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COMPLAINT NO. 198

(Filed November 3, 1981)

HERBERT D. KERMAN

against

THE WASHINGTON POST, ABC NEWS "20/20," and MOTHER JONES

Complaint: Dr. Herbert D. Kerman, M.D., president of the Association of Community Cancer Centers, complained that three recent news reports on cancer research exhibited unfairness and irresponsibility. He specified a four-part series in The Washington Post October 18-21, 1981; an hour-long ABC News "20/20" program October 22, and an article in the September-October issue of Mother Jones.

The Washington Post articles focused on defects in the testing of experimental cancer drugs by the National Cancer Institute. Dr. Kerman called the articles lurid recitals of complications and deaths which "may be partially factual," but "are written in a manner as to substantially impugn the entire effort of drug development of the NCI." He said, "The positive results which have occurred in the fight against cancer, while mentioned, are de-emphasized. The articles show no evenhandedness or fairness in presentation, and are so distorted as to deny the very great advances made in the experimental drug research effort."

Dr. Kerman said, "The ABC '20/20' show also de-emphasized the benefits of cancer research and the National Cancer Program and emphasized some

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scientifically unproven drugs and methods. In essence, a pro and con report was lacking." He said a more recent "MacNeil-Lehrer Report" from WNET/Thirteen on cancer research "was more evenhanded and afforded an opportunity for open debate between scientists with differences of opinion and an opportunity for a reasonable discussion on controversial issues ensued."

Dr. Kerman said, "A more flagrant and thoroughly distorted article appeared in Mother Jones about a research effort in Oak Ridge about which I have intimate firsthand knowledge, and I can state unequivocally that the article's implications were false. This latter report resulted in a congressional investigation by Rep. Albert Gore of Tennessee and, in essence, refuted the statements of the journalist."

Dr. Kerman said his concern about the three reports grew out of 30 years of treating cancer patients during which he has seen "slow but progressive positive results of ever increasing small improvements and sophistication in care, techniques, equipment and drug management of cancer which translates into improved survival and lessened morbidity for patients. He feared that:

The present interest of the media in cancer and the way it is being presented results in erosion of confidence and questions the credibility and integrity of, not only the medical research scientists, but also the practicing community oncologists who apply the methodology evolved from the research efforts in the treatment of over 85 percent of all patients with cancer. While the public eagerly awaits a monumental "breakthrough" in cancer management, this is more than likely never to occur and the benefits and progress of treatment methods must rely on small increments of increasing knowledge which can be applied to cancer management only through the present methods of investigation.

It would be my hope that the media itself, perhaps through the influence of The National News Council, could be urged to develop a more evenhanded approach to their reports and give as much emphasis to the compassion, quality of patient care and support, and concern of the investigators who overwhelmingly are concerned with the humanistic factors as well as the scientific factors of research which involves patients and their families. The medical and bioscientific community has little opportunity to be heard in the same forum and under the same circumstances as the media, and we can only rely on the journalistic profession to impose the characteristics of professionalism and ethical behavior in journalism.

A note on this report: The News Council employed two people with specialized knowledge to analyze this complaint. They are David Zimmerman, a free-lance science writer, and Gerald Delaney, director of Public Affairs for Memorial Sloan-Kettering Cancer Center in New York. Mr. Zimmerman was recommended by Barbara Culliton, news editor of Science magazine and president of the National Association of Science Writers, after Ms. Culliton discovered that she did not have time to do the analysis herself. She recommended Mr. Zimmerman as an experienced science writer who enjoyed the respect of his colleagues for his integrity and his concern with the ethics of science writing. Mr. Delaney was recommended by Lewis Cope, science editor of the Minneapolis Tribune, as a person within the cancer establishment who had enough detachment to make a reliable evaluation of attacks on that establishment.

Their analyses were sent to Council members as background material. So were an article from the January-February, 1982, issue of the Washington Journalism Review and an "explainer" article from the October 23, 1981, issue of The Boston Globe. Richard A. Knox, The Globe's medical writer, felt compelled to write the explanatory article because he and The Globe's ombudsman received a number of phone calls and questions

after The Globe published parts of the Washington Post series.

