The following is a compendium of news reports, case law and legislative actions over the latest bi-monthly period that may be of interest to our AG offices that are dealing with cyber-related issues. Neither the National Association of Attorneys General nor the National Attorneys General Training & Research Institute expresses a view as to the accuracy of news accounts, nor as to the position expounded by the authors of the hyperlinked articles.

**Attorneys General Fighting Cybercrime**

Ten Attorneys General sent a letter to Anthem’s president and chief executive officer, expressing concern with the failure of the company’s communication with those impacted by the data breach and the lack of details on protections that will be made available to affected consumers. The Attorneys General signing the letter represent Arkansas, Connecticut, Illinois, Kentucky, Maine, Mississippi, Nebraska, Nevada, Pennsylvania and Rhode Island.

Eight Attorneys General entered into a $106,000 settlement with Zappos.com, Inc., resolving issues related to a 2012 data breach that exposed the personal information of the website’s consumers. The settlement requires Zappos to obtain an audit of its personal information security and provide the Attorneys General with a copy of the audit, addressing any identified deficiencies. Zappos also agreed to provide the Attorneys General with copies of its security policies and reports reflecting its compliance with industry standards. Zappos will also institute employee training programs regarding its security policies. The jurisdictions entering the settlement are Arizona, Florida, Kentucky, Maryland, Massachusetts, North Carolina, Ohio and Pennsylvania.

Arizona Attorney General Mark Brnovich announced the sentencing of Donald Turk to 12 years in prison pursuant to his conviction for possession of child pornography. Turk was prosecuted by Attorney General Brnovich’s Office after search warrants executed by the Maricopa County Sheriff’s Office uncovered child pornography on Turk’s computer. Turk was also placed on lifetime probation.
with sex and computer usage terms and must register as a sex offender upon release.

California Attorney General Kamala Harris announced the conviction of Kevin Bolleart in the first criminal prosecution of a revenge porn website operator. An investigation by Attorney General Harris’ eCrime Unit found Bolleart created ugotposted.com, which allowed the anonymous posting of nude and explicit photos of individuals without their permission. Bolleart then offered to remove the postings by creating changemyreputation.com, charging a $250-$300 fee for each “removal.”

Florida Attorney General Pam Bondi’s Office of Statewide Prosecution charged eight men with racketeering and money laundering after an investigation revealed their enterprise was using offshore sports betting websites to conduct illegal gambling and bookmaking. The investigation, conducted with the Broward Sheriff’s Office Organized Crime Unit, found the bookmakers, couriers and agents allegedly bet on both collegiate and professional games.

Illinois Attorney General Lisa Madigan’s investigators and the Bloomington Police Department arrested David Mariani on 10 counts of distribution of child pornography, a Class X felony punishable by six to 30 years in prison on each count. The arrest followed execution of a search warrant at Mariani’s residence. The case will be prosecuted by the McLean County State’s Attorney’s Office.

Indiana Attorney General Greg Zoeller announced that Senate Bill 413, legislation he proposed in response to growing concerns about online privacy and data protection, was approved by a State Senate committee. Attorney General Zoeller had testified in favor of the bill before that committee. The proposed legislation would tighten state laws governing data collection and protections against identity theft.

Kentucky Attorney General Jack Conway’s Cybercrimes Unit arrested Alan Newberry on four counts of possession of child pornography, a class D felony. The Unit began investigating Newberry pursuant to an undercover lead, executing a search warrant at Newberry’s residence and seizing computers believed to contain child pornography. Each count carries a penalty of one to five years in prison.
Louisiana Attorney General Buddy Caldwell’s Cyber Crime Unit arrested Gary Creed on six counts of distributing child pornography pursuant to a joint investigation involving the Unit, State Police, the Vermillion Parish Sheriff’s Office and Homeland Security Investigations. During an undercover operation utilizing peer-to-peer networks, investigators located Creed exchanging child pornography online, and investigators later executed a search warrant at Creed’s residence.

Massachusetts Attorney General Maura Healey announced a grand jury had indicted Marian Barker on possession of child pornography and three counts of intent to distribute child pornography. State Police assigned to Attorney General Healey’s Office began an investigation involving a computer allegedly offering child pornography over a file-sharing network, and traced the computer to Barker’s residence. They executed a search warrant at that residence and found thousands of images and videos of child pornography on Barker’s computer.

Missouri Attorney General Chris Koster negotiated an agreement with Ticketmaster to better inform consumers of the limitations and restrictions associated with paperless ticketing for major live events. Those limitations include entry to the event limited to the original purchaser and inability to sell, give away or transfer the ticket to someone else. Pursuant to the agreement, Ticketmaster agreed to clearly display those limitations on its website before the consumer initiates the purchasing process and again at the delivery selection page before the purchase is completed.

