



PRIVACY FOR SASKATCHEWAN PUBLIC LIBRARIES

For a library patron or user, privacy essentially means the right to be able to read any book or access any reference material without fear of having the subject matter made known to others. Can someone obtain a list of the books you have borrowed? If you use a computer at a library, does anyone later check to see which Web sites you visited?

This publication considers some common questions library patrons and library staff may have about privacy rights and what libraries can do to protect privacy.

Public library boards are “local authorities” governed by *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). Part IV of LA FOIP specifies how organizations such as libraries may collect, use, retain, disclose personal information as well as how an individual can access their own information and seek to correct errors in that personal information. Public libraries are also subject to *The Public Libraries Act, 1996* and *The Libraries Co-operation Act*.

“Personal information” includes a good deal of information. It is defined in LA FOIP, in part, as “personal information about an identifiable individual that is recorded in any form.” In the library context, this could include information on a patron’s borrowing habits, as well as information related to one’s computer use, including sign-up sheets and information on any Internet use including websites visited.

1. Q: Why do libraries need to collect personal information of patrons?



A: Libraries require this information in order to provide library services. Personal information is collected under the authority of *The Public Libraries Act, 1996* for the administration of library operations. An example of this is a library collecting your name and address when you apply for a library card. Libraries need this information so they can record who has borrowed books or other material. As well, libraries need to be able to contact individuals who have asked that books or other material be put on hold for them.

2. Q: Is there a risk someone can learn which books I have read or which videos I have borrowed?

A: Releasing personal information, other than in the limited circumstances set out in LA FOIP, would violate LA FOIP. For example, a library cannot disclose to a reporter a list of the books or videos that you have borrowed without your consent. Libraries also have an obligation to



take reasonable measures to prevent unauthorized use of such records and to dispose of personal information, all in accordance with LA FOIP.

Personal information that has been used by a library should be retained, on a best practices basis, for one year after use, or a shorter period set out in a bylaw or resolution made by the library board. Libraries will, however, maintain a record linking a user to library material, until the book, videotape or DVD has been returned. The library may maintain the record for a further defined period of time to allow a reasonable opportunity to identify any damage to the borrowed item and to collect outstanding charges.

3. Q: Can I see what information my library may have on file about me?



A: In most cases, yes. Under LA FOIP, library patrons have the right to access their own personal information, subject to very limited exceptions. Those exceptions are described in section 30(2) and (3) as well as Part III of LA FOIP. Most libraries have web interfaces that allow patrons to log in and view their personal information as well as a list of items that are currently checked out or on hold.

4. Q: Are there laws regarding the confidentiality of library records?

A: Yes. *The Public Libraries Act, 1996* includes the following provision:



76 No librarian or other employee of a public library shall disclose any information concerning any patron, or patron record, of the public library obtained in the course of performing his or her duties, except:
(a) for the purposes for which the information was provided or obtained;
or
(b) with the consent of the patron.

In addition, in certain circumstances set out in Part IV of LA FOIP, public libraries are allowed to use and disclose personal information in the course of conducting their business. Section 28 provides that disclosure of personal information is not permitted except in limited circumstances. Examples of circumstances that may be relevant to public libraries include:

- with the consent of the individual, given in the prescribed manner (in writing unless, in the opinion of the head, it is not reasonably practicable to obtain the written consent of the individual);
- for the purpose for which the information was obtained by the library or for a use consistent with that purpose;
- for the purpose of complying with a subpoena or warrant issued by a court or authorized body;
- to a law enforcement agency for the purpose of enforcing a law or carrying out a lawful investigation.

5. Q: What privacy rights do children have? What information about the children’s library-related activities must be kept confidential and what information can be given to parents?

A: Children have the same privacy and access rights as adults, except that section 49 of LA FOIP provides that a person who has lawful custody of the child may exercise the rights of access of a child (less than 18 years of age) unless, in the opinion of the “head”, the exercise of the right or power would constitute an unreasonable invasion of the privacy of the child. The head would usually be the chairperson of the library board or designate.



6. Q: How can I help safeguard my privacy when accessing the Internet via computers at public libraries?

A: Using a public computer is not the same as using a computer at your home since a complete stranger may sit down to use the computer as soon as you leave it. Depending on the way the library has configured its computers, the next user may be able to see what Web sites you have visited. In order to prevent this, ask library staff whether it is permissible to clear the Web browser’s history and cache files to prevent others from backtracking to the Web sites that you visited.

7. Q: Do libraries track/monitor which Web sites I visit?

A: If a library collects personal information such as which Web sites an identifiable patron visits, the library is required, under section 25 of LA FOIP, to provide an appropriate notice of collection to the individual about this practice. Log files of all Internet library-based activities are routinely kept for a variety of technical purposes, but are not necessarily associated with any particular user.



8. Q: Would libraries ever give my personal information to the police, if a request were made?



A: Section 28(2)(g) of LA FOIP permits disclosure “to a prescribed law enforcement agency or a prescribed investigative body: (i) on the request of the law enforcement agency or investigative body; (ii) for the purpose of enforcing a law of Canada or a province or territory or carrying out a lawful investigation; and (iii) if any prescribed requirements are met;” That section is permissive. In other words, unlike the case of a library being presented with a valid search warrant, which would make disclosure mandatory, under section 28(2)(g), the

library would be required to exercise its own discretion whether to release the information to police (in the absence of a search warrant).

A number of libraries are taking a proactive role by continually educating staff and library users about library privacy principles, policies and procedures. Some are taking extra steps to help preserve the privacy of library users by placing privacy screens around computers. If you have more questions about privacy matters relating to library staff (for example, fundraising and library user records), please speak with staff at your local branch or visit the Web site of Saskatchewan Learning at www.sasked.gov.sk.ca/branches/prov_library/. Library staff will also be guided by the code of ethics of the Canadian Library Association. This includes a privacy statement and is available at www.cla.ca/about/ethics.htm.

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