



THE AUDIT OFFICE
OF NEW SOUTH WALES

CONTACT NAME P Achterstraat
TELEPHONE 9275 7101
OUR REFERENCE
YOUR REFERENCE

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



24 September 2010

Dear Mr Gibson

**Examination of Auditor-General's Performance Audit Report
Helping Aboriginal defendants through MERIT**

We have reviewed the submissions provided by the NSW Department of Justice and Attorney General, the NSW Department of Health and the NSW Police Force concerning the recommendations in the above performance audit report.

We are pleased that the responses indicate that the majority of our recommendations have been accepted with several completed and good progress made in implementing the balance.

Please find attached our assessment of the extent to which each response addresses the issues raised in the original report, along with a comment on progress. We have not substantiated the submission.

I am happy to provide any further assistance the Committee may need in completing its examination.

Yours sincerely

Peter Achterstraat
Auditor-General

Encl

PERFORMANCE AUDIT – Helping Aboriginal defendants through MERIT

STATUS OF RECOMMENDATIONS

NSW DJAG reported status of recommendation	NSW Department of Health reported status of recommendation	NSW Police Force reported status of recommendation	Audit Office Comment
1 We recommend that the NSW Police Force by January 2010 appoints a MERIT Liaison Officer at each command where MERIT operates.			
N/A	N/A	Completed. In May 2009 all Local Area Commanders in which MERIT operates were asked to review and renew their appointment of MLOs with relevant commands responding in October 2009. In August 2010, DAC provided all newly appointed MLOs with information on MERIT and their roles and responsibilities. DAC has delivered 23 training sessions to newly appointed MLOs.	NSW Police Force submission indicates not only completion of this recommendation, but also good progress towards keeping MLOs engaged with and educated about the MERIT program.
2 We recommend that the NSW Police Force by January 2010 provides ongoing training to Aboriginal Community Liaison Officers (ACLOs) on MERIT.			
N/A	N/A	On track. Training has occurred in the Central Metropolitan, Northern and Western Regions. DAC will continue to train ACLOs through Regional Aboriginal Advisory Committees (RAACs) and will also deliver training at	NSW Police Force submission indicates good progress is being made.

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		the ACLO Conference in October 2010. In the longer term, DAC has consulted with the Aboriginal Policy & Strategy Team (APS) and agreed to jointly develop a training package for ACLOs on MERIT. It is anticipated this will be progressed in the New Year (2011).	
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.			
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.	On track. DJAG, NSW Health and Police are working together to address this issue in the revised MERIT Operational Manual	N/A	DJAG and NSW Health submissions indicate good progress is being made. It would be useful to know the likely timeframe for the final sign off of the revised MERIT Operational Manual, and how it will be introduced to staff.
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.			
Completed. Since the Audit Office released its	Completed. Ryde Local Court – July 2009	N/A	DJAG and NSW Health submissions indicate good progress is being made.

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report in August 2009, MERIT has expanded to Ryde and Woy Woy Local Courts. 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. By September/October, a new MERIT team will be established to cover Coffs Harbour Local Court.	Woy Woy Local Court – May 2010- Coffs Harbour Local Court – August 2010.		However is any further extension of the program planned?
5 We recommend that the Attorney General's Department in consultation with NSW Department of Health and NSW Police develop a new MERIT operational manual by July 2010 that includes a standard assessment form.			
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.	On track. DJAG, NSW Health and Police are working together to address this issues in the revised MERIT Operational Manual.	On track. A final draft of the operational manual has been compiled and circulated for comment.	All submissions indicate good progress is being made. It would be useful to know the likely timeframe for the final sign off of the revised MERIT Operational Manual, and how it will be introduced to staff.
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.			
N/A	This is not supported as it is inconsistent with the principle of not displacing voluntary patients.	N/A	NSW Health have not supported this recommendation. Is it possible that the recommendation could be supported if at the time of referral of MERIT clients

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			there were vacancies in the voluntary placement positions?
7 We recommend that the NSW Department of Health by June 2010: reviews MERIT staffing arrangements with a view to establishing permanent positions.			
N/A	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.	N/A	The position of NSW Health in respect to the funding cycle is acknowledged. However at the time of the report we identified difficulties in recruiting caseworkers due to one year contracts. A review of MERIT staffing arrangements may help NSW Health to address this issue. A four year funding cycle may also allow some scope for longer contracts and therefore improve recruitment prospects.
8 We recommend that the NSW Department of Health by June 2010: develops and implements an ongoing training program for MERIT teams, including induction training.			
N/A	On-going training is provided	N/A	Our report identified that only 50 per cent of MERIT teams visited had received induction training in MERIT. It would be useful to know what ongoing training is provided that ensures all MERIT workers are suitably and consistently trained.
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: ▪ suitability for release on bail ▪ clients with a demonstrable drug or alcohol problem.			
Discussion on track to be completed by October 2010. Review of the eligibility criteria form	Delayed. No formal response received from Commonwealth. This is also being reviewed in the	On track. Simplifying the eligibility criteria remains under discussion.	The position in respect to the Commonwealth funding agreement is acknowledged. But it is encouraging to see that this topic remains on the agenda.

