

NASA HEADQUARTERS ORAL HISTORY PROJECT
EDITED ORAL HISTORY TRANSCRIPT

SUMARA THOMPSON-KING
INTERVIEWED BY REBECCA WRIGHT
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WRIGHT: Today is April 24, 2015. This oral history is being conducted with Sumara Thompson-King in Houston, Texas, for the NASA Headquarters Oral History Project. Interviewer is Rebecca Wright, assisted by Sandra Johnson. Ms. Sumara Thompson-King serves as the NASA General Counsel, appointed to this position in June 2014, and this is part two of an oral history session. The first one was conducted on March 4, earlier this year. Thank you for stopping in to see us in Houston.

We would like to start today with when you went to NASA Headquarters [Washington, DC], and you were responsible for litigating protests before the General Services Administration [GSA] Board of Contract Appeals. About four years later in 1995, you became Deputy Associate General Counsel. If you would, give us an overview of the range of work that you were doing in those positions.

THOMPSON-KING: One of the reasons I was excited about going to NASA Headquarters from Goddard [Space Flight Center, Greenbelt, Maryland] was that I was going to learn how to be a litigator. At the Center, I was focused on giving advice to programs, and fortunately, we didn't have much litigation. Contractors were not suing us. There weren't disputes. Having the opportunity to go to Headquarters meant that I would learn, and be trained by senior attorneys there who handled claims.

For instance, if NASA had a government contract with a company, and there was a disagreement, the company would file a claim against us. That claim would be resolved in one of three ways. The parties would settle that dispute themselves or go to court or go to one of the administrative boards. Also, when an agency in the federal government made a contract award and someone thought that it was an improper award, one of the competitors might file a protest.

Bid protests were another type of litigation. Bid protests were different from contract claims. Bid protests challenged an agency decision to award a contract to a company, while a contract claim was filed by the contractor who had been awarded a contract and during the performance of that contract, a dispute arose. When I started work on litigation matters, the bid protest litigation was a very busy practice area at the time.

In 1991, the reason I was handling cases before the General Services Administration Board of Contract Appeals was because of a statute called the Brooks Act. The Brooks Act had a broad definition, in those days, of items called ADPE, automatic data processing equipment which we now call IT, information technology. A protest involving anything that fit within the broad definition of ADPE in the Brooks Act, was filed with and decided by the General Services Board of Contract Appeals [GSBCA].

Think about NASA. Everything we bought had ADPE in it. It was really a challenge for the Agency, because all of a sudden, decisions that resulted in a contract being awarded to one company rather than to another company, were now being challenged before the administrative contract board at GSA, the GSBCA. The GSBCA heard all protests involving ADPE.

So, because ADPE was an essential aspect of most of the NASA acquisitions for satellites and exploration programs activities, many bid protests of NASA contract award decisions were within the jurisdiction of the GSBCA. This was a very different experience for

NASA. Until the GSBCA had this new bid protest authority, on the GAO, now known as the Government Accountability Office, had statutory authority to decide bid protests. NASA was accustomed to the GAO process but NASA was not accustomed to this new process that the GSBCA was using. The GSBCA process was more like a court trial than an administrative review. To some agency officials, it seemed that this new authority encouraged more protests.

Of course the folks at GSA will tell you that what was happening then was that government agencies were using more ADPE, or what we now call IT, information technology. The GSBCA was really on the cutting edge of dealing with all kinds of issues across the government regarding the acquisition of information technology that was used by government agencies to carry out government programs.

You might remember that there was a big brouhaha about the Department of Treasury trying to upgrade and install an IT system, and the contract award was protested by a company that wasn't selected. The GSBCA handled that protest. Also, at that time cell phone usage was starting to become more popular. Remember the government used to have the FTS, Federal Telephone System, and then the federal government began to contract with commercial companies for both landline and cell phone services. I can't remember now all of the companies that we were contracting with, but back then Sprint, AT&T, because it was pre-Verizon, were competing to get federal contracts to provide telecommunication services. We were really engaged in a lot of acquisitions for this new technology, and the awarded contracts were lucrative for companies. If a company was not selected for a contract award that meant that they had no contract, which meant no profits for the unsuccessful company. Many of such unsuccessful companies believed that filing a bid protest at the GSBCA was a vital opportunity to have a second chance to be awarded a contract. It was an interesting time.

Those bid protests filed at the GSBCA had to be litigated and resolved quickly. From the date the case was filed to the date of decision was 45 days. What happened in that 45-day period was an extremely streamlined trial court process. The parties could actually conduct depositions and request documents, which was something that parties could not do when a protest was filed at and decided by the GAO. That was significant, because it meant that you had senior leaders in the Agency who could be called by the other side to testify before the GSBCA. GAO did not have authority to hold hearings, so it did not have authority to require senior Agency officials to testify. GAO made all of its decisions based on a paper record only. Think about how this new ability of an unsuccessful company to hire a law firm, and have that law firm file a petition to have the GSBCA require a senior Agency leader to testify. Think about how this new ability affected the operational activities of the Agency.

Attorneys representing the protester were requesting that source selection official be available so that those attorneys could depose source selection officials. That meant that attorney could ask them questions about the decisions they made and use that testimony in preparation for trial. Then, the selection officials would have to appear at trial and provide testimony and be subject to cross-examination. All of the depositions, the hearing and the submission of documents, pleadings and briefs had to be completed because the decision of the board had to occur before that 45-day period ended. This was a high-octane process.

The reason that it was 45 days was because when Congress established and authorized this process the members responded to the complaint they heard from Agencies that, “You’re going to slow down our operations if we have to stop for these protests.” That’s the key thing with all big protests. Bid protest statutes require that all performance on that particular awarded contract has to stop when a protest is filed. Stopping for 45 days, Congress said, “Is not too

much of a delay to ensure fairness in the contract award process.” It also was meant to incentivize the agencies to do it right—run a fair competition or risk a bid protest.

Many Agencies believed that they were doing it right, but Congress was giving unsuccessful companies the opportunity to stop everything for 45 days, even if the case seemed frivolous. The filing of a frivolous protest was the big concern for most agencies, and for the companies that won the award.

I came to Headquarters to learn how to handle those cases protests, as well as contractor claims. There was a senior attorney at Headquarters at that time who handled all of the GSBCA protests. I was going to be working with him, and the plan was for him to train me, and both he and I would handle the protests. Well, and I’m being candid here, he came into my office one day and informed me that he would no longer be doing any of the GSBCA protests, and they were all mine, and good luck. He closed the door and left.

I was stunned, because I hadn’t been there a year. I think maybe I’d been there six months. I don’t even know if I had been there six months. I said to myself, “Gee, can people do that? He can just decide he’s not going to handle cases anymore?” My supervisor at the time didn’t exactly say that I was going to be the only one handling protests. I don’t remember how he characterized it, but I got the message I was going to be the only one doing it.

If you look at all of the NASA GSBCA protests from around 1991 until I don’t know when, my name was on every single one of the cases. It actually turned out to be a huge benefit for me. First of all, I didn’t know what I was doing, but I learned. I handled every GSBCA protest across the Agency, which meant I had to travel to Centers and meet with people at the Centers, learn what the case was about, and work with the attorney there who had supported the

source evaluation board that conducted the competition. I met the contracting officers at each Center, I met the source selection official at each Center.

In those days, the source selection official on some of the major acquisitions—because these were major activities where we were getting protests— was the Center Director. I received a [NASA] Exceptional Achievement Medal because of the protests that I worked at Glenn Research Center [Cleveland, Ohio, formerly Lewis Research Center]. We had three or four contract awards that came right behind each other, and each was protested. At that time, the Center Director was Larry [Lawrence J.] Ross. Here's what I learned from Larry Ross.

