

RESEARCH AGREEMENT BC ARCHIVES

TERMS AND CONDITIONS RELATING TO THE DISCLOSURE OF PERSONAL INFORMATION FOR RESEARCH OR STATISTICAL PURPOSES



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General Information

Section 35 of the *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165 (the Act), provides that British Columbia public bodies may disclose personal information in their custody or control for research or statistical purposes.

Research use of records containing personal information in the custody or under the control of the BC Archives must be conducted according to the provisions of the Act. The Act both guarantees public access to government records and protects the privacy of individuals identified in these records.

For BC Archives, this means reviewing public requests for access to government records in order to determine whether records contain personal information that may be restricted. For the research public requesting access to this type of record, section 35 of the Act provides an option for the researcher to access restricted material by entering into a legal research agreement which governs the conditions of use of such government records.

A research agreement, once approved, gives the researcher timely access to the desired records, and it permits BC Archives to make materials available to the researcher without substantial costs and possible delays caused by the need to examine and sever personal information from large numbers of documents.

Research agreements can only be granted for a bona fide research project therefore, it is important that the applicant carefully complete a research proposal that provides substantial detail to all elements in Part B of the application. The applicant must provide a curriculum vita and three references.

A research agreement is a binding legal document, granting access only to those records specified in Part C of the agreement to those individuals noted in Parts A, B, and D of the agreement. Any changes or additions to the agreement must be made in writing and be approved in writing by BC Archives.

Under the Act, **personal information** may not be disclosed to any person other than the individual to whom it relates except in certain limited circumstances:

"Personal information" is defined in Schedule 1 of the Act as follows:

"personal information" means recorded information about an identifiable individual other than business contact information;

Personal information does not include business contact information but may include information similar to the partial list below:

- (a) the individual's name, address or telephone number,
- (b) the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations,
- (c) the individual's age, sex, sexual orientation, marital status or family status,
- (d) an identifying number, symbol or other particular assigned to the individual,
- (e) the individual's fingerprints, blood type or inheritable characteristics,
- (f) information about the individual's health care history, including a physical or mental disability,
- (g) information about the individual's educational, financial, criminal or employment history,
- (h) anyone else's opinions about the individual, and
- (i) the individual's personal views or opinions, except if they are about someone else.

Disclosure for research or statistical purposes is one of the circumstances in which personal information may be accessed by another person. At BC Archives, approval is given by the Chief Executive Officer or delegate under the terms prescribed in section 35 of the Act:

Disclosure for research or statistical purposes

- 35 (1)** A public body may disclose personal information or may cause personal information in its custody or under its control to be disclosed for a research purpose, including statistical research, only if
- (a) the research purpose cannot reasonably be accomplished unless that information is provided in individually identifiable form or the research purpose has been approved by the commissioner,
 - (a.1) subject to subsection (2), the information is disclosed on condition that it not be used for the purpose of contacting a person to participate in the research,
 - (b) any record linkage is not harmful to the individuals that information is about and the benefits to be derived from the record linkage are clearly in the public interest,
 - (c) the head of the public body concerned has approved conditions relating to the following:
 - (i) security and confidentiality;
 - (ii) the removal or destruction of individual identifiers at the earliest reasonable time;
 - (iii) the prohibition of any subsequent use or disclosure of that information in individually identifiable form without the express authorization of that public body, and
 - (d) the person to whom that information is disclosed has signed an agreement to comply with the approved conditions, this Act and any of the public body's policies and procedures relating to the confidentiality of personal information.

(2) Subsection (1) (a.1) does not apply in respect of research in relation to health issues if the commissioner approves

- (a) the research purpose,
- (b) the use of disclosed information for the purpose of contacting a person to participate in the research, and
- (c) the manner in which contact is to be made, including the information to be made available to persons contacted.”

Additional Exceptions

The research agreement only concerns access to personal information. In certain circumstances, the Act's other exceptions to the right of access, such as legal advice, information harmful to law enforcement, information harmful to the financial interests of the Province, and information harmful to third party business interests, may apply to the requested records. If any of these other exceptions are applicable, or if access is restricted under legislation other than the Freedom of Information and Protection of Privacy Act, an Information and Privacy Section analyst will explain your options.

Youth Criminal Justice Act (replaced the Young Offenders Act, 1 Apr 2003)

Access to some personal information is restricted under both the Freedom of Information and Protection of Privacy Act and the Youth Criminal Justice Act (Canada), SC 2002, c.1. The Youth Criminal Justice Act, which concerns the treatment of and information about young people who have come into contact with the law, generally restricts access to information that could be used to identify them. Section 126 of the Youth Criminal Justice Act does, however, provide for access to records containing young offender information that are held in provincial archives under certain conditions. Specifically, section 126 (Records in the custody, etc., of archivists) provides as follows:

When records originally kept under sections 114 to 116 are under the custody or control of the National Archivist of Canada or the archivist for any province, that person may disclose any information contained in the records to any other person if

- (a) a youth justice court judge is satisfied that the disclosure is desirable in the public interest for research or statistical purposes; and
- (b) the person to whom the information is disclosed undertakes not to disclose the information in any form that could reasonably be expected to identify the young person to whom it relates.

