



26 July 2007

Police Act Review
Police National Headquarters
P O Box 3017
Wellington

By email: policeact@police.govt.nz

**“Submission to the New Zealand Police on the Police Act Review
Sections 51 and 51A”**

Introduction

This submission is on behalf of the Screen Production and Development Association of New Zealand (‘SPADA’). SPADA represents the interests of producers and production companies on all issues that affect the commercial and creative aspects of independent screen production in New Zealand (current SPADA membership is approximately 380).

SPADA members include independent producers and production companies working in film, television, commercials, video, post-production, animation and interactive media. Other members include lawyers and accountants working in the industry, completion guarantors, and industry suppliers. More can be found on SPADA’s work at www.spada.org.nz.

SPADA thanks the New Zealand Police for the opportunity to comment on the Police Act Review. SPADA's comments focus on Sections 51 and 51A of the current Police Act ("Act").

SPADA supports the purposes of Sections 51 and 51A as identified in the consultation document "*Policing Direction in New Zealand for the 21st Century*" (dated May 2007) ("Document") at paragraphs 3.53 and 3.54. Those paragraphs outline the intention to punish those who impersonate Police in order to commit crimes. Paragraph 3.53 sets out examples where a person unlawfully accesses a building to assist in the commission of a crime or obtains information which might facilitate a serious criminal offence. SPADA understands the negative impact that a person impersonating a member of the Police could have on the safety and security of the public.

The Use of Police Characters in Works of Fiction / Non-Fiction

In works of fiction; either in television or film, producers frequently include police characters. It is no coincidence that some of the best drama in the world focuses on naturally dramatic and exciting situations – including police work. This is due in part to the fact that circumstances involving police are often dramatically interesting, and provide for exciting situations: a very important aspect of popular drama.

In addition to fiction, some of the most interesting non-fiction (true-life) stories in New Zealand or overseas involve police officers either as main or peripheral characters. That is why SPADA members working in non-fiction, (eg documentaries, reality series etc) often like to include police either as a Police Spokesperson or in dramatizations to show real events.

In order for a producer to fully realize a drama or documentary a number of components need to be in place. For the purposes of this submission, SPADA would like to comment on the vital component of costuming; and the producer's ability to costume performers in authentic-looking police uniforms.

Sections 51

The current Act states that a person impersonating a member of the Police is committing an offence (section 51).

It is possible that an actor who wears a Police uniform is breaching section 51. (It is arguable that they are not, but for the purposes of this submission, let's assume that they are.) SPADA understands that the Police view actors dressed as Police as committing an offence under this section. They are not, however, impersonating a member of the Police in order to cause any mischief. They are not fooling the public to seek an advantage or to mislead the public into providing some privilege associated with the uniform. They are simply bringing authenticity to the character they are playing.

In some cases an actor is impersonating a member of the Police on a set or location without using any uniform – as in the case of an actor performing the part of a plain clothes officer. There is currently no exception in the section for this harmless and frequent situation.

RECOMMENDATIONS

1. Section 51

SPADA recommends that Section 51, if retained in any future Police Act, contain a simple exception such as “**without lawful excuse**”. SPADA would argue a television programme or film would be considered a “lawful excuse”. This change would mean that actors are not technically committing an offence when they “impersonate” a member of the Police as required by a script.

Alternatively, **SPADA recommends** a more specific exception for performers using uniforms while working in their professional capacity (and conducting themselves properly).

2. Section 51A(1)

Section 51A(1) arguably has a similar impact for a performer as in Section 51, therefore, **SPADA recommends** an equivalent section in any new Police Act contain a simple exception such as “**without lawful excuse**”.

3. Section 51A(2)

Section 51A(2) creates an offence to use any item of Police uniform (or an item closely resembling an item of Police uniform) (“Police Item/s”) without the consent of the Commissioner. SPADA members frequently use Police items during the production of films or television programmes.

When on set or on location, SPADA members closely control the use of any Police Item. When not in use, Police Items are carefully stored in secure, secret locations. When wearing or using Police Items actors are advised and warned against carrying out actions which may in turn mislead the public. The possession and use of Police Items is taken very seriously by SPADA Members at all times.

SPADA members have in the past sought the Commissioner’s permission to use Police Items as required by Section 51A(2) of the Act. SPADA understands the Commissioner does not exercise this discretion personally, with responsibility delegated to an appropriate staff member. However, when seeking consent, SPADA members frequently, and consistently, report that the discretion exercised does not focus on the aims identified in the Document (ie public safety). Instead the discretion is used to demand script approval and significant changes to scripts before approval is provided to use Police Items.

The Police have required SPADA members to remove anything which could be perceived by the Police as detrimental to the Police’s image. Members report that focus is not on public safety, but on the Police’s public relations.

This is perceived by many members of the screen production community as an attempt to pursue the Police's public relations agenda at the expense of freedom of speech.

In order to ensure that this perception is not perpetuated by any future Police Act, **SPADA recommends** that a general exception be provided for the screen production industry to hold and use Police Items for their professional purposes. **SPADA also recommends** that this exception require screen producers to ensure that they take adequate security steps to ensure that the items are not used to aid in criminal activity.

Alternatively, **SPADA recommends** enshrining in any new Act the matters which the Commissioner may take into account when exercising the discretion. Those matters should be restricted to matters concerning the security of the Police Items and the protection of the public.

A maximum turn around period of 20 working days is also recommended in any new Act. 20 working days is the maximum response time in the Official Information Act.

Conclusion

SPADA once again thanks the New Zealand Police for this opportunity to submit comment on the Police Act Review.

If public hearings are being held, SPADA would like the opportunity to speak to any matters arising from its submission.

Penelope Borland
Chief Executive Officer
SPADA