First, to many people I believe that I still looked young and inexperienced, and I could look in people's eyes and see that look of concern that said, "Are we sure she knows what she's doing?" I don't remember him having that look of concern when he looked at me, but I had that concern about him. Here's why. We went through the trial preparation process, and I clearly remember getting him ready for his deposition. I cringed because he couldn't remember anything. I thought to myself, "He's the source selection official; this was a major IT acquisition. He doesn't remember why he selected this company, or what the other companies did?" His recall just wasn't there.

I went away very nervous about that. I was nervous because I was thinking he's not going to be able to do what he's supposed to do on that witness stand, and then they're going to blame me because I'm going to lose this case. The Center attorney and I worked with him a little bit more, but he just didn't have a lot of time to talk to us because he was the Center Director and he had a full schedule each day. But we prepped him so that he knew the kind of questions we were going to ask him and that the other side would ask him when we got to the trial.

I learned something from Larry Ross. He was a Center Director. He was a very busy man. He didn't have instant recall of everything that came across his desk and everything he worked on. But, when we got to that hearing, he was stupendous. He remembered everything that he couldn't remember the first time I met with him, or I thought he couldn't remember. He was articulate and he clearly and in detail explained his analysis of the offers. He remembered facts and details about the case. Once he had had a chance to go back and look at the file, refresh his recollection, he was just a fabulous witness, and we won both of the protests where he was the selection official.

It also taught me a lot about the workload and the ability of the leaders of the Agency, how much they have to do each day. Maybe they don't recall things immediately, but if you give them time, and they sit down and they have some time to prepare, they are remarkable people, who because of the type of things, the variety of things that come across their desk that they have to have recall on, are able to explain why they did certain things. I also learned through this process that there are some leaders in the Agency who have much more of a business sense than other leaders, while other leaders are more technical in their approach to things than others.

Larry Ross was interesting to me because he not only had a technical knowledge, but he also had a business savvy. He was very good at explaining to the GSBCA official both technical and cost matters. There was no jury, it was just the GSBCA judge who really wasn't familiar with NASA programs. In 45 days, GSBCA judges had to become familiar with NASA's acquisition practice and culture, how we did things, and how this selection official thought, and how he weighed his determination. Larry was very good at explaining all of this to someone outside the Agency. He was quite memorable for me, and taught me, okay, don't underestimate

your source selection officials. He also set the bar high, because there were some people who really did have a tough time when they got into a GSBCA hearing.

I had a very negative experience, very sad experience, involving the head at White Sands Test Facility [New Mexico], who made a contract selection. He flew into Washington, because all of the hearings were held at the GSBCA in Washington, DC. He was very troubled because he thought his integrity was being questioned in his selection decision. The attorneys on the other side were challenging him and they said things like, “Did you treat this other company the same way as you treated the company you selected? We know you have a relationship with people that work with the selected company. We found this evidence of your longstanding relationship with people in that company, that’s really why you selected this company, not because they presented a better proposal or more cost-effective proposal. It’s because of your relationship with them that clouded your judgment.” He was listening to them and he had been very concerned during the depositions when the attorneys asked him these questions, and his concern did not subside when we got to trial.

That day he was having a very difficult day, physically. During the lunch break, he had a heart attack. He died at GW [George Washington University Hospital]. I learned from that experience to take care of our witnesses a little more, really talk to them and make sure that they understand this is not about them personally, this is about people wanting to get a contract. I learned that I needed to repeatedly tell the NASA witnesses that the attorneys on the other side are going to say things in a particular way that may not be the way things happened, but that’s how they need to present the case, and I have to refute it, and together we will do that. It was a very difficult time for all of us. The case was postponed for about a month, and then we

proceeded. It's interesting, that's one of the cases I don't remember what the outcome was when we finally got a decision, because it was devastating for all of us to lose our NASA colleague.

The leader of White Sands passed away, so the whole operation was affected—they had never had a protest like this, and then they lost the leader of the organization. It was a very difficult time for all of us, and as a matter of fact the attorney from the Center, it was actually at Johnson Space Center [Houston, Texas] who worked on the case, left the Agency shortly after that. It really broke him up, really bothered him. I stayed in litigation. It taught me something. I regret that I had to learn it that way, but learned to take care of my folks better. Understand and be more aware of the stress that they may be under, and work at addressing it more effectively.

Because I was the lead attorney on all of NASA's GSBGA protest cases, I worked across the Agency, had cases in California, and had cases in Cleveland, Houston, and Florida at KSC [Kennedy Space Center]. [Robert L.] Bob Crippen was a source selection official, and I was his lawyer, and I work for NASA. I worked at Headquarters, and okay, it seemed that astronauts and former astronauts are always around Headquarters serving in some position or coming to Headquarters for meetings. That was my NASA world. Not that it wasn't a big deal for me, to meet astronauts. But, to be an effective attorney in this Agency, you cannot be awestruck because of the astronauts you advise, work with and talk to frequently.

That's not the world outside – most people do not get to meet NASA astronauts and when they do, it's a big deal. One of my cases reminded me of that. We had been working on a protest involving this base operations contract down at Kennedy Space Center. The longstanding contractor had not received the award, along with some other folks, other companies, that submitted proposals. We had three companies to protest the decision that Bob Crippen made. Bob was comfortable with his decision, he was relaxed. He was prepared. He's just very laid-

back. I guess you have to be when you've been a [Space] Shuttle commander, nothing's going to ruffle you too much. His deposition preparation sessions went fine, he was ready.

Usually, when a law firm is representing a protestor, the senior partners don't handle the depositions. Generally, it's the associates or a lower level partner that had been working on the cases that are assigned to work the protest conduct the depositions. On the day that Bob Crippen was to be deposed, I gave him the advice that I usually give: "They're going to really come at you, they're going to ask you these hard questions. Remember what we talked about. Respond truthfully. Don't let them lead you to answer. Answer only the question they ask you."

Bob and I walked into the room, everybody else was already there. When I walked into the room, I paused, I really did; I paused, because the room was full. Attorneys were there who I had never seen. These attorneys were all men who are about Bob's age or older, in their best suits. Senior partners, the name partners from the law firms were there. There were attorneys present from four law firms, representing each contractor that was a party to the protest.

The thing to remember about protests is that whenever a company decides to file a protest, they hire a law firm and the company officials don't get to see the documentation that is provided to the law firm. Company officials don't get to see this information, because that would give them insight into the competitor's information. That's why they have to hire outside law firms, and they have to truly rely on those outside law firms to represent them and to understand their business. When any source selection official is being deposed or testifies at trial, he or she is only talking to the attorneys who are outside counsel, who are from a law firm typically, who are representing the companies. No company officials are present.

If, for instance, Bob Crippen had made an award and it involved ABC Company, he likely would have known the president of ABC Company. It is likely they would have met on

several previous occasions, and would be familiar with each other. Bob was not familiar with any of the attorneys in the room he entered and none of them had ever met him or had the opportunity to meet him. When Bob Crippen walked into the room, the attorneys stood up. Bob and I were on one side of the deposition table, directly across from the attorneys. I said, “We’re ready to begin, and I’d like to introduce”—before I could even say, “I’d like to introduce Commander Robert Crippen,” somebody tore across the room to come and shake his hand. I was nearly knocked over.

I’m standing there—and I just moved out of the way. I had to sit back and wait for 20 minutes because everybody wanted to shake his hand—and this was before—can you imagine if they could have taken selfies? Every attorney got a chance to shake his hand, introduce himself to Bob Crippen and identify their client and their law firm. Finally, all the introductions were done, people sat down, and his deposition was twenty minutes. Twenty minutes. Twenty minutes.

