

**Submission  
No 52**

## **INQUIRY INTO DRUG AND ALCOHOL TREATMENT**

**Organisation:** Department of Justice and Attorney General

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## Attorney General & Justice

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The Honourable M Ficarra, MLC  
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Committee No. 2 Chair  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

File No: 12/003793  
Contact: SS:CPCP

Dear Ms Ficarra

I write in reply to your letter relating to the current Inquiry of the Legislative Council's General Purpose Standing Committee No. 2 into the effectiveness of drug and alcohol treatment policy.

I have enclosed a compact disc with this letter that contains information regarding the following treatment programs and policies that include drug and alcohol interventions delivered by the Department of Attorney General and Justice (the Department):

- Drug Court of NSW
- Juvenile Justice Alcohol and Other Drug Treatment Pathway
- Dthina Yuwali
- Juvenile Justice AOD Residential Rehabilitation Program: Junaa Buwa and Mac River facility
- Juvenile Justice Intensive Supervision Program
- Getting SMART Program
- Sober Driver Program
- Intensive Drug and Alcohol Treatment Program
- Ngara Nura Alcohol and Other Drugs Therapeutic Program
- Compulsory Drug Treatment Correctional Centre

In addition information is also provided about Magistrate's Early Referral into Treatment (MERIT) program. The Department is the lead agency for MERIT with service delivery responsibility for MERIT resting with NSW Health.

The information on the compact disc is sorted into folders by program for ease of access. As requested, each folder includes details of policy and program guidelines, funding, eligibility criteria, waiting list periods, service locations and outcomes achieved including corresponding statistical data, where possible.

Dr Anne Marie Martin, Assistant Commissioner Offender Management and Policy Corrective Service NSW (or her representative) will appear with me as representatives from the Department at the public hearing for the Inquiry on 27 May 2013.

Yours sincerely

Brendan Thomas  
Assistant Director General

13/5/13

## **Parliamentary Inquiry into Drug and Alcohol Treatment**

**Corrective Services:** Getting SMART Program  
Sober Driver Program  
Intensive Alcohol and Drug Treatment Program  
Ngara Nura Alcohol & Other Drug Therapeutic Program  
Compulsory Drug Treatment Correctional Centre (CDTCC)

Corrective services New South Wales (CSNSW) has a suite of drug and alcohol treatment programs that are diversionary, intensive/residential, and non-intensive non-residential.

All CSNSW programs are subjected to an accreditation process whereby only programs that meet stringent design, implementation, and evaluation criteria are used. The accreditation process supports the development and delivery of effective, well-designed and well-targeted interventions, which are based on the evidence in the research literature. The accreditation process includes independent experts or academics as part of an accreditation framework. This is to ensure that all its rehabilitation programs are designed and implemented so as to reduce the risk factors associated with criminal behaviour (criminogenic needs).

Comprehensive information about criminogenic programs delivered by CSNSW can be found at

<http://www.correctiveservices.nsw.gov.au/offender-management/offender-services-and-programs/offender-programs-unit>

### **Getting SMART Program**

#### Policy and Program guidelines.

The main drug and alcohol program facilitated by CSNSW is a 12-session program called 'Getting SMART'. Getting SMART is an intervention based on the SMART Recovery® meetings (SMART stands for Self-Management and Recovery Training).

Getting SMART was developed by the CSNSW Offender Programs Unit as a cognitive behavioural therapy (CBT) program that is aligned with the community based voluntary self-help group model through SMART Recovery Australia ([www.smartrecoveryaustralia.com.au](http://www.smartrecoveryaustralia.com.au)).

Getting SMART is suitable for offenders with addiction issues including drugs, alcohol and gambling. Graduates of Getting SMART should attend SMART Recovery® meetings facilitated within correctional centres and community locations.

The four sections of Getting SMART mirror the four main sections of the SMART Recovery® model: (1) Motivation to Change, (2) Dealing with cravings, (3) Skills and tools, and (4) A Balanced Lifestyle.

The integrity of the program is based on the following principles:

- The program is based on an explicit theoretical model of change;
- The program maximises the responsibility of offenders;
- The program outlines facilitator qualifications, training and skills required;
- The selection of participants is based on standard assessments;
- The program intensity must have an impact on offender behaviour and reoffending;
- The program infrastructure ensures consistency in program implementation;
- The program infrastructure allows for continual improvements to be made.

The Getting SMART program has been provisionally accredited at level 3 which means that the program's design, development, and implementation all meet the highest criteria. To be fully accredited, the Getting SMART program must have been rigorously evaluated through a strict research design (preliminary results discussed later).

### Funding

Getting SMART is facilitated by a large number of CSNSW staff from various backgrounds as part of their responsibilities. All funding is recurrent as part of CSNSW's agency budget. As an example, Services and Programs Officers within a correctional centre may facilitate Getting SMART as well as other aggression-related programs whilst also providing welfare services and other such activities to inmates.

### Eligibility Criteria

- The Getting SMART program is made available to all CSNSW inmates/offenders with alcohol, drug, or gambling issues.
- Offenders prioritised into the program are those assessed as medium to high risk of re-offending, with an assessed alcohol and/or drug need.
- The program is not offence-specific so therefore is made available to remandees on a voluntary basis.
- The program can be delivered to mixed gender groups
- Offenders unsuitable for the Getting SMART program are those with: a current unstable mental health issue; open and serious hostility toward the group / group purpose; and cognitive impairment which disrupts their ability to comprehend content.
- Any offender can complete the Getting SMART program at any time of their sentence.

### Waiting List Periods

CSNSW does not maintain data on waiting periods of programs such as Getting SMART as offenders, once identified as suitable for the program, can complete the program at any time during their sentence - either in custody or community. An offender may be identified for a program but not commence it for some time depending on his circumstances (e.g., literacy needs, mental health issues, and so on).

### Service Locations

Over 2011/12 the Getting SMART program was facilitated at 43 of 59 community corrections offices across NSW. See table below

Over 2011/12 the Getting SMART program was facilitated at 30 or 32 correctional centres across NSW. See table below

### Outcomes achieved and corresponding statistical data

Participation and completion rates:

- In 2011/12, 2129 inmates commenced a Getting SMART program in correctional centres with 1321 completing the program. This is a percentage completion rate of 62%.
- In 2011/12, 1109 offenders commenced a Getting SMART program in a community location with 532 completing the program. This is a percentage completion rate of 48%.
- CSNSW has formalised an Action Plan specifically to identify and implementation means for increasing completion rates.

Evaluation of effectiveness of program in reducing re-offending:

Corrective Services NSW is currently completing a large scale evaluation. This is currently in process and preliminary findings only are as follows.

- The research compares rates of re-offending post-release between offenders with an alcohol or drug need who completed the Getting SMART program from those offenders with an alcohol and drug problem who did not complete the program from 1 August 2007 to 29<sup>th</sup> April 2011.
- 2,882 male and female offenders who participated in either *Getting SMART and/or SMART Recovery programs* in custodial institutions were compared to a propensity score matched control group of 2,882 offenders who attended neither *SMART* program (N=5,764).

The preliminary results suggest that:

- rates of 'any' reoffending (but not violent reoffending) adjusted for time at risk, were significantly different between SMART attendees and matched controls
- two years post release the rate of reoffending was approximately 15% lower, compared to matched controls.
- *Getting SMART and Smart Recovery* participants took significantly longer to first re-offence (8% longer) and 14% longer to first violent re-offence
- twenty hours of *Getting SMART* (10 sessions) was required to produce a significant therapeutic effect

## **Sober Driver Program**

### Policy and Program guidelines.

The *Sober Driver Program* is based on best practice elements identified in the ARRB Transport report.

- The Standard Version is generally delivered over nine sessions
- Linear in structure
- Highly interactive
- Based on key adult education and psychological principles
- Structurally complex and sequenced to build the confidence and competence of participants
- Structured to take participants from being anonymous members of a large group where they share responsibility for learning, to smaller group work, and finally to individual work
- Designed to encourage participants to take individual responsibility for their own learning and the adoption of strategies

The curriculum framework for the program seeks to:

- Provide accurate information about alcohol to participant.
- Explain short and long-term effects of alcohol on the body
- Explain the ways in which alcohol affects one's ability to drive safely
- Develop participants' understanding of the effects and costs of drink driving for self and the community
- Assist participants to develop essential skills and positive attitudes for safe driving
- Assist drink drivers to develop and implement strategies and to access additional support to avoid relapse behaviours

### Eligibility criteria

An offender with two or more drink driving convictions is eligible.

### Waiting List Periods

CSNSW does not maintain data on waiting periods of programs such as Sober Driver as offenders, once identified as suitable for the program can complete the program at any time during their sentence - either in custody or community. An offender may be identified for a program but not commence it for some time depending on his circumstances (e.g., literacy needs, mental health issues, etc).

### Service Locations

Resources permitting, Sober Driver is available in all community location on the basis of assessed inmate needs.

#### Funding

The Sober Driver Program is funded by a recurring grant of \$850,000 from Transport for NSW. The terms of the grant are fully defined in a Memorandum of Understanding between Transport for NSW and CSNSW.

#### Outcomes Achieved

ARTD have conducted two independent evaluations of the Sober Driver program. The 2006 evaluation found the Sober Driver Program to be an effective intervention that complements other sanctions for drink drivers. Program graduates were found to be 50% less likely to reoffend than other recidivist drink drivers who did not participate in the program.

A second evaluation in 2010 re-analysed the recidivism data of the 2006 extending the follow-up period to five and a half years and established that program effect on re-offending is lasting. Those in the original cohort who were deterred from re-offending remained deterred.

The 2010 evaluation also found that participants in a new cohort were 44% less likely to re-offend compared with the matched comparison group.

#### **Intensive Drug & Alcohol Treatment Program (IDATP)**

##### Policy and Program guidelines.

The IDATP is embedded in CSNSW Offender Classification and Case Management Policy and Procedures, to ensure that all offenders identified as having a significant Alcohol and/or Other Drug problem are assessed for program suitability. There are no policies external to CSNSW that direct offenders to participate in the IDAT

The IDATP operates within the principles of the Good Lives Model of offender rehabilitation by encompassing a holistic treatment program aimed at targeting known criminogenic needs of drug and alcohol dependant offenders. There are five treatment phases: *Orientation and Assessment, Readiness, Treatment, Maintenance* and *Community* (ie re-settlement with or without supervised parole).

Approximately 10 months are required to complete the Assessment, Orientation and Treatment phases. Offenders in the Post-treatment phases are required to attend programs for as long as deemed necessary. As drug addiction is a chronic relapsing condition, it is expected that not all participants will progress at a constant rate, and that some will regress. A 10 bed Participant Review Unit has been established for inmates who are not ready or who display adverse behaviour. This Unit applies individualised strategies to address motivation and readiness and improve behaviour management and participation.\

The IDATP framework addresses:

- Treatment readiness
- Substance use
- Physical and mental health needs
- Emotional & psychological needs
- Criminal thinking & behaviour
- Thinking & feeling patterns

- Family, peer & social supports
- Accommodation needs
- Employment & education needs

The framework includes the following cognitive behavioural treatment programs:

**Personal Effectiveness Program:** a readiness program that aims to prepare participants for inclusion in more intensive programs. It uses a psycho-educational approach to develop communication skills and raise self-awareness and motivation.

**Getting SMART / SMART Recovery (Self Management and Recovery Training)** – a core program widely delivered in custody and community settings (described above).

**Criminal Conduct and Substance Abuse ('Pathways') Treatment Program:** a high intensity Cognitive Behavioural Therapy program which addresses criminogenic factors including Alcohol and Other Drugs, antisocial thinking, pro-criminal attitudes, social supports for crime (associates/friends), and family/marital relationships. Program goals are to prevent recidivism, prevent relapse, and assist participants live a responsible and meaningful life through:

- Lifestyle balance: balancing short-term and long-term pleasures and satisfactions in life.
- Changing antisocial thoughts, values, choices,
- Interpersonal and social skills training e.g. cognitive self-control skills, relationship skills, community responsibility skills,
- Comprehensive relapse and recidivism change plan, and
- Interactive, role play, skills practice, and homework.

Other programs in the IDATP include:

**Education, Training and Employment:** two commercial-based business units and service centres employ offenders on a part-time basis, with each work location providing a range of opportunities to develop vocational skills and qualifications.

**Health Programs:** core elements are delivered by CSNSW in partnership with Justice Health programs which include Assessment and evaluation of referrals, Assessment of health needs of participants, Health education programs, ongoing treatment and support of participants (including specialist drug and alcohol medical services, mental health, population health, nursing and primary health services), and contribution to the assessment, management and treatment of participants deemed to be engaging in high risk drug use. Opiate Substitution Treatments are being considered as an adjunct to treatment to be available to participants where clinically indicated.

**Reintegration:** the program offers a comprehensive re-settlement phase to all offenders, whether subject to parole supervision or release without supervision, to ensure they are released with structured support plans in place. Partnerships are being established with several pre-release correctional centres across the state to facilitate integrated throughcare strategies

### Funding

The IDATP operates within the John Morony Correctional Centre, and therefore falls within the recurrent operational costs of that centre. Total program cost for 2011/13 excluding custodial officer positions are \$3,679,448. This includes enhancement funds of \$2m as part of the Government's Election Commitment of \$20m to expand the Drug Court, establish the IDATP and increase prison education for the four year period (2011/2012 to 2014/2015). Enhancement funds have ensured the appointment of additional specialist staff, and supported the implementation of procedures required to maintain a strict regime of testing and monitoring for drug use...

### Eligibility criteria

Offenders serving a custodial sentence with a documented history of problematic drug and/or alcohol use who meet the following criteria are eligible to be referred to the program:

- Sentenced with no further court matters;
- Have at least 12 months to serve prior to the earliest possible release date;
- Assessed as Medium-High or High Risk of re-offending on the Level of Service Inventory (LSI-R) with an Alcohol & Other Drug domain score of 6 or above;
- B, E2, or C classification;

Factors that may limit an offender's suitability for placement in the program include:

- Being subject to Special Management and Protection status within CSNSW correctional centres;
- Having convictions for sexual offences;
- Being in an acute phase of mental illness;
- Having serious institutional misconduct prior to program entry (i.e., periods of segregation in the two months preceding program entry).

Offenders who present with any of the above are assessed on a case by case basis.

#### Waiting List periods

Offenders assessed as suitable to be placed in the program are placed on a waitlist and prioritised based on Earliest Possible Date of Release (EPDR). To date all suitable offenders on the waitlist have been able to be accommodated in the program.

Offenders who are currently on a waitlist will be placed on the program within an appropriate timeframe of their EPDR.

#### Service Locations

The IDATP operates at John Morony Correctional Centre (South Windsor NSW). It is planned to expand the program to Dillwynia Correctional Centre (South Windsor, NSW) in July 2014 to enable the provision of an IDATP program for up to 50 female offenders.

#### Outcomes Achieved

Stage 1 of the IDATP commenced 27 February 2012. Stage 2 commenced, as scheduled, in July 2012.

As of 8 May 2013:

- 162 offenders have participated;
- 46 offenders have completed the treatment components of the program and progressed to maintenance programs in other correctional centres or supervised parole.
- 90 offenders are currently engaged in the program.

Due to the program's infancy and incomplete implementation, outcome data are not yet available. A program evaluation framework is being developed under the oversight of an Evaluation Committee comprising of internal (CSNSW) and external stakeholders (BOCSAR; NDARC). The framework will include both formative and summative evaluation and address key evaluation questions using multiple methods. Descriptive and process evaluation will be undertaken early in the implementation and contribute to quality improvements. Once the program is stable, impact and outcome evaluation projects will be undertaken. Appropriately qualified researchers and evaluators will be sought to undertake particular projects.

It is anticipated that formative and process evaluation projects will be undertaken by CSNSW in partnership with external researchers, while summative impact and outcome evaluations will be undertaken by independent external researchers and evaluators.



## **Ngara Nura Alcohol & Other Drugs Therapeutic Program**

### Policy and Program guidelines.

Ngara Nura is a pre-release program designed to provide a safe and supportive therapeutic environment to enable participants to explore their emotional, psychological, spiritual attitudes and beliefs in a non-judgemental setting. It also aims to enable and support participants to reduce the harms associated with all addictions to the community, their families and themselves. Through various interventions, the program aims to reduce the amount of drug, alcohol and gambling related recidivism in the greater community. The program offers support to participants who have been released and are back in the community.

Ngara Nura is based in the Metropolitan Special Programs Centre at the Long Bay Correctional Complex and also provides a community-based maintenance support group at City District Office.

Ngara Nura was established as a result of recommendations made in the National Drug Strategy (1999-2000) and has been operational since October 2000.

The program has a total of 80 sessions, delivered 6 sessions per week. In addition, there are daily community meetings as well as attendance at Twelve Step meetings in the community.

### Funding

Funding is recurrent.

### Eligibility criteria

Ngara Nura is only available to inmates assessed as Medium / Medium High / High risk of re-offending with an assessed alcohol or drug need.

Ngara Nura is only available for male participants.

### Waiting List periods

CSNSW does not maintain data on waiting periods of programs such as Ngara Nura as offenders, once identified as suitable for the program can complete the program at any time during their sentence - either in custody or community. An offender may be identified for a program but not commence it for some time depending on his circumstances (e.g., literacy needs, mental health issues, etc).

### Service Locations

The Ngara Nura program is only available in the Metropolitan Special Programs Centre at the Long Bay Correctional Complex

### Outcomes Achieved

Participation and completion rates: In 2011/12, 88 inmates commenced the Ngara Nura program at different stages 63 completing the program. This is a percentage completion rate of 72%.

Evaluation of effectiveness of program in reducing re-offending: A formalised evaluation of Ngara Nura has not yet been completed.

## **The Compulsory Drug Treatment Correctional Centre (CDTCC)**

The Compulsory Drug Treatment Correctional Centre (CDTCC) program is a *diversion* program guided by the Compulsory Drug Treatment Correctional Centre Act 2004 amendments of the Drug Court Act 1998, the Crimes (Sentencing Procedure) Act 1999 and the Crimes (Administration of Sentences) Act 1999. The program provides compulsory intensive treatment and rehabilitation of recidivist drug offenders, addressing their physical, social and psychological needs and dynamic risk factors for drug-related offending.

### Policy and Program guidelines.

The Compulsory Drug Treatment Program's "Case Management Guidelines" form part of the policy agenda guiding the operations of this unique treatment and reintegration Program within a correctional centre. Centre staff and operations are governed by specific legislation and a Memorandum of Understanding between partnering agencies. Oversight is also provided through a cross departmental committee known as the "Taskforce" which brings together partner agencies on a quarterly basis at a senior officer level. Legislation will be addressed in the "eligibility criteria". The following documents form the major compendium of policy.

- Compulsory Drug Treatment Program. Case Management Guidelines.
- Operations Procedures Manual (CSNSW custodial operations)
- Community Corrections Policy and Procedures Manual
- CDTCC Standard Operating Procedures
- CDTCC Clinicians' Guide- procedures and processes
- Drug Court Act 1998
- Crimes (Sentencing Procedure) Act 1999
- Crimes (Administration of Sentences) Act 1999 and Regulation 2008
- Drug Misuse and Trafficking Act 1985

The Centre provides program orientation and participants are actively involved in the development of their individualised 'Personal Plan' which incorporates their treatment plan, case management plan and their contingency contract - agreed sanctions and rewards in response to behaviours. The provision of intensive programs to address offending behaviour and drug dependence in Stage 1 involves delivery of three core CSNSW cognitive behavioural therapeutic programs aimed at addressing readiness, motivation and the drug/crime lifestyle. Of the three programs, the spine of the cognitive behavioural program at CDTCC is the "Pathways" program. This entails 50 sessions aimed at identifying and challenging thoughts, feelings and behaviour related to criminal conduct and substance misuse. This dosage of sessions is considered a requirement for effectively meeting the treatment needs of chronic recidivist offenders.

The program run at the Centre is both intensive and comprehensive and includes

- integrated foundations skill learning in literacy, oracy and IT supports the cognitive behavioural therapeutic programs. This enhances treatment effectiveness by addressing crucial responsivity issues.
- a broad range of TAFE short courses are also offered mainly focussed on relevant vocational training in stages 1, 2 and 3. -Heavy vehicle driving, landscaping, bricklaying, small business courses
- the CSNSW 'Hey Dad' parenting program,
- the 'Grief and Loss' introduction program,
- spiritual development, mediation training and creative development (Art, film and Music classes).
- Cultural events, development of a CDTCC in house TV channel, centre sporting activities and weekly community meetings are run at the centre to maintain a therapeutic community environment.
- employability skills training and referrals to job network agencies begin as the participant's progress to Stage 2.
- family inclusive strategies are offered such as monthly Family Drug Support meetings for family members and sponsor assessments including family home visits.
- Health promotion programs are run by education staff, Justice Health and other NSW Health funded organizations such as Hepatitis NSW.
- Stage 2 and 3 participants are integrated into community run programs, including community offender programs such as 'Domestic Abuse Program' and 'CALM', specialized community counselling services (e.g., targeting specific minority groups related to culture or sexuality) and group programs (e.g., men's groups, Aboriginal healing centre).
- participants are connected with SMART Recovery/ Narcotics Anonymous /Alcoholics Anonymous meetings facilitated in the community to which they will be residing upon Court graduation to stage 3. Smart Recovery meetings are also run in Stage 2 (semi open detention) together with monthly Stage 3 (community detention) groups.
- CDTCC supervised social outings to develop social living skills

- positive living strategies through giving, such as talks to youth at-risk, contributions to community run events such as suburban NAIDOC activities and Christmas carols events.
- community service work participation, working with people in need. Through this they can undertake Work Development Orders to pay off fines
- Assistance is provided for seeking accommodation including referral to Housing Advocacy services and supported accommodation services, a housing accord with Housing NSW and support around searching for rental properties. The Program has partnered with a local community group who are able to provide some transitional housing and support for Stage 3 participants.

The CDTCC program is designed to work with participants as they move through the stages of change. Thereby, a lapse may result in regression to a previous stage of the program and a revision of their relapse prevention plan, prior to moving forward once again. This is not seen as a failure, but another step on the recovery path. The stages of change are reflected in the design of the Program (stages 1-3 as specified in the legislation) which acknowledges that recovery from addiction (as a chronic and relapsing condition) is a lengthy complex process.

### Funding

Initially funded through Drug Summit Funding, the CDTCC received Treasury funding from February 2011 when it formally moved out of pilot status following the BOCSAR Review which found that it was meeting its targeted outcomes. Recurrent funding for this program in 2012/13 is \$5,277,812.

### Eligibility criteria

1. been sentenced to imprisonment between 18 months and 3 years,
2. been convicted of at least two other offence cycles in the past 5 years,
3. not been convicted of some specified offences (e.g., attempted murder, sexual assault, firearm, or supply/manufacture offences),
4. resides in metropolitan Sydney, and
5. is over 18 years of age.
6. has a long-term drug dependence,
7. the facts and antecedents of the offence indicate long-term drug dependence and associated lifestyle, and
8. must not suffer from a serious mental condition that may lead to violence or restrict active participation in the Program. Psychiatric and nursing assessments by CDTCC staff assist the court in this determination.

### **Suitability criteria**

If found to be an 'eligible convicted offender', the Drug Court then considers a suitability assessment. This is conducted by the CDTCC team, provides information to the Drug Court regarding drug treatment history, history of committing violent offences in the community and violent acts in prison, the likelihood of committing a domestic violence offence in Stage 3, the level of motivation and attitude toward compulsory drug treatment, and whether the defendant may damage the Program or any other person's participation in the Program.

Step 4: If the defendant is considered eligible and suitable, the Drug Court imposes a Compulsory Drug Treatment Order.

### Waiting List periods

Due to current eligibility legislative restrictions, the entry criteria create an unintended difficulty in this area. The consequence is that many offenders who would be suitable for such a long term program are excluded. Thus, the CDTCC has been under utilised at times, not operating at full capacity. There may have been sufficient referrals to the Drug Court, however the individuals referred have failed to meet the eligibility criteria in its current legislated form.

The recommendations from a legislative review of the CDTCC Program are currently in the form of a Cabinet Minute with the Attorney General's office. It is anticipated that following sign off in the next few weeks, the proposed

amendments will go before Parliament in the spring session. The recommendations include 12 legislative amendments and 3 administrative changes. Broadening of the eligibility criteria will ensure there will be full occupancy of this Program.

### Service Locations

The Compulsory Drug Treatment Correctional Centre is based at Parklea in a facility separate to the privately run Parklea Correctional Centre facility. It can accommodate 35 convicted offenders in each of stage 1 and 2 with an additional number of up to 30 intensively case managed Stage 3 participants in the community, with or without electronic monitoring.

Referrals are received from Courts across the Sydney Metropolitan area.

### Outcomes Achieved

As discussed previously, the NSW Bureau of Crime Statistics and Research (BOCSAR) in the paper published in 2010 found that the Program was meeting its legislated outcomes. The CDTCC was successful in obtaining Australian Research Council funding to continue the inquiry into recidivism rates post Program completion. This is currently underway with researchers from Deakin University.

Data to date show that 80% complete stage 1 therapeutic programs (8-9 months); and 39% of those commencing the program have after a 2-3 year period achieved "gold standard" graduation to end of sentence or Parole in the community. During this period they have improved all health measures, have had extended periods of time being and living in the Community with a cessation of drug use and offending, demonstrated taking personal responsibility and, as can be further demonstrated by psychological testing undertaken during the Program stages, have an optimism and belief in their ability to live a positive "good life".

The prescribed drug testing regime continues to return positive drug test results below 2%. This shows that drug testing and case management together with program engagement by the participants is proving effective. Given the histories of these offenders, and the frequency of testing (2-3 times per week), it is proving possible for long term drug users to desist. The usual positive drug test result in NSW Correctional Centres with programs is more than 3.5%. This is also often the only time in many years that these offenders have been abstinent from drug use. It is one of the therapeutic platforms from which other gains can be built.

### Community Corrections District Office Locations

Albury	Cooma	Junee	Port Macquarie
Armidale	Coonamble	Kempsey	Queanbeyan
Bankstown	Dee Why	Lake Macquarie	Sutherland
Batemans Bay	Dubbo	Lismore	Tamworth
Bathurst	Fairfield	Lithgow	Taree
Bega	Forbes	Liverpool	Tumut
Blacktown	Glen Innes	Maitland	Wagga Wagga
Bourke	Gosford	Moree	Wellington
Bowral	Goulburn	Muswellbrook	Windsor
Broken Hill	Grafton	Newcastle	Wollongong
Burwood	Griffith	Newtown	Wyong
Campbelltown	Gunnedah	Nowra	Young
Casino	Hornsby	Orange	

City	Hurstville	Parramatta	
Coffs Harbour	Inverell	Penrith	

#### Correctional Centre Locations

<b>Centre Name</b>	<b>Location</b>	<b>Centre Name</b>	<b>Location</b>
Balund-a	Tabulam	Cessnock CC	Cessnock
Bathurst CC	Bathurst	Compulsory Drug Treatment Centre	Stanhope Gardens
Brewarrina (Yetta Dhinnakkal) Centre	Coolabah	Comma CC	Comma
Broken Hill CC	Broken Hill	Dawn de Loas CC	Silverwater
Dillwynia CC	Windsor	Emu Plains CC	Emu Plains
Glen Innes CC	Glen Innes	Goulburn CC	Goulburn
Grafton	Grafton	High Risk Management CC	Goulburn
Ivanhoe (Warakirri) Centre	Ivanhoe	John Morony CC	Windsor
June CC	Wagga Wagga	Lithgow CC	Lithgow
Long Bay Correctional Complex	Marrangaroo	Longbay Hospital	Marrangaroo
Mannus Correctional Complex	Tumbarumba	Metropolitan Remand & Reception Centre (MRRC)	Silverwater
Metropolitan Special Programs Centre (MSPC)	Marrangaroo	Mid North Coast CC	Kempsey
Oberon CC	Oberon	Outer Metropolitan Multi Purpose CC	Berkshire Park
Parklea CC	Parklea	Silverwater Women's CC	Silverwater
South Coast CC	Nowra	St Heliers CC	Muswellbrook
Tamworth CC	Tamworth	Wellington CC	Wellington

## Parliamentary Inquiry into Drug and Alcohol Treatment

### Drug Court

#### Policy and Program guidelines.

Section 3 of the *Drug Court Act 1988* sets out the objectives the Drug Court seeks to achieve.

These are to:

- Reduce the drug dependency of eligible persons
- Promote the re-integration of such drug dependent persons into the community
- Reduce the need for such drug dependent persons to resort to criminal activity to support their drug dependencies

Drug Court Regulations 2010 and 14 policies guide decision making. Copies are attached, they include:

- Completion or Termination of Program
- Team Meetings and Participant Review
- Drug Use by Participants
- Employment
- Mental Health of Offenders and Participants
- Offences Committed by Participants
- Parole for Participants of the Compulsory Drug Treatment Correctional Centre
- Accommodation for Participants
- Policy Formulation
- Program Goals and Measures
- Sanctions and Rewards
- Selection of Participants
- Treatment Plans and Placement
- Travel by Participants

#### Funding

The Drug Court works in collaboration with a number of other agencies. These include the Dept of Corrective Services, Department of Health, Director of Public Prosecutions, NSW Police and Legal Aid Commission. In addition to funding for Dept Attorney General and Justice, each agency receives separate funding to deliver their specialist services

#### Eligibility Criteria

To be eligible for the Drug Court a person must:

- be highly likely to be sentenced to fulltime imprisonment if convicted
- have indicated that he or she will plead guilty to the offence
- be dependent on the use of prohibited drugs
- Live in the Auburn, Bankstown, Blacktown, Campbelltown, Cessnock, Fairfield, Hawkesbury, Holroyd, Lake Macquarie, Liverpool, Parramatta, Penrith, Port Stephens, The Hills Shire or City of Sydney Local Government Areas;
- be referred from the District Court at Campbelltown, Parramatta, Penrith, East Maitland or Newcastle;
- be referred from the Local Court at Bankstown, Belmont, Blacktown, Burwood, Campbelltown, Central, Cessnock, Downing Centre, Fairfield, Kurri Kurri, Liverpool, Maitland, Mout Druitt, Newcastle, Newtown, Parramatta, Penrith, Raymond Terrace, Richmond, Ryde, Toronto, Waverly and Windsor.
- be 18 years of age or over
- be willing to participate.

A person is not eligible if he or she is:

- charged with an offence involving violent conduct;
- charged with a sexual offence or an offence punishable under Division 2 Part 2 of the *Drug Misuse and Trafficking Act 1985*
- suffering from a mental condition that could prevent or restrict participation in the program.

#### Waiting List Periods

There are no waiting list periods to come onto the Program. However, once a person is successful on the ballot, found to be eligible and appropriate, there may be several weeks waiting period to enter the Detox Unit at the Metropolitan Remand and Reception Centre.

#### Service Locations

There are currently Courts at Parramatta, Toronto and Sydney

#### Outcomes achieved and corresponding statistical data

The most recent evaluation (2008) by the Bureau of Crime Statistics and Research found that when compared to a comparison group, people who had been treated through a Drug Court Program were:

37% less likely to be convicted of an offence

65% less likely to be convicted of an offence against a person

35% less likely to be convicted of a property offence

58% less likely to be convicted of a drug offence

The Centre for Health Economics Research and Evaluation (CHERE) undertook an analysis of the cost-effectiveness of the Drug Court of NSW in 2001 and 2008.

The most recent evaluation indicated that the cost of the Drug Court Program is \$16,376m per annum and the estimated cost of dealing with the same offenders via the conventional sanctions would be \$18,134m per annum, a net saving of the Drug Court Program of \$1,758m per annum.

# Policy 1: Drug Court Team Meetings

## DRUG COURT OF NEW SOUTH WALES

<b>Policy # 1</b>	<b>Team meetings and Participant Review</b>
<b>Last Reviewed</b>	<b>October 2009</b>

### 1. PURPOSES OF POLICY

- To clarify the purposes, structure and content of Drug Court team meetings.
- To ensure the current Treatment and Case Management Plan is a highly suitable one.
- To ensure the resources of the program are not expended upon those who cannot succeed.

### 2. DEFINITIONS

<b>Act</b>	means the Drug Court Act 1998
<b>Case Manager</b>	means a Community Offender Service officer assigned to a participant
<b>Drug Court</b>	means the Drug Court of N.S.W.
<b>Drug Court program</b>	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<b>Drug Court team</b>	means a Drug Court judge, the Registrar, the solicitor from the Legal Aid Commission, the solicitor from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Probation and Parole co-ordinator and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each.
<b>Participant</b>	means a "drug offender" as defined in the Drug Court Act 1998
<b>treatment plan</b>	means a plan for therapeutic intervention to address an offender's drug dependency and related health needs.
<b>Treatment Provider</b>	means a participant's principal ongoing treatment provider.

### 3. POLICY

#### **Team Meetings**

3.1 Generally, on any day that the Drug Court sits to consider the progress of participants, a Drug Court team meeting will precede the sitting. At that meeting, the Drug Court team will discuss each of the cases listed for that day.

3.2 Each Drug Court team meeting is open to members of the Drug Court team, and any invitee of the Drug Court team. Interested persons such as treatment providers or case managers may ask to be present at a meeting.

3.3 If a participant has private legal representation, his or her case will not be discussed at a Drug Court team meeting unless the legal representative is present (in person or via conference telephone) or does not wish to be present during discussion about the participant's case.

3.4 Except in very special circumstances, no offender/participant will be present at a Drug Court team meeting when his or her case is discussed.



3.5 At Drug Court team meetings, the Drug Court team will discuss matters relating to the special functions conferred on the Drug Court, including:

- (1) whether an offender appears to be eligible
- (2) treatment plans (implementation and variation)
- (3) other conditions of Drug Court programs
- (4) appropriate rewards and/or sanctions
- (5) prison accommodation arrangements
- (6) logistical matters, eg the need to call in outstanding charges and the status of matters before the Parole Authority of New South Wales

3.6 At Drug Court team meetings, the Drug Court team will not discuss sentencing matters (except to the extent necessary in relation to 3.5 above)

3.7 At Drug Court team meetings, the presiding Drug Court Judge may be furnished with documents which the ODPP solicitor, the LAC solicitor or a private legal representative proposes to tender by consent.

3.8 The purpose of the Drug Court team meeting about a participant is to reach consensus on any changes to the treatment plan and to identify any contentious issues.

3.9 A Drug Court team meeting will be chaired by the Drug Court Judge who will be presiding in the Drug Court on that day.

3.10 The Clinical Nurse Consultant is responsible for informing the Drug Court team meeting about drug dependency and treatment matters.

3.11 The Probation and Parole coordinator is responsible for informing the Drug Court team meeting about accommodation and compliance with supervision, parole issues, Community Service Orders and other orders.

3.12 The DPP solicitor and the Police Prosecutor are responsible for informing the Drug Court team meeting about offence matters, or any contact between police and the Drug Court participant that may affect the Drug Court participant's performance on program.

3.13 Justice Health, through the Clinical Nurse Consultant, is responsible for informing the Drug Court team meeting about prison accommodation matters.

3.14 The Registrar is responsible for informing the Drug Court team meeting about any issues regarding drug testing at any locations and will inform the Drug Court Team regarding compliance with drug testing regimes, especially participants on Phase 2 and Phase 3.

### ***Review Meetings***

4.1 Each month there will be a Review Meeting. That meeting will usually be on the last Monday of the month. At that meeting the following participants will be reviewed:

- Participants on Phase 1 for over 4 months
- Participants on Phase 2 for over 4 months
- Participants on Phase 3 for over 4 months
- Participants who are listed to graduate soon
- Other participants who warrant consideration can be added when needed, or at the request of a team member, Treatment Provider or Case Manager.

4.2 The team will rely on reports provided to the Court for regular report-backs. Generally no additional report will be obtained from a Treatment Provider or Case Manager.

4.3 In respect of each participant, the team will consider if progress is being made against the standards set in Policy #7 *Program Goals and Measures*, and ask:

- Is the participant substantially complying with the program?
- Is the participant likely to be able to progress further?
- Should the participant be promoted to the next Phase, or, if on Phase 3, listed for graduation?
- What changes could be made to the Treatment and Case Management Plan to assist the participant to succeed?
- Is a termination hearing or other court action appropriate?

#### ***Review Meeting Procedure***

5.1 Judge's Associate will email to the team a list of participants for discussion at the meeting. Team members should consider each participant before the meeting to focus discussion.

# Policy 2: Treatment Plans and Placement

Last Reviewed May 2006

## Contents:

[1. Purposes of Policy](#)

[2. Definitions](#)

[3. Policy](#)

[3.1 Assessment and development of treatment plans](#)

[3.2 Variations to treatment plans](#)

[3.3 Termination of treatment](#)

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## 1. Purposes of Policy

1.1 To ensure that treatment plans and treatment placement are offered in a consistent and equitable manner.

1.2 To ensure that the treatment undertaken by each Drug Court participant is the most appropriate treatment to meet the health needs of that person.

## 2. Definitions

<b>Act</b>	means <i>Drug Court Act 1998</i> .
<b>Drug Court program</b>	means the conditions that a participant has accepted under section 7(3)(a) of the Act.
<b>Drug Court team</b>	means Drug Court Judge, the Registrar, the Legal Aid Commission (LAC) solicitor, the solicitor from the Office of the Director of Public Prosecutions (ODPP), the Police Prosecutor, the Community Offender Service (COS), (formerly Probation and Parole) and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternate for each.
<b>Offender</b>	means a person referred to the Drug Court under section 6 of the <i>Drug Court Act 1998</i> but not yet sentenced under section 7 of the Act.
<b>Participant</b>	means a person dealt with under sections 7(2) and (3) of the Act.
<b>Treatment plan</b>	means a plan for therapeutic intervention to address an offender's drug dependency and related health needs.
<b>Treatment provider</b>	means the participant's principal ongoing treatment provider.

## 3. Policy

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### 3.1 Assessment and development of treatment plans

3.1.1 Nothing in this policy is intended to influence the independence or professional standards of any medical practitioner or other health professional.

3.1.2 Through the Clinical Nurse Consultant, Justice Health is responsible for assessing the most appropriate therapeutic intervention for each offender and for presenting an appropriate treatment plan to the Drug Court team. In formulating and developing an appropriate treatment plan, the Clinical Nurse Consultant is to adequately consult with the proposed treatment provider. Generally, the Clinical Nurse Consultant will not propose a treatment plan to the Drug Court team unless a representative of the proposed treatment provider has assessed the relevant offender in person and supports the proposed treatment plan.

3.1.3 The assessment is to occur in the Metropolitan Reception and Remand Centre, Silverwater (in the case of a male offender), the Mulawa Correctional Centre, Silverwater (in the case of a female offender) or such other facility as Justice Health and the Drug Court approve.

3.1.4 In formulating, developing and reviewing a treatment plan for an offender, the paramount consideration is the particular health needs of that offender.

3.1.5 An offender or participant is to be consulted in relation to the development of his or her treatment plan. In the course of consultation, he or she is to be fully informed and advised by a qualified health care professional about available treatment options.

3.1.6 No offender or participant will be compelled to undertake a treatment plan that he or she does not freely choose to undertake. It is acknowledged that a person's likely success on a particular treatment plan is influenced by the person's motivation to undertake that treatment plan.

3.1.7 In formulating and developing a treatment plan, consideration is to be given to the participant's/offender's age, gender, cultural background, religion, proficiency in the English language and responsibilities towards dependant persons.

3.1.8 Justice Health, the proposed treatment provider and the Drug Court team will agree on a treatment plan for an offender only if that treatment plan is considered highly suitable for the offender. If the most highly suitable treatment plan cannot be implemented because no treatment place is available, an alternative treatment plan will be agreed only where that treatment plan is also considered to be highly suitable for the offender.

3.1.9 A offender or participant will not be released onto a treatment plan unless the plan ensures treatment continuity.

3.1.10 Each treatment plan is to be reviewed regularly by the participant's treatment provider in consultation with the participant's case manager. The Drug Court team is to be advised of the outcome of each review.

### **3.2 Variations to treatment plans**

3.2.1 A participant's treatment plan will only be varied where there is a good therapeutic reason for doing so.

3.2.2 A participant's treatment plan and/or treatment provider may be varied by the Court where the participant is failing to make satisfactory progress on his or her treatment plan with his or her current treatment provider.

### **3.3 Termination of treatment**

3.3.1 Refer to the Court's policy on termination of programs.

## Policy 3: Policy Formulation

Last Reviewd May 2006

### 1. Puposos of Policy

1.1 To facilitate the formulation of policies by the Drug Court team.

### 2. Definitions

<b>Act</b>	means <i>Drug Court Act 1998</i> .
<b>Drug Court team</b>	means Drug Court Judge, the Registrar, the Legal Aid Commission (LAC) solicitor, the solicitor from the Office of the Director of Public Prosecutions (ODPP), the Police Prosecutor, the Community Offender Service, (COS) (formerly Probation and Parole) and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternate for each.

### 3. Policy

**3.1** The Drug Court team will develop policies designed to ensure that the team acts in an appropriate and consistent manner when considering matters beyond the traditional scope of the criminal justice process.

**3.2** No policy will intrude on a judicial function.

**3.3** Each policy will be reviewed regularly.

**3.4** Policies will be decided by the Drug Court team at policy and procedure meetings.

**3.5** Policy and procedure meetings will be held regularly.

**3.6** The Drug Court team may invite interested persons to attend policy and procedure meetings.

**3.7** The public will have access to policies via the Drug Court website.

**3.8** The senior judge's associate will formulate an agenda for each policy and procedure meeting and will draft minutes of each meeting. In relation to these matters, the associate will consult with the Registrar when necessary.

# Policy 4: Sanctions and Rewards

Last Reviewed May 2008

## Contents:

- [1. Purpose of Policy](#)
  - [2. Definitions](#)
  - [3. Policy](#)
  - [Rewards](#)
  - [Sanctions](#)
  - [Guidelines for Sanctions](#)
    - [Rehabilitation attendance](#)
    - [Attending Drug Court](#)
    - [Non-compliance with Program](#)
    - [Drug and alcohol use](#)
    - [Pharmacotherapy](#)
    - [Contempt](#)
- 

## 1. Purpose of Policy

1.1 The Drug Court may impose sanctions and confer rewards as part of the conditions of a Drug Court program.

1.2 A system of sanctions and rewards encourage both program participation and the achievement of success by participants on program.

1.3 A defined and transparent system for the just and consistent application of those sanctions and rewards assists the court in fairly administering the programs of participants.

## 2. Definitions

<b>Act</b>	means the <i>Drug Court Act 1998</i>
<b>Court</b>	means the Drug Court of New South Wales
<b>Drug Court program</b>	means the conditions accepted by a participant and imposed by the Court. See sections 7A, 7B, 7C and 16 of the Drug Court Act
<b>Drug Court team</b>	means a Drug Court Judge, the Registrar, the solicitors for the Legal Aid Commission, the solicitors from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Probation and Parole co-ordinator, and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each
<b>Participant</b>	means a "drug offender" as defined in the Act
<b>Registrar</b>	means the Registrar of the Drug Court
<b>Team meeting</b>	means meetings convened in accordance with <b><i>Policy 1 Drug Court Team Meetings</i></b>

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## 3. Policy

3.1 The principal **rewards** conferred by the Court are public acknowledgement of success, applause, and the waiving of suspended sanctions of imprisonment.

3.2 The principal **sanctions** for breach of program are a reprimand from the judge, an increase in the level of supervision and other contact, and the imposition of imprisonment for up to 14 days.

3.3 To ensure a just and consistent system of sanctions, the following table provides a guideline to the level of sanctions that may be imposed by the court. Sanctions will be decided having regard to the nature of the participant's conduct, the individual circumstances of the participant, the record of good conduct (or otherwise) of the participant, and any other relevant factor.

3.4 The Court may decline to impose custodial sanctions for breach of program. The Court may, for example, deal with any breach by way of a warning, by increasing the commitments or level of supervision of the participant, or by requiring the participant to undertake a specific task. The specific task may range from an apology to a treatment provider to homework on the effects of the use of a particular drug or combination of drugs.

3.5 The Court may also impose additional or higher sanctions in appropriate cases.

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## **Rewards**

### **Behaviour Giving Rise To Rewards**

- Satisfactorily complying with the program for a significant period
- Demonstrating responsibility (eg demonstration of trust in the Drug Court/Probation and Parole Officer by notifying of problems as they arise)
- Demonstrating stability (eg addressing lifestyle and relationships, obtaining employment/training)
- Demonstrating engagement with treatment providers, Probation and Parole, Counsellor, the Support Worker or other members of the Drug Court team
- Displaying an outstanding attitude to the program
- Demonstrating initiative (eg by undertaking courses or study beyond what is required by the program)
- Satisfactorily completing components of the program, such as mental health treatment compliance, parenting programs, literacy and living skills courses
- Any other conduct warranting acknowledgment

Rewards may be:

- Praise from the Judge/Drug Court team, and applause in open court
- Conferring a privilege, such as more flexible drug testing or court attendance
- Graduating to the next phase of the program
- Decreasing the frequency of supervision, court appearances or other program obligations.
- Removing or reducing any existing sanctions
- Allowing return to work or study before the completion of phase one
- Allowing absence during any curfew to take part in an approved positive activity, such as NA meetings or attending a family function.
- Any other appropriate reward of the above general kind

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## **Sanctions**

### **Behaviour Giving Rise To Sanctions**

- Committing further offences
- Using prohibited drugs
- Using non-prescribed medication

- Testing positive to the use of prohibited drugs, non-prescribed medication or other substances (such as alcohol or pain relief medication) that has been prohibited under the participant's program
- Failing to disclose the use of a prohibited drug, prescribed or non-prescribed medication (particularly pain relief medication) or other substances
- Failing to provide a drug test sample (urine, breath or saliva) when requested by a person authorised to collect the sample
- Failing to punctually attend all Drug Court report backs, treatment appointments, counselling, personal development courses, educational courses, employment interviews, employment or any other appointment as directed by either the Drug Court, the participant's case manager or the participant's treatment provider
- Failing to perform a specified component of the participant's program
- Failing to obey any reasonable direction of the Drug Court, the participant's case manager or the participant's treatment provider
- Any other failure to comply with the conditions in the participant's undertaking

Sanctions may be:

- Reprimand or warning from the judge
- Being imprisoned for up to a maximum duration of 14 days for any **one** breach
- Being required to write an essay or make a presentation to the Court
- Increased frequency of drug testing, and/or supervision and/or court appearances
- Repeating a component of the participant's program
- Paying a monetary penalty
- Performing work in the community
- Complying with a curfew
- Demotion to an earlier phase, which automatically increases all aspects of supervision
- Any other sanction which is appropriate in the circumstances

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## Guidelines for Sanctions

### Rehabilitation attendance

<i>Nature &amp; Breach</i>	<i>Guideline Sanction</i>
1 Absconding from residential rehabilitation centre and attending Drug Court as soon as practicable	up to 7 days
2 Absconding from residential rehabilitation centre, and attending Drug Court after a short delay	7 days
3 Absconding from residential rehabilitation centre, and not attending Drug Court until arrested	14 days to termination
4 Failing to enter residential rehabilitation centre and not attending Drug Court until arrested	14 days to termination
5 Being discharged from residential rehabilitation centre for breaking rules or using illicit drugs	7 days

### Attending Drug Court

<i>Nature &amp; Breach</i>	<i>Guideline Sanction</i>
6 Failing to attend Drug Court – for weekly progress report without medical certificate	2 days
7 Failing to attend Drug Court as directed and remaining at large for a period in excess of 48 hours, but attending court of own free will	4 days
8 Failing to attend Drug Court as directed and remaining at large until arrested on warrant	14 days to termination



### Non-compliance with Program

<i>Nature &amp; Breach</i>	<i>Guideline Sanction</i>
9 Unauthorised change of address, unless in crisis	7 to 10 days
10 Failure to keep in contact with Case Manager for a significant period	4 days
11 Failure to attend counselling, Day Program, Living Skills, PEET program or other required activity	1 day
12 Failure to be home and available for home visit by case manager	1 day
13 Failing to comply with direction of team member, case manager or treatment provider	1 day
14 Repeated failure to be available for home visit or to comply with directions	3 days

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### Drug and alcohol use

<i>Nature &amp; Breach</i>	<i>Guideline Sanction</i>
14 Using prohibited drugs – isolated drug use with free admission	1 day
15 Using prohibited drugs – multiple drug use with free admission	1 day for each drug on each occasion
16 Using prohibited drugs – isolated use and late admission ( eg when confronted with result)	2 days
17 Unadmitted drug use	3 days
18 Using unauthorised prescribed medication – single incident	non-custodial
19 Using unauthorised prescribed medication multiple incidents	2 days
20 Failure to provide urine sample (on Phase 1) (As agreed in Case Management Plan)	1 day
21 Failure to provide urine sample (on Phase Two or Three) (As agreed in Case Management Plan)	3 days
22 Using prohibited or non-prescribed drugs in custody (while on a Drug Court Program)	14 days immediately
23 Drinking alcohol when alcohol not permitted	1 day
24 Exceeding a blood alcohol level of .05	1 day

### Pharmacotherapy

<i>Nature &amp; Breach</i>	<i>Guideline Sanction</i>
25 Failure to collect methadone or buprenorphine, isolated incident	warning
26 Failure to collect methadone or buprenorphine - multiple incidents	4 days

### Contempt

<i>Nature &amp; Breach</i>	<i>Guideline Sanction</i>
27 Subverting (or attempting to) urine collection	termination
28 Threatening violence or the perceived threat of violence	termination
29 Breach of good behaviour	3 days to termination

## Policy 5: Place of Residence

### DRUG COURT OF NEW SOUTH WALES

<b>Policy Title # 5</b>	<b>Accommodation for Participants</b>
<b>Last Reviewed</b>	<b>February 2011</b>

#### 1. PURPOSES OF POLICY

1.1 To ensure that a participant does not reside in the community unless a suitable residence is available.

1.2 To clarify the circumstances under which participants can take part in a Drug Court program although not residing within the usual area of the Court's operation.

1.3 To define the Drug Court's role in its partnership with Housing NSW under the Shared Access Operating Agreement with Housing NSW.

#### 2. DEFINITIONS

<b>Act</b>	means the Drug Court Act 1998
<b>Case manager</b>	means a Community Compliance and Monitoring Group officer assigned to a participant.
<b>Case management plan</b>	means a plan for supervision of a participant by the Community Compliance and Monitoring Group
<b>CCMG</b>	means the Community Compliance and Monitoring Group (formerly Probation and Parole).
<b>Drug Court</b>	means the Drug Court of N.S.W.
<b>Drug Court program</b>	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<b>Drug Court team</b>	means Drug Court Judge, the Registrar, the Legal Aid Commission (LAC) solicitor, the solicitor from the Office of the Director of Public Prosecutions (ODPP), the Police Prosecutor, the Community Compliance and Monitoring Group (CCMG) coordinator (formerly Probation and Parole), the Clinical Nurse Consultant and the Senior Judge's associate who are attached to the Drug Court, and/or the alternate for each.
<b>Participant</b>	means a "drug offender" as defined in the Drug Court Act 1998.
<b>Participant/Client</b>	Means a participant who has been nominated and accepted for social housing under the partnership agreement with Housing NSW
<b>Treatment plan</b>	means a plan for therapeutic intervention to address a participant's drug dependency and related health needs.
<b>Treatment provider</b>	means a participant's principal ongoing treatment provider.

#### 3. POLICY

3.1 Prior to a participant being placed on a Drug Court program which requires that the participant reside at a private residence, the Drug Court team will consider the suitability of the residence.

3.2 Generally, the suitability of a private residence will be considered only after the Community Compliance and Monitoring Group officer has visited the residence, has spoken to the principal residents, and has made a recommendation concerning the suitability of the residence. The recommendation will be provided to the court in writing.

3.3 When speaking to the principal residents, the CCMG will inform them of the main requirements of the participant's Drug Court program.

3.4 Generally, a private residence is unsuitable;

- (a) if the principal residents
  - do not know that the participant is undertaking a Drug Court program,
  - are not willing to have the participant reside at the residence, or a current Apprehended Domestic Violence Order prevents the participant residing at that address,
  - are not prepared to cooperate with the participant's case manager and treatment provider, or
- (b) if any child protection concerns of the Department of Community Service cannot be addressed, or
- (c) if occupied or frequented by a person reasonably suspected of engaging in criminal activity.

3.5 In urgent circumstances, a case manager may approve a temporary change of residence. Approval should be sought prior to the change, and the participant should be directed to attend the Drug Court at the first reasonable opportunity for further consideration of the change. Consideration must be given to any current Apprehended Violence Orders and any conditions which may prevent the participant residing at that address.

