

ALA

Office for
INTELLECTUAL
FREEDOM

WITH SUPPORT FROM THE OPEN SOCIETY INSTITUTE

Rallying Americans to Defend Their Rights in a Digital Age

A Position Paper on Information Privacy

my personal data . . . my web searches . . . my browser histories . . . my email . . . my blog posts . . . my credit card purchases . . . my photos . . . my library records . . .

I want the power to decide who sees what.

privacyrevolution.org

DRAFT

In a global information society where knowledge is power,

protecting the impulse to be curious, to read, and to learn is essential for the health of our democracy and our economy. The freedom to read and receive ideas anonymously is at the heart of individual liberty in a democracy. It ensures a person's right to gain knowledge and form opinions according to his or her own conscience. It is the foundation for self-determination and meaningful participation in the political process. Privacy is a fundamental right. It is also a necessary condition for the unique and important work of American libraries – facilitating open access to information for all.

When the right to privacy is eroded or stripped away, people are more likely to abandon or curtail their exploration of unpopular and unorthodox points of view. This chilling effect puts the intellectual development of our citizenry at risk. The very character of the American mind, which is premised on open inquiry, is thereby robbed of the free flow of ideas that makes innovation possible.

“The core difference between totalitarianism and freedom is whether you get to choose the circumstances under which you disclose your personal information.”

In the past, privacy could be protected by closing a curtain, sealing a record, or simply choosing not to share one's information. But emerging technologies are compromising privacy rights and changing social norms. Computers, online networks, and databases collect and store personal information, which may then be freely traded among government offices, corporations, and law enforcement agencies without an individual's knowledge or consent. Few people protest when they are required to give away their personal information. Identity theft and data breaches are occurring more frequently – confirmation that individuals can no longer feel confident that the institutions holding their information are treating it with due care and consideration.

Other privacy rights are equally at risk. Concerns about national security and crime have spurred political interest groups and law enforcement agencies to question traditional expectations of privacy. These groups are now advocating changes in the law that diminish statutory privacy protections and permit the government to peer into personal lives.

In this environment, no one is immune from the potential repercussions of privacy loss. Anyone's information can be abused. Before we dive deeper into the digital age, Americans must reclaim their right to privacy. This position paper is intended to advance that movement.

Libraries Are on the Front Lines

“We protect each library user’s right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.”

Protecting reader privacy and confidentiality has long been an integral part of the mission of the American Library Association (ALA) and the library profession. As early as 1939, librarians affirmed a right to privacy for library users. By 1973, librarians were encouraging state legislators to adopt laws protecting reader privacy, a campaign that continues today all across the country. For example, the governor of Vermont last spring signed new legislation enacting greater privacy protections for library users’ records in that state.²

For decades, the ALA has brought attention to the issue of privacy as it relates to the broader information landscape. Libraries facing demands by law enforcement to release patron search records have turned for advice to the ALA’s Office for Intellectual Freedom, a resource for nearly 40 years for those facing privacy and First Amendment challenges in libraries. This office works to educate librarians and the general public about intellectual freedom and supports the work of America’s librarians in upholding free access to libraries and library materials.

In 2004, the ALA collaborated with the American Booksellers Association, the Association of American Publishers, and the PEN American Center to launch the Campaign for Reader Privacy — a national petition campaign to restore the safeguards for reader privacy that had been eliminated by the Patriot Act. Together, these groups mobilized the book and library community in support of corrective federal legislation introduced by U.S. Rep. Bernie Sanders (I-Vt.) and Senators Russ Feingold (D-Wis.), Dick Durbin (D-Ill.) and Larry Craig (R-Idaho). In 2005, both the House and Senate indicated their support for adding safeguards for bookstore and library records. Over 200,000 signatures were collected, resulting in some privacy protections being incorporated into the Patriot Act that was approved by Congress in early 2006. Yet, the law still permits “secret searches” that can obtain private information about anyone considered relevant to a terrorism investigation, including individuals who are not suspected of criminal conduct.³

In a library (physical or virtual), the right to privacy is the right to open inquiry without having the subject of one's interest examined or scrutinized by others. Confidentiality exists when a library is in possession of personally identifiable information about users and keeps that information private on their behalf.

So the fight for privacy continues.

Libraries are under increasing pressure to discard their long-standing commitment to readers' privacy rights. Law enforcement agencies exploit fears about terrorism and child safety to encourage lawmakers to strip away statutory privacy protections for library records, eliminate anonymity in the library, and encourage the philosophy that good people should have nothing to hide. Federal laws use gag orders and national security claims to prevent judicial review of potential privacy abuses.⁵

This state of affairs demands a renewed advocacy for readers' right to privacy. Beyond crafting effective privacy policy, beyond political advocacy, librarians must envision a role for themselves in their own communities in the struggle to preserve privacy rights.