WRIGHT: It’s nice to be in awe of an American hero, isn’t it?

THOMPSON-KING: I’m like, “Oh my goodness, where are the hard questions?” You talk about softball questions, well that’s what they asked, and I know Bob’s wondering what all that preparation was for—but he never batted an eyelash. I think he was used to it. He didn’t say to me, “Sumara, this happens,” but I’m sure it happened frequently.

Another lesson learned. When you have an American hero as a client, people treat American heroes differently. We ended up losing that case, because they went after everybody

else with full force. We ended up losing, but they did not go after Bob Crippen, they did not attack him. Not at all.

Yes. I had some very interesting experiences. As time has gone on, now, where I am, I see how folks treat Gerst [William H. Gerstenmaier, Associate Administrator for Human Exploration and Operations (HEO)] and how folks treat Charlie [NASA Administrator Charles F. Bolden]. Since I've been at Headquarters, Charlie hasn't been a selection official, but Gerst has, and, yes, your status in the Agency does make a difference. Even in court. Judges, respond to Gerstenmaier very differently than they might respond and react to a program manager who might be a source selection official.

One of the things we have learned when we are dealing with HEO programs that are the subject of a court case is how effective even the mere presence of Mr. Gerstenmaier is to the judge. In one case, we had to ask Gerst, "We need you to just sit in the courtroom. We don't need you to say anything, but they need to see you're there." The NASA attorney told me later, that at times Gerst would nod his head, and they would see the judge looking over at Gerst nodding his agreement. Those nods were important "testimony."

I had the opportunity to work with a lot of Center Directors. I got to work with procurement officers on major acquisitions at the Centers in the Agency. People got to know me. James [E.] Hattaway was a contract specialist on that case where Bob Crippen was the selection official. Jim Hattaway became the Associate Center Director years later, worked his way up, became Procurement Officer, and then eventually became the Associate Center Director. I've known him since he and I were both junior level colleagues, him working in procurement, me as the attorney. People have asked me, "How do people across NASA know you?" It's because of the GSBA protests I worked in my career. How fortunate that assignment became.

In working every one of those cases, I had the opportunity to meet and develop relationships with folks. They had the opportunity to meet me, and I think it developed some trust, because I am the lawyer representing the Agency. You have to gain that trust with folks. So if you know somebody at the Center who everybody else knows, that was also a way to develop relationships. I knew Jim, so newer people who were coming along might at first say, “Why is a lawyer coming from Headquarters?” And raise their eyebrows. When Jim would come into the room and give me a hug, I had credibility. Those relationships helped me over the years to do my job, to offer advice, which was accepted by folks that might have been a little leery, but having someone at the Center who would give me credibility helped as time went on. Those GSBCA days were very important.

Also I hate to write. I really don’t like writing. I learned to do it pretty well, I’m pretty good at it, but I don’t like doing it. At GSBCA we had to write and prepare numerous documents for every one of those cases—had to write the legal briefs, help the contracting officers write their statements. I did a lot of writing. Folks knew I could write. That helped.

One of the things I tell young attorneys is you need to be able to write. Competence means something, because you never know who’s going to read what you’re writing. The source selection officials would read the legal arguments that I wrote, and I had to be accurate and truthful, but I also had to have them feel that I was explaining their decision making, and why they did certain things, so that when they read it, they wouldn’t say, “She doesn’t understand,” or, “That’s not true.”

I became pretty skilled at capturing the thoughts of our source selection officials and the source evaluation boards, and skilled in presenting their case to the GSBCA. That helped me to understand how we conduct our operations, how the engineers and scientists analyze and

interpret things as they're going through their decision making. I had to gain their confidence in knowing that I could effectively express their thoughts well to someone outside NASA, so that my work would result in a successful win for us at the GSBCA. All of that helped me get credibility across the Agency, learn about the Agency, and just improve my skills.

As time went on, we had to have other folks, other than just me, handling GSBCA protests. We hired two attorneys. One of them was [Bernard J.] Bernie Roan, who's now the Chief Counsel at Johnson Space Center, and Vincent [A.] Salgado. The three of us really became the protest attorneys at Headquarters, and every protest in the agency was handled was handled by one of us. Eventually, GSBCA's authority over bid protests went away, and that authority was given to the—used to be the General Accounting Office, now it's the Government Accountability Office, GAO. All bid protests go before GAO now. We continued, the three of us, Bernie, Vincent, and I continued to handle those protests before the GAO.

The way that protests are handled at NASA is that the Headquarters attorneys represent the Agency. The Center attorneys work with the assigned Headquarters attorney. The Headquarters attorney would be what's called the "first chair" attorney. HQ was lead in the case, but we always worked with the Center attorney, because they had been working on the competition since it started. Representing the Agency gave us great training and great experience with working with folks across the Agency, and working with different programs. When I became Deputy in the contracts division of OGC, I spent more time managing those protest activities than actually handling cases myself. We hired another attorney who was also handling the protests, so I wasn't sitting first chair, I managed the protest process, and managed how we worked with the Centers in litigating contract claims. Claims are adjudicated before what's known as the Armed Services Board of Contract Appeals.

A short footnote here. NASA used to have its own Board of Contract Appeals. We didn't generate enough work for the Board. The General Counsel then, who was [Edward A.] Ed Frankle, reached an agreement with the head of the Armed Services Board of Contract Appeals, so we abolished the NASA Board, and all of NASA cases were to be heard by the Armed Services Board of Contract Appeals [ASBCA]. NASA employed two attorneys to serve on its Board that was being abolished. One of them had accepted a position as an ASBCA judge, while the General Counsel decided to still keep the other attorney on the rolls as a NASA employee, but that other attorney would work as an ASBCA judge. Eventually as time went on that individual retired.

Today, we don't have a NASA position on the ASBCA, but we provide funding to the ASBCA, so that we can support their activities, because they serve as the administrative forum for addressing claims filed against NASA. As Deputy in the contracts division I was responsible for managing the claims activities and our relationship with the Armed Services Board of Contract Appeals. The other thing that I did, once I became Deputy, was really managing the office and working on the program activities, and how we provided legal advice and support to the program activities. The attorneys in OGC's contracts division offered assistance to the Centers in how they provided legal advice to the source evaluation boards on issues that would arise during a competition. NASA was conducting more complex acquisitions, so there were more complex issues in these new competitive acquisitions that the Centers hadn't seen in previous competitions.

We also wanted to establish consistency across the Agency, so we would have attorneys at Headquarters who would offer their senior level advice to the attorneys at the Centers. Sometimes that advice was welcomed and sought, other times it was, "Why are you calling us?"

We've got this." We walked a careful line, because we know what our role is as Headquarters. We were there to assist, and there were times when some folks might have thought, "We really don't need your help." At Headquarters, we understood that some felt that way, but we had to explain why we were providing assistance. That took having diplomatic but firm conversations with folks. That was one of the responsibilities I had. Because I'd worked protests, I had some credibility. Because I also had worked with other program officials, we used those relationships to start building more credibility so that when we would offer our assistance it was more readily accepted. There would still be some pushback from some folks, but most program officials were accepting of our help.

We were very busy with a number of major acquisitions that were going on in the Agency. We were also very busy providing input on the Federal Acquisition Regulation [FAR] that were being developed and updated. The Federal Acquisition Regulation is authorized by three agencies, NASA, General Services Administration, and DoD [Department of Defense]. NASA is a key player in developing those rules that everyone in the government must follow. Therefore, we had an attorney who was the legal support to one of the teams that was helping to develop those regulations, and that team included someone from the Policy Division in the Office of Procurement.

