal affirmative action, a measure of enforcement would be the number of discrimination complaints lodged, and information on the disposition of such complaints. Mindful

of this fact, UniGov regulations assign to the Affirmative Action Officer the responsibility for keeping information on discrimination complaints.⁴⁴

There are no consistent data published on the number of complaints filed and resolved through internal procedures. The last formal Affirmative Action Report available, that of 1979, indicates no actual numbers, but it states that 50 percent of those complaints were appealed to the last step of the internal process that of the Affirmative Action Officer for the city presumably. Only 5 percent of the complaints handled by the city in 1979 were filed with an external agency.⁴⁵

In the first six months of 1981, the city Affirmative Action Office logged 28 discrimination complaints, filed for the following reasons:⁴⁶

Race	13
Sex	13
Age	1
Retaliation for having filed	1

As of July 29, 1981, disposition of those complaints was as follows:

12 No probable cause

11 Remedied

5 Pending: 4 at EEOC

1 at ICRC

Ultimate responsibility for the successful implementation of an internal affirmative action program rests with the immediate supervisors and managers. UniGov, however, makes no provision for evaluating these officials' performance in the area of affirmative action, neither in the Personnel Manual or in the Affirmative Action Plan. This absence is a serious shortcoming of the entire affirmative action program for the local government.

Affirmative action by UniGov contractors is monitored by the Contract Compliance Officer. This Advisory Committee has been told that existing statistics on sanctions imposed as a result of this monitoring are less than totally reliable.⁴⁷ These statistics show that in 1977, 195 construction contracts were issued to 71 contractors, and 167 other (non construction) contracts were let to 95 contractors.⁴⁸

In June 1980, at the time of the fact-finding meeting, the then Contract Compliance Officer stated that he "had a handle" on 301 vendors and 266 construction contractors,⁴⁹ meaning presumably that he was reviewing their Affirmative Action Plans. Of those, 14 firms had been cited for non-compliance. In all, from the establishment of the Office for Contract Compliance in 1977 to June 1980, 39 bids were rejected for failure to meet compliance requirements.⁵⁰

As UniGov has recently revamped the functions of the Contract Compliance office,⁵¹ it is to be expected that a system will be established to maintain a record of results of the Contract Compliance Office, as well as to provide bidders with assistance in developing plans, and to monitor compliance beyond the pre-award review. The available sanctions, debarring from bid eligibility or suspension of payments for failure to implement the affirmative action clause of the contract are substantive. Their effectiveness will have to be measured not only quantitatively, (number of contractors penalized for non-compliance) but also in the furtherance of compliance that renders sanctions unnecessary and ultimately increases equality of employment opportunity. An adequate level of staffing of the Contract Compliance Office here again becomes critical to this effectiveness.

Footnotes for Chapter II

1. City of Indianapolis, Personnel Policies and Procedure Manual, March 1981, hereinafter cited as Manual.
2. Thomas E. Parker, Transcript, p. 464.
3. Rozelle Boyd, Transcript, p. 764.
4. Joseph A. Slash, Transcript, p. 729.
5. 42 USC Sec. 4721 et seq. (1978).
6. Phone interview with Ms. Sharon Ellett, OPM, Indianapolis, July 8, 1981, by Isidro Lucas, MWRO staff.
7. Manual, p. 7 Sec. 2.4.
8. Ibid., p. 59, Sec. 19.0.
9. See Ojetta J. Silas, Affirmative Action Coordinator, State of Indiana, Transcript, p. 539.
10. Dick Clark, Majority Leader, City-County Council, Transcript, p. 755.
11. Manual, p. 54, Sec. 16.0.
12. Ibid., p. 5, Sec. 2.0.
13. Ibid.
14. Ibid., pp. 54-55, Sec. 16.1.
15. Ibid., Sec. 16.1.
16. Ibid., 16.1, "Formal Procedure, Steps 2,6."
17. Ibid., "Formal Procedure."
18. Sam H. Jones, President, Indianapolis Urban League, Transcript, p. 118.
19. Ibid., Sec. 16.1 (at the end).
20. Rozelle Boyd, Transcript, p. 766.
21. Ibid.
22. Slash Letter, p. 3.
23. Hubert N. Scott, Contract Compliance Office, City Purchasing Officer, Transcript, p. 27. Mr. Scott no longer holds this position. However, in this and similar cases,

positions identified herein of participants in the fact-finding meeting are those occupied at the time of the meeting.

24. Phone interview with Ms. Lea Ashley, EEOC, Indiana District Office, July 13, 1981, by Isidro Lucas, MWRO staff.

25. Executive Order 3A, Nov. 23, 1976, at n. 2.

26. Ibid., n. 3.

27. Ibid., n. 4.

28. Ibid., n. 6.

29. Ibid., n. 7.

30. Scott, Transcript, p. 450.

31. According to information received after the preparation of this report, two additional positions have been established for this office. Letter from Joseph A. Slash, Deputy Mayor, to Clark G. Roberts, Regional Director, Sept. 11, 1981, p. 2.

32. Executive Order 3A, Nov. 23, 1976, at n. 2.

33. Scott Transcript, p. 443.

34. Slash Letter, p. 2. Also phone interview, Mr. Norris Archer, current Contract Compliance Officer, July 9, 1981, by Isidro Lucas, MWRO staff.

35. Dave Black, Acting Affirmative Action Officer, Transcript, p. 509.

36. Ibid.

37. This report was reviewed prior to publication by UniGov. In his response, dated Sept. 11, 1981, Joseph A. Slash, Deputy Mayor, states: "...the new Affirmative Action Plan, which is in the process of being completed, does not refer to Contract Compliance...[it]...does contain a statement explaining the discrimination complaint procedure, and this statement is in accord with the procedure outlined in both the Personnel Manual and the Employee Handbook."

