

# Knocking on Government Doors: How Do You Respond to the Government Knocking on Your Door?

Irene Liu April 15, 2019

Topics: [Compliance](#), [Corporate Legal](#), [Efficiency](#), [Government](#), [Government Regulation](#), [Knocking on Government Doors](#), [Leadership](#), [Regulation & Compliance](#), [Risk Management](#), [Thomson Reuters Regulatory Intelligence](#)



*In the conclusion of her blog series, “[Knocking on Government Doors](#)”, Irene Liu, vice president and general counsel at Checkr, discusses proactive engagement strategies to help companies with their government relations and policy strategies. She also examines how best to knock on government doors, as well as how companies can prepare best responses for the unexpected times when the government comes knocking at their door.*

Facebook’s famous motto of “move fast and break things” inspired many new startup founders to grow quickly and at times operate outside of existing laws and legislation or ignore laws altogether. While such strategy may have led to quick initial growth for the business, it could backfire especially if your business products and services impact consumers and come under the scrutiny and radar of regulators.

Once you’re under government agency’s radar, you may receive a knock on your door before you can even proactively reach out to the government to inform, educate, and influence regulators about your new business model or technology. And government in-

quiries happen when you least expect it. Oftentimes, it does not involve an actual physical knock on your door by an investigator. Instead, it's likely in the form of a legal process, such as subpoena, civil investigative demand (CID), court order, or even a search warrant. So how do you prepare for this scenario of the government proactively knocking on your door?

### **Before Government Knocks, Train Your Staff**

Train your front desk team members to immediately contact your legal department and be respectful and cooperative in the case that a government agent physically knocks on your door. Agents may go to your offices physically to serve a subpoena, interview employee witnesses, conduct an audit, or execute a search warrant. In all these cases, provide training to your team to not volunteer any company information without counsel present.

They should also be trained to obtain the name, agency information, and reason for the government investigation. You can then use this information to follow-up with the agency and also verify the information on the badge at a later time. For example, you can call a local FBI office to verify the FBI's badge number.

And keep in mind that not all outreach from the government is bad. Government regulators and agencies might be knocking on your door to seek clarification about industry practices or understand the impact of a merger on an industry. For example, at the U.S. Department of Justice's Antitrust Division, we would call various companies in a certain sector to understand the impact of a merger on a marketplace.

---

*And keep in mind that not all outreach from the government is bad. Government regulators and agencies might be knocking on your door to seek clarification about industry practices or understand the impact of a merger on an industry.*

---

Even if you received a more targeted request for information about you and your business from the government, it is best to stay courteous and respectful. Government attorneys and agents are human beings too, and from their perspective, they're just trying to do their jobs. So, treat them with respect because you will not do yourself any favors by being combative and defensive at the outset.

### **Engage Counsel and Respond Quickly**

Unless you have a lot of expertise in the area of government investigation, it's best to engage external counsel who are experts with the particular agency or regulator. Leverage these experts and make sure you respond quickly to any inquiry, as you do not want to start your relationship on the wrong foot.

External counsel often have experience with various investigations by similar agencies or regulators, or even the particular government attorneys involved in the investigation, so they can help your company navigate the inquiry. They can also serve as your buffer because they can directly engage with the regulators on your behalf to understand the background of the inquiry and then come back to strategize with you and your team. These experts can also let you know if any programs are available in the case at issue if you agree to cooperate (i.e. amnesty and deferred prosecution programs) and whether your company qualifies for such a program.

But choose your counsel wisely given that they are representing you and your organization. Make sure you find a reputable and credible expert who understands your organization and the data at hand and can effectively represent you in front of the investigative agency. Otherwise, you risk your company's reputation and credibility at the outset.

## Subpoenas, CIDs, Search Warrants, and More...

The Federal Trade Commission (FTC) and other federal and state civil government agencies may issue subpoenas and CIDs to learn more about companies' practices and investigate potential violations. Criminal investigative agencies also issue subpoenas, but they have powers to issue court-ordered search warrants and Title III wiretap orders. Search warrants require probable cause and receive a higher level of court scrutiny, so they're harder to obtain. If your company is served with a search warrant, it's obviously more serious given that an agency met the probable cause standard to obtain the warrant. So, treat search warrants with special care.

Before responding to any legal process, you should first check to ensure that the government agency has jurisdiction over your company. If they do have jurisdiction and the requests are valid, provide a timely response to the agency requesting information. If the request or legal process is unduly burdensome, contact the agency quickly to request a narrowing of scope, an extension for production, or to seek a staggered production. Be prepared to provide specific information about the efforts required for such production and why you need extra accommodation to respond to the request.

