

## President Kennedy's E.O. 10925: Seedbed of Affirmative Action

By Judson MacLaury

The birth of a truly new federal policy is a relatively rare event. It is an especially meaningful one when that policy develops into a long-term, but highly contested, effort for social justice for minorities and the underprivileged. "Affirmative action," with its birth and infancy in the early 1960s, was just such a policy, and that early stage is the subject of this article. Affirmative action as an official policy of the federal government was unveiled on March 6, 1961, when President John F. Kennedy (JFK) issued Executive Order (EO) 10925 (the Order) requiring racial fairness in employment funded by the federal government. The Order required federally funded employers to "take affirmative action to ensure that applicants are employed . . .



Vice President Lyndon B. Johnson, Lockheed Corporation President Courtlandt Gross, President John F. Kennedy, and Secretary of Labor Arthur Goldberg sign plans for progress in equal employment in the Oval Office, May 25, 1961.

without regard to their race, creed, color, or national origin."<sup>1</sup> While issuance of the Order is widely recognized in the historical literature as the birth of affirmative action, and is frequently cited as such on the Internet, there has been very little discussion of exactly how EO 10925 was administered or how it implemented affirmative action.<sup>2</sup>

The Order did not define this somewhat mysterious term. Secretary of Labor Willard Wirtz (1962–69) later said that it had little specific meaning at the time beyond "taking the initiative" to help the underprivileged rather than just prohibiting discrimination.<sup>3</sup> But this deceptively simple distinction was comparable to the difference between the Old Testament Commandment "Thou shalt not murder" and the positive call of the Golden Rule to "Do unto others as you would have them do unto you."

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<sup>1</sup> John F. Kennedy, "Statement by the President Upon Signing Order Establishing the President's Committee on Equal Opportunity Employment," March 7, 1961, in John T. Woolley and Gerhard Peters, The American Presidency Project [online], Santa Barbara, CA. <http://www.presidency.ucsbl.edu/ws/?pid=8520>.

<sup>2</sup> The only extensive published treatment of which the author is aware is found in Hugh Davis Graham's magisterial *The Civil Rights Era: Origins and Development of National Policy, 1960–1972* (New York: Oxford Univ. Press, 1990). However, the discussion is interlaced with other matters, is not very cohesive, and it focuses to a large degree on bureaucratic and partisan political aspects. Graham argues that the Order did not represent a substantive change in approach for the Executive Branch, which in his view remained the long-established one of "colorblind" nondiscrimination. It is the contention of this article that the Order represented a marked departure from the past.

<sup>3</sup> Wirtz, Willard. June 15, 2004. Untranscribed interview by the author. Washington, DC; Wirtz, Willard. Dec. 11, 1998, Interview, Historical Office, U.S. Dept. of Labor (hereinafter DOL), 29.

The concept of “taking the initiative” pervaded the Order and the bodies and policies that it set in motion. In this paper, I discuss the course of affirmative action policies under EO 10925 in the early 1960s as the Order sought to boost long-standing executive branch efforts to fight discrimination in the workplace and to elevate that goal to a new prominence. After reviewing past executive action on equal employment opportunity (EEO) and early precursors of affirmative action, I discuss the origins, scope, and structure of the Order, as well as the start-up of the President’s Committee on Equal Employment Opportunity (PCEEO, or the Committee) that it created.

Once the PCEEO was operational, it developed its activities on two fronts: first, by effecting those functions explicitly defined by the Order, and second, by initiating ad hoc efforts and policies in response to political needs and reactions from the business and labor communities. Expected activities that will be discussed include processing individual complaints of employer discrimination, collecting racial data on employment from contractors and federal agencies, and promoting equal treatment by labor unions representing covered employees. The principal ad hoc programs included a largely successful and noncontroversial effort to mobilize most of organized labor under the Union Program for Fair Practices; a rule initiated by the PCEEO but implemented by the Department of Labor requiring equitable appointments of trainees into apprenticeship programs; and Plans for Progress, a sweeping effort to enlist voluntary cooperation from large defense and other government contractors in fighting discrimination in employment. Plans for Progress began with fanfare and widespread support but became mired in controversy and criticism, while the apprenticeship rule was challenged and resisted when proposed but accepted and effective after implementation.

It will be shown that in all of these efforts the vague, early concept of affirmative action manifested itself in a variety of ways as it informed the efforts of the PCEEO. Through its early trials and programs, the PCEEO established many of the working goals and guidelines for future affirmative action policies.

## Historical Background

EO 10925 was the latest in a long line of federal efforts, at first rather ad hoc and then more systematic, to promote fair employment.<sup>4</sup> During World War I, the federal Division of Negro Economics sought to mobilize the black labor force and integrate it into the worker-starved munitions industries. During the New Deal, many administrators insisted on racial fairness. They included Secretary of the Interior Harold Ickes, who banned racial discrimination in hiring by his Department, and by the Public Works Administration (PWA), which he also headed, and Secretary of Labor Frances Perkins, who eliminated segregation within her Department. The World War I and Depression-era efforts were temporary and died with the end of their respective national emergencies. Neither effort rectified long-standing exclusions of blacks from “whites-only” occupations.

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<sup>4</sup> For fuller discussion, see Judson MacLaury, *To Advance Their Opportunities: Federal Policies Toward African American Workers from World War I to the Civil Rights Act of 1964*. (Newfound Press, Univ. of Tennessee Library: Knoxville, 2008), chaps. 1–5.

However, with World War II, elimination of discrimination was adopted as federal policy when FDR issued EO 8802, creating the Fair Employment Practices Committee (FEPC), whose mission was to see that defense contractors did not discriminate against minorities. Unfortunately, the Committee had only qualified success, Congress failed to preserve the FEPC after the war, and for years segregationist Members blocked all efforts to revive it or to pass subsequent civil rights legislation. Presidents Harry S. Truman and Dwight D. Eisenhower were able to work around these obstructions by issuing a series of limited Executive Orders barring discrimination by government contractors or federal employers.<sup>5</sup> The FEPC and the later bodies all emphasized a voluntaristic, non-punitive approach to enforcement. As we shall see, the Order and the Committee, while plowing much new ground, largely retained this approach.

