

## CMC Review of Police Move-on Powers

GPO Box 3123,  
Brisbane  
Qld 4001

February 20, 2009

Dear Commissioner,

Thank you for the opportunity to make a submission to the **CMC Review of Police Move-on Powers**. but there can never be any good reason for restricting a photographer or journalist from approaching a person, incident or place simply because such approach might annoy someone – let alone because their mere presence in a public place might do so.

The move-on powers available to Queensland police officers give them the right to force a photographer or reporter to leave a public place simply because the officer suspects that some other person might become anxious at the presence of the news gatherer.

On what is such a suspicion likely to be based? It might well be based on an approach to police by a person who does not want his or her activities to be recorded.

One example is that of a Sunday Mail photographer who was harassed by two police officers because he had been photographing people in Roma St, Brisbane. Had the subjects been civilians it is almost certain that the police would not have been interested. But the subjects were police officers who had left Police Headquarters and walked across Roma St without using the pedestrian lights at a nearby intersection. Were these police officers breaking the law? Almost certainly not, as was explained to the photographer, because they had crossed the street more than 20m from an intersection. But that did not stop other police harassing the photographer and warning him against publication of any such photographs. (See *Attachment 1 - xxxxxxxxxxxxxx submission.doc*).

Another example concerns that of a reporter trying to research a report about alleged bullying by security guards at a shopping centre. Security guards at the centre ordered the reporter from the premises and when he asked police what would have happened had he refused, they told him they would have used move-on powers against him. (See *Attachment 2 – Journalists told to move on.doc*) A shopping centre is not a public place in the same sense as a public street, but trespass is a civil matter and had police been called they should have restricted their actions to ensuring that there was no breach of the peace or threat to anyone rather than acting as agents of the security firm.

It is not suggested that all police officers will behave in a similar manner if and when they see a journalist recording something they think might be embarrassing to them or to others, or are contacted by someone about something such as this; but it IS a very bad idea to give police unrestrained powers to force people to move from a certain place when they have neither committed, nor look like committing, any crime.

Police need the support of the community so they can continue to do the tough job that the community demands of them, and the last thing police officers on patrol need is to lose the respect of the community. So giving officers move-on powers that can be exercised without warrant, without permission or supervision from senior officers without the possibility of appeal and, in effect, without any record being made, is a



ABN: 84 054 775 598

### QLD BRANCH

Level 4  
16 Peel Street  
South Brisbane Q 4101  
Locked Bag 526  
Spring Hill Q 4004

Tel: (61) 7 3846 0044

Fax: (61) 3846 0055

Email:

[qld@alliance.org.au](mailto:qld@alliance.org.au)

Branch President  
Kym Ford

Branch Secretary  
Terry O'Connor

### FEDERAL OFFICE

245 Chalmers St  
Redfern NSW 2016

### POSTAL ADDRESS

PO Box 723  
Strawberry Hills  
NSW 2012 Australia  
Tel: [61] 2 9333 0999  
Fax: [61] 2 9333 0933

Email:

[mail@alliance.org.au](mailto:mail@alliance.org.au)

Alliance Inquiry Desk  
1300 656512

Alliance Membership  
Centre 1300 656513

Website:

[www.alliance.org.au](http://www.alliance.org.au)

Federal President:  
Patricia Amphlett

Federal Secretary:  
Christopher Warren

recipe for community alienation.

The point has been made many times that police have adequate powers already under the Summary Offences Act, which itself has been criticised for overuse, to handle people who behave in a threatening or disruptive manner or are otherwise a nuisance or a danger or to themselves or others.

The move-on legislation, however, extends police powers to the extent that a person's mere presence in an area can be constrained, without any avenue of appeal. As Terry O'Gorman, of the Queensland Council for Civil Liberties, has pointed out, the only effective way in which a person can challenge the exercise of police move-on powers ([http://www.qccl.org.au/documents/Speech\\_TOG\\_22Mar06\\_Move\\_On\\_Powers.pdf](http://www.qccl.org.au/documents/Speech_TOG_22Mar06_Move_On_Powers.pdf)) is to refuse an order to move on. And this, of course, renders the person liable to a fine of \$4000 and perhaps a night in the watch house.

Police power must never be unrestrained and this move-on power detracts greatly from all citizens' civil rights. Add to this erosion of rights the draconian security laws introduced after 9/11 in an attempt to fight the "war on terror", and news gatherers, much more than any other comparable group in society, are at great risk of having their civil liberties (not to mention their right to do their jobs) decimated.

To repeat: under the legislation police have power to move a person on simply because his or her **presence** is seen by someone as a nuisance or potentially embarrassing. This cannot be allowed in a liberal democracy such as Australia. It is too basic a denial of rights to be countenanced under any circumstances.

The MEAA submits to this inquiry that the notion of a "fair go" in Australia demands that all citizens, including journalists, be free to go where they please in a public place, when they please, as long as they are not committing any crime or showing evidence of any intent to commit one.

The MEAA therefore requests that the police move-on powers be modified substantially and a range of safeguards introduced to protect all citizens, including news gatherers.

If, however, the Queensland Government declines to modify the powers substantially, the MEAA requests that a set of guidelines for media-police relations be developed that will give both police officers and news gatherers certainty about their roles and responsibilities.

One example is that developed in the United Kingdom in 2006 and adopted generally the following year: "Guidelines for Metropolitan Police Service staff on dealing with media reporters, press photographers and television crews" (see <http://media.gn.apc.org/photo/guidelines.html> and *Attachment 3 - UK police guidelines.pdf*).

In addition to this, the MEAA requests that the Police Service be required to set out written instructions for police officers about the use of move-on powers, including that they should never be used to intimidate news gatherers who are simply doing their jobs, and a fast, easily implemented method for news gatherers to appeal to senior police or a magistrate against any unwarranted use of move-on powers against them by police on patrol.

Guidelines such as those agreed to by UK police forces are well and good, but they have to be implemented, and in 2008 a House of Commons committee examining police-media relations expressed concern at some instances of police behaviour. The committee did not specifically look at move-on powers, or at police-media relations "on the beat", but did bring to light a disturbing set of attitudes common among police officers that the media were there to be used, rather than co-operated with (see <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmhaff/75/75.pdf>). Such police attitudes, which are not confined to the UK, mean that police on the beat need direct, unequivocal instructions about handling news gatherers and can be held to account for their actions.

In conclusion, the Media Entertainment and Arts Alliance submits to this inquiry:

- That the Queensland Police Service move-on powers be modified substantially and a range of safeguards introduced to protect all citizens, including news gatherers.
- That a method of appeal be instituted, such that any person told to move on can have their case heard in very short time by a senior police officer or magistrate.
- That if the powers are to remain in anything like their present form,
  - A set of binding rules for their use be instituted, guaranteeing an exemption for working news gatherers who are behaving within the law;
  - The Queensland Government consider, in consultation with the MEAA, setting up a media pass system for accredited news gatherers similar to that in force in the United Kingdom.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'T O'Connor', with a horizontal line underneath the name.

Terry O'Connor  
Queensland Secretary  
Media, Entertainment & Arts Alliance  
Tel 07 3666 6474  
Mob 0401 147 107  
Fax 07 3666 6690  
oconnor@brismail.com