The three complaints are dealt with separately here.

### The Washington Post

The series: The Post series consisted of four articles and a number of sidebars about the National Cancer Institute's Phase One testing program for experimental cancer drugs. The Phase One program is the first phase of human testing after laboratory tests have shown some results against cancer in animals. The Post described its series as follows in the first article:

A one-year study by The Washington Post has documented 620 cases in which experimental drugs have been implicated in the deaths of cancer patients.... And they amounted to merely a fraction of the thousands of people who in recent years have died or suffered terribly from cancer experiments conducted in the nation's hospitals.

The Post devoted its first two articles to case studies of 21 of the experimental drugs tested under the NCI's Phase One program. The third article focused on one of the clinics in which experimental drugs are used. The fourth article described the slow path of an experimental drug from hunch to the point where it can be used in human experiments.

The Post's response to the complaint: Ben Bradlee, editor of The Post, said it was unsophisticated to take Dr. Kerman's complaint seriously. He implied that the complaint was part of a "full court press" mounted against the articles by "the cancer establishment." He noted that the complaint did not allege inaccuracy and said, "I see no reason why, in the absence of anything like a specific charge, The Washington Post or any of its staff should share its thinking and insights or anything else with you."

Staff replied that the complaint did allege that the articles were unfair and that unfairness, as much as inaccuracy, was a concern of The News Council. Mr. Bradlee replied that the complaint, to the extent that it implied that the cancer series was not fair or not in the proper context, differed little from hundreds of other complaints he received in the course of a year. He said, "If you want to investigate us, be my guest," but he did not offer his thinking or that of his staff on the allegations in the complaint. That being the case, Council staff did not consider that his second response differed significantly from his first.

The Council received on April 6 from Vincent T. DeVita, director of The National Cancer Institute, a 52-page list of what he called "inaccuracies, omissions, or distortions of fact" in the Post series. Council staff was concerned that the list might consist of new criticisms that The Post had not had an opportunity to answer. However, it appeared from references within the DeVita list that the gravamen of the criticisms had been communicated to The Post in one or more of three letters from Dr. DeVita -- one that was published in The Post October 19, and two others dated October 19 and 21, which were not published. Nonetheless, the appearance of the DeVita criticisms at the last minute led Council staff to try again to elicit a response from The Post to the DeVita complaints and to the original Kerman complaint. Richard Cunningham called Mr. Bradlee April 9; told him about the DeVita material; said he was uncomfortable about not having a response from The Post, and offered to make himself and the material available to receive a response from Mr. Bradlee and/or his staff. Mr. Bradlee declined. He said it ought to be clear that Dr. DeVita had an axe to grind.

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Mr. Cunningham sent a copy of Dr. DeVita's criticisms to Mr. Bradlee. Mr. Bradlee replied with a letter noting that in his view the DeVita material did not constitute a challenge to the accuracy of the series and that the complaints had been largely dealt with in a statement from Dr. DeVita published by The Post.

The complaint against ABC News

The program: The "20/20" segment against which the complaint is directed was an hour-long program entitled, "The War on Cancer: Cure, Profit or Politics?" The program opened with the question:

The national war on cancer -- ten years and \$10 billion of your tax money, sophisticated research, free-flowing federal grants, power politics, relentless publicity, and public pressure for a breakthrough -- has it done any good?

Critics charge scandal, cover-up, manipulated statistics, monopoly of research funds, and they say worthy researchers with innovative treatments are harassed, stifled, discouraged.

Hugh Downs said:

...10 years and \$10 billion later, we are in the midst of a cancer epidemic. Both the incidence and the death rate from cancer have climbed higher than ever before. Why so little progress after so long a battle? Well, here with our report is Geraldo Rivera.

Rivera reported:

...So despite sophisticated new technology, and despite the expenditure of billions of tax dollars, the odds today are the same one-in-three odds that faced the cancer patient back in May of 1958... But cancer is not just a disease, it's a political and economic phenomenon, a \$30 billion-a-year

business -- one that reaches deep into the halls of Congress, deep into the national pocketbook, and deep into the soul of the nation.