The term “affirmative action” also had a history. The first known federal use of the phrase had nothing to do with discrimination. The National Labor Relations Act of 1935 used the phrase in requiring that special action be taken to provide redress to employees victimized by unfair labor practices. During the New Deal, Harold Ickes instituted racially proportional hiring in certain PWA construction projects. During World War II, the FEPC considered, but did not adopt, a requirement that defense contractors take “affirmative action such as employment, reinstatement, and payment of back pay.” State FEPCs, however, often had the authority to order “affirmative action” by employers.<sup>6</sup>

By 1960, “affirmative,” “affirmative action,” and similar phrases were in common use by those calling for more aggressive governmental efforts to deal with civil rights. It was a loose approach whose distinctive tenet, in the workplace context, was that employers should go beyond passively avoiding discrimination to hire and promote minority employees. At times the term was applied in a public relations sense to dress up federal civil rights programs and gain support from the black community. Affirmative action became a kind of shibboleth expressing the activist spirit of John F. Kennedy’s so-called “New Frontier.”<sup>7</sup> The increasing use of “affirmative action” as a term, and its adoption as national policy in 1961, can be seen as responses to the more-than-affirmative assertions of their rights that African Americans in large numbers were taking in the late 1950s and early 60s. Among these actions were the Montgomery bus boycott, mass marches, and, in 1960, the powerful lunch-counter sit-in movement.

### EO 10925 and the PCEEO

Just as EO 8802 institutionalized executive action against racial discrimination in employment, EO 10925 institutionalized affirmative action. On March 6, 1961, President John F. Kennedy announced, at a press conference and with great fanfare, issuance of this order and creation of the PCEEO.<sup>8</sup> Vice President Lyndon Johnson was to be Chair, and Secretary of Labor Arthur Goldberg, a strong supporter of civil

<sup>5</sup> Office of History & Preservation, Office of the Clerk, *Black Americans in Congress, 1870–2007*, <http://baic.house.gov/historical-essays> (accessed Sept. 13, 2009).

<sup>6</sup> Paul D. Moreno, *From Direct Action to Affirmative Action: Fair Employment Law and Policy in America, 1933–1972* (Baton Rouge: Louisiana State Univ. Press, 1997), 189; Merl E. Reed, *Seedtime for the Modern Civil Rights Movement: The President’s Committee on Fair Employment Practice, 1941–1946* (Baton Rouge, LA: Louisiana State Univ. Press, 1991), 111–12; MacLaury, *To Advance Their Opportunities*, 172, and see also chaps. 2 and 3.

<sup>7</sup> Graham, *The Civil Rights Era*, 28, 33–34.

<sup>8</sup> For a fuller discussion of EO 10925 and the PCEEO see MacLaury, *To Advance Their Opportunities*, chaps. 6–9.

rights, was Vice Chair, with responsibility for the operations of the new Committee. The Order required fair hiring and promotion practices in both federal contract employment and within the government itself. It also called for detailed reports on employment in both realms. The principal mechanism for enforcing compliance among contractors, as in previous executive orders, was a clause, now strengthened, requiring them to give equal opportunity in hiring, regardless of race, creed, religion, or national origin. Federal agencies would be the principal administrators, with the Committee overseeing the effort. The Committee and its representatives would have the power to debar violators and issue other sanctions, investigate individual complaints of discrimination from employees, and conduct hearings.

The Order not only incorporated the phrase “affirmative action,” but many of its provisions embodied the idea of doing something extra. For example, for the first time organized labor was subject to requirements for equal opportunity that the federal government had formerly expected only contract employers to meet. This action was in response to the complaints by civil rights leaders regarding long-standing discriminatory union policies. The Order also called on the PCEEO to suggest “affirmative steps” for federal agencies to promote nondiscrimination for their own employees. This completed the triangle of employment over which the federal government had jurisdiction: contract employers, unions representing their employees, and federal employers.

Affirmative action was tempered by the previously mentioned voluntaristic approach to Equal Employment Opportunity (EEO) that had become an integral element of executive action. The agency compliance officers who were to work with the PCEEO were counseled in the Order itself to avoid confrontation and conflict and seek compliance through “conference, conciliation, mediation, or persuasion” whenever possible. Legal action, contract cancellation, and contractor debarment were to be invoked sparingly, and in reality were seldom utilized. Federal agencies were required to institute conferences, conciliation, and other voluntary measures.<sup>9</sup>

### Start-Up of the PCEEO

Even before the Committee met for the first time in April 1961, Vice Chair Goldberg gave strong indications that an affirmative approach would permeate much of its functioning. Goldberg was determined to see his Department of Labor become a civil rights model. On March 7, 1961, the day President Kennedy announced the Order, Goldberg issued a memo to Department of Labor employees on the White House initiative, calling it “a vigorous, positive program to ensure that all Americans . . . will have equal access to employment opportunities.”<sup>10</sup> He included a call for affirmative action in federal employment:



Meeting of the President's Committee on Equal Opportunity, Cabinet Room, April 11, 1961. From left: Secretary of Commerce Luther Hodges, Secretary of Labor Arthur Goldberg, President John F. Kennedy, and Vice President Lyndon B. Johnson.

<sup>9</sup> Press Release, April 5, 1961, Historical Office, DOL.

<sup>10</sup> Sec. Goldberg to DOL Employees, Mar. 7, 1961, White House, Box 23, General Records of the Department of Labor, Record Group (RG) 174, National Archives at College Park, Maryland (hereinafter NACP).

IT IS MY INTENTION THAT THERE SHALL BE NO RACIAL OR RELIGIOUS BARRIERS TO EMPLOYMENT AT ANY LEVEL IN THIS DEPARTMENT. . . . WE ARE TAKING AFFIRMATIVE STEPS TO ACQUAINT MEMBERS OF MINORITY GROUPS WITH THE OPPORTUNITIES FOR EMPLOYMENT THAT EXIST IN THIS DEPARTMENT AND IN THE GOVERNMENT GENERALLY. [Emphasis not added]<sup>11</sup>

Goldberg appointed three African Americans to high positions in the Department of Labor. Preeminent among them was George L. P. Weaver, who would later serve as U.S. representative to the International Labor Organization. Goldberg also decided to recruit black college graduates for career positions in the department, sending his personnel director, Edward McVeigh, on a four-week recruiting trip to 17 black colleges. Concerned that affirmative action might deprive qualified white students of job opportunities if improperly implemented, Goldberg stressed that the department would “follow the same staffing procedures, and qualify [the black students] in the same examinations or evaluations as others seeking employment or promotion. To do otherwise would in itself be a form of discrimination.”<sup>12</sup>

