

The New York Times

620 Eighth Avenue
NEW YORK, N.Y. 10018

Supervisory Archivist (FOIA)
George Bush Presidential Library
1000 George Bush Drive West
College Station, TX 77845

February 24, 2020

Dear Supervisory Archivist (FOIA) -

I am Rukmini Callimachi, an investigative reporter for *The New York Times*.

This is a request for records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a. This request should be considered under both statutes to maximize the release of records. Please note that it has been almost 25 years since the death of my stepfather,

REQUESTER INFORMATION

Name: Rukmini Callimachi

Affiliation: International Investigative Reporter, *The New York Times*

Address: 521 Highland Avenue, Montclair NJ 07043

Email: rukmini.callimachi@nytimes.com

Phone: 332-999-5734

RECORDS SOUGHT

Exhibit A

I request disclosure of the following records:

1. Any and all studies, memos, assessments and intelligence products, mentioning or referring to **the 1989 revolution in Romania, which brought about the overthrow of dictator Nicolae Ceausescu, and which began in the town of Timisoara, before spreading to Bucharest, including the alleged role of Russian forces and the violence that ensued, that claimed the lives of over 1,000 people.**
2. Any and all emails or correspondence mentioning or referring to **the 1989 revolution in Romania.**
3. Any and all correspondence to or from a member of Congress or a Congressional Committee mentioning or referring to **the 1989 revolution in Romania.**
4. Any and all records sent to or received from the State Department or the Congress mentioning or referring to **the 1989 revolution in Romania.**

Reasonably Foreseeable Harm. The FOIA Improvement Act of 2016 amended the FOIA as follows (5 USC 552(a)(8)):

-

- (A) An agency shall—
- (i) withhold information under this section only if—
 - (I) the agency reasonably foresees that disclosure would harm an interest protected by an exemption described in subsection (b); or
 - (II) disclosure is prohibited by law; and
 - (ii) (I) consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible; and
 - (II) take reasonable steps necessary to segregate and release nonexempt information. . . .

The FBI should not fail to meet the requirements of Section 552(a)(8) when processing my request and release responsive records to me in full or at least in part.

-

INSTRUCTIONS REGARDING SEARCH

1. *Request for Public Records:*

Please search for any records even if they are already publicly available.

2. *Request for Electronic and Paper/Manual Searches:*

I request that searches of all electronic and paper/manual indices, filing systems, and locations for any and all records relating or referring to the subject of my request be conducted. I further request that the agencies conduct a search of its "soft files" as well as files in its locked cabinets.

3. *Request regarding Photographs and other Visual Materials:*

I request that any photographs or other visual materials responsive to my request be released to me in their original or comparable forms, quality, and resolution. For example, if a photograph was taken digitally, or if the agencies maintains a photograph digitally, I request disclosure of the original digital image file, not a reduced resolution version of that image file nor a printout and scan of that image file. Likewise, if a photograph was originally taken as a color photograph, I request disclosure of that photograph as a color image, not a black and white image. Please contact me for any clarification on this point.

4. *Request for Duplicate Pages:*

I request disclosure of any and all supposedly "duplicate" pages. Scholars analyze records not only for the information available on any given page, but also for the relationships between that information and information on pages surrounding it. As such, the only way to properly analyze released information is to analyze that information within its proper context. Therefore, I request disclosure of all "duplicate" pages.

5. *Request to Search Emails:*

Please search for emails relating to the subject matter of my request.

6. *Request for Search of Records Transferred to Other Agencies:*

I request that in conducting its search, the agencies disclose releasable records even if they are available publicly through other sources outside the agencies, such as NARA.

FORMAT

I request that any releases stemming from this request be provided to me in digital format (soft-copy) on a compact disk or other like media.

FEE CATEGORY AND REQUEST FOR A FEE WAIVER

I am an international investigative reporter for *The New York Times*, and a four-time Pulitzer Prize Finalist in International Reporting.

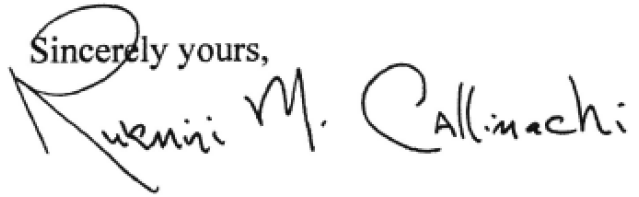
I request a complete waiver of all search and duplication fees. If my request for a waiver is denied, I request that I be considered a member of the news media for fee purposes.

