

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information contained in this system of records may be disclosed as follows:

A. Where the record, either on its face or in conjunction with other information, indicates a violation or potential violation of law (whether civil, criminal, or regulatory in nature) to the appropriate agency (whether Federal, State, local, or foreign) charged with the responsibility of investigating or prosecuting such violations or charged with enforcing or implementing the related statute, rule, regulation, or order pursuant thereto.

B. In a proceeding before a court or adjudicative body before which INS or the Department of Justice (DOJ) is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by INS or DOJ to be arguably relevant to the litigation: The DOJ, or any DOJ component or subdivision thereof; any DOJ employee in his/her official capacity; any DOJ employee in his/her individual capacity where the DOJ has agreed to represent the employee; or the United States where INS or the DOJ determines that the litigation is likely to affect it or any of its subdivisions.

C. To a member of Congress, or staff acting upon the member's behalf, when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

D. To the National Archives and Records Administration (NARA) and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored on magnetic disks.

RETRIEVABILITY:

Records may be retrieved by any of the following: Alien's name, alien's file number, obligor's name, bond-receipt control number, breach control number, or location and date bond was posted.

SAFEGUARDS:

Access can be obtained only through remote terminals which are located in secured areas of secured buildings and through the use of restricted passwords assigned to authorized personnel.

RETENTION AND DISPOSAL:

The following INS proposal for retention and disposal is pending approval by NARA. Six years after the bond is disbursed, breached, or closed, all records will be archived and stored at the DOJ Archives Center for seven years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant Commissioner, Office of Financial Management, 425 I Street, NW, Washington, DC 20536.

NOTIFICATION PROCEDURES:

Inquiries should be addressed to the system manager.

RECORD ACCESS PROCEDURES:

In all cases, requests for access to a record shall be in writing. Written requests may be submitted by mail or in person at any INS system location where bond activity records are located. (See "System Location.") If a request for access is made by mail, the envelope and letter should be clearly marked "Privacy Access Request." To enable INS to identify an individual's record, he or she must provide his or her full name, alien file number, location and date bond was posted, and a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Any individual desiring to contest or amend information must direct his or her request to Headquarters or other appropriate system location (see "System Locations") and state clearly what information is being contested; the reason for contesting it; and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Individuals covered by the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

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DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Implementation of Section 104 of the Communications Assistance for Law Enforcement Act: Telecommunications Services Other Than Local Exchange Services, Cellular, and Broadband PCS

AGENCY: Federal Bureau of Investigation, DOJ.

ACTION: Notice of inquiry.

SUMMARY: The purpose of this Notice of Inquiry (NOI) is to present certain

telecommunications carries and all other interested parties with an opportunity to provide input to the Federal Bureau of Investigation (FBI) as it develops law enforcement's capacity requirements for services other than local exchange, cellular, and broadband personal communications services (PCS). The Communications Assistance for Law Enforcement Act (CALEA) mandate that the Attorney General, on behalf of all law enforcement, provide capacity requirements for the actual and maximum number of interceptions (of call content and/or call-identifying information) that telecommunications carriers may be required to effect in support of law enforcement's electronic surveillance needs. This NOI is soliciting information on and suggestions for developing reasonable methodologies for characterizing capacity requirements for telecommunications services other than local exchange services, cellular, and broadband PCS. Such services include, but are not limited to: traditional paging, two-way paging, narrowband PCS, mobile satellite services (MSS), specialized mobile radio (SMR) and enhanced specialized mobile radio (ESMR), national and multi-rate services, asynchronous transfer mode (ATM), X.25, frame relay, airplane telephony, and railroad telephony.

DATES: Comments must be received on or before February 16, 1999.

ADDRESSES: Comments should be submitted to the Federal Bureau of Investigation, CALEA Implementation Section, Attention: Notice of Inquiry, 14800 Conference Center Drive, Suite 300, Chantilly, VA 20151. All comments will be available for review at the FBI's Freedom of Information and Privacy Act (FOIPA) Reading Room located at FBI Headquarters, 935 Pennsylvania Avenue, NW, Washington, DC 20535. To review the comments, interested parties should contact the FBI's FOIPA Reading Room staff, telephone number (202) 324-7510, to schedule an appointment (48 hours advance notice required). While printed comments are welcome, commenters are encouraged to submit their responses on electronic media. Electronic documents must be in WordPerfect 6.1 (or earlier) or Rich Text Format (RTF) format. Comments must be the only file on the 3.5 inch disk. In addition, all electronic submissions must be accompanied by a printed sheet listing the name, company or organization name address, and telephone number of an individual who can replace the disk should it be damaged in transit.

