



**Legislative Assembly for the
Australian Capital Territory**

Standing Committee on Public Accounts

Inquiry into the Auditor-General's Report No. 3 of 2021: Court Transport Unit Vehicle – Romeo 5

Legislative Assembly for the Australian Capital Territory
Standing Committee on Public Accounts

Approved for publication

Report 7
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About the committee

Establishing resolution

The Assembly established the Standing Committee on Public Accounts on 2 December 2020.

The Committee is responsible for the following areas:

- ACT Auditor-General
- Office of the Legislative Assembly
- Accounts of the receipts and expenditure of the ACT and its authorities
- All reports of the Auditor-General which have been presented to the Assembly
- Treasury including taxation and revenue.

You can read the full establishing resolution [on our website](#).

Committee members

Mrs Elizabeth Kikkert MLA, Chair

Mr Michael Pettersson MLA, Deputy Chair

Mr Andrew Braddock MLA

Secretariat

Mr Samuel Thompson, Committee Secretary

Ms Miriam El-Chami, Assistant Secretary (on secondment from the House of Representatives)

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About this inquiry

Under its resolution of establishment, the Standing Committee on Public Accounts examines all reports of the Auditor-General which have been presented to the Legislative Assembly. Specifically, the resolution requires the Committee to inquire into and report on reports of the Auditor-General which have been presented to the Assembly.

Acronyms

Acronym	Long form
ACT	Australian Capital Territory
ACTCS	ACT Corrective Services
CTU	Court Transport Unit
JACS	Justice and Community Safety Directorate

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Recommendations

Recommendation 1

The Committee recommends that the ACT Government implement all of the Auditor-General's recommendations.

Recommendation 2

The Committee recommends that, by December 2022, the ACT Government implement the Auditor-General's Recommendation 1 in full.

Recommendation 3

The Committee recommends that the lease for the Court Transport Unit vehicle - Romeo 5 be terminated, and that a new vehicle be commissioned which fits its purpose and meets the safety and security of correction officers and detainees.

Recommendation 4

The Committee recommends that, within six months of receiving any new Court Transport Unit vehicle, the ACT Government must ensure that all corrections officers and Court Transport Unit officers likely to use the vehicle be appropriately trained and be provided with the appropriate information to safely operate the vehicle.

Recommendation 5

The Committee recommends that the ACT Government ensure that appropriate Court Transport Unit vehicles are procured for the transportation of detainees. In doing so, the ACT Government should consider that:

- a group of representative staff from the Court Transport Unit are involved in the procurement process and are able to test drive vehicles prior to their procurement;
- ACT Corrective Services, through feedback provided from a working group of representative staff, devise and communicate its own specifications for the vehicle; and
- vehicles are fitted with reverse cameras.

Recommendation 6

The Committee recommends that, if the ACT Government decides to retain Court Transport Unit vehicle - Romeo 5, ACT Corrective Services should liaise with the ACT law courts to arrange to improve the clearance of the cable trays in the ACT Magistrates Court and ACT Supreme Court.

Recommendation 7

The Committee recommends that, by December 2022, WorkSafe ACT:

- review and revise its policies to provide greater clarity on its issuance of prohibition notices; and
- prepare better practice guidance for entities after a prohibition notice has been issued.

1. Introduction

Preliminary

- 1.1. Reports of the Auditor-General form a significant part of the Committee's work. The Committee has an important role to follow-up on the reports and recommendations of the Auditor-General.
- 1.2. Where the Committee determines a report of the Auditor-General requires further examination by the Committee, it may conduct a formal inquiry into the matter. This may include calling for written submissions, hearing from witnesses, and preparing a written report for presentation to the Legislative Assembly.

Acknowledgements

- 1.3. The Committee acknowledges those who contributed to its inquiry, including the Auditor-General and staff from the ACT Audit Office, the Minister for Corrections and directorate officials.

