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6 7	Attorneys for Plaintiff ELECTRONIC FRONTIER FOUNDATION				
8	UNITED STATES	S DISTRICT COURT			
9	UNITED STATES DISTRICT COURT  FOR THE NORTHERN DISTRICT OF CALIFORNIA				
10		ISCO DIVISION			
11	ELECTRONIC FRONTIER FOUNDATION,				
12	,	COMPLAINT FOR INJUNCTIVE			
13	Plaintiff,	RELIEF FOR VIOLATION OF THE			
14	V.	FREEDOM OF INFORMATION ACT, 5 U.S.C. § 552			
15	UNITED STATES DEPARTMENT OF STATE,	) )			
16	Defendant.	) )			
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19	INTRO	DUCTION			
20	1. This is an action under the Freedo	m of Information Act ("FOIA"), 5 U.S.C. § 552, for			
21	injunctive and other appropriate relief. Plaintiff seeks the processing and release of records requested				
22	from Defendant Department of State ("State Department" or "Defendant"). Specifically, Plaintiff				
23	seeks the disclosure of records pertaining to the role of the U.S. government in technology and social				
24	media platforms' decisions to censor events featu	ring Palestinian speaker Leila Khaled.			
25	2. To learn more about the government	ent's role in technology platforms' decisions to			
26	censor Khaled's speech, Plaintiff the Electronic F	Frontier Foundation ("EFF" or "Plaintiff")			
27	submitted a FOIA request ("the Request") on June 21, 2021 to the State Department seeking relevant				
28	records.				
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1	3.	Plaintiff has commenced this action because the State Department has failed to			
2	release records in response to the Request. Plaintiff seeks the injunctive relief necessary to ensure the				
3	State Department's timely compliance with FOIA's requirements.				
4		JURISDICTION AND VENUE			
5	4.	This Court has both subject matter jurisdiction over this action and personal			
6	jurisdiction o	over the parties pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §1331.			
7	5.	Venue is proper in this district under 5 U.S.C. § 552(a)(4)(B).			
8		PARTIES			
9	6.	Plaintiff EFF is a member-supported not-for-profit corporation with offices in San			
10	Francisco, Ca	alifornia and Washington, D.C. EFF works to inform lawmakers, the press, and the			
11	public about	civil liberties issues related to technology and to defend those liberties. In support of its			
12	mission, EFF	Fuses FOIA to obtain and disseminate information concerning the activities of federal			
13	agencies. EF	F is a "person" within the meaning of 5 U.S.C. § 551(2).			
14	7.	Defendant State Department is a Department of the Executive Branch of the United			
15	States Govern	nment and is an "agency" within the meaning of 5 U.S.C. § 552(f). The State			
16	Department l	nas possession and control over the requested records.			
17		FACTUAL ALLEGATIONS			
18		Background			
19	8.	Leila Khaled is associated with the Popular Front for the Liberation of Palestine			
20	("PFLP"), a l	Palestinian group on the State Department's list of terrorist organizations. Khaled			
21	participated i	n two plane hijackings in 1969 and 1970.			
22	9.	In 2020 and 2021, technology platforms including Zoom, Facebook, YouTube, and			
23	Eventbrite re	fused to host events at which Khaled would be speaking.			
24	10.	For example, in September 2020, the Arab and Muslim Ethnicities and Diaspora			
25	Studies progr	ram at San Francisco State University had scheduled an academic webinar titled			
26	"Whose Narr	ratives: Gender, Justice, and Resistance," which was to include Khaled as one of several			
27	guests. Zoom	refused to host the event and Facebook removed a page promoting the event. YouTube			
28	stopped airin	g the event part of the way through and removed the archived footage.			