If the records to which access is requested do, or might reasonably be expected to, contain information about young offenders, an undertaking pursuant to section 126(b) of the Youth Criminal Justice Act will be required. An Information and Privacy Analyst will contact you and provide you with the undertaking form. Upon receipt of the completed and signed undertaking, and subsequent approval of an application by BC Archives, the application will be forwarded to the Provincial Court of British Columbia for the consideration of a youth justice court judge.

Review and Approval Process

Each research agreement application must go through an approval process that consists of three steps. First, an Information and Privacy Section analyst will review your application and will contact you if any clarification or additional information is required. Second, the analyst will make a recommendation concerning the application, which is then reviewed by the Manager, Information and Privacy Section. Finally, all research agreements must be approved by the delegated head of BC Archives.

PLEASE REMEMBER, THE ACT ALLOWS UP TO 30 BUSINESS DAYS TO APPROVE AN APPLICATION.

Further Information about Research Agreements:

If you have any questions or would like further information about use of a research agreement for obtaining access to personal information held by BC Archives, please feel free to contact The BC Archives' Information and Privacy Section. They may be reached by writing to the following address:

Manager, Information and Privacy Section
British Columbia Archives
Royal BC Museum
675 Belleville Street
Victoria, B.C. V8W 9W2
privacy@royalbcmuseum.bc.ca

BC ARCHIVES

APPLICATION AND AGREEMENT FOR ACCESS TO PERSONAL INFORMATION FOR RESEARCH OR STATISICAL PURPOSES

Request number: 292-30/_____ Date of receipt: _____

Purpose: This form is for use in requesting access, for research or statistical purposes, to personal information found in records covered by the *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165 (the Act) and the Youth Criminal Justice Act (Canada), SC 2002, c. 1. Once the researcher has signed this form and the terms and conditions of access have been approved by BC Archives and a youth justice court judge, this form becomes a legal agreement between the researcher and BC Archives.

Collection of the information on this form, and the conditions of access described, are authorized by Section 35 of the Freedom of Information and Protection of Privacy Act. Any questions about this form may be directed to the Manager, Information and Privacy Section, BC Archives, Royal BC Museum, 675 Belleville Street, Victoria, B.C., V8W 9W2, or by email at privacy@royalbcmuseum.bc.ca.

PART A - Identification of Researcher

Name (last name / first name / initials)

Registration number (if applicable)

Address: _____

Telephone: _____

Please provide the following additional information if applicable:

Institutional Affiliation: _____
(include department if relevant)

Position: _____

Academic Advisor (if student): _____

PART B - Description of Research Project

Please attach the following information:

- 1) A general description of the research project (include the objectives of the project and the proposed method(s) of analysis).
- 2) An explanation of why the research project cannot reasonably be accomplished without access to personal information in individually identifiable forms (i.e., personal information about named or identifiable individuals).
- 3) An explanation of how the personal information will be used, including a description of any proposed linkages to be made between personal information in the records requested and any other personal information.
- 4) The expected period of time during which access to these records may be required.
- 5) The benefits to be derived from the research project.

Please also provide a curriculum vitae including the following information: education; research experience; knowledge of subject and proposed methodology; three references.

PART C - Records Requested (Use additional sheets as required)

Please list all records containing personal information to which access is requested. Access will be given only to records listed below. Any changes or additions to this list after the application is submitted should be made in writing and will require approval in writing from BC Archives.

In each case, please provide the following: BC Archives identifying number (e.g. GR number); box, volume or reel number(s); GR title; file name(s); outside dates. If access to less than an entire box or reel is requested, please also provide the number(s) and title(s) of the file(s) requested.

Example: GR 1234, vol. 5 (Provincial Archives of B.C., Donor files), file 67 (Y-Z), 1975-1976.

1. _____
2. _____
3. _____
4. _____

Originals may be consulted only at BC Archives. Will you require that the above records be copied (at your expense) for viewing elsewhere?

Yes ___ No ___

PART D –Youth Criminal Justice Act (Canada)

If the records listed in Part C of this form contain information that is restricted from disclosure by the Youth Criminal Justice Act (Canada), SC 2002, c.1, I undertake not to disclose the information in any form that could reasonably be expected to identify the young person to whom it relates.

PART E - Agreement on Terms and Conditions of Access

If I am granted access to the records listed in Part C, I understand and will abide by the following terms and conditions:

Security and Confidentiality

- 1) I understand that I am responsible for maintaining the security and confidentiality of all personal information found in or taken from these records.
- 2) Apart from myself, only the following persons will have access to this personal information in a form which identifies or could be used to identify the individual(s) to whom it relates:

Before any personal information is disclosed to these persons, I will obtain a written undertaking from each of them to ensure that they will not disclose that information to any other person and that they will be bound by all terms and conditions of the present agreement. I will maintain a copy of each such guarantee, and will provide BC Archives with a photocopy.

No other person(s) will be given access to personal information disclosed under the terms of this agreement, whether contained in the original records, research notes, photocopies or databases.