2. Conduct of inquiry

Referral and decision to further inquire

- 2.1. Auditor-General's Report No. 3 of 2021: *Court Transport Unit Vehicle – Romeo 5* (the Audit Report) was presented to the Legislative Assembly on 31 March 2021.
- 2.2. The Audit Report examined the effectiveness of ACT Corrective Services' (ACTCS) procurement processes for a vehicle (the Romeo 5), which was intended to transport detainees, and whether effective management arrangements for the operation of the vehicle had been put in place.
- 2.3. In accordance with the resolution of establishment of the Standing Committee on Public Accounts (the Committee), the Audit Report was referred to the Committee for examination.
- 2.4. On 27 May 2021 the Committee received a briefing from the Auditor-General in relation to the Audit Report.
- 2.5. On 30 June 2021 the Committee resolved to establish an inquiry into the Audit Report.
- 2.6. The Government Response to the Audit Report was presented to the Assembly on 3 August 2021.

Conduct of inquiry

- 2.7. On 11 August 2021 the Committee heard evidence from the ACT Auditor-General and his staff, the Minister for Corrections, and senior officials from the Justice and Community Safety Directorate.
- 2.8. On 18 May 2022 the Committee met to consider the Chair's draft report on its inquiry.
- 2.9. On 18 May 2022 the Committee adopted the Report on its inquiry for presentation to the Legislative Assembly.

3. Audit background and outcomes

3.1. This chapter presents an overview of the Audit Report.

Audit background

3.2. In June 2018 ACTCS took possession of a Court Transport Unit (CTU) vehicle, naming it the Romeo 5, which was intended to transport up to eight detainees and two custodial officers. The Romeo 5, manufactured by the Byron Group, is comprised of a specially constructed eight cell detainee module that sits atop a Mitsubishi Fuso Canter truck chassis, which are each separately leased through the ACT Government's lease services provider, SG Fleet. The Romeo 5 was used 'on up to 71 occasions between November 2018 and March 2020' and it has not been used to transport detainees since then.¹

3.3. On 11 November 2019, WorkSafe ACT conducted an inspection of the Romeo 5 vehicle and identified that it 'did not comply with carrying weight capacity requirements when loaded at capacity'.²

3.4. The Audit Report outlined that the objective of the audit was to 'provide an independent opinion to the Legislative Assembly on the effectiveness of ACTCS' procurement processes for the Romeo 5 vehicle' and in doing so, consider the following:

- whether appropriate processes were followed when conducting the procurement, including adherence to ACT Government procurement rules and guidelines;
- whether the procurement fully considered the risk environment; and
- whether the procurement represented value for money.³

3.5. The Audit Report also considered the management of the Romeo 5 since its commissioning in 2018 and compliance with a prohibition notice issued by WorkSafe ACT.⁴ However, following the tabling of the Audit Report, the Audit Office found that a prohibition notice was not issued on the Romeo 5. The *Supplementary Report to Court Transport Unit vehicle – Romeo 5 (Report No.3/2021)* was tabled in August 2021, detailing the circumstances of the error and corrective action undertaken.⁵

¹ Auditor-General's Report No. 3 of 2021: *Court Transport Unit Vehicle – Romeo 5*, p 6.

² Auditor-General's Report No. 3 of 2021, p 9.

³ Auditor-General's Report No. 3 of 2021, p 11.

⁴ Auditor-General's Report No. 3 of 2021, p 11.

⁵ Auditor General's Report Supplementary Report to No. 3 of 2021.

Audit conclusions

Procurement of the Romeo 5

- 3.6. In relation to the procurement processes for the Romeo 5, the Audit Report concluded that ACTCS ‘did not implement effective processes’ and that ‘management and staff did not adequately consider and apply legislative, policy and procedural requirements or adequately consider the procurement risk environment’.⁶ The Audit Report found that ACTCS identified the Byron Group as a preferred contractor, and engaged them through SG Fleet, rather than testing the market or seeking alternative quotes. The Audit Report concluded that:

... this was not appropriate for a complex and high-risk procurement ... and shows a predetermined outcome was being sought without consideration of alternative solutions or suppliers.⁷

- 3.7. Further, the Audit Report stated that a ‘fundamental failure’ was that ACTCS ‘did not have a contract with the Byron Group, which adequately documented the specifications and requirements for the vehicle and timeframes for its delivery.’⁸ It noted that as a result of these procurement failures, the Romeo 5 ‘is not fit for purpose and is now largely redundant’.⁹

Management of the Romeo 5

- 3.8. In relation to the management of the Romeo 5, the Audit Report concluded that the vehicle ‘has not been effectively used as a detainee transport vehicle since its commissioning in 2018’ as it was ‘seldom used and was out of service for extended periods of time for repairs and maintenance’.¹⁰
- 3.9. While the Romeo 5 was designed to transport eight detainees and two custodial officers, an Operating Procedure was made under the *Corrections Management Act 2007* in December 2019, which instructed staff on the mandatory checks required for operating the vehicle. Clauses 1.2 and 1.3 of the *Corrections Management (R5 Vehicle –Mandatory Checks) Operating Procedure 2019* provided that:

1.2. The R5 vehicle has a maximum weight of 4500kg. There is no ability for the vehicle to be driven at a weight above 4500kg irrespective of the class of license held by the driver.