We were busy doing that because the Competition in Contracting Act had passed in 1984. Now I haven't done this in so long, I can't believe I'm almost forgetting specific legislative history because I've been out of procurement for a while subsequently. Clinger-Cohen [Act] was passed, different acts were passed that were modifying the Competition in Contracting Act. Whenever there was a legislative change, we would have to go in and make changes to the FAR. Our Office and the Office of Procurement was very busy in those days, and that was when—and

I can see his face, he's no longer in Congress right now—from Virginia, and I'll think of his name—Tom Davis was very active. There are very few people now – very few people on the Hill – who are very knowledgeable and active in developing federal procurement legislation. You don't see much activity, not as much as in the '80s and '90s, particularly when Chairman [Jack] Brooks and others were in Congress. These days you'll see slight changes from time to time included in the DoD authorization bill, which may include language about how NASA must conduct acquisitions.

This was the reason we paid attention to the DOD authorization bill, and this is another story, a little footnote here, NASA is covered by Title 10, which is the Armed Services Procurement Act, whereas other civilian agencies are covered by Title 41, which is the Federal Property and Administrative Services Act. The reason we are covered under Title 10, there are multiple reasons, but when the Space Act was passed, one of the things it did was to abolish NACA [National Advisory Committee for Aeronautics]. This is the year, 2015, that we're celebrating the 100th anniversary of the NACA. When NACA was abolished as part of the authorization of the Space Act, its authority was transferred to NASA. Remember, NACA was started on the DoD side, so all of their procurement activities were conducted under the armed services statute, and then NASA continued its procurement activities under the armed services statute, even though we were very clearly a civilian agency.

Frankly, it's where we want to be, because NASA work is more akin to the type of work DoD does, than it is akin to the acquisitions made by other civilian agencies. That has raised some interesting issues over time, because some members of Congress don't realize NASA is covered under Title 10, so we would see changes in Title 10 that referred to, "DoD, the Secretary

of DoD,” and no mention of NASA. We’re out in limbo, because it doesn’t cover us. It would cover the Coast Guard and it would cover DoD, but not NASA.

Those were the breadth of things that I worked on when I was Deputy Associate General Counsel for Contracts. Probably a lot more detail than you were looking for.

WRIGHT: And, I’m sure you left a lot out. It’s an amazing span. Like you mentioned, what a great opportunity to learn a lot in a short amount of time about the Agency as a whole, to give you that background that each Center is the same but each Center is different, to help you do that. Share with us, as you moved, how you took that information and how you built upon it in the next years, and some of the adventures you went on as well. One of the things we started to talk about in March was NASA exercising its Other Transactions Authority [OTA] to enable partnerships with commercial businesses. Although NASA had had partnerships of different ways, this was the new way of doing business, or NASA was looking at it as doing business in a different way.

THOMPSON-KING: Yes, it was very interesting. We did develop an additional way of doing business. I say additional because we still conduct much of our business through contracts that we award, but when we started with COTS [Commercial Orbital Transportation Services], that’s when NASA branched out into a new direction, interpreting our “other transactions” authority, or actually using it in a way we had not previously used it. That Language, we learned, was inserted into the bill as it was being written, by Paul [G.] Dembling. He came and talked with the NASA attorneys at one of our meetings. We asked him, “What were you thinking when you added this

language to the bill?” He responded, “I just put it in to give us flexibility. Didn’t know how we would use it, what we would use it for, but we put it in there.”

No one else, no other agency in 1958, had that kind of language. For the longest time, because lawyers can be conservative and careful, NASA used this authority sparingly. There was a concern that if we used it, and if we used it wrong, Congress would take it away from us, so let’s not use it. So we didn’t use it, I think, mostly because lawyers were giving very cautious advice about it. NASA did start using it, but it was for things that were really under the radar. I thought that meant that NASA only used the authority a few times, then what I found out was that NASA had lots of what are called Space Act Agreements. I remember asking another NASA attorney, “What’s a Space Act Agreement? What is that? I’ve never heard of that.” “Shhh” was the response.

At Goddard, the only person who saw the Space Act Agreements [SAA] was the Center Chief Counsel. There were lots of them, but all of them had to come to the Center Chief Counsel for drafting and concurrence. SAAs could be used for any purpose that wasn’t an acquisition of services or supplies needed for NASA operations. Mostly, NASA entered into a SAA with a company, college, or university doing research so that it could be a research partner. NASA and its partner would provide their own resources to perform the research, but they would share research data. But there was clearly no exchange of funds. No exchange of funds.

When Administrator [Michael D.] Griffin came in, he basically said, “We need to do something different, because I’m hearing from people outside the Agency that NASA is not supporting commercial industry. Find a way to support commercial industry.” We started looking at NASA’s “Other Transactions” Authority, and figuring out a way to use it. I know we’ve talked about this before, but the challenge was how to get everybody to understand,

number one, NASA can't just do anything it wants, under the authority. There were NASA folks who believed that we could use OTA to do anything NASA wanted to do. Everything's okay, nobody will look at what we're doing, and nobody can stop us from what we're doing. There were really individuals in the Agency who looked at the use of NASA's OTA as a new way to get out from under the Federal Acquisition Regulation. They would say, "Hey, NASA wants to build this rocket, and I want to buy it from that company, and I want to buy bearings or wheels from this company. I'm going to use the money in NASA's budget, and I have a plan and I'll share it with people in the Agency, but I don't have to tell anybody else about it because I know what I'm doing and I'm going to move forward with this plan using NASA's OTA."

I, and other NASA attorneys had the task to calm everybody down and explain that NASA didn't and doesn't have authority to operate like that. But truly there were people who felt that because we're NASA and because we are exploring space, we can operate that way. That may have been what we could have done with the Apollo Program and the Gemini Program, but we're a long way from Apollo and Gemini, so we can't do those things now. We are getting scrutiny over every dollar we spend and over every decision we make. Also, I had to remind folks that there is this thing called bid protests. NASA folks would tell the NASA lawyers, "Oh, we're not using the FAR, so protests don't matter. This can't be litigated." The lawyers respond by saying, "There are people over on K Street, the K Street lawyers would be excited to have the opportunity to test that view through a lawsuit in court."

The NASA lawyers struggled to educate the programs and get some officials to understand that use of OTA was not an unfettered opportunity. The lawyers advised, "We have to develop some type of process for using OTA, it has to be rational, and it has to be fair. It doesn't have to be under the FAR, we don't want to make it under the FAR. But NASA had to

create some type of fair process that had credibility that showed we were not making arbitrary and capricious decisions.” That was the huge challenge every step of the way at every level in the program chain, with folks who were involved in developing COTS. I won’t say every person had that point of view, but even the folks who didn’t, even the folks who understood would say, “We understand we’ve got to have some rules, but we don’t like that rule, we like this one.” The lawyers would have to explain why some rules applied to use of OTA and others did not.

We were constantly trying to explain how we thought we could effectively let them do what they wanted to do operate the program the way they wanted to, but to do it so in a way that NASA would not don’t get a legal challenge in court. The NASA lawyers knew the GAO did not have jurisdiction over activities conducted using OTA—we believed this. But NASA had never done this before, used OTA in this way. The lawyers recognized that a court would welcome an opportunity to review NASA’s new use of OTA. We knew what legal arguments we could make successfully, and we also knew what legal arguments wouldn’t be successful in explaining what we did. And we said, “No, the program can’t take that approach. We will lose on that point. We will lose.” “You don’t know that we will lose,” would be the response from a program official, and we would respond, “You’re right. But here’s what we do know. Based on our knowledge of how courts operate and interpret law, this is why we have a strong belief and indication that NASA will lose in court if we do certain things.”

