

PROPOSED QUESTIONS
FOR
ASSASSINATION RECORDS REVIEW BOARD'S
PUBLIC HEARING ON THE ZAPRUDER FILM
APRIL 2, 1997

A. Eminent Domain Issues (Robert Brauneis)

1. Are there any precedents for the U.S. Government exercising its eminent domain powers to obtain an historical artifact? Could you briefly explain to the Review Board what happened in those cases?
2. Have you done any analysis as to the Review Board's statutory authority to acquire, by eminent domain, the original Zapruder film?
3. Assuming that the Review Board has the statutory authority to exercise eminent domain powers, what are the constitutional considerations and/or limitations on that power?
4. In sum, does the Review Board have the statutory and constitutional power to acquire the original Zapruder film through eminent domain?
5. Procedurally, how would the Review Board apply any lawful eminent domain power over the original Zapruder film (*i.e.*, what are the mechanics for "taking" the original film)?
6. If the Review Board decides that the U.S. Government should obtain the original Zapruder film, should the taking be accomplished by the Review Board or by Congress? What factors should the Review Board consider in deciding this issue? Have there been instances where an agency has deferred to Congress on the exercise of the eminent domain power?
7. Is there any other doctrine or mechanism, other than the use of the eminent domain power, that would permit the U.S. Government to obtain legal custody of the original Zapruder film?
8. If the Review Board does not exercise its eminent domain power at this time, what are the legal consequences of not doing so? Will the U.S. Government be precluded in the future from exercising its eminent domain powers over the original film at a later date?
9. Assuming the Review Board has, and exercises, the power to take the original Zapruder film, what will be the financial costs to the taxpayer? What are the factors that will determine how much the Government must pay to compensate the owners of the original film? Are they entitled to the full commercial value of the original?
10. Would the exercise of any lawful eminent domain power of the Review Board be subject to challenge in the courts (either on the issue of whether the power was exercised lawfully or whether the compensation was fair)?

11. What final recommendations, if any, do you have with respect to whether the Review Board should attempt to obtain the original Zapruder film on behalf of the United States Government?

B. Technical Issues (Moses Weitzman)

1. What is the current condition of the original Zapruder film? Has it suffered any deterioration? What are the implications of any such deterioration? Over the last 33 years, what measures have been adopted to preserve the original Zapruder film?

2. What are the prospects for maintaining the image quality of the original Zapruder film for the next 5 years, 25 years, 50 years, 100 years?

3. In what respects will the original Zapruder film deteriorate over time? Is this deterioration inevitable or can it be prevented? What is the latest technology for film preservation? Has that technology been adopted for preserving the original Zapruder film? What procedures are currently in place to preserve the original Zapruder film? Is there any basis for assuming that technical preservation can be better accomplished in either private or Government hands (*i.e.*, what costs or facilities are required for preservation of the original)?

4. Can you explain what characteristics, if any, the original Zapruder film would have that a high quality copy would not have?

5. Can the full technical and evidentiary value of the film be replicated through a high-quality copy? Does current technology allow us to replicate a copy that might be superior in any respects to the original?

6. What are the prospects for future technology to enhance the evidentiary value of the original film? In other words, what are the prospects that future technology will allow us to extract more information from the original than is presently possible? Could such future technology be applied to a copy with the same benefits?

7. Over time, will a copy or the original have greater historical and evidentiary value?

C. Research Issues (James Lesar, Richard Trask & Josiah Thompson)

1. What are the current (and future) needs of researchers and scholars that necessitate access to the Zapruder film?

2. Do the research issues involving the Zapruder film relate to the authenticity of the film or to questions as to what the Zapruder film reveals (or to both)?

3. Do the needs of researchers and scholars require access to the original film? Or would the needs of researchers and scholars be satisfied by access to high quality copies?

4. If the needs of researchers and scholars would not be satisfied by a high quality copy, could

you articulate specifically what needs would not be adequately satisfied by a copy?

5. Does the research community have an opinion as to whether the Government should obtain the original of the Zapruder film? What is that opinion and what is the basis for it?
6. What issues, if any, might be realistically resolved through future technology that enhances the value of the original?

D. Historical Issues (Art Simon)

1. Mr. Simon, in his statement, says “there is little evidentiary value left in the Zapruder footage” and that the notion that “some future optical technology might” permit the “original to yield new important information” is an “enabling fiction” and a “fantasy.”

Thus, is Mr. Simon of the opinion that the original cannot yield any new information in the future? And that the original will never yield any information other than what can be elicited from a copy? Thus, does Mr. Simon assume that there is no evidentiary value to the original?

2. In opining on the lack of possibilities for “future optical technology,” Mr. Simon does not purport to be an expert in this technical area?

3. Mr. Simon, in his statement, posits that the original Zapruder film could be considered a “secular relic, a material piece of the past” and that there may be an inherent value in preserving the original “as part of some ongoing archeology project” and as “the [G]overnment’s way of saying historical consciousness is important.”

Thus, is Mr. Simon of the opinion that, even if there is no additional evidentiary value in the Government’s preserving the original, there is an inherent value in preserving the original film simply as an historical artifact?

4. Mr. Simon, in his statement, says that if the Government decides to procure the original, then it should provide “some mechanism for public access” so that the film is not limited to “a select few.” Mr. Simon proposes that the Government “entrust the film . . . to a museum, university or research institution.”

What specifically would Mr. Simon recommend with respect to the future preservation and/or display of the original Zapruder film? Should the film (and perhaps the camera) be put on permanent display as an artifact? Should the original be played for viewing?

5. In assisting the Review Board in evaluating whether the Government should procure the original Zapruder film, can Mr. Simon point to any examples where the Government purchased or obtained an

historical artifact, particularly films or photographs?

6. Can Mr. Simon point to any examples of how the originals of other famous films or photographs have been handled from an archival perspective? [For example, what ever happened to the original of the film of the Hindenburg accident? The originals of Matthew Brady's photographs? Films taken from the Apollo spaceships?]

7. Can Mr. Simon provide the Review Board with any other precedents or examples for the handling of the original Zapruder film?