1.3. To ensure the vehicle weight remains below 4500kg, the R5 vehicle must only carry a maximum of six (6) people, including: a. two (2) staff; and b. up to four (4) detainees only.¹¹

⁶ Auditor-General’s Report No. 3 of 2021, p 1.

⁷ Auditor-General’s Report No. 3 of 2021, p 1.

⁸ Auditor-General’s Report No. 3 of 2021, p 1.

⁹ Auditor-General’s Report No. 3 of 2021, p 2.

¹⁰ Auditor-General’s Report No. 3 of 2021, p 2.

¹¹ *Corrections Management (R5 Vehicle –Mandatory Checks) Operating Procedure 2019*, cl 1.2–1.3.

The Audit Report noted that the restrictions on the Romeo 5's operations 'made it even less attractive as an option for transporting detainees and the vehicle has not been used to transport detainees since March 2020'.¹²

Audit recommendations

3.10. The Audit Report made two recommendations, provided in the table below. The right column of the table indicates the position the ACT Government adopted for the relevant recommendation in its response to the Audit Report.

Audit Report Recommendation ¹³	Government Position ¹⁴
<p>R1—ACT Corrective Services should review its procurement framework, including policies, procedures and practices, in order to ensure:</p> <ul style="list-style-type: none"> a) roles and responsibilities for procurement are clearly identified and documented. This includes roles and responsibilities for the management of suppliers in the design and construction of future fleet vehicles; b) procurements appropriately consider and document value for money and risk; c) training is provided to all staff involved in procurement. This should include training on probity, risk management and value for money considerations. 	Agreed
<p>R2—ACT Corrective Services should:</p> <ul style="list-style-type: none"> a) review its need for, and use of, the Romeo 5 vehicle. The review should take account of risk and safety considerations and whether it is appropriate to end the lease and commission a new vehicle; b) outline a clear vision of what its expectation are for the use of Romeo 5 for the duration of its lease. 	Agreed

¹² Auditor-General's Report No. 3 of 2021, p 2.

¹³ Auditor-General's Report No. 3 of 2021, p 8.

¹⁴ *Government response*, tabled 3 August 2021, pp 3–4.

4. Committee comment

Procurement of the Romeo 5

4.1. A key issue in the procurement of the Romeo 5 was that the required ACT Government procurement processes were not followed. The Committee understands from the Audit Report, and from witnesses at the public hearing held on 11 August 2021, that this was due to several reasons including that there was a lack of adequate procurement training amongst the staff involved¹⁵ and ‘red flags’ were ignored throughout the process.¹⁶

4.2. An important concern raised was that a risk assessment for the procurement was not undertaken, despite being a requirement of a proper tender evaluation process. The ACT Auditor-General, Mr Michael Harris told the Committee during its public hearing that ‘there were a dozen red flags there that, even if a risk assessment was not formally required, sensible practice would suggest to you it would not be a bad thing to do’. The Auditor-General added that:

You have a procurement process that is requiring you to buy, effectively, a heavy vehicle. It is not an off-the-shelf heavy vehicle; it is a composite vehicle that involves a standard production chassis with a custom-built module to be attached to that chassis. So, just there, are a whole set of risks that would need to be assessed. Attached to that are the risks associated with registration of the vehicle, with driving of the vehicle, with storing of the vehicle—all of those sorts of things.¹⁷

4.3. The Committee understands that since the audit, the Justice and Community Safety Directorate (JACS) now refers procurements worth over \$200,000 to Procurements ACT and infrastructure procurements are referred to Major Projects Canberra.¹⁸ Director-General, Mr Richard Glenn stated that since the audit, JACS has ‘established a new procurement contract management and assurance framework which draws from the whole-of-government Procurement ACT framework’.¹⁹ During the public hearing, Mr Glenn stated that the framework:

... picks up on some of the changes in procurements since the time of Romeo 5—things like the charter of procurement values, secure local jobs and other initiatives that have been put in place. We have had a process of review of our whole-of-directorate procurement framework from about mid-2019. Earlier this year I approved the framework that we are now applying. That sets an overarching framework for the directorate, into which business units can tap and provide, if they need, more specific guidance to their staff around procurements that are particular to their business needs.²⁰

¹⁵ *Committee Hansard*, 11 August 2021, p 5.

