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The Hon Anthony Albanese MP
Prime Minister
Parliament House
Canberra ACT 2600

Inquiry into allegations of breaches of the APS Code of Conduct by Mr Michael Pezzullo AO

**Report detailing findings of fact and determination of whether Mr Pezzullo has
breached the APS Code of Conduct**

Lynelle Briggs AO

22 November 2023

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The Hon Anthony Albanese MP
Prime Minister
Parliament House
Canberra ACT 2600

Through: Dr Gordon de Brouwer PSM
Australian Public Service Commissioner

Dear Prime Minister

Inquiry into allegations of breaches of the APS Code of Conduct by Mr Michael Pezzullo AO

On delegation from the Australian Public Service Commissioner, I have undertaken an inquiry pursuant to the *Public Service Act 1999* (Cth) (**PS Act**) into the conduct of Mr Michael Pezzullo AO, Secretary of the Department of Home Affairs.

The inquiry originated following media reporting by the Nine Network on 24 September 2023 of message exchanges between Mr Pezzullo and Mr Scott Briggs, a "confidant" to former Prime Ministers Turnbull and Morrison. After that, the inquiry obtained and analysed voluminous additional materials (over 1,400 text messages exchanged between Mr Pezzullo and Mr Scott Briggs) and contractual dealings between the Department of Home Affairs and an entity associated with Mr Briggs. Various people were also interviewed as part of the inquiry.

Despite voluminous evidence being received and analysed as part of the inquiry to obtain a complete understanding of Mr Pezzullo's behaviour, the inquiry has been conducted expeditiously while affording Mr Pezzullo all due procedural fairness.

Reflecting your familiarity with the Nine Network media reporting, I make only a few comments here focussing on Mr Pezzullo's conduct; the rest is covered in the **attached** report, which has detailed findings of fact and my determination as to whether Mr Pezzullo has breached the Australian Public Service (**APS**) Code of Conduct (**Code**).

In reaching my conclusions, I have undertaken careful and detailed assessment of Mr Pezzullo's actions and in doing so, provided him with ample opportunity to respond to the alleged breaches of the Code and accepted a number of his clarifications. Mr Pezzullo was respectful, co-operative and honourable in the way he conducted himself throughout the inquiry.

My assessment of Mr Pezzullo's conduct is based on fact and grounded by legislation as well as my knowledge of the norms of the Westminster system of government. My determinations on his conduct are based on the balance of probabilities, and the sanction proposed reflects the gravity of the allegations which I have found to be substantiated.

The Westminster system of government has established boundaries between the roles of politicians and public servants, but as you know those roles intersect in the everyday course of government business. By law and convention, however, there are areas where public servants have no role, namely in political matters such as the performance and choice of Ministers or electoral concerns, and there are established procedures by which public servants engage with Ministers and Cabinet—directly, through Ministers' offices, or through the hierarchical systems of government. These procedures are in place to safeguard the public interest by providing the necessary checks and balances that deliver stability and certainty in government administration.

ss 47E(c) and (d); 47F(1) and 11A(5)

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ss 47E(c) and (d); 47F(1) and 11A(5)

ss 47E(c) and (d); 47F(1) and 11A(5)

ss 47E(c) and (d); 47F(1) and 11A(5)

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I consider that Mr Pezzullo has overstepped the divide between usual public service discourse and engagement in the political domain ss 47E(c) and (d); 47F(1) and 11A(5)

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In the circumstances, I have concluded that he failed to act impartially and that it would be very difficult for any Government to trust Mr Pezzullo to maintain their confidences and for him to be considered apolitical in their future dealings with him.

ss 47E(c) and (d); 47F(1) and 11A(5)

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but to expedite the work as directed by Cabinet through engaging a company that on the face of it had expertise in the area and could deliver a solution quickly.

Although Mr Pezzullo denied many of the allegations, I have found that he has breached various provisions of the Code (as contained in section 13 of the PS Act) in several respects, as follows:

- (a) Section 13(2): that he failed to act with care and diligence in connection with his APS employment, in so far as he sought to gain an advantage for himself in his engagement with Mr Briggs and failed to declare a conflict of interest in the DPG Advisory direct sourced contract;
- (b) Section 13(3): that he failed to treat everyone with respect and courtesy, in so far as he was disparaging of and otherwise passed judgement on Ministers, disparaged Secretaries and their Departments and otherwise failed to demonstrate the level of professionalism, courtesy and integrity expected of senior public officials;
- (c) Section 13(6): he failed to maintain appropriate confidentiality about dealings with any Minister or Minister's member of staff, in so far as he communicated regularly with Mr Briggs, who was not employed in government and did not hold a security clearance, on sensitive government-related matters and breached Ministerial confidentiality on a number of occasions;
- (d) Section 13(7): he failed to take reasonable steps to avoid any conflict of interest, nor did he disclose that interest in so far as he failed to take reasonable steps to avoid and disclose details of his personal relationship with Mr Briggs and in the granting of a contract to Mr Briggs's company DPG Advisory in 2021;
- (e) Section 13(10)(a) and (b): he improperly used inside information or his duties, status, power or authority to seek to gain a benefit or advantage in terms of Ministerial appointments or machinery

of government changes, and he sought to cause detriment to certain Ministers and officials and their departments;

- (f) Section 13(11): he failed to behave in a way that at all times upholds the APS Values and the integrity and good reputation of his Agency and the APS, as demonstrated by his failure to comply with all of the APS Values at various times during his engagement with Mr Briggs; and
- (g) Section 13(13): he failed to comply with any other conduct requirements prescribed by the regulations, namely regarding the disclosure of confidential information that would be prejudicial to the effective workings of government.

Mr Pezzullo has also failed in his duty under section 12 of the PS Act to uphold and promote the APS Values in his role as an Agency Head.

ss 47E(c) and (d); 47F(1) and 11A(5)

Although I recognise Mr Pezzullo's perspective that his discussions with Mr Briggs were centred on public policy objectives, as distinct from attaining personal benefit, financial or otherwise, I have found to the contrary.

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I have recommended that a sanction of termination of Mr Pezzullo's appointment be imposed under s 59 of the PS Act, given the gravity and extent of the breaches of the Code and the requirement to uphold the APS Values as part of his role as Secretary of the Department of Home Affairs.

Yours sincerely

s 11C(1)(a) - personal
privacy - additional
redaction made for
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Lynelle Briggs AO

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1. Introduction

1.1 Executive summary

1. Upon the delegation of the Australian Public Service Commissioner (**APS Commissioner**), Dr Gordon De Brouwer, I have conducted an inquiry into alleged breaches of the Australian Public Service (**APS**) Code of Conduct (**Code**) by Mr Michael Pezzullo AO, Secretary of the Department of Home Affairs (**Inquiry**).
2. The Inquiry has been conducted pursuant to sections 41(2)(m) and 41A of the *Public Service Act 1999* (**PS Act**), which empower the APS Commissioner to inquire into an alleged breach of the Code by an Agency Head. Pursuant to section 41A(2) of the PS Act, where the Agency Head is a Secretary, the APS Commissioner is required to report on the results of an inquiry (including, if relevant, recommendations for sanction) to the Prime Minister. This report is provided to you in accordance with the requirements of the PS Act.
3. I can confirm that in reaching my conclusions, I have assessed Mr Pezzullo's actions against the Code, the APS Values and other provisions of the PS Act and that I have applied the basic requirements for procedures for determining alleged breaches of the Code as set out in the *Public Service Regulations 2023* (**PS Regulations 2023**) and the *Australian Public Service Commissioner's Directions 2016* (**Commissioner's Directions**).
4. The approach to the Inquiry is set out below, together with my findings of fact, determinations regarding breaches of the Code and recommendations as to sanction. A summary of my findings is at **Part 3.3** of this report. My detailed findings are set out in the sections below.
5. At the outset of this report, I note that as part of the Inquiry, I have considered many text messages which could constitute hundreds of separate breaches of the Code. However, given the sheer number of messages (over 1,400 individual exchanges), the way that I have proceeded in determining whether there has been a breach of the Code is to group the messages into five overarching allegations, broadly categorised based on the theme of the content of the text messages. The remaining two allegations relate to separate, discrete issues that were uncovered during the Inquiry.
6. I have assessed Mr Pezzullo's conduct and behaviour, including as disclosed in the publicly reported text messages themselves and also as reflected in the materials subsequently received as part of the Inquiry, and in numerous instances found the allegations made against Mr Pezzullo to be fully substantiated and recorded breaches of the Code in respect of them. In respect of two allegations where Code breaches against Mr Pezzullo have been partially substantiated, I have found that some aspects of the Code have been breached whilst others have not. In the latter circumstance, this is either because Mr Pezzullo has satisfied me, based on the evidence provided, that no breach has occurred, or in other circumstances, although evidence exists in relation to his conduct, this evidence does not, of itself rise to the threshold of a Code breach.
7. In short, my determination is that I have found that Mr Pezzullo has breached the Code in respect of five overarching allegations on at least 14 occasions as follows:
 - (a) in respect of Allegation 1 (using Mr Pezzullo's duty, power, status or authority to seek to gain a benefit or advantage for himself): sections 13(2), 13(7), 13(10)(a) and 13(11) of the PS Act, each constituting separate contraventions of the Code. To the extent that a contravention of section 13(11) has occurred, this arises due to a breach of the APS Values at sections 10(1) and 10(2) of the PS Act;
 - (b) in respect of Allegation 2 (engaging in gossip and disrespectful critique of Ministers and public servants): sections 13(3), 13(10)(b) and 13(11) of the PS Act, each constituting separate contraventions of the Code. To the extent that a contravention of section 13(11) has occurred, this arises due to a breach of the APS Values at sections 10(1), 10(2) and 10(3) of the PS Act;
 - (c) in respect of Allegation 3 (failure to maintain confidentiality of sensitive government information): sections 13(6), 13(11) and 13(13) of the PS Act, each constituting

separate contraventions of the Code. To the extent that a contravention of section 13(11) has occurred, this arises due to a breach of the APS Values at section 10(2) of the PS Act. To the extent that a contravention of section 13(13) has occurred, this arises due to a breach of regulation 2.1(3) of the *Public Service Regulations 1999* (Cth) (**PS Regulations 1999**);

- (d) in respect of Allegation 4 (failing to act apolitically in Mr Pezzullo's employment): section 13(11) of the PS Act, incorporating breaches of the APS Values at sections 10(2) and 10(5) of the PS Act; and
- (e) in respect of Allegation 6 (the engagement of DPG Advisory Solutions (**DPG Advisory**) for urgent advisory support in August 2021): sections 13(2), 13(7) and 13(11) of the PS Act (each constituting separate contraventions of the Code). To the extent that a contravention of section 13(11) has occurred, this arises due to a breach of the APS Values at sections 10(2) and 10(4) of the PS Act.

- 8. Despite the Code breach findings outlined in paragraph 7 above, had I applied a separate breach to each applicable text message, the quantum of Code breaches may even have extended into the hundreds. In my view, such an approach would have caused undue delay to the conclusion of the Inquiry, for no materially different overall recommendation.
- 9. I have also made a recommendation that a sanction of termination of Mr Pezzullo's appointment as Secretary is appropriate in the circumstances.
- 10. Finally, I wish to make the observation that in considering Mr Pezzullo's behaviour, I have been conscious that it is important for a Secretary to engage in fair and robust interactions with Ministers, their colleagues and other APS employees in respect of a myriad of subject matters concerning their departmental functioning and the broader public service. However, my findings in this Inquiry necessarily conclude that Mr Pezzullo's conduct strayed far beyond what a reasonable person would consider necessary or appropriate for a Secretary to engage in.

1.2 Scope of the Inquiry

- 11. After media reporting by the Nine Network about text messages that were alleged to have been sent by Mr Pezzullo to Mr Scott Briggs over a period of some years during the Turnbull and Morrison Governments, on 24 September 2023, Ms Clare O'Neil MP, Minister for Home Affairs and Minister for Cyber Security, wrote to the APS Commissioner referring the matter for his advice and consideration. A copy of this request is set out at **Annexure A**.
- 12. Over the course of the following week, further allegations were made in Nine Network reports about more message exchanges between Mr Pezzullo and Mr Briggs. The Inquiry covers alleged messages reported on 60 Minutes, in the Sydney Morning Herald and The Age newspapers over the week 24 to 30 September 2023, as well as other matters that have arisen since that time, as detailed in this report.
- 13. On 26 September 2023, acting under section 78(5A) of the PS Act, the APS Commissioner delegated his powers and functions under section 41(2)(m) of the PS Act to me to conduct the Inquiry (**Annexure B**). The delegation made clear that those powers and functions included special inquiry powers contained in section 43(2) of the PS Act. I have exercised those powers when required.
- 14. I advised the APS Commissioner on 25 September 2023 verbally and on 26 September 2023, in writing, that I had no actual or possible conflicts of interest that would cause me to exclude myself from the Inquiry, in particular, that I did not know Mr Briggs nor was he a relative.
- 15. I was contracted formally on 26 September 2023 by the APS Commissioner to conduct the Inquiry. Specifically, I was engaged to make:
 - (a) findings about the facts; and
 - (b) determinations about whether Mr Pezzullo breached the Code.

16. Shortly thereafter, Mr Matt Kelleher, a Partner at Clayton Utz, was engaged to support me with the Inquiry. Mr Kelleher and representatives from Clayton Utz have assisted me throughout the Inquiry.
17. On 27 September 2023, the APS Commissioner advised Mr Pezzullo of the Inquiry (**Annexure C**).

1.3 Methodology

18. There are no formal procedures governing inquiries into alleged breaches of the Code by an Agency Head.¹ However, in the conduct of the Inquiry, I have had regard to the principles of procedural fairness and carried out the investigation process with as little formality and as much expedition as proper consideration of the matter has permitted. As to this, at no point has Mr Pezzullo raised any concern in respect of the conduct of the Inquiry. ss 47E(c) and (d); 47F(1) and 11A(5)

[REDACTED]

ss 47E(c) and (d); 47F(1) and 11A(5)

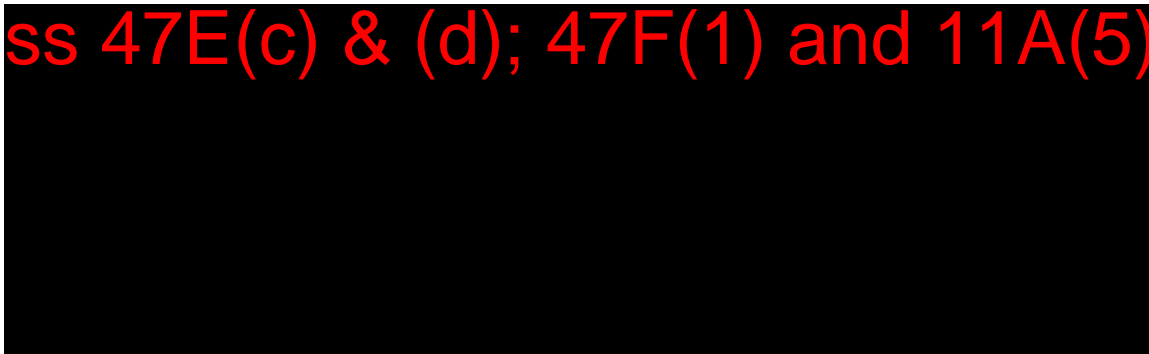
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19. As part of the Inquiry, I have taken the following steps:
 - (a) On 29 September 2023, I wrote to Mr Pezzullo reaffirming that I had been appointed to conduct the Inquiry. In this correspondence I provided Mr Pezzullo with detail of the reported alleged text messages, advised him that I would examine the reported text messages to establish whether or not they would constitute a breach of one or more requirements contained in the Code, and that the scope of my Inquiry was not limited to the Code or may change depending on evidence that might emerge during the Inquiry (**Annexure D**).
 - (b) On 3 October 2023, Mr Pezzullo sent me an email confirming that, to the best of his recollection, he did send the messages in substantially the terms reported by the Nine Network (**Annexure E**).
 - (c) Following Mr Pezzullo's confirmation that he did send the messages as reported, I proceeded to review the messages and on 9 October 2023, I wrote to Mr Pezzullo to notify him of the allegations against him (**First Notice**) (**Annexure F**). The First Notice enclosed an Annexure particularising each of the 28 messages that I considered may amount to a breach of the Code for Mr Pezzullo's consideration and response. These messages were comprised of those which were the subject of initial reporting by the Nine Network.
 - (d) On 16 October 2023, Mr Pezzullo provided a written response to the First Notice advising, amongst other things, that he could not see in the Annexure enclosed with the First Notice where a case is presented as to why the messages constituted possible breaches of the Code (**Annexure G**).
 - (e) On 17 October 2023, I wrote to Mr Pezzullo clarifying that the specific provisions of the Code which it is alleged that he has breached by reason of sending or engaging in the exchange of the specific messages were clearly set out in the Annexure enclosed with the First Notice (**Annexure H**). Mr Pezzullo was provided with an opportunity to

¹ Cf. The APSC's *Procedures for Inquiring into and Determining Breaches of the APS Code of Conduct by an APS Employee or former APS employee*, which applies to current and former APS employees.

provide any further written response and invited to attend an interview to discuss the allegations.

- (f) On 19 October 2023, Mr Pezzullo provided a further written response to the First Notice and confirmed his agreement to attend an interview (**Annexure I**).
- (g) On 23 October 2023, I invited Mr Pezzullo to attend an interview at Clayton Utz's offices (**Annexure J**).
- (h) I interviewed Mr Pezzullo on 25 October 2023. A copy of the transcript from Mr Pezzullo's interview is at **Annexure K (First Pezzullo Transcript)**.
- (i) Before interviewing Mr Pezzullo, I explained to him that:
 - (i) the interview would be audio recorded to ensure any evidence he provided was accurately represented; and
 - (ii) should he wish, he could obtain a copy of the transcript of the recording following the interview.
- (j) Mr Pezzullo requested a copy of the transcript of his interview and, on 10 November 2023, was provided with a copy of the First Pezzullo Transcript.
- (k) Through the exercise of the special inquiry powers contained under section 43(2) of the PS Act, which enable the APS Commissioner to utilise the coercive powers afforded to the Auditor-General under the *Auditor-General Act 1997* (Cth), further voluminous messages between Mr Pezzullo and Mr Briggs were obtained. This uncovered that approximately 1,400 text messages were exchanged between Mr Pezzullo and Mr Briggs between March 2017 to April 2023, approximately 755 of which were sent by Mr Pezzullo.
- (l) In addition to interviewing Mr Pezzullo, I conducted interviews with the following individuals:

- (m) I then issued further requests for information to various Departments, including the Department of Home Affairs, the Department of Finance and the Department of the Prime Minister and Cabinet. Much of the information obtained from these Departments was also through the use of my special inquiry powers and informed a number of factual findings detailed in this report, including that Mr Briggs had never been engaged as an APS employee or contractor, was never employed or engaged by any Ministerial or Parliamentary office, and did not hold an appropriate security clearance. Documents regarding conflict of interest declarations made by Mr Pezzullo and any procurements between the Department of Home Affairs and Mr Briggs (or any entities in which Mr Briggs is involved) were also requested and provided.
- (n) Following analysis of the extensive additional evidence obtained through these enquiries, on 10 November 2023, I wrote to Mr Pezzullo to notify him of further allegations against him that I considered may amount to a breach of the Code (**Supplementary Notice**) (**Annexure O**).

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- (o) On 15 November 2023, Mr Pezzullo provided a written response to the Supplementary Notice (**Annexure Q**).
- (p) I conducted a further interview of Mr Pezzullo at Clayton Utz's offices on 17 November 2023. A copy of the transcript from Mr Pezzullo's interview is at **Annexure R (Second Pezzullo Transcript)**, a copy of which was provided to Mr Pezzullo on 20 November 2023.
- (q) I wrote to Mr Pezzullo on 20 November 2023 advising him of my preliminary determinations of his suspected breaches of the Code and that I proposed to recommend a sanction of termination of his appointment be imposed under section 59 of the PS Act.
- (r) On 22 November 2023, Mr Pezzullo responded to my preliminary determinations and recommendations (**Annexure S**), and I have taken into account this response in making my final findings and in the preparation of this report.
- (s) I have had regard to and applied the Australian Public Service Commission (**APSC**) publication *Handling Misconduct: A Human Resource Manager's Guide (APSC Misconduct Guide)*² in considering the standard of behaviour, the question of intention or motive and definitions of terms used in the Code.

1.4 Standard of proof

- 20. I have considered the allegations on the balance of probabilities. This requires me to be satisfied that, having considered all relevant, credible and significant evidence, a reasonable person would form the view that the suspected misconduct (as described in the First Notice and Supplementary Notice (together, the **Notices**)) is more likely than not to have occurred.
- 21. This standard of proof is based on the principles Dixon J set out in *Briginshaw v Briginshaw*³ that:

...reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequences of the fact or facts to be proved. The seriousness of the allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding...

1.5 Standard of behaviour

- 22. The APSC Misconduct Guide applies an objective standard of behaviour:⁴
 - 2.5. *The standard of behaviour expected of APS employees is an objective one. This means that the question of whether particular conduct is in breach of the Code is not determined by the subjective standard of the particular employee who has engaged in the conduct.*
 - 2.6. *An employee's genuine belief that the action they took was proper is not relevant to a decision about whether that action was in breach of the Code. For example, an employee may genuinely have intended to compliment a colleague by remarking on their physical appearance, but such behaviour may not meet the objective standard of 'respect and courtesy, and without harassment' required by the Code.*
- 23. I agree that this is the correct standard to apply and have applied this standard in my report.

² <https://www.apsc.gov.au/circulars-guidance-and-advice/handling-misconduct-human-resource-managers-guide>.

³ (1938) 60 CLR 336 at 361-362.

⁴ APSC Misconduct Guide, page 131.

1.6 Intention

24. The APSC Misconduct Guide advises that intention is not generally relevant to the question of whether the Code has been breached:⁵

4.13. *The Code does not use words such as ‘wilful’, ‘reckless’ or ‘negligent’ to qualify behaviour, and, generally speaking, intent does not need to be shown to determine that an employee has breached the Code. It can, for example, be inconsistent with the Code to act without respect and courtesy even if the employee did not intend to be disrespectful or discourteous. However, at the preliminary stage of considering conduct that appears not to meet expectations, it is reasonable for agencies to have regard to intent among other factors in deciding on a proportionate response.*

4.14. *Conduct that is the result of an honest and reasonable mistake, accident, or a lack of capability can generally be addressed through process improvements or management action such as training, performance management, or counselling. On the other hand, behaviour by an employee that is within their control—for example, a wilful refusal to follow lawful and reasonable directions, or a blatant disregard for expected behavioural standards—may be better dealt with through misconduct action.*

25. I agree that this is the correct approach and while I may make comments about the intention or otherwise of Mr Pezzullo in this report, I do not consider the intention behind his actions to be determinative in assessing whether there is sufficient evidence to establish to the requisite standard of proof relating to the factual matters underpinning the allegations in the Notices.

1.7 Overlapping Concepts

26. Various sections of the Code contain more than one element. I consider that for a breach of a section of the Code to be established only one element need be established. It is not necessary to be satisfied that all elements are made out, and although there may be some behaviour which will satisfy all elements, it is not necessary for this to occur. In forming this view, I have relied on the APSC Misconduct Guide, which states the following in relation to "Overlapping concepts":⁶

2.10. *There is some overlap between different elements of the Code and between obligations in the same section of the Code. For example, not taking reasonable steps to avoid a conflict of interest could also be a lack of care and diligence. Behaving dishonestly may also be a lack of integrity. It is generally unnecessary to determine the degree of overlap; a breach of one obligation is a breach of the Code.*

2.11. *Where multiple elements are in play it is appropriate to consider the allegation against each element separately to the extent needed. A breach of one element does not in itself mean any other element has been breached. For example, the fact that a person has acted without care and diligence does not mean they cannot have acted with integrity.*

⁵ APSC Misconduct Guide, page 32.

⁶ APSC Misconduct Guide, page 132.

2. Preliminary considerations informing the Inquiry

27. An important early consideration in the Inquiry was whether or not the reported messages were real, a distortion or a media fabrication. To ascertain this and to inform my decision about the next steps in the Inquiry, I asked Mr Pezzullo on 29 September 2023 to advise me:
- (a) if he sent the reported messages in the terms, or substantially the terms, as reported;
 - (b) if there were particular reported messages which he did not send and, if so, which ones were they, and
 - (c) if there were particular reported messages which he did not recall sending, which ones they were, and if he had reason to believe that he did not send those reported messages.

28. Mr Pezzullo responded on 3 October 2023 that to the best of his recollection, he believed:

"I did send the reported messages in substantially the terms that have been reported by Nine. ss 47E(c) & (d); 47F(1) and 11A(5)

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29. ss 47E(c) and (d); 47F(1) and 11A(5)

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30. I then let him know by email that same day that I would proceed to the next stage of the Inquiry, which would involve working my way through the reported messages and making an initial assessment against the Code and coming back to him thereafter for his input.

31. Another early consideration was whether or not the reported messages could be considered to be in connection with Mr Pezzullo's APS employment or as private exchanges between two people that bear little or no relationship to Mr Pezzullo's employment. Mr Briggs was reported on 25 September 2023 to have advised the Nine Network that he had had communications with Mr Pezzullo over a long time, but said they were always "private matters".⁷ ss 47E(c) and (d); 47F(1) and 11A(5)

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32. The APSC Misconduct Guide at subsections 2.24-2.28 provides guidance on the Code requirement at subsection 13(11) of the Act to "at all times" behave in a way that upholds the APS Values and the integrity and good reputation of the Agency and the APS. It is noted in the Guide that the "term 'in connection with employment' is not confined to the performance of job-related tasks or other conduct in the course of employment. Employees are required to abide by the Code when engaged in activities outside work hours and away from the workplace where there is a reasonable connection with their APS employment."⁸

33. I am conscious in this regard that the reported messages were allegedly exchanges between Mr Pezzullo and Mr Briggs over encrypted message applications (WhatsApp and Signal) which the Department of Home Affairs had authorised for use for confidential work purposes by its personnel and via a departmental mobile phone issued by the Department of Home Affairs and used by the Secretary during the course of his duties. The reported messages have been sent at all times of the day, including during normal business hours. The messages are now very much in the public domain after widespread media coverage and have been directly associated with Mr Pezzullo's role as Secretary of the Department of Home Affairs.

34. The reported messages exchanged between Mr Pezzullo and Mr Briggs were regular and often and extended over a prolonged period, ss 47E(c) and (d); 47F(1) and 11A(5)

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⁷ As reported in the Age on 24 September 2023 (see Annexure D).

⁸ APSC Misconduct Guide, page 20.

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s.7(6) and (7), 17(1) and 11(6) The reported messages cover a wide range of matters pertinent to Ministers, Secretaries, the nature of the Department of Home Affairs, government policy and delivery relevant to Mr Pezzullo's work. Mr Pezzullo acknowledges that the engagements "*pertained to the implementation of the government's policies and priorities*". I am therefore satisfied that there was a reasonable connection with Mr Pezzullo's employment to render them in scope for the Inquiry.

3. Allegations and elements of the Code

3.1 Allegations

35. The allegations against Mr Pezzullo are outlined in the Notices put to him and are as follows:

(a) Allegation 1: Using your duty, power, status or authority to seek to gain a benefit or advantage for yourself

(i) It is alleged that by sending the messages (outlined at paragraph 7.1 of the Supplementary Notice) to a person with known close ties to the incumbent Prime Minister(s), and/or by being an active participant in exchanges of that nature, you attempted to use your duty, power, status or authority to seek to gain a benefit or advantage for yourself by:

- A. seeking to influence or interfere in the appointment of individuals to Ministerial appointments, to suit your own personal interests as Secretary of the Department of Home Affairs;
- B. soliciting information about the dealings Mr Briggs has had with any Minister or a Minister's member of staff, to advance your interests as Secretary of the Department of Home Affairs;
- C. seeking to influence the structure of the APS by communicating your personal views on machinery of government changes with a view to those views being expressed to Ministers outside the usual departmental or Ministerial processes; and/or

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ss 47E(c) and (d); 47F(1) and 11A(5)

(ii) By reason of that conduct, it is alleged that you have breached the Code.

(b) Allegation 2: Engaging in gossip and disrespectful critique of Ministers and public servants

(i) It is alleged that by sending the messages (outlined at paragraph 8.1 of the Supplementary Notice) to a person with known close ties to the incumbent Prime Minister(s), and/or by being an active participant in exchanges of that nature, you:

- A. were disparaging of APS and other government personnel, including views they may have expressed and/or their competence in their role;
- B. were disparaging of, and otherwise passed judgement on decisions made by Ministers and/or the Attorney General; and
- C. otherwise failed to demonstrate the levels of professionalism, courtesy and integrity expected of senior public officials by government and members of the public.

(ii) By reason of that conduct, it is alleged that you have breached the Code.

(c) Allegation 3: Failure to maintain confidentiality of sensitive government information

(i) It is alleged that your frequent communications with Mr Briggs included discussion of matters in respect of which you held a duty of confidentiality, namely:

- A. sensitive or confidential government-related matters;
- B. aspects of your dealings with various Ministers and Ministerial offices to Mr Briggs; and
- C. matters relating to the formulation or implementation of government policies and/or programs with Mr Briggs.

(ii) By reason of that conduct, it is alleged that you have breached the Code.

(d) Allegation 4: Failing to act apolitically in your employment

(i) It is alleged that by sending the messages (outlined at paragraph 10.1 of the Supplementary Notice) to a person with known close ties to the incumbent Prime Minister(s), and/or by being an active participant in exchanges of that nature, you failed to comply with your obligation to act impartially and apolitically, including by:

- A. seeking to influence political events and imposing your political views on or at your work; and
- B. using contact with Mr Briggs as a means to advance your views on various matters with two Prime Ministers.

(ii) By reason of that conduct, it is alleged that you have breached the Code.

ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 2

(f) Allegation 6: the engagement of DPG Advisory Solutions for urgent Advisory Support in August 2021

Cat 3

(i) It is alleged that on 16 August 2021, you directed [redacted] to engage DPG Advisory (a company with known ties to Mr Briggs) for an urgent advisory task of 2 months' duration, in contravention of your obligations as an APS employee, by:

Cat 3

- A. failing to disclose to ss 47E(c) and (d), 47F(1) and 11A(5) your relationship to Mr Briggs, nor any conflict of interest generally; and/or

ss 47E(c) and (d); 47F(1) and 11A(5)

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ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 2

3.2 Sections of the Code

36. The Code is contained in section 13 of the PS Act.

37. Specifically, Mr Pezzullo was alleged to have engaged in conduct that, if established, may have breached the following sections of the Code:

- (a) section 13(1), which states that:

An APS employee must behave honestly and with integrity in connection with APS employment.

- (b) section 13(2), which states that:

An APS employee must act with care and diligence in connection with APS employment.

- (c) section 13(3), which states that:

An APS employee, when acting in connection with APS employment, must treat everyone with respect and courtesy, and without harassment.

- (d) section 13(5), which states that:

An APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction.

- (e) section 13(6), which states that:

An APS employee must maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff.

- (f) section 13(7), which states that:

An APS employee must:

(a) take reasonable steps to avoid any conflict of interest (real or apparent) in connection with the employee's APS employment; and

(b) disclose details of any material personal interest of the employee in connection with the employee's APS employment.

(g) section 13(8), which states that:

An APS employee must use Commonwealth resources in a proper manner and for a proper purpose.

(h) section 13(9), which states that:

An APS employee must not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment.

(i) sections 13(10)(a) and 13(10)(b), which state that:

An APS employee must not improperly use inside information or the employee's duties, status, power or authority:

(a) to gain, or seek to gain, a benefit or an advantage for the employee or any other person; or

(b) to cause, or seek to cause, detriment to the employee's Agency, the Commonwealth or any other person.

(j) section 13(11), which states that:

An APS employee must at all times behave in a way that upholds:

(a) the APS Values and APS Employment Principles; and

(b) the integrity and good reputation of the employee's Agency and the APS.

(k) section 13(13), which states that:

An APS employee must comply with any other conduct requirement that is prescribed by the regulations.

38. In respect of section 13(13) of the Code, I note that the PS Regulations 1999 were in force at the time of the exchange of messages and alleged breaches of the Code, and so I have had regard to this version of the Regulations in the course of the Inquiry.

39. The APSC Misconduct Guide recommends that words used in the Code are given their ordinary meaning:⁹

2.3. *The terms used in the Code are generally given their ordinary meaning. Decision-makers may rely on sources such as the Macquarie Dictionary for authority on definitions of terms used in the Code—for example, 'honestly', 'diligence', 'courtesy', 'improperly', etc.*

40. I have relied on this position in drafting my report. As a result, where I consider terms require definition, I have referred to both the APSC Misconduct Guide and the Macquarie Dictionary to assist me in defining these terms.

41. In addition to section 13 of the PS Act and the Code, section 12 of the PS Act specifies that Agency Heads are required to uphold and promote the APS Values and APS Employment

⁹ APSC Misconduct Guide, page 131.

Principles. Section 14 of the Act establishes that Agency Heads and statutory office holders are bound by, that is, they must comply with, the Code, and subsection 35(3) of the PS Act requires them by personal example and other appropriate means to promote the APS Values and the APS Employment Principles and compliance with the Code. The APSC Misconduct Guide at subsection 2.18 makes clear that Agency Heads have additional obligations relating to the Code as role models and advocates of APS integrity.¹⁰

42. Definitions and guidance on the Code elements are set out in **Attachment 1** to this report.

3.3 Summary of findings

43. The conclusions that I have made in respect of these allegations are set out in the following table:

No.	Allegation	Finding of fact	Determination of Code Breach
1.	Using your duty, power, status or authority to seek to gain a benefit or advantage for yourself	<p>I have found this Allegation is partially substantiated on the basis that I have found Allegations 1A, 1B and 1C substantiated, but Allegation 1D to be unsubstantiated.</p> <p>This finding is on the basis that I have found that:</p> <ul style="list-style-type: none"> Mr Pezzullo acknowledges he used his relationship with Mr Briggs, and Mr Briggs's political connections to two Prime Ministers, as a means of communicating his views on machinery of government and Ministerial appointments; Mr Pezzullo also acknowledged that his communications with Mr Briggs placed him in a position to solicit information about the views of the Executive Government on matters pertaining to his portfolio as Secretary of the Department of Home Affairs, again through unofficial lines; and <p>ss 47E(c) and (d); 47F(1) and 11A(5)</p>	<p>Sections 13(2), 13(7), 13(10)(a) and 13(11) of the PS Act (incorporating breaches of the APS Values at sections 10(1) and 10(2) of the PS Act)</p> <p style="text-align: right;">Cat 2</p>
2.	Engaging in gossip and disrespectful critique of Ministers and public servants	<p>I have found this Allegation is substantiated.</p> <p>This finding is on the basis that I have found that:</p> <ul style="list-style-type: none"> the messages Mr Pezzullo exchanged with Mr Briggs included a range of communications that were clearly disparaging of senior public servants and Ministers; whilst the people the subject of Mr Pezzullo's critique were not recipients of those messages (at least at the time they were made), given Mr Pezzullo's awareness of Mr Briggs's connection to the Executive Government, and his status as a confidant of the incumbent Prime Ministers, Mr Pezzullo ought to have been aware of a clear risk that his views would be passed on to the Prime Minister of the day, and for his views to inform 	<p>Sections 13(3), 13(10)(b) and 13(11) of the PS Act (incorporating breaches of the APS Values at sections 10(1), 10(2) and 10(3) of the PS Act)</p> <p style="text-align: right;">Cat 2</p>

¹⁰ APSC Misconduct Guide, page 19.