#### **4. RESIDENCE OUT OF AREA**

##### ***4.1 Applications for out of area placement***

4.1.1 The Court can consider an application by a participant to reside out of the area specified in clause 5 of the Drug Court Regulation 2010.

4.1.2 A participant may not move out of area without the prior approval of the court.

##### ***4.2 Residential rehabilitation centres – Out of area***

4.2.1 If the application is to be placed in a residential rehabilitation centre approval will be dependent upon:

- (a) The rehabilitation centre meeting the Court's requirement for treatment and supervision of participants, and
- (b) Appropriate funding arrangements being in place.

##### ***4.3 Community based program – Out of area***

4.3.1 If the application is to reside in the general community, approval will be dependent upon:

- (a) The participant having been compliant with their program, and
- (b) the Community Compliance and Monitoring Group being able to provide a suitable level of supervision to the participant, and
  - (c) arrangements being made for the provision of an appropriate level of supervised drug testing, and
  - (d) appropriate arrangements being made for the provision of addiction counselling and treatment, including pharmacotherapy where needed.

4.3.2 The Court may also permit emergency and short term accommodation arrangements to be made when necessary.

#### **4.4 Continuing obligations**

4.4.1 It will remain a requirement for a participant to regularly report to the Drug Court in person, although the frequency of reporting may be reduced.

4.4.2 In the event of unsatisfactory compliance with a program by a participant living 'out of area', or of a cessation of any of the requirements mentioned in 4.2 or 4.3 above, the participant may be required to return to an appropriate address within the Court's usual area, or to return to custody in accordance with s 8A of the Act until a suitable treatment plan can be prepared.

#### **5. HOUSING NSW ACCORD**

5.1.1 The Drug Court has signed a Shared Access Operating Agreement with Housing NSW to assist nominated participants with complex needs to access secure, affordable and supported social housing. Up to 20 participants may be assisted under this agreement at any one time.

5.1.2 One of the key objectives of the Agreement will be to provide support to nominated participants so as to assist them to sustain a tenancy.

5.1.3 To gain assistance under the Agreement, a participant, or potential participant, must be nominated by the Drug Court.

#### **5.2 Nominations**

5.2.1 Any team member may suggest or identify a participant, or potential participant, who may be suitable to receive assistance under the Agreement.

5.2.2 The team member is to notify the Registrar of the name and reason for nomination. The Registrar will then add that person's name to the list for the next or most suitable team meeting. The Registrar will then email all team members the name of the suggested person, and the reason why he or she has been added to the list for the team meeting.

5.2.3 At the team meeting, the housing needs of the suggested person will be discussed. That discussion will include, but not be limited to:

- Any housing history known,
- Any aspects of danger or violence known,
- The housing needs of other family members,
- The existence of any other highly suitable treatment options,
- Treatment requirements relating to such issues as pharmacotherapy, mental health or physical disabilities,
- Special needs such as pram or wheelchair access, literacy, or personality issues.

5.2.4 The Registrar will personally attend that team meeting, so as to be fully aware of the housing issues discussed.

5.2.5 If the Drug Court Team so determines, the Registrar will make the necessary nomination to the Cross-Agency Working Group identified in the Shared Access Operating Agreement.

5.2.6 The Registrar may seek the assistance of the Case Manager, the Treatment Provider or other members of the Drug Court Team so as to ensure Housing NSW is provided with any proof or documentation of special issues (for example, proof of pregnancy, mental health treatment, the existence of a current Apprehended Violence Order, or child contact orders from the Family Court or Children's Court).

5.2.7 When a nominated participant is successful (a "participant/client") and is accepted under the

Agreement, the Registrar will immediately notify all members of the Drug Court Team by email.

### **5.3 Participant Support**

5.3.1 The Registrar will be the only contact for the Drug Court under the Agreement, and any ongoing issues are to be referred to the Registrar.

5.3.2 The Registrar will identify the supports being provided, or to be provided, for any participant/client by the Drug Court Program, and will provide a list of those services for inclusion within the Service Level Agreement.

5.3.3 The Registrar will participate in tenancy reviews as set out in the Service Level Agreement, and provide relevant information to the tenancy reviews on behalf of the Drug Court

5.3.4 The Registrar will notify Housing NSW of any return of custody of a participant/client, of the successful completion of the Drug Court Program by a participant/client, or the termination of a participant/client's program, (and if such termination has led to any return to custody).

# Policy 6: Completion or Termination of Program

Last Reviewed August 2008

## Contents:

[1. Purposes Of Policy](#)

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[3. Policy](#)

[3.1 Completion Or Substantial Compliance](#)

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[3.7 Termination For Persistent Failure To Progress - "Sunset Clauses"](#)

[3.8 Termination For Breach Of Special Program Clauses](#)

[Flow Chart Of Termination Procedure](#)

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## 1. Purposes of Policy

1.1 To clarify the circumstances in which a participant's program will be considered completed or requires termination.

1.2 To identify the process by which the Drug Court team will consider program termination, so as to ensure that the participant is afforded procedural fairness.

1.3 To explain the consequences of a program being terminated.

## 2. Definitions

<b>Act</b>	means the <i>Drug Court Act 1998</i>
<b>Case manager</b>	means a Community Offender Service officer assigned to a participant.
<b>Case management plan</b>	means a plan for supervision of a participant by the Community Offender Service
<b>COS Drug Court</b>	Means the Community Offender Service means the Drug Court of N.S.W.
<b>Drug Court program</b>	means the conditions accepted by the participant and imposed by the Court. See sections 7A, 7B, 7C and 16 of the <i>Drug Court Act</i> .
<b>Drug Court team</b>	means a Drug Court Judge, the Registrar, the Legal Aid Commission solicitor, the solicitor from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Community Offender Service (COS) coordinator, and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each.
<b>Participant</b>	means a "drug offender" as defined in the Drug Court Act 1998
<b>Treatment plan</b>	means a plan for therapeutic intervention to address a participant's drug dependency and related health needs.
<b>Treatment provider</b>	means a participant's principal ongoing treatment provider.

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### 3. Policy

#### 3.1 Completion or substantial compliance

3.1.1 The standard expected for a participant to complete his or her program, and a level of compliance which will be accepted to find that a participant has substantially complied with a program, are set out in **Policy #7: Program Goals and Measures**

3.1.2 The Drug Court Team will hold regular Participant Review meetings to discuss the progress of all participants.

3.1.3 At the request of any team member, or at the request of the participant, the Drug Court Team will consider the progress of any phase three participant at the next Participant Review meeting.

3.1.4 The Drug Court team will consider suitability for completion of program approximately eight weeks prior to the proposed date for final sentencing/graduation.

3.1.5 Any participant considered eligible to graduate in the next three months will be advised of that opportunity.

3.1.6 To ensure continuity of care for participants who are graduating and those participants who are unlikely to be returned to full-time custody at the conclusion of their Drug Court program, a Continuing Care Plan will be requested from the participant's Community Offender Service Officer and Treatment provider.

3.1.7 The Continuing Care Plan will address such issues as income security, housing, pharmacotherapy and ongoing counselling needs.

3.1.8 The Continuing Care Plan is to be effective 1-2 weeks **before** the participant's Drug Court Program is finalised.

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#### 3.2 Additional assistance to successful participants

3.2.1 Improvements in forensic investigation techniques have led to graduates and other successful participants being charged with old crimes after the completion of their program. In an effort to minimise this occurring, two actions are to be taken:

**(a) When a participant reaches Phase 3**, the Registrar will write to the Commissioner of Police seeking a check of all records and systems so as to ensure any and all outstanding matters or allegations are prosecuted in the near future. A copy of that letter will also be directed to the Police Prosecutor and the Legal Aid solicitor.

**(b) Two weeks before graduation or the recognition of substantial compliance**, the solicitor from the Office of the DPP in conjunction with the Police Prosecutor will make all necessary inquiries as to any outstanding charges, allegations or incidents so as to ensure they can be considered prior to graduation.

#### 3.3 Habitual Offender declarations

3.3.1 Given the proven rehabilitation of a participant who meets graduation or substantial compliance criteria, the Legal Aid solicitor will check as to whether there are any habitual traffic offender declarations in relation to the participant, and consider whether an application to quash such declarations should be made at final sentence.

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#### 3.4 Graduation and recognition of achievement

3.4.1 Program termination and final sentencing will precede any formal recognition by the Court of completion or substantial compliance.

3.4.2 The Court may recognise participants who have completed a program by the award of a certificate at a graduation ceremony.

3.4.3 A participant's family, treatment provider and case manager may be invited to attend the graduation ceremony. Others with a particular interest in the participant's program should also be invited to attend the participant's graduation.

3.4.4 If available, all Drug Court judges will preside at each ceremony.

3.4.5 The Court may recognise participants who have substantially complied with a program by the award of a certificate of achievement.

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### **3.5 Termination at a participant's request**

3.5.1 A participant can request the Court to terminate his or her program at any time. This request can be made on two grounds:

- i. The participant no longer wishes to be in the program, and asks that the initial sentence be set aside and a new sentence imposed, or
- ii. The participant asks the Court to find that the participant has completed or substantially complied with their program.

3.5.2 The Court retains a discretion to grant or refuse such an application, and a discretion to defer consideration of the application.

3.5.3 If the Court is of the view that the participant has not completed a program, or has not substantially complied with the program, the Court may allow the participant to withdraw the application, unless the Court is satisfied that the participant is unlikely to make any further progress on the program.

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### **3.6 Termination after failure to comply with the program**

3.6.1 After any program breach, the Court may consider termination of a program on the application of a team member, case manager, treatment provider or on its own motion.

3.6.2 The Court may consider termination of a program if the participant:

- has been unable to progress past a phase within 3 months of the expected duration of that phase, or otherwise demonstrates a lack of commitment to his or her Drug Court program.
- is unlikely to make any further progress because the participant is subject to a treatment plan which appears to be unsuitable, and no apparently highly suitable treatment plan is available.
- has absconded from his or her Drug Court program.
- is alleged to have committed any offence.
- is alleged to have breached any special conditions to his or her program.
- has threatened another Drug Court participant, a treatment provider or anyone connected with the Court, or repeatedly disrupts any process related to his or her program.
- has deliberately sought to manipulate, by any means, his or her urinalysis testing, or the results thereof.



3.6.3 The primary responsibility for identifying participants who should be considered for program termination lies with the solicitors from the Office of the Director of Public Prosecutions and the Police Prosecutor on the Drug Court team.

3.6.4 A participant's legal representative, case manager and treatment provider (if any) are to receive reasonable notice from the solicitor(s) from the Office of the Director of Public Prosecutions, or the Police Prosecutor on the Drug Court team, that the participant's program is to be considered for termination, and are to be afforded the opportunity of making submissions to the court.

3.6.5 Unless the circumstances that have led to a program being considered for termination are admitted, information establishing those circumstances should be available in writing prior to the relevant meeting. If requested, the person providing the information should be available for questioning.

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### **3.7 Termination for persistent failure to progress - "Sunset Clauses"**

3.7.1 The Drug Court may form the preliminary view that UNLESS a participant can progress to the next phase of his or her Drug Court program by a nominated date, then his or her failure to achieve that progression by the nominated date demonstrates a lack of potential to progress on his or her Drug Court program.

3.7.2 If the Drug Court forms such a preliminary view, then a date for progression or termination of program should be set. The date selected is to be determined by the judge in consultation with the Drug Court Team and the participant.

3.7.3 If the participant has not demonstrated the required potential to progress by the "sunset clause" date, then his or her program may be terminated for lack of potential to progress.

3.7.4. The participant may contest the preliminary view reached by the Drug Court as to his or her potential to progress, and if the issue is contested then a potential to progress hearing will be listed for determination by the court.

### **3.8 Termination for breach of special program clauses**

3.8.1 The Drug Court may chose to place additional or special clauses in the programs of some participants. Such clauses may, for example, specifically prohibit the participant from consuming any alcohol whatsoever, driving any motor vehicle, committing any further offences, being dishonest regarding drug use, being dishonest with the Drug Court Team and treatment providers, or abandoning his or her program.

3.8.2 Such special conditions will usually be imposed as the necessary and appropriate response to perceived specific risk factors, or as the result of problem behaviour whilst on program.

3.8.3 If the participant is alleged to have breached such a special program clause, then termination of program will be considered as per paragraph 3.4 above. The court may also impose sanctions for any breach of special conditions, and may require the immediate serving of any custodial sanctions.

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### **Flow chart of termination procedure**

<b>Event</b>	<b>Finding</b>	<b>Result</b>	
1. complete program [as defined in policy]	substantial compliance [s11(1)(a)]	terminate & re- sentence	certificate of graduation custody
	i. risk to public	terminate & re-	

2. program breached [s10(1)]	ii. likely to progress	return to program	non custody
	iii. unlikely to progress	to event 3	
3. unlikely to progress [s10(1)(b)]	i. Substantial compliance [s11(1)(a)]	terminate & re- sentence	certificate of achievement
	ii. no substantial compliance	terminate & re- sentence [s11(1)(c)]	custody
4. participant application. [s11(1)(b)]	i. Substantial compliance [s11(1)(a)]	terminate & re- sentence	non custody certificate of achievement
	ii. no substantial compliance	terminate & re- sentence [s11(1)(c)]	custody
		ii. return to program	non custody

- Although an imperfect measure these cases are counted as program successes. These cases are counted as unsuccessful

# Policy 7: Program Goals and Measures

Last Reviewed May 2006

## Contents:

- [1. Purposes of Policy](#)
- [2. Definitions](#)
- [3. Policy](#)
  - [3.1 The content of a Drug Court program](#)
  - [3.2 The focus of a Drug Court program](#)
  - [3.3 Program phases](#)
  - [3.4 Phase 1 –Engagement And Stabilisation](#)
  - [3.5 Phase 2 – Consolidation](#)
  - [3.6 Phase 3 - Re-integration](#)
  - [3.7 Completion](#)
  - [3.8 Substantial compliance](#)

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## 1. Purposes of Policy

1.1 To further define the content of Drug Court programs, the goals to be achieved, and the measurement of the achievement of those goals.

## 2. Definitions

<b>Act</b>	means the Drug Court Act 1998.
<b>Case manager</b>	means a Community Offender Service officer assigned to a participant.
<b>Case management plan</b>	means a plan for supervision of a participant by the Community Offender Service.
<b>Drug Court</b>	means the Drug Court of N.S.W.
<b>Drug Court program</b>	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<b>Drug Court team</b>	Means Drug Court judge, the Registrar, the Legal Aid Commission (LAC) solicitor, the solicitor from the Office of the Director of Public Prosecutions (ODPP), the Police Prosecutor, the Community Offender Service (COS) coordinator and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternate for each.
<b>COS</b>	means the Community Offender Service.
<b>Participant</b>	means a “drug offender” as defined in the Drug Court Act 1998.
<b>Treatment plan</b>	means a plan for therapeutic intervention to address a participant's drug dependency and related health needs.
<b>Treatment provider</b>	means a participant's principal ongoing treatment provider.

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## 3. Policy

### 3.1 The content of a Drug Court program

3.1.1 The objectives of the Drug Court are set out in section 3 of the Act, and the definition of a Drug Court program is included within section 4 of the Act.

3.1.2 The conditions that can be included in a Drug Court program are defined in section 7(3B). The conditions for each participant are set out in the general program undertaking and

the participant's treatment and case management plan.

3.1.3 To commence a Drug Court program, a participant will be required to sign an undertaking to accept and comply with all the conditions of the general program and their individual treatment and case management plan. The participant will be provided with a copy of each document.

3.1.4 The treatment and case management plan may be modified progressively throughout the program.

### **3.2 The focus of a Drug Court program**

3.2.1 So as to promote re-integration into the community, the program will focus on:

- Housing and income stability
- Health and well being - diagnosis & treatment
- Behaviour modification and living skills appropriate to the ability of the individual
- Education and readiness for employment where possible
- Employment, where possible
- Relationships and child-care responsibilities
- Legal obligations and responsibilities – paying bills, child support and any fines.

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### **3.3 Program phases**

3.3.1 Each program will consist of three phases.

3.3.2 The minimum expected duration of each phase is:

Phase 1 - three months  
Phase 2 - three months  
Phase 3 - six months

3.3.3 The Drug Court team will review each participant's progress at a review meeting in the month before progression to the next phase is expected.

3.3.4 If a participant has not progressed to the next phase within three months of the earliest possible date, the Court may consider the likelihood of further progress in accordance with **Completion or Termination Policy #6.**

### **3.4 Phase 1 –Engagement And Stabilisation**

3.4.1 The principal goals of Phase 1 are:

- To reduce drug use <sup>1</sup>
- To stabilise physical and mental health
- To commence treatment for drug dependency
- To cease criminal activity
- To identify needs and goals for treatment and reintegration.

3.4.2 To progress from Phase 1 to Phase 2 a participant should have:

- demonstrated a willingness to commence and participate in a treatment program

- developed a case management plan (in consultation with the Community Offender Service case manager and treatment provider)
- demonstrated a willingness to accept supervision under the case management plan
- become established as a regular patient of a general practitioner
- be compliant with any psychiatric treatment and medication
- complete group counselling programs (day or transition programs)
- demonstrated a reduction in drug taking
- promptly and honestly admitted any drug use
- submitted to three drug tests per week
- attended Court at least once per week
- regularly and punctually attended appointments
- committed no offences, or committed no further offences after a termination hearing.

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### **3.5 Phase 2 – Consolidation**

3.5.1 The principal goals of Phase 2 are:

- To remain drug free for significant periods
- To remain crime free
- To stabilise social and domestic environment
- To develop life skills
- To address any major life issues
- To maintain good health

3.5.2 To progress from Phase 2 to Phase 3 a participant should have:

- continued to fully participate in a treatment program
- actively worked towards achieving goals established in the case management plan and worked with the case manager and treatment provider to update that plan
- continued to accept supervision under the case management plan
- submitted to two drug tests per week, as directed
- promptly and honestly admitted any drug use
- demonstrated a reduction in drug taking with significant periods of abstinence
- ceased any criminal activity or committed no offences after a termination hearing
- attended Court at least once per fortnight
- regularly and punctually attended appointments with the Court, counsellor, case manager and kept other program commitments
- Completed Pathways to Employment Education and Training (PEET) (if not working or studying)

### **3.6 Phase 3 - Re-integration**

3.6.1 The principal goals of Phase 3 are:

- To remain drug free and accept a drug free lifestyle
- To remain crime free and accept a crime free lifestyle

- To stabilise social and domestic environment, including establishing stable accommodation
- To gain employment or be employment ready, or
- be engaged in full time child care, or
- be involved in education, training or other worthwhile activity which could lead to employment.
- Be financially responsible

3.6.2 During this phase a participant will be expected to maintain the standards achieved in Phase 2, and to achieve the standards set for completion of the program.

3.6.3 The Court will identify participants who are likely to complete a Drug Court program two months before completion is due. Those participants will be required to demonstrate their readiness to complete the program by an enhanced drug-testing regime for a period of 4 weeks prior to completion.

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### **3.7 Completion**

3.7.1 To complete a program a participant will have achieved the following standards:

- **Time in treatment:** The participant should have been active in treatment for at least 12 months. It is not expected that treatment would have been completed when the program is completed. Like their addiction, it may continue throughout their lifetime.
- **Progress in program:** The participant should have progressed into Phase 3 (see 3.6 above), and have maintained the standards set for progression to that stage.
- **Engagement in treatment:** The participant should have demonstrated a willingness to identify and deal with any significant life issues in counselling.
- **Reintegration:** The participant should have achieved the re-integration goals that have been set and reviewed during the program.
- **Reduction in drug use:** For at least three months there should have been no drug use, or, in the event of a lapse, the participant should have demonstrated the ability to re-engage in appropriate treatment.
- **Reduction in offending:** Within the past six months, the participant should not have been charged with any offence alleged to have occurred in the last six months.

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### **3.8 Substantial compliance**

3.8.1 To have substantially complied with a program, a participant should have achieved the following minimum standards:

- **Time in treatment:** The participant should have been on program for at least 12 months and at least 9 months of that time actively in treatment.
- **Progress in program:** The participant should have achieved and maintained the standard set for Phase 2 (see 3.6 above).
- **Engagement in treatment:** The participant should have engaged in treatment, and identified significant life issues.
- **Reintegration.** Substantial compliance for most participants would mean:
  - securing and maintaining housing
  - securing and retaining income
  - accessing medical treatment
  - stabilising relationships
  - completion of outstanding court orders such as a Community Sentence Order, Periodic Detention or Home Detention order.

For many it would also involve commencement in education or employment, reducing fines or securing a driver's licence.

- **Reduction in drug use:** Drug use would have reduced, with significant periods of abstinence, and a demonstration of having learned skills to deal with relapse.
  - **Reduction in offending:** Within the past six months, the participant should not have been charged with any offence alleged to have occurred in the last six months, and for which a term of imprisonment could be imposed.
- 

<sup>1</sup>To measure any reduction in drug use, the Drug Court team will look to the level of admitted use, the urinalysis results, and other dependency criteria, such as:

- Does the participant continue to spend a lot of time on activities necessary to get drugs, using drugs or recovering from their use?
- Is the participant too sick for court, too sick for drug tests, too sick for appointments?
- Does the participant continue to use in detriment to his or her physical and mental health?
- Does the participant give up important social, work or leisure activities because of their drug use?

## Policy 8: Mental Health of Offenders and Participants

# DRUG COURT OF NEW SOUTH WALES

<b>Policy 8</b>	<b>Mental Health of offenders and participants</b>
<b>Last Reviewed</b>	September 2009

### 1. PURPOSES OF POLICY

1.1 To clarify both pre-program and on program procedures for dealing with offenders and participants who are, or may be, suffering from a mental condition, illness or disorder.

### 2. DEFINITIONS

**Act** means the *Drug Court Act 1998*

**Court** means the Drug Court of New South Wales

**Drug Court program** means the conditions accepted by a participant and imposed by the Court. See sections 7A, 7B, 7C and 16 of the Drug Court Act

**Drug Court team** means a Drug Court Judge, the Registrar, the solicitors for the Legal Aid Commission, the solicitors from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Probation and Parole co-ordinator, and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each

**Offender** means a person referred to the Drug Court but who is not yet sentenced

**Participant** means a "drug offender" as defined in the Act

**Treatment plan** means a plan for therapeutic intervention to address an offender's drug dependency and related health needs.

**Treatment provider** means the offender's principal ongoing treatment provider

### 3. POLICY

3.1 Every offender who is referred to the Drug Court will be assessed by Justice Health to determine whether the person is suffering from a mental condition that could prevent or restrict the person's active participation in a Drug Court program (*Regulation 4(b)*).

3.2 Every offender who is referred to the Drug Court will be screened by the Drug Court Prosecutor for any information held by the NSW Police Force that may assist in determining whether an offender is suffering from a mental condition that could prevent or restrict the person's active participation on the Drug Court Program. Any such information will be provided to the DPP Solicitor and the Clinical Nurse Consultant.

3.3 It is the responsibility of the Clinical Nurse Consultant and the DPP solicitor on the Drug Court team to identify any offender who may be suffering from such a mental condition, illness or disorder that could prevent or restrict the person's active participation in a Drug Court program.

3.4 When such an offender is identified, it is the responsibility of the DPP solicitor to request that a



Justice Health psychiatrist provide an independent report to the Court for the purpose of assisting the Court to determine whether the person does suffer from such a mental condition. The reporting doctor should be asked to refer to any relevant medication regime, the likelihood that the offender will comply with that regime, and the likely consequences should the person fail to comply with the regime.

3.5 Every participant should have access to psychiatric assessment and ongoing treatment for any mental health needs through Justice Health and/or their treatment provider.

3.7 A participant's treatment provider is responsible for identifying and notifying the Drug Court of any mental condition which could be affecting the participant's performance on his/her Drug Court program, and for obtaining any necessary consent to the revelation of such information to the Court.

3.8 The Drug Court Prosecutor is to inform the Drug Court Team of any incidents that come to the attention of the NSW Police Force that involve a participant, and which suggest the person is suffering a mental condition, and which suggest the participant may have become a danger to himself or herself, or to the community.

3.9 When a participant fails to comply with the recommended mental health treatment, the participant's treatment plan will be reviewed. The review will be conducted so as to assist the participant to fully comply with his or her recommended mental health treatment.

3.10 If a participant remains non-compliant with treatment, or if the non-compliance raises issues of the safety of the community or the participant, it is the responsibility of the participant's treatment provider and Justice Health to notify the DPP solicitor on the Drug Court team. If considered necessary, the DPP solicitor will then request that the participant's program be terminated.

## Policy 8: Mental Health of Offenders and Participants

# DRUG COURT OF NEW SOUTH WALES

<b>Policy 8</b>	<b>Mental Health of offenders and participants</b>
<b>Last Reviewed</b>	September 2009

### 1. PURPOSES OF POLICY

1.1 To clarify both pre-program and on program procedures for dealing with offenders and participants who are, or may be, suffering from a mental condition, illness or disorder.

### 2. DEFINITIONS

**Act** means the *Drug Court Act 1998*

**Court** means the Drug Court of New South Wales

**Drug Court program** means the conditions accepted by a participant and imposed by the Court. See sections 7A, 7B, 7C and 16 of the Drug Court Act

**Drug Court team** means a Drug Court Judge, the Registrar, the solicitors for the Legal Aid Commission, the solicitors from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Probation and Parole co-ordinator, and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each

**Offender** means a person referred to the Drug Court but who is not yet sentenced

**Participant** means a "drug offender" as defined in the Act

**Treatment plan** means a plan for therapeutic intervention to address an offender's drug dependency and related health needs.

**Treatment provider** means the offender's principal ongoing treatment provider

### 3. POLICY

3.1 Every offender who is referred to the Drug Court will be assessed by Justice Health to determine whether the person is suffering from a mental condition that could prevent or restrict the person's active participation in a Drug Court program (*Regulation 4(b)*).

3.2 Every offender who is referred to the Drug Court will be screened by the Drug Court Prosecutor for any information held by the NSW Police Force that may assist in determining whether an offender is suffering from a mental condition that could prevent or restrict the person's active participation on the Drug Court Program. Any such information will be provided to the DPP Solicitor and the Clinical Nurse Consultant.

3.3 It is the responsibility of the Clinical Nurse Consultant and the DPP solicitor on the Drug Court team to identify any offender who may be suffering from such a mental condition, illness or disorder that could prevent or restrict the person's active participation in a Drug Court program.

3.4 When such an offender is identified, it is the responsibility of the DPP solicitor to request that a

Justice Health psychiatrist provide an independent report to the Court for the purpose of assisting the Court to determine whether the person does suffer from such a mental condition. The reporting doctor should be asked to refer to any relevant medication regime, the likelihood that the offender will comply with that regime, and the likely consequences should the person fail to comply with the regime.

3.5 Every participant should have access to psychiatric assessment and ongoing treatment for any mental health needs through Justice Health and/or their treatment provider.

3.7 A participant's treatment provider is responsible for identifying and notifying the Drug Court of any mental condition which could be affecting the participant's performance on his/her Drug Court program, and for obtaining any necessary consent to the revelation of such information to the Court.

3.8 The Drug Court Prosecutor is to inform the Drug Court Team of any incidents that come to the attention of the NSW Police Force that involve a participant, and which suggest the person is suffering a mental condition, and which suggest the participant may have become a danger to himself or herself, or to the community.

3.9 When a participant fails to comply with the recommended mental health treatment, the participant's treatment plan will be reviewed. The review will be conducted so as to assist the participant to fully comply with his or her recommended mental health treatment.

3.10 If a participant remains non-compliant with treatment, or if the non-compliance raises issues of the safety of the community or the participant, it is the responsibility of the participant's treatment provider and Justice Health to notify the DPP solicitor on the Drug Court team. If considered necessary, the DPP solicitor will then request that the participant's program be terminated.

# Policy 9: Drug and Alcohol Use by Participants

Last Reviewed December 2007

## Contents:

[1. Purposes of Policy](#)

[2. Definitions](#)

[3. Policy](#)

[3.1 Undertaking about any drug use](#)

[3.2 The manner and frequency of testing](#)

[3.3 Response to drug use](#)

[3.4 Therapeutic response to drug use](#)

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## 1. Purposes of Policy

1.1 To ensure early detection of participant drug use and a swift response by the Drug Court to such use. To promote program compliance and reduce the health risk to which each participant is exposed. To reduce the risk to the community of participant criminal conduct.

1.2 To ensure accuracy and consistency in testing for participant drug use.

## 2. Definitions

<b>Act</b>	means the Drug Court Act 1998.
<b>Case manager</b>	means the Probation and Parole Officer assigned to a participant.
<b>Drug Court program</b>	means the conditions that a person has accepted, having been dealt with under section 7A, 7B and 7C of the Act.
<b>Participant</b>	means a person dealt with under sections 7A, 7B and 7C of the Act
<b>Testing Nurse</b>	means a nurse employed by the Court or by a treatment provider to conduct and supervise testing for drug or alcohol use.
<b>Treatment provider</b>	means a participant's principal treatment provider.

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## 3. Policy

### 3.1 Undertaking about any drug use

3.1.1 At the commencement of his or her Drug Court program, each participant is to undertake to the Court that he or she:

- will not use any prohibited drug,
- will not drink alcohol at all in Phase One of the Drug Court Program,
- will not use alcohol or any other legal drug in a manner which may interfere with his or her ability to fully participate in a Drug Court program,
- will provide his or her urine, breath, sweat or saliva for analysis as and when directed to do so,
- will not use any prescribed medication unless it is prescribed for him or her by a doctor,
- will admit to using any prescribed or non-prescribed medication at the next drug test.

- will bring to the drug test location the packet/bottle and a copy of the prescription.
- will seek to avoid using or being prescribed any pain relief medication which contains codeine.
- will obtain a letter from any doctor or dentist who has prescribed such pain relief medication that no other pain relief medication would be appropriate.
- will admit to the use of pain relief medication at the time of drug testing even if this medication has NOT been prescribed. In all cases, the taking of medication must be discussed with a participant's treatment provider and when requested a participant will provide the treatment provider with the name and contact of the prescribing Doctor. Treatment providers will discuss, where necessary, the use of medication with the Case Manager.
- will, at the first opportunity, report any breaches of his or her program to the Drug Court, the case manager and the treatment provider.

3.1.2 The Drug Court may require a participant not to use a legal drug, including a drug prescribed for the participant by a doctor.

3.1.3 The Court regards a blood alcohol concentration of in excess of 0.05 as indicating the participant is consuming alcohol in a manner that may interfere with his or her ability to fully participate in a Drug Court program.

3.1.4 The Drug Court may also require a participant to undertake not to use any alcohol beyond Phase One of the program.

3.1.5 Prior to commencing Phase Two of the program, the participant must discuss with his or her counsellor responsible alcohol consumption, ie, "controlled drinking".

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### **3.2 The manner and frequency of testing**

3.2.1 The Drug Court may use any reliable means to detect drug use, including urine, breath, sweat, saliva or hair testing that is appropriate in the circumstances of the participant.

3.2.2 If directed by the Drug Court or the Registrar, the participant may be required to undertake an instant drug test. The instant test may be referred to the laboratory for confirmation.

3.2.3 A participant may be tested for drug and/or alcohol use on a random and/or a regular basis.

3.2.4 Generally, participants are to be tested:

- During Phase One - a minimum of three times per week, on a pre-programmed basis, which minimises the gap between tests.
- During Phases Two and Phase Three - a minimum of two times per week, on a programmed basis, which minimises the gaps between tests.
- During the final four weeks of Phase Three – three times per week as for Phase One, and this testing will include testing for traces of drugs.

3.2.5 The Court may vary the frequency and/ or nature of testing where appropriate, depending on the level of the participant's compliance with his or her program.

3.2.6 Testing for drug use is to be supervised to prevent the provision of a false sample. Where possible, supervision is to be by means of direct personal observation.

3.2.7 When a participant is unable to attend for a drug test, or the participant has attended and cannot provide a sample, the Registrar or the case manager can approve alternate arrangements, which may include a drug test being taken by the treatment provider, case manager or a medical practitioner, or attending the registry between 9am and 10am the next day.

3.2.8 Failure to attend for drug testing as required, approved, or directed is a breach of program.

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### **3.3 Response to drug use**

3.3.1 Drug use is a breach of program, and the Drug Court will respond in a therapeutic way to that drug use at the earliest opportunity (see paragraph 3.4 below).

3.3.2 Drug use, or failure to provide a sample for testing, is a breach of program, and will result in a sanction or sanctions being imposed.

3.3.3 A substantially increased sanction will be imposed for any drug use detected which has not been admitted to a treatment provider, case manager and to the Court at the earliest opportunity.

3.3.4 Providing a false sample, tampering with a sample, or attempting to manipulate the taking or administration of any form of drug testing is a very serious breach of program and may result in the termination of the participant's Drug Court program.

3.3.5 When a participant admits a drug use to a case manager or treatment provider, or fails to provide a sample for testing when required, the case manager and treatment provider are to liaise as soon as possible, and determine and apply the appropriate therapeutic response. The person to whom the admissions is made is to include all such admissions in the report to the Court, and the participant must be directed to attend court within 7 days of the admission. The Registrar is to be informed immediately of any direction given to attend court.

3.3.6 When a participant admits a drug use to a testing nurse, or fails to provide a sample for testing when required, the nurse is to inform the Registrar. The Registrar is to determine the appropriate therapeutic response after consulting the Court's records and if necessary the Clinical Nurse Consultant of the Drug Court team.

3.3.7 If a participant fails to attend for drug testing when required, the testing nurse is to notify the Registrar by email, facsimile or telephone. If appropriate the Registrar is to inform the Court.

3.3.8 If a participant is detected or suspected of:

- providing a false sample or attempting to do so, or
  
- tampering with the testing mechanism or sample, or,

- if a drug use is detected which has not been admitted at the earliest opportunity, the person supervising the test is to notify the Registrar immediately of the circumstances of the incident, and the Registrar will direct the participant to attend court immediately, or the next sitting day.

3.3.9 If a participant misses two consecutive drug tests, or has used illicit drugs and is not due to return to Court for 7 days or more, then the participant is to be directed to attend court immediately, or the next sitting day. The case manager, the treatment provider or the Registrar, upon becoming aware of such circumstances, may make such a direction.

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### **3.4 Therapeutic response to drug use**

3.4.1 The following principles are to be applied:

- If the drug use indicates a participant who is in physical danger because of a relapse into drug use, immediate action is required.
- If the intoxication is significant immediate medical intervention should be the highest priority.
- If the drug use is indicative of a participant's ongoing struggle with addiction, then support in treatment is the most therapeutic approach.
- If the drug use is indicative of the failure of the present treatment plan, then the Court's intervention in treatment is warranted.
- If the drug use is indicative of someone accepting their level of drug use, or whose drug use could put the participant or the community at risk, the court's early intervention is warranted.

# Policy 10: Offences Committed by Participants

Last Reviewed March 2007

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## 1. Purposes of Policy

1.1 To outline an appropriate response to offences committed by participants, with a view to protecting the public and maintaining public confidence in the Drug Court.

1.2 To reinforce the requirement of participants on a Drug Court program to remain of good behaviour.

## 2. Definitions

<b>Act</b>	means the Drug Court Act 1998.
<b>Case manager</b>	means a Community Offender Service officer assigned to a participant.
<b>Drug Court</b>	means the Drug Court of N.S.W.
<b>Drug Court program</b>	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<b>Drug Court team</b>	means a Drug Court judge, the Registrar, the Legal Aid Commission (LAC) solicitor, the solicitor from the Office of the Director of Public Prosecutions (ODPP), the Police Prosecutor, the Community Offender Service coordinator and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternate for each.
<b>COS</b>	means the Community Offender Service.
<b>Participant</b>	means a "drug offender" as defined in the Drug Court Act 1998.

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## 3. Policy

### 3.1. Undertaking to be of good behaviour

3.1.1 At the commencement of his or her Drug Court program, each participant is to make the following undertakings, amongst others, to the Court:

*"I must be of good behaviour. I must commit no criminal offence.  
I must inform the Drug Court team if I am charged with a crime, or receive a Court Attendance Notice (or any other court process) alleging that I have committed a crime.*



*I must be honest and not attempt to deceive the Drug Court or any member of the Drug Court team, my treatment provider or Case Manager.  
I must report any breach of my program at the first opportunity I have to do so to my Case Manager, treatment provider and the Drug Court.”*

3.1.2 Section 10 of the Act<sup>1</sup> empowers the Court to act if satisfied that an offender has failed to comply with his or her program. Section 10(2) provides that it is a breach of program to be *charged before a court* with one of the offences mentioned in s 5(2) - eg violent conduct, sexual assault or strictly indictable supply of drugs.

### **3.2. Procedure on notification of an offence to the Court**

3.2.1 When informed that a participant has been charged with an offence, the Court will ask the Legal Aid solicitor to advise the court if the participant intends to:

- admit or deny that the charge has been preferred
- admit or deny that the offence has been committed
- ask that the charge be dealt with at the Drug Court or elsewhere.

3.2.2 If the participant intends to plead guilty, the Legal Aid solicitor should advise the Drug Court Police Prosecutor by email or in writing. The Drug Court Police Prosecutor will then arrange for the new charge/s to be brought before the Drug Court on the participant's next court day.

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3.2.3 The Court will conduct whatever inquiry is necessary to determine on the balance of probabilities whether the participant has failed to comply with his or her program because of the commission of, or being charged before a court with an offence.

3.2.4 When satisfied that a participant has failed to comply with his or her program because of the commission of, or being charged before a court with, an offence

- Referred to in s 5(2), or
- involving serious harm or the risk of serious harm to a member of the community
- the repetition of a serious offence of a similar nature to an offence for which the participant was referred to the Drug Court

the Court **will** conduct a hearing to consider the question of “unacceptable risk” to the community of re-offending.

3.2.5 When satisfied that a participant has failed to comply with his or her program because of the commission of an offence other than an offence mentioned in 3.2.3 above, the Court, on its own motion, or on application of a member of the Drug Court Team, **may** conduct a hearing to consider the question of “unacceptable risk” under s10 (1)(b).

3.2.6 While awaiting an “unacceptable risk” hearing the Court may either

- refuse bail on the fresh charge,
- require the participant to be held in custody serving any sanctions, or
- allow the participant to continue his or her program, either unchanged, or with added conditions (such as more intensive supervision).

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### **3.3. Sanction proceedings for breach of program by commission of criminal offence**

3.3.1 The imposition of a sanction where a Drug Court Program has been breached by the commission of an offence does not create a situation where the law of “double jeopardy”

would prevent the subsequent imposition of a penalty at law for the offence.<sup>ii</sup> See Crown Solicitor's advising. The Court does not regard a decision in sanction proceedings to be a "decision of a court in proceedings for a criminal offence".<sup>iii</sup> See Crimes (Administration of Sentences) Act 1999 s.63 relating to correctional centre offences.

3.3.2 Generally, the Court will conduct sanction proceedings as soon as possible after the commission of any offence committed on a program.

### **3.4 Special Conditions**

3.4.1 If the Court does not find the risk unacceptable, despite the commission of an offence on program, it may include in the participant's program a condition that a further offence, or further offence of a particular type, will demonstrate that offender's further participation in the program poses an unacceptable risk to the community. If such an order is made and a further offence is committed, the participant's program may be terminated without further hearing.

### **3.5 Penalties for offences committed in breach of program**

3.5.1 The commission of an offence by a participant is a serious breach of conditional liberty.

3.5.2 Section 15(3) of the Act enables the Drug Court to impose a consecutive sentence for any offence committed by a person whilst on a program.

3.5.3 In sentencing a person following the termination of a program the Court is required to take into consideration the nature of the person's participation on the program and any sanctions imposed on the participant during the program.<sup>iv</sup> Drug Court Act 1998 s.12(2)

3.5.4 The Court will ordinarily backdate the final sentence to reflect custodial sanctions served, and will take other forms of sanction into consideration.

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## **4. Arrest Procedures for Participants**

4.1 Participants may be wanted by police officers for offences committed on program, or for offences committed prior to commencing the program. Where possible, contact with the participant in relation to being wanted by police for questioning will be made through Legal Aid.

4.1.2 If any Drug Court Team member becomes aware that police are seeking contact with a participant, then the Drug Court Prosecutor and Legal Aid are to be notified as soon as possible.

### **4.2. Arrest for Pre-Program Offences**

4.2.1 The Drug Court Prosecutor is to take steps to encourage police to notify the Drug Court Prosecutor when a Drug Court Participant is wanted by police. Arrests for 'pre-program' matters may jeopardise the progress of a participant's treatment plan, and can result in missed pharmacotherapy dosing or other appointments. For this reason, it is appropriate for the Drug Court Team, in certain circumstances, to advocate that participants *NOT* be arrested by police but be dealt with as outlined in paragraphs 4.2.2 to 4.3.3.

4.2.2 Upon notification by police, the Drug Court Prosecutor will notify Legal Aid of the details of the allegations and possible charges, the informant's name and station.

4.2.3 Legal Aid will obtain instructions as to whether the participant wishes to be interviewed by police.

4.2.4 Where the participant **does not** wish to be interviewed, or wishes to record a refusal to be interviewed, Legal Aid will provide written confirmation of this to the Drug Court Prosecutor and the informant.

4.2.5 In the above circumstances, the Drug Court Prosecutor will contact the informant and recommend proceeding by way of Future Court Attendance Notice (FCAN).

4.2.6 If this recommendation is accepted, an appointment will be made for the participants to attend at the informants police station for service of the FCAN on the participant. The time of this appointment will be agreed after consultation between the informant, the Drug Court Prosecutor, the Legal Aid Solicitor and the participant.

4.2.7 Where the participant **does** wish to attend to be interviewed by police, an appointment will be made for the participant's attendance at the informant's police station. The time of this appointment will be agreed after consultation between the informant, the Drug Court Prosecutor, the Legal Aid Solicitor and the participant.

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### **4.3. Arrest for On Program Offences**

4.3.1 If the Drug Court Prosecutor becomes aware that a participant is wanted by police for an "on program" offence, the Drug Court Prosecutor may recommend to the police informant that the procedure outlined in 4.2 be followed (i.e. the recommended procedure for pre-program allegations) as an alternative to arrest.

4.3.2. When making such a recommendation, the Drug Court Prosecutor will take into consideration the seriousness of the alleged offence, the participant's current progress on the program, the likelihood of bail, and the risk of contamination of the investigation.

4.3.3 If a Drug Court participant is arrested or charged with an offence, without prior notification to the Drug Court Prosecutor, either for an on program or pre-program offence, the Drug Court Prosecutor will notify Legal Aid immediately if possible, and will notify the Drug Court Team at the next Team Meeting.

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## **<sup>1</sup>10. Proceedings for non-compliance with program**

(1) If it is satisfied, on the balance of probabilities, that a drug offender has failed to comply with his or her program, the Drug Court:

(a) may, in accordance with the program, impose any one or more of the sanctions specified in the program as sanctions that the Court may impose on the drug offender, or

(b) if it is also satisfied, on the balance of probabilities, that the offender is unlikely to make any further progress in the program or that the offender's further participation in the program poses an unacceptable risk to the community that the person may re-offend --may decide to terminate the program."

ii See Crown Solicitor's advising.

iii See Crimes (Administration of Sentences) Act 1999 s.63 relating to correctional centre offences.

iv Drug Court Act 1998 s.12(2)

# Policy 11: Employment

Last Reviewed May 2006

## 1. Purpose of Policy

1.1 To clarify the circumstances under which participants can enter paid employment.

## 2. Definitions

<b>Act</b>	means the Drug Court Act 1998
<b>Case manager</b>	means a Community Offender Service officer assigned to a participant.
<b>Case management plan</b>	means a plan for supervision of a participant by the Community Offender Service.
<b>Drug Court</b>	means the Drug Court of N.S.W.
<b>Drug Court program</b>	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<b>Drug Court team</b>	means Drug Court judge, the Registrar, the Legal Aid Commission (LAC) solicitor, the solicitor from the Office of the Director of Public Prosecutions (ODPP), the Police Prosecutor, the Community Offender Service (COS) coordinator, the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternate for each.
<b>COS</b>	means the Community Offender Service.
<b>Participant</b>	means a “drug offender” as defined in the Drug Court Act 1998.
<b>Treatment plan</b>	means a plan for therapeutic intervention to address an participant’s drug dependency and related health needs.
<b>Treatment provider</b>	means a participant’s principal ongoing treatment provider.

## 3. Policy

**3.1** As part of its role in facilitating the reintegration of offenders into the community, the Court encourages the participant to make every effort to achieve financial, social and domestic stability. [see Policy #7 “Programs Goals and Measures”]. The Court encourages participants to gain qualifications that may lead to worthwhile employment, or, if fully engaged in child care, to increase their parenting, living and social skills. When ready, participants will be encouraged to move into paid employment, particularly if the employment is likely to lead to long-term employment.

**3.2** The Court will seek to protect the public from harm while participants are on conditional liberty from prison. The Court is aware that there could be a legitimate concern that some Drug Court participants pose an unacceptable risk in employment. Whilst all potential employers have the opportunity to make diligent inquiries into the antecedents of applicants for employment, it may not be reasonable to expect that all employers, (for example small businesses) have the resources to do so. Accordingly the Court has a role in supervising employment arrangements.

**3.3** The Court also understands that many people in the community have prejudices against people who are addicted to illicit drugs or who have a history of criminal offending, so the Court will work to ensure that prejudice of this nature does not jeopardise the rehabilitation of participants.

**3.4** It is part of the role of the Community Offender Service to supervise participants –

- to ensure containment and compliance within the treatment plan
- to promote reintegration into the community

Therefore it is a condition of the program, and included in the undertaking, that Drug Court participants will inform their Community Offender Service case manager before any paid employment is undertaken.

**3.5** The Community Offender Service will then supervise that employment as it would for other offenders who are on conditional release from prison, (eg Home Detention or parole). The extent to which this supervision will involve liaison with an employer will depend on the judgment of that service in the individual case, and in accordance with the Community Offender Service policy.

## DRUG COURT OF NEW SOUTH WALES

<i>Policy 12</i>	<b>Selection of participants</b>
<i>Last Reviewed</i>	May 2012

### PURPOSES OF POLICY

- To ensure that the process of selection of participants for Drug Court programs is transparent, equitable and efficient.
- To enable participants to be selected for programs expeditiously, so as to reduce delay which can interfere with the effectiveness of treatment.
- To enable referring courts to finalise cases of offenders who are not accepted by the Drug Court efficiently and expeditiously.

### DEFINITIONS

<i>Act</i>	means the Drug Court Act 1998
<i>Applicant</i>	means a person who is willing to be referred to the Drug Court under Section 6 of the Drug Court Act 1998
<i>Drug Court</i>	means the Drug Court of N.S.W.
<i>Drug Court program</i>	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<i>Drug Court team</i>	means a Drug Court judge, the Registrar, the solicitor from the Legal Aid Commission, the solicitor from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Probation and Parole co-ordinator and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each.
<i>Participant</i>	means a “drug offender” as defined in the Drug Court Act 1998

### POLICY

#### 1 Referral of applicants

- 1.1 To be eligible to enter a Drug Court program a person must meet the criteria set out in Section 5 of the Drug Court Act 1998, and clause 5 of the Drug Court Regulation.
- 1.2 If a person appearing before a referring Court appears eligible and willing to take part in a Drug Court program, that Court must refer the person to the Drug Court<sup>1</sup>.

- 1.3 If a sentencing Judge or Magistrate directs that a person be referred to the Drug Court, the Court Officer at the referring court advises the Drug Court registry by telephone of the name and case details of the applicant.
- 1.4 As the program resources are limited, a ballot may need to be held to determine which referred offenders can be considered for a Drug Court program<sup>2</sup>.

## **2 The manner of selection**

- 2.1 Once each week the Registrar, in consultation with the Drug Court team, will determine the number of program places available for females and for males.
- 2.2 If there are sufficient places available, all applicants will be accepted.
- 2.3 If there are more referred applicants than available places, the names of apparently eligible applicants for entry will be placed in a ballot.
- 2.4 The Registrar will not include in the ballot the name of any applicant who has been referred to the Drug Court by a Court that is not a referring Court as defined in the Regulation.
- 2.5 The Registrar will not include in the ballot the name of an applicant who appears to have had their case or cases adjourned to a referring Court for the sole purpose of gaining access to a Drug Court program. This clause does not prevent a participant being included in the ballot who has been granted an appropriate adjournment to a referring court (for example, to allow the adjourned matters to link up with other matters properly at a referring court).
- 2.6 A computer generated random selection will be made from the pool of eligible applicants to meet the number of available places.
- 2.7 If there are sufficient places available for all applicants of a particular gender, applicants of that gender may be accepted without being placed in a ballot, even though a ballot may be necessary for applicants of the other gender.

### **Applicants who may not be “eligible” offenders**

- 2.8 If it is apparent to the solicitor for the ODPP or the Police Prosecutor that a referred person is not an eligible offender, the ODPP solicitor or Police Prosecutor will advise the Registrar and the solicitor for the LAC of that fact as soon as possible, preferably by email.
- 2.9 The Registrar will submit that information, together with any available documents, to the Judge in chambers or in court. The Judge will then determine whether or not the referred person should be included in any ballot conducted.

- 2.10** The Judge may also decide that the referred person's application to the Drug Court be deferred to a later ballot, so as to allow any necessary information regarding eligibility to be obtained.
- 2.11** If it is later found that a referred person has been incorrectly excluded from the ballot, then the judge may determine that the offender (if still unsentenced) be included in a subsequent ballot.

**Applicants who may not be "appropriate"<sup>3</sup>**

**Pre-ballot:**

- 2.12** To conserve program resources, the Drug Court will more closely scrutinise the question of appropriateness for a Drug Court program when the number of applicants and/or the number of participants currently on program is high. To allow a referred person, who is apparently inappropriate, to have an opportunity in the ballot when that opportunity is at the direct expense of another (who appears to be eligible and appropriate) is unjust.
- 2.13** Previous participation in a Drug Court program, or the previous opportunity of undertaking a Compulsory Drug Treatment Order, is relevant to the question of being "appropriate". This factor is to be taken into account when the number of applicants and/or the number of participants currently on program is high. See also paragraph 6 of this policy.
- 2.14** If it is apparent to the solicitor for the ODPP or the Police Prosecutor that a referred person may not be an "appropriate" person, given his or her antecedents, the ODPP solicitor or Police Prosecutor will advise the Registrar and the solicitor for the LAC of that fact as soon as possible, preferably by email.
- 2.15** The Registrar will submit that information, together with any available documents, to the Judge in chambers or in court. The Judge will then determine whether or not the referred person should be included in any ballot conducted.
- 2.16** The Judge may also decide that the referred person's application to the Drug Court be deferred to a later ballot, so as to allow any necessary information regarding appropriateness to be obtained.
- 2.17** If it is later found that a referred person has been incorrectly excluded from the ballot, then the judge may determine that the offender (if still unsentenced) be included in a subsequent ballot.

**Post-ballot:**

- 2.18** Every applicant who is successful in the ballot will be assessed by a solicitor for the ODPP as to whether he or she is an "appropriate" person for a Drug Court program.



- 2.19** In respect of each applicant, the solicitor for the ODPP may submit that the applicant is;
- an “appropriate” person,
  - not an “appropriate” person, or,
  - a person who may or may not be “appropriate”, and requests that the court determine that issue.
- 2.20** The Court will make a determination as to “appropriateness”. That decision may be made either immediately or on a later date.
- 2.21** The Court may find that;
- on the information available, the person is appropriate for a Drug Court program.
  - on the information available, the person is not appropriate for a Drug Court program.
  - the person is an appropriate person, but only if additional special conditions are added to his or her program plan.
  - a hearing is to be held to determine appropriateness. If a hearing is required, the Court will hear submissions and determine whether the Court would be assisted by the preparation of a psychiatric report.

### **3 *Aboriginal or Torres Strait Islander referrals***

- 3.1** The Drug Court acknowledges the overrepresentation of Aboriginal persons in the criminal justice system, and the proven need to improve access to such programs as the Drug Court program for Aboriginal or Torres Strait Islander (“ATSI”) identifying offenders. The recognition and addressing of special needs is specifically authorised by section 21 of the *Anti Discrimination Act 1977*.
- 3.2** To increase the opportunity for ATSI identifying offenders to take part in a Drug court program, the Registrar and the Drug Court team will have regard to the number of ATSI identifying applicants when determining the number of program places available. The number of available places will be increased by one place in each gender for which there are ATSI identifying offenders.
- 3.3** The computer generated random selection will then allocate places. That selection will allocate a minimum of one place to an ATSI identifying offender in each gender for which there are ATSI identifying offenders.

### **4 *Applicants who are selected***

- 4.1** The Registrar will notify the referring Court if an applicant has been accepted, and request that Court to remand the applicant to the Drug Court on a specified date within the next week.

