

Channel Nine Reporter Accused of Child Pornography Offences

In 2014, *A Current Affair* reporter Ben McCormack sat in the Downing Centre District Court as former 'Hey Dad' star [Robert Hughes was found guilty of child sex offences](#).

Today, the sexual assault complainants' champion – who liaised with the victims of Hughes and others – was himself arrested and charged with sexually inappropriate conduct towards children.

It has been reported that police detectives launched an investigation into the 42-year old after a tip off from the Joint Anti Child Exploitation team. Officers arrested Mr McCormack at 7.30am this morning during a vehicle stop at Moore Park and conveyed him to Redfern Police Station.

Police then executed search warrants at Mr McCormack's home in Alexandra and at the offices of *A Current Affair* in Willoughby, where they seized a mobile phone, computers, USBs and external hard drives.

"Police will allege in court the man was engaged in sexually explicit conversations about children with an adult male and discussed child pornography," a police spokesperson stated.

Mr McCormack was charged with ['using a carriage service for child pornography material'](#).

The charge

'Using a carriage service for child pornography material' is an offence under [section 474.19 of the Criminal Code Act 1995](#) (Cth).

For a person to be found guilty, the prosecution must prove beyond reasonable doubt that he or she:

1. Accessed material, or caused material to be transmitted to him or herself, or transmitted, made available, published, distributed, advertised, or promoted material, or solicited material, and
2. The person used a 'carriage service' to do this, and
3. The material was 'child pornography material'.

The prosecution must establish that the defendant 'intended' to do one of the acts listed in subsection 1 above, and that he or she was at least 'reckless' as to whether the material was 'child pornography material'.

The maximum penalty for the offence is 15 years' imprisonment.

Mr McCormack has been granted conditional bail and is scheduled to appear in [Downing Centre Local Court](#) on the 1st of May.

He is entitled to the presumption of innocence unless and until the prosecution is able to prove the case against him.

Definitions

[Section 7 of the Telecommunications Act 1977](#) defines a 'carriage service' as "a service for carrying communications by means of guided and/or unguided electromagnetic energy"; which includes fixed and mobile telephones and the internet.

Section 473.1 of the Criminal Code Act defines 'child pornography material' as:

(a) material that depicts a person, or a representation of a person, who is, or appears to be, under 18 years of age and who

(i) is engaged in, or appears to be engaged in, a sexual pose or sexual activity (whether or not in the presence of other persons); or

(ii) is in the presence of a person who is engaged in, or

appears to be engaged in, a sexual pose or sexual activity;

And does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or

(b) material the dominant characteristic of which is the depiction, for a sexual purpose, of:

(i) a sexual organ or the anal region of a person who is, or appears to be, under 18 years of age; or

(ii) a representation of such a sexual organ or anal region; or

(iii) the breasts, or a representation of the breasts, of a female person who is, or appears to be, under 18 years of age;

In a way that reasonable persons would regard as being, in all the circumstances, offensive; or

(c) material that describes a person who is, or is implied to be, under 18 years of age and who:

(i) is engaged in, or is implied to be engaged in, a sexual pose or sexual activity (whether or not in the presence of other persons); or

(ii) is in the presence of a person who is engaged in, or is implied to be engaged in, a sexual pose or sexual activity;

And does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or

(d) material that describes:

(i) a sexual organ or the anal region of a person who is, or is implied to be, under 18 years of age; or

(ii) the breasts of a female person who is, or is implied to be, under 18 years of age;

And does this in a way that reasonable persons would regard as being, in all the circumstances, offensive.

Defences

Section 474.21 of the Criminal Code Act provides that a person is not guilty of 'using a carriage service for child pornography material' if he or she convinces the court on the 'balance of probabilities' (ie more than 50%) that the conduct:

- (a) was of public benefit; and
- (b) did not extend beyond what is of public benefit.

The conduct can only be of public benefit if it was necessary for:

- (a) enforcing a law of the Commonwealth, a State or a Territory; or
- (b) monitoring compliance with, or investigating a contravention of, a law of the Commonwealth, a State or a Territory; or
- (c) the administration of justice; or
- (d) conducting scientific, medical or educational research that has been approved by the Minister in writing for the purposes of this section.

An additional defence is available for law enforcement officers acting in execution of their duties.