No.	Allegation	Finding of fact	Determination of Code Breach
		<p>any actions taken by the Prime Minister about the management of those individuals; and</p> <ul style="list-style-type: none"> • as Secretary, Mr Pezzullo should have kept his views on Ministers to himself and left his pursuit of his views on machinery of government arrangements to the usual interdepartmental processes where Secretaries provide views directly to their current Ministers and the Secretary of the Department of the Prime Minister and Cabinet who provides advice, if requested by the Prime Minister. 	
3.	Failure to maintain confidentiality of sensitive government information	<p>I have found this Allegation is substantiated.</p> <p>This finding is on the basis that I have found that:</p> <ul style="list-style-type: none"> • it is not in contest that Mr Pezzullo: <ul style="list-style-type: none"> ○ communicated with Mr Briggs on sensitive or confidential government-related matters; ○ disclosed aspects of his dealings with various Ministers and Ministerial offices to Mr Briggs; and ○ discussed the formulation or implementation of government policies and/or programs with Mr Briggs, • by sending the relevant messages to Mr Briggs, not only did Mr Pezzullo regularly communicate with Mr Briggs on sensitive government-related matters, but he also breached Ministerial confidentiality on a number of occasions. Mr Pezzullo's conduct was made worse by the fact that Mr Briggs did not hold the security clearances that may otherwise have provided some protection; and • although it must be acknowledged that Mr Briggs was a confidant of two Prime Ministers and was likely to be well-informed on a number of issues discussed with Mr Pezzullo, this is not recognised as a relevant defence to a breach of the Code. 	Sections 13(6), 13(11) and 13(13) of the PS Act (incorporating breaches of the APS Values at section 10(2) of the PS Act; and regulation 2.1(3) of the PS Regulations)
4.	Failing to act apolitically in your employment	<p>I have found this Allegation is substantiated.</p> <p>This finding is on the basis that I have found that it is well beyond the political dividing line for a public servant at any level to insert their views and intervene in Ministerial appointments, which are rightly in the purview of the Prime Minister and politicians generally. Based on the evidence obtained throughout the Inquiry, I have found that a reasonable person (being the requisite test), would not conclude that Mr Pezzullo could serve any Government of the day impartially in circumstances where he has engaged in voluminous exchanges with Mr Briggs, when knowing</p>	Section 13(11) of the PS Act (incorporating breaches of the APS Values at sections 10(2) and 10(5) of the PS Act)

No.	Allegation	Finding of fact	Determination of Code Breach
		him to be a confidant of Liberal Party Prime Ministers and furthermore, a non-APS employed Liberal Party powerbroker.	
5.	<p>ss 47E(c) and (d); 47F(1) and 11A(5)</p> <p>[Redacted]</p>	<p>I have found this Allegation is unsubstantiated.</p> <p>ss 47E(c) and (d); 47F(1) and 11A(5)</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	<p>Not applicable</p> <p>Cat 2</p>
6.	<p>The engagement of DPG Advisory for urgent Advisory Support in August 2021</p>	<p>I have found this Allegation is partially substantiated.</p> <p>I find that the allegation that Mr Pezzullo failed to make adequate conflict of interest disclosures (Allegation 6A) to be <u>substantiated</u>, noting that Mr Pezzullo accepted during the Inquiry that he failed to do so to the requisite standard.</p> <p>ss 47E(c) and (d); 47F(1) and 11A(5)</p> <p>[Redacted]</p>	<p>Sections 13(2), 13(7) and 13(11) of the PS Act (incorporating breaches of the APS Values at sections 10(2) and 10(4) of the PS Act)</p> <p>Cat 2</p>

No.	Allegation	Finding of fact	Determination of Code Breach
7.	ss 47E(c) and (d); 47F(1) and 11A(5)	I have found this Allegation is unsubstantiated . ss 47E(c) and (d); 47F(1) and 11A(5) 	Not applicable

Cat 2

4. Initial observations

4.1 Mr Briggs's interface with the public service

44. I have received evidence that Mr Briggs was never employed under the *Members of Parliament (Staff) Act 1984* (Cth) (**MOPS Act**) as a Ministerial adviser or staffer, nor was he engaged as a consultant to any Minister during the relevant period. Mr Briggs confirmed that at interview and also indicated that he did not have a security clearance during the period in question – 2017 to the present.

45. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 4

46. Despite those matters, Mr Briggs has made his career in areas close to government. At the political level, Mr Briggs was Finance Director of the NSW Liberal Party (2016-18), Chief Operating Officer of the NSW Liberal Party (2005-07), Adviser to Turnbull & Partners (2003-05), and friend to Prime Ministers Mr Turnbull and Mr Morrison, amongst other things. Mr Briggs's business career covers areas that in one way or another involve government, including government advisory, foreign investment, visa processing, security and risk assessments and response, processing large-scale government transactions, and public-private partnerships, through companies including DPG Advisory, PACE First, FIA Australia, Ewey Creek Ventures, Southern Strategy, SecureFast, Pacific Blue Capital, and Australian Visa Processing.

ss 47E(c) and (d); 47F

Cat 3

4.2 Interviewees - Observations and Credibility

47. All interviewees were cooperative with the Inquiry, and I did not have concerns about the credibility of any interviewees. I especially note that Mr Pezzullo's demeanour during the Inquiry was at all times cordial, respectful and cooperative, despite the voluminous and challenging materials presented to him, and extensiveness of the allegations.

5. Allegation 1

5.1 Executive summary of Allegation 1

<p>Using your duty, power, status or authority to seek to gain a benefit or advantage for yourself by:</p> <p>A) seeking to influence or interfere in the appointment of individuals to Ministerial appointments, to suit your own personal interests as Secretary of the Department of Home Affairs;</p> <p>B) soliciting information about the dealings Mr Briggs has had with any Minister or a Minister's member of staff, to advance your interests as Secretary of the Department of Home Affairs;</p> <p>C) seeking to influence the structure of the APS by communicating your personal views on machinery of government changes with a view to those views being expressed to Ministers outside the usual departmental or Ministerial processes; and/or</p> <p>D) ss 47E(c) and (d); 47F(1) and 11A(5)</p>	<p>Substantiated in respect of 1A, 1B and 1C but not 1D</p> <p>Cat 2</p>
<p>Allegation 1 accuses Mr Pezzullo of leveraging Mr Briggs's political connections to influence the Prime Minister's decisions on matters relating to Mr Pezzullo's portfolio as Secretary of the Department of Home Affairs, including Ministerial appointments. The Inquiry reveals extensive communication between them, with hundreds of messages assessed as relevant to the allegation. ss 47E(c) and (d); 47F(1) and 11A(5)</p> <p>Cat 1</p> <p>It is not ordinarily a breach of the Code for a Secretary to further the interests of their Minister in pursuit of good policy or delivery outcomes, and ss 47E(c) and (d); 47F(1) and 11A(5) care must be taken to ensure that bystanders are not quick to characterise advice given in good faith, and for the betterment of the nation, as a breach of the Code where a collateral benefit or advantage arises for a public servant.</p> <p>ss 47E(c) and (d); 47F(1) and 11A(5)</p> <p>Cat 1</p> <p>ss 47E(c) and (d); 47F(1) and 11A(5)</p> <p>Cat 1</p> <p>Although Mr Pezzullo provided comprehensive and cogent responses to the concerns raised, on balance I am satisfied that Allegations 1A, 1B and 1C are established, and that a breach of the Code arises by reason of this conduct.</p>	

5.2 Analysis of evidence

48. Allegation 1 is perhaps the most complex of the allegations, raising philosophical questions about the capacity for senior public servants to influence decision making of the Executive Government and exploit unofficial methods of communication with the Executive Government, including for altruistic purposes. Those matters extend beyond the scope of this Inquiry (as set out further below).

49. The thrust of Allegation 1 is that Mr Pezzullo, sought to wield Mr Briggs's political connections as a means to influence decisions made by Prime Ministers in relation to Mr Pezzullo's career, the structure of the APS, and Ministerial appointments to his Department.

50. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 4

51. Against that background, Mr Pezzullo engaged regularly with Mr Briggs over the years 2017 to the present (in over a thousand messages, phone calls, emails and over meals) and was aware of Mr Briggs's political associations and business arrangements, including in areas where the Department of Home Affairs has some responsibilities. Mr Pezzullo pursued contact with Mr Briggs to gossip over political events, discuss personal and professional matters and sought to reinforce his particular views on various matters.

52. Of the text messages analysed, approximately 80 rows (out of 238 detailed in Annexure A to the Supplementary Notice) have been referenced as having some relationship to this allegation.

ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 1

53. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 1

54. However, in lamenting the quality of political leadership, Mr Pezzullo suggested by message to Mr Briggs in November 2017 that the "*Parliamentary route is now contaminated with few exceptions. We need to build a meritocracy by stealth and run government from the bureaucracy, working to 4-5 powerful and capable Ministers*". He had earlier in July 2017 joked about him possibly being given Defence and Home Affairs departments at the same time. In 2018 he argues for fewer, bigger departments. Even though Mr Pezzullo evidently understands the concept of Ministerial accountability, I doubt that any reasonable person would consider that to "*build a meritocracy by stealth and run government from the bureaucracy*" is appropriate for a Secretary to argue in our system of democratic government nor consistent with usual public service accountability arrangements.

55. ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 1 and 3

56. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 4

(a) ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

Cat 4

[Redacted]

[Redacted]

[Redacted]

[Redacted]

57. ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted] Cats 3 and 4

ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted]

Cat 4

Respectfully, I do not agree that any reasonable comparison may be drawn to those circumstances.

58. ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted] ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 1 and 4

59. In my experience, ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted]

Even though I am prepared to accept that public servants at this level necessarily engage with stakeholders and discuss matters of public policy and delivery

Cat 1

import as a part of their usual duties, I do not accept that this was a "*business as usual*" arrangement. It was indiscreet and it was ill-advised.

5.3 Findings of fact in relation to Allegation 1

60. I find, on the balance of probabilities, that items A, B and C of Allegation 1 are substantiated, but item D is not substantiated; and on that basis, Allegation 1 is partially substantiated.

61. This finding is reached on the basis that:

- (a) Mr Pezzullo acknowledges he used his relationship with Mr Briggs, and Mr Briggs's political connections to two Prime Ministers, as a means of communicating his views on machinery of government and Ministerial appointments to two Prime Ministers;
- (b) Mr Pezzullo also acknowledged that his communications with Mr Briggs also placed him in a position to solicit information about the views of the Executive Government on matters pertaining to his portfolio as Secretary of the Department of Home Affairs, again through unofficial lines; and

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ss 47E(c) and (d); 47F(1) and 11A(5)

ss 47E(c) and (d); 47F(1) and 11A(5)

5.4 Breach determination in relation to Allegation 1

Cat 1

63. The relevant sections of the Code that Mr Pezzullo may have breached in relation to this allegation are set out in the following sections of the PS Act:

- (a) ss 47E(c) and (d); 47F(1) and 11A(5)
- (b) Section 13(2) (see Attachment 1, paragraphs 6 to 8);
- (c) Section 13(7) (see Attachment 1, paragraph 21);
- (d) Section 13(10) (see Attachment 1, paragraphs 24 to 30); and
- (e) Section 13(11) (see Attachment 1, paragraphs 31 to 43).

Cat 2

64. Assessing each section in turn:

- (a) ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 2

(b) Section 13(2) involves conduct that falls below the standards of due care and diligence expected of APS employees - ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 1

Therefore, in my view Mr Pezzullo has contravened section 13(2) of the PS Act;

(c) Section 13(7) is concerned with the avoidance and disclosure of conflicts of interest in connection with the employee's APS employment. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 1

I am therefore satisfied that Mr Pezzullo's behaviour has contravened section 13(7) of the PS Act;

(d) Section 13(10) is concerned with the improper use of inside information or the employee's duties, status, power or authority to gain, or seek to gain a benefit or advantage for the employee or any other person; or, conversely, a disadvantage for another person. ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 1 and 4

and therefore, I am satisfied that a breach of section 13(10)(a) has arisen; and

(e) Section 13(11) relevantly requires APS employees to uphold the APS Values, integrity and good reputation of the employee's Agency and the APS. The APS Values include broad principles such as acting in accordance with defined principles of respect and ethics. Taking into account my descriptions of each criteria at Attachment 1, and my analysis of section 13(1) of the PS Act, I am not satisfied that Mr Pezzullo's meets the standards of ethics under section 10(2) of the PS Act and described at paragraph 37 of Attachment 1. In particular, I am of the view that Mr Pezzullo has failed to act in a way "that is right and proper", and I am therefore satisfied that Mr Pezzullo's behaviour has contravened Section 13(11) of the PS Act. I am also of the view that Mr Pezzullo has failed to act in a way that upholds the APS value of "Committed to Service" under section 10(1) of the PS Act, taking into account my analysis of sections 13(2), 13(7) and 13(10) above, and the requirements described at paragraph 35 of Attachment 1.

65. As such, based on the findings of fact outlined above, it is my determination that Mr Pezzullo has breached sections 13(2), 13(7), 13(10)(a) and 13(11) of the PS Act (each breach constituting a separate breach of the Code). To the extent that I am satisfied a breach of section 13(11) has occurred, this arises due to a breach of the APS Values at sections 10(1) and 10(2) of the PS Act.

6. Allegation 2

6.1 Executive Summary of Allegation 2

<p>Engaging in gossip and disrespectful critique of Ministers and public servants that:</p> <p>A) were disparaging of APS and other government personnel, including views they may have expressed and/or their competence in their role;</p> <p>B) were disparaging of, and otherwise passed judgement on decisions made by Ministers and/or the Attorney General; and</p> <p>C) otherwise failed to demonstrate the levels of professionalism, courtesy and integrity expected of senior public officials by government and members of the public.</p>	<p>Substantiated</p>
<p>Allegation 2 is concerned with the manner in which Mr Pezzullo has spoken about Ministers and public servants in the course of his exchanges with Mr Briggs, and against the background of Mr Briggs being a known associate of senior Ministers and the Liberal Party generally.</p> <p>ss 47E(c) and (d); 47F(1) and 11A(5)</p> <p>Cat 1</p> <p>Relationships are the glue that hold us all together, and the public service is no exception. The PS Act makes it abundantly clear through the APS Values that public servants are to work cooperatively and respect all people, and through the Code that public servants should behave with honesty and integrity, act with care and diligence, and treat everyone with respect in connection with their employment.</p> <p>As Secretary, Mr Pezzullo should have kept his views on Ministers to himself and left his pursuit of his views on machinery of government arrangements to the usual interdepartmental processes where Secretaries provide views directly to their current Ministers and the Secretary of the Department of the Prime Minister and Cabinet who provides advice, if requested by the Prime Minister.</p> <p>Through his conduct, Mr Pezzullo failed to act with respect and courtesy to Ministers and Secretaries when he criticised them in a way that was likely or intended to be passed on to Prime Ministers. In so doing, he has also failed to comply with his responsibilities to uphold the APS Values and the good reputation of the APS.</p> <p>I am therefore satisfied that Allegation 2 is established, and that a breach of the Code arises by reason of this conduct.</p>	

6.2 Analysis of evidence

66. Allegation 2 is concerned with the manner in which Mr Pezzullo has spoken about Ministers and public servants in the course of his exchanges with Mr Briggs, and against the background of Mr Briggs being a known associate of senior Ministers and the Liberal Party generally.
67. Mr Pezzullo had a lot to say about some Ministers and some senior public servants, suggesting to Mr Briggs that the Prime Minister “*change out the leadership*”. He criticised the Secretary and Ministers of the Attorney-General’s Department and the Department of Foreign Affairs and Trade among others; “*Don’t trust anything served up by AGD – I don’t.*” **ss 47E(c) and (d); 47F(1) and 11A(5)**
- Department of the Prime Minister and Cabinet and its Secretary, Mr Parkinson

AO, who he variously described as “*Parkinson isn’t up to it*”, inept and incompetent, “*insecure*”, “*befuddled*”, lacking in “*vitality*” and “*missing in action*”. At other times, he offers himself as an alternative Secretary to Prime Minister and Cabinet: “*I might well be in PM&C which I would reluctantly have to accept*” and “[i]f he gets stuck regarding the PM&C job and he wants a driver in there, I would do it for him. It’s not a job that I’ve ever been interested in but if he needs a finisher in there I would of course answer the call. But only if he gets stuck!”

68. Of the messages analysed, approximately 35 (out of 238) rows have been referenced as having some relationship to this allegation. A number of those messages were discussed with Mr Pezzullo at length.

69. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 4

6.3 Findings of fact in relation to Allegation 2

75. I find, on the balance of probabilities, that Allegation 2 is substantiated.

76. Having considered the responses provided by Mr Pezzullo, my finding is that the messages he exchanged with Mr Briggs did include a range of communications that were disparaging of senior public servants and Ministers.

77. Although I accept that people the subject of Mr Pezzullo's critique were not recipients of those messages (at least at the time they were made), I do not accept that this provides a sufficient defence to the allegation. I note in particular Mr Pezzullo's awareness of Mr Briggs's connection to the Executive Government, and his status as a confidant of the incumbent Prime Ministers. Against that background, Mr Pezzullo ought to have been aware of a clear risk that his views would be passed on to the Prime Minister of the day, and for his views to inform any actions taken by the Prime Minister about the management of those individuals. Mr Pezzullo's conduct takes on a different character against the backdrop of that possibility.

78. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 1

ss 47E(c) and (d); 47F(1) and 11A(5)

As Secretary, Mr Pezzullo would be conscious that any utterances by him, privately or publicly, hold considerable weight and are likely to have undermined the positions of those concerned if reported on to Prime Ministers, as the reported messages confirm they were, or if spread more widely as has occurred as a result of the publishing of the messages.

79.

ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 4

I accept that it is common in our system of government for public servants to present different views directly with Ministers and other public servants either privately or in meetings. APS employees would be expected to do so respectfully. They might also vent privately about things that happen at work or their bosses, and people may be given some latitude to do that. However, in my view, very few other individuals would be given the same opportunity as Mr Pezzullo was given, to influence the views and actions of the Prime Minister through unofficial channels. It is that distinguishing factor that elevates the severity of Mr Pezzullo's conduct.

80.

I do not therefore accept that Mr Pezzullo's conduct merely aligns with the accepted standards of behaviour within the APS.

81.

ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 1 and 4

6.4 Breach determination in relation to Allegation 2

82.

The relevant sections of the Code that Mr Pezzullo may have breached in relation to this allegation are set out in the following sections of the PS Act:

- (a) Section 13(3) (see Attachment 1, paragraphs 9 to 16);
- (b) Section 13(10) (see Attachment 1, paragraphs 24 to 30); and
- (c) Section 13(11) (see Attachment 1, paragraphs 31 to 43).

83.

Assessing each section in turn:

- (a) Although in the usual course, private communications exchanged between APS employees and independent third parties are unlikely to give rise to a breach of section 13(3) of the Code, Mr Pezzullo's conduct takes on a different character for the reasons I have alluded to at paragraphs 77 to 79 above. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 1

In light of those matters, I am prepared to accept that Mr Pezzullo's messages to Mr Briggs included a range of disrespectful messages, and that the issuance of those messages bore a connection to Mr Pezzullo's APS employment;

- (b) Section 13(10) is concerned with the improper use of inside information or the employee's duties, status, power or authority to gain, or seek to gain a benefit or advantage for the employee or any other person; or, conversely, a disadvantage for another person. For Allegation 2, it is the second of those two impacts that is relevant:

specifically, the question I need to consider is whether or not Mr Pezzullo criticised individuals in a way that was likely or intended to cause detriment to them. In the circumstances, drawing upon the matters I have raised above at paragraphs 77 to 78, I am satisfied that such a detriment may arise from Mr Briggs passing on Mr Pezzullo's critique to Prime Ministers or other members of the Executive Government. The remaining question is whether or not that detriment was intended, or sought by Mr Pezzullo. In my view, the answer to that question must be yes ss 47E(c) and (d); 47F(1) and 11A(6)

Cats 1 and 4

[REDACTED]

I am therefore satisfied that a breach of section 13(10)(b) has arisen; and

- (c) Section 13(11) relevantly requires APS employees to uphold the APS Values, integrity and good reputation of the employee's Agency and the APS. The APS Values include broad principles such as acting in accordance with defined principles of respect and ethics. Taking into account my descriptions of each criteria at Attachment 1, I am of the view that Mr Pezzullo has failed to act in a way that meets the standards of professionalism, integrity and respect provided for under sections 10(1), (2) and (3) of the APS Values. I am therefore satisfied that Mr Pezzullo has contravened Section 13(11) of the PS Act.

84. As such, based on the findings of fact outlined above, it is my determination that Mr Pezzullo has breached sections 13(3), 13(10)(b) and 13(11) of the PS Act (each breach constituting a separate breach of the Code). To the extent that I am satisfied a breach of section 13(11) has occurred, this arises due to a breach of the APS Values at sections 10(1), 10(2) and 10(3) of the PS Act.

7. Allegation 3

7.1 Executive Summary of Allegation 3

Failure to maintain confidentiality of sensitive government information	Substantiated
<p>In dealings that public servants have with people working outside government, it is expected that they will maintain confidentiality in their use and handling of government information.</p> <p>By sending the relevant messages to Mr Briggs, not only did Mr Pezzullo regularly communicate with Mr Briggs on sensitive government-related matters, but he also breached Ministerial confidentiality on a number of occasions. Mr Pezzullo's conduct was made worse by the fact that Mr Briggs did not hold the security clearances that may otherwise have provided some protection.</p> <p>Although it must be acknowledged that Mr Briggs was a confidant of two Prime Ministers and was likely to be well-informed on a number of issues discussed with Mr Pezzullo, this is not recognised as a relevant defence to a breach of the Code.</p> <p>I am therefore satisfied that Allegation 3 is established, and that a breach of the Code arises by reason of this conduct.</p>	

7.2 Analysis of evidence

85. The thrust of Allegation 3 is that Mr Pezzullo communicated with Mr Briggs on matters in respect of which he was under a duty of confidentiality. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 1

86. ss 47E(c) and (d); 47F(1) and 11A(5) that his messaging with Mr Briggs touched on matters that were confidential and sensitive, and on that basis, I do not intend to further elaborate on those matters in the body of this report. ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 1 and 4

Cat 4

- (a) Ministers and non-APS employees (such as Mr Briggs) are not subject to the APS Code;
- (b) as Secretary of the Department of Home Affairs, the matters within his portfolio are of particular sensitivity and of international interest; and
- (c) as far as he is aware, Mr Briggs has never been an APS employee, has never been formally employed by a Ministerial office, nor did he hold a security clearance.

87. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 4

88. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 4

¹¹ ss 47E(c) and (d); 47F(1) and 11A(5)

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ss 47E(c) and (d); 47F(1) and 11A(5)

89. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 4

90. ss 47E(c) and (d); 47F(1) and 11A(5)

91. ss 47E(c) and (d); 47F(1) and 11A(5)

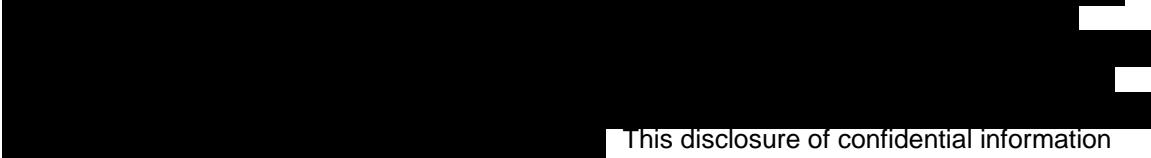
7.3 Findings of fact in relation to Allegation 3

92. My finding, on the balance of probabilities, is that Allegation 3 is substantiated.

93. This finding has been reached by reason of the following:

- (a) it is not in contest that Mr Pezzullo:
 - (i) communicated with Mr Briggs on sensitive or confidential government-related matters;
 - (ii) disclosed aspects of his dealings with various Ministers and Ministerial offices to Mr Briggs; and
 - (iii) discussed the formulation or implementation of government policies and/or programs with Mr Briggs;
- (b) I do not accept that Mr Pezzullo's confidentiality obligations under the Code are limited to *classified* information. If that were true, then the confidentiality obligations contained within the Code might only have meaningful application in respect of high-level public servants who interact with the Executive Government or who have visibility of Cabinet-in-Confidence documentation. To the contrary, the duty of a public servant must extend to any sensitive information to which the person has been exposed in their employment and which has not been made publicly available. This includes information that has been the subject of limited consultation with external stakeholders, who would be expected to exercise discretion over the discussion and disclosure of that information; and
- (c) although I acknowledge the matters described at paragraphs 86 to 90, I do not accept that Mr Pezzullo provided sufficient justification for his conduct, particularly against the background of the matters set out at paragraph 85, and my findings in relation to Allegation 1.

7.4 Breach determination in relation to Allegation 3

94. The relevant sections of the Code that Mr Pezzullo has breached in relation to this allegation are set out in the following sections of the PS Act:
- (a) Section 13(6) (see Attachment 1, paragraph 20);
 - (b) Section 13(11) (see Attachment 1, paragraphs 31 to 43); and
 - (c) Section 13(13) (see Attachment 1, paragraph 44 to 45).
95. In relation to Section 13(6), the APSC Misconduct Guide is clear that *any* dealings with Ministers or Ministers' offices are to be treated with appropriate confidentiality in order to protect "sensitive information" to which they may be privy.¹² This includes retaining confidentiality from other APS employees who do not have a "proper need to know". This obligation is couched in exceptionally broad terms and in my view has been contravened by reason of Mr Pezzullo's disclosures to Mr Briggs;
96. Section 13(11) requires APS employees to uphold the APS Values, integrity and good reputation of the employee's Agency and the APS. Relevantly, the APS Values include broad principles demonstrating leadership, trustworthiness and integrity. Taking into account my descriptions of each criteria at Attachment 1, and my analysis of section 13(6) of the PS Act, I am not satisfied that Mr Pezzullo has met the standards of ethics described at paragraph 37 of Attachment 1. In particular, I am of the view that Mr Pezzullo has failed to act in a way "that is right and proper", and I am therefore satisfied that Mr Pezzullo's behaviour has contravened Section 13(11) of the PS Act; and
97. In practice, section 13(13) refers to the obligation of APS employees to comply with additional obligations under the regulations. Relevantly, this includes the disclosure of information that could be prejudicial to the effective working of government. **ss 47E(c) and (d); 47F(1) and 11A(5)**
- Cat 1 
- This disclosure of confidential information was prejudicial to the effective workings of government (subsection 2.1(3) of the PS Regulations 1999).
98. By reason of those findings, I conclude that there is a sufficient basis to establish that Mr Pezzullo's conduct has breached sections 13(6), 13(11) and 13(13) of the PS Act (each breach constituting a separate breach of the Code). To the extent that I am satisfied that a breach of section 13(11) has occurred, this arises due to a breach of the APS Values at section 10(2) of the PS Act. Finally, to the extent that I am satisfied that a breach of section 13(13) has occurred, this arises due to a breach of regulation 2.1(3) of the PS Regulations 1999.

¹² APSC Misconduct Guide, page 137.

8. Allegation 4

8.1 Executive summary of Allegation 4

Failing to act apolitically in your employment	Substantiated
<p>Under our Westminster system of government, there is a clear divide between the activities of the government and politicians more generally and the public service. While public servants can be a member of a political party, they are required to be apolitical in their APS employment and faithfully serve the government of the day. Among other things, this means that they cannot behave in a manner that seeks to influence political events or impose their political views on or at their work, and that they must manage their conduct in a way that avoids actual or perceived conflicts of interest or political interests.</p> <p>It is well beyond the political dividing line for a public servant at any level to insert their views and intervene in Ministerial appointments, which are rightly the purview of the Prime Minister and politicians more generally. ss 47E(c) and (d); 47F(1) and 11A(5)</p> <p>Cats 1 and 4 [REDACTED]</p> <p>This is also supported by the fact that message exchanges with this tenor were not fleeting or sporadic, but have been exchanged extensively and consistently with Mr Briggs over an extended period of time.</p> <p>Based on the evidence obtained throughout the Inquiry, I have found that a reasonable person (being the requisite test), would not conclude that Mr Pezzullo could serve any Government of the day impartially in circumstances where he has engaged ss 47E(c) and (d); 47F(1) and 11A(5) with Mr Briggs in the context of him being a known confidant of Liberal Party Prime Ministers and furthermore, a non-APS employed Liberal Party powerbroker. Cat 1</p> <p>On that basis, Allegation 4 is substantiated.</p>	

8.2 Analysis of evidence

99. Allegation 4 is concerned with a perceived failure of Mr Pezzullo to act apolitically in his employment.
100. This allegation was founded upon a review of a number of messages recovered during the course of the Inquiry, and which were put to Mr Pezzullo for response, which raised concerns that Mr Pezzullo sought to:
- (a) influence political events and impose his political views on outcomes in the course of his APS employment; and
 - (b) use his contact with Mr Briggs as a means to advance his views on various matters with two Prime Ministers.

101. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 4

[REDACTED]

[REDACTED]

[REDACTED]

Cats 1 and 4

102. ss 47E(c) and (d); 47F(1) and 11A(5)

103. ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 1 and 4

Cat 4

8.3 Findings of fact in relation to Allegation 4

105. I find, on the balance of probabilities, that Allegation 4 is substantiated.

106. In arriving at this finding, I have had regard to section 17 of the Commissioner's Directions and the various requirements to uphold the APS Value of impartiality. Of particular relevance is the requirement to "[ensure] that the individual's actions do not provide grounds for a reasonable person to conclude that the individual could not serve the Government of the day impartially".

107. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 4

108. Notwithstanding these contentions, I find that the messages exchanged between Mr Pezzullo and Mr Briggs include various statements attributed to Mr Pezzullo which, objectively viewed, are not apolitical ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 1

109. It is also relevant to note that messages with this tenor obtained throughout the course of the Inquiry are not fleeting or sporadic. Rather, they have been exchanged extensively and consistently with Mr Briggs who was a known confidant of Prime Ministers Mr Turnbull and Mr Morrison and furthermore, a non-APS employed Liberal Party powerbroker.

Cats 1 and 4

110. ss 47E(c) and (d); 47F(1) and 11A(5)

I therefore consider that Mr Pezzullo has overstepped the divide between usual public sector discourse and engagement in the political domain. In the circumstances, I have no doubt that some Ministers in both of the major political parties would be unlikely to trust Mr Pezzullo to work apolitically and would fear that he could undermine their positions through the use of back-door political channels.

111. Based on this evidence, I am satisfied that a reasonable person would not conclude that Mr Pezzullo could serve any Government of the day impartially in circumstances where he has engaged in voluminous and ongoing exchanges with Mr Briggs, and which also informed the conduct and behaviours that are the subject of Allegations 1 and 2.

8.4 Breach determination in relation to Allegation 4

112. The relevant section of the Code that Mr Pezzullo has breached in relation to this allegation is set out in section 13(11) (see Attachment 1, paragraphs 31 to 43). This view is reached based on the following assessment:
- (a) Section 13(11) relevantly requires APS employees to uphold the APS Values, integrity and good reputation of the employee's Agency and the APS. The APS Values include broad principles such as acting in accordance with defined principles of respect and ethics.
 - (b) Taking into account my descriptions of each criteria at Attachment 1, I am not satisfied that Mr Pezzullo's meets the standards of ethics described at paragraph 37 of Attachment 1 and provided for under section 10(2) of the APS Values. In particular, I am of the view that Mr Pezzullo has failed to act in a way "that is right and proper"; and
 - (c) Nor am I satisfied that Mr Pezzullo has acted in a way that meets the standard of being impartial as provided for under section 10(5) of the APS Values. In particular, I am of the view that Mr Pezzullo has failed to act in a way of ensuring that his actions do not provide grounds for a reasonable person to conclude that he could not serve any Government of the day impartially, as described at paragraph 42 of Attachment 1.
113. As such, based on the findings of fact outlined above, it is my determination that Mr Pezzullo has breached the Code by reason of his breach of sections 10(2) and 10(5) of the PS Act (which set out the APS Values), and therefore, his breach of section 13(11) of the PS Act.

9. Allegation 5

9.1 Executive summary of Allegation 5

ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted]	Unsubstantiated
ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted]	
On that basis, the allegation is unsubstantiated.	

Cat 2

9.2 Analysis of evidence

Cat 2

ss 47E(c) and (d); 47F(1) and 11A(5)

[Redacted]

ss 47E(c) and (d); 47F(1) and 11A(5)



Cat 2

ss 47E(c) and (d); 47F(1) and 11A(5)

9.3 Findings of fact in relation to Allegation 5

ss 47E(c) and (d); 47F(1) and 11A(5)

129. By reason of those findings, I conclude that Mr Pezzullo's conduct did not give rise to a breach of the Code in respect of this allegation.

Cat 2

10. Allegation 6

10.1 Executive summary of Allegation 6

<p>Impropriety in the engagement of DPG Advisory in August 2021, by:</p> <p>A) failing to make adequate conflict of interest disclosures regarding his relationship to Mr Briggs, nor any conflict of interest generally; and/or</p> <p>ss 47E(c) and (d); 47F(1) and 11A(5)</p>	<p>Substantiated in respect of 6A but not 6B</p> <p>Cat 2</p>
<p>Allegation 6 is concerned with the engagement of DPG Advisory in August 2021.</p> <p>During the COVID-19 pandemic, the Department was under pressure from the Government to quickly find alternative quarantine housing arrangements for returning citizens, and then progressively for foreign students and incoming workers.</p> <p>An entity affiliated with Mr Briggs - DPG Advisory - ss 47E(c) and (d); 47F(1) and 11A(5)</p> <p>Although the value of that contract was \$80,000, no competitive procurement process appears to have been followed in respect of that engagement.</p> <p>Upon review of the file for that contract, no conflict of interest declaration by Mr Pezzullo was located. ss 47E(c) and (d); 47F(1) and 11A(5)</p> <p>Cats 2 and 3</p> <p>After discussing my concerns with Mr Pezzullo, he accepted that he had not taken sufficient steps to make a conflict of interest declaration in respect of the procurement.</p> <p>I am therefore satisfied that Allegation 6A is established, and that a breach of the Code arises by reason of this conduct.</p> <p>Cat 2</p> <p>ss 47E(c) and (d); 47F(1) and 11A(5)</p> <p>Therefore, on balance, Allegation 6 is partially substantiated.</p>	

10.2 Analysis of evidence

130. Allegation 6 is concerned with the engagement of DPG Advisory for a two-month engagement in August 2021, in circumstances where:

- (a) ss 47E(c) and (d); 47F(1) and 11A(5)
- (b) it is alleged that Mr Pezzullo did not disclose his affiliation with Mr Briggs ss 47E(c) and (d); 47F(1) and 11A(5), nor any conflict of interest in relation to the procurement generally.

Cat 3

131. ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted]
[Redacted] Cats 2 and 3

132. On 4 August 2021, the Minister for Home Affairs was given in-principle agreement to engage a commercial service provider through competitive tender to provide a fully scalable service to facilitate the entry and quarantine of temporary skilled migration.

133. ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted]
[Redacted] Cats 2 and 3

134. ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted]
[Redacted] Cats 2 and 3

135. ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted]
[Redacted] Cats 2 and 3

136. It is not in contest that:

(a) ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted]
[Redacted] Cat 2

(b) ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted]
[Redacted] Cat 2

(c) ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted]
[Redacted] Cats 2 and 3

(d) Mr Pezzullo's email ss 47E(c) and (d); 47F(1) and 11A(5) [Redacted] did not include any reference to Mr Pezzullo's relationship to Mr Briggs, nor did it identify any conflict of interest generally; and [Redacted] Cat 3

(e) on 17 August 2021, DPG Advisory was engaged by the Department of Home Affairs with a contracted amount of \$79,950 for a two month period (with there being no explanation why the contracted amount was reduced by \$50 from the 16 August 2021 proposal from Mr Gazard) (**Annexure P**).