## **5 Applicants who are not selected**

- 5.1** The Drug Court will not accept an applicant who is not selected in accordance with clause 2 or 3.
- 5.2** The Registrar will notify the referring Court if an applicant has been unsuccessful in a ballot, or if the applicant's referral has been deferred.
- 5.3** An applicant who was not selected in a ballot will not be placed in a subsequent ballot unless the applicant is referred to the Drug Court in respect of an offence other than one related to the unsuccessful ballot.

## **6 Previous participants**

- 6.1** The Drug Court acknowledges that a drug-addicted person may need many episodes of treatment to achieve long-term recovery.
- 6.2** As the resources of the Drug Court are limited, preference will be given to applicants who have not been Drug Court participants previously.
- 6.3** An applicant who has previously been a Drug Court participant is not an appropriate person for a Drug Court program if it is **less than three years** since final sentence was imposed in relation to the participant's last Drug Court program, or if it is **less than three years** since the completion of the non-parole period of any final sentence that was imposed (not suspended), whichever is the later.

## **7 Previously refused applicants**

- 7.1** To take part in a Drug Court program, the Drug Court must be satisfied that, having regard to the person's antecedents, it would be appropriate for the person to participate in a Drug Court program<sup>4</sup>.
- 7.2** From time to time the Drug Court conducts hearings and makes determinations as to whether individuals are appropriate for a Drug Court Program.
- 7.3** If an applicant referred to the Drug Court has, within **two years** of the date of referral, been found to **not** be an appropriate person under s 7A(2) [or the previous section, s 7(2)], the applicant is not an appropriate person for a Drug Court program, and the Registrar will notify the referring Court that the applicant has not been accepted.

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<sup>1</sup> Section 6 Drug Court Act 1998

<sup>2</sup> Section 7A(2)(d) provides that there must be "facilities to supervise and control the person's participation in such a program" available before a person can be sentenced under the Act.

<sup>3</sup> Section 7A(2)(c) provides that the Drug Court may place a person on a Drug Court program if "...having regard to the person's antecedents, it would be appropriate for the person to participate in a program"

<sup>4</sup> Section 7A(2)(c)

## DRUG COURT OF NEW SOUTH WALES

<i>Policy 12</i>	<b>Selection of participants</b>
<i>Last Reviewed</i>	May 2012

### PURPOSES OF POLICY

- To ensure that the process of selection of participants for Drug Court programs is transparent, equitable and efficient.
- To enable participants to be selected for programs expeditiously, so as to reduce delay which can interfere with the effectiveness of treatment.
- To enable referring courts to finalise cases of offenders who are not accepted by the Drug Court efficiently and expeditiously.

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<i>Drug Court team</i>	means a Drug Court judge, the Registrar, the solicitor from the Legal Aid Commission, the solicitor from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Probation and Parole co-ordinator and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each.
<i>Participant</i>	means a “drug offender” as defined in the Drug Court Act 1998

### POLICY

#### 1 Referral of applicants

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- 1.2 If a person appearing before a referring Court appears eligible and willing to take part in a Drug Court program, that Court must refer the person to the Drug Court<sup>1</sup>.

- 1.3 If a sentencing Judge or Magistrate directs that a person be referred to the Drug Court, the Court Officer at the referring court advises the Drug Court registry by telephone of the name and case details of the applicant.
- 1.4 As the program resources are limited, a ballot may need to be held to determine which referred offenders can be considered for a Drug Court program<sup>2</sup>.

## **2 The manner of selection**

- 2.1 Once each week the Registrar, in consultation with the Drug Court team, will determine the number of program places available for females and for males.
- 2.2 If there are sufficient places available, all applicants will be accepted.
- 2.3 If there are more referred applicants than available places, the names of apparently eligible applicants for entry will be placed in a ballot.
- 2.4 The Registrar will not include in the ballot the name of any applicant who has been referred to the Drug Court by a Court that is not a referring Court as defined in the Regulation.
- 2.5 The Registrar will not include in the ballot the name of an applicant who appears to have had their case or cases adjourned to a referring Court for the sole purpose of gaining access to a Drug Court program. This clause does not prevent a participant being included in the ballot who has been granted an appropriate adjournment to a referring court (for example, to allow the adjourned matters to link up with other matters properly at a referring court).
- 2.6 A computer generated random selection will be made from the pool of eligible applicants to meet the number of available places.
- 2.7 If there are sufficient places available for all applicants of a particular gender, applicants of that gender may be accepted without being placed in a ballot, even though a ballot may be necessary for applicants of the other gender.

### **Applicants who may not be “eligible” offenders**

- 2.8 If it is apparent to the solicitor for the ODPP or the Police Prosecutor that a referred person is not an eligible offender, the ODPP solicitor or Police Prosecutor will advise the Registrar and the solicitor for the LAC of that fact as soon as possible, preferably by email.
- 2.9 The Registrar will submit that information, together with any available documents, to the Judge in chambers or in court. The Judge will then determine whether or not the referred person should be included in any ballot conducted.

- 2.10** The Judge may also decide that the referred person's application to the Drug Court be deferred to a later ballot, so as to allow any necessary information regarding eligibility to be obtained.
- 2.11** If it is later found that a referred person has been incorrectly excluded from the ballot, then the judge may determine that the offender (if still unsentenced) be included in a subsequent ballot.

**Applicants who may not be "appropriate"<sup>3</sup>**

**Pre-ballot:**

- 2.12** To conserve program resources, the Drug Court will more closely scrutinise the question of appropriateness for a Drug Court program when the number of applicants and/or the number of participants currently on program is high. To allow a referred person, who is apparently inappropriate, to have an opportunity in the ballot when that opportunity is at the direct expense of another (who appears to be eligible and appropriate) is unjust.
- 2.13** Previous participation in a Drug Court program, or the previous opportunity of undertaking a Compulsory Drug Treatment Order, is relevant to the question of being "appropriate". This factor is to be taken into account when the number of applicants and/or the number of participants currently on program is high. See also paragraph 6 of this policy.
- 2.14** If it is apparent to the solicitor for the ODPP or the Police Prosecutor that a referred person may not be an "appropriate" person, given his or her antecedents, the ODPP solicitor or Police Prosecutor will advise the Registrar and the solicitor for the LAC of that fact as soon as possible, preferably by email.
- 2.15** The Registrar will submit that information, together with any available documents, to the Judge in chambers or in court. The Judge will then determine whether or not the referred person should be included in any ballot conducted.
- 2.16** The Judge may also decide that the referred person's application to the Drug Court be deferred to a later ballot, so as to allow any necessary information regarding appropriateness to be obtained.
- 2.17** If it is later found that a referred person has been incorrectly excluded from the ballot, then the judge may determine that the offender (if still unsentenced) be included in a subsequent ballot.

**Post-ballot:**

- 2.18** Every applicant who is successful in the ballot will be assessed by a solicitor for the ODPP as to whether he or she is an "appropriate" person for a Drug Court program.

- 2.19** In respect of each applicant, the solicitor for the ODPP may submit that the applicant is;
- an “appropriate” person,
  - not an “appropriate” person, or,
  - a person who may or may not be “appropriate”, and requests that the court determine that issue.
- 2.20** The Court will make a determination as to “appropriateness”. That decision may be made either immediately or on a later date.
- 2.21** The Court may find that;
- on the information available, the person is appropriate for a Drug Court program.
  - on the information available, the person is not appropriate for a Drug Court program.
  - the person is an appropriate person, but only if additional special conditions are added to his or her program plan.
  - a hearing is to be held to determine appropriateness. If a hearing is required, the Court will hear submissions and determine whether the Court would be assisted by the preparation of a psychiatric report.

### **3 *Aboriginal or Torres Strait Islander referrals***

- 3.1** The Drug Court acknowledges the overrepresentation of Aboriginal persons in the criminal justice system, and the proven need to improve access to such programs as the Drug Court program for Aboriginal or Torres Strait Islander (“ATSI”) identifying offenders. The recognition and addressing of special needs is specifically authorised by section 21 of the *Anti Discrimination Act 1977*.
- 3.2** To increase the opportunity for ATSI identifying offenders to take part in a Drug court program, the Registrar and the Drug Court team will have regard to the number of ATSI identifying applicants when determining the number of program places available. The number of available places will be increased by one place in each gender for which there are ATSI identifying offenders.
- 3.3** The computer generated random selection will then allocate places. That selection will allocate a minimum of one place to an ATSI identifying offender in each gender for which there are ATSI identifying offenders.

### **4 *Applicants who are selected***

- 4.1** The Registrar will notify the referring Court if an applicant has been accepted, and request that Court to remand the applicant to the Drug Court on a specified date within the next week.

## **5 Applicants who are not selected**

- 5.1** The Drug Court will not accept an applicant who is not selected in accordance with clause 2 or 3.
- 5.2** The Registrar will notify the referring Court if an applicant has been unsuccessful in a ballot, or if the applicant's referral has been deferred.
- 5.3** An applicant who was not selected in a ballot will not be placed in a subsequent ballot unless the applicant is referred to the Drug Court in respect of an offence other than one related to the unsuccessful ballot.

## **6 Previous participants**

- 6.1** The Drug Court acknowledges that a drug-addicted person may need many episodes of treatment to achieve long-term recovery.
- 6.2** As the resources of the Drug Court are limited, preference will be given to applicants who have not been Drug Court participants previously.
- 6.3** An applicant who has previously been a Drug Court participant is not an appropriate person for a Drug Court program if it is **less than three years** since final sentence was imposed in relation to the participant's last Drug Court program, or if it is **less than three years** since the completion of the non-parole period of any final sentence that was imposed (not suspended), whichever is the later.

## **7 Previously refused applicants**

- 7.1** To take part in a Drug Court program, the Drug Court must be satisfied that, having regard to the person's antecedents, it would be appropriate for the person to participate in a Drug Court program<sup>4</sup>.
- 7.2** From time to time the Drug Court conducts hearings and makes determinations as to whether individuals are appropriate for a Drug Court Program.
- 7.3** If an applicant referred to the Drug Court has, within **two years** of the date of referral, been found to **not** be an appropriate person under s 7A(2) [or the previous section, s 7(2)], the applicant is not an appropriate person for a Drug Court program, and the Registrar will notify the referring Court that the applicant has not been accepted.

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<sup>1</sup> Section 6 Drug Court Act 1998

<sup>2</sup> Section 7A(2)(d) provides that there must be "facilities to supervise and control the person's participation in such a program" available before a person can be sentenced under the Act.

<sup>3</sup> Section 7A(2)(c) provides that the Drug Court may place a person on a Drug Court program if "...having regard to the person's antecedents, it would be appropriate for the person to participate in a program"

<sup>4</sup> Section 7A(2)(c)

## Policy 13: Travel by participants

Commenced: October 2009

### 1. Purposes of Policy

- The Drug Court accepts that allowing a participant to travel intrastate, or even interstate, in some circumstances can be important in the achievement of rehabilitation. The Drug Court may, for example, grant travel permission for a participant to attend a funeral, visit a sick relative, or collect a child from another location.
- Similarly, allowing a participant to visit a close relative or someone who is very significant in their life who is in gaol may also assist in achieving rehabilitation.

### 2. Definitions

<b>Act</b>	means the Drug Court Act 1998
<b>Case Manager</b>	means a Community Offender Service officer assigned to a participant
<b>Drug Court</b>	means the Drug Court of N.S.W.
<b>Drug Court program</b>	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<b>Drug Court team</b>	means a Drug Court judge, the Registrar, the solicitor from the Legal Aid Commission, the solicitor from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Probation and Parole co-ordinator and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each.
<b>Participant</b>	means a "drug offender" as defined in the Drug Court Act 1998

### 3. Policy

#### *Travel*

3.1 Any travel outside the Sydney Metropolitan area must be approved by the Drug Court in advance, even if no overnight stay is required.

3.2 Each individual trip requires specific approval. Approval will depend upon the current stability of the participant, the importance or validity of the purpose of the trip, an assessment of the difficulty involved in the planned travel, and whether adequate and proper arrangements can be put in place.

3.3 The participant is to complete the Drug Court's "*Travel Check List*" and discuss the details with his or her Case Manager. The Travel Check List addresses such issues as travel times and mode of travel, urinalysis arrangements, contact addresses and phone numbers, and any pharmacotherapy arrangements required.

3.4 Participants considering any interstate or intrastate travel should not purchase plane or other tickets prior to approval being discussed with the Drug Court.

3.5 Interstate travel will only be approved in exceptional circumstances, and overseas travel



will not be approved.

### ***Gaol visits***

4.1 The Drug Court accepts that it may be appropriate for a participant to be allowed to visit a person who is in a NSW gaol. The prisoner to be visited must be a close relative or a person who is significant in the participant's life.

4.2 The participant will be required to complete the "*Travel Check List*" referred to above if the visit is interstate or in a regional location.

4.3 The Drug Court may support, or not oppose, the participant visiting a prisoner, however such approval does not in any way indicate that the Governor of the Corrective Centre will or should approve the visit.

4.4 The participant will be required to provide his or her Case Manager with the details of the prisoner to be visited. The Case Manager will then contact the Governor of the Corrective Centre and advise the Governor of the Drug Court's support for the visit, and of the participant's progress on the Drug Court program.

4.5 The Drug Court may decide to support a gaol visit as a "once only" visit, or express support for ongoing visits. The Drug Court can withdraw support for gaol visits at any time.

4.6 The Drug Court will not approve any visits to a gaol interstate.

# Policy 14: Parole for Participants of the Compulsory Drug Treatment Correctional Centre

Commenced: June 2010

## Purpose of Policy

- To define procedures regarding the consideration of parole for offenders who are subject to a Compulsory Drug Treatment Order (CDTO) at the Compulsory Drug Treatment Centre (CDTCC).
- To define the expectations of Drug Court, which constitutes the Parole Authority for offenders on a CDTO, as to the completion of the program prior to a grant of parole being considered.

## Definitions

<i>Act</i>	means the Drug Court Act 1998
<i>Case Coordinator</i>	means delegated CDTCC member of the multi-disciplinary team
<i>CDTCC</i>	means the Compulsory Drug Treatment Correctional Centre
<i>CDTO</i>	means Compulsory Drug Treatment Order
<i>CDTP</i>	means Compulsory Drug Treatment Program
<i>CDTP Participant</i>	means an offender who has received a CDTO
<i>Drug Court</i>	means the Drug Court of N.S.W.
<i>Multi-disciplinary team</i>	means the Director (or delegate) of the CDTCC, a probation and parole officer and an appointee of Justice Health
<i>Registrar</i>	means the Registrar of the Drug Court

## Policy

### 1 BACKGROUND

1.1 CDTP participants have a unique and special opportunity to achieve rehabilitation. In addition to intensive programs at the CDTCC, participants have early access to freedoms in the community to attend to education, employment, community and social activities.

1.2 The CDTP not only provides support to participants during the currency of the order, but also after the expiry of the order, including when released to parole.

1.3 With such opportunity comes a responsibility for participants to fully engage in the CDTP, and to maximise the benefits of the program for both the participant and the community.

1.4 Participants are expected to complete their total sentence by way of CDTO, however parole will be considered if circumstances suggest parole is more appropriate.

### 2 PAROLE FOR OFFENDERS ON A CDTO

2.1 The Drug Court is the parole authority for offenders in compulsory drug treatment detention. Section 106T Crimes (Administration of Sentences) Act 1999 Exercising that

jurisdiction, the Drug Court applies the ordinary law in relation to the granting of parole, including the general duty that the release of the offender is appropriate in the public interest. Section 135 Crimes (Administration of Sentences) Act 1999 To meet the public interest need, and having regard to the statutory considerations regarding parole Section 135 Crimes (Administration of Sentences) Act 1999, including the need to be satisfied of the likelihood of the offender being able to adapt to normal lawful community life, the Drug Court will expect the offender:

- To have complied with the CDTO and advanced through the CDTP.
- To have made a genuine effort to engage in the treatment programs of the CDTP.
- To have completed as many Stages of the CDTP as the length of their sentence reasonably allows.
- If their sentence is of sufficient length, to have advanced to Stage 3 and completed six continuous successful months in the community on Stage 3.
- To have achieved a secure and stable income, with a clear expectation of being engaged in paid employment (unless either in full-time education or requiring the support of a Disability Support Pension).
- To have suitable and approved accommodation.

### **3 SENTENCES OF THREE YEARS OR LESS**

3.1 When a sentencing court imposes a sentence of three years or less, being a sentence that has a non-parole period, it must make an order directing the release of the offender on parole at the end of the non-parole period (Section 50 *Crimes (Sentencing Procedures) Act 1999*).

3.2 However, the making of a CDTO has the effect of revoking any parole order made under s 50 referred to above Section 18G (b) Drug Court Act 1998, and participants can expect to remain on a CDTO until their total sentence expires.

3.3 Therefore, as there is no date upon which parole is to be granted, or can be expected to be granted, the Drug Court does not require the preparation of any reports or recommendations regarding parole, unless such a report is requested by the court.

#### ***Application for Parole – Sentences of three years or less***

3.4 If a CDTP participant with a sentence of three years or less wishes to be considered for parole, a written application is to be completed, on the required form, and the application is to be filed with the Registrar of the Drug Court. The participant's Case Coordinator will provide assistance in the preparation of that application, if requested.

3.5 The Registrar will refer the application to a Drug Court judge in chambers. The judge may either:

- Refuse the application, or
- Seek a Short Pre-Release report from the Multi-Disciplinary Team.

3.6 If the Judge seeks a Short Pre-Release Report, a date will be set for the consideration of the grant of parole, and the Registrar will notify the CDTCC and the CDTP participant of that date.

3.7 The CDTCC and the CDTP participant may provide further written or documentary material to the Drug Court for consideration of parole.

3.8 The Drug Court judge will usually consider the question of parole in chambers, and the CDTP participant will be notified of the outcome by the Drug Court Registry.

3.9 If the Drug Court judge is of the opinion that the hearing of evidence and/or oral submissions would assist in the determination of the question of parole, the matter will be set down for hearing. The Registrar will notify all parties of the Judge's directions and of the hearing date set.

#### **4 SENTENCES OF OVER THREE YEARS**

4.1 When a sentencing court imposes a sentence of more than three years, the sentencing court specifies a date upon which the offender is eligible for release on parole. For offenders who have received a CDTO, the Drug Court becomes the Parole Authority, and is required to determine if and when the offender should be released to parole.

4.2 Participants are expected to complete their sentence by CDTO, however the legislation requires the Drug Court to consider the question of release on parole at least 60 days before that participant's parole eligibility date.

4.3 To allow that to occur, four months before the participant's parole eligibility date, the Multi-Disciplinary Team will discuss the issue of parole with the participant. A CDTP participant may be seeking parole, or may not wish to be granted parole, preferring instead to retain the advantages of a CDTO.

4.4 There are two possible outcomes from those discussions:

(a) If the participant does not wish to be considered for parole, a short report stating such will be prepared and provided to the Registrar of the Drug Court. The Drug Court will take no further action.

(b) If the participant does wish to be considered for parole, a CDTCC probation and parole officer will prepare a Pre-Release report and include a recommendation from the multi-disciplinary team. That report is to be provided to the Drug Court 10 weeks before the participant's parole eligibility date, so as to allow the Drug Court to consider the question of parole at least 60 days before the eligibility date Section 137(1) Crimes (Administration of Sentences) Act 1999.

4.5 If at a later date a CDTP participant who did not want to be considered for parole now wishes to be considered, a written application is to be completed, on the required form, and the application is to be filed with the Registrar of the Drug Court. The participant's Case Coordinator will provide assistance to the participant in the preparation of that application, if requested.

4.6 On receipt of the application, the Drug Court will request a Pre-Release report and recommendation from the Multi-Disciplinary Team. That report is to be provided to the Drug Court within 1 month of the request for the report.

#### **5 FURTHER APPLICATIONS FOR PAROLE**

5.1 Participants who have been refused parole may make further applications to the Drug Court for parole. Unless there are exceptional circumstances, no further application will be considered within 3 months of the last determination of parole.

5.2 The Registrar will refer all such applications for parole to a Drug Court judge in chambers. The judge may either:

(a) Refuse the application, or

(b) Seek a Pre-Release report and recommendation from the Multi-Disciplinary Team.

5.3 If the Judge seeks a Pre-Release Report, a date will be set for the consideration of the grant of parole, and the Registrar will notify the CDTCC and the CDTP participant of that date.

5.4 The CDTCC and the CDTP participant may provide further written or documentary material to the Drug Court for consideration of Parole.

5.5 The Drug Court judge will usually consider all parole matters in chambers, and the Drug Court Registry will notify the CDTCC participant of the outcome.

5.6 If the Drug Court judge is of the opinion that the hearing of evidence and/or oral submissions would assist in the determination of the question of parole, the matter will be set down for hearing. The Registrar will notify all parties of the Judge's directions and of the hearing date set.

## Parliamentary Inquiry into Drug and Alcohol Treatment

**Juvenile Justice:** Alcohol and Other Drug Treatment Pathway  
Dthina Yuwali  
AOD Residential Rehabilitation Program: Junaa Buwa and Mac River facility  
Intensive Supervision Program

Juvenile Justice utilises the Youth Level of Service – Case Management Inventory –Australian Adaptation (YLS/CMI-AA) to guide casework interventions. The assessment of AOD use is integral to this process and helps indicate the type and intensity of program required.

The Program Development Framework was developed to ensure that offending focused Juvenile Justice programs, including AOD programs, are evidence-based, responsive and standardised and can be well integrated into the development of individual case management plans.

### **Alcohol and Other Drug (AOD) Treatment Pathway**

#### Policy and Program guidelines.

Juvenile Justice has developed a strategic Alcohol and Other Drug (AOD) Treatment Pathway for young people with offending behaviour that is directly related to their substance misuse:

- AOD education and harm minimization (Stage 1)
- PROFILE (Stage 2)
- X Roads (Stage 3)

An overview and description is attached

The treatment process aims to promote pro social reasoning towards making informed and constructive life decisions such as desisting in criminal activity and substance misuse. The treatment pathway is comprised of three stages. The first being focused on education, the second on motivation, and the third on comprehensive skill building and goal attainment, involving both the client and their family.

#### Funding

See below

#### Eligibility Criteria

AOD education and harm minimisation (Stage 1): All young people who come into contact with Juvenile Justice participate in this program as a duty of care.

PROFILE (Stage 2): Medium to high risk young people (determined by YLS/CMI-AA scores - drug and alcohol domains). This program is delivered to young people who are assessed as being not treatment ready.

X Roads (Stage 3): Medium to high risk young people (determined by YLS/CMI-AA scores - drug and alcohol domains). All young people assessed as being treatment ready are eligible for participation in this program.

#### Waiting List Periods

There is no waiting period for access to individually run intervention programs or the assessment phase. Group delivered programs tend to be run when there are enough young people to form a group.

#### Service Locations

Alcohol and other drug services and programs are offered in all Juvenile Justice community offices and detention centres. There are 35 community offices and 7 Juvenile Justice centres located throughout NSW. See tables below.

### Outcomes achieved and corresponding statistical data

The following data has been taken from the upgraded Client Information Management System (CIMS) used by Juvenile Justice NSW. From the beginning of January to 6 May 2013, the following figures emerge:

- 230 young people were referred to the AOD education program. Most of these young people have already completed the program and others are currently engaged in the process.
- 103 young people were referred to the PROFILE program and most are currently in active participation.
- 15 young people are currently actively participating in the X-Roads program.

### **Dthina Yuwali**

#### Policy and Program guidelines.

'Dthina Yuwali' (pronounced thi-nah you-wah-lee) is an Aboriginal-specific staged Alcohol and Other Drugs group work program based on the relationship between substance use and pathways to offending. Dthina Yuwali is based on cultural learning and utilises learning circles, cultural representations of concepts to facilitate learning and the use of Elders/respected community members throughout the program. The program utilises a co-facilitation model, requiring an Aboriginal co-facilitator for all stages of delivery. Dthina Yuwali primarily addresses Stages 1 & 2 of the AOD Treatment Pathway.

#### Funding

See below

#### Eligibility Criteria

Aboriginal young people who have drug related offences and substance abuse issues over 14 years.

#### Waiting List Periods

There is no waiting period for access to individually run intervention programs or the assessment phase. Group delivered programs tend to be run when there are enough young people to form a group.

#### Service Locations

Alcohol and other drug services and programs are offered in all Juvenile Justice community offices and detention centres. There are 35 community offices and 7 Juvenile Justice centres located throughout NSW. See tables below.

### Outcomes achieved and corresponding statistical data

Dthina Yuwali has been judged to be a 'promising program' by the Federal Attorney General and Justice Department. It is included in the National Indigenous Law and Justice Framework and is being externally evaluated by the Cultural & Indigenous Research Centre Australia (CIRCA). A report is due in 2013.

### **AOD Residential Rehabilitation Program**

#### Policy and Program guidelines.

Juvenile Justice funds Mission Australia to operate two residentially based drug rehabilitation programs, Junaa Buwa in Coffs Harbour and the Mac River facility in Dubbo for young people who are either clients of Juvenile Justice, or at risk of entering the juvenile justice system as a result of their drug and alcohol misuse.

#### Funding

See below

## Eligibility Criteria

### *Junaa Buwa*

- Young person is aged between 13 - 18 (inclusive)
- Young person has AOD issues
- Young person has ability to participate in all aspects of the program
- The young person is a client of Juvenile Justice or is a young people at risk of becoming a client of Juvenile Justice

### *Mac River facility*

The Selection and Placement Panel will assess referrals against the following criteria:

- Chronic Drug and Alcohol Use. Chronic drug and alcohol use will be defined as:
  - i.i) Tolerance to the drug
  - i.ii) A great deal of time is used spending in activities necessary to obtain the substance, use the substance and recover from effects
  - i.iii) Drug use impacts on school/work/home
  - i.iv) Recurrent use in situations that are physically hazardous
  - i.v) continued use having recurrent social/interpersonal problems
- The young person is willing to receive residential treatment. If young people are being forced or coerced into treatment, they will generally be deemed ineligible
- Young person's engagement with previous drug and alcohol treatment services
- Residential rehabilitation is the least restrictive environment in which the young person can receive support
- The young person is likely to benefit from the program
- The young person's behaviour can be effectively managed in the service
- The young person's placement will not comprise an existing resident's recovery.

## Waiting List Periods

For the Coffs Harbour residential facility, the waiting list is small - 3% of all young people. In general, young people wait 2 weeks from referral and 8 days from assessment provided there is a current vacancy and there are not any other prevailing issues. An Advisory Committee has been established for Junaa Buwa to review data collection, program completion and rates of discharge from the program.

A Referral Committee has been established for the Mac River facility in Dubbo. At monthly meetings, the committee discusses and agrees on referrals, reviews the waiting list and is provided with an update on the young people in residence.

## Service Locations

Residential rehabilitation services located in Coffs Harbour (Junaa Buwa) and Dubbo (Mac River).

## Outcomes achieved and corresponding statistical data

In 2011-12, 105 young people (70 Juvenile Justice clients and 30 non-Juvenile Justice clients) were referred to the Coffs Harbour residential rehabilitation service. Of these, 35 JJ clients were offered places and 26 were admitted and 15 non-JJ clients were offered places and 13 were admitted. 14 young people were referred to the Dubbo service between 1/07/2012 and 30/04/2013 and 5 were accepted. Junaa Buwa statistics are attached.



## **Intensive Supervision Program (ISP)**

### Policy and Program guidelines.

The Intensive Supervision Program (ISP) is a family focused intervention and not an AOD specific program, it offers a multi-systemic approach for young people with complex clinical, social and educational problems including aggression and violence, substance misuse and offending behaviour.

### Funding

See below

### Eligibility Criteria

- The program is run in Newcastle and Werrington and has specific catchment areas around these locations
- Young person is on Community Order and has committed serious and/or repeat offences, or whose severe antisocial behaviour increases their likelihood of offending
- Young person has an identified primary care giver with whom they reside
- Young person is not needing acute immediate care due to suicidal or psychotic behaviour
- With the exception of sex offending, the ISP addresses many criminogenic needs covered by other JJ offending focused programs
- Young person may be a Youth Justice Counselling participant and have a significantly high risk of re-offending.

### Waiting List Periods

There is no waiting period for ISP.

### Service Locations

Alcohol and other drug services and programs are offered in all Juvenile Justice community offices and detention centres. There are 35 community offices and 7 Juvenile Justice centres located throughout NSW. See tables below.

### Outcomes achieved and corresponding statistical data

ISP: Available data on AOD use over the period (July -Dec 2012) indicates overall drug use was reduced by 46% and overall alcohol use by 89%.

### Funding

Funding is provided through allocations from the Commonwealth Illicit Drug Diversion Initiative (IDDI) and the NSW State Third Drug Budget: \$6,196,023

### Service Locations

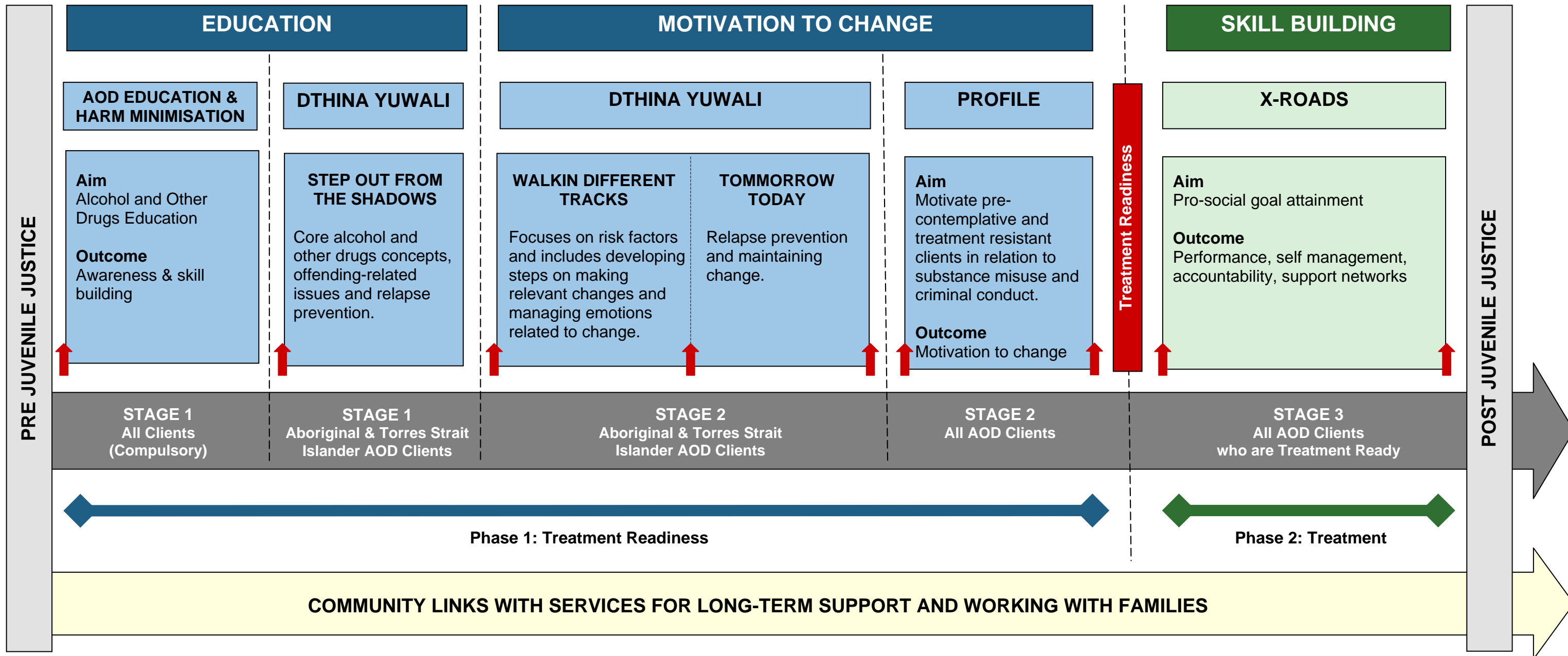
#### Community Office Locations

Albury	Coffs Harbour	Lismore	Petersham
Armidale	Dubbo	Maitland	Queanbeyan
Batemans Bay	Fairfield	Moree	Sydney
Bathurst	Glen Innes	Moss Vale	Tamworth
Bega	Gosford	Muswellbrook	Taree
Blacktown	Goulburn	Newcastle	Tweed Heads
Bourke	Grafton	Nowra	Wagga Wagga
Broken Hill	Griffith	Orange	Wollongong
Campbelltown	Kempsey	Penrith	

Detention Centre Locations





<b>Centre Name</b>	<b>Location</b>	<b>Centre Name</b>	<b>Location</b>
Acmena	Grafton	Orana	Dubbo
Cobham	St Mary's	Reiby	Airds
Frank Baxter	Kariong	Riverina	Wagga Wagga
Juniperina	Lidcombe		

# AOD TREATMENT PATHWAY



**Profile** is available to all clients of Juvenile Justice. **Dthina Yuwali**, where available, provides an **alternative** to Profile for Aboriginal and Torres Strait Islander clients. Dthina Yuwali should be provided to clients in the **correct sequence**, that is, Step Out of the Shadows → Walking Different Tracks → Tomorrow Today.

↑ Red Arrows indicate Pre- and Post-Program Assessment points

PROGRAM NAME	 <b>AOD EDUCATION &amp; HARM MINIMISATION (STAGE 1)</b>	 <b>PROFILE (STAGE 2)</b>	 <b>X ROADS (STAGE 3)</b>	 <b>DTHINA YUWALI</b>
TYPE	Alcohol and Other Drug (AOD) education and harm minimisation resources	Alcohol and Other Drug (AOD) providing young people motivation towards change	Alcohol and Other Drug (AOD) treatment program	Aboriginal AOD program (Invitational)
ELIGIBILITY	<ul style="list-style-type: none"> <li>All young people who come into contact with Juvenile Justice</li> </ul>	<ul style="list-style-type: none"> <li>Medium to high risk young people (determined by YLS/CMI-AA scores - drug and alcohol domains)</li> <li>Should indicate as not treatment ready as per MOT Form assessment</li> </ul>	<ul style="list-style-type: none"> <li>Medium to high risk young people (determined by YLS/CMI-AA scores - drug and alcohol domains).</li> <li>Should indicate as treatment ready as per MOT Form assessment</li> </ul>	<ul style="list-style-type: none"> <li>Aboriginal young people who have drug related offences and substance abuse issues</li> </ul>
EXCLUSIONS	<ul style="list-style-type: none"> <li>No exclusions</li> </ul>	<ul style="list-style-type: none"> <li>Non-drug and alcohol users</li> <li>Treatment-ready young people</li> <li>No sex offenders in group delivery</li> </ul>	<ul style="list-style-type: none"> <li>Non-drug and alcohol users</li> <li>Non-treatment-ready young people</li> </ul>	<ul style="list-style-type: none"> <li>Non-drug and alcohol users</li> <li>Sex offenders</li> </ul>
DELIVERY	<ul style="list-style-type: none"> <li>Individual or group</li> </ul>	<ul style="list-style-type: none"> <li>Individual or group</li> </ul>	<ul style="list-style-type: none"> <li>Individual or group</li> </ul>	<ul style="list-style-type: none"> <li>Closed group (6-8 participants)</li> </ul>
	<ul style="list-style-type: none"> <li>No preparation time required</li> </ul>	<ul style="list-style-type: none"> <li>15 mins preparation time</li> </ul>	<ul style="list-style-type: none"> <li>15 mins preparation time</li> </ul>	
	<ul style="list-style-type: none"> <li>No specific timeframe as program is tailored to individual needs of young person</li> </ul>	<ul style="list-style-type: none"> <li>5 core modules and 1 game</li> <li>6 x 60 min sessions</li> </ul>	<ul style="list-style-type: none"> <li>Compulsory modules are Thoughts &amp; Beliefs and Coping with Urges and Cravings.</li> <li>3 – 9 mths to deliver</li> <li>Minimum weekly delivery preferred</li> </ul>	<ul style="list-style-type: none"> <li>The program consists of 14 modules</li> <li>1.5 hrs per module</li> </ul>
	<ul style="list-style-type: none"> <li>15 minutes post-program evaluation</li> </ul>	<ul style="list-style-type: none"> <li>10 mins pre-program assessment</li> <li>10 mins post-program assessment</li> </ul>	<ul style="list-style-type: none"> <li>20 mins pre-program assessment</li> <li>20 mins post-program assessment</li> </ul>	<ul style="list-style-type: none"> <li>Suitability assessment 15 mins per young person.</li> <li>15 -20 mins pre-program evaluation</li> <li>15 -20 mins post-program evaluation</li> </ul>
FACILITATORS	<ul style="list-style-type: none"> <li>AOD Counsellors</li> <li>Generalist Counsellors</li> <li>Juvenile Justice Officers</li> <li>Youth Officers</li> </ul>	<ul style="list-style-type: none"> <li>AOD Counsellors</li> <li>Generalist Counsellors</li> <li>Psychologists</li> </ul>	<ul style="list-style-type: none"> <li>AOD Counsellors</li> <li>Generalist Counsellors</li> <li>Psychologists</li> </ul>	Minimum of 3 staff consisting of male and female: <ul style="list-style-type: none"> <li>ATSI/Non ATSI staff</li> <li>AOD Counsellor</li> <li>Juvenile Justice Officers</li> <li>Youth Officers</li> <li>Aboriginal Elder or nominated person</li> </ul>

## Junaa Buwal 2011 / 2012 Statistics

Clients	Count	
Total Clients	105	
JJ Clients	70	67%
Non JJ Clients	35	33%

JJ Clients Breakdown		
Count of Admission / Rejection Reason		
Admitted	26	37%
Waiting placement / Decision Pending	3	4%
Referred elsewhere or Released on Bail	3	4%
Did not accept offer	9	13%
Did not meet criteria	3	4%
Did not attend / Complete assessment or referral	16	23%
Control Order / Bail Refused	8	11%
Inability to meet support needs	2	3%
Total: 70		

Non JJ Clients Breakdown		
Count of Admission / Rejection Reason		
Admitted	13	19%
Waiting placement / Decision Pending	2	3%
Referred elsewhere	4	6%
Did not accept offer	3	4%
Did not meet criteria	2	3%
Did not attend / Complete assessment or referral	10	14%
Unknown	1	1%
Total: 35		

Age at Admission	# of Clients	% of Clients
13	0	0%
14	3	4%
15	10	14%
16	23	33%
17	22	31%
18	12	17%
19	0	0%
Total 70		

Age at Admission	# of Clients	% of Clients
13	1	1%
14	6	9%
15	4	6%
16	5	7%
17	11	16%
18	5	7%
19	1	1%
Unknown	2	3%
Total 35		

General Statistics	# of Clients	% of Clients
ATSI	48	69%
Non ATSI	22	31%
Male	60	86%
Female	10	14%
Average Age	16	

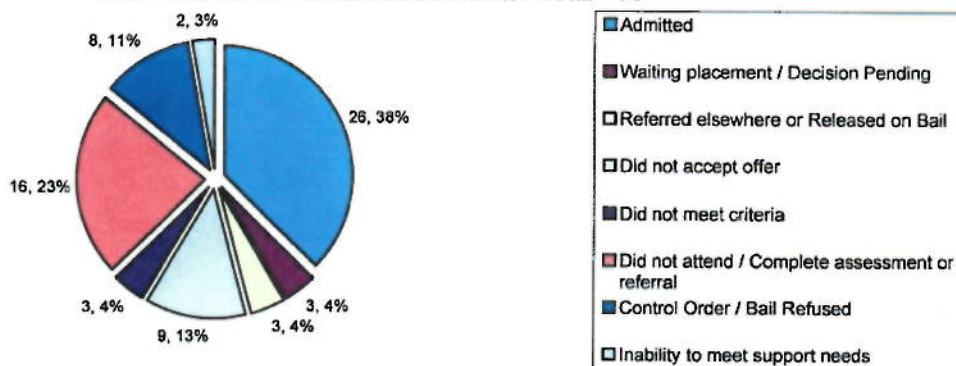
General Statistics	# of Clients	% of Clients
ATSI	9	26%
Non ATSI	26	74%
Male	23	66%
Female	12	34%
Average Age	16	

Drug of Concern	# of Clients	% of Clients
Cannabis	48	69%
Alcohol	9	13%
Amphetamines	2	3%
Poly	6	9%
Oxyconton	1	1%
Heroin	2	3%
Unknown	2	3%
Total 22		

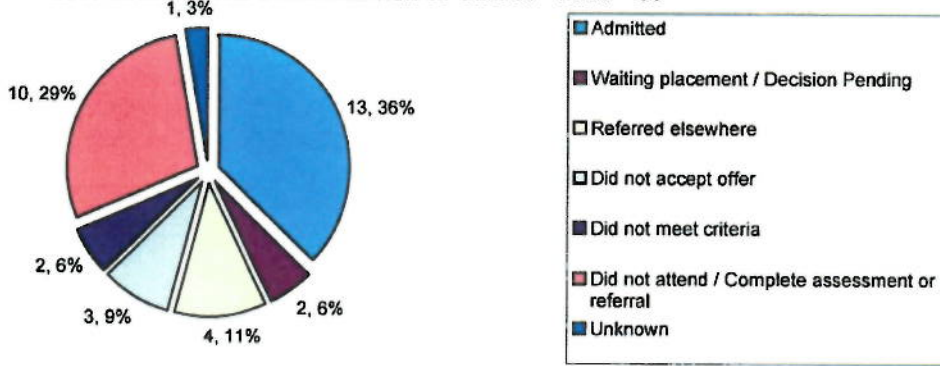
Drug of Concern	# of Clients	% of Clients
Cannabis	26	37%
Alcohol	1	1%
Amphetamines	2	3%
Poly	3	4%
Meth	1	1%
Unknown	2	3%
Total 35		

## Junaa Buwa! 2011 / 2012 Statistics

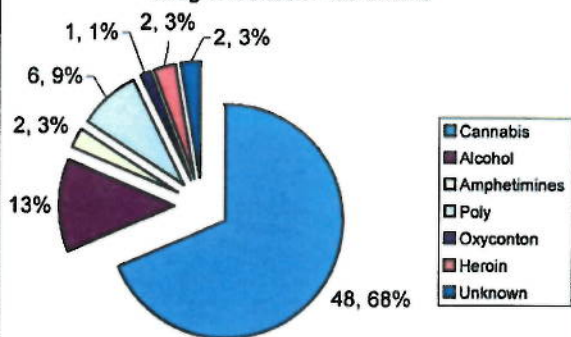
**2011-2012 Referral Outcomes JJ Clients - Total = 70**



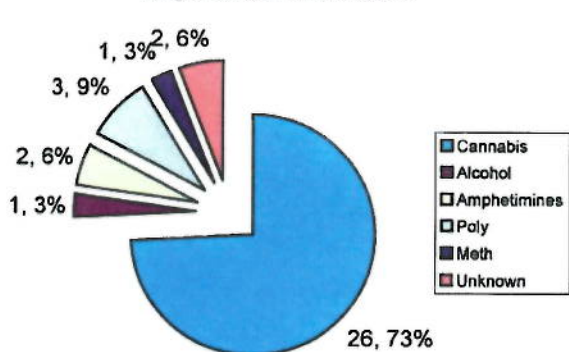
**2011-2012 Referral Outcomes Non JJ Clients - Total = 35**



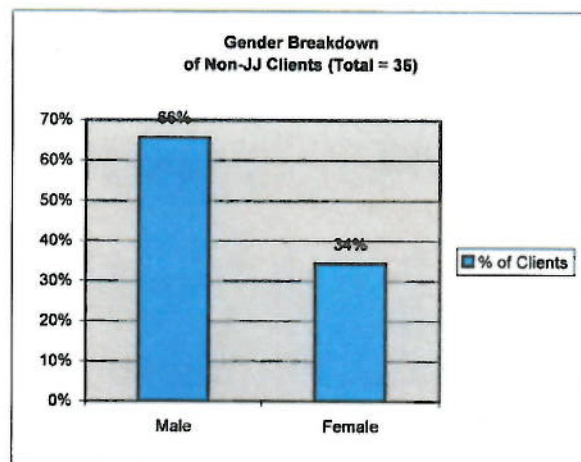
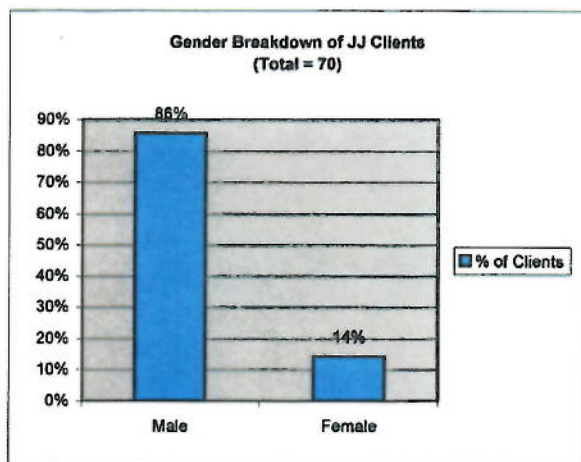
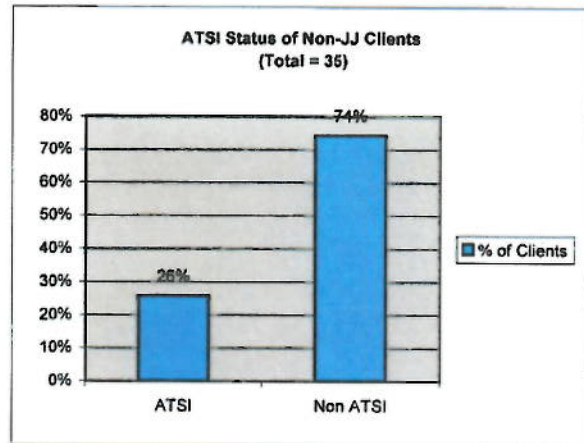
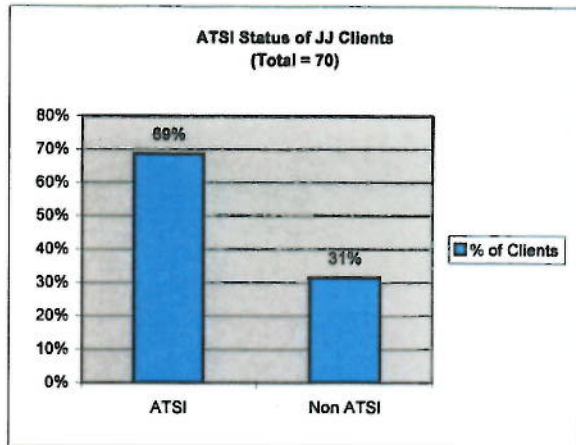
**Drug of Concern - JJ Clients**



**Drug of Concern - Non JJ Clients**



## Junaa Buwal 2011 / 2012 Statistics



Junaa Buwal 2011 / 2012 Statistics

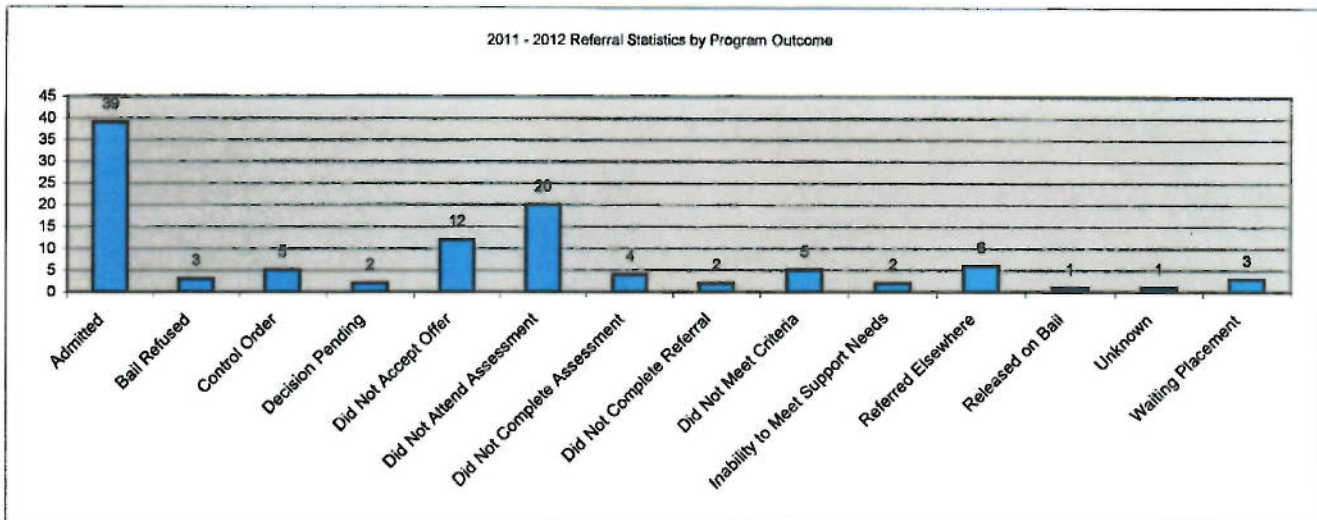
2011/12 Total Clients Admitted 39

Age at Admission	Number of Clients	% of Clients
13	0	0%
14	6	15%
15	5	13%
16	9	23%
17	14	36%
18	5	13%
19	0	0%

General Statistics	No of Clients	% of Clients
ATSI	23	59%
Average Age	16	
Male	28	72%
Female	11	28%

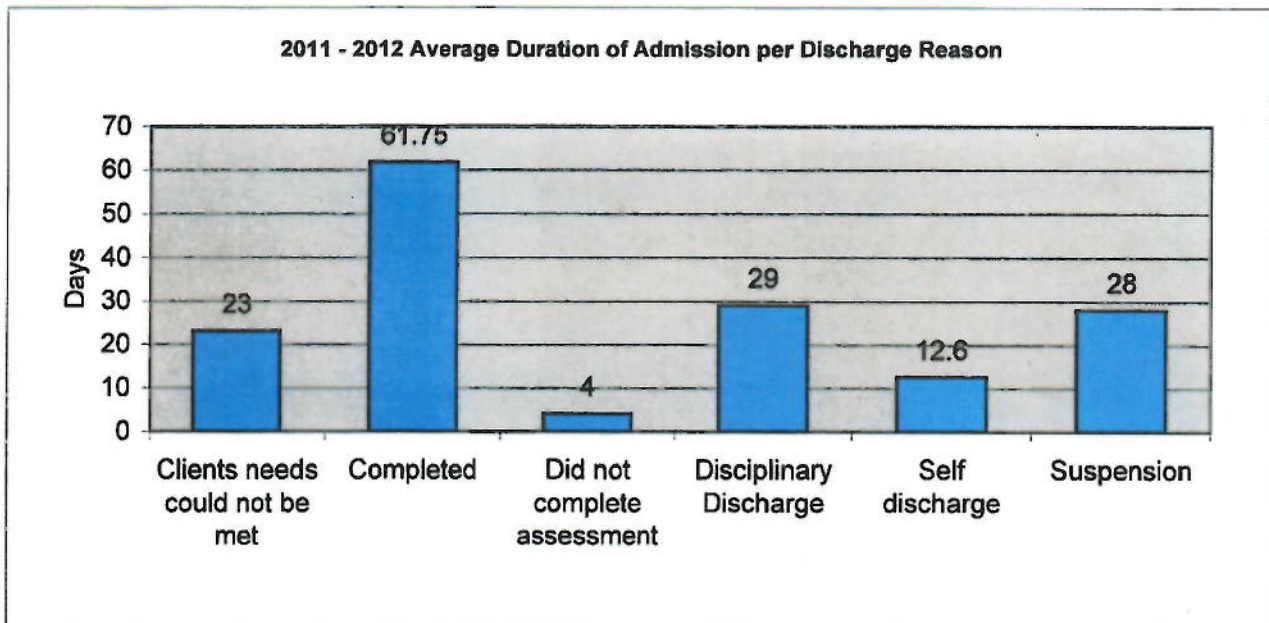
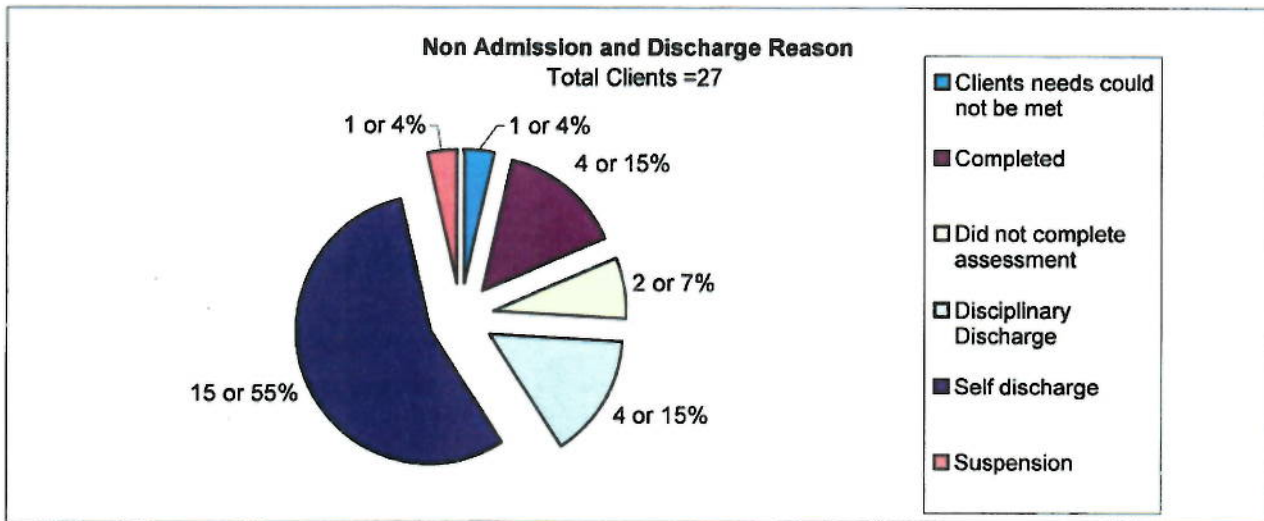
Drug of Concern	No of Clients	% of Clients
Alcohol	3	8%
Heroin	1	3%
Cannabis	31	79%
Poly	1	3%
Meth	1	3%
Amphetamines	2	5%

