



Justice &
Attorney General

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Mr Paul Gibson MP
Chair
Public Accounts Committee, Legislative Assembly
Parliament of NSW
Macquarie Street
Sydney NSW 2000

File No: 08/2881

3 SEP 2010

Dear Mr Gibson,

I write in response to your letter dated 2 June 2010, seeking an update on my Department's progress in implementing the recommendations of the Auditor General's Performance Audit Report, 'Helping Aboriginal defendants through MERIT', which was tabled in Parliament in August 2009.

I am enclosing my Department's response, set out according to the template enclosed with your letter. Many of the Report's recommendations require implementation by the program's partner agencies and I refer you to the responses of my colleagues in NSW Health and the NSW Police Force in relation to these.

Should you require any further information the contact in my Department is Karen Patterson, Senior Policy Officer, Department of Justice and Attorney General, 8688 7625, Karen.Patterson@agd.nsw.gov.au.

Yours faithfully

Laurie Glanfield
Director General

Auditor General's Report, 'Helping Aboriginal defendants through MERIT'
Department of Justice & Attorney General's Response

	Audit Office Recommendation	Accepted/ Rejected	Actions to be taken	Due date (Revised)	Status (completed, on track or delayed)	Responsibility
1.	We recommend that the NSW Police Force by January 2010 appoints a MERIT Liaison Officer at each command where MERIT operates (page 19)	N/A	For NSW Police Force.		For NSW Police Force.	NSW Police Force
2.	We recommend that the NSW Police Force by January 2010 provides ongoing training to Aboriginal Community Liaison Officers (ACLOs) on MERIT. (page 19)	N/A	For NSW Police Force.		For NSW Police Force.	NSW Police Force
3.	We recommend that the Attorney General's Department and the NSW Department of Health by July 2010 develop and implement a process for caseworkers to identify potential defendants before appearing before a Magistrate. (page 20)	Accepted	The Attorney General's Department agrees to work with the NSW Department of Health to develop a recommended procedure, to be published in the MERIT Operational Manual, that aims to assist MERIT caseworkers in maximising the identification of potential MERIT defendants.	October 2010	On track for completion in October 2010. The new MERIT Operational Manual is in final draft form, awaiting final sign-off from key stakeholders. It will include a recommended procedure for maximising the identification of potential MERIT defendants.	Completed

4.	<p>We recommend that the Attorney General's Department consult with the NSW Department of Health, by September 2010, expand MERIT to additional courts, particularly those courts with high proportions of Aboriginal defendants. (page 21)</p>	<p>Accepted, in principle</p>	<p>The Attorney General's Department agrees, in consultation with the Chief Magistrate and the NSW Department of Health, to expand the MERIT program to as many additional courts as possible, noting that:</p> <ul style="list-style-type: none"> - opportunities for expansion are constrained by the level of funding allocated by the Commonwealth under the Australian Health Care Agreement (2009-2013), and expansion may have significant resource implications; - any expansion to a new court needs to be considered in the context of available treatment services, likely demand, and other issues; and - expansion should only be considered where it is certain that current service provision will not be compromised. <p>Maximising availability of the program to Aboriginal defendants has been, and will continue to be, a key consideration when implementing any program expansion.</p>		<p>Completed.</p> <p>Since the Audit Office released its report in August 2009, MERIT has expanded to Ryde and Woy Woy Local Courts.</p> <p>In addition, the MERIT Teams based at Manly and Wollongong Local Courts have expanded to allow defendants with alcohol as a primary concern to enter the program at these Courts.</p> <p>By September/October, a new MERIT team will be established to cover Coffs Harbour Local Court.</p>	<p>Completed</p>
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5.	We recommend that the Attorney General's Department in consultation with NSW Department of Health and NSW Police develop a new MERIT operations manual by July 2010 that includes a standard assessment form. (page 23)	Accepted	The Attorney General's Department, in consultation with key stakeholders, will commission the development of a new Operational Manual, and will ensure it includes a standard assessment form.	October 2010	On track for completion in October 2010. The new MERIT Operational Manual is in final draft form, awaiting final sign-off from key stakeholders. It will include a standard assessment form.	DJAG
6.	We recommend that the NSW Department of Health by June 2010: refers MERIT clients to other NSW Department of Health drug and alcohol services or non government organisations (NGOs) when capacity is reached wherever possible, with the MERIT team remaining as case manager reporting to the court (page 23)	N/A	For the NSW Department of Health.		For the NSW Department of Health.	NSW Department of Health
7.	reviews MERIT staffing arrangements with a view to establishing permanent positions (page 23)	N/A	For the NSW Department of Health.		For the NSW Department of Health.	NSW Department of Health

8.	develop and implement an ongoing training program for MERIT teams, including induction training. (page 23)	N/A	For the NSW Department of Health.	NSW Department of Health	
9.	<p>We recommend that the Attorney General's Department, in consultation with NSW Police and the NSW Department of Health by June 2010, simplifies MERIT eligibility criteria to focus on:</p> <ul style="list-style-type: none"> ▪ suitability for release on bail ▪ clients with a demonstrable drug or alcohol problem. (page 26) 	Accepted, in principle	<p>The Attorney General's Department agrees to consult with NSW Police, the NSW Department of Health and other Government stakeholders to consider broadening the scope of those eligible for MERIT such that the program is available to as many Local Court defendants as possible. However, when determining eligibility criteria, maximising program availability will be considered alongside capacity and resource issues, as well as the need to maintain program integrity, community support and caseworker safety. Broadening the scope of the criteria to include defendants whose primary substance of concern is alcohol would have significant resource implications.</p> <p>It should also be noted that any significant change to program criteria will be contingent on agreement from the Commonwealth Government.</p>	<p>Discussions on track to be completed by October 2010.</p> <p>Review of the eligibility criteria form part of discussions with stakeholders around finalising the new MERIT Operational Manual.</p> <p>It should also be noted that any significant change to program criteria will be contingent on agreement from the Commonwealth Government.</p>	DJAG

