**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 1372**

**DATE OF QUESTION: 19 MAY 2017**

**DATE OF SUBMISSION: 2 JUNE 2017**

**Adv G Breytenbach (DA) to ask the Minister of Justice and Correctional Services:**

Whether any processes and procedures have been put in place following the judgments handed down in the (a) British American Tobacco Company case and (b) Agliotti case in the Western Cape Division to ensure that the abuses identified in section 205 of the Criminal Procedure Act, Act 51 of 1977, as amended, are not repeated or perpetuated; if not, in each case, (i) why not and (ii) by what date will steps be taken in this regard; if so, what are the relevant details in each case?

**NW1514E**

**REPLY:**

There are no additional procedures and processes that have been put in place following the remarks made in the judgments of the British American Tobacco Company and Agliotti cases.

The existing processes as prescribed in section 205 of the Criminal Procedure Act, Act No. 51 of 1977 provide sufficient safeguards, as per the reply to question 1373.

1. Applications for cell phone data in terms of section 205 of the Criminal Procedure Act, Act 51 of 1977, as amended, are based on an affidavit from the investigating officer motivating why cell phone data is needed in respect of the number(s) and period(s) stated in the affidavit. The prosecutor also considers the affidavit before submitting it to the judicial officer, who is the final and independent arbiter on the application. There are thus three safeguards, in addition to the processes which may follow as part of a criminal prosecution which permits the accused to challenge the admission of evidence.
2. Not applicable