The Committee was called to its inaugural meeting on April 11, 1961, in a high-profile event in the White House Cabinet Room. President Kennedy spoke, stressing that EO 10925 was “both an announcement of our determination to end job discrimination once and for all, and an effective instrument to realize that objective.” Kennedy noted that the Committee was not an honorary body, but had important enforcement powers that he expected to be firmly applied. At the same time, he sought to calm fears that the Committee would be heavy-handed and intrusive in the nation’s workplaces. He stressed that its responsibilities were to be discharged “with fairness, with understanding, with an open mind, and a generous spirit of cooperation.” Echoing Kennedy’s sentiments, Vice President Johnson used a phrase that became an unofficial motto of the Committee, asserting that “we mean business.”<sup>13</sup> Underlining the affirmative action orientation, Johnson concluded:

The President’s Executive Order is framed not merely in the negative terms of avoiding discrimination, but in the positive direction of taking steps to make sure that all persons . . . have a full opportunity to participate in [government-funded] employment. . . . It is your obligation . . . to see that this positive and affirmative program is fulfilled, in spirit as well as in letter.<sup>14</sup>

In a follow-up to the inaugural meeting, the Committee held separate group meetings with heads of the 50 largest defense contractors on May 2, and with leaders of major labor unions the next day. The Committee sought to gain the support of both business and labor and to engage both sectors in the national effort. President Kennedy addressed both meetings and won from each group a pledge to cooperate with the PCEEO.<sup>15</sup>

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.; Sec. Goldberg to Vice President Johnson, Mar. 9, 1961, White House, Box 23, RG 174, NACP; Wirtz interview, Dec. 11, 1998, 14–17; Press Release, Feb. 17, 1961, Historical Office, DOL; Vice President Johnson to Sec. Goldberg, Mar. 11, 1961, White House, Box 23, RG 174, NACP.

<sup>13</sup> First Meeting of PCEEO [minutes], Apr. 11, 1961, PCEEO, Box 42, RG 174, NACP. Executive Vice Chair Jerry Holleman reminded the members that they were expected to attend meetings in person whenever possible rather than relying on proxies.

<sup>14</sup> Ibid.

<sup>15</sup> PCEEO, *Information Newsletter*, June 1961; Statement by Sec. Goldberg, PCEEO Press Release, May 2, 1961, PCEEO, Box 42, RG 174, NACP.

The Committee's staff and budget were minuscule compared with its enormous, high-profile mission. It began with a staff of 40 full-time workers left over from Eisenhower-era EEO committees. There were 31 positions in Washington, DC, and 9 in Chicago and Los Angeles.<sup>16</sup> As specified in the Order and in compliance with the Senate's Russell Amendment, which since 1944 had severely limited funding of all presidential committees, the PCEEO received its moneys from the contracting departments and agencies. No single agency was allowed to provide more than 50 percent of the total budget, which was capped at \$500,000 per year. However, the agencies were permitted to contribute staff and other non-budgetary assistance. The Department of Labor provided office space and facilities.<sup>17</sup>

By June 1961 the Committee had filled most of its top staff positions. To serve as Executive Director, Johnson appointed John Feild, a civil rights activist with roots in the labor movement, including service as a staff member on the Michigan Fair Employment Practices Commission.<sup>18</sup> The other principal position, head of the Office of Special Counsel (OSC), was filled by Hobart Taylor, Jr., a successful black lawyer and the son of a Houston businessman who had a long-standing political and business relationship with Johnson. Taylor had served on the committee that prepared EO 10925 and was the principal drafter. He claimed responsibility for inserting the phrase "affirmative action." Ironically, Taylor was a racial and civil rights moderate who did not arouse enthusiastic support from more activist Committee members. Willard Wirtz, who became Secretary of Labor in September 1962 and took over as Vice Chair, later stated that Taylor's was "not a fire-cracker approach."<sup>19</sup>

Taylor's first task as General Counsel was to draft the permanent rules and regulations defining the PCEEO's procedures. Working with the Committee, Taylor toned down some of the enforcement sanctions contained in the Order and operated under the assumption that



Executive Vice Chairman of the President's Committee on Equal Opportunity Hobart Taylor, Jr., speaks at a ceremony for signing the Plans for Progress in the State Dining Room, January 17, 1963.

greater cooperation could be secured . . . through the development of procedures which would eliminate unnecessary paperwork, which would be simple to handle, and which would at the same time afford an opportunity for a fair and reasonable hearing to all who complain of discrimination.<sup>20</sup>

<sup>16</sup> Graham, *The Civil Rights Era*, 46.

<sup>17</sup> Carl M. Brauer, *John F. Kennedy and the Second Reconstruction* (New York: Columbia Univ. Press, 1977), 80.

<sup>18</sup> Report of the President's Committee on Equal Employment Opportunity, *The First Nine Months*, Jan. 15, 1962, 49–52.

<sup>19</sup> PCEEO, *Information Newsletter*, June 1961, July 1962; Jerry Holleman to Agency Heads, Apr. 28, 1961, PCEEO, Box 42, RG 174, NACP; *The First Nine Months*, 2–3, 49–52; Statement by Arthur Goldberg, PCEEO Press Release, May 2, 1961, PCEEO, Box 42, RG 174, NACP; *Rules and Regulations*, President's Committee on Equal Employment Opportunity, Effective July 22, 1961 (Washington: Government Printing Office, 1961); Graham, *The Civil Rights Era*, 33, 48; Wirtz interview, June 15, 2004.

<sup>20</sup> *The First Nine Months*, Jan. 15, 1962, 49–52.

Despite Taylor's efforts at moderation, when the proposed rules were published in the *Federal Register* in July 1961, they drew a blistering response from Senator Lister Hill, a segregationist Democrat from Alabama. In a letter to the Committee protesting both the proposed rules and the very existence of the Committee itself, Hill charged that the PCEEO "represented both an unauthorized and unwise extension of Federal interference with and control of the Nation's private businesses in the name of so-called equal employment opportunity." Furthermore, he charged, EO 10925 and the rules were

an unconstitutional usurpation of the legislative powers of the Congress. . . . The full power of inquiry and investigation authorized will vex and harass those doing business with the government to the point where orderly plant management and efficient production could well be impossible.<sup>21</sup>

Ignoring Senator Hill's condemnation, the Committee finalized its rules proposal virtually unchanged.