Discharge Reason	Number of Clients	% of Clients	Average Days Resided
Clients needs could not be met	1	3%	23
Completed	4	10%	61.75
Did not complete assessment	2	5%	4
Disciplinary Discharge	4	10%	29
Self discharge	15	38%	12.6
Suspension	1	3%	28

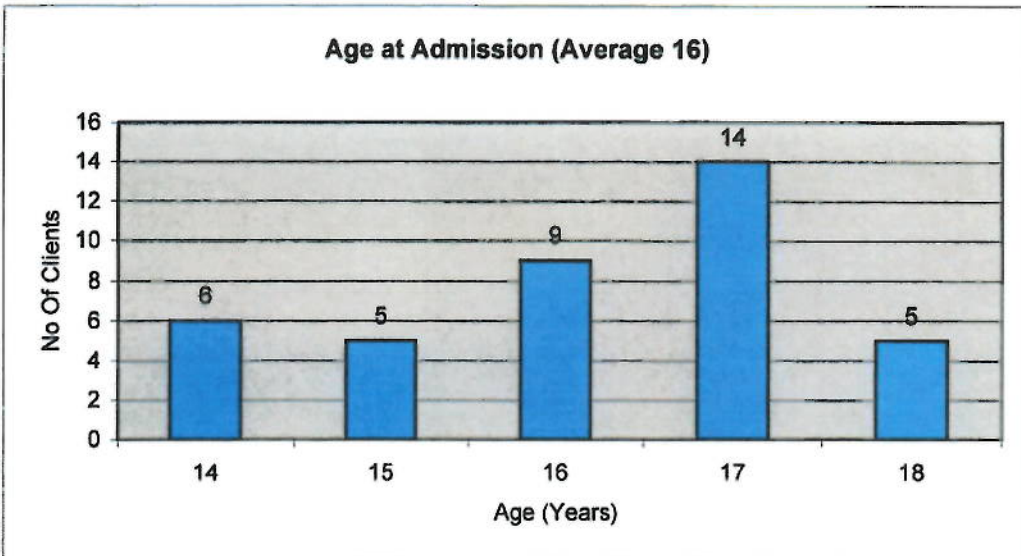
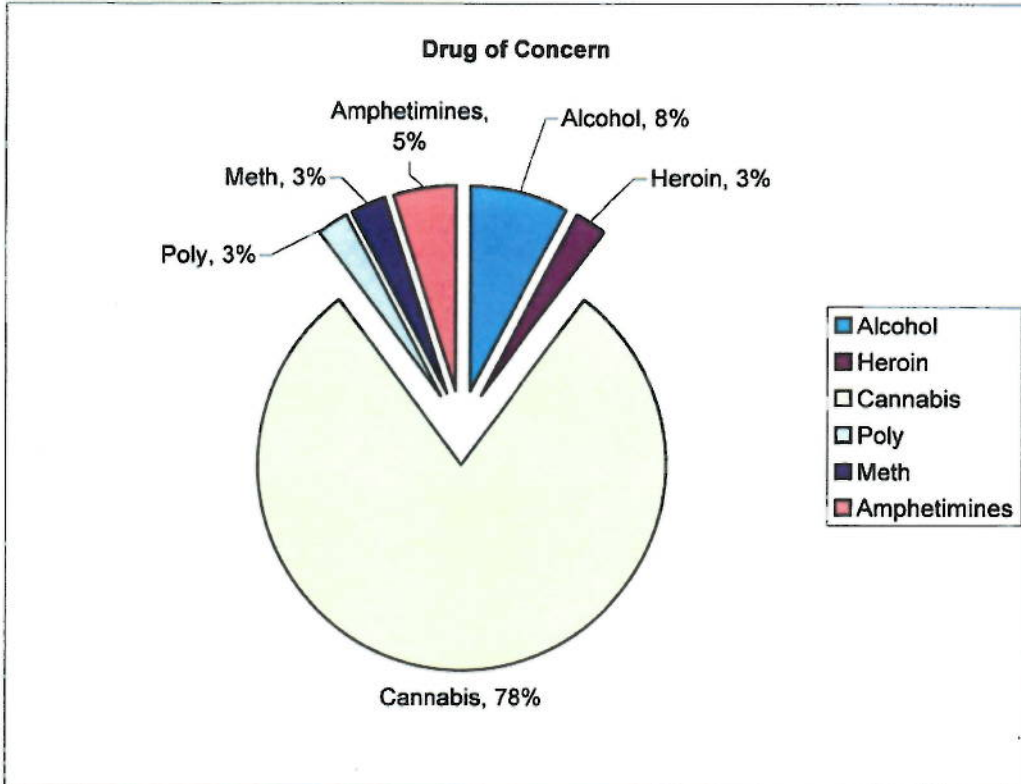




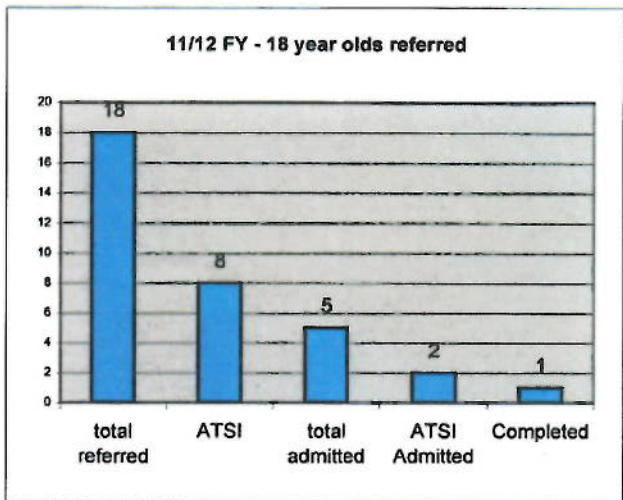
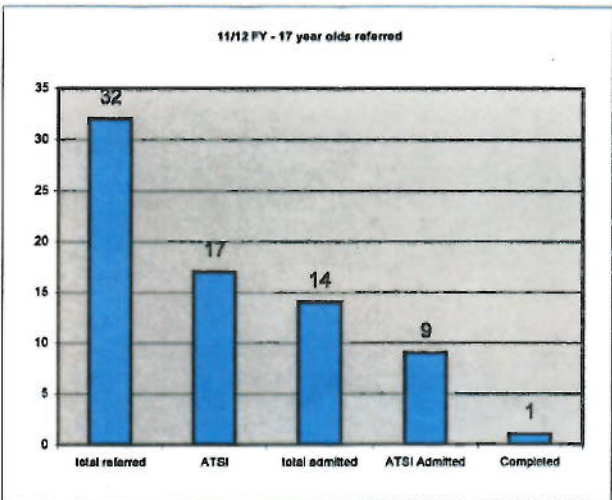
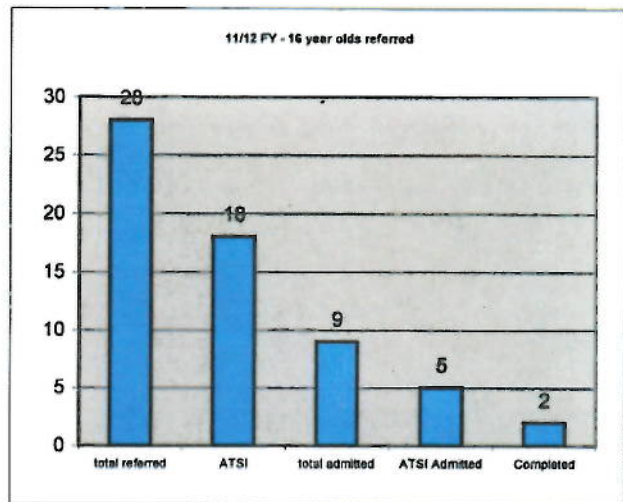
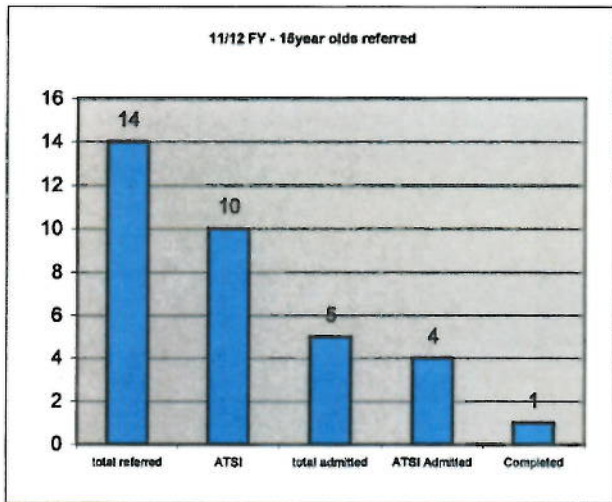
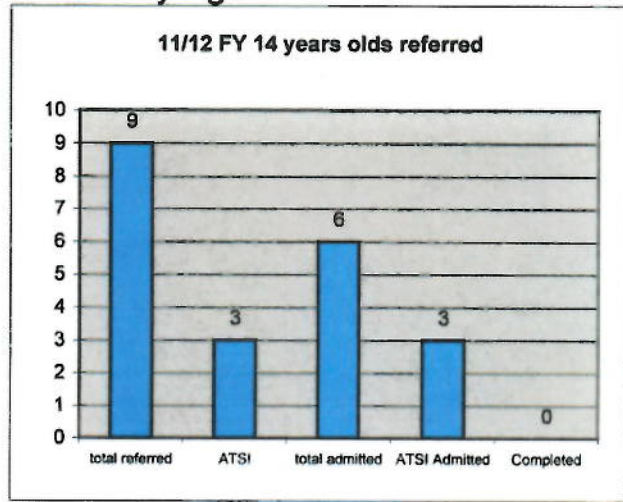
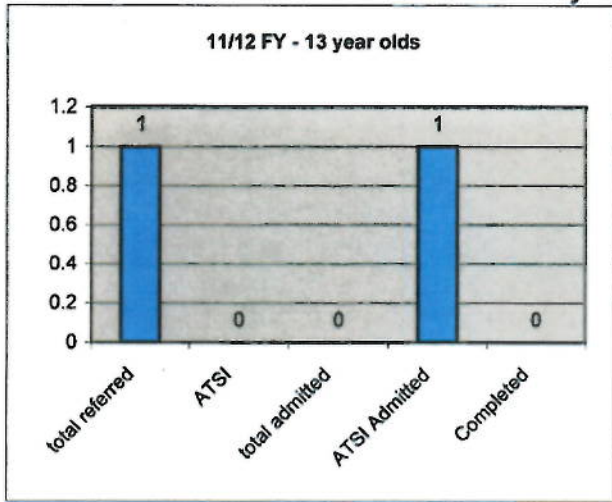
Junaa Buwa! 2011 / 2012 Statistics



Junaa Buwal 2011 / 2012 Statistics



Summary of Statistics by Age



#### Referral summary for July – Dec 2012

- For the period 1 July – 31 Dec 2012
- Total referrals = 54
- Total admissions = 16 (29%)
- Of these 16 - 7 were JJ clients ( 44%) and 7 (44%) were ATSI

#### Outcomes for the 16 admitted were:

- 1 completion – 85 days
- 4 disciplinary discharges with an average stay of 20 days
- 4 self discharged after and average of 15 days
- 6 were in the program at the time of reporting
- 1 did not complete the assessment – after 7 days

ID	DOB	Age at referral	Reason not admitted	Admission date	Discharge date	Length of residence in days	Program Outcome	Gender	ATSI	JJ client	Referred by	Drug of concern	JJCS
1p	19/01/1995	16	Did not attend assessment					M	ATSI	Yes	Erin West	Cannabis	Armidale
1q	10/11/1996	15	Admitted	3/01/2011				M	Y	Yes	Mark Hinder	Cannabis	Armidale
1r	13/7/1994	17	Control Order			0		M	ATSI	Yes	Michael Wicks	Alcohol	Armidale
1s	17/05/1994	17	ball refused					M	ATSI	Yes	Kariong	Cannabis	Broken hill
1t	23/10/1995	16	Admitted	27/06/2012				F		No		Cannabis	canberra
1u	19/04/1993	18	Did not attend assessment			0		M	ATSI	Yes	Jeff Otto	Cannabis	Coffs H
1v	25/04/1993	17	Admitted	9/08/2011	9/08/2011	1	Self discharge	M	ATSI	No	Jetty Bunker	Cannabis	Coffs H
1w	1/01/1994	17	Admitted	1/11/2011	2/11/2011	1	Self discharge	M		Yes	Polina U	Cannabis	Coffs H
1x			Decision pending					M		No	Self	Cannabis	Coffs H
1y	28/09/1997	13	did not complete assessment					M		No	Self	Cannabis	Coffs H
1z	5/09/1995	16	Referred elsewhere					M		No	Self	Cannabis	Coffs H
2a	24/1/1996	15	Did not attend assessment					M		No	Self	Cannabis	Coffs H
2b	31/1/1993	18	Did not attend assessment					F	ATSI	No		Cannabis	Coffs H
2c	18/05/1994	17	Did not meet criteria					M		No		Cannabis	Coffs H
2d	18/05/1994	17	Did not accept offer					M		No		Unknown	Coffs H
2e	14/09/1995	16	Control Order					F	ATSI	Yes	Desiree Innes	Alcohol	glen Innes
2f	26/06/1994	17	Did not attend assessment					M		Yes	Julie Rowe	Cannabis	glen Innes
2g	29/6/1993	18	Did not complete referral					M		Yes	Julie Rowe	Unknown	glen Innes
2h	11/4/1993	18	Admitted	7/7/2011	29/08/2011	53	Completed	M	ATSI	Yes	Wayne Farmer	Cannabis	glen Innes
2i	16/12/1993	18	Admitted	11/04/2012				M		Yes	Wayne Farmer	Cannabis	glen Innes
2j	5/03/1996	16	Did not accept offer					M		Yes	Wayne Farmer	Amphetimin	glen Innes
2k	4/06/1996	15	Referred elsewhere					M		Yes	phil griffiths	Cannabis	Gosford
2l	10/09/1994	17	Admitted					M		No	Self	Cannabis	Gosford
2m	5/06/1995	16	Admitted	16/02/2012	10/04/2012	54	Disciplinary	M	ATSI	Yes	Julie Rowe	Cannabis	Grafton
2n	19/03/1995	16	Did not accept offer	20/03/2012	21/03/2012	1	Self discharge	M		No	Self	Cannabis	Grafton
2o	10/09/1994	16	Did not attend assessment			0		M	ATSI	Yes	Siobhan Strain	Cannabis	Grafton
2p	12/01/1997	15	clients needs could not be met			0		M	ATSI	Yes	Siobhan Strain	Cannabis	Grafton
2q	6/05/1994	17	Admitted	8/12/2011	9/12/2011	1	Self discharge	M		Yes	Tina Jones	Cannabis	Grafton
2r	13/12/1986	14	Admitted	17/6/2011	22/06/2012	5	Self discharge	M	ATSI	Yes	Tina Jones	Cannabis	Grafton
2s	9/09/1995	16	Did not attend assessment					F		No	Youth connectio	Cannabis	Grafton
2t	31/03/1994	18	Did not accept offer					F		Yes	kariong	Cannabis	kariong
2u	13/12/1994	17	Admitted	29/02/2012	6/03/2012	6	did not com	M	ATSI	No	Coffs Hospital	Cannabis	Kempsey
2v	26/12/1996	14	Admitted	4/08/2011	29/08/2011	25	Self discharge	F	ATSI	No	derek Moore	Cannabis	Kempsey
2w	22/03/1995	16	Control Order			0		M	ATSI	Yes	Jetty Bunker	Cannabis	Kempsey
2x	10/4/1996	15	Did not accept offer			0		M		Yes	Julie Rowe	Cannabis	Kempsey
2y	1/06/1995	16	Admitted	31/01/2012	23/04/2012	90	Completed	M	ATSI	Yes	Julie Rowe	Cannabis	Kempsey

ID	DOB	Age at referral	Reason not admitted	Admission date	Discharge date	Length of residence in days	Program Outcome	Gender	ATSI	JJ client	Referred by	Drug of concern	JJCS
15	23/07/1996	15	Admitted	8/05/2012	11/05/2012	3	Self discharge	M	ATSI	Yes	Julie Rowe	Cannabis	Kempsey
14	16/1/1997	14	Admitted	1/8/2011	15/08/2011	14	Self discharge	M		Yes	Julie Rowe	Alcohol	Kempsey
17	22/11/1994	17	Admitted	29/11/2011	16/12/2011	18	Self discharge	M	ATSI	Yes	Julie Rowe	Heroin	Kempsey
15	15/08/1996	15	Admitted	14/03/2012				M	ATSI	Yes	Julie Rowe	Cannabis	Kempsey
14	21/06/1997	14	Admitted	29/02/2012	2/03/2012	2	did not complete	F		No	k Thomas	Cannabis	Kempsey
17	9/11/1995	17	Admitted	16/6/2011	9/09/2011	86	Completed	M	ATSI	Yes	Keith M. JJ AOD	Cannabis	Kempsey
15	10/5/1996	15	Control Order			0		M	ATSI	Yes	Michael Wicks	Cannabis	Kempsey
17	31/5/1994	17	Admitted	28/11/2011	31/12/2011	33	self discharge	M		No	Self	cannabis	Kempsey
16	22/03/1995	16	Waiting placement					M	ATSI	Yes	Tom Dam	poly	Kempsey
16	13/04/1995	16	Waiting placement					M	ATSI	Yes	Tom Dam	poly	Kempsey
15	10/4/1996	15	Admitted	30/6/2011	12/07/2011	12	Disciplinary	M	ATSI	Yes	Tom Dam	Cannabis	Kempsey
14	26/12/1997	14	Admitted	6/02/2012	28/02/2012	22	Disciplinary	F	ATSI	Yes	Tom Dam	Cannabis	Kempsey
16	9/11/1985	16	Admitted	25/10/2011	28/10/2011	3	Self discharge	M	ATSI	Yes	Tracy Foley	Cannabis	Kempsey
14	24/08/1997	14	Did not attend assessment					M		No	unknown	Unknown	Kempsey
18	10/06/1993	18	Referred elsewhere					M		No		poly	Kempsey
17	2/10/1994	17	Admitted	31/10/2011	8/11/2011	8	Self discharge	M		No		Cannabis	Kempsey
14	14/9/1997	14	Admitted	20/6/2011	21/08/2011	66	Self discharge	F		No	Family	Cannabis	Lismore
16	9/03/1995	16	Did not attend assessment					M	ATSI	Yes	Julie Rowe	Cannabis	Lismore
16	22/07/1995	16	Admitted	12/12/2011	21/12/2011	9	Self discharge	M	ATSI	Yes	Julie Rowe	Cannabis	Lismore
16	9/03/1995	16	Admitted	9/1/2012				M	ATSI	Yes	Julie Rowe	Cannabis	Lismore
17	18/10/1993	17	Admitted	27/07/2011				M		No	Self	Alcohol	Lismore
17	15/12/1994	17	Did not attend assessment					M	ATSI	No	Self	Cannabis	Lismore
17	30/06/1994	17	Did not attend assessment					M	ATSI	Yes	Tina Jones	Cannabis	Lismore
17	28/2/1994	17	Did not accept offer			0		F	ATSI	Yes	Tina Jones	Cannabis	Lismore
16	5/10/1994	16	Did not attend assessment			0		F		Yes	Tina Jones	Cannabis	Lismore
17	15/03/1994	17	Admitted	12/12/2011				M	ATSI	Yes	Tina Jones	Cannabis	Lismore
17	12/02/1995	17	Admitted	30/04/2012				M		Yes	Tina Jones	Cannabis	Lismore
17	24/12/1994	17	Did not accept offer					M		Yes	Loraline Anderson	Cannabis	mailand
17	18/04/1994	17	Did not attend assessment			0		M	ATSI	Yes	Elise Ralston	Oxyconton	Moree
15	28/12/1996	15	Did not accept offer					M	ATSI	Yes	Michael Wicks	Alcohol	Moree
18	15/4/1993	18	Admitted	14/6/2011	12/07/2011	28	Disciplinary	F		No	Amy Fisher	Amphetamine	Newcastle
17	19/11/1994	17	Did not attend assessment					M		Yes	J Carpenter	poly	Newcastle
17	4/8/1994	17	Admitted	7/11/2011	8/11/2011	1	Self discharge	M	ATSI	Yes	Kathryn	poly	Newcastle
17	17/11/1994	17	Referred elsewhere					M		Yes	Kim Storer	Cannabis	Newcastle
17	24/12/1994	17	unknown					M		No	self	Cannabis	newcastle
15	11/05/1996	15	Admitted	30/04/2012				F		No	self	meth	newcastle

ID	DOB	Age at referral	Reason not admitted	Admission date	Discharge date	Length of residence in days	Program Outcome	Gender	ATSI	JJ client	Referred by	Drug of concern	JJCS
101	12/04/1993	18	Did not attend assessment			0		M	ATSI	Yes	Susan Walton	Cannabis	Newcastle
102	20/11/1993	17	Did not accept offer					M		No	Coffs Hospital	poly	nfa
103	16/06/1997	15	did not complete assessment					F	ATSI	Yes	R Sykes	Alcohol	nfa
104	9/12/1993	17	Did not attend assessment					F		Yes	Susan Walton	poly	nfa
105	7/04/1994	17	Did not attend assessment					M	ATSI	Yes	Karloug	Cannabis	orange
106	23/02/1995	16	Referred elsewhere					M	ATSI	Yes	Karls obrien	Cannabis	orange
107	28/10/1995	15	Waiting placement					M	ATSI	No	B Bright	Cannabis	Palmer's is
108	27/05/1994	17	Did not attend assessment					F		no	C Rue	Amphetamine	penrith
109	6/03/1995	16	Admitted	7/02/2012	10/02/2012	3		F		No	Self	Cannabis	robina
110	29/6/1993	17	Did not complete referral					M		No	S Mu	poly	Sydney
111	25/05/1992	19	Did not complete assessment					M		No		Cannabis	sydney
112	13/10/1994	18	released on bail					M		Yes		Cannabis	Sydney
113	7/08/1995	16	Admitted	18/06/2012				M	ATSI	Yes	Cathy Bennett	Cannabis	Tamworth
114	8/05/1995	16	Decision pending					M		Yes	Erin West	Cannabis	Tamworth
115	1/04/1995	16	Control Order					M	ATSI	Yes	wayne Cain	Cannabis	Tamworth
116	7/3/1995	16	inability to meet support needs			0		F	ATSI	Yes	Leah Walker	Cannabis	Taree
117	11/3/1993	18	Admitted	11/8/2011	8/09/2011	25	Suspension	M	ATSI	Yes	Leah Walker	Cannabis	Taree
118	19/03/1996	15	Did not meet criteria					M	ATSI	Yes	Marrissa M	Cannabis	Taree
119	21/02/1995	16	Did not accept offer					M	ATSI	Yes	Peter Kenny	Heroin	Taree
120	29/09/1995	17	Referred elsewhere					F	ATSI	No	Self	Alcohol	Taree
121	23/05/1995	16	did not complete assessment					M	ATSI	No		Cannabis	taree
122	9/10/1993	18	bail refused					F		Yes	Desiree Innes	Alcohol	tregar
123	rown							M	ATSI	No	CS	Cannabis	Tweed H
124	11/05/1994	18	Did not meet criteria					F		No	D Bowen	Cannabis	Tweed H
125	19/01/1994	18	Admitted	2/05/2012	25/05/2012	23	clients need	F	ATSI	No	daniel bice	Cannabis	Tweed H
126	20/01/1994	18	Did not attend assessment					M	ATSI	Yes	daniel bice	Amphetamine	Tweed H
127	30/06/1996	16	bail refused					M	ATSI	Yes	Julie Rowe	Alcohol	Tweed H
128	9/12/1992	18	Admitted	11/04/2012				M		Yes	Julie Rowe	Cannabis	Tweed H
129	22/05/1998	14	Did not meet criteria					M	ATSI	Yes	Tina Jones	Cannabis	Tweed H
130	31/12/1993	18	Did not accept offer					M		No	c Brown	Cannabis	Ulong
131	22/09/1994	16	Did not meet criteria					F	ATSI	Yes	Karloug	Unknown	Unknown
132	23/05/2011	14	Did not attend assessment					M	ATSI	Yes	M Harrison	poly	Unknown
133	15/04/1994	17	Admitted	30/06/2011	18/07/2011	18	Completed	F	ATSI	Yes	Marrissa M	Cannabis	victoria
134	referral statistics 1 July 2011 - 30 June 2012								ATSI	Yes	Nicole Sullivan	Alcohol	W'gong

## Parliamentary Inquiry into Drug and Alcohol Treatment

### MERIT

#### Policy and Program guidelines.

Attached is:

- MERIT Policy Document
- MERIT Operational Manual
- Local Court Practice Note Crim1 Part D, 12

#### Funding

Funding is provided directly to NSW Health to fund all treatment services. DAGJ is allocated a small proportion of funding for program management and evaluation (\$337,043.30 in 2012/13).

#### Eligibility Criteria

*Eligibility* is determined by the magistrate. To be considered eligible for MERIT, defendants must satisfy the following criteria.

The defendant must:

- o be an adult
- o be eligible for release on bail or not require bail consideration<sup>1</sup>
- o voluntarily agree to participate in MERIT
- o be suspected of using drugs or be known to have a history of drug use.

The defendant must not:

- o be charged with offences involving significant violence or have like offences pending before the court
- o be charged with sexual offences or have like offences pending before the court
- o be charged with a strictly indictable offence or have like offences pending before the court.

*Suitability* for the MERIT program is determined by the MERIT Team. To be suitable the defendant must:

- o have a treatable drug problem for which there is appropriate treatment available
- o usually reside within the defined catchment area (or have sufficient connection to the area, for example, have full-time employment in the area)
- o voluntarily consent to undertake the MERIT program.

#### Waiting List Periods

Policies in relation to treatment services including waiting times are the responsibility of NSW Health.

#### Service Locations

Court	Local Health District	MERIT	Alcohol MERIT	Randomised control trial
Albion Park	Illawarra Shoalhaven Local Health District	X	X	X
Ballina	Northern NSW Local Health District	X		
Bankstown	Sydney Local Health District	X		
Bathurst	Western NSW Local Health District	X	X	



Blacktown	Western Sydney Local Health District	X		
Blayney	Western NSW Local Health District	X		
Broken Hill	Far West NSW Local Health District	X	X	
Burwood	Sydney Local Health District	X		
Byron Bay	Northern NSW Local Health District	X		
Camden	South Western Sydney Local Health District	X		
Campbelltown	South Western Sydney Local Health District	X	X	X
Casino	Northern NSW Local Health District	X		
Cessnock	Hunter New England Local Health District	X		
Coffs Harbour	Mid North Coast Local Health District	X	X	
Cooma	Southern NSW Local Health District	X		
Downing Centre	South Eastern Sydney Local Health District	X		
Dubbo	Western NSW Local Health District	X	X	
Fairfield	South Western Sydney Local Health District	X	X	X
Forbes	Western NSW Local Health District	X		
Gosford	Central Coast Local Health District	X		
Grafton	Northern NSW Local Health District	X		
Hornsby	Northern Sydney Local Health District	X	X	X
Junee	Murrumbidgee Local Health District	X		
Katoomba	Nepean Blue Mountains Local Health District	X		
Kempsey	Mid North Coast Local Health District	X		
Kiama	Illawarra Shoalhaven Local Health District	X	X	X
Kogarah	South Eastern Sydney Local Health District	X		
Kyogle	Northern NSW Local Health District	X		
Lismore	Northern NSW Local Health District	X		
Liverpool	South Western Sydney Local Health District	X	X	X
Maclean	Northern NSW Local Health District	X		
Maitland	Hunter New England Local Health District	X		
Manly	Northern Sydney Local Health District	X	X	X
Milton	Illawarra Shoalhaven Local Health District	X		
Mt Druitt	Nepean Blue Mountains Local Health District	X		
Mullimbimby	Northern NSW Local Health District	X		
Murwillumbah	Northern NSW Local Health District	X		
Muswellbrook	Hunter New England Local Health District	X		
Newcastle	Hunter New England Local Health District	X	X	X
Newtown	Sydney Local Health District	X		
North Sydney	Northern Sydney Local Health District	X	X	X
Nowra	Illawarra Shoalhaven Local Health District	X		
Oberon	Western NSW Local Health District	X		
Orange	Western NSW Local Health District	X	X	

Parkes	Western NSW Local Health District	X		
Parramatta	Western Sydney Local Health District	X		
Penrith	Nepean Blue Mountains Local Health District	X		
Port Kembla	Illawarra Shoalhaven Local Health District	X	X	X
Port Macquarie	Mid North Coast Local Health District	X		
Queanbeyan	Southern NSW Local Health District	X		
Raymond Terrace	Hunter New England Local Health District	X		
Ryde	Northern Sydney Local Health District	X	X	X
Singleton	Hunter New England Local Health District	X		
Sutherland	South Eastern Sydney Local Health District	X		
Tamworth	Hunter New England Local Health District	X		
Toronto	Hunter New England Local Health District	X		
Tweed Heads	Northern NSW Local Health District	X		
Wagga Wagga	Murrumbidgee Local Health District	X		
Wauchope	Mid North Coast Local Health District	X		
Waverley	South Eastern Sydney Local Health District	X		
Wellington	Western NSW Local Health District	X	X	
Wilcannia	Far West NSW Local Health District	X	X	
Wollongong	Illawarra Shoalhaven Local Health District	X	X	X
Woy Woy	Central Coast Local Health District	X		
Wyong	Central Coast Local Health District	X		

Outcomes achieved and corresponding statistical data

Attached is:

- BOCSAR Evaluation 2009
- MERIT Annual Report 2010



## The Magistrates Early Referral Into Treatment Program

### Impact of program participation on re-offending by defendants with a drug use problem

Rohan Lulham

*This bulletin reports on the evaluation of re-offending outcomes for the Magistrates Early Referral Into Treatment (MERIT) drug diversion program. MERIT provides defendants in NSW Local Courts with the option of undertaking formal drug treatment while on bail. Re-offending outcomes for a cohort of 2,396 defendants who participated in the MERIT program were compared with a comparison group of defendants who did not participate in the MERIT program but who broadly met the eligibility criteria. To estimate the impact of the program we used a treatment effects model with correction for selection bias. Acceptance into the MERIT program, regardless of completion, was found to significantly reduce the number of defendants committing any theft re-offence by an estimated four percentage points. Acceptance and completion of the MERIT program significantly reduced the number of defendants committing any type of offence by an estimated 12 percentage points, and any theft re-offence by four percentage points. This evaluation provides strong support that participation in the MERIT program reduces defendants' propensity to commit theft offences and, for those who complete the program, substantially reduces their propensity to commit any type of re-offence.*

*Keywords: drug diversion, adult offenders, re-offending outcomes, selection bias, treatment effects model*

### INTRODUCTION

Many people who offend have substance use problems, and these problems are often intrinsically related to their offending behaviour (Dowden & Brown 2002). As such, effectively treating the substance use problems of offenders often leads to a reduction in their offending behaviour (Latimer et al. 2006; Weatherburn et al. 2008). The Magistrates Early Referral Into Treatment (MERIT) program is targeted at defendants appearing in NSW local courts who have illicit drug use problems. An intended outcome of the MERIT program is to reduce the rate of re-offending of defendants who participate in the program. This evaluation has the specific purpose of evaluating this outcome and the impact of the MERIT program on recidivism. As

such, the evaluation aims to establish if the MERIT program reduces the likelihood of re-offending by defendants with a drug problem to a greater degree than is achieved with typical judicial processing in NSW local courts.

### THE MERIT PROGRAM

The MERIT program was developed in response to recommendations from the NSW Drug Summit (NSW Government 1999). In July 2000 the program was piloted in five courts in the Northern Rivers region of NSW. By 2007 the program operated in 61 NSW local courts where 80 per cent of defendants appear (Matruglio 2007).

The MERIT program is funded through the Commonwealth Government's Illicit Drug Diversion Initiative. The program

is an interagency initiative between NSW government departments, agencies and some non-government organisations (NGOs). The Attorney General's Department is the lead agency and has specific responsibility for the administration of MERIT within the court system. The NSW Police Force, Legal Aid Commission and the Chief Magistrates Office are other justice agencies with program partnership responsibilities. The Department of Health, and some participating NGOs, are responsible for clinically assessing the suitability of individuals for participation on the MERIT program and, for those individuals accepted into the program, undertaking the ongoing case management for the defendants' three-month program.

A summary of how the MERIT program operates is provided in Table 1.

The MERIT program is a 'pre-plea' drug diversion program as both referral and treatment occur prior to the defendant making a plea of guilty or not guilty for the relevant offence(s). A MERIT treatment program is typically three months in duration and occurs prior to sentencing while the defendant is on bail. An individual can be referred for a MERIT assessment by the magistrate, the defendant's lawyer or by self-referral. While referrals can also be made prior to court by the arresting police officer, this method is rarely used (Matruglio 2007).

A MERIT health professional assesses defendants referred to the program. From this assessment, a report is written and submitted to the Magistrate regarding the defendant's suitability for the program. As such, acceptance into the program is conditional on the defendant being assessed as suitable by the MERIT health professional and the Magistrate, and the defendant remaining committed to volunteering for the program.

Defendants accepted into the program are assigned a MERIT case manager who works with the defendant to implement an agreed treatment plan. Interventions in the treatment plan can include drug and alcohol counselling, pharmacotherapy interventions, welfare assistance and inpatient or outpatient detoxification. During the intervention period, the court is informed if a participant fails to attend appointments, commits an offence or breaches their bail conditions. On completion of the program, the MERIT caseworker provides the Magistrate with a final report for consideration in sentencing. In terms of sentencing, point 13.1 of the MERIT Local Court Practice<sup>1</sup> note states:

On sentence, the successful completion of the MERIT programme is a matter of some weight to be taken into account in the defendant's favour. At the same time, as the MERIT programme is a voluntary optional programme, its unsuccessful completion should not, on sentence, attract any additional penalty.

**Table 1: Description of MERIT program process**

#### Referral to Program

A MERIT referral can be made for an eligible individual by:

- The magistrate, the defendant's lawyer or the defendant at or before the first court appearance
- The charging police officer at arrest

#### Eligibility Criteria

An individual appearing in a local court is eligible for the program if they:

- Are over the age of 18 years
- Are suitable for release on bail
- Live within the effective catchment area
- Have a demonstrable illicit drug problem (excluding alcohol as primary substance)
- Have no current or pending matters for violent, sexual or other indictable offences
- Are deemed by a MERIT team health professional to be suitable for drug treatment
- Are approved to participate in the program by the Magistrate
- Are willing to consent to a drug treatment program

#### Program Treatment Options

Individuals on the 3 month MERIT program receive treatment that can include:

- Detoxification
- Methadone and other pharmacotherapies
- Residential rehabilitation
- Individual and group counselling
- Case management
- Welfare support and assistance

#### Treatment Process

The treatment process includes:

- Undertaking drug treatment as agreed with the caseworker and Magistrate
- Abiding by all conditions of bail and the MERIT program undertaking
- Being provided with the support and guidance of a MERIT caseworker
- Appearing before the Magistrate during this period, to provide an update on treatment progress

#### Disobey program conditions

The court is notified if an individual on the program:

- Consistently fails to attend scheduled appointments
- Commits further offences
- Does not comply with the bail conditions

#### Sentencing or Final Hearing

The Magistrate hearing the case is provided with a report from the MERIT team. The report details;

- the defendant's participation and progress while on the program
- an aftercare treatment plan, where relevant

In sentencing;

- the implications of a participant's compliance or non-compliance with the drug treatment program is at the discretion of the Magistrate
- failure to respond to the MERIT drug treatment program is not dealt with by punitive measures

## PREVIOUS RESEARCH

This section briefly reviews the research literature on drug diversion programs, and the effectiveness of interventions similar to MERIT. In Australia and internationally there is a large and growing body of research on drug diversion programs in the criminal justice system. This body of research includes a number of reviews and meta-analyses (Harvey et al. 2006; Latimer et al. 2006; Wilson et al. 2006, Wundersitz 2007). While these reviews highlight the diversity of programs, they also identify that much of the research in this area is methodologically weak (Harvey et al. 2006; Wilson et al. 2006). These weaknesses generally relate to not adequately accounting for likely sources of selection bias in the design and analysis of the research. We first review some Australian studies, and then aspects of the international literature.

Drug diversion programs broadly similar to MERIT operate in most Australian states. In addition to the MERIT pilot evaluation in the Northern Rivers region, recidivism outcomes have been evaluated for two other programs similar to MERIT. The Court Referral and Evaluation for Drug Intervention and Treatment Program (VicCREDIT)<sup>2</sup> operates in Victoria and, with a few exceptions (i.e. defendants are eligible with outstanding violent or sexual offences), is very similar to the MERIT program (Wundersitz 2007). An evaluation of the VicCREDIT program was conducted during its first two years of operation comparing the recidivism of VicCREDIT participants with those who were referred but did not participate in the program (Heale & Lang 1999). Re-offending was evaluated within an 84-day proxy bail period, and while VicCREDIT participants re-offended slightly less and took a little more time to re-offend, none of the differences were statistically significant.

Two programs broadly similar to MERIT operate in Western Australia: the Pre-Sentence Opportunity Program (POP) and the Supervised Treatment Intervention Regime (STIR) (Crime Research Centre 2007). Using a methodology of comparing participants'

predicted and actual rates of offending, those who completed the POP program were estimated to offend at a rate 15 percentage points lower than predicted and, for the STIR program, 6.6 percentage points lower than predicted. However, sample sizes were less than 25 for both groups and no tests of significance were reported (Crime Research Centre 2007).

As noted earlier, the MERIT program was piloted in July 2000 in five courts in the Northern Rivers region of NSW. An evaluation of this pilot program found that in a 12-month follow-up period defendants who completed MERIT (n=91) were significantly less likely to re-offend than those who did not complete the program (n=84) (Passey 2003; Passey et al. 2007). While their results appear promising, the research design was relatively weak because some of the inherent differences between the non-randomly selected groups were not taken into account. It is probable that unaccounted for characteristics and reasons for defendants completing the MERIT program were also strongly related to their propensity to re-offend (Wilson et al. 2006). As a consequence, while program completers were found to offend at a rate 16 percentage points lower than non-completers, it is likely that these effects were due to unaccounted for differences as much as any effects of the program.

In the international literature, the vast majority of drug diversion evaluations are for programs identified as 'drug courts'. While MERIT is not considered a drug court in NSW, it does have similarities to many North American drug court programs in terms of its administration within the criminal justice system, target population and treatment regime (Harvey et al. 2006; Latimer et al. 2006). The meta-analyses of drug court programs by Wilson et al. (2006) and Latimer et al. (2006) are the most recent and comprehensive reviews in the international literature. In their meta-analysis Wilson et al. (2006) used the results from 50 individual drug court evaluations. Among these studies, they found substantial variation in the results. Some studies reported significant

moderate (Lind et al. 2002) and large (Gottfredson et al. 2003) decreases in the offending, while others reported no significant effects (Deschenes et al. 1995) and increases in offending (Miethe et al. 2000). While the variation could partly be due to differences in the operation of the drug courts, the authors also stated that a number of studies were methodologically weak, limiting their ability to make firm conclusions. As such, Wilson et al. (2006, p. 459) stated that they could only tentatively conclude that drug offenders who participate in a drug court program were less likely to re-offend. Interestingly, while Latimer et al. (2006) used a very similar collection of studies, they made stronger conclusions reporting that across all drug court studies there was an average 13 percentage point decrease in re-offending.

In summary, MERIT represents an innovative treatment program for defendants with illicit drug use problems. With its wide reach in the NSW criminal justice system, the MERIT program, if effective, could have a substantial impact on drug-related offending in NSW communities. Past research suggests that some drug diversion programs are effective in reducing re-offending, however there is substantial criticism that many observational studies ignored likely sources of selection bias. In light of such criticism, and within the predetermined constraints, we sought to implement a robust evaluation of the effectiveness and efficacy of MERIT. We now proceed to describe the methods used to evaluate the MERIT program.

## THE CURRENT STUDY

### METHODOLOGICAL CHALLENGE

The challenge in this study is to estimate the independent effect of the MERIT program on defendants' re-offending. As random selection was not used to create equivalent treatment and control groups, we needed to use other methods to account for those factors that were likely to influence re-offending and also vary between the MERIT group and

the control group. Typically, we would use statistical techniques to remove the effects of all other relevant factors before comparing the rates of re-offending between the groups. The effects of factors such as age and prior offending would be removed using standard regression methods or propensity score matching. Using these methods, the logic is that if we can be confident that the effects of all other relevant factors on the outcome have been removed, then we can also be confident that the results reflect the independent effect of the MERIT program on defendants' rates of re-offending. Unfortunately, this was not the case in this study. We did not have information on all variables that were likely to both influence re-offending and also vary between the MERIT group and the control group. Using typical observational research methods, such as regression analysis, would lead to biased estimates of the effect of the MERIT program.

### OMITTED VARIABLE BIAS

In this evaluation we did not have information on whether control group participants had a drug use problem. Conversely we knew that most, if not all, of the MERIT group had a drug use problem because the presence of a drug use problem is fundamental to selection into the program. It was also known that a drug use problem is strongly correlated with offending, with some research suggesting a causal effect. In a meta-analysis, Dowden and Brown (2002) found that across 45 studies the presence of a drug use problem had a weighted mean effect size of 0.19 on the outcome of any re-offence (i.e. a drug problem increased the likelihood of committing any re-offence by 19 percentage points). Not accounting for important information such as drug use in an evaluation leads to a problem commonly called 'omitted variable bias'. When omitted variable bias is a problem, treatment effect estimates will not only reflect the impact of the program, but also reflect the impact of the omitted variables on the outcome.

In addition to our primary concern of not being able to account for the impact of a

drug use problem, we also had concerns that unaccounted self-selection and referral processes were potential sources of bias. These concerns were due in part to where the MERIT program is situated in the criminal court process. While participation in MERIT is voluntary, it is offered to defendants prior to conviction and sentencing and, as such, it may implicitly coerce into the program those with serious offending histories who are facing heavy penalties. Similarly, Magistrates and legal representatives may find that for particular high-risk defendants, encouraging participation in MERIT is the only viable means of reducing the likelihood of the imposition of restrictive punitive sanctions. While we are able to control for criminal history variables in the analysis, we do not have information (variables) on the dynamic risk factors that may have influenced selection into MERIT and also be related to re-offending.

### TREATMENT EFFECT MODEL WITH SELECTION BIAS CORRECTION

When omitted variable bias is a problem, treatment effect models with correction for selection bias can be used to consistently estimate the effect of a treatment program. We use this method to consistently estimate the effect of the MERIT program on re-offending outcomes. Treatment effect models utilise information known about the selection process to account for omitted variable bias in making estimates about the effect of a program. To achieve this, two equations are estimated simultaneously. The first equation is a model predicting treatment (i.e. who receives MERIT), and the second is a model predicting the outcome (i.e. who re-offends) (see Figure 1 for an example). If there is an omitted variable causing selection bias (i.e. drug use), it will be part of the unexplained error term in each equation. Consequently, testing for a correlation between the error terms for the two equations operates as a formal test of whether omitted variables are causing selection bias. In addition to significant correlation being evidence of

omitted variable bias, it forms the basis for deriving consistent treatment effect estimates that correct for selection bias.

### INSTRUMENTAL VARIABLES

Treatment effect models correcting for selection bias are made more efficient and precise if there is at least one variable that uniquely contributes to predicting treatment that does not predict and is excluded from the equation predicting the outcome (Wooldridge 2009). Such variables that identify the unique effect of treatment are often called instrumental variables (IV). In this study an instrument is needed that is predictive of defendants receiving MERIT, while being unrelated to their propensity to re-offend. We use as the instrument in this study a variable that represents whether a person did or did not have legal representation at their index court appearance. Due to its technical nature, we justify why legal representation is regarded as a relevant and valid instrument in Technical Appendix 1.

### RESEARCH DESIGN

The basic research design used in this study is similar to that commonly used in program evaluation. A quasi-experimental design is used in which we select a group of cases similar to the MERIT sample for the purpose of making comparisons. In this section we detail the specific parameters used to collate the data, select the samples and build the treatment effect models that correct for omitted variable bias.

### DATA SOURCES

Two sources of data were used in the study. The primary source for the demographic and offending data was the Re-offending Database (ROD) managed by the NSW Bureau of Crime Statistics and Research (BOCSAR) (Hua & Fitzgerald 2006). ROD consists of linked individual offender-level data for all finalised criminal matters in NSW courts from January 1994. Because ROD does not contain information about program participation, data from the

NSW Department of Health’s MERIT Information Management System (MIMS) was used to identify MERIT participants.

**STUDY PERIOD**

The study period for the evaluation was the three-year period between 1st July 2002 and 30th June 2005. All MERIT participants who had a MIMS program exit date within this period were selected for inclusion in the treatment sample. To minimise the impact of implementation issues, the study period began six months after the start of the rollout of the MERIT program across NSW courts. The end date for the study period was chosen so that all participants had a minimum two-year follow-up period. As some participants’ court finalisation date was up to six months after their MERIT program exit date, it was necessary to allow a two-year follow-up period from 1st January 2006.

**TREATMENT SAMPLE**

The total treatment sample in this study consisted of all defendants who had a MERIT episode in the study period that could be matched to a court appearance in ROD. Only one MERIT episode per person was included in the treatment sample. For defendants who had multiple MERIT episodes, one episode within the study period was chosen at random. This resulted in excluding 295 MERIT episodes. The matching procedure involved a number of stages. Firstly, defendants identified in the MIMS database were matched to person records in ROD using their Criminal Name Index number and date of birth information. Of the 3,573 defendants recorded as having a MERIT episode in the MIMS database, 3,441 defendants (96.3%) were matched to person records in ROD. In the second stage of the matching procedure, the

specific MERIT episodes were matched to the relevant finalised court appearance record for the defendant in ROD. Table 2 outlines how the MERIT episodes were matched to court finalisation dates. MERIT episodes were matched to court finalisation dates using two methods resulting in 84 per cent of all episodes being matched. After both methods were implemented, and data cleaning procedures were implemented<sup>3</sup>, the proportion of cases in the treatment sample who completed the program was slightly higher (68.3%) than before matching (64.2%).

**CONTROL SAMPLE**

A comparison group was identified in ROD using the following broad criteria:

- the finalised court appearance was in a NSW local court within the three-year study period;

**Figure 1: Example of a two-equation treatment effects model to evaluate the MERIT program**

$$\begin{aligned}
 \text{Treatment (MERIT)} &= \text{age} + \text{prior offences} + \text{prior prison} + \text{other variables} + \text{instrumental variable} + \text{error term} \\
 \text{Any re-offence} &= \text{treatment (MERIT)} + \text{age} + \text{prior offences} + \text{prior prison} + \text{other variables} + \text{error term}
 \end{aligned}$$

**Table 2: Matching MERIT episodes to court finalisation dates**

Task	Description	Matched
Match MERIT participants to person records in ROD	MERIT participants, each with only one selected episode in the study period, matched to the ROD database using: - CNI number; and - 2 of 3 date of birth portions correct (i.e. day and year)	3,441  (96.3%)
Method 1 for matching MERIT episodes to court finalisation dates	MERIT episodes matched to ROD if the MERIT program exit date is within one day of a court finalisation date in the ROD database	1,567 (45.5%)
Method 2 for matching MERIT episodes to court finalisation dates	MERIT episodes matched to ROD if: - the MERIT program exit date is within 180 days prior and 30 days after a court finalisation date in the ROD database; and - an offence recorded for that ROD court finalisation date matches an offence recorded for the MERIT episode in the MIMS database	1,324 (38.5%)
	▶ Total number of MERIT participant episodes matched using both methods	2,891 (84.0%)

- at the time of the finalised appearance, the defendant was aged between 18 and 55 years;
- one finalised court appearance per defendant (where a defendant had multiple episodes in the study period, one episode was selected at random);
- the defendant has not been a MERIT participant; and
- the defendant was not appearing for a driving offence.

Defendants over the age of 55 years were excluded from the study sample because the treatment sample included only six defendants over this age. Defendants appearing on driving offences were also excluded because driving offences are often committed by less serious offenders, and the proportion of defendants with an index driving offence was much higher in the control sample (45.8%) in comparison to the MERIT sample (10.9%). Excluding defendants with driving offences led to 293 MERIT cases being removed from the sample. While this slightly reduced the representativeness of the sample, it greatly improved the validity of comparisons derived using the analysis techniques chosen for this study.

After employing these criteria and various data cleaning procedures,<sup>3</sup> a pool of 96,081 comparison group participants was obtained. The final control group sample used in the study was a random sample of 23,960 cases, leading to a treatment to control case ratio of one to ten. A relatively large control group was selected due to treatment effect models generally having less statistical power than traditional analysis methods.

## ANALYSIS VARIABLES

### INDEPENDENT VARIABLES

#### Treatment variables

The independent variables in this study are indicators of whether defendants participated in MERIT (treatment group) or received typical judicial processing (control group). Participation in MERIT was defined

**Table 3: Percentage of defendants in each sample with each covariate characteristic**

		MERIT samples			Control sample
		All accepted	All completed	Not completed	
Number of cases		2,396	1,638	758	23,960
Gender	Female	21.9	21.5	22.7	19.3
	Male	78.1	78.5	77.3	80.7
Indigenous status	Indigenous	20.4	18.0	25.5	14.5
	Non-Indigenous	79.6	82.0	74.5	85.5
Age (years)	18 – 22	24.6	22.9	28.4	24.4
	23 – 27	26.4	26.4	26.5	18.6
	28 – 33	24.8	24.7	25.2	20.0
	34 +	24.1	26.1	19.9	37.0
Concurrent offences	0	29.1	30.5	26.0	60.4
	1	37.9	40.5	32.5	31.1
	2 +	33.0	29.1	41.6	8.5
Index theft offence	Yes	46.1	47.5	51.8	23.2
	No	53.9	57.3	55.3	77.9
Prior offences	0 - 1	22.9	24.6	19.1	61.6
	2 - 4	30.7	31.9	28.1	23.2
	5 - 7	22.1	21.6	23.2	8.7
	8 +	24.3	21.9	29.6	6.5
Offence two years prior	Yes	65.4	62.3	72.2	30.5
	No	34.6	37.7	27.8	69.5
Custody two years prior	Yes	46.5	39.3	62.0	14.7
	No	53.5	60.7	38.0	85.3
Prior theft offence	0	35.1	37.7	29.4	75.3
	1-3	30.8	30.6	31.1	17.2
	4+	34.1	31.7	39.5	7.5
Any drug offence	Yes	45.4	44.5	47.4	15.6
	No	54.6	55.5	52.6	84.4
Offence seriousness <sup>1</sup>	High	21.3	21.9	19.9	34.5
	Other	78.7	78.1	80.1	65.5
Remote index <sup>2</sup>	More remote	52.9	50.6	58.1	46.0
	More urban	47.1	49.5	42.0	54.0
Disadvantage index <sup>3</sup>	More disadv.	53.5	53.8	52.9	52.6
	Less disadv.	46.5	46.2	47.1	47.4

<sup>1</sup> derived from the National Offence Index (NOI) (Australian Bureau of Statistics 2003). 'High' relates to any offence with a NOI score below 610

<sup>2</sup> derived from the Australian Standard Geographical Classification (ASGC) (Australian Bureau of Statistics 2008a). 'More remote' category relates to postcodes with ASGC score below 0.11

<sup>3</sup> derived from the Socio-Economic Indexes for Areas (SEIFA) (Australian Bureau of Statistics 2006). 'More disadvantaged' category relates to postcodes with SEIFA score below 972.6



in two ways. First, participation in MERIT was defined as any defendant accepted into the MERIT program, regardless of whether they completed the MERIT program. This definition corresponds with the notion of evaluating programs on an intention-to-treat basis, rather than only investigating those who complete the program. As participants receive some treatment and take up resources whether or not they complete the program, evaluation on the basis of intention-to-treat is often regarded as being a better measure of the practical effectiveness of a program. When receiving treatment is defined in this way we refer to the evaluation as being on an ‘intention-to-treat’ basis, with the corresponding sample the ‘MERIT accepted’ sample.

