SUBSENTIO

To Notice Secretly

The Subsentio Guide to CALEA Compliance

CALEA

the Communications Assistance for Law Enforcement Act

- This law mandates your compliance
- When you are compliant, you are in "Safe Harbor"
- Subsentio provides end-to- end management of the lawful intercept process
- Partnering with Subsentio indemnifies you against legal problems and civil penalties

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SCOPE OF THIS GUIDE

Covered in this guide to CALEA compliance:

INTRODUCTION: WHO - AND WHAT - THIS GUIDE IS FOR

The Communications Assistance for Law Enforcement Act ("CALEA") requires telecommunications Service Providers (Service Providers) to provide technical capabilities to Law Enforcement Agencies ("LEAs"), in support of Lawfully Authorized Electronic Surveillance (LAES). CALEA covers traditional telecommunications carriers, as well as providers of facilities-based broadband Internet access and two-way interconnected VoIP.

As a Subsentio customer, your needs for ensuring compliance with CALEA compliance are fully covered, and in more ways than one. Subsentio provides the essential trio of services – a state-of-the-art technology solution, legal expertise to manage court orders, and liaison with law enforcement agencies – to ensure that service providers comply with the law and protect their customers' privacy.

As a CSP, you have an important role in ensuring CALEA compliance. This booklet details the steps you must take to be ready when you receive a court order for "lawful intercept."

You have an important role in this process, too. When Subsentio jumps into action to process a court-ordered lawful intercept, you need to be ready. You must put in place the right procedures, processes and personnel to facilitate prompt and accurate lawful intercept via your Subsentio solution.

Subsentio is here to help you with this process. This manual is a step-by-step guide to Subsentio customers on the essential procedures, staffing needs, policies and responsibilities you must establish in advance to assist Subsentio in ensuring your compliance with CALEA when the need arises.

Your first order of business on receiving a "lawful intercept" order – Get the requested court order from law enforcement to Subsentio ASAP!

Call 1-303-794-6936

Finally, if you have any questions about your role and responsibilities under CALEA, don't hesitate to contact us, any time, at info@subsentio.com or call us at 1-303-794-6936.

1. TECHNICAL REQUIREMENTS

As a Subsentio customer, you are committed to the goal of complying with the letter and spirit of CALEA. Accordingly, you have installed a Subsentio solution designed to deliver the Lawful Intercept capabilities required by CALEA.

2. YOUR COMPLIANCE STAFF

With a Subsentio technology solution deployed, you are already well ahead of most other service providers. In addition to technology, Subsentio provides vital legal and law enforcement expertise to shepherd surveillance orders through to fulfillment. Who on your staff will be ready to work with the Subsentio team when a "lawful intercept" request arrives?

In the same way that you need qualified personnel to step in and manage a business crisis, so too, you need to designate in advance the personnel to create a plan and to help with CALEA compliance upon arrival of a court order for lawful intercept.

Subsentio recommends that your Compliance Staff should consist of an attorney (either in-house or outside counsel), and appropriate administrative and technical personnel. The Compliance Staff personnel need to be trained in receipt and validation of court orders for LAES. Each Compliance Staff member must sign the company's Non-Disclosure Agreement (NDA) to maintain the security and confidentiality of LEA intercepts and the privacy of your customers. It is usual but not required that Compliance Staff members submit to a background check.

Only your Compliance Staff should be authorized to perform the administrative, legal, security, and technical functions required by CALEA. The Staff's core responsibilities include:

- **Coordination with Subsentio:** It is crucial that the Service Provider immediately apprise Subsentio of all information required to allow Subsentio to efficiently and professionally provide all technical assistance required by LEA.
- **Administrative:** The Service Provider will provide resources to support the systems, procedures and technical solutions designed to implement LAES in response to a lawful court order.
- **Legal:** The Service Provider will provide resources for legal review of court orders and other legal authority to determine their validity.
- **Security:** Court orders, both criminal and Foreign Intelligence Surveillance Act (FISA), are private documents in nature and require of the Service Provider special processes to retain their confidentiality. Service Provider's employees must have special compliance training to manage this case-sensitive information.
- **Technical:** The Service Provider has selected a technical solution appropriate for all Service Provider services that require coverage by CALEA.

Oversight Responsibility

Subsentio's Security Staff will review and approve all court orders for surveillances and work with your Compliance Staff to ensure that each "lawful intercept" request is legally valid. Responses to authorized and validated court orders will be made in a timely manner. Verbal orders for interceptions from LEAs shall be honored only under Exigent Circumstances (see Section 6 below), as determined by applicable laws.

