Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT	)	RM-10865
Joint Petition for Expedited Rulemaking, filed by United States Department of Justice, Federal Bureau of Investigation and Drug Enforcement Administration	)	

To: Office of Engineering and Technology

DECLARATION OF TERRI L. BROOKS

I, Terri L. Brooks, hereby declare as follows:

1. I am the current chair of the TR-45 LAES Ad Hoc Group ("LAES Group"), a standards setting group within the Telecommunications Industry Association ("TIA") responsible for developing technical standards for lawfully authorized electronic surveillance ("LAES"). I have served as the chair of the LAES Group since June 1999, but have been involved as a member of this group since it was originally formed in 1995 (when it was known as the Electronic Surveillance Ad Hoc). I became the vice-chair for the LAES Group in February 1998. I have a Bachelor of Science in Computer Science from Texas A&M University (with a minor in Mathematics), as well as 12 years of experience in the telecommunications industry. I make this declaration based on my personal knowledge of the events described, or on the documentary records of the LAES Group and TIA (including its committees and subcommittees).

I. THE TIA STANDARDS-SETTING PROCESS

2. TIA is accredited by the American National Standards Institute ("ANSI") to develop standards for use by the telecommunications industry. TIA's status as an ANSI-accredited body means that it must follow certain formal procedures, including publishing proposed ANSI standards for voting and comment (this is known as the "ballot" process).

3. Within TIA, a number of engineering committees and subcommittees have been formed for the development of various telecommunications industry standards. For Communications Assistance for Law Enforcement Act ("CALEA") standards, this work has been carried out by the LAES Group, with input from two TIA subcommittees, TR-45.2 and TR-45.6. Within the LAES Group (and other TIA subgroups), draft standards are typically developed in three stages over a series of meetings. The process begins with the specification of high-level requirements at stage 1, with more detailed solutions being developed at stages 2 and 3.

4. Agreement on a standard may be established by voting or by consensus, depending on the type of group. Only groups referred to as "formulating groups" can hold formal votes. The LAES Group is a non-formulating group and must forward its consensus proposals to its parent body (currently TR-45) for ballot approval. Ballot responses (which may include detailed comments) on LAES Group proposals are reviewed and resolved by the LAES Group itself before further action is taken.

5. While TIA usually produces commercially driven standards for carriers and manufacturers, it also develops standards to assist carriers in meeting legal requirements, such as intercept standards under the CALEA "safe harbor" provisions.

6. I am most familiar with the TIA standards process and the development of the J-STD-025 series of CALEA standards. However, I am also aware of industry standards

developed by other standards bodies that reflect the substantial efforts of industry to provide LAES capabilities. They include:

- Three paging standards, originally developed by the Personal Communications Industry Association in 1998, with revisions in 1999 and 2000.
- PKT-SP-ESP-I03-040113, *PacketCable Electronic Surveillance Specification,* developed by CableLabs in 1999 and now in its third revision as of January 2004.
- Digital Dispatch Surveillance Standard #1 published by AMTA in 1999 and updated in 2004.
- T1.678, American National Standard for Telecommunications – Lawfully Authorized Electronic Surveillance (LAES) for Voice over Packet Technologies in Wireline Telecommunications Networks, developed by ATIS Committee T1S1 (included in J-STD-025-B by normative reference) (published in 2004).
- 3G TS 33.108, 3rd Generation Partnership Project: Technical Specification Group Services and System Aspects: 3G Security; Handover Interface for Lawful Interception (available since 2002).
- T1.724, American National Standard for Telecommunications – UMTS Handover Interface for Lawful Interception, January 2004.
- ES 201 671 *Telecommunications Security; Lawful Interception (LI); Handover Interface for the Lawful Interception of Telecommunications Traffic* (revised version).

II. CALEA STANDARDS FOR TRADITIONAL TELEPHONY

7. Industry began working with law enforcement to develop technical standards for CALEA in late 1994. At TIA, these efforts were headed by the TR-45.2 subcommittee, which formed the original LAES Group.[1] This ad hoc group included representatives of the Federal

[1] The LAES Group was later raised a level to become an ad hoc group under TR-45 rather than under TR-45.2.

Bureau of Investigation ("FBI") from the outset.[2] In addition, various local law enforcement representatives have, at times, participated at industry meetings and legal summits.

8. The TR-45.2 subcommittee consists of experts on wireless technology. Because it was recognized early in the CALEA standards process that it would be beneficial for a CALEA standard to cover multiple wireline and wireless technologies, a decision was made in mid-1995 (in consultation with law enforcement) to proceed with a combined wireline/wireless industry standard through the joint work of TIA's TR-45.2 subcommittee and the T1S1/T1P1 subcommittees of the Alliance for Telecommunications Industry Solutions ("ATIS") Committee T1 on Telecommunications.[3] This project eventually became J-STD-025. Industry and law enforcement continued work on the joint standard under the leadership of TIA over the next two years.

A. J-STD-025 and the "Punch List"

9. During the early work on J-STD-025, the relationship between the standards bodies and law enforcement was a cooperative one. The task was originally treated by the meeting participants as an engineering task, essentially responding to the needs of law enforcement as explained by the FBI. However, the complexity of the proposed solution soon became quite substantial, and concerns grew among the participants about whether the requested

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[2] The FBI unit or section dealing with CALEA matters has had various names. The CALEA Implementation Unit ("CIU") is currently a unit within the FBI's Electronic Surveillance Technologies Section ("ESTS"). The same group has also been called the Telecommunications Industry Liaison Unit ("TILU"), which later became the CALEA Implementation Section ("CIS") before it was renamed ESTS. For convenience, I will simply refer to the "FBI" when referring to any incarnation of this group.

[3] TR-45.2's focus is on systems using the ANSI/TIA-41-based network protocol, while T1P1's focus is on wireless systems using the Global System for Mobile ("GSM")-based network protocol. Wireline expertise was supplied by T1S1. Final agreements on the joint TIA/T1 standards process were reached in February 1996.

information was "reasonably available" and whether the requested capabilities were in fact technically feasible. As a result, the industry participants began to ask whether all of the capabilities advocated by the FBI were required by law. This concern led the participants to consult with their legal departments about some of the functionality sought by law enforcement. Industry associations such as TIA, the Cellular Telecommunications and Internet Association ("CTIA"), and the United States Telecom Association ("USTA") sponsored a series of legal summits to bring industry attorneys and law enforcement attorneys together for a dialogue on the capabilities required by CALEA.

10. In 1996, this process led to disagreements over eleven intercept capabilities that the FBI wanted to see included in the joint standard. These capabilities became known as the "punch list." These capabilities were (1) content of subject-initiated conference calls, (2) party hold/join/drop on conference calls, (3) subject-initiated dialing and signaling, (4) in-band and out-of-band signaling, (5) timing information, (6) dialed digit extraction, (7) surveillance status message, (8) feature status message, (9) continuity check tone, (10) standardized delivery interface, and (11) separated delivery for multi-party calls.

11. Industry resisted the inclusion of the "punch list" items in J-STD-025 because it considered them not to be required by CALEA, either due to the nature and availability of the information or because of the technical difficulty of implementing the capabilities. The "punch list" items were removed from J-STD-025 before the proposed standard was approved for ANSI ballot in February 1997.

12. The FBI responded to this action by voting "No" and compiling comments against the proposed standard on the ANSI ballot. "No" votes and comments were also solicited from almost 150 other law enforcement agencies (including many local agencies) that had not

previously participated in the standards process.[4] Ballot resolution (*i.e.*, the process of reviewing and addressing ballot comments) took place in mid-1997. Due to the number of technical modifications made during the ANSI ballot resolution, and the still outstanding "No" votes from the law enforcement segment of the voting pool, a second ANSI ballot round was required. However, to avoid delay in achieving industry consensus and to allow implementation and deployment to move forward promptly, TIA and T1 conducted a ballot for an Interim/Trial Use standard. Typically only industry participants vote on an interim or trial use standard; J-STD-025 was overwhelmingly approved in that vote. TIA and ATIS published J-STD-025 as a TIA Interim Standard and T1 Trial Use Standard in December 1997.[5]

13. While the ANSI ballot proceedings were being contested in mid-1997, the FBI attempted to have TIA's ANSI accreditation removed, arguing that TIA had disregarded public comments related to the proposal for J-STD-025, and that TIA had violated the ANSI rules of due process and "openness" regarding public comment. No other organization or company has ever tried to remove TIA's ANSI accreditation. TIA was obliged to submit a formal defense rebutting the FBI's allegations in great detail. The FBI withdrew its allegations against TIA before ANSI could hold a hearing on the charges.[6]

14. In March 1998, the Department of Justice ("DOJ") and FBI formally petitioned the FCC for a ruling that Interim/Trial Use Standard J-STD-025 was "deficient" under CALEA

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[4] *See* Letter from James T. Moore, Florida Dep't of Law Enforcement to Sheriff Everett Rice, Pinellas County Sheriff Office (Mar. 27, 1997) **[Attachment A]**, for an example of a letter sent soliciting "No" votes from a local law enforcement agency**.**

[5] In February 1998, ANSI advised that J-STD-025 could not be published as an American National Standard at that time because of the large number of "No" votes from law enforcement agencies.