Under 5 U.S.C. §552(a)(4)(A)(iii), "Documents shall be furnished without any charge ... if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." Disclosure in this case meets the statutory criteria, as the records sought detail the operations and activities of government. This request is also not primarily in my commercial request, as I am seeking the records as a journalist to analyze and freely release to members of the public.

If I am not granted a complete fee waiver, I request to be considered a member of the news media for fee purposes. I am willing to pay all reasonable duplication expenses incurred in processing this FOIA request.

I will appeal any denial of my request for a waiver administratively and to the courts if necessary.

Sincerely yours,

A handwritten signature in black ink that reads "Rukmini M. Callimachi". The signature is written in a cursive style with a large, looped initial "R" and a distinct "M." before the last name.

Rukmini Maria Callimachi



GEORGE H.W. BUSH PRESIDENTIAL LIBRARY and MUSEUM
1000 GEORGE BUSH DRIVE WEST | COLLEGE STATION, TX 77845

February 26, 2020

Ms. Rukmini Callimachi
The New York Times
521 Highland Ave.
Montclair, NJ 07043

Dear Ms. Callimachi:

This letter is in response to your Freedom of Information Act (FOIA) request dated February 24, 2020 for access to Bush Presidential Records pertaining to 1989 revolution in Romania. FOIA requests for Bush Presidential Records are processed and reviewed for access under provisions of the 1978 Presidential Records Act, as amended (PRA) (44 U.S.C. §§ 2201-2209), which incorporates the Freedom of Information Act (5 U.S.C. § 552) in substantial part.

A preliminary search of our processed collection holdings revealed approximately 3,942 responsive to your request that are publicly available. Historical records at NARA are not governed by the FOIA fee and fee waiver provisions in section 552(a)(4)(A)(vi).. Accordingly, the (Library) does not provide fee waivers for copying. NARA charges standard reproduction fees for copying of historical records in accordance with our statutorily based fee schedule, codified at 44 U.S.C. § 2116(c). We will be happy to provide you with copies of the open and partially open records upon receipt of the reproduction fee of \$80 per page. You may also view the documents in our research room at the George Bush Presidential Library and Museum where a self-service copier is available for the price of \$.25 a page. The Library accepts checks or money orders made out to the National Archives Trust Fund. When you provide a check as payment to the National Archives and Records Administration, please be advised that you authorize them to use the information from your check to make a one-time electronic funds transfer from your account or to process the payment as a check transaction. When NARA uses information from your check to make an electronic funds transfer, funds may be withdrawn from your account as early as they day, we receive your payment, and you will not receive your check back from your financial institution. The Library also accepts Visa, Master Card, American Express, or Discover/Novus orders.

You should also be aware that approximately 2,010 pages of Bush Presidential records related to this request were exempted from release in whole or part in compliance with the restrictions of the PRA and applicable FOIA exemptions, which specify what material may be released to the public. All necessary steps were taken to segregate and release non-exempt information. The 2,010 pages restricted from access, in whole or in part, are listed along with the exemption categories below. Some pages may be restricted under more than one category. The remaining 1,932 pages are available, in whole or in part.

(b)(1) – 1,988

(b)(3) – 2

(b)(6) - 20

Exhibit B

A list of the PRA restrictions and FOIA exemptions, as well as a copy of the finding aid that describes the processed material is attached.

filing an appeal, you give the agency a chance to reconsider your request and the agency's decision. To appeal a FOIA exemption, the appeal must be submitted in writing to the attention of the Deputy Archivist of the United States, c/o the George Bush Presidential Library, 1000 George Bush Drive West, College Station, TX 77845. You should explain why you believe this response does not meet the requirements of the FOIA and you should also include a copy of your original request and our denial. Both your appeal letter and the envelope should be clearly marked "FOIA Appeal." Your appeal must be postmarked or electronically submitted within 90 calendar days from the date of this letter. The Library will coordinate your appeal with the appropriate authority.

Since these are Presidential records administered in accordance with 44 U.S.C. §§2201-2209, NARA must notify the former and incumbent Presidents prior to the release of any information in response to these appeals. Once an appeal determination is made and the notification period has passed, we will contact you.

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact our FOIA Public Liaison John Laster for assistance at: Presidential Materials Division, National Archives and Records Administration, 700 Pennsylvania Avenue, NW, Room G-7, Washington, DC 20408-0001; email at libraries.foia.liaison@nara.gov; telephone at 202-357-5200; or facsimile at 202-357-5941.

