

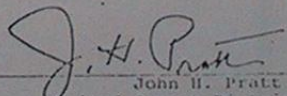
that "the executive [has] 'unique insights into what adverse affects might occur as a result of public disclosure of a particular classified record,' " Ray v. Turner, 587 F.2d 1187, 1194 (D.C.Cir. 1978) (per curiam) (footnote omitted), we do not find that the defendant's application of Executive Order No. 12065 was either an abuse of discretion or arbitrary and capricious.

Plaintiff having failed to raise a genuine issue of material fact concerning the adequacy of the search or the defendant's good faith and in the light of our de novo review, we conclude that the defendant has properly asserted exemptions 1, 3, and 6 and is entitled to summary judgment.

Attorney's Fees

To win an award of attorney's fees FOIA plaintiffs can not rely on post hoc, ergo propter hoc, rather they must "show some causal nexus between their litigation and the CIA's disclosure. . . ." Goland, supra at 356 & n. 102. Even if the plaintiff can demonstrate a causal connectic and that he substantially prevailed, the award is still within the trial court's discretion. Id. n. 103. In this case the documents that were released resulted in part from the processing of other FOIA requests at the same time and in part from the de novo search pursuant to the Stipulat entered into during litigation. Consequently, plaintiff may be eligible for attorney's fees and we will entertain a motion for such fees accompanied by an itemization and explanation of GSW's legal expenses and when they were incurred during this litigation.

An order consistent with the foregoing has been entered this day.



John H. Pratt
United States District Judge

May 30th, 1980.