

## Zapruder Film -- Taking

The Zapruder film, which records the moments when President Kennedy was assassinated, is perhaps the single most important assassination record. We set forth below the efforts of the Review Board and Department of Justice to secure the U.S. Government's ownership of the film..

In 1978, Abraham Zapruder's son, Henry G. Zapruder, deposited the original Zapruder film with the National Archives for safekeeping. Legal ownership of the film, however, was still retained by the Zapruder family. As the Zapruder family stated upon transmission of the film to the National Archives, "the Film will be held by the Archives solely for storage purposes and . . . the Archives has acquired no rights whatsoever to the Film. See July 10, 1978 Letter from Henry G. Zapruder to James Moore, National Archives.

In March 1993, shortly after passage of the JFK Act, Henry Zapruder sought to remove the original film from the National Archives. In October 1994, the Zapruder family, through its attorney, again sought return of the original film. The National Archives declined to return the original film, relying on the JFK Act which presumably may have affected the status of the film.

Thereafter, the National Archives, the Review Board, and the Department of Justice sought to clarify the status of the original film under the JFK Act, including whether the U.S. Government could legally acquire the original film and what the value of compensation to the Zapruder family would be under the takings clause of the Fifth Amendment. In addition, the U.S. Government had numerous discussions with legal counsel for the Zapruder family regarding a legal "taking" of the film, the compensation to be accorded to the family, and copyright issues regarding the film.

In 1997, the Review Board deliberated, and ultimately asserted, its authority under the JFK Act to acquire legal ownership of the original Zapruder film. On April 2, 1997, the Review Board held a public hearing "to seek public comment and advice on what should be done with the camera-original motion picture film of the assassination that was taken by Abraham Zapruder on November 22, 1963." Transcript of Review Board Proceedings, Hearing on the Status and Disposition of the "Zapruder Film," April 2, 1997, at 5 (statements of Chairman Tunheim). The issue facing the Board was whether the Zapruder film was an "assassination record" that "should be in the JFK Collection at the Archives" and whether it "should . . . be Federal Government property rather than the property of private citizens." *Id.*, at 11 (statements of General Counsel Gunn). The Review Board also had to consider how to acquire the film for the American people, whether through the exercise of a takings power or through negotiation with the Zapruder family.

At its April 1997 hearing, the Review Board heard testimony from six experts who addressed a

variety of issues, including the constitutional and legal issues involved in effecting a “taking” of the film and the benefits in having U.S. Government ownership of the original film. Following the Zapruder hearing, the Review Board held an open meeting on April 24, 1997 and resolved to secure legal ownership of the original Zapruder film for the American people. The Board’s “Statement and Policy with Regard to the Zapruder Film,” adopted unanimously by the Board, resolved (1) that the Zapruder film was an assassination record within the meaning of the JFK Act; (2) that the Board would attempt to ensure that the best available copy of the film is available to the public; (3) that the Board would work cooperatively with the Zapruder family to establish the best possible copy for research purposes and to conduct tests to evaluate authenticity and to elicit historical and evidentiary evidence; and (4) that the original film be transferred to the JFK Collection on August 1, 1998 and that the Review Board would work with Congress to resolve this issue.

In June 1998, Congressman Dan Burton, Chairman of the House Committee on Government Reform and Oversight, which oversees the work of the Review Board, wrote to the Department of Justice expressing Congressional support for the efforts of DOJ to carry out the “Board’s commitment to ensuring that the original Zapruder film remains in the custody of the American people as the most important ‘assassination record.’” June 5, 1998 Letter from Chairman Burton to Frank W. Hunger, Assistant Attorney General for the Civil Division. At the time of this Report, the Department of Justice was engaged in negotiations with the Zapruder family to resolve all outstanding issues relating to the legal transfer of the film from the family to the U.S. Government, including the issue of compensation to be paid to the family for the film.