



**STATE OF ILLINOIS
EXECUTIVE OFFICE OF THE GOVERNOR**

BRUCE RAUNER

Governor

To: All State Agency General Counsels
From: Jason Barclay, General Counsel, Office of the Governor
Re: Guidelines for Reports to Counsel in the Office of the Governor
Date: **January 22, 2015**

A. Legal Liaison in the Governor's Office

For each State Agency, the Governor's Office has assigned a Counsel to serve as a liaison. Your agency's legal liaison either already has made contact with you or will do so shortly. If you have any questions about your agency's legal liaison from the Governor's Office, please contact one of the Governor's Office Deputy Counsels:

Mitch Holzrichter
Deputy Counsel
mitch.holzrichter@illinois.gov
(312) 814-6700 (direct)

Dennis Murashko
Deputy Counsel
dennis.murashko@illinois.gov
(312) 814-4185 (direct)

B. Monthly Reports

Each State Agency should provide a monthly legal report to the Governor's Office. The report is an important means to ensure that the Governor's Office is adequately informed of important legal issues and is able to provide any needed support to each agency.

We recognize that each agency faces unique legal issues. You are encouraged to work with your legal liaison to customize the contents and format of the report as appropriate for your agency. As you will see, several items have materiality thresholds, which you should work out with your legal liaison. In general, however, the report should cover the following topics, making particular note of any updates since the prior report:

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1. **Pending Litigation** – Please (i) identify the parties, the venue, the judge, and the attorney from the Attorney General’s Office representing the agency; (ii) summarize the cause of action, any claims, and the remedy sought; and (iii) note the status of the case, including any upcoming or recent hearings.

If the volume of litigation for your agency is too large, such that a litigation report would be cumbersome, please work with your liaison to determine which cases should be reported or to establish an alternative reporting system.

2. **Compliance with Consent Decrees (Including Special Masters and Monitors)** – Please identify any consent decrees that are in effect, note whether the agency is in compliance with the consent decree, and describe the agency’s efforts to obtain or maintain compliance.
3. **Threatened Actions** – Please describe any threatened litigation or other legal action of a material nature of which the agency is aware.
4. **Outside Counsel** – Please identify any outside counsel (other than the Attorney General’s Office) that have been retained by the agency, including the name of the lawyer or law firm and the matter for which the counsel was retained.
5. **FOIA Requests** – Please describe any notable FOIA requests, particularly those that might relate to journalistic investigations or result in public attention. Please also describe any FOIA requests where the agency’s denial has been appealed to the Public Access Counselor or is the subject of litigation.
6. **Legislation** – Please describe any pending legislation pertaining to the agency or its operations or responsibilities (other than revisory or other non-substantive legislation). Please identify the bill number, the sponsors, and the status of the bill. Please describe any revisions to the bill being sought by the agency.
7. **Rulemaking** – Please describe any upcoming or pending rulemaking, including the status of the rulemaking.
8. **Grants and Contracts** – Please identify any upcoming or pending material grants, contracts, tax credits, or procurements. This part of the report is not intended to be overly burdensome or duplicative to what the agency reports to GOMB; rather, please note those grants or contracts that will result in an unusually large expenditure or in an unusual level of public interest.
9. **Personnel** – Please describe (i) whether any senior-level agency employee was hired or terminated or retired; (ii) any employee involuntary terminations; and (iii) any other notable personnel actions.
10. **Board / Commission Meetings** – For those agencies that have boards, commissions, or other bodies, please note any upcoming meetings. Please also include a copy of minutes of recent meetings if available.

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Please send your report to your Governor's Office legal liaison. The liaison will arrange to meet with you periodically to discuss the contents of the report and other matters that you would like to discuss. Although the report is privileged, if there is sensitive information that you believe should not be included in the report, please discuss with your liaison.

C. Red Flag Issues

Although the monthly report is an opportunity to exchange information on a wide range of topics, it is not a substitute for prompt notification of important issues. Please notify the Governor's Office **immediately** of:

1. Any new litigation commenced against the agency (other than routine litigation);
2. Any judgment or settlement (proposed or final) against the agency that would result in a material cost to the agency or a material change in the agency's operations;
3. Protests of any award made by the agency;
4. **FOIA requests concerning any sensitive information** (please see Section D below for the procedures related to flagging a FOIA request for Governor's Office review); and
5. Any other matter that **would result in heightened public interest** or poses significant risks to the agency or the State.

When in doubt, please raise issues with your Governor's Office legal liaison immediately. If your liaison is not available for any reason, please contact Mitch Holzrichter or Dennis Murashko at the contact information noted above.

D. FOIA

As noted above, your monthly report should include a description of any **notable FOIA requests, particularly those that might relate to journalistic investigations or result in public attention.** Your monthly report also should describe any FOIA requests where the agency's denial has been appealed to the Public Access Counselor or is the subject of litigation. **To the extent you determine that your agency has received a "red flag" FOIA request concerning sensitive or potentially high-profile information, please take the following steps in order to flag and respond to the request** (except to the extent that your agency has established agency-specific practices with your Governor's Office legal liaison):

1. Your agency should identify the documents required in responding to the FOIA request, as well as prepare any necessary redactions, analyze and decide upon the applicability of any exemptions, and draft any necessary correspondence to the requestor. **The agency legal team should review and weigh in on the draft response prior to sending the response to be reviewed by the Governor's Office.**
2. Once all necessary records have been gathered, relevant redactions have been made, and the response letter has been drafted, please send these documents to the following

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individuals: (i) your agency's Governor's Office legal liaison; (ii) the Governor's Office FOIA Officer, Georgia Man (georgia.man@illinois.gov); (iii) Joe Wright (joseph.wright@illinois.gov); and (iv) your agency's contact on the Governor's Office communications team.

The e-mail should include a descriptive subject. In the body of the e-mail, please provide the following information: (a) a short description of the request and why the request is being flagged as sensitive; (b) the name and organization (if applicable) of the requester; (c) the date that the request was received; (d) the date that the response is due; and (e) any sensitive disclosures, proposed assertions of exemptions that may be controversial, or additional background context about the requestor or subject matter of the request that you think would be helpful for the Governor's Office to know prior to the release of your response.

Please send these documents to the foregoing individuals at least 48 hours before the request is due whenever practicable (although we recognize that this timeline may not always be possible).

3. Once the Governor's Office has reviewed the documents, your agency's Governor's Office legal liaison will follow up with any questions or comments. **Please await final sign-off from the Governor's Office legal liaison before sending out a response.**

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We welcome your input on how these reporting guidelines can be improved. Please direct any comments to Mitch Holzrichter at the contact information noted above.

We are grateful for your service to the people of Illinois and look forward to working together.