38. Copies on file at the Commission's Midwestern Regional Office in Chicago.

39. Phone interview with Ms. Martha Bulluck, Affirmative Action Officer, July 7, 1981, by Isidro Lucas, MWRO staff.

40. Slash Letter, p. 2. However see also n.31 above.

41. Mr. Slash stated in his Sept. 11, 1981 response: "In Chapter 1, the bottom of the page 7, it states that there is a pattern of concentration of minorities and women in less desirable positions in the Uni-Gov work force. It is my opinion that there is no evidence that all minorities and women in these positions consider them to be the less desirable positions. I would ask that the statement be rephrased to state that there is a pattern of concentration of minorities and women in lower level positions. The concentration of minorities and women in these positions is related to several factors, some of which relate to the desire of the incumbent employees in the positions.
42. See Chapter IV, The Federal Role.
43. Bulluck interview, July 9, 1981.
44. Manual, p. 54, Sec. 16.1 Discrimination Complaint Procedure; also Affirmative Action Plan, City of Indianapolis, IV. Program Development and Implementation, L. Affirmative Action Complaints, n. 9.
45. 1979 Affirmative Action Report, Memorandum from City AAO to Director of Administration, p. 6.
46. Letter from Ms. Martha Bulluck, City AAO, to Frank Alford, Staff Midwestern Regional Office, U.S. Commission on Civil Rights, July 29, 1981.
47. Phone interview, Mr. Norris Archer, Contract Compliance Officer, July 8, 1981, by Isidro Lucas, MWRO staff.
48. Hubert M. Scott, Contract Compliance Officer, Transcript, p. 438.
49. Ibid., p. 439.
50. Ibid., p. 440.
51. Slash Letter, May 11, 1981, pp. 1-3.

Chapter III

STATE ENFORCEMENT OF AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT

The State of Indiana has a policy of non-discrimination embodied in its Civil Rights Law¹ which states:

Equal education and employment opportunities...are hereby declared to be civil rights...the practice of denying these rights to properly qualified persons by reason of the race, religion, color, sex, handicap, national origin or ancestry of such person is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of this state and shall be considered as discriminatory practices.²

The same law creates the Indiana Civil Rights Commission (ICRC), which has, among others, the power to "receive and investigate complaints alleging discriminatory practices," and eventually to "state its findings of fact and ...to cause to be served...an order requiring such person (found to be engaged in an unlawful discriminatory practice) to cease and desist from the unlawful discriminatory practice and requiring such person to take

further affirmative action" as necessary to correct the problem and restore the complainant's losses.³ Judicial review of such orders is also provided for in the law.⁴ The Commission can also enter into a conciliation process that can result in consent agreements.⁵ These powers granted to the Indiana Civil Rights Commission have allowed this agency to enter into agreements with the U.S. Equal Employment Opportunity Commission for work sharing and dual filing of complaints.⁶

The Indiana Civil Rights Law also authorizes municipalities and other local governments to create human rights commissions with similar enforcement powers.⁷ An earlier version of this provision was at one point repealed, but it was eventually restored and signed into law on April 9, 1979.

The city-county government of Indianapolis has chosen not to assign jurisdiction to the Indianapolis City and County Human Rights Commission in cases of complaints employment discrimination within UniGov.⁸ The provision excluding the local human rights commission from these cases was included in an ordinance of July 1979, currently in force.⁹ Reasons for this arrangement were the potential conflict of interest, with one UniGov department enforcing complaints against another UniGov department and the possible duplication of efforts with the Affirmative Action Office.¹⁰

After the administrative process within UniGov is exhausted, ICRC is the next agency with jurisdiction over employment discrimination complaints for UniGov employees according to state law. The ICRC has received, from 1979 to 1981, 28 complaints of employment discrimination filed by UniGov employees.¹¹ Allegations of discrimination were filed for the following reasons:

Race	16
Sex	8
Retaliation for having filed a complaint	2
National Origin	1
Handicap	1

The disposition of these complaints as of June 15, 1981 is as follows:

- 10 open, in suspense (jurisdiction shared with EEOC)
- 5 no probable cause
- 2 closed for lack of complainant follow up
- 3 complaints formally withdrawn by complainant
- 5 consent agreements reached
- 3 being investigated

In addition, the ICRC has the authority to provide technical assistance and cooperation to persons and agencies to further compliance with the provisions of the Indiana Civil Rights Law. The ICRC has cooperated with the City-County Human Rights Commission in the past, and continues this cooperation by participating in the Coalition of Employment Resources Agencies (CERA). There is no information available to this Advisory Committee to show that UniGov has requested or received assistance from the ICRC in the formulation or implementation of its affirmative action or contract compliance policies.

The ICRC is explicitly prevented from conducting equal employment opportunity or affirmative action compliance reviews, by the provision in its enabling legislation that states: "The Commission shall not hold hearings in the absence of a complaint."¹² It is the opinion of this Advisory Committee that this restriction hampers an effective enforcement program, as the ICRC is prevented from conducting the type of compliance review that (initiator powers) could highlight and correct systemic discrimination among Indiana employers.

The State of Indiana also has an Affirmative Action Office but not a Contract Compliance office.¹³ The relationship between the state and the city Affirmative Action Offices includes only voluntary activities. The State Affirmative Action Plan covers only employment with state agencies. There is a general obligation, according to the Indiana Civil Rights Law, for all municipalities to comply with non-discrimination provisions.¹⁴ As they endeavor to comply with the law, the State Affirmative Action Office is empowered to provide technical assistance to municipalities, but there have been no activities in this area in the past.¹⁵ At one point, when the State Affirmative Action Office applied for and obtained a grant from the U.S. Office of Personnel Management to work in the area of upward mobility, UniGov was asked to participate, but it declined.¹⁶ The city-county government, however, joined an initiative of the state, and has participated on a voluntary basis in the Affirmative Action Network,¹⁷ an informal group that shares experiences and provides mutual assistance to members engaged in affirmative action.