- 3) None of these records (including copies of them or notes containing personal information taken from them) will be left unattended at any time, except under the conditions described in Paragraphs 4, 5 and 6, below. If I am using these records in the BC Archives Reference Area, and I must temporarily leave the room, I will hand them in to Reference or Security staff until I return.
- 4) Any copies of the requested records and any notes which contain personal information taken from them will be kept, in a secure manner, at the following address(es):

They will not be removed from the above premises without the prior written consent of BC Archives.

- 5) Physical security at the above premises will be maintained by ensuring that the premises are securely locked, except when one or more of the individuals named in paragraph 2) are present, as well as by the following additional measures (e.g. locked filing cabinet):

- 6) Individually identifiable information from the requested records will be maintained on a computer system to which users other than those listed in paragraph 2) have access.

Yes ___ No ___

If yes, access to the information will be restricted through the use of passwords and by other computer security measures that prevents unauthorized access or that trace such unauthorized access, including the following methods:

Use of Personal Information

- 7) Personal information contained in the records described in Part C of this form will not be used or disclosed for any purpose other than as described in Part B (including additional linkages between sources of personal information), nor for any subsequent purpose, without the express written permission of BC Archives.
- 8) Reports, papers or any other works which describe the results of the research undertaken will be written and/or presented in such a way that no individuals in the requested records can be identified and no linkages can be made between any personal information found in the requested records and personal information that is publicly available from other sources. There will be no exceptions to this rule without prior and specific written permission from BC Archives.

[The researcher should bear in mind that it is frequently possible to identify an individual by a combination of characteristics or variables, even if that person is not named. For example, many people might well know who is being discussed if mention is made of a tall female gas station attendant in New Denver who is 35 years old and was born in Windsor, Ontario. Therefore, anonymization may require more than simply removing names. The researcher is responsible for taking whatever measures are necessary to protect individual privacy.]

This rule applies to ALL personal information in the subject records, including personal information about elected and other public officials, as required by section 35(c)(iii) of the Act. However, BC Archives routinely authorizes the use of such personal information in individually identifiable form, whenever the personal information is related to the public official's position and duties.]

- 9) Any case file numbers or other individual identifiers to be recorded on computer will be created by myself or one of the persons listed in paragraph 2) and will not relate to any real case numbers found in the records. Any such identifiers are to be used for statistical purposes only.
- 10) No case file numbers or other individual identifiers assigned for the purposes of the research project described in Part B will appear in any other work.
- 11) It is preferred that no personal information which identifies or could be used to identify the individual(s) to whom it relates will be transmitted by means of any telecommunications device, including telephone, fax or modem. If personal information is transferred by modem, the personal information will be encrypted or a dedicated line will be used. In addition, if facsimile (fax) is used, it will be a secure fax.
- 12) Unless expressly authorized in writing by BC Archives, no direct or indirect contact will be made with the individuals to whom the personal information relates.
- 13) Individual identifiers associated with the records described in Part C, or contained in copies of them, will be removed or destroyed at the earliest time at which removal or destruction can be accomplished consistent with the research purpose described in Part B. At the latest (maximum 2 years), this will occur by:

_____/_____/_____
(year / month / day)

Any extension to this time limit must be approved in writing by BC Archives. The removal of individual identifiers will be done in a manner that ensures that remaining personal information (including any found in research notes) cannot be used to identify the individual to whom it relates. If necessary, this will be done by destroying copies of requested records or pages of notes in their entirety. All destruction or removal of individual identifiers will be confidential and complete in order to prevent access by any unauthorized persons.

Audit and Inspection

- 14) The BC Archives may determine it is necessary to carry out on-site visits and such other inspection or investigations that it deems necessary to ensure compliance with the conditions of this agreement. Such measures may include, but are not limited to:
 - on-site inspection of premises or computer databases to confirm that stated security precautions are in effect;
 - receipt upon request of a copy of any written or published work based on research carried out under the terms of this agreement;
 - written verification from the researcher that the destruction of all information about identifiable individuals has been carried out by the date specified in this agreement.

Agreement to the Terms and Conditions

15) I understand that I am responsible for ensuring complete compliance with these terms and conditions. In the event that I become aware of a breach of any of the conditions of this agreement, I will immediately notify BC Archives in writing. Contravention of the terms and conditions of this agreement may lead to the withdrawal of research privileges;

BC Archives may also take legal action to prevent any further disclosure of the personal information concerned.

The BC Archives reserves the right to demand the immediate return of all records and to withdraw access to records without prior notice if this becomes necessary under the Act.

I accept that the expiry date for access to the records in Part C is the date as listed by BC Archives below.

Signed at _____ this _____ day of _____, 20_____

Signature of Researcher

Signature of Witness

Name and Position of Witness

PART F - Approval of Terms and Conditions (to be completed by BC Archives staff)

The BC Archives approves the terms and conditions of this agreement under which the BC Archives grants access to the researcher.

The expiry date for access to the records listed in Part C is: _____/_____/_____
(year / month / day)

Signature

Position

Date