



## Governing From the Shadows

Written by Jeremy Alford  
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**To hear his critics lay it out, Gov. Bobby Jindal is allergic to the sunshine of good government. To hear him explain it is to hear crickets chirping in the night.**

WHEN BOBBY JINDAL WAS ONLY RUNNING for governor back in 2007, the guy was silly with ethics reform. You couldn't get him to shut up about it, and practically every other candidate in the race followed suit by promising to slay the dragons of Louisiana's past and present.

During a time when outmigration was squeezing citizens from the state, more than a quarter of Louisiana's adult population was functionally illiterate and recovery was just catching steam, it was ethics reform that bubbled to the top of the heap, fueled largely in its ascent by the Republican whiz kid from Baton Rouge.

His campaign dropped a few dimes on a full color, six-page booklet dubbed "Ethics Reform: Ending corruption." It was provided to reporters and donors and supporters, and on its glossy stock Jindal promised the reader, "I will not rest until this vision becomes a reality."

So it was only fitting that his first legislative session was dedicated to cracking down on corruption. In fact, when he addressed lawmakers to kick off the special session on Feb. 10, 2008, Jindal mentioned ethics no fewer than 22 times in his speech.

Here we are, more than two years later. Jindal is over the hump and halfway through his term with \$7 million in the bank and a statewide name recognition rivaled only by

Jesus Christ and Santa Claus. But is he still on the ball when it comes to ethics reform?

When Jindal spoke to the Legislature at the opening of this year's regular session March 29, he referred to ethics reform only once: "You know when we started two years ago, we revamped our ethics laws and enacted some of the nation's toughest laws."

And that was that. The governor didn't make another ethics-related peep until last week, and even then it was through a surrogate. That's when Citizens for Responsibility and Ethics — a D.C. nonprofit often labeled as liberal, although it does shake fingers at Democrats — named Jindal among its 11 worst U.S. governors.

The report was handed out and copied and e-mailed and forwarded all over the floors of the House and Senate last Wednesday. The scenes that played out, especially in the Senate, offer us concise snapshots of how many lawmakers feel about Jindal's focus on ethics reform — at least those who are willing to speak up and vote their conscience.

MANY LAWMAKERS GAVE IT LITTLE MIND; others couldn't help but chuckle. The CREW press release promoting the report accused Jindal of favoring his "supporters, families, political parties and bank accounts" over the interests of the state. It also noted that Jindal's and the other 10 worst governors' "proclivities for corruption, cronyism and self-enrichment outweighed their competency, integrity and commitment to transparency."

"This is an interesting read," writes Sen. Butch Gautreaux, D-Morgan City, in one e-mail forwarded around by lawmakers, "nothing that we didn't already know."

Sen. Robert Adley, R-Benton, actually took to the microphone in the Upper Chamber to urge his colleagues to read the report, so "you can see for yourselves whether the ranking is deserved or not deserved." Adley is among the lawmakers pushing legislation this year to open up more of Jindal's office to public view.

Adley says Jindal is making a fool of the Legislature, which he proclaims has some of the best disclosure requirements in the nation, by continuously rejecting measures for full transparency in his own executive branch.

In his floor speech, he suggested that it's time for the governor to take some of his own medicine, and the Legislature should dish it up for him. "Look y'all, it's one thing when we sit here amongst ourselves and have these fusses and fights over these issues," Adley says. "It's another when America starts looking at us and leveling accusations because we're not resolving these issues."

Despite CREW's supposed leanings — as former activists, its founders can easily be linked to the Democratic Party — its report was carried by the mainstream media last week. Kyle Plotkin, Jindal's press secretary, doled out the same response to the Capitol press bureau, noting that the "Associated Press just announced Louisiana ranks first in the nation for economic improvements from January to February. ... We also passed transformational ethics reforms rocketing our state to the top of the [Center for Public Integrity's] index for legislative disclosure, and for two years in a row we have passed bills supported by the Louisiana Press Association to open up more public records."

Plotkin made nary a mention of the Citizen Access Project at the University of Florida, which ranks Louisiana dead last when it comes to public access to the governor's office. Even Mississippi and Arkansas trump the Bayou State in this area.

Nor did he reveal that the same public records bill supported by the Louisiana Press Association was also opposed by the state's two media heavyweights, The Advocate and The Times-Picayune. The CREW report says the bill — now a law — was "riddled with loopholes" and that "opponents charged that it would forever seal some records regarding who and what influenced a governor's decisions."

In other words, the effort was nothing more than an extension of the half-cocked ethics reforms that Jindal first initiated two years ago.

ASIDE FROM CARVING OUT A SURPRISING EXEMPTION for his own office, Jindal's landmark special session on ethics reform in 2008 essentially gutted the state's system that deals with in-house corruption and violations. Louisiana Ethics Board Chairman Frank Simoneaux has even gone as far as to say that Jindal literally "crippled" the system.

That's because Jindal transferred judicial power away from the Ethics Board and gave it to a set of administrative law judges. Those judges are appointed by the governor and are charged with handing down rulings the Ethics Board must follow.

