June 21, 2006

Via Facsimile

The Honorable J. Dennis Hastert, Speaker
United States House of Representatives
H-232, The Capitol
Washington, DC 20515

The Honorable Nancy Pelosi, Minority Leader
United States House of Representatives
H-204, The Capitol
Washington, D.C. 20515

The Honorable Bill Frist, Majority Leader
United States Senate
S-230, The Capitol
Washington, DC 20510

The Honorable Harry Reid, Minority Leader
United States Senate
S-321, The Capitol
Washington, DC 20510

The Honorable Joe Barton, Chair
Committee on Energy and Commerce
United States House of Representatives
2109 Rayburn House Office Building
Washington, D.C. 20515

The Honorable John Dingell, Ranking Member
Committee on Energy and Commerce
United States House of Representatives
2328 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Ted Stevens, Chair
Committee on Commerce, Science & Technology
United States Senate
522 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Daniel Inouye, Ranking Member
Committee on Commerce, Science & Technology
United States Senate
722 Hart Senate Office Building
Washington, DC 20510

The Honorable Arlen Specter, Chair
Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Patrick Leahy, Ranking Member
Committee on the Judiciary
United States Senate
433 Russell Senate Office Building
Washington, DC 20510

We, the undersigned State Attorneys General, have noted with grave concern the growing crisis of Internet-based sex crimes against children and, in particular, the problem of insufficient data retention policies by Internet Service Providers. While we
are generally opposed to national standards that impede our ability to respond to local circumstances, the national - if not global - scope of this problem is best suited for a federal response.

By now, you are probably aware of the risk our nation’s children face every time they access the Internet. The statistics are staggering: one in five children is solicited for sex while online, with one in thirty three receiving an aggressive solicitation that involves off-line contact such as a meeting, phone calls or letters. Eighty percent of individuals found with child pornography have images or videos of children under the age of twelve. Forty percent of those images are of children under the age of six, and twenty percent are of infants under the age of three.

While the crisis continues to grow, so does the response of law enforcement. Appropriations for the Department of Justice in FY 2006 provide $14 million in funding for the Internet Crimes Against Children (ICAC) program, comprised of 46 regional task forces that cover 49 States and the District of Columbia. States are also passing laws that allow law enforcement to go after predators specifically for their behavior while online. In Colorado, for example, the Attorney General’s Office championed new legislation making it a felony to engage a child in a sexually explicit conversation then request a meeting for any purpose. Colorado law enforcement officers will no longer have to waste valuable time hoping the predator will show up for a meeting before an arrest can be made.

While law enforcement is doing more to catch online predators, their investigations often tragically dead-end at the door of Internet Service Providers (ISPs) that have deleted information critical to determining a suspect’s name and physical location. Earlier this year, for example, an Internet crime investigator from Wyoming testified before Congress about his investigation of an online video showing the rape of a two year old girl. After four months of work, the investigator traced the video back to an ISP account in Colorado, only to find that that information relating to the user was purged by the ISP after 30 days as part of their standard data retention policy. As a result, the case was dropped and the suspect remains at large.

ISP data retention policies run the gamut, from as short as a few days to as long as a year or more. And while it would be premature for us to make a recommendation as to how long subscriber information and content should be retained, it is clear that something must be done to ensure that ISPs retain data for a reasonable period of time. Indeed, in a recent speech at the National Center for Missing and Exploited Children, United States Attorney General Alberto Gonzales asked experts in the Department of Justice to examine the data retention problem and to make recommendations for a solution. Attorney General Gonzales followed-up this speech by meeting with industry executives to urge them to retain records longer. We commend his efforts.
The technical issues surrounding data retention are extremely complex. Relevant issues include: what type of data should be stored; should different types of data or content have different retention standards; and whether different types of ISPs should be held to different standards. These are but a sampling of the issues that should be addressed.

Because ISPs are often national, if not global businesses, data retention requirements are better suited for federal legislation than state legislation that may vary by jurisdiction; a position supported by the National Center for Missing and Exploited Children. Accordingly, we call on Congress to dedicate the resources necessary to study this issue and to implement a meaningful national standard for ISP data retention that provides law enforcement with the tools necessary to combat the spread of internet-based crimes against children. In doing so, we encourage you to work with law enforcement at all levels of government and the ISP industry itself, and to adopt a standard that respects the legitimate privacy rights of citizens.

Sincerely,

John Suthers  
Attorney General of Colorado

Jim Hood  
Attorney General of Mississippi

Roy Cooper  
Attorney General of North Carolina

Wayne Stenehjem  
Attorney General of North Dakota

Hardy Myers  
Attorney General of Oregon

Mark Shurtleff  
Attorney General of Utah
Troy King
Attorney General of Alabama

Malaetasi M. Togafau
Attorney General of American Samoa

Mike Beebe
Attorney General of Arkansas

Richard Blumenthal
Attorney General of Connecticut

Robert Spagnoletti
Attorney General of District of Columbia

Thurbert E. Baker
Attorney General of Georgia

Lawrence Wasden
Attorney General of Idaho

Tom Miller
Attorney General of Iowa

Greg Stumbo
Attorney General of Kentucky

David Márquez
Attorney General of Alaska

Terry Goddard
Attorney General of Arizona

Bill Lockyer
Attorney General of California

Carl Danberg
Attorney General of Delaware

Charlie Crist
Attorney General of Florida

Mark J. Bennett
Attorney General of Hawaii

Lisa Madigan
Attorney General of Illinois

Phill Kline
Attorney General of Kansas

Charles C. Foti, Jr.
Attorney General of Louisiana
G. Steven Rowe
Attorney General of Maine

Tom Reilly
Attorney General of Massachusetts

Mike McGrath
Attorney General of Montana

Kelly Ayotte
Attorney General of New Hampshire

Patricia A. Madrid
Attorney General of New Mexico

Jim Petro
Attorney General of Ohio

Tom Corbett
Attorney General of Pennsylvania

Patrick Lynch
Attorney General of Rhode Island

Lawrence Long
Attorney General of South Dakota

J. Joseph Curran, Jr.
Attorney General of Maryland

Mike Cox
Attorney General of Michigan

George J. Chanos
Attorney General of Nevada

Zulima V. Farber
Attorney General of New Jersey

Eliot Spitzer
Attorney General of New York

W. A. Drew Edmondson
Attorney General of Oklahoma

Roberto J. Sanchez-Ramos
Attorney General of Puerto Rico

Henry McMaster
Attorney General of South Carolina

Paul G. Summers
Attorney General of Tennessee
Greg Abbott
Attorney General of Texas

Kerry Drue
Attorney General of Virgin Islands

Darrell McGraw, Jr.
Attorney General of West Virginia

Pat Crank
Attorney General of Wyoming

William H. Sorrell
Attorney General of Vermont

Rob McKenna
Attorney General of Washington

Peg Lautenschlager
Attorney General of Wisconsin