

ACT AUDITOR–GENERAL’S REPORT
SUPPLEMENTARY REPORT TO
COURT TRANSPORT UNIT VEHICLE - ROMEO 5 (REPORT NO.3 / 2021)

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ISSN 2204-700X (Print)

ISSN 2204-7018 (Online)

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PA 20/10

The Speaker
ACT Legislative Assembly
Civic Square, London Circuit
CANBERRA ACT 2601

Dear Madam Speaker

I am pleased to forward to you a Report titled 'Supplementary Report to Court Transport Unit vehicle – Romeo 5 (Report No.3/2021)' for tabling in the Legislative Assembly pursuant to Subsection 17(5) of the *Auditor-General Act 1996*.

Yours sincerely



Michael Harris
Auditor-General
31 August 2021

The ACT Audit Office acknowledges the Ngunnawal people as traditional custodians of the ACT and pays respect to the elders; past, present and future. The Office acknowledges and respects their continuing culture and the contribution they make to the life of this city and this region.

1 REFERENCES TO PROHIBITION NOTICE ISSUED BY WORKSAFE ACT

- 1.1 On 30 March 2021 the ACT Audit Office's report 'Court Transport Unit vehicle – Romeo 5' (Report No.3/2021) was tabled in the ACT Legislative Assembly.

Prohibition notice

- 1.2 The audit report makes reference to the issuing of a prohibition notice by WorkSafe ACT in relation to ACT Corrective Services' use of the vehicle. The summary of the report states:

In November 2019 WorkSafe ACT identified that the vehicle did not comply with weight requirements when loaded with detainees to its full capacity. 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.

- 1.3 The report is incorrect in referring to a prohibition notice being issued by WorkSafe ACT in relation to the use of the vehicle by ACT Corrective Services.

- 1.4 Notwithstanding that a prohibition notice was not issued by WorkSafe ACT in relation to the use of the vehicle by ACT Corrective Services:

- in November 2019 WorkSafe ACT representatives raised concerns with respect to the carrying capacity of Romeo 5 and its use by ACT Corrective Services;
- on 12 November 2019 ACT Corrective Services responded to WorkSafe ACT and identified how it intended to address the concerns associated with the vehicle's carrying capacity (refer to paragraph 3.29 of the tabled audit report); and
- on 12 December 2019 *Notifiable Instrument NI2019-809 Corrections Management (R5 Vehicle – Mandatory Checks) Operating Procedure 2019* was made under section 14 of the *Corrections Management Act 2007*, which instructed staff on mandatory requirements for the operation of the vehicle (refer to paragraph 3.30 of the tabled audit report).

- 1.5 The Audit Office considers that the audit conclusions and findings remain fairly stated, relevant and appropriate.

Reference to the issuing of a prohibition notice

Advice to the Audit Office

- 1.6 The audit report referred to the issuing of a prohibition notice based on advice from WorkSafe ACT representatives.

- 1.7 As part of scoping and planning for the audit, the Audit Office met with representatives from WorkSafe ACT to obtain a better understanding of the Romeo 5 vehicle and its carrying capacity issues.
- 1.8 At a meeting on 17 June 2020, between Audit Office and WorkSafe ACT representatives, the circumstances associated with WorkSafe ACT's interaction with ACT Corrective Services in November 2019 in relation to the Romeo 5 vehicle were discussed. During this meeting WorkSafe ACT representatives advised that a prohibition notice had been issued.
- 1.9 On 19 June 2020, a WorkSafe ACT representative provided further information in an email to Audit Office representatives. The email provided further information on:
- the weight issues associated with the vehicle; and
 - interactions between WorkSafe ACT and ACT Corrective Services in November 2019, including how WorkSafe ACT communicated its concerns with respect to the weight issues associated with the vehicle.
- 1.10 Following a description of the various interactions between WorkSafe ACT and ACT Corrective Services, the email stated:
- A prohibition notice was subsequently placed on the truck being used beyond its GVM of 4500 kg by Worksafe ACT.
- 1.11 Similar advice had also been previously provided to the ACT Inspector of Correctional Services by the WorkSafe ACT representatives.