If you're following at home, then you already know that we now have two entities enforcing the same code of law and that the one actually recognized by the Louisiana Constitution — the Ethics Board — is playing second fiddle to a group of ceremonial judges identified only in state statute.

The Baton Rouge-based Public Affairs Research Council released an in-depth research report earlier this year evaluating the changes that came from the 2008 special session. A major finding of "The Unfinished Business of Ethics Reform" is that some of the law

changes have actually “weakened” the state’s ability to monitor and enforce compliance with the laws.

“Our evaluation shows that, although some progress was made toward the so-called Gold Standard of governmental ethics, Louisiana isn’t there yet. In fact, in some regards we even took a step backward,” says PAR President Jim Brandt. “The good news is that there are workable solutions that can be enacted this legislative session.”

For the most part, Jindal has not answered that call. And if you believe Elliott Stonecipher, a Shreveport demographer and political analyst, the governor is doing just the opposite “as this nasty and embarrassing saga” develops further. He points to House Bill 240 by Rep. Michael Danahay, D-Sulphur, which has been filed for debate in the ongoing regular session. On the surface, it seeks to clear up the legal ambiguity that is drowning the Ethics Board. But it may be much more.

Stonecipher says the bill will actually remove the Ethics Board and the ethics staff from even reviewing case adjudications, “emphatically establishing the politicized, controlled-by-the-governor” administrative law judge set as the sole authority. Whether that actually happens is a question that will be answered in coming weeks. For now, Danahay’s bill has been assigned to the House and Governmental Affairs Committee.

IN MAKING ITS JUDGMENT ON JINDAL, the CREW report cites a series of stories published last year by The Independent Weekly. Specifically, it points to one from last spring that detailed how Jindal had appointed more than 200 campaign contributors — who donated in excess of \$784,000 to his campaign in 2007 and 2008 — to some of the most powerful boards and commissions in state government.

Today, Jindal is still appointing campaign donors and regular citizens to boards and commissions, even those he thinks should be shut down. Included in the governor’s official legislative package this year is House Bill 1226 by Rep. Mert Smiley, R-Port Vincent, which abolishes “various outdated state boards and commissions.”

In all, it would eliminate 19 boards, many of which Jindal has filled with at least a dozen different appointments in the past year or so.

Even weeks before the session was slated to begin, Jindal made five appointments to the Advisory Committee on Polysomnography, which is set to be abolished by HB 1226. The appointments included a number of locals like William “Bud” Barrow, CEO of Our Lady of Lourdes Regional Medical Center, and co-worker Gay Bourgeois of Breaux Bridge, as well as Christine Soileau of Lafayette, formerly a course lecturer on sleep

disorders at UL.

During this time frame, Jindal made several other appointments to panels now scheduled to be shuttered, including the Louisiana Advisory Committee on Midwifery, the Physician Assistants Advisory Committee and Louisiana Financial Literacy and Education Commission.

Dr. Pearson Cross, a UL political science professor, says no matter what Jindal says about a particular board's or commission's value, the related appointments are too valuable a tool to pass up for any sitting governor — no matter what kind of legislation is pending. "It's one of the main ways that governors take care of people who have taken care of them and a way for them to spread their influence," Cross says. "Honestly, nothing about boards and commissions ever surprises me anymore."

As far as the bills that are eroding Jindal's "Gold Standard" this session, there are a few — and Jindal doesn't seem to be putting up much of a fight.

Just last week, the House and Governmental Affairs Committee passed out a bill that would allow a public servant to accept gifts valued at \$15 or less, or up to \$45 worth in a calendar year. This is an about-face from the total ban Jindal ushered in some two years ago, and his staff only opposed the bill in passing, without offering a word in debate.

Rep. Nita Hutter, R-Chalmette, author of House Bill 296, says the original ban is keeping officials from accepting gifts for their birthdays or a holiday. "It's mainly our staff that does this kind of thing," she says, adding that it was a batch of Christmas poinsettias that went ungifted in December that spurred the legislation. Of course, Jindal will always be able to veto the bill if he wants. But the signal he's sending right now doesn't mesh with the candidate of 2007 or the ethics reform package he shoved down the Legislature's throat in 2008.

C.B. Forgotston, a Hammond attorney and spitfire blogger who is on when the Legislature is in, says it has been a sad, slow drama to watch unfold, with Jindal — or "The Rhodes Scholar," as Forgotston has taken to calling the governor — playing a starring role. "A good friend and expert on the ethics law recently dubbed what's left of the law as the 'Fecal Standard of Ethics.' He has a point," Forgotston says. "Something sure smells, and it doesn't smell like the good government that The Scholar promised us."

BACK IN 2004, FORMER GOV. KATHLEEN BLANCO got behind a law that prohibited

lawmakers and the governor from raising money while the Legislature is in session. While lawmakers are bound by that law even today, Jindal has found a way to inch around it and bank some cash.

When the Southern Republican Leadership Conference met in New Orleans earlier this month, Jindal headlined an event for the state GOP alongside Texas Gov. Rick Perry and First Lady Anita Perry. The meet-and-greet was held at Brennan's Restaurant on Royal Street and cost roughly \$10,000 per couple. Jindal, though, technically didn't violate the law; all the checks were made payable to the Louisiana Republican Party.