137. Upon review of documents held by the Department of Home Affairs in relation to this tender, it did not appear that any conflict of interest declaration had been made in relation to this procurement.

138. The non-existence of any conflict of interest declaration was supported by Mr Pezzullo's response ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 2 and 3

That response, ss 47E(c) and (d); 47F(1) and 11A(5) and signed by Mr Pezzullo provided that "no conflict of interest declarations were made."

139. ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 2 and 4

140. ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 2 and 4

[Redacted text]

141. ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 2 and 4

[Redacted text]

10.3 Findings of fact in relation to Allegation 6

142. I find, on the balance of probabilities, that Allegation 6 is partially substantiated.

143. This view is reached on the basis of the following factual findings:

(a) in relation to the issue of Mr Pezzullo's conflict of interest disclosures:

(i) I consider that Mr Pezzullo had a direct conflict of interest ss 47E(c) and (d), 47F(1) and 11A(5)

It was clearly necessary for Mr Pezzullo to disclose that conflict ss 47E(c)

Cats 2 and 3

and (d);
47F(1)
and
11A(5)

(ii) ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 1 and 4

he appropriately conceded that he did not do so when presented with the proposition that no objective evidence could be located to support that view, despite comprehensive searches being conducted of Mr Pezzullo's emails and Departmental records (noting that the Department's records otherwise appeared to be comprehensive and well maintained). There was also no independent witness able to corroborate any oral disclosure that was initially thought to have been made;

(iii) even if a conflict was declared in the manner described by Mr Pezzullo (which he concedes he did not do), I consider that the steps he described taking to declare and document that conflict, and to manage the conflict, would not have been sufficient. In particular, Mr Pezzullo's failure to document a conflict of interest ss 47E(c) and (d), 47F(1) and 11A(5)

Cat 3

in his 16 August 2021 email (even if previously given orally) constitutes a significant lapse in judgement.

Cat 3

The same can be said of Mr Pezzullo's failure to disclose his conflict of interest ss 47E(c) and (d), 47F(1) and 11A(5) at the time of ss 47E(c) subsequent inquiry. Mr Pezzullo also recognises his failure to sign a standalone declaration in relation to this procurement, as he had done previously. ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 1 and 3

All of those matters weigh heavily against Mr Pezzullo on this occasion;

(iv) ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 2

(v) Therefore, on balance, I consider it more likely than not that Mr Pezzullo failed to make either a written or oral declaration in relation to this procurement,

(b) ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 2

(ii) ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 2

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■

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10.4 Breach determination in relation to Allegation 6

144. The relevant sections of the Code that Mr Pezzullo may have breached in relation to this allegation are set out in the following sections of the PS Act:

(a) ss 47E(c) and (d); 47F(1) and 11A(5) Cat 2

(b) Section 13(2) (see Attachment 1, paragraphs 6 to 8);

(c) Section 13(7) (see Attachment 1, paragraph 21);

(d) ss 47E(c) and (d); 47F(1) and 11A(5) Cat 2

(e) ss 47E(c) and (d); 47F(1) and 11A(5) and Cat 2

(f) Section 13(11) (see Attachment 1, paragraphs 31 to 43).

145. Assessing each section in turn: Cat 2

(a) ss 47E(c) and (d); 47F(1) and 11A(5)

(b) Section 13(2) involves conduct that falls below the standards of due care and diligence expected of APS employees - this threshold is clearly met, for the reasons I have already stated. It was highly inappropriate for Mr Pezzullo to have any involvement in

the procurement of DPG Advisory whatsoever. His failure to recognise this 'in the moment', and to make sure his conflict of interest was clearly stated on the record, were both significant lapses of judgment. In my view Mr Pezzullo has clearly contravened section 13(2) of the PS Act;

(c) Section 13(7) is concerned with the avoidance and disclosure of conflicts of interest in connection with the employee's APS employment. For the reasons set out at paragraph 143(a), in my view Mr Pezzullo has clearly contravened this section of the Code;

(d) ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 2

(e) ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 2

(f) Section 13(11) relevantly requires APS employees to uphold the APS Values, integrity and good reputation of the employee's Agency and the APS. The APS Values include broad principles such as acting in accordance with defined principles of respect and ethics. Taking into account my descriptions of each criteria at Attachment 1, I am not satisfied that Mr Pezzullo meets the standards of ethics described at paragraph 37 of Attachment 1. In particular, I am of the view that Mr Pezzullo has failed to act in a way that is trustworthy, and "right and proper". I am also of the view that Mr Pezzullo has failed to act in a way that upholds the APS value of being "Accountable" under section 10(4) of the PS Act, taking into account the requirements described at paragraph 41 of Attachment 1, including the requirement of "being open to scrutiny and being transparent in decision making". I am therefore satisfied that Mr Pezzullo's behaviour has contravened section 13(11) of the PS Act.

146. As such, based on the findings of fact outlined above, it is my determination that Mr Pezzullo has breached sections 13(2), 13(7) and 13(11) of the PS Act (each breach constituting a separate breach of the Code). To the extent that I am satisfied that a breach of section 13(11) has occurred, this arises due to a breach of the APS Values at sections 10(2) and 10(4) of the PS Act.

11. Allegation 7

11.1 Executive summary of Allegation 7

ss 47E(c) and (d); 47F(1) and 11A(5)	Unsubstantiated
ss 47E(c) and (d); 47F(1) and 11A(5)	
Therefore, I find that Allegation 7 is unsubstantiated.	

Cat 2

11.2 Analysis of evidence

147
Cat 2

ss 47E(c) and (d); 47F(1) and 11A(5)

Cats 2 and 4

Cats 2 and 4

Cats 2 and 4

152. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 2

11.3 Findings of fact in relation to Allegation 7

153. I find, on the balance of probabilities, that Allegation 7 is unsubstantiated for the reasons set out above.

12. Mr Pezzullo's concluding remarks

154. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 4

155. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 1

I do not agree that my findings have the far-reaching consequences he suggests, nor do I accept that they will impede a Secretary's ability to provide frank and fearless advice to a Minister or their appointed advisor, nor to their colleagues. I also note that this is not a matter that my present inquiry needs to resolve.

156. The legitimacy of communications between a journalist and a high-ranking public servant are also well outside the scope of this Inquiry, though I would observe that a critical difference between such a relationship and Mr Pezzullo's case, is:

- (a) the status of Mr Briggs as a confidant of the Prime Minister; and
- (b) the capacity for Mr Pezzullo to exploit that relationship to advance his interests in the manner described in this report.

157. ss 47E(c) and (d); 47F(1) and 11A(5)

Cat 1


13. Determination and recommendation

13.1 Determination regarding breach of Code

158. Based on the matters set out in my report at parts 5 - 11 above, it is my conclusion that Mr Pezzullo has breached the Code by reason of the following contraventions of the PS Act:
- (a) in respect of Allegation 1: sections 13(2), 13(7), 13(10)(a) and 13(11) of the PS Act (incorporating breaches of the APS Values at sections 10(1) and 10(2) of the PS Act);
 - (b) in respect of Allegation 2: sections 13(3), 13(10)(b) and 13(11) of the PS Act (incorporating breaches of the APS Values at sections 10(1), 10(2) and 10(3) of the PS Act);
 - (c) in respect of Allegation 3: sections 13(6), 13(11) and 13(13) of the PS Act (incorporating breaches of regulation 2.1(3) of the PS Regulations 1999; and breaches of the APS Values at section 10(2) of the PS Act);
 - (d) in respect of Allegation 4: section 13(11) of the PS Act (incorporating breaches of the APS Values at sections 10(2) and 10(5) of the PS Act); and
 - (e) in respect of Allegation 6: sections 13(2), 13(7) and 13(11) of the PS Act (incorporating breaches of the APS Values at sections 10(2) and 10(4) of the PS Act).
159. In addition to section 13 of the PS Act and the Code, I also consider that in each of the instances of behaviours and conduct that are the subject of these allegations, Mr Pezzullo has also failed in his duty under section 12 of the PS Act to uphold and promote the APS Values in his role as an Agency Head. As noted at paragraph 41 above, Agency Heads are bound by, and must comply with, the Code (section 14 of the PS Act), and must also promote the APS Values and the APS Employment Principles and compliance with the Code by personal example and other appropriate means (section 35(3)(c)).

13.2 Recommendation as to sanction

160. It is unusual to conduct an inquiry into a Secretary for breaches of the Code, and this case is particularly unusual because it involves a series of text messages first reported in the media between a Secretary and a person outside the public service, but closely associated with Prime Ministers Turnbull and Morrison and the Liberal Party of Australia.
161. Michael Pezzullo AO has had a long and distinguished public service career, reaching the top of his profession; an achievement that few can replicate. He is a very intelligent person and seemingly has great strategic talent, recognised by Ministers on both sides of politics. Mr Pezzullo has been a significant leader and administrator, overseeing a department that is challenging to say the least. He has been awarded one of Australia's highest honours for his public service work.
162. Mr Pezzullo made clear in this Inquiry that his energy and enthusiasm for public policy, homeland security and his country have driven his endeavours, and not the pursuit of any personal gain.
163. Be that as it may, his engagement with a Liberal Party power broker in Mr Briggs was ill-advised, reckless and a step too far in terms of the boundaries of normal public service practice. Through this engagement, he sought to influence Ministerial appointments and machinery of government arrangements to his advantage and denigrated Ministers and fellow Secretaries.
164. Mr Pezzullo continued his engagement with Mr Briggs over many years, enabling Mr Pezzullo to systematically advance his views and interests and providing him with an avenue to power and influence beyond the usual Ministerial systems of the Westminster system. Such is the extent of his engagement with Mr Briggs that it cannot be seen as a one off or temporary lapse of judgement. In the circumstances, it is hard to imagine that he might be trusted now and into the future by governments of either political persuasion or by his colleagues.

165. Proven breaches of the Code by a Secretary are of great moment because if the Secretary fails to work within the norms and boundaries of public service behaviour and practice, there is a high likelihood that:
- (a) the trusting relationship so important to their and their Department's relationship with Ministers will be undermined;
 - (b) colleagues in the public sector will also be less likely to trust that engagement with the Secretary and their Department will be properly respected and confidentially managed;
 - (c) the general public will likely lose confidence in the public service to work in the public interest; and
 - (d) public service employees who rely on their Secretary to set standards, provide them leadership and provide an example as to how behaviour in line with the Code is to be modelled in practice, will be confused about how they should handle themselves.
166. The implications for quality public service are profound.
167. Section 59 of the PS Act provides for the termination of appointment of a Secretary. In this particular instance, with Mr Pezzullo having breached so many elements of the Code and the APS Values, I cannot imagine a reason why he should avoid consequence or continue in his current position.
168. **ss 47E(c) and (d); 47F(1) and 11A(5)**

Cat 4
169. **ss 47E(c) and (d); 47F(1) and 11A(5)** termination of his appointment as a Secretary is the most appropriate sanction for Mr Pezzullo, reflecting the extent of the Secretary's breaches, his duty to uphold, model and promote the APS Values, and the position of trust and leadership that he commands. Other than the countervailing factors I have assessed in the context of each individual allegation, I do not consider there to be any additional mitigating factors in this case that may warrant the imposition of a more lenient sanction.
Cat 1
170. I recommend that you note my findings and my conclusion that Mr Pezzullo has breached the Code on numerous occasions as a result of his conduct which has been established during the Inquiry.
171. I further recommend that you impose a sanction of termination of Mr Pezzullo's appointment as a Secretary pursuant to section 59 of the PS Act.

Lynelle Briggs AO

22 November 2023

Attachment 1

Definitions and guidance on Code elements

Honesty and integrity (section 13(1))

1. The concepts of "honesty" and "integrity" are not defined in the PS Act.
2. The APSC Misconduct Guide states the following about section 13(1) of the Code and the concepts of "honesty" and "integrity":¹³
 - 2.12. *Behaving honestly and with integrity involves concepts such as 'truthfulness', 'sincerity' and 'frankness'. Integrity involves a 'soundness of moral principle and character (Macquarie Concise Dictionary).*
 - 2.13. *Failure to act honestly includes deliberate behaviour that the employee knows to be wrong. However, employees may make honest mistakes without breaching this element of the Code. Such action will usually be better dealt with through management action such as training or counselling. In more serious cases, it may be dealt with as a potential breach of s.13(2) of the PS Act if the behaviour in the circumstances appears to indicate a lack of care and diligence. In some cases, however, behaviour that is not engaged in deliberately may nonetheless indicate a lack of integrity, and should be considered as a potential breach of s.13(1).*
3. The Macquarie Dictionary defines "honesty" as:¹⁴
 1. *the quality or fact of being honest; uprightness, probity, or integrity.*
 2. *truthfulness, sincerity, or frankness.*
 3. *freedom from deceit or fraud.*
4. The second concept in this section of the Code is the term "integrity". The Macquarie Dictionary defines "integrity" as:¹⁵
 1. *soundness of moral principle and character; uprightness; honesty.*
 2. *the state of being whole, entire, or undiminished: to preserve the integrity of the empire.*
 3. *sound, unimpaired, or perfect condition: the integrity of the text.*
5. A key term in the definition of "integrity" is "moral", which, based on the Macquarie Dictionary I define as "relating to or concerned with right conduct or the distinction between right or wrong".¹⁶

Care and diligence (section 13(2))

6. The APSC Misconduct Guide states the following about section 13(2) of the Code:¹⁷
 - 2.14. *Care and diligence have their ordinary meanings of 'serious attention and solicitude to work' and 'earnest effort to accomplish what is undertaken' (Macquarie Concise Dictionary). The standard of care and diligence required is objective and can be assessed by applying the standard of a 'reasonable person' in the same circumstances as the APS employee. The level of care and diligence required of senior managers*

¹³ APSC Misconduct Guide, page 132.

¹⁴ Macquarie Dictionary, *Honesty* (accessed online).

¹⁵ Macquarie Dictionary, *Integrity* (accessed online).

¹⁶ Macquarie Dictionary, *Moral* (accessed online).

¹⁷ APSC Misconduct Guide, page 133.

responsible for the delivery of a program of work may be higher than that of other employees delivering single elements of that program.

- 2.15. *Things done carelessly or without appropriate attention, i.e. without diligence, might be dealt with as a performance issue, through training, or through counselling—or might be dealt with as a breach of the Code, particularly for more serious examples. The relevant decision-maker will need to decide which option best meets the circumstances—see Chapter 4: ‘When behaviour doesn’t meet expectations—preliminary considerations’ of this guide.*
- 2.16. *Once it has been decided that a Code investigation is warranted, the breach decision-maker can then consider whether the conduct was careless or lacked diligence. It is not, however, enough for the breach decision-maker merely to come to a view that it would have been preferable to deal with the matter in question differently. A difference of opinion on how a matter should have been handled does not necessarily mean that the matter was handled without appropriate care or diligence. The question will be what a reasonably careful and diligent employee in the same position should have done in all the relevant circumstances. This may include, for example, a consideration of whether the employee’s conduct was consistent with any professional standards that might apply in that role, in addition to those under the Code, Values, and Employment Principles.*
- 2.17. *In some cases, the personal attributes of the employee may be relevant to whether they have acted with care and diligence. For example:*
- a) *an employee who has received training in a specialist skill may be expected to exercise that skill. A person who was known not to have those skills could not reasonably be expected to exercise them*
 - b) *an employee with many years of relevant experience might reasonably be expected to discharge their duties more effectively than an employee who had no previous directly relevant experience.*

7. The Macquarie Dictionary relevantly defines "care" as "serious attention; solicitude; heed; caution: devote great care to work".¹⁸

8. The Macquarie Dictionary defines "diligence" as "constant and earnest effort to accomplish what is undertaken; persistent exertion of body or mind".¹⁹

Respect, courtesy and without harassment (section 13(3))

9. The concepts of "respect", "courtesy" and "without harassment" are not defined in the Act.

10. The APSC Misconduct Guide states the following about the interpretation of section 13(3) of the Code:²⁰

2.18. *The terms ‘respect’ and ‘courtesy’ have their ordinary meanings: ‘esteem felt or shown’; ‘excellence of manners or behaviour; politeness’ (Macquarie Concise Dictionary). Workplace harassment entails offensive, belittling, or threatening behaviour directed at an individual or group. The behaviour is unwelcome, unsolicited, usually unreciprocated, and often repeated. The use of the word ‘treat’ does not require direct communication with a particular person, or that the behaviour is directed at a particular person.*

2.19. *The requirement to treat everyone with respect and courtesy, and without harassment, is an objective one. The subjective opinion of a complainant that behaviour is*

¹⁸ Macquarie Dictionary, *Care* (accessed online).

¹⁹ Macquarie Dictionary, *Diligence* (accessed online).

²⁰ APSC Misconduct Guide, page 134. Note that the relevant provisions of the Commissioner Directions in the 2022 iteration were the same as they were in the 2016 iteration, except as otherwise identified.

disrespectful, discourteous, or harassing does not establish that a behaviour is in breach of s.13(3). Similarly, a breach of this element does not require that the person who was the subject of the behaviour be offended by it—or even aware of it. The question is whether a reasonable person observing the behaviour would consider that the behaviour in question met the standard of the Code.

- 2.20. *It may be necessary to consider patterns and overall behaviour when looking at allegations of disrespect, discourtesy, or harassment. Individual actions may not appear to be very significant but, taken in conjunction with other actions, might reveal a pattern of behaviour.*
- 2.21. *Care should be taken with general allegations of disrespect, discourtesy, or harassment, such as vague claims of 'passive aggressive' behaviour or feelings of being undermined. Allegations of this sort may be a description of the complainant's subjective response to the person they are complaining about. For a breach of the Code to be determined, it is necessary to identify specific incidents and events that can be assessed objectively.*
- 2.22. *In addition, a lack of such specificity in allegations of misconduct will make it more difficult to ensure that the person who is the subject of those allegations is able to respond to them in a fair and meaningful way. If an agency is taking into consideration a pattern of behaviour, that pattern has to be linked to observable incidents that are capable of being proven as misconduct.*
- 2.23. *'Respectful' is one of the APS Values. It requires employees to respect all people, including their rights and their heritage. Further information on the application of this Value can be found in section 15 of the Australian Public Service Commissioner's Directions 2022 (Commissioner's Directions).*

11. The Macquarie Dictionary relevantly defines "respect" as:²¹

- 1. *esteem or deferential regard felt or shown.*
- ...
- 4. *consideration or regard, as to something that might influence a choice.*
- ...
- 8. *to show esteem, regard, or consideration for: to respect someone's wishes.*
- 9. *to treat with consideration; refrain from interfering with: to respect a person's privacy.*

12. I also think it is relevant that the Macquarie Dictionary defines "disrespect" as:²²

- 1. *lack of respect; disesteem; rudeness.*
- 2. *to regard or treat without respect; regard or treat with contempt or rudeness.*

13. The Macquarie Dictionary defines "courtesy" as:²³

- 1. *excellence of manners or behaviour; politeness.*
- 2. *a courteous act or expression.*
- 3. *acquiescence; indulgence; consent: a title by courtesy rather than by right.*

²¹ Macquarie Dictionary, *Respect* (accessed online).

²² Macquarie Dictionary, *Disrespect* (accessed online).

²³ Macquarie Dictionary, *Courtesy* (accessed online).

14. The Macquarie Dictionary defines "*discourteous*" as:²⁴
- lacking courtesy; impolite; uncivil; rude.*
15. The Macquarie Dictionary defines "*harass*" as:²⁵
1. *to trouble by repeated attacks, incursions, etc., as in war or hostilities; harry; raid.*
 2. *to disturb persistently; torment*
16. I also note that the version of the Commissioner's Directions in operation at the relevant time, defines "*respectful*" as:
- (a) *treating all people with dignity and recognising that all people have value;*
 - (b) *dealing with all people honestly and with integrity;*
 - (c) *recognising the importance of human rights and understanding Australia's human rights obligations;*
 - (d) *recognising and fostering diversity;*
 - (e) *collaborating and being open to ideas in policy development, implementation, program management and regulation;*
 - (f) *complying with all relevant anti-discrimination laws.*²⁶

Lawful and reasonable direction (section 13(5))

17. It has long been recognised at common law that employees are obliged to comply with a command that "*relates to the subject matter of the employment*", "*involves no illegality*" and is "*reasonable*".²⁷
18. The APSC Guide states the following about section 13(5) of the Code:²⁸
- 2.32 . *A direction needs to be 'tightly drafted, using the language of command throughout, and specify exactly what actions should and should not be taken'. It is appropriate to use language that is clear and directive, and that which provides the employee with no discretion in relation to their behaviour.*
 - 2.33. *A general policy or guideline is not a direction for the purposes of the Code. Where a policy document is intended to be a direction from an agency head the document should be written using the language of command, and specify that it is a direction for the purposes of the PS Act.*
 - 2.36. *A direction also needs to be clear in its terms and capable of being complied with. A direction to 'behave appropriately', for example, may be difficult to comply with and enforce as it is not clear what is meant by the term.*
 - ...
 - 2.38. *...a supervisor has implied authority to direct subordinate staff and an employee with functional responsibility for a particular matter generally has implied authority to give directions relevant to that matter.*

²⁴ Macquarie Dictionary, *Discourteous* (accessed online).

²⁵ Macquarie Dictionary, *Harassment* (accessed online).

²⁶ *Australian Public Service Commissioner's Directions 2016* (Cth), section 15.

²⁷ *R v Darling Island Stevedoring & Lighterage Co Ltd; Ex parte Halliday* (1938) 60 CLR 601.

²⁸ APSC Misconduct Guide, page 136.

19. I consider that for it to be open to the breach decision-maker to be satisfied that the alleged misconduct breaches an element of the Code, it must be shown that:
- (a) any direction was sufficiently clear that Mr Pezzullo could understand and comply with its terms;
 - (b) any direction was not unlawful;
 - (c) any direction was reasonable and proportionate; and
 - (d) any direction was given by someone with authority to issue it.

Appropriate confidentiality about dealings with Ministers and staff (section 13(6))

20. The APSC Misconduct Guide states the following about section 13(6) of the Code:²⁹
- 2.30 *APS employees who deal with Ministers or with Ministers' offices may be privy to sensitive information in the course of their employment. APS employees must treat any such dealings with appropriate confidentiality. The phrase 'appropriate confidentiality' allows for disclosure to whomever else within the APS and the Government might have a proper need to know.*

Conflict of interest (section 13(7))

21. The APSC Misconduct Guide states the following about section 13(7) of the Code:³⁰
- 2.41. *A conflict of interest, including a material personal interest, can arise out of a work, private or social context. It might arise due to an APS employee's private share holdings, or those of their immediate family, other personal interests, acceptance of a gift, benefit or hospitality, cultural obligations, political activities or personal relationships. It can also arise through outside work—paid or voluntary.*
- 2.42. *To be 'material' a personal interest needs to be of a type that can give rise to a real or apparent conflict of interest. Personal interests do not give rise to a conflict of interest unless there is a real or sensible possibility of conflict and not simply a remote or theoretical possibility of conflict. If no reasonable person could draw a connection between the employee's personal interest and their duties, then the personal interest is not 'material'.*
- 2.43. *Once a material personal interest is identified, the employee must disclose that interest. If an employee is in a position to, or perceived to be in a position to, influence an outcome or a decision then that person needs to take reasonable steps to avoid that conflict of interest.*
- 2.44. *APS Values and Code of Conduct in practice provides detailed guidance on conflicts of interest.*

Commonwealth resources (section 13(8))

22. The APSC Misconduct Guide states the following about section 13(8) of the Code:³¹
- 2.45. *'Commonwealth resources' is a broad term and includes money, goods, services, vehicles, office equipment, official records, office premises, telephones or other telecommunication devices and computers. It also includes the salary costs of APS employees.*

²⁹ APSC Misconduct Guide, pages 137.

³⁰ APSC Misconduct Guide, pages 137.

³¹ APSC Misconduct Guide, page 138.

- 2.46. *Most agencies have policies advising their employees on the appropriate use of Commonwealth resources. It is not appropriate for Commonwealth resources to be used for private gain. However, subject to agency policies, it is reasonable for APS employees to have limited private use of office equipment, for example reasonable and necessary telephone or email communication with family. Inappropriate use of an agency's ICT resources at work or out of office hours is covered by this section of the Code.*
- 2.47. *Damage to Commonwealth resources, however caused, can come within this section but each case will need to be considered carefully on its merits before deciding that misconduct action is*

False or misleading information in response to request for information (section 13(9))

- 23. The APSC Misconduct Guide states the following about section 13(9) of the Code:³²
 - 2.48. *APS employees are required to provide responsive, efficient and effective services consistent with the APS Values, Employment Principles and associated Directions. Requests for information for official purposes may be made by members of the public, businesses, members of the media, other jurisdictions—national and international, members of Parliament, other Commonwealth agencies, by the employee's agency or another APS agency, or by work colleagues.*
 - 2.49. *The information provided by APS employees in connection with their APS employment should not be misleading and should be appropriate to the request being made. An objective consideration of the information given and the circumstances in which it was given is necessary to determine whether the information was misleading. That a person receiving the information was misled does not make the information misleading in and of itself.*
 - 2.50. *This element of the Code applies to requests for information made for official purposes in connection with an employee's APS employment. This is broader than requests for information that an employee may receive as part of their duties, and includes requests for information that relate to their own employment, such as information relevant to the job, applications for promotion, or to leave applications.*

Improper use of position to gain benefit (section 13(10))

- 24. The APSC Misconduct Guide states the following about section 13(10) of the Code:³³
 - 2.51 *A breach of this element could occur if, for example, an APS employee gains, or seeks to gain an advantage for themselves, a friend, family member or associate. It can also occur if a senior officer in a supervisory role uses their status to gain favours from a member of their team or other junior staff. The benefit or advantage is not defined and is not limited to financial gain.*
 - 2.52 *Whether or not any person actually obtained a benefit from the employee's actions does not determine whether the behaviour is in breach of this element of the Code. This element can be breached if the employee merely sought a benefit or advantage. Similarly, actual detriment to the agency, Commonwealth or other person does not have to have occurred for a breach to be found.*
 - ...
 - 2.54 *Whether a use is improper, or not, will depend on the circumstances of each case. It is appropriate, generally, to assess the case by considering whether a reasonable person would, having regard to any relevant agency guidance, form the view that the use was improper. Employees of the APS are expected to undertake their duties in the*

³² APSC Misconduct Guide, pages 138.

³³ APSC Misconduct Guide, pages 139.

public interest. On that basis, deciding whether a use was improper would have regard to the nature of the benefit or advantage they were attempting to gain, or the detriment they were attempting to cause.

2.55 The phrases 'seek to gain' a benefit and 'seek to cause' detriment indicate that the employee's conduct was intentional. In considering behaviour against this element of the Code, agencies will need to be able to establish that the employee acted with some degree of intention to achieve the gain or cause the detriment.

25. The Macquarie Dictionary defines "improper" as:³⁴

1. *not proper; not strictly belonging, applicable, or right: an improper use for a thing.*
2. *not in accordance with propriety of behaviour, manners, etc.: improper conduct.*
3. *unsuitable or inappropriate, as for the purpose or occasion: improper tools.*
4. *abnormal or irregular.*

26. The second concept in this element of the Code is seeking to obtain a benefit or cause a detriment. The key term in this concept is "seek". I have extracted below the Macquarie Dictionary definition for this term:³⁵

1. *to go in search or quest of: to seek a new home.*
2. *to try to find by searching or endeavour: to seek a solution.*
3. *to try to obtain: to seek fame.*
4. *to try or attempt (to do something): to seek to convince a person.*
5. *to ask for; request: to seek advice.*
6. *to make search or inquiry.*

27. The definition of seek consistently uses the phrase "to try", which is a state of intent. I consider that this supports the APSC Misconduct Guide definition of "seek" and as such have adopted this definition of the term "seek" and will apply that throughout this report.

28. The Macquarie Dictionary defines "status" as:³⁶

1. *condition, position, or standing socially, professionally, or otherwise.*
2. *the relative rank or social position of an individual or group: high status; low status.*
3. *the relative standing, position, or condition of anything: the status of the renovations.*
4. *the state or condition of affairs: the current status of the situation.*
- ...

³⁴ Macquarie Dictionary, *Improper* (accessed online).

³⁵ Macquarie Dictionary, *Seek* (accessed online).

29. The Macquarie Dictionary defines "benefit" as:³⁷

1. an act of kindness.
2. anything that is for the good of a person or thing.
3. a theatrical performance or other public entertainment to raise money for a worthy purpose.
4. a payment or other assistance given by an insurance company, mutual benefit society, or public agency.
5. a beneficial outcome: ease of transport as a benefit of working close to home.

30. The Macquarie Dictionary defines "detriment" as:³⁸

1. loss, damage, or injury.
2. a cause of loss or damage.

APS Values, APS Employment Principles and reputation of the Department and APS (section 13(11))

31. The APSC Misconduct Guide states the following about section 13(11) of the Code:³⁹

- 2.56 *This element of the Code applies to an APS employee's behaviour 'at all times'. It may be breached by an APS employee outside normal work hours and at non-work premises. There is no explicit requirement in the section that the suspected conduct of the employee must be connected to their APS employment. In practice, however, determining that an action breaches the Code will generally require some degree of connection to the employee's employment.*
- 2.57 *This element of the Code places a positive obligation on APS employees to behave in a way that maintains confidence in their ability to serve the Government of the day professionally and does not undermine public confidence in their agency or the APS.*
- 2.58 *Because this element of the Code places a positive obligation on employees, it is not necessary to establish actual damage to the reputation of the agency or the APS in order to find that this section of the Code has been breached. A lack of damage may be relevant to a decision to start an investigation under an agency's s15(3) procedures or be relevant to mitigation when deciding a sanction.*
- 2.59 *Where an agency is alleging that an employee has breached s13(11) of the Code for behaviour that fails to uphold the Values and/or the Employment Principles, it is necessary to identify which Values or Employment Principles are at issue. It also necessary to advise the employee which Values or Employment Principles are at issue, and to give the employee an opportunity to respond, consistent with the agency's s15(3) procedures, prior to making a decision on breach.*
- 2.60 *The concept of integrity in this section of the Code is different to integrity in s13(1). Under s13(1), it is necessary to behave with integrity; here, an APS employee has to behave in a way that upholds the integrity of the employee's agency and the APS. For example, a public servant agreeing with critical comments made by a client about government policy may not be consistent with a requirement to behave in a way that upholds the integrity of their agency and the APS, in the sense of upholding their*

³⁷ Macquarie Dictionary, *Benefit* (accessed online).

³⁸ Macquarie Dictionary, *Detriment* (accessed online).

³⁹ APSC Misconduct Guide, page 140.

sound or unimpaired condition, but it may not in itself indicate that the public servant lacks integrity.

32. The core term in this definition is "*integrity*". While the APSC Misconduct Guide confirms that the concept of integrity is different in the context of section 13(11) than section 13(1), I consider it is the application which is different and not the definition of the term. I therefore accept that definition of integrity (as set out above at paragraphs 4 and 5) as an appropriate definition and will apply that definition in this report.
33. The APS Values are contained within section 10 of the PS Act and relevantly state:
- (1) *Committed to service: The APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the Government.*
 - (2) *Ethical: The APS demonstrates leadership, is trustworthy, and acts with integrity, in all that it does.*
 - (3) *Respectful: The APS respects all people, including their rights and their heritage.*
 - (4) *Accountable: The APS is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility.*
 - (5) *Impartial: The APS is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence.*
34. I consider that all of the APS Values are relevant to Mr Pezzullo.
35. Section 13 of the Commissioner's Directions states the following in relation to the APS Value "*Committed to Service*":
- Having regard to an individual's duties and responsibilities, upholding the APS Value in subsection 10(1) of the Act requires the following:*
- (a) engaging effectively with the community and providing responsive, client-focussed service delivery;*
 - (b) providing appropriate and accessible information to clients and the community about rights and entitlements, and the process for gaining access to them;*
 - (c) ensuring that decisions and interactions with clients are objective and impartial, and in accordance with Government policy;*
 - (d) encouraging innovative thought and supporting innovative solutions;*
 - (e) managing data to enhance evidence-based policy advice, ensuring information is readily available to the community;*
 - (f) supporting collaboration and teamwork, both within an Agency and with other agencies and the wider community;*
 - (g) promoting continuous improvement and managing change effectively;*
 - (h) identifying and managing areas of potential risk;*
 - (i) pursuing and supporting training and development to improve capability;*
 - (j) being responsive to Ministers, including being knowledgeable about the Government's policies and understanding the relevant issues and options, the Government's objectives and the environment in which it operates.*

36. The Macquarie Dictionary defines "ethical" as:⁴⁰

1. *relating to or dealing with morals or the principles of morality; relating to right and wrong in conduct.*
2. *in accordance with the rules or standards for right conduct or practice, especially the standards of a profession: it is not considered ethical for doctors to advertise.*

37. I also note that section 14 of the Commissioner's Directions states the following in relation to the APS Value "Ethical":

Having regard to an individual's duties and responsibilities, upholding the APS Value in subsection 10(2) of the PS Act requires the following:

- (a) *acting in a way that models and promotes the highest standard of ethical behaviour;*
- (b) *following through on commitments made;*
- (c) *having the courage to address difficult issues;*
- (d) *complying with all relevant laws, appropriate professional standards and the APS Code of Conduct;*
- (e) *acting in a way that is right and proper, as well as technically and legally correct or preferable;*
- (f) *reporting and addressing misconduct and other unacceptable behaviour by public servants in a fair, timely and effective way;*
- (g) *providing leadership in policy development, implementation, program management and regulation;*
- (h) *supporting systems that give APS employees appropriate opportunities to develop and demonstrate leadership qualities.*

38. I also note the reference to "integrity" in the definition of "ethical" and will adopt the definition explained above. The definition also refers to being 'trustworthy', which is defined in the Macquarie Dictionary as 'worthy of trust or confidence; reliable'.⁴¹ In determining whether the respondent has breached this element of the Code, I will therefore also consider whether their conduct has demonstrated they are worthy of trust or confidence.

39. I have relied on the definitions of "respectful" discussed above at paragraphs 9 to 16.

40. The Macquarie Dictionary defines "accountable" as:⁴²

1. *liable to be called to account; responsible (to a person, for an act, etc.):*
2. *capable of being explained*

41. I also note that section 16 of the Commissioner's Directions states the following in relation to the APS Value "Accountable":

Having regard to an individual's duties and responsibilities, upholding the APS Value in subsection 10(4) of the Act requires the following:

⁴⁰ Macquarie Dictionary, *Ethical* (accessed online).

⁴¹ Macquarie Dictionary, *Trustworthy* (accessed online).

⁴² Macquarie Dictionary, *Accountable* (accessed online).