Your "Compliance Staff" should include legal counsel, technical and administrative personnel trained in what to do when your company receives a court order for "lawful intercept."

Service Provider Contact Information

Who's on first? Subsentio will work with the Compliance Staff named below, ensuring the proper interception of communications or access to call identifying information requested by a court order.

Legal Security Staff Contacts:

Name		Title	
Company		Phone	
Addres		Mobile	
City, State, Zip		Email	

Legal Security Staff Contacts:

Name		Title	
Company		Phone	
Addres		Mobile	
City, State, Zip		Email	

Technical Security Staff Contacts:

Name		Title	
Company		Phone	
Addres		Mobile	
City, State, Zip		Email	

3. YOUR CALEA COMPLIANCE POLICY

Within the Compliance Staff team, your legal counsel has an important responsibility: creating a Compliance Policy that governs the company's actions during a "lawful intercept" process. The Service Provider's policy should be that no interception of electronic communications on the Service Provider's network will be activated unless performed under written court order or other lawful authorization requesting such action.

Like a rule book, your Compliance Policy provides clear, simple direction on the steps to take – in sequence – on CALEA compliance.

Surveillances on a Service Provider's network shall be made only by Subsentio's Security Staff in cooperation with the Service Provider's Compliance Staff. We strongly urge that the Service Provider establish a firm policy that no LAES on the Service Provider's network will be activated unless the request from the LAE is forwarded both to Subsentio and to the Compliance Staff for review and approval.

It should be against policy for unauthorized personnel to intercept communications on a Service Provider's network.

Responsibility for Compliance

Subsentio suggests that the Service Provider's general counsel shall be responsible for communicating the Compliance Policy to all the Service Provider personnel. The Compliance Staff shall be responsible for ensuring compliance with the Compliance Policy. Subsentio's Security Staff will serve as the primary point of contact for LEAs.

The Service Provider recognizes that the unauthorized interception of communications on its network may have serious consequences for public safety and the Service Provider itself. Service Provider employees who need assistance understanding the requirements of the Policy may contact the Compliance Staff.

Policy Violations

Any violation of or departure from the Compliance Policy should be reported immediately to the Compliance Staff.

CALEA and FCC regulations require the Service Provider to report any act of compromise of a lawful interception of communications or access to call-identifying information by authorized persons or entities, and any act of unlawful electronic surveillance that occurs on its premises, to the affected LEA or LEAs within a reasonable time upon discovery. Subsentio will not be responsible for the acts of the Service Provider's personnel that are in violation of the established CALEA compliance procedures.

Unauthorized Surveillance

The following sets forth the Service Provider's Policy in the event of an act of unauthorized surveillance or a compromise of previously authorized surveillance:

- If any Service Provider employee or contractor becomes aware of any act of unauthorized electronic surveillance or any compromise of authorized surveillance to unauthorized persons or entities, that employee or contractor must report the incident immediately to the Compliance Staff.
- The Compliance Staff shall immediately notify the immediate LEAs of the incident.
- The Service Provider's Compliance Staff shall compile a record of the incident, ensure that the record is placed in the appropriate file, and repeat its CALEA training as needed to prevent any repetitions of such incidents.
- Finally, the Compliance Policy should include information on hours of operation:
- Service Providers should create procedures that stipulate operating hours and business conditions.
    - » Normal business hours in your time zone are from 8:00AM to 5:00PM, Monday thru Friday. All requests for assistance from LEAs made to the Service Provider during normal office hours must be referred to the Compliance Staff. The court order will not be processed without the approval of the Subsentio Security Staff.
- "After hours" is considered to from 5:00PM to 8:00AM, Monday thru Friday, and Saturday and Sunday. During those hours, the Service Provider may direct calls to their after-hours contact number or the Subsentio Call Center: 1-303-794-6936. If an LEA contacts either the Service Provider or Subsentio's Call Center after business hours, either the Service Provider's or Subsentio's Security Staff will obtain the following information:
    - » Name of Agent/Officer
    - » Agency/Department
    - » Contact Number

4. REPORTING REQUIREMENTS

Your CALEA policy is in place? Good. Now you need to let the Feds know, too.

The Federal Communications Commission (the "FCC") requires CALEA-covered Service Providers to submit System Security and Integrity reports ("SSI Reports") disclosing their policies and procedures for complying with CALEA. Each Service Provider must file such a report upon the launch of a CALEA-covered service. Include the name of your company and the contact information of the person filing the SSI report. SSI Reports need to be updated with the FCC when significant changes have taken place with the customer's network or personnel.

As a Subsentio customer, you have the benefit of our experience. This Subsentio Guide To CALEA Compliance may serve as the basis of your SSI Report and as a guide for the creation of an internal policy manual.