Establishing parameters and getting agreement within the Agency was the constant struggle, the daily struggle, defining the appropriate use of NASA’s Other Transactions Authority. One of the things I remember when we drafted the language for the Announcement for Proposals, even things like calling it an Announcement for Proposals was important. I told them, “This is not a procurement, you can’t use procurement terminology. We have to make

sure we are keeping this separate from the procurement process.” We didn’t call the solicitation an RFP, Request for Proposals, we called it an Announcement for Proposals, AFP. We were trying to make that distinction. Also, don’t call them contracting officers, they’re agreements officers. What the heck is an agreements officer? It’s not a contracting officer. It is a person who worked on this particular activity to reach this agreement using OTA and procedures NASA created by using OTA. That’s all I can tell you an agreements officer is at this point. We haven’t done this previously, here’s what we’re doing now. The program folks would ask, “Why are you making us use a different term? Like that’s really going to make a difference.” We responded, “It is going to make a difference. Please use this term.”

I spent a lot of time convincing folks that NASA attorneys weren’t just making life difficult for them, because there were folks who really believed that was what we were doing. They would say, “You’re just creating rules.” I responded, “Well, you’re creating a space transportation approach that no one else has created. We have belief and confidence in you. We also know there are things you haven’t done, there’s technology that hasn’t been developed. You have seen what’s worked, so you know how to use certain information. We’re the same way as lawyers, and we’re giving you our best advice. Rely on us the way that we’re relying on you to allow another company to build a vehicle that will go into low-Earth orbit, so that we can buy services from that company.”

That became the other interesting thing that happened to me during COTS – I realized that people started to think I had some influence. Within the Agency, there were people who did not believe that a party other than NASA—maybe the Air Force – could or should build a rocket that would take cargo or human beings to low-Earth orbit. It just shouldn’t be done. Not that it couldn’t be done, it just shouldn’t be done, and therefore, it couldn’t be done. There was the

belief by some that the American people did not want a privately owned spaceship to transport cargo and astronauts to the ISS. NASA cargo and astronauts should only fly on vehicles owned, designed, and built under a NASA contract and operated and controlled by NASA. As NASA lawyers, we knew that there were two camps within NASA. I think if you go back and look at some of the history and the conversations, I don't know how much folks will talk about it now, but there were two camps in the Agency. There was a lot of concern about having private companies conduct this operation.

Some folks, I think, will be very honest about it and talk about their concerns. Bryan [D.] O'Connor, when he was head of [Office of] Safety and Mission Assurance [OSMA], was concerned about this new approach. He was vocal. There were others who weren't so vocal. They're under the radar, engaged in conversations and activities that might not have supported the COTS effort. The NASA lawyers were in the middle of these competing camps. There was a team of NASA lawyers working on the COTS effort. But you also have these other people coming and talking to you, a NASA lawyer, about how COTS may not be the best thing for the Agency, and why are you supporting this activity, and that they need you, the lawyer, to tell the COTS team that they shouldn't be doing this.

It was very interesting, because I did not think of myself as having influence on whether to do COTS or not. I viewed my influence as how to conduct a competition for COTS in a fair and effective way. Yet, during the development of COTS, some NASA folks would button-holed me to talk about and share their concerns about COTS. I wondered, "Why are you talking to me?" I realized that they were talking to me because they had been talking to the program and technical leaders, and weren't convincing them. Apparently, their next thought was – Let's try to talk to the lawyers and get the lawyers to go in and tell the technical folks that this really won't

work, and this is not a viable approach. Get the lawyers to talk some sense into them. Stunning, I thought to myself.

WRIGHT: Yes, revealing.

THOMPSON-KING: Yes. That was the time we were living in, because there was an individual who didn't talk to me. I don't think he thought very highly of me. As time went on, I think he began to realize that there were people who were listening to me, and that I was helping to develop the competition model that we used in COTS, and this activity was going forward. We were going to spend a lot of money on COTS, and then subsequently we had the CRS, Commercial Resupply Services contract, and we were spending a lot of money on that also. I was sitting in an auditorium, trying to listen to the presenter, when an individual sat next to me and begins saying these things like, "Why are you supporting NASA spending money on that? NASA could be spending money on some other things that the Agency really needs to spend money on, something that's going to be successful." I was told that CRS and COTS were not going to be successful, and we were just spending a lot of NASA money on that activity, and it was going to embarrass the Agency. I thought, "Why are you telling me this?" But I knew then answer, he wanted me to influence other NASA officials to stop COTS. I didn't know any more than anybody else.

Did we know COTS was going to work? Probably Alan [J.] Lindenmoyer had more faith than anybody else. Did we know Commercial Resupply was going to work? Don't know that Gerst was 100 percent convinced, but he was the expert and he determined that both NASA and the contractors had a credible plan. We had capable engineers who were reviewing what the

outside parties were doing. We had our Safety and Mission Assurance and our [Chief] Engineer—they weren't getting the total insight that they wanted, but they were pushing to get enough information to make the best decision possible.

First, Gerst made the decision to award two agreements for COTS to SpaceX (Space Exploration) and Rocketplane Kistler. When Kistler couldn't continue, Gerst selected Orbital [Sciences Corporation] as the other COTS partner. Then NASA got to a place where we awarded the CRS contracts to provide commercial cargo transportation to ISS before we even knew that either vehicle could fly. Oh, people on the Hill, even people in the Agency, even some of the lawyers were concerned about that. Some folks thought that we were—really, I guess the expression is, “betting on the come” on this one. But as Gerst thought about it, and as we helped him to articulate, we all thought about this, we needed a plan to have something available to us when Shuttle is no longer available. We were going to shut down Shuttle, and of course there were people, even on the [Capitol] Hill, who did not want us to stop operating Shuttle.

All of this was going on, and the lawyers were caught in the middle at times, because people would come to us with their different agendas and want us to take positions that would support their particular agenda. The lawyers understood that our job was to provide reliable and credible advice about what the Agency leaders made a decision to do. We would tell our agency leaders to tell us your goal and how you want to move forward, and we gave them the legal parameters for what they decided to do. That's how we advised them. It was a very interesting time. Very interesting time.

WRIGHT: There was a lot of movement, a lot of research, a lot of a lot in a very short amount of time, because whereas Mike Griffin had said, “Step forward and let's see how we're going to do

this,” then it became accelerated with the cancellation of Constellation. You were moving to get things in place and to protect the Agency from a future protest, but I remember you had said before, you and your team were working to make sure that it wasn’t just good for today, it was going to be good for tomorrow and a year from now when people started asking questions.

THOMPSON-KING: Yes. So far, it’s worked pretty well.

WRIGHT: You have defended it against a couple of protests, right?

THOMPSON-KING: Yes. We do apply our lessons learned. There were some things that we did on COTS, which I learned recently we hadn’t done on some subsequent OTA competitions, and that was to identify an ombudsman. We created an ombudsman for COTS, and folks were asked, “Why do we need an ombudsman?” I responded, “Understand this. With COTS, a disgruntled proposer can’t go to GAO to challenge NASA’s actions, or to a contracting officer, because there are no protest procedures applicable to OTA. If somebody feels something’s wrong, who do they go and talk to? If we don’t give them someone in the Agency or a process to use to voice their concerns and discuss them, they’re going to take us right into court. I’m not ready for us to go into court yet. We don’t want that to be on that path, because that will clearly slow down the Agency.”