¹⁶ *Committee Hansard*, 11 August 2021, pp 3, 9.

¹⁷ *Committee Hansard*, 11 August 2021, p 9.

¹⁸ Mr Ray Johnson, Commissioner, ACT Corrective Services, Justice and Community Safety Directorate (JACS), *Committee Hansard*, 11 August 2021, p 11; Mr Richard Glenn, Director-General, JACS, *Committee Hansard*, 11 August 2021, p 12.

¹⁹ *Committee Hansard*, 11 August 2021, p 12.

²⁰ *Committee Hansard*, 11 August 2021, p 12.

- 4.4. The Committee notes that going forward, JACS intends to ensure a culture of compliance with the new policies and heard that it is rolling out a training regime, online tools aimed at assisting staff ‘to work through different-value procurements’ and a ‘conflict-of-interest online tool’.²¹ Nevertheless, the Committee is of the view that the ACT Government must ensure that the correct procurement processes are followed for each procurement in its directorates. The Committee considers that in order to do so, staff that are involved in procurements should undergo training and each directorate should have in place a trained procurement officer or team with the responsibility of overseeing all procurements. In addition, the Committee is of the view that ACTCS should periodically review its procurement framework to ensure that it follows ACT Government procurement legislation and requirements.

Recommendation 1

The Committee recommends that the ACT Government implement all of the Auditor-General’s recommendations.

Recommendation 2

The Committee recommends that, by December 2022, the ACT Government implement the Auditor-General’s Recommendation 1 in full.

ACT Correctional Services vehicles

- 4.5. Due to the procurement issues identified and discussed above, the Romeo 5 could not safely be driven with eight detainees and two custodial officers. In November 2019, WorkSafe ACT conducted an inspection of the vehicle and identified that it did not comply with weight requirements.²² As a result, the *Notifiable Instrument NI2019-809 Corrections Management (R5 Vehicle – Mandatory Checks) Operating Procedure 2019* was made under section 14 of the *Corrections Management Act 2007*, requiring that staff were not to operate the vehicle with more than four detainees and two staff.²³

- 4.6. Following this, the Audit Report stated that:

Interviews with officers indicate that the limitations described above have been further reduced to no more than three detainees (plus two staff) to further minimise any risk from excess weight issues.²⁴

²¹ Mr Richard Glenn, Director-General, JACS, *Committee Hansard*, 11 August 2021, p 14.

²² Auditor-General’s Report No. 3 of 2021, p 51.

²³ *Corrections Management (R5 Vehicle –Mandatory Checks) Operating Procedure 2019*, cl 1.2–1.3.

²⁴ Auditor-General’s Report No. 3 of 2021, p 52.

The *Report of a review of the ACT Corrective Services Court Transport Unit* by the ACT Inspector of Correctional Services commented that ‘in effect, an eight-passenger vehicle became a very big and expensive four-passenger vehicle’.²⁵

- 4.7. In the Committee’s public hearing, Ms Kellie Plummer, Director, Performance Audit at the ACT Audit Office described the feedback that the Audit Office had received on the Romeo 5:

... the corrections officers simply do not like driving the vehicle. They do not feel comfortable driving it. They feel it is cumbersome. There have been a few near misses. That was the information that we were told from corrective officers.²⁶

- 4.8. In addition, the Audit Report found that the vehicle has been ‘significantly under-utilised’ as it had been ‘out of service for repairs and maintenance on six separate occasions for a total of 227 days’ since its delivery.²⁷

- 4.9. When asked about his view on the future of the Romeo 5, the Auditor-General stated ‘scrap metal or second-hand market—either would be a good outcome’. The Auditor-General stated that:

There has been a whole bunch of money wasted in this regard. If it is not fit for purpose and it is redundant, then they need to acquire a vehicle that is fit for purpose.²⁸

- 4.10. Ms Plummer added that ‘early termination of the lease could also be considered’.²⁹ The Committee is of the view that the lease for the Romeo 5 should be terminated and that ACTCS acquire a new vehicle that is fit for purpose and meets the safety and security standards for correction officers and detainees.