Service Providers should file their SSI Report and updates directly with the FCC:
(Secretary, Federal Communications Commission, 445 12 St. NW, Washington, DC 20554)

5. COURT ORDER PROCEDURES

An order for "lawful intercept" arrives. What do you do? If an LEA contacts you, call Subsentio. We will take all prudent and necessary steps to contact the LEA, and institute the LAES.

Subsentio will review the court order, and keep you in the loop, providing appropriate information to the Service Provider, and secure an appropriate authorization for lawful intercept from you. We will do everything legally possible to provide all the technical assistance required, and present it to the end user in an efficient, secure manner. If something "breaks," Subsentio takes full responsibility to fix it. Throughout the process, Subsentio will maintain all administrative paperwork required for record-keeping.

When contacted by law enforcement, Call Subsentio! We are available 24X7 to liaise with law enforcement officials, review court orders and launch the surveillance process.

Call 1-303-794-6936

Processing Court Orders

Subsentio provides the FBI with its customer list so that they may direct Federal court orders directly to Subsentio personnel. However, such is not the case for court orders from state and local jurisdictions. Again – when a court order arrives, immediately contact Subsentio's Security Staff. We will "take it from there."

- We will ask you for selected subscriber information and a fully completed Service Provider Authorization for Electronic Surveillance form.
- Along with the form, we request that you send both the Law Enforcement Request (LER) as well as a copy of the court order.
- Subsentio will review the court order to verify that it is facially valid. Should the order appear not to be valid, Subsentio will work with the LEA and prosecuting attorneys to remedy any apparent deficiencies.
- Subsentio will coordinate with the LEA to assure that the Service Provider information is understood and appropriately handled.
- At the initiation of the LAES matter, Subsentio will begin the case administrative log.
- Subsentio will, through direct liaison with the LEA, assure concurrence on the exact date/time for expiration date of the legal authority.
- Subsentio will continue effective liaison with the Service Provider and the LEA for the full duration of the LAES case.
- Subsentio will assure that the LAES is appropriately discontinued upon request of the LEA and/or the expiration of the court authority.

Processing FISA Dockets

LAES matters related to certain terrorism and/or foreign counterintelligence cases require an order of the Foreign Intelligence Surveillance Court (FISA Docket). In almost every circumstance these orders or dockets will be presented at the federal level. The handling of a FISA docket is, in some ways, quite similar to the processing of a criminal order, but requires the Service Provider to provide special handling to accommodate the sensitive nature of the investigation:

- Such classified documents must be afforded extra security, and must be transmitted to the Service Provider by hand. (This means that a law enforcement official may hand deliver the docket.)
- Subsentio will be directly served a copy of the secured docket by the FBI. These documents may not be transmitted through normal Internet or facsimile channels!
- Note that the government generally requires that such documents be served only upon Service Provider persons holding governmental security clearances.
- Subsentio has former law enforcement officers on staff who hold high government security clearances and are able to be served with sensitive legal documents on behalf of our Service Provider customers.
- Case Sensitive information, like that in a FISA Docket, should be kept in a secure container (a government approved "security container"), or similar security device.

6. EXIGENT CIRCUMSTANCES

Exigent Circumstance requests for an LAES represent an important exception to the "normal operational CALEA procedures" of a Service Provider. Exigent circumstances refer to situations which require that normal procedures be set aside (at least temporarily) because of the emergency nature of the case.

Circumstances that might require a Service Provider's special attention in acquiring electronic surveillance information are most often related to: imminent danger of the loss of human life; an imminent threat of significant bodily injury; or immediate threat of a mass casualty incident, or an incident of mass destruction of property – usually related to terrorism.

Note: The Electronic Communications Privacy Act permits emergency disclosures to a governmental entity, but only "if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency."

When an LEA declares that an "Exigent Circumstance" exists, Subsentio will work directly and immediately with the LEA and the Service Provider to provide the required technical assistance to support the LEA in resolution of the emergency situation. The Service Provider is then responsible to provide Subsentio with the Exigent Circumstances form as soon as the emergency permits.

7. RECORDS RETENTION

Both Subsentio and the Service Provider must individually maintain and secure specific records for each court order received for LAES, both for court orders and Exigent Circumstance requests. This information includes but may not be limited to:

- Telephone number(s), circuit identification numbers or other unique identifiers used to isolate the communications targeted in the court order.
- Start date and start time when the Service Provider enables the interception or access to call-identifying information.
- Stop date and stop time when the Service Provider disables the interception or access to call identifying information.
- Identity of the law enforcement officer presenting the authorization.
- Name of the judge, magistrate, or prosecuting attorney signing the authorization.
- Type of interception and/or access to call identifying information (e.g. pen/trap, full content, FISA order).
- The name of the Compliance Staff personnel responsible for the surveillance and who is acting in accordance with the Policies.