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road – OGIS, College Park, MD 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Please note that 1,988 pages responsive to your request have been withheld pursuant to FOIA exemption (b)(1), (national security classified information). In order to facilitate our ability to more quickly seek a declassification review for those specific documents that are of interest to you, we are no longer referring all classified documents processed in response to your FOIA request to the originating and/or equity agencies for a current classification review. Based on the information provided on our withdrawal sheets, you can request under your existing FOIA or through the mandatory declassification review provisions of Executive Order 13526 a declassification review of those specific documents of interest to you.

We have also identified approximately 2,472 pages of potentially responsive records that must be processed in order to respond to your request. Please keep in mind that these totals are an estimate and that all material processed may not be applicable to your specific topic.

The staff of George Bush Presidential Library and Museum is currently processing and reviewing FOIA requests that precede your request. To treat everyone equitably, we have placed your request in our queue by the date it was received in our office.

FOIA requests are processed and reviewed for access under provisions of the PRA and FOIA and are subject to the provisions of NARA regulations at 36 C.F.R. § 1270.46, which require that we notify the representatives of the former President and the incumbent President prior to the release of any Presidential records. Also, it should be noted that documents processed in response to your request may be closed in whole or part in compliance with applicable PRA restrictions and FOIA exemptions.

When processing is complete and the notification period has passed, we will inform you of the availability of these additional requested records. At that point, you may request copies of these records.

If you wish to order copies or need any further assistance, please contact our staff at (979)691-4041 or library.bush@nara.gov. Your FOIA case log number is 2020-0560-F. Please have this number accessible for reference during any future contact concerning this case.

Sincerely,

Deborah Wheeler

Deborah Wheeler
Supervisory Archivist

DKW:es

FOIA Exemption Codes

Freedom of Information Act - [5 U.S.C. §552(b)]

- (b)(1) National security classified information [(b)(1) of the FOIA]
- (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 - (b)(7)(a) Release would disclose information concerning pending or prospective law enforcement proceedings [(b)(7)(a) of the FOIA]
 - (b)(7)(b) Release of information would deprive a person of a right to a fair trial or an impartial adjudication [(b)(7b) of the FOIA]
 - (b)(7)(c) Release of information could reasonably be expected to constitute an unwarranted invasion of personal privacy [(b)(7)(c) of the FOIA]
 - (b)(7)(d) Release of information could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, information furnished by a confidential source [(b)(7)(d) of the FOIA]
 - (b)(7)(e) Release of information would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law [(b)(7)(e) of the FOIA]
 - (b)(7)(f) Release of information could reasonably be expected to endanger the life or physical safety of an individual [(b)(7)(f) of the FOIA]
- (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- (b)(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Other Miscellaneous Exemption Codes

- C - Closed in accordance with restrictions contained in Donor Deed of Gift
 - C(1) Closed by Executive Order 13526, governing access to national security information
 - C(2) Closed by statute or by the agency which originated the information
 - C(3) Closed in accordance with restrictions contained in donor's Deed of Gift [formerly listed as C]

PRM Personal record misfile defined in accordance with 44 U.S.C. 2201(3)

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Rukmini Callimachi <rukmini.callimachi@nytimes.com>

Appeal / Classification of Records Pertaining to Romanian Revolution of 1989

Rukmini Callimachi <rukmini.callimachi@nytimes.com>

Tue, Apr 14, 2020 at 5:27 PM

To: library.bush@nara.gov

Dear Freedom of Information Administrator,

Please find enclosed my response to your letter regarding my FOIA request seeking records about the Romanian revolution of 1989. I am requesting the declassification of the 2,010 pages you identified as still being classified.

Thank you for your consideration,
Rukmini Callimachi

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Rukmini Callimachi
Foreign Correspondent
The New York Times
C: +1-332-999-5734
O: +1-212-556-2608

2 attachments



FOIA-Bush Sr-1989-Appeal.docx

80K



FOIA - Bush Sr Library - 1989 Revolution.pdf

4336K

The New York Times

620 Eighth Avenue
NEW YORK, N.Y. 10018

Supervisory Archivist (FOIA)
George Bush Presidential Library
1000 George Bush Drive West
College Station, TX 77845

April 14, 2020

Dear Supervisory Archivist FOIA -

I am Rukmini Callimachi, an investigative reporter for *The New York Times*.

In February pursuant to the Freedom of Information Act, I wrote to you requesting documents regarding the **1989 revolution in Romania**.