Planning and scoping process

- 1.12 During planning and scoping for the audit, a proposed audit objective and scope was sent to ACT Corrective Services on 4 August 2020. The proposed scope of the audit made reference to the issuing of a prohibition notice. The proposed scope stated *inter alia*:
- It is understood that WorkSafe ACT placed a prohibition notice on the modified vehicle as it posed a risk of serious personal injury as the vehicle exceeded the permitted Gross Vehicle Mass (GVM) when fully loaded. The notice imposed restrictions on ACT Corrective Services' continued use of the vehicle. The audit will also consider ACT Corrective Services' management and use of the vehicle since then. The audit will consider:
- whether ACT Corrective Services has implemented effective management arrangements for the use of the vehicle in accordance with the prohibition notice issued by WorkSafe ACT in November 2019, and
 - whether ACT Corrective Services has complied with the prohibition notice issued by WorkSafe ACT in November 2019.

Feedback from ACT Corrective Services

- 1.13 In response to the proposed audit objective, scope and criteria, a representative of ACT Corrective Services advised:

My only comment relates to the prohibition notice that was not issued by Worksafe. These issues were raised by the CPSU and Worksafe through a workplace issues resolution process, this has been supported in the correspondence provided.

Acknowledgment by Audit Office

- 1.14 The Audit Office acknowledged the feedback and advised:

Thanks ... we will have a look at that and get the wording right.

- 1.15 Although there was conflicting information as to the existence of a prohibition notice, the Audit Office amended the proposed scope and criteria for the purpose of the formal engagement letter. The 7 August 2020 engagement letter to the Justice and Community Safety Directorate identified a very similar scope to that which was previously provided on 4 August 2020, but the relevant section describing the restrictions on the use of the vehicle was changed as follows:

Restrictions have been placed on the use of the vehicle since November 2019. It was recognised that the vehicle posed a risk of serious personal injury as the vehicle exceeded the permitted Gross Vehicle Mass (GVM) when fully loaded. The audit will consider whether ACT Corrective Services has implemented effective management arrangements for the use of the vehicle since November 2019.

- 1.16 The 7 August 2020 engagement letter identified the following criteria for the audit:

Criteria 1: Did ACT Corrective Services appropriately identify its business and operational needs prior to commencing the procurement?

Criteria 2: Did ACT Corrective Services adhere to ACT Government procurement rules and guidelines and the identified business and operational needs when procuring the vehicle?

Criteria 3: Has ACT Corrective Services implemented effective management arrangements for the operation of the vehicle?

Shortcomings in the audit process

- 1.17 There were shortcomings in the conduct and reporting of the audit.

Insufficient attention given to issue of prohibition notice

- 1.18 The Audit Office did not satisfactorily resolve the conflicting information in relation to the issuing of the prohibition notice. Insufficient effort was made to ascertain whether a prohibition notice had been issued or not.

Incorrect information in the published report

- 1.19 The audit scope and criteria, as described in the published report of 30 March 2021, was incorrect. It referred to the proposed scope and criteria originally shared with the Justice and Community Safety Directorate on 4 August 2020 and not the audit scope and criteria outlined in the 7 August 2020 engagement letter.

Remedial actions

- 1.20 In response to the shortcomings identified above, the Audit Office intends to review and amend its internal policy and procedural documentation, including the existing reporting checklist procedure, to require confirmation that the audit objective, scope and criteria in the published audit report is consistent with that identified in the Audit Work Plan and Engagement Letters issued to auditees.

Response from entities

- 1.21 In accordance with subsection 18(2) of the *Auditor-General Act 1996*, the ACT Inspector of Correctional Services, the Justice and Community Safety Directorate and WorkSafe ACT were provided with:
- a draft proposed report for comment; and
 - a final proposed report for further comment.

WorkSafe ACT response

- 1.22 WorkSafe ACT provided the following response:

WorkSafe ACT has enhanced and implemented a sound governance process surrounding the issuing of Prohibition Notices. This process ensures that workplaces are aware and provided with formal copies of Prohibition Notices issued under the *Work Health and Safety Act 2011*.