



The Honourable Anthony Albanese MP
Prime Minister

The Honourable Richard Marles MP
Deputy Prime Minister and Minister for Defence

The Honourable Mark Dreyfus KC MP
Attorney-General

Senator the Honourable Katy Gallagher
Minister for the Public Service

Whistleblower Protections and Whistleblower Prosecutions

Dear Prime Minister, Deputy Prime Minister, Attorney-General, Minister for the Public Service,

We welcome this Government's commitment to stronger whistleblower protections, as part of its wider integrity and transparency agenda. Nevertheless, we write to express our concern at the ongoing prosecution of Australian whistleblowers and call for stronger commitments to protecting and empowering our whistleblowers.

We all firmly believe that whistleblowers make Australia a better place. Each of us has put integrity at the heart of our agenda – we all appreciate the central role that truth-tellers play in ensuring democratic accountability and corporate good governance.

This letter follows the open letter signed by more than 70 prominent signatories, published yesterday in several Australian newspapers (**enclosed**). The letter underscores the growing alarm within civil society, the media and the legal profession about the mistreatment of whistleblowers in our country.

Richard Boyle exposed unethical debt recovery practices at the Australian Taxation Office. David McBride helped reveal allegations of war crimes committed by Australian forces in Afghanistan. In courageously speaking up, Mr Boyle and Mr McBride have each made Australia a better place in different ways. It is a travesty that they both face trial, for telling the truth about government wrongdoing. When Mr McBride faces a jury on 13 November of this year, he will be the first Australian on trial in relation to war crimes in Afghanistan: a whistleblower, not an alleged war criminal. They deserve better; Australians deserve better.

These prosecutions are deeply contrary to the public interest. They have a chilling effect on Australia's prospective whistleblowers and undermine the good work that your Government is doing to promote integrity and transparency. These cases are exceptional. Whilst it is not entirely clear whether "very unusual or exceptional circumstances" are legally required for the exercise of the Attorney-General's power (conferred by section 71 of the *Judiciary Act* 1903 (Cth)) to intervene in these cases, we consider that they

nevertheless meet any such threshold that warrants the Attorney-General's intervention, under the *Judiciary Act 1903*. We urge you to exercise this executive power, granted to the Attorney-General as the backstop of accountability for the prosecutorial process, to end these cases that are evidently not in the public interest.

We urge you to act before it is too late and the unthinkable happens. It would be tragic if Mr McBride and Mr Boyle are convicted and imprisoned – locked up for doing the right thing by blowing the whistle and speaking up about wrongdoing in government. That would be a stain on Australia's international reputation and would undermine our ability to call out the prosecution of dissidents and truth-tellers in other countries.

The ongoing prosecutions are set against the backdrop of failing whistleblower protection laws. While we welcomed the first phase of reform to the *Public Interest Disclosure Act 2013* in June of this year, we would encourage the Government to outline its timeframe and process for a robust, comprehensive overhaul of the law. Australia desperately needs consistency and uniformity in its whistleblowing regimes, not a continuation of the piecemeal development that has characterised these frameworks to date. We urge you to be bold in pursuing ambitious reform, first for public sector whistleblowers, followed by private sector whistleblowers in 2024 (with the statutory review of the *Corporations Act 2001* protections due).

Last, the Attorney-General has committed to releasing a discussion paper on the need for a whistleblower protection commission for the public sector. This is a welcome step, but it does not go far enough. A whistleblower protection commission with comprehensive jurisdiction over public and private sector whistleblowing would ensure that these laws have practical effect. The Australian Labor Party committed to a whistleblower protection commission at the 2019 election, following a bipartisan recommendation of the Parliamentary Joint Committee on Corporations and Financial Services in 2017. A whistleblowing body is the missing piece of the National Anti-Corruption Commission, present in the crossbench bill but absent from the bill that became law. Rather than a discussion paper, we urge you to commit to establishing a whistleblower protection commission by the end of this term.

By dropping the prosecutions against Mr Boyle and Mr McBride, pursuing ambitious, comprehensive law reform, and establishing a whistleblower protection commission, this Government can leave a remarkable legacy in protecting Australians who speak up about wrongdoing.

Kind regards

Senator Penny Allman-Payne
Senator for Queensland

Stephen Bates MP
Member for Brisbane

Bridget Archer MP
Member for Bass

Max Chandler-Mather MP
Member for Griffith

Adam Bandt MP
Leader of the Australian Greens
Member for Melbourne

Kate Chaney MP
Member for Curtin

Senator Dorinda Cox
Senator for Western Australia

Zoe Daniel MP
Member for Goldstein

Senator Mehreen Faruqi
Senator for New South Wales

Dr Helen Haines MP
Member for Indi

Senator Sarah Hanson-Young
Senator for South Australia

Dai Le MP
Member for Fowler

Senator Nick McKim
Senator for Tasmania

Senator Barbara Pocock
Senator for South Australia

Senator David Pocock
Senator for Australian Capital Territory

Senator Janet Rice
Senator for Victoria

Dr Monique Ryan MP
Member for Kooyong

Dr Sophie Scamps
Member for Mackellar

Rebekha Sharkie MP
Member for Mayo

Senator David Shoebridge
Senator for New South Wales

Allegra Spender MP
Member for Wentworth

Senator Jordon Steele-John
Senator for Western Australia

Zali Steggall OAM MP
Member for Warringah

Senator Lidia Thorpe
Senator for Victoria

Kylea Tink MP
Member for North Sydney

Senator Tammy Tyrell
Senator for Tasmania

Senator Larissa Waters
Senator for Queensland

Elizabeth Watson-Brown MP
Member for Ryan

Senator Peter Whish-Wilson
Senator for Tasmania

Andrew Wilkie MP
Member for Clark

Enclosed: Open letter published by whistleblower coalition