In your response to me, you indicated that a batch of documents had been identified, but that approximately 2,010 pages were exempted from release in whole or in part.

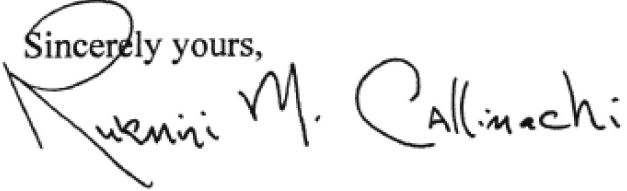
I am writing to appeal the decision to continue to classify these records, and I wish to point you to the Department of Justice's instructions for automatic declassification of documents that are 25 years or older:

<https://www.justice.gov/open/declassification/declassification-faq>

The documents I am seeking, the bulk of which you indicated are being withheld based on the (b)(1), or the National Security Classified Information Exemption to the Freedom of Information Act.

Yet the records I am seeking are nearly 31 years old.

I am requesting that you review these records to please see if the classification can be lifted and if these documents can be made available for the purpose of journalistic research.

Sincerely yours,

Rukmini Maria Callimachi

ORIGINAL REQUEST

Supervisory Archivist (FOIA)
George Bush Presidential Library
1000 George Bush Drive West
College Station, TX 77845

February 24, 2020

Dear Supervisory Archivist FOIA -

I am Rukmini Callimachi, an investigative reporter for *The New York Times*.

This is a request for records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a. This request should be considered under both statutes to maximize the release of records. Please note that it has been almost 25 years since the death of my stepfather,

REQUESTER INFORMATION

Name: Rukmini Callimachi

Affiliation: International Investigative Reporter, *The New York Times*

Address: 521 Highland Avenue, Montclair NJ 07043

Email: rukmini.callimachi@nytimes.com

Phone: 332-999-5734

RECORDS SOUGHT

I request disclosure of the following records:

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Reasonably Foreseeable Harm. The FOIA Improvement Act of 2016 amended the FOIA as follows (5 USC 552(a)(8)):

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The FBI should not fail to meet the requirements of Section 552(a)(8) when processing my request and release responsive records to me in full or at least in part.

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INSTRUCTIONS REGARDING SEARCH

1. *Request for Public Records:*

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FEE CATEGORY AND REQUEST FOR A FEE WAIVER

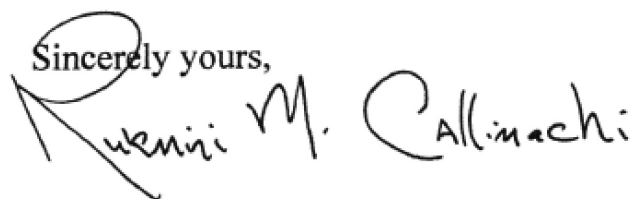
I am an international investigative reporter for *The New York Times*, and a four-time Pulitzer Prize Finalist in International Reporting.

I request a complete waiver of all search and duplication fees. If my request for a waiver is denied, I request that I be considered a member of the news media for fee purposes.

Under 5 U.S.C. §552(a)(4)(A)(iii), "Documents shall be furnished without any charge ... if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." Disclosure in this case meets the statutory criteria, as the records sought detail the operations and activities of government. This request is also not primarily in my commercial request, as I am seeking the records as a journalist to analyze and freely release to members of the public.

If I am not granted a complete fee waiver, I request to be considered a member of the news media for fee purposes. I am willing to pay all reasonable duplication expenses incurred in processing this FOIA request.

I will appeal any denial of my request for a waiver administratively and to the courts if necessary.

Sincerely yours,


Rukmini Maria Callimachi



Rukmini Callimachi <rukmini.callimachi@nytimes.com>

Appeal / Classification of Records Pertaining to Romanian Revolution of 1989

Bush Library <Bush.Library+noreply@nara.gov>

Tue, Apr 14, 2020 at 5:30 PM

To: rukmini.callimachi@nytimes.com

Due to the COVID-19 pandemic and pursuant to guidance received from the Office of Management and Budget (OMB), NARA has adjusted its normal operations to balance the need of completing its mission-critical work while also adhering to the recommended social distancing for the safety of our staff. As a result of this re-prioritization of activities, you may experience a delay in receiving an initial acknowledgment as well as a substantive response to your reference or FOIA request or appeal. We apologize for this inconvenience and appreciate your understanding and patience. Read more on how NARA is addressing COVID-19 (coronavirus) <https://www.archives.gov/coronavirus>.

