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ORAL HISTORY INTERVIEW

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Oral history interview with Porter H. Gilbert
[full name of interviewee]

about Legal Aspects : discrimination
[main focus of interview]

Cases and procurement contracts.

Title: 1962 - Office of Chief Counsel, MSC
[interviewee's current and/or former title and affiliation]

Interview conducted by Robert B. Merrifield, Staff
[interviewer's name/position]

Historian at MSC
[location of interview]

Transcript and tape(s). [for inventory only: # pages 6; # tapes 1]
Master 1

CONTENTS:

Biographical - [date/place of birth; family background] _____

Education - _____

Career Path - *Aug. 1961 1st attorney w/ Space Task Group*

Topics - *one discrimination case prior to ^{MSC} Houston move; complaints of racial discrimination in Manpower hiring; NASA screening process; procurement Contract review + negotiation; contracts for high tech equipment + systems; heavy equipment; construction + modifications; jump from review of \$10,000 plus to \$100,000 plus contracts; legal workload heavy.*

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Interview with Porter H. Gilbert
11/21/67

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I was the first attorney officially onboard with the Space Task Group. I came in August 1961, and prior to that time the legal support that STG had been receiving had come from Mr. George Malley, Chief Counsel for Langley Research Center. George was a one man shop with only a law clerk not yet accredited as an attorney to help him. He had responsibility for all of Langley's business which was quite large, and provided additional assistance to the Space Task Group ~~from August~~ to November 1961 when Mr. Ouldsⁱⁿ officially came onboard.

We worked very closely with Mr. Malley on various matters that he had been working on, and for which we needed background information. About 2 weeks after I came to work, Sidney Spirn, an attorney now with the Langley Research Center, also was hired. He stayed with us until we transferred to Houston, at which time he went back to Langley.

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We got our first discrimination complaint while we were still at Langley. It involved an applicant by the name of Bernard Sunshine who was an administrative contracting officer at Eglandⁱⁿ Air Force Base. Since we were a very small group, everybody was sort of pitching in and doing whatever he could and responding to whatever requests he got. Notwithstanding the fact that we had extremely heavy procurement activity in progress, Mr. Hjernevik asked that I investigate the Bernard Sunshine case, and assist in the preparation of the reports for which Mr. Hjernevik was responsible. as Compliance Officer for MSC. This responsibility required responding to a relatively

new procedure that had grown out of a recent executive order and involved reporting to the President's Committee on Equal Opportunity. The outcome of that case, as I recall, was that it was found not to have any supportable basis for the allegation of discrimination. That was the only case we had while we were still at Langley in the discrimination area.

204 When we came to Houston in late 1961 and early 1962, the advanced cadre was quite small. The interest of inhabitants of this metropolitan area in NASA was intense. We also had been getting a lot of publicity in the papers and other media. One of the first positions I understand that NASA advertised to fill was for math aides. They had vacancies for 6 math aides, and the response was almost overwhelming. As I recall there were some 60 applicants for only 6 positions. A large number of the applicants either had college degrees or some college work. In the case of one of the persons, a Mrs. Ethel Kirkwood, complained that she had been discriminated against because of race. Unfortunately, there had been a paperwork mixup in the Personnel Office. Someone had erroneously returned Mrs. Kirkwood's Form 57 and as I recall made some notation indicating that she wasn't qualified. However, she had been determined to be qualified in an interview with Luther Turner in Personnel. Luther had handled the application properly but thereafter it had been improperly designated as not qualified and returned to her.

204 In handling the investigation I interviewed everyone in NASA who had anything to do with hiring these math aides; including Mr. John Mayer who would have been their supervisor. I took my secretary

along and we made a verbatim transcript of the questions and answers. I also went to either the home of Mrs. Hughes, the sister of Mrs. Kirkwood and who had also filed a complaint or to the home of Mrs. Kirkwood, I don't remember which. I interviewed the complainant in detail and a verbatim transcript was made. I also had a meeting with one of the complainants near Texas Southern University. She had a couple of advisors present during the interview and they participated.