The second approach was to define treatment as any person who completed the program. Most evaluations of drug diversion programs have defined treatment in this way (Latimer et al. 2006). This definition corresponds with the notion of evaluating the efficacy of a program when it is delivered as intended. When defined in this way we refer to the evaluation as being on the basis of ‘program completion’. The corresponding sample, which is a subset of the accepted sample, is referred to as the ‘MERIT completion’ sample.

For each outcome analyses are conducted separately with the MERIT completion sample and the MERIT accepted sample. The control group in each analysis is the same sample of 23,960 defendants selected from ROD. In both analyses, cases that received MERIT were coded one (1) and control group cases were coded zero (0).

**Covariates**

Similar to the approach in standard regression analysis, covariates are included in treatment effects models to account for any factors that may influence the outcome and vary between the treatment and control groups. In both the outcome equation and treatment equation the same set of covariates are used (Wooldridge 2009), with the exception that the instrumental variable is only included in the treatment equation. All demographic, court and criminal history

covariates were derived from ROD. Past research has shown that ROD contains a number of factors that are strongly related to re-offending and to selection into various treatment programs (Moffatt & Poynton 2007; Smith & Jones 2008; Weatherburn & Bartels 2008).

Table 3 displays all the covariates used in the analysis with the percent of defendants with each covariate characteristic in the control sample, MERIT accepted sample, MERIT completed sample and MERIT not-completed sample. It is evident that the MERIT samples had a higher percentage of cases with many characteristics associated with re-offending such as more prior offences, prior time in custody and prior theft offences.<sup>4</sup>

**DEPENDENT VARIABLES**

The dependent variables in this study are all measures of re-offending. Re-offending was operationalised by deriving binary variables from ROD that represented whether each defendant had committed a re-offence within two years of their index court appearance. If a defendant committed a re-offence the variable was coded one (1), and zero (0) otherwise.<sup>5</sup> Separate variables were derived for the categories of any re-offence, any theft offence and any drug re-offence, with the percentages for each sample displayed in Table 4.<sup>6</sup> Theft and drug offences were included as dependent variables as they are both commonly regarded as being ‘drug related’ offences (Dowden & Brown 2002).<sup>7</sup>

**Table 4: Percentage of defendants who committed each type of re-offence in each sample**

		MERIT samples			Control sample
		Accepted	Completed	Not completed	
<b>Number of cases</b>		<b>2,396</b>	<b>1,638</b>	<b>758</b>	<b>23,960</b>
Any re-offence	Yes	57.9	52.9	68.6	27.5
	No	42.2	47.1	31.4	72.5
Any theft re-offence	Yes	30.3	25.6	40.2	7.1
	No	69.7	74.4	59.8	92.9
Any drug re-offence	Yes	15.2	13.3	19.3	4.2
	No	84.8	86.7	80.7	95.8

**Table 5: Percentage of defendants with legal representation in each sample**

		MERIT samples			Control sample
		Accepted	Completed	Not completed	
<b>Number of cases</b>		<b>2,396</b>	<b>1,638</b>	<b>758</b>	<b>23,960</b>
Legal representation	Yes	90.0	91.6	86.4	65.8
	No	10.0	8.4	13.6	34.2

**INSTRUMENTS**

The primary instrumental variable used in the analysis of MERIT is the binary variable ‘legal representation’. This variable corresponds to whether the defendant had a legal representative at the index court appearance. Table 5 shows that a substantially larger percentage of defendants who received MERIT had legal representation. As previously stated, in Technical Appendix 1 we provide justification as to why legal representation is a relevant and valid instrument.

**ANALYSIS TECHNIQUE**

A number of different computational techniques can be used to calculate treatment effect models with correction for selection bias. When the outcome, treatment variable and the instrument are all binary variables, the technique commonly recommended is the bivariate probit model (Greene 2007). As such, in this research we primarily use a recursive bivariate probit model that employs a maximum likelihood method to estimate consistent treatment effect estimates (Greene 2007). We used the STATA package’s seemingly unrelated biprobit procedure to conduct the analysis, including the treatment variable in the outcome model (Greene 2007, p. 35). The recursive bivariate probit model has previously been used in the analysis of offending outcomes (Uggen 1999), health outcomes (Yoo & Frick 2006) and in a wide variety of applications in the econometrics field (see Greene 2003).<sup>8</sup>

**RESULTS**

In this section we report the results from applying a treatment effects model to estimate the impact of the MERIT program on re-offending outcomes. The effect of being accepted into MERIT, and for completing MERIT, is evaluated for the outcomes of any offence, any theft offence and any drug offence. The marginal effect of the MERIT program is provided with the treatment effect estimates. The marginal effects represent

the proportional change in the number of defendants estimated to re-offend due to receiving MERIT, while holding at the average the effects of all other covariates on the outcome. When converted into a percentage point difference, the marginal effect is the difference in the percentage of defendants estimated to re-offend in the MERIT group compared to the control group.

We also provide overall model statistics for each model. While most are typical of probit analyses, the RHO statistic and the associated likelihood ratio (LR) tests are specific to treatment effects models. The RHO statistic is a measure of the correlation between the error terms for the outcome and selection equations. The LR test of RHO assesses whether the correlation in the error terms is significantly different to zero, with a significant correlation being evidence of omitted variable bias (as discussed previously). Once the relevant covariates were included, the RHO test statistic was highly significant in each outcome model investigated in this study. This provides support for our proposition that selection bias was an issue and that a treatment effects model was the appropriate analysis technique.

**ANY RE-OFFENCE**

As noted earlier, the effect of the MERIT program on the outcome of any re-offence within a two-year follow-up period was evaluated on an ‘intention-to-treat’ and ‘program completion’ basis, as shown in Table 6.

On the basis of ‘intention-to treat’, the estimated effect of being accepted into the MERIT program, regardless of completion, was not statistically significant for the outcome of committing any re-offence. When evaluated on the basis of completing treatment, the MERIT program had a statistically significant and substantial impact on the outcome of any re-offence. Completion of the MERIT program was estimated to reduce the number of defendants’ re-offending in a two-year follow-up period by 12 percentage points.

**ANY THEFT RE-OFFENCE**

Table 7 displays the results for the outcome of any theft re-offence.

On the basis of ‘intention-to-treat’, acceptance into the program was estimated to result in a 3.9 percentage point reduction in defendants committing any theft offence in the two-year follow-

**Table 6: Estimated treatment effect of the MERIT program on the outcome of any re-offence**

Accepted into MERIT sample					
	Coef	Std Error	P-value	95% CI	Marginal Effect
Treatment (MERIT)	-0.12	0.14	0.4	-0.38, 0.16	-3.84
LR Test (RHO = 0)	chi <sup>2</sup> = 12.76, p-value < .001				
Overall model statistics	n=26356, Wald chi <sup>2</sup> (38) = 5993.91, p-value < .001				
Completed MERIT sample					
	Coef	Std Error	P-value	95% CI	Marginal Effect
Treatment (MERIT)	-0.42	0.15	< .01	-0.71, -0.13	-12.26
LR Test (RHO = 0)	chi <sup>2</sup> = 21.48, p-value < 0.001				
Overall model statistics	n=25598, Wald chi <sup>2</sup> (38) = 4703.08, p-value < .001				

*Covariates included in models: gender, Indigenous status, age, concurrent offences, prior offences, prior offence in last two years, prior theft, prior drug, custody in previous two years, offence seriousness (high), remoteness indicator, disadvantage indicator. Full model statistics are provided in Technical Appendix 2 and 3, respectively.*

up period. For those defendants who completed the MERIT program, the estimated treatment effect on committing theft offences was highly significant ( $p < 0.01$ ). Completion of the MERIT program was estimated to reduce the number of defendants committing a theft offence by 4.2 percentage points.

**ANY DRUG RE-OFFENCE**

For the outcome of any drug offence, as shown in Table 8, the treatment effect for defendants accepted into MERIT was very close to statistical significance ( $p = 0.06$ ). For the sample who completed the program, the result also approached statistical significance ( $p = 0.08$ ). By

contrast to the previous two outcomes, the treatment effect for those who completed MERIT was not larger or more significant on the ‘any drug offence’ outcome. As drug offences are relatively rare events, it is possible that the analysis technique was imprecise in detecting the effects.

**DISCUSSION**

The MERIT program is a voluntary drug diversion program administered in NSW local courts and provides defendants with the option of undertaking formal drug treatment while on bail. This evaluation aimed to establish if participation on the MERIT program reduces defendants’ likelihood of re-offending relative to typical judicial processing and sanctioning. Completion of the MERIT program was estimated to significantly reduce the number of defendants who committed any re-offence and any theft re-offence within a two-year follow-up period. Completion of MERIT was estimated to reduce the numbers of defendants committing any offence by 12 percentage points and any theft offence by four percentage points. When treatment effects were estimated on the stronger intention-to-treat basis (i.e. all defendants accepted into the program), the program was found to significantly reduce the number of defendants who committed any theft offence by four percentage points. On the ‘any drug offence outcome’, the impact of the MERIT program approached significance for both the intention-to-treat and program completion samples. While the estimated proportional effects of the program may seem relatively small, particularly for the intention to treat sample (i.e. 4% for theft offences), the criminology literature (Greenberg 1979) strongly suggests that small changes in the rate of convictions are associated with much larger changes in actual offending (i.e. both detected and undetected offending).

Before drawing conclusions based on these findings, it is important to consider the potential limitations of the methods used in this evaluation. In this study the

**Table 7: Estimated treatment effect of the MERIT program on the outcome of any theft re-offence**

Accepted into MERIT sample					
	Coef	Std Error	P-value	95% CI	Marginal Effect
Treatment (MERIT)	-0.43	0.19	0.03	-.80, -.05	-3.93
LR Test (RHO = 0)	chi <sup>2</sup> =15.80, p-value > chi <sup>2</sup> = .001				
Overall model statistics	n=26356, Wald chi <sup>2</sup> (40) = 5306.25, p-value > .001				
Completed MERIT sample					
	Coef	Std Error	P-value	95% CI	Marginal Effect
Treatment (MERIT)	-0.53	0.20	< .01	-0.92, -0.15	-4.15
LR Test (RHO = 0)	chi <sup>2</sup> =13.00, p-value > 0.001				
Overall model statistics	n=25598, Wald chi <sup>2</sup> (40) = 4099.95, p-value < .001				

*Covariates included in models: gender, Indigenous status, age, concurrent offences, prior offences, prior offence in last two years, prior theft, prior drug, custody in previous two years, index theft offence, offence seriousness (high), remoteness indicator, disadvantage indicator. Full model statistics are provided in Technical Appendix 4 and 5, respectively.*

**Table 8: Estimated treatment effect of the MERIT program on the outcome of any theft re-offence**

Accepted into MERIT sample					
	Coef	Std Error	P-value	95% CI	Marginal Effect
Treatment (MERIT)	-0.3	0.16	0.06	-0.62, 0.01	-2.04
LR Test (RHO = 0)	chi <sup>2</sup> =14.22, p-value < .001				
Overall model statistics	n= 26356, Wald chi <sup>2</sup> (40)= 3966.07, p-value < .001				
Completed MERIT sample					
	Coef	Std Error	P-value	95% CI	Marginal Effect
Treatment (MERIT)	-0.31	0.18	0.08	-0.63, 0.04	-1.92
LR Test (RHO = 0)	chi <sup>2</sup> =8.42, p-value < .001				
Overall model statistics	n=25598, Wald chi <sup>2</sup> (40) = 2944.41, p-value < .001				

*Covariates included in models: gender, Indigenous status, age, concurrent offences, prior offences, prior offence in last two years, prior theft, prior drug, custody in previous two years, index drug offence, offence seriousness (high), remoteness indicator, disadvantage indicator. Full model statistics are provided in Technical Appendix 6 and 7, respectively.*

treatment effects model with correction for selection bias technique relies on the justification of key assumptions to derive consistent estimates of the treatment effect. We were confident that the assumption of instrument relevance was met as legal representation was found to have a strong, independent influence on selection into MERIT. Although not directly testable, we were also confident that we could justify that legal representation was a valid instrument, unrelated to the re-offending outcomes. However, evident in the justification provided in the technical appendix was that the validity of the legal representation instrument was dependent on controlling for other covariates. Legal representation was related to other factors such as prior offences, offence seriousness and prior custody that, if not controlled for, would have led to correlations between the instrument and the omitted variables (Frölich 2007; Wooldridge 2009). Thus, while we believe the estimates from the treatment effect models are valid, we acknowledge that the modelling methods were dependent on complex justifications. Our confidence would be substantially higher had the treatment effect estimates been derived using a randomised controlled trial in which selection bias was explicitly managed in the research design (Farrington 2006).<sup>9</sup> Considering the importance and investment made in the MERIT program, this point should not be overlooked.

Incapacitation bias, or differences in the time available to re-offend, was a potential limitation (i.e. in the follow-up period, control participants may spend more time in prison such that they have less opportunity to offend). In an attempt to minimise incapacitation bias, defendants were only included in the study if, in the follow-up period, they had at least 100 days in the community. Analyses were also conducted using only defendants who spent no time in custody during the follow-up period. These analyses lead to very similar results to those reported in this bulletin. From implementing these restrictions and conducting exploratory analyses we were confident that any effects of incapacitation bias were minimal.

In future evaluations of the MERIT program it would be useful to explore the effect of MERIT on other outcome measures. In addition to reducing the re-offending of participants after finishing the program, an intended outcome of the MERIT program was to reduce participants' re-offending while on bail. In this study, we only sought to evaluate the impact of MERIT on re-offending after the finalised court date due to our dependence on data from ROD. ROD is structured around finalised court appearances and, as such, it was difficult to identify bail periods for control cases. It is also acknowledged that evaluating MERIT using outcome measures that represent the number of re-offences and offence seriousness may be valuable areas for future evaluation. While we would have liked to extend the current evaluation to investigate other specifications of the outcome, we believe that it was appropriate to focus this study on the comprehensive evaluation of the binary re-offence outcome measures.

Notwithstanding these limitations, this study represents a systematic and robust evaluation of the impact of the MERIT program on re-offending. In comparison to other drug diversion evaluations, the sample of participants was large, the two-year follow-up period was comparable, and the type and number of covariate controls similar (Latimer et al. 2006). We identified and addressed the issue of omitted variable bias; a common but often overlooked problem in drug diversion evaluation (Wilson et al. 2006). The treatment effects model with correction for selection bias was an appropriate and powerful tool for the task (Angrist 2006). Our finding that among those who completed MERIT there was an estimated marginal effect of a 12 percentage point reduction in re-offending is very similar to Latimer et al.'s (2006) finding of an average 13 percentage point reduction across 50 studies. We consider this evaluation of MERIT to be among the more robust observational studies of a drug diversion program.

We would like to highlight three important points related to the findings. It is

evident that the impact of the program largely depends on people completing the program. While the efficacy of the MERIT program was demonstrated for defendants who complete the program, the evidence for program effectiveness was less compelling. It is apparent, however, that program effectiveness should improve if the number of people who complete the program is increased. Further research to understand which factors are associated with program completion may assist program administrators to increase completion rates and improve the effectiveness of MERIT. Second, we would like to highlight that while by name MERIT is an 'early referral' program, the prior criminal histories of MERIT participants suggested that most had substantial previous contact with the criminal justice system (see Table 3). Many of the defendants who were accepted and/or completed MERIT had spent time in prison. As such, MERIT is best considered a program that provided drug treatment and impacted on the re-offending of defendants who, on average, had the characteristics of high-risk offenders.

The third point to highlight regarding the results is that MERIT is a relatively short duration program in comparison to most other efficacious drug diversion programs. In Latimer et al.'s (2006) meta-analysis programs with an intervention period under 12 months had a smaller average marginal effect size (7%) than programs with an intervention period of 12 to 18 months (18%). Other studies have also suggested that to reduce recidivism, drug treatment interventions need to be at least 90 days, with 12 months generally being the minimum effective treatment period (Goldsmith & Latessa 2001, p. 662). In the context of this literature, the estimated efficacy of MERIT as a short three-month program is interesting and warrants further investigation. It may be the case that while the MERIT program is typically only three months in duration, drug treatment including pharmacotherapy, residential rehabilitation and counselling may often continue after the program officially ends. It is also possible that other factors may contribute to the efficacy of

MERIT including:

- MERIT’s operation as a pre-plea option within the court process;
- dedicated health resources, including residential treatment places, for the program;
- the type of treatment interventions used;
- the intensity of treatment interventions used;
- the delivery of interventions by health department employees that are independent to the justice system; and/or
- judicial oversight by local court magistrates familiar to some defendants.

In summary, this evaluation provides clear support for the proposition that MERIT is an efficacious drug diversion program that reduces re-offending among defendants who complete the program. On an intention-to-treat basis the evaluation also supports that MERIT is an effective program in reducing the likelihood of committing further theft offences among all defendants accepted into the program. While considered a valid application of the techniques, the treatment effects model with correction for selection bias does not provide the level of confidence or depth of information about the impact of the program that would have been achieved had a randomised controlled design been implemented.

**NOTES**

1. See Staunton 2002, MERIT - Local court practice note number 5, [http://www.lawlink.nsw.gov.au/lawlink/local\\_courts/ll\\_localcourts.nsf/vwFiles/PRACTICE%20NOTE%205%20of%202001.pdf/\\$file/PRACTICE%20NOTE%205%20of%202001.pdf](http://www.lawlink.nsw.gov.au/lawlink/local_courts/ll_localcourts.nsf/vwFiles/PRACTICE%20NOTE%205%20of%202001.pdf/$file/PRACTICE%20NOTE%205%20of%202001.pdf), accessed on 6 June, 2008.
2. The prefix Vic is used for the CREDIT acronym (i.e. VicCREDIT) so as not to confuse the Victorian program with a NSW program that uses the same CREDIT acronym, the Court Referral of Eligible Defendants into Treatment.

**Table 9: Data cleaning exclusions and the number of affected cases**

<i>Exclusion Criteria</i>	<i>Treatment (n = 2,813)</i>	<i>Control (n = 221,566)</i>
Unknown indigenous status	20	29,106
Legal Representation is missing	22	456
Remoteness Index Missing	43	7,914
SEIFA Disadvantage Index Missing	48	8,024
Less than 100 free follow-up days	32	1,357
Over the age of 55 years	6	9,304
Driving Index Offence	293	84,690
Total Cases Excluded from Samples	417	125, 485
Cleaned Samples	2,396	96,081
Study Samples	2,396	23,960 (randomly selected)

3. Cases were excluded if they had unknown or missing data values as the analysis predominantly involved using multivariate models. A summary of cases excluded from the study samples is provided in Table 9. Cases were excluded if they had less than 100 days out of custody within the two-year follow-up period; to include cases that had limited free time to re-offend may compromise the analysis. As some cases met multiple exclusion criteria, the total number of cases is less than the sum of those who meet each criterion.
4. It is also worth highlighting that the continuous and count variables such as age and prior offences were recoded into sub-categories. The main reason for using sub-categories was that many of the count variables had non-linear relationships with the outcome. While using polynomials captured much of the non-linearity, it also led to instability in the models and an increase in the number of influential outliers.
5. Binary measures were used to evaluate re-offending because they presented as the most robust outcome on which to evaluate MERIT. Treatment effect models can be implemented with count measures (i.e. number of re-offences), however different techniques are required for modelling the distribution of these variables. We decided not to extend the evaluation to look at count outcomes, but consider such analyses a logical next step for future research.
6. The outcome measure ‘any re-offence’ included any criminal offence committed in the follow-up period, except for breach of a legal order. The outcome measure ‘any theft offence’ included any theft offences in the follow-up period with an Australian Standard Offence Classification number between 0700 and 0999 (Australian Bureau of Statistics 2008b). The outcome measure ‘any drug offence’ included any offence with an Australian Standard Offence Classification number between 1000 and 1099.
7. It is also worth noting that within the treatment effects model, participation in MERIT was the dependent variable in the second treatment equation as well as being the primary independent variable in the outcome model.
8. In addition to the bivariate probit technique, generalised method of moments (GMM) techniques were used in a supplementary capacity to estimate the treatment effect models. The GMM technique uses a linear estimator and alternative computational methods to the bivariate probit model. GMM analyses were conducted as a means of testing the robustness

and validity of our results to different computation methods. The results obtained using GMM with the same covariate models and a tightly specified legal representation instrument (i.e. interaction of legal representation with index drug offence) were substantively the same as those reported for the bivariate probit model. When reporting the results we focus on the bivariate probit model as this technique is regarded as more appropriate when outcomes, treatments and instruments are binary variables.

9. While randomised controlled trials can vary in design, in essence, they involve randomly assigning eligible participants (i.e. defendants with a drug problem) to either a treatment (i.e. MERIT) or a control condition (i.e. normal judicial processing) (Farrington 2006). Randomisation ensures that the treatment and control samples are equivalent on all known and unknown factors, and leads to unbiased estimates of the treatment effects. The NSW Drug Court evaluation is a relevant example of such a design (Lind et al. 2002).

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## TECHNICAL APPENDIXES

### TECHNICAL APPENDIX 1: JUSTIFICATION OF INSTRUMENT RELEVANCE AND VALIDITY

Formal justification of the relevance of legal representation as an instrument is given by conducting a likelihood ratio test of two different selection equation models. The model with legal representation and the other covariates explained significantly more variation in predicting selection into MERIT in comparison to a model that only included the covariates (LR  $\chi^2(1) = 279.9$ ;  $p = .000$ ). The result demonstrated that legal representation is a strong and relevant instrument in predicting treatment.

The validity of the instrument relates to the assumption that, after controlling for the other covariates and omitted variables, legal representation is unrelated to re-offending. The formal testing of instrument validity is more difficult than instrument relevance as by definition we do not know the specific nature of the omitted variables. As we did not have any alternative instruments known to be valid it was not possible to conduct over identification tests. The literature is consistent in stating that when other instruments known to be valid are not available, justification should be made primarily through providing a clear argument as to why the proposed instrument is unrelated to the outcome (Wooldridge 2009).

We argue that there is no logical reason why in itself, legal representation, should be related to whether a defendant re-offends. Any interaction between a legal representative and the defendant prior to or during the court proceedings is unlikely to change a defendant's propensity to re-offend. It is argued that, in the model, we have controlled for all variables likely to be related to both legal representation and re-offending. We have controlled for a variety of criminal history variables, socio-economic disadvantage (using the SEIFA index) and seriousness of the primary offence at the index court

date (using a covariate representing the most serious offences in the National Offence Index). We also argue that, after controlling for all other variables, defendants with a drug use problem are no more or less likely to be legally represented than similar defendants without a drug use problem.

It is sometimes possible to test instrument validity with some treatment effect estimation techniques by assuming identification off functional form, however these tests are often unreliable (Angrist 2001). We did test the validity of the legal representation instrument off the functional form of the bivariate probit model. Legal representation was significant in the outcome equation, indicating it could be invalid. However, testing instrument validity off the functional form of the bivariate probit model is known to be problematic (Angrist 2001). Consequently, we tested instrument validity using an alternative computational technique to derive the treatment effects model. Using the generalised method of moments (GMM) technique and with legal representation tightly specified (interaction of legal representation with index drug offence), the test of instrument validity off functional form provided support for the validity of the legal representation instrument. Further, the findings obtained using the GMM technique and the tightly specified legal representation instrument were substantively the same as those derived from the bivariate probit model.

**Technical Appendix 2: Treatment effects models for the impact of the MERIT program on the any re-offence outcome for the intention-to treat sample**

<i>Outcome Model</i>		<i>Model 1</i>			<i>Model 2</i>			<i>Model 3</i>			<i>Model 4</i>		
<i>Variable</i>	<i>Categories</i>	<i>Coef.</i>	<i>Std. Err</i>	<i>P-value</i>	<i>Coef.</i>	<i>Std. Err.</i>	<i>P-value</i>	<i>Coef.</i>	<i>Std. Err</i>	<i>P-value</i>	<i>Coef.</i>	<i>Std. Err</i>	<i>P-value</i>
<b>Treatment</b>	<b>MERIT</b>	<b>0.41</b>	<b>0.16</b>	<b>0.01</b>	<b>-0.02</b>	<b>0.15</b>	<b>0.88</b>	<b>-0.14</b>	<b>0.15</b>	<b>0.35</b>	<b>-0.12</b>	<b>0.14</b>	<b>0.40</b>
	*Control												
Gender	Male	0.19	0.02	> 0.01	0.09	0.02	> 0.01	0.09	0.02	> 0.01	0.09	0.02	> 0.01
	*Female												
Indigenous status	Yes	0.63	0.02	> 0.01	0.33	0.02	> 0.01	0.33	0.02	> 0.01	0.32	0.03	> 0.01
	*No												
Age (years)	18-22	0.29	0.02	> 0.01	0.39	0.02	> 0.01	0.35	0.02	> 0.01	0.35	0.02	> 0.01
	23-27	0.20	0.03	> 0.01	0.12	0.02	> 0.01	0.11	0.02	> 0.01	0.10	0.02	> 0.01
	28-33	0.15	0.02	> 0.01	0.07	0.02	> 0.01	0.07	0.02	0.01	0.06	0.02	0.01
	*34+												
Concurrent offences	*0												
	1				0.07	0.02	> 0.01	0.06	0.02	> 0.01	0.06	0.02	> 0.01
	2+				0.29	0.04	> 0.01	0.22	0.04	> 0.01	0.22	0.04	> 0.01
Prior offences	*0-1												
	2-4				0.50	0.02	> 0.01	0.31	0.02	> 0.01	0.30	0.02	> 0.01
	5-7				0.86	0.03	> 0.01	0.50	0.04	> 0.01	0.50	0.04	> 0.01
	8+				1.19	0.04	> 0.01	0.70	0.05	> 0.01	0.69	0.05	> 0.01
Offence two years prior	Yes							0.24	0.02	> 0.01	0.24	0.02	> 0.01
	*No												
Custody two years prior	Yes							0.22	0.03	> 0.01	0.21	0.03	> 0.01
	*No												
Prior theft offences	*0												
	1-3							0.12	0.03	> 0.01	0.12	0.03	> 0.01
	3+							0.26	0.04	> 0.01	0.25	0.04	> 0.01
Prior drug offence	Yes							0.08	0.03	> 0.01	0.07	0.03	0.01
	*No												
Offence seriousness	High										-0.04	0.02	0.04
	*Low												
Disadvantage	Less										0.03	0.02	0.07
	*More												
Remoteness	Less										-0.02	0.02	0.23
	*More												
Constant		-0.96	0.03	> 0.01	-1.17	0.03	> 0.01	-1.20	0.03	> 0.01	-1.19	0.03	> 0.01
<b>Treatment Model</b>		<b>Coef.</b>	<b>Std. Err</b>	<b>P-value</b>	<b>Coef.</b>	<b>Std. Err.</b>	<b>P-value</b>	<b>Coef.</b>	<b>Std. Err</b>	<b>P-value</b>	<b>Coef.</b>	<b>Std. Err</b>	<b>P-value</b>
Legal Representation	Yes	0.73	0.03	> 0.01	0.56	0.03	> 0.01	0.55	0.03	> 0.01	0.56	0.03	> 0.01
	*No												
Gender	Male	-0.06	0.03	0.02	-0.21	0.03	> 0.01	-0.18	0.03	> 0.01	-0.16	0.03	> 0.01
	*Female												
Indigenous status	Yes	0.14	0.03	> 0.01	-0.21	0.03	> 0.01	-0.18	0.03	> 0.01	-0.21	0.03	> 0.01
	*No												
Age (years)	18-22	0.23	0.03	> 0.01	0.33	0.03	> 0.01	0.26	0.03	> 0.01	0.23	0.03	> 0.01
	23-27	0.40	0.03	> 0.01	0.28	0.03	> 0.01	0.24	0.03	> 0.01	0.23	0.04	> 0.01
	28-33	0.32	0.03	> 0.01	0.23	0.03	> 0.01	0.21	0.03	> 0.01	0.21	0.04	> 0.01
	*34+												
Concurrent offences	*0												
	1				0.35	0.03	> 0.01	0.35	0.03	> 0.01	0.36	0.03	> 0.01
	2+				0.82	0.03	> 0.01	0.74	0.03	> 0.01	0.74	0.03	> 0.01
Prior offences	*0-1												
	2-4				0.61	0.03	> 0.01	0.22	0.04	> 0.01	0.22	0.04	> 0.01
	5-7				0.93	0.04	> 0.01	0.23	0.05	> 0.01	0.23	0.05	> 0.01
	8+				1.12	0.04	> 0.01	0.17	0.06	> 0.01	0.18	0.06	> 0.01
Offence two years prior	Yes							0.26	0.03	> 0.01	0.24	0.03	> 0.01
	*No												
Custody two years prior	Yes							0.20	0.03	> 0.01	0.21	0.03	> 0.01
	*No												
Prior theft offences	*0												
	1-3							0.31	0.03	> 0.01	0.30	0.03	> 0.01
	3+							0.57	0.05	> 0.01	0.55	0.05	> 0.01
Prior drug offence	Yes							0.36	0.03	> 0.01	0.35	0.03	> 0.01
	*No												
Offence seriousness	High										-0.25	0.03	> 0.01
	*Low												
Disadvantage	Less										-0.05	0.03	0.03
	*More												
Remoteness	Less										-0.19	0.03	> 0.01
	*More												
Constant		-2.09	0.04	> 0.01	-2.49	0.05	> 0.01	-2.56	0.05	> 0.01	-2.38	0.05	> 0.01
RHO		0.18	0.08		0.25	0.08		0.28	0.08		0.27	0.07	
LR test of rho (Chi <sup>2</sup> )		Chi <sup>2</sup> (1) =4.99, p > 0.01			Chi <sup>2</sup> (1) =9.92, p > 0.01			Chi <sup>2</sup> (1) =12.48, p > 0.01			Chi <sup>2</sup> (1) =12.76, p > 0.01		
Log Likelihood		-22784.84			-20844.82			-20457.65			-20391.06		

\* reference category



**Technical Appendix 3: Treatment effects models for the impact of the MERIT program on the any re-offence outcome for the treated sample**

<i>Outcome Model</i>		<i>Model 1</i>			<i>Model 2</i>			<i>Model 3</i>			<i>Model 4</i>		
<i>Variable</i>	<i>Categories</i>	<i>Coef.</i>	<i>Std. Err</i>	<i>P-value</i>	<i>Coef.</i>	<i>Std. Err.</i>	<i>P-value</i>	<i>Coef.</i>	<i>Std. Err</i>	<i>P-value</i>	<i>Coef.</i>	<i>Std. Err</i>	<i>P-value</i>
Treatment	MERIT *Control	0.16	0.18	0.37	-0.26	0.17	0.13	-0.44	0.15	> 0.01	-0.42	0.15	0.01
Gender	Male *Female	0.19	0.02	> 0.01	0.08	0.02	> 0.01	0.09	0.02	> 0.01	0.09	0.02	> 0.01
Indigenous status	Yes *No	0.63	0.02	> 0.01	0.33	0.03	> 0.01	0.32	0.03	> 0.01	0.31	0.03	> 0.01
Age (years)	18-22 23-27 28-33 *34+	0.28 0.20 0.14	0.02 0.03 0.02	> 0.01 > 0.01 > 0.01	0.39 0.10 0.06	0.02 0.03 0.02	> 0.01 > 0.01 0.02	0.35 0.10 0.06	0.02 0.02 0.02	> 0.01 > 0.01 0.02	0.34 0.09 0.06	0.02 0.02 0.02	> 0.01 > 0.01 0.02
Concurrent offences	*0 1 2+				0.08 0.26	0.02 0.04	> 0.01 > 0.01	0.07 0.22	0.02 0.04	> 0.01 > 0.01	0.07 0.22	0.02 0.04	> 0.01 > 0.01
Prior offences	*0-1 2-4 5-7 8+				0.50 0.86 1.19	0.02 0.03 0.04	> 0.01 > 0.01 > 0.01	0.32 0.51 0.71	0.02 0.04 0.05	> 0.01 > 0.01 > 0.01	0.32 0.51 0.70	0.02 0.04 0.05	> 0.01 > 0.01 > 0.01
Offence two years prior	Yes *No							0.24	0.02	> 0.01	0.23	0.02	> 0.01
Custody two years prior	Yes *No							0.19	0.03	> 0.01	0.19	0.03	> 0.01
Prior theft offences	*0 1-3 3+							0.12 0.28	0.03 0.04	> 0.01 > 0.01	0.12 0.27	0.03 0.04	> 0.01 > 0.01
Prior drug offence	Yes *No							0.08	0.03	> 0.01	0.07	0.03	0.01
Offence seriousness	High *Low										-0.04	0.02	0.05
Disadvantage	Less *More										0.03	0.02	0.09
Remoteness	Less *More										-0.02	0.02	0.17
Constant		-0.96	0.03	> 0.01	-1.16	0.03	> 0.01	-1.19	0.03	> 0.01	-1.18	0.03	> 0.01
<i>Treatment Model</i>		<i>Coef.</i>	<i>Std. Err</i>	<i>P-value</i>	<i>Coef.</i>	<i>Std. Err.</i>	<i>P-value</i>	<i>Coef.</i>	<i>Std. Err</i>	<i>P-value</i>	<i>Coef.</i>	<i>Std. Err</i>	<i>P-value</i>
Legal Representation	Yes *No	0.78	0.04	> 0.01	0.65	0.04	> 0.01	0.65	0.04	> 0.01	0.67	0.04	> 0.01
Gender	Male *Female	-0.05	0.03	0.10	-0.18	0.03	> 0.01	-0.14	0.03	> 0.01	-0.12	0.04	> 0.01
Indigenous status	Yes *No	0.05	0.03	0.11	-0.25	0.04	> 0.01	-0.22	0.04	> 0.01	-0.24	0.04	> 0.01
Age (years)	18-22 23-27 28-33 *34+	0.15 0.34 0.27	0.03 0.03 0.04	> 0.01 > 0.01 > 0.01	0.25 0.24 0.19	0.04 0.04 0.04	> 0.01 > 0.01 > 0.01	0.18 0.19 0.17	0.04 0.04 0.04	> 0.01 > 0.01 > 0.01	0.15 0.18 0.17	0.04 0.04 0.04	> 0.01 > 0.01 > 0.01
Concurrent offences	*0 1 2+				0.34 0.69	0.03 0.04	> 0.01 > 0.01	0.33 0.65	0.03 0.04	> 0.01 > 0.01	0.35 0.66	0.03 0.04	> 0.01 > 0.01
Prior offences	*0-1 2-4 5-7 8+				0.57 0.85 1.01	0.03 0.04 0.04	> 0.01 > 0.01 > 0.01	0.22 0.23 0.17	0.04 0.05 0.07	> 0.01 > 0.01 0.01	0.23 0.24 0.19	0.04 0.06 0.07	> 0.01 > 0.01 > 0.01
Offence two years prior	Yes *No							0.23	0.03	> 0.01	0.22	0.03	> 0.01
Custody two years prior	Yes *No							0.03	0.04	0.33	0.04	0.04	0.26
Prior theft offences	*0 1-3 3+							0.29 0.55	0.04 0.05	> 0.01 > 0.01	0.28 0.52	0.04 0.05	> 0.01 > 0.01
Prior drug offence	Yes *No							0.36	0.03	> 0.01	0.35	0.03	> 0.01
Offence seriousness	High *Low										-0.24	0.03	> 0.01
Disadvantage	Less *More										-0.04	0.03	0.14
Remoteness	Less *More										-0.13	0.03	> 0.01
Constant		-2.27	0.05	> 0.01	-2.64	0.05	> 0.01	-2.72	0.05	> 0.01	-2.58	0.06	> 0.01
RHO		0.25	0.09		0.32	0.09		0.39	0.08		0.38	0.08	
LR test of rho (Chi <sup>2</sup> )		Chi <sup>2</sup> (1) =6.65, p= 0.01			Chi <sup>2</sup> (1) =12.47, p > 0.01			Chi <sup>2</sup> (1) =21.31, p > 0.01			Chi <sup>2</sup> (1) =21.48, p > 0.01		
Log Likelihood		-20476.29			-18970.80			-18689.16			-18646.88		

\* reference category

**Technical Appendix 4: Treatment effects models for the impact of the MERIT program on the any theft offence outcome for the intention-to treat sample**

Outcome Model		Model 1			Model 2			Model 3			Model 4		
Variable	Categories	Coef.	Std. Err	P-value	Coef.	Std. Err.	P-value	Coef.	Std. Err	P-value	Coef.	Std. Err	P-value
Treatment	MERIT *Control	0.84	0.19	> 0.01	0.29	0.22	0.19	-0.56	0.17	> 0.01	-0.43	0.19	0.03
Gender	Male *Female	-0.11	0.03	> 0.01	-0.25	0.03	> 0.01	-0.16	0.03	> 0.01	-0.15	0.03	> 0.01
Indigenous status	Yes *No	0.38	0.03	> 0.01	0.06	0.03	0.08	0.06	0.03	0.08	0.08	0.03	0.02
Age (years)	18-22	0.30	0.03	> 0.01	0.43	0.03	> 0.01	0.36	0.03	> 0.01	0.35	0.03	> 0.01
	23-27	0.27	0.03	> 0.01	0.18	0.04	> 0.01	0.17	0.04	> 0.01	0.16	0.04	> 0.01
	28-33	0.18	0.03	> 0.01	0.11	0.04	> 0.01	0.12	0.04	> 0.01	0.11	0.04	> 0.01
	*34+												
Concurrent offences	*0												
	1				0.02	0.03	0.45	0.08	0.04	0.03	0.07	0.04	0.06
	2+				0.35	0.06	> 0.01	0.34	0.06	> 0.01	0.32	0.06	> 0.01
Prior offences	*0-1												
	2-4				0.47	0.04	> 0.01	0.14	0.04	> 0.01	0.14	0.04	> 0.01
	5-7				0.89	0.05	> 0.01	0.20	0.05	> 0.01	0.20	0.05	> 0.01
	8+				1.23	0.06	> 0.01	0.26	0.06	> 0.01	0.26	0.06	> 0.01
Index theft offence	Yes No							0.44	0.03	> 0.01	0.37	0.03	> 0.01
Offence two years prior	Yes *No							0.24	0.03	> 0.01	0.22	0.03	> 0.01
Custody two years prior	Yes *No							0.34	0.03	> 0.01	0.34	0.03	> 0.01
Prior theft offences	*0												
	1-3							0.41	0.03	> 0.01	0.41	0.03	> 0.01
	3+							0.82	0.04	> 0.01	0.80	0.05	> 0.01
Prior drug offence	Yes *No							0.18	0.04	> 0.01	0.16	0.04	> 0.01
Offence seriousness	High *Low										-0.14	0.03	> 0.01
Disadvantage	Less *More										0.03	0.02	0.30
Remoteness	Less *More										0.08	0.03	0.01
Constant		-1.62	0.03	> 0.01	-1.85	0.04	> 0.01	-2.07	0.04	> 0.01	-2.08	0.05	> 0.01
Treatment Model		Coef.	Std. Err	P-value	Coef.	Std. Err.	P-value	Coef.	Std. Err	P-value	Coef.	Std. Err	P-value
Legal Representation	Yes *No	0.73	0.03	> 0.01	0.56	0.03	> 0.01	0.53	0.03	> 0.01	0.54	0.03	> 0.01
Gender	Male *Female	-0.06	0.03	0.02	-0.22	0.03	> 0.01	-0.13	0.03	> 0.01	-0.12	0.03	> 0.01
Indigenous status	Yes *No	0.14	0.03	> 0.01	-0.21	0.03	> 0.01	-0.15	0.03	> 0.01	-0.19	0.03	> 0.01
Age (years)	18-22	0.23	0.03	> 0.01	0.33	0.03	> 0.01	0.25	0.03	> 0.01	0.23	0.03	> 0.01
	23-27	0.41	0.03	> 0.01	0.29	0.03	> 0.01	0.23	0.03	> 0.01	0.23	0.04	> 0.01
	28-33	0.33	0.03	> 0.01	0.23	0.03	> 0.01	0.21	0.03	> 0.01	0.20	0.04	> 0.01
	*34+												
Concurrent offences	*0				0.36	0.03	> 0.01	0.35	0.03	> 0.01	0.36	0.03	> 0.01
	1				0.83	0.03	> 0.01	0.71	0.03	> 0.01	0.71	0.04	> 0.01
	2+												
Prior offences	*0-1												
	2-4				0.61	0.03	> 0.01	0.24	0.04	> 0.01	0.23	0.04	> 0.01
	5-7				0.93	0.04	> 0.01	0.27	0.05	> 0.01	0.26	0.05	> 0.01
	8+				1.12	0.04	> 0.01	0.20	0.06	> 0.01	0.20	0.06	> 0.01
Index theft offence	Yes *No							0.32	0.03	> 0.01	0.29	0.03	> 0.01
Offence two years prior	Yes *No							0.26	0.03	> 0.01	0.25	0.03	> 0.01
Custody two years prior	Yes *No							0.19	0.03	> 0.01	0.20	0.03	> 0.01
Prior theft offences	*0												
	1-3							0.25	0.03	> 0.01	0.26	0.03	> 0.01
	3+							0.44	0.05	> 0.01	0.46	0.05	> 0.01
Prior drug offence	Yes *No							0.37	0.03	> 0.01	0.36	0.03	> 0.01
Offence seriousness	High *Low										-0.13	0.03	> 0.01
Disadvantage	Less *More										-0.05	0.03	0.03
Remoteness	Less *More										-0.20	0.03	> 0.01
Constant		-2.10	0.04	> 0.01	-2.49	0.05	> 0.01	-2.67	0.05	> 0.01	-2.49	0.05	> 0.01
RHO		0.04	0.10		0.16	0.12		0.55	0.10		0.47	0.11	
LR test of rho (Chi <sup>2</sup> )		Chi <sup>2</sup> (1)=0.18, p= .67			Chi <sup>2</sup> (1)=2.01, p= .16			Chi <sup>2</sup> (1)=19.84, p > 0.01			Chi <sup>2</sup> (1)=15.80, p > 0.01		
Log Likelihood		-14989.68			-13316.80			-12536.90			-12475.10		

\* reference category

Note: Theft index offence variable is included in the model

**Technical Appendix 5: Treatment effects models for the impact of the MERIT program on the any theft offence outcome for the treated sample**

Outcome Model		Model 1			Model 2			Model 3			Model 4		
Variable	Categories	Coef.	Std. Err	P-value	Coef.	Std. Err.	P-value	Coef.	Std. Err	P-value	Coef.	Std. Err	P-value
Treatment	MERIT *Control	0.71	0.24	> 0.01	0.29	0.27	0.28	-0.68	0.17	> 0.01	-0.53	0.20	0.01
Gender	Male *Female	-0.12	0.03	> 0.01	-0.25	0.03	> 0.01	-0.16	0.03	> 0.01	-0.16	0.03	> 0.01
Indigenous status	Yes *No	0.38	0.03	> 0.01	0.06	0.03	0.10	0.05	0.03	0.13	0.08	0.04	0.03
Age (years)	18-22	0.30	0.03	> 0.01	0.42	0.03	> 0.01	0.34	0.03	> 0.01	0.33	0.03	> 0.01
	23-27	0.26	0.04	> 0.01	0.17	0.04	> 0.01	0.14	0.04	> 0.01	0.14	0.04	> 0.01
	28-33	0.17	0.03	> 0.01	0.09	0.04	0.02	0.10	0.04	0.01	0.09	0.04	0.02
	*34+												
Concurrent offences	*0												
	1				0.02	0.03	0.50	0.07	0.03	0.04	0.06	0.03	0.07
	2+				0.30	0.06	> 0.01	0.30	0.05	> 0.01	0.28	0.05	> 0.01
Prior offences	*0-1												
	2-4				0.46	0.04	> 0.01	0.15	0.04	> 0.01	0.15	0.04	> 0.01
	5-7				0.87	0.05	> 0.01	0.22	0.05	> 0.01	0.22	0.05	> 0.01
	8+				1.21	0.06	> 0.01	0.29	0.06	> 0.01	0.29	0.06	> 0.01
Index theft offence	Yes							0.44	0.03	> 0.01	0.37	0.03	> 0.01
	No												
Offence two years prior	Yes *No							0.21	0.03	> 0.01	0.20	0.03	> 0.01
Custody two years prior	Yes *No							0.30	0.03	> 0.01	0.30	0.03	> 0.01
Prior theft offences	*0												
	1-3							0.41	0.03	> 0.01	0.40	0.03	> 0.01
	3+							0.81	0.05	> 0.01	0.79	0.05	> 0.01
Prior drug offence	Yes *No							0.17	0.04	> 0.01	0.15	0.04	> 0.01
Offence seriousness	High *Low										-0.14	0.03	> 0.01
Disadvantage	Less *More										0.02	0.03	0.35
Remoteness	Less *More										0.08	0.03	> 0.01
Constant		-1.61	0.03	> 0.01	-1.84	0.04	> 0.01	-2.06	0.04	> 0.01	-2.07	0.05	> 0.01
Treatment Model		Coef.	Std. Err	P-value	Coef.	Std. Err.	P-value	Coef.	Std. Err	P-value	Coef.	Std. Err	P-value
Legal Representation	Yes *No	0.77	0.04	> 0.01	0.64	0.04	> 0.01	0.63	0.04	> 0.01	0.64	0.04	> 0.01
Gender	Male *Female	-0.05	0.03	0.10	-0.19	0.03	> 0.01	-0.09	0.04	0.02	-0.08	0.04	0.02
Indigenous status	Yes *No	0.05	0.03	0.14	-0.26	0.04	> 0.01	-0.19	0.04	> 0.01	-0.22	0.04	> 0.01
Age (years)	18-22	0.15	0.03	> 0.01	0.25	0.04	> 0.01	0.16	0.04	> 0.01	0.15	0.04	> 0.01
	23-27	0.35	0.03	> 0.01	0.24	0.04	> 0.01	0.19	0.04	> 0.01	0.18	0.04	> 0.01
	28-33	0.27	0.04	> 0.01	0.19	0.04	> 0.01	0.17	0.04	> 0.01	0.17	0.04	> 0.01
	*34+												
Concurrent offences	*0												
	1				0.34	0.03	> 0.01	0.34	0.03	> 0.01	0.35	0.03	> 0.01
	2+				0.70	0.04	> 0.01	0.62	0.04	> 0.01	0.63	0.04	> 0.01
Prior offences	*0-1												
	2-4				0.58	0.03	> 0.01	0.24	0.04	> 0.01	0.24	0.04	> 0.01
	5-7				0.85	0.04	> 0.01	0.26	0.06	> 0.01	0.26	0.06	> 0.01
	8+				1.01	0.04	> 0.01	0.20	0.07	> 0.01	0.20	0.07	> 0.01
Index theft offence	Yes							0.32	0.03	> 0.01	0.28	0.03	> 0.01
	No												
Offence two years prior	Yes *No							0.24	0.03	> 0.01	0.23	0.03	> 0.01
Custody two years prior	Yes *No							0.02	0.04	0.56	0.03	0.04	0.39
Prior theft offences	*0												
	1-3							0.24	0.04	> 0.01	0.24	0.04	> 0.01
	3+							0.44	0.05	> 0.01	0.45	0.05	> 0.01
Prior drug offence	Yes *No							0.37	0.03	> 0.01	0.36	0.03	> 0.01
Offence seriousness	High *Low										-0.12	0.04	> 0.01
Disadvantage	Less *More										-0.04	0.03	0.11
Remoteness	Less *More										-0.14	0.03	> 0.01
Constant		-2.27	0.05	> 0.01	-2.64	0.05	> 0.01	-2.83	0.06	> 0.01	-2.69	0.06	> 0.01
RHO		0.04	0.12		0.10	0.14		0.55	0.10		0.47	0.11	
LR test of rho (Chi <sup>2</sup> )		Chi <sup>2</sup> (1) = 0.130, p = 0.71			Chi <sup>2</sup> (1) = 0.50, p = 0.48			Chi <sup>2</sup> (1) = 17.8 0, p > 0.01			Chi <sup>2</sup> (1) = 12.10, p > 0.01		
Log Likelihood		-12636.51			-11398.70			-10761.96			-10725.60		

\* reference category

Note: Theft index offence variable is included in the model

**Technical Appendix 6: Treatment effects models for the impact of the MERIT program on the any drug offence outcome for the intention-to-treat sample**

Outcome Model		Model 1			Model 2			Model 3			Model 4		
Variable	Categories	Coef.	Std. Err	P-value	Coef.	Std. Err.	P-value	Coef.	Std. Err	P-value	Coef.	Std. Err	P-value
Treatment	MERIT *Control	0.51	0.21	0.01	-0.20	0.18	0.27	-0.34	0.16	0.03	-0.30	0.16	0.06
Gender	Male *Female	0.18	0.04	> 0.01	0.07	0.04	0.06	0.07	0.04	0.08	0.08	0.04	0.04
Indigenous status	Yes *No	0.24	0.03	> 0.01	-0.01	0.04	0.70	0.02	0.04	0.54	0.03	0.04	0.41
Age (years)	18-22	0.03	0.04	0.38	0.14	0.04	> 0.01	0.13	0.04	> 0.01	0.11	0.04	> 0.01
	23-27	0.12	0.04	> 0.01	0.08	0.04	0.04	0.08	0.04	0.05	0.07	0.04	0.08
	28-33	0.09	0.04	0.03	0.04	0.04	0.25	0.05	0.04	0.22	0.04	0.04	0.28
	*34+												
Concurrent offences	*0												
	1				0.13	0.04	> 0.01	0.15	0.04	> 0.01	0.15	0.04	> 0.01
	2+				0.34	0.06	> 0.01	0.32	0.06	> 0.01	0.32	0.06	> 0.01
Prior offences	*0-1												
	2-4				0.42	0.04	> 0.01	0.13	0.04	> 0.01	0.13	0.04	> 0.01
	5-7				0.72	0.05	> 0.01	0.23	0.05	> 0.01	0.23	0.06	> 0.01
	8+				0.95	0.06	> 0.01	0.29	0.06	> 0.01	0.30	0.06	> 0.01
Index drug offence	Yes							0.54	0.04	> 0.01	0.53	0.04	> 0.01
	No												
Offence two years prior	Yes *No							0.20	0.03	> 0.01	0.20	0.03	> 0.01
Custody two years prior	Yes *No							0.21	0.04	> 0.01	0.21	0.04	> 0.01
Prior theft offences	*0												
	1-3							0.23	0.04	> 0.01	0.21	0.04	> 0.01
	3+							0.29	0.06	> 0.01	0.27	0.06	> 0.01
Prior drug offence	Yes *No							0.31	0.03	> 0.01	0.31	0.03	> 0.01
Offence seriousness	High *Low										-0.09	0.03	0.01
Disadvantage	Less *More										-0.01	0.03	0.63
Remoteness	Less *More										0.01	0.03	0.84
Constant		-1.96	0.04	> 0.01	-2.14	0.04	> 0.01	-2.30	0.05	> 0.01	-2.27	0.05	> 0.01
Treatment Model		Coef.	Std. Err	P-value	Coef.	Std. Err.	P-value	Coef.	Std. Err	P-value	Coef.	Std. Err	P-value
Legal Representation	Yes *No	0.73	0.03	> 0.01	0.55	0.03	> 0.01	0.57	0.04	> 0.01	0.59	0.04	> 0.01
Gender	Male *Female	-0.06	0.03	0.02	-0.21	0.03	> 0.01	-0.20	0.03	> 0.01	-0.18	0.03	> 0.01
Indigenous status	Yes *No	0.14	0.03	> 0.01	-0.21	0.03	> 0.01	-0.15	0.03	> 0.01	-0.18	0.03	> 0.01
Age (years)	18-22	0.23	0.03	> 0.01	0.34	0.03	> 0.01	0.30	0.04	> 0.01	0.27	0.04	> 0.01
	23-27	0.41	0.03	> 0.01	0.29	0.03	> 0.01	0.27	0.04	> 0.01	0.26	0.04	> 0.01
	28-33	0.33	0.03	> 0.01	0.23	0.03	> 0.01	0.23	0.04	> 0.01	0.23	0.04	> 0.01
	*34+												
Concurrent offences	*0												
	1				0.35	0.03	> 0.01	0.38	0.03	> 0.01	0.40	0.03	> 0.01
	2+				0.83	0.03	> 0.01	0.80	0.04	> 0.01	0.82	0.04	> 0.01
Prior offences	*0-1												
	2-4				0.62	0.03	> 0.01	0.25	0.04	> 0.01	0.25	0.04	> 0.01
	5-7				0.93	0.04	> 0.01	0.26	0.05	> 0.01	0.27	0.05	> 0.01
	8+				1.13	0.04	> 0.01	0.21	0.06	> 0.01	0.23	0.06	> 0.01
Index drug offence	Yes							0.77	0.03	> 0.01	0.78	0.03	> 0.01
	No												
Offence two years prior	Yes *No							0.29	0.03	> 0.01	0.27	0.03	> 0.01
Custody two years prior	Yes *No							0.25	0.03	> 0.01	0.26	0.03	> 0.01
Prior theft offences	*0												
	1-3							0.33	0.03	> 0.01	0.31	0.04	> 0.01
	3+							0.62	0.05	> 0.01	0.59	0.05	> 0.01
Prior drug offence	Yes *No							0.25	0.03	> 0.01	0.24	0.03	> 0.01
Offence seriousness	High *Low										-0.28	0.03	> 0.01
Disadvantage	Less *More										-0.06	0.03	0.01
Remoteness	Less *More										-0.20	0.03	> 0.01
Constant		-2.10	0.04	> 0.01	-2.49	0.05	> 0.01	-2.79	0.05	> 0.01	-2.60	0.06	> 0.01
RHO		0.09	0.11		0.36	0.10		0.37	0.09		0.35	0.09	
LR test of rho (Chi <sup>2</sup> )		Chi <sup>2</sup> (1)=0.68, p= .41			Chi <sup>2</sup> (1)=12.10, p= .16			Chi <sup>2</sup> (1)=15.88, p > 0.01			Chi <sup>2</sup> (1)=14.22, p > 0.01		
Log Likelihood		-12702.01			-11424.32			-10739.43			-10664.44		