[6] *See* Letter from Edward L. Allen, FBI to Daisy Delogu, ANSI (Jul. 3, 1997) **[Attachment B]**.

because it lacked the punch list items. By this time, the DOJ had reviewed the FBI's "punch list" and dropped two of the eleven items – standardized delivery interface and separated delivery for multi-party calls – on the basis that they were not mandated by CALEA. In August 1999, the FCC issued its *Third Report and Order* on CALEA and ruled that three of the nine outstanding punch list items – the surveillance status message, the feature status message, and continuity check tone – were also not required by CALEA. The FCC concluded that the remaining six punch list items (with some significant limitations on the capabilities sought by the FBI) were required by CALEA.

15. Even before the *Third Report and Order*, some equipment manufacturers began developing "punch list" functionality for their products. This decision was based in part on uncertainty over whether the punch list capabilities would ultimately be required under CALEA and concern over the amount of time manufacturers would be given to implement the capabilities. In most cases the punch list capabilities were designed with a toggle so that the carrier could make the decision to turn them on or off. The decision to build punch list capabilities into switches may also have been influenced by what became known as the FBI "buyout," which began around the same time and ultimately led to the FBI funding several CALEA solutions on terms negotiated between the FBI and particular companies (because buyouts were negotiated separately between the FBI and particular companies, the details are not publicly available).

B. J-STD-025-A

16. Almost immediately after the FCC *Third Report and Order* the LAES Group began work on a standard that incorporated the newly approved punch list items. The workplan established by the LAES Group for the development of this standard, J-STD-025-A, was one of the tightest ever established for a TIA TR-45 project, with the document scheduled to go to

ballot in only nine months. With hard work from both industry and law enforcement, J-STD-025-A, a revision of J-STD-025, was forwarded to TIA and ATIS for publication in April 2000, months ahead of schedule. J-STD-025 and J-STD-025-A were then approved for parallel ANSI ballots.

17. Just before the LAES Group meeting to resolve ballot comments, the U.S. Court of Appeals for the District of Columbia Circuit vacated four of the punch list items approved in the FCC's *Third Report and Order*. Nevertheless, in order to not delay CALEA implementation the LAES Group proceeded with ballot resolution for both documents in an attempt to ensure that J-STD-025-A could be quickly adopted and published once the FCC responded to the D.C. Circuit's ruling. J-STD-025 was approved for publication as an ANSI Standard. By this time, J-STD-025-A had already been published as a joint Interim/Trial Use standard by TIA and Committee T1. Work on turning it into an American National Standard was placed in suspension pending further action by the FCC. TIA and Committee T1 issued a statement alerting companies and organizations of the vacated state of the four punch list items in the Interim/Trial Use version of J-STD-025-A.

18. The FCC issued its *Order on Remand* April 11, 2002. In that Order, the FCC reinstated the four vacated punch list items, modified the definition of "call-identifying information," and added toggle functionality for the dialed digit extraction feature to enable the carriers to turn this capability off to protect privacy interests as needed. There was general agreement between industry and law enforcement on the handling of the changes to J-STD-025-A needed to accommodate the FCC's *Order on Remand*, with the exception of the changes to the definition of "call-identifying information." Based on the revised definition, law enforcement wanted to re-open parts of the standard that had not been the subjects of the D.C. Circuit decision

or the *Order on Remand*. The consensus position of the LAES Group was that the revisions to the definition only provided justification for the reinstatement of the four vacated punch list items and was not a basis for revisiting other aspects of J-STD-025-A. Therefore, the LAES Group merely updated the definition in the document and forwarded it to TR-45 for ballot approval. Ballot comments on J-STD-025A were resolved in January 2003, and J-STD-025-A became an American National Standard on April 16, 2003.

III. TIA PACKET-MODE STANDARDS

A. J-STD-025-B – Packet-Mode

19. The *Third Report and Order* also held that CALEA applied to packet-mode communications. The original J-STD-025 includes packet mode solutions for both low-volume and high-volume packet communications. For low-volume packet communications (*e.g.*, short messaging service), J-STD-025 requires that the Packet Envelope message be provided to Law Enforcement. For high-volume packet communications (which includes most packet data applications), J-STD-025 allows the carrier to send the entire packet stream to law enforcement. The specification does not require that any information be withheld, although it does allow for this possibility based on the authorization given in the court order.

20. Although the provision of the entire packet stream for high-volume communications raised privacy concerns, this approach was upheld by the FCC and by the D.C. Circuit on appeal. The FCC *Third Report and Order* states that carriers are permitted to use this solution for packet-mode data, "pending further study of packet-mode communications by the telecommunications industry." The FCC also required that "TIA … deliver a report to us no later than September 30, 2000 that will detail a permanent solution" that addresses the privacy concerns.

21. TIA convened two Joint Experts Meetings ("JEMs") to develop possible paths forward for packet-mode surveillance. JEM participants included technical experts and others from many domestic and international standards groups and organizations, as well as law enforcement and the FCC. A report was submitted to the FCC on September 29, 2000,[7] with the following main conclusions:

(1) Even at that time, packet-mode services were extremely varied and diverse, making it difficult to define a "one-size-fits-all" standard.

(2) Analysis of what information had to be provided and how feasible it was to extract that information implicated legal questions, such as what constitutes "call-identifying information" for packet-mode services and what are "information services" for the purposes of CALEA.

(3) Analyzing packet data traffic was technically difficult because (a) packet-mode technologies could be used to transport a theoretically unlimited number of different services, applications and protocols, and (b) the information that law enforcement seeks may be buried within several layers of encapsulated packets.

(4) Packet transport technologies that did not include a call management server ("CMS") could not easily isolate call-identification-like information without examining the whole packet data stream.

(5) Providing the entire packet stream for a particular subscriber is by far the most cost-effective and technically feasible method for providing access to law enforcement.

22. In July 2001, the LAES Group was reconvened to develop J-STD-025-B. This project was again a joint project between TIA and ATIS Committee T1, and specifies surveillance capabilities for three packet-mode platforms – cdma2000® packet data system,[8] Universal Mobile Telecommunications System/General Packet Radio Service

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[7] *See* Letter from Matthew J. Flanigan and Grant Seiffert, TIA to William E. Kennard, FCC (enclosing copy of Report on Surveillance of Packet Mode Technologies), *filed in the Matter of Communications Assistance for Law Enforcement Act*, CC Docket No. 97-213 (filed Sept. 29, 2001).

[8] This was developed by the LAES Group working with TR-45.6.

("UMTS/GPRS"),[9] and a voice-over-packet standard for wireline networks.[10] Following the FCC's *Order on Remand*, work on this project was carried out in parallel with the revisions to J-STD-025-A (described above).

23. When work started on J-STD-025-B, law enforcement proposed a "service-focused approach," indicating that "packet is a technology over which services are offered and the needs of law enforcement are focused on the telecommunications services."[11] Examples given by law enforcement were Voice-over-Packet and Internet Access services.[12] After extensive deliberation, the LAES Group decided to focus on technology platforms rather than the services provided over those platforms. The LAES Group made this decision for several reasons. First, there was uncertainty whether some of the services proposed by law enforcement were covered by CALEA. In addition, a service-focused approach would be difficult to implement because many different services can be deployed in widely varying ways over any given technology platform. Services also evolve much faster than platforms, which would complicate the development of a stable standard. In contrast, an approach that focuses on the technology platform would allow a stable standard to be written that (1) defines a set of network events common to all services (*e.g.*, start of communications session, end of communications session), and (2) specifies call-identifying information that can be extracted without analyzing more of the packet than would otherwise be required to process (*e.g.*, route) the packet. Such an

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[9] This was developed by T1P1 in partnership with the Third-Generation Partnership Project (also known as "3GPP").

[10] This was developed by T1S1.

[11] *See* CALEA Implementation Section, Framework for Development of LAES of Packet-based Communications, Contribution TR45.LAES/2002.01.21.06, at 1, 2-3 (Jan. 21, 2002).

[12] *Id*. at 4.

approach is consistent with the one taken for circuit-mode services in earlier versions of J-STD-025.

24. The LAES Group received numerous contributions for J-STD-025-B, including an extensive contribution from the FBI and Telcordia Technologies (under contract to the FBI). The LAES Group began to discuss the FBI contribution in May 2002, accepting some material with modifications. Much of the material that was not accepted simply repeated language from previously adopted portions of the J-STD-025 series that applied to both circuit and packet, and that had been carefully developed over a period of years. The LAES Group declined such modifications, which could have reopened legal and technical issues that had been resolved. The group also considered and rejected FBI proposals that seemed to require information beyond CALEA's definition of call-identifying information (*e.g.*, several items were not considered "reasonably available").

25. Discussion of the FBI contribution continued in the June 2002 meeting, but was not completed then. In the July 2002 meeting, the FBI indicated that it could no longer formally support the contribution due to the number of consensus changes made, stating that "The contribution as a whole, if modified as proposed by the group, would neither present a 'complete' picture nor address all of the needs of Law Enforcement … ."[13] Accordingly, work ceased on the FBI contribution. However, with the consent of the FBI and Telcordia Technologies, a contribution was compiled from the material agreed during the May and June meetings, and that material was accepted into the J-STD-025-B process.[14]

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[13] *See* July 2002 Meeting Report, Contribution TR45.LAES/2002.08.13.02r3 (Aug. 13, 2002).