From this information it appears to this Advisory Committee that the State legislation and regulations as they stand now provide no encouragement from the State for municipalities to engage in active affirmative action programs. Given the

expertise and resources available to the State, such encouragement could be crucial in promoting equality of opportunities for women and minorities not only in State but also in local government workforces. The encouragement and leadership suggested would have to include a declaration of state policy of affirmative action in all levels of Indiana government, and assignment of powers and responsibility for enforcing this policy.

Footnotes for Chapter III

1. IC 22-9-1.
2. IC 22-9-1-2 a-b.
3. IC 22-9-1-6 e,k.
4. Ibid.
5. Ibid., at n.
6. Phone interview with Ms. Lea Ashley, EEOC, Indianapolis District Office, July 13, 1981, with Isidro Lucas, MWRO staff.
7. IC 22-9-1-12.1.
8. Slash Letter, p. 3.
9. Chapter 16, at 2. Sec. 16, 23-16-43.
10. Ibid.
11. Phone interview, Ms. Julia Fangmeier, ICRC, June 15, 1981, with Isidro Lucas, MWRO staff.
12. IC 22-9-1-6e.
13. Silas, Transcript, p. 539.
14. Ibid., p. 534.
15. Ibid.
16. Ibid.
17. Ibid., p. 536.

Chapter IV

THE FEDERAL ROLE

The local government in Indianapolis, as do most state and local governments, receives substantial amounts of funds from the Federal Government through various departments and programs. For example, from 1978 to 1980, UniGov received Federal grants in excess of \$90.5 million, from just five Federal agencies.¹

Requirements of Federal grants in the area of equal employment opportunity and affirmative action vary from program to program, as do other requirements and grant conditions. The State and local Fiscal Assistance Act (General Revenue Sharing) for instance² requires non-discrimination in activities supported with those funds, while the Public Works Act (administered by the Department of Commerce's Economic Development Administration)³ requires allocation of contracts using its funds to include a set-aside of 10 percent for minority contractors. The Equal Employment Opportunity Commission requires from municipalities, as well as from other public and private major employers the filing of statistics on their workforce.⁴ UniGov submits yearly to EEOC the prescribed form in fulfillment of that requirement.

There are general provisions for non-discrimination in programs and employment of all recipients of Federal funds and of all employers, embodied mainly in Titles VI⁵ (programs) and VII⁶ (employment) of the Civil Rights Act of 1964 as amended, and with respect to discrimination by reason of sex,⁷ age,⁸ and handicap.⁹ In implementation of this legislation, Federal departments have issued appropriate regulations and guidelines. This chapter will examine requirements of equal employment opportunities by selected Federal agencies, as well as the enforcement process and specific actions related to the city-county government of Indianapolis.

Office of Personnel Management (OPM)

The personnel agency for the Federal Government, formerly the U.S. Civil Service Commission, administers the Intergovernmental Personnel Act (IPA) of 1970,¹⁰ which authorizes, among others, the making of grants to state and local governments in furtherance of Merit Personnel Systems. OPM published on February 16, 1979 regulations implementing this aspect of the IPA, offering guidelines as

Standards for A Merit System of Personnel Administration.¹¹

In Sec. 900.607.-1(b), the Standards state:

Affirmative action programs consistent with merit principles will be developed and implemented for personnel services provided to and personnel administration within the grant-aided agencies. They will include identification and elimination of artificial barriers to equal employment opportunity. They will also include agency work force analyses to determine whether percentages of minorities and women employed in various job categories are substantially similar to percentages of those groups available in the relevant labor force who possess the basic job related qualifications.

It goes on to proposed actions to be included in the affirmative action program to remedy disparities that may be uncovered by this statistical analysis. Although the IPA removed from individual agencies of the Federal Government the responsibility for monitoring overall employment practices of state and local government, and placed it in OPM, those agencies have retained equal employment opportunity functions for the various activities carried out with grants made to those governments.

OPM conducted a review of personnel practices in the UniGov Department of Employment and Training, (DET) which is in charge of administering the Comprehensive Employment and Training Act (CETA), on July 19-29, 1978, at the request of and in cooperation with the U.S. Department of Labor. In summary, it found that:

The (UniGov) DET Affirmative Action Plan lacks specificity and accountability in the design of the proposed action items. Prime sponsor (UniGov) lacks an EEO policy statement which conforms to minimum requirements.¹²

The report went on to recommend remedial actions, and by June 1980 OPM expressed satisfaction with the progress made by DET.¹³ There have been no other requests for OPM assistance in developing the equal employment and affirmative action policy and programs of UniGov.¹⁴

Department of Justice (DOJ)

The Department of Justice (DOJ) seeks to enforce in court the administrative decisions and orders from Federal agencies. In that capacity, DOJ is the ultimate enforcer of equal employment opportunity provisions of the Federal Government agencies.