Recommendation 3

The Committee recommends that the lease for the Court Transport Unit vehicle - Romeo 5 be terminated, and that a new vehicle be commissioned which fits its purpose and meets the safety and security of correction officers and detainees.

- 4.11. The Audit Report and evidence from the public hearing also highlighted that correction officers require more training to be able to operate different court transport vehicles comfortably and safely. Mr Ray Johnson, Commissioner of ACTCS, suggested to the Committee that a higher level of vehicle qualification may give the correction officers ‘more confidence in driving a heavier vehicle’.³⁰ It is therefore the view of the Committee that all correction officers that are likely to drive a CTU vehicle must undergo appropriate training.

²⁵ ACT Inspector of Correctional Services (2020), *Report of a review of the ACT Corrective Services Court Transport Unit*, Canberra, p 19.

²⁶ *Committee Hansard*, 11 August 2021, p 8.

²⁷ Auditor-General’s Report No. 3 of 2021, p 6.

²⁸ *Committee Hansard*, 11 August 2021, p 7.

²⁹ *Committee Hansard*, 11 August 2021, p 7.

³⁰ *Committee Hansard*, 11 August 2021, p 19.

Recommendation 4

The Committee recommends that, within six months of receiving any new Court Transport Unit vehicle, the ACT Government must ensure that all corrections officers and Court Transport Unit officers likely to use the vehicle be appropriately trained and be provided with the appropriate information to safely operate the vehicle.

4.12. The Committee was concerned to hear that during the procurement of the Romeo 5, ACTCS did not consider the 'vehicle's design specifications to ensure that it was fit for purpose and would meet ACTCS business and operational requirements in relation to safety and security'.³¹ The Committee is of the view that there is value in encouraging more involvement of CTU staff in procurement processes to ensure that vehicles are fit for purpose and meet safety and security needs. The Committee considers that a group of representative staff from the CTU should be arranged to:

- a) organise a working group designed for staff to have an opportunity to discuss desires and requirements in a vehicle, where feedback arising out of the working group is used to inform and devise future specifications for vehicles; and
- b) test drive vehicles before they are leased.

Recommendation 5

The Committee recommends that the ACT Government ensure that appropriate Court Transport Unit vehicles are procured for the transportation of detainees. In doing so, the ACT Government should consider that:

- a group of representative staff from the Court Transport Unit are involved in the procurement process and are able to test drive vehicles prior to their procurement;
- ACT Corrective Services, through feedback provided from a working group of representative staff, devise and communicate its own specifications for the vehicle; and
- vehicles are fitted with reverse cameras.

4.13. The Audit Report also identified issues regarding the height of the Romeo 5. It stated that the Romeo 5 is not able to 'easily enter the secure detainee drop off area (the sally port) at the ACT Magistrates Court due to the height of Romeo 5 being too close to the ceiling'. It added that in November 2019, 'damage was incurred when the vehicle was driven into the sally port and the vehicle struck the roof and required repairs to the rear cab body'.³² The Committee is of the view that the height of the cable trays in the ACT law courts should be improved to prevent CTU vehicles from striking the roof of the sally port.

³¹ Auditor-General's Report No. 3 of 2021, p 3.

³² Auditor-General's Report No. 3 of 2021, p 49.

Recommendation 6

The Committee recommends that, if the ACT Government decides to retain Court Transport Unit vehicle - Romeo 5, ACT Corrective Services should liaise with the ACT law courts to arrange to improve the clearance of the cable trays in the ACT Magistrates Court and ACT Supreme Court.