So we created an ombudsman process that was set forth in the COTS solicitation. It basically said if you, as a proposer, have a concern, you can take it to this individual. We thought long and hard who that should be. The lawyers knew that we had to identify someone credible. We needed to have somebody who was not involved in the competition, but somebody

within the Agency who would understand the issues. We identified an individual in the announcement for proposals in the ombudsman section. At some point along the way we had to rely on that language, because there was a proposer who had concerns and the ombudsman heard concerns and responded. Having an ombudsman kept proposers from thinking that we can only go into court to discuss a problem.

The lawyer knew that any court action would be a dive into uncharted waters. It was going to be a question of whether a complaint was filed in a district court or to the Court of Federal Claims, and, the NASA lawyers, frankly, didn't have a clear view of which court would have jurisdiction. We even talked about it with the Justice Department, and they know because by law, they would have to represent us in federal court. This was one of the things we said to the COTS program officials, "If we have a NASA ombudsman, the agency controls the resolution of concerns, and the NASA lawyers provide advice. But when you put things in the federal court, it's in the hands of the Department of Justice, not NASA."

Little bit of a scare tactic, yes, but it was true. At that time, depending upon where a case was assigned in the Justice Department, an agency get a person three years out of law school representing its case in court. I asked the program, "Is that what you want for your program?" We got that ombudsman language included in the COTS AFP. The lawyers said, "We'll try this," and it helped us. I found out in some later competitions, that language was not included in the AFP. Then, we had an issue even though the ombudsman language wasn't in the AFP, we informed the parties that an ombudsman had been assigned to hear their concerns. I'm now reminding people that language needs to be in every Space Act Agreement competition proposal, so that proposers know who they can go to in the Agency.

WRIGHT: I was reading something the other day, someone had talked about Gerstenmaier, asking about the differences of the public-private partnerships, and he made the remark, “When asked to compare the costs of using a public-private partnership to NASA’s traditional procurement methods, Gerstenmaier said he could not offer a specific number, but the partnership is extremely more efficient.” Have you found that remark as well, from other people? That not only did you create a way to use the OTA, but it’s more of an efficient process compared to the FAR? Or do they just continue to serve different purposes for different reasons?

THOMPSON-KING: I think they serve different purposes for different reasons. I don’t know what Gerst is basing his assessment on, because from where I sit, I think both are efficient. They’re meant to accomplish different purposes, and from where I sit as an attorney for the Agency, there must be some type of fair process, when using either approach. You can make your process as efficient as you want, but the more information an agency wants to receive in a proposal, and the more certainty an agency wants to have, it means the more complex the competition is going to be. If it’s more complex, I’m not sure how efficient you can make it.

When I look at some of the things we did with the Space Act Agreements that we awarded to Blue Origin and Boeing and Sierra Nevada, that whole OTA competitive process, was an efficient process. It was a process that was needed to achieve what the Agency wanted to achieve and to achieve it through a competition. Did that make the OTA competition more efficient than what we could have done under FAR? I don’t know. It was different. But there was still a process.

WRIGHT: It's good to have a choice now. It must be somewhat rewarding knowing you put all those things in place, because a few years ago, and now even more so, you're entirely responsible for the legal umbrella as General Counsel. Share with us about those responsibilities. How are you hoping in this leadership position that you can continue to enlighten and educate more people into moving the Agency forward in the way that you would like for it to go?

THOMPSON-KING: Charlie [Bolden] reminds us that our job is to lead our people. As the Agency goes forward, we are going to continue to do these type of competitions, so, it's important that we educate and train our attorneys to understand what the difference is between our public partnership type competitions where we want to use our Other Transactions Authority, and when it's appropriate to use our contracts authority under the Competition in Contracting Act, or when we can use other things like CRADAs [Cooperative Research and Development Agreements], grants, cooperative agreements—there are a number of tools that we can use.

We always start off saying to a program official – tell us what you want to do, what you want to accomplish. Don't come in and tell us how you want to do it. We'll tell you how. Come in and tell us what your goal is, what you want to do, and we will help you get where you need to be. We'll help you to define the process that would best benefit the goal you're trying to reach.

Training attorneys, making them knowledgeable, making them comfortable with those tools is my job. I do it through the Associate General Counsels, through the Chief Counsels, just observing and talking with them, seeing who's working on particular issues. How are they doing? Are we getting consistency across the Agency when we do these things? What

discussions are we having? How are Centers feeling? I hear from the Center Directors or from, for instance, [Robert D.] Bob Cabana, they're doing a lot of non-FAR type activities at KSC. Bob has the goal to create a multiuse spaceport facility. He's got a lot of activities going on. Are we giving him consistent advice? Are we helping his attorneys and his program officials, his procurement and non-procurement folks who are working on this?

We have to all make sure that we're all on the same page, and we're communicating with each other. That's a big thing that I'm talking about with everyone. We must communicate, we must coordinate, we must collaborate within our own organization at Headquarters, and then with the Chief Counsel offices, and with the Centers, and with our Mission Directorates. I'm happy to see that other people, other than me, are working this and learning it, but that's our responsibility as lawyers and leaders, to guide them as the Agency uses OTA more, so that they're comfortable with it. Sometimes, lawyers have to stand up and say, "Hey, this may not be the right direction, or the right use of this authority," and I want our early and mid-career attorneys to have enough knowledge that they are able to stand up to some of the senior officials and say, "This is not quite the way that we can use this authority, but here is a different way that we think we can use it and accomplish the purpose you're desiring."

WRIGHT: The legal department—so many times people think it's always litigations—but you have to work with just about every branch with those who that take care of the real estate, and the people that do the procurement. You're very widespread in what you do. What are some of the challenges, getting all those people to communicate, cooperate, and collaborate?

THOMPSON-KING: One challenge is that NASA officials don't think they need legal support. "Nothing we're doing involves anything legal, so why would we need to talk to you?" Talking with NASA officials and getting them to understand that attorneys not only give advice on laws and statutes, but we also have a counsel function. That means, that if a NASA official is thinking about policy, there may be some things that she or he hasn't thought of that we may point out as a benefit or a problem, and offer recommendations to consider or directions to move in. Having people view NASA lawyers in that way and to reach out to us to support them when they're thinking about things and developing ideas is a challenge, because NASA officials sometimes don't think about getting the legal office involved until there is an obvious legal issue.

I tell program officials, "Well, when you're thinking about things, you may be creating legal issues unbeknownst to you." For example, a NASA official may say, "Hey, I need more cargo going up to the [International] Space Station, so we'll just issue another Space Act Agreement." The lawyers would remind the official that we have a contract to transport cargo to ISS, the CRS contract. If a lawyer has not been consulted, and the NASA official is thinking that the use of a Space Act Agreement is permitted, when really the more appropriate thing is a contract, then there could be a legal problem. The official had all of these discussions back here with other program officials, where they were brainstorming, thinking about things. So, as Robert [M.] Lightfoot says, "It's all potted, ready to go."

The NASA official is ready to move out, and the lawyers come in and advise her to use CRS. This upsets the NASA official and the lawyers are viewed as the log jam. If the official had brought us in when she was having that brainstorming session, we could have provided the appropriate advice then. Getting folks to bring the NASA lawyers in early is still a challenge. Getting program officials to think of us and our counsel function is something we work on every

day. When you have a change in leadership, you have to introduce yourself to the new leaders and say, “We’re the lawyers, and we’re here to support you, not just giving you legal advice on statutes, but we are your counsel. We’re here to support you and talk with you, discuss issues with you, and identify solutions.”