\* reference category

Note: Drug index offence variable is included in the model

**Technical Appendix 7: Treatment effects models for the impact of the MERIT program on the any drug offence outcome for the treated sample**

Outcome Model		Model 1			Model 2			Model 3			Model 4		
Variable	Categories	Coef.	Std. Err	P-value	Coef.	Std. Err.	P-value	Coef.	Std. Err	P-value	Coef.	Std. Err	P-value
Treatment	MERIT *Control	0.51	0.29	0.08	-0.12	0.23	0.62	-0.37	0.18	0.04	-0.31	0.18	0.08
Gender	Male *Female	0.20	0.04	> 0.01	0.10	0.04	0.01	0.10	0.04	0.01	0.11	0.04	0.01
Indigenous status	Yes *No	0.25	0.04	> 0.01	-0.01	0.04	0.83	0.02	0.04	0.58	0.03	0.04	0.41
Age (years)	18-22	0.04	0.04	0.24	0.13	0.04	> 0.01	0.12	0.04	> 0.01	0.11	0.04	0.01
	23-27	0.11	0.04	0.01	0.05	0.04	0.22	0.05	0.04	0.23	0.04	0.04	0.29
	28-33	0.07	0.04	0.09	0.01	0.04	0.76	0.02	0.04	0.64	0.01	0.04	0.75
	*34+												
Concurrent offences	*0												
	1				0.11	0.04	> 0.01	0.13	0.04	> 0.01	0.13	0.04	> 0.01
	2+				0.28	0.06	> 0.01	0.29	0.06	> 0.01	0.28	0.06	> 0.01
Prior offences	*0-1												
	2-4				0.40	0.04	> 0.01	0.14	0.04	> 0.01	0.14	0.04	> 0.01
	5-7				0.69	0.05	> 0.01	0.24	0.06	> 0.01	0.25	0.06	> 0.01
	8+				0.93	0.06	> 0.01	0.32	0.07	> 0.01	0.33	0.07	> 0.01
Index drug offence	Yes							0.53	0.04	> 0.01	0.51	0.04	> 0.01
	No												
Offence two years prior	Yes *No							0.19	0.04	> 0.01	0.19	0.04	> 0.01
Custody two years prior	Yes *No							0.19	0.04	> 0.01	0.18	0.04	> 0.01
Prior theft offences	*0												
	1-3							0.22	0.04	> 0.01	0.21	0.04	> 0.01
	3+							0.30	0.06	> 0.01	0.27	0.06	> 0.01
Prior drug offence	Yes *No							0.30	0.04	> 0.01	0.29	0.04	> 0.01
Offence seriousness	High *Low										-0.07	0.03	0.03
Disadvantage	Less *More										-0.01	0.03	0.70
Remoteness	Less *More										0.02	0.03	0.57
Constant		-1.98	0.04	> 0.01	-2.17	0.05	> 0.01	-2.33	0.05	> 0.01	-2.31	0.05	> 0.01
Treatment Model		Coef.	Std. Err	P-value	Coef.	Std. Err.	P-value	Coef.	Std. Err	P-value	Coef.	Std. Err	P-value
Legal Representation	Yes *No	0.77	0.04	> 0.01	0.64	0.04	> 0.01	0.68	0.04	> 0.01	0.71	0.04	> 0.01
Gender	Male *Female	-0.05	0.03	0.10	-0.19	0.03	> 0.01	-0.16	0.04	> 0.01	-0.14	0.04	> 0.01
Indigenous status	Yes *No	0.05	0.03	0.14	-0.26	0.04	> 0.01	-0.19	0.04	> 0.01	-0.21	0.04	> 0.01
Age (years)	18-22	0.15	0.03	> 0.01	0.25	0.04	> 0.01	0.21	0.04	> 0.01	0.18	0.04	> 0.01
	23-27	0.35	0.03	> 0.01	0.24	0.04	> 0.01	0.22	0.04	> 0.01	0.21	0.04	> 0.01
	28-33	0.27	0.04	> 0.01	0.19	0.04	> 0.01	0.19	0.04	> 0.01	0.19	0.04	> 0.01
	*34+												
Concurrent offences	*0												
	1				0.34	0.03	> 0.01	0.37	0.03	> 0.01	0.39	0.03	> 0.01
	2+				0.70	0.04	> 0.01	0.72	0.04	> 0.01	0.73	0.04	> 0.01
Prior offences	*0-1												
	2-4				0.58	0.03	> 0.01	0.26	0.04	> 0.01	0.27	0.04	> 0.01
	5-7				0.85	0.04	> 0.01	0.27	0.06	> 0.01	0.29	0.06	> 0.01
	8+				1.01	0.04	> 0.01	0.21	0.07	> 0.01	0.24	0.07	> 0.01
Index drug offence	Yes							0.79	0.04	> 0.01	0.81	0.04	> 0.01
	No												
Offence two years prior	Yes *No							0.27	0.03	> 0.01	0.25	0.03	> 0.01
Custody two years prior	Yes *No							0.07	0.04	0.04	0.08	0.04	0.03
Prior theft offences	*0												
	1-3							0.31	0.04	> 0.01	0.30	0.04	> 0.01
	3+							0.61	0.05	> 0.01	0.58	0.05	> 0.01
Prior drug offence	Yes *No							0.25	0.03	> 0.01	0.24	0.04	> 0.01
Offence seriousness	High *Low										-0.28	0.03	> 0.01
Disadvantage	Less *More										-0.06	0.03	0.05
Remoteness	Less *More										-0.14	0.03	> 0.01
Constant		-2.27	0.05	> 0.01	-2.64	0.05	> 0.01	-2.98	0.06	> 0.01	-2.82	0.06	> 0.01
RHO		0.05	0.14		0.26	0.13		0.34	0.10		0.31	0.10	
LR test of rho (Chi <sup>2</sup> )		Chi <sup>2</sup> (1) = 0.12, p = .73			Chi <sup>2</sup> (1) = 3.93, p = .05			Chi <sup>2</sup> (1) = 10.23, p > 0.01			Chi <sup>2</sup> (1) = 8.42, p > 0.01		
Log Likelihood		-104499.79			-9619.00			-9065.81			-9016.52		

\* reference category

Note: Drug index offence variable is included in the model

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Attorney General  
& Justice

# Annual Report

# 2010 MERIT

Magistrates Early Referral Into Treatment Program



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Mark Howard

Kristy Martire

July 2012



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## KEY FINDINGS

This report by the School of Psychology, University of New South Wales (UNSW), provides the New South Wales (NSW) Department of Attorney General and Justice with an independent assessment of the activities and efficacy of the *Magistrates Early Referral Into Treatment* (MERIT) program during 2010. The key findings from the report are that:

- Between 1 January and 31 December 2010 there were 3,035 referrals to the program; a 0.6 per cent increase (of 18 referrals) on the previous year. Solicitors and Magistrates accounted for 76 per cent of the referrals to MERIT during 2010. The small increase in referrals may be attributable to the granting of MERIT provisions to Woy Woy and Coffs Harbour Local Courts in April and November 2010 respectively; in addition to expansion of the Manly and Wollongong programs to permit referrals of participants with alcohol use as their primary drug of concern in March and June 2010.
- Of the 3,035 referrals in 2010, 64% (n=1,941) were accepted onto the program. The most common reasons for non-acceptance included having no demonstrable drug problem, being unwilling to participate and having program entry not endorsed by the Magistrate. Close to one in four (23.3%) of referred defendants during 2010 had previously been referred to MERIT – a rate which was commensurate to that of 2009 (23%).
- The average (median) age of those both referred and accepted was 30 years. In line with activity during recent years, around one in five referrals (20.6%) and acceptances (21.3%) to the MERIT program during 2010 were female. Women (66.3%) were not significantly more or less likely to be accepted into the program than males (64.2%). Almost one in five (19.3%) defendants referred to MERIT during 2010 identified as Aboriginal or as a Torres Strait Islander. This is a slight increase from 2009 (19%) and the highest proportion of Aboriginal and Torres Strait Islander referrals since the program commenced in 2000.
- Cannabis was the principal drug of concern for nearly half (46.9%) of all accepted defendants during 2010. Narcotics users (20.6%) and stimulant users (17.9%) accounted for around one in five cases each. Heroin was the principal drug of concern for most narcotic using defendants. There was a decrease in principal heroin users in 2010 (18%) compared to 2009 (22.2%). In contrast, 2010 saw increased referral for primary alcohol use (9.8%) relative to 2009 (3.1%). This is consistent with the expansion of MERIT sites accepting alcohol use as the primary drug of concern throughout 2009 and 2010.
- Illicit drug offences and theft and related offences were the most common charges faced by MERIT defendants - for both those referred to and accepted by the program in 2010. Principal cannabis users comprised the largest group charged with illicit drug offences (56.2%). By contrast, principal users of narcotics were the group most likely to be charged with theft and related offences (40.5%).

- Seventy-one per cent of the 1,939 MERIT participants who exited the program during 2010 had met all program requirements. This represents the highest rate of completion recorded for accepted participants throughout the life of the MERIT program. The rate at which defendants were breached by the MERIT team for non-compliance with program requirements in 2010 (16.3%) was slightly lower than that in 2009 (17.2%).
- There were statistically significant reductions in both the frequency and intensity of all forms of self-reported substance use amongst accepted MERIT participants in 2010. The largest reductions were recorded for the reported use of alcohol, cannabis and amphetamines. However, for many participants, levels of dependence on illicit drugs upon exit from MERIT continued to exceed established thresholds for dependency using validated measures.
- Defendants starting the MERIT program during 2010 had a poorer physical and mental health prognosis than the general population. Upon exit from the program there were significant improvements in both general and mental health, moving the MERIT sample above the Australian population average in four of eight assessed domains (Physical Functioning, Role Limits Physical, Bodily Pain, and Vitality). There were also significant reductions in the levels of self-reported psychological distress experienced by MERIT defendants following their contact with the program.
- Twelve months after exiting the MERIT program in 2009, 38.3 per cent of defendants had been reconvicted for a further offence. However, program non-completers in 2009 were significantly more likely to be reconvicted for another offence during the 12 weeks on the MERIT program (35.5% vs.14%), and in the six (31.4% vs. 22.5%) and 12 months (44.4% vs. 35.5%) following program exit (all at  $p < 0.005$ ).

# 1. INTRODUCTION

## 1.1 Background to the program and previous research

Launched in 2000, the *Magistrates Early Referral Into Treatment Program* (MERIT)<sup>1</sup> was one of five diversionary initiatives to emerge from the recommendations of the New South Wales (NSW) Drug Summit in 1999. The initiative was expanded following a successful pilot of the program in the Northern Rivers region from July 2000 (Northern Rivers University Department of Rural Health, 2003). MERIT operates as an inter-agency program led by the NSW Department of Attorney General and Justice, Chief Magistrate's Office, the NSW Ministry of Health and NSW Police.

The program has developed in recognition of the fact that the prevalence of self-reported illicit drug use is higher amongst known offenders than the general population. During 2008, for example, 65 per cent of a national sample of Australian police detainees tested positive for at least one illicit drug; cannabis was the most common drug detected (48%; Gaffney et al., 2010). This compares with 14.7 per cent of respondents (aged 14+) to the 2010 National Drug Strategy Household Survey who had used illicit drugs in the previous 12 months (Australian Institute of Health and Welfare, 2011). Forty-three per cent of Australian detainees who tested positive for at least one illicit drug attribute at least some of their offending to their drug use (Gaffney et al., 2010). Furthermore, half of all drug using suspects detained by Australian police are poly-drug users (Sweeney, 2009).

Within this context MERIT operates as a pre-plea diversion program targeting adult defendants appearing in NSW Local Courts who have a demonstrable illicit drug use problem. The program aims to use drug treatment and related health and social welfare support to tackle any links that might exist between defendants' use of illicit drugs and their offending behaviour.

There is a growing body of research which demonstrates that participation in MERIT reduces rates of reconviction and re-offending (Passey et al., 2007; Lulham, 2009). MERIT has also been shown to contribute towards reductions in self-reported illicit drug use and associated risk behaviours, and improvements to physical and psychological health (NSW Department of Health, 2007; Martire & Larney, 2009a). There is some evidence to suggest that MERIT is also cost-effective (Northern Rivers University Department of Rural Health, 2003). However, one in three participants fail to complete their MERIT program (Martire & Larney, 2009b) and completion rates are significantly lower for amphetamine and heroin users – who are the poorest performers across a range of health and dependency indicators on admission to treatment (ibid), women (Martire & Larney, 2009c) and Aboriginal defendants (Martire & Larney, 2009d). These are important findings since completion of the MERIT program has been found to significantly and substantially reduce the likelihood of committing any subsequent offences (Lulham, 2009). However, even upon completion, there is a tendency for participants to continue using illicit substances at dependent levels (Martire and Larney, 2009c).

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<sup>1</sup> MERIT was originally launched as the Early Court Intervention Pilot.

## **1.2 Program eligibility criteria**

The eligibility criteria for the MERIT program seek to ensure the proactive targeting of a large proportion of drug-using defendants appearing before the NSW Local Courts. Whilst presenting with a demonstrable drug *dependency* is not a prerequisite for consideration by the program, defendants must nevertheless be clinically assessed as having an illicit drug problem of sufficient seriousness to warrant the intensive intervention offered through MERIT.

MERIT is a voluntary drug diversion program where both referral and treatment occur prior to the defendant making a plea of guilty or not guilty for the relevant offence(s). Involvement in MERIT may be made a condition of bail and progress is taken into consideration upon sentencing. Defendants are eligible for MERIT if they:

- are over the age of 18 years;
- are suitable for release on bail;
- live within the program catchment area;
- have a demonstrable illicit drug problem (alcohol included as primary substance at select courts only);
- have no current or pending matters for significant violence, sexual or indictable offences;
- are deemed by a MERIT team health professional to be suitable for drug treatment;
- are approved to participate in the program by the Magistrate; and
- consent to participate .

### **1.2.1 Variations to program eligibility – Primary alcohol use**

In 2010, defendants citing alcohol as their principal drug of concern were accepted into MERIT at some courts, namely:

- Orange Local Court, Bathurst Local Court, Wellington Local Court.

Such defendants have been accepted into MERIT at these courts since July 2009 (and were accepted under programs similar to MERIT that operated at these courts prior to this date).

- Wilcannia Local Court, Broken Hill Local Court.

Defendants with primary alcohol issues have been accepted since the commencement of MERIT in these courts in June 2004 and May 2005 respectively.

- Dubbo Local Court, Manly Local Court and Wollongong Local Court.

The eligibility criteria of the existing MERIT programs at these courts were expanded to include defendants with primary alcohol issues in October 2009, March 2010 and June 2010 respectively.



## 2. HOW MERIT OPERATES AND THE SCOPE OF ITS COVERAGE

### 2.1 The MERIT process

Once charged, defendants are typically referred to MERIT at or before their initial court appearance. In order to ensure compatibility with existing NSW Local Court processes - where matters are expected to progress from initial hearing to sentencing within a three-month period - MERIT program completion is scheduled to coincide with the final hearing and sentencing date set for the defendant. Figure 2.1 illustrates this process from charge and referral through to final hearing and sentencing.

Dedicated health teams assigned to participating NSW Local Courts (comprising staff from Local Health Districts and/or non-governmental organisations) will undertake an assessment of need following a referral to MERIT. These comprehensive assessments cover a broad range of areas, including: substance use history; physical and mental health concerns; and housing, education, training and employment issues.

Once assessed as suitable and accepted onto the program an individually tailored treatment plan is drawn up for each defendant. This seeks to match participants to a range of appropriate and available drug treatments (e.g. detoxification, counselling, pharmacotherapy, residential rehabilitation, community outpatient services and case management) and related health and social welfare services (e.g. mental health, unemployment, housing and legal advice), as appropriate.

As a voluntary pre-plea diversion program defendants can opt not to engage with the program, or withdraw from it at any time, electing instead to have the Magistrate determine their case through the usual court process and without prejudice.

In the event that engagement with MERIT is deemed unsatisfactory or there is evidence of non-compliance (e.g. further offences or failing to appear for appointments/Court), the Magistrate reserves the right to remove defendants from the program without prejudice.

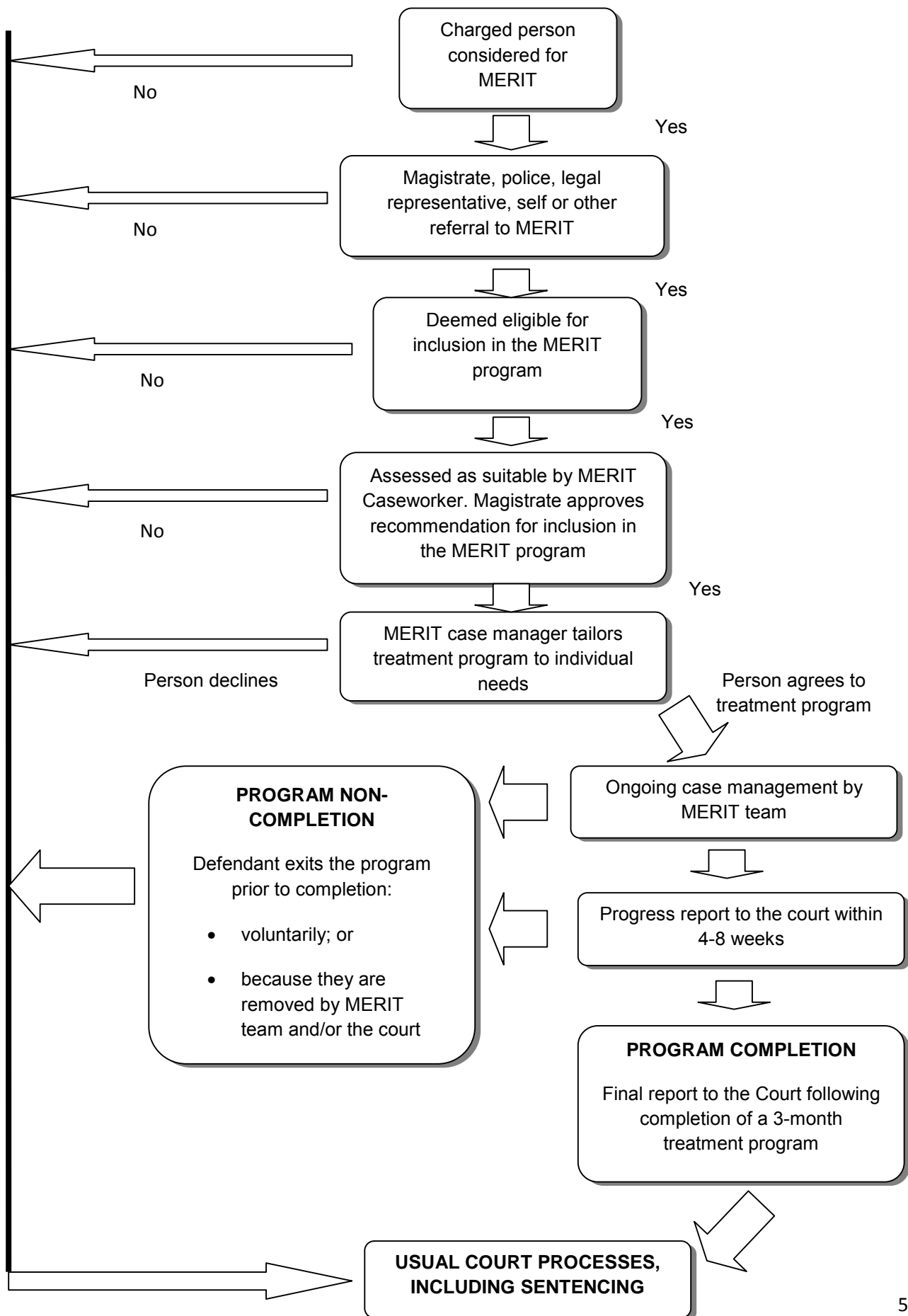
In addition to the *Bail Act (NSW) 1978*, which provides the legal framework under which the program operates, the MERIT Local Court Practice Note 5/2002 is instrumental in guiding Magistrates in their dealings with defendants engaging with the program. Point 14.1 of the Practice Note states that:

*“On sentence, the successful completion of the MERIT program is a matter of some weight to be taken into account in the defendant’s favour. At the same time, as the MERIT program is a voluntary opt in program, its unsuccessful completion should not, on sentence, attract any additional penalty.”*

In order to inform sentencing decisions MERIT teams provide each Magistrate with a progress report providing information on the nature and extent of the defendant’s participation in the program and detailing any final recommendations with regards to ongoing treatment needs. How the Magistrate uses the information contained within the report and assesses the impact of engagement with MERIT at sentencing is ultimately a matter for his or her discretion.



**Figure 2.1: The MERIT process**



## **2.2 The scope of MERIT's coverage**

Information about MERIT's coverage by Area Health Service<sup>2</sup>, MERIT team and NSW Local Court, as at 31 December 2010, is provided in Table 2.1. As was the case with the previous Annual Report, Courts have been grouped according to their geographic location and linked to the relevant Area Health Service. During 2010 MERIT operated in 45.1 per cent (n=65) of all 142 NSW local courts. This is an increase of 1 percentage point from 2009 reflecting the addition of MERIT provisions to Woy Woy and Coffs Harbour courts. In terms of the total charge population in 2010, the MERIT program was potentially available to 98,037 or 81.2 per cent of finalised cases appearing before the NSW Local Court during this period.

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<sup>2</sup> The Area Health Service (AHS) structure that existing in 2010 has since been replaced by Local Health Districts (LHDs).

**Table 2.1: MERIT coverage by Area Health Service and NSW Local Courts (as at 31 December 2010)**

Area Health Service	MERIT teams	Courts contained within AHS boundaries <i>Courts with MERIT appear in bold</i>	Court Coverage <sup>3</sup>
South Eastern Sydney and Illawarra	South East Sydney Illawarra	<b>Wollongong, Albion Park, Kiama, Port Kembla, Nowra, Sutherland, Kogarah, Downing Centre, Central<sup>4</sup>, Waverley, Milton</b>	100%
Sydney South West	South West Sydney Central Sydney	<b>Liverpool, Campbelltown, Camden, Burwood, Fairfield, Bankstown, Newtown, Picton, Balmain</b>	96.3%
Sydney West	Western Sydney Wentworth	<b>Parramatta, Katoomba, Penrith, Blacktown, Mt Druitt, Windsor</b>	94.6%
Hunter and New England	Hunter New England	<b>Tamworth, Cessnock, Muswellbrook, Newcastle, Maitland, Raymond Terrace, Toronto, Singleton, Belmont, Kurri Kurri, Scone, Dungog, Armidale, Glen Innes, Gunnedah, Inverell, Moree, Narrabri, Quirindi, Walcha, Wee Waa, Boggabilla, Tenterfield, Mungindi, Warialda,</b>	70.2%
Greater Western	Mid West Far West Macquarie	<b>Bathurst, Broken Hill, Orange, Dubbo, Parkes, Oberon, Blayney, Forbes, Wilcannia, Wellington,</b> Condobolin, Cowra, Dunedoo, Grenfell, Lithgow, Rylstone, Peak Hill, Lake Cargelligo, Bourke, Brewarrina, Walgett, Warren, Nyngan, Lightning Ridge, Wentworth, Narromine, Gulgong, Gilgandra, Coonamble, Coonabarabran, Cobar, Mudgee, Balranald	57.5%
North Coast	Mid North Coast Northern Rivers	<b>Lismore, Byron Bay, Ballina, Casino, Kyogle, Port Macquarie, Kempsey, Wauchope, Mullumbimby, Murwillumbah, Tweed Heads, Grafton, Maclean, Coffs Harbour, Forster, Macksville, Taree, Bellingen, Gloucester</b>	73.6%
Greater Southern	Southern Greater Murray	<b>Queanbeyan, Wagga Wagga, Junee, Cooma, Albury, Cootamundra, Corowa, Deniliquin, Finley, Moama, Tumut, Hay, Temora, Tumbarumba, Lockhart, Moulamein, Griffith, Gundagai, Hillston, Holbrook, Leeton, Narrandera, West Wyalong, Batemans Bay, Bega, Narooma, Bombala, Eden, Crookwell, Yass, Goulburn, Moruya, Young</b>	29.7%
Northern Sydney and Central Coast	Northern Sydney Central Coast	<b>Gosford, Manly, Wyong, North Sydney, Hornsby, Ryde, Woy Woy</b>	100%

*Underlined courts offer services for participants with alcohol as primary substance*

<sup>3</sup> As with previous Annual Reports, courts have been grouped here according to AHS. Similarly, the percentage in the 'Court Coverage' column represents the volume of finalised cases in MERIT local courts as a proportion of finalised cases in all NSW local courts, by AHS. These figures were calculated using 2009 court statistics supplied by BoCSAR.

<sup>4</sup> The Central Court registry works in conjunction with the Downing Centre.

## **3. RESEARCH OBJECTIVES AND METHODS**

### **3.1 The report's aim**

The main aim of this independent report by the School of Psychology, University of New South Wales (UNSW), is to provide the NSW Department of Attorney General and Justice with information regarding the uptake and efficacy of the MERIT program during 2010.

A key consideration when producing this document was to ensure consistency with the approach adopted in preceding annual reports; thus aiding an accurate assessment of current performance against previous years' activity and key trends over the life of the program.

### **3.2 Research methods**

Existing administrative data have been collated from two sources: the MERIT Information Management System (MIMS) and the NSW Bureau of Crime Statistics and Research (BoCSAR) Re-Offending Database (ROD).

#### **3.2.1 MERIT operational data**

MIMS was developed with the explicit intention of facilitating the ongoing monitoring and evaluation of the MERIT program. In addition to National Minimum Dataset (NMDS) items, MIMS also records a range of information pertaining to the demographic profile of participants, their relevant court dates, program entry and exit dates, and the types of intervention received as part of the program.

MIMS is also used to routinely collate assessment data of consenting participants<sup>5</sup> relating to self-reported patterns of substance use, related risk behaviours, psychological distress and physical, social and emotional functioning. Assessment data collated on the self-reported health status of defendants at entry to and exit from the program is also recorded on MIMS.

MIMS is subject to frequent internal quality assurance processes. Furthermore, quarterly data quality reports are produced for each Area Health Service in order to cross-reference and ensure both the reliability and accuracy of the data submitted by individual MERIT teams.

The nature of the MIMS dataset does however introduce a number of inherent limitations to the data presented in this report: in some cases it is reliant upon defendants' self-reporting of their behaviour; and, like any large-scale administrative dataset, MIMS invariably suffers from a degree of missing data.

Program exit data relating to substance use and health outcomes are also biased towards program completers. These data tend to be restricted to this group for a range of reasons: non-completers fail to re-engage with MERIT after breaching,

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<sup>5</sup> Participants accessing the MERIT program provide their informed consent for the (appropriately anonymised) information provided to the MERIT team during the course of the assessment process to be used in order to facilitate research and evaluation by the MERIT program.

being removed or withdrawing from the program; they may be detained in custody for further offences; or they might leave the program shortly after entering it. Given the differences between program completers and non-completers (described in more detail in Chapter 7) the outcomes reported here should not be considered representative of all program participants.

### **3.2.2 Criminal justice data**

BoCSAR provided the School of Psychology with anonymised and aggregated data on sentence outcomes and re-convictions for defendants referred to the MERIT program. Information regarding the court appearances and convictions of MERIT participants was sought by MERIT from BoCSAR on behalf of the School of Psychology.

As with previous Annual Reports, sentence outcome data were assembled by matching MERIT referral information to sentence outcomes on the Local Court database (GLC). For the 2010 Annual Report, 88.1 per cent of relevant MERIT defendants had sentence outcome information available having been successfully matched against the GLC. This is higher than the match rate for the 2009 Annual Report (83.2%).

Re-conviction rates were calculated by matching a defendant's Criminal Name Index (CNI) number and date of birth to BoCSAR's Re-Offending Database (ROD). For the 2010 Annual Report 96.7 per cent of cases were successfully matched to the ROD.

### **3.2.3 Base-line data**

In line with the approach adopted for previous reports we have employed two baseline reference points. The baseline for considering MERIT inputs (referrals and acceptances) and outputs (completion rates) was 1 January to 31 December 2010 inclusive. This reflects the MERIT program's activity for that calendar year.

By contrast, sentence outcome and reconviction data are presented for the cohort of MERIT defendants exiting the program during the *previous* calendar year (i.e. 2009). Measuring program outcomes in this way is necessary to allow for a sufficient period of time to have elapsed in order to measure reconviction outcomes.

### **3.2.4 Data analysis**

All data were subject to analysis using IBM SPSS (the Statistical Package for the Social Sciences). Descriptive statistics were used to profile the characteristics of the MERIT cohort during 2010. Missing data are recorded where appropriate in order to aid interpretation of results. All percentages have been calculated with missing data excluded.

Levels of association between binary dependent and independent variables were tested using Pearson correlations (chi-square tests). The Wilcoxon signed-rank test was used to assess the significance of changes in continuous variables (e.g. number of days of substance use) involving the same defendants at entry to and exit from MERIT.

## 4. MERIT PROGRAM ACTIVITY IN 2010

This chapter provides a descriptive overview of MERIT program activity during the 2010 calendar year.

### 4.1 MERIT referral and acceptance rates

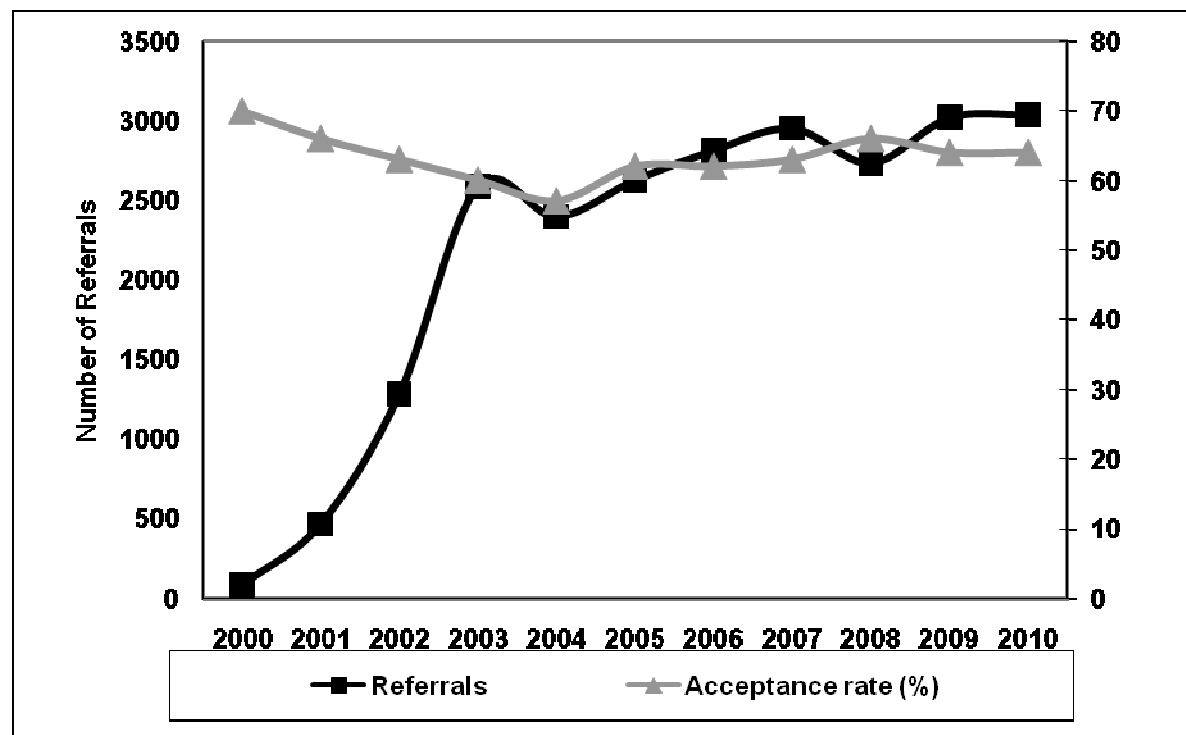
#### 4.1.1 Number of MERIT referrals

Between 1 January and 31 December 2010 there were 3,035 referrals to the program; a 0.6 per cent increase (of 18 referrals) on the previous year. This is the eighth year on year increase in referrals since 2000, and the largest rate of referral activity in the history of MERIT operations. Both the number and proportion of referrals from Self and 'Other' sources increased between 2009 and 2010.

#### 4.1.2 MERIT acceptance rates

Of the 3,035 referrals in 2010, close to two-thirds (n=1,941) were accepted onto the program. Figure 4.1 charts referral and acceptance rates over time. Whilst there has been a consistent overall growth in referrals to MERIT since 2000, acceptance rates fell by 13 percentage points up to 2004, but have increased by seven percentage points since then.

*Figure 4.1: MERIT referrals and percentage acceptance rates (2000-2010) (N=23,965)*





Thirty-six per cent of referred defendants (n=1,094) did not access MERIT during 2010; 178 (5.9%) failed to attend for an assessment (referral only) and 151 (5%) declined to attend the program before a treatment protocol had been devised. When compared to the previous year's activity, the proportion of referrals not attending for assessment and declining to participate had increased slightly (by 1.9 percentage points).

#### **4.1.3 Non-acceptance by the MERIT program**

Just over one quarter (n=765; 25.2%) of those referred to MERIT during this period were not accepted to participate in the program – a rate which was slightly lower compared to 2009 activity (27%). As illustrated in Table 4.2, the most common reasons for non-acceptance were having no demonstrable drug problem, being unwilling to participate and the Magistrate not endorsing program entry.

**Table 4.1: Reasons for non-acceptance of MERIT program referrals (2010)  
(n=765)**

Reason for non-acceptance		2010	
		n	%
Not eligible	No demonstrable drug problem	265	34.6
	Not eligible for bail	75	9.8
	Strictly indictable offence(s)	41	5.3
	Not an adult	2	0.2
	<b>Sub total</b>	<b>383</b>	<b>49.9</b>
Not suitable	Unwilling to participate	147	19.2
	Mental health problem	11	1.4
	Already in court ordered treatment	4	0.5
	<b>Sub-total</b>	<b>162</b>	<b>21.2</b>
Program logistics	Resides outside of effective treatment area	13	1.7
	Program full	34	4.4
	<b>Sub-total</b>	<b>47</b>	<b>6.1</b>
Program entry not endorsed by Magistrate	<b>Sub-total</b>	<b>102</b>	<b>13.3</b>
Other	<b>Sub-total</b>	<b>71</b>	<b>9.3</b>
<b>TOTAL</b>		<b>765</b>	<b>100</b>

Compared to the previous year, there was an increase in the proportion of MERIT referrals who were refused as a result of MERIT teams reaching full capacity (up from 1.3% in 2009) and a reduction in the proportion of defendants not eligible for bail (down from 14.7%).

## 4.2 MERIT referral

### 4.2.1 MERIT referral sources and acceptance rates

Solicitors and Magistrates accounted for over three quarters of the referrals to MERIT during 2010 (Table 4.3). Self-directed and 'Other' referrals were the only sources of referral to MERIT which measured a proportional increase between 2009 and 2010.

**Table 4.2: Sources of referral and acceptance rates (2010)**

Referral source	Referrals by source		Acceptances by source	
	n	%	n	%
Solicitor	1,373	45.3	892	65.0
Magistrate	940	31.0	646	68.7
Self	276	9.1	172	62.3
Other <sup>6</sup>	252	8.3	138	54.8
Police	124	4.1	62	50.0
Probation and Parole	34	1.1	19	55.9
Family /friend	30	1.0	11	36.6
<b>TOTAL</b>	<b>3,029</b>	<b>100</b>	<b>1,940</b>	

\* Data on referral source were missing in 6 cases.

Those referred to the program by Magistrates<sup>7</sup> during 2010 were more likely to be accepted into the program than those referred from other sources. Referrals from the Police<sup>8</sup> and Family / Friend<sup>9</sup> sources were the least likely groups to be subsequently accepted onto the program during this period.

### 4.2.2 Previous referrals to MERIT

Given the chronic, relapsing nature of drug dependency, a previous referral to MERIT will not render a defendant ineligible for a subsequent referral at a later date. It is also possible, for the reasons described above, that a defendant might not have been accepted into or completed the program following an earlier referral.

<sup>6</sup> As noted in earlier Annual Reports (e.g. Martire and Larney, 2009: 14), 'Other' MERIT referrals are typically made by health care professionals.

<sup>7</sup>  $\chi^2=12.9$ ,  $df=1$ ,  $p<0.005$ .

<sup>8</sup>  $\chi^2=11.1$ ,  $df=1$ ,  $p=0.001$ .

<sup>9</sup>  $\chi^2=9.8$ ,  $df=1$ ,  $p=0.002$ .

Almost one in four (n = 707; 23.3%) referred defendants during 2010 had previously been referred to MERIT. This rate is similar to that recorded in 2009 (n = 677; 23%). Those who had one or more previous referrals were more likely to be accepted into the program (67.2%) than those who had no previous referrals (63.0%).<sup>10</sup>

**Table 4.3: Program status by number of referrals to MERIT (2010)**

Extent of past contact with MERIT	Program status								
	Accepted		Declined		Not accepted		Referral only		Total
	n	%	n	%	n	%	n	%	n
No previous referrals	1,466	63.0	117	5.0	603	25.9	142	6.1	2,328
1 previous referral	331	66.2	27	5.4	117	23.4	25	5.0	500
2+ previous referrals	144	69.6	7	3.4	45	21.7	11	5.3	207
<b>Total</b>	<b>1,941</b>	<b>64.0</b>	<b>151</b>	<b>5.0</b>	<b>765</b>	<b>25.2</b>	<b>178</b>	<b>5.9</b>	<b>3,035</b>

### 4.3 The demographic profile of referred/accepted defendants

#### 4.3.1 Gender

In line with activity during recent years, around one in five referrals (n=624; 20.6%) and acceptances (n=414; 21.3%) to the MERIT program during 2010 were female<sup>11</sup>. Women (66.3%) were not significantly more or less likely to be accepted into the program than males (64.2%).

The gender ratio of defendants referred to MERIT during this period is consistent with that for those found guilty before all NSW Local Courts in 2010 (NSW Bureau of Crime Statistics and Research, 2011).

#### 4.3.2 Age

Defendants referred to the program during 2010 ranged in age from 17 to 72 years. The average (median) age of those both referred and accepted was 30 (one year older than median age from last year). As was the case during 2009, the largest proportion of referred defendants in 2010 were aged between 25-29 years, accounting for almost one in five referrals (19%). This was followed by the 30-34

<sup>10</sup>  $\chi^2 = 4.2$ ;  $df = 1$ ;  $p = 0.041$

<sup>11</sup> Data on gender were missing in 33 cases.

(18.6%) and 21-24 (16.5%) age group. As shown in Table 4.4, collectively, these groups accounted for slightly more than half (54.1%) of all referrals to the program during this period. This age distribution is broadly consistent with the pattern followed throughout the lifetime of MERIT.

**Table 4.4: Age at referral and acceptance as a proportion of referrals (2010)**

Age group	Referred		Accepted	
	n	% of all referrals	n	% of age group
17 or under	5	0.2	1	20.00
18-20	404	13.4	242	59.9
21-24	496	16.5	304	61.3
25-29	571	19.0	386	67.6
30-34	550	18.3	372	67.6
35-39	440	14.6	298	67.7
40-49	425	14.1	262	61.6
50+	122	4.0	76	62.3
<b>Total</b>	<b>3,013</b>	<b>100</b>	<b>1,941</b>	

\* Due to missing data age at referral could not be calculated for 22 cases.

### 4.3.3 Indigenous status

As illustrated in Table 4.5, 19.3 per cent (n=515) of referrals to MERIT during 2010 identified as Aboriginal or as a Torres Strait Islander<sup>12</sup>. This is slightly higher than the 2009 rate (19%) and is the highest proportion of referrals identifying as such since the program commenced in 2000. This figure is also higher than the proportion of Indigenous defendants who appeared before all Local Courts in 2009 (13.4%) (NSW Bureau of Crime Statistics and Research, 2011).

There was no significant difference in the proportion of acceptances into MERIT between Indigenous defendants (71.3%) and non-Indigenous defendants (71.8%). There were differences in the reasons given for non-acceptance by Indigenous status; Indigenous defendants were more likely to have program entry not endorsed by the Magistrate (4.7% v 3.2%)<sup>13</sup>. Non-indigenous defendants were more likely to have no demonstrable drug problem (7.5% v 4.1%)<sup>14</sup>.

<sup>12</sup> Data on indigenous status were missing (n=251) or not stated (n=109) in 11.9 per cent of cases.

<sup>13</sup>  $\chi^2 = 3.9$ ;  $df = 1$ ;  $p = 0.048$

<sup>14</sup>  $\chi^2 = 8.7$ ;  $df = 1$ ;  $p = 0.003$

**Table 4.5: Indigenous status of referred defendants (2010)**

Indigenous status	Referred	
	n	%
Indigenous*	515	19.3
Non-indigenous	2,160	80.7
<b>Total</b>	<b>2675</b>	<b>100</b>

\*Includes those identifying as Aboriginal (n=495), Torres Strait Islander (n=11) or Aboriginal and Torres Strait Islander (n=9). Data on indigenous status was missing or not stated for 360 cases.

#### **4.3.4 Country of birth**

The majority of participants referred to the MERIT program during 2010 were born in Australia (89.9%)<sup>15</sup>. This is similar to the figure for 2009 (89.3%)<sup>16</sup>. The most common countries of origin for defendants born outside Australia in 2010 were New Zealand (n=51), England (n=30) and Viet Nam (n=29).

#### **4.3.5 Educational attainment**

As has been the case throughout the life of the MERIT program, the majority of referred defendants in 2010 were those for whom the highest level of educational attainment was equivalent to Year 10 or less (72.9%; from 72.6% in 2009)<sup>17</sup>. Fewer than one in five (n=319; 17.6%) were educated to the level of Year 11 or 12; seven per cent (n=130) had trade or TAFE qualifications and only a small proportion (2.4%; n=43) were tertiary-level educated.

#### **4.4 Principal drug of concern**

Information relating to the principal drug of concern to be addressed by the MERIT program is provided in Table 4.7. Cannabis was the principal drug of concern for nearly half (n=910; 46.9%) of all accepted defendants during 2010. As indicated in Figure 4.2, this is more than twice the proportion of cannabis users dealt with in 2000 (21.8%), although is slightly lower than the proportion recorded in 2009 (48.6%).

Narcotics users accounted for one in five of cases accepted in 2010 (n=399; 20.6%); stimulant drugs represented a similar proportion of the caseload (n=347; 17.9%). Heroin was the principal drug of concern (n=353) for most narcotic using defendants; however this represented a decrease of almost 4% of total accepted cases when compared to 2009 (n = 429).

Alcohol use was recorded as the principal drug of concern for almost one tenth (n = 190; 9.8%) of accepted defendants in 2010. This indicates a rise of primary alcohol users of more than 6% of total cases when compared to 2009 (n = 60; 3.1%).

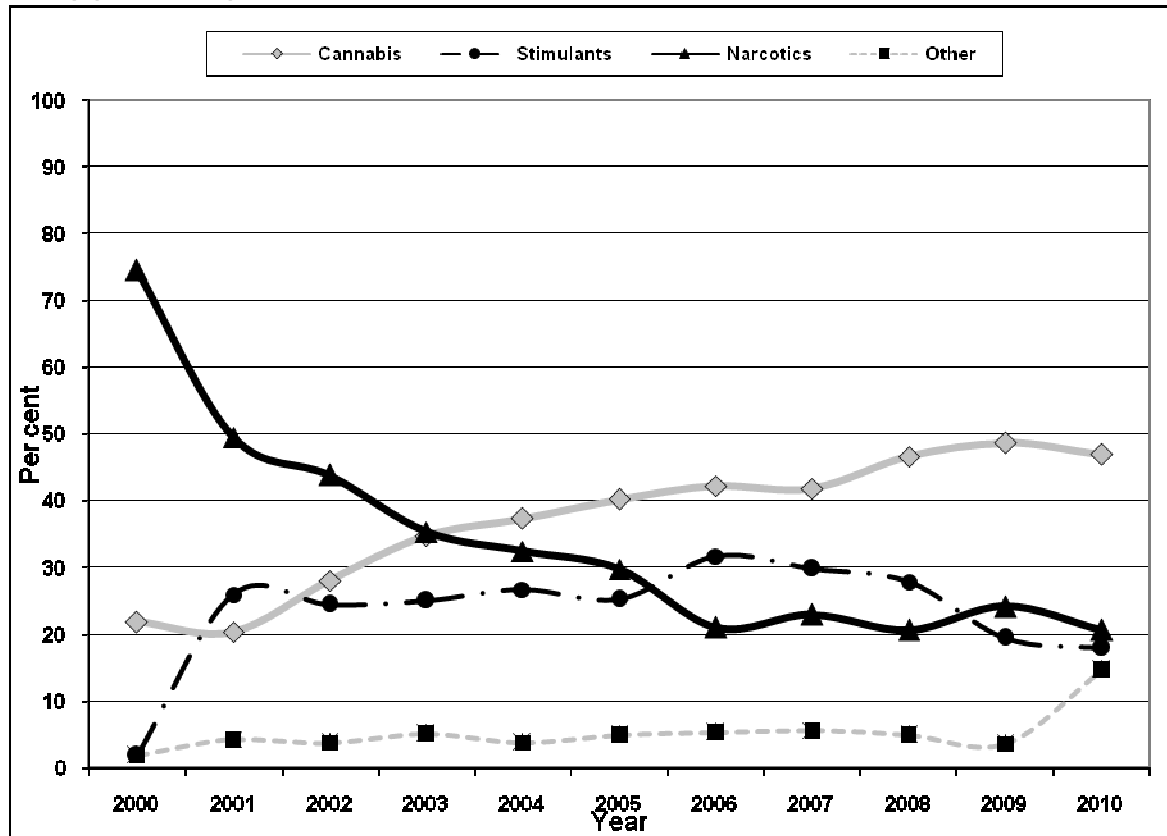
<sup>15</sup> Data on country of birth were missing (245) or not stated (52) in 297 cases relating to 2010 activity.

<sup>16</sup> Country of birth information was missing for 260 referrals in 2009.

<sup>17</sup> Data on educational attainment were missing in 1,218 (40.1%) cases in 2010.

The number of different drugs (including alcohol) used problematically by accepted defendants in 2010 ranged from one to twelve, with an average (median) of two. Figure 4.2 below shows that stimulant use has remained relatively consistent over the 9 years since 2001. In contrast, cannabis use has steadily increased since 2001 whereas use of heroin has generally shown declines during this period. 'Other' drug use has shown a significant increase for the year of 2010; this is directly attributable to the increase of primary alcohol users which are allocated to the 'Other' category for the purposes of this analysis.

**Figure 4.2: Trends in principal drug of concern addressed by MERIT (2000-2010) (N=14,982)**



**Table 4.6: Principal drug of concern for accepted MERIT defendants (2010)**

Principal drug of concern		n	%
Cannabis		<b>910</b>	<b>46.9</b>
Stimulants	Amphetamines/Methamphetamines (inc. Speed, Ice)	302	15.6
	Cocaine	29	1.5
	MDMA (ecstasy)	16	0.8
	Other	0	0
	<b>Sub-total</b>	<b>347</b>	<b>17.9</b>
Narcotics	Heroin	353	18.2
	Methadone	8	0.4
	Morphine (inc. MS Contin, Opium)	31	1.6
	Buprenorphine	4	0.2
	Other	3	0.2
	<b>Sub-total</b>	<b>399</b>	<b>20.6</b>
Sedatives/anaesthetics	Benzodiazepines	86	4.4
	Gamma-hydroxybutyrate (GHB)	3	0.2
	Other	1	0.1
	<b>Sub-total</b>	<b>90</b>	<b>4.6</b>
Other	Alcohol <sup>18</sup>	190	9.8
	Other	5	0.3
	<b>Sub-total</b>	<b>195</b>	<b>10.1</b>
<b>TOTAL</b>		<b>1,941</b>	<b>100</b>

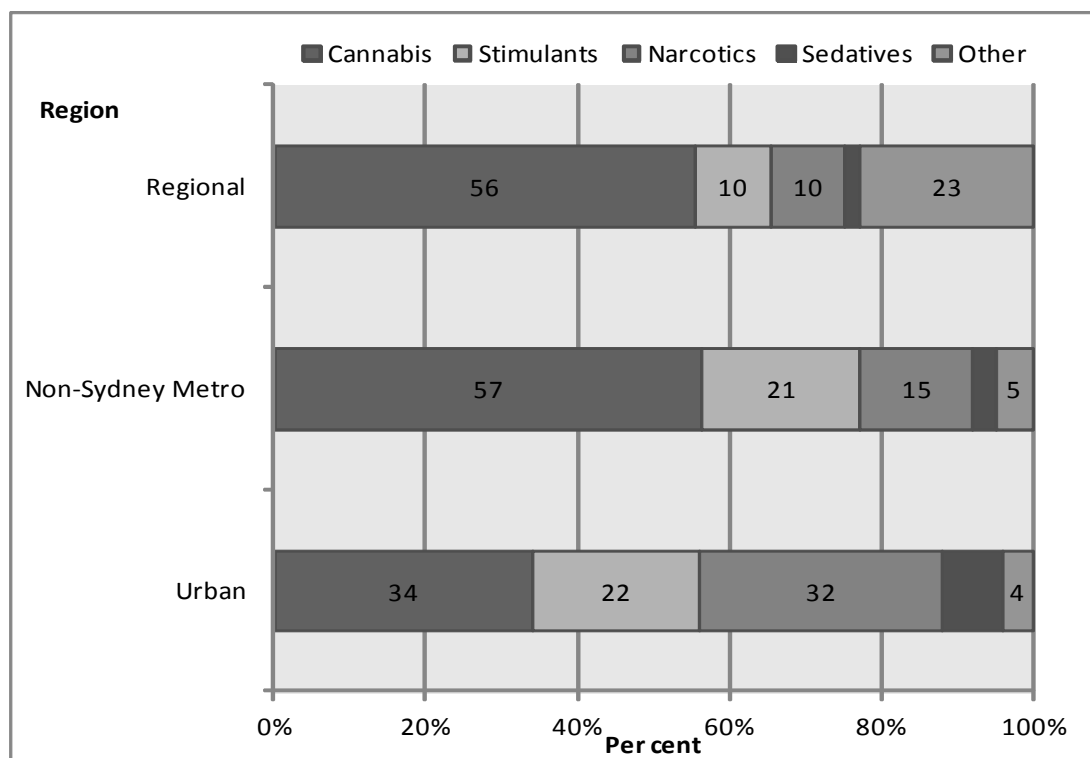
<sup>18</sup> MERIT teams covering Broken Hill, Wilcannia and Dubbo Local Courts are permitted to accept referrals from defendants citing alcohol as their principal drug of concern. As of March and June 2010 this has also been the case with Manly and Wollongong Local Courts respectively. Clients with primary alcohol problems formerly covered by Orange and Bathurst Local Courts' RAD programs and Wellington 'Options' now fall within the MERIT operations and data collection.