- (a) *being answerable to Ministers for the exercise of delegated authority, and, through them, to Parliament;*
- (b) *being open to scrutiny and being transparent in decision making;*
- (c) *being able to demonstrate that actions and decisions have been made with appropriate consideration;*
- (d) *being able to explain actions and decisions to the people affected by them;*
- (e) *being accountable for actions and decisions through statutory and administrative reporting systems;*
- (f) *being able to demonstrate clearly that resources have been used efficiently, effectively, economically and ethically;*
- (g) *being answerable for individual performance.*

42. I also note that section 17 of the Commissioner's Directions states the following in relation to the APS Value "*Impartial*":

Having regard to an individual's duties and responsibilities, upholding the APS Value in subsection 10(5) of the Act requires the following:

- (a) *serving the Government of the day with high quality professional support, irrespective of which political party is in power and of personal political beliefs;*
- (b) *ensuring that the individual's actions do not provide grounds for a reasonable person to conclude that the individual could not serve the Government of the day impartially;*
- (c) *ensuring that management and staffing decisions are made on a basis that is independent of the political party system, free from political bias and not influenced by the individual's political beliefs;*
- (d) *understanding the needs of the Government and providing it with the best objective, non-partisan advice based on the best evidence available;*
- (e) *providing advice that is relevant and comprehensive, is not affected by fear of consequences, and does not withhold important facts or bad news;*
- (f) *providing advice that takes account of the context in which policy needs to be implemented, the broader policy directions set by Government and, where appropriate, implications for the longer term;*
- (g) *implementing Government policies in a way that is free from bias, and in accordance with the law.*

43. The APS Employment Principles are included in section 10A of the PS Act and relevantly state:

- (1) *The APS is a career-based public service that:*
 - (a) *makes fair employment decisions with a fair system of review; and*
 - ...
 - (c) *makes decisions relating to engagement and promotion that are based on merit; and*
 - ...
 - (f) *provides workplaces that are free from discrimination, patronage and favouritism...*

(2) *For the purposes of paragraph (1)(c), a decision relating to engagement or promotion is based on merit if:*

...

- (b) *an assessment is made of the relative suitability of the candidates to perform the relevant duties, using a competitive selection process;*
- (c) *the assessment is based on the relationship between the candidates' work-related qualities and the work-related qualities genuinely required to perform the relevant duties; and*
- (d) *the assessment focuses on the relative capacity of the candidates to achieve outcomes related to the relevant duties; and*
- (e) *the assessment is the primary consideration in making the decision.*

Comply with any other conduct requirement prescribed by the Regulations (section 13(13))

44. The APSC Misconduct Guide states the following about section 13(13) of the Code:⁴³

- 2.65. *To date, only one other conduct requirement has been prescribed under the Public Service Regulations 1999 (PS Regulations).*
- 2.66. *Regulation 2.1 of the PS Regulations imposes a duty on APS employees not to disclose certain information without authority. The duty applies to information communicated in confidence or where disclosure could be prejudicial to the effective working of government. Regulation 2.1(5) of the PS Regulations sets out circumstances where APS employees are not prevented from disclosing information.*
- 2.67. *The regulation is not designed to regulate the disclosure of official information comprehensively. It operates alongside other provisions and obligations, including agency-level directions and authorisations.*
- 2.68. *This regulation may constitute a relevant Commonwealth statutory duty for the purposes of s.122.4 of the Criminal Code Act 1995 (Criminal Code). That section makes it an offence for a current or former Commonwealth officer, which includes an APS employee or a contractor, from communicating information obtained by reason of being a Commonwealth officer, or otherwise being engaged to perform work for a Commonwealth entity, if there is a Commonwealth statutory duty not to disclose this information. A breach of s.122.4 of the Criminal Code carries a maximum penalty of two years' imprisonment.*

45. For completeness, regulation 2.1 of the PS Regulations 1999, in force at the time of the exchanges of messages and the alleged breaches of the Code, imposed the following requirements regarding the disclosure of information:

2.1 Duty not to disclose information (Act s 13)

- (1) *This regulation is made for subsection 13(13) of the Act.*
- (2) *This regulation does not affect other restrictions on the disclosure of information.*
- (3) *An APS employee must not disclose information which the APS employee obtains or generates in connection with the APS employee's employment if it is reasonably*

⁴³ APSC Misconduct Guide, pages 141.

foreseeable that the disclosure could be prejudicial to the effective working of government, including the formulation or implementation of policies or programs.

- (4) *An APS employee must not disclose information which the APS employee obtains or generates in connection with the APS employee's employment if the information:*
- (a) was, or is to be, communicated in confidence within the government; or*
 - (b) was received in confidence by the government from a person or persons outside the government;*
- whether or not the disclosure would found an action for breach of confidence.*
- (5) *Subregulations (3) and (4) do not prevent a disclosure of information by an APS employee if:*
- (a) the information is disclosed in the course of the APS employee's duties; or*
 - (b) the information is disclosed in accordance with an authorisation given by an Agency Head; or*
 - (c) the disclosure is otherwise authorised by law; or*
 - (d) the information that is disclosed:*
 - (i) is already in the public domain as the result of a disclosure of information that is lawful under these Regulations or another law; and*
 - (ii) can be disclosed without disclosing, expressly or by implication, other information to which subregulation (3) or (4) applies.*
- (6) *Subregulations (3) and (4) do not limit the authority of an Agency Head to give lawful and reasonable directions in relation to the disclosure of information.*

Note: Under section 70 of the Crimes Act 1914, it is an offence for an APS employee to publish or communicate any fact or document which comes to the employee's knowledge, or into the employee's possession, by virtue of being a Commonwealth officer, and which it is the employee's duty not to disclose.

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60 Minutes Transcript (Sunday 24 September 2023)

0:00

Running Australia is a big job but if you think it's the government of the day

0:04

in Canberra that's calling all the shots after seeing this story you might think again. Tonight in a joint investigation

0:12

with the Sydney Morning Herald and The Age, we expose the highly inappropriate actions of one of our most senior public servants. Michael Pezzullo is the boss of Home Affairs, the department responsible

0:25

for Australia's national security. He's supposed to be independent and apolitical but as you'll see, that's not the way he operates. Pezzullo has

0:36

been wielding extraordinary power from the shadows, interfering in government

0:40

and doing all he can to build a massive empire

0:48

This man is in charge of keeping Australia safe.

0:54

His name is Michael Pezzullo and he's the boss, the Secretary of the Department of Home Affairs.

1:02

As one of our highest ranking officials,

1:04

he must be fiercely apolitical and

1:07

Independent, devoted to policy not power,

1:12

someone who leaves grubby political

1:14

plotting to those who do it best, the

1:17

Politicians.

1:19

Publicly Pezzullo has

1:23

always claimed he plays by the Public

1:26

Service rules. Pezzullo: 'What is important

1:29

for the public servant is that one must

1:30

absent oneself from any partisan

1:32

discussions and avoid exposure to raw

1:35 Politics.'

1:38

Michael Pezzullo says one thing but he

1:40

acts very differently. how do we know
1:43
this well? we've been leaked hundreds of
1:45
encrypted messages he sent to a liberal
1:48
party power broker tonight we take you
1:50
inside Pezzullo's secret attempts to
1:53
influence government.
1:57
'you need a right winger in there'
2:01
Pezzullo's messages are as
2:03
Revealing;
2:04
'I could have turned it into a great
2:06
story for the government.'
2:07
as they are worrying
2:11
'if Dutton is out give me Taylor or
2:13
Tudge'
2:14
They show an entirely inappropriate
2:17
campaign of political playmaking. 'Only
2:20
issue will then be if Labor sees an
2:21
opportunity to tack left...'
2:24
the evidence that we've seen suggests
2:27
that he has crossed a line. there isn't
2:29
one type of trust that hasn't been
2:30
breached by this kind of conduct. It's a
2:33
bit like watching an episode of House of
2:34
Cards and it's not what you'd expect of
2:36
a Secretary.
2:39

This story begins in Canberra in 2016, when posulo sought to cultivate a
2:46
relationship with this man, Scott Briggs. He was a liberal party Insider and
2:52
Confidant to both the then prime
2:54
minister Malcolm Turnbull and his
2:56
Treasurer Scott Morrison.
2:58
for the ambitious public servant Briggs
3:00
was a secret channel to power and he
3:03
seized it
3:05
back then Pezzullo's first task was to use
3:08
his new friend to convince Turnbull to
3:11
create a new Department called home
3:13
Affairs, with Pezzullo at its helm.
3:18
"home Affairs will become a proxy for
3:20
strength on National Security - would be
3:22
hard for labor to oppose.
3:25
'agree. was with him last night. Shorten
3:28
would be mad to oppose it I think. We
3:30
addressed the Albo risk.
3:34
Pezzullo's ambition was obvious but he
3:37
tried to make light of it. he joked about
3:39
using Briggs to help him take over not
3:41
only the home Affairs department but
3:43
much more.
3:45
'perhaps give me Defence and home Affairs
3:47
at the same time.'
3:50

If you add it all up it looks to me very
3:53
much like the behavior of a megalomaniac.
3:56
Griffith University's Professor AJ Brown
3:58
has spent his career looking at the
4:00
conduct of powerful public servants and
4:03
speaking up when they go too far.
4:06
How would you characterize Michael
4:07
Pezzullo decision to reach out to a
4:10
political power broker in Scott Briggs
4:12
and commence a campaign of backroom
4:17
Influence. Our whole system of government
4:19
relies on trust it relies on the public
4:22
being able to trust that senior public
4:25
servants are not entering into Political
4:28
games and political manipulation getting
4:30
into the democratic system when they're
4:33
supposed to be carrying out the needs
4:35
and the wishes of the people of the
4:36
Community. it relies on trust that senior
4:39
public servants are not trying to
4:41
manipulate
4:42
processes of ministerial appointments or
4:45
cabinet decisions or other political
4:47
decisions that are effectively above
4:48
their pay grade.
4:51

Bu Pezzullo didn't appear to like those rules.
4:55
what he communicated to Briggs was
4:57
his overwhelming desire to make the home
5:00
Affairs Department all conquering.
5:02
but there were politicians standing in
5:05
his way, including the then Attorney
5:07
General, George Brandis.
5:11
'I suspect that George has been
5:12
handbraking the Attorney General's
5:14
Department. The ones who are sniping and conducting
5:17
an insurgency are a couple of Ministers.
5:19
We must push on and over the top of this
5:21
Resistance.'
5:23
Why were you such a thorn in his plans
5:27
to build this new home Affairs
5:28
Department. well I was sceptical of the idea
5:34
Brandis believed Pezzullo proposed home
5:37
Affairs Department would be too powerful
5:39
and so would Pezzullo so Pezzullo secretly
5:43
messed liberal power broker Scott
5:45
Briggs to denigrate and undermine the
5:47
Attorney General.
5:49
'Brandis's behavior is getting worse.
5:52
Okay I fed that into the PM I think
5:56
things may be getting closer to a
5:57

Brandis departure.'

6:00

I'd like to put to you some of Pezzullo

6:02

messages about you.

6:04

Brandis's behavior is getting worse.

6:06

George has got them running in circles.

6:08

George is involved in a deliberate

6:10

strategy lawyering public servants into

6:12

a state of befuddlement. what are your

6:15

thoughts about those messages? Well it

6:17

reflects I suppose Mr Pezzullo

6:19

impatience with the fact that I, as the

6:21

Attorney General, was advising cabinet

6:26

about

6:28

the legal risk involved in some of the

6:31

things that Pezzullo wanted to do and it

6:33

is very obvious from the Cavalier tone

6:36

of many of the text messages which

6:38

you've shown me that he resented the

6:44

fact that this check and balance existed

6:46

within the system

6:47

[Music]

6:48

'just touched down in Canberra. I'm seeing

6:50

Scott and Malcolm at some stage today,

6:52

maybe having dinner with them. any

6:54

messages you want me to convey?' 'yep, home

6:57

Affairs is going well except the
6:59
Attorney General's department needs to
7:01
be put to the sword.'
7:02
I've never seen anything like this. when
7:05
I read the messages I was shocked.
7:08
Professor George Williams is a
7:10
constitutional and National Security Law
7:13
Expert.
7:14
this is so far outside of how you would
7:17
expect a secretary to behave that I did
7:20
wonder about their authenticity but
7:22
having looked at them it left me very
7:24
uneasy because it suggested conduct that
7:26
is well outside what we would expect a
7:28
secretary to do and I think is really
7:30
concerning given how we expect our
7:32
Westminster system to operate. we've
7:34
analyzed hundreds of messages sent over
7:37
a several year period, the scale of this
7:40
what does this all point to?
7:41
well it shows that it's not one-off it's
7:44
not isolated it's not a one-off mistake
7:46
perhaps it's a pattern of conduct.
7:49
both Michael Pezzullo and Scott Briggs
7:52
declined our interview requests
7:54

it's probably understandable though
7:56
considering how embarrassing these
7:58
encrypted messages obtained by 60
8:00
Minutes through a third party who
8:02
lawfully accessed them are.
8:05
few high-profile government Ministers of
8:07
the day a speared Pezzullo's wrath
8:10
especially defense minister Marise
8:12
Payne and defense industry Minister
8:14
Christopher Pyne.
8:17
'Pyne is completely ineffectual.' 'Marise
8:20
is a problem.'
8:21
'it may be too hard for him to dump a
8:23
Woman.' 'if she stays then she has to stop
8:25
thinking and acting like a foreign
8:27
minister lite. she looks weak. And
8:29
get rid of Pyne from that silly
8:31
portfolio role. You can say that he has
8:34
done his job.'
8:36
at the Time, Michael Keenan was the
8:39
Justice Minister. he too was slammed.
8:43
'he needs to lift his sights and his
8:45
Horizons rather than getting stuck on
8:47
questions of status and Prestige.' 'very
8:50
True.' 'too many passengers in this
8:53

Government.'

8:56

but it was George Brandis Who Pezzullo

8:59

mostly wanted to knife. well before the

9:01

end of 2017 Brandis had decided to quit

9:05

politics but Pezzullo didn't know it and

9:08

was worried Brandis would hang around to

9:11

oppose his Grand plans.

9:14

'George needs to be trying to negotiate a

9:16

stay of execution. if that would have

9:18

Occur, he would have to change his

9:19

mindset and behaviors about home affairs.

9:23

he is in complete denial.'

9:25

Days Later Pezzullo messaged Briggs a news

9:28

Story, announcing Brandis's resignation.

9:31

'have I ever let you down?'

9:34

'[Applause]'

9:37

Having tasted real political power Pezzullo seems

9:40

to have wanted more and with Scott

9:42

Briggs on the end of his encrypted phone

9:44

Line, and briggs's best mate Scott

9:46

Morrison, soon to become Prime Minister,

9:48

things were heating up.

9:51

this was an engagement in the political

9:53

process that went well beyond anything

9:54

I've seen.

9:59

Canberra might seem slow and stayed, but those in the

10:02

bubble of power it's anything but. And

10:06

at times it can be vicious beyond belief.

10:11

like in 2018 when the then prime

10:14

minister Malcolm Turnbull was challenged

10:16

from within his own party.

10:22

as the government went to war with

10:24

Itself, there was a

10:25

frantic exchange of messages between

10:27

liberal party Insider Scott Briggs and

10:30

home Affairs boss Michael Pezzullo, who

10:33

wanted his intentions known.

10:36

'if Dutton is out give me Taylor or Tudge'

10:38

'you need a right winger in there, people

10:40

Smugglers will be watching. 'agree.' 'please

10:44

feed that in.' 'will do.'

10:49

now remember, this senior public servant

10:52

is meant to be above Party politics but

10:55

as it became likely that Scott Morrison

10:57

would become Prime Minister, Pezzullo

10:59

began agitating with Morrison's close

11:01

friend Scott Briggs, hoping the Liberal

11:04

Party power broker would in turn

11:06

influence Morrison about who hit a point

11:08

to key cabinet roles. these secret

11:11

messages reveal Pezzullo's brazen
11:14
attempts to reshape the new government.
11:17
'I don't wish to interfere but you won't
11:19
be surprised to hear that in the event
11:20
of ScoMo getting up I would like to see
11:22
Dutton come back to home Affairs.' 'no
11:24
reason for him to stay on back bench
11:26
that I can see.'
11:27
'I agree.'
11:29
with Peter Dutton singled out as
11:31
Pezzullo's preference to return to the
11:33
home Affairs Ministry there was a
11:35
curveball in the leadership contest when
11:38
Julie Bishop emerged as an outside
11:40
Contender for the top job. Pezzullo
11:42
was having none of it, Briggs had to calm
11:46
the supposedly independent public
11:48
Servant.
11:50
'Julie B?'
11:52
'a distraction, not serious.' 'Scomo is in
11:56
front mate. he could be the pm tomorrow.'
11:59
'almost had a heart attack.'
12:01
'ready to serve. same goes for Dutton too
12:04
of course.' 'JB won't come through as a
12:06
Compromise?'
12:08

'she is at 11. we are at 43.' 'I shouldn't
12:12
of course express any relief at the
12:13
state of her numbers.'
12:15
there isn't one type of trust that
12:17
hasn't been breached by this kind of
12:19
Conduct.
12:22
Professor AJ Brown is an expert in public sector
12:24
Integrity. you're saying Michael Pezzullo
12:27
crossed the line. well it's hard to see
12:30
how the attempt to influence these kinds
12:33
of decisions using these kinds of
12:36
channels doesn't breach many several,
12:39
most of the core principles of
12:43
accountability and Good Conduct that a
12:45
permanent head of a government
12:47
Department would be expected to comply
12:49
With.
12:50
it's now history Scott Morrison took
12:52
over from Malcolm Turnbull as prime
12:54
minister in 2018. it was a result
12:57
Michael Pezzullo welcomed and he was quick
13:00
to congratulate Morrison's wingman Scott
13:03
Briggs. 'you played a Blinder.' 'thanks mate.
13:07
he did really well today. he's feeling
13:09
Good. we're talking Ministry tomorrow, so
13:11

I'll chat with you then.'
13:13
scattered among the attempts to
13:15
influence political decisions are some
13:17
messages which show it's clear Pezzullo
13:20
knows his role is supposed to be
13:22
Impartial.
13:24
'please keep our conversation
13:25
Confidential.
13:26
tricky tight rope for me.'
13:29
AJ Brown says these admissions only
13:31
serve to worsen the conduct of the
13:34
department secretary.
13:36
I'm sure Mr Pezzullo would say well hang
13:38
On, in the messages I made quite frequent
13:40
references to the need to be apolitical.
13:43
do those qualifiers he injected Less in
13:46
the harm. I mean I would read the
13:47
content of some of those messages
13:50
as being a self-indictment in that,
13:52
what's being demonstrated is an
13:55
awareness of what the conduct should be,
13:57
what the principles are,
14:01
and then the conduct continues. he knew
14:03
he was up to no good. well I think he
14:06
knew he was right on the border, on the
14:09

Borderline.

14:11

Perhaps, but it didn't stop Pezzullo

14:14

repeatedly trying to resuscitate the

14:16

career of Fallen prime minister an

14:18

ultra-conservative Tony Abbott.

14:21

'time to bring Abbott back in?

14:23

too hard?'

14:25

or shoving the knife into his Public

14:27

Service colleagues including the

14:29

well-regarded secretary of the

14:31

Department of prime minister and cabinet

14:33

Martin Parkinson.

14:35

'sorry to say, Parkinson isn't up to it.'

14:38

'Martin P's insecurities don't need to be

14:41

Fed.'

14:42

'he is entirely lacking in self-awareness.'

14:47

the Revelation that Michael Pezzullo

14:49

spent years trying to secretly influence

14:51

the Coalition is now Labor's problem. the

14:54

current home affairs minister Claire

14:56

O'Neill has already ordered two

14:58

inquiries into departmental failures

15:00

that happened on Pezzullo watch. so far

15:03

the minister is standing by her

15:05

secretary but now she knows the full

15:08

story about her top public servants that

15:10

may well change.

15:13

You advised both sides of the

15:15

political aisle on good governance, what

15:17

should labor do in response to this

15:19

Scandal.

I think this is an example

15:22

of where an investigation is warranted.

15:24

this is not behavior that any senior

15:27

public servant, let alone the head of

15:29

government departments, should regard as

15:31

being acceptable. it's clearly highly

15:34

corrosive of the whole way that

15:36

the system and the public service is

15:37

meant to work.

15:40

former Attorney General George Brandis

15:43

Agrees. he says it's vital for the

15:45

government and the public service to be

15:48

Transparent.

15:50

do you think it's in the public interest

15:51

these messages come out.

well

15:53

I do. what is significant about these

15:56

messages

15:57

is that they reveal Mr Pezzullo's attitude.

16:02

I mean these are as revealing of what he

16:07

thought from his own words as the
16:09
Watergate tapes were revealing of what
16:11
Richard Nixon thought in the Oval
16:13
Office. he in a sense is,
16:17
has been exposed for what he was doing
16:20
thinking that he was doing it
16:22
secretly and now it's in the light of
16:25
day and I think it is in the public
16:27
interest that it should.
you've been
16:28
looking at scandals in public life for a
16:30
long time, ever seen something like this?
16:32
I think
16:33
we have to hope that this kind of
16:36
conduct that it's pretty rare what's
16:39
even rarer is for someone to be caught
16:41
doing it and I think any public servant
16:44
who was actually caught engaging in this
16:47
kind of conduct
16:49
um their position almost becomes
16:51
untenable instantly.
16:52
16:58
while Michael Pezzullo and Scott Briggs
17:00
both refused our interview requests they
17:02
have provided statements which you can
17:04
read on our website.

Power player

Five years. A thousand messages. How a top public servant tried to influence governments

The Age, The Sydney Morning Herald and 60 Minutes reveal a cache of messages Home Affairs secretary Michael Pezzullo sent to a Liberal powerbroker in a bid to promote conservatives, oust enemies and revamp the national security regime.

By Nick McKenzie, Michael Bachelard and Amelia Ballinger

SEPTEMBER 24, 2023



Home Affairs secretary Michael Pezzullo. ILLUSTRATION: MATTHEW ABSALOM-WONG

The Age, The Sydney Morning Herald and 60 Minutes reveal how Home Affairs secretary Michael Pezzullo used WhatsApp messages to try to reshape governments. [See all 6 stories.](#)



One of Australia's most influential public servants, Michael Pezzullo, spent years using a political back channel to two Liberal prime ministers to undermine political and public service enemies, promote the careers of conservative politicians he considered allies and lobby to muzzle the press.

The secret efforts of the Department of Home Affairs secretary to build his power while reshaping successive coalition governments and Australia's national security regime are revealed in hundreds of encrypted messages Pezzullo sent to influential Liberal Party powerbroker Scott Briggs, obtained by *The Age*, *The Sydney Morning Herald* and *60 Minutes*.

Briggs is a lobbyist, businessman, former vice-president of the NSW Liberals, and was a close confidant of former prime minister Malcolm Turnbull and his successor, Scott Morrison. Pezzullo is the public servant in charge of Home Affairs, a department whose creation he championed and which Turnbull appointed him to lead in late 2017.

The messages show that after seeking out Briggs in 2016, Pezzullo used him to conduct a brazen, years-long effort to influence political machinations within the highest offices of the land, including during Liberal leadership spills.

"I don't wish to interfere but you won't be surprised to hear that in the event of ScoMo [Scott Morrison] getting up I would like to see Dutton come back to HA [Home Affairs]. No reason for him to stay on backbench that I can see," Pezzullo wrote at 9.40pm on the night before the leadership spill against Turnbull in August 2018.

"I agree," Briggs responded.

Political and constitutional experts who have reviewed some of the encrypted messages say they reveal that Pezzullo was operating well outside the Westminster system and rules for senior public servants.

The Australian Public Service Code of Conduct requires public servants to be apolitical, independent and "open and accountable". In a [2018 speech](#) Pezzullo himself said it was "important for the public servant to absent oneself from any partisan discussions and avoid exposure to raw politics". Departmental secretaries had "a particular obligation to protect the boundary between the political and the administrative," he said.

But in conversations involving more than a thousand messages over five years, mostly using encrypted messaging apps WhatsApp and Signal, Pezzullo bad-mouthed and undermined senior Coalition ministers and public servants, particularly those he viewed as impediments to his ambition to build a powerful Home Affairs department.

He was advising from the sidelines during politically sensitive moments, including the 2018 Liberal leadership spill, and he covertly told the Coalition how to overcome resistance from Labor and then shadow attorney-general Mark Dreyfus on a number of policies.

He smeared journalists who criticised national security reforms or his favoured ministers. He boasted of his efforts to make press freedom a "dead duck" and repeatedly lobbied Briggs to convince Morrison to introduce a media censorship regime. And he ridiculed the Senate

estimates committee process – one of the key means of holding senior public servants and their ministers to account.

Briggs confirmed that he “had communications with Mike Pezzullo over a long period of time ... continuing through to the present,” but said they were “always private matters”.

Pezzullo refused requests for an interview, but the department responded in a statement that it was “committed to continued transparency and accountability in all its endeavours,” and, “any allegations, accompanied by any relevant evidence, should be referred to the appropriate authorities”.



Michael Pezzullo was critical of former defence minister Marise Payne and Senate estimates hearings. This photo was taken during a hearing in 2019. ALEX ELLINGHAUSEN

The Age, the *Herald* and *60 Minutes* are not suggesting any of the exchanges are corrupt or illegal, only that they were inappropriate for a senior public servant. A professor of public policy and law at Griffith University, AJ Brown, said the revelations of Pezzullo’s behaviour made his position “untenable almost instantly”.

“Our whole system of government relies on trust ... that senior public servants are not entering into political games and political manipulation ... when they’re supposed to be carrying out the needs and the wishes of the community,” Brown said. “I think this is an example of where an investigation is warranted.”

Labor kept Pezzullo as the head of Home Affairs after it won the 2022 election, despite a perception that he was too close to the previous government. He now reports to minister Clare O’Neil, who earlier this year declared the migration system, which Home Affairs administers, “broken”.

In the past year, this masthead and *60 Minutes* have highlighted how Home Affairs [failed to stop human traffickers](#) and [criminals entering Australia](#), and how it ran an offshore asylum seeker processing regime in which contractors [allegedly bribed and made improper payments](#), including to foreign politicians.

Those reports have triggered two inquiries, the [damning Nixon probe](#) and an [ongoing investigation](#) by former spy chief Dennis Richardson into offshore contracting arrangements. Pezzullo's department is now responsible for implementing the recommendations of those reports.

Messages by the thousand

This masthead and *60 Minutes* learnt of the messages and their content via a third party who obtained lawful access to them. We reviewed them while investigating Briggs' involvement in a tender process for [a failed billion-dollar contract](#) for a new visa processing system from Pezzullo's department.

Over five years of messages reviewed by this masthead, Briggs never raised the tender or gained inside information from Pezzullo. Briggs insisted that the conversations "never related to any procurement" and that he had disclosed his relationship with Pezzullo.

However, the messages reveal the department secretary frequently contacted the Liberal powerbroker on other issues, sometimes during the active portions of the tender process, as he sought to use Briggs to exercise political influence outside normal channels.

They capture Pezzullo repeatedly undermining and denigrating Liberal cabinet ministers. Most of his ire was reserved for moderate politicians, while he championed more conservative politicians who backed his stance on national security reforms.

He described then defence minister Marise Payne, a leading Liberal moderate, as "completely ineffectual" and told Briggs: "Marise is a problem!"

When Briggs responded that former prime minister Malcolm Turnbull "thinks so too" but "it may be too hard for him to dump a woman", Pezzullo responded: "If she stays then she has to stop thinking and acting like a Foreign Minister lite ... she looks weak. And she doesn't have a clear view of the national interest – it's just whatever Defence wants."

Payne declined to comment.

In the same exchange, Pezzullo urged the sacking of another leading moderate, the then defence industry minister: "And get rid of [Christopher] Pyne from that silly portfolio. You can say that he has done his job!"



Former prime minister Malcolm Turnbull and former foreign minister Julie Bishop exit the party room after the second Liberal leadership spill of 2018. ALEX ELLINGHAUSEN

Pezzullo derided former foreign minister Julie Bishop, describing how he “almost had a heart attack” in 2018 after she briefly emerged as a prime ministerial challenger. When she was a backbencher, Pezzullo mocked the fact that she had appeared in a fashion shoot with TV personality Kerri-Anne Kennerley, and later criticised the former foreign minister in response to a story headlined *Julie Bishop has an epic fashion moment for a good cause*.

“Sorry. She has agency and autonomy. I get it. But how does this advance the cause of strong, independent policy or business relevant women?”

Bishop was approached for comment but did not respond.

Pezzullo also sniped at a senior female Labor politician, Kristina Keneally, telling Briggs she looked “quite unhinged” in her challenge for the Liberal-held seat of Bennelong in 2017.

‘Put them to the sword’

The messages began in 2017 as Pezzullo pushed hard within the Turnbull government to introduce a new Home Affairs department. It would bring powerful agencies formerly under the watch of the attorney-general, including ASIO and the AFP, under the umbrella of a new super-department with Immigration and Border Protection. The department was to be led by Pezzullo.

In lobbying for the change, Pezzullo attacked the senior Coalition ministers who were wary of his push.

“The ones who [are] sniping and conducting an insurgency [against Home Affairs] are a couple of Ministers ... We must push on and over the top of this resistance,” Pezzullo messaged Briggs in August 2017. Then attorney-general George Brandis was “hand braking” the Attorney-General’s Department as he resisted the reforms.

“George has got them running in circles,” Pezzullo complained, accusing the then attorney-general of a “deliberate strategy” of “lawyering” public servants “into a state of befuddlement”.

“Brandis behaviour is getting worse,” Pezzullo told Briggs in another encrypted message, prompting Briggs to respond: “I’ve fed that into the PM. I think things may be getting closer to a Brandis departure.”

When Briggs told Pezzullo he might be “Seeing scott and malcolm [former prime ministers Scott Morrison and Malcolm Turnbull]” for dinner and asked Pezzullo if there were any messages he wanted him to convey, Pezzullo responded: “Yep. Home Affairs is going well except Agd [Attorney-General’s Department] needs to be put to the sword ... Once that is settled we can break out of the Normandy beachhead.”

Three months later, shortly before Brandis’ long-rumoured departure to take up a diplomatic posting was announced, he gave a highly praised speech in parliament supporting same-sex marriage. Pezzullo wrote: “George seems to be trying to negotiate a stay of execution. If that were to occur, he would have to change his mindset and behaviours regarding Home Affairs. He is in complete denial about Home Affairs.”

Brandis told *The Age*, the *Herald* and *60 Minutes* that Pezzullo “doesn’t know what he’s talking about” because, unbeknown to Pezzullo, he had resolved to leave politics “more than a year before that message”. More importantly, the conversations were out of bounds for a public servant.

“What he’s not entitled to do is seek to manipulate the political process so as to manipulate the political debate and manipulate and undermine senior members of the cabinet. That is more than giving advice or expressing a view,” he said.

When Pezzullo messaged Briggs a news story in December 2017 announcing Brandis’ resignation to take up a diplomatic posting, Briggs replied “have I ever let you down?” Pezzullo responded with an applause emoji.

In a series of messages, Pezzullo also attacked another cabinet minister resisting the Home Affairs reform, former justice minister Michael Keenan, describing him as a politician who was “passive and lacks impact”.

“Keenan ... needs to get with the program,” Pezzullo wrote in another message. “He needs to lift his sights and his horizons, rather than getting stuck on questions of status and prestige.”

‘You need a right winger’

During the August 2018 three-way battle for the Liberal Party leadership between Peter Dutton, Morrison and Turnbull, Pezzullo repeatedly sought to use Briggs’ influence with two of the candidates to have a conservative installed as his minister.



Malcolm Turnbull, Scott Morrison and Peter Dutton fought for the Liberal Party leadership in 2018. ALEX ELLINGHAUSEN

“You need a right winger in there – people smugglers will be watching ... Please feed that in [to Morrison and Turnbull],” Pezzullo messaged as the political battle played out in Parliament House.

“If Dutton is out, give me [Angus] Taylor or [Alan] Tudge,” Pezzullo texted as the pair also assessed the chances of right-wing senators Jim Molan and Michaelia Cash. When Briggs responded that Dutton may hold on to Home Affairs, Pezzullo responded: “Terrific.”

“Any suggestion of a moderate going in would be potentially lethal viz OSB [Operation Sovereign Borders],” he insisted.

“Tudge or Taylor would be the easiest transition,” Pezzullo added, but “Scott [Morrison] would be a dream – would hit the ground running.” Morrison had earlier served as Pezzullo’s minister, with the pair overseeing then prime minister Tony Abbott’s signature policy, Operation Sovereign Borders, in 2013.

During the turbulence, Briggs also hit up Pezzullo for a favour: “Mate request from Scott [Morrison] – we need you to recommend to the pm [Turnbull] that Scott stays in the [Home Affairs] role for next week.”

A summit of Australia’s Five Eyes security allies was coming up and Briggs said it was “too important” not to have an experienced Home Affairs minister in place.

“Done,” Pezzullo responded. “It’s in the national interest. It’s an executive matter, upon which I can express a view – my recommendation is not related to the Liberal leadership.”

The exchange is one of a number of times Pezzullo tried to stress that his intervention was apolitical, even though the request was coming from a political operative with no formal role in government.

Pezzullo went on to ask Briggs, “Do you need it done tonight?”

When Briggs informed Pezzullo that he was helping Morrison in “brokering a way forward” towards the prime ministership, Pezzullo responded: “How do you bring the conservatives in? Dutton back into HA [Home Affairs]?” Pezzullo also queried if Bishop and Payne would be sacked from cabinet: “Julie? Out? Marise out?”

When Briggs said it had become clear the leadership contest would come down to Morrison versus Dutton, Pezzullo wrote: “Then hopefully unite after that, whomever wins. We need them both on the field – not for Liberal Party’s sake but for the country’s sake. A grand coalition??”

After Morrison was confirmed as prime minister, Pezzullo congratulated Briggs: “You played a blinder.” Briggs responded that Morrison was “talking ministry tomorrow” with his inner circle and that Briggs would “chat with you then.” Pezzullo responded with more praise, describing Morrison’s first press conference as the nation’s leader as “perfectly pitched” and “pure genius”.

“Get some rest. We’ll speak over the weekend,” the departmental secretary told the political influencer.

In other exchanges, Pezzullo urged Abbott’s return from the political wilderness.

“Any chance of being able to rehabilitate Abbott and to bring the conservatives more into line? Pipe dream?” In another, Pezzullo queried if Morrison needed to “solve TA [Tony Abbott] placement issue” and, when told Morrison “has a solution”, he offered his own remedy for the former prime minister: “Can I give you another one? Can I call?”

A ‘tricky tightrope’

While Pezzullo peppered his encrypted conversations with claims that he was apolitical and “a neutral servant of the government of the day”, integrity expert AJ Brown said the content of the messages and the fact they were sent to Briggs suggest Pezzullo was acting like a politician.

It was “hard to see how the attempt to influence these kinds of decisions using these kinds of channels doesn’t breach ... most of the core principles of accountability and good conduct that a permanent head of a government department would be expected to comply with,” Brown said.

Constitutional lawyer George Williams said Pezzullo’s messages were “exactly the sort of things you would not want a [public service] secretary involved in ... it left me very uneasy ... and I think it’s really concerning, given how we expect our Westminster system to operate”.

By using an encrypted app, Pezzullo communicated in a manner likely to leave little trace of his actions. And at times, he seemed conscious he might be stepping over a line.

“Please keep our conversation confidential. Tricky tight rope for me,” Pezzullo said in one message.

In another, he appeared to make light of his push for power.

“Perhaps give me Defence and HA [Home Affairs] at the same time (wink emoji),” Pezzullo messaged to Briggs in July 2017.

But Pezzullo repeatedly undermined the Department of Prime Minister and Cabinet and its secretary, Martin Parkinson, calling them “incompetent” and “insecure”, while also suggesting he would be suitable to replace him.



Former Department of Prime Minister and Cabinet secretary Martin Parkinson. DOMINIC LORRIMER

“Parkinson isn’t up to it,” Pezzullo told Briggs in one message. In others he said that “Martin P’s insecurities don’t need to be fed” and described Parkinson as “entirely lacking in self awareness”.

Pezzullo suggested to Briggs he take over from Parkinson as the most senior public servant in the country. If Morrison “wants a driver in there, I would do it for him. It’s not a job that I’ve ever been interested in but if he needs a finisher in there I would of course answer the call,” Pezzullo wrote.