DOJ filed suit in 1978 against UniGov in Federal courts alleging race and sex discrimination in employment,¹⁵ in the Department of Public Safety (Police and Fire Departments, among others), in violation of the State and Local Fiscal Assistance Act of 1972 (Revenue Sharing), as amended,¹⁶ and of the Omnibus Crime and Safe Streets Act of 1968, as amended.¹⁷ The suit resulted in two consent decrees in 1978 and 1979, committing UniGov to adopt several affirmative action measures, ("in fact, the whole consent decree is an Affirmative Action plan," according to the U.S. Attorney in Indianapolis.)¹⁸ UniGov also must report to the court every six months for five years from the date of each consent decree. The Department of Public Safety has been complying with this reporting procedure. At the present time, there seems to be no problem in implementing the consent decrees, according to the same U.S. Attorney.¹⁹

Department of Commerce - Economic Development
Administration (EDA)

The main role of the Economic Development Administration (EDA) during its period of grant-making was to "provide loans and grants to towns, municipalities, and occasionally private industry, in areas that are designated as having a higher than national average of unemployment."²⁰ UniGov received from EDA grants totaling over \$10 million.²¹ As part of the application review process, EDA's Office for Civil Rights reviewed the employment practices of UniGov in three departments: Public Works, Transportation and Parks and Recreation. In 1977 it gave conditional approval to the application for Local Public Works II, requesting the city to make changes specifically in the overrepresentation of minorities in the lower paying jobs, and improvements in equal employment opportunity.²² Before the release of the second installment of these funds, Mr. Warren Plath, then Chief of the Civil Rights Division, in EDA's Chicago Regional Office reviewed city compliance with those conditions and found it satisfactory.²³

The Economic Development Administration has suspended operations as of September 30, 1981, so a critique by this Committee of its process and enforcement effectiveness seems moot at this stage, as there would be no point in making any recommendations for future action.

Department of Transportation (DOT)

The Department of Transportation (DOT) has provided grants to Uni Gov through its Federal Highway Administration, Urban Systems Funds and Metropolitan Planning Funds Reimbursements. DOT has published regulations for enforcement of non-discrimination provisions, implementing Title VI of the Civil Rights Act of 1964.24

The Urban Mass Transit Administration (UMTA) also published regulations in the same area of concern, including prerequisites for Affirmative Action Plan requirements, in Circular UMTA C 1155.1. UniGov has received no grants under this authority and, therefore, is subject to no obligations under those provisions.

The Federal Highway Administration has codified its requirements for Equal Employment Opportunity and Contract Compliance on form PR-1273, which is a component of every contract or subcontract with those Federal funds. The Department of Transportation has received no complaint of discrimination under contracts or grants with UniGov.25

Department of Labor (DOL)

The majority of grants from the Department of Labor (DOL) to UniGov went to funding the Comprehensive Employment and Training Act (CETA) programs. DOL Regulations²⁶ require all CETA prime sponsors to establish a Merit System of Personnel in accordance with OPM regulations,²⁷ and to abide by non-discrimination provisions of Title VI of the Civil Rights Act of 1964.²⁸ Section 676.53 of the DOL regulations also requires that prime sponsors develop an Affirmative Action Plan for outreach to train, place and advance handicapped individuals in employment and training programs under CETA. Section 676.52 requires the development of programs that will eliminate sex stereotyping.

The Department of Labor, Employment and Training Administration, enforces these regulations through its Office for Civil Rights. From 1976 to 1980, that office received four complaints of discrimination and resolved two of them to the satisfaction of the parties, finding the other two unfounded or not based on discrimination.²⁹

Department of Housing and Urban Development (HUD)

The Department of Housing and Urban Development (HUD) made grants to UniGov in 1980 in excess of \$12 million. Most of those funds were given as entitlement under the Housing and Community Development Act (HCDA) authority, as Community Development Block Grants.³⁰

HUD includes an equal employment opportunity clause in all contracts with recipients of HUD funds, that require non-discrimination and affirmative action. Title I of HCDA, 1974, includes a specific requirement of non-discrimination from all recipients in accordance with Section 109 of the Act.³¹ HUD receives and investigates complaints of discrimination through its Office of Fair Housing and Equal Opportunity. Since 1976, this office has received one complaint related to employment discrimination. It was resolved in Fiscal Year 1980.³²

Equal Employment Opportunity Commission (EEOC)

The Equal Employment Opportunity Commission (EEOC) is in charge of implementing provisions of Title VII of the Civil Rights Act of 1964 that prohibits discrimination in employment.³³ It also administers the Equal Pay for Equal Work Act³⁴ and the Age Discrimination in Employment Act.³⁵

EEOC is empowered to receive discrimination complaints in public and private employment. It receives and investigates charges, negotiates settlements, issues letters of determination as to whether or not the law has been violated, issues letters on right-to-sue instances, conciliates settlements when discrimination has been found, and pursues litigation in those cases where discrimination has been found and no conciliation has been achieved. In addition, EEOC issues regulations for compliance with equal employment opportunity requirements, and initiates complaints where conditions warrant after systemic review.

Employees of UniGov may file discrimination complaints with EEOC, instead of, or after the local government process has been exhausted.³⁶ The Indianapolis District Office indicated to this Advisory Committee that they were not able to provide information on complaints filed or pending from

UniGov employees as it is the policy of EEOC not to give information on those cases while in process. They also stated that no such complaints were pending in court.³⁷

The EEOC District Office has the authority to determine whether a discrimination complaint it has processed should proceed to Federal court.³⁸ However, at the Department of Justice the decision to bring legal action is made at headquarters, and at that time it is also decided whether the case will be handled in Washington or by the local U.S. Attorney.³⁹

While the EEOC has authority to bring suit with its own attorneys in Federal court on employment discrimination, this authority does not extend to cases against local or state governments.⁴⁰ The diverse delegations of authority by EEOC and the Department of Justice makes the processing of discrimination complaints in local and state government complicated, and communication between the Federal agencies difficult on an on-going basis.