#### 4.4.1 Principal drug of concern by region<sup>19</sup>

Important differences have emerged over the life of the MERIT program in relation to the principal drug of concern on the basis of NSW region. For example, between 2000 and 2009 cannabis was the main drug of concern for more than half (53.7%; n=1,931) of all regionally based accepted defendants, compared with less than one-third of urban defendants (32.3%; n=1,794). By contrast, reporting of narcotics as the principal drug of concern increased as a function of urbanisation across Regional (17.2%; n=619), Metro (23.4%; n=832) and Urban (37.7%; n=2,092) based defendants accepted into the program. The principal drugs of concern for persons accepted by MERIT by region in 2010 are set out in Figure 4.3. As illustrated in Table 4.7, there has been a decrease in cannabis users in MERIT in Regional areas which has corresponded with increases in narcotic and 'other drug' – primarily alcohol – cases in 2010. In contrast the Urban and Metro areas have seen slight decreases in MERIT participants using narcotic and 'other drugs' relative to 2009.

**Figure 4.3: Principal drug of concern for accepted defendants, by region (2010)**



<sup>19</sup> In keeping with the approach adopted in previous MERIT Annual Reports (Martire & Larney, 2009), the Urban region comprises the Northern Sydney, Western Sydney, South Eastern Sydney, South Western Sydney, Central Sydney and Wentworth MERIT teams. The Non-Sydney Metro region consists of the Hunter, Illawarra and Central Coast MERIT teams. The Regional region is made up of the New England, Mid West, Far West, Macquarie, Mid North Coast, Northern Rivers, Southern and Greater Murray MERIT teams.

**Table 4.7: Principal drug of concern for accepted defendants, by region (2009 and 2010)**

Principal drug of concern	2009			2010		
	Urban	Non-Sydney Metro	Regional	Urban	Non-Sydney Metro	Regional
Cannabis	36.8%	53.5%	65.0%	34.4%	56.7%	55.7%
Stimulants	20.1%	24.6%	13.8%	21.7%	20.6%	9.9%
Narcotics	36.1%	18.6%	7.7%	32.2%	15.0%	9.8%
Other	7%	3.4%	13.4%	11.6%	7.8%	24.7%
<b>n</b>	<b>926</b>	<b>484</b>	<b>520</b>	<b>723</b>	<b>540</b>	<b>584</b>

## 4.5 Number of charges and type of offence

### 4.5.1 Number of charges

There were a total of 5,354 charges against 2,873 defendants<sup>20</sup> referred to MERIT during 2010. One per cent of defendants were recorded as receiving 14 or more charges; the range of remaining defendants was one to thirteen.

The average (median) number of charges was one<sup>21</sup>. The number of charges against a defendant was associated with the likelihood of being accepted onto the

<sup>20</sup> Data on charges were missing for 162 of referrals; data for all accepted cases were available

<sup>21</sup> Analysis of averages uses a median score when the data is not normally distributed. The median provides a more accurate estimate of the average compared to the mean in these cases.

program in 2010; those with one charge had an acceptance rate of 64.9% whereas those with two or more charges had an acceptance rate of 70.7%.<sup>22</sup>

#### **4.5.2 Type of offence and previous custodial experience**

Table 4.9 sets out the nature and extent of the offences for which those referred and accepted into the MERIT program during 2010 were awaiting sentence. Close to half (n=1,333; 46.3%) of defendants had two or more outstanding charges at the point of referral<sup>23</sup>.

Illicit drug offences and theft and related offences were the most common charges faced by MERIT defendants - for both those referred to and accepted by the program in 2010. More than three-fifths of the defendants at referral (60.8%) and acceptance (63.6%) stages of the MERIT process had pending charges relating to these offences. Amongst those accepted onto the program in 2010, those assessed as having cannabis as their principal drug of concern comprised the largest group charged with illicit drug offences (56.2%; n=422). By contrast, users of narcotics were the group most likely to be charged with theft and related offences (40.5%; n=197).

Just over two-fifths of those referred (n=708; 43.8%) and accepted (n=620; 43.6%) onto the MERIT program in 2010 had previously served a custodial sentence<sup>24</sup>. Those engaging with MERIT for support principally around their use of cannabis were significantly less likely to report having previously been imprisoned (34.6%) than others (51.7%) accepted during this period<sup>25</sup>.

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<sup>22</sup>  $\chi^2 = 10.9$ ,  $df = 1$ ,  $p = 0.001$ .

<sup>23</sup> The offences considered have been structured according to the Australian Bureau of Statistics' Australian Standard Offence Classification (ASOC) system.

<sup>24</sup> Information on previous experience of prison was missing in a total of 1,419 referrals; this included missing data for 520 accepted cases.

<sup>25</sup>  $\chi^2 = 42.3$ ,  $df=1$ ,  $p<0.005$

**Table 4.8: Offence types for referred and accepted MERIT defendants (2010)**

Offence type	Referred (n=2,873)		Accepted (n=1,941)	
	n	% of defendants	n	% of defendants
Acts intended to cause injury	495	17.2	295	15.1
Against justice procedures, government security/operations	411	14.3	259	13.3
Dangerous or negligent acts endangering persons	152	5.2	105	5.4
Deception and related offences	69	2.4	48	2.4
Homicide and related offences <sup>26</sup>	1	0.1	0	0
Illicit drug offences	1099	38.2	751	38.6
Miscellaneous offences	191	6.6	151	7.7
Property damage and environmental pollution	229	7.9	146	7.5
Public order offences	99	3.4	68	3.5
Road traffic and motor vehicle regulatory offences	486	16.9	322	16.5
Robbery, extortion and related offences	29	1.0	19	0.9
Theft and related offences	652	22.6	486	25.0
Unlawful entry with intent/burglary, break and entry	137	4.7	103	5.3
Weapons and explosives offences	109	3.7	80	4.1

\* Data on charges were missing in 162 referred cases; data for all accepted cases were available

<sup>26</sup> Note that the homicide and related offences category includes charges for death and injuries arising from road accidents. The single defendant in this category was facing charges for driving causing death.

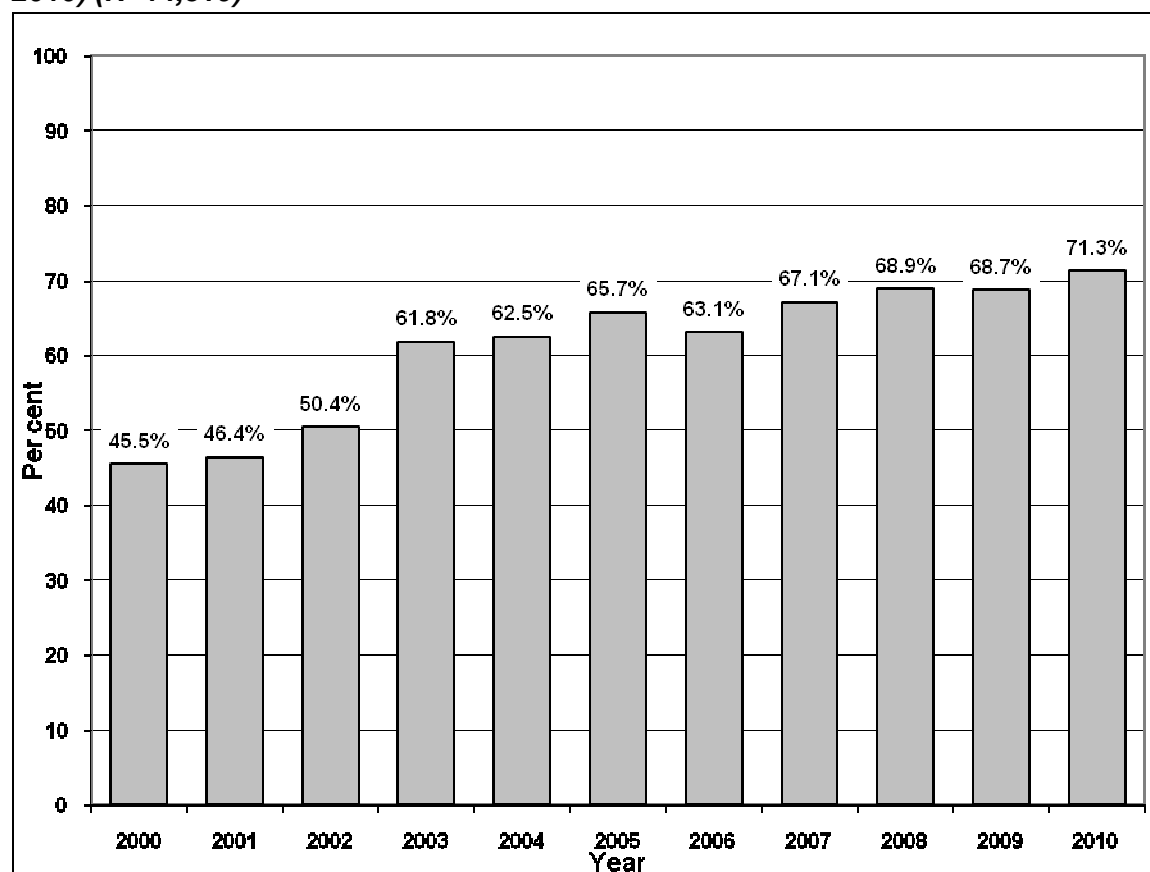
## 5. MERIT PROGRAM EXITS

This chapter considers the 1,939 defendants who were accepted into MERIT and subsequently exited the program at some point during 2010. Around one in four of these participants (n=472; 24.3%) had accessed the program during 2009. The remainder engaged with MERIT during 2010 (n=1,467). This cohort includes defendants who completed program requirements (completers), as well as those not completing requirements (non-completers).

### 5.1 Exit status of defendants accepted into MERIT

Seventy-one per cent of MERIT participants exited the program during 2010 having met all program requirements. As illustrated in Figure 5.1, this is slightly higher than the rate recorded in 2009 and represents the highest rates of completion recorded throughout the life of the MERIT program.

**Figure 5.1: MERIT program completion rates for accepted defendants (2000-2010) (N=14,510)**



The remaining participants who exited MERIT during 2010 did not complete the program for a range of reasons. As indicated in Table 5.1, these included being breached by MERIT, withdrawing from the program voluntarily or being removed by the court. Compared to 2009, there was a small increase in the proportion of participants who withdrew voluntarily. The rates at which defendants were breached

by the MERIT team for non-compliance with program requirements or removed by court were somewhat lower than those recorded in 2009.

**Table 5.1 Status of participants exiting the MERIT program (2009 and 2010)**

Exit status	2009		2010	
	n	%	n	%
Completed program	1,317	68.7	1,382	71.3
Breached by MERIT	329	17.2	317	16.3
Withdrew voluntarily	151	7.9	163	8.4
Removed by court	103	5.4	62	3.2
Died	2	0.1	3	0.2
Other	15	0.8	12	0.6
<b>TOTAL</b>	<b>1,917</b>	<b>100</b>	<b>1,939</b>	<b>100</b>

## 5.2 Program duration

Although it is anticipated that MERIT defendants will typically be engaged with the program for a three-month period, in practice the nature and extent of this contact will vary considerably. Decision-making on this issue is at the discretion of the Magistrate dealing with each individual case, in consultation with the MERIT team, the defendant and his/her legal representative.

The average (median) length of time completers spent on the MERIT program<sup>27</sup> in 2010 was 85 days; as expected, this is a significantly longer period of contact time than non-completers (47 days)<sup>28</sup>. This trend is consistent with previous Annual Reports; both completers and non-completers in 2010 spent similar times in contact with MERIT to their counterparts in 2009 (median 88 days and 49 days respectively). Completers in 2010 had more overall contact with staff during their time engaged with MERIT (median 16 contacts) than non-completers (8 contacts)<sup>29</sup>, and also had a more frequent average (median) rate of service access (one contact every 5.6 days)<sup>30</sup> than non-completers (one contact every 6.2 days) during their engagement with the program.

<sup>27</sup> Calculated using program entry and exit dates as recorded in MIMS database.

<sup>28</sup> Mann-Whitney U = 115508.5, p<0.005.

<sup>29</sup> Mann-Whitney U = 211679.5, p<0.005.

<sup>30</sup> Mann-Whitney U = 359094, p=0.02.

### 5.3 Treatments and services

This section considers both the nature and extent of any previous treatment exposure defendants had prior to accessing MERIT, as well as the range of treatment services delivered by external providers to participants as part of their contact with the program.

#### 5.3.1 Treatment history prior to MERIT

Data on previous exposure to substance use treatment services were available for 95 per cent (n=1,850) of the 1,939 MERIT participants who exited the program in 2010. Just over one third (n=630; 34.0%) reported MERIT as their first contact with drug treatment services; this was similar to figures for 2009 (34.6%). Amongst those reporting having accessed specialist support prior to their contact with MERIT (n=1,220; 64.0%), the number of different types of intervention accessed range from one to ten, with an average (median) of one. The main treatment modalities accessed in the past by exiting MERIT participants during 2010 are set out in Table 5.2, below.

**Table 5.2: Previous substance use treatments received by exiting MERIT participants who had accessed services (2010) (n=1,220)**

Previous treatment modality*	n	%
Counselling	774	63.4
Pharmacotherapies	599	49.1
Withdrawal management	427	35.0
Residential rehabilitation	328	26.8
Support and case management	86	7.0
Information and education	44	3.6
Consultation (not withdrawal management)	62	5.1
Other	137	11.2

\* Defendants may have received more than one treatment modality.

#### 5.3.2 Treatment interventions received whilst on MERIT

Individual treatment plans are developed by MERIT caseworkers which are tailored to the specific needs of defendants. Delivering what might be described as a generic 'support and case management' approach (which was received by 98.7 per cent of exiting participants during 2010), defendants can also receive individual counselling and can be referred to a range of treatment providers for additional services as required (e.g. substitute prescribing or mental health support). However, different MERIT teams and Area Health Services have different arrangements in place for funding and commissioning services locally and the availability of extended services

varies. Less than half (38.9%; n=756) of the 1,939 exiting defendants in 2010 received such a referral.

Relevant information about the nature and extent of the support delivered by agencies external to the MERIT team was available for 724 (95.7%)<sup>31</sup> of the 756 exiting MERIT participants in 2010 who were referred for such support. This group accessed 1,226 separate forms of intervention from external providers during their time with the program; more than two-fifths (n=322) continued to access this support beyond their contact with MERIT. The number of different interventions accessed ranged from one to seven with an average (median) of one. The median length of time defendants were engaged with these services was 14 days (ranging from 0 to 182 days). The most common forms of support received by these referred exiting participants during 2010 were:

- withdrawal management (31.3%; n=227);
- residential rehabilitation (32.3%; n=234);
- other interventions (e.g. mental health, education and employment support, health services) (45.8%; n=332);
- pharmacotherapies (40.3%; n=292); and
- counselling (19.1%; n=138).

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<sup>31</sup> With the exception of inpatient treatments (rehabilitation and detoxification), other interventions and services provided by agencies external to the MERIT team are often poorly recorded on MIMS.



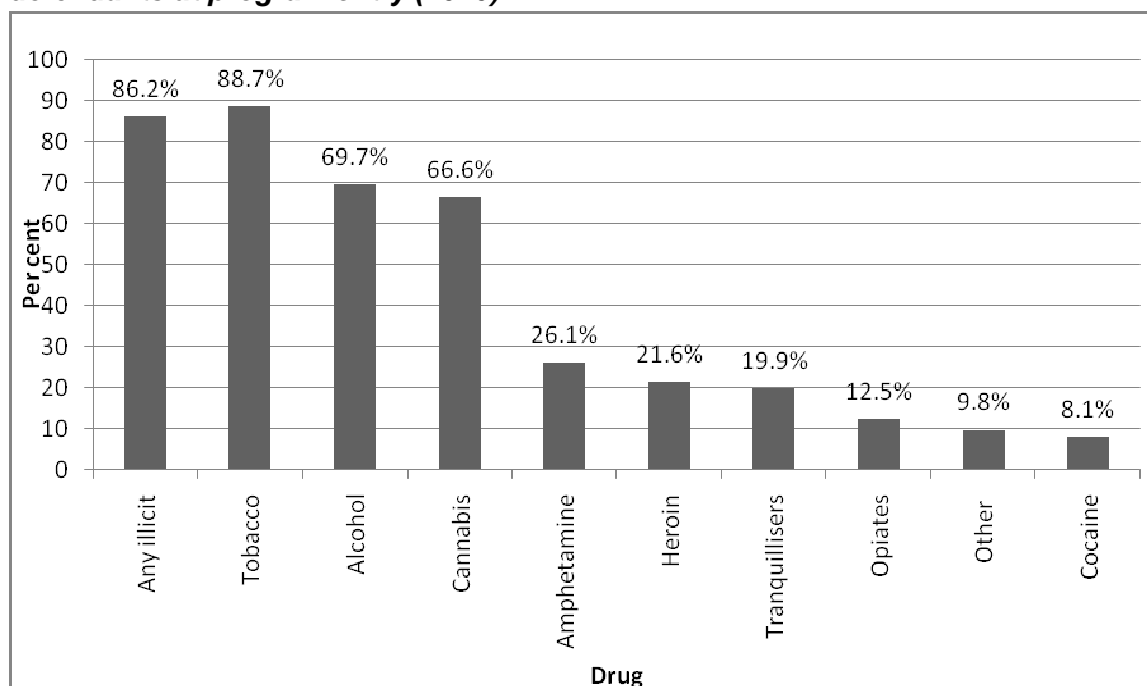
## 6. SUBSTANCE USE AND HEALTH OUTCOMES

This section provides information on the 1,941 defendants accepted by MERIT in 2010. Self-reported substance use and physical and psychological health information is collected upon entry to and exit from the MERIT program, where possible<sup>32</sup>.

### 6.1 Substance use

Slightly less than nine out of ten defendants accepted by MERIT (and for whom data were available) had reportedly used an illicit<sup>33</sup> drug in the 30 days prior to program entry<sup>34</sup> (n=1,412; 86.2%). Cannabis was the most commonly used illicit substance, consumed by around two-thirds of all defendants (n=1,091). Figure 6.1 illustrates the nature and extent of substance use among accepted defendants upon entry to the MERIT program during 2010.

**Figure 6.1: The nature and extent of drug use among accepted MERIT defendants at program entry (2010)**



\* Each analysis of drug items involved differing total group size and number of missing cases. Group sizes: any illicit (1639), tobacco (1640), cannabis (1636), alcohol (1637), amphetamine (1634), heroin (1428), tranquilisers (1634), other (1488), opiates (1427), cocaine (1632). Percentages are calculated against the total available number of cases per substance type.

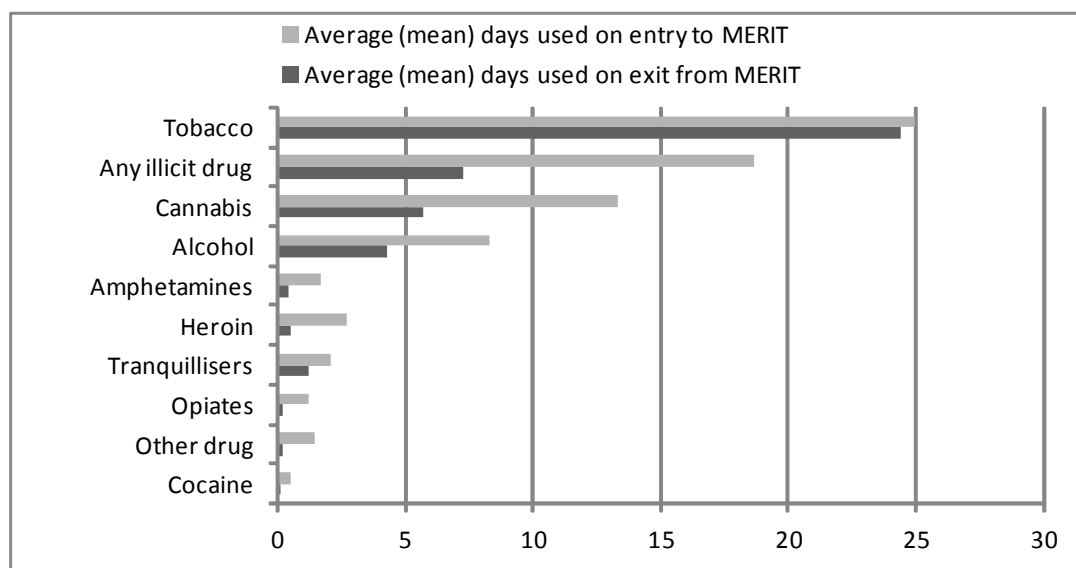
<sup>32</sup> For a range of different reasons (considered in more detail on page 9) exit data on substance use and health outcomes are almost exclusively restricted to program completers and should not be considered representative of all program participants.

<sup>33</sup> With the exception of alcohol and tobacco, an assumption has been made that other substances (e.g. tranquilisers and opiates) were being used for non-medical purposes and were not prescribed.

<sup>34</sup> Data on drug use at entry to MERIT were missing for 302 cases.

The average (mean) number of substances used by defendants over the 30 days prior to program entry was 3.2 (ranging from 0 to 8). Excluding the use of alcohol and tobacco, the average (mean) number of *illicit* substances used was 1.6 (ranging from 0 to 6). This compares with a figure of 1.8 illicit substances reported in the 2009 Annual Report. At entry to MERIT around half (49.3%) the defendants during 2010 reported consuming illicit drugs on 25 days out of the last 30 (median 22 days). As shown in Figure 6.2, below, using data for those accepted defendants for whom substance use information was available upon entry to and exit from the program in 2010, reductions in the frequency of use across all nine categories were recorded<sup>35</sup>.

**Figure 6.2: Average (mean) frequency of substance use upon entry to and exit from the program (2010) (n=957)**



Furthermore, the reductions in both the frequency and intensity<sup>36</sup> of self-reported substance use were statistically significant across all categories for this sub-sample of accepted MERIT participants in 2010. The largest reductions in both the frequency and intensity of reported use for individual illicit drugs were recorded for cannabis and amphetamines (as described in Table 6.1).

<sup>35</sup> It is noted that information on substance use is gathered by respondent self-report. As a result it is possible that ratings may be affected by respondent incentives to underreport or minimise actual use.

<sup>36</sup> An intensity score was calculated by multiplying the number of days in the month a substance was used by the units consumed per day.

**Table 6.1: Changes in the number of days using substances and the intensity of use in the month on entry to and exit from the MERIT program**

Substance	N	Average (mean) days used on MERIT entry	Average (mean) days used on MERIT exit	Wilcoxon signed-rank test results	N	Average (mean) intensity score on MERIT entry	Average (mean) intensity score on MERIT exit	Wilcoxon signed-rank test results
Alcohol	946	8.3	4.3	z=12.78, p<0.005,	944	99.2	26.8	z=14.49, p<0.005,
Tobacco	949	25.1	24.4	z=3.30, p=0.001,	948	426.5	373.7	z=7.02, p<0.005,
Cannabis	943	13.3	5.7	z=16.83, p<0.005,	943	239.9	46.3	z=18.08, p<0.005,
Opiates	817	1.2	0.2	z=5.81 p<0.005,	814	7.0	0.5	z=5.29, p<0.005,
Heroin	818	2.7	0.5	z=9.64, p<0.005,	813	10.4	1.6	z=8.82, p<0.005,

Substance	N	Average (mean) days used on MERIT entry	Average (mean) days used on MERIT exit	Wilcoxon signed-rank test results	N	Average (mean) intensity score on MERIT entry	Average (mean) intensity score on MERIT exit	Wilcoxon signed-rank test results
Cocaine	938	0.5	0.1	z= 6.42, p<0.005,	934	5.4	0.1	z=6.27, p<0.005,
Amphetamines	942	1.7	0.4	z=10.69, p<0.005,	942	7.8	1.6	z=10.45, p<0.005,
Tranquilisers	941	2.1	1.2	z=4.89, p<0.005,	939	13.7	3.4	z=5.95, p<0.005,
Other drug	829	1.3	0.2	z=6.45, p<0.005,	819	4.3	0.5	z=6.71, p<0.005,
Any illicit drug <sup>37</sup>	718	17.6	7.4	z=17.31, p<0.005,	718	238.7	48.9	z=16.96, p<0.005,

<sup>37</sup> Calculated using the maximum value for (i) the number of days in the month an illicit drug was used and (ii) the maximum intensity score recorded for these seven illicit substances.

## 6.2 Severity of Dependence

The degree to which MERIT participants' substance use could be considered dependent was assessed using the Severity of Dependence Scale (SDS) (Gossop et al., 1995). As shown in Table 6.2, those seeking support from MERIT principally around their use of narcotics had higher average (mean) SDS scores than defendants using other substances. The average overall SDS score for 2010 (8.1) is consistent with the figure reported for the 2009 MERIT cohort (8.1). While the average dependency score increased between 2009 and 2010 for alcohol users (from 6.6 to 7.1), the SDS score for 'other' drug users fell considerably (from 6.7 to 5.3).

**Table 6.2: Average (mean) Severity of Dependence Scale scores for accepted defendants during 2010**

Principal substance	2010	
	N	Mean (SD) <sup>38</sup>
Narcotics	339	9.5(3.4)
Sedatives	69	8.7(3.4)
Stimulants	290	7.9(3.1)
Cannabis	762	7.7(3.6)
Other	3	5.3(5.0)
Alcohol	173	7.1(3.1)
Total	1,636 <sup>39</sup>	8.1 (3.5)

Those accepted MERIT defendants for whom SDS data were available both on entry to the program in 2010 and upon exit (n=946) recorded a 35 per cent reduction in overall dependency scores. As illustrated in Table 6.3, these statistically significant reductions in SDS scores were apparent for all types of principal problem substance.

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<sup>38</sup> SD=standard deviation.

<sup>39</sup> SDS scores are missing for 305 cases on entry to MERIT.

**Table 6.3: Changes in average (mean) Severity of Dependence Scale (SDS) score upon entry to and exit from the MERIT program, by principal drug**

Principal drug <sup>40</sup>	N	Average (mean) SDS score on MERIT entry	Average (mean) SDS score on MERIT exit	Wilcoxon signed-rank test results
Cannabis	447	7.8	5.2	z=11.25, p<0.005,
Stimulants	163	7.7	4.9	z=7.48, p<0.005,
Narcotics	177	9.4	5.7	z=8.02, p<0.005,
Sedatives	38	7.9	5.7	z=3.11, p=0.002,
Alcohol	120	7.3	4.2	z=7.37, p<0.005,
Total SDS score	946	8.0	5.2	z=17.57, p<0.005.

However, while these reductions in levels of dependence on illicit drugs upon exit from MERIT are significant and noteworthy, they still exceed established cut-offs for dependence<sup>41</sup>. For example, most principal users of narcotics (scoring 3+; 77.3%; n=140), stimulants (scoring 4+; 63.4%; n=104) and cannabis (scoring 3+; 74.7%; n=336) continued to score above the relevant dependency thresholds on the SDS upon exiting the MERIT program (González-Sáiz et al., 2009; Topp & Mattick, 1997; Swift, Copeland & Hall, 1998).

### 6.3 Injecting behaviour

More than half (n=986; 53.4%) of all accepted defendants during 2010 had self-reported injecting at some point in the past. Most of those with a history of injecting (69.1%; n=682) had also done so during the three months prior to their contact with MERIT<sup>42</sup>.

## 6.4 General Health and Well-being

### 6.4.1 Psychological distress

<sup>40</sup> Low sample sizes prevented statistically meaningful calculation of SDS scores for those participants who rated 'other' drugs to be their primary drug of concern.

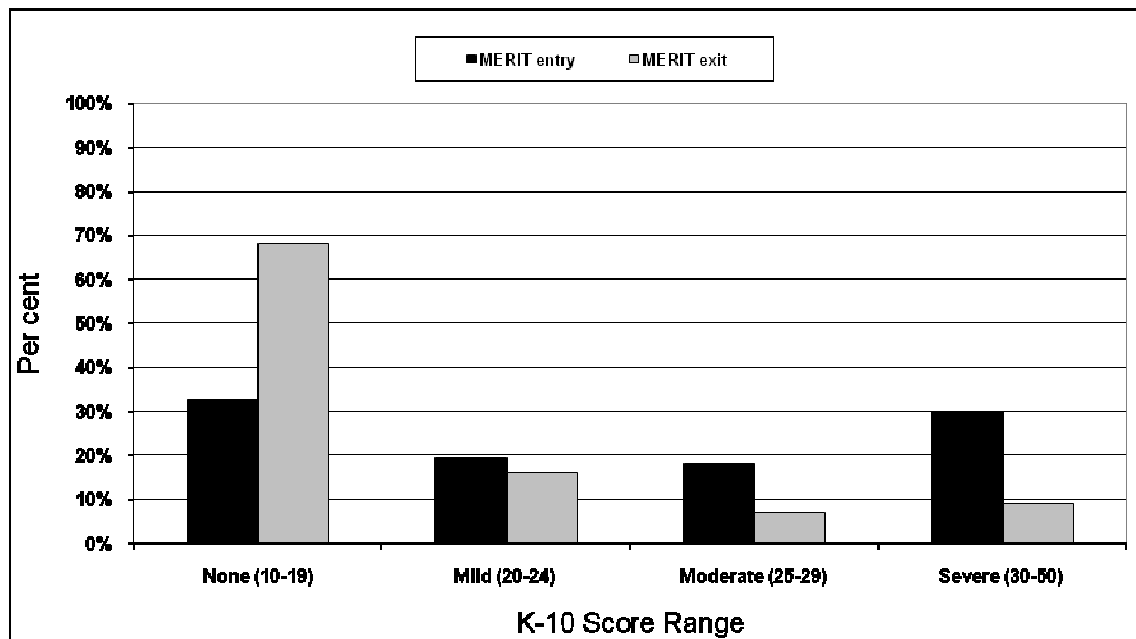
<sup>41</sup> It could be argued that the willingness of MERIT participants to report dependent levels of use on exit from the program perhaps lends weight to the validity and reliability of self-report data for other health outcomes.

<sup>42</sup> Data for injecting behaviour was missing or inadequately described for 94 participants.

Levels of psychological distress amongst accepted MERIT defendants during 2010 were measured using the Kessler-10 (K-10) Psychological Distress Scale (Kessler et al., 2002). With possible scores ranging from 10 to 50, lower K-10 scores are indicative of lower levels of psychological distress. The average (median) score for accepted MERIT defendants during 2010 was 24<sup>43</sup>. This is the highest threshold for mild psychological distress (scores in the region of 25-29 indicate moderate levels of distress). However, 29.7 per cent (n=484) of defendants had severe levels of psychological distress on admission to MERIT.

Amongst those defendants with K-10 data on entry and exit to the program during 2010 (n=936) there was a significant reduction<sup>44</sup> in overall scores: from 24.3 to 17.8 (i.e. from mild-moderate levels of psychological distress to no distress). As shown in Figure 6.3, below, there were also falls in the proportion of MERIT defendants experiencing moderate and severe levels of distress following their contact with the program.

**Figure 6.3: Changes in levels of psychological distress on entry to and exit from MERIT during 2009 (n=936).**



#### 6.4.2 Physical and mental health (SF-36)

The physical and mental health of accepted MERIT participants was assessed using the SF-36 Health Survey (Ware, Snow & Kosinski, 1993) at both program entry and exit. The survey assesses eight domains with possible scores ranging from 0 to 100, with higher scores indicating enhanced health and functioning. As illustrated in Figure 6.4, at program entry the accepted MERIT sample (n=1,408)<sup>45</sup> in 2010 had a poorer

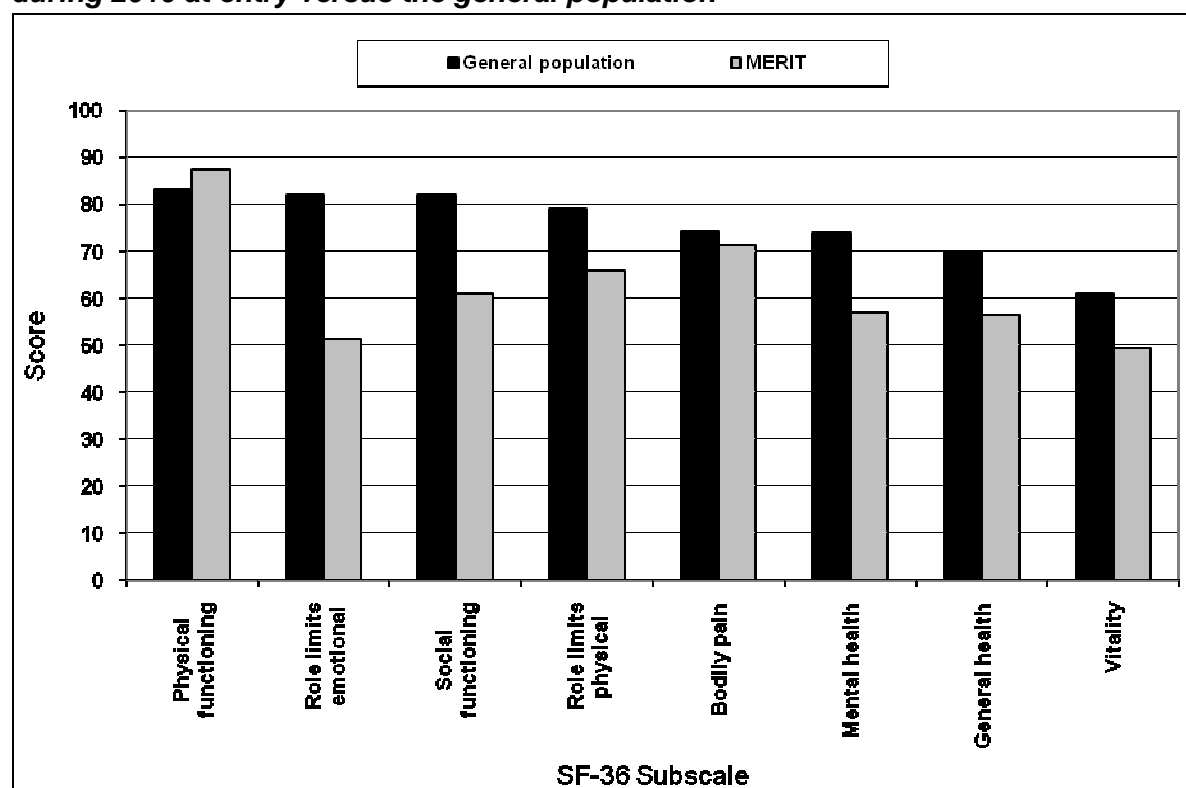
<sup>43</sup> K-10 scores were missing in 310 cases on entry to MERIT.

<sup>44</sup>  $z = -19.99$ ;  $p < 0.005$ .

<sup>45</sup> SF-36 data were missing for 533 accepted cases on entry to MERIT.

physical and mental health prognosis than the general Australian population (Butterworth & Crosier, 2004) in seven of the eight domains considered.

**Figure 6.4: Average (mean) SF-36 subscale scores for MERIT participants during 2010 at entry versus the general population**

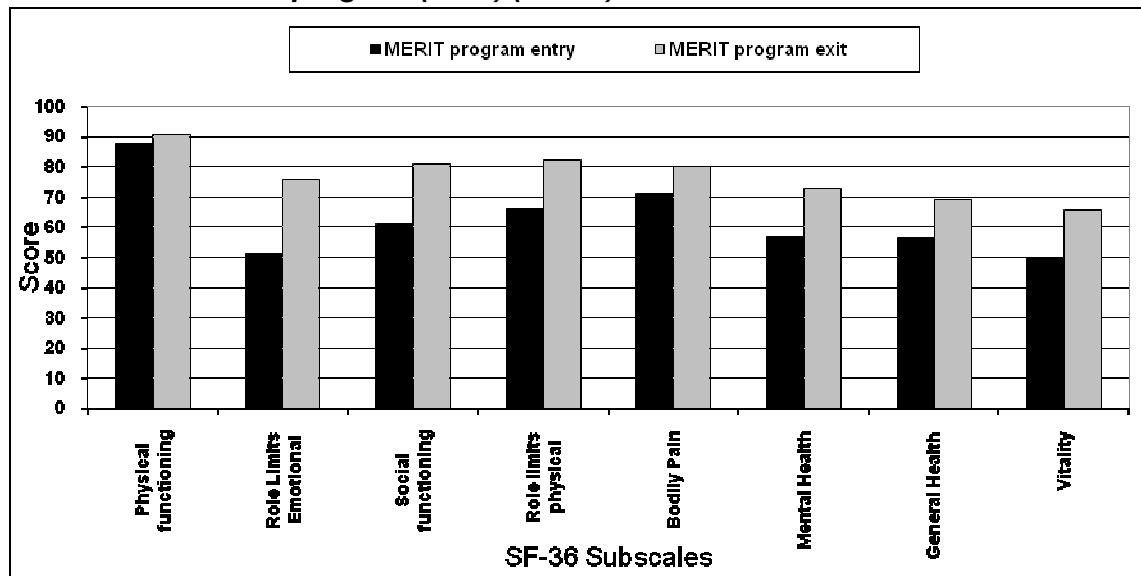


Using available SF-36 data it was possible to assess the nature and extent of changes in physical and mental health amongst a sub-sample of accepted MERIT defendants during 2010 following their contact with the program (n=821). Using this approach there were statistically significant increases<sup>46</sup> in SF-36 scores recorded across each of the assessed domains (see Figure 6.5 below). The largest increases led to improvements in domains of Mental Health, Vitality, Social Functioning and General Health. At exit the MERIT sample rated higher scores compared to Australian population averages in four of the eight assessed domains (Physical Functioning, Role Limits Physical, Bodily Pain and Vitality).

<sup>46</sup> General health (z=-15.07; p<0.005;); mental health (z=-16.59; p<0.005;); bodily pain (z=-9.05; p<0.005;); physical functioning (z=-6.91; p<0.005;); role limits physical (z=-9.76; p<0.005;); role limits emotional (z=-11.91; p<0.005;); social functioning (z=-15.30; p<0.005;); and vitality (z=-16.31; p<0.005;).



**Figure 6.5: Changes in average (mean) SF-36 subscale scores on entry to and exit from the MERIT program (2010) (n=821)**



## 7. FACTORS ASSOCIATED WITH PROGRAM COMPLETION

This chapter considers those factors related to program completion amongst the 1,939 accepted defendants who exited MERIT during 2010 (i.e. considering both completers and non-completers). Developing a better understanding of the issues affecting such outcomes is important for improving the overall effectiveness of the program since, as previously noted, completion of MERIT has been shown to significantly reduce the likelihood of committing any subsequent offences (Lulham, 2009).

There were a number of good quality variables contained within the MIMS dataset which could be hypothesised as potential factors influencing program completion. These included:

- demographics (e.g. age, gender, indigenous status);
- personal circumstances (e.g. marital status, dependents, educational attainment, housing, employment, current offence and prior prison time);
- substance use (previous exposure to treatment, nature and extent of substance use at entry, principal drug, injecting behaviour, level of dependency); and
- service-level effects (prior contact with the program, referral source, location and interventions received).

In 2009, the factors found to be significantly associated with completion were: employment status, indigenous status, receiving counselling support, principal drug of concern, accommodation arrangements, education history and history of injection drug use. From among the array of assembled variables described above, the factors found to be most significantly associated with program completion during 2010 were<sup>47</sup>:

- Being employed ( $\chi^2 = 28.9$ ;  $df=1$ ;  $p < 0.005$ );
- Being of non-Indigenous status ( $\chi^2 = 11.6$ ;  $df=1$ ;  $p < 0.005$ );
- Receiving education to the level of Year 10 or higher ( $\chi^2 = 11.6$ ;  $df=1$ ;  $p < 0.005$ );
- Seeking support principally for use of alcohol ( $\chi^2 = 11.1$ ;  $df=1$ ;  $p = 0.001$ );
- Living in a privately owned house or flat ( $\chi^2 = 10.92$ ;  $df=1$ ;  $p = 0.001$ );
- Being convicted of a road traffic offence ( $\chi^2 = 9.6$ ;  $df=1$ ;  $p = 0.002$ ).

---

<sup>47</sup> These results were tested against a more conservative error rate of  $p = .01$  in order to control for inflationary effects of multiple analyses. As a result variables were only reported as significant here if  $p < .01$ .

Conversely, the factors most significantly associated with non-completion of a MERIT program in 2010 included:

- Being in receipt of temporary benefits ( $\chi^2 = 28.5$ ;  $df=1$ ;  $p < 0.005$ );
- Being aged younger than 34 years ( $\chi^2 = 19.8$ ;  $df=1$ ;  $p < 0.005$ );
- Being convicted of an offence against Justice or government authorities ( $\chi^2 = 10.6$ ;  $df=1$ ;  $p=0.001$ ); or theft offences ( $\chi^2 = 8.1$ ;  $df=1$ ;  $p=0.004$ );
- Having been previously sentenced to custody ( $\chi^2 = 9.1$ ;  $df=1$ ;  $p=0.002$ ).

## 8. CRIMINAL JUSTICE OUTCOMES

In order to ensure consistency with the approach adopted during previous Annual Reports, sentence outcome and reconviction data are presented here for defendants completing MERIT in the previous calendar year (i.e. during 2009).

By matching unique attributor codes for MERIT participants to their Local Court and re-offending databases, BoCSAR, on behalf of the School of Psychology UNSW, was able to provide measures of criminal justice outcomes by comparing post-program sentences and reconviction rates for program completers and non-completers during 2009. More specifically, this process provided information on:

- the principal penalty received by MERIT defendants;
- the number of defendants reconvicted within 12 weeks of commencing MERIT and
- reconvictions within 6 and 12 months of exiting the program.

From the 1,916 defendants exiting the program in 2009 for whom information was sent by MERIT to BoCSAR, 1,854 (96.8%) were successfully matched to the relevant court and reconviction datasets.

### 8.1 Sentence outcomes

As was the case for the 2008 MERIT cohort, there were considerable differences between the principal penalty outcome for program completers and non-completers in 2009. The most common sentence outcomes for MERIT program completers were again a bond with supervision (23.5%; n=280) or a bond without supervision (18.7%; n=222). By comparison, the most common sentence outcomes for program non-completers were a term of imprisonment (28.6%; n=143) or a fine (20.4%; n=102). Sentence outcomes for the 1,854 MERIT defendants matched by BoCSAR are set out in Table 8.1.

**Table 8.1: Sentence outcomes for MERIT defendants (2009) (n=1,688)**

Principal penalty <sup>48</sup>	Program completion status	
	Completed	Not completed
Imprisonment (adult)	53 (4.4%)	143 (28.6%)
Juvenile control order (juvenile)	0	2 (0.4%)
Home Detention	2 (0.1%)	0
Periodic detention	19 (1.5%)	8 (1.6%)
Suspended sentence with supervision	149 (12.5%)	45 (9.0%)
Suspended sentence without supervision	70 (5.8%)	28 (5.6%)
Community service order (adult)	77 (6.4%)	10 (2.0%)
Bond with supervision	280 (23.5%)	56 (11.2%)
Bond without supervision	224 (18.7%)	52 (10.4%)
Fine	112 (9.4%)	102 (20.4%)
Nominal sentence	31 (2.6%)	14 (2.8%)
Bond without conviction	72 (6.0%)	11 (2.2%)
No conviction recorded	45 (3.7%)	5 (1.0%)
No action taken	5 (0.4%)	0
No penalty	50 (4.2%)	23 (4.6%)
<b>Total</b>	<b>1,189 (100%)</b>	<b>499 (100%)</b>

\* Sentencing data were not available for 166 of the 1,854 cases matched to ROD.

Between 2008 and 2009, the proportion of MERIT non-completers receiving penalties involving imprisonment increased (from 18.6% to 28.6%). The proportion of non-completers for whom the Local Court imposed no penalty correspondingly decreased between 2008 and 2009 (from 12.3% to 4.6%). During this time the proportion of non-completers sentenced to bonds with and without supervision, and the use of suspended sentences with supervision remained relatively steady.

<sup>48</sup> Where the first court appearance was finalised within the six months after program exit in 2009, or in the month before program exit.

Similarly, the proportion of program completers subsequently imprisoned increased between 2008 and 2009 (from 3.6% to 4.4%), and the rate at which completers received no penalty decreased (from 7.8% to 4.2%).

When interpreting these sentencing data it is important to note that the penalties imposed against both program completers and non-completers will be influenced by a broad range of factors including defendant needs, circumstances, levels of risk posed (both of harm and reoffending), seriousness of the current offence(s) and compliance with MERIT. Therefore any variations in sentence outcomes are likely to be influenced as much by differences in levels of 'criminogenic' need between participants as they are by any effect of the MERIT program.

## **8.2 Re-offending**

As with previous Annual Reports, details of finalised court appearances for new charges and consequent convictions following entry to the MERIT program serve as a proxy measure of reoffending<sup>49</sup>.

### **8.2.1 Reconviction within 12 weeks of commencing MERIT<sup>50</sup>**

Consistent with findings from previous Annual Reports, program non-completers in 2009 were significantly more likely to be reconvicted for another offence in the 12 weeks following commencement of MERIT than program completers ( $p < 0.005$ ). Table 8.2 describes the number and proportion of 2009 MERIT participants who were convicted for a new offence during this period.

When interpreting these figures it is important to note that some defendants may have exited MERIT in less than 12 weeks and consequently may not have been in receipt of MERIT interventions at the time of the offence. Furthermore, re-offending while on MERIT can be cause for a defendant to be removed from the program and/or for having their bail conditions withdrawn.

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<sup>49</sup> Although the use of convictions data is an internationally established benchmark with which to measure rates of re-offending, previous estimates in other jurisdictions have indicated that only 3 in every 100 offences committed will result in a caution or conviction (Barclay and Tavares, 1999: 29).

<sup>50</sup> This refers to any subsequent convictions where the re-offence date was within 12 weeks of commencing MERIT.

**Table 8.2: Rate of reconviction within the 12-week MERIT program period (2009) (n=1,854)**

Any reconvictions within 12 weeks of program entry date?	Program completion status	
	Completed (n=1,269)	Not completed (n=585)
Yes	178 (14.0%)	208 (35.5%)
No	1,091 (85.9%)	377 (64.4%)

### 8.2.2 Reconvictions post-MERIT contact<sup>51</sup>

Six months after exiting the MERIT program in 2009, 25.3 per cent of those defendants had been convicted for a further offence (n=470). By the time 12 months had elapsed this figure had increased to 38.3 per cent (n=711). Consistent with findings from previous research examining the impact of MERIT on rates of recidivism, program completers were significantly less likely than non-completers to have been reconvicted 6 and 12 months after exiting the program (p<0.005) (see Table 8.3)<sup>52</sup>.

**Table 8.3: Rates of reconviction at 6 and 12 months for exiting MERIT defendants (2008) (n=1,854)**

Reconviction rates within 6 and 12 months of program exit date	Program completion status	
	Completed (n=1,269)	Not completed (n=585)
Reconvicted at 6 months	286 (22.5%)	184 (31.4%)
Reconvicted at 12 months	451 (35.5%)	260 (44.4%)

<sup>51</sup> Based on the number of subsequent convictions where the re-offence date was within 6 or 12 months of the MERIT program completion date. These data have not been adjusted to take into account 'time at reduced risk' (i.e. periods of imprisonment or inpatient treatment).

<sup>52</sup> We had no data on whether there were reductions in the frequency (number of offences leading to conviction) or severity of offending during this follow-up period.

## 9. DISCUSSION AND CONCLUSIONS

This chapter summarises the main conclusions reached following our analysis of program activities during 2010.

The report identified a number of positive developments during 2010 which indicate that the program had sustained and reinforced many of the achievements made during previous years. Notable examples included:

- Increasing court coverage rates, reflecting the addition of Woy Woy and Coffs Harbour Local Courts to the MERIT catchment;
- Increasing service provision to Local Court defendants with alcohol as a primary drug of concern through the expansion of MERIT eligibility criteria at Manly and Wollongong Local Courts;
- Increasing referral rates both overall and specifically for Indigenous defendants;
- Equal acceptance rates for male and female referrals ;
- Equal acceptance rates for indigenous and non-indigenous referrals;
- High levels of engagement with defendants with a history of previous MERIT episodes (23.3%) and those reporting no previous contact with treatment services (34%);
- The highest rate of program completion since the commencement of MERIT in 2000, which is consistent with trends towards increasing completion rates each year;
- Continuing to facilitate statistically significant reductions in the self-reported frequency and intensity of all forms of substance use, and in the nature and extent of general, physical and mental health problems experienced by defendants; and
- Contributing towards ensuring that program completers (in 2009) were significantly less likely to be reconvicted for another offence following their contact with the program, compared to those who do not complete the program.

### **Predictors associated with program completion**

The predictors of non-completion identified using the 2010 cohort of MERIT participants were similar to those identified using the 2009 cohort; completions were again associated with receiving education to the level of Year 10 or higher, having access to private accommodation and current employment, and reporting no previous history of injecting use. When considered in combination with other repeat predictors (Indigenous status, principal drug, custodial history, age) the data indicate



that those individuals who maintain higher functioning and stability in the community are more likely to complete the program. While this is an unsurprising result it serves to illustrate the fact that those defendants who fail to complete the program are likely to have a greater and more complex range of needs. This may indicate that additional supports and strategies are required to facilitate continued engagement with the program, or the need for a more intensive, supervised program for these individuals.

From the inception of the MERIT program in 2000 until the time of the current 2010 cohort 23,965 defendants have been referred for intervention; referral numbers have increased over time from 79 in 2000 to 3,035 in 2010. Since 2000 the program has been implemented in 45% of NSW Local Courts and in 2010 was potentially available in 82% of finalised Local Court cases. More than 62% (n = 14,985) of referred defendants were accepted into the program, and throughout the life of the program an average of 63% of those accepted go on to complete the program. Over a number of years of evaluation, participation in and completion of MERIT has been consistently associated with reductions in drug or alcohol use, improvements in indices of physical and mental health status and decreased reconviction rates.

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Attorney General  
& Justice

# MERIT Program

# Operational Manual

Magistrates Early Referral Into Treatment Program



Purpose: This manual has been prepared by the Department of Attorney General and Justice with assistance from NSW Health and the NSW Police Force to assist the statewide implementation of the Magistrates Early Referral Into Treatment (MERIT) program across NSW.

This edition of the MERIT Operational Manual supersedes all previous editions.

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**SECTION 1**  
**INTRODUCTION**

# INTRODUCTION

## Overview of the MERIT program

The Magistrates Early Referral Into Treatment (MERIT) program is an inter-agency initiative of the Department of Attorney General and Justice (DAGJ), the Chief Magistrate's Office, NSW Health and the NSW Police Force.

The MERIT program is a pre-plea drug diversion scheme based in NSW local courts. The target population is adult defendants with drug problems who are motivated to undertake drug treatment. MERIT aims to intervene in the cycle of drug use and crime by addressing the health and social welfare issues considered to be instrumental in bringing defendants into contact with the criminal justice system.

Acceptance onto the MERIT program is guided by a deliberately inclusive set of eligibility criteria designed to target a large proportion of those defendants appearing in local courts with a demonstrable history of drug problems.

Participation in MERIT is voluntary and does not require an admission of guilt. MERIT participants are not required to be drug dependent, but must have a drug problem that influences their offending behaviour. MERIT offers drug treatment within a harm minimisation framework.

The MERIT program was designed to complement the local court system where matters typically progress from initial hearing to sentencing within about three months. Defendants are referred to the program at or before their initial court appearance and, if assessed as eligible and suitable, may be accepted onto the program and undertake supervised drug treatment. Program completion generally coincides with the final hearing and sentencing of the defendant.

The MERIT program is only available within NSW local courts (defendants appearing before District and Children's Courts, for example, are ineligible). At the time of publication, a restricted number of local courts offer the program. A list of participating courts can be found on the DAGJ website.

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## Program outcomes

The intended MERIT program outcomes for participants and for the community are:

- decreased offending behaviour
- decreased drug use
- improved health and social functioning
- increased community protection
- sentences that reflect the improved rehabilitation prospects of successful MERIT participants.

The following source documents provide information about the outcomes of the MERIT program to date.

*The Magistrates Early Referral Into Treatment (MERIT) Program: Health Outcomes*, NSW Health 2007.

*The Magistrates Early Referral Into Treatment Program: Impact of program participation on re-offending by defendants with a drug use problem*, Crime & Justice Bulletin No. 131, July 2009.

Further evaluation and research documents can be found on DAGJ's MERIT website.

