

May 16, 1979

263-2831

Mr. Joseph A. Keyes, Director  
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Dear Joe:

After our telephone discussion the other day regarding the AAMC proposal for amending Section 206 of S. 414 I discussed the possibilities suggested by such an amendment with several additional people. In every case the reaction was the same as I gave you during our conversation, namely, that the insertion of the amendment in S. 414 would really "open the door" for the same kinds of groups which presented their case before the National Commission on the Protection of Human Subjects with a possible disruption to handling of the legislation in both the Senate and the House. In such discussions I did point out the approach you had intended to use, namely, the "publication" aspect of availability under the FOIA.

In every circumstance the people with whom I talked agreed that the protection which would be afforded by the suggested language would be beneficial but also concurred in the opinion that S. 414 and H. R. 2414 was not the proper vehicle for the language.

I noted in the Patent, Copyright & Trademark Journal (BNA) that Senator Dole is planning to introduce legislation to clarify the Chrysler decision with which you are familiar. If, in fact, such legislation is drafted it would seem to me that the language you have proposed might "fit" with the thrust of such bill and the possibility of its inclusion should be strongly considered.

In addition, and although it is much too early to assess the Chrysler decision the other possible remedies which the Supreme Court suggested

Mr. Joseph A. Keyes

- 2 -

May 16, 1979

in the event confidential information is disclosed may have some real substance. In particular, the Trade Secrets Act 18 USC 1905, which criminalizes the disclosure of certain documents by Government employees if such disclosure is "not authorized by law", might be a real deterrent to the disclosure of any appropriately marked material.

Very truly yours,

Howard W. Bremer  
Patent Counsel

HWB:rw