

May 29, 2015

The Honorable John Boehner  
Speaker of the House  
H-232 Capitol  
Washington, DC 20515

The Honorable Nancy Pelosi  
Democratic Leader  
H-204 Capitol  
Washington, DC 20515

Dear Speaker Boehner and Minority Leader Pelosi:

The Office of Congressional Ethics (OCE) has done much over the last seven years to increase the integrity and credibility of the House ethics process. That is why we are disturbed by the recent effort by former House Ethics Committee staff director Dan Schwager to blame, without any evidence, the leak of a recent Office of Congressional Ethics (OCE) investigative report on OCE. This op-ed appears to be an attempt to undermine support for the Office and should not be given credence.

In a recent op-ed for *Politico*, Mr. Schwager asserts that “substantial reason exists to believe that OCE was the source of the leak” of its own report on Members’ travel to Azerbaijan. Mr. Schwager, however, provides no evidence for this assertion. Instead, he alludes to past disagreements between OCE and the Ethics Committee about OCE’s role, cites an anonymous government official quoted in *The Washington Post* as saying “OCE feared the Ethics Committee would not take any meaningful action,” and then speculates that OCE was concerned the report would not be released. From this he concludes “it would not be surprising for OCE to develop a bunker mentality and lash out” by releasing the report. Mr. Schwager apparently believes that because he would not find something “surprising,” there is “substantial reason to believe” it occurred, even though he provides no evidence for his claim.

Since its creation in 2008 in the wake of the Abramoff scandal, the OCE has significantly improved the House ethics process. It has established a record of fair investigations and bipartisan cooperation. It has provided a credible means for unfounded allegations of violations by Members and staff to be investigated and dismissed. It has conducted its activities in a professional manner, shown itself by performance to be nonpartisan and provided appropriate transparency. In the vast majority of cases, the OCE has reached its conclusions with unanimous support by its board members from both parties.

The public record shows that 64 percent of complaints that the OCE has received have either been dismissed or closed before conclusion of the OCE process. Further, public records show that, of the 49 reviews that have resulted in further referrals to the House Ethics Committee, 46 are a matter of public record and reflect a transparency previously unseen in the House ethics process.

By comparison, the House Ethics Committee has continued to be riven with partisan intrigue and retains an unhealthy penchant for secrecy and Member protection, rather than fair,

impartial enforcement of strong and meaningful ethical standards. A strong OCE can continue to help the Ethics Committee perform better and do its job with more credibility.

OCE is fact-finding agency. It cannot determine guilt or innocence; neither can it conclude that a law or rule has been violated or judge a case. It is charged simply with receiving complaints from the public or initiating investigations on its own, compiling an evidentiary record from voluntary sources and, if approved by at least four of the six members of the bipartisan Board, referring a case to the formal Ethics Committee for further investigation.

OCE's investigative authority is limited, but the agency has performed admirably in screening out frivolous cases, compiling useful information for cases considered by the Ethics Committee and providing a valuable link between the public and the congressional ethics process. OCE has demonstrated appropriate prudence in its work, dismissing well over half of complaints received as lacking merit. Its efforts have prompted the Ethics Committee to be more active and diligent than ever before. OCE has also provided desperately needed credibility to the House ethics process.

Given its limited authority, OCE has done a remarkable job in making the congressional ethics process more active, accountable and transparent. The public and the House would be best served by further strengthening the Office, which should be given subpoena power.

The bottom line is that there is no available public evidence about the source of the leak in this matter. It is appropriate for the House to take steps to determine the source of the leak and take an appropriate remedy, but it is also incumbent on the House Ethics Committee to examine and report on the information revealed by the OCE report. Irrespective of the source of the leak, the OCE serves a critical function.

Mr. Schwager's attack on OCE, however, is unwarranted and baseless and should be ignored. The whole episode should lead not to attempts to undermine OCE, but rather to an effort to stabilize the process and strengthen an office which has made the whole ethics process work better.

Sincerely,

Campaign Legal Center  
Center for Responsive Politics  
Common Cause  
Democracy 21  
Judicial Watch  
Thomas Mann  
National Legal and Policy Center  
Norm Ornstein  
Project on Government Oversight (POGO)  
Public Citizen  
Jim Thurber