



AUSTRALIAN CANOEING INC (AC) POLICY STATEMENT PHOTOGRAPHY POLICY

Adopted by AC Board 11 Feb 2009

1. Overview

The increasing use of digital photo and video capture devices has led to concerns about when and where it is legal to take photos, and the role of AC members. This policy outlines the legal status of photography and videography, the circumstances under which photography may be restricted or not permitted, and provides guidelines for AC members when carrying out their duties.

2. AC's role

AC seeks to:

- promote competitiveness and recreational canoeing;
- issue rules and regulations to be followed in National competitions; and
- pursue high standards of safety, education and training in all aspects of the sport.

AC considers that in order to meet these objects a policy is required regarding the clarification of the legal issues surrounding photography of persons at events conducted by AC, its state associations and affiliated clubs ("sanctioned events").

AC therefore considers it has an interest in articulating this policy for the following reasons:

- the growth of photographic and digital technology;
- protection of AC members, particularly children;
- protection of AC official and accredited photographers;
- clarifying the status of amateur and professional photographers in public places for AC members; and
- providing general information for spectators and other members of the public.

3. Photography in public places

3.1 The law

In Australia, generally speaking, there is no law restricting photography of people (including children) in public spaces as long as the images are not considered as:

- indecent (such as “up skirt” or “downblouse” photographs taken covertly in change rooms, toilets or other invasions of privacy);
- being used for voyeurism or made for the purpose of observing and visually recording the other person’s genital or anal region;
- protected by a court order (e.g. child custody or witness protection);
- defamatory; or
- for commercial purposes (person’s likeness is used to entice people to buy or it appears they are endorsing a product). This may require a Model Release/Consent Form to be signed – see Appendix A.

Consensual photos of a child (including one’s own child) also contravene criminal laws and censorship laws if the child is photographed in a provocative or sexual manner.

Where an event is held on private property, such as a canoe club, other privately owned land, a school or council owned facilities (but not, for example, a council road or park), the owners of private property or venues are able to restrict or ban photography (e.g. some council owned facilities will not allow mobile phones or cameras in change rooms or toilets). There is nothing, however, to prevent a person from photographing outside the property boundary unless it is taken for indecent or improper purposes, as listed above.

3.2 Guidelines for AC members

There are obvious public policy reasons for criminalising the type of behaviour referred to above. What is more problematic is trying to distinguish between photographs taken for an innocuous purpose, and photography which might be considered by the subject(s) ‘unwarranted or obtrusive’.

As noted above, photographs or videos of people in a public place may be taken without permission for a variety of innocuous reasons: parents taking photographs of their children in a group, amateur or professional photographers shooting a crowd scene.

Some people may consider photography or videos of themselves or others as ‘unwarranted or obtrusive’ however there is no generally recognised right to privacy in these situations. Common sense and courtesy should apply in these situations. If you do not wish to be photographed or videoed, you should approach the photographer and make it clear that you do not wish to be photographed. AC members are not entitled or empowered to confiscate, or attempt to confiscate a person’s camera.

If an AC member is aware or is made aware of any person who appears to be taking photographs or video of competitors or members (especially children), which might be considered ‘unwarranted or obtrusive’, that member should approach the person to enquire what they are doing and why they are taking the photographs or film of AC members or competitors. Remember however that it is not illegal to take photographs in a public place, nor is consent required and AC members should at all times behave courteously in these situations.

If the AC member has reason to believe that a photographer is taking inappropriate images (see 3.1 above) he or she should seek to notify police or other relevant security (for example council inspectors or rangers). Members should record the incident and take reasonable steps to remember and record the person's attire and appearance. Also any other identifiable characteristic (for example, car registration should be recorded if possible in the circumstances).

4. Photography at official AC sports events

As noted above, AC is currently responsible for a number of major events including national championships and international events.

AC state associations and affiliated clubs should adopt the following procedures for their own events. Photographers should check with the relevant event organisers to determine what (if any) policies are in place in these situations. This can normally be done by approaching a member of the organising committee on the day of the event.