In reviewing these selected agencies of the Federal Government and their respective roles in the area of equal employment opportunity and affirmative action, this Advisory Committee has noticed the multiplicity and diversity of the regulations emanating from those agencies, and the absence of any coordinated mechanism for enforcement that would

simplify both the review system and the local government efforts at compliance with the law. This Advisory Committee subscribes, as did the Ohio Advisory Committee,⁴¹ to the U.S. Commission on Civil Rights statement:

The diffusion of authority for enforcing Federal equal employment mandates among diverse agencies is one of the paramount reasons for the overall failure of the government to mount a coherent attack on employment discrimination. Agencies have different policies and standards for compliance....This fragmented administrative picture has resulted in duplication of effort, inconsistent findings, and a loss of public faith in the objectivity and efficiency of the program.⁴²

Footnotes for Chapter IV

1. Information from officials in those Federal agencies in letter to the Midwestern Regional Office, U.S. Commission on Civil Rights. The agencies are: Office of Personnel Management, Departments of Labor, Housing & Urban Development, Transportation, and the Economic Development Administration of the Department of Commerce.
2. State and Local Fiscal Assistance Act. P.L. 94-488 31 USC Sec. 1221 et seq. (1973).
3. 42 USC Sec. 3121 et seq. (1976).
4. 29 CFR Sec. 1602.30 et seq.
5. 42 USC 2000d et seq.
6. 42 USC Sec. 2000e et. seq. (1970).
7. 20 USC Sec. 1681 et seq. (1978).
8. 5 USC Secs. 8335, 8339; 29 Sec. 621 et seq. (1977).
9. Secs. 503, 504, Rehabilitation Act of 1973, P.L. 93-112, 29 USC Sec. 701 et seq.
10. 42 USC Sec. 476 et seq. (1977). This authority is being phased out, as called for in the President's revised 1981 and 1982 budgets. See Intergovernmental Personnel Note, U.S. OPM, March/April 1981.
11. 5 CFR Part 900, Subpart F.
12. OPM's "Report on the Division of Employment and Training" of Indianapolis, undated (July 1978?), an attachment to a letter from Keith Roelofs, Regional Director, OPM, to Clark G. Roberts, Regional Director, Midwestern Regional Office, August 22, 1980.
13. Mr. Marlin G. Tammen, Indianapolis Area Manager, OPM, Transcript, p. 686.
14. Ibid., p. 669.
15. U.S. v. City of Indianapolis, U.S. Southern Indiana District Court, IP 78-388-C, filed June 29, 1978.
16. 31 USC Sec. 1221 et seq. (1973).
17. 42 U.S.C. Sec. 3701 et seq. (1977).
18. Virginia Dill McCarty, Transcript, p. 588.
19. Ibid., p. 573-74.

20. Warren K. Plath, Chief, Civil Rights Division, EDA Regional Office in Chicago, Transcript, p. 591.
21. In 1977. Ibid., p. 592.
22. Letter from Warren K. Plath, Chief, Civil Rights Division, EDA Regional Office in Chicago to Indianapolis Mayor William H. Hudnut, August 25, 1977 (copy in the Commission's Midwestern Regional Office files).
23. Plath, Transcript, p. 500.
24. 49 CFR Part 21 (1980).
25. Letter from Ellen Feingold, Director of Civil Rights, Department of Transportation, to Clark G. Roberts, Regional Director, Midwestern Regional Office, U.S. Commission on Civil Rights, July 8, 1980.
26. Sec. 676.43, April 3, 1979.
27. See above, 5 CFR Part 900 Subpart F (1980).
28. As specified in 29 CFR Part 31 (1980).
29. Letter from C. Thompson Ross, Regional Administrator, DOL-ETA, to Clark G. Roberts, Regional Director, Midwestern Regional Office, U.S. Commission on Civil Rights, February 22, 1980.
30. Housing and Community Development Act of 1974, P.L. 93-383.
31. See also 24 CFR 570.601 (b)(1)(vi) (1980).
32. Telephone interview, Thomas Higginbotham, Dept. of Housing and Urban Development, Region V, with Frank J. Alford, MWRO staff, Sept. 28, 1981.
33. 42 USC Sec. 2000e et seq. (1970).
34. Equal Pay for Equal Work is the popular name for the 1963 Amendments to the Fair Labor Standards Act of 1938; P.L. 88-38; 29 USC Sec. 206 (1978).
35. 29 USC Sec. 621 et seq. (1978).
36. See above, Chapter II.
37. Osma D. Spurlock, District Director, EEOC, Indianapolis, Transcript, p. 649.
38. Ibid., pp. 653-654.

39. Ibid., p. 654; McCarty, Transcript, p. 585.
40. Ibid., pp. 576, 583.
41. Ohio Advisory Committee to the U.S. Commission on Civil Rights, Affirmative Action or Inaction? The Pursuit of Equal Employment Opportunity in Cleveland, Washington, D.C. 1977, p. 35.
42. U.S. Commission on Civil Rights, The Federal Civil Rights Enforcement Effort - 1974; vol. V, To Eliminate Employment Discrimination (July 1975), p. 618.

Chapter V

COMMUNITY VIEWS

In addition to securing data on legislative and regulatory mandates on equal employment and affirmative action at the local, state and Federal Government levels, and examining the enforcement processes, the Advisory Committee also inquired from representatives of communities about their opinions of the effectiveness and the perceived problems of these government functions in Indianapolis. This chapter summarizes the result of these inquiries.

As indicated in Chapter I, the analysis of minority employment in UniGov's workforce does not show under-representation of minorities in general, although specific minorities do seem to show a disparity between their employment in the local government and their representation in the surrounding available labor force, as is also the case with women.

