

# **EXHIBIT 7**

**The Oversight Project**



**SENT VIA: DOJ FOIA Portal**

April 3, 2024

Director of Public Affairs  
Office of Public Affairs  
Department of Justice  
950 Pennsylvania Avenue N.W.  
Washington, D.C. 20530-000

Re: Request for Expedited Processing FOIA-2024-01114

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing FOIA regulations of the Department of Justice (DOJ), 28 C.F.R. § 16 (2022), I respectfully request expedited processing pursuant to 28 C.F.R. § 16.5(e)(1)(iv) for the above FOIA request (hereinafter “Request”)

Pursuant to 28 C.F.R. § 16.5(e)(1)(iv), I request expedited processing for this request. I certify the following statement of facts in support of expedited processing to be true and correct pursuant to 28 C.F.R. § 16.5(e)(3). As you know, I am permitted to make application for expedited processing “at any time” Id. at § 16.5(e)(2). I do so now as to the Request.

**Background:**

Special Counsel Robert K. Hur’s Report on the *Investigation Into Unauthorized Removal, Retention, and Disclosure of Classified Documents Discovered at Locations Including the Penn Biden Center and the Delaware Private resident of President Joseph. R. Biden, Jr.* (Feb. 2024) (“Report”) repeatedly raised questions concerning President Biden’s mental capacity. These instances are detailed in the Request.

The following factual Appendices are attached and expressly incorporated herein and made part of this request (as are the factual sources cited therein):

- Appendix A is a compilation of news articles about Special Counsel Hur’s

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investigation and report.<sup>1</sup>

- Appendix B is a February 12, 2024 letter from Rep. James Comer, Chairman of the House Committee on Oversight and Accountability, Rep. Jim Jordan, Chairman of the House Judiciary Committee, and Rep. Jason Smith, Chairman of the House Committee on Ways and Means requesting records related to Special Counsel Hur’s investigation.<sup>2</sup>

Immediately after the release of the Report there was massive press interest in this issue, including multiple calls for consideration of invocation of the 25th Amendment based on the Report’s description of President Biden’s mental faculties. *See* App. A. at 0004–7; 0033–36, 0038–42, 0047–50, 0080–82, 0083–87, 0131–134, 0140–143, 0165–167, 0258–275, 0291–310, 0426–429, 0495–499, 0500–502, 0520–522, 0556–571, 0589–611, 0682–0685, 0686–688, 0689–0692, 0717–0735, 0771–0773, 0895–897, 0996–1014, 1071–1086, 1124–1128, 1140–1148, 1156–1164, 1174–1183, 1263–1266, 1278–1288, 1329–1343, 1344–1358, 1390–1404, 1441–1458, 1468–1486, 1513–1530, 1540–1560, 1591–1594, 1603–1606, 1610–1612, 1637–1640, 1655–1657, 1674–1676, 1677–1679, 1683–1685, 1706–1709, 1723–1724, 1731–1748.<sup>3</sup>

Expedited Processing is Warranted under 28 C.F.R. § 16.5(e)(1)(iv)

1. This provision provides that expedited processing shall be granted regarding: “A matter of widespread and exceptional media interest in which there exists possible questions about the government’s integrity which affect public confidence.”

Courts have held that the DOJ Regulation requires the requester to show: (1) that the request involves a “matter of widespread and exceptional media interest” (28 C.F.R. § 16.5(e)(1)(iv)); and (2) that the matter is one “in which there exists possible questions about the integrity of the government that affect public confidence” (*id.*). *See Edmonds v. FBI*, No. 02-cv-1294 (ESH), 2002 WL 32539613, \*3 (D.D.C. Dec. 3, 2002). It is not necessary to show “prejudice or a matter of current exigency to the American public.” *Id.*

First, the DOJ Regulation requires showing that the matter about which questions of integrity have been raised is the subject of widespread national media attention. *See Am. Oversight v. DOJ*, 292 F.Supp.3d 501, 507–508 (D.D.C. 2018)

<sup>1</sup> [https://thf\\_media.s3.amazonaws.com/2024/Oversight\\_Project/Appendices%20A&B.pdf](https://thf_media.s3.amazonaws.com/2024/Oversight_Project/Appendices%20A&B.pdf)