Research Findings

To better understand librarians' role in and attitudes toward protecting patron privacy, the ALA surveyed over 1,100 librarians, allied library professionals, and interested library users in July 2008.⁶ Respondents revealed strong opinions about the importance of information privacy, and overwhelmingly indicated that they consider it a critical issue in the library profession and in society today.

Librarians see themselves as staunch protectors of patron privacy. In fact, 80 percent of respondents said librarians are doing all they can to prevent unauthorized access to the personal information and circulation records of patrons. But, after decades of fearlessly fending off federal and local law enforcement demands for patron records in the 20th century, the explosion of Internet use in libraries has ushered in a new era of risk to the First Amendment that extends beyond the control of librarians. "Librarians definitely have a role to play in educating patrons about privacy. If we don't do it, who will?" said Jenneffer Sixkiller, curator of the Art Department's Visual Resources Library at Oklahoma State University.⁷

Self-censoring is more common among librarians than among the general public. As connoisseurs of information, librarians and loyal library users understand how online search behavior can leave an identifying trail. Twenty-four percent of survey respondents indicated that they self-censor their search and/or reading habits. That's five points higher than the national percentage.

Research Findings

People should have control over their privacy. A robust 96 percent of the survey respondents agree that people should have more control over their personal information. Yet many services and companies today are automatically “opting-in” users — signing them up for online newsletters, tracking programs, and direct-marketing campaigns — and often using the information in myriad ways without the user’s knowledge or permission. Librarians express concern about information that patrons type into databases. One librarian remarked, “We don’t know where that information goes and how it is being used.”

The public should be educated on matters of information privacy. As information professionals in their communities, an overwhelming majority of librarians — 88 percent — believe they have an important role to play in educating the public about the privacy risks they face when using the Internet.

The time for a change is now. Sixty-one percent of respondents said they are concerned that search engines are sharing their information with the government, and 60 percent said that Congress should adopt more laws to protect personal information from unauthorized disclosure. “Having the freedom and power to control access to your innermost thoughts and information is a principle that this country was founded on,” said Kelly Skovbjerg, director of the Boerne Public Library, outside San Antonio, Texas. “As long as we have the technology, we can defend privacy.”⁸



96%

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80%

Librarians see themselves as staunch protectors of patron privacy.

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61%

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24%

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Highlights from Other Privacy Research

“The era of electronic communications has spurred discussion, but at the same time, the lack of respect for privacy rights has obliterated the opportunity to explore information anonymously, which has a chilling effect on free speech.”

From the Consumer Reports poll, September 2008:⁹

“Ninety-three percent of Americans think Internet companies should always ask for permission before using personal information, and 72 percent want the right to opt out when companies track their online behavior.”

“Eighty-two percent of consumers are concerned about their credit card numbers being stolen online, while 72 percent are concerned that their online behaviors were being tracked and profiled by companies.”

“Consumers are aware that information about their surfing habits is being collected online, but many are not aware of what companies are able to do with their information. Among the other findings of the poll: 57 percent incorrectly believe that companies must identify themselves and indicate why they are collecting data and whether they intend to share it with other organizations; 48 percent incorrectly believe their consent is required for companies to use the personal information they collect from online activities; 43 percent incorrectly believe a court order is required to monitor activities online.”

“Nine out of 10 Americans believe the Internet has changed our expectations of privacy.” – *Zogby International/Congressional Internet Caucus Advisory Committee Survey*, February 2007.¹⁰

Busting Myths Regarding Information Privacy

MYTH:

Online services are totally free.

TRUTH:

Many ostensibly free online services are paid for by advertising that relies on the collection of your personal information, including tracking your information searches.

MYTH:

Government surveillance keeps us safe by stopping crime.

TRUTH:

Surveillance cameras can help solve crimes after the fact, but rarely prevent crimes.

MYTH:

My personal data is secure with devices that use radio-frequency identification (RFID) technology, like my transit and ID cards.

TRUTH:

Without privacy and security standards for RFID technology, RFID tags can be read without your knowledge or consent, gathering sensitive personal data.

Busting Myths Regarding Information Privacy

MYTH:

Only people with something to hide need to worry about privacy.

TRUTH:

The issue of privacy is not about what an individual has to hide, but what society stands to lose: freedom and control.

MYTH:

Privacy costs too much.

TRUTH:

A similar argument was made about safety in the 1950s, when automakers balked at consumer advocates' calls for seat belts in cars. The Internet is maturing, and establishing privacy norms is a necessary part of making it a safe, sustainable, environment for information exchange.

MYTH:

Privacy standards will impede the free flow of information and make the Web less convenient.

TRUTH:

The Web has proven to have enormous capacity to adapt technologically. It's our social and political culture that must evolve to offer some form of self-determination about who is allowed to see what information.

The Information Revolution

The Internet has revolutionized the way people search for information, shop, and interact. But as users have freely surfed and transacted online, it has not always been clear to them that their online behaviors left behind a trail of information that can be tracked and exploited. The Internet and other emerging technologies have opened many new pathways to information and given rise to entire industries — but too often at the cost of personal privacy.