However in the course of the Advisory Committee's interviews and public fact-finding meeting a repeated complaint from community groups was that expressed forcefully by David M. Culp, staff representative of Community Action Against

Poverty. When asked at the fact-finding meeting what he considered to be the most serious impediment to equal employment in Indianapolis for women and minorities, he replied: "Lack of commitment from the top policy makers."1

The Rev. Thomas Brown, Executive Director of the Southern Christian Leadership Conference agreed, putting it another way: "The barrier for achieving that (minority equality goals) is basically attitude. There is in this city a very negative attitude toward the poor and toward a certain race."2

An unscheduled participant at the fact-finding meeting also stated: "...[The Affirmative Action Plan] has not been implemented because there has been no commitment to affirmative action."3

Representatives of women's concerns also expressed this feeling, attributing the lack of affirmative action progress to "a general lack of initiative and policy development on the part of the city administration;" also, the process of preparing an affirmative action plan, inadequate in their opinion, "suggests a lack of sincerity on the part of those whose responsibility it is to implement it."4

To some, this alleged lack of commitment is exemplified by the role assigned by UniGov to the Indianapolis Human

Rights Commission. For instance, Mr. Rozelle Boyd, Minority Leader, City-County Council, stated that the Commission "has not had full support of the administration."⁵ This perception was expressed so often to this Advisory Committee that it seems to be prevalent. It is present even in the absence of specific complaints.⁶

In several instances, people who held this impression of lack of commitment by the city to minority employment specified that such an attitude was not necessarily prevalent at the top levels of the administration, nor in particular at the Mayor's office, but rather among subordinates, managers and supervisors in the city departments.⁷

Deputy Mayor Joseph Slash, at the fact-finding meeting, stated explicitly: "The Mayor is committed to having an Affirmative Action Office...",⁸ and "...the Mayor's commitment [to affirmative action] is that he wants to be assured that the workforce of the City of Indianapolis is at least responsive to the percentage of the population base."⁹ And again, "The Mayor is definitely committed to an Affirmative Action Program that's going to have high visibility" and support.¹⁰

The issue of the community's perception of UniGov's commitment to affirmative action and of the reality of that

commitment is particularly important in light of the current financial constraints facing Indianapolis as well as most other city and state governments. In the course of this Advisory Committee's study of Indianapolis, this budgetary concern was expressed repeatedly.¹¹

Budgetary constraints have already had an effect on hiring levels,¹² and on occasion in reductions in force.¹³ Experiences in other cities indicate that when a local government is forced to lay off workers, the impact of this action is likely to affect minorities more substantially than other workers.¹⁴ While this Advisory Committee has not pursued the data about these personnel practices for Indianapolis, it is concerned about the effect they would have on its employment picture. Adding to this concern is the information received by this Committee that many of the minorities employed by UniGov occupy positions funded with Federal grants or contracts:

A pattern that seems to appear is that of a balance or overbalance toward minority employment...where Federal funds are used....A paper balance again is maintained, sort of, by hiring blacks with Federal money. Many of these positions so funded and filled are temporary jobs, CETA, or again...categorical jobs, and they are subject to defunding, which means that our employment at best is tenuous.¹⁵

This Committee has not been able to verify this statement with employment data from UniGov, but to the extent that they are accurate, contemplated cutbacks in Federal programs could affect greatly the employment of minorities by the local government.

The second prevalent issue raised by community groups consulted is closely related to the perceived lack of commitment by the city to affirmative action. This Advisory Committee was told several times about the lack of communication between the city and the community, particularly minority communities and their organizations and groups. Black,¹⁶ Hispanic,¹⁷ and American Indian¹⁸ representatives all described the difficulty in receiving communications about employment policy and job opportunities with the local government. Gilbert Cordova from IMAGE of Indianapolis (a Hispanic association of government employees) expressed the need for an outreach program that would make sure that minorities receive information about vacancies and procedures for submitting applications.¹⁹

The leadership of UniGov has shown awareness of this problem. Joseph A. Slash, Deputy Mayor, addressing this Advisory Committee, repeatedly referred to a problem of "higher visibility more than anything else" related to Affirmative Action Programs.²⁰ Subsequently, he provided

this Committee with a list of actions taken to improve this visibility and improve communications, including expanded list of applicant sources, written and electronic media appearances and advertising, and meetings with several community groups and organizations.²¹

In connection with communications between the city and community groups, a group of women addressing the Advisory Committee provided further insights:

The City of Indianapolis Affirmative Plan did not stem from a participative group process; it was not put together by or with the consultation of those it has the most potential to affect--women and minorities. While we may not fault the content of the plan,...the lack of continuous involvement on the part of women and minorities in the drafting and adoption of the plan suggests a lack of sincerity on the part of those whose responsibility it is to implement it.²²

The responsibility for defining policy and preparing an affirmative action program rests of course with the government officials. Statements such as the one above, however, point out both an avenue for testing the viability of proposed actions in such a plan, and to a ready source

of information and assistance in making sure that the plan fulfills its ultimate goal of improving access of minority and women applicants to UniGov jobs.

Footnotes for Chapter V

1. Culp, Transcript, p. 89.
2. Brown, Transcript, p. 106
3. Jonetta J. White, Transcript, p. 643.
4. Written statement from J. White, S. Presley and M. Kelly to the factfinding meeting record. In the files of the Midwestern Regional Office, U.S. Commission on Civil Rights, Chicago, pp. 2, 5, hereafter cited as White et al Statement.
5. Boyd, Transcript, 767.
6. Such as in the statement of Rev. Thomas L. Brown, who stated there were no pending discrimination complaints, Transcript, p. 96.
7. Rev. Mozel Sanders, State Director, Opportunities Industrialization Center, Inc., Transcript, p. 20. Also, letter from J. White, M. Kelly, S. Presley and D. Parrot to Frank Alford, Staff of the Midwestern Regional Office, U.S. Commission on Civil Rights, August 13, 1980.
8. Slash, Transcript, p. 727.
9. Ibid., p. 726.
10. Ibid., p. 727.
11. Slash, Transcript, p. 714; Dick Clark, Majority Leader, City/County Council, Transcript, p. 757.
12. Thomas E. Parker, Personnel Director, Transcript, p. 478.
13. Ibid., p. 491.
14. See for instance, EEO reports 1979 and 1980 from Flint, Detroit and Saginaw, Michigan.
15. Sam H. Jones, President, Indianapolis Urban League, Transcript, p. 117.
16. Brown, Transcript, p. 100.
17. Gilbert Cordova, President, IMAGE de Indianapolis, Transcript, p. 25.
18. Jan Hamil, President, Indiana Indian Consortium Organization, Transcript, p. 67.
19. Cordova, Transcript, p. 67.