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

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(denying motion for expedited processing because general media interest in Solicitor General’s nomination is insufficient to show media interest in possible ethics questions concerning the nomination). There need not be a showing that the disclosure would shed considerable light on agency operations; only that there is “exceptional” and “widespread” media interest. *See CREW v. DOJ*, 870 F.Supp.2d 70, 81 (D.D.C. 2012), *rev’d on other grounds*, 746 F.3d 1082 (D.C. Cir. 2014). While the media interest need be “widespread” and “exceptional” it need not be overwhelming. *See ACLU v. DOJ*, 321 F.Supp.2d 24, 31–32 (D.D.C. 2004) (rejecting DOJ’s position that requester’s citation to what the court described as “only a handful of articles” was insufficient to show “widespread and exceptional media interest” because those articles “were published in a variety of publications and repeatedly reference the ongoing national discussion about the Patriot Act and Section 215” (second quotation added)); *Edmonds v. FBI*, No. CIV A. 02-1294 (ESH), 2002 WL 32539613, at \*3 (D.D.C. Dec. 3, 2002) (numerous national newspaper and network television broadcasts concerning whistleblower’s allegations of security lapses in FBI translator program met test).

Second, the DOJ Regulation requires showing that “there exists possible questions about the government’s integrity that affect public confidence.” *CREW v. DOJ*, 436 F.Supp.3d 354, 361 (D.D.C. 2020) (quoting 28 C.F.R. § 16.5(e)(1)(4)) (emphasis by Court). It does not “require the requester to prove wrongdoing by the government in order to obtain documents on an expedited basis.” *Id.* at 362. “The primary way to determine whether such possible questions exist is by examining the state of public coverage of the matter at issue, and whether that coverage surfaces possible ethics issues so potentially significant as to reduce public confidence in governmental institutions.” *Am. Oversight v. DOJ*, 292 F.Supp.3d 501, 508 (D.D.C. 2018). This is not an extraordinarily high bar. *See, e.g., CREW*, 436 F.Supp.3d at 361 (complaint sufficient to survive a motion to dismiss where it alleged Attorney General’s action regarding disclosure of Mueller Report “supported an inference that at best, the Attorney General undertook to frame the public discussion on his own terms, and at worst that he distorted the truth”); *ACLU v. DOJ*, 321 F.Supp.2d at 32 (allegations in press that Section 215 of the Patriot Act may be unconstitutional and reports that Members of Congress have alleged abuses of Section 215 “implicate[] government integrity” and hence are sufficient to meet test); *Edmonds*, 2002 WL 32539613, at \*3–4 (test met where plaintiff alleged security lapses in FBI translators program, national news covered the issue, and two Senators expressed concern regarding “the significant security issues raised by plaintiff’s allegations and the integrity of the FBI”).

2. The facts amply support expedition here. Multiple national media

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outlets have published articles or aired programming regarding the Report and its findings that President Biden has diminished mental faculties. *See generally* App. A. These news reports often explore the idea that President Biden may no longer be fit for the job of President because of cognitive impairment. *Id.* Some even raise the prospect that there should be consideration of invoking the 25<sup>th</sup> Amendment. *See* App. A. at 0004–7; 0033–36, 0038–42, 0047–50, 0080–82, 0083–87, 0131–134, 0140–143, 0165–167, 0258–275, 0291–310, 0426–429, 0495–499, 0500–502, 0520–522, 0556–571, 0589–611, 0682–0685, 0686–688, 0689–0692, 0717–0735, 0771–0773, 0895–897, 0996–1014, 1071–1086, 1124–1128, 1140–1148, 1156–1164, 1174–1183, 1263–1266, 1278–1288, 1329–1343, 1344–1358, 1390–1404, 1441–1458, 1468–1486, 1513–1530, 1540–1560, 1591–1594, 1603–1606, 1610–1612, 1637–1640, 1655–1657, 1674–1676, 1677–1679, 1683–1685, 1706–1709, 1723–1724, 1731–1748. Moreover, several Congressional Committees have spoken directly to these issues. *See* App. B at B 0003.<sup>4</sup>

There is more than enough evidence to sustain a finding of “possible questions about the government’s integrity that affect public confidence”. Again, this bar not a very high bar. For years, many in the news and in American political discourse (and even in international discourse) have questioned President Biden’s mental acuity and by extension his fitness to hold what has often been referred to as the most mentally and physically demanding job in the world.

Thank you in advance for considering my request. If you have any questions, or feel you need clarification of this request please contact me at [oversightproject@heritage.org](mailto:oversightproject@heritage.org).

Sincerely,

Mike Howell  
 Director and Investigative Columnist  
 at The Daily Signal  
 The Heritage Foundation  
 214 Massachusetts Ave, NE  
 Washington, D.C. 20002

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<sup>4</sup> *Id.*