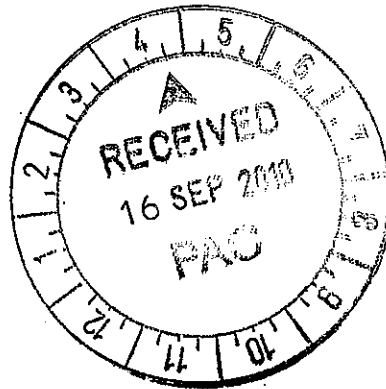


The Hon Paul Gibson MP
 Chair
 Legislative Assembly
 Public Accounts Committee
 Parliament House
 Macquarie Street
 SYDNEY NSW 2000



Dear Mr Gibson

I write in response to your request for a submission outlining the NSW Department of Health's response to the Auditor-General's Report No 189, *Helping Aboriginal Defendants through MERIT*.

NSW Health is strongly committed to developing strategies to improve health and criminal justice outcomes for Aboriginal people, including access to drug diversion programs.

I would like to reiterate my earlier advice to the Auditor-General that MERIT is fully funded by the Commonwealth Government, previously under COAG and now under the National Healthcare Agreement. As such, the program has had to operate within strict parameters outside the discretion of the NSW Government.

The summary of the NSW Health's implementation of the 16 recommendations relevant to the Department is attached. Ten of the recommendations are either already being actioned or are being implemented through existing processes, these are: 3, 5, 8, 10, 12, 13-17.

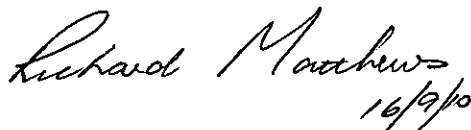
The remaining six recommendations touch on matters of policy, clinical policy or resource constraints, and therefore implementation of the recommendations is subject to a number of caveats:

- Rec 4 – expansion to more courts: This is subject to available resources, however MERIT has expanded to three new courts in the last 12 months: Ryde, Woy Woy and Coffs Harbour.
- Rec 6 – referring clients to other services when capacity is reached but remaining as case manager. This is not supported as it is inconsistent with the principle of not displacing voluntary patients.
- Rec 7 – making MERIT staff permanent. Recruitment is constrained by funding for MERIT being provided under the four year National Health Care Agreement and NSW Government recruitment policy.
- Rec 9 – Revise eligibility criteria. Advice has been sought from the Commonwealth, but no formal response received. This is also being reviewed in the revision of the Operational manual.

- Rec 18 – Set targets for completion rates. Completion rates are dependent on factors outside of the control of MERIT teams. This would only be supported for the purpose of internal program management.
- Rec 19 – reporting. Annual reports are already being published, however comparison between MERIT teams should not be publicly reported.

Thank you for the opportunity to provide a submission on the implementation of the recommendations of *Helping Aboriginal Defendants through MERIT*. Any inquiries may be directed to Mr David McGrath, Director, Mental Health and Drug & Alcohol Programs, NSW Health on 9391 9262.

Yours sincerely



Richard Matthews
16/9/10

Richard Matthews AM
Deputy Director-General, Strategic Development

PERFORMANCE AUDIT – HELPING ABORIGINAL DEFENDANTS THROUGH MERIT

IMPLEMENTATION OF RECOMMENDATIONS

RECOMMENDATION	SUPPORT OR NOT SUPPORT	ACTIONS TO BE TAKEN	DUE DATE	STATUS (completed, on track or delayed) COMMENT	RESPONSIBILITY
3 We recommend that the Attorney General's Department and the NSW Department of Health by July 2010 develop and implement a process for case workers to identify potential defendants before appearing before a Magistrate.	Supported	To be progressed a part of the review of the MERIT Operational Manual	Sept 2010	On track. DJAG, NSW Health and Police are working together to address this issue in the revised MERIT Operational Manual.	DJAG/NSW Health
4 We recommend that the Attorney General's Department in consultation with the NSW Department of Health by September 2010 expand MERIT to additional courts, particularly those courts with high proportions of Aboriginal defendants.	Supported in principle but subject to available resources and other considerations	Expansion of MERIT to additional courts	September 2010	Completed. Ryde Local Court – July 2009 Woy Woy Local Court – May 2010 Coffs Harbour Local Court – August 2010	DJAG/NSW Health
5 We recommend that the Attorney General's Department in consultation with the NSW Department of Health and NSW	Supported	To be progressed a part of the review of the MERIT Operational Manual	Sept 2010	On track. DJAG, NSW Health and Police are working together to address this issue in the revised MERIT Operational Manual.	DJAG/NSW Health

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Police develop a new operations manual by July 2010 that includes a standard assessment form.					
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.	Not Supported. Under the original diversion framework agreed by COAG in 1999, specific funding was provided for treatment and education places for offenders so that no displacement of voluntary admissions to treatment would occur. To refer MERIT clients to other services would be inconsistent with this principle.				
7 We recommend that the NSW Department of Health by June 2010: reviews MERIT staffing arrangements with a	Supported in principle. However, funding for MERIT is provided under the 4 year National	Consideration has been given		The National Healthcare Agreement still only provides four years of funding. In addition, there is uncertainty about the impact of the National Health Care Reform	

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view to establishing permanent positions	Healthcare Agreement and staffing is determined by that limitation. In addition, NSW Health will need to take into account the NSW Government's policy in relation to staffing and external recruitment.				
8 We recommend that the NSW Department of Health by June 2010: develop and implement an ongoing training program for MERIT teams, including induction training	Not Supported. Not required as training programs currently exist for MERIT staff and will be continued through the current funding cycle.			On-going training is provided	
9 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:	Supported in principle. Eligibility criteria was originally established under a national diversion framework agreed by COAG in 1999. A key objective was to	Advice sought from Commonwealth about the status of the diversion framework under the National Healthcare Agreement and the potential to revise eligibility criteria to broaden the range of offenders accessing MERIT.	June 2010	Delayed. No formal response received from Commonwealth. This is also being reviewed in the revision of the Operational manual	DJAG/NSW Health

