



PROVINCIAL INFORMATION & LIBRARY RESOURCES BOARD
PROVINCIAL ADMINISTRATION DIVISION

POLICY

Category: Governance	Subject: Removal of Privileges to Enter Library Premises	Circulation: All Staff
Number: Operations 4-30	Motion Number: 20030602- 4.51	Replaces: New
Approved by: <i>Calvin Taylor</i>	Date Issued: June 2, 2003 (April 1, 2005)	File:U:\Policies\Operations\RemovalofPri.wpd

Background:

Recently there have been incidents where library patrons have behaved in an unacceptable manner. These behaviours can be disturbing or threatening to staff and other patrons. While the Public Libraries Act lists examples of unacceptable behavior and outlines the offence upon summary conviction, there has been confusion regarding the process to follow when dealing with such cases. The matter was referred to the Department of Justice. In their opinion, a conviction is required under section 39 of the Public Libraries Act before a person's privileges to enter library premises can be removed. As a result of the legal interpretation provided by the Department of Justice, a policy and procedures are necessary to provide clear directions to staff regarding issues of this nature.

Policy:

A person who, in a public library, on public library property or on property adjacent to library property to which the Public Libraries Act applies, annoys, disturbs or threatens a staff member or a person using the public library by:

- (a) behaving in a disorderly manner;
- (b) using violent, abusive or obscene language;
- (c) remaining in the library, after reasonable request by a member of the staff to leave, beyond the hours fixed for the closing of the library; or
- (d) failing to follow direction given by a staff member;

shall be dealt with in a progressive manner, as follows:

1. advised to stop the unacceptable behaviour;
2. advised to leave the property;
3. be charged by the police under authority of section 39 of the Public Libraries Act; in accordance with the *Removal of Privileges to Enter Library Premises Procedures*.

Removal of Privileges to Enter Library Premises

Procedures:

1. For the purposes of the *Removal of Privileges to Enter Library Premises Policy and Procedures*, disorderly manner or unacceptable behavior includes any activity which is not conducive to the library setting such as, but not limited to: harassing patrons or staff, making lewd gestures, swearing, boisterous activity, exposing oneself, sending offensive e mails, using library computers in an illegal or harmful manner, damaging private or public property or failing to follow directions of library staff.

2. While these procedures are intended to address the normal interactions between library staff and patrons, there may be circumstances when the interaction is more threatening. Where a library staff member is personally threatened or has reason to believe that their own safety or the safety of other library patrons is in jeopardy, as a result of the actions of any person in or adjacent to a library, they shall remove themselves and others from the situation as soon as possible. They should contact the police immediately and request assistance. They should also contact their supervisor at the earliest opportunity to inform him or her of the developments.

3. Normally, upon being made aware of a person who behaves in a disorderly manner in the library or exhibits unacceptable behavior on library property, or on property adjacent to a library to which the Public Libraries Act applies, the staff member (in consultation with the senior staff person in multi-person libraries) shall approach the person, outline the unacceptable behavior and state that, unless they discontinue the behavior they will be requested to leave. Document the incident including: name, address, date, time, incident details and witnesses if possible.

4. If the behavior continues, or is repeated at another time, the staff member shall approach the person and request that they leave the property, giving reasons for this request. Advise them that if they refuse to leave immediately, the police will be contacted. Document the incident as per step 3.

5. If the person refuses to leave the property, the staff member shall contact the police advising them of the incident(s) and request assistance to escort the person from the property. At the same time, the staff person shall file a complaint with the police. Where possible, the employee shall notify their supervisor or manager before filing a complaint but if that is not possible, the supervisor or manager shall be contacted at the earliest opportunity.

6. Where a person, who has been previously escorted from a library, behaves in an unacceptable manner or where any patron behaves in a violent manner, staff shall contact the police advising them of the incident(s) and request assistance to escort the person from the property. Staff shall request that charges be laid under authority of section 39 of the Public Libraries Act. Advise the supervisor or manager at the earliest opportunity.

7. Where charges are laid by the police, the library staff member shall request that the individual's privileges to enter all public library premises be suspended for a period of one (1) year.

8. Where a person is convicted and their privileges are suspended, the Director of Regional Services shall be notified, after which, he or she will notify all staff of the details and the suspension period. Reinstatement of library privileges will be at the discretion of the Director of Regional Services.

9. Upon conviction and where an individual's privileges have been suspended, they are not permitted to enter the public libraries listed until their suspension period has been served. Where a person enters a public library during their suspension period, they shall be advised to leave the property and where they fail to leave, staff shall contact the police advising them of the incident(s) and request assistance to escort the person from the property. Staff shall request that charges be laid under authority of section 39 of the Public Libraries Act. Advise the supervisor or manager at the earliest opportunity.

10. Where a person, previously convicted and upon a reinstatement of library privileges, behaves in a disorderly manner in the library or exhibits unacceptable behavior thereby violating section 39 of the Act, staff shall contact the police advising them of the incident(s) and request assistance to escort the person from the property. Staff shall request that charges be laid under authority of section 39 of the Public Libraries Act. As this is a more serious situation (repeat offence), the library staff member shall request that the library privileges be suspended permanently.

11. Where a person, who has been charged but not yet convicted, violates section 39 of the Act they can be charged again as per step 5. There is no limit to the times a person can be charged.

12. When dealing with problem behavior refer to "Guidelines to Use in Dealing with Problem Behavior in the Library" published by the Newfoundland Public Library Services, 1988.

13. When requested by the police to provide information on a patron, as part of the investigation of an incident relating to a violation of section 39 of the Public Libraries Act, we have been advised that providing basic information such as name, address and phone number, which is pertinent to the investigation, is not a violation of a person's privacy (see below).

The Privacy Act was drafted in the early 1980s. It creates a tort action for invasion of privacy and does not specifically regulate government use or disclosure of personal information. Under that Act the right to privacy is stated to be that "which is reasonable in the circumstances, regard being given to the lawful interest of others". Further although your specific circumstance may not be listed in s. 5 which sets out specific defenses, section 5 is not exhaustive of defenses and arguably your disclosure to police could be defended as an exercise of your duty to keep order etc. There is little risk, if any, in my view, of a successful suit under the Privacy Act for disclosure of a person's address in the circumstances you outline.

More on point however is that last April the Province passed a new Access to Information and Protection of Privacy Act, although it is not yet proclaimed in force. Privacy standards for govt departments and agencies are set out in Part IV which will likely not be proclaimed for a year or so to allow for preparation. But in s.39 - disclosure of personal information, there is specific authority for disclosure (minimum amount necessary for purpose of disclosure) to a law enforcement agency to assist in an investigation undertaken with a view to a law enforcement procedure. There is no doubt an agency would be permitted to disclose personal information required to assist police under the new Act when it is proclaimed.

Provided by : Anne Marie Rose, Department of Justice - October 30, 2002