

Ten-year-old charged with manslaughter in Australia

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In a case believed to be without precedent, the Director of Public Prosecutions in Sydney, Australia has recommended that a charge of manslaughter be laid against a 10-year-old boy following the drowning of 6-year-old Corey Davis in March this year.

The accused boy cannot be named because he is a minor, yet he is considered old enough to be charged with an offence--the second most serious in the state Crimes Act--that carries a 25-year jail term.

Police allege that Corey drowned after being pushed into the Georges River while playing on the river's edge with the 10-year-old and other children. Corey was reportedly unable to swim and feared the water. Police maintain that the 10-year-old committed manslaughter because he allegedly did not notify anyone after Corey fell into the water.

A Juvenile Justice Department spokesman said it was the first time in at least 25 years that a child so young has been charged with such a serious offence. Indeed, it is thought to be the first time that a child this age has been charged with manslaughter in the state of New South Wales.

The boy has been charged under the NSW Crimes Act where there is no limit on the age at which a person can be charged with such serious offences. Under common law, the doctrine of *doli incapax* stipulates that in the case of children between the ages of 8 and 14 years, the prosecution must prove that the child understood that what he was doing was wrong.

The boy has appeared in Bidura Childrens Court this month and is due to appear again next month. He did not enter a plea. His lawyer, Mathew Johnston, said the boy had been taken to the police station, fingerprinted and photographed. He added: 'He is too young to understand the nature of the offence. The DPP [Director of Public Prosecutions] has to prove that a

child of 10 understood that what he was doing was seriously wrong, not just naughty, if in fact he carried out the act in question. It has caused great distress to the boy and his family.'

The DPP's decision follows a growing trend in the United States and Britain to charge ever-younger children with adult offences. In a recent case, two boys aged seven and eight were charged with murdering and raping an 11-year-old girl in Chicago. The prosecution was forced to drop the charges after a crime laboratory report showed semen present in the girl's underwear, indicating an attack by an older assailant, not prepubescent boys. Earlier, the police extracted a supposed 'confession' from the boys without the presence of parents, guardians or an attorney.

NSW Civil Liberties Council chairman Kevin O'Rourke said the Sydney case, 'calls into question the discretionary powers of the DPP--they didn't have to charge him. He (DPP) has decided to charge him.' He went on: 'We view with grave concern the charging of juvenile offenders with adult offences, particularly if it is based on what a 10-year-old would do and how they would react. If it is based on the fact that the DPP expects a 10-year-old to act in the way an adult would react, it is problematic.'

The prosecution has been initiated in a climate where governments throughout Australia, and most notably the Carr Labor government in NSW, are increasingly criminalising young people, who face unemployment rates of 50 percent and more in working class areas.

In NSW legislation has been introduced to give police the power to impose curfews, strip search young people suspected of carrying concealed weapons and detain youth without charges for 24 hours. Police are able to remove anyone under the age of 16 if there are 'reasonable grounds' to believe the person is at 'risk' or

'about to commit an offence'.



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