Pezzullo’s smearing of Parkinson creates a headache for the Albanese government, given Home Affairs Minister Clare O’Neil recently commissioned Parkinson to [review Australia’s migration system](#). Pezzullo’s department is responsible for implementing the reforms recommended in Parkinson’s report.

Parkinson declined to comment. Asked if the approaches were appropriate, a spokesman for Morrison said he was “not aware of the matters you have raised ... and therefore rejects the allegations of the nature of communications with Mr Pezzullo as false and fanciful.

“Mr Morrison worked with Mr Pezzullo over many years and would speak with him directly, if required. There was no need for any other channel of communication. These communications were always appropriate and drew on Mr Pezzullo’s experience and responsibilities as Secretary for the Department of Home Affairs.”

Picking winners

The Australian Public Service standards say bureaucrats should serve the government of the day, but are not entitled to act in a way “perceived as criticism of the Opposition”. Pezzullo repeatedly offered party political advice on how to overcome Labor resistance to the Home Affairs idea, including criticism of then shadow attorney-general Mark Dreyfus.

In July 2017 he wrote that: “As long as Labor doesn’t snipe at HA (and I think that that is going to be unlikely – except for Dreyfus), I would be happy to explain the intellectual basis of HA in policy and strategy terms.”

In November, Pezzullo suggested some policy tweaks designed to “satisfy [former opposition leader Bill] Shorten, if not some others.”

“Only issue will then be if Labor sees an opportunity to tack left on this,” Pezzullo wrote, before offering further political advice: “Home Affairs will become a proxy for strength on national security – would be hard for Labor to oppose.”



Liberal powerbroker Scott Briggs frequently exchanged messages with Michael Pezzullo over five years.

“[Mark] Dreyfus might be the only obstacle remaining,” Pezzullo wrote, “but I don’t think that he would have any weight internally when it comes to raw political calculations”.

Making adverse comments on one Labor senator, Pezzullo said the “Parliamentary route is now contaminated with a few exceptions. We need to build a meritocracy by stealth and run government through the bureaucracy, working to 4-5 powerful and capable Ministers”.

At times Pezzullo appeared to be barracking for the Coalition. When Briggs said the numbers were “tracking well” for the Liberal candidate in a 2017 byelection, Pezzullo responded: “That will give the PM momentum going into Christmas ... might even start to translate into general polls.”

On a “super Saturday” of five byelections in July 2018, Briggs relayed that Turnbull was “feeling very positive ... Confident we can pick up 2 [seats]”.

“That will change the game,” Pezzullo replied, before offering some political advice. “Not my business but you will need to be careful about rushing to capitalise at the polls. Punters hate that,” he said.

“Agree,” said Briggs.

He also expressed his dislike of Senate estimates committee hearings, in which senior public servants are grilled by parliamentary committee members about the finer details of policy delivery.

“No hits out of estimates,” he observed in October 2017, though Greens senator Nick McKim “called me a fascist so I will go back to polishing my jackboots and stroking my leathers!”

In 2020 his tone was tougher.

“Estimates is actually a concern for our democracy,” he wrote in a message at 9.29pm. “We have been here since 0900 – in batting terms we are 0-400.”

“There is no better argument for the abolition of the senate than watching senate estimates ... it serves no public good,” Briggs responded.

In other attempts to undercut scrutiny, Pezzullo used an embarrassing story written by journalist Annika Smethurst – [whose home was later raided by police](#) – to press then prime minister Scott Morrison to introduce a new regime of so-called “D Notices” to stifle media reporting.

The regime would allow the government to push against the publication of stories if they believed they threatened national security.

He ultimately did not succeed.

Cut through the noise of federal politics with news, views and expert analysis from Jacqueline Maley. [Subscribers can sign up to our weekly Inside Politics newsletter here.](#)



Nick McKenzie is an Age investigative journalist who has twice been named the Graham Perkin Australian Journalist of the Year. A winner of 14 Walkley Awards, he investigates politics, business, foreign affairs, human rights and criminal justice. Connect via [email](#).



Michael Bachelard is a senior writer and former deputy editor and investigations editor of The Age. He has worked in Canberra, Melbourne and Jakarta, has written two books and won multiple awards for journalism, including the Gold Walkley. Connect via [Twitter](#).

Pezzullo's power p

ON THEN ATTORNEY-GENERAL GEORGE BRANDIS

October 17, 2017

Michael Pezzullo

PM&C [the Department of Prime Minister and Cabinet] continue to botch HA [Home Affairs] implementation but now are starting to panic and are lashing out. And they haven't really started on the really complex changes - which are the intelligence reforms as distinct from HA. George [Brandis] has got them running in circles as part of a deliberate strategy I suspect.

Scott Briggs

Okay. Will call tomorrow ahead of my catch up with the PM.

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Don't think that they are being malicious - just inept and George is lawyering them into a state of befuddlement.

ON WHO WILL BE ATTORNEY-GENERAL

August 21, 2018

Michael Pezzullo

You need a right winger in there - people smugglers will be watching.

Scott Briggs

Agree.

Michael Pezzullo

Please feed that in.

Scott Briggs

Will do.

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Any suggestion of a moderate going in would be potentially lethal viz OSB [Operation Sovereign Borders].

ON WHO WILL BE APPOINTED HOME AFFAIRS MINISTER

December 16, 2017

Michael Pezzullo

Do you think that it will be [Christian] Porter [to replace Brandis]?

Scott Briggs

I think so. He [then prime minister Malcolm Turnbull] was chopping and changing - including potentially dumping Manse [Payne] - but [Christian] Porter appeared settled an hour or so ago.

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Manse is a problem!

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Agree. He obviously thinks so too. It may be too hard for him to dump a woman - but she was out of cabinet on one of the versions I saw.

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Not a good message for feminism.

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Yes - but the role is too critical I fear.

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May 17, 2018

Michael Pezzullo

[Former prime minister Bob] Hawke was the most intelligent politician that I have ever met. [John] Faulkner sent me to prep Bob for 1998 election debate practice for Kim [Beazley] - Bob was playing [John] Howard in the practice. I spent a day with him at his house in Northbridge. He was able to argue Howard's case better than Howard could do in real life. His intellect was terrifying.

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Meanwhile ... [Sharas Apple News alert of *The Australian Women's Weekly* story titled "Julie Bishop and Kerri-Anne Kennerley just debuted incredible new looks at Fashion Week".]

than getting stuck on status and prestige."

"YOU NEED A RIGHT WINGER"

During the August 2018 leadership battle for the Liberal Party between Peter Dutton and Scott Morrison and Turnbull, Pezzullo repeatedly sought to use his influence with two of the candidates to have a conservative installed as his minister.

"You need a right winger in there - people smugglers will be watching ... Please feed that in Morrison and Turnbull." Pezzullo messaged as the political battle played out in Parliament House.

"If Dutton is out, give me [Angus] Taylor or [Alan] Tudge. Pezzullo texted as the pair also assessed the chances of right-wing senators Jim Molan and Michael Cash. When Briggs responded, Dutton may hold on to Home Affairs, Pezzullo responded: "Terrific."

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"Tudge or Taylor would be the easiest transition," Pezzullo said but "Scott [Morrison] would be a dream - would hit the ground running".

Morrison had earlier served Pezzullo's minister. and he had overseen then prime minister Tony Abbott's signature policy, Operation Sovereign Borders, 2018.

During the turbulence, Pezzullo also hit up Pezzullo for a favour. "Mate request from Scott [Morrison] - we need you to recommend to the pm [Turnbull] that Scott stays in the [Home Affairs] role for next week."

A summit of Australia's Five Eyes security allies was coming and Briggs said it was "important" not to have an experienced Home Affairs minister in place.

"Done," Pezzullo responded. "It's in the national interest. It's executive matter, upon which I express a view - my recommendation is not related to the Liberal leadership."

The exchange is one of a number of times Pezzullo tried to stress that his intervention was apolitical, even though the request was coming from a political operative with no formal role in government.

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Cover illustration: Matthew Absalom-Wong

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When Pezzullo messaged Briggs

WHATSAPP MESSAGES

Department of Home Affairs secretary Michael Pezzullo's messages to Liberal powerbroker Scott Briggs

On himself ^

July 23, 2017

Briggs: Had a good chat to both malcolm [then prime minister Malcolm Turnbull] and Scott [then treasurer Scott Morrison] this weekend. They both think it needs to be you to lead HA. I'll call you tomorrow to discuss

July 24, 2017

Pezzullo: Scott

I fully understand.

would be honoured to serve my country in any way the PM deems appropriate. We are very privileged to be able to serve at these levels and personal preference should never enter into the equation.

I will work very hard not to become the lightning rod of discontent regarding HA [Home Affairs]. I will also support the new Defence Secretary in every way I can.

Regards,

MP

...

Pezzullo: We will get HA [Home Affairs] done and you will see an appreciable difference very quickly with an empowered Cabinet Minister supporting the PM. I am running deep and silent. Won't come up to periscope depth for a while. MP

Briggs: Haha okay. It is the biggest gig in town!

July 31, 2017

Pezzullo: People know that the submarine is down there somewhere, and they are second guessing ... not a bad thing.

Hahaha.

Briggs: Yes will keep them honest. Just what they were designed for!

Pezzullo: The second guessing is hilarious - long lost 'friends' attempting to reconnect etc.

Briggs: Hahaha. Imagine how it will get when it gets out!

August 9, 2017

Briggs: Just touched down in Canberra. I'm seeing Scott and Malcolm [then treasurer Scott Morrison and then prime minister Malcolm Turnbull] at some stage today ...maybe having dinner with them. Any messages you want me to convey? 10:39am

Pezzullo: Yep. Home Affairs is going well except Agd [Attorney-General's Department] needs to be put to the sword by way of final decisions about which functions transfer to the new Department. PM's call now -I believe that he has written advice. Once that is settled we can break out of the Normandy beachhead.

Briggs: Haha. Okay will pass it on. We should catch up when you have some time.

On then Department of Prime Minister and Cabinet secretary Martin Parkinson



November 10, 2017

Head down and powering on. I have had to bite my tongue with respect to PM&C [Prime Minister and Cabinet] ineptitude and incompetence. No project management skills or capability.

But going to war with Martin [Parkinson] would not benefit anyone and would just create grief for the PM.

On former prime minister Tony Abbott



November 29, 2017

Pezzullo: Any chance of being able to rehabilitate Abbott and to bring the conservatives more into line?

Pipe dream?

Briggs: think it's too hard. But never say never in politics.

In a topsy turvy world.....expect the unexpected!

On former Labor senator Kristina Keneally on the eve of the Bennelong byelection



December 15, 2017

Pezzullo: How is Bennelong looking?

Pezzullo: I think that [then attorney-general Christian] Porter would be sensible. His Department is out to lunch.

Scott: Yes. A reason why they are not really ever consulted on these issues. They need to move past the HA [Home Affairs] changes and find a new role as the trusted advisor on these sorts of matters.

Pezzullo: You won't until you change out the leadership.

On former foreign minister Julie Bishop



October 1, 2021

Pezzullo shares a story with Briggs headlined *Julie Bishop has an epic fashion moment for a good cause*.

Pezzullo: Sorry. She has agency and autonomy. I get it. But how does this advance the cause of strong, independent policy or business relevant women?

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Michael Pezzullo

Meanwhile ... [Shares Apple News alert of *The Australian Women's Weekly* story titled "Julie Bishop and Kerri-Anne Kennerley just debuted incredible new looks at Fashion Week".]

than getting stuck on questions of status and prestige."

'YOU NEED A RIGHT WINGER'

During the August 2018 leadership battle for the Liberal Party between Peter Morrison and Turnbull, Pezzullo repeatedly sought to use his influence with two of the candidates to have a conservative installed as his minister.

"You need a right winger in there -- people smugglers will be watching ... Please feed that in [to Morrison and Turnbull]," Pezzullo messaged as the political battle played out in Parliament House.

"If Dutton is out, give me [Angus] Taylor or [Alan] Tudge," Pezzullo texted as the pair also assessed the chances of right-wing senators Jim Molan and Michael Cash. When Briggs responded Dutton may hold on to Home Affairs, Pezzullo responded: "Terrific."

"Any suggestion of a moderate going in would be potentially lethal viz OSB [Operation Sovereign Borders]," he said.

"Tudge or Taylor would be the easiest transition," Pezzullo said but "Scott [Morrison] would be a dream -- would hit the ground running".

Morrison had earlier named Pezzullo's minister, and Pezzullo had overseen then prime minister Tony Abbott's signature policy, Operation Sovereign Borders, in 2013.

During the turbulence, Pezzullo also hit up Pezzullo for a favour: "Mate request from Scott [Morrison] -- we need you to recommend to the pm [Turnbull] that Scott stays in the [Home Affairs] role for next week."

A summit of Australia's Five Eyes security allies was coming and Briggs said it was "too important" not to have an experienced Home Affairs minister in place.

"Done," Pezzullo responded. "It's in the national interest. It's an executive matter, upon which I express a view -- my recommendation is not related to the Liberal leadership."

The exchange is one of a number of times Pezzullo tried to stress that his intervention was apolitical, even though the request was coming from a political operative with no formal role in government.

Pezzullo went on to ask Briggs

fed that into the PM. I think things may be getting closer to a Brandis departure."

When Briggs told Pezzullo he

parliament supporting same-sex marriage.

Pezzullo wrote: "George seems to be trying to negotiate a stay of

and undermine senior members of the cabinet. That is more than giving advice or expressing a view," he said.

Cover illustration: Matthew Absalom-Wong

WHATSAPP MESSAGES

Department of Home Affairs secretary Michael Pezzullo's messages to Liberal powerbroker Scott Briggs

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Pezzullo: I suspect that George has been handbraking AGD [Attorney-General's Department]. That has constrained their participation.

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Head down and powering on. I have had to bite my tongue with respect to PM&C [Prime Minister and Cabinet] ineptitude and incompetence. No project management skills or capability.

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THE AGE

Power player

‘Modern version of the D Notice’: How the Home Affairs boss tried to stifle press freedom

Michael Pezzullo pushed for the power to censor the media’s reporting of some national security issues after controversial raids on Australian journalists.

By Michael Bachelard and Nick McKenzie

SEPTEMBER 25, 2023



Senior journalist Annika Smethurst's house was raided by police. ILLUSTRATION: MATTHEW ABSALOM-WONG

The Age, The Sydney Morning Herald and 60 Minutes reveal how Home Affairs secretary Michael Pezzullo used WhatsApp messages to try to reshape governments. [See all 6 stories.](#)



Listen to this article

10 min

The public servant in charge of Australia's internal security lobbied hard for the power to censor the media's reporting of national security issues after the Australian Federal Police [controversially raided](#) three Australian journalists over their reporting.

In a series of text messages to an influential Liberal Party operative in 2019, the secretary of the Home Affairs Department, Michael Pezzullo, sought to convince then prime minister Scott Morrison to introduce a system of "D-Notices" – by which government agencies would be able to pressure media organisations not to publish stories deemed damaging to national security.

Pezzullo pursued the issue despite the apparent indifference of the government, after his anger was stoked by a report by then News Corp journalist Annika Smethurst – who is now state politics editor for *The Age* – about his secret proposal to allow the nation's external intelligence agency to spy on Australians.

In other messages, Pezzullo wrote that the government could "criminalise" journalists in certain circumstances for reporting on what they were told by government whistleblowers.

The revelations come after *The Age*, *The Sydney Morning Herald* and *60 Minutes* [revealed a five-year conversation](#) between Pezzullo and Liberal powerbroker Scott Briggs whom the Home Affairs secretary used as a back channel to two Liberal prime ministers to try to further his ambitions.

Prime Minister Anthony Albanese announced on Monday that Pezzullo had agreed to stand aside from his job pending an inquiry by the Australian Public Service Commission. He had not been stood aside when the inquiry was first announced.

Smethurst's April 2018 story was based partly on a leaked letter written by Pezzullo, in which he proposed the Australian Signals Directorate be able to access the private information of Australians in the name of increasing security.

The following year, Australian Federal Police [raided Smethurst's house](#). Pezzullo [praised the officers](#) who conducted the raid and the Home Affairs secretary [called publicly for the jailing](#) of the person who had leaked the document to Smethurst.

The raid on Smethurst, along with [a separate raid targeting two ABC journalists](#), Dan Oakes and Sam Clark, led to a public debate and a parliamentary committee inquiry into the balance between press freedom and increasingly heavy-handed security legislation.



Senior journalist Annika Smethurst at a Press Club speech on press freedom following the raid on her home in 2019. DOMINIC LORRIMER

More than a thousand messages to Liberal Party operative Scott Briggs, obtained by *The Age*, the *Sydney Morning Herald* and *60 Minutes*, show Pezzullo used the leak to Smethurst to denigrate former defence minister Marise Payne and other colleagues, including his fellow bureaucrats, and to go behind Smethurst's back to criticise her to her senior journalistic colleagues.

Pezzullo's messages also show a contempt for several well-known media figures. He congratulated then prime minister Malcolm Turnbull for putting prominent journalist Waleed Aly "in his place," described young reporter Primrose Riordan as a "silly journalist", veteran ABC journalist Barrie Cassidy as "a sneering, cynical hack," and referred to broadcaster Alan Jones' view that the [Murugappan family of Biloela](#) should be allowed to stay in Australia as a "rant".

Pezzullo, who has a responsibility as a senior public servant to be apolitical, to serve his minister and to be transparent in his dealings in the public interest, instead cultivated a secret relationship with Briggs, a party apparatchik who had the ear of successive Liberal prime ministers.

'She is useless'

On April 29, 2018, Smethurst published a story citing a letter written by Pezzullo. It outlined his proposal to allow government hackers working for the Australian Signals Directorate to "proactively disrupt and covertly remove" onshore cyber threats by "hacking into critical infrastructure" in Australia.

In WhatsApp messages between Pezzullo and Briggs on the Sunday the story was published, the powerful public servant turned his attack on Payne over her response to Smethurst's questions published in the article.

"Payne is completely ineffectual," Pezzullo wrote to Briggs around midday. "She could have killed the story yesterday."

"She is useless," Briggs agreed, before reassuring Pezzullo that, "Scott [Morrison] was at pains to say he has your back – meaning he agreed it [the hacking policy] is a totally necessary measure. [Then prime minister] Malcolm [Turnbull] said he supports it as well. We just need to make sure they stay committed."

"The shame of it is that Payne could have turned it around yesterday had she engaged," wrote Pezzullo. "I could have turned it into a great story for the Government ... once Smethurst had the yarn she could have been turned."

Payne declined to comment.

Smethurst told *The Age*, the *Herald* and *60 Minutes*: "I don't think it's the role of department people to be trying to turn journalists.

"This was a profound change [of policy], one that the intelligence watchdog, Margaret Stone at the time, warned against ... I wasn't in the business of writing great stories for any government or any opposition. It was just about getting facts out there and I would have written it in the same manner."

Fourteen months later, in June 2019, Pezzullo returned to the subject after the Australian Federal Police – which was part of the Home Affairs portfolio but not under Pezzullo's operational command – raided Smethurst's home and confiscated her electronic devices.

The furious media reaction prompted Pezzullo to write to his senior contacts in the media who he described in messages to Briggs as "some colleagues in the 4th estate".

"I respect your journalism but I am calling foul on your commentary on the AFP warrant on Smethurst," Pezzullo wrote, forwarding the extended message to Briggs. "You cannot possibly defend so-called 'public interest journalism' which is entirely false, and where no evidence of wrongdoing is exposed ... Why do I know this to be false? Because I wrote the proposal and sent it to Defence."

He then denigrated Smethurst: "Why do you think her handler picked her, rather than say an experienced national security journalist. Think about it."

Smethurst said she had spent months reporting and confirming the story.

"It was a good story and I stand by it."

Bid to restrict media reporting

The raids prompted a national debate on media freedom, but Pezzullo's messages to Briggs showed that he quickly tired of it. Five days after the raid, as the coverage continued, he wrote to Briggs: "The self-indulgence is getting tiresome". Briggs comforted him by saying Morrison, who was by then the prime minister, was "very supportive of you and resolute on the media issue".

Pezzullo quickly proposed new controls on journalists. Telling Briggs the "punters are sick of the chaos," Pezzullo said he was "happy to speak with the PMO [Prime Minister's Office]" discreetly.

"Solution is elegant and can be played out sequentially over coming months – purposefully and steadily without a sense of crisis and reaction. We need to fix this over medium term. A prosecution ... would see WWII break out".

His politically-charged proposal to Morrison, via Briggs, was for the powerful security oversight committee to hold a parliamentary inquiry which would "give us cover to stitch together a deal built around a modern version of the D Notice system.

"Would only work if deal could be struck with Albo [then opposition leader Anthony Albanese]," he added.

D Notices were used in Australia until 1982 to warn the media not to publish on questions deemed to infringe on national security. They are still used in the United Kingdom as a mechanism for the government to meet media bosses to influence them to restrict their publishing.

A week later Pezzullo suggested to Briggs that he approach the Prime Minister's Department to suggest "that Mike P probably knows a fair amount about this as a public service and national security tragic ... It would have the ring of credibility".

He told Briggs that his minister, Peter Dutton, "likes D Notice type approach" to "guide the AFP in terms of whether or not they even commence an investigation where a journalist could be a suspect". AFP chief commissioner Andrew Colvin "would prefer same," Pezzullo added.

It would be "modelled on the British D Notice system which unlike ours hasn't fallen into disuse".

"Under my model unless the harm was exceptionally grave you would not go after the journalist as a suspect or as an accessory, but you would still go after the original leaker," he said.

Briggs said this was "where Scott [Morrison]'s head was".

'A dead duck'

In July 2019 the parliamentary joint committee on intelligence and security began its inquiry, and, on August 14, Pezzullo addressed it, calling for [the source of the leaks to Smethurst to be jailed](#).

In the following days, he was full of self-congratulation on WhatsApp: “Just reviewed social media ... this [press freedom issue] is a dead duck. All we have to do is throw something light but constructive into the mix and it’s over,” he told Briggs. His proposal would need to be negotiated with “the hard headed and realistic media business leaders”.

“Press freedom issue has completely vanished. Job done. (green tick emoji) Sometimes you have to hit an issue with a massive amount of ordnance.”

Ultimately, Pezzullo’s D Notice idea itself vanished as neither the committee nor the government showed interest in it, considering the inevitable backlash from the media.

It was not the first time in the text messages that Pezzullo had shown his contempt for media freedom. In early 2018, amendments to the Espionage Act, drafted by the Attorney-General’s department, [caused an outcry by proposing jail terms for journalists](#) who communicated or dealt with certain information provided by a Commonwealth officer.

Pezzullo wrote to Briggs asking: “Why is the Government picking a fight with the media when it doesn’t need to?” He blamed the rival department, saying the drafting was “unforgivable”.

“Don’t trust anything served up by AGD. i [sic] don’t!” he said.

But this was not a case of Pezzullo moving to protect journalists: instead of using the espionage legislation, in early 2018 he proposed using the whistleblower act to jail reporters.

“There is a way through – but you have to criminalise secondary disclosures [by the media] as an extension of Public Interest Disclosure law which protects whistleblowers,” he told Briggs.

Reassured by Briggs in the wake of this issue that he had Turnbull’s full confidence, Pezzullo responded: “I am just doing my job to the standard to which all Secretaries should be held”.

“I intend to now lift to another level again. It’s like elite sport – never be satisfied with your performance and be your own harshest critic.”

Cut through the noise of federal politics with news, views and expert analysis from Jacqueline Maley. [Subscribers can sign up to our weekly Inside Politics newsletter here.](#)



Michael Bachelard is a senior writer and former deputy editor and investigations editor of The Age. He has worked in Canberra, Melbourne and Jakarta, has written two books and won multiple awards for journalism, including the Gold Walkley. Connect via [Twitter](#).



Nick McKenzie is an Age investigative journalist who has twice been named the Graham Perkin Australian Journalist of the Year. A winner of 14 Walkley Awards, he investigates politics, business, foreign affairs, human rights and criminal justice. Connect via [email](#).

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By Nick McKenzie, Michael Bachelard and Amelia Ballinger

The Sydney Morning Herald

Monday 25th September 2023

4197 words

Page 1,4,5,6 | Section: News

3602cm on the page



Pezzullo's power play

- Text message bombshell
- Department head 'manipulates' politics

Nick McKenzie, Michael Bachelard and Amelia Ballinger

EXCLUSIVE

One of Australia's most influential public servants, Michael Pezzullo, spent years using a political back channel to two Liberal prime ministers to undermine political and public service enemies, to promote the careers of conservative politicians he considered allies and to lobby to muzzle the press.

The secret efforts of the Department of Home Affairs secretary to build his power while reshaping successive Coalition governments and Australia's national security regime are revealed in hundreds of encrypted messages Pezzullo sent to influential Liberal Party powerbroker Scott Briggs, obtained by *The Sydney Morning Herald*, *The Age* and *60 Minutes*.

Briggs is a lobbyist, businessman, former vice-president of the NSW Liberals, and was a close

confidant of former prime minister Malcolm Turnbull and his successor, Scott Morrison.

Pezzullo is the public servant in charge of Home Affairs, a department whose creation he championed and which Turnbull appointed him to lead in late 2017. The messages show that after seeking out Briggs in 2016, Pezzullo used him to conduct a brazen, years-long effort to influence political machinations within the highest offices of the land, including during Liberal leadership spills.

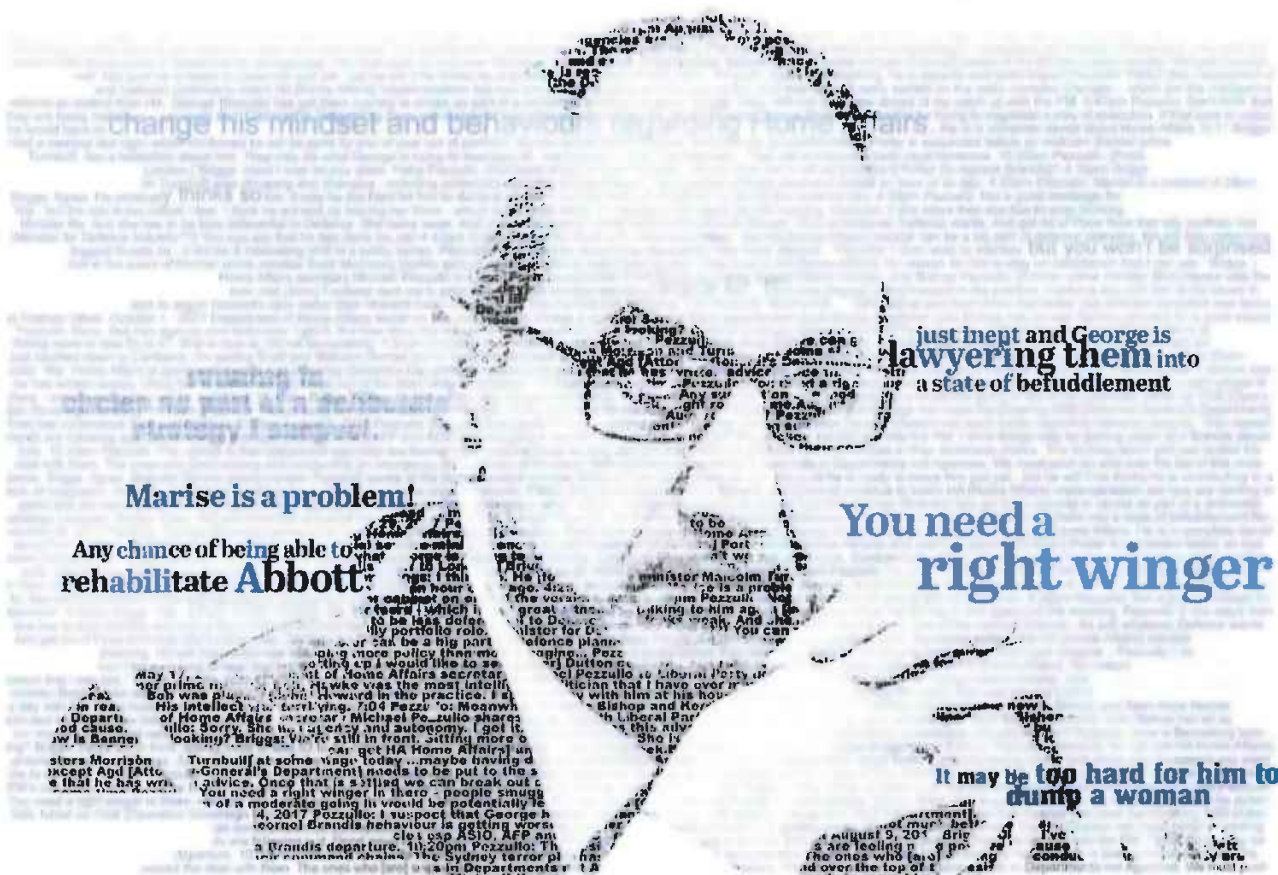
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him to stay on backbench that I can see," Pezzullo wrote at 9.40pm on the night before the leadership spill against Turnbull in August 2018.

"I agree," Briggs responded.

Political and constitutional experts who have reviewed some of the encrypted messages say they reveal that Pezzullo was operating well outside the Westminster system and rules for senior public servants.

Continued Page 4



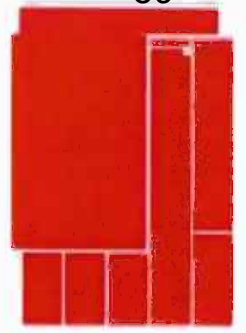
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It may be **too hard for him to
dump a woman**



Text bombshell reveals Pezzullo's power play

From Page 1

The Australian Public Service Code of Conduct requires public servants to be apolitical, independent and "open and accountable". In a 2018 speech, Pezzullo himself said it was "important for the public servant to absent oneself from any partisan discussions and avoid exposure to raw politics". Departmental secretaries had "a particular obligation to protect the boundary between the political and the administrative", he said.

But in conversations involving more than a thousand messages over five years, mostly using encrypted messaging apps WhatsApp and Signal, Pezzullo bad-mouthed and undermined senior Coalition ministers and public servants, particularly those he viewed as impediments to his ambition to build a powerful Home Affairs department.

He was advising from the sidelines during politically sensitive moments, including the 2018 Liberal leadership spill, and he covertly told the Coalition how to overcome resistance from Labor and then shadow attorney-general Mark Dreyfus on a number of policies.

He smeared journalists who criticised national security reforms or his favoured ministers. He boasted of his efforts to make press freedom a "dead duck" and repeatedly lobbied Briggs to convince Morrison to introduce a media censorship regime.

And he ridiculed the Senate estimates committee process,

which is one of the key means of holding senior public servants and their ministers to account.

Briggs confirmed that he "had communications with Mike Pezzullo over a long period of time ... continuing through to the present", but said they were "always private matters".

Pezzullo refused requests for an interview, but the department responded in a statement that it was "committed to continued transparency and accountability in all its endeavours" and, "any allegations, accompanied by any relevant evidence, should be referred to the appropriate authorities".

The *Herald*, *The Age* and *60 Minutes* are not suggesting any of the exchanges are corrupt or illegal, only that they were inappropriate for a senior public servant. A professor of public policy and law at Griffith University, AJ Brown, said the revelations of Pezzullo's behaviour made his position "untenable almost instantly".

"Our whole system of government relies on trust ... that senior public servants are not entering into political games and political manipulation ... when they're supposed to be carrying out the needs and the wishes of the community," Brown said. "I think this is an example of where an investigation is warranted."

Labor kept Pezzullo as the head of Home Affairs after it won the 2022 election, despite a perception that he was too close to the previous government. He now

reports to minister Clare O'Neil, who earlier this year declared the migration system, which Home Affairs administers, "broken".

In the past year, this masthead and *60 Minutes* have highlighted Home Affairs' failure to stop human traffickers and criminals entering Australia, and of running an offshore asylum seeker processing regime in which contractors allegedly bribed and made improper payments, including to foreign politicians.

Those reports have triggered two inquiries, the damning Nixon probe and an ongoing investigation by former spy chief Dennis Richardson into offshore contracting arrangements. Pezzullo's department is now responsible for implementing the recommendations of those reports.

MESSAGES BY THE THOUSAND

This masthead and *60 Minutes* learnt of the messages and their content via a third party who obtained lawful access to them. We reviewed them while investigating Briggs' involvement in a tender process for a failed billion-dollar contract for a new visa processing system from Pezzullo's department.

Over five years of messages reviewed by this masthead, Briggs never raised the tender or gained inside information from Pezzullo. Briggs insisted that the conversations "never related to any procurement" and that he had disclosed his relationship with Pezzullo.

However, the messages reveal the department secretary frequently contacted the Liberal powerbroker on other issues, sometimes during the active portions of the tender process, as he sought to use Briggs to exercise political influence outside normal channels. They capture Pezzullo repeatedly undermining and denigrating Liberal cabinet ministers. Most of his ire was reserved for moderate politicians, while he championed more conservative politicians who backed his stance on national security reforms.

He described then defence minister Marise Payne, a leading Liberal moderate, as “completely ineffectual” and told Briggs: “Marise is a problem!”

When Briggs responded that Turnbull “thinks so too” but “it may be too hard for him to dump a woman”, Pezzullo responded: “If she stays then she has to stop thinking and acting like a Foreign Minister lite . . . she looks weak. And she doesn’t have a clear view of the national interest – it’s just whatever Defence wants.”

Payne declined to comment.

In the same exchange, Pezzullo urged the sacking of another leading moderate, the then defence industry minister: “And get rid of [Christopher] Pyne from that silly portfolio. You can say that he has done his job!”

Pezzullo derided former foreign minister Julie Bishop, describing how he “almost had a heart attack” in 2018 after she briefly emerged as a prime ministerial challenger. When she was a backbencher, Pezzullo mocked the fact that she had appeared in a fashion shoot with TV personality Kerri-Anne Kennerley, and later criticised the former foreign minister in response to a story headlined “Julie Bishop has an epic fashion moment for a good cause”.

“Sorry. She has agency and autonomy. I get it. But how does this advance the cause of strong,

independent policy or business relevant women?”

Bishop was approached for comment but did not respond.

Pezzullo also sniped at a senior female Labor politician, Kristina Keneally, telling Briggs she looked “quite unhinged” in her challenge for the Liberal-held seat of Bennelong in 2017.

‘PUT THEM TO THE SWORD’

The messages began in 2017 as Pezzullo pushed hard within the Turnbull government to introduce a new Home Affairs department. It would bring powerful agencies formerly under the watch of the attorney-general, including ASIO and the AFP, under the umbrella of a new super-department with Immigration and Border Protection.

The department was to be led by Pezzullo.

In lobbying for the change, Pezzullo attacked the senior Coalition ministers who were wary of his push. “The ones who [are] sniping and conducting an insurgency [against Home Affairs] are a couple of Ministers . . . We must push on and over the top of this resistance,” Pezzullo messaged Briggs in August 2017.

Then attorney-general George Brandis was “hand braking” the Attorney-General’s Department as he resisted the reforms.

“George has got them running in circles,” Pezzullo complained, accusing the then attorney-general of a “deliberate strategy” of “lawyering” public servants “into a state of befuddlement”.

“Brandis behaviour is getting worse,” Pezzullo told Briggs in another encrypted message, prompting Briggs to respond: “I’ve fed that into the PM. I think things may be getting closer to a Brandis departure.”

When Briggs told Pezzullo he might be “Seeing scott and malcolm [former prime ministers Scott Morrison and Malcolm

Turnbull]” for dinner and asked Pezzullo if there were any messages he wanted him to convey, Pezzullo responded: “Yep. Home Affairs is going well except Agd [Attorney-General’s Department] needs to be put to the sword . . . Once that is settled we can break out of the Normandy beachhead.”

Three months later, shortly before Brandis’ long-rumoured departure to take up a diplomatic posting was announced, he gave a highly praised speech in parliament supporting same-sex marriage.