[14] *See* CommFlow Resources Inc., *Proposed Text for Inclusion in PN-4465-RV1*, Contribution TR45.LAES/2002.08.14.08 (Aug. 14, 2002).

26. In the months following the July 2002 meeting, law enforcement cut back its contributions to the LAES Group, and by the time of the January 2003 meeting it was not participating at all.

27. The January 2003 meeting was immediately followed by a conference held by the FBI and Telcordia Technologies in Chicago to introduce their "Electronic Surveillance Needs of Carrier-Grade Voice over Packet Service" ("CGVoP") document. After the conference concluded and as people were exiting the room, Les Szwajkowski of the FBI walked up to me and informed me that the FBI would no longer be attending the LAES Group meetings. He went on to explain that they no longer wanted to have conversations about what is or is not required by CALEA. His statements were consistent with what was said during the conference. During the meeting, Dan Bart of TIA had asked whether or not law enforcement viewed the capabilities in the CGVoP document as being required by CALEA. (In fact, some portions of the CGVoP document included capabilities that had been specifically rejected in the FCC's *Third Report and Order*, such as the provision of surveillance status and feature status messages.) The FBI refused to answer such questions.

28. A little over a month later, on February 28, 2003, the FBI sent a formal letter saying that it would no longer participate in the LAES Group, citing limited resources and disagreements with decisions made by the LAES Group in its approach to the work as reasons for their decision.[15] In particular, the FBI expressed the view that the LAES Group was going "beyond the purview of any industry standards-setting organization" by considering "legal and regulatory issues."[16] However, the LAES Group can hardly develop standards for the

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[15] *See* Letter from Leslie M. Szwajkowski, FBI to Terri Brooks, TIA (Feb. 28, 2003) ("*FBI Withdrawal Letter*") **[Attachment C]**.

[16] *Id*.

capabilities required by CALEA without considering what CALEA requires. The LAES Group formulated a response expressing regret that the FBI did not plan to continue its participation, as law enforcement input was considered useful and "ha[d] significantly impacted the content of the document during the course of [the LAES Group's] work."[17]

29. Proposed standard J-STD-025-B was approved for ballot in August 2003. In the balloting, two "No w/comments" votes were cast by the FBI and Telcordia Technologies (as the FBI's contractor), but neither attended the ballot resolution meetings to represent their ballot comments. The LAES Group reviewed the comments and sent letters to the FBI and Telcordia on October 8, 2003, responding to each of their ballot comments.

30. In their ballot comments to TIA, the FBI and Telcordia Technologies sought to include in the cdma2000® portion of J-STD-025-B a requirement to provide many types of information that would only be reasonably available on a platform that included a call management server ("CMS") – *i.e.*, a specialized package of hardware and software that processes certain types of packet-mode messages. However, because the cdma2000® packet data system platform does not specify CMS functionality, such information was not necessarily available. For this reason, the LAES Group declined to adopt this aspect of the FBI's and Telcordia's comments. Carriers with non-CMS-based platforms would have no easy way to extract such information (assuming it even existed) without delving more deeply into each packet in the packet stream than would be required to route the packet. The LAES Group did inform the FBI and Telcordia that the LAES Group intended to develop a standard that would cover at least one platform with CMS functionality (this was planned as part of the J-STD-025-C

[17] The response from the LAES Group was incorporated into a formal TIA response, going over the history of this project in detail, and sent to the FBI on September 26, 2003. *See* Letter from Dan Bart, TIA to Leslie M. Szwajkowski, FBI (Sept. 26, 2003) **[Attachment D]**.

project), and the group urged the FBI and Telcordia to attend the October 2003 meeting of the LAES Group to discuss their comments. However, neither party responded, nor did either of them send a representative to the October 2003 meeting.

31. Because there were many technical changes made to J-STD-025-B during the first ballot round, a second ballot for J-STD-025-B was held in early November 2003 to approve those changes. Only one "No w/comments" ballot was cast, and it was by the FBI.[18] The comments from the FBI had not changed since the first ballot round, and the FBI again did not attend the meeting to present its comments. Accordingly, J-STD-025-B was approved by TIA and Committee T1 for publication in December 2003, subject to some editorial corrections. J-STD-025-B was published by TIA and ATIS early in 2004.[19] Both TIA and ATIS agreed to elevate the standard to American National Standard status and the ANSI ballot process on the standard is currently underway in both organizations.

B. J-STD-025-C and Additional LAES Capabilities

32. In March 2003, the LAES Group began discussions concerning potential new activities in order to address the needs of law enforcement (*e.g.*, CGVoP), with the understanding that some of these "needs" may go beyond the requirements of CALEA. In connection with these discussions, the LAES Group and ATIS had initial communications regarding a workshop to gather views from both industry and law enforcement on the scope of CALEA, especially with respect to emerging technologies and the law enforcement needs that would or would not be

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[18] At that point, Telcordia Technologies was no longer under contract to the FBI and so abstained from voting.

[19] *See* TIA and ATIA, Joint Press Release, *TIA and ATIS Publish Lawfully Authorized Electronic Surveillance Standard (J-STD-025-B)* (Mar. 19, 2004) **[Attachment E]**.

covered by the statute. However, before the workshop could be organized or scheduled, the FBI sent a formal refusal to ATIS stating that the FBI would not participate in any such workshop.[20] As a result of this letter, the workshop was never scheduled.

33. Discussions continued over the next several months, and two multi-company contributions were submitted during the June 2003 meeting of the LAES Group supporting two new projects. One of these was for a future revision of the joint standard, to be known as J-STD-025-C, and the other was for a parallel project to address additional LAES capabilities not mandated by CALEA. In addition to other items, both projects will address a new technology platform – the Third-Generation Partnership Project 2 IP Multimedia System/Multimedia Domain system, which includes support for voice-over-packet ("VoP") services. The projects were approved in June 2003 by TR-45, and the project descriptions were sent to Committee T1 for review, with a proposal for them to be joint standards.[21] In March 2004, the LAES Group began developing the stage 1 requirements for J-STD-025-C. This process will continue in the April 2004 meeting.

34. Attempts by the LAES Group to re-engage law enforcement in this process have been unsuccessful. The TR-45 Committee made a strong recommendation that work on J-STD-025-C be done as a collective effort led by the LAES Group. In March 2004, the LAES Group held a meeting at the same location as TR-45.2 and TR-45.6 to accommodate this recommendation from TR-45. The FBI continues to be represented in TR-45.6 and has submitted contributions to that subcommittee on J-STD-025-C, including stage 1, 2 and 3

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[20] *See* Letter from Leslie M. Swajkowkski, FBI to Susan Miller, ATIS (Mar. 19, 2003) **[Attachment F]** ("*FBI Summit Letter*").

[21] ATIS Committee T1 has not given a formal response on the proposal that J-STD-025-C and the additional LAES capabilities projects be developed as joint standards.

material (*i.e.*, both high level and detailed requirements). It was expected that these contributions would be discussed during the LAES Group meeting, with the experts of TR-45.2 and TR-45.6 in attendance. However, the FBI's representative threatened to withdraw the FBI contributions if they were introduced into the LAES Group, so this did not occur.

35. Nevertheless, in order to not delay CALEA implementations, the LAES Group proceeded to set an aggressive work plan and timetable for the completion of J-STD-025-C, as well as a standard on additional LAES capabilities not required by CALEA (to be published as TIA-1018, if approved). J-STD-025-C is scheduled to be ready for ANSI balloting by November 2004 while TIA-1018 is to be ready by June 2005.

36. The FBI continues to object to the standards work of the LAES Group. On April 16, 2004, the FBI sent four letters to ANSI disagreeing with the LAES Group's approach to the balloting of J-STD-025-B,[22] and to the development of J-STD-025-C and the TIA-1018.[23] Among other things, in the letter concerning J-STD-025-C, the FBI alleges that the LAES Group "does not have the expertise to cover the breadth of the subject matter claimed to be included in the document."[24] This is not accurate; the participants in the LAES Group have extensive technical expertise. To the extent that additional expertise is needed to complete the work, the

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[22] Letter from Greg Milonovich, FBI to Susan Carioti, ATIS (Apr. 16, 2004) (Re: Reply to "Call for Comments" on J-STD-025B as a Trial Use Standard) ("*J-STD-B Trial Use Reply*") **[Attachment G]**; Letter from Greg Milonovich, FBI to Billie Zidek-Conner, TIA (Apr. 16, 2004) (Re: Reply to Project Initiation Notification on J-STD-025-B as an American National Standard) ("*J-STD-B Reply*") **[Attachment H]**.

[23] Letter from Greg Milonovich, FBI to Billie Zidek-Conner, TIA (Apr. 16, 2004) (Re: Reply to Project Initiation Notification on J-STD-025-C as an American National Standard) ("*J-STD-C Reply*") **[Attachment I]**; Letter from Greg Milonovich, FBI to Billie Zidek-Conner, TIA (Apr. 16, 2004) (Re: Reply to Project Initiation Notification on TIA 1018-200x as an American National Standard) ("*TIA 1018 Reply*") **[Attachment J]**.

[24] *J-STD-B Reply* at 1; *J-STD-C Reply* at 1; *TIA 1018 Reply* at 1.