Mr. Rivera reported that an interlocking leadership existed between the National Cancer Institute and the American Cancer Society. That interlock, critics said, created a monopoly on cancer research funds and information. Mr. Rivera outlined the stories of Dr. Stanislaw Bruzynski and Dr. Joseph Gold, who were allegedly frozen out of funds and credit for their innovative efforts to find new cancer therapies. Mr. Rivera outlined what he called "press misbehavior" in hyping the promising cancer therapy, Interferon. He concluded the program:

Declaring our so-called war on cancer 10 years ago was a grand public relations gesture, but as every year passes without victory, frustration and fear continue to mount. And as the multi-billion-dollar campaign enters its second decade, all of us -- the scientists, the politicians, the press, and the people -- have to be more careful, because, it's been said, in all wars -- and that includes this figurative one -- the first casualty is often the truth.

The response of ABC News: George Watson, vice president of ABC News, supplied The News Council with a complaint about the "20/20" program from Dr. Robert P. Hutter, president of the American Cancer Society, and his answer to that letter. Since the Hutter letter is more specific in its complaints than the Kerman complaint to The News Council, both it and Mr. Watson's response are incorporated into this report as a fair insight into the network's defense of the program.

Dear Mr. Goldenson (Chairman of the Board and Chief Executive Officer, ABC-TV):

Cancer is the disease most feared by people all over the world. Thus the television news media must be especially careful not to create undue fear or hopelessness in current patients or those recently treated. This is why the American

Cancer Society is deeply concerned with a recent "20/20" special program on cancer.

The program's opening assumptions began with: "We are in the midst of a cancer epidemic."

This is a totally inaccurate thesis. The United States is most definitely not in the midst of a cancer epidemic. Except for lung cancer, 85 percent of which is caused by the smoking of cigarettes, the age-adjusted death rate of almost all cancer is flat or declining. Actually, five-year survival of all cancer patients with serious cancer in the the United States has now risen to 45 percent.

It is important to separate lung cancer deaths from those of other forms of the disease, because these tumors are highly fatal. Yet the cause of the great majority of lung cancers is completely controllable through personal life styles. This basic truth was obscured by "20/20." When Dr. Vincent DeVita, Director of the National Cancer Institute, tried to explain this to Mr. Rivera, the latter asked: "Aren't we playing games?"

Mr. Rivera described cancer as a "thirty billion dollar a year business." This sounds sinister. What does it mean? This was never explained. Since the program dealt in the main with cancer research, it might have pointed out that the total research budget of the Society is currently \$55 million annually; and the total research portion of the budget of the Institute is \$600 million a year. This money is divided among hundreds of scientists and physicians. The Society's average grant to researchers is about \$63,000 a year.

Dr. Samuel Epstein was introduced on the program as a "world renowned expert of the politics behind cancer research." Dr. Epstein went on to say that "our ability to treat and cure the major cancer killers has not materially advanced for decades." This is completely false and a disservice to the thousands of patients undergoing treatment at this time. In the past decade alone, the longterm survival rate for 17 out of 35 sites of cancer has increased significantly among U.S. men and women.

Dr. Epstein's accusation of "overlap in virtually every single area of boards, committees, grants, even publications" between the Society and the Institute is also completely inaccurate. The Society receives no funds from the Institute as a matter of policy. And there is no representation on its board or committees by members of the Institute. This practice ceased four years ago. With this misinformation Dr. Epstein posited a "cancer establishment" on "20/20."

Building further on this wrong evidence, "20/20" devoted undue emphasis to the work of Dr. Stanislaw Bruzinski and Dr. Joseph Gold, identified as researchers with so-called cures slighted by the "cancer establishment." Dr. Bruzinski practices entirely within the state of Texas and has not submitted his drug to the Federal Food and Drug Administration. Dr. Gold's substance is currently under clinical investigation by the

Institute, again a fact unreported by "20/20."

A viewer of the program could easily misconstrue that the purported therapies offered by these two physicians provide the panacea to cancer. What a shocking piece of information to offer cancer patients. Each year hundreds of applications for grants are turned down for lack of funds or proper protocols. Why single out these two cases as the possible answer to cancer?

