



Administrative Appeals Tribunal

Principal Registry

9 April 2020

Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
PO Box 6100
CANBERRA ACT 2600

Dear Secretary

Clarification to Hansard

I write to you concerning evidence provided to the Senate Standing Committee on Legal and Constitutional Affairs during the Additional Estimates hearing on 3 March 2020.

The Administrative Appeals Tribunal (AAT) has identified the following evidence that requires clarification.

Evidence of Ms Sian Leathem, Registrar, Administrative Appeals Tribunal

On page 118 of the transcript, in responding to a question from Senator Watt about the proportion of warrant applications dealt with by AAT members, the following exchange occurred between Senator Watt and Ms Leathem:

Senator WATT: By contrast, there are 61 judges in Australia who were nominated as issuing authorities under the interception and access act in 2018–19, and, collectively, they issued 850 of these warrants. So we have about twice as many people, 61 judges as opposed to 33 AAT members, for that period of time, issuing less than a quarter of the number of interception warrants that are being issued by AAT members. Does it come down to the fact that it's just really easy to get an interception warrant from these mysterious AAT members?

Ms Leathem: My understanding is that there are a high proportion of applications made to AAT members who hold that function, simply because it is more difficult to get the courts to be able to attend to those.

Senator WATT: Possibly with good reason.

Ms Leathem: For many years I think it's been in about 90 percent of applications.

Mr Matthies: I'm not sure exactly what the figures are.

Senator WATT: But isn't that entirely the point? That judges—

Ms Leathem: This has been the position for many years.

The Administrative Appeals Tribunal wishes to provide the following clarification.

The annual reports on the operation of the *Telecommunications (Interception and Access) Act 1979* specify the number of telecommunications interception warrants issued under the Part 2-5 of that Act by:

- eligible judges of the Family Court of Australia, Federal Circuit of Australia or Federal Court of Australia; or
- nominated AAT members.

For the 10 year period from 2009–10 to 2018–19, the available figures indicate that nominated AAT members issued between 76% and 85% of telecommunications interception warrants in each year. On average, nominated AAT members issued 81% of these warrants.

Yours sincerely

Sian Leathem
Registrar