Nevada Attorney General Adam Paul Laxalt announced the sentencing of former correctional officer Derland Blake to serve up to five years in prison following his guilty plea to a felony bribery charge. The case arose from an escape plot in which seven people were charged with smuggling cellphones and other contraband into a prison, with the phones found inside an inmate’s cell. The case was prosecuted by Deputy Attorney General Karen Whelan and Senior Deputy Attorney General Jamie Resch of the Special Prosecutions Division.

Acting New Jersey Attorney General John Hoffman announced the sentencing of Jose Holguin to three years in prison for distributing child pornography on the Internet. Holguin was arrested in “Operation Ever Vigilant,” a child pornography sweep by the State Police, Attorney General Hoffman’s Division of Criminal Justice, the New Jersey Internet Crimes Against Children Task Force and federal partners. Holguin pleaded guilty to second-degree distribution of child
pornography and fourth-degree possession of child pornography. He will be
required to register as a sex offender upon release. Deputy Attorney General
Naju Lathia prosecuted Holguin and handled the sentencing for the Division’s

**New York Attorney General Eric Schneiderman** announced the arrest and
subsequent guilty plea of former nurse aide Edward Melock for taking and
exchanging a compromising photograph of a patient via the smartphone app
Snapchat. Melock was charged with Unlawful Surveillance in the First Degree, a
class E felony, and Willful Violation of Health Laws, a misdemeanor. Melock
entered a guilty plea to the latter charge and was sentenced to one year
conditional discharge with 100 hours of community service and had to surrender his
CNA certificate. The case is being handled by Assistant Attorney General Thomas
Schleif of the Medicaid Fraud Control Unit. It was investigated by Investigator
Katie O’Neill of the Unit.

**Ohio Attorney General Mike DeWine** joined Madison County Sheriff James
Sabin to announce the sentencing of Steven Engle to 10 years in prison after Engle
pleaded guilty to one count of rape. Authorities began investigating Engle after a
teenager reported being raped after going to meet an individual she had been text
messaging, and those text messages were traced to Engle. Engle, who was
previously classified as a Tier II sex offender, was reclassified as a Tier III sex
offender, which will require that he register his address every 90 days for life
following his release. The case was prosecuted by Attorney General DeWine’s
Special Prosecutions Section, and the investigation was handled by the Bureau of
Criminal Investigation’s Cyber Crimes Unit, Criminal Intelligence Unit and the crime
laboratory.

**Oklahoma Attorney General Scott Pruitt’s** agents joined the State Bureau
of Investigation, the Del City Police Department and the Department of Homeland
Security - all Internet Crimes Against Children Task Force members - in arresting
Aaron Flatt on three felony counts of aggravated possession of child pornography.
Based upon cyber tips from the National Center for Missing and Exploited
Children, task force members executed a search warrant at Flatt’s home, where a
computer searched on site contained a file of more than 100 child pornography
images. If convicted, Flatt could face life in prison and a fine of up to $10,000.
Pennsylvania Attorney General Kathleen Kane’s Child Predator Section, in partnership with several law enforcement agencies, arrested 16 suspected child predators during a sweep in the northeast section of the State. The investigation targeted the online sharing of child pornography and online advertising related to the sexual exploitation of children. Participating in the sweep were agents from the Lackawanna County District Attorney’s Office, the State Police, the U.S. Postal Inspection Service and the Scranton, Dunmore and Carbondale Police Departments.

South Carolina Attorney General Alan Wilson announced the arrest of Stephen Steele on one count of Criminal Solicitation of a Minor, a felony offense punishable by up to 10 years in prison and requiring sex offender registration. The arrest was made by the Florence County Sheriff’s Office, a member of Attorney General Wilson’s Internet Crimes Against Children Task Force. Steele allegedly contacted a minor living in Virginia and engaged in graphic conversations with her. A laptop and other electronic equipment were seized from Steele. The case will be prosecuted by Attorney General Wilson’s Office.

Utah Attorney General Sean Reyes announced that the Utah Supreme Court affirmed the conviction of Daniel Roberts on five counts of sexual exploitation of a minor arising from child pornography found on Roberts’ laptop. The case had been investigated and prosecuted by Attorney General Reyes’ Internet Crimes Against Children Task Force.