References to a prohibition notice in the Audit Report

- 4.14. In the Audit Report, a number of references are made to a prohibition notice made by WorkSafe ACT in relation to ACTCS' use of the Romeo 5. For example, in the report summary, it stated that:

WorkSafe ACT issued a prohibition notice on the vehicle in November 2019 and, in response, ACTCS instructed its staff that the vehicle was only to be used to carry a maximum of four detainees and two custodial officers at a time.³³

- 4.15. During its public hearing, the Committee heard from the ACT Auditor-General that the Audit Office were 'told on multiple occasions by ACT Work Safe staff that they had issued a prohibition notice'.³⁴ However, due to 'conflicting information' the Audit Office found that its report was incorrect in referring to a prohibition notice issued by WorkSafe ACT.³⁵ A supplementary report was tabled on 31 August 2021 detailing the circumstances of the error and the corrective action undertaken.³⁶

- 4.16. In response to the error, Mr Ray Johnson, Commissioner of ACTCS explained that ACTCS worked on the basis that a Prohibition Notice had been in place when resolving the issues surrounding the Romeo 5 vehicle.³⁷ Mr Glenn added that:

It transpired that the [Prohibition Notice] had not needed to be issued because we had taken the steps that WorkSafe wanted, on the spot.³⁸

- 4.17. While the Committee notes that WorkSafe ACT in its response to the errors made, stated that it 'has enhanced and implemented a sound governance process surrounding the issuing of Prohibition Notices',³⁹ it considers that WorkSafe ACT should amend its policies to improve the clarity of its issuance of prohibition notices.

³³ Auditor-General's Report No. 3 of 2021, p 1.

³⁴ *Committee Hansard*, 11 August 2021, p 4.

³⁵ Auditor General's Report Supplementary Report to No. 3 of 2021, pp 1, 3.

³⁶ Auditor General's Report Supplementary Report to No. 3 of 2021.

³⁷ *Committee Hansard*, 11 August 2021, p 17.

³⁸ *Committee Hansard*, 11 August 2021, pp 17–18.

³⁹ Auditor General's Report Supplementary Report to No. 3 of 2021, p 4.

Recommendation 7

The Committee recommends that, by December 2022, WorkSafe ACT:

- review and revise its policies to provide greater clarity on its issuance of prohibition notices; and
- prepare better practice guidance for entities after a prohibition notice has been issued.

5. Conclusion

- 5.1. The Committee is of the view that the Auditor-General's performance audit report into the Court Transport Unit Vehicle – Romeo 5 was important in identifying and highlighting significant failures in the procurement and management of a CTU vehicle that resulted in it being not fit for purpose and largely redundant. The Committee endorses the Auditor-General's recommendations.
- 5.2. The Audit Report identified areas for improvement at an administrative level, to ensure that ACTCS' procurement framework clearly identifies roles and responsibilities; procurements are appropriately considered and documented; and that training is provided to all staff involved in procurement. Secondly, the Audit Report highlighted that ACTCS should review its need for and use of the CTU vehicle - Romeo 5 for the duration of its lease.
- 5.3. The Committee has made seven recommendations in relation to its inquiry into the Auditor-General's Report No. 3 of 2021.

Mrs Elizabeth Kikkert MLA
Chair, Standing Committee on Public Accounts
18 May 2022

Appendix A: Witnesses

Wednesday 11 August 2021

ACT Audit Office

- **Mr Michael Harris**, ACT Auditor-General
- **Ms Kellie Plummer**, Director, Performance Audit
- **Mr Brett Stanton**, Assistant Auditor-General, Performance Audit
- **Ms Taylah Comisso**, Executive Officer, Professional Services

Justice and Community Safety Directorate

- **Mr Mick Gentleman MLA**, Minister for Corrections
- **Mr Richard Glenn**, Director-General
- **Ms Karen Doran**, Deputy Director-General, Community Safety
- **Mr Ray Johnson**, Commissioner, ACT Corrective Services

Appendix B: Questions taken on notice

Questions taken on notice

No.	Date	Asked by	Directorate	Subject	Response received
1	11/08/2021	Kikkert	JACS	Cost to terminate the lease	22/09/2021
2	11/08/2021	Kikkert	JACS	Use of all ACTCS vehicles	22/09/2021
3	11/08/2021	Kikkert	JACS	Service of vehicles	22/09/2021
4	11/08/2021	Kikkert	JACS	Officers operating Romeo 5	22/09/2021
5	11/08/2021	Kikkert	JACS	Bimberi Youth Detention Centre	22/09/2021
6	11/08/2021	Kikkert	JACS	Last use of Romeo 5	22/09/2021
7	11/08/2021	Kikkert	JACS	Cost of maintenance	22/09/2021