Pezzullo wrote: “George seems to be trying to negotiate a stay of execution. If that were to occur, he would have to change his mindset and behaviours regarding Home Affairs. He is in complete denial about Home Affairs.”

Brandis said Pezzullo “doesn’t know what he’s talking about” because, unbeknown to Pezzullo, he had resolved to leave politics “more than a year before that message”.

More importantly, the conversations were out of bounds for a public servant.

“What he’s not entitled to do is seek to manipulate the political process so as to manipulate the political debate and manipulate and undermine senior members of the cabinet. That is more than giving advice or expressing a view,” he said.

When Pezzullo messaged Briggs a news story in December 2017 announcing Brandis’ resignation to take up a diplomatic posting, Briggs replied “have I ever let you down?” Pezzullo responded with an applause emoji.

In a series of messages, Pezzullo also attacked another cabinet minister resisting the Home Affairs reform, former justice minister Michael Keenan, describing him as a politician who was “passive and lacks impact”. “Keenan . . . needs to get with the



program," Pezzullo wrote in another message. "He needs to lift his sights and his horizons, rather than getting stuck on questions of status and prestige."

'YOU NEED A RIGHT WINGER'

During the August 2018 three-way battle for the Liberal Party leadership between Peter Dutton, Morrison and Turnbull, Pezzullo repeatedly sought to use Briggs' influence with two of the candidates to have a conservative installed as his minister.

"You need a right winger in there – people smugglers will be watching ... Please feed that in [to Morrison and Turnbull]," Pezzullo messaged as the political battle played out in Parliament House.

"If Dutton is out, give me [Angus] Taylor or [Alan] Tudge," Pezzullo texted as the pair also assessed the chances of right-wing senators Jim Molan and Michaelia Cash. When Briggs responded that Dutton may hold on to Home Affairs, Pezzullo responded: "Terrific."

"Any suggestion of a moderate going in would be potentially lethal viz OSB [Operation Sovereign Borders]," he said.

"Tudge or Taylor would be the easiest transition," Pezzullo said, but "Scott [Morrison] would be a dream – would hit the ground running".

Morrison had earlier served as Pezzullo's minister, and the pair had overseen then prime minister Tony Abbott's signature policy, Operation Sovereign Borders, in 2013.

During the turbulence, Briggs also hit up Pezzullo for a favour: "Mate request from Scott [Morrison] – we need you to recommend to the pm [Turnbull] that Scott stays in the [Home Affairs] role for next week."

A summit of Australia's Five Eyes security allies was coming up and Briggs said it was "too important" not to have an

experienced Home Affairs minister in place.

"Done," Pezzullo responded. "It's in the national interest. It's an executive matter, upon which I can express a view – my recommendation is not related to the Liberal leadership."

The exchange is one of a number of times Pezzullo tried to stress that his intervention was apolitical, even though the request was coming from a political operative with no formal role in government.

Pezzullo went on to ask Briggs, "Do you need it done tonight?"

When Briggs informed Pezzullo that he was helping Morrison in "brokering a way forward" towards the prime ministership, Pezzullo responded: "How do you bring the conservatives in? Dutton back into HA [Home Affairs]?" Pezzullo also queried if Bishop and Payne would be sacked from cabinet: "Julie? Out? Marise out?"

When Briggs said it had become clear the leadership contest would come down to Morrison versus Dutton, Pezzullo wrote: "Then hopefully unite after that, whomever wins. We need them both on the field – not for Liberal Party's sake but for the country's sake. A grand coalition?"

After Morrison was confirmed as prime minister, Pezzullo congratulated Briggs: "You played a blinder." Briggs responded that Morrison was "talking ministry tomorrow" with his inner circle and that Briggs would "chat with you then". Pezzullo responded with more praise, describing Morrison's first press conference as the nation's leader as "perfectly pitched" and "pure genius".

"Get some rest. We'll speak over the weekend," the departmental secretary told the political influencer.

When Briggs revealed to Pezzullo that conservative minister Cash was being considered for the Home Affairs portfolio, the pair discussed how

the appointment might be problematic because the federal police was investigating allegations Cash's office had leaked details of a police raid on the Australian Workers' Union, then Labor leader Bill Shorten's old union. Cash was later cleared of wrongdoing, but a judge declared the raid itself invalid. Pezzullo suggested Briggs tell the new prime minister to have a quiet chat with federal police commissioner Andrew Colvin about the then pending issue. "Colvin may be willing to have a private discussion with the PM as long as it was understood that he [Colvin] will not be influenced about the conduct of the investigation and the PM would expect no less," Pezzullo said.

In other exchanges, Pezzullo urged Abbott's return from the political wilderness. "Any chance of being able to rehabilitate Abbott and to bring the conservatives more into line? Pipe dream?"

In another, Pezzullo queried if Morrison needed to "solve TA [Tony Abbott] placement issue" and, when told Morrison "has a solution", he offered his own remedy for the former prime minister: "Can I give you another one? Can I call?"

A 'TRICKY TIGHTROPE'

While Pezzullo peppered his encrypted conversations with claims that he was apolitical and "a neutral servant of the government of the day", integrity expert AJ Brown said the content of the messages and the fact they were sent to Briggs suggest Pezzullo was acting like a politician.

It was "hard to see how the attempt to influence these kinds of decisions using these kinds of channels doesn't breach ... most of the core principles of accountability and good conduct that a permanent head of a government department would be expected to comply with," Brown said.

Constitutional lawyer George



Williams said Pezzullo's messages were "exactly the sort of things you would not want a [public service] secretary involved in ... it left me very uneasy ... and I think it's really concerning, given how
Continued Page 6

HOW TO INFLUENCE POLITICS

The public servant, the politicians and the encrypted messages



Scott Briggs
 Liberal Party mover and shaker, and a former employee in private enterprise of Malcolm Turnbull. Ran Turnbull's campaign for the seat of Wentworth in 2003. Close friend and confidant of former prime minister Scott Morrison. One-time deputy state director of the Liberal Party, and a director of the Cronulla Sharks, where Morrison is the No.1 ticket holder. Part of the consortium to bid for a \$1 billion contract from Home Affairs to privatise Australia's visa processing system.

Michael Pezzullo
 Head of the department of Home Affairs and its predecessor agency, the Department of Immigration and Border Protection, since 2014. Described as the "hardest nut" in the government. Worked for Labor ministers and in the public service for decades. Came up with the idea for Home Affairs in 2001 and finally saw it realised in 2017. Has previously made speeches about appropriate behaviour for public servants.

Cover illustration: Matthew Absalom-Wong

ON THEN ATTORNEY-GENERAL GEORGE BRANDIS

October 17, 2017

Michael Pezzullo
 PM&C (the Department of Prime Minister and Cabinet) continue to botch HA (Home Affairs) implementation but now are starting to panic and are lashing out. And they haven't really started on the really complex changes - which are the intelligence reforms as distinct from HA. George (Brandis) has got them running in circles as part of a deliberate strategy I suspect.

Scott Briggs
 Okay. Will call tomorrow ahead of my catch up with the PM.

Michael Pezzullo
 Don't think that they are being ridiculous - just inept and George is lawyering them into a state of befuddlement.

ON WHO WILL BE ATTORNEY-GENERAL

August 21, 2016

Michael Pezzullo
 You need a right winger in there - people smugglers will be watching.

Scott Briggs
 Agree.

Michael Pezzullo
 Please feed that in.

Scott Briggs
 Will do.

Michael Pezzullo
 Any suggestion of a moderate going in would be potentially lethal re OSB (Operation Sovereign Borders).

ON WHO WILL BE APPOINTED HOME AFFAIRS MINISTER

December 10, 2017

Michael Pezzullo
 Do you think that it will be (Christian) Porter (to replace Brandis)?

Scott Briggs
 I think so. He (then prime minister Malcolm Turnbull) was chopping and changing - including potentially dumping Marise (Payne) - but (Christian) Porter appeared settled an hour or so ago.

Michael Pezzullo
 Marisa is a problem!

Scott Briggs
 Agree. He obviously thinks so too. It may be too hard for him to dump a woman - but she was out of cabinet on one of the versions I saw.

Michael Pezzullo
 Not a good message for feminism.

Scott Briggs
 Yes - but the role is too critical I fear.

ON FORMER FOREIGN AFFAIRS MINISTER JULIE BISHOP

May 17, 2019

Michael Pezzullo
 (Former prime minister Bob) Hawke was the most intelligent politician that I have ever met (John) Faulkner sent me to prep Bob for 1998 election debate practice for Kim (Bosley) - Bob was playing (John) Howard in the practice. I spent a day with him at his house in Northbridge. He was able to argue Howard's case better than Howard could do in real life. His intellect was terrifying.

Michael Pezzullo
 Meanwhile (Sharee Apple News alert of *The Australian Women's Weekly* story titled "Julie Bishop and Karen-Anne Kenworthy just debated world's new looks at Fashion Week")



Text message bombshell reveals political power play of Home Affairs secretary

From Page 5

we expect our Westminster system to operate”.

By using an encrypted app, Pezzullo communicated in a manner likely to leave little trace of his actions. And at times, he seemed conscious he might be stepping over a line.

“Please keep our conversation confidential. Tricky tight rope for me,” Pezzullo said in one message.

In another, he appeared to make light of his push for power.

“Perhaps give me Defence and HA [Home Affairs] at the same time (wink emoji),” Pezzullo messaged to Briggs in July 2017.

But Pezzullo repeatedly undermined the Department of Prime Minister and Cabinet and its secretary, Martin Parkinson, calling them “incompetent” and “insecure”, while also suggesting he would be suitable to replace him.

“Parkinson isn’t up to it,” Pezzullo told Briggs in one message. In others he said that “Martin P’s insecurities don’t need to be fed” and described Parkinson as “entirely lacking in self awareness”.

Pezzullo suggested to Briggs he take over from Parkinson as the most senior public servant in the

country. If Morrison “wants a driver in there, I would do it for him. It’s not a job that I’ve ever been interested in but if he needs a finisher in there I would of course answer the call,” Pezzullo wrote.

Pezzullo’s smearing of Parkinson creates a headache for the Albanese government, given Home Affairs Minister Clare O’Neil recently commissioned Parkinson to review Australia’s migration system. Pezzullo’s department is responsible for

implementing the reforms recommended in Parkinson’s report.

Parkinson declined to comment. Asked if the approaches were appropriate, a spokesman for Morrison said he was “not aware of the matters you have raised ... and therefore rejects the allegations of the nature of communications with Mr Pezzullo as false and fanciful”.

“Mr Morrison worked with Mr Pezzullo over many years and would speak with him directly, if required. There was no need for any other channel of communication.

“These communications were always appropriate and drew on Mr Pezzullo’s experience and responsibilities as Secretary for the Department of Home Affairs.”

PICKING WINNERS

The Australian Public Service standards say bureaucrats should serve the government of the day, but are not entitled to act in a way “perceived as criticism of the Opposition”.

Pezzullo repeatedly offered party political advice on how to overcome Labor resistance to the Home Affairs idea, including criticism of then shadow attorney-general Mark Dreyfus.

In July 2017 he wrote that: “As long as Labor doesn’t snipe at HA (and I think that that is going to be unlikely – except for Dreyfus), I would be happy to explain the intellectual basis of HA in policy and strategy terms.”

In November, Pezzullo suggested some policy tweaks designed to “satisfy [former opposition leader Bill] Shorten, if not some others”.

“Only issue will then be if Labor sees an opportunity to tack left on

this,” Pezzullo wrote, before offering further political advice: “Home Affairs will become a proxy for strength on national security – would be hard for Labor to oppose.”

Pezzullo wrote: “[Mark] Dreyfus might be the only obstacle remaining but I don’t think that he would have any weight internally

when it comes to raw political calculations.”

Making adverse comments on one Labor senator, Pezzullo said the “Parliamentary route is now contaminated with a few exceptions. We need to build a meritocracy by stealth and run government through the bureaucracy, working to 4-5 powerful and capable Ministers”.

At times Pezzullo appeared to be barracking for the Coalition. When Briggs said the numbers were “tracking well” for the Liberal candidate in a 2017 byelection, Pezzullo responded: “That will give the PM momentum going into Christmas ... might even start to translate into general polls.”

On a “super Saturday” of five byelections in July 2018, Briggs relayed that Turnbull was “feeling very positive ... Confident we can pick up 2 [seats]”.

“That will change the game,” Pezzullo replied, before offering some political advice.

“Not my business but you will need to be careful about rushing to capitalise at the polls. Punters hate that,” he said.

“Agree,” said Briggs.

He also expressed his dislike of Senate estimates committee hearings, in which senior public servants are grilled by

parliamentary committee members about the finer details of policy delivery.



"No hits out of estimates," he observed in October 2017, though Greens senator Nick McKim "called me a fascist so I will go back to polishing my jackboots and stroking my leathers!"

In 2020 his tone was tougher. "Estimates is actually a concern for our democracy," he wrote in a message at 9.29pm. "We have been here since 0900 – in batting terms we are 0-400."

"There is no better argument for the abolition of the senate than

watching senate estimates ... it serves no public good," Briggs responded.

In other attempts to undercut scrutiny, Pezzullo used an embarrassing story written by journalist Annika Smethurst, whose home was later raided by police, to press then prime minister Scott Morrison to introduce a new regime of so-called "D Notices" to stifle media reporting.

The regime would allow the

government to push against the publication of stories if they believed they threatened national security.

He ultimately did not succeed.

MICHAEL PEZZULLO'S CV

1987-1993

Joins the Department of Defence as a graduate and does a stint in Prime Minister and Cabinet's international division.

March 1993 - December 2001

Moves to Parliament House as a staff member to Labor foreign affairs minister Gareth Evans, then serves four years as deputy chief of staff to opposition leader Kim Beazley.

February 2002

Pezzullo rejoins defence and, in July 2004, becomes chief of staff at Australian Defence Headquarters and head of the public affairs division.

January 2006 - July 2009

Deputy secretary of strategy in the Department of Defence. Authored Kevin Rudd's 2009 Defence White Paper and went to China to defend it.

July 2009 - February 2013

Chief operating officer of Australian Customs and Border Protection Service.

February 2013 - October 2014

CEO of customs and border protection. From September 2013, senior official overseeing Operation Sovereign Borders.

October 2014 - December 2017

Secretary of the newly formed Department of Immigration and Border Protection, which merged customs and immigration and, in 2015, led to the formation of Australian Border Force as the 'operational arm'

December 2017

Appointed secretary of Home Affairs.



Photos: Martin Ollman, Dominic Larimer, Andrew Taylor, Ben Rushton

Politics Federal [Power player](#)

Inquiry to examine key decisions by Pezzullo after secret texts with powerbroker revealed

[David Crowe](#) and [Matthew Knott](#)

Updated September 25, 2023 – 7:17pm, first published at 1:21pm

The Age, The Sydney Morning Herald and 60 Minutes reveal how Home Affairs secretary Michael Pezzullo used WhatsApp messages to try to reshape governments. [See all 6 stories.](#)

Investigators are being asked to examine key decisions by Home Affairs secretary Mike Pezzullo that could have favoured Liberal Party powerbroker Scott Briggs after a political firestorm over leaked messages that forced the senior public servant to step aside.

The inquiry will consider whether Pezzullo declared his friendship with Briggs during a long period when he shared inside information about the federal government and sought to undermine cabinet ministers and public service enemies.



Mike Pezzullo has stood aside as secretary of the Department of Home Affairs. ALEX ELLINGHAUSEN

In the latest revelations, [a series of text messages](#) show that Pezzullo sought to convince political leaders to [introduce a system of “D-Notices”](#) to allow government agencies to pressure media organisations not to publish stories deemed damaging to national security.

Pezzullo pursued the issue after his anger was stoked by a report by then-News Corp journalist Annika Smethurst – who is now state politics editor for *The Age* – about his secret proposal to allow the nation’s external intelligence agency to spy on Australians.

In other messages, Pezzullo wrote that the government could “criminalise” journalists in certain circumstances for reporting on what they were told by government whistleblowers.

Prime Minister Anthony Albanese said he wanted to “expedite” the investigation after Home Affairs Minister Clare O’Neil told the department boss to step aside from his post because of the questions over his contact with the powerbroker.

A key issue for investigators is whether Pezzullo flouted the public service code of conduct and its requirement that he “maintain appropriate confidentiality” and “avoid any conflict of interest” in his work, as well as not sharing any inside information improperly.

Pezzullo will remain on his salary package worth more than \$900,000 while the investigation is under way, but observers unable to speak on the record described his position as untenable and the government named senior public servant Stephanie Foster as acting secretary to lead the department.

Federal cabinet ministers were briefed on the issue at a meeting in Adelaide on Monday afternoon, signalling the depth of concern about Pezzullo’s contact with Briggs, a close friend of former prime minister Scott Morrison.

The investigation centres on [hundreds of encrypted messages Pezzullo sent to Briggs](#) over several years, obtained by *The Age*, *The Sydney Morning Herald* and 60 Minutes.

But the investigation will go beyond the personal messages to examine all aspects of the relationship between the two men, who shared sensitive information over a period when Briggs sought lucrative contracts in areas overseen by Pezzullo and his department.

“They’re going to look at everything,” said one government source who was not authorised to speak publicly about the remit for the investigators.

In one example of a potential subject for the inquiry, the Department of Home Affairs approved an \$80,000 contract with a company led by Briggs to explore a private system to run quarantine services for people coming into Australia during the pandemic.

The company, Australian Quarantine Services, sought commercial partners to set up the scheme with help from Pezzullo’s department, sparking questions from Labor home affairs spokeswoman Kristina Keneally in the Senate in 2021.

Albanese said he spoke to Home Affairs Minister Clare O’Neil on Sunday night about the revelations. O’Neil referred the concerns to the Australian Public Service Commissioner, Gordon de Brouwer, who named former senior public servant Lynelle Briggs to conduct the inquiry.

Briggs was the Australian Public Service Commissioner for five years, the chief executive of Medicare and a member of the aged care royal commission. She is not related to Scott Briggs.

While the government did not take any action against Pezzullo at first, O’Neil called him on Monday to ask him to step aside. He agreed to do so and Albanese said this was the “appropriate” action.

“I think this requires a full and proper disclosure – that needs to be done in an expeditious way, and I’m sure it will be,” the prime minister said on Monday.

The government did not put a timeframe on the investigation, but Albanese said it would be expedited.

Opposition Leader Peter Dutton defended Pezzullo, saying he believed the veteran public servant put the national interest first in all his interactions.

Dutton worked closely with Pezzullo as Home Affairs Minister over several years, and in his previous role as immigration minister.

“I found him to always be professional ... he conducted himself in a thoroughly professional way in my dealings with him,” Dutton said during a press conference in Moree, NSW, on Monday morning.

Dutton said Pezzullo had worked closely with Labor governments, including a stint as deputy chief of staff to Kim Beazley, as well as with the Coalition.

Noting the government had referred Pezzullo to the Australian Public Service commissioner, without standing him down from his job, Dutton said: “If the prime minister doesn’t have confidence in Mr Pezzullo, he should say so.

“I can tell you from my time as minister, Mr Pezzullo served the government faithfully as he did the Labor Party when they were in power, and I think he was able to, in all his interactions,

put the country first, and I think that's what you've seen demonstrated in his work at Home Affairs."

But former foreign minister Bob Carr said the leaked messages showed Pezzullo was running an "overt political agenda" and was "living on another planet" when he should have been an impartial public servant.

"If he was so deluded as to think that was part of his mission, working as a departmental head for the government of the day and the people of Australia, then what other things did he do that reflected a similarly flawed judgment – a shockingly flawed judgment?" Carr told Sky News.

Abul Rizvi, a former deputy secretary of the Department of Immigration, said he would be "flabbergasted" if Pezzullo lasted more than a few weeks in the job following the revelations.

"This is an open-and-shut case," he said. "I'd say that once Lynelle Briggs confirms the messages are genuine, it's all over."

Asked to explain how Pezzullo could have breached the public service code of conduct, Rizvi highlighted two factors.

"One of the core public service values is that public servants be, and be seen to be, apolitical," he said.

"These texts are anything but apolitical. This also goes to the probity and integrity of tender processes - he was involved in extensive discussions with the lead bidder on a major tender."

Independent MP Sophie Scamps said Pezzullo's position as the secretary of Home Affairs was untenable, while Greens immigration spokesman Nick McKim said the public servant should resign or be sacked.

"Mr Pezzullo's time as a senior public servant needs to end, and it needs to end today," McKim said.

"Throughout his time as secretary of the Department of Home Affairs he has overseen a litany of governance failures and shown complete contempt for the principle of accountability."

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PEZZULLO'S POWER PLAY EXPOSED

The Age

Monday 25th September 2023

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PEZZULLO'S POWER PLAY EXPOSED

REVEALED How Home Affairs boss used thousands of encrypted messages to reshape governments

SPECIAL INVESTIGATION

Nick McKenzie, Michael Bachelard and Amelia Ballinger

One of Australia's most influential public servants, Michael Pezzullo, spent years using a political back channel to two Liberal prime ministers to undermine political and public service enemies, promote the careers of conservative politicians he considered allies and lobby to muzzle the press.

The secret efforts of the Department of Home Affairs secretary to build his power while reshaping successive Coalition governments and Australia's national security regime are revealed in hundreds of encrypted messages Pezzullo sent to influential Liberal Party powerbroker Scott Briggs, obtained by *The Age*, *The Sydney Morning Herald* and *60 Minutes*.

Briggs is a lobbyist, businessman, and former vice president of the NSW Liberals, and was a close confidant of former prime minister Malcolm Turnbull

and his successor Scott Morrison. Pezzullo is the public servant in charge of Home Affairs, a department whose creation he championed and which Turnbull appointed him to lead in late 2017.

The messages show that after seeking out Briggs in 2016, Pezzullo used him to conduct a brazen, years-long effort to influence political machinations within the highest offices of the land, including during Liberal leadership spills.

"I don't wish to interfere but you won't be surprised to hear that in the event of ScoMo [Scott Morrison] getting up I would like to see [Peter] Dutton come back to HA [Home Affairs]. No reason for him to stay on backbench that I can see," Pezzullo wrote at 9.40pm on the day before the leadership spill against Turnbull in August 2018.

"I agree," Briggs responded. Political and constitutional experts who have reviewed some of the encrypted messages say they reveal that Pezzullo was operating well outside the

Westminster system and rules for senior public servants.

The Australian Public Service Code of Conduct requires public servants to be apolitical, independent and "open and accountable".

In a 2018 speech Pezzullo himself said it was "important for the public servant to absent oneself from any partisan discussions and avoid exposure to raw politics". Departmental secretaries had "a particular obligation to protect the boundary between the political and the administrative", he said.

But in conversations involving more than 1000 messages over five years, mostly using encrypted messaging apps WhatsApp and Signal, Pezzullo bad-mouthed and undermined senior Coalition ministers and public servants, particularly those he viewed as impediments to his ambition to build a powerful Home Affairs Department. He was advising from the sidelines during politically sensitive moments, including the 2018 Liberal leadership spill, and

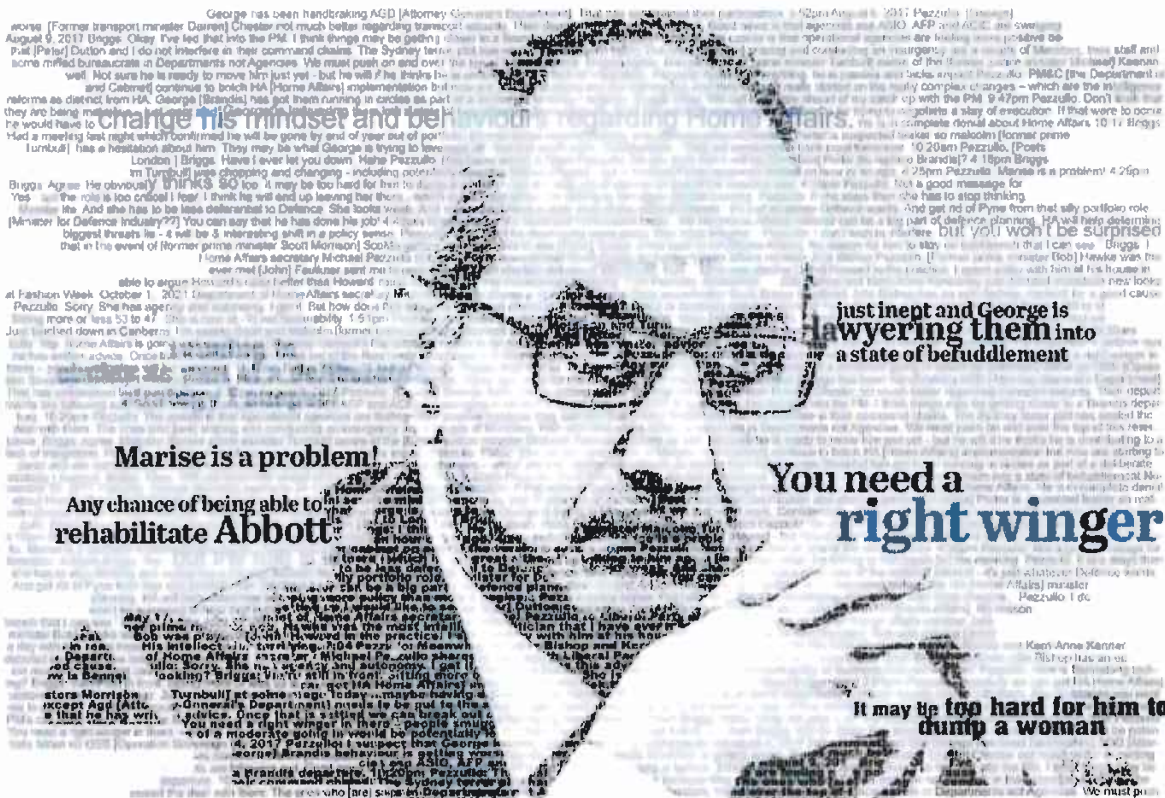


Illustration: Matthew Absalom-Wong

Marise is a problem!
Any chance of being able to
rehabilitate Abbott?

just inept and George is
lawyering them into
a state of befuddlement

You need a
right winger

It may be too hard for him to
dump a woman

THE **AGE**
**'Politicisation of the
public service values
partisan politics over
policy and does the
nation ... little good in
the end.'**
EDITORIAL PAGE 20

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How top bureaucrat tried to influence governments

From Page 1

he covertly told the Coalition how to overcome resistance from Labor and then shadow attorney-general Mark Dreyfus on a number of policies.

He smeared journalists who criticised national security reforms or his favoured ministers. He boasted of his efforts to make press freedom a “dead duck” and repeatedly lobbied Briggs to convince Morrison to introduce a media censorship regime. And he ridiculed the Senate estimates committee process – one of the key means of holding senior public servants and their ministers to account.

Briggs confirmed that he “had communications with Mike Pezzullo over a long period of time ... continuing through to the present”, but said they were “always private matters”.

Pezzullo refused requests for an interview, but the department responded in a statement that it was “committed to continued transparency and accountability in all its endeavours”, and “any allegations, accompanied by any relevant evidence, should be referred to the appropriate authorities”.

The Age, the *Herald* and *60 Minutes* are not suggesting any of the exchanges are corrupt or illegal, only that they were inappropriate for a senior public servant.

A professor of public policy and law at Griffith University, AJ Brown, said the revelations of

Pezzullo’s behaviour made his position “untenable almost instantly”.

“Our whole system of government relies on trust ... that senior public servants are not entering into political games and political manipulation ... when they’re supposed to be carrying out the needs and the wishes of the community,” Brown said. “I think this is an example of where an investigation is warranted.”

Labor kept Pezzullo as the head of Home Affairs after it won the 2022 election, despite a perception that he was too close to the previous government.

He now reports to minister Clare O’Neil, who earlier this year declared the migration system, which Home Affairs administers, “broken”.

In the past year, *The Age* and *60 Minutes* have highlighted Home Affairs’ failure to stop human traffickers and criminals entering Australia, and its running of an offshore asylum seeker processing regime in which contractors allegedly bribed and made improper payments, including to foreign politicians.

Those reports have triggered two inquiries, the damning Nixon probe and an ongoing investigation by former spy chief Dennis Richardson into offshore contracting arrangements.

Pezzullo’s department is now responsible for implementing the recommendations of those reports.

MESSAGES BY THE THOUSAND

The Age, the *Herald* and *60 Minutes* learnt of the messages and their content via a third party who obtained lawful access to them. We reviewed them while investigating Briggs’ involvement in a tender process for a failed billion-dollar contract for a new visa processing system from Pezzullo’s department.

Over five years of messages reviewed by *The Age*, the *Herald* and *60 Minutes*, Briggs never raised the tender or gained inside information from Pezzullo. Briggs insisted the conversations “never related to any procurement” and that he had disclosed his relationship with Pezzullo.

However, the messages reveal the department secretary frequently contacted the Liberal powerbroker on other issues, sometimes during the active portions of the tender process, as he sought to use Briggs to exercise political influence outside normal channels.

They capture Pezzullo repeatedly undermining and denigrating Liberal cabinet ministers.

Most of his ire was reserved for moderate politicians, while he championed more conservative politicians who backed his stance on national security reforms.

He described then defence minister Marise Payne, a leading Liberal moderate, as “completely ineffectual” and told Briggs: “Marise is a problem!”

When Briggs responded that Turnbull “thinks so too” but “it may be too hard for him to dump a woman”, Pezzullo responded: “If



she stays then she has to stop thinking and acting like a Foreign Minister lite ... she looks weak. And she doesn't have a clear view of the national interest - it's just whatever Defence wants."

Payne declined to comment.

In the same exchange, Pezzullo urged the sacking of another leading moderate, the then defence industry minister: "And get rid of [Christopher] Pyne from that silly portfolio. You can say that he has done his job!"

Pezzullo derided former foreign minister Julie Bishop, describing how he "almost had a heart attack" in 2018 after she briefly emerged as a prime ministerial challenger.

When she was a backbencher, Pezzullo mocked the fact she had appeared in a fashion shoot with TV personality Kerri-Anne Kennerley.

Bishop was approached for comment but did not respond.

'PUT THEM TO THE SWORD'

The messages began in 2017 as Pezzullo pushed hard within the Turnbull government to introduce a new Home Affairs Department. It would bring powerful agencies formerly under the watch of the attorney-general, including ASIO and the Australian Federal Police, under the umbrella of a new super-department with Immigration and Border Protection. The department was to be led by

Pezzullo. In lobbying for the change, Pezzullo attacked the senior Coalition ministers who were wary of his push.

"The ones who [are] sniping and conducting an insurgency [against Home Affairs] are a couple of Ministers ... We must push on and over the top of this resistance," Pezzullo messaged Briggs in August 2017. Then attorney-general George Brandis was "hand-braking" the Attorney-General's Department as he resisted the reforms.

"George has got them running in

circles," Pezzullo complained, accusing the then attorney-general of "lawyering" public servants "into a state of befuddlement".

"Brandis behaviour is getting worse," Pezzullo told Briggs in

another encrypted message, prompting Briggs to respond: "I've fed that into the PM. I think things may be getting closer to a Brandis departure."

When Briggs told Pezzullo he might be "seeing scott and malcolm [Morrison and Turnbull]" for dinner and asked Pezzullo if there were any messages he wanted him to convey, Pezzullo responded: "Yep. Home Affairs is going well except Agd [Attorney-General's Department] needs to be put to the sword ... Once that is settled we can break out of the Normandy beachhead."

Three months later, shortly before Brandis' long-rumoured departure to take up a diplomatic posting was announced, he gave a highly praised speech in parliament supporting same-sex marriage.

Pezzullo wrote: "George seems to be trying to negotiate a stay of execution. If that were to occur, he would have to change his mindset and behaviours regarding Home Affairs."

Brandis told *The Age*, the *Herald* and *60 Minutes* that the conversations were out of bounds for a public servant.

"What he's not entitled to do is seek to manipulate the political process so as to manipulate the political debate and manipulate and undermine senior members of the cabinet," he said.

When Pezzullo messaged Briggs with a news story in December 2017 announcing Brandis' resignation to take up a diplomatic posting, Briggs replied: "Have I ever let you down?" Pezzullo responded with an applause emoji.

'YOU NEED A RIGHT-WINGER'

During the August 2018 three-way

battle for the Liberal Party leadership between Peter Dutton, Morrison and Turnbull, Pezzullo repeatedly sought to use Briggs' influence with two of the candidates to have a conservative installed as his minister.

"You need a right winger in there - people smugglers will be watching ... Please feed that in [to Morrison and Turnbull]," Pezzullo messaged as the political battle played out in Parliament House.

"If Dutton is out, give me [Angus] Taylor or [Alan] Tudge," Pezzullo texted. When Briggs responded that Dutton may hold onto Home Affairs, Pezzullo responded: "Terrific."

"Any suggestion of a moderate going in would be potentially lethal viz OSB [Operation Sovereign Borders]," he insisted.

"Tudge or Taylor would be the easiest transition," Pezzullo

added, but "Scott [Morrison] would be a dream - would hit the ground running."

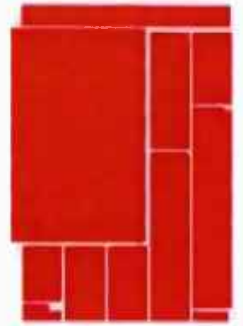
During the turbulence, Briggs also hit up Pezzullo for a favour: "Mate request from Scott [Morrison] - we need you to recommend to the pm [Turnbull] that Scott stays in the [Home Affairs] role for next week."

A summit of Australia's Five Eyes security allies was coming up and Briggs said it was "too important" not to have an experienced Home Affairs minister in place.

"Done," Pezzullo responded. "It's in the national interest. It's an executive matter, upon which I can express a view - my recommendation is not related to the Liberal leadership."

The exchange is one of a number of times Pezzullo tried to stress that his intervention was apolitical, even though the request was coming from a political operative with no formal role in government.

Pezzullo went on to ask Briggs: "Do you need it done tonight?"



When Briggs said it had become clear the leadership contest would come down to Morrison versus Dutton, Pezzullo wrote: "Then hopefully unite after that, whomever wins. We need them both on the field – not for Liberal Party's sake but for the country's sake. A grand coalition??"

After Morrison was confirmed as prime minister, Pezzullo congratulated Briggs: "You played a blinder." Briggs responded that Morrison was "talking ministry tomorrow" with his inner circle and that Briggs would "chat with you then". Pezzullo responded with more praise, describing Morrison's first press conference as the nation's leader as "perfectly pitched" and "pure genius".

In other exchanges, Pezzullo urged Tony Abbott's return from the political wilderness. "Any chance of being able to rehabilitate Abbott and to bring the conservatives more into line? Pipe dream?"

A 'TRICKY TIGHTROPE'

While Pezzullo peppered his encrypted conversations with claims that he was apolitical and "a neutral servant of the government of the day", integrity expert AJ Brown said the content of the messages and the fact they were sent to Briggs suggest Pezzullo was acting like a politician.

Constitutional lawyer George Williams said Pezzullo's messages were "exactly the sort of things you would not want a [public service] secretary involved in ... it left me very uneasy ... and I think it's really concerning, given how we expect our Westminster system to operate".

Pezzullo at times seemed conscious he might be stepping over a line.

"Please keep our conversation confidential. Tricky tight rope for me," Pezzullo said in one message.

But Pezzullo repeatedly undermined the Department of Prime Minister and Cabinet and its secretary, Martin Parkinson,

calling them "incompetent" and "insecure"

"Parkinson isn't up to it," Pezzullo told Briggs in one message.

Pezzullo suggested to Briggs that he take over from Parkinson as the most senior public servant in the country. If Morrison "wants a driver in there, I would do it for him. It's not a job that I've ever been interested in but if he needs a finisher in there I would of course answer the call," Pezzullo wrote.