In the past, ABC has shown sensitivity in this area. We hope that there may be an opportunity to present a balanced portrayal of cancer control to your vast viewing audience. We would be more than pleased to work with your staff toward that end.

Sincerely yours,  
Robert V. P. Hutter, M.D.  
President (American Cancer Society)

Dear Doctor Hutter:

Leonard Goldenson asked me to respond to your letter about the program "The War on Cancer: Cure, Profit or Politics?" which was broadcast by ABC News as a special report on "20/20". Since the broadcast last October, we have recently received a number of similar letters from various affiliates of the American Cancer Society. I want to address this correspondence at some length because of the seriousness of some of the charges made and our concern that the purpose and procedures we employed in making the program are better understood.

Let me begin by saying that the program was the result of many months research and careful documentation. Several hundred physicians and researchers were consulted. Our purpose was to examine issues involving policies, politics and attitudes toward cancer research and funding. The program did not endorse any form of treatment, established or experimental, and that point was emphasized in written replies to viewers who wrote or telephoned ABC News about it. We are acutely aware that desperate or distraught persons may seize on any information that seems to offer hope, or at the other emotional extreme, hopelessness. At the same time, we do feel an obligation to inform the general public about significant issues affecting its health and welfare. Therefore, we believed that the broader public interest was in fact served by forthrightly dealing with the topic. Indeed, we felt that this area of investigation is of great concern and has been largely neglected.

Let me now turn to the specific points of your letter and take them in the order that you raised them:

1) When speaking of a cancer "epidemic," we primarily had in mind the incidence of the disease. While there is, as

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we reported, a "confusing array of statistics from a variety of sources," we concluded that "epidemic" was an accurate word to describe the increasing incidence of cancer.

We also observed that not only had the incidence increased, but that also the death rate of cancer was rising. We consulted many statistical sources. To take one conclusion from the ACS publication, "Cancer Facts and Figures, 1981," "There has been a steady rise in the age-adjusted death rate."

We decided we could not ignore the death rate from lung cancer because it happens to be the greatest killer of all. Additionally, we did not feel the death rate could be excluded just because some preventative measures are known.

While the statistics we reported are bleak, we also noted at the beginning of the program significant progress in treating some forms of cancer. Both Dr. Vincent DeVita, Jr., director of the National Cancer Institute, and Dr. Frank Rauscher, Jr., of the American Cancer Society, pointed out the accomplishments of cancer research. The correspondent, Geraldo Rivera, also recognized the progress made in treating several forms of cancer.

2) You questioned Mr. Rivera's statement that cancer is a "thirty billion dollar a year business." That described the total cost our society pays in detection, diagnosis, treatment, research and economic loss to individuals and the economy. I would agree that "business" is a rather loose word in this context and should have been explained more fully. The statistic itself, however, is substantiated by our research.

3) Dr. Samuel Epstein's assertion that "our ability to treat and cure the major cancer killers has not materially advanced for decades" refers back to the statistical question. Dr. Epstein is discussing the major killers such as lung cancer where there has been little or no progress according to the statistics.

4) On the matter of whether a cancer "establishment" exists, we were convinced that it does. In a general sense, establishments can be found in virtually all government, institutional, corporate or organizational endeavors. Specifically, there does appear to be substantial overlap on the boards and committees of the National Institute and the American Society. For example, when we cross-referenced the ACS advisory board members with the NCI Research Index we found that of 169 advisory board members, six were employed by the NCI, and that 84 persons were recipients of a total of 184 grants.

5) On the work of Dr. Stanislaw Bruzinski and Dr. Joseph Gold, ABC News did not endorse or debunk the work of either. We focused on these two doctors and their experiments because they were illustrative of what we believed were important issues concerning the funding and encouragement of cancer research. We discussed both the apparent positive results of their work

and the criticisms expressed by other cancer specialists. We did not portray their work as the "possible answer to cancer." We did ask the question whether potentially significant research is being effectively supported. In responding to inquiries from the public, we emphasized that the program "does not endorse any specific therapy or treatment for cancer, as this is a medical decision between patient and physician."