20. Slash, Transcript, p. 721.
21. Slash Letter, p. 6.
22. White et al Statement, p. 5.

Chapter VI

FINDINGS AND RECOMMENDATIONS

UniGov has taken several steps in recent years to address the issue of equal employment opportunities for minorities and women. One factor that accounts for these steps is pressure from several Federal agencies which through administrative and judicial actions have "encouraged" UniGov to take certain affirmative actions as a condition for continuing to receive Federal funds.

Yet the city's current affirmative action plan is more a programmatic statement than a true plan. It lacks several of the components required for a comprehensive plan. The state has jurisdiction to assure equal employment opportunity within municipalities, but the effectiveness of state action is severely limited by lack of authority of the Indiana Civil Rights Commission to initiate complaints of employment discrimination.

Community leaders perceive a lack of commitment to affirmative action and equal employment opportunity on the part of policy makers in the city. Lack of communication between the city and the community has contributed to this perception. The serious financial difficulties plaguing

Indianapolis, and most metropolitan areas particularly in the northeast, limit the number of job opportunities in both the public and private sectors. Despite these difficulties, steps can be taken to further the objective of equal employment opportunity. Below are the specific findings and recommendations of the Indiana Advisory Committee.

FINDING 1

The data available to this Advisory Committee indicate that UniGov employs minorities as a whole in numbers consistent with or superior to their representation in the available labor force for the geographical area where applicants are expected to be found.

There is a substantial disparity and underrepresentation of women in the UniGov workforce as compared with the areas available labor force. More than half the women employed by UniGov hold office/clerical jobs, and their presence in other job classifications is lower than their representation in the available labor force.

RECOMMENDATION 1

The UniGov should review its affirmative action plan and its personnel policies and practices with an eye toward eliminating barriers that may prevent women from being represented in the workforce as compared to the area's labor force.

FINDING 2

The figures available from UniGov sources on employment and workforce utilization are general and broken down into categories too broad for detailed analysis. In the past, specific departments have been identified as violating equal employment opportunities for minorities, and remedies have been mandated by court and administrative actions. Also allegations have been made that minorities, other than those involved in administering federally-funded programs such as CETA, are for the most part confined to the lower paying, lower skill jobs.

RECOMMENDATION 2

UniGov, as a component of its affirmative action program, should conduct a complete analysis of its workforce utilization in comparison to the area's labor force availability of minorities to determine if there is underutilization. If there is underutilization of minorities, then UniGov should undertake a vigorous program to remedy the problem.

FINDING 3

UniGov has adopted a policy of equal employment opportunity and affirmative action, and has taken measures in efforts to implement this policy. The organization of the Affirmative Action structure includes a city-wide Affirmative Action Officer, Department Affirmative Action Officers and Affirmative Action Advisory Councils for each Department. Only the city-wide Affirmative Action Officer deals with this program full time. The incumbent reports to the Mayor's Office, through the Director of Administration, and is housed in the Office of Legal Counsel.

RECOMMENDATION 3

UniGov should clarify its affirmative action structure, so that authority, responsibility and accountability are explicitly defined. In particular, UniGov should allocate sufficient staff to the Affirmative Action Office, as has been proposed and held back so far because of budgetary constraints. The Department's use of part-time Affirmative Action Officers should be analyzed, and if it is decided to keep such a collateral duty for employees, a description of such collateral duties, with a specific percentage of work-time allocated to them should be established.

FINDING 4

UniGov's current affirmative action plan does not constitute an adequate affirmative action program, but rather a statement of policy and some procedural directives. It lacks the specifics that are generally identified with a comprehensive affirmative action plan that could be implemented.

RECOMMENDATION 4

UniGov should develop and implement a comprehensive affirmative action plan. That plan should include the following components:

- a specific written statement of policy issued by the Mayor based on appropriate legal authority;
- appointment of a top official with responsibility and authority to implement the plan;
- clear definition of the role to be performed by all managers, supervisors, and employees in the administration of the plan;
- workforce utilization analysis to determine areas of underrepresentation and concentration of minorities and women in the total workforce and in each department and job classification - in addition to a statistical comparison between utilization of minorities and women in UniGov and their representation in the relevant labor market. This analysis should examine recruitment, hiring, promotion, and separation practices; job descriptions; compensation including fringe benefits; and other aspects of personnel policy in order to identify potential barriers to equal employment opportunity;
- consultation with and communication of the policy to all employees and to the community in general, particularly to minority and women's groups and others who can contribute to successful implementation;

- numerical goals and timetables to eliminate areas of underutilization;

- specific programs developed in response to problems identified in the work force utilization analysis to facilitate achievement of the goals (including development of a complaint process consistent with other city regulations);

- evaluation system to guide necessary changes in the goals and programs.

FINDING 5

Ultimate responsibility for the success of any affirmative action program rests with the management and line supervisors in the work force. There is no emphasis on affirmative action as an element of good management, for which managers and supervisors are to be held accountable.

RECOMMENDATION 5

UniGov should direct its Personnel Department to prepare and issue standards for evaluating managers and supervisors with respect to their affirmative action performance. Evaluations of this management aspect of their jobs should be routinely included in any performance appraisals and salary reviews.

FINDING 6

There is a widespread perception among community groups in Indianapolis, particularly among those working with minorities and women, that UniGov lacks a serious commitment to equal employment opportunity and affirmative action. While this perception may not necessarily reflect reality, and the employment figures may indicate an adequate representation of minorities in the local government work force, the perception itself, if allowed to persist, is bound to create discontent and suspicion among those groups with respect to UniGov.