As the compliance effort progressed, an unexpected phenomenon emerged. The PCEEO began receiving evidence of antidiscriminatory actions taken voluntarily by a number of companies around the country. In some cases, the elimination of racial barriers at one plant spread spontaneously to other plants and then to companies within and beyond the local area. The PCEEO newsletter, *Information*, reported regularly on this "snowballing effect."<sup>22</sup> The Committee received numerous anecdotes demonstrating what it called a "quiet change." At many locations around the country, blacks were being hired in occupations and industries in which they had been seriously underrepresented or even completely locked out. Examples included production jobs in South Carolina textile plants, tobacco production in North Carolina, technical and clerical jobs in oil production facilities in the St. Louis area, and skilled electronics jobs in Dallas.<sup>23</sup>

### Plans for Progress

An unplanned application of affirmative action to large defense contractors greatly expanded the impact of the PCEEO and almost turned the phenomenon into a proverbial tail that wagged the dog. On April 6, 1961, Herbert Hill of the NAACP filed complaints with the Committee about discrimination at Lockheed Corporation's Marietta, Georgia, aircraft plant. The manufacture of the Air Force's new C-141 jet transport had just begun there, under the largest military procurement yet conducted. The Marietta plant was a segregated facility, and the small number of existing black employees were concentrated in low-level jobs.<sup>24</sup>

After the NAACP filed its complaints, the PCEEO launched an investigation. John Feild flew to Lockheed's headquarters in California to meet with company president Courtlandt Gross to try to persuade him to take strong steps to resolve the complaints. Defense Secretary Robert

<sup>21</sup> Senator Lister Hill to PCEEO, July 12, 1961, PCEEO, Box 43, RG 174, NACP.

<sup>22</sup> *The First Nine Months*, 2-3, 36; PCEEO, *Information* Newsletter, July 1961.

<sup>23</sup> PCEEO, *Information* Newsletter, Sept. 1961.

<sup>24</sup> Graham, *The Civil Rights Era*, 47-49.

McNamara backed Feild and the PCEEO.<sup>25</sup> Lockheed immediately removed “White” and “Colored” signs from rest rooms, drinking fountains, and cafeterias at the Marietta plant. In a ceremony on May 25, 1961, Gross and Committee Chair Lyndon Johnson formally agreed to what they called a “Plan for Progress” to eliminate discrimination in hiring and promotions. President Kennedy’s presence at the event heightened its significance. The plan was not a contract but a voluntary statement of Lockheed’s intentions. Kennedy hailed it as a “milestone” in civil rights, asserting that it was “setting a pattern” for voluntary action in achieving equal employment opportunity.<sup>26</sup>

Kennedy proved to be prophetic. Committee members quickly realized the potential of Lockheed-style voluntary compliance efforts both to expand the scope of the cash-strapped PCEEO and also to free contracting agencies to concentrate on compliance and other responsibilities under the Order.<sup>27</sup> With the President’s backing, the Committee decided to promote Plans for Progress (PFP) throughout the entire defense contracting sector. PFP was the most innovative effort of the PCEEO and quickly became one of its principal means for implementing affirmative action. PFP agreements were to be tailored to each firm, but all would include the following elements: a statement of policy in support of equal employment opportunity, a list of specific steps the firm planned to take to implement it, and specific types of assistance the PCEEO would provide.



Officials from 20 of the nation’s leading companies pose during the ceremony signing the Plans for Progress by the President’s Committee on Equal Opportunity, State Dining Room, January 17, 1963.

The PFP was not to be a regular PCEEO compliance program. It would not attempt to identify specific discriminatory actions and measure progress by the degree to which they were eliminated. Rather, progress was to be gauged in terms of employment results. The questions to be answered were 1) did the employer increase the numbers of minorities it employed; and 2) did the employer raise the income and skill levels of those already employed? This emphasis on results was yet another implicit manifestation of affirmative action. While no specific racial hiring goals were adopted, employers were expected to go out of their way to recruit and promote blacks and other minorities.<sup>28</sup>

The real sparkplug of the PFP was prominent white Atlanta attorney Robert Troutman, who had been appointed to the PCEEO to add regional balance. Troutman was an ambitious entrepreneur, a south-

<sup>25</sup> Support in this case later grew into a broader commitment to the PCEEO by the Pentagon that included provision of both policy and staff support in other defense contract enforcement actions.

<sup>26</sup> PCEEO, *Information Newsletter*, June 1961; Graham, *The Civil Rights Era*, 47–49.

<sup>27</sup> *The First Nine Months*, 36.

<sup>28</sup> *The First Nine Months*, 2; Moreno, *From Direct Action to Affirmative Action*, 191–92.



ern racial progressive, and something of a self-promoter who cultivated ties with JFK. He saw great potential in the nascent program for “doing well by doing good” and immediately became its most enthusiastic supporter. He persuaded the PCEEO to set up a special committee to administer the PFP and got himself appointed chair.<sup>29</sup> To help the program get started, he set up its offices next to his law firm in Atlanta and, in an unusual public-private partnership, paid the operating expenses himself.<sup>30</sup>

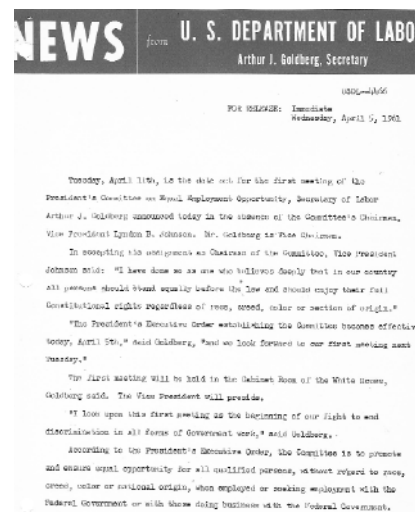
With Troutman at the helm and actively recruiting contractors, the PFP grew rapidly. On July 12, 1961, the CEOs of 8 major contractors signed PFP agreements at the White House, with Kennedy presiding. On November 30, 12 more CEOs signed on at a White House ceremony.<sup>31</sup>

Troutman now began to seek the voluntary participation of business leaders who were legally beyond the reach of EO 10925.<sup>32</sup> By June 22, 1962, in another ceremony with the President, the CEOs of 33 major corporations signed up, bringing the total to 85. The June enrollment culminated the effort to expand beyond the defense industry. A large number of these firms were purely civilian and doing private-sector work in communications, metal production, chemicals, and manufacturing.<sup>33</sup>

