

Douglas H. Wigdor

REDACTED

May 11, 2020

VIA EMAIL

The Honorable Joseph R. Biden, Jr.
Biden for President
P.O. Box 58174
Philadelphia, PA 19102

Re: Tara Reade

Dear Vice President Biden:

We represent Tara Reade. As you know, Ms. Reade has requested a copy of the request for counseling intake form that she wrote and submitted to the Office of Senate Fair Employment Practices (the “OSFEP”) in 1993 concerning her allegations of workplace discrimination and harassment against you (the “Request for Counseling” or the “Request”). Incredibly, Ms. Reade’s request was denied by the Office of the Secretary of the Senate (the “Secretary”), which claims it has “no discretion” to reproduce a copy of Ms. Reade’s Request to her. See Exhibit 1 (May 8, 2020 Correspondence from Dan Schwager, Esq., General Counsel to the Secretary).

Ms. Reade has described her Request as an “intake form” that she recalls filling out at the Senate personnel office in 1993 after a disturbing interaction she had had with you while she worked as one of your Senate aides. As Ms. Reade recalls, the Senate personnel office did not provide Ms. Reade with a copy of her Request, nor did Ms. Reade make a copy of this document before submitting it. Significantly, it is our understanding that **no further action whatsoever** was taken in furtherance of Ms. Reade’s Request for Counseling – not even a follow up phone call to her. Rather, as Ms. Reade recalls, within weeks of submitting her Request for Counseling, your Senate staff inexplicably stripped Ms. Reade of her responsibilities, and soon after terminated her employment.

We are aware that you recently requested that the Secretary disclose information related to Ms. Reade’s Request for Counseling. See Exhibit 2 (May 1, 2020 Letter to the Secretary). However, it is obvious that your belated request for the disclosure of this information was disingenuous and sent knowing full well that the Senate (as it has) would defer to antiquated and vague rules and procedures to keep the contents of Ms. Reade’s Request hidden from the public eye, and protect a former, over 30-year Senate member. Indeed, in a recent interview on MSNBC’s “Morning Joe” program, you inexplicably refused to permit your archives of Senate papers held at the University

of Delaware (the “Archives”) – where it is believed a copy of Ms. Reade’s request may be housed – to be opened up and searched for records related to Ms. Reade.¹

While we believe that the Secretary has no statutory or legal authority to refuse to disclose Ms. Reade’s Request for Counseling, the plain fact remains that *both* Ms. Reade and you have requested that Ms. Reade’s Request be released. This begs the question: *whose “confidentiality” is being protected by the Secretary’s refusal to disclose Ms. Reade’s Request for Counseling?* Indeed, we are in a time when both the public and lawmakers demand transparency and accountability when it comes to complaints of workplace harassment, discrimination and retaliation. It is truly unfortunate that the Senate has chosen to rely (albeit incorrectly) on draconian confidentiality provisions enacted decades ago to conceal the truth about Ms. Reade’s allegations against you from the public. As I am sure you would agree, the Senate’s position is particularly gratuitous where both Ms. Reade and you want this information released.

To that end, we hereby request that you immediately open up your Archives at the University of Delaware and authorize a search to determine whether they contain any records related to Ms. Reade, including, but not limited to, Ms. Reade’s Request for Counseling and/or documents related thereto. Given that you have repeatedly made a blanket denial of any knowledge of any complaint made by Ms. Reade against you, I am sure you would agree that we all deserve to know whether there are, in fact, any records that corroborate Ms. Reade’s allegations in your Archives, particularly in light of the Secretary’s present obstinacy. To be frank, we cannot see any legitimate basis to preclude a simple search of the Archives for documents related to Ms. Reade, and see no reason why an efficient, diligent and fair search of the Archives cannot be completed in short order.

On your presidential campaign website, you claim that “[n]o leader has done more to work to end violence against women than Joe Biden,” and tout how you “wrote and spearheaded the groundbreaking Violence Against Women Act at a time when few in Washington cared about domestic violence and sexual assault.” As an advocate who has represented countless survivors of sexual assault from all walks of life against powerful individuals from all industries and segments of our society, and as a litigator who has even utilized the Violence Against Women Act to vindicate my clients’ rights, I implore you to do what we all know is right. Please open-up your Archives at the University of Delaware and permit a fair and diligent search for records related to Ms. Reade to go forward.