TR-45 Committee planned for the LAES Group to draw upon the experts in TR-45.2 and TR-45.6, and to liaise with other groups as needed. However, this plan has been somewhat disrupted by the FBI's threat to withdraw its contributions from TR-45.6 if the contributions were presented to the LAES Group. As a result of this threat, an opportunity was lost during March 2004 for the experts in the LAES Group, TR-45.2 and TR-45.6 to work together on J-STD-025-C and TIA-1018.

37. In one of its April 16 letters, the FBI also objects to the LAES Group initiating work on these projects "because the group has previously broadened its scope to include legal and regulatory issues well beyond the purview of any industry standards setting organization."[25] In other words, the FBI is objecting to the LAES Group's approach of seeking legal guidance (*e.g.*, from its members' internal legal departments or from outside counsel) to ensure that only CALEA-mandated requirements are included in the industry "safe harbor" standards. The FBI's position is consistent with previous indications that it does not want to discuss what is or is not required by CALEA in standards meetings. However, in the view of industry representatives, legal advice is necessary to ensure that non-CALEA capabilities are not included in standards that are being written specifically to address CALEA and to provide a clear "safe harbor" for use by the carriers and equipment manufacturers. The only way to maintain a separation between CALEA and non-CALEA requirements is for the standards-setting body to seek legal guidance on this question and to incorporate such guidance into its work. This is a common practice in standards projects that are based on government mandates (*e.g.*, E9-1-1, Wireless Priority Service).

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[25] *TIA 1018 Reply* at 1. This is consistent with previous correspondence from the FBI. *See also FBI Withdrawal Letter* at 1; *FBI Summit Letter* at 1.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Executed April 27, 2004.

Terri L. Brooks

Terri L. Brooks

ATTACHMENT A

FDLE

Florida Department of
Law Enforcement

James T. "Tim" Moore
Commissioner

P.O. Box 1489
Tallahassee, Florida 32302
(904) 488-8771

Lawton Chiles, *Governor*
Sandra B. Mortham, *Secretary of State*
Robert A. Butterworth, *Attorney General*
Robert F. Milligan, *Comptroller*
Bill Nelson, *Treasurer*
Bob Crawford, *Commissioner of Agriculture*
Frank T. Brogan, *Commissioner of Education*

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P.C.S.O.
OFFICE OF THE SHERIFF

March 27, 1997

Honorable Everett Rice
Pinellas County Sheriff's Office
P.O. Box 2500
Largo, FL 33779-2500

Dear Sheriff Rice:

The Communications Assistance for Law Enforcement Act (CALEA) was enacted by Congress in 1994 in response to rapid advances in telecommunications technologies that were negatively impacting the ability of law enforcement to conduct court ordered electronic surveillance. CALEA does not increase or expand electronic surveillance authority, but rather requires that telecommunications carriers possess both the capability and capacity necessary to accommodate the electronic surveillance needs of law enforcement. CALEA ensures that the ability of law enforcement to conduct court ordered wire, cellular and PCS intercepts will not be hampered by increasingly sophisticated telephone systems. This legislation also relates to the use of less intrusive electronic surveillance techniques including "trap and trace" and pen registers.

The Telephone Industry Liaison Unit (TILU) was subsequently established at the direction of the United States Attorney General and is composed of representatives of federal, state and local law enforcement agencies. One of the primary responsibilities of TILU is continuing consultation with the telecommunications industry regarding the establishment of an industry standard pertaining to the implementation of CALEA. The proposed standard initially contained the majority of the recommendations made by law enforcement; however, the telecommunications industry subsequently deleted several necessary capabilities. The proposed standard is identified as the Lawfully Authorized Electronic Surveillance (LAES) Standard, otherwise known as SP-3580. Those capabilities not contained in SP-3580 will result in the following problems for investigators:

1. Inability to determine who said or heard what during a multi-party call

2. Inability to determine if the target telephone is ringing, busy, etc.

3. Flashhook information will not be received on multi-party call features

4. Inability to determine if the electronic surveillance is operating properly

5. Inability to determine if the target subject has added or changed calling feature

6. No standardized communication interface will exist between the carrier and law enforcement for voice and data

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1997

FOS-97-116

SP-3580 has been released by the Telecommunications Industry Association (TIA) and the American National Standards Institute (ANSI) for balloting, and law enforcement and telecommunications carriers and manufacturers have each been allotted one-third of all votes. The federal government (representing all federal agencies) will be allowed one vote, and each state is entitled to one vote. In addition, each county or municipal agency will be allowed one vote. Although law enforcement will be allowed only one-third of the total ballots, it is imperative that we express a united concern regarding the inadequacies of SP-3580 and vote **NO** regarding its adoption. The adoption of this standard could be disastrous to the effective employment of electronic surveillance for many years to come.

Individual agencies wishing to vote must obtain and pay for a ballot. Each ballot will cost $136, plus local taxes and $6 in shipping fees. A ballot may be obtained from Global Engineering Documents, 7730 Carondelet Avenue, Clayton, MO 63105, telephone (800) 854-7179. Ballots must be submitted by May 12, 1997. In addition, all "NO" ballots must be submitted with technical comments and recommendations for revision of the standard. In the event that you are unable to vote, I would request that you submit "non-ballot" comments documenting your concerns. All ballots, technical comments and "non-ballot" comments should be returned to Joseph Brown, Telecommunications Industry Association, 2500 Wilson Boulevard, Suite 300, Arlington, VA 22201, telephone (703) 907-7706, fax (703) 907-7727. All disputes regarding the implementation of CALEA will ultimately be resolved by the Federal Communications Commission (FCC).

Court-ordered electronic surveillance is one of the most important investigative techniques currently available to law enforcement; however, our ability to ensure the public safety is threatened by the rapid evolution of telecommunications technology. We must work together to ensure that we do not lose our electronic surveillance capabilities. Please take the time to vote **NO** regarding the adoption of SP-3580. If you have any questions regarding this matter, do not hesitate to contact TILU Representatives Special Agent Michael McDowell (FDLE) or Detective Tim Huntington (Broward County Sheriff's Office). Special Agent McDowell may be reached at (813) 878-7400, and Detective Huntington at (954) 321-5055.

Your prompt consideration of this matter is greatly appreciated.

Sincerely,

James T. Moore
Commissioner

ATTACHMENT B

Job Compliant file

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535

RECEIVED
JUL - 8 1997
TIA

July 3, 1997

Ms. Daisy Delogu
Program Manager, Procedures and Standards Administration
ANSI
11 West 42 Street
New York, New York 10036

Dear Ms. Delogu:

This will confirm our telephone conversation on July 1, 1997 in which I advised you of the FBI's desire to withdraw our appeal to the Executive Standards Council for a review of procedures being followed by the Telecommunications Industry Association (TIA) in the development ANSI BSR J-STD 25. I have discussed this matter with Mr. David Yarbrough, FBI, and Mr. Dan Bart, Vice President of Standards and Technology, TIA. I am confident of TIA's commitment to the fair and equitable application of TIA's and ANSI's procedures during the development of this standard. We have agreed that continued discussions between TIA and law enforcement will ensure a better understanding of each party's concerns.

Thank you for your interest and assistance in this matter.

Sincerely,

Edward L. Allen
Chief
Electronic Surveillance
Technology Section
Information Resources Division

1 - Mr. Dan Bart
Vice President, Standards and Technology
TIA
Suite 300
2500 Wilson Boulevard
Arlington, VA 22201

ATTACHMENT C

U.S. Department of Justice

Federal Bureau of Investigation

Electronic Surveillance Technologies Section
14800 Conference Center Drive, Suite 300
Chantilly, VA 20151

February 28, 2003

Ms. Terri Brooks
Chair, TR45 Lawfully Authorized Electronic Surveillance (LAES) Working Group
Telecommunications Industry Association
2500 Wilson Boulevard, Suite 300
Arlington, Virginia 22201-3834

Dear Ms. Brooks:

Per our recent discussion, the Electronic Surveillance Technology Section (ESTS) of the FBI will no longer participate in the TR45 LAES Working Group. Limited resources will be utilized in standards groups committed to making substantive and tangible progress toward a technical surveillance solution.

The undefined scope and approach adopted by the group has fostered the development of a work product that is ill defined and unusable. ESTS submitted several contributions proposing a general approach, and capabilities required by law enforcement for interception of packet-based communications, and none of these contributions were accepted. Further, the group has broadened its scope to include legal and regulatory issues well beyond the purview of any industry standards-setting organization. This has shifted the focus away from the development of technical interception capabilities.

ESTS will monitor future progress of the group and work with the industry to develop sound technical solutions.

Sincerely,

Leslie M. Szwajkowski

CC: Mrs. Cheryl Bloom, Chair, TR45
William Maher, Bureau Chief, Wireline Competition Bureau
John Muleta, Bureau Chief, Wireless Telecommunications Bureau
Edmond J Thomas, Chief, Office of Engineering and Technology

ATTACHMENT D

September 26, 2003

Leslie M. Szwajkowski
U.S. Department of Justice
Federal Bureau of Investigation
CALEA Implementation Unit
14800 Conference Center Drive, Suite 300
Chantilly, VA 20151

Re: Your letter of February 28, 2003 to Ms. Terri Brooks, Chair, TR-45 Lawfully Authorized Electronic Surveillance (LAES) Working Group (copy attached)

Dear Mr. Szwajkowski:

Your referenced letter to Ms. Brooks, in her capacity as Chair of the TR-45 LAES Working Group, was a letter of notification to the Chair that the Electronic Surveillance Technologies Section (ESTS) of the FBI planned to no longer participate in the current work of the TR-45 LAES Working Group, but that ESTS planned to "monitor future progress of the group and work with the industry to develop sound technical solutions."