Since the program was broadcast, we have learned that important members of the international community of oncologists will be joining certain U.S. colleagues in a clinical evaluation of both treatments. It is my understanding that Dr. Bruzinski will soon submit various peptide compounds to the Food and Drug Administration. As for Dr. Gold, we are aware of three clinical trials approved by the F.D.A. It is our further understanding that these results are to be presented at a forthcoming ASCO meeting. We stated that hydrazine sulfate was recently used in clinical trials.

Finally, I would like to make several observations in response to your more general concerns and similar ones expressed in other letters from affiliated groups. There seems to be an implication that we should report only the good news about cancer research and treatment. We have reported positive aspects many times and shall continue to do so in the future. At the same time, we cannot ignore more critical or even negative aspects of the subject. Our responsibility is neither to encourage nor discourage the public. It is simply to provide information on which informed citizens can reach their own conclusions. Another implication in some letters to us suggests that we have a special obligation to amplify the voices of the medical and bioscientific community. They are in fact often heard on ABC News broadcasts, and indeed in the program to which you object, virtually all of the voices are those of physicians and scientists, even if they are ones with which you disagree. It is a debatable subject of enormous consequence to all citizens.

We are committed to accuracy and fairness in all of our reporting, and to stimulating debate on important issues. We believe those commitments were met by the program. You can be assured that in future reports we shall be attentive, as we have in the past, to the activities and views of the American Cancer Society.

Yours Sincerely,  
George Watson

Council action: Hard-hitting reporting on the battle against cancer has been overdue. The news reports complained of represent attempts to provide that kind of reporting.

The News Council finds that it is neither necessary nor desirable to establish special standards for the reporting of medical research in general or cancer research in particular. However, it is most important to be accurate and fair in reporting these fields.

The Council rejects the suggestion of the complainant that the medical and bioscientific communities are somehow cheated in the arena of public discussion of their programs. The press has developed some specialized reporters and editors competent to handle the complexities and subtleties of bioscientific subjects. The bioscientific community has developed public relations skills. Unfortunately those skills have often been used to limit rather than increase public discussion of the ethical issues in medical science. The cancer research program appears to both of the experts employed by The News Council to be one of the areas in which there has been too little public discussion.

The complaint against The Washington Post

The News Council commends The Washington Post for spending months of reporting time on a series of articles focused specifically and in depth at the complex and little known experimental drug testing program of the National Cancer Institute.

Unfortunately The Post adopted a sensational, accusatory tone and failed in some cases to supply information that would help the reader make

up his or her mind independently about the issues involved in the experimental drug program.

As one example of the inappropriate tone of the articles: "Cancer did not kill Sheri Beck. Her treatment for cancer did. She died of congestive heart failure brought on by Mitoxantrone, an experimental drug derived from a dye used in ballpoint pen ink." The article does not report what the Beck child's doctor said: That the child was not responding to any other chemical therapy; had received maximum radiation treatment, and had survived under treatment with Mitoxantrone with a diminution of tumor size for five months before her death. The mention of ballpoint dye is egregious. Many drugs are related to harmful substances -- nitroglycerin to explosives, coumadin to rat poison, and the cancer drug, MOOP, to mustard nerve gas -- yet the reporters mention the relationship of Mitoxantrone to ballpoint ink three times. Furthermore, they report at one point that the drug changes the colors of bodily secretions; so do a number of other conventional drugs.

The Post series left no doubt that the writers found it unacceptable that some experimental drugs were continued in testing long after the Post writers thought they should be discontinued. But the Post writers, perhaps because they are not science reporters, did not present the NCI's explanation of how a drug might legitimately be under test against one type of cancer long after it had proved ineffective against other types: the NCI selects 6 to 8 of the more than 100 types of cancer for testing. Tests are conducted in 30 patients with each type of cancer, and they are tested at different dose levels and different schedules of administration. With only two dose levels and two schedules of administration almost

1,000 patients are required and the full test may take years.