Lastly, I would be remiss if I failed to note the similarities between your response to Ms. Reade’s accusations and your handling of Professor Anita Hill’s testimony during Justice Clarence Thomas’s 1991 confirmation hearing, mere months before the events underlying Ms. Reade’s complaint took place. You have been criticized heavily about being the Chairman of the all-white,

¹ See <https://www.usatoday.com/story/news/politics/elections/2020/05/04/senate-secretary-replies-biden-request-release-tara-reade-record/3077373001/> (last accessed May 11, 2020).

all-male Judiciary Committee that grilled Professor Hill in excruciatingly graphic detail (including about penis size, pubic hair and pornographic film stars). You have been accused of refusing to seriously investigate Professor Hill's accusations and, in particular, criticized for your failure to call as corroborating witnesses other women who were willing to testify before the Committee. Professor Hill has described your conduct as creating a "he said, she said" situation that did not have to exist, while one of the women who sought to testify, Angela Wright, has even described you as being "pretty much useless." Some have defended your conduct by pointing to how there was "no real process" over such an unprecedented proceeding. Regardless, just before you announced your candidacy for President, you reached out, for the first time, to Professor Hill to apologize for your conduct during Justice Thomas's confirmation hearing. You allegedly professed your admiration for all that Professor Hill has done to change the culture around sexual harassment in this country, and even proclaimed that, "To this day, I regret I couldn't give her [Professor Hill] the kind of hearing she deserved." We hope your apology to Professor Hill and public statements about your shortcomings during Justice Thomas's confirmation hearing do not ring hollow, and that you do not block a fair and diligent search of your Archives for records corroborating Ms. Reade's allegations. As I am sure you would agree, Ms. Reade too is entitled to the process she deserves.

Please do not hesitate to contact me if you have any questions.

Sincerely,



Douglas H. Wigdor

Enc.

Exhibit 1

REDACTED

From: Schwager, Dan (Secretary) <REDACTED >
Sent: Friday, May 8, 2020 1:34 PM
To: Douglas Wigdor <REDACTED >
Subject: This afternoon's phone call

Doug,

Thanks for your call this afternoon. As we discussed, our office has consulted with Senate Legal Counsel, who reviewed the relevant statute governing the records of the Office of Senate Fair Employment Practices: the Government Employee Rights Act of 1991, title III of the Civil Rights Act of 1991, Pub. L. No 102-166, 105 Stat. 1088-1099. Based on the law's strict confidentiality requirements (Section 313) and the Senate's own direction that disclosure of Senate Records is not authorized if prohibited by law (Senate Resolution 474, 96th Congress, Section 3(a)), Senate Legal Counsel advises that the Secretary has no discretion to disclose any such information. We're also advised by Senate Legal Counsel that disclosing even the existence of such specific records would amount to a prohibited disclosure under the Government Employee Rights Act of 1991. Furthermore, we are not aware of any exceptions in law authorizing our office to disclose any such records that do exist, if any, even to original participants in a matter.

You also asked about the how that office operated with regard to records, and so I'm attaching the rules and procedures of the Office as published by the Senate in the 103rd Congress.

Again, thank you for reaching out to us in lieu of our conversation with your client in response to her phone call this past Monday. Please do let me know if you have any further questions.

Best regards,

- Dan

Dan Schwager
General Counsel
Office of the Secretary of the Senate
United States Senate
REDACTED

Exhibit 2

JOSEPH R. BIDEN, JR.

May 1, 2020

Julie E. Adams
Secretary of the Senate
United States Senate
Washington, D.C. 20510

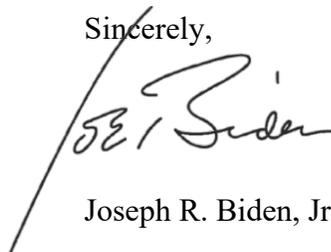
Dear Secretary Adams,

I am writing to request your assistance in determining whether 27 years ago a staff member in my United States Senate office filed a complaint alleging sexual harassment. According to public reports, the staff member, Ms. Tara Reade, has stated that in 1993 she filed such a complaint with the office responsible for enforcing Senate employees' rights in the workplace.

We had understood that the Senate stores records from this office, and from this period, in the National Archives. The Archives now states that the records would have remained under the control of the Senate.

Accordingly, I request that you take or direct whatever steps are necessary to establish the location of the records of this Office, and once they have been located, to direct a search for the alleged complaint and to make public the results of this search. I would ask that the public release include not only a complaint if one exists, but any and all other documents in the records that relate to the allegation.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Biden", with a long, sweeping diagonal line extending from the bottom left of the signature down towards the bottom left of the page.

Joseph R. Biden, Jr.