TLU's Position on the Communications Assistance for Law Enforcement Act (CALEA)

Purpose

The purpose of this position statement is to detail our understanding of the Communications Assistance for Law Enforcement Act (CALEA) and how it applies to TLU. The University believes that it is exempt from CALEA and therefore is not subject to its filing or other requirements. Below is an overview of the law, recent rulings and interpretations along with the criteria used in making our decision. (Much of what follows has been excerpted from Educause documents).

Background

On August 5, 2005 the Federal Communications Commission (FCC) voted to extend the Communications Assistance for Law Enforcement Act (CALEA), originally passed by Congress in 1994, to broadband Internet and interconnected Voice-over-Internet Protocol (VoIP) providers. This includes college and university campus networks, as well as state and regional educational networks. The order required that providers come into compliance by late spring of 2007. This compliance could potentially require the University to provide equipment to detect and pass all traffic associated with an individual user to the FBI at some remote location. This would involve substantial costs which the FCC has stated would be borne by the institutions with no available cost sharing.

On December 14, 2006, the FCC released a Public Notice establishing filing deadlines for CALEA-mandated System Security and Integrity (SSI) and Monitoring Reports. According to the Public Notice, "facilities-based broadband Internet access and interconnected VoIP service providers subject to CALEA must file" which means that exempt institutions are not required to submit these reports. For those institutions that are subject to CALEA, the Monitoring report is due February 12, and the SSI report is due March 12. Since the University does provide internet access to our internal network and its nodes it is necessary to evaluate applicability and compliance requirements of this law.

In April 2004 and again in November 2004, EDUCAUSE formed a coalition of fifteen education and library associations including the American Council on Education (ACE) and the American Library Association (ALA). This coalition filed suit asking that educational institutions should not be included in the law. The U.S. Court of Appeals for the D.C. circuit upheld the FCC order on appeal. However, according to ACE documents "... the Government's court briefs and the court's opinion provided further guidance. Generally speaking, a higher education or research instruction should be fully exempt from CALEA if it satisfies two criterions; (1) its network qualifies as a "private network" and (2) it does not "support" the connection of the private network to the internet."

Criteria

Educause, ACE and the ALA have compiled a series of questions to help institutions determine if they qualify for the exemption based on these two criterions. Below are the questions and TLU's responses. It is sufficient to answer any one of the questions within each criterion affirmatively.

Criterion 1 - Private network
1. It is a "private network" if the network is NOT connected to the internet - ***No, TLU is connected to the internet.***

2. It is a "private network" if the network is limited to serving only faculty, staff and students – *Yes, TLU does not allow un-authenticated public users onto its network*.
3. It MAY be a "private network" if there is incidental public usage - *TLU will only provide authenticated access to the network; this includes attendees (temporary guests) to special events of the University.*

Criterion 2 - Does not support the connection to the internet
1. The institution does "not support the internet connection" if an ISP provides the physical connection and the router/multiplexer for the campus - *No. TLU's Internet Service Provider (AT&T) does not provide the physical connections or routers.*
2. The institution probably does "not support the internet connection" if it leases a line (e.g. a tarriffed Verizon circuit) - *Yes, AT&T provides the leased tarriffed circuits to TLU*.
3. The institution may "not support the internet connection" if the campus leases fiber to the ISP – *No, TLU does not own fiber that it then leases out to its Internet Service Provider.*
4. The institution likely does "support the internet connection" if the campus provides its own fiber *- No, TLU does not own its fiber connection to the internet*.
5. The institution likely does "support the internet connection" if the "demarc" between the campus-provided facilities and the ISP's facilities is off-campus. *- No, TLU's 'demarc" is on-campus in the Alumni Student Center & the Beck Center.*

Summary

As long as the Educause/ACE/ALA interpretation is valid, TLU qualifies as *exempt* to CALEA because 1) *its network is not open to the general public and is intended to serve only faculty, staff, students and authorized guests and 2) because it leases tarriffed lines from AT&T.*

Reviewed and endorsed by the Information Technology Committee – 11/30/2007
Approved by the President's Cabinet – 2/5/2008

Resources

1. Communications Assistance for Law Enforcement Act of 1994, HR 4922, 103d Cong., 2d: http://www.askcalea.net/calea.html

2. Comments submitted by the "Higher Education Coalition" to the FCC on CALEA on November 14, 2005: http://www.educause.edu/ir/library/pdf/EPO0536.pdf

3. The Petition for Review: http://www.educause.edu/ir/library/pdf/CSD4263.pdf

4. The American Library Association Web site: http://www.ala.org/ala/washoff/WOissues/techinttele/calea/calea.htm

5. CALEA capability requirements: http://www.educause.edu/ir/library/pdf/CSD4234.pdf

6. Educause CALEA Resource Page: http://www.educause.edu/Browse/645?PARENT_ID=698

7. ACE Application of CALEA to Higher Education Networks: http://www.acenet.edu/AM/Template.cfm?Section=HENA&Template=/CM/ContentDisplay.cfm&ContentID=17276

8. Thinking through the CALEA Exempt/Non-Exempt issue: http://www.educause.edu/ir/library/pdf/CSD4607.pdf

9. CALEA at TCU – James Mayne – Director of Network Security, Texas Christian University