That’s one of the reasons why we have our program called the DLC Program, Directorate Lead Counsels, where we have attorneys embedded in the Mission Directorates, so that they can be there as issues come up to be a sounding board, to talk with the leaders or the folks in that particular organization, and bring back to the legal office issues to address early. Having that person embedded in an organization means building the relationships and gaining credibility. For instance, a program official might be nervous if I make a phone call and say, “Hey, I hear you are doing XYZ.” But if the embedded attorney, the DLC, makes the same call, then there usually is more willingness on the part of the program official to discuss an issue. When they hear from the embedded attorney, they’re a little bit more receptive, because in a way, they begin to feel, “Oh, that’s our attorney.” Well, he’s the Agency’s attorney, but that attorney had developed a level of trust with the program official. That’s what we try and work on every day.

WRIGHT: What about the groups that you work with outside the Agency? Like NOAA [National Oceanic and Atmospheric Administration], DoD, the list goes on and on. I was thinking too of the FAA [Federal Aviation Administration], because of all of the new Space Act Agreements. How are you able to work those relationships, when all of you have different agendas, but still at the same time, you’re all trying to work together for the same goal?

THOMPSON-KING: This is where you push the activity down. With the FAA, one of the attorneys who works in the Commercial Law Group said, “Hey, why don’t we get a team together, and not just lawyers, but technical folks also? When we say technical folks, let’s have somebody from OSMA, let’s have somebody from the Chief Engineer’s Office, have somebody from HEO, and then we’re going to have somebody from Johnson Space Center.” So the NASA team is broad. Then she said, “Let’s ask the FAA to come in and have their counterparts with each of these people also be on the team.”

We had this huge team of NASA people working with the FAA, and that’s one of the attorneys in our group who’s managing that day-to-day activity. She sends me messages and updates through her Associate General Counsel, keeping her supervisor, the Commercial and Intellectual Property Associate General Counsel, aware of what’s going on. That attorney also sets up meetings with me to keep me abreast of what’s going on, and about a month ago, we went to meet the Chief Counsel of FAA, to whom the FAA members of the team report. We met, and it wasn’t a decisional meeting, but just to acknowledge that we’re all working on this together, get to know each other.

We take it in stages, both the FAA Chief Counsel and I have pushed it down to the appropriate level of attorneys to work on this issue. The team forwards issues as they get close to finality, or when they need input from me or from the Chief Counsel over at FAA. That’s just one example of how we do it. This is how you build a team, how you ensure continuity and understanding and knowledge. It’s not just me, it’s not just the Commercial Law Associate General Counsel who knows what’s going on or how to do things, or focus on the issues. We have other folks in the legal office and across the Agency who are working on these issues, so that we have an understanding that will carry us into the future.

WRIGHT: I wanted to ask you a couple of questions that lead into finishing this session out, but as you move into completing your first year in this new leadership role, what do you expect to be some of your significant challenges as you move into the next years? What are some of the goals that you would like to do to make your time at NASA one that will benefit the years after you leave?

THOMPSON-KING: Back to the people, making sure that we have some programs in place for developing our attorneys across the Agency so that there's more of an interdisciplinary approach to us providing legal support as issues come up. What I mean by that is, for instance, when the Orbital [Sciences Corporation rocket] accident occurred at Wallops [Flight Facility (WFF), Wallops Island, Virginia], lawyers in our Office asked, "If there are legal issues that come up, who is going to be involved?"

Well, we have a Space Act Agreement with one entity. We have a contract with another entity. Those are two different groups of attorneys. It's a service being provided to NASA, but it's not a NASA operation. We also had to remind folks it's not a NASA activity because NASA did not operate or control the launch. Because of that, there were certain things that we don't get to go in and ask questions about and get to review and make decisions on, so everybody understands their role and communicates that to the program officials. If an accident happens, everybody thinks NASA is going to go in and investigate.

NASA attorneys had to explain to the folks on the Hill, "No, this was an FAA-licensed activity. NASA is supporting the FAA." NASA wants to know what the FAA is doing, so we have folks

in our legal office who communicate with the FAA. NASA learning to function in this “support” role has been a challenge, shall I say, or a reminder.

We have to learn how to do things differently. Attorneys also have to remind our clients that we are doing things differently when an activity is controlled by a non-NASA party. No, we’re not going to go out and do the investigation of the launch mishap at WFF. It’s a commercial activity. When we look at who is going to pay for what, we’re still having that conversation. Within our Office, we had to make sure that all of the right people were involved, and sometimes it’s not just one group. Its several groups.

You never know when a particular issue is going to come up that you didn’t expect, and you may need to include another group of people. For example, NASA people forget, some folks don’t realize that we have international partners down at Wallops. I think it’s the Ukrainians who are there. I asked the contracts attorneys and commercial law attorney to make sure that we don’t have any international law issues that were raised by the mishap. There were none, but if there had been, that’s where our International Law Group would get involved. For instance, if any export control issues might come up as a result of something we do down the line, our International Law Group would need to involved, because they handle our export control and our ITAR [International Traffic in Arms Regulations] issues.

It’s always interesting to work legal issues at NASA because we never know when an issue is going to present itself. When it presents itself, we need to get the attorneys with the right expertise involved. That’s why I monitor, and keep abreast of what’s going on, and make sure that an assembled team brings the right people in at the right time. We’re not perfect at it, because we’ve had e-mails in our Office saying, “Hey, I’ve been working on this for so many months, how come nobody told me about this?” We’ve had that happen. We’re not perfect. At

least we're having the conversation, we're circulating things so that eventually, if somebody else had been working on it and we didn't include them, they're going to raise their hand and say, "Hey, I have some knowledge about this. Here's what I've been doing. Bring me in the loop, or really, I need to have the lead on this."

There was an e-mail that was sent to me about a particular matter. I sent it to the Associate GC [General Counsel] and a team lead who I thought had cognizance over the matter. It turned out it was someone in that Associate GC's office, but I identified the wrong person. They got my e-mail to the right person in the group, and that's how we're working it. Sometimes there's a little bit of a ruffled feather, where an attorney said to me, "You didn't send it to me, I'm the one who's working this." I responded, "I didn't get it to you, but somebody in the office got it to you." But there's a sensitivity when the General Counsel doesn't remember who is working on a matter. I don't remember everything, but I know enough usually to get an issue to the right legal practice group.

WRIGHT: Yes, the whole international part, too—at least your days are never dull, that's for sure.

THOMPSON-KING: No, they are not.

WRIGHT: What is it that you've enjoyed so much about your NASA career, and the profession and working at so many different levels or different aspects of NASA? What continues to propel you to keep going back and doing more?

THOMPSON-KING: Agency has let me do what I want to do. I've been able to do what I want to do. I have two children who are grown now, but for a long time, I was the only woman in the Office of the General Counsel who worked full-time and had children, and still my career progressed. This Agency afforded me that opportunity. There are other agencies or other workplaces where I would not become General Counsel, because many agencies did not have a workplace that embraced work-life balance. I had children, and I worked in litigation, handling all those GSBCA protests, while I had small children. That experience benefitted my career growth. NASA and the supervisors that I had here, and the work life-family balance I experienced over the years enabled me to stay at NASA and feel comfortable and feel excited about my job. I don't know many other places that were giving any employee, much less women, that opportunity.

So I've been very fortunate. There were times in my career, when my oldest daughter said to me—she wanted me to be like Annie's mom, who met her at the bus and took her home every day. My children went to aftercare, but I reminded them what I was able to do for them because I had a job. At one point in their lives, when they took ballet lessons, I was getting to work at seven o'clock, so that I could leave about two o'clock on Tuesdays and Thursdays, drive to pick them up from school, to take them to ballet; first we'd get McDonald's or whatever they wanted, they'd go into ballet and I would walk for an hour and a half because they'd be in ballet lessons. I became a better mommy, they thought I was cool then.