4.1 Official accreditation to AC sports events

From time to time, AC or the event organising committee will appoint an official photographer to provide photographic services at AC events. All other photographers seeking access to AC events must be officially accredited. This requires the submission of a media accreditation form (see sample at Appendix C), which is available on request in advance of each event. Such accreditation may require the photographer to provide proof of any relevant 'working with children' accreditation applicable in that particular state.

Accreditation is granted on the express condition that any photograph/film/imagery taken of competitors during or in connection with any of these events may only be used for editorial and non-advertising purposes. Any commercial reproduction of photographs (including selling of images or forwarding to external organisations) must receive prior written approval by AC. The accreditation passes are non-transferable.

An accreditation fee may apply, and, if so, shall be paid prior to the issue of the accreditation.

Only AC accredited photographers are allowed onto any AC areas at any AC event. Any other photographers can and should be asked to leave. Non accredited photographers are able to take photographs from all publicly accessible areas, for example, grandstands, footpaths or boardwalks.

See Appendix C for sample accreditation form for AC events – State associations and affiliated clubs may have their own accreditation form and interested photographers are advised to check with the relevant organisation.

5. Protection of AC imagery

5.1 Use of images of AC members for promotional purposes

From time to time, AC, its state associations or affiliated clubs carry out photography of AC members for promotional purposes.

In some instances, for example, major events, it is not practical to obtain consent in all situations, in which case, either a disclaimer [see Appendix B] should be displayed in prominent positions around the site or the disclaimer should be part of the event entry criteria.

5.2 Copyright of photographic images

Copyright protects a range of materials, including photographs. A photograph is protected by copyright automatically from the moment it is taken. For photographs, unless there is an agreement to the contrary, the general rule is that the photographer is the first owner of copyright. There are, however, a number of exceptions to this general rule, including:

- Photographs taken in the course of employment; or
- Commissioned photographs.

For more information on ownership of copyright, contact your legal adviser.

5.3 Displaying images of children

From time to time, AC, its state associations and affiliated clubs seek to promote AC activities in magazines, websites etc. The Australian Sports Commission has produced guidelines in these instances – see http://www.ausport.gov.au/ethics/information_sheets/IS_acquiring_images.asp.

The ASC advises that if an organisation is acquiring an image of a child for display:

- Consider using models or illustrations for promotional / advertising purposes.
- Obtain permission from the child's parent/guardian prior to taking the images of a child or young person.
- Ensure that all concerned are aware of the way in which the image is to be used and how long the image will be displayed.
- If an image is used avoid naming the child. If this is not possible avoid using both a first name and surname.
- Avoid displaying personal information such as residential address, email address or telephone numbers if images are being posted on websites or distributed in publications.
- Do not display information about hobbies, likes/dislikes, school, etc as this information has the potential to be used as grooming tools by paedophiles or other persons.
- Only use appropriate images of the child, relevant to the sport or activity, and ensure that the athlete/child is suitably clothed. Images of athletes participating in sports or activities that involve minimal clothing (e.g. swimming and gymnastics) or unusual body positions/poses could potentially be misused. The age of the child is another factor to consider when deciding if the image is appropriate.
- Reduce the ability for direct copying of pictures from a website to another source (i.e. disable the 'right mouse click' function).
- Clearly outline in a written contract to photographers who are contracted or paid to take photos, who will retain the images taken, include arrangements made for negatives, digital file and proofs and outline any restrictions for use and sale.
- Provide details of who to contact and what to do if concerns or complaints of inappropriate image use are raised.

6. Conclusion

The above policy guidelines are provided in the interest of balancing the needs of legitimate photographers with the wellbeing of AC members. The rapid advances in digital camera, mobile phone and internet technologies means that attitudes to what is appropriate and what is inappropriate photography may also change. AC will endeavour to ensure these guidelines are updated from time to time to take into account these changes.

Australian Canoeing Inc.
February 2009

ANNEXURE A SAMPLE RELEASE FORM

CONSENT AND RELEASE

I hereby irrevocably grant to Australian Canoeing (AC), its state centres and associations, all rights in and to the photographs, images, videotape and sound recording made of me ("Image") on 200..... .