As merely a notification letter, it did not require any reply. However, since some of the statements in the letter appear to be based on a misunderstanding of the TIA standards development process, as well as evidencing a lack of knowledge of the prior history on work to develop Communications Assistance for Law Enforcement Act (CALEA) safe harbor standards at TIA, Ms. Brooks referred your letter to me for any TIA reply. Since many items were in the pipeline in support of lawfully authorized electronic surveillance I have waited until those matters firmed up before responding to your letter and Ms. Brooks' request and based on input I received from TR-45 after its September 2003 meeting.

Background

The telecommunications industry, both service providers and vendors, have had a long history of working cooperatively with the FBI and other law enforcement agencies on lawfully authorized electronic surveillance matters. This cooperation existed long before there was a CALEA. In fact, when there was concern in the FBI that technology advances and competitive and regulatory changes in the industry were outstripping law enforcement's ability to know "who" the service provider might be and "how" to implement a lawful surveillance on newer technologies, industry met with representatives of the Bureau in the early 90's in Quantico, VA at the FBI's facilities. I know about that meeting since I was a participant at the meeting. At that time there was agreement to form a "technical committee" of industry experts to work with the FBI to come up with technology solutions for various newer technologies and to identify contact points

2500 Wilson Boulevard
Suite 300
Arlington, VA 22201-3834
USA
+1.703.907.7700
FAX +1.703.907.7727

for various service providers to receive surveillance orders. The then Chairman of the Alliance for Telecommunications Industry Solutions (ATIS) was the spokesman for the industry at the time. The industry experts and FBI representatives and consultants then continued to meet as the "Technical Committee" for many months working cooperatively on solutions for lawful surveillance.

Due to the fact that only companies that had been invited to Quantico by the FBI were involved, and in order to broaden the participation to other interested parities and to institutionalize this technical work, agreement was reached to request ATIS to host a new forum or committee which was named the Electronic Communications Service Provider Committee (ECSPC) since we were addressing surveillance orders served on electronic communications service providers. The ECSPC also met on a Non Disclosure Agreement (NDA) basis. I was personally very active in both the Technical Committee and the ECSPC. The ECSPC was eventually shut down at the request of the FBI.

TIA participated in the legislative effort that led to CALEA and I testified for TIA at hearings on the Hill along with Director Freeh, other trade associations, and privacy advocates.

After CALEA was signed into law and effective, TIA's Engineering Committee TR-45 immediately advanced a project in the end of 1994 to produce a safe harbor standard for wireless communications. Due to the fact that there were many similarities in how one might specify interfaces for both wireline and wireless systems, agreement was reached with Committee T1 Telecommunications, which is sponsored by ATIS, to have a joint TIA/T1 standard for Lawfully Authorized Electronic Surveillance (LAES). Since TIA had already started its work and was well along in the effort, it was agreed that TR-45 and TIA would be the lead Standards Development Organization (SDO) for this work on the joint standard. The drafts would be balloted in both TIA and T1. However, again this was a cooperative effort of TR-45, T1, and law enforcement.

However, in the consensus process, there were issues of whether or not certain features or capabilities were "required" under CALEA or whether they were just capabilities to make surveillance a little easier or more efficient. The intent of the joint project was to produce a safe harbor standard under CALEA which was also closely coupled to Congressionally mandated reimbursement schemes to pay for development, and deployment of capabilities as well as incremental capacity adjustments. At the time, industry indicated a willingness to work on other non-CALEA enhanced surveillance features in another standard, and funded by some non-CALEA methodology, but the FBI was not interested in that at the time, preferring an adversarial role to insist all requirements it had specified were CALEA mandates.

Since standards committees are not populated by attorneys but by technical personnel, and because of process and procedural rules of the American National Standards Institute (ANSI), as well as TIA and T1, the sponsors did not want legal questions or interpretations of the law debated among engineers. Instead, when such issues arose, industry groups such as TIA, the United States Telecom Association (USTA), the

Cellular Telecommunications and Internet Association (CTIA), or ATIS, would sponsor CALEA Legal Summits where industry experts, both technical and legal, could discuss with the FBI various positions and points of view and agree to agree or agree to disagree on matters. I personally participated in almost all of these Summits. Again, this was a form of cooperation with the FBI since we agreed on more features and capabilities than we disagreed. In fact, the list was narrowed to 11 items or the so-called “punch list” where some issues remained. Again, industry expressed a willingness to address those items in another standard as non-CALEA capabilities but the FBI insisted that the safe harbor standard would be “deficient” without those 11 capabilities and advised that the FBI would legally challenge the TIA/T1 standard. Again we agreed to disagree on those items. In fact some privacy advocates opined that there were capabilities already in the draft standard that were not required by CALEA and should be pulled out. Thus, the FBI wanted "more" and other interested parties wanted "less" in the standard.

After discussions at the Department of Justice level and proceedings at the FCC and in the Courts, the 11 punch list items were reduced to 6 that were directed by the FCC to be added to the safe harbor standard of TIA and T1 and this has been done. However, there were years of delay due to adversarial proceedings and uncertainty in the industry and among other interested parties.

The initial LAES standard was published in 1997 as Joint Standard 025 (J-STD-025) a joint standard of TIA and Committee T1 and that base standard has been amended, addended, and revised as well as upgraded to American National Standard status in the intervening 6 years. Currently Revision B is out on industry ballot and a project to revise it to Revision C has been authorized by TR-45.

However, industry cooperation with the FBI did not only include the work in TR-45 to produce the 025 safe harbor standard. TIA has hosted seminars and participated in conferences to educate others about CALEA and the LAES standard in cooperation with the FBI. The TIA Board of Directors has even invited the head of what was then known as the CALEA Implementation Section (CIS) to attend a TIA Board meeting to dialog about CALEA and law enforcement's surveillance needs. TIA hosted 2 Joint Experts Meetings (JEMs) to pursue a more in-depth look at packet technologies and LAES requirements and submitted a report to the FCC based on that work. TIA was an active participant in regulatory and court proceedings with respect to CALEA and J-STD-025. TIA has provided a forum for the discussion with the FBI of whether the TIA Satellite Communications Division (SCD) should sponsor a safe harbor surveillance standard for satellite systems. This matter was recently put to a vote of the SCD. TIA has hosted standards delegations (often including law enforcement representatives) from other countries to explain our joint standard and the process by which it was developed in cooperation with law enforcement.

In April of this year in Ottawa, TIA and Committee T1 participated in a Global Standards Collaboration (GSC) meeting among senior leaders of leading SDOs around the world including the ITU. These Participating Standards Organizations (PSOs) from the USA, Europe, Canada, Australia, Japan, Korea, and the ITU, discussed LAES needs and

adopted a Resolution (attached) demonstrating a continued intent to work cooperatively among themselves and with law enforcement representatives worldwide to develop common standards. TIA is also monitoring the work in the ITU-T Special Study Group (SSG) related to LAES needs.

TIA is currently working with the leadership of Committee T1 on the revision C project scope for the 025 standard and discussing a new project for enhanced surveillance capabilities beyond those mandated by CALEA.

TIA has also participated in a Technical Summit hosted by Telcordia in January of this year in Chicago and will be attending a follow-on Technical Summit on October 2, again in Chicago.

I have provided this in-depth background and history about TIA and the industry's involvement in LAES and cooperation with the FBI and law enforcement over more than ten years to set a context for some specific comments about the subject letter.

Specific Comments Related to Your Letter

Your letter of February 28, 2003 was discussed at length by the TR-45 LAES Ad Hoc group and industry leadership. They have provided TIA with their consensus input.

It is unfortunate that CIU (formerly ESTS) does not plan to continue participating within the TR-45 LAES Ad Hoc group working on the joint T1/TIA standard J-STD-025-B, as FBI input to the group is considered to be useful, just as FBI and other law enforcement input has been helpful over the last ten years and this input has significantly impacted the content of the document during the course of our work. It is true that some of the CIU (ESTS) (CIS) contributed text has not been accepted, however, based on industry practice, and in compliance with the scope of the project to satisfy the mandates of CALEA and not address in this safe harbor standard other enhanced surveillance capabilities, the ad hoc group must continue to work on a consensus basis, thereby acting based on the informed positions of the vast majority of all parties participating in this joint standards development process. TIA does not dispute that many technical capabilities might be useful for surveillance, but that is not the question that needs to be asked. What needs to be asked is whether those capabilities are required to meet CALEA, whether they have already been covered in the standard, etc. If they are not CALEA mandates then they would be outside the scope of this standards project but could be fully within the scope of an enhanced surveillance (non-CALEA) standards project.

The TR-45 LAES Ad Hoc group is continuing to move forward with its work on J-STD-025-B, and a draft is currently out for industry ballot. CIU is encouraged and welcome to participate directly in the group at any time, in addition to the input we continue to receive through other coordinating SDOs. CIU staff or consultants to CIU on the LAES exploder will continue to receive information on our activities through that medium. As noted in your letter, this will allow you to "monitor future progress of the group and work with the industry to develop sound technical solutions."