It was just two days a week. I had a job and I had a supportive supervisor, and I had credibility in the Agency so that I could leave on Tuesdays and Thursdays at two o'clock to go spend time with my children. That culture of family and support is something I couldn't find other agency legal offices or private law firms. I did look for career opportunities outside of

NASA but always came back to NASA because I had the opportunity to raise my children, to be a mother, and to work full-time in this agency. That doesn't mean that it was perfect, because I do talk about years where I felt like I was in the wilderness, where I just didn't see my career progressing, didn't know where I was going to go, because I was the Deputy Associate General Counsel for Contracts for many years. When you're a deputy in a division level, you're thinking, "Okay, my boss is probably not going anywhere any time soon, I don't see that happening. I'm not really sure if I should compete for one of the other positions now vacant in the agency or at another agency."

I felt stagnant. I did look at other agencies, looked to move, but ultimately I found that the type of work that I was doing at NASA was my best opportunity. The other thing that was key—we may complain about our IT services in the Agency, but there are other agencies that are worse. Truly, that was one reason why I didn't go to one agency that offered me an opportunity. When I looked at their hardware and their software, they were about five years behind us. The agency didn't have e-mail. I thought to myself, "What do you mean, you don't have e-mail?" They were still communicating with hard paper, walking information around to other offices, and sending things in pouch mail to other offices across the country, because they didn't have an email system. I decided to stay at NASA.

NASA may have been frustrating, and I was not sure not sure where my career was going, but I wasn't moving to that agency with an outdated IT system. Also, while the litigation was exciting, after a while it gets old. I know how to do that work, but I'm not doing anything that seems different or interesting. Then I was assigned to a new role within OGC, and I started doing different and interesting work. I persevered, and that's a lesson learned. Sometimes you have to persevere and figure out how to do the best with the situation you're in. Things are

going to change. I didn't know how things were going to change, I didn't know when things were going to change, but change is going to come. Sometimes you just have to be patient and wait for that change to come, do other things to keep up your skills, improve your skills, and advance your skills during that period while you're waiting. I think I did that, and that helped me to get through that period, and then be ready when an opportunity presented itself.

WRIGHT: You described your career with NASA as innovative, because you were able to use skills and do them in a different way. Do you have some examples of how that innovation has maybe paid off? Or maybe didn't pay off?

THOMPSON-KING: The General Counsel got to a place where he was not available to go on certain speaking engagements. The Associate General Counsel for Contracts couldn't go either. Send it to the Deputy. I was very nervous, because I was going to go speak at a NASA Center. I would be speaking on behalf of NASA OGC. I was very nervous, but I was also excited about it. That's how I started speaking at the Federal Bar Association annual government contracts symposium in Huntsville, Alabama. They didn't know me, I was third person down on the list, but they were happy to have somebody from NASA Headquarters OGC be a speaker. I think I did pretty well, because they have invited me back every year since that presentation.

That's what gave me a new opportunity. I had spoken in front of judges, administrative judges, all the time in litigation. Now, I have to make presentations speaking to an audience on a particular subject requires skills that were not part of my regular skill set. I had to develop the ability to present information in an interesting manner, and be very knowledgeable and present accurate facts. And what I learned from doing that is I had to really learn what the Agency was

doing, because I didn't know what people were going to ask me. So if I talked about a competition, and I planned to talk about a contract that was awarded, but I also had to be prepared to talk about the program and why that program was important, and how that program fit into the NASA mission.

When I have those speaking engagements, it also helped me to think about what the Agency does, understand what the Agency does, and communicate that so that people outside of our environment know what I'm talking about. I had to learn to not talk "lawyeresque," like I'm in a litigation activity, but be interesting. Be interesting and give people information that they can remember and understand, so I worked on that skill.

The other change in my career in OGC was how we operated and interacted as an office. Sometimes, we tend to stovepipe ourselves in the Agency, and I had the opportunity to break down some of those stovepipes within OGC, and within the Agency. For example, the Office of Procurement and the Office of the General Counsel have done joint training assignments between the two offices. There had not been any Agency organization that worked together in that way. It seemed natural to me, to have a joint training because the attorneys who worked on procurement matters and then the contracting officers worked hand in glove all the time. We really thought that it would be beneficial for us to share with each other our thought processes about how we approached the same issue.

Within OGC, we learned to take a more interdisciplinary approach to working on a legal issue, which meant that we had to learn to share information across the legal practices so that we could effectively provide legal services. That's how we work today, but that wasn't how we behaved in the past.

I'm going to add one more thing about something else I'm thinking about. The Agency has been talking a lot about diversity and inclusion. I sat on the recent SESCDP [Senior Executive Service Candidate Development Program] panel to review the applicants. One of the things that I observed, and I've shared this with others, is that I think that Charlie's message supporting diversity and inclusion, encouraging the leaders of the Agency to think about it and make it a part of their workforce considerations, is being heard by senior leaders.

I'm not sure we're doing a good job of sending that message to the next levels of leaders and managers, and then down into the employee ranks, because some of the responses to our diversity and inclusion question during the SESCDP were not impressive. It's something we as an Agency need to work on, and I put myself in that "we." That's something that I've been talking about with the folks in my Office, and getting them to stretch when they consider hiring candidates, and then stretch when we have hired someone, so that they are included in our planning and execution of legal services. It's also important to have attorneys, and other employees, expand and diversify their skills and experience. One of the funniest things that happened years ago, when I was Associate General Counsel for Contracts was when I said to an attorney, "I want you to work on this HEO activity." He looked at me and responded, "I don't do HEO." This was before it was called HEO, Human Exploration; he said, "Because I don't do human spaceflight." I said, "Precisely. That's the problem. You are so wrapped up in activities related to the Science Mission Directorate and Aeronautics, you don't know about operations on the human spaceflight side of the house. You need to broaden your experience base." He was concerned, because that was not his area of expertise, so the assignment was beyond his comfort zone.

Guiding employees to new opportunities is part of diversity and inclusion. If someone wants to be a leader in this Agency, he or she needs to have a breadth of experience, not just a depth. We have people who have great depth within a particular subject matter, but they don't have knowledge that demonstrates a broader experience they don't have a breadth of dealing with different types of people. OGC just had a training with Human Resources, and they came in and taught us something about various styles of interaction and influence. I had a conversation with one of our OGC leaders about hiring people who are just like everybody else in the group. This would create a practice group where everyone would interact with others and use their influence in the same way.

When we talk about diversity and inclusion, we do talk about race, ethnicity, but it's also other things, like the fact when we hire, we gravitate to people who are like us. Then you get groupthink, because everybody wants to address a problem the same way. Who in your group is the gregarious person? When I came to Headquarters, there was a group of attorneys who they kept their doors closed. It made them seem very closed, and nobody, other attorneys or clients, wanted to talk with them. Nowadays, I encourage folks in OGC to interact with others, but also recognizing that alone time is also important. I encourage attorneys and administrative support to put themselves in different positions and identify different opportunities.

All of this will help, I think, to develop leaders who are going to lead the legal office across the Agency. That's really what I'm thinking about right now, as I finish up this first year, we move into my second year.

WRIGHT: It's gone by fast, hasn't it?

THOMPSON-KING: Yes.

WRIGHT: We wish you the best of luck.

THOMPSON-KING: Thank you.

WRIGHT: Is there anything else you want to add before we finish?

THOMPSON-KING: No. I think I've talked a lot.

WRIGHT: That's okay. We learned a lot. Thank you for sharing.

THOMPSON-KING: Thank you for talking with me.

[End of interview]