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part of discussions with stakeholders around finalising the new MERIT Operational Manual. It should also be noted that any significant change to program criteria will be contingent on agreement from the Commonwealth Government.	revision of the Operational Manual.		
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 for Aboriginal people.			
Completed. Culturally appropriate MERIT literature is available.	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 culturally appropriate poster are currently being used by health workers.	Completed. NSW Health has produced a culturally appropriate MERIT poster.	While good progress is demonstrated by the developments described by NSW Health, it would be useful to see if the development of culturally appropriate material beyond a poster is planned. For example brochures for distribution by ACLOs or through courts.
11 We recommend that the Attorney General's Department by July 2010 provides ongoing training for Aboriginal Client Service Specialists and Aboriginal Community Justice Group Coordinators on MERIT so they may identify and support potential MERIT Aboriginal defendants at court.			
Completed. Ongoing.	N/A	N/A	DJAG submission indicates good progress is being made.
12 We recommend that the NSW Department of Health by September 2010, offer MERIT clinics at alternate locations wherever possible.			
N/A	On track. Caseworker positions have been established in:	N/A	NSW Health submission indicates good progress is

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	- Calvary Alcohol and Drug Service (Wagga Wagga) - Lyndon Community (Dubbo).		being made.
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.			
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.	The <i>Aboriginal Practice Checklist: A Cultural Assessment Tool for MERIT Teams</i> will be added to the revised versions of the Operational Manual.	N/A	DJAG and NSW Health submissions indicate good progress is being made. It would be useful to know the likely timeframe for the final sign off of the revised MERIT Operational Manual, and how it will be introduced to staff.
14 We recommend that the NSW Department of Health by July 2010 develop a database of Aboriginal client services for use by MERIT teams.			
N/A	On track. Scoping work has been done on development of Aboriginal service database using HSNet.	N/A	NSW Health submission indicates good progress is being made.
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.			
On track for completion in October 2010. The new MERIT Operational Manual is in final draft form, awaiting final sign-	On track. DJAG, NSW Health and Police are working together to address this issue in the revised MERIT Operational Manual.	N/A	DJAG and NSW Health submissions indicate good progress is being made. It would be useful to know the likely timeframe for the final sign off of the revised MERIT Operational Manual,

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off from key stakeholders. It will include guidelines around engaging specialist services.			and how it will be introduced to staff.
16 We recommend that NSW Department of Health by March 2010 examines the reasons for underutilisation of MERIT rehabilitation beds.			
N/A	Completed. Tenders awarded to providers	N/A	NSW Health submission indicates this recommendation has been implemented.
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.			
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.	On track. DJAG, NSW Health and Police are working together to address this issue in the revised MERIT Operational Manual.	N/A	DJAG and NSW Health submissions indicate good progress is being made. It would be useful to know the likely timeframe for the final sign off of the revised MERIT Operational Manual, and how it will be introduced to staff.
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.			
NSW Health have not agreed to setting targets for client completion. Partner agencies frequently review statistical information on MERIT	Completion rates are dependent on factors outside of the control of MERIT teams. This would only be supported for the purpose of	N/A	It is acknowledged that completion rates are dependent upon factors outside of the control of the MERIT Team. But this is so for targets set in many programs. That said, setting targets can help to achieve

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Team's referral, acceptance and completion rates for program monitoring and management purposes.	internal program management.		positive outcomes including improved performance and value for money. Adopting the position of NSW Health that targets be set for the purpose of internal program management would be a positive step.
19 We recommend that the NSW Attorney General's Department, in consultation with the NSW Department of Health and NSW Police by July 2010: ■ 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.			
■ 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 completions rates for program monitoring and management purposes. Overall program performance information is available to the public through the program's Annual Reports.	Annual reports are already being published, however comparison between MERIT teams should not be publicly reported.	Publication of annual and quarterly reports is complete. DJAG has advised NSW Police Force that annual reports are now published on that organisation's website and quarterly reports are provided to the Chief Magistrate.	As at 23 September 2010, only MERIT Annual Reports up to 2007 are available on the 'Welcome to the Magistrates Early Referral Into Treatment (MERIT) website' at http://www.lawlink.nsw.gov.au Submissions indicate that the recommendation to provide information to the Chief Magistrate is being implemented. It is unclear from the submissions whether the statistical information that is collected on referrals, acceptances and completions is being used to investigate inconsistencies in the performance of MERIT teams.