Pezzullo's smearing of Parkinson creates a headache for the Albanese government, given the Home Affairs Minister, O'Neil, recently commissioned Parkinson to review Australia's migration system.

Pezzullo's department is responsible for implementing the reforms recommended in Parkinson's report.

Parkinson declined to comment. Asked if the approaches were appropriate, a spokesman for Morrison said he was "not aware of the matters you have raised ... and therefore rejects the allegations of the nature of communications with Mr Pezzullo as false and fanciful.

"Mr Morrison worked with Mr Pezzullo over many years and would speak with him directly, if required. There was no need for any other channel of communication. These communications were always appropriate and drew on Mr Pezzullo's experience and responsibilities as secretary for the Department of Home Affairs."

PICKING WINNERS

The Australian Public Service standards say bureaucrats should serve the government of the day but are not entitled to act in a way "perceived as criticism of the opposition". Pezzullo repeatedly offered party political advice, including criticism of then shadow attorney-general Mark Dreyfus.

In July 2017 he wrote that: "As

long as Labor doesn't snipe at HA (and I think that that is going to be unlikely – except for Dreyfus), I would be happy to explain the intellectual basis of HA in policy and strategy terms."

In November, Pezzullo suggested some policy tweaks designed to "satisfy [former opposition leader Bill] Shorten, if not some others".

"Dreyfus might be the only obstacle remaining," Pezzullo wrote, "but I don't think that he would have any weight internally when it comes to raw political calculations".

Making adverse comments on one Labor senator, Pezzullo said the "parliamentary route is now contaminated with a few exceptions. We need to build a meritocracy by stealth and run government through the bureaucracy, working to 4-5 powerful and capable Ministers."

At times, Pezzullo appeared to be harracking for the Coalition. When Briggs said the numbers were "tracking well" for the Liberal candidate in a 2017 byelection, Pezzullo responded: "That will give the PM momentum going into Christmas ... might even start to translate into general polls."

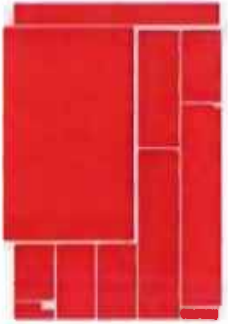
In an attempt to undercut scrutiny, Pezzullo used an embarrassing story written by journalist Annika Smethurst – whose home was later raided by police – to press then prime minister Morrison to introduce a new regime of so-called "D Notices" to stifle media reporting.

The regime would allow the government to push against the publication of stories if they believed they threatened national security.

He ultimately did not succeed.

TOMORROW

How Home Affairs boss tried to stifle press freedom



PEZZULLO'S POWER PLAY

The public servant, the politicians and the encrypted messages



Scott Briggs
Liberal Party mover and shaker, and a former employee in private enterprise of Malcolm Turnbull. Ran Turnbull's campaign for the seat of Wentworth in 2003. Close friend and confidant of former prime minister Scott Morrison. One-time deputy state director of the Liberal Party, and a director of the Cronulla Sharks, where Morrison is the No.1 ticket holder. Part of the consortium to bid for a \$1 billion contract from Home Affairs to privatise Australia's visa processing system.

Michael Pezzullo
Head of the department of Home Affairs and its predecessor agency the Department of Immigration and Border Protection, since 2014. Described as the "hardest nut" in the government. Worked for Labor ministers and in the public service for decades. Came up with the idea for Home Affairs in 2001 and finally saw it realised in 2017. Has previously made speeches about appropriate behaviour for public servants.

ON THEN ATTORNEY-GENERAL GEORGE BRANDIS

October 17, 2017

Michael Pezzullo
PM&C (the Department of Prime Minister and Cabinet) continue to botch HA (Home Affairs) implementation but now are starting to panic and are lashing out. And they haven't really started on the really complex changes - which are the intelligence reforms as distinct from HA. George (Brandis) has got them running in circles as part of a deliberate strategy I suspect.

Scott Briggs
Okay. Will call tomorrow ahead of my catch up with the PM.

Michael Pezzullo
Don't think that they are being malicious - just inept and George is lawyering them into a state of bafflement.

ON WHO WILL BE APPOINTED ATTORNEY-GENERAL

August 21, 2015

Michael Pezzullo
You need a right winger in there - people smugglers will be watching.

Scott Briggs
Agree.

Michael Pezzullo
Please feed that in.

Scott Briggs
Will do.

Michael Pezzullo
Any suggestion of a moderate going in would be potentially lethal viz OSB (Operation Sovereign Borders).

ON WHO WILL BE APPOINTED HOME AFFAIRS MINISTER

December 16, 2017

Michael Pezzullo
Do you think that it will be (Christina) Porter (to replace Brandis)?

Scott Briggs
I think so. He (then prime minister Malcolm Turnbull) was chopping and changing - including potentially dumping Marisa (Payne) - but (Christina) Porter appeared settled an hour or so ago.

Michael Pezzullo
Marisa is a problem!

Scott Briggs
Agree. He obviously thinks so too. It may be too hard for him to dump a woman - but she was out of cabinet on one of the versions I saw.

Michael Pezzullo
Not a good message for feminism.

Scott Briggs
Yes - but the role is too critical I fear.

ON FORMER FOREIGN AFFAIRS MINISTER JULIE BISHOP

May 17, 2019

Michael Pezzullo
(Former prime minister Bob) Hawke was the most intelligent politician that I have ever met (John) Faulkner sent me to prep Bob for 1998 election debate practice for Kim (Beazley). Bob was playing (John) Howard in the practice. I spent a day with him at his house in Northbridge. He was able to argue Howard's case better than Howard could do in real life. His intellect was terrifying.

Michael Pezzullo
Misanthrope
[Shares Apple News alert of The Australian Women's Weekly story titled "Julie Bishop and Kerri-Anne Konnerley just debated incredible new looks at Fashion Week".]

'Exactly the sort of things you would not want a [public service] secretary involved in ... it left me very uneasy.'

George Williams, constitutional lawyer

Analysis National [Press freedom](#)

Mike Pezzullo and the secret D Notice: A short history

[Tony Wright](#)

September 26, 2023 – 11.45am

The Age, The Sydney Morning Herald and 60 Minutes reveal how Home Affairs secretary Michael Pezzullo used WhatsApp messages to try to reshape governments. [See all 6 stories.](#)

It is perhaps not so curious that a man like Mike Pezzullo, a powerful public servant who tried secretly to insert himself into the intrigues of high politics, felt attracted to the so-called D Notice system to [crack down on press freedom](#).

The D Notice (the D is for Defence) was the invention of the UK defence, intelligence and political worlds early last century to prevent Germany learning through the press confidential details of the British military in the lead-up to World War I.



Former prime ministers Robert Menzies and Paul Keating, and Home Affairs secretary Mike Pezzullo, who has stood aside from his position.

The idea was that British political and intelligence leaders would meet the nation's powerful press barons and reach quiet agreement on what should be kept secret from the public, and thus from the nation's enemies.

It is not too fanciful to imagine them meeting in the exclusive gentlemen's clubs to which they all belonged – a version of the behind-the-scenes networking that goes on these days in the [Qantas Chairman's Lounge](#).

It was – and in Britain, remains still, though it has grown ragged around the edges – a form of collusion between media owners and the state to hobble journalists.

A subject was chosen (the capability of warships, for instance) and it was agreed this should be suppressed in the media by the issuing of a D Notice. It meant media organisations were under notice that they should voluntarily refrain from publishing material related to the subject.

The D Notice system hasn't operated in Australia since 1982.

The last time any Australian leader raised the idea of revisiting the D Notice system was in 1995, when journalists at *The Sydney Morning Herald* and the ABC revealed that the then-new Chinese Embassy in Canberra was riddled with bugs placed by Australian intelligence agencies and the American National Security Agency during construction.

(I was among three *Herald* journalists, it happens, who hid out in a locked room in Parliament House to ensure an injunction could not be served on us before publication of the story by foreign affairs and defence correspondent David Lague.)

Then prime minister Paul Keating, angered and embarrassed, took a “carrot and stick” approach to any future such reports.

He proposed to media leaders a renewed D Notice system, while also threatening to introduce amendments to the Crimes Act that would make secondary disclosure of official secrets an offence carrying penalties of up to a million dollars. It all went nowhere when the Keating government was voted out in 1996.

Australia adopted the British system in 1952 under the Menzies government, which was still smarting after losing the 1951 referendum to ban the Communist Party.

A PhD thesis by Dr Pauline Sandler in 2000 related that the first meeting of the Defence, Press and Broadcasting Committee, formed from media and defence chiefs to administer the system, took place at Victoria Barracks in Melbourne on July 14, 1952, chaired by Robert Menzies.

The subjects chosen for secrecy covered “UK atomic tests in Australia, aspects of naval shipbuilding, official ciphery, the number and deployment of Centurion tanks, troop movements in the Korean War, weapons and equipment information not officially released, aspects of air defence, and certain aerial photographs”.

In 1974, the original D Notices were reduced to four, including “the whereabouts of Mr and Mrs Vladimir Petrov”, referring to the Soviet diplomats who had defected to Australia at the height of Menzies' anti-communism drive.

In 1977, a fifth notice concerning the Australian Secret Intelligence Service (ASIS) was issued, which was the first time the existence of ASIS had been admitted, even to parliamentarians.

The last meeting of the committee – 16 media representatives and four from Defence met in 1982 – left four D Notices active: capabilities of the Australian Defence Force, the whereabouts

of Mr and Mrs Petrov, signal intelligence, and communications security.

We might never have heard of D Notices again if an angry Mike Pezzullo had not used his covert text messaging system to attempt, in 2019, to persuade then-prime minister Scott Morrison to introduce the old D Notice system to pressure media organisations not to publish stories deemed damaging to national security.

Pezzullo's attempt, which came to nothing, followed a report by then News Corp journalist Annika Smethurst – who is now state political editor at *The Age* – about his secret proposal to allow Australia's external intelligence agency to spy on Australians.

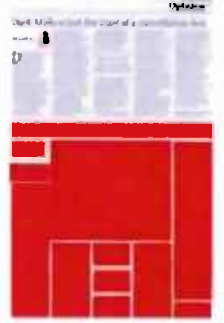
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Tony Wright is the associate editor and special writer for The Age and The Sydney Morning Herald. Connect via [Twitter](#), [Facebook](#) or [email](#).

No minister can trust Pezzullo again

By George Brandis

The Sydney Morning Herald
 Tuesday 26th September 2023
 858 words
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No minister can trust Pezzullo again

George Brandis



Public servants must not become political players.

The problem with Mike Pezzullo has always been that he doesn't understand limits.

Obviously, from the revelations in the *Herald*, he does not understand the limits of a public servant's role and the need not to cross the boundary between being an adviser to government and a political player.

The Home Affairs Department secretary (who has been stood aside) also doesn't appear to understand the boundaries between the elected government and the public service, hence his remark in one encrypted message: "We need to build a meritocracy of stealth and run government through the bureaucracy, working to 4-5 powerful and capable ministers." It wasn't only individual ministers Pezzullo was undermining, it was the very concept of an apolitical public service answerable to the elected government.

Nor does he understand the functional boundaries within the public service itself, which allocates different roles and functions to different departments. How else could he write of his desire "to put the Attorney-General's Department to the sword"? The core role of the AGD is to ensure the legality of the conduct of all other government departments and agencies.

Nor does Pezzullo understand the most fundamental boundary in a parliamentary democracy:

between the different roles of the executive government and the parliament. How could someone who does understand the way the Westminster system works possibly say, as Pezzullo said in another encrypted message: "Estimates is actually a concern for our democracy"? It could only be a concern for someone who refuses to accept parliamentary scrutiny – of which the estimates committee system is by far the most effective vehicle.

In fact, Pezzullo doesn't appear to accept that there are limitations on executive government at all. Hence his embrace of the Hobbesian view that an all-powerful state is necessary to safeguard citizens from harm, and loss of liberty is the price they have to pay for that protection: a theory of government which is

antithetical to the liberal-democratic tradition of limited government ruling by the consent of the governed. When I referred to Pezzullo's articulation of that Hobbesian view as the "philosophical context" for the creation of the Department of Home Affairs in an article for the *Herald* and *The Age* last month, I had no idea of the revelations that were coming.

Pezzullo's exchanges with Scott Briggs cannot be dismissed as a kind of political locker-room talk that means nothing. They are a spontaneous declaration of his state of mind and his attitude to his role. Political parties attract parasites like Briggs like iron filings to a magnet. What we do not yet know is how many other spivs, who big-note themselves with claims to influence in the inner

circle, Pezzullo was communicating with. Nor how many journalists he was briefing.

One of the many reasons the national security agencies were so deeply resistant to being placed under Pezzullo's jurisdiction in the Department of Home Affairs is that their leaders – Duncan Lewis at ASIO and Andrew Colvin at the AFP – understood that the effectiveness of their work depended on a high level of public trust. For ASIO in particular,

which, as a covert agency cannot have the same degree of public scrutiny as other government agencies, this was a particular worry. Lewis understood that it is critical for ASIO's effective operation that the public has implicit faith that it would not abuse its power.

And this was another boundary Pezzullo failed to grasp: that there is a critical balance between empowering national security agencies to enable them to do their job, and not so over-reaching that trust in them is lost. Finding the right fulcrum of that balance is what I tried to achieve as attorney-general – much, as it is now revealed, to Pezzullo's frustration. He thought national security policy should be as hawkish as possible. The true test of national security policy is that it should be as effective as possible. Pezzullo failed to understand that it is possible to compromise effectiveness by over-reach.

Whatever happens to Pezzullo now – his position is plainly untenable since no minister, Labor or Liberal, will ever be able to trust him again – one good outcome of this sorry affair would be to reverse the policy error of the Turnbull government to remove ASIO from the attorney-general's portfolio, where it has historically lain. Having the agency which can,



by its nature, be least open to public scrutiny within the department of government whose core function is to protect the rule of law is a sensible and logical fit.

The revelations show how

important it is not just for our democracy, but for our national security as well, that the public be confident that those who exercise covert power understand the importance of limits.

George Brandis is a former Liberal senator and federal attorney-general. He is now a professor in the practice of national security at the ANU's National Security College.



Mike Pezzullo ignored the different roles of the executive government and the parliament. Photo: Alex Ellinghausen

He thought national security policy should be as hawkish as possible.

Pezzullo was blind to limits of his power

By George Brandis

The Age

Tuesday 26th September 2023

814 words

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364cm on the page



Pezzullo was blind to limits of his power

George Brandis



The problem with Mike Pezzullo has always been that he doesn't understand limits.

Obviously, from the revelations in *The Age*, he does not understand the limits of a public servant's role and the need not to cross the boundary between being an adviser to government and a political player.

But that is not the only limit he doesn't appear to understand.

He doesn't appear to understand the boundaries between the elected government and the public service: hence his remark in one encrypted message: "We need to build a meritocracy by stealth and run government through the bureaucracy, working to 4-5 powerful and capable ministers."

It wasn't only individual ministers Pezzullo was undermining, it was the very concept of an apolitical public service answerable to the elected government.

Nor does he understand the functional boundaries within the public service itself, which allocates different roles and functions to different departments. How else could he write of his desire "to put the Attorney-General's Department to the sword"? The core role of the AGD is to ensure the legality of the conduct of all other government departments and agencies.

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actually a concern for our democracy"? It could only be a concern for someone who refuses to accept parliamentary scrutiny.

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Pezzullo's candid exchanges with Scott Briggs cannot be dismissed as a kind of political locker-room talk that means nothing. They are a declaration of his state of mind and attitude to his role. Political parties attract parasites like Briggs like iron filings to a magnet. What we do not yet know is how many other spivs, who big-note themselves with claims to influence in the inner circle, Pezzullo was communicating

with. Not to mention how many journalists he was briefing.

One of the many reasons the national security agencies were so deeply resistant to being placed under Pezzullo's jurisdiction in the Department of Home Affairs is that their leaders – Duncan Lewis at ASIO and Andrew Colvin at the AFP – understood that the effectiveness of their work depended on a high level of public trust.

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ASIO's effective operation that the public have implicit faith that it would not abuse its power.

And this was another boundary Pezzullo failed to grasp: that there is a critical balance between empowering national security agencies to do their jobs and not so over-reaching that trust in them is lost. Finding that balance is what I tried to achieve as attorney-general – much, as it is now revealed, to Pezzullo's frustration. He thought national security policy should be as hawkish as possible. The true test of national security policy is that it should be as effective as possible. Pezzullo failed to understand that it is possible to compromise effectiveness by over-reach.

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The Pezzullo revelations show, with appalling clarity, how important it is not just for our democracy, but for our national security as well, that the public be confident that those who exercise covert power understand the importance of limits.

George Brandis is a former Liberal senator and federal attorney-general. He is a professor at ANU.

What we do not yet know is how many other spivs ... Pezzullo was communicating with.



Pezzullo stood down

By David Crowe, Matthew Knott

The Sydney Morning Herald

Tuesday 26th September 2023

1097 words

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Pezzullo stood down

David Crowe, Matthew Knott

Investigators are being asked to examine key decisions by Home Affairs secretary Mike Pezzullo that could have favoured Liberal Party powerbroker Scott Briggs after a political firestorm over leaked messages that forced the senior public servant to step aside.

The inquiry will consider whether Pezzullo declared his friendship with Briggs during a long period when he shared inside information about the federal government and sought to undermine cabinet ministers and public service enemies.

In the latest revelations, a series of text messages show that Pezzullo sought to convince political leaders to introduce a system of "D-Notices" to allow government agencies to pressure media organisations not to publish stories

deemed damaging to national security.

Pezzullo pursued the issue after his anger was stoked by a report by then News Corp journalist Annika Smethurst, who is now state political editor for *The Age*, about his secret proposal to allow the nation's external intelligence agency to spy on Australians.

In other messages, Pezzullo wrote that the government could "criminalise" journalists in certain circumstances for reporting on what they were told by government whistleblowers. Prime Minister Anthony Albanese said he wanted to "expedite" the investigation after Home Affairs Minister Clare O'Neil told the department boss to step aside from his post because of the questions over his contact with the powerbroker.

A key issue for investigators is

whether Pezzullo flouted the public service code of conduct and its requirement that he "maintain appropriate confidentiality" and "avoid any conflict of interest" in his work, as well as not sharing any inside information improperly.

Pezzullo will remain on his salary package worth more than \$900,000 while the investigation is under way, but observers unable to speak on the record described his position as untenable, and the government named senior public servant Stephanie Foster as acting secretary to lead the department.

Federal cabinet ministers were briefed on the issue at a meeting in Adelaide yesterday afternoon, signalling the depth of concern about Pezzullo's contact with Briggs, a close friend of former prime minister Scott Morrison.

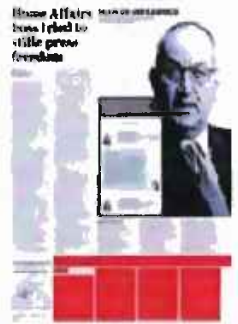


How Home Affairs boss tried to stifle press freedom

Michael Pezzullo, the public servant in charge of Australia's internal security, lobbied hard for the power to censor the media's reporting of national security issues after the Australian Federal Police controversially raided three journalists over their reporting.

[FULL STORY PAGE 4](#)

Continued Page 4



Pezzullo stood down as investigation looks at whether decisions favoured Liberal powerbroker

From Page 1

The investigation centres on hundreds of encrypted messages Pezzullo sent to Briggs over several years, obtained by *The Age*, *The Sydney Morning Herald* and *60 Minutes*.

But the investigation will go beyond the personal messages to examine all aspects of the relationship between the two men, who shared sensitive information over a period when Briggs sought lucrative contracts in areas overseen by Pezzullo and his department.

"They're going to look at everything," said one government source who was not authorised to speak publicly about the remit for the investigators.

In one example of a potential subject for the inquiry, the Department of Home Affairs approved an \$80,000 contract with a company led by Briggs to explore a private system to run quarantine services for people coming into Australia during the pandemic.

The company, Australian Quarantine Services, sought commercial partners to set up the scheme with help from Pezzullo's department, sparking questions from Labor home affairs spokeswoman Kristina Keneally in the Senate in 2021.

Albanese said he spoke to Home Affairs Minister Clare O'Neil on Sunday night about the revelations. O'Neil referred the concerns to the Australian Public Service Commissioner, Gordon de Brouwer, who named former senior public servant Lynelle Briggs to conduct the inquiry.

Briggs was the Australian Public Service Commissioner for five

years, the chief executive of Medicare and a member of the aged care royal commission. She is not related to Scott Briggs.

While the government did not take any action against Pezzullo at first, O'Neil called him yesterday to ask him to step aside. He agreed to do so and Albanese said this was the "appropriate" action.

"I think this requires a full and proper disclosure - that needs to be done in an expeditious way, and I'm sure it will be," the prime minister said.

The government did not put a timeframe on the investigation, but Albanese said it would be expedited.

Opposition Leader Peter Dutton defended Pezzullo, saying he believed the veteran public servant put the national interest first in all his interactions.

Dutton worked closely with Pezzullo as Home Affairs Minister over several years, and in his previous role as immigration minister.

"I found him to always be professional ... he conducted himself in a thoroughly professional way in my dealings with him," Dutton said

during a press conference in Moree, NSW, yesterday morning.

But former foreign minister Bob Carr said the leaked messages showed Pezzullo was running an

No minister will trust Pezzullo again

OPINION PAGE 21

"overt political agenda" and was "living on another planet" when he should have been an impartial public servant.

"If he was so deluded as to think that was part of his mission, work-

ing as a departmental head for the government of the day and the people of Australia, then what other things did he do that reflected a similarly flawed judgment - a shockingly flawed judgment?" Carr told Sky News.

Abul Rizvi, a former deputy secretary of the Department of Immigration, said he would be "flabbergasted" if Pezzullo lasted more than a few weeks in the job following the revelations.

"This is an open-and-shut case," he said.

"I'd say that once Lynelle Briggs confirms the messages are genuine, it's all over."

Asked to explain how Pezzullo could have breached the public service code of conduct, Rizvi highlighted two factors.

"One of the core public service values is that public servants be, and be seen to be, apolitical," he said.

"These texts are anything but apolitical. This also goes to the probity and integrity of tender processes - he was involved in extensive discussions with the lead bidder on a major tender."

Independent MP Sophie Scamps said Pezzullo's position as the secretary of Home Affairs was untenable, while Greens immigration spokesman Nick McKim said the public servant should resign or be sacked.

"Mr Pezzullo's time as a senior public servant needs to end, and it needs to end today," McKim said.

"Throughout his time as secretary of the Department of Home Affairs he has overseen a litany of governance failures and shown complete contempt for the principle of accountability."

THE AGE

Power player

'Honoured to serve': Home Affairs chief's years-long push to become public service head revealed

A barrage of messages Michael Pezzullo sent to a Liberal powerbroker reveals his drive to oust leading public servants and become Australia's most senior bureaucrat.

By Michael Bachelard and Nick McKenzie

SEPTEMBER 26, 2023



Former Department of Prime Minister and Cabinet secretary Martin Parkinson was one of the targets of Michael Pezzullo's disparaging text messages. ILLUSTRATION: MATTHEW ABSALOM-WONG

The Age, The Sydney Morning Herald and 60 Minutes reveal how Home Affairs secretary Michael Pezzullo used WhatsApp messages to try to reshape governments. [See all 6 stories.](#)



Listen to this article



The powerful secretary of the Home Affairs department, Michael Pezzullo, pushed his own ambition to become the country's most senior bureaucrat by conducting a [years-long campaign](#) to denigrate and undermine two of Australia's most senior public servants.

In dozens of scathing WhatsApp messages to Liberal Party operative Scott Briggs – who had a direct line to former prime ministers Malcolm Turnbull and Scott Morrison – Pezzullo accused the Department of Prime Minister and Cabinet and its head, Martin Parkinson, of being “woefully imprecise”, “befuddled”, lacking “vitality” and “missing in action”.

“I have had to bite my tongue with respect to PM&C [Prime Minister and Cabinet] ineptitude and incompetence. No project management skills or capability,” Pezzullo said in 2017. “Parkinson isn't up to it,” he wrote in 2018.

Pezzullo also took aim at the Attorney-General's Department and its respected secretary, Chris Moraitis, saying in 2019 the government needed to “change out the leadership”. Pezzullo suggested another man – whom he described as a friend – as “the best fit” for the job.

The government stood Pezzullo aside from his job on Monday after the revelations in *The Age*, the *Herald* and *60 Minutes* that the Home Affairs secretary had sought, through a Liberal Party intermediary, to interfere in party political activities and shape the government. The [Australian Public Service Commission will investigate](#) his conduct. He will retain his \$900,000-plus salary while the probe takes place.

Throughout the conversations on encrypted messaging applications WhatsApp and Signal revealed by *The Age*, *The Sydney Morning Herald* and *60 Minutes*, Pezzullo painted himself as a man of action who had helped the Coalition government stop the boats. He regularly exhorted Briggs – a lobbyist and former deputy state director of the NSW Liberal Party – to pass on his feelings, concerns and perspectives to the prime minister of the day.

The Age, the *Herald* and *60 Minutes* are not suggesting any of the exchanges are corrupt or illegal, only that they were inappropriate for a senior public servant.

Earlier this year, Parkinson delivered a major report for the Albanese government on [how broken Australia's migration regime had become](#). The Department of Home Affairs, which until Monday Pezzullo ran under Labor minister Clare O'Neil, is now responsible for responding to Parkinson's conclusions. Moraitis also still occupies a senior public service role, as head of Australia's war crimes investigative agency, the Office of the Special Investigator.

Parkinson and Moraitis both declined to comment on Pezzullo's behaviour.



Martin Parkinson was the Department of Prime Minister and Cabinet secretary until mid-2019. ALEX ELLINGHAUSEN

Former attorney general George Brandis, one of the targets of Pezzullo's criticism, told *The Age*, the *Herald* and *60 Minutes* it was "breathtaking that at a time when the government is trying to run a war against terrorism, one of the most senior public servants in the country is running his own war" against other departmental secretaries.

'Thin capacity'

The messages began as Pezzullo was pushing in mid-2017 for the Turnbull government to create the mega-department of Home Affairs. However, he believed the Attorney-General's Department under minister George Brandis and secretary Chris Moraitis was trying to block the idea, because under the proposed changes, the Attorney General's Department would lose ASIO, the Australian Federal Police, the Australian Criminal Intelligence Commission and the anti-money-laundering agency Austrac to the new portfolio.

Another key problem, as Pezzullo saw it, was the Department of Prime Minister and Cabinet under Parkinson.

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29/09/2023, 10:00

Mike Pezzullo attempted to undermine Martin Parkinson, Chris Moraitis for own ambition

Pezzullo assessed in another message that there was a “one in four” possibility of Labor opposing the creation of Home Affairs, but a briefing to Labor in August that year by the prime minister’s department was “woefully imprecise and underdone.”

“I’ve spoken to the PM [Malcolm Turnbull] and passed it on,” Briggs replied. “We have a war council on this on Saturday.”

Pezzullo described his campaign for Home Affairs as a “charm offensive,” telling Briggs, “I can do charm and collegiality!” He then messaged: “Perhaps give me Defence and HA [Home Affairs] at the same time (wink emoji).”

While seemingly a joke, Pezzullo’s ambition to be Department of Defence secretary was well known in Canberra. In November 2017, as Home Affairs was coming closer to reality, Pezzullo amped up his critique of the man leading the most senior public service department.

“Head down and powering on,” Pezzullo wrote to Briggs. “I have had to bite my tongue with respect to PM&C ineptitude and incompetence. No project management skills or capability. But going to war with Martin [Parkinson] would not benefit anyone and would just create grief for the PM,” he wrote.

In December 2017, Pezzullo got his wish: Home Affairs was announced, with Dutton as minister and Pezzullo as its powerful secretary.

He celebrated. Home Affairs “will be the enforcer of the bureaucracy”, he told Briggs, attaching a policeman emoji.

Public service chiefs ‘not up to it’

Amid the unpredictable politics of the Morrison-Dutton-Turnbull leadership spill of August 2018, messages reveal Pezzullo jockeying for his own advantage with Briggs, who was close to two of the candidates. In a series of late-night messages, Pezzullo suggested if Dutton, his minister, became prime minister, he might be elevated as well.

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When Morrison ultimately won the multi-part leadership spill, Pezzullo immediately began undermining Parkinson to the new prime minister’s friend and confidant.

29/09/2023, 10:00

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“We have to work on re-tooling the bureaucracy quickly. Significant portions of it would have no idea whatsoever how the PM works. That include [sic] most of PM&C, unfortunately.”

Pezullo, who had worked with Morrison on Operation Sovereign Borders, the military-led border security operation, said he had been “coaching and guiding” Parkinson in what to expect from the new prime minister: “I have told Parkinson to prepare for OSB [Operation Sovereign Borders] times 100!!!”

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“A great win,” Briggs wrote. Pezullo replied, “Regardless of politics, I agree”.

“It’s a bubble issue but he [Morrison] has to reshape the public service. Not just personalities but structures as well. Fewer, bigger Departments. Serious scaling up and adoption of technology. The current public service leadership is not up to it.”



Chris Moraitis, former Attorney-General’s Department secretary, was the subject of Michael Pezullo’s disparaging text messages. ALEX ELLINGHAUSEN

Pezullo went on: “We have to take this once in a generation opportunity ... And sorry to say – Parkinson isn’t up to it.”

Briggs wrote that Morrison agreed.

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‘Out to lunch’

In May 2019, Parkinson told Morrison he wanted to resign as the departmental secretary and leave within 12 months. In July that year, Morrison announced a plan to reform the public service to, in his words, make it more accountable.

However, Pezzullo did not get the top job. That went instead to Morrison’s former staffer, Phil Gaetjens.

The other departmental secretary that the Home Affairs boss took aim at was Moraitis – a respected public servant who was the head of the Attorney- General’s Department between 2014 and 2021, and now heads the Office of the Special Investigator into war crimes in Afghanistan.

His attack intensified in 2018 when controversy erupted over the department’s drafting of a new bill criminalising the handling of secret information. Under the proposed law, journalists could face jail for receiving leaked documents.

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“Someone needs to hang for that ... It is simply unacceptable. If my Department had messed up that badly, the entire Canberra establishment would have piled in on me, and in any event honour would have dictated that I offer my resignation to the Prime Minister.”

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Michael Bachelard is a senior writer and former deputy editor and investigations editor of The Age. He has worked in Canberra, Melbourne and Jakarta, has written two books and won multiple awards for

29/09/2023, 10:00

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journalism, including the Gold Walkley. Connect via [Twitter](#).



Nick McKenzie is an Age investigative journalist who has twice been named the Graham Perkin Australian Journalist of the Year. A winner of 14 Walkley Awards, he investigates politics, business, foreign affairs, human rights and criminal justice. Connect via [email](#).

WHATSAPP MESSAGES

Department of Home Affairs secretary Michael Pezzullo's messages to Liberal powerbroker Scott Briggs

On himself ^

July 23, 2017

Briggs: Had a good chat to both malcolm [then prime minister Malcolm Turnbull] and Scott [then treasurer Scott Morrison] this weekend. They both think it needs to be you to lead HA. I'll call you tomorrow to discuss

July 24, 2017

Pezzullo: Scott

I fully understand.

would be honoured to serve my country in any way the PM deems appropriate. We are very privileged to be able to serve at these levels and personal preference should never enter into the equation.

I will work very hard not to become the lightning rod of discontent regarding HA [Home Affairs]. I will also support the new Defence Secretary in every way I can.

Regards,

MP

...

Pezzullo: We will get HA [Home Affairs] done and you will see an appreciable difference very quickly with an empowered Cabinet Minister supporting the PM. I am running deep and silent. Won't come up to periscope depth for a while. MP

Briggs: Haha okay. It is the biggest gig in town!

July 31, 2017

Pezzullo: People know that the submarine is down there somewhere, and they are second guessing ... not a bad thing.

Hahaha.

Briggs: Yes will keep them honest. Just what they were designed for!

Pezzullo: The second guessing is hilarious - long lost 'friends' attempting to reconnect etc.

Briggs: Hahaha. Imagine how it will get when it gets out!

On then attorney-general George Brandis



August 4, 2017

Pezzullo: I suspect that George has been handbraking AGD [Attorney-General's Department]. That has constrained their participation.

August 8, 2017

Pezzullo: [George] Brandis behaviour is getting worse. [Then transport minister Darren] Chester not much better regarding transport security. Their departments are following suit. Good news is that agencies esp ASIO, AFP and ACIC are swinging in behind.

August 9, 2017

Briggs: Okay. I've fed that into the PM. I think things may be getting closer to a Brandis departure.

Pezzullo: The upside is that operational agencies are feeling more positive because they can see that [Peter] Dutton and I do not interfere in their command chains. The Sydney terror plot has sealed the deal with them. The ones who [are] sniping and conducting an insurgency are a couple of Ministers, their staff and some miffed bureaucrats in Departments not Agencies. We must push on and over the top of this resistance.

Briggs: Agree. Malcolm [then prime minister Turnbull] aware of the [then justice minister Michael] Keenan problem as well. Not sure he is ready to move him just yet - but he will if he thinks he is contributing to a lack of integration.

Pezzullo: Apart from anything, he is passive and lacks impact.

November 29, 2017

Pezzullo: George [Brandis] seems to be trying to negotiate a stay of execution. If that were to occur, he would have to change his mindset and behaviours regarding Home Affairs. He is in complete denial about Home Affairs.

Briggs: Had a meeting last night which confirmed he will be gone by end of year out of portfolio. [then social services minister] Porter is suspected leaker so Malcolm [then prime minister Malcolm Turnbull] has a hesitation about him. They may be what George is trying to leverage off - but that won't work. Confidentially - They will announce a bank royal tomorrow.

On the Attorney-General's Department



August 9, 2017

Briggs: Just touched down in Canberra. I'm seeing Scott and Malcolm [then treasurer Scott Morrison and then prime minister Malcolm Turnbull] at some stage today ...maybe having dinner with them. Any messages you want me to convey? 10:39am

Pezzullo: Yep. Home Affairs is going well except Agd [Attorney-General's Department] needs to be put to the sword by way of final decisions about which functions transfer to the new Department. PM's call now -I believe that he has written advice. Once that is settled we can break out of the Normandy beachhead.

Briggs: Haha. Okay will pass it on. We should catch up when you have some time.

On then Department of Prime Minister and Cabinet secretary Martin Parkinson



November 10, 2017

Head down and powering on. I have had to bite my tongue with respect to PM&C [Prime Minister and Cabinet] ineptitude and incompetence. No project management skills or capability.

But going to war with Martin [Parkinson] would not benefit anyone and would just create grief for the PM.

On former prime minister Tony Abbott



November 29, 2017

Pezzullo: Any chance of being able to rehabilitate Abbott and to bring the conservatives more into line?

Pipe dream?

Briggs: think it's too hard. But never say never in politics.

In a topsy turvy world.....expect the unexpected!

On former Labor senator Kristina Keneally on the eve of the Bennelong byelection



December 15, 2017

Pezzullo: How is Bennelong looking?

Briggs: We're still in front. Sitting more or less 53 to 47. She is now at -10 net favourability.

Pezzullo: And looking quite unhinged.

Briggs: Very!

Pezzullo: Hopefully we can get HA [Home Affairs] underway next week.

On Julie Bishop, Scott Morrison and Peter Dutton during three-way leadership spill

August 23, 2018

Pezzullo: Julie B??

Briggs: A distraction. Not serious. Scomo is in front mate. He could be the Pm tomorrow.

Pezzullo: Almost had a heart attack.