On August 15th, TR-45 approved a recommendation from the TR-45 LAES Ad Hoc Group to send PN-4465-RV1 (to be published as J-STD-025-B) for ballot. The document has been distributed for ballot by both TIA and T1 (LB 1174), with due dates of September 25th and September 17th, respectively. The initial ballot response resolution meeting will be held at TIA Headquarters in Arlington, Virginia on September 29-30, 2003. You are welcome to participate in that process.

Industry representatives believe the resulting document *(i.e.*, J-STD-025-B) will meet the safe harbor objectives of CALEA and comply with CALEA requirements.

As noted in the background section, TIA formulating groups are not the appropriate forums for legal and regulatory discussions and that is why trade association-sponsored CALEA Legal Summits have been convened in the past – including participation by the FBI I might add -- and may be used again in the future. After a cooperative sharing of views in those legal/regulatory forums, companies advise they feel better equipped to instruct their standards participants about how to address specific technical capabilities required by CALEA in the standards meetings, while excluding capabilities that might not covered by CALEA as a legal matter or under the CALEA funding mandates.

I trust that TIA has provided you adequate information to enable you to assess the best use of your time as well as clarify TIA processes and scopes of work and scopes of projects and committees. If you require any additional information, do not hesitate to call or email me. Dbart@tiaonline.org, or 703-907-7703.

Sincerely,

[original signed by Dan Bart this copy sent electronically]
Dan Bart
Senior Vice President, Standards and Special Projects

Cc Cheryl Blum, Chair, TR-45
Terri Brooks, Chair LAES Ad Hoc
Ed Hall, ATIS
Grant Seiffert, TIA
William Maher, Bureau Chief, Wireline Competition Bureau
John Muleta, Bureau Chief, Wireless Telecommunications Bureau
Edmund J. Thomas, Chief, Office of Engineering and Technology

ATTACHMENT TO TIA LETTER

RESOLUTION GSC-8/2: Global Cooperation and Collaboration on Lawful Access and Interception

GSC-8

recognizing

a) that numerous diverse Lawful Access and Interception requirements exist by virtue of multilateral agreements and treaties worldwide, including the Convention on Cybercrime (Budapest, 23 XI 2001), as well as national and local legislative and regulatory requirements in most countries;

b) that the substantial inter-working and relative openness and access of networks today allows actions that could be harmful to those networks and breach the security of individual user systems;

c) that communication providers - in response to lawful requests - must provide Law Enforcement Authorities timely and effective access to subscriber information, traffic data, or content data;

d) that the increasing diversity, complexity, and provisioning arrangements of networks – including the identification and location of services - pose additional challenges;

e) that the costs of supporting Lawful Access and Interception requirements can weigh significantly upon communication providers, and may not always be compensated by Law Enforcement Authorities;

f) that the diversities among Law Enforcement Authorities and the levels of security and compartmentalization may pose additional challenges;

g) that the architectures for Lawful Interception and Access significantly affect the costs and the difficulty of standardization for providing Lawful Access and Interception capabilities;

concludes

a) that a significant need exists for the timely exchange of information concerning Lawful Access and Interception standards and related legal requirements among legislative, regulatory, law enforcement, industry, and standards bodies and forums;

b) that multiple standards for the same Lawful Access and Interception capabilities, including authentication, accountability, secure transfer and records-keeping, should be minimized through increased collaboration;

c) that global interoperability and harmonization among different Lawful Access and Interception standards and related identifiers is desirable to facilitate sharing of information worldwide;

d) that Lawful Access and Interception architectures should accommodate Next Generation Network with a view to providing required capabilities for Law Enforcement Agencies while minimizing costs to communication service providers through shared infrastructure and resources;

e) that Lawful Access and Interception techniques should strive for optimal efficiencies and not significantly degrade the network performance;

resolves

a) that PSOs provide global, timely notice of new proceedings, activities, requirements or specifications;

b) that PSOs collaborate towards common standards relating to Lawful Access and Interception;

c) that PSOs encourage the authorities responsible for Lawful Access and Interception to

1. provide global, timely notice of new proceedings, activities, requirements or specifications
2. collaborate toward common, harmonized, shared systems of law, regulation, requirements, mandates, specifications, standards, identifiers, information objects, document schema, or homologation relating to Lawful Access and Interception for communication networks.

ATTACHMENT E

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"Your website and the offerings you provide for membership were goals for some of us board members years ago. It is very satisfying to see how far TIA has come in serving its membership. Please pass along my congrats to all." - John

Press Release

TIA and ATIS Publish Lawfully Authorized Electronic Surveillance Standard (J-STD-025-B)

Contact: **Sharon Grace, TIA**
(703) 907-7721
sgrace@tiaonline.org

Rachel Pater, ATIS
(202) 434-8858
rpater@atis.org

For Immediate Release
March 19, 2004

Alliance for Telecommunications Industry Solutions

Arlington, Va. -- The Telecommunications Industry Association (TIA) and the Alliance for Telecommunications Industry Solutions (ATIS) have jointly published the TIA Standard/ATIS Committee T1 Trial Use Standard, "Lawfully Authorized Electronic Surveillance" J-STD-025-B.

This standard defines the interfaces between a telecommunications service provider (TSP) and a law enforcement agency (LEA) to assist the LEA in conducting lawfully authorized

Vette, CEO, SNC Manufacturing Co. Inc.

electronic surveillance. The purpose of this standard is to facilitate a TSP's compliance with the assistance capability requirements defined in Section 103 of the Communications Assistance for Law Enforcement Act (CALEA). J-STD-025-B defines services and features to support Lawfully Authorized Electronic Surveillance (LAES) and the interfaces to deliver intercepted communications and communication-identifying information to an LEA when authorized. The document also defines a protocol for delivering specific information elements to LEAs. Compliance with this standard satisfies the "safe harbor" provisions of Section 107 of CALEA and helps ensure efficient and industry-wide implementation of the assistance capability requirements.

J-STD-025-B focuses on refining the CALEA packet-mode communications requirements for the interface to the collection equipment of LEAs. The requirements in this standard pertain to several technologies. The details of the solution for the cdma2000®* packet data system are included in the standard, as are normative references for Voice over Packet (VoP) for Wireline Telecommunications Networks and Universal Mobile Telecommunications System/General Packet Radio Service (UMTS/GPRS), technologies focused on by ATIS' Technical Committees T1S1 and T1P1 respectively.

J-STD-025-B is a TIA Standard/ATIS Committee T1 Trial Use Standard, which was developed and approved by TIA and ATIS' Committee T1 for trial use, comment and criticism, and published in December 2003. At its March 2004 meeting, the TIA Engineering Committee TR-45 approved a ballot to determine whether the Trial Use Standard should be made into an American National Standard. In like fashion, ATIS' Technical Committees T1P1 and T1S1 recently issued similar letter ballots.

To obtain copies of J-STD-025-B, please contact Global Engineering Documents at (800) 854-7179 or visit http://global.ihs.com or via the ATIS Document Center www.atis.org.

*cdma2000® is a registered trademark of the Telecommunications Industry Association (TIA-USA).

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The Telecommunications Industry Association (TIA) is the leading trade organization serving the communications and information technology industry, with proven strengths in standards development, domestic and international public policy, and trade shows. Through its worldwide activities, TIA facilitates business development opportunities and a competitive market environment. The association provides a forum for its member companies, the manufacturers and suppliers of products and services used in global communications. TIA is accredited by the American National Standards Institute to develop American National

Standards used in the industry. TIA represents the communications sector of the Electronic Industries Alliance (EIA). Visit us at http://www.tiaonline.org.

ATIS is a technical planning and standards development organization that is committed to rapidly developing and promoting technical and operations standards for the communications and related information technologies industry worldwide using a pragmatic, flexible and open approach. Over 1,200 participants from more than 400 communications companies are active in ATIS' 22 industry committees, and its Incubator Solutions Program. www.atis.org.

P.A. Release 04-26/03.19.04

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ATTACHMENT F

U.S. Department of Justice

Federal Bureau of Investigation

Electronic Surveillance Technology Section
14800 Conference Center Drive, Suite 300
Chantilly, VA 20151

March 19, 2003

via electronic mail

Ms Susan Miller
President & CEO, ATIS
smiller@atis.org

Dear Ms. Miller:

The Electronic Surveillance Technology Section (ESTS) will not be participating in the upcoming TR45 workshop on new surveillance standardization activity in response to the release of Law Enforcement's *Electronic Surveillance Needs of Carrier-Grade Voice over Packet Service* document.

There are a number of standards activities currently focused on addressing the needs of Law Enforcement in a carrier-grade voice over packet environment. T1S1, the International Softswitch Consortium (ISC), and CableLabs PacketCable are all addressing this area and have made significant progress towards the development of a specification. While these activities were initiated before the release of the *Electronic Surveillance Needs of Carrier-Grade Voice over Packet Service* document, they are addressing the requirements discussed in this document without the need for expanded scope.

Furthermore, the workshop's goal of defining whether capabilities fall inside or outside the scope of CALEA exemplifies ESTS' concern that TR45 has broadened its scope to include legal and regulatory issues well beyond the purview of any industry standards-setting organization. Therefore, ESTS will not take part in an activity that will have no utility to law enforcement and/or be completely redundant with other Industry groups.