Whether Jindal's campaign will eventually benefit from the cash raised is another question. To say the state GOP has been supportive of Jindal's campaign machine would be an understatement. In fact, there has arguably been no other party in Louisiana political history that has supported its governor so wholeheartedly — and all without any apparent uproar from the rank and file.

Most of its media outreach, like press releases, involves Jindal, and party staffers recently started a blog called "The Session Scoop" to track his policy agenda. Jindal had someone on his state payroll doing something similar last session, but that blog was squashed amid complaints that it could be interpreted as campaigning. The party support structure, though, doesn't end there.

According to campaign finance reports, the Louisiana Republican Party made nearly \$112,000 worth of in-kind contributions to Jindal's campaign last year. Roughly \$93,000 was spent on event and fundraising expenses, while another \$22,000 was shelled out to pay for interns on Jindal's behalf.

That's 14 percent of all of the state GOP's expenditures last year, in the name of a single politician. To put that into perspective, the amount of money given to Jindal's campaign last year by the Louisiana Republican Party is just about equal to the amount of money that was needed to operate the entire party, top to bottom, from Aug. 10, 2009, to Sept. 28, 2009.

For Jindal, it's no big deal. That's because his hands aren't getting dirty, which brings up another question that's increasingly getting play in political circles these days: If Jindal is towing the "Gold Standard" line, what about the people he surrounds himself with?

FOR AN ETHICS-MINDED GOVERNOR like Jindal, Jimmy Faircloth must be a headache that won't go away. Faircloth was Jindal's executive counsel until July of last

year, when he stepped down to unsuccessfully run for a slot on the state Supreme Court.

But the two men first bumped heads when Faircloth, after being hired in 2008, attempted to keep hold of his private law firm while working for the governor. One his firm's clients at the time was the Coushatta Tribe of Louisiana, which interacted with the state frequently on Indian gaming issues.

The governor won that debate, arguing Faircloth couldn't serve "two masters." But Faircloth still did his thing, albeit quietly, and was enrolled as lead counsel in at least one ongoing case during Jindal's first year in office. When Faircloth left, it was assumed he would just become yet another ghost of the Fourth Floor, where the governor's offices are located in the State Capitol.

Those assumptions proved to be wrong. During the last week of March this year, Faircloth very publicly canceled contracts he had secured with the Louisiana Tax Commission and the state Board of Massage after leaving public office. He also returned all of the money he had collected from the agencies.

Jindal has repeatedly bragged that a law from his 2008 ethics session prohibited former government employees from turning around and landing such contracts, but Faircloth, who helped craft those ethics laws, told The Times-Picayune that his situation could be squeezed neatly into a loophole. And since Faircloth stepped away from the situation before it escalated, there's no way of knowing if Faircloth is indeed right.

More recently, Faircloth was seen outside Jindal's office on the morning of April 16, just moments before the governor addressed reporters on the state's midyear budget deficit. As reporters filed by, he simply turned his head and slipped into an empty elevator.

While his reasons for the visit are unknown, public records show that Faircloth is lining up more government work closer to home — this time as a government relations specialist for an alliance of levee districts, municipalities and parish governments in the Alexandria region.

SO WHAT IS JINDAL TO DO? Will he put the ethics system back together piece by piece, the way Jake and Elwood Blues reassembled the nerve center of their great band? Who knows?

As critics wait for someone — anyone — to correct these ethics-related problems, Jindal's so-called Gold Standard continues to deteriorate or, in some cases, progress

without him. Moreover, staffers, former and current, including the governor himself, have found themselves in more than a few ethics pinches. (In 2007, Jindal's campaign failed to timely report an \$118,000 donation from the Louisiana Republican Party, and a fine was issued.)

Lawmakers are also slowly chipping away at some of his 2008 laws. But Jindal obviously isn't concerned enough to personally show up during committee meetings.

If there's a saving grace for the governor, it could be the recommendations that resulted from last year's much-ballyhooed Commission on Streamlining Government.

Chairman of the Jindal-appointed group, Sen. Jack Donahue, R-Mandeville, says it's still too early to tell if the commission's cost-saving recommendations will be accepted by lawmakers and whether Jindal will put his full force behind the ideas. "The jury is out until the end of the session," Donahue says, adding that a litmus test of sorts will occur this week when lawmakers are asked to decrease the size of the state's public workforce.

Other than that, there are a handful of bills to open up more records in the governor's office to public view, like the proposal sponsored by Sen. Adley. Jindal staffers have referred to the proposal as a "distraction," but Adley counters that the poor national rankings for transparency in Jindal's office are more distracting than anything else.

In his Senate floor speech last week, Adley told his colleagues that Jindal doesn't need to lift a finger. If they really think the governor's office should let more sunshine in, they can make it happen themselves. "Sometimes we need to show enough independence to make the right decisions," Adley says.

"Think about it," he adds. "We have an obligation to make it better. We have an obligation to ourselves. You have an obligation to your constituents, not the fourth floor. Right now, things aren't looking so good for the fourth floor. But we can make it better."