### Progress, Problems, Reforms

Buoyed by the surging PFP, Johnson and Goldberg released a glowing report on the PCEEO's progress on April 3, 1962. Titled “The First Nine Months,” the report covered the period from April 1961 through January 1962. At a press conference, they asserted that the PCEEO had, in Goldberg's words, “cut a big hole” in workplace discrimination.<sup>34</sup> These assertions came, however, in the face of mounting criticism, not from racial conservatives like Lister Hill but, surprisingly, from allies in the black community. Many were disappointed and angry that the PCEEO had not made greater progress. In a March 9, 1962, letter, C. Sumner Stone, editor of the *Washington Afro-American* newspaper, complained to Johnson about all aspects of the Committee. Stone reserved particularly harsh words for the PFP, charging that it

has been more of a publicity sham than an accomplishment deserving of further continuation. Under Robert Troutman, the emphasis has been on voluntary compliance with a total absence of compulsion. . . . [A]ffirmative action is needed, not paper-made programs tailored to the whims of one man.<sup>35</sup>



The Department of Labor press release of April 5, 1961, announced the first meeting of the PCEEO.

<sup>29</sup> The subcommittee's other members included progressive businessmen Edgar Kaiser and Fred Lazarus, Jr.; UAW president Walter Reuther; and DHEW secretary Abraham Ribicoff.

<sup>30</sup> Graham, *The Civil Rights Era*, 50–52; Report to the President by the PCEEO, Washington, DC, Nov. 26, 1963, 108.

<sup>31</sup> PCEEO, *Information Newsletter*, July and Sept. 1961, Jan. 1962.

<sup>32</sup> Report to the President by the PCEEO, [Nov. 26, 1963, Washington, DC, 109.

<sup>33</sup> PCEEO, *Information Newsletter*, July 1962.

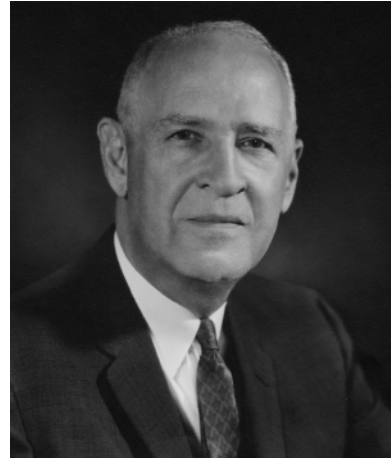
<sup>34</sup> John McCully to Jerry Holleman (with attachments), Apr. 2, 1962, PCEEO, Box 156, RG 174, NACP.

<sup>35</sup> Sumner Stone to Vice President Johnson, Mar. 9, 1962 [Under Mar. 28, 1962], PCEEO, Box 155, RG 174, NACP.

Shortly afterward, Herbert Hill sent Goldberg an even harsher critique. Hill conceded that EO 10925 was “a vast improvement in policy,” but he feared that “conservative Southern forces in Congress will be allowed to strangle the anti-discrimination employment program.” Regarding Troutman, Hill charged that the PFP “yield[s] high returns in press notices and only superficial and token results in new job opportunities.” He claimed that participants treated PFP like a grant of immunity from compliance.<sup>36</sup>

Hill and Stone had allies within the PCEEO who were also critical of both the PFP and Troutman. Compliance-oriented equal rights professionals like John Feild felt that Troutman over-emphasized voluntarism and did not recognize the importance of enforcement. The PCEEO and PFP became subject to the heightened expectations aroused both by the ongoing civil rights revolution and by the federal government’s promise of affirmative action in employment.

Johnson followed the internal debates and external critique with great concern. He began meeting with civil rights leaders and monitoring the PFP closely. When it became clear that the critics were not going away, Johnson commissioned an independent study of the PCEEO as a whole, including recommendations for change. To head the effort, he selected Theodore Kheel, a colorful and dynamic private mediator who had helped draft the Order. His report was due July 1, 1962.<sup>37</sup>



Senator Lister Hill of Alabama strongly opposed affirmative action.

The Committee and the PFP had already begun responding to the critics. In a government-wide memo, the Committee made it clear that the purpose of the PFP was to supplement, not supplant, compliance with the Order. It stressed that agencies should closely monitor all participating contractors.<sup>38</sup> Troutman saw that his days were numbered, and in June he announced he would resign at the end of August. Jerry Holleman, an Assistant Secretary of Labor who also served as the Executive Director of the Committee and who came under fire from critics, had resigned from the government in May.<sup>39</sup>

The Kheel Report, issued on schedule, focused on federal contractors and the PFP.<sup>40</sup> It called on the Committee to use the threat of sanctions more forcibly to encourage the voluntary cooperation that was the basis of its program. Regarding Plans for Progress, Kheel praised Robert Troutman for extending the program to employers who did not hold government contracts and were therefore under no legal obligation to comply with the Order. He even argued that the PFP “has

<sup>36</sup> Herbert Hill to Sec. Goldberg, Apr. 11, 1962, PCEEO, Box 156, RG 174, NACP; Moreno, *From Direct Action to Affirmative Action*, 191–92.

<sup>37</sup> Graham, *The Civil Rights Era*, 51–57.

<sup>38</sup> Jerry Holleman to Federal Agency Heads, May 11, 1961, PCEEO, Box 156, RG 174, NACP.

<sup>39</sup> Graham, *The Civil Rights Era*, 57–58; Press Release, May 11, 1962, Historical Office, DOL. Holleman was forced to leave government because of his involvement in a corruption scandal involving Billie Sol Estes, a Lyndon Johnson associate from Texas.

<sup>40</sup> Kheel Report, July 1962, PCEEO, Box 156, RG 174, NACP.

proved in some ways to be [the PCEEO's] most notable" program. Nevertheless, he stressed that improvements were badly needed, both to make the PFP more effective and also to assure that it would be more acceptable to the civil rights community. Kheel found that the performance of PFP participants often varied greatly from one division of a firm to another, which was partly the result of a lack of adequate follow-through and assistance by PFP staff.

Kheel devoted most of his report to improving the impact and efficiency of the Committee. His critique of the PFP was relatively mild. Perhaps this was a recognition that to a large extent its troubles stemmed from its own success in attracting participants, of whom it was unable to legally require the improvements it sought. Kheel may also have been reluctant to criticize a program that the White House regarded as a success.