SUPPLEMENTARY INFORMATION:

I. Background*A. Purpose of CALEA*

On October 25, 1994, President Clinton signed into law the Communications Assistance for Law Enforcement Act (CALEA).¹ Its objective is to make clear a telecommunications carrier's duty to cooperate with law enforcement with regard to electronic surveillance-related interceptions for law enforcement purposes.² CALEA was enacted to preserve law enforcement's ability (pursuant to court order or other lawful authorization) to access call content and call-identifying information in an ever-changing telecommunications environment. On March 3, 1995, the Attorney General delegated to the Director of the FBI, or his designee(s) the authority to carry out the responsibilities conferred upon the Attorney General in Title I of CALEA.³ The FBI is implementing CALEA on behalf of all Federal, state, and local law enforcement agencies.

In 1968, when Congress statutorily authorized court-ordered electronic surveillance, there were no technological limitations on the number of call content or call-identifying interceptions that could be conducted.⁴ However, the onset of new and advanced services has begun to erode the telecommunications industry's ability to support law enforcement's court-authorized interception needs. In an effort to preserve the ability to conduct interceptions, Congress determined that technological solutions must be employed to meet the needs of law enforcement through the provision of new and advanced services.

The intent of CALEA is to define and clarify the level of assistance required from the telecommunications industry. CALEA does not alter or expand law enforcement's fundamental statutory authority to intercept communications. It simply seeks to ensure that, after law enforcement obtains legal authority, telecommunications carriers will have the necessary technical ability to fulfill their statutory obligation to provide law enforcement with the technical assistance necessary to carry out the court-authorized intercepts.

B. Capacity Notice Mandate

Because many future interceptions will be effected through equipment controlled by telecommunications carriers, section 104 of CALEA requires the Attorney General to provide carriers with information they will need (a) to be capable of accommodating the actual number of simultaneous interceptions at specific geographic locations that law enforcement may need to conduct, and (b) to size and design their networks to accommodate the maximum number of simultaneous interceptions at specific geographic locations that law enforcement may need to conduct at some future date. These two information elements are referred to in CALEA as "actual" and "maximum" capacity requirements. In accordance with section 104 of CALEA, the Attorney General must provide notice of estimated future actual and maximum capacity requirements. The statute defines these requirements as follows:

For actual capacity: The actual number of communication interceptions, pen registers, and trap and trace devices, representing a portion of the maximum capacity, that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously by the date that is 4 years after the date of enactment of CALEA.⁵

For maximum capacity: The maximum capacity required to accommodate all of the communication interceptions, pen registers, and trap and trace devices that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously after the date that is 4 years after the date of enactment of CALEA.⁶

Under section 104 of CALEA, telecommunications carriers must be in compliance with capacity requirements 3 years after the effective date of a Final Notice of Capacity for a specific telecommunications service. Although the Attorney General must estimate the actual number of call content interceptions, pen registers, and trap and traces that a carrier may be required to accommodate simultaneously at specific geographic locations by that date, the estimates should not be interpreted to mean the number of interceptions that law enforcement intends to, or is planning to, conduct.⁷ The number of interceptions that will actually be needed will be determined by active law enforcement investigations requiring authorized electronic surveillance.

Maximum capacity, on the other hand, is a capacity level that

telecommunications carriers must be able to accommodate "expeditiously" if law enforcement requires an increase in the future. The term "expeditiously" specifically refers to Section 104 capacity requirements regarding incremental expansion up to the maximum capacity.⁸ It should not be confused with "expeditious access" to call content and call-identifying information as used in section 103 of CALEA, which pertains to the assistance capability requirements. Because CALEA does not define the term "expeditiously," this NOI solicits from interested parties suggestions for the appropriate length of time to be designated for incremental expansion to the maximum capacity.

Law enforcement has interpreted maximum capacity chiefly as a requirement that telecommunications carriers will follow to determine a capacity ceiling. This ceiling is intended to provide telecommunications carriers with a stable framework for cost-effectively designing future capacity into their networks. It also provides for accommodating future interception-related "worst-case scenarios."

Establishing the maximum capacity will allow telecommunications carriers to assist law enforcement during serious, unpredictable emergencies requiring an unusual level of interception activity.