Maintain good records of "lawful intercepts" and retain the data for at least two years.

Subsentio will create and maintain an administrative log that will document all pertinent actions and communications related to the LAES for the period of implementation. Subsentio will retain the original Law Enforcement Request (LER) and court authority for record keeping purposes for a minimum of two years, and will record and store a certification that includes the information listed above.

8. DATA RETENTION

The FCC requires CALEA-covered Service Providers to retain lawful intercept certifications "for a reasonable period of time as determined by the carrier." The Service Provider should adopt a policy of retaining records pertaining to an LAES for at least two years.

9. FEE SCHEDULES

Court Orders

Subsentio's technical solution includes a non-recurring system activation fee and a monthly maintenance and administration recurring fee. Subsentio does not charge its customers for individual court-ordered intercept solutions. It does charge the law enforcement agency a flat rate stipend per intercept circuit for a partial cost recovery.

Subpoenas

Subsentio's customers should also establish a fee structure for the processing of subpoenas for historical records such as billing information, call detail recording records, etc. This fee structure should be part of the Service Provider's internal compliance policy and specify the type of information that is available and the cost for processing the subpoena.

10.GLOSSARY OF CALEA TERMINOLOGY

Appropriate Company Authorization

- The term means the policies and procedures adopted by the Service Provider to supervise and control the Compliance Staff when assisting LEAs in conducting any lawful intercept. Compliance with these policies and procedures requires, but is not limited to:
  - » Appointment of a Service Provider employee to supervise the Service Provider's lawful intercept activities;
  - » The appointed supervisor's validation of each court order for lawful intercept; and
  - » The supervisor's authorization to implement each validated court order.

Appropriate Legal Authorization:

- A court order signed by a judge or magistrate authorizing or approving the interception of wire or electronic communications, or
- Other authorization issued pursuant to an appropriate federal or state statute (i.e., Title 18, federal trap and trace statutes, Foreign Intelligence Surveillance Act or any other relevant federal or state statute).

Authorization for Electronic Surveillance form:

- This Subsentio authorization form, executed by the Service Provider, is the form that conveys the direct authorization from the Service Provider that Subsentio may provide all necessary assistance to the LEA on behalf of the Service Provider.
- The execution of this form indicates that the Service has verified the customer is "theirs," that they have reviewed all legal authority related to the LAES, and the Service Provider specifically authorizes Subsentio to act on their behalf in fulfilling the requirements of the court order (or other legal instrument).

Law Enforcement Request form:

- The Subsentio LER form, executed in full by the LEA, which conveys the request of law enforcement for an electronic surveillance, along with all appropriate points of contact, Service Provider special technical requests, and other administrative information necessary for the implementation of an LAES.

Electronic Surveillance System for CALEA Compliance

Subsentio presents the next generation of highly-intelligent, optimum-performance intercept solutions that gives you full compliance with broadband, VoIP and LTE CALEA statues and regulations thru its Safe Harbor Probe, Harbor Intercept and Harbor Master technical solutions.

The Safe Harbor Probe

With identity-free Ethernet inputs, copper or fiber, the Safe Harbor Probe connects up to four different points in your network.

- Provides CALEA compliance for broadband Internet access, VoIP, and LTE service providers
- Low cost, easy to install
- Supports ATIS IAS broadband standard and ATIS 678 VoIP standard
- Passively listens to one-to-four 1 Gb streams with no separate mediation system
- Integrated VPN and system buffering built in

Harbor Intercept

- Multifaceted technology utilizing Verint's Star-Gate solution
- Supports: LTE, UMTS, GSM, CDMA, XDSL CABLES, VoIP, IMS and more
- Provides interoperability with major switch manufacturers to include Alcatel Lucent, Ericsson, Nokia Siemens, Broadsoft, Acme Packet, SONUS, etc.
- Transparent switch access
- Single point of administration
- Compliance solution: Technical interface and Safe Harbor Certification

Harbor Master

Harbor Master management services manages the CALEA process for those customer who have purchased a technical solution but who have determined that they don't want to have the administrative, cost or legal burdens of CALEA management. Harbor Master Services provides Surveillance on Demand end-to-end management of the lawful intercept process. The by-words of compliance supervision: receipt, notification, review, validation, surveillance and report. Subsentio solutions are expertly installed and integrated with the carrier's network, rigorously tested, and continuously monitored and re-tested 24x7x365 to ensure "five 9s" performance.

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