Ready to serve. Same goes for Dutton too of course.

...

Pezzullo: I don't wish to interfere but you won't be surprised to hear that in the event of ScoMo [Scott Morrison] getting up I would like to see [Peter] Dutton come back to HA [Home Affairs].

Briggs: Yes. I hope he accepts it when offered. It seems he will.

Pezzullo: No reason for him to stay on backbench that I can see.

Briggs: I agree.

Pezzullo: It would be great if they could focus on immigration and population ASAP. We could reshape package slightly to accommodate ScoMo and Dutton preferences.

Briggs: Agree.

Pezzullo: I say that from a policy perspective and not from a Liberal leadership perspective.

...

Pezzullo: ScoMo should take opportunity to reform government.

On then attorney-general Christian Porter being the best person to restrict the media

June 18, 2019

Pezzullo: I think that [then attorney- general Christian] Porter would be sensible. His Department is out to lunch.

Scott: Yes. A reason why they are not really ever consulted on these issues. They need to move past the HA [Home Affairs] changes and find a new role as the trusted advisor on these sorts of matters.

Pezzullo: You won't until you change out the leadership.

On former foreign minister Julie Bishop



October 1, 2021

Pezzullo shares a story with Briggs headlined *Julie Bishop has an epic fashion moment for a good cause*.

Pezzullo: Sorry. She has agency and autonomy. I get it. But how does this advance the cause of strong, independent policy or business relevant women?

Home Affairs chief campaigned for job

By Michael Bachelard Nick McKenzie

The Sydney Morning Herald
 Wednesday 27th September 2023
 1961 words
 Page 1,4,5 | Section: General
 1914cm on the page



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EXCLUSIVE

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Continued Page 4





Pezzullo's long campaign to take charge of Home Affairs

From Page 1

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How D Sohier was used to silence press

PUBLIC SERVICE PUSH

Encrypted texts show Michael Pezzullo's years-long effort to undermine fellow senior public servants



Department of Home Affairs secretary Michael Pezzullo to Liberal Party powerbroker Scott Briggs on their Department of Prime Minister and Cabinet secretary Martin Parkinson after Scott Morrison is re-elected.

Pezzullo's comments on a controversy about the new Espionage Act amendments, which proposed declassifying sensitive info he handled secret documents.

Feb 15, 2019

Michael Pezzullo
Secretaries are paralysed. They are anxious about the coming accountability. You won't get drive change, and results with most of the current crew. Martin can't help it and I don't say that disparagingly. He is entirely lacking in self awareness. The Public Service needs renewal.

Scott Briggs
Agree. It starts with Parkinson going in his [then Prime Minister Scott Morrison's] view.

Michael Pezzullo
I'll just say where he is at, and I didn't want to suggest it until he had formed his own view about Martin. If he gets stuck regarding the PM&C [Department of Prime Minister and Cabinet] job and he wants a driver in there, I would do it for him. It's not a job that I've ever been interested in, but if he needs it someone in there, I would of course answer the call. But only if he gets stuck!

Scott Briggs
So does he [Morrison]

February 5, 2019

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Just between you and I and NOT for discussion with the PM or others, when this was being developed I remained quiet and warned [Attorney-General's department secretary Chris] Morris about 'the grief encountered by [former prime minister Paul] Keating in 1995 when he tried to do similar'.

Michael Pezzullo
There is a way through - but you have to criminalise secondary disclosures [by the media] as an extension of Public Interest Disclosure law which protects whistleblowers.

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Stumbling into it via espionage and treason legislation is incompetence of the highest order. [Then attorney-general Christian] Porter has his hands full on this one.

Pezzullo to Briggs the morning after Scott Morrison won the 2019 election.

May 10, 2019

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I am very passionate about public service reform. Most of the colleagues are saying each other to ensure that they survive any change. The PM has to drive the reduction of number of Departments and scaling up. Leaving aside politics of outcome we have to take this once in a generation opportunity. It's all about technology, customers and stop change in productivity. States have shown the way. And sorry to say - [then Prime Minister and Cabinet Department secretary Martin] Parkinson isn't up to it.

The Sydney Morning Herald
Text message bombshell | Department head 'manipulates' politics
Pezzullo's power play

Martin is a problem. You need a right winger.

Pezzullo stood down
How Home Affairs boss tried to stifle press freedom

Michael Pezzullo, the public servant in charge of Australia's national security, was told to 'stop the press' in a bid to silence the media. Pezzullo's actions were described as a 'power play' to silence the press and protect his own position. The article details how Pezzullo used his influence to prevent the release of sensitive information and to control the narrative around national security.

The Herald's coverage of the story this week.

Home Affairs chief campaigned for job

By Michael Bachelard Nick McKenzie

The Sydney Morning Herald

Wednesday 27th September 2023

1961 words

Page 1,4,5 | Section: General

1914cm on the page



Home Affairs chief campaigned for job

Michael Bachelard
Nick McKenzie

EXCLUSIVE

The powerful secretary of the Home Affairs department, Michael Pezzullo, pushed his own ambition to become the country's most senior bureaucrat by conducting a years-long campaign to denigrate and undermine two of Australia's most senior public servants.

In dozens of scathing WhatsApp messages to Liberal Party operat-

ive Scott Briggs - who had a direct line to former prime ministers Malcolm Turnbull and Scott Morrison - Pezzullo accused the Department of Prime Minister and Cabinet and its head, Martin Parkinson, of being "woefully imprecise", "befuddled", lacking "vitality" and "missing in action".

"I have had to bite my tongue with respect to PM&C [Prime Minister and Cabinet] ineptitude and incompetence. No project management skills or capability," Pezzullo said in 2017. "Parkinson isn't up to

it," he wrote in 2018.

Pezzullo also took aim at the Attorney-General's Department and its respected secretary, Chris Moraitis, saying in 2019 the government needed to "change out the leadership".

Pezzullo suggested another man, whom he described as a friend, as "the best fit" for the job.

The government stood Pezzullo aside from his job on Monday after the revelations by the *Herald*, *The Age* and *60 Minutes* that the Home
Continued Page 4





Pezzullo's long campaign to take charge of Home Affairs

From Page 1

Affairs secretary had sought, through a Liberal Party intermediary, to interfere in party political activities and shape the government. The Australian Public Service Commission will investigate his conduct. He will retain his \$900,000-plus salary while the probe takes place.

Throughout the conversations on encrypted messaging applications WhatsApp and Signal revealed by this masthead, Pezzullo painted himself as a man of action who had helped the Coalition government stop the boats. He regularly exhorted Briggs – a lobbyist and former deputy state director of the NSW Liberal Party – to pass on his feelings, concerns and perspectives to the prime minister of the day.

The *Herald* is not suggesting any of the exchanges are corrupt or illegal, only that they were inappropriate for a senior public servant.

Earlier this year, Parkinson delivered a major report for the Albanese government on how broken Australia's migration regime had become. The Department of Home Affairs, which until Monday Pezzullo ran under Labor minister Clare O'Neil, is now responsible for responding to Parkinson's

conclusions. Moraitis also still occupies a senior public service role, as head of Australia's war crimes investigative agency, the Office of the Special Investigator.

Parkinson and Moraitis both declined to comment on Pezzullo's behaviour.

Former attorney-general George Brandis, one of the targets of Pezzullo's criticism, told the *Herald* it was "breathtaking that at a time when the government is trying to run a war against terrorism, one of the most senior public servants in the country is running his own war" against other departmental secretaries.

'THIN CAPACITY'

The messages began as Pezzullo was pushing in mid-2017 for the Turnbull government to create the mega-department of Home Affairs. However, he believed the Attorney-General's Department under minister Brandis and secretary Moraitis was trying to block the idea, because under the proposed changes, the Attorney-General's Department would lose ASIO, the Australian Federal Police, the Australian Criminal Intelligence Commission and the anti-money-laundering agency Austrac to the new portfolio.

Another key problem, as Pezzullo saw it, was the Department of Prime Minister and

Cabinet under Parkinson.

"Critical point of failure is PM&C thin capacity. Not a criticism – just a fact. We dwarf them in terms of firepower and scale," he told Briggs in July 2017. "They need to tool up ASAP. By early next week this will [be] rolling so strongly that the naysaying commentators will be chewing dust."

"Don't think that they are being malicious – just inept and George [Brandis] is lawyering them into a state of befuddlement."

Pezzullo described his campaign for Home Affairs as a "charm offensive," telling Briggs, "I can do charm and collegiality!" He then messaged: "Perhaps give me Defence and HA [Home Affairs] at the same time (wink emoji)."

While seemingly a joke, Pezzullo's ambition to be Department of Defence secretary was well known in Canberra. In November 2017, as Home Affairs was coming closer to reality, Pezzullo amped up his critique of the man leading the most senior public service department.

"Head down and powering on," Pezzullo wrote to Briggs. "I have had to bite my tongue with respect to PM&C ineptitude and incompetence. No project management skills or capability. But going to war with Martin [Parkinson] would ... just create grief for the PM," he wrote.

In December 2017, Pezzullo got his wish: Home Affairs was announced, with Dutton as minister and Pezzullo as its powerful secretary.

He celebrated. Home Affairs "will be the enforcer of the bureaucracy", he told Briggs, attaching a policeman emoji.

CHIEFS 'NOT UP TO IT'

Amid the unpredictable politics of the Morrison-Dutton-Turnbull leadership spill of August 2018, messages reveal Pezzullo jockeying for his own advantage with Briggs, who was close to two of the candidates. In a series of late-night messages, Pezzullo



suggested if Dutton, his minister, became prime minister, he might be elevated as well.

"I have calculated the scenario in my own mind," he wrote in an 11.33pm message to Briggs. "In which case I might well be in PM&C which I would reluctantly have to accept. One is always honoured to serve."

Then he offered some political advice.

"It would be crucially important that the appointment NOT be seen as a new PM putting together his senior team for winning next election. Secretary [of] PM&C must NEVER be seen in that light, for sake of our democracy."

When Morrison won the multi-part leadership spill, Pezzullo immediately began undermining Parkinson to the new prime minister's friend and confidant.

"We have to work on re-tooling the bureaucracy quickly. Significant portions of it would have no idea whatsoever how the PM works. That include [sic] most of PM&C, unfortunately."

Pezzullo, who had worked with Morrison on Operation Sovereign Borders, the military-led border security operation, said he had been "coaching and guiding" Parkinson in what to expect from the new prime minister: "I have told Parkinson to prepare for OSB [Operation Sovereign Borders] times 100!!!"

Again, early on the Sunday morning after Morrison defeated Bill Shorten in the May 2019 election, Pezzullo was pushing himself forward.

"A great win," Briggs wrote.

Pezzullo replied, "Regardless of politics, I agree".

"It's a bubble issue but he [Morrison] has to reshape the public service. Not just personalities but structures as well. Fewer, bigger Departments. Serious scaling up and adoption of technology. The current public service leadership is not up to it."

Pezzullo went on: "We have to take this once in a generation opportunity ... And sorry to say - Parkinson isn't up to it."

Briggs wrote that Morrison agreed.

Pezzullo responded immediately: "If that is where he is at ... if he gets stuck regarding the PM&C job and he wants a driver in there, I would do it for him. It's not a job that I've ever been interested in but if he needs a finisher in there I would of course answer the call."

'OUT TO LUNCH'

In May 2019, Parkinson told Morrison he wanted to resign as the departmental secretary and leave within 12 months. In July that year, Morrison announced a plan to reform the public service to, in his words, make it more accountable.

However, Pezzullo did not get the top job. That went instead to Morrison's former staffer, Phil Gaetjens.

The other departmental secretary that the Home Affairs boss took aim at was Moraitis - a respected public servant who was the head of the Attorney-General's Department between 2014 and 2021, and now heads the Office of the Special Investigator

into war crimes in Afghanistan.

His attack intensified in 2018 when controversy erupted over the department's drafting of a new bill criminalising the handling of secret information. Under the proposed law, journalists could face jail for receiving leaked documents.

"The espionage and treason Bill is poorly drafted and the Government should cut its losses," Pezzullo insisted to Briggs. "Don't trust anything served up by AGD - i [sic] don't!"

"Just between you and I and NOT for discussion with the PM or others, when this was being

developed I reminded and warned Moraitis about the grief encountered by [then Prime Minister Paul] Keating in 1995 when he tried to do similar," Pezzullo wrote. Criminalising journalists was fine, he said, but "Stumbling into it via espionage and treason legislation is incompetence of the highest order."

"Someone needs to hang for that ... It is simply unacceptable. If my Department had messed up that badly, the entire Canberra establishment would have piled in on me, and in any event honour would have dictated that I offer my resignation to the Prime Minister."

The following year he said the Attorney-General's Department was "out to lunch" and would not be fixed "until you change out the leadership".

He pushed the credentials of the then head of Finance, David Fredericks, saying he was "sharp and a fixer".

"He is a friend by way of disclosure".



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Pezzullo to Briggs the morning after Scott Morrison won the 2019 election.

May 18, 2018

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The Herald's coverage of the story this week.

Power player

It was one of Morrison's most contentious foreign policy moves. Michael Pezzullo wanted to help

Michael Pezzullo used encrypted messages to a Liberal powerbroker to back the former prime minister's plan to move the embassy from Tel Aviv and brand other top public servants "useless".

By Nick McKenzie and Michael Bachelard

SEPTEMBER 27, 2023



Former prime minister Scott Morrison flagged the move of Australia's embassy in Israel from Tel Aviv to Jerusalem. **MATTHEW ABSALOM-WONG**



Listen to this article
8 min

Foreign Affairs secretary Michael Pezzullo undermined Australia's highest-ranking public servants as they scrambled to manage former prime minister Scott Morrison's contentious proposal to

H recognise Jerusalem as Israel's capital.

Encrypted messages Pezzullo sent to Morrison's confidant and Liberal Party powerbroker Scott Briggs in November 2018 reveal the senior public servant tried to covertly shape the major foreign policy decision and described the bureaucrats warning against Morrison's plan as "useless".

The messages make clear Pezzullo sought to impress upon Briggs that he, as an ostensibly apolitical and independent departmental chief, was the only one committed to advancing the prime minister's Israel agenda.

Pezzullo also shared his assessment of the [Christchurch terror attack](#) and other sensitive material with Briggs, as the Home Affairs chief sought to ingratiate himself with a powerbroker he knew had a direct line to Morrison.

The latest revelations in the Pezzullo scandal will open up a new avenue of inquiry for the Australian Public Service Commissioner's investigation into the Home Affairs secretary. That inquiry is already probing dozens of other messages Pezzullo sent Briggs [over five years](#).

The publication of some of those messages on Sunday evening by *The Age*, *The Sydney Morning Herald* and *60 Minutes* forced the Albanese government [to stand down Pezzullo](#) and task the public service commissioner with investigating him.

Two sources close to Pezzullo told *The Age* and *The Sydney Morning Herald* that the embattled department chief has signalled he will never return to his post or government.

A contentious plan

In October 2018, Morrison flagged the high-stakes and historic proposal for [Australia to move its embassy in Israel](#) from Tel Aviv to Jerusalem. The promise came in the lead-up to the Wentworth byelection, and mirrored former US president Donald Trump's decision for the US to do the same in the face of international condemnation.

Both the Israelis and Palestinians claim Jerusalem as their capital city, an argument that's considered one of the most contentious in the decades long conflict and one that's likely to be one of the last problems to be solved in any negotiated settlement. Morrison made the call [without consulting the Department of Foreign Affairs](#).



Former prime minister Scott Morrison announced his plans for the Australian embassy in Israel in October 2018. ALEX ELLINGHAUSEN

After Morrison's comments sparked a backlash, the then prime minister sought the views of an expert and supposedly apolitical and independent panel of departmental secretaries, including Pezzullo, the Department of Foreign Affairs and Trade secretary, Frances Adamson, and the secretary of the Department of Prime Minister and Cabinet, [Martin Parkinson](#).

Leaked messages show that Pezzullo went outside the confidentiality of the panel discussions by leaking its deliberations to Briggs and pushing himself forward as its sole member committed to advancing Morrison's policy.

The Age, the *Herald* and *60 Minutes* are not suggesting any of the exchanges are corrupt or illegal, only that they were inappropriate for a senior public servant. In one message during the panel consultations, Pezzullo told Briggs he doubted Parkinson and Adamson "have their heart in" the proposed policy.

The public service code of conduct requires bureaucrats to be apolitical, which Pezzullo has said in a major speech involves avoiding "raw politics" and maintaining "the boundary between the political and the administrative". The Jerusalem revelations suggest Pezzullo politicised a public service panel in one of the most sensitive aspects of Australia's foreign policy.

The sticking point

On November 21, 2018, a month after Morrison made the Israel announcement, Pezzullo messaged Briggs using an encrypted messaging app asking: "Very privately: where does PM want to land on Jerusalem?"

Briggs answered that he had been bunkered down with Morrison's inner circle and that the then prime minister wanted to "look at whether we can formally recognise Jerusalem as capital – although I got the sense he believes the advice will be we can't do that".

Pezzullo responded: "Got it. The bureaucracy will be useless on this. Will condescendingly tell the PM how he slipped up!"

Briggs then told Pezzullo that Morrison was facing widespread criticism over the move, but said that "philosophically he doesn't want to resile from it and believes it is a good thing to do".

Pezzullo, whose job was to run Australia's internal security, and whose minister at the time was Peter Dutton, appeared to curry favour, telling Briggs that he "understood" Morrison's predicament, but that his fellow secretaries would likely be cautious. "Martin [Parkinson] and Frances [Adamson] will be hard to get over the line," Pezzullo texted.

"Recognition [of Jerusalem as capital] is the sticking point within the group but I am holding the line."

On December 1, Pezzullo again messaged Briggs to complain about the Department of Foreign Affairs and Trade: "We can do recognition immediately in my view but DFAT lawyers are holding out. I doubt that Parkinson and Adamson have their heart in it."

Briggs responded by saying that Morrison would be pleased with his efforts: "Okay. He will be glad that there is a pathway. He will push Parkinson. The pm [Scott Morrison] suspects the same thing re Parkinson and Adamson."

In subsequent messages, Pezzullo continued to complain about DFAT's resistance.

"Use of Present Tense will be important. I want to recognise West J [Jerusalem] as functioning capital of State of Israel in present tense. DFAT resisting," he wrote in one message. In another, Pezzullo lashed out at former diplomats who were opposing the historic shift in foreign policy.

"The guild of retired diplomats will fall about in hysteria," he wrote.

Ultimately, in December, Australia became one of a handful of countries to recognise that West Jerusalem was Israel's capital, but said it would not move its embassy from Tel Aviv until a peace settlement was reached.

Morrison also announced Australia would establish a defence and trade office in Jerusalem and start looking for an embassy site. Sources close to the government at the time, speaking anonymously to relay private conversations, said this was the compromise that the expert committee had agreed to.

Labor [reversed that position last October](#), returning Australia to the status quo, with the embassy remaining in Tel Aviv until a lasting peace is achieved.

Sharing sensitive information

On other occasions, Pezzullo also briefed Briggs – who has no official role in the government or the parliament – on his dealings with senior ministers and their staffers. The Australian Public Service code of conduct requires public servants to “maintain appropriate confidentiality about dealings that the employee has with any minister or minister’s member of staff”.

However, after the New Zealand terrorist attack in March 2019, Pezzullo forwarded to Briggs a briefing he had sent to his minister, Dutton, and the prime minister, containing the Home Affairs secretary’s initial assessment of the Christchurch killer’s “deluded manifesto”.

Pezzullo warned Briggs he wasn’t to share the message, writing: “Just for you [Briggs]. Sent to PM and MHA [Home Affairs Minister] a few minutes ago. Do not pass on.”

In other messages, Pezzullo shared with Briggs messages he had sent Malcolm Turnbull’s key political advisers, including national security adviser Justin Bassi and then chief of staff Greg Moriarty.

Pezzullo also briefed the political operative on a sensitive discussion he had with then secretary of the Attorney-General’s Department, Chris Moraitis, about the handling of proposed national security laws that, upon public release, had been savaged by civil libertarians and the media.

In his message to Briggs, Pezzullo revealed he had warned Moraitis about the backlash.

“Just between you and I and NOT for discussion with the PM or others, when this was being developed I reminded and warned Moraitis about the grief encountered by [former prime minister Paul] Keating in 1995 when he tried to do similar,” Pezzullo texted to Briggs.

Pezzullo later told Briggs the introduction of the new laws had been badly bungled and that someone should be sacked.

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Nick McKenzie is an Age investigative journalist who has twice been named the Graham Perkin Australian Journalist of the Year. A winner of 14 Walkley Awards, he investigates politics, business, foreign affairs, human rights and criminal justice. Connect via [email](#).



Michael Bachelard is a senior writer and former deputy editor and investigations editor of The Age. He has worked in Canberra, Melbourne and Jakarta, has written two books and won multiple awards for journalism, including the Gold Walkley. Connect via [Twitter](#).

WHATSAPP MESSAGES

Department of Home Affairs secretary Michael Pezzullo's messages to Liberal powerbroker Scott Briggs

On himself ^

July 23, 2017

Briggs: Had a good chat to both malcolm [then prime minister Malcolm Turnbull] and Scott [then treasurer Scott Morrison] this weekend. They both think it needs to be you to lead HA. I'll call you tomorrow to discuss

July 24, 2017

Pezzullo: Scott

I fully understand.

would be honoured to serve my country in any way the PM deems appropriate. We are very privileged to be able to serve at these levels and personal preference should never enter into the equation.

I will work very hard not to become the lightning rod of discontent regarding HA [Home Affairs]. I will also support the new Defence Secretary in every way I can.

Regards,

MP

...

Pezzullo: We will get HA [Home Affairs] done and you will see an appreciable difference very quickly with an empowered Cabinet Minister supporting the PM. I am running deep and silent. Won't come up to periscope depth for a while. MP

Briggs: Haha okay. It is the biggest gig in town!

July 31, 2017

Pezzullo: People know that the submarine is down there somewhere, and they are second guessing ... not a bad thing.

Hahaha.

Briggs: Yes will keep them honest. Just what they were designed for!

Pezzullo: The second guessing is hilarious - long lost 'friends' attempting to reconnect etc.

Briggs: Hahaha. Imagine how it will get when it gets out!

On then attorney-general George Brandis



August 4, 2017

Pezzullo: I suspect that George has been handbraking AGD [Attorney-General's Department]. That has constrained their participation.

August 8, 2017

Pezzullo: [George] Brandis behaviour is getting worse. [Then transport minister Darren] Chester not much better regarding transport security. Their departments are following suit. Good news is that agencies esp ASIO, AFP and ACIC are swinging in behind.

August 9, 2017

Briggs: Okay. I've fed that into the PM. I think things may be getting closer to a Brandis departure.

Pezzullo: The upside is that operational agencies are feeling more positive because they can see that [Peter] Dutton and I do not interfere in their command chains. The Sydney terror plot has sealed the deal with them. The ones who [are] sniping and conducting an insurgency are a couple of Ministers, their staff and some miffed bureaucrats in Departments not Agencies. We must push on and over the top of this resistance.

Briggs: Agree. Malcolm [then prime minister Turnbull] aware of the [then justice minister Michael] Keenan problem as well. Not sure he is ready to move him just yet - but he will if he thinks he is contributing to a lack of integration.

Pezzullo: Apart from anything, he is passive and lacks impact.

November 29, 2017

Pezzullo: George [Brandis] seems to be trying to negotiate a stay of execution. If that were to occur, he would have to change his mindset and behaviours regarding Home Affairs. He is in complete denial about Home Affairs.

Briggs: Had a meeting last night which confirmed he will be gone by end of year out of portfolio. [then social services minister] Porter is suspected leaker so malcolm [then prime minister Malcolm Turnbull] has a hesitation about him. They may be what George is trying to leverage off - but that won't work. Confidentially - They will announce a bank royal tomorrow.

On the Attorney-General's Department



August 9, 2017

Briggs: Just touched down in Canberra. I'm seeing Scott and Malcolm [then treasurer Scott Morrison and then prime minister Malcolm Turnbull] at some stage today ...maybe having dinner with them. Any messages you want me to convey? 10:39am

Pezzullo: Yep. Home Affairs is going well except Agd [Attorney-General's Department] needs to be put to the sword by way of final decisions about which functions transfer to the new Department. PM's call now -I believe that he has written advice. Once that is settled we can break out of the Normandy beachhead.

Briggs: Haha. Okay will pass it on. We should catch up when you have some time.

On then Department of Prime Minister and Cabinet secretary Martin Parkinson



November 10, 2017

Head down and powering on. I have had to bite my tongue with respect to PM&C [Prime Minister and Cabinet] ineptitude and incompetence. No project management skills or capability.

But going to war with Martin [Parkinson] would not benefit anyone and would just create grief for the PM.

On former prime minister Tony Abbott



November 29, 2017

Pezzullo: Any chance of being able to rehabilitate Abbott and to bring the conservatives more into line?

Pipe dream?

Briggs: think it's too hard. But never say never in politics.

In a topsy turvy world.....expect the unexpected!

On former Labor senator Kristina Keneally on the eve of the Bennelong byelection



December 15, 2017

Pezzullo: How is Bennelong looking?

Briggs: We're still in front. Sitting more or less 53 to 47. She is now at -10 net favourability.

Pezzullo: And looking quite unhinged.

Briggs: Very!

Pezzullo: Hopefully we can get HA [Home Affairs] underway next week.

On Julie Bishop, Scott Morrison and Peter Dutton during three-way leadership spill



August 23, 2018

Pezzullo: Julie B??

Briggs: A distraction. Not serious. Scomo is in front mate. He could be the Pm tomorrow.

Pezzullo: Almost had a heart attack.

Ready to serve. Same goes for Dutton too of course.

...

Pezzullo: I don't wish to interfere but you won't be surprised to hear that in the event of ScoMo [Scott Morrison] getting up I would like to see [Peter] Dutton come back to HA [Home Affairs].

Briggs: Yes. I hope he accepts it when offered. It seems he will.

Pezzullo: No reason for him to stay on backbench that I can see.

Briggs: I agree.

Pezzullo: It would be great if they could focus on immigration and population ASAP. We could reshape package slightly to accommodate ScoMo and Dutton preferences.

Briggs: Agree.

Pezzullo: I say that from a policy perspective and not from a Liberal leadership perspective.

...

Pezzullo: ScoMo should take opportunity to reform government.

On then attorney-general Christian Porter being the best person to restrict the media



June 18, 2019

Pezzullo: I think that [then attorney- general Christian] Porter would be sensible. His Department is out to lunch.

Scott: Yes. A reason why they are not really ever consulted on these issues. They need to move past the HA [Home Affairs] changes and find a new role as the trusted advisor on these sorts of matters.

Pezzullo: You won't until you change out the leadership.

On former foreign minister Julie Bishop



October 1, 2021

Pezzullo shares a story with Briggs headlined *Julie Bishop has an epic fashion moment for a good cause.*

Pezzullo: Sorry. She has agency and autonomy. I get it. But how does this advance the cause of strong, independent policy or business relevant women?

Pezzullo got behind ex-PM's move on Israel

By Nick McKenzie; Michael Bachelard

The Age

Thursday 28th September 2023

1465 words

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Nick McKenzie
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Think, Act, Think, Do, Think

Pezzullo got behind ex-PM on Israel call

Messages reveal backing for Morrison's controversial embassy shift, write Nick McKenzie and Michael Bachelard.

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The latest revelations in the Pezzullo scandal will open up a new avenue of inquiry for the Australian public service commissioner's investigation into the Home Affairs secretary. That inquiry is already probing dozens of other messages Pezzullo sent Briggs over five years.

The publication of some of those messages on Sunday evening by

The Age, *The Sydney Morning Herald* and *60 Minutes* forced the Albanese government to stand down Pezzullo and task the public service commissioner with investigating him.

Two sources close to Pezzullo told *The Age* that the embattled department chief has signalled he will never return to his post or government.

A CONTENTIOUS PLAN

In October 2018, Morrison flagged the high-stakes and historic proposal for Australia to move its embassy in Israel from Tel Aviv to Jerusalem. The promise came in the lead-up to the Wentworth byelection, and mirrored former US president Donald Trump's decision for the US to do the same in the face of international condemnation.

Both the Israelis and Palestinians claim Jerusalem as their capital city, an argument that's considered one of the most contentious in the decades-long conflict and one that's likely to be one of the last problems solved in any negotiated settlement.

Morrison made the call without consulting the Department of Foreign Affairs.

After Morrison's comments sparked a backlash, the then prime minister sought the views of an expert and supposedly apolitical and independent panel of departmental secretaries, including Pezzullo, Department of Foreign Affairs and Trade secretary Frances Adamson,

and the secretary of the Department of Prime Minister and Cabinet, Martin Parkinson.

Leaked messages show Pezzullo went outside the confidentiality of the panel discussions by leaking its deliberations to Briggs and pushing himself as its sole member committed to advancing Morrison's policy. *The Age* is not suggesting any of the exchanges are corrupt or illegal, only that they were inappropriate for a senior public servant.

In one message during the panel consultations, Pezzullo told Briggs he doubted Parkinson and Adamson "have their heart in" the proposed

policy. The public service code of conduct requires bureaucrats to be apolitical, which Pezzullo has said in a major speech involves avoiding "raw politics" and maintaining "the boundary between the political and the administrative". The Jerusalem revelations suggest Pezzullo politicised a public service panel in one of the most sensitive aspects of Australia's foreign policy.

THE STICKING POINT

On November 21, 2018, a month after Morrison made the Israel announcement, Pezzullo messaged Briggs using an encrypted messaging app, asking: "Very privately: where does PM want to land on Jerusalem?"

Briggs answered that he had been bunkered down with Morrison's inner circle and that the then prime minister wanted to "look at whether we can formally recognise Jerusalem as capital – although I got the sense he believes the advice will be we can't do that". Pezzullo responded: "Got it. The bureaucracy will be useless on this. Will condescendingly tell the PM how he slipped up!"

Pezzullo, whose job was to run Australia's internal security, and whose minister at the time was Peter Dutton, appeared to curry favour, telling Briggs that he "understood" Morrison's predicament, but that his fellow secretaries would probably be cautious. "Martin [Parkinson] and



Frances [Adamson] will be hard to get over the line," Pezzullo texted.

"Recognition [of Jerusalem as capital] is the sticking point within the group but I am holding the line."

On December 1, Pezzullo again messaged Briggs to complain about the Department of Foreign Affairs and Trade: "We can do recognition immediately in my view but DFAT lawyers are holding out. I doubt that Parkinson and Adamson have their heart in it."

Briggs responded by saying that Morrison would be pleased with his efforts: "Okay. He will be glad that there is a pathway. He will push Parkinson. The pm [Scott Morrison] suspects the same thing re Parkinson and Adamson."

In subsequent messages, Pezzullo continued to complain about DFAT's resistance.

"Use of Present Tense will be important. I want to recognise West J [Jerusalem] as functioning capital

of State of Israel in present tense. DFAT resisting," he wrote in one message. In another, Pezzullo lashed out at former diplomats who were opposing the shift.

"The guild of retired diplomats will fall about in hysteria," he wrote.

Ultimately, in December 2018, Australia became one of a handful of countries to recognise that West Jerusalem was Israel's capital, but said it would not move its embassy from Tel Aviv until a peace settlement was reached.

Morrison also announced Australia would establish a defence and trade office in Jerusalem and start looking for an embassy site. Sources close to the government at the time, speaking anonymously to relay private conversations, said this was the compromise that the expert committee had agreed to.

Labor reversed that position last October.

SHARING SENSITIVE

INFORMATION

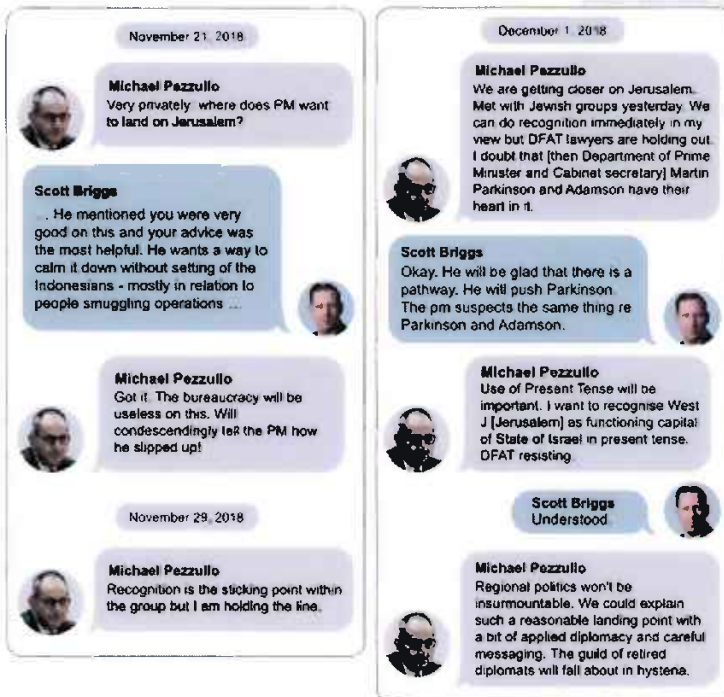
On other occasions, Pezzullo also briefed Briggs - who has no official role in the government or the parliament - on his dealings with senior ministers and their staffers.

The Australian Public Service code of conduct requires public servants to "maintain appropriate confidentiality about dealings that the employee has with any minister or minister's member of staff".

However, after the New Zealand terrorist attack in March 2019, Pezzullo forwarded to Briggs a briefing he had sent to his minister, Dutton, and the prime minister containing the Home Affairs secretary's initial assessment of the Christchurch killer's "deluded manifesto".

Pezzullo warned Briggs he wasn't to share the message, writing: "Just for you [Briggs]. Sent to PM and MHA [home affairs minister] a few minutes ago. Do not pass on."

Department of Home Affairs secretary Michael Pezzullo to Liberal Party powerbroker Scott Briggs on the proposal for Australia to move its embassy in Israel from the capital Tel Aviv to Jerusalem.



Department of Home Affairs secretary Michael Pezzullo to Liberal powerbroker Scott Briggs the morning after Scott Morrison won the 2019 election.

November 21, 2018



Michael Pezzullo

Very privately: where does PM want to land on Jerusalem?

Scott Briggs

... He mentioned you were very good on this and your advice was the most helpful. He wants a way to calm it down without setting of the Indonesians - mostly in relation to people smuggling operations

...



Michael Pezzullo

Got it. The bureaucracy will be useless on this. Will condescendingly tell the PM how he slipped up!

November 29, 2018

November 29, 2018



Michael Pezzullo

Recognition is the sticking point within the group but I am holding the line.

Department of Home Affairs secretary Michael Pezzullo to Liberal Party powerbroker Scott Briggs on the proposal for Australia to move its embassy in Israel from the capital Tel Aviv to Jerusalem.

December 1, 2018



Michael Pezzullo

We are getting closer on Jerusalem. Met with Jewish groups yesterday. We can do recognition immediately in my view but DFAT lawyers are holding out. I doubt that [then Department of Prime Minister and Cabinet secretary] Martin Parkinson and Adamson have their heart in it.

Scott Briggs

Okay. He will be glad that there is a pathway. He will push Parkinson. The pm suspects the same thing re Parkinson and Adamson



Michael Pezzullo

Use of Present Tense will be important. I want to recognise West J [Jerusalem] as functioning capital of State of Israel in present tense. DFAT resisting. But only if he gets stuck!

Scott Briggs
Understood



Michael Pezzullo

Regional politics won't be insurmountable. We could explain such a reasonable landing point with a bit of applied diplomacy and careful messaging. The guild of retired diplomats will fall about in hysteria.

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ss 47E(c) and (d); 47F(1) and 11A(5)

ss 47E(c) and (d); 47F(1) and 11A(5)

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