Indeed, the PFP had produced some measurable results, according to a survey of 38 participating firms that Robert Troutman provided before his departure. In the period covered, according to the report, these companies would have hired an estimated 1,200 African Americans without Plans for Progress, based on previous hiring history. Instead, these companies hired 4,900 blacks, or four times the expected number.

Nevertheless, it was clear that the PFP needed a makeover. With prodding from liberal critics and guidance from Johnson and other federal officials, the Committee decided to bring the whole program along more slowly and try to ensure the effectiveness of existing PFP efforts and its own procedures. Recruitment of PFP participants was greatly curtailed, Troutman's Atlanta headquarters was moved to Washington and consolidated with the Committee's office, and a new advisory committee served as a watchdog over the program. The PFP was far from gutted, however. President Kennedy believed it had achieved impressive results. He feared that downplaying the program too much would cause firms to drop out and make his administration look bad. In the end, recruitment of new participants resumed, though at a slower pace.<sup>41</sup>

### **Affirmative Action in Unions and the Federal Workforce**

On a parallel path with the business-centered Plans for Progress was a much less controversial, yet critical, affirmative action provision that Executive Order 10925 directed at organized labor. It specified that labor was subject to the provisions of the Order just like employers. Organized labor had become generally supportive of the civil rights movement, and beginning in the 1930s many unions had actively sought to admit African American members. But other unions, particularly those in the segregated South, protected the interests of their white members and either refused to admit blacks or relegated them to low-paying job categories.<sup>42</sup>

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<sup>41</sup> "Plans for Progress, One-Year Goals and One-Year Results," Memorandum to the President and the Vice President, Aug. 20, 1962, PCEEO, Box 156, RG 174, NACP.

<sup>42</sup> Timothy J. Minchin, *The Color of Work: The Struggle for Civil Rights in the Southern Paper Industry, 1945–1980* (Chapel Hill, NC: Univ. of North Carolina Press, 2001), 9–10.

After President Kennedy's May 1961 meeting with union leaders at the White House, a group of union leaders and the PCEEO began working together on a specific vehicle for mobilizing organized labor.<sup>43</sup> The Committee eventually reached an accord with the AFL-CIO covering 115 international unions and 11 million union members. At a White House ceremony in November 1962, the Union Program for Fair Practices (UPFP) was born. Under it, participating unions signed statements promising to apply equal treatment policies in all employment, not just government contract work; to accept into membership and treat equally all applicants, without regard to race; to work to eliminate segregation in local unions; and to negotiate equal treatment clauses into collective bargaining agreements.<sup>44</sup>

The labor movement participated extensively in the UPFP. AFL-CIO president George Meany appointed a committee to work with the departments of the AFL-CIO and the local labor councils to develop antidiscrimination strategies. He established biracial committees in more than 800 Central Labor Councils. Further, he initiated regular consultations by the AFL-CIO's Civil Rights Department with the PCEEO and with the international unions to identify problems. The Civil Rights Department also regularly informed the PCEEO about voluntary actions unions were taking and, on the PCEEO's behalf, investigated complaints filed by affiliated unions.<sup>45</sup>

The Committee and UPFP unions and councils in all parts of the country worked hard to fight discrimination, and, while it remained a scourge in the labor movement, they scored some significant gains. The UPFP played a key role in launching unions in the papermaking industry, a southern-based sector that employed large numbers of blacks, on a course toward elimination of segregation in their locals.<sup>46</sup> The United Steel Workers of America largely eliminated discrimination in Birmingham, Alabama, steel mills, and the United Auto Workers corrected inequities in a plant in the South where complaints had been lodged with the PCEEO. On the West Coast, the Marine and Shipbuilding Workers, working with the PCEEO, eliminated segregation in its locals.<sup>47</sup>

Like executive orders in previous administrations, EO 10925 required all federal government agencies to assure fairness in hiring, training, and promotions of their employees. The difference was that the program was administered more vigorously under the affirmative action approach. A poster that the Committee required in every federal workplace promised fair investigation and remediation of any complaints of discrimination and provided assurance that "there shall be no fear of reprisal on the part of the complainant."<sup>48</sup> Shortly after issuing EO 10925, President Kennedy broadened its scope to include recreational associations that federal agencies provided

<sup>43</sup> Boris Shiskin to Sec. Goldberg, June 30, 1961, PI-6-3-6, Box 89, RG 174, NACP; and Sec. Goldberg to Francis Shane, United Steelworkers of America (further correspondence attached), Aug. 17, 1961; Walter Reuther to Sec. Goldberg, Nov. 28, 1961; and Francis Shane to Sec. Goldberg, Nov. 29, 1961, all in PCEEO, Box 43, RG 174, NACP.

<sup>44</sup> Wirtz interview, June 15, 2004; PCEEO meeting [minutes], Feb. 15, 1962, 64–65, PCEEO, Box 155, RG 174, NACP; *The American Dream—Equal Opportunity*, Report, Community Leaders' Conference Sponsored by the President's Committee on Equal Employment Opportunity, May 19, 1962 (Washington, DC: 1962), 13; *The First Nine Months*, 62; PCEEO, *Information Newsletter*, Sept. 1961; Report to the President by the PCEEO, Washington, DC, Nov. 26, 1963, 2, 118–27.

<sup>45</sup> AFL-CIO Release, June 28, 1963, PCEEO, Box 66, RG 174, NACP; Report to the President by the PCEEO, Nov. 26, 1963, 119; Sec. Wirtz to George Meany, Mar. 14, 1963, PCEEO, Box 65, RG 174, NACP.

<sup>46</sup> Minchin, *The Color of Work*, 111–12.

<sup>47</sup> Report to the President by the PCEEO, Nov. 26, 1963, 119–20.

<sup>48</sup> Jerry Holleman to Agency Heads, Oct. 23, 1961, PCEEO, Box 43, RG 174, NACP.

for their employees. These associations, never subjected to previous executive orders, were barred from using either federal facilities or the name of the agency with which they were associated if they were found to practice discrimination.<sup>49</sup>

By June 1962, the PCEEO had developed what Feild described as “a comprehensive affirmative action program” for federal employees. It included a series of conferences and training programs, meetings with a new sub-Cabinet working group on civil rights, and regional meetings at which the PCEEO introduced its program to 1,300 federal supervisors at facilities employing half a million federal workers. The Departments of Defense, Commerce, Justice, Labor, and Health, Education, and Welfare; the Civil Service Commission; the General Services Administration; and the National Aeronautics and Space Administration launched recruitment programs to hire minority workers at the skilled and professional levels, just as the Labor Department had done through its recruiting efforts in early 1961.<sup>50</sup> At Johnson’s instigation, the Committee instructed agencies to determine whether any of their minority employees had been denied advancement because of race or other personal characteristics. The agencies were then to remedy the situation whenever possible.