If you don't provide a timely response, the agency can potentially enforce the legal process through the court and subject you to monetary fines — so proactively let the agency know if you encounter any issues that delays your response. And keep it in mind that delaying compliance will not help the legal process go away. Tackle it proactively!

If your company's products or services collect a lot of end-user information (think messaging services, communication services, social media services, or user data storage services), your company will likely receive legal requests for user information from law enforcement sooner than later. You may be subpoenaed to provide basic user information such as their name, address, and phone/email address. You may also receive court orders for users' transactional activity logs, search warrants for contents of user data, and even a Title III wiretap request for live user content and activity.

---

*...Crafting a proactive strategy for engaging with the government can be beneficial not only when you're knocking on the government's door but also when you're answering the door from their knocks.*

---

If your company provides such services, proactively draft a law enforcement guide and have one ready. You can use these law enforcement guides to inform law enforcement about what types of information your company holds, how the agency can obtain such information (i.e. via subpoena or court order), and whether the end-user will be notified.

With these legal processes for user information, you can also similarly request that they narrow the subpoena if the requests are overbroad, and you can seek an extension or staggered production for your response. Companies that receive a large volume of these government information requests also maintain a transparency report to notify their customers about how they treat customer information. [*Here are some examples of a transparency reports ([Dropbox](#), [Reddit](#), and [LinkedIn](#)) and law enforcement guides ([Uber](#), [Twitter](#), and [Lookout](#)) for reference.*]

As you can see, crafting a proactive strategy for engaging with the government can be beneficial not only when you're knocking on the government's door but also when you're answering the door from their knocks.

The government is seeking to investigate expeditiously, so if you can promptly and proactively respond and meet and confer on their requests, you can use the opportunity — which may not be ideal — to build credibility and leave an impression the company is taking the legal process and their agency's work seriously.

That's how you can best transition a relationship that started on the wrong foot to the right foot and help further protect your company.

Like 0 Share

Tweet

Share

Practice Management | Risk & Compliance



By: [Irene Liu](#)  
General Counsel, Checkr

Irene Liu is the General Counsel of Checkr and leads the company's legal, compliance, policy and customer education teams. She has broad legal, compliance, and consumer protection expertise after working at the Federal Trade Commission in the Bureau of Consumer Protection, U.S. Department of Justice in the Antitrust Division, and high-tech companies, including BlackBerry and Lookout. Irene received her J.D. from University of California, Berkeley School of Law.

[See all posts >](#)

0 Comments Legal Executive Institute

Login ▾

Recommend Tweet Share

Sort by Best ▾



Start the discussion...

LOG IN WITH

OR SIGN UP WITH DISQUS

Name

Be the first to comment.



## Featured Articles

---

- [CWAG Webinar: How Data Can Help Prosecutors Disrupt the Human Trafficking Supply Chain](#) October 11, 2019
- [Supercharging Your Firm’s Culture: From Stressed to Resilient](#) October 10, 2019
- [New Podcast: Law Firm Leaders Empowered to Drive Change But Face Obstacles, Forthcoming Report Finds](#) October 9, 2019
- [Luminating Latina Lawyers: Meet Paulina Vera, a Contributor to our New Quarterly Series](#) October 9, 2019
- [Paulette Mastin: UK Legal Employers Can Do More to Advance the Careers of Lawyers of Color](#) October 8, 2019

## Featured Event

---

September 26

### The 3rd Annual Corporate Risk, Ethics & Compliance Forum

The Preeminent Forum on Investigations, Fraud & Abuse Prevention and Corporate Regulatory Reforms

Thomson Reuters is pleased to present the 3rd Annual Corporate Risk, Ethics & Compliance Forum in Chicago, IL. The preeminent forum on corporate investigations, fraud and abuse prevention, and regulatory reform, our program addresses a number of timely and provocative issues impacting today’s corporate entities. Our distinguished faculty will offer critical guidance on navigating an... [Read more »](#)

[See Details >](#)

---

### Topics

- Data & Metrics
- Law Practice Management
- Legal Technology
- The Legal Marketplace
- All Topics

### Publications

- Books

[White Papers](#)

## Events

[Calendar](#)

[Sponsor an Event](#)

## About Us

[Advisory Board](#)

[Faculty Bios](#)

## Follow

[Twitter](#)

[LinkedIn](#)

[RSS](#)

[Subscribe to industry news & events](#)

**Subscribe**

---

© 2019 LEGAL EXECUTIVE INSTITUTE.

[Terms of Use](#)

[Privacy Policy](#)

[Careers](#)