This perception is complemented and sustained by the repeated claims of lack of communication between UniGov and minority and women groups. While the city was able to point to a series of activities promoting this communication, a feeling remains among community groups that such communication is insufficient.

RECOMMENDATION 6

UniGov should make a concerted effort to make explicit and widely disseminate its policy of equal employment opportunity and affirmative action, for internal employment and outside contractors throughout the entire city of Indianapolis and Marion County. It should also utilize the minority and women networks, to promote the understanding of this policy, and to announce vacancies, recruitment efforts and other practices promoting equality of employment. The Affirmative Action Office, and the office of the Mayor, should establish ongoing communications with these groups, including regular or ad hoc contacts, to keep informed of the concerns of minority and women groups, and seek assistance in developing or implementing equality of opportunities in employment programs and affirmative action.

FINDING 7

UniGov has an explicit policy of affirmative action for all contractors doing business for the city-county government. It is set forth in Executive Order 3A of 1976 that establishes the Office of Contract Compliance. There are additional orders, and drafts for more explicit regulations, and diverse requirements for construction and

non-construction contracts. This Advisory Committee has been informed that UniGov is preparing a new, revamped policy and implementation process for its Contract Compliance with affirmative action.

RECOMMENDATION 7

UniGov should codify its affirmative action contracting provisions into a single directive, perhaps in the form of a new Executive Order. This directive should define what documentation should accompany a bid, and should require a formal affirmative action plan to be reviewed and approved at the time of pre-contract negotiations.

FINDING 8

UniGov subscribes to the Indianapolis plan, a cooperative, voluntary effort on affirmative action. There has been no detailed examination of the effectiveness of this home-town plan, and while it is desirable to have such voluntary compliance programs, the fact that a contractor is a signatory to the plan is not sufficient guarantee of its compliance. This guarantee would be strengthened if signing up with the Plan meant that the contractor's entire work force is covered by an affirmative action program.

RECOMMENDATION 8

The Office of Contract Compliance should evaluate the Indianapolis Plan to assess its effectiveness in assuring equal employment opportunity among UniGov contractors. The Office of Contract Compliance should also inform potential UniGov contractors that it will accept only those signatories to the Indianapolis Plan whose entire work force, not just employees working on a specific contract, is covered by an approved affirmative action plan.

FINDING 9

UniGov's Office for Contract Compliance is assigned not only the review of pre-award documentation in affirmative action, but also the general direction of the program, review of compliance during contract implementation, and resolution of complaints emanating from the Affirmative Action Plan. To accomplish this, the Office has only one professional employee and clerical assistance. Proposals have been made to assign additional staff to this office, but they have been held back because of budgetary constraints.

RECOMMENDATION 9

The Contract Compliance Office for UniGov should be fully staffed at the earliest possible time, so as to establish a credible and effective affirmative action program with all city contractors.

FINDING 10

UniGov, as well as other state and local governments today, is confronted with financial restraints that impact on the number of hires and may result in reductions in force in various functions and departments of government. The experience of other cities indicate that in these conditions when local governments lay off or dismiss employees because of budgetary needs, minorities are more likely to shoulder the burden of these actions.

RECOMMENDATION 10

UniGov should develop a plan for layoffs and dismissals taking into account the principles of affirmative action, so if a reduction in force becomes necessary because of budgetary restrictions, these decreases in work force do not impact disproportionately on minority and women employees.

FINDING 11

UniGov has established a system of internal investigation and disposition of complaints of discrimination in employment within its work force. Recent codification of this process in the Personnel Manual has defined it as separate from personnel grievance procedures related to working conditions other than equality in employment opportunity. This Advisory Committee still found two sets of differing regulations that defined this complaint process, one in the Personnel Manual and another in the Affirmative Action Plan.

RECOMMENDATION 11

UniGov should confirm the establishment of a single set of procedures for handling complaints of employment discrimination in its work force. This process should be communicated to all employees. The role of the Department Affirmative Action Officers should be defined as that of Equal Employment Counselors, in charge of the initial conciliation efforts to resolve complaints. Investigation and recommendations for complaint resolution should occur in a more formal internal stage, with the UniGov Affirmative Action Officer and with assistance as needed from Departments other than the Department complained against.

FINDING 12

Resolution of discrimination complaints rests at this time with the supervisor of the employee filing the complaint. Although the Department and/or the city-wide Affirmative Action Officer investigates the complaint, decides on its validity, and prepares determinations for action, the supervisor is entitled to the final decision on the solution of the complaint. There is no guarantee that the supervisor, under whose authority the complaint for alleged discrimination initially was raised, will follow the recommendations of the Affirmative Action Officer.

RECOMMENDATION 12

UniGov should refine its discrimination complaint process, so as to clarify and remove from the immediate supervisor the authority to accept or reject recommendations of the Affirmative Action Officers in cases where probable cause has been found by them in a discrimination complaint. The process should provide that recommendations from Affirmative Action Officers will go to higher level supervisors, preferably to the Department Director, to implement the remedies for the discriminatory practices identified by the investigation.

FINDING 13

The Indiana Civil Rights Commission legislation, while silent on the authority of the Commission to conduct independent equal employment reviews to root out system-wide employment discrimination by employers, explicitly bars the Commission from holding hearings in the absence of a specific complaint. This restriction curtails the Commission's efforts to eradicate discrimination in the absence of specific complaints.

RECOMMENDATION 13

The Indiana General Assembly should amend the Indiana Civil Rights Law to provide the Indiana Civil Rights Commission with authority to initiate investigations, hold hearings and issue orders even in the absence of formal employment discrimination complaints from employees. Such legislation could be patterned after similar authority given to the U.S. Equal Employment Opportunity Commission.

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