The results were measurable. In the period 1961–63, 101,448 new employees were added to federal payrolls. Because of affirmative action, 19,273 of them were African Americans, or 19 percent of the new hires.<sup>51</sup> However, most were still placed in sub-professional positions, and the relatively low overall proportion of black federal employees rose only slightly.<sup>52</sup>

Federal agencies sought to make better use of their workforces, particularly their African American employees. The Departments of Defense, Commerce, Labor, and others promoted or provided training for hundreds of low-paid minority employees.<sup>53</sup> Also the PCEEO directed the Civil Service Commission to ensure that all federal employees had equal access to job training.<sup>54</sup> Government-wide increases were reported in the hiring and promotion of blacks in professional, managerial, and policy-making positions. Despite this progress, African Americans were still woefully underrepresented in these high-level federal jobs. Now the problem was not so much one of outright discrimination but of finding sufficiently qualified and trained applicants.

### PCEEO/DOL Apprenticeship Rule

By spring 1963, PCEEO staff had begun working on a proposal to deal with the problem of discrimination in admissions to apprenticeship programs, which commonly favored the children of union members. These efforts took on new urgency with the national outcry after televised images of

<sup>49</sup> JFK Memo to Executive Departments, Apr. 18, 1961, PCEEO, Box 42, RG 174, NACP.

<sup>50</sup> John Feild to Sec. Goldberg, June 22, 1962, PCEEO, Box 156, RG 174, NACP; Report to the President by the PCEEO, Nov. 26, 1963, 29–30.

<sup>51</sup> Report to the President by the PCEEO, Nov. 26, 1963, 34–39; Moreno, *From Direct Action to Affirmative Action*, 193.

<sup>52</sup> *The First Nine Months*, 1; Report to the President by the PCEEO, Nov. 26, 1963, 3; *The American Dream—Equal Opportunity*, 11; John Hope Franklin and Alfred A. Moss, Jr., *From Slavery to Freedom: A History of African Americans*. 7th Edition (New York: Alfred A. Knopf, 1994), 500.

<sup>53</sup> Report to President by PCEEO, Nov. 26, 1963, 29.

<sup>54</sup> PCEEO Meeting, July 18, 1963, PCEEO, Box 64, RG 174, NACP.

violence in Birmingham, Alabama, where Bull Connor used police dogs and fire hoses on black civil rights marchers. The Birmingham violence prompted the President to issue orders on June 4, 1963, to executive departments to accelerate their antidiscrimination efforts. In one of these orders, Kennedy directed Secretary Wirtz to immediately “require that the admission of young workers to apprenticeship programs be on a completely non-discriminatory basis.” Wirtz was aware that the Committee was already drafting a similar requirement. With their cooperation he was able, in a sense, to pull a virtually complete rule out of the desk drawer. To enforce nondiscrimination, the rule relied on the Labor Department’s authority under the National Apprenticeship Act of 1937 to register apprenticeship programs that met federal standards.<sup>55</sup> The threat of withholding this valuable seal of approval was a powerful incentive for programs to pass muster.

On June 5, the day after Kennedy’s order, Wirtz issued the proposal as a Departmental rule administered by the Bureau of Apprenticeship and Training (BAT). It was destined to arouse strong opposition from business, labor unions, and workers alike. Typically, apprenticeship programs for each skilled trade in an area were operated jointly by the relevant trade unions and the major employers involved. Unions and employers valued the relative autonomy and freedom the BAT allowed them as they administered their programs. Perhaps more importantly, through admission preferences given to children of journeymen, families had been able to pass down the same skilled trade from father to son for generations. The family-tie system had become part of the fabric of their lives. Any interference, however noble the goal, was bound to arouse fierce opposition. However, the practice amounted to *de facto* racial discrimination since almost all journeyman construction workers were white because of the long-time exclusion of blacks from construction unions.<sup>56</sup>

Recognizing the passions and the potential resistance to regulation in this area, Wirtz offered a cannily crafted, two-pronged compromise, presented in identical letters to 30 state apprenticeship offices.<sup>57</sup> The first prong of the rule required “The selection of apprentices on the basis of merit alone, in accordance with objective standards which permit review, after full and fair opportunity for application.” This seemed to ban outright the father-son system or any other type of favoritism not related to merit. But then came the second prong, the exception, which continued, “unless the selections otherwise made would themselves demonstrate that there is equality of opportunity.”

This part suggested to apprenticeship programs, in effect, that if they enlisted enough minority applicants to satisfy the government, the bureau did not need to know what selection process was used. So the apprenticeship program could continue to allow a considerable degree of family favoritism as long as there was some unspecified increase in participation by minorities. This approach made two concessions to labor and management: they could keep the family-



Willard Wirtz served as Secretary of Labor from 1962 to 1969.

<sup>55</sup> Statement of the President, June 4, 1963, PCEEO, Box 66, RG 174, NACP; MacLaury, *To Advance Their Opportunities*, 231; The National Apprenticeship Act (The Fitzgerald Act), 29 U.S.C. 50.

<sup>56</sup> Moreno, *From Direct Action to Affirmative Action*, 193–97.

<sup>57</sup> Sec. Wirtz to state apprenticeship offices (30 letters), June 5, 1963, PCEEO, Box 66, RG 174, NACP.

favoritism system, only slightly diminished; and they could also keep federal investigators from sniffing around their selection process. This was designed to give them a strong incentive to reach out to minorities.

It soon became clear, however, that, despite the Department's calculated concession to the status quo, the bulk of the apprenticeship community was not happy with this new rule. As soon as the Department issued the rule, it received strong objections from both labor and management. Undaunted by the growing opposition, the Department withdrew the rule but immediately issued in its place a formal proposed federal regulation that was published in the *Federal Register* for public comment on October 23, 1963.<sup>58</sup> As expected, both labor and management, while expressing support for the antidiscrimination goal, filed comments almost uniformly in strong opposition to the rule.<sup>59</sup>

After taking all comments into account, the Department of Labor published the final regulation on December 18, 1963, to take effect January 17, 1964.<sup>60</sup> The Department made a few concessions to management or labor in the final version. It backed away from actually or implicitly setting racial quotas for apprenticeship programs. The phrase "significant number" (of minorities) was deleted from the rule and replaced with a vague assertion that programs should provide "current opportunities for selection of qualified members" of minority groups.