Vermont Attorney General William Sorrell announced that Jonathan Thorpe was arrested and charged with five felony counts of possession of child pornography. The charges stem from an investigation by Attorney General Sorrell’s Office, the State Police, the South Burlington and Burlington Police Departments, the Addison County Sheriff’s Office and the Vermont Internet Crimes Against Children Task Force. The Task Force received a cyber tip from the National Center for Missing and Exploited Children that Thorpe was storing child pornography on his SkyDrive account. Law enforcement executed a search warrant on Thorpe’s residence, where they found thousands of child pornography files. If convicted, Thorpe faces a maximum of 25 years in prison.

Washington Attorney General Bob Ferguson proposed legislation with bipartisan support to outlaw “ticket bot” software used to inflate online ticket prices, often by more than four times their face value. Ticket bots are computer
programs used by scalpers to buy large quantities of tickets to popular events. The proposed legislation, Senate Bill 5456, bans ticket bot use and makes it a violation of the state Consumer Protection Act to sell software to circumvent or interfere with any security measure on a ticket seller’s website.

Wisconsin Attorney General Brad Schimel joined Dane County District Attorney Ismael Ozanne to announce the conviction of Lindy Gill on two counts of human trafficking and one count of receiving compensation from the earnings of a commercial sex act. Gill coerced four women into prostitution, providing and withholding heroin from them and advertising their services through online classified advertising websites, keeping all of the profits. Human trafficking is a Class d felony punishable by up to 25 years in prison or a fine of up to $100,000, or both; receiving compensation from the earnings of a commercial sex act is a Class F felony punishable by up to 12.5 years in prison or a fine of up to $25,000 or both. Assistant Attorney General Karie Cattanach and Dane County Assistant District Attorney Diane Schlipper prosecuted the case, which was investigated by Attorney General Schimel’s Division of Criminal Investigation, the Madison Police Department and the Dane County Narcotics Task Force.

Cyber News Briefs

AG Holder Announces Facebook, Bing AMBER Alert Tools
U.S. Attorney General Eric Holder announced the addition of Facebook and Bing tools to expand the reach of the AMBER Alert warning system of child abduction cases. Facebook AMBER Alerts will be sent to users in designated search areas, and Bing users can access alerts through Bing’s online broadcast tools.

USPTO to Kids: Intellectual Property is Cool
The U.S. Patent and Trademark Office (USPTO) has redesigned its USPTO Kids website to try to convince children that learning about intellectual property protection is hip. The new webpages feature a variety of educational materials, including videos, activities and coloring pages for kids and lesson plans for parents and teachers. The website also features collectible inventor cards, allowing kids to collect and trade cards depicting notable patent holders. It is accessible at http://www.uspto.gov/kids/.

Survey: Constituent Emails, Social Media Postings Influence Congress
The Congressional Management Foundation released the results of its survey of Hill staffers on their opinions and practices related to constituent communications, including constituents’ use of social media. The survey results showed 87 percent of staffers thought email and the Internet have facilitated constituents’ involvement in public policy, and another 57 percent felt it has made members of Congress more accountable to their constituents. The survey results may be accessed at http://www.congressfoundation.org/projects/communicating-with-congress/perceptions-of-citizen-advocacy-on-capitol-hill.

FCC Issues Enforcement Advisory on Wi-Fi Blocking
On January 27, 2015, the Federal Communications Commission (FCC) issued Enforcement Advisory No. 2015-01, warning that Wi-Fi blocking is prohibited and that persons or businesses causing intentional interference to Wi-Fi hot spots would be subject to enforcement action. The advisory specifically references the investigation into Marriott International, Inc., which culminated in a Consent Decree. The Advisory may be accessed at http://www.fcc.gov/document/warning-wi-fi-blocking-prohibited.

In the Courts

ADMISSIBILITY: TEXT MESSAGES
State v. Roy, 2015 N.H. LEXIS 5, January 16, 2015. The Supreme Court of New Hampshire ruled the text messages were admissible as probative of defendant’s intent. Justin Roy was convicted by a jury of two counts of kidnapping, one count of first degree assault, four counts of second degree assault, one count of criminal restraint and two counts of simple assault. Prior to trial, he moved to suppress evidence obtained as a result of a search of his cell phone conducted pursuant to a warrant; the motion was denied. On appeal, among other issues he argued the trial court erred in denying his motion in limine to exclude the text messages on his cell phone because their probative value was substantially outweighed by unfair prejudice to his case. The first message stated “I’m done helping you raise your retarded *****The smart thing to do would have been to drown them for life. They are ***up from birth.” The second message was “Yes, I think all your kids are ugly...Your kids are **** up.” The third message was “What’s going on? I didn’t do nothing or hurt no one.” The state high court disagreed, finding two of the text messages were highly probative of Roy’s hostile feelings for the children, which was not outweighed by their potential prejudice. As to the third text message, the court found it suggested no unfair prejudice. The court affirmed the conviction.
FOURTH AMENDMENT: SEARCH OF CAR AS "CLOSED CONTAINER"


