

PRIVILEGED and CONFIDENTIAL

April 6, 1995

TO: Assassination Records Review Board

FROM: Sheryl Walter

RE: Zapruder film update

On Wednesday, April 5, David Marwell and I, along with Miriam Nisbet, Mary Ronan, Christopher Runkel, and Laura Naide from the National Archives, met with Henry Zapruder and his attorney to discuss the status of the Zapruder film and options for adding it to the JFK Assassination Records Collection.

Background

The camera original of the film recorded by Abraham Zapruder with his hand-held movie camera at the moment of President Kennedy's assassination is currently housed under preservation conditions at the National Archives. Immediately after the assassination Zapruder took his film to a local Dallas processing plant, had three copies made, gave two copies to representatives of the Secret Service and kept the original and the other copy. He then sold the original and copy to Life Magazine for a

reported \$150,000.¹

First generation copies of the film already are in the Collection from the records compiled by the Warren Commission and the HSCA and by donation from Time-Life. The original film was used by the Warren Commission on at least one occasion. At the Commission's request, a representative from Life brought the original to the Commission's offices and screened it several times, because "the original had considerably more detail and more there to study than any of the copies, since in the photographic process each time you copy you lose some detail." ²

In 1974, Time-Life notified the Archives that it was considering whether to donate all of its rights in the film to the government. It did donate a first and a second generation copy, but sold the copyright in the original to the Zapruders for \$1. The original film was placed at NARA at the Zapruders request for storage but no donation or deed of gift was ever

¹ In testimony before the Warren Commission, Zapruder was asked how much he had "received" for the original and copy. He told the Commission he had received \$25,000, which he had given to the family of J.D. Tippit, the police officer allegedly shot by Oswald after the assassination. He did not also explain at the time that the \$25,000 to which he referred apparently was the first of six payments for the film and its copy.

² Testimony of FBI Special Agent Lyndal L. Shaneyfelt, Hearings before the President's Commission on the Assassination of President Kennedy.

executed by them. Since that time NARA has stored the film and has administered it, including all public requests for access and providing copyright notices to persons seeking copies as requested by the Zapruder family. The Zapruders since 1975 have allowed copies to be made and used upon payment of a hefty royalty fee (reportedly \$40,000 from Oliver Stone for his use of the film in "JFK").

In 1993, after passage of the Assassination Records Collection Act, Henry Zapruder and his attorney appeared at Archives II in College Park and asked for possession of the film. The Archives personnel, on advice of Archives counsel, declined to give the film to Zapruder, citing the Act and the fact that the Board had not yet been appointed, let alone had a chance to consider the film's status under the Act. The film has remained at NARA under preservation conditions in cold storage since that time.

Current Status

The Zapruders' attorney, Jamie Silverberg, has been in contact with NARA and with the Board regarding the status of the film and the Zapruders' demand that it be returned to them. He has filed a "contingent" tort claim alleging tortious interference with the Zapruders use of the film, and claimed a value for the film of \$15 million. He also requested a meeting to discuss whether resolution of this matter is possible short of litigation.

Zapruder's position is that he wants the original film returned to him and that he will provide copies for the collection made using modern digital technology. Silverberg added that if a researcher in the future for some

reason was not satisfied with what could be learned from that copy, the Zapruders would make the original available or, if they no longer owned it, it could be subpoenaed from owner.³ We explained the importance of including the original in the Collection based on its unique intrinsic evidentiary value as well as the clarity of the images captured on the original film. We also cited the Review Board's responsibility under the Act to secure for the Collection all records "created or made available for use by, obtained by, or otherwise came into the possession of" all previous investigations into the assassination, which based on the history of the original film's use qualifies it as an "assassination record."

We raised several times the possibility of a donation of the original. Zapruder rejected this option, denied that he had offered to donate it earlier, stated that donation had at best always been "only one of the options we were considering," and as an example said he might be more interested in donating it "if it is worth only a few cents." He stated his belief that the Review Board was taking his private property and that he wants to be paid for it, while also saying he does not believe tax money should be spent on this item just to secure the original when we have the "information" contained in the film already at our disposal. Much of Zapruder's comments centered on seeking our agreement to enter into an appraisal process so that we can "make a deal." When asked why he would not donate the material and take a tax deduction in lieu of being paid for the item, he said he might agree to take less than the full appraised value

³ This approach overlooks the question of who would have subpoena power after the Board goes out of existence and does not address the preservation concern.

and deduct that amount, but that he believed the value was high enough that his income was insufficient to take full advantage of a deduction.

We closed the meeting with an agreement that NARA counsel would continue to act as the contact point for this issue and that the Zapruders would be notified should the Review Board decide to take any further action on this in the near future. NARA counsel will contact the Justice Department to find out how we might proceed on the takings issue and on valuation, should that be necessary.

Next Steps

From the documentation provided to us by NARA, it clear only that Time-Life transferred its copyright interest in the film to the Zapruders for the sum of \$1. No mention is made in the documentation we have as to a transfer of ownership of the object itself, although it appears that the Zapruders had physical possession of the film for a time in 1975 before depositing it for storage at NARA. It would be useful for purposes of resolving this issue if we can obtain from Time-Life all of its documentation on the transactions between it and the Zapruder family. (These records also seem to qualify as records that would enhance the historical record of the assassination and investigations into it and arguably should be put in the Collection as well.) Although we have the power to subpoena the records it seems a better course to request Time-Life to voluntarily produce them or at least allow us to examine them.

It is possible that in transferring the copyright interest, a transfer of

ownership of the artifact was never formally executed. In that event, Time-Life may still retain ownership of the artifact and a donation of the film to the government from Time-Life may still be possible. The copyright issue would still need to be resolved, but unless the Board determines that this aspect of ownership must reside with the government as well the status quo (in which NARA continues to give copyright notices to those seeking copies until the film passes into the public domain in approximately 2025) could be maintained.