Sincerely,

Leslie M. Szwajkowski

CC: Mrs. Cheryl Blum, Chair, TR45
Mr. Dan Bart, Sr. VP Standards & Special Projects, TIA
Ms. Terri Brooks, Chair, TR45 LAES Ad Hoc Group
Mr. Gary Pellegrino, Vice Chair, TR45 LAES Ad Hoc Group
Col. Ed Hall, VP Technology Department, ATIS
Mr. Ray Hapeman, Chair, T1
Mr. Greg Ratta, Chair, T1S1 LAES Ad Hoc Group
Mr. Eric Rosenfeld, Project Director, PacketCable Electronic Surveillance Focus Team
Mr. Matt Holdrege, Chair, ISC Legal Intercept Working Group

ATTACHMENT G

U.S. Department of Justice

Federal Bureau of Investigation

Electronic Surveillance Technology Section
14800 Conference Center Drive, Suite 300
Chantilly, VA 20151

April 16, 2004

Re: Reply to "Call for Comments" on J-STD-025-B as a Trial Use Standard

Ms. Susan Carioti
ATIS
1200 G St, NW, Suite 500
Washington, DC 20005

Dear Ms. Carioti:

This letter provides a reply to the call for comments on the use of J-STD-025-B as a Trial Use Standard announced in the March 19, 2004 issue of *ANSI Standards Action* as well as an explanation of the perceived futility of further interactions in the balloting process for this document, as T1 has yielded all comment resolution procedures to TIA, where LE is not being treated fairly.

The fact that the CALEA Implementation Unit (CIU) of the FBI is dissatisfied with the content of proposed J-STD-025-B and the procedures followed to create it has not been a secret for some time. To wit, the following is a quote from a letter dated February 28, 2003, that was sent from the Electronic Surveillance Technology Section (ESTS), of which CIU is a part, to the Chairperson of the TIA TR 45 LAES AHG.

Attached to this letter is the set of comments that indicates the numerous technical issues

> The undefined scope and approach adopted by the group has fostered the development of a work product that is ill defined and unusable. ESTS submitted several contributions proposing a general approach, and capabilities required by law enforcement for interception of packet-based communications, and none of these contributions were accepted. Further, the group has broadened its scope to include legal and regulatory issues well beyond the purview of any industry standards-setting organization. This has shifted the focus away from the development of technical interception capabilities.

Law Enforcement has with this proposed trial use standard and which was provided in this organization's response to the ballot of J-STD-025-B. As indicated in the official response to ESTS from TIA, which acted as the lead SDO in this joint activity with ATIS, no action was taken on these comments. "Due to the lack of a contribution or representation for CIU at the October meeting, discussion resulted in no further action being taken on the CIU ballot comments. No changes were made to PN-4465-RV1 as a result of your ballot comments. The overall status of your ballot comments is 'No Action'." While we have difficulty understanding how such an approach to comments on a proposed standard is consistent with that of an ANSI-accredited standards development organization, it is characteristic of the lack of serious consideration of the input by this organization. One may see extensive evidence of this by referencing the meeting reports of the TIA

Ms. Susan Carioti
April 16, 2004

TR 45 LAES AHG - where this document was developed - for the record of how the contributions from Law Enforcement were treated.

It is important to observe that 47 USC § 1006 (a) (1) specifically directs the Attorney General, in coordination with federal, state, and local Law Enforcement agencies to consult with appropriate associations and standards-setting organizations. The Attorney General has delegated its consultative authority under 47 USC § 1006 (a) (1) to the Director of the Federal Bureau of Investigation, see 28 C.F.R. 0.85(o), which in turn tasked CIU with performing this required consultation. Therefore, CIU is representative of not just the FBI but of all Law Enforcement relative to consultation with industry in the matter of lawfully authorized electronic surveillance capability development. This clearly identifies this organization as an affected party and the sole voice for this constituency in the preparation of this proposed trial use (or "interim" in the parlance of TIA) standard. We note that the synopsis of the document in the *ANSI Standards Action* indicates that "this document defines the interfaces between a telecommunications service provider (TSP) and a law enforcement agency (LEA) to assist the LEA … ." Since ESTS is the official representative of one side of this interface standard and this organization believes that its input to the specification of this interface has been systematically and inappropriately discounted and ignored, it is hard to imagine a reasonable individual supporting that J-STD-025-B should be recognized as a trial use standard.

Furthermore, the lead SDO for this document continues to confuse the application of this document. In the same issue of *ANSI Standards Action* that J-STD-025-B is proposed as a trial use standard through January 1, 2007, TIA has announced a PINS to issue the document as an American National Standard. The project form approved by TIA TR 45 indicates a proposed completion date of June, 2004. As if this didn't cause enough confusion for the industry, the March 26 issue of *ANSI Standards Action* announced a PINS for J-STD-025-C - an extension of version B. The project form, approved by TIA TR 45, indicates a proposed completion date of November, 2004 for that document. Other correspondence will respond directly to the confusion introduced by these other documents.

Sincerely,

Greg Milonovich,

Supervisory Special Agent, FBI
CALEA Implementation Unit
(703) 814-4713

Copy to:
Ms. Aivelis Colon, ATIS
Ms. Susan Hoyler, TIA
ANSI Board of Standards Review

Annex 1 - LB 1174 Vote by CIU

The CALEA Implementation Unit (CIU) of the Electronic Surveillance Technology Section of the Federal Bureau of Investigation has reviewed Letter Ballot 1174 (LB 1174) (PN-4465-RV1) and has concluded that the document does not supply Law Enforcement (LE) with the capabilities it needs to perform surveillance activities for packet-mode communications. CIU has also concluded that LB 1174 does not provide the level of detail necessary for a document of this importance and is likely to create confusion for Telecommunication Service Providers (TSPs), equipment manufacturers, and LE in their efforts to implement packet-mode surveillance. As a result of both the deficiencies and the insufficient level of detail in the proposed J-STD-025-B (as discussed below) CIU votes **No** on LB 1174 and maintains that J-STD-025-B should not be adopted as the standard for packet-mode communications.

General Comments:
The stated intent of J-STD-025-B is to define "…the interfaces between a telecommunication service provider (TSP) and a Law Enforcement Agency (LEA) to assist the LEA in conducting lawfully authorized electronic surveillance." CIU's position is that the revised document J-STD-025-B is significantly deficient in addressing packet-mode communications. Therefore, CIU cannot support adoption of a deficient standard that will have the effect of affording TSPs or equipment manufacturers "safe harbor" with respect to packet-mode communications.

LE is the sole user of the surveillance capabilities described in the document.

Notwithstanding this, CIU believes that the expressed needs of LE with regard to packet-mode communications were given only cursory consideration during the development of J-STD-025-B. LE, through CIU, expended considerable effort throughout the course of the J-STD-025-B developmental timeline to (1) propose an approach to packet-mode surveillance that would best meet the needs of LE while minimizing the cost of development and implementation and (2) develop the Stage 1 language and requirements for packet-mode surveillance in a technology-neutral manner. The following list of CIU's contributions clearly demonstrates the extent of LE's efforts to convey its needs to TR45 LAES Ad Hoc Group:

- TR45.LAES/2001.08.29: Proposal for work product of TR 45 LAES Ad Hoc Group work on Packet-Mode Data Surveillance Capabilities to be contained in a new document.
- TR45.LAES/2001.11.07.06: Overview of Packet Surveillance Fundamental Needs for Law Enforcement.
- TR45.LAES/2001.12.18.02: Framework for Development of LAES of Packetbased Communications.
- TR45.LAES/2002.01.21.06: Framework for Development of LAES of Packetbased Communications.
- TR45.LAES/2002.01.21.03: Stage 1 Description of Lawfully Authorized Electronic Surveillance (LAES) capabilities for packet-based communications pursuant to the Communications Assistance for Law Enforcement Act (CALEA).
- TR45.LAES/2002.02.12.05 (plus Revision 1): Framework for Development of LAES of Packet-based Communications.
- TR45.LAES/2002.02.12.09: Comments on Motorola Contribution (TR LAES/2002.02.12.03) on CALEA Requirements and Quotations.
- TR45.LAES/2002.04.22.03 (plus Revision 1): Stage 1 material for PN-4465-RV1.
- R45.LAES/2002.05.21.03: Stage 1 material for PN-4465-RV1.

In particular, contribution TR45.LAES/2002.01.21.06 provided a comprehensive Stage 1 description of LE's needs including 41 essential capabilities specifically worded to cover the differences in terminology and technology between packet-mode and circuit-mode communications.

This contribution and others made by CIU were repeatedly rejected based on the argument that the definitions or requirements were "already in the document." CIU made these contributions principally because, in its view, the existing standard (J-STD-025A) makes explicit reference to circuit-mode technology but not packet-mode technology and, therefore, the new language was critical to the stated goal of creating the expanded standard.

The net effect of the TR45 LAES Ad Hoc Group's consistent rejection of the contributions submitted by CIU relevant to LE's needs as sole user of the capability is to render the J-STD-025-B document essentially equivalent to the existing J-STD-025-A document. For example, J-STD-025-B contains no detailed requirements for services such as voice over packet communications.

The J-STD-025-B document, in its present form, is, therefore, superfluous and of no value to either the industry or LE.