The public has been led to believe that the tracking of their search habits is the price they must pay for access. Broadly speaking, today's technology users are habituated to disclosing personal information in order to participate in online communities. The commodification of that information is a development that has accompanied new online social norms, and information tracking has grown and evolved along with broader cultural trends that also affect the erosion of privacy in online spaces.

In the case of law enforcement, individuals face difficult and emotional tradeoffs between security and privacy. Surveillance and other measures that intrude on private lives have been presented to the public as necessities in times of terrorism. These impossible choices have made people feel uneasy — and often powerless. In this climate, information privacy is so amorphous, so intangible for most people, that many Americans have resigned themselves to the erosion of their rights because they see no recourse.

“There is a ton of information about all of us that we willingly (social networks, registration data, search history, etc.) and sometimes unwittingly (clickstream data) leave, forever, on third-party servers. It's pretty much out of [people's] control if the government decides it wants access to that data - they have to give it up, and stay quiet about it.” – John Battelle, author of *Search: How Google and Its Rivals Rewrote the Rules of Business and Transformed Our Culture*, and CEO, Federated Media¹¹

Convenience and Privacy — the Yin and Yang of Internet Culture

Given the hectic pace of our lives today, convenience is the killer app. People like the fact that Web sites remember them. It saves time. And according to the 2008 Pew Study, “Use of Cloud Computing Applications and Services,”¹² which examined the way people use technology-enabled services from the Internet, 51 percent of those who have done cloud computing activity cited convenience as a major reason. However, 90 percent said they would be very concerned if the company at which their data was stored sold it to another party, and 80 percent said they would be very concerned if companies used their data in marketing campaigns. The plain truth is that an entire industry has developed to exploit online user data for commercial purposes.

“So far, government and big companies have gotten away with taking virtually all our privacy away by not surprising most of us, at least not in a vivid way.” – Seth Godin, author of *Permission Marketing* and blogger¹³

Empowering People to Reclaim their Privacy Rights

Different people will choose different positions on the privacy continuum, with some being comfortable revealing more, and others less so. There's no one-size-fits-all solution to today's privacy issues; the questions are too complex for easy answers. But tools do exist to help individuals take control of their information privacy and choose their own place on the privacy continuum.

Libraries can play an important role in helping their users understand the rules of the game. More important, librarians — as long-standing defenders of intellectual freedom — can spark the sort of wide-ranging conversations in communities across America that can crystallize this otherwise amorphous issue.

Change Is on the Horizon

If the information age is to fulfill its potential for enhancing democracy, we will need to embrace new norms and new practices that allow individuals to control their personal information. Citizens need to unleash their power to hold businesses and government agencies accountable for deception and abuse. This won't happen unless people understand the issue. Americans have been conditioned to accept encroachment on their privacy rights as a necessary trade-off in modern life. Librarians can spearhead this movement by reaching out to their communities and inspiring citizens to reclaim the right to privacy.

The recent presidential election indicates a resurgence in interest among Americans in playing a more active role in government. "A corner will be turned with the new administration," said Steve Norman, director of the Belfast Free Library in Maine.¹⁴ New leadership, coupled with the rising empowerment of consumers, signals a time when standards for protecting information privacy can be advocated for successfully.

Offering transparent,
understandable privacy settings
that allow people to control the
destiny of their information.

We need your help.

5 Ways to Take Action

1

Learn ways to protect your privacy. Visit www.privacyrevolution.org, where you can find more information and links to our partners' Web sites, which are chock-full of helpful tips.

2

Know and understand your privacy rights. Visit your public library to find books and articles about the issues and current threats to privacy rights.

3

Join the conversation at www.privacyrevolution.org. Tell us your story. Share your point of view in your local and Internet communities.

4

Become an advocate. Post one of our banners or badges on your own site to let the world know you are serious about protecting your privacy.

5

Follow the privacy revolution on Twitter at www.twitter.com/privacyala.

About the American Library Association

The American Library Association, the voice of America's libraries, is the oldest, largest, and most influential library association in the world. Its approximately 65,000 members are primarily librarians but also trustees, publishers, and other library supporters. The association represents all types of libraries; its mission is to promote the highest-quality library and information services and public access to information.

About the Office for Intellectual Freedom

The Office for Intellectual Freedom is charged with implementing ALA policies concerning the concept of intellectual freedom as embodied in the Library Bill of Rights, the association's basic policy on free access to libraries and library materials. The goal of the office is to educate librarians and the general public about the nature and importance of intellectual freedom in libraries.

Our Collaborators

American Booksellers Foundation for Free Expression

American Society of Newspaper Editors

Association of American Publishers

Center for Democracy and Technology

Electronic Frontier Foundation

Electronic Privacy Information Center

Internet Education Foundation

National Association of Broadcasters

PEN American Center

Privacy Rights Clearinghouse

Special thanks to the Open Society Institute for its support of ALA's Privacy Campaign.

Contact

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NOTES

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