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September 11, 1979

Darrel L. Grinstead, Esq.
Assistant General Counsel
Business & Administrative Law Division
Office of the General Counsel
Department of Health, Education and Welfare
Washington, D. C. 20201

Dear Mr. Grinstead:

Earlier I had noted in my letter to you that I felt the summary of your meeting with Mr. Latker and me on August 23, 1979 was not accurately summarized in the paper which you sent to me on August 31, 1979. The purpose of this letter is to correct the record insofar as what transpired at the meeting.

The summary is incorrect when it states that Mr. Latker said that he had prepared the document identified in your letter to me as Tab A. Mr. Latker and I did not have a chance during the meeting to review in any detail the document which is 19 pages long and has a number of attachments. Mr. Latker was therefore not in a position to say the document shown to him was the one he had prepared. Mr. Latker did say that he had provided information concerning the Fourth Exemption of the Freedom of Information Act but he had no way of knowing that the document presented to him and which you refer to as Tab A was that which he had prepared.

Further, as to Tab A, since Mr. Latker was not in a position to inform you that the document had been prepared by him in the form in which you showed it to him, he was in no position to respond and did not do so to your questions as to why the document referred to "associations". The statement in your Summary (page 2, paragraph 2) on this point is garbled. Mr. Latker did say that the paper he prepared on the Fourth Exemption was consistent with Department policy but this was not in response to your question as to the reason why the word "association" was used. As the summary states, the paper which Mr. Latker had prepared (which was not necessarily the one shown to us at the meeting) was consistent with the DHEW policy and was the same information which would have been provided to any group asking for it.

With regard to that part of the summary which refers to the conversation between Mr. Latker and Mr. Feiner concerning a "press package", it should be pointed out that the conversation between Mr. Latker and Mr. Feiner, as Mr. Latker stated

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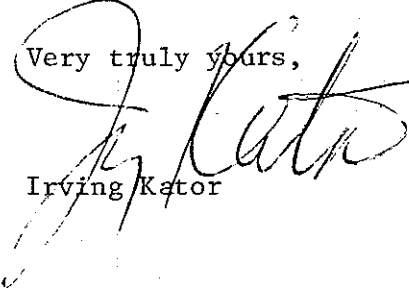
at the meeting was a heated one and that there was no certainty as to what Mr. Feiner had requested Mr. Latker to do. In any event the materials in question were public information and Mr. Latker made them available to persons upon request and there was no reason for not doing so simply because the releases were critical of the Department.

In regard to the meeting between Mr. Richard Beattie and Mr. Latker which is referred to in summary (page 3, paragraph 3) you state that you asked Mr. Latker whether Mr. Beattie had instructed him at that meeting to "cease lobbying". My notes do not indicate that you asked this question with respect to the meeting with Mr. Beattie and this part of your summary should be deleted. There was no occasion to tell Mr. Latker to cease lobbying since he had not lobbied and Mr. Beattie had not made any such statement at the meeting. As Mr. Latker stated, Mr. Beattie's concern during the meeting appeared almost entirely related to the question of Mr. Latker's having mailed information critical of the Department even though these were public documents which had been requested by members of the public. Mr. Latker informed you that Mr. Beattie said he was "very disturbed" that any materials critical of the Department might have been mailed.

The summary also lacks reference to the inquiry I made concerning whether any of the documents labeled Tab B and D were in fact ever published. No evidence of this fact was shown to us at the meeting and your summary should reflect this inquiry on our part.

I would appreciate it if your summary were corrected in accordance with the above and request that this letter be placed in the record along with your summary to be sure the record is clear as to the positions taken at the meeting, what questions were in fact asked by you, and what was said by Mr. Latker in response to your questions.

Very truly yours,


Irving Kator

IK/m