Similarly the Post writers in many cases use numbers to draw a negative picture of a drug when numbers might be used to draw a positive picture. As an example Dr. Vincent DeVita, head of the NCI, cites the Post report that Mitoxantrone had been tested on 586 people with only one complete and five partial responses -- and many cases of heart toxicity. The Post failed to note that the reporting was complete on only 314 patients -- not 586 -- and The Post did not report that the one complete response and three of the partial responses were among a group of only 84 terminal breast cancer patients, a quite different picture of the drug, which is still considered promising as an anti-cancer therapy. In general The Post does not put the number of drug-related deaths it discovered into a context that might suggest what is an appropriate number of deaths.

The reporters also point out that some of the drugs they judge to be unacceptable were on a "high priority" list created by Dr. DeVita. They do not describe the process by which these drugs were selected for testing from hundreds of other experimental drugs, nor do they make clear that "high priority" indicated only that the drugs had had some effect against animal cancers, not that they had aroused unusual hope that they might be effective in humans.

Furthermore, the Post writers do not emphasize adequately that therapies now accepted in cancer treatment once produced the same kind of side effects the writers deplore; or that any response at all in a terminally ill patient may warrant using a drug in combination with others. Nor do the writers provide adequate information on animal testing of experimental

drugs or on the system that does exist to supervise testing.

It is a significant demonstration of accountability that The Post did publish well displayed along with the third article in the series a protest by the head of the NCI and that it did publish letters to the editor critical of the reporting.

While The News Council cannot accept the broad charges of the complainant against the useful and important Post series, it does find the series flawed to some extent by sensationalism and failure to supply important information that would allow the reader to put the defects of the testing program into reasonable context. The series, therefore, falls below The Post's own standards for journalistic fairness.

Concurring: Abel, Ayers, Benson, Brady, Hornby, Huston, Isaacs, Pulitzer, Scott, van den Haag and Williams.

Complaint against Mother Jones

Action on this complaint has been deferred.

Complaint against ABC News "20/20"

Dr. Kerman complained that "20/20" unfairly and irresponsibly de-emphasized the benefits of cancer research and overemphasized a couple of "scientifically unproven drugs and methods." Dr. Robert P. Hutter, president of the American Cancer Society, charged more specifically that the program was wrong in saying that cancer is epidemic in the United States; in implying that our ability to treat and cure cancer

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has not advanced, and in suggesting that the American Cancer Society and the National Cancer Institute have formed a monopoly on cancer research funds that has denied a chance to at least two researchers with promising therapies.

The News Council commends ABC News for investing months of reporting time in what "20/20" calls a "hard, cold look" at the "well intended efforts" of the national war on cancer.

The impression comes through clearly that "20/20" believes that although billions of dollars have been spent, little progress has been made, and that fault lies with a cancer "establishment" consisting of the American Cancer Society and the National Cancer Institute. However, the program's use of innuendo and its failure to supply adequate samples of contrary views raises suspicion about the validity of that message.

The program makes statements that cancer is "no longer the other guy's disease;" that we are in a cancer epidemic, and that cure rates have not improved. Yet there are no figures from biostatisticians who would dispute those conclusions; "epidemic" has a specific meaning not justified by the present incidence of cancer, and viewers are not given an opportunity to hear and judge for themselves the NCI's argument for leaving 85 percent of lung cancer out of the death rate statistics.

An example of tilting the information is provided by the "20/20" treatment of Dr. Frank Rauscher's assertion, "We're winning this war..." The reporter translates that statement into a "claim that victory is at hand."

"20/20" clearly believes that the NCI-ACS "monopoly" has shouldered researchers with promising therapies out of the path of research grants and

has denied them recognition. The report appears to place the blame on the peer review system, which, whatever its shortcomings, is essential to the prudent expenditure of research funds and to the reliable evaluation and supervision of research.

The report did not answer any number of "why" questions as it detailed the difficulties of two cancer researchers in obtaining funds or peer acceptance of their work. Such failure, which frequently occurs in adversarial reporting, tends to detract from the believability of the reporting.

The ABC News response to Dr. Hutter indicates that the program's treatment of two outsiders with promising therapies did prompt queries from the public about those therapies. Those calls illustrate the sensitivity that news media must take to the task of reporting on medical research.