The Seventh Circuit Court of Appeals found the mother's consent authorized the agents to open the "closed container" of the car. An undercover FBI agent received child pornography from a user later identified as Michael Borostowski, who claimed to store the child pornography on his hard drive. The agent applied for a warrant to search Borostowski’s person, his truck and the premises where he lived with his parents, but did not include his parents' trucks. Agents executed the warrant, but could not find the drive. An agent then questioned Borostowski’s mother, who indicated she had seen the device in her own truck and consented to a search. Agents searched her truck, found the hard drive and a forensic examiner confirmed the drive contained child pornography. Borostowski was indicted and later pled guilty to one count of receiving child pornography, five counts of distributing child pornography and three counts of possessing child pornography, reserving the right to appeal the denial of his motion to suppress by the U.S. District Court for the Central District of Illinois. On appeal and among other issues raised, he challenged the district court’s determination that the hard drive seized from his mother's car and the search of its contents were authorized under the Fourth Amendment. The appeals court found that, although the mother’s vehicle was not included in the warrant, the mother's consent authorized the agent to open the "closed container" of the car and retrieve the hard drive. Further, the court ruled that the agents, having lawfully recovered the device from the closed container (i.e., the car), were authorized to search its contents. The judgment was affirmed on this issue, but reversed and remanded on other issues.

FOURTH AMENDMENT: SEARCH BY NON-GOVERNMENTAL PARTY

*U.S. v. Meister*, 2015 U.S. App. LEXIS 13 (11th Cir. January 2, 2015). The Eleventh Circuit Court of Appeals ruled the government was free to use the information provided by the computer repair store. Michael Meister took his inoperable laptop to a computer repair store to have data from its hard drive transferred onto a new computer. In transferring the data, the repair store discovered child pornography and contacted police, who seized the laptop. The data obtained by the repair shop remained in its system and was copied onto two DVDs. Police subsequently obtained a search warrant for Meister’s laptop, forensically analyzed its hard drive and found child pornography. Meister moved to suppress the data obtained during the search on the repair shop’s system and the copying of that data onto DVDs,
arguing the search took place prior to the issuance of the warrant in violation of the Fourth Amendment. The U.S. District Court for the Middle District of Florida denied the motion, and Meister was convicted of possession and distribution of child pornography. He appealed the denial of his motion, but the appeals court found the district court did not err in denying the motion, noting the Fourth Amendment only applies to governmental action. The court ruled the evidence used to convict Meister was obtained solely from the hard drive of his laptop, and the government was free to use the information provided by the repair store to seize his laptop and obtain a search warrant. The judgment was affirmed.

Legislative News

Virtual Driver's Licenses
DELAWARE. On January 22, 2015 and January 29, 2015, respectively, the Delaware Senate and House passed Resolution #4 requesting the state Division of Motor Vehicles to study and consider issuing digital driver's licenses.

Driving While Texting
UTAH. On February 17, 2015, the Utah House passed by voice vote a motion to hold HB63, a bill that would amend the law passed last year banning texting while driving. HB63 would once again allow dialing while driving, but would allow police to pull over a car if the driver was holding a phone while weaving or showing other unsafe behavior.

Rural Broadband Network
WEST VIRGINIA. On February 18, 2015, the Senate Transportation and Infrastructure Committee voted unanimously to advance SB 459 to the Finance Committee. The bill would authorize the construction of a state-owned 2,600 mile fiber optic network to expand affordable high-speed Internet service to rural communities.

Interception of Electronic Communications
U.S. HOUSE. On February 2, 2015, H.R. 656, the Online Communications and Geolocation Protection Act, was reintroduced. The bill would require government agencies to obtain a search warrant in order to intercept electronic communications, such as email and geolocation information, or in order to compel disclosure of that data. It has been referred to the Committees on the Judiciary and on Intelligence.
U.S. HOUSE and SENATE. On January 22, 2015, S. 237 and H.R. 491 – the Geolocation Privacy and Surveillance Act – were respectively introduced in the Senate and House. Each bill would prohibit intentionally intercepting, using or disclosing geolocation information knowing that the information was obtained in connection with a criminal investigation and with intent to impede that investigation. S. 237 has been referred to the Judiciary Committee; H.R. 491 was referred to the Intelligence and Judiciary Committees.

New Resources
The January-February 2015 issue of TechBeat contains an article on cell phone forensics and may be accessed at