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ATTORNEY GENERAL

September 1, 2009

Honorable Jack Donahue
Senator, Louisiana State Senate
Chairman, Commission on Streamlining Government
Post Office Box 44481
Baton Rouge, Louisiana 70804

Re: Louisiana Department of Justice Answer to the Commission Government Survey

Dear Senator Donahue:

In response to your letter of August 10, 2009, the following information is provided for the Government Survey:

Section One: Agency Overview:

Attached hereto and made a part of this answer is a compilation of the constitutional and statutory mandates for DOJ.

My reform goals for DOJ were formulated before taking office on January 14, 2008. Some personnel in administrative and management positions were replaced with persons with better qualifications, who were more suited for the efficient performance of tasks involved in their job descriptions.

I instituted a process to receive, research and disseminate legal opinions of this office in a more timely and accurate manner. This has resulted in opinions being released from this office in much less time than in previous administrations, resulting in a decrease in litigation and disputes amongst state and local boards and officials, which saves millions of dollars in litigation costs to the state.

I reformed the criminal prosecution and criminal investigation units in the office to ensure that unjust investigations and prosecutions will no longer take place. By restoring integrity to the criminal processes of this office, hundreds of thousands of state dollars are being saved and the remaining funds are devoted to legitimate state prosecutorial interests.

Working with Office of Risk Management (ORM), we have instituted new policies of cooperative review of the investigative, pretrial, post-trial and appellate practices of the attorneys defending the state in tort actions. We reject unreasonable requests for settlement authority and do not hesitate to go to trial on cases where we believe the state is not liable. Over a period of time this process has and will continue to save the state millions of dollars.

Upon taking office, I had a review conducted of all of the divisions and sections of the office and eliminated several that seemed to be a waste of state funds. I reviewed and canceled many state contracts which I considered not to be in conformity with the Louisiana Supreme Court decision which outlawed contingency contracts without legislative approval.

In the area of Consumer Protection, I have continued to guard against the institution of predatory lawsuits, which has saved the state millions of dollars. I instituted new procedures for the review of the fees charged by attorneys contracting with state agencies, with the objective of reducing the amount of state funds that are spent on attorneys fees. I have refused to authorize many fees which I considered out of line with standard practice in the legal industry. This has and will continue to result in savings of millions of dollars in state funds. We are continuing to gather facts and information to reduce the state's exposure in legal matters.

In the 2009 Session of the Louisiana Legislature, I had two legislative initiatives, which would have aided the state financially and would have produced funds for this office. The first was model contingency contract legislation that featured a competitive bid process to ensure reasonable attorneys fees, certification that the cause was non-predatory in nature, notice to the target, a public hearing at the Litigation Subcommittee of the Joint Budget Committee with final approval by the legislature. The second was a bill to charge 10 cents per month to each person or business that contracted for internet access, with funds being utilized for the criminal investigation and prosecution of sexual predators, identification thieves and persons cheating our elderly citizens on the internet. The defeat of this bill, in a senate committee, after having passed two house committees and the full house with almost no negative votes, may have been the biggest victory for sexual predators on the internet in the history of this state. We will re-urge this internet policing bill to the governor and legislature, as we have already obtained enthusiastic national Department of Justice support, as well as support from the National Association of Attorneys General, and National District Attorneys Association. We have support from the Louisiana Sheriff's Association and other statewide organizations.

Section Two: Efficiency and Benchmarking:

After taking office, I eliminated several programs in this office that seemed unnecessary and not part of the mandates for which I am responsible. These included a program to entice law students into government service, some student worker programs and some unnecessary work being done for local agencies. At this time I believe that all unnecessary and underperforming programs have been eliminated.

Section Three: Outsourcing and Privatization:

The DOJ is the law firm for the State of Louisiana. We defend cases against the state in conjunction with the Office of Risk Management. We defend cases which attack the legality of the Louisiana constitution and Louisiana statutes. We represent boards and commissions. We write hundreds of legal opinions each year for local and state officials and agencies. We sue on behalf of the state and we monitor the contracts and legal fees of attorneys hired by state and local agencies.

In Risk Management, for example, about 75% of the cases we receive are handled in-house by attorneys on salary whose hourly rate averages about $30 per hour. These are mostly routine cases that are settled without extensive litigation. About 25% of the cases are outsourced and privatized, at a basic rate of $150 per hour, a premium rate of $175 per hour and an approved rate at $225 per hour for very specialized litigation. More of the cases could be outsourced, but at a tremendous cost to the state. The national standard indicates that except in specialized litigation, in-house salaried attorneys are more economical than contracted private attorneys for public litigation. At minimum basic cases cost the State of Louisiana five times as much to outsource.

I do not believe other sections of my office can be outsourced and/or privatized without incurring excessive increased costs to the state. Assuming the objective, is to save state funds, my office operates more economically at its present level of outsourcing.

Section Four: Information Technology Integration:

My agency has received national recognition in its IT initiatives. In particular they are recognized as a leader in cutting edge technology in the apprehension of sexual predators on the internet who seek to establish inappropriate relations with under aged persons. This office leads the state in training, arrests and assisted prosecutions of the sick individuals that seek to destroy the lives of our children. In the area of information technology, I believe there is no more important function than the activities of the High Tech Crimes Unit of my office. Our IT Program could be enhanced to encompass more widespread "policing" of

internet activities involving identity theft, exploitation of our elderly and other vulnerable citizens, as well as protecting our youth. The Department of Justice in Washington, D.C. as late as August 2009 has also made this one of its top priorities in criminal justice.

Section Five: Elimination of Duplicative and Unnecessary Services:

This office has a Collections Division, Medicaid Fraud Division, Litigation Division and Gaming Division, none of which have specific constitutional provisions, but all of which relate to constitutional functions of the agency. These programs have been added or assigned to DOJ, because they are heavy in investigative, prosecution and regulatory functions, best served with the resources of the state law firm.

I have not identified any outdated activities that should no longer be part of DOJ's mission, since all of the divisions provide essential public services. The criminal jurisdiction of this office, because of concurrent jurisdiction, does exist in a non-double jeopardy environment with other state agencies and the federal government. However, this is not overlap, it is insurance that in instances where investigations and prosecutions are declined by federal agencies, justice is available through state resources for victims of crime. The prosecutors and investigations of the DOJ supplement and replace local investigators and prosecutors when requested through assist letters, and/or recusal notices.

Section Six: Civil Service and Employee Benefits:

This office has no Civil Service employees. Currently, we have given raises only to limited vital and essential personnel. In many of these instances other firms or agencies were attempting to hire these individuals. We have limited hiring and re-hiring to only essential and key positions.

Section Seven: Studies and Other Resources:

We currently are not involved in any agency, or national studies. We believe national organizations are valuable, and we participate in the National Attorneys General Association, the National District Attorneys Association and associations specifically related to the legal practices of our divisions. We look for good ideas from those organizations, but believe that best practices must be developed with comprehensive knowledge of our state and local political environments.

Section Eight: Agency Best Practices:

We have reduced our budget and spending according to the final decisions made by the Division of Administration and the legislature for DOJ. We terminated 25 employees in conformity with those decisions. We will continue to work with the

Division of Administration and the legislature during the hard economic times that are predicted for the future. We have no other downsizing activities in progress at this time and feel we could not successfully fulfill our constitutional and statutory mandates if anymore downsizing were imposed.

If I can be of further assistance to the Commission, please advise.

Sincerely,

James D. "Buddy" Caldwell
Attorney General
State of Louisiana

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