

MEMORANDUM

November 22, 1994

TO: Jack Tunheim

FROM: Sheryl Walter

RE: Zapruder film issue, Christopher Barger employment eligibility

1. Chris Runckel from the National Archives' Office of General Counsel called me to ask if the Board has any objection to NARA acting as the "lead agency" in dealing with the Zapruder film issue. Under the applicable regulations (28 C.F.R. section 14.2), when more than one agency is involved in a legal matter consolidation and appointment of a lead agency is allowed. Runckel assured me that his offer is intended only to relieve us of having to be responsible for responding to the Zapruders or their attorney, especially given our slim staffing and other startup concerns right now. There is also an advantage to having only one point of contact with the Zapruders and their counsel to avoid confusion and ensure that both agencies speak with a single voice. He emphasized that the Board would be kept informed and consulted on all aspects of this issue as they may arise, copied on all correspondence, receive drafts of all letters and documents, and that we would of course be an active player in settlement negotiations or development of case strategy.

I told him tentatively that this arrangement seemed acceptable but that I needed to consult with David and you. David agrees that it seems sensible to go this route. Do you have any objections or thoughts about this before I give NARA our official assent?

2. Attached is a memorandum outlining my legal analysis of Christopher Barger's eligibility for employment on the Board's review staff. My conclusion is that although he appears well-qualified and would likely be a great addition to the staff, the statutory language and legislative history appears to counsel against bringing on staff someone like Barger who has a continuing and non-waivable commitment to service with a branch of the federal government. David and I have discussed this already. If you have any questions or wish to talk about this matter further, please give me a call. [My direct line is 202-724-0815.] Barger has called our office several times asking whether we have resolved this issue. However, he will not be notified of a final decision until you have signed off on this.

Thanks!

cc: David Marwell