10.	We recommend that the Attorney General's Department, in consultation with the NSW Department of Health and NSW Police by December 2010, develops and distribute MERIT promotional literature that is culturally appropriate. (page 27)	Accepted	The Attorney General's Department, in consultation with key stakeholders, will develop and distribute promotional literature that is culturally appropriate.	Completed. Culturally appropriate MERIT literature is available.	Completed
11.	We recommend that the Attorney General's Department by July 2010 provides ongoing training for Aboriginal Client Service Specialists and Aboriginal Community Justice Coordinators on MERIT so they may identify and support potential MERIT Aboriginal defendants at court. (page 27)	Accepted	The Attorney General's Department will continue to provide on-going training for Aboriginal Client Service Specialists and Aboriginal Community Justice Group Coordinators on MERIT.	Completed. Ongoing.	Completed
12.	We recommend that the NSW Department of Health by September 2010, offer MERIT clinics at alternate locations wherever possible. (page 28)	N/A	For the NSW Department of Health.	For the NSW Department of Health.	NSW Department of Health

13.	We recommend that the Attorney General's Department, in consultation with the NSW Department of Health, by July 2010 include the MERIT Aboriginal Practice Checklist in the new operational manual. (page 31)	Accepted	The Attorney General's Department, in consultation with key stakeholders, will commission the development of a new Operational Manual, and will ensure it includes an Aboriginal Practice Checklist.	October 2010	On track for completion in October 2010. The new MERIT Operational Manual is in final draft form, awaiting final sign-off from key stakeholders. It will include the Aboriginal Practice Checklist.	DJAG
14.	We recommend that the NSW Department of Health by July 2010 develop a database of Aboriginal client services for use by MERIT teams. (page 32)	N/A	For the NSW Department of Health.		For the NSW Department of Health.	NSW Department of Health
15.	We recommend that the NSW Attorney General's Department in consultation with the NSW Department of Health by July 2010, develop guidelines for engaging specialist services for MERIT clients and include these in the new operational manual. (page 33)	Accepted	This recommendation is accepted, noting that developing these guidelines will primarily be the responsibility of the NSW Department of Health.	October 2010	On track for completion in October 2010. The new MERIT Operational Manual is in final draft form, awaiting final sign-off from key stakeholders. It will include guidelines around engaging specialist services.	DJAG

16.	We recommend that NSW Department of Health by March 2010 examines the reasons for underutilisation of MERIT rehabilitation beds. (page 34)	N/A	For the NSW Department of Health.		For the NSW Department of Health.	NSW Department of Health
17.	We recommend that the Attorney General's Department, in consultation with the NSW Department of Health, by July 2010 develop guidelines on what constitutes a breach that should be reported to the court. (page 35)	Accepted	The Attorney General's Department, in consultation with key stakeholders, will develop and publish guidelines on what constitutes a breach of the MERIT program.	October 2010	On track for completion in October 2010. The new MERIT Operational Manual is in final draft form, awaiting final sign-off from key stakeholders. It will include guidelines for MERIT Teams around identifying and reporting program breaches.	DJAG
18.	We recommend that the NSW Department of Health, in consultation with the Attorney General's Department, by September 2010 set targets for client completion rates for each MERIT team. (page 35)	Accepted, in principle	The Attorney General's Department agrees to develop targets for the purpose of program monitoring and management. The Department will also work with its key program partners on a format for reporting this performance.		NSW Health have not agreed to setting targets for client completion. Partner agencies frequently review statistical information on MERIT Team's referral, acceptance and completion rates for program monitoring and management purposes.	

19.	<p>We recommend that the NSW Attorney General's Department, in consultation with the NSW Department of Health and NSW Police by July 2010;</p> <ul style="list-style-type: none"> ▪ regularly publish MERIT annual reports on the website ▪ provide quarterly reports on MERIT referral, acceptance and completion rates by court to the Chief Magistrate ▪ compare the performance of MERIT teams in regard to referrals, acceptances and completions and investigate inconsistencies. (page 36) 	Accepted	<p>The Attorney General's Department agrees to continue to publish MERIT Annual Reports on the NSW Attorney General's Department website, noting that the most current Reports are already available.</p> <p>The Attorney General's Department agrees to provide quarterly reports to the Chief Magistrate.</p> <p>The Attorney General's Department agrees in principle to comparing individual MERIT Teams' referral, acceptance and completion rates program monitoring and management purposes. This will assist in identifying program issues that may arise at a local level. The Department will work with its key partners on a format for making performance information available to the public.</p>	<ul style="list-style-type: none"> ▪ Completed. MERIT Annual Reports are published on the DJAG website. ▪ Completed. Statistical reports are provided to the Chief Magistrate on a quarterly basis. ▪ Completed. Partner agencies frequently review statistical information on MERIT Teams' referrals, acceptance and completion rates for program monitoring and management purposes. Overall program performance information is available to the public through the program's Annual Reports. 	Completed
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