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<ul style="list-style-type: none"> Suitability for release on bail Clients with demonstrable drug or alcohol problem 	<p>ensure that the community was not put at risk by the diversion of offenders with serious criminal behaviours including violence.</p>					
10	<p>We recommend that the Attorney General's Department in consultation with the NSW Department of Health and NSW Police by December 2010 develop and distribute MERIT promotional literature that is culturally appropriate.</p>	<p>Supported in principle. This would be dependent on available resources. The issue of culturally appropriate resources will be informed by the recommendations of the report, <i>Improving Aboriginal Participation in the MERIT Program</i> being produced by the Aboriginal Health and Medical Research Council of NSW.</p>	<p>Completion of the report <i>Improving Aboriginal Participation in the MERIT Program</i></p>	<p>December 2010</p>	<p>The <i>Improving Aboriginal Participation in the MERIT Program</i> has been completed and is awaiting final endorsement. The <i>Aboriginal Practice Checklist: A Cultural Assessment Tool for MERIT Teams</i> and the culturally appropriate poster are currently being used by health workers.</p>	<p>NSW Health/AH&MRC</p>
12	<p>We recommend that the NSW Department of Health by</p>	<p>Establishment of NGO/AHS MERIT Case workers in Non-Government Organisations to expand</p>	<p>September 2010</p>	<p>On track. Caseworker positions have been established in:</p> <ul style="list-style-type: none"> Calvary Alcohol and Drug Service (Wagga Wagga) 	<p>NSW Health</p>	

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September 2010 offer MERIT clinics at alternate locations wherever possible.	NGO/Area Health Service Joint MERIT Caseworker Model. This model is designed to increase MERIT Treatment capacity.	treatment options		<ul style="list-style-type: none"> Lyndon Community (Dubbo) 	
13 We recommend that the Attorney General's Department in consultation with the NSW Department of Health, by July 2010 include the MERIT Aboriginal Checklist in the new Operational Manual	Supported	To be progressed a part of the review of the MERIT Operational Manual	Sept 2010	The <i>Aboriginal Practice Checklist: A Cultural Assessment Tool for MERIT Teams</i> will be added to the revised version of the Operational Manual	DJAG/NSW Health
14 We recommend that the NSW Health Department of Health by July 2010 develop a database of Aboriginal client services for use by MERIT teams.	Supported in principle.	Development of a database to provide information on Aboriginal-specific services	July 2010	On track. Scoping work has been done on development of Aboriginal service database using HSNets.	NSW Health
15 We recommend that the NSW Attorney General's Department in consultation with the NSW Department of	Supported	To be progressed a part of the review of the MERIT Operational Manual	Sept 2010	On track. DJAG, NSW Health and Police are working together to address this issue in the revised MERIT Operational Manual.	DJAG/NSW Health

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RECOMMENDATION	SUPPORT OR NOT SUPPORT	ACTIONS TO BE TAKEN	DUE DATE	STATUS (completed, on track or delayed) COMMENT	RESPONSIBILITY
Health by July 2010, develop guidelines for engaging specialist services for MERIT clients and include these in the new Operational Manual					
16 We recommend that the Attorney General's Department in consultation with the NSW Department of Health, by March 2010 examine the reasons for underutilisation of MERIT rehabilitation beds.	Not Supported - action already underway. This issue has been the subject of ongoing monitoring and review under the last phase of the IDDI agreement. A competitive tender process was established in 2010 to determine suitable residential rehabilitation services to provide MERIT beds	Competitive tender process to identify suitable Drug and Alcohol Residential Rehabilitation Services to provide MERIT beds.	March 2010	Completed. Tenders awarded to providers.	NSW Health
17 We recommend that the Attorney General's Department in consultation with the NSW Department of	Supported	To be progressed a part of the review of the MERIT Operational Manual	Sept 2010	On track. DJAG, NSW Health and Police are working together to address this issue in the revised MERIT Operational Manual.	DJAG/NSW Health

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<p>Health, by July 2010 develop guidelines on what constitutes a breach that should be reported to the court.</p>					
<p>18 We recommend that the NSW Department of Health, in consultation with the Attorney General's Department, by September 2010 sets targets for client completion rates for each MERIT team.</p>	<p>Noted. There are a range of factors that impact upon completion rates for individual MERIT teams. These can be outside of the control of MERIT teams making the development of a suitable target problematic. These are:</p> <ul style="list-style-type: none"> • Variations in severity of clinical presentations • Availability of treatment modalities • The discretion of magistrates in determining the progression of cases. 	<p>NSW Health and DJAG will discuss the proposed research in relation to this, noting NSW Health concerns and position on the use of any targets</p>			

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	<p>If targets are progressed, they would be solely for the purpose of internal program and performance management rather than for public reporting on performance</p>				
<p>19 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, 	<ul style="list-style-type: none"> • Not required • Supported in principle: NSW Health would be pleased to facilitate Attorney General's Department in providing regular reports to the Chief Magistrate. • Supported in principle: A number of factors impact on completion rates for individual MERIT 	<p>See comments for recommendation 18</p>	<p>July 2010</p>	<ul style="list-style-type: none"> • MERIT Annual reports are already published on the website 	<p>DJAG</p>

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acceptances and completions and investigate inconsistencies.	teams, performance comparison should only be used as a means of internal performance management to identify program issues and not for publication.				