The Department, however, held firm on two pillars of the regulation. It retained the enforcement stick of BAT de-registration of programs. It also maintained Wirtz's two-pronged approach to compliance: evidence of opening opportunities to blacks with, basically, no questions asked; or, failing that, demonstration of an objective, fair selection system. Shortly after promulgation the PCEEO completed the developmental loop and adopted the rule it had originally conceived, applying it to federal contractors.<sup>61</sup>

### Conclusion: The PCEEO and Affirmative Action

As has been shown, the stated goal of affirmative action for actively promoting equal opportunity had a pervasive influence on the work of the PCEEO. Minorities in federal employment benefited measurably, and Plans for Progress, while not quite living up to its promise, added thousands of additional blacks to the payrolls of federal contractors. The day-to-day work under EO 10925 of addressing discrimination complaints filed by individuals led to thousands of favorable decisions that improved the working lives of minority workers. In addition, the Committee sought broader remedies where patterns of discrimination existed in various industries. They also worked with these employers to identify the causes and reduce discrimination. Finally, there were measurable contract employment gains by African Americans in white collar work. In the defense industry, blacks historically held only about one percent of all white collar jobs, but due to affirmative ac-

<sup>58</sup> "Nondiscrimination in Apprenticeship and Training," Notice of Proposed Rule Making, *Federal Register*, Oct. 23, 1963, 11313–11316.

<sup>59</sup> R. P. Sornsin to Sec. Wirtz, Nov. 8, 1963; Herrick S. Roth, Nov. 6, 1963; M. L. Katke to John Henning, Nov. 4, 1963; Sec. Wirtz to C. J. Haggerty, Dec. 9, 1963; John Henning to B. A. Gritta, Dec. 6, 1963; and Michael Fox to Sec. Wirtz, Nov. 4, 1963, all in AT-2-1, Box 49, RG 174, NACP.

<sup>60</sup> "Nondiscrimination in Apprenticeship and Training," 29 CFR Part 30, *Federal Register*, Dec. 18, 1963, 13775–13778.

<sup>61</sup> MacLaury, *To Advance Their Opportunities*, 243, fn. 28.

<sup>62</sup> PCEEO Meeting, July 18, 1963, 21–22, PCEEO, Box 64, RG 174, NACP.

tion, they began to be hired in proportion to the population by 1963.<sup>62</sup> Despite the controversy over the apprenticeship rule, in the first five months after it took effect, the BAT found a remarkable degree of compliance. It reviewed 383 new apprenticeship programs and determined that all met the standards of the rule. In succeeding years enforcement of the rule became an uncontroversial, routine function.<sup>63</sup>

The PCEEO remained active until enactment of the Civil Rights Act on July 2, 1964, which supplanted it with the Equal Employment Opportunity Commission, a permanent body with statutory enforcement powers to root out discrimination in virtually all workplaces. President Johnson told Committee members in May 1964 that serving as their chair was “as important a job as I have ever been associated with.” He asserted that in the future “they will point to . . . this committee and say this is when some of the breakthroughs began.” In fact, no previous Executive Order on discrimination had wielded as broad a scope and mission or received as much support from the White House. In an assessment of the PCEEO’s achievements 40 years later, Willard Wirtz, while skeptical about its concrete achievements concluded that it had contributed to “a considerable attitudinal change” on the part of employers and unions and had helped prepare the way for the Civil Rights Act.<sup>64</sup>

But the most important contribution that EO 10925 and the PCEEO made was their establishment of affirmative action as a permanent federal policy. Before 1961 the basic federal goal in regard to equal opportunities in employment was to prevent and remedy discrimination in hiring. The introduction of the notion of affirmative action produced a subtle but significant shift across a threshold wherein employers bore responsibility to achieve integrated and racially balanced workforces. They were to undertake special efforts to hire, train, and promote African Americans and other minorities. In addition, the apprenticeship regulation provided a model for mechanisms to bring about fairer representation of minorities in the full range of jobs and occupations.

The development of affirmative action after the Civil Rights Act of 1964 into programs with mandatory hiring goals and the subsequent backlash that developed are beyond the scope of this article.<sup>65</sup> Hopefully future scholars will investigate the relation of EO 10925 to the post-1964 period. It is worth noting, however, that, according to one historian, the result of almost half a century of implementation has been nothing less than “the rise of a large minority middle class.”<sup>66</sup> Even if this were only partly true, it would be a result few would have expected from a policy born with the simple notion of “taking the initiative.”

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Photo credits: Lyndon B. Johnson, Courtlandt Gross, President John F. Kennedy, Arthur Goldberg; Meeting of the President's Committee on Equal Opportunity; Hobart Taylor speaking; Industry executives and Plans for Progress; and Willard Wirtz, from John F. Kennedy Library. Dept. of Labor press release, U.S. Department of Labor. Lister Hill, U.S. Senate Historical Office.

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<sup>63</sup> *Annual Reports*, DOL: 1964, 40; 1965, 44–45; 1966, 41.

<sup>64</sup> *Proceedings*, PCEEO, DOL Library, May 12, 1964; Wirtz interview, June 15, 2004.

<sup>65</sup> For more information see such sources as Robert Zieger, *For Jobs and Freedom: Race and Labor in America since 1865* (Lexington, KY: University Press of Kentucky, 2007); Graham, *The Civil Rights Era*; Howard Ball, *The Bakke Case: Race, Education, & Affirmative Action* (Lawrence, KS: University Press of Kansas, 2000); John Skretny, *The Minority Rights Revolution* (Cambridge: Belknap Press of Harvard University Press, 2004); Terry H. Anderson, “The Strange Career of Affirmative Action,” *South Central Review* 22.2 (Summer 2005): 110–129; Thomas F. Sugrue, “Affirmative Action from Below: Civil Rights, the Building Trades, and the Politics of Racial Equality in the Urban North, 1945–1969,” *Journal of American History* (June 2004): 145–173; Robert J. Weiss, “We Want Jobs”: *A History of Affirmative Action* (New York: Garland Publishing, 1997); and Moreno, *From Direct Action to Affirmative Action*.

<sup>66</sup> Anderson, “The Strange Career of Affirmative Action,” 127.