1	11.	The fo	ollowing year, San Francisco State University's Arab and Muslim Ethnicities		
2	and Diaspora	Studies	program again planned an event featuring Khaled. The event, titled "Whose		
3	Narratives? What Free Speech for Palestine?," was co-sponsored by the University of California,				
4	Merced and the University of California Humanities Research Institute, and was scheduled to take				
5	place over Zo	om on A	April 23, 2021. Zoom again refused to host the event on its platform, and		
6	Eventbrite removed the event from its platform.				
7	12. Similarly, in October 2020, New York University hosted a webinar titled "We Will				
8	Not Be Silenced" featuring Khaled. Zoom deleted the link to the webinar without notice.				
9	13. Zoom has banned other virtual events featuring Khaled as well.				
10	The FOIA Request				
11	14.	On Ju	ne 21, 2021, EFF submitted the Request to the State Department, seeking		
12	records pertaining to the U.S. government's role in the removal from social media of accounts and				
13	events featuring Palestinian activist Leila Khaled.				
14	15.	The R	equest sought the following records:		
15		a.	Any and all communications or records of communication between the United		
16			Sates Department of State and its subsidiary agencies and Zoom Video		
17			Communications pertaining to a person named Leila Khaled from June 2019		
18			until the present.		
19		b.	Any and all communications or records of communication between the United		
20			Sates Department of State and its subsidiary agencies and Facebook, Inc.		
21			pertaining to a person named Leila Khaled from June 2019 until the present.		
22		c.	Any and all communications or records of communication between the United		
23			Sates Department of State and its subsidiary agencies and Google LLC,		
24			including YouTube LLC, pertaining to a person named Leila Khaled from		
25			June 2019 until the present.		
26		d.	Any and all communications or records of communication between the United		
27			Sates Department of State and its subsidiary agencies and Eventbrite		
28			pertaining to a person named Leila Khaled from June 2019 until the present.		
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1	e. Any and all communications or records of communication between the Unit	tec
2	Sates Department of State and its subsidiary agencies and any online service	e
3	provider pertaining to Leila Khaled from June 2019 until the present.	
4	f. Any and all internal records inside the United Sates Department of State tha	ıt
5	discuss "material support of terrorism" and/or 18 U.S.C. § 2339(A) in relati	or
6	to Leila Khaled from June 2019 until the present.	
7	16. EFF requested a waiver of document search, review, and duplication fees on the	
8	grounds that (a) EFF is a representative of the news media and (b) disclosure of the requested	
9	records is in the public interest.	
10	Agency Response	
11	17. By email on October 25, 2021, the State Department acknowledged receipt of the	
12	Request and informed EFF that the Request had been assigned reference number F-2021-07622. T	'nε
13	email stated that "our Office will provide you with a status update." The email did not provide a time	m
14	frame for the status update. The email did not acknowledge EFF's request for a fee waiver.	
15	18. To date, the State Department has not responded to EFF's request for a fee waiver of	or
16	produced any records responsive to the Request.	
17	19. EFF has exhausted the applicable administrative remedies with respect to the	
18	Request.	
19	20. The State Department has exceeded the twenty-day statutory deadline for processing	ıg
20	of any FOIA request.	
21	21. The State Department has wrongfully withheld the requested records from EFF.	
22	CAUSES OF ACTION	
23	22. Defendant's failure to process Plaintiff's Request as soon as practicable violates	
24	FOIA, 5 U.S.C. § 552(a)(6)(E)(iii), and Defendant's corresponding regulations, 22 C.F.R. § 171 et	t
25	seq.	
26	PRAYER FOR RELIEF	
27	Plaintiff respectfully requests that this Court:	
28	a. Order Defendant to immediately conduct a thorough search for records	

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1			responsive to Plaintiff's request;
2		b.	Order Defendant, upon completion of such expedited processing, to
3			immediately process and release any responsive records in their entirety;
4		c.	Order Defendant to waive all fees associated with the processing and release
5			of the responsive records;
6		d.	Award Plaintiff its reasonable costs and attorneys' fees incurred in this action;
7			and
8		e.	Grant such other relief as the Court may deem just and proper.
9	DATED:	January	By: <u>/s/ Naomi Gilens</u> Naomi Gilens
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