Exhibit D



Rukmini Callimachi <rukmini.callimachi@nytimes.com>

2020-0557-F and 2020-0560-F

7 messages

Debbie Wheeler <debbie.wheeler@nara.gov>

Thu, Apr 16, 2020 at 3:18 PM

To: Rukmini Callimachi <rukmini.callimachi@nytimes.com>, "Bush, Library" <library.bush@nara.gov>

Ms. Callimachi,

Thank you for your emails regarding filing appeals for classified materials in both 2020-0557-F (Bush and Gorbachev at the Malta Summit, December 23, 1989) and 2020-0560-F (1989 Revolution in Romania).

However, before we go any further with this I would like to clarify the appeals process vs mandatory review. When you "appeal" classified exemption (b)(1), which is national security information, the appeal goes through us to the Deputy Archivist of the United States via the General Counsel's Office. The only decision that is made is whether or not the exemption has been properly applied. These documents in question are generally marked classified and, therefore, there is no question that they should be removed from the open file, so rarely is there a decision to overturn a processing archivist's decision. This process can actually take a long time, sometimes months and years, and, at the end of the day, you have gained nothing except that they agree the document was properly marked and identified as (b)(1).

Now, Mandatory Review (MDR) is a process by which you can request an Agency Review of a particular document for the classifying agency to determine if the classification is still warranted, or whether a document can be redacted in such a way as to release some information while protecting any national security information. This would require that you have specific information about a document in order for staff to find it for submission, and this is almost always done with data on withdrawal sheets placed in the files where the document was removed.

In order to have access to these withdrawal sheets, you would need to either see them in person, or have copies of them from the files in question. As you can see, for the amount of documents you are requesting, it would still take a large financial investment to order copies.

Another thing to consider is that these folders in question may have had previously classified materials which have now been declassified and replaced in the folders. The only way to determine that is to actually have the folder contents in front of you. So, for example, when they were processed there may have been 5000 pages removed for national security, but there may have already been MDRs filed which have resulted in 4000 of them being opened. What I am trying to say is that it is very possible that many of the documents which we identified in our letter to you as being national security and closed have since been declassified and now in the open files and ready for you to research.

You also mentioned the 25 year automatic declassification, but that is again something that has to be generated by the classifying agency, and an MDR is the only route to that at this time.

I know that this is a lot of information and may seem confusing, but I am trying to be as transparent and helpful as I can be. To be honest, the very best way that you can get the most ready access to these materials is to wait for the pandemic to subside, come to the Library, and let us walk you through the process for anything you still find classified in these records.

Of course, after deliberation if you still wish to continue the appeals process, we will be happy to follow that course. However, we cannot continue with this request until we are back in the office.

Please let me know if I can further clarify the process or how you would like to proceed.

Sincerely,

Deborah

--

Deborah Wheeler
Supervisory Archivist
George Bush Presidential Library and Museum
1000 George Bush Drive West
College Station, TX 77845
(979)691-4074

Rukmini Callimachi <rukmini.callimachi@nytimes.com>
To: Debbie Wheeler <debbie.wheeler@nara.gov>

Thu, Apr 16, 2020 at 3:29 PM

Dear Deborah -

Thank you for your email, but having just gone through the same process with the Clinton Presidential Library, I don't believe that this is how the system works, or at least how it should work.

Under FOIA, a federal agency still has to respond within the allotted time (with COVID, of course being a mitigating factor)

regarding an appeal on classification.

Taking months or years, is a violation of the FOIA statute, in my understanding of the law.

I would like to respectfully proceed with my appeal.

Sincerely yours,
Rukmini

[Quoted text hidden]

--

Rukmini Callimachi
Foreign Correspondent
The New York Times
C: +1-332-999-5734
O: +1-212-556-2608

Debbie Wheeler <debbie.wheeler@nara.gov>
To: Rukmini Callimachi <rukmini.callimachi@nytimes.com>
Cc: "Bush, Library" <library.bush@nara.gov>

Fri, Apr 17, 2020 at 1:58 PM

Ms. Callamachi,

We will document your desire to continue with the appeals and place your requests in the queue for when we return to work.

Sincerely,

Deborah

[Quoted text hidden]

Rukmini Callimachi <rukmini.callimachi@nytimes.com>
To: Debbie Wheeler <debbie.wheeler@nara.gov>
Cc: "Bush, Library" <library.bush@nara.gov>

Fri, Apr 17, 2020 at 2:08 PM

Thank you very much.

[Quoted text hidden]