

If you wanted to know...

What are the privacy responsibilities of public libraries?

... Read on ...

For a library visitor, 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 looks at some common questions library users and library staff may have about privacy rights and what libraries can do to protect privacy.

Public library boards are institutions governed by the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*. This Act specifies how organizations such as libraries may collect, use, retain, disclose and dispose of personal information. Public libraries are also governed by the *Public Libraries Act*, which establishes specific operating rules.

“Personal information” encompasses a wide range of information. It is defined in *MFIPPA*, in part, as “recorded information about an identifiable individual.” This could include, in the library context, 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.





1. *Q: Why do libraries need to collect the personal information of library users?*

A: Libraries require this information in order to provide library service. Personal information is collected under the authority of the *Public Libraries Act* 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 (see question 4) set out in the *MFIPPA*, would violate the *Act*. 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 access to such records and to dispose of personal information in accordance with the regulations under that *Act*.

Personal information that has been used by a library should be retained 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 and any outstanding charges paid.

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

A: In most cases, yes. Under *MFIPPA*, library patrons have the right to access their own personal information, subject to very limited exemptions. An example of one of the exceptions to access is when the information in question is a research or statistical record.

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

A: Yes. Subsection 28(1) of the *Public Libraries Act* allows people to inspect any records that the board's secretary has (a right distinct from the right of access under *MFIPPA*). This right, however, is subject to subsection 28(2), which incorporates all of *MFIPPA*'s exemptions to the right of access.



In addition, in certain circumstances set out in Part II of *MFIPPA*, municipal institutions, including public libraries, are allowed to use and disclose personal information in the course of conducting their business (as opposed to in the course of responding to access requests). Section 32 provides that disclosure of personal information is not permitted except in certain circumstances. The ones that may be relevant to public libraries include:

- (b) if the person to whom the information relates has identified that information in particular and consented to its disclosure;
- (c) for the purpose for which it was obtained or compiled or for a consistent purpose;
- (d) if the disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and if the disclosure is necessary and proper in the discharge of the institution's functions;
- (g) if disclosure is to an institution or a law enforcement agency in Canada to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.

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 54(c) of *MFIPPA* provides that a person who has lawful custody of the individual may exercise the rights of access of an individual less than 16 years of age. Accordingly, if a child under 16 would be entitled to access the information, so would his or her custodial parent.

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

A: Using any 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 29(2) of *MFIPPA*, 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 32 (g) of *MFIPPA* allows for disclosure “to an institution or law enforcement agency in Canada to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.” 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 32(g), the library would be able to exercise its own discretion regarding 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 use (for example, fundraising and library user records), please speak with the staff at your local branch or visit the Ministry of Culture’s Web site: <http://www.culture.gov.on.ca/culture/english/culdiv/library/foippra.htm>.



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