A news program that takes a point of view has a right, The Council has held, to marshal fact in support of that point of view. However, the producers must be accurate and fair.

The Council rejects the charge that ABC was deliberately unfair. However, it finds that this program fell short in accuracy and responsibility.

Concurring: Abel, Ayers, Benson, Brady, Hornby, Isaacs, Pulitzer, .  
Scott, van den Haag and Williams.

Dissenting; Huston

Dissenting opinion by Huston: The majority of The Council has rejected what it said was the "charge that ABC was deliberately unfair." I cannot concur. The complainant never charged that "ABC was deliberately unfair." In fact, the precise nature of the complaint was never defined to my

satisfaction. Even David R. Zimmerman, the science writer who was employed by The Council to examine the complaint, noted: "The original complaint and its restatements are imprecise."

In my opinion, The Council must make a great effort to define the precise nature of each complaint. I have long suggested that forms be used as a starting point and that complainants be required to pinpoint their particular problems. Only then, can The News Council responsibly address the concerns. Anything less is shooting in the dark.

April 23, 1982

February 1, 1982

Mr. Richard P. Cunningham  
Associate Director  
The National News Council  
One Lincoln Plaza  
New York, New York 10023

Dear Mr. Cunningham:

This is in reply to your letter of January 19th in which you requested a waiver of rights claim form to sue the news agencies about which I have complained. I have signed this waiver and am returning it.

In regard to letters to The Post concerning this matter, I can assure you that there was a flood of letters protesting the articles, particularly on the drug evaluation program of the National Cancer Institute and also on the rather harsh treatment afforded to Dr. DeVita during the Hatch/Hawkins Congressional Hearings. There were any number of letters to the editor and commentary in such prestigious scientific journals as Science reporting dismay concerning this matter.

Very sincerely yours,

H. G. Kerman, M.D.  
President

HDK:cb

Enclosures

cc: Vincent T. DeVita, M.D.  
Jane Henney, M.D.

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W A I V E R

I, Dr. Herbert D. Kerman, individually and on behalf of the Association of Community Cancer Centers, waive any claim for libel or slander against anyone who provides The National News Council with information concerning my complaint against Mother Jones, ABC-News, The Washington Post. I also hereby waive any claim against The National News Council, its members and staff, and against any medium, electronic or printed, for the publication of information acquired by The Council concerning my complaint or included in The Council's report of its proceedings concerning my complaint.

I declare that no court or administrative action based on the subject matter of my complaint is now pending, and I hereby waive any right I may have to bring such action.

In the event that The National News Council finds this complaint unsuitable for adjudication, this waiver will cease to be binding.

Signed, *Herbert D. Kerman*

By \_\_\_\_\_

Date 1/28/82

1/20/82



The National News Council

One Lincoln Plaza • New York, N.Y. 10023 • (212) 595-9411

January 19, 1982

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Repla on Dictaphone  
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Herbert D. Kerman, M.D.  
President  
Association of Community Cancer Centers  
11600 Nebel Street, Suite 201  
Rockville, MD 20852

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- R. Miller
- Michael E. Pulitzer
- Frank Stanton
- Ernest van den Haag
- Franklin H. Williams

Dear Dr. Kerman:

The News Council staff is investigating your complaints against The Washington Post, ABC-News and Mother Jones. We have asked all three for responses to your charges.

I just realized that we have not asked you to sign a routine waiver of your rights to sue the news agencies against which you have complained. Enclosed please find a waiver form. I hope you will sign it and return it to me. The purpose of the waiver is to allow editors and news directors to answer Council inquiries candidly without any fear that their answers may be used against them later in a court or before a regulatory agency.

It would be helpful if you would detail whatever efforts you and others made to obtain redress from ABC-News and Mother Jones for the defects you found in their reports. It is clear that The Post did publish a rebuttal letter. Were there other such letters to The Post that you know of?

Cordially,

Richard P. Cunningham  
Associate Director

STAFF

- William B. Arthur  
*Executive Director*
- A. H. Raskin  
*Associate Director*
- Richard P. Cunningham  
*Associate Director*

RPC:cc  
encl.: waiver form

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