More specifically, CIU finds that J-STD-025-B, as circulated for balloting, is deficient in the following areas which are of major concern to LE:

1. Terminology does not include the concept of a 'session' as distinct from a 'call.'
2. Subject and associate's media information (e.g., network address, media format) would not be reported.
3. Bandwidth and bearer control events associated with the call would not be reported
4. Intercept subject and associate's contact address information would not be reported (if these become available during, for example, SIP-based call setup).
5. Definitions for party identities have not been extended to support identifiers used by common packet protocols (e.g., URI for SIP).
6. Concept of reporting location (of a mobile subscriber) would not include personal mobility (e.g., common for SIP phones).
7. Address registration and de-registration would not be reported.
8. Reporting of post-cut-through addresses would not be extended to addresses other than E.164 numbers (e.g., a SIP URI).
9. Intercept subject's request for permission to originate or terminate a call to/from an associate would not be reported (needed for cases where the call control signaling would not be reported because call control is end-to-end and therefore not performed by the carrier's call management nodes).
10. Address resolutions would not be reported.
11. Certain call redirections would not be reported, even when the subject's service is aware of them (e.g., associate redirections occurring subsequent to the subject becoming involved in a call).
12. Call release information (e.g., cause) known/used by the subject's service would not be reported.
13. Regarding cdma2000 intercept solution, the rejection of TR45.LAES/2002.01.21.06 containing the Stage 1 language and requirements by TR45 LAES Ad Hoc Group for the "common" requirements sections of the standard render the technology-specific cdma2000 interception solution deficient. Critical topics such as performance, reliability, security, and capacity, specific to packet-mode communications, are missing.
14. Packet Activity Reporting (i.e., reporting of IP address and transport layer port number information for the source and destination of an IP packet) is vital to any packet data surveillance solution and is missing from the cdma2000 interception solution.
15. For cmda2000, the location information that can be provided at the beginning and end of a session is limited to cell site identification. Technology has already been developed that can provide more accurate location information such as longitude and latitude, and this should

be reported to LE when available in the network.

While some might argue that the detailed requirements for packet-mode communications are found in normative references listed within J-STD-025B, CIU and LE are being asked to approve a standard that would be afforded "safe harbor" status for packet-mode surveillance that:

1. does not reflect LE's stated User requirements
2. does not contain the text of specific requirements for enabling surveillance of packet-mode communications and
3. cites, as a normative reference for packet-mode surveillance capabilities, a document that is incomplete and furthermore does not have "safe harbor" status itself.

In light of the above, CIU's position is that J-STD-025B, in and of itself, lacks specific requirements for packet-mode communications and, therefore, cannot be claimed to have "safe harbor" status for packet-mode communications.

For these reasons, CIU believes J-STD-025B should not be adopted, and that TSPs and equipment manufacturers should not be afforded "safe-harbor" with respect to packet-mode communications by virtue of their compliance with a deficient standard (J-STD-025B).

ATTACHMENT H

U.S. Department of Justice

Federal Bureau of Investigation

Electronic Surveillance Technology Section
14800 Conference Center Drive, Suite 300
Chantilly, VA 20151

April 16, 2004

Re: Reply to PINS announcement on J-STD-025-B as an ANS

Ms. Billie Zidek-Conner
TIA
2500 Wilson Boulevard, Suite 300
Arlington, VA 22201-3834

Dear Ms. Zidek-Conner:

This letter is motivated by the announcement of a Project Initiation Notification in the March 19, 2004 issue of *ANSI Standards Action* concerning the preparation of J-STD-025-B as an American National Standard. It is premature to initiate such a project. In the very same issue that announced this project, it was announced that J-STD-025-B was being published as a trial use standard through January 1, 2007. That trial use standard also was developed with TIA as the lead Standards Development organization.

The purpose of a trial use standard is to gain operational experience with a proposed standard before its publication as an American National Standard. It is difficult for a reasonable individual to reconcile these simultaneous actions, given the TIA project for J-STD-025-B as an American National Standard indicates a June, 2004 completion date. It is highly irregular that one would initiate this project so soon after the attempted approval of a trial use standard.

A letter dated February 28, 2003, sent from the Electronic Surveillance Technology Section (ESTS) of the FBI, of which the CALEA Implementation Unit (CIU) is a part, to the Chairperson of the TIA TR 45 LAES AHG indicates reasons why this organization believes the approach being followed by TIA TR 45 is inappropriate to the development of standards in this topic. The body taking the lead for this standard does not have the expertise to cover the breadth of the subject matter claimed to be included in the document.

CIU is dissatisfied with the content of proposed J-STD-025-B for reasons indicated in its ballot response to this document in its trial use (or "interim standard," in the TIA parlance) version. Separate correspondence indicates the dissatisfaction of this organization with its technical input being treated unfairly. That matter is under consideration by ANSI and should be resolved before any attempt to initiate work on an American National Standard.

Ms. Billie Zidek-Conner
April 16, 2004

As if this didn't cause enough confusion for the industry, the March 26 issue of *ANSI Standards Action* announced a PINS for J-STD-025-C - an extension of version B. The project form approved by TIA TR 45 indicates a proposed completion date of November 2004 for that document. Other correspondence will respond directly to the confusion introduced by this other document.

Sincerely,

Greg Milonovich,

Supervisory Special Agent, FBI
CALEA Implementation Unit
(703) 814-4713

Copy to:
Ms. Susan Carioti, ATIS
ANSI Board of Standards Review

ATTACHMENT I

U.S. Department of Justice

Federal Bureau of Investigation

Electronic Surveillance Technology Section
14800 Conference Center Drive, Suite 300
Chantilly, VA 20151

April 16, 2004

Re: Reply to PINS announcement on J-STD-025-C as an ANS

Ms. Billie Zidek-Conner
TIA
2500 Wilson Boulevard, Suite 300
Arlington, VA 22201-3834

Dear Ms. Zidek-Conner:

This letter is motivated by the announcement of a Project Initiation Notification in the March 26, 2004, issue of *ANSI Standards Action* concerning the preparation of J-STD-025-C as an American National Standard. It is premature to initiate such a project, which is documented to be concluded by November, 2004. The previous issue of *ANSI Standards Action* announced that J-STD-025-B was being published as a trial use standard through January 1, 2007, and that a project was being initiated to complete J-STD-025-B as an American National Standard by June, 2004. It is difficult for a reasonable individual to reconcile these simultaneous actions.

A letter dated February 28, 2003, sent from the Electronic Surveillance Technology Section (ESTS) of the FBI, of which the CALEA Implementation Unit (CIU) is a part, to the Chairperson of the TIA TR 45 LAES AHG indicates reasons why this organization believes that the approach being followed by TIA TR 45 is inappropriate to the development of standards in this topic. The body taking the lead for this standard does not have the expertise to cover the breadth of the subject matter claimed to be included in the document. The collected set of actions announced in the March 19 and 26 *ANSI Standards Action* raise doubt about the ability of the organization to manage this important subject to effectively reduce confusion and risk in the industry and Law Enforcement.

CIU is dissatisfied with the content of proposed J-STD-025-B for reasons indicated in its ballot response to this document in its trial use (or "interim standard," in the TIA parlance) version. Separate correspondence indicates the dissatisfaction of this organization with its technical input being treated unfairly. That matter is under consideration by ANSI and should be resolved before any attempt to initiate work on an American National Standard.

Work should not be initiated on J-STD-025-C until the extant issues concerning the content and status of J-STD-025-B are resolved.

Sincerely,

Greg Milonovich,

Supervisory Special Agent, FBI
CALEA Implementation Unit
(703) 814-4713

Copy to:
Ms. Susan Carioti, ATIS
ANSI Board of Standards Review

ATTACHMENT J

U.S. Department of Justice

Federal Bureau of Investigation

Electronic Surveillance Technology Section
14800 Conference Center Drive, Suite 300
Chantilly, VA 20151

April 16, 2004

Re: Reply to PINS announcement on TIA 1018-200x as an ANS

Ms. Billie Zidek-Conner
TIA
2500 Wilson Boulevard, Suite 300
Arlington, VA 22201-3834

Dear Ms. Zidek-Conner:

This letter is motivated by the announcement of a Project Initiation Notification in the March 26, 2004, issue of *ANSI Standards Action* concerning the preparation of TIA 1018-200x as an American National Standard to provide "lawfully authorized electronic surveillance (LAES) capabilities beyond those contained in J-STD-025."

A letter dated February 28, 2003, sent from the Electronic Surveillance Technology Section (ESTS) of the FBI, of which the CALEA Implementation Unit (CIU) is a part, to the Chairperson of the TIA TR 45 LAES AHG indicates reasons why this organization believes that the approach being followed by TIA TR 45 is inappropriate to the development of standards in this topic. The body taking the lead for this standard does not have the expertise to cover the breadth of the subject matter claimed to be included in the document. Further, CIU does not support the initiation of this work because the group has previously broadened its scope to include legal and regulatory issues well beyond the purview of any industry standards setting organization.

The collected set of actions announced in the March 19 and 26 *ANSI Standards Action* raise doubt about the ability of the organization to manage this important subject to effectively reduce confusion and risk in the industry and Law Enforcement.

Sincerely,

Greg Milonovich,
Supervisory Special Agent, FBI
CALEA Implementation Unit
(703) 814-4713

Copy to:
Ms. Susan Carioti, ATIS
ANSI Board of Standards Review