C. Final Notice of Capacity for Local Exchange, Cellular and Broadband PCS Services

On March 12, 1998, the FBI published in the **Federal Register**⁹ a Final Notice of Capacity. While CALEA applies to all telecommunications carriers,¹⁰ the March 12, 1998 Final Notice of Capacity covered only those telecommunications carriers offering local exchange services and certain commercial mobile radio services, specifically cellular service and broadband PCS.¹¹ Exclusion from the March 12, 1998 Final Notice of Capacity of other telecommunications carriers that have services currently deployed or anticipate deploying services in the near term, does not exempt them from the statutory obligations of CALEA. Thus, the purpose of this NOI is to give telecommunications carriers providing other telecommunications services covered by CALEA an opportunity to provide input to the FBI as it develops

¹ Pub. L. 103-414, 47 U.S.C. 1001-1010.

² For purposes of this NOI, the word "interception" is used to refer to either the interception of call content or call-identifying information.

³ See 28 CFR 0.85(o).

⁴ See Title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 18 U.S.C. 2510-2522.

⁵ See 47 U.S.C. 1003(a)(1)(A).

⁶ See 47 U.S.C. 1003(a)(1)(B).

⁷ 47 U.S.C. 1003(b)(1).

⁸ 47 U.S.C. 1003(b)(2).

⁹ 63 FR 12218 (March 12, 1998).

¹⁰ Telecommunications carrier as defined by 47 U.S.C. 1001(8).

¹¹ Specifically, it refers to those services operating in the licensed portion of the 2 GHz band of the electromagnetic spectrum, from 1850 MHz to 1990 MHz.

law enforcement's capacity requirements.

II. Capacity Requirements for Telecommunications Services Other Than Local Exchange Services, Cellular, and Broadband PCS

Given the dynamic nature of the telecommunications industry and the diverse nature of telecommunications services, the FBI has determined that it is in the best interest of all parties concerned that it solicit input from the telecommunications industry and other interested parties regarding the development of reasonable methodologies for characterizing capacity requirements for telecommunications services other than local exchange, cellular, and broadband PCS, prior to instituting a rulemaking proceeding.¹² The FBI is committed to the consultative process and to maintaining an on-going dialogue with the telecommunications industry. The FBI seeks to draw upon the expertise of industry to gain an understanding of the range of options available for expressing capacity requirements for various telecommunications services. Those services yet to be addressed by a notice of capacity include, but are not limited to:

- Traditional paging,
- Two-way paging,
- Narrowband PCS,
- MSS,
- SMR and ESMR,
- National and multi-rate services,
- Asynchronous transfer mode

(ATM),

- X.25,
- Frame relay,
- Airplane telephony, and
- Railroad telephony.

Any telecommunications carriers whose services were not covered in the March 12, 1998 Final Notice of Capacity but are subject to CALEA, are strongly encouraged to comment on this NOI.

Commenters are asked to address the requirements regarding the basis for capacity notices set forth in CALEA section 104(a)(2):

The notices issued. * * *

(A) may be based upon the type of equipment, type of service, number of subscribers, type or size of carrier, nature of service area, or any other measure; and

(B) shall identify, to the maximum extent practicable, the capacity required at specific geographic locations.

Commenters should address approaches that are best suited to their specific services, with emphasis upon the capacity needed on a geographic basis. However, the FBI recognizes that

certain services may not lend themselves to geographic expression, and therefore also encourages comments on alternative means of characterizing capacity. Commenters are also asked to address any other service-specific capacity issues that the FBI should take into consideration when developing capacity methodologies. While different services will require different methods for characterizing capacity, commenters should review the methodology for determining capacity requirements set forth in the March 12, 1998 Final Notice of Capacity before preparing comments in this proceeding.¹³ Also, because CALEA does not define the term "expeditiously," this NOI solicits from interested parties suggestions for the appropriate length of time to be designated for incremental expansion to the maximum capacity.

The FBI is committed to giving all interested parties the opportunity for meaningful participation in CALEA and will continue to work with the telecommunications industry to develop capacity methodologies and notices of capacity for all telecommunications services subject to CALEA.¹⁴

This is a Notice of Inquiry proceeding where ex parte communications are permitted pursuant to 28 CFR 50.17.

[47 U.S.C. §§ 1001-1010]

Dated: December 15, 1998.

Louis J. Freeh,

*Director, Federal Bureau of Investigation,
Department of Justice.*

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DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on

construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is

¹² This action is considered a rulemaking under the Administrative Procedure Act, 5 U.S.C. § 553.

¹³ See 63 FR 12218, and 12224-12227 (March 12, 1998).

¹⁴ The FBI is acting in accordance with the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553.