



STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
BILL LOCKYER
ATTORNEY GENERAL

June 4, 2004

Chris Jay Hoofnagle, Associate Director
Electronic Privacy Information Center
1718 Connecticut Avenue, N.W.
Washington, D.C. 20009

Beth Givens, Director
World Privacy Forum
3100 - 5th Avenue, Suite B
San Diego, CA 92103

Pam Dixon, Executive Director
Privacy Rights Clearinghouse
2033 San Elijo Avenue, #402
Cardiff by the Sea, CA 92007

Re: Google Gmail Service

Dear Mr. Hoofnagle, Ms. Givens, and Ms. Dixon:

Thank you for your letter regarding Google's Gmail service. In that letter, you express your concern that Gmail violates Penal Code section 631, California's wiretapping statute, subjecting both Google and Gmail users to penalties.

As you know, Penal Code section 631 generally prohibits reading or attempting to learn the contents of any communication while the same is in transit or passing over any wire, line, or cable, or is being sent from, or received at any place in the state, without the consent of all parties to the communication. It also prohibits using, or attempting to use, or communicating any information so obtained. A person who violates the statute, as well as one who aids or causes such violation to be done, may be subject to civil and criminal penalties.

I appreciate the concerns you have raised. Although press reports and other information about this service have not always been consistent, it is clear that the service may raise some troubling issues, including those described in your letter. The potential exposure of Gmail users to liability for violation of Penal Code section 631 is of particular concern, as are the rights of those who are not subscribers to Gmail but who send e-mail to those who are.

Mr. Chris Jay Hoofnagle

Ms. Beth Givens

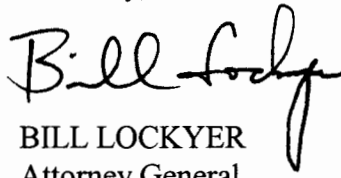
Ms. Pam Dixon

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Although my office does not currently have sufficient information to determine whether Gmail may violate any California law, we will continue to analyze the matter. In doing so, please be advised that I understand your position and share many of your concerns. I hope we will be able to continue to work together on this and other privacy issues affecting the people of this state.

Thank you for your thoughtful letter and for bringing this matter to my attention.

Sincerely,

A handwritten signature in black ink that reads "Bill Lockyer". The signature is written in a cursive style with a large, looped "B" and a long, sweeping "y".

BILL LOCKYER
Attorney General