



Australian
Academy of
Science

4 March 2022

The Hon. Mark Speakman, SC MP
Attorney General of NSW
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Email: office@speakman.minister.nsw.gov.au

CC
The Hon. Dominic Perrottet, MP
Premier of NSW
Email: office@perrottet.minister.nsw.gov.au

Dear Mr Speakman

As you are aware, Ms Kathleen Folbigg was found guilty in 2003 of smothering three of her children and the manslaughter of her firstborn in the absence of any pathological evidence to support the accusation of smothering. New scientific evidence explaining the deaths of her children now makes it patently clear that all four children died of natural causes, placing her innocence beyond reasonable doubt. Australia's leading scientists and the scientific community globally now understand that Kathleen Folbigg's children tragically died from natural causes; it is time that the NSW legal system also accepts that a miscarriage of justice has occurred.

It is the clarity of the scientific evidence that has compelled the domestic and international support from such a large and distinguished cohort of scientists and doctors. Their [petition](#) requesting the NSW Governor release Kathleen Folbigg based on the new evidence has been awaiting your advice since March 2021. You have declined the Australian Academy of Science's offer to provide you with a scientific briefing to explain the genetic findings in detail and to answer any questions you may have about the new evidence. This offer still stands and is supported by Ms Folbigg and her legal representatives.

We appreciate the time required for proper consideration of petitions of this kind, however, the new indisputable genetic evidence establishes Ms Folbigg's innocence beyond reasonable doubt.

Internationally, other mothers wrongly convicted of murdering their children based on the improbability that multiple infants can die in the one family from natural causes have been released. We understand Kathleen Folbigg is the last known woman to remain in prison because of this discredited default proposition. She remains incarcerated despite the new clear scientific evidence.

There is no reasonable explanation for this delay and for prolonged injustice for Ms Folbigg. She has now been in jail for almost two decades and this miscarriage of justice must be concluded immediately.

It is unsurprising that this case is gaining increasing national and international media attention. *60 Minutes Australia* produced a program on the new genetic evidence which focused international awareness on Ms Folbigg's plight. This case has also been published in *The Australian*, *The Daily Telegraph* and numerous regional and international media outlets including *The New York Times*, *The Washington Post* and CNN. *60 Minutes* aired a second program on 21 November 2021, on the new analyses that discredit the view that Kathleen Folbigg's diary entries are inculpatory. Discovery Channel has also produced a two-part documentary which aired worldwide on 20 November 2021, to an audience of 80 million viewers. We understand that there is significant further media interest in the case and additional documentaries and programs are forthcoming.

The power rests with you to right this wrong.

Furthermore, the power rests with you to bring about the legal reform required so that no person finds themselves in a similar situation. It would also relieve you of the somewhat unfair burden of determining the outcome of potentially serious miscarriages of justice as a Member of Parliament. The establishment of a Criminal Case Review Commission like in other jurisdictions such as the UK, Scotland, Norway, NZ and soon, Canada, would allow fresh and compelling evidence to be heard by the judicial system when court appeals fail to remedy a miscarriage of justice.

The options before you are simple: respect the scientific and medical evidence that provide ample justification for the pardon of Ms Folbigg and demonstrate that you take seriously your responsibility to provide justice to the people of NSW or deny justice by denying science and place under a cloud the integrity of the NSW justice system.

Should you decide to pursue legal reform that would allow fresh and compelling evidence to be heard by the legal system, you would leave a remarkable legacy and your leadership and vision would be widely applauded.

There is no justifiable reason to keep Ms Folbigg incarcerated. Her continued incarceration is untenable. It is time to expedite the Folbigg case and end this miscarriage of justice.

Yours sincerely

Professor John Shine AC PresAA FAHMS (Hon) FRS, President, Australian Academy of Science
Professor Chennupati Jagadish AC FAA FTSE, President-Elect, Australian Academy of Science
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