The rights granted to AC include the perpetual, exclusive and unencumbered right to use, edit, reproduce, distribute, telecast, publish and otherwise exhibit the 'Image' worldwide, including excerpts, in any and all forms of media.

In addition, the rights granted to AC include the right to use the 'Image' or any portion thereof, my name, voice, likeness and biographical material to publicise and advertise the 'Image' and/or the services of AC.

I hereby release and indemnify AC and hold AC harmless from and against:

- (a) any liability based on any personal, property, residual, re-use or other right which I have or may have by virtue of any such use of my name, voice, likeness, biographical material or related clips in which I appear, or as a result of the exhibition, telecast or distribution of the Appearance or any portion thereof;
- (b) any claim arising out of any of my acts or statements made in connection with the 'Image' (including but not limited to defamation, invasion of privacy, and the like); and
- (c) any claim for further consideration or compensation for the 'Image' or the rights granted hereunder.

I have the full right and legal capacity to sign this Consent and Release. I have read this Consent and Release prior to signing it and I understand its contents.

Date: Signature:.....

Producer: Name of Interviewee:.....

(Please Print)

AC Project:.....

(If this Consent and Release is signed by a minor, the following must be completed by a parent or legal guardian)

I warrant that I am a parent (or legal guardian) of the minor whose signature appears immediately above, and I hereby agree that I and the said minor will be bound by all releases, consents and covenants contained in this Consent and Release.

Date: Signature:.....

Name:

ANNEXURE B SAMPLE DISCLOSURE FORM

This disclaimer is a basic template. Details should be amended to take into account the individual circumstances at each event.

IMPORTANT NOTICE

Information about photography during the [event]

Access of photographers to competition areas

- Only official [AC entity] photographers and officially accredited media photographers will be admitted on to the competition arenas. Official accreditation is denoted by [insert description of accreditation e.g. blue wristbands].
- In the interests of event management and safety, club photographers and members of the public are only permitted to take photos from all publicly accessible areas.
- Competitors, officials or spectators who become concerned about the behaviour of non-accredited photographers are asked to contact [insert relevant contact details].

Use of images by [AC entity]

- Competitors are advised that during the course of this event they may be photographed or filmed by official [AC entity] photographers or by officially accredited media.
- It is a condition of entry to the championships that competitors consent to the use of any photos or film containing their image, by media outlets, and/or by [AC entity] and/or by related parties in pursuit of [AC entity's] objectives.
- Competitors who do not consent to this use, must inform the official [AC entity] photographers or officially accredited media.
- For further information on AC's commitment to the protection of personal information, see the AC Privacy By-Law at www.canoe.org.au.

Event Management

ANNEXURE C SAMPLE ACCREDITATION FORM – FOR EVENTS

MEDIA ACCREDITATION

Name:
 Representing:.....
 Media organisation:.....
 Position:
 Editor/administrator:.....
 Address:.....
 Country:
 Internet site:
 Telephone:.....
 Fax:..... Email:.....
 Mobile:
 National Press Card No: & or AIPS:.....
 Passport No: Issued at:.....
 Please indicate which days accreditation is applied for:

- Day 1
- Day 2
- Day 3
- Day 4
- Day 5
- Day 6

Applicant's Signature: Date:.....

In applying for accreditation for the event, I certify that any photographic images taken are for the purpose of reproduction in the above newspaper and in other newspapers subscribing to its syndications service. Images sold to readers will be sold on the basis that they are marked for personal consumption only and are not to be re-used commercially. Photographic images taken at the event will not be sold for commercial use without the express permission of this organisation.

Director's Name: Date:.....

(please include stamp of organisation if applicable) In signing this application I certify that the above person is a professional working journalist/broadcaster/photographer whose work will be used only for the purposes specified.

Director's Signature:
.....

Please do not sign this Accreditation Form if the above person is not a professional Working journalist/broadcaster/photographer working for your organisation.