204 Essentially, one of the primary selection factors that weighed against the employment of these complainants was the fact that their experience and academic training was dated. It had been acquired about 18 years before, whereas the applicants selected had experience as recent as 1960 in the oldest case. Essentially, it was a case of a technical job with relatively low qualifications into which a broad cross section of people in Houston qualified and responded en masse. Our people had to screen out and pass over some very well qualified people. In essence this was the substance of the report that went back to the Committee.

204 The complainant is advised of the facts involved and the determinations made and has a right to appeal to the President's Committee and have a full hearing. There was no appeal to the Committee in these 2 cases growing out of the math aide employment nor had there been an appeal in the case that we had at Space Task Group involving the administrative contracting officer, Mr. Sunshine.

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These were the last cases handled by this office. I recall participating in an interview Mr. Whitbeck was having with someone that he was considering for employment to specialize and handle as one of his duties personnel matters like this including the discrimination cases. Mr. Whitbeck indicated that while the Legal Office had handled these matters up until this time, that was not what he had hired me for. I was hired as I recall primarily for my experience in procurement matters. In fact these were the first discrimination cases that I personally had been involved in. We spent a lot of time and developed a lot of direct "quote" transcript material. In fact at a later talk with one of the Headquarters people in Personnel, an interesting observation was made. By this time Bingman had taken over the handling of the discrimination cases and all subsequent cases. We finished those that we worked on and I was told that when these files that I'd worked were taken over to the lady who apparently was the executive secretary to the President's Committee, ^{OUR PEOPLE WERE} Somewhat concerned that we had gone to much greater depth and had much more material than the Commission would be interested in wading into. ^{PAT GAVIN} one messenger told me that she looked through the material and assured him that this was the type of investigation and check that they were interested in seeing performed by the agencies participating in the nondiscrimination cases. This was pretty much on target of what they wanted.

That essentially wound up our participation in these discrimination allegation cases so far as doing the actual investigation and handling the summation. During this time frame, late 1961 early 1962, when we

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were working on some of these discrimination cases, we had a tremendous procurement workload and a very small staff to accomplish it. For example, until late in the spring of 1962, in the Legal Office, there was only Mr. Ould and myself, and a Mr. Parry, an inexperienced and untrained lawyer. We had, in various stages of procurement action, a tremendous workload of contract review and negotiation participation. This workload involved the North American CSM contract, paraglider contract with NAA, Gemini contract, modifications on the Mercury contract that was winding up, ^a group of contracts for navigation and guidance equipment with MIT, Kohlsmann, Raytheon, two with AC Sparkplug, Sperry, and with the solar simulator. We also were involved in contracts for other heavy equipment, such as the centrifuge, which was to go in some of the buildings out here although we weren't directly involved with the contracts for the construction of the site itself. We were involved however with contracting for the modification of buildings at Ellington and also heavily involved in the leasing of the temporary buildings that we used before coming out to the main site. Of course there were many other smaller procurement actions that we had responsibility for participating in, as at this time we were reviewing all contracts over \$10,000. We became so swamped with work however, that later we raised our review level and started reviewing at the \$100,000 and up level unless there was some particular type of contract or some reason procurement might desire review and participation of this office for contracts less than \$100,000. We acquired a fourth member of the Houston staff in the early fall of 1962. These two new additions ^(ARRY AND FLAGG) along with myself were primarily involved in procurement matters, with Mr. Ould

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handled^{ing} most of the general legal matters, ^{he also} participated with us in the major procurement matters, and gave us advice and guidance on the largest and most significant contracts. The discrimination cases and mainstream procurement cases were both going concurrently. A few of them may have been out of phase or in an inactive period, but all this mainstream procurement effort was going on and I think it was reflective of the attitude that the Center had toward wanting to make sure that it gave detailed attention to these complaints. They assigned someone ^{from the legal office} to work on these ~~who was so heavily involved in the procurement process,~~ and at a time when we were extremely short handed as far as procurement attorneys were concerned.