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## Agencies Involved in MERIT

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### Joint agency approach

The MERIT program operates through the cooperative efforts and contribution of several NSW Government agencies. The partner agencies are:

- the Department of Attorney General and Justice (lead agency)
  - Chief Magistrate's Office
  - NSW Health (including some NGOs)
  - the NSW Police Force.
- 

### The NSW Department of Attorney General and Justice (DAGJ)

DAGJ is the lead agency in the MERIT program and has primary responsibility for overall program coordination and evaluation. The key responsibilities of DAGJ are to:

- supervise the statewide rollout of the program
  - convene the MERIT Statewide Steering Committee
  - coordinate agency involvement and administration of MERIT
  - assist in coordinating the provision of administrative support and accommodation within the court environment for members of MERIT Teams
  - undertake monitoring and evaluation functions for the MERIT program.
- 

### Magistrates

Magistrates provide leadership in the operation of the MERIT program at the court. The key responsibilities of magistrates are to:

- determine eligibility of defendants and refer to the MERIT Team for suitability assessment
  - accept eligible and suitable defendants onto the program as appropriate
  - monitor the participant's progress whilst on the program
  - respond to bail breaches
  - finalise defendants' legal matters.
- 

### NSW Health

NSW Health is responsible for the coordination of drug treatment and related service delivery for MERIT program participants. MERIT Teams attached to local courts are located either in Local Health Districts (LHDs) or in non-government drug and alcohol services. The key responsibilities of MERIT Teams are to:

- assess defendants for suitability for the MERIT program
- identify an appropriate treatment plan for MERIT clients and engage relevant services in the provision of agreed treatment
- provide ongoing case management to MERIT clients during their time on the program
- provide individual counselling for MERIT clients (or ensure this is accessed through another provider)



- monitor clients' progress on the agreed treatment plan
  - report to the court regularly in regard to client progress and compliance with the treatment plan, including breaches of program conditions
  - undertake discharge planning for MERIT clients, including referral to other services for post-MERIT health, drug treatment and/or other support services.
- 

**The NSW  
Police Force**

The NSW Police Force plays a key role in identifying potential MERIT participants at the time of their arrest and referring them for a MERIT assessment prior to their initial court appearance, where appropriate.

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## **Referral To and Acceptance Onto the MERIT Program**

**Referral to  
MERIT**

Referrals to MERIT can come from a variety of sources including police, magistrates, solicitors and the defendant themselves (or their friends and family).

Defendants can be referred to the program on more than one occasion.

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**Eligibility  
(magistrate)**

Eligibility is determined by the magistrate. To be considered eligible for MERIT, defendants must satisfy the following criteria.

The defendant must:

- be an adult
- be eligible for release on bail or not require bail consideration<sup>1</sup>
- voluntarily agree to participate in MERIT
- be suspected of using drugs or be known to have a history of drug use.

The defendant must not:

- be charged with offences involving significant violence or have like offences pending before the court
  - be charged with sexual offences or have like offences pending before the court
  - be charged with a strictly indictable offence or have like offences pending before the court.
- 

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<sup>1</sup> Defendants on bail and defendants for whom bail is not a consideration are eligible for MERIT. The application of a bail condition specific to MERIT is entirely at the discretion of the magistrate.

**Suitability  
(MERIT Team)**

Suitability for the MERIT program is determined by the MERIT Team. To be suitable the defendant must:

- have a treatable drug problem for which there is appropriate treatment available
  - usually reside within the defined catchment area (or have sufficient connection to the area, for example, have full-time employment in the area)
  - voluntarily consent to undertake the MERIT program.
- 

**Comprehensive  
assessment of  
potential  
participants  
(MERIT Team)**

To assist MERIT Teams in determining suitability for the program, defendants undergo a comprehensive assessment by MERIT staff (see 'MERIT Assessment' in Section 4). This assessment covers:

- drug use behaviours and problems
- family relationships and drug history
- the defendant's social situation
- legal issues
- physical and mental health problems
- motivation for change
- potential to engage in treatment for drug use problems.

If appropriate, an individual treatment plan is then developed, tailored to the participant's identified needs.

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**SECTION 2**  
**MAGISTRATES AND**  
**COURTS**

# MAGISTRATES AND COURTS

## Magistrates

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### Philosophy

Magistrates regard the MERIT program as an opportunity to assist defendants with a drug problem before a plea has been entered.

Magistrates consider MERIT to be highly desirable because it allows the court the ability to provide defendants with the opportunity to participate in treatment in the hope of breaking the drug crime cycle. Approaching the drug crime problem in this way is a benefit not only to the individual but also to the community as a whole.

MERIT is a court-controlled program and MERIT caseworkers assist with the administration of justice.

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### Assessment for eligibility

It is the role of magistrates to decide whether a defendant is eligible for the MERIT program. Key factors that the magistrate needs to decide in terms of eligibility are that the defendant:

- (i) must be an adult.
- (ii) must not have offences involving strictly indictable offences, sexual offences or offences involving significant violence and the defendant should not have like offences pending before a Court.
- (iii) must be suspected of using drugs or have a history of drug use
- (iv) must be eligible for bail and suitable for release on bail or not require bail consideration
- (v) must voluntarily agree to participate

Previous convictions for violent or sexual offences should not be considered except, as usual, in determining bail.

Defendants deemed eligible by the magistrate will then be referred to the MERIT Team for the relevant 'comprehensive assessment' to assist in determining suitability for the program and to provide an opportunity to draw up a treatment plan. Only after this comprehensive assessment and related report (Template 5) are completed does the magistrate make a final determination as to the defendant's acceptance onto the program.

In some cases the comprehensive assessment may have already been completed before the defendant's first court appearance, therefore eligibility and suitability can be determined at the first court appearance (see 'MERIT Assessment' in Section 4).

If at any time during assessment or participation on the program the defendant's court matters are finalised, the defendant becomes ineligible to participate in the MERIT program.

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## Psychiatric report

In some circumstances, magistrates may obtain a psychiatric report and/or a pre-sentence report for a defendant prior to passing sentence.

It is **not** the responsibility of the MERIT Team to arrange these reports. Provision of these reports remains the responsibility of the clerk of the court.

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## Bail

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### What is bail?

According to the *Bail Act 1978*, 'bail' means authorisation for a person accused of an offence to be at liberty under this Act, instead of in custody.

When:

- (a) bail is granted to an accused person in respect of an offence,
- (b) the person enters into the bail undertaking, and
- (c) a bail condition or bail conditions are imposed, or they are entered into, the person is, subject to this Act, entitled to be released (if in custody) and to remain at liberty in respect of the offence, until the person is required to appear before a court in accordance with the person's undertaking.

The *Bail Act* supports a defendant's entitlement to bail for offences punishable summarily (i.e. at a local court level), subject to certain specified exemptions.

The *Bail Act* allows persons accused of an offence to be released into the community prior to any legal consideration of guilt, and supports provision of unconditional bail or bail on both a financial or non-financial basis.

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### Factors in determination of bail

In making a determination as to the grant of bail to an accused person, the court considers factors such as;

- the probability of whether or not the person will appear in court, having regard to:
    - Their background and community ties, any previous failure to appear and the circumstances of the offence (nature, seriousness, strength of case and probable penalty).
  - the interests of the person, having regard to:
    - The period of time to be spent on remand, the needs of the person to be free to prepare for their case, whether the person is incapacitated by injury, the person's criminal history and whether the person has special needs (arising from being aged under 18, Aboriginal or Torres Strait Islander, has an intellectual disability or is mentally ill).
  - the protection and welfare of the community, having regard to:
    - The protection of the victim and any other person in need of protection because of the case, the nature and seriousness of the offence, whether the person has previously failed to observe a bail condition, the likelihood of the person interfering with evidence and the likelihood of a person re-offending whilst on bail.
-

## **Bail and MERIT**

Magistrates should make determinations about a defendant's suitability for release on bail prior to any consideration being given to the MERIT program.

There are three different bail options for MERIT participants, at the discretion of the magistrate:

**1. The requirement for bail has been dispensed with (s. 10, *Bail Act 1978*)**

**2. Bail is applicable and a MERIT bail condition is added**

Section 36A of the *Bail Act 1978* allows bail conditions to be imposed for persons who would benefit from a treatment or rehabilitation/intervention program, such as MERIT. Example wording might be: 'To comply with the reasonable directions of MERIT'.

The MERIT caseworker is responsible for monitoring this condition and, where necessary, reporting non-compliance with the condition to the magistrate (see 'Non-Compliance with Program Conditions' in Section 4).

It should be noted that the NSW Police Force are not required to monitor any bail conditions related to MERIT and are not expected to return non-compliant defendants to court (as allowed for under s. 50 of the *Bail Act*).

Additional bail conditions may or may not be imposed, at the discretion of the magistrate. If imposed, the role of the NSW Police Force under s. 50 of the Act will apply to these conditions.

**3. Bail is applicable and a MERIT bail condition is *not* added**

Other bail conditions may or may not be imposed, at the discretion of the magistrate. If imposed, the role of the NSW Police Force under s. 50 of the Act applies to these conditions.

It should be noted that MERIT caseworkers are not responsible for monitoring bail conditions other than those related to MERIT, and need not have knowledge of any additional bail conditions. However, should caseworkers have this knowledge and become aware of a breach, they should notify the relevant authorities as soon as possible.

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## **MERIT Court Hearings**

### **First court attendance**

In the majority of cases, the defendant's initial appearance at court is the first opportunity to conduct a MERIT eligibility/suitability assessment.

Where a magistrate finds a defendant ineligible, court matters proceed as normal.

Where a defendant is deemed eligible, MERIT Teams are required to determine suitability. Having MERIT Team members present at court to conduct this suitability assessment is ideal but not always possible.

**MERIT present at court**

Where a defendant is deemed eligible by the magistrate and the MERIT caseworker **is** available at court, the caseworker conducts an initial suitability assessment on the day. The MERIT Team submits an Initial Court Report (Template 4) to the magistrate, noting initial suitability/unsuitability.

Where the defendant is found unsuitable, the case proceeds as normal.

If the defendant is found initially suitable, a further comprehensive assessment should be undertaken by the MERIT Team in order to confirm suitability and develop a treatment plan. If it is not possible to complete this on the day, it may be necessary for the magistrate to grant an adjournment (of up to three weeks) for this assessment to take place.

Should the defendant fail to report as required for this assessment during the adjournment period, the MERIT Team will inform the court as soon as possible following the missed appointment.

**MERIT not present at court**

Where a defendant is deemed eligible by the magistrate and the MERIT caseworker **is not** available at court, the defendant is directed to attend the MERIT office for an initial assessment within three working days.

To reduce the number of adjournments, the MERIT Team should conduct both an initial and comprehensive assessment of defendants during this period, if possible.

At the defendant’s subsequent court appearance:

- If they have reported to the MERIT Team for their assessment as directed, the Team presents the Magistrate with either an Initial Court Report (Template 4) noting initial suitability/unsuitability, or a Comprehensive Assessment Court Report (Template 5).
- If the defendant has failed to attend the MERIT office for their assessment, next steps in the criminal process are at the discretion of the magistrate.

**Comprehensive assessment**

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Following a comprehensive assessment, the MERIT Team provides a Comprehensive Assessment Court Report (Template 5) to the magistrate, confirming whether or not the defendant is suitable for the program, the type of drug treatment services that may be appropriate and available, the relevant support that can be provided and a proposed treatment plan.

Following receipt of this report, where the defendant is found suitable, the magistrate has discretion to determine whether the defendant should be accepted onto MERIT.

Where the defendant is found unsuitable, the case proceeds as normal.

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**Further adjournments**

Where a defendant is placed on MERIT, the magistrate is encouraged to impose an increased level of court supervision as a core element of the program. Additional 'mentions' establish how the participant is progressing and offer encouragement, as appropriate. On the other hand, if a participant is not going well, court supervision could play a role in encouraging treatment completion.

Each adjournment (following any adjournments for assessment) will be accompanied by a short progress report from the MERIT Team (Template 6) indicating the participant's progress and compliance with their treatment plan. The MERIT Team may also suggest the length of any future adjournments.

MERIT is a 12-week program. Some guidelines for adjournments are:

- up to three weeks for comprehensive assessment
- appearance to report on progress at four to eight weeks (from the commencement of treatment)
- final appearance at 12 weeks (from the commencement of treatment).

Relevant and timely progress reports to the magistrate are essential throughout a participant's time on the program.

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**Treatment period**

Throughout the treatment period, the MERIT Team will maintain contact with the client with a focus on providing treatment, support, structure and/or supervision as set out in the agreed treatment plan. That contact may include participation in various forms of drug assessment, treatment and monitoring, and/or maintaining regular contact and interviews with a MERIT caseworker.

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**Removal from the program**

Magistrates have discretion to remove a defendant from the MERIT program at any time. Examples of factors that may inform this decision include receipt of a caseworker report (see below) or re-offending by the defendant.

MERIT caseworkers are responsible for monitoring the defendant's compliance with their agreed treatment program (see 'Non-Compliance with Program Conditions' in Section 4). Non-compliance can be defined as:

- failure to attend MERIT appointments
- failure to engage in drug treatment
- incidents of aggression or violence towards staff or damage to MERIT property.

In instances of non-compliance, MERIT caseworkers will report this to the magistrate. The consequences are that the magistrate may remove the defendant from the program. If removed from MERIT, the defendant's matters proceed to plea or hearing.

It should be noted that a defendant's non-compliance with the MERIT program, where there is a MERIT bail condition, is not considered a breach of bail (see 'Bail and MERIT' on page 9).

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**Voluntary withdrawal**

A defendant may voluntarily withdraw from the MERIT program at any time.

A defendant's voluntary withdrawal from the program, if there is a MERIT bail condition, is not considered a breach of bail (see 'Bail and MERIT' on page 9).

In cases of voluntary withdrawal, the MERIT Team will notify the court and the magistrate will formally remove the participant from the program. When removed from the program, the defendant's matters proceed to plea or hearing.

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**Final hearing/sentencing**

The completion of the MERIT program generally coincides with the final hearing and sentencing of the defendant. A plea is generally not sought or entered until this time.

The MERIT caseworkers are intensively involved with the clients over the program period and provide to the court a detailed report pertaining to the client's past drug use, response to treatment and a relapse prevention plan that has been discussed with the client (Template 7). The report does not make any comment as to sentence recommendations.

The MERIT Team does not generally attend the sentencing hearing.

As the MERIT program is voluntary, unsuccessful completion should not, on sentence, attract any additional penalty. This information will have been conveyed to the defendant at the beginning of the program. Defendants are to be assured that failure to respond to a drug treatment program will not be dealt with by punitive measures, and that if convicted of the offence(s) as charged, any penalty would relate to that offence only, and not to the defendant's failure to respond to treatment.

Types of sentences used after successful completion of MERIT vary but should reflect successful completion of MERIT and also take into account any recommendations for further treatment.

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**Post plea**

Whilst MERIT is focused on a pre-plea process, defendants have sometimes entered MERIT post plea, or have entered a plea whilst on the program.

Generally, if a full MERIT report has been provided for the client at the point of sentencing then it is not necessary to obtain a full Probation and Parole Report.

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**SECTION 3**  
**NSW POLICE FORCE**

# NSW POLICE FORCE

## Overview

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### What is MERIT?

MERIT is a voluntary program offering drug treatment to offenders appearing at a local court. It is available for offenders who have a drug use problem and who are eligible and suitable for release on bail, or where bail is not a consideration.

The program is highly intensive and involves ongoing contact with the treatment agency and the court.

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### Police role

MERIT provides an opportunity for offenders to deal with their problematic drug use and its social, legal and health consequences, and for police to encourage offenders to seek professional assistance they otherwise may not have considered.

Police play an important role in referring offenders to MERIT. Police referral presents an opportunity to identify potential MERIT clients as early as possible. They are often the first point of contact with an offender and can therefore provide the earliest possible referral into drug treatment. A police referral to MERIT enables the offender to be assessed before the first court appearance. This saves court time as the court does not have to adjourn matters until an assessment can be conducted.

Once police have referred the offender, other agencies become responsible for providing treatment and monitoring compliance (or otherwise) with the program.

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## Police Force Referral Procedure

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### When to refer

Any police officer can make a referral for a MERIT assessment. The entire referral process, including the paperwork, is easy to complete. In deciding to refer to MERIT, officers need to determine, as best they are able, that the offender:

- (i) must be an adult.
- (ii) must not have offences involving strictly indictable offences, sexual offences or offences involving significant violence and the defendant should not have like offences pending before a Court.
- (iii) must be suspected of using drugs or have a history of drug use
- (iv) must be eligible for bail and suitable for release on bail or not require bail consideration
- (v) must voluntarily agree to participate

Note: Responsibility for accepting defendants onto the program rests with the magistrate at a later date.

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**On arrest**

To make a MERIT referral at the time of arrest, undertake the following steps:

- Establish whether the offender has a drug issue – it can sometimes be difficult for an officer to determine this, so it is sufficient to make a determination based on:
  - the offender's presentation
  - self-disclosure by the offender
  - the nature of the offence
  - the prior offending history of the offender
  - what is known about the offender and/or the company they keep.

Police need only act on a reasonable suspicion that the offender is a drug user. The health service will ultimately assess the offender's level of drug use and consequent suitability for MERIT.

- Explain the MERIT program, ensuring that the offender is aware that their details will be passed on to a third party and that police can release information about their current offences to the MERIT Team.
- Provide the offender with the MERIT brochure to read.
- Seek the consent of the offender to refer them for a MERIT assessment (see below).

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**Informed consent**

Participation in MERIT is voluntary and the offender must give informed consent to be referred for an assessment.

Police are required to provide potential MERIT participants with sufficient information as to the nature of the program and the implications of agreeing to be referred for an assessment.

Offenders must consent to the police providing the referral notice to the MERIT Team.

Informed consent is obtained when the offender signs either the COPS-generated MERIT Referral Form or the MERIT Field Referral Form.

Where the offender has not agreed to the referral, they must be informed that police will note this decision on the Facts Sheet.

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**In the field**

If the person consents:

- Complete the MERIT Field Referral Form and ensure that the offender and the referring officer both sign the form.
- Hand the offender their (yellow) copy of the MERIT Field Referral Form that contains contact information for the local MERIT Team.
- On returning to the station, fax the completed MERIT Field Referral Form plus the Facts Sheet to the MERIT Team identified in the Drug Diversion Field Referral Folder and process the action on COPS.

See Appendix 2 for a sample MERIT Field Referral Form.

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**At the station**

If the person consents:

- Commence the processing of the offender on COPS.
  - When the MERIT Referral Form is generated by COPS, ensure that the offender and the referring officer both sign this form.
  - Include the MERIT Referral Form in the facts (narrative) and include the antecedents. (If the offender declines to be referred to the MERIT program this should also be recorded on the Facts Sheet.)
  - Fax the MERIT Referral Form plus the Facts Sheet to the local MERIT Team identified in the Drug Diversion Field Referral Folder.
  - Do **not** provide MERIT Teams with a copy of the offender's criminal record.
  - Hand the offender the contact information for the local MERIT Team.
- 

**What happens next?**

The MERIT Team will acknowledge receipt of the referral by way of fax or letter.

It is the responsibility of the offender to make contact with the MERIT Team to attend the assessment. However, if this does not occur within three days of receiving the referral, the MERIT Team will make reasonable efforts to contact the offender and follow up the referral for assessment.

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**Police MERIT Liaison Officer responsibilities**

A senior police officer in each Local Area Command (LAC) will be appointed as the MERIT Liaison Officer (MLO). The role of the MLO is to:

- promote referrals to MERIT by police and monitor the number of police referrals
- liaise with the local MERIT Team as necessary
- ensure MERIT brochures are accessible to police for distribution.

It is not the responsibility of LAC police to provide criminal record information to local MERIT teams.

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**Non-compliance provisions**

Where bail is a consideration, it is at the magistrate’s discretion as to whether participation in MERIT is made a condition of the offender’s bail.

MERIT caseworkers report non-compliance with the MERIT program to the court as soon as possible and the magistrate determines the outcome of this non-compliance (see ‘Non-Compliance with Program Conditions’ in Section 4).

Non-compliance may result in the offender being removed from the program by the magistrate. Where this occurs, the matters will proceed to plea and hearing as normal.

It should be noted that the NSW Police Force are not required to monitor any bail conditions related to MERIT and are not expected to return non-compliant defendants to court (as allowed for under s. 50 of the *Bail Act*). See ‘Bail and MERIT’ on page 9.

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## **MERIT Teams**

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**Role**

MERIT caseworkers assist in the administration of justice and are expected to report regularly and objectively to the court on the client’s progress.

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**MERIT Team liaison with police**

Ongoing liaison between MERIT Teams and police is seen as beneficial.

The MERIT Manager will ensure police are adequately supplied with MERIT brochures in English. Where appropriate, the MERIT Manager will provide MERIT brochures translated into community languages.

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**SECTION 4**  
**MERIT TEAMS AND**  
**OPERATIONS**

# MERIT TEAMS AND OPERATIONS

## MERIT Teams

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**MERIT Teams** MERIT Teams are funded through Local Health Districts (LHDs). Teams are located either within the LHD drug and alcohol service or in a drug and alcohol NGO through a sub-contracted arrangement. MERIT caseworkers have joint responsibilities as drug treatment providers and in assisting the administration of justice.

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**Key responsibilities**

The primary responsibilities of the MERIT Team are to:

- assess referred defendants for suitability for the MERIT program
  - develop treatment plans in consultation with clients
  - provide case management to MERIT clients for the duration of their participation
  - provide drug treatment counselling services to MERIT clients (or ensure they access this through another provider)
  - facilitate access to appropriate drug and alcohol treatment services for MERIT clients, including within LHDs, NGOs and the private sector
  - refer clients to other relevant health and welfare services in line with their needs and treatment plan
  - liaise with other services involved in the client's treatment in relation to their progress, compliance, motivation and recommendations for further treatment
  - monitor the client's progress towards treatment goals and their compliance with the program requirements
  - provide reports to the court as required throughout the client's participation in MERIT, including assessment, progress, completion and non-compliance with program conditions
  - maintain regular contact with the client throughout their MERIT participation
  - provide data as required for the purposes of statewide monitoring and reporting
  - liaise with other MERIT agencies to facilitate effective operation at the local level (such as magistrates, NSW Police and solicitors)
  - provide information about the MERIT program to other health and welfare service providers as required.
- 

**Assisting the administration of justice**

MERIT caseworkers are employed by NSW Health as health professionals; however, their involvement in the local court process creates a dual role in that they also assist with the administration of justice.

Obligations of MERIT staff are the same as those of other professional staff employed within the NSW health system. However, the role of assisting the administration of justice requires the MERIT Team to:



- recognise and discharge their duty to the court by way of honest and impartial representation
- ensure that the court is not misled
- refuse to tolerate any action which might improperly delay the course of justice or contribute to the abuse of its processes
- disclose any improper conduct which is calculated to defeat the course of justice (except where ethically obliged to maintain confidentiality)
- recognise their duty to the law by ethical and well-informed representation of their clients' interests
- comply with recognised professional, ethical standards in the conduct of their matters.

MERIT caseworkers may have access to confidential and/or sensitive information about clients, for example, criminal Facts Sheets. MERIT staff must ensure this information is used appropriately and is not passed on or disclosed to other service providers without the appropriate authority.

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**Conduct at court**

In representing MERIT in the court environment, staff should:

- adhere to the court dress code
  - wear appropriate identification
  - ensure mobile phones are turned off
  - present quality reports, verbal and written
  - maintain standards consistent with court protocol
  - follow court procedures and court protocol
  - address the magistrate appropriately
  - behave respectfully with other court staff
  - return all court papers to their correct location.
- 

**Reporting and accountability**

MERIT Teams comprise:

- Team Leader or Manager
- Caseworker/counselling staff
- Administrative support staff

MERIT Teams are responsible through the MERIT Manager to the relevant line manager in the drug and alcohol service or NGO.

NGO MERIT Teams have contractual arrangements in place with the local LHD that outline reporting and accountability arrangements.

All MERIT Teams are expected to operate within the parameters outlined in this Operational Manual.

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**Clinical governance**

MERIT Teams operate within appropriate LHD/NGO clinical governance arrangements. Such arrangements include:

- the use of evidence-based treatment interventions

- processes for clinical and case review
  - clinical supervision of staff
  - clinical line management
  - complaints management procedures
  - critical incident reporting systems
  - ongoing professional development.
- 

**Relevant documents**

MERIT Teams should be familiar with the latest versions of the following policy and practice documents and utilise them in practice:

*NSW Health Drug and Alcohol Psychosocial Interventions Professional Practice Guidelines*, NSW Department of Health 2008.

[http://www.health.nsw.gov.au/policies/ql/2008/GL2008\\_009.html](http://www.health.nsw.gov.au/policies/ql/2008/GL2008_009.html)

*NSW Clinical Guidelines – For the Care of Persons with Comorbid Mental Illness and Substance Use Disorders in Acute Care Settings*, NSW Health 2009.

[http://www.health.nsw.gov.au/pubs/2009/comorbidity\\_report.html](http://www.health.nsw.gov.au/pubs/2009/comorbidity_report.html)

*Drug & Alcohol Treatment Guidelines for Residential Settings*, NSW Health 2007.

[http://www.health.nsw.gov.au/policies/ql/2007/GL2007\\_014.html](http://www.health.nsw.gov.au/policies/ql/2007/GL2007_014.html)

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## Program Stages

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**General**

MERIT is generally a 12-week program which commonly cycles through three stages:

- Program entry and commencement of treatment
- Ongoing treatment
- Program exit and discharge.

Whilst there can be variations in the MERIT experience for individual clients, each stage generally includes the same basic components outlined below.

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**Stage 1:  
Program entry  
and  
commencement  
of treatment**

Key steps in Stage 1 (in no particular order) are:

- comprehensive client assessment (including clinical and psychosocial issues and drug use history)
  - completion of mandatory entry questionnaires
  - withdrawal management (if appropriate)
  - home visits with client and direct family (if appropriate)
  - client gives informed consent to participate in the program and comply with the agreed treatment plan
  - client agrees to allow the release of their information
  - clients are registered on the MERIT database and initial data is entered into the MERIT database
  - development of a tailored treatment plan
  - commencement of client on drug treatment program
  - preparation of initial court report(s) recommending MERIT acceptance and treatment plan
  - secondary needs of the client are identified, for example, education, family, social, health/medical, skills training, housing and other needs
  - urinalysis, where appropriate
  - additional psychometric testing, where warranted.
- 

**Stage 2:  
Ongoing  
treatment**

Key steps in Stage 2 are:

- case management
  - provision of drug and alcohol counselling
  - continuation of treatment
  - monitoring client progress and treatment compliance
  - urinalysis, where appropriate
  - client case review and adjustment of treatment plan, as required
  - progress report(s) to court.
- 

**Stage 3:  
Program exit  
and discharge**

Key steps in Stage 3 are:

- discharge planning, including referrals to other appropriate services and consideration of relapse prevention strategies
  - completion of mandatory exit questionnaires
  - final urinalysis screen, if clinically appropriate
  - completion of Final Court Report summarising progress and compliance.
-

**Referral to MERIT**

The common sources of referrals to the MERIT program are magistrates, Legal Aid solicitors, private solicitors, police and self-referral by defendants. MERIT Teams can help to ensure all defendants who are potentially eligible and suitable for MERIT are referred to the program at the appropriate time through:

- networking with local referring agencies and individuals to promote MERIT and inform about the referral process
- having a visible presence on MERIT court days and making themselves known to solicitors and court staff
- reviewing court lists to identify potential MERIT participants
- attending Court User's Forums
- placing MERIT advertising material in local drug and alcohol facilities and at court.

Referral by police at the time of arrest offers the earliest opportunity for engagement with MERIT and such referrals should be processed as soon as possible.

A previous referral to MERIT does not preclude a defendant from further referral. This is in recognition of the fact that chronic drug-dependent persons may require more than one episode in drug treatment. It is also possible that a defendant may have had a previous referral to MERIT, but may not have been accepted onto or completed the program.

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## MERIT Assessment

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**Assessment processes**

Defendants referred to MERIT are initially assessed for eligibility and potential suitability for the program.

Eligible and potentially suitable defendants then undergo a comprehensive clinical and psychosocial assessment to make a firm determination of their suitability. A treatment plan is also formulated at this time.

See Figure 1 on page 26 for a depiction of the MERIT process.

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**Eligibility and initial suitability assessment**

Magistrates determine eligibility for the MERIT program and MERIT Teams determine suitability for treatment.

Preliminary suitability information may be gathered during an initial interview between the MERIT caseworker and the client, either in the MERIT office if referred prior to the first court date, at court on the day of the first appearance, or immediately following the first appearance.

The MERIT Team determines a defendant's initial suitability for treatment through establishing that the defendant:

- voluntarily consents to participate in MERIT
- has a treatable drug problem

- usually resides in the defined catchment area (or has sufficient connection to the area, for example, has full-time employment in the area).

In addition, other relevant issues can be identified at this stage, for example, whether there are any indications of serious physical or mental health issues suggesting the need for an urgent referral/assessment.

The MERIT caseworker should access the Police Facts Sheet which provides information in relation to the current charges and the Criminal Names Index (CNI) number which must be obtained for data purposes. The above information is captured on an Initial Assessment Form along with client identification data and charge information (Template 1).

An Initial Court Report is submitted to the magistrate (Template 4). The magistrate will assess the defendant in terms of the information provided in the Court Report and then against the program eligibility criteria (page 7 'Eligibility (magistrate)' section) to determine if the defendant is eligible and should be sent for a comprehensive assessment with the MERIT Team.

If the magistrate deems the defendant ineligible, their court matters will proceed as normal.

**Comprehensive clinical and psychosocial assessment**

The comprehensive assessment is most commonly undertaken during an adjournment period following the initial court appearance.

Less often, the comprehensive assessment is undertaken at an earlier point in the process, in conjunction with the initial eligibility/suitability assessment; for example, where police have referred the offender at the point of arrest.

MERIT case managers undertake a comprehensive assessment of the defendant in terms of:

- quantity, frequency and pattern of current drug use. This includes an assessment of the use of all psychoactive drugs, both licit and illicit; the circumstances in which drug use occurs; the route(s) of administration; and the level of dependence
- the extent and severity of previous drug use problems, including the outcome of any previous treatment attempts or self-initiated periods of abstinence
- drug-related risk-taking behaviour
- family relationships and family drug history
- social situation
- child protection issues
- legal issues, including any arrests, the nature of offences committed and sentences imposed prior to, or following, commencement of drug use
- medical and health problems associated with or exacerbated by drug use
- mental health, including suicide risk assessment

- domestic violence screening (for women)
- motivation for change and treatment goals
- potential to engage in treatment for drug use problems
- the type of treatment that would be appropriate.

Informed consent should be established before the comprehensive assessment takes place. To enable this, the client is provided with sufficient information about the MERIT program and what will be expected of them if they agree to participate. The client signs the Permission To Obtain and Release Information Form (Template 3) and the MERIT Treatment Agreement (Template 2).

Following the comprehensive assessment, a brief report to court is prepared (Template 5). The comprehensive assessment process may indicate that some clients are, in fact, not suitable for the MERIT program, despite earlier indications. In this case the MERIT caseworker will inform the court of the apparent reasons for unsuitability and the client's court matters will proceed in the usual way.

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**Assessment forms**

A template for the Initial Assessment Form to be used by MERIT Teams is in Appendix 1. The forms used for comprehensive assessments may vary in format, but all collect the information outlined above. Please refer to local protocols for the correct templates.

Templates for court reports following these assessments are also in Appendix 1.

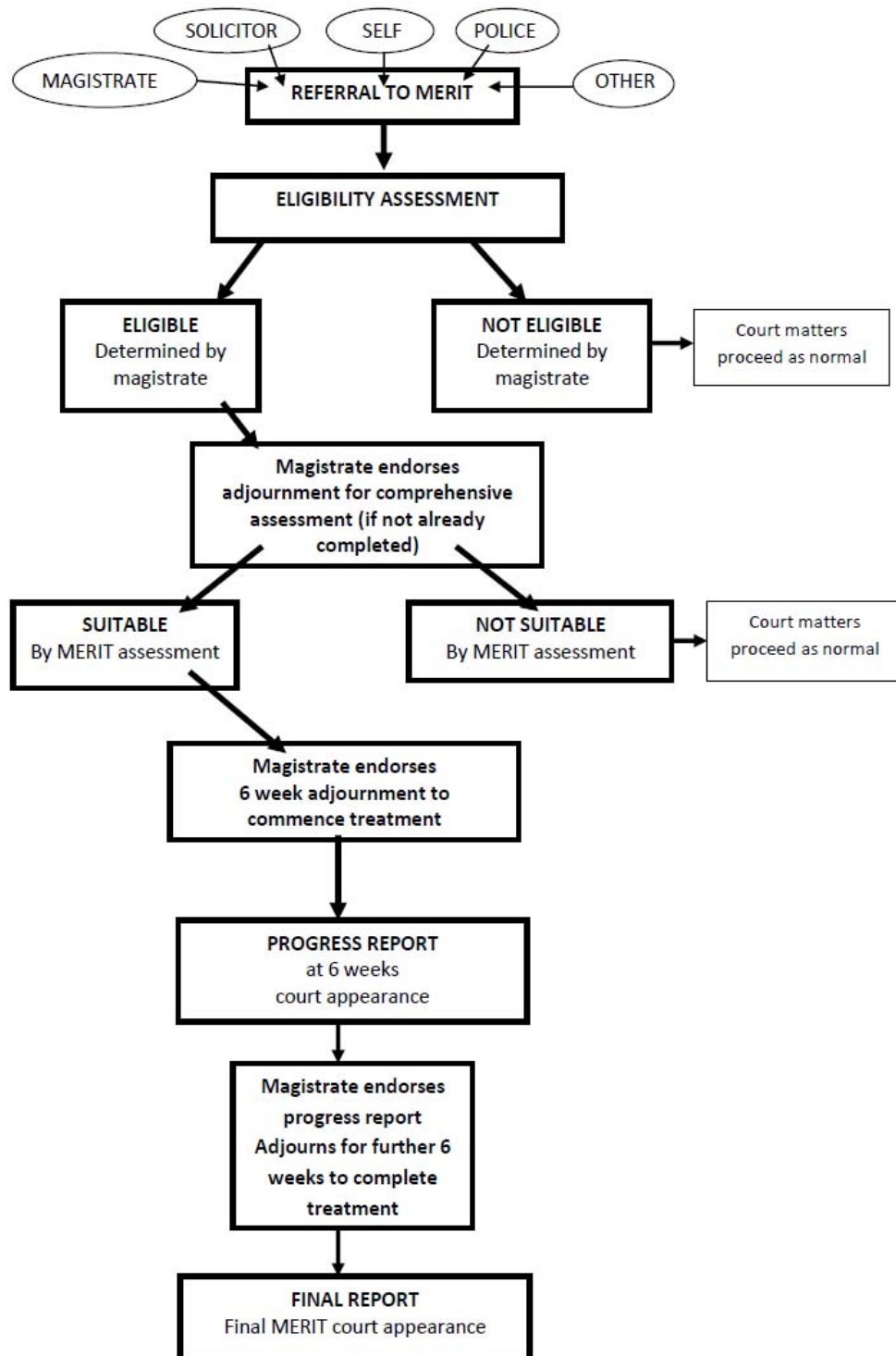
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**MERIT health outcomes information**

A number of assessment tools are routinely administered on a client's entry to and exit from the program for the purposes of gathering information on health outcomes for MERIT participants. These tools may include:

- items measuring drug use
  - items measuring risk behaviour (BTOM component)
  - Severity of Dependence Scale (SDS)
  - psychological adjustment questionnaire (Kessler-10)
  - physical/social/emotional functioning questionnaire (SF 12)
  - client satisfaction questionnaire.
-

**FIGURE 1: The MERIT Process**



A client may withdraw from the MERIT program at any time and the MERIT Team will inform the magistrate. Should a client fail to comply with the MERIT program conditions the magistrate will be informed and the client may be removed from the program.

# Informed Consent

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## **Informed consent – MERIT Teams**

At commencement of the assessment process, informed consent of the client to participate in the MERIT program is established. The client will be provided with information about the MERIT program, including the duration and his/her responsibilities as a participant (consistent with the treatment plan).

The client will be informed that:

- involvement in the MERIT program is not an admission of guilt in relation to the offence(s) for which s/he has been charged and that voluntary participation in the program may be taken into consideration at the time of sentencing
- during the treatment period they will be required to appear before the court to report on their progress (unless exempted by the magistrate, for example, due to undertaking residential drug treatment)
- information provided by them to the MERIT caseworker will be used to provide regular reports to the court
- his/her attendance or non-attendance at assessment or treatment appointments, and general treatment progress, will be reported to the court
- urinalysis is not mandatory but is used at the MERIT caseworker's discretion as a clinical tool to assist treatment
- should the caseworker require him/her to undertake urine drug screening throughout the program, and if this screening is conducted according to Australian Standard AS 4308, the results of these urine drug screens will be reported to the court (see 'Urinalysis' on page 30)
- any failure to respond to, or partake in, drug treatment will not result in punishment by the court, given the voluntary nature of the program
- they may voluntarily withdraw from the program at any time without penalty
- if they do not comply with the agreed treatment plan, the MERIT caseworker will notify the court and the magistrate may withdraw them from the program
- if they are withdrawn from the program (either voluntarily or by the magistrate) their legal matters will proceed as per usual processes
- non-identifying information about them may be used for the purposes of evaluation and research of the MERIT program.

The client gives their informed consent by signing the MERIT Treatment Agreement (Template 2).

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**Informed consent – police**

Offenders referred to MERIT for an assessment by the NSW Police Force will be informed at that stage that:

- participation in MERIT is voluntary
- by signing either the COPS-generated or the MERIT Field Referral Form they are consenting to participate in a MERIT assessment.

Offenders will be provided with sufficient information from police in relation to the nature of the program and the implications of agreeing to an assessment.

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**Permission to obtain and release information**

During assessment the client signs an agreement outlining how information they provide to MERIT workers can be used. This agreement states that the MERIT worker can use information provided by the client to:

- provide a report to the court on their progress in the MERIT program
- formulate a treatment plan to address substance use and other health and psychosocial issues
- arrange a referral to another service, including a drug treatment service, medical practitioner or psychiatric or psychological service
- provide and obtain information about their opioid treatment to and from their opioid treatment provider
- permit research and evaluation by the MERIT program.

The agreement authorises the exchange of client information between the MERIT caseworker and the NSW Police Force, medical practitioners, psychiatric or psychological services, Justice Health, Probation and Parole, Department of Community Services, Department of Housing, any courts the client is required to appear before, and with Centrelink (regarding payments made to the client).

The client also agrees that the MERIT caseworker may notify appropriate authorities if any information provided by the client during their participation raises serious concerns about the client's or another person's welfare.

See Appendix 1 for the MERIT standard template.

Once a client has been deemed suitable for participation in MERIT by the magistrate, the client's criminal history may be sought with the client's consent if the caseworker considers that it would be useful for treatment purposes.

Criminal history documentation and any other criminal justice-related materials (aside from MERIT Court Reports, which are submitted to the court only) must only be kept on the client's file for the period of their engagement with MERIT, and both electronic and hard copies must be destroyed at the end of this period. This information must not be passed on to any parties outside MERIT Team personnel involved in the client's assessment and/or case management without the appropriate authority.

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# MERIT Treatment Options

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**Drug treatment** Treatment provided to MERIT clients will be:

- evidence-based
- client-focused
- tailored to the individual.

Treatment options for MERIT clients are outlined below.

## **Case management**

Case management is a service in which the case manager and the client collaborate in individual care planning, service facilitation, outcome monitoring and advocacy. It may overlap with the clinical interventions detailed below. The key distinction is that case management provides a central process of coordination and works to overcome obstacles in access to services, maximise communication between professionals and agencies involved in the client's care, and minimise the duplication of services where overlaps occur. See page 36 for the key features of case management.

## **Psychosocial interventions**

Psychosocial interventions are a foundation of drug and alcohol treatment and all MERIT clients will be provided with individual counselling, either by the MERIT caseworker or another service provider. The most common treatment utilised is Cognitive Behaviour Therapy (CBT), which includes elements of problem solving and relapse prevention, but there is a range of other effective therapeutic interventions. Some MERIT clients also access group counselling services. Psychosocial interventions should be provided in line with the NSW Health Drug and Alcohol Psychosocial Interventions Professional Practice Guidelines.

## **Withdrawal services**

Withdrawal is a neurophysiological adjustment that the body undergoes following the cessation or significant reduction of drug use. The nature and severity of withdrawal depends on an individual's drug use history and the types of drugs used. The aim of withdrawal management is to ensure that withdrawal is completed safely and comfortably. This is often a necessary first step before further treatment can commence. Managing withdrawal involves providing a combination of information, support, monitoring and medication. These components can be delivered in hospital, residential, home or outpatient settings, depending on the individual's needs and circumstances. Withdrawal services should be medically supervised and carried out by an appropriately qualified professional.

## **Opioid treatment**

The NSW Opioid Treatment Program includes the use of pharmacotherapies such as methadone or buprenorphine for the treatment of opioid dependence. Considerable research has demonstrated the effectiveness of pharmacotherapy treatment for opioid dependence. Additional benefit may be achieved when combined with psychological treatment approaches. Treatment is most commonly provided through outpatient clinics (public or private), community pharmacies and local hospitals (particularly in rural areas). Prescribers can be in either public or private practice.

### **Residential rehabilitation**

Residential rehabilitation is a term used to describe 24-hour staffed, residential treatment programs that offer intensive, structured interventions after withdrawal from drugs of dependence. Residential treatment is based on the principle that a structured drug- and alcohol-free residential setting can provide an appropriate context to address the underlying causes of dependence. There are a variety of modalities or treatment approaches for residential treatment available in NSW reflecting the range of philosophies and interventions available and specific populations serviced by different programs. Examples of residential programs available in NSW are programs targeting comorbid conditions, short-term CBT-based programs, culturally sensitive treatment, 12-step programs, and the Therapeutic Community model.

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### **Urinalysis**

Urine drug testing is routinely conducted in drug and alcohol facilities as a tool to be used in conjunction with a clinical intervention. For the MERIT program, urinalysis is not mandatory but used at the MERIT caseworker's discretion as a clinical tool to assist treatment.

The collection of urine samples and the analysis conducted can vary widely, hence not all drug urine test results are suitable for reporting in a court environment.

If in doubt, MERIT caseworkers should seek expert medical opinion in the interpretation of urine drug test results, especially in cases where urinalysis results are to be included in court reports.

### **Routine drug analysis**

For example, those conducted in a methadone unit are qualitative only. That is, only the presence (or absence) of a drug is reported. Furthermore, some drugs are not tested for (e.g. cannabis).

### **Medico-legal drug analysis (Australian Standard AS 4308)**

Those conducted for MERIT should be quantitative; that is, the concentration of the drug is reported. Positive results are confirmed by Gas Chromatography/Mass Spectrometry. A large number of drugs are tested for, including cannabis.

### **Sample collection for Medico-legal drug analysis**

- The donor provides photo identification to the supervisor.
- The donor provides the specimen under direct supervision.
- The supervisor inspects the urine specimen to determine its colour and look for any indication of adulterants or diluents.
- The specimen temperature is taken and should be in the range of 33°C to 38°C.
- The specimen is placed in tamper-resistant bottles.
- The donor signs the seals.

Urinalysis should also be random.

### **Reporting urinalysis results to court**

Urinalysis results should not be reported in court reports unless they meet Australian Standard AS 4308 (collected under direct supervision and

analysed by legally defensible, state-of-the-art techniques).

Where such standards are met, MERIT caseworkers must include **all** urinalysis results in court reports, regardless of whether they indicate reduction/abstinence or not. Caseworkers should provide contextual information in these reports to accurately represent the client's progress through treatment.

MERIT caseworkers must ensure that MERIT clients are informed of, and consent to, the urine drug screen process and that the results of those conducted according to Australian Standard AS 4308 will be reported to the court.

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**Health and ancillary interventions**

The client treatment plan will identify the need for engaging other (non-drug treatment) specialist services for the client during their participation in MERIT. This can include:

- health-related services in the public and private sector, including mental health services such as psychiatric and psychological assessment and interventions, General Practice, specialist medical services, and pre-natal and post-natal services for drug-using pregnant women
- ancillary and welfare services, including vocational and employment services, assistance with housing, family counselling, education and training, child at risk services, disability services or financial counselling/assistance.

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## Engaging Specialist Services

**Awareness of available services**

It is important that MERIT workers are familiar with the local agencies and services commonly utilised by MERIT participants, and the specific services provided. For drug treatment services this should include comprehensive knowledge about criteria for acceptance, intake and assessment processes, what the treatment involves and what the client can expect.

It is also helpful for MERIT workers to develop professional relationships with relevant services, for example, through informal contact, attending interagency forums and providing timely information about the MERIT program.

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**Referral**

Specialist health services have their own referral processes and MERIT workers need to refer the client in accordance with these. Generally, referral is initiated by phone with written follow up if required by the referral agency. Some services require the client to make direct phone contact with the service. MERIT workers should assist in facilitating appropriate referral pathways.

Some services will also have an intake and assessment process that will need to be completed prior to acceptance of the client.

**Information exchange**

Services will generally require relevant client information to be forwarded. The client signs a Permission to Obtain and Release Information Form (Template 3) at the commencement of the program that allows for the provision of referral information.

MERIT workers need to exercise discretion in providing client information as part of referrals and tailor the information according to the particular service. Only information necessary to enable the service to provide assistance to the client should be passed on. For drug treatment service referrals this generally includes information about medication, previous treatment episodes, mental health status (including suicide and self-harm risks) and relevant psychosocial issues. Information about a client's charges or criminal history should never be provided to other services.

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**Assisting MERIT clients to access other services**

MERIT caseworkers play an important role in assisting clients to access other health, welfare and support services. This can include working with the client to prioritise their needs, assistance in navigating the process of referral, advocating on their behalf, assisting them to find information online and generally increasing their capacity to engage with the services they need.

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**Ongoing communication with specialist services**

The MERIT caseworker is responsible for monitoring the client's compliance with the program and reporting on their progress to the court. This requires assertive follow up of clients referred to other services. The MERIT caseworker needs to communicate regularly with relevant staff in regard to attendance and progress to ensure they can report accurately to the court. In some cases MERIT workers request a written report of progress.

Where clients are in an inpatient withdrawal management unit or a residential treatment service, MERIT workers should continue to maintain contact with the client.

For more information about MERIT and residential treatment services please refer to the MERIT Residential Treatment Guidelines.

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## **MERIT Protocols**

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**Management of caseload**

At times MERIT Teams may reach the limit of their caseload capacity. It is the responsibility of the MERIT Manager to monitor caseload, notify the court and the magistrate if capacity is reached and to collaborate with magistrates in identifying local procedures for managing the situation. This may include magistrates allowing a longer adjournment period until the situation changes.

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<b>Assaults on staff</b>	Local Health Districts have a zero tolerance policy towards violence. Any violence from clients to MERIT staff will be dealt with in accordance with NSW Health Policy.
<b>Mail</b>	Mail addressed to clients care of MERIT must be forwarded or handed to the person. Requests for delivery of mail may come from creditors, the Sheriff's Office, or the participant's solicitor. It must <b>not</b> be certified that the correspondence was delivered, as this could lead to staff being involved in legal action outside of their MERIT role.
<b>Legal enquiries</b>	MERIT staff should direct all enquiries of a legal nature, including subpoenas, to the Manager or the Local Health District Legal Section. Clients' legal enquiries should be directed toward their own legal representatives.
<b>Service of legal documents</b>	MERIT staff must not accept service of legal documents on behalf of clients. Staff should agree only to inform clients of the name and address of the person wishing to serve the documents. Staff must not give any indication of the client's likely response.
<b>Police entry for questioning</b>	Police will exercise discretion in the vicinity of the MERIT office. Where possible, police wishing to question a person at the MERIT office should contact the MERIT Manager by phone in the first instance to discuss the request. If approached by police for assistance, MERIT staff are obliged to cooperate.
<b>Police entry for arrest</b>	Police are entitled to enter any premises in order to make an arrest.  MERIT staff should make all reasonable efforts to cooperate with the police. In the event of an investigation of serious charges, staff cannot refuse to be interviewed by police and may need either legal representation and/or support services.
<b>Variation of bail conditions for MERIT clients in a residential treatment facility</b>	Clients attending residential treatment as part of the MERIT program and who have bail conditions related to reporting to police should be advised by the MERIT caseworker to seek a variation of bail conditions through the court. In these instances the court will advise the police, via fax, of the change to bail conditions. The offender should also take their copy of the notice of change of bail conditions to the police station immediately.
<b>Case notes</b>	Ongoing case notes should be recorded on Local Health District's (or NGO's) standard case note forms detailing the significant contacts, intervention strategies, referrals and contact with significant others. The relevant LHD or NGO policies should be followed when recording case notes.

**Information management** MERIT uses a unique Information Management System specifically designed for use by the MERIT program. The system conforms to the requirements and standards for the major stakeholders in the program (both Health and Criminal Justice). The system ensures confidentiality of client records. Please refer to Section 5 of this Manual for further information about MERIT information management.

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**Participants' requests for information** If a participant requests access to documents or files held by MERIT, staff should, after consulting with the Manager, attempt to assist the participant to obtain as much information as possible outside of the terms of the *Freedom of Information (FOI) Act 1989*.

Requests for court documents should be referred to the relevant court. The court will usually deal with these outside of the terms of the FOI Act and charge a fee per page.

If a participant requests access to documents on a MERIT file where the information concerns a third party, appears confidential, or disclosure may threaten the life, health or safety of any person, the request must be made under the FOI Act. MERIT staff must not supply any documents or comment on the availability of the information to applicants in these cases.

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**Liaising with other MERIT stakeholders** The effectiveness of MERIT is dependent on collaboration between the key stakeholders involved in the program. MERIT Teams are encouraged to develop and maintain relationships at the local level, including with magistrates, police, Legal Aid and private solicitors, and other appropriate service providers. In particular it is important that MERIT staff promote and encourage awareness of the program to potential referrers. These activities are an integral part of a MERIT Manager's role.

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## Client Transfers

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**Circumstances requiring transfer** Transfer of MERIT clients from one Team to another is required when a client has matters before a local court in a different LHD catchment area to where they reside. Most commonly, this occurs at the time of their referral to MERIT. Less commonly, a client will move to a different LHD catchment area during their MERIT treatment phase.

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**Transfer at the time of referral** The responsibilities of the transferring Team are to:

- process the referral as usual
- conduct the initial interview with the defendant and identify the closest MERIT Team to their place of residence
- if the defendant appears to be eligible and suitable, ring the relevant MERIT Team to check they are taking referrals and to request an appointment for a comprehensive assessment for suitability
- if the referral MERIT Team agrees to accept the referral:

- submit the initial report to the court requesting that if the magistrate determines the defendant is eligible then an adjournment is granted for the required time to attend at the assessment appointment
- provide the defendant with the address and phone number of the MERIT office, the name of the case manager (if known), a map and the appointment time
- enter the information into the MERIT database and generate a Diversion Identification Number for the client
- fax to the other MERIT Team the completed Initial Assessment Form, the Facts Sheet and the Diversion Identification Number
- if the MERIT Team is not in a position to accept the referral:
  - include this information in the Initial Court Report and request that the client not be accepted onto MERIT at this time.

The responsibilities of the referral (receiving) Team are to:

- accept the referral if there is capacity to do so
- provide an appointment time for the client to attend for a comprehensive suitability assessment
- conduct the comprehensive assessment and determine whether the client is suitable for MERIT or not
- if the client is accepted onto the MERIT program by the magistrate at their next court appearance, continue as per any other MERIT client.

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**Transfer during MERIT treatment phase**

The responsibilities of the transferring Team are to:

- contact the relevant MERIT Team to discuss the potential for transferring the client. Issues that will need to be considered include:
  - the client's treatment plan and whether the client will be able to access the agreed treatment from the new location
  - where the client is intending to reside and whether this will enable access to the MERIT office and other treatment, health or ancillary services

Note, consideration of the above issues is particularly relevant when referring to rural MERIT Teams due to issues related to access to services.

If the referral Team agrees to accept the referral:

- make an appointment time for the client to attend at the MERIT office in the new location
  - provide the client with the address and phone number of the MERIT office, a map and the appointment time
  - fax to the other MERIT Team all the client's assessment information, the treatment plan, the Facts Sheet and the Diversion Identification Number.
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**Court reports for transferred clients**

Court matters for transferred clients remain with the court of their initial appearance (unless transfer of court matters has been granted through a separate legal process). For transferred clients:

- the MERIT Team responsible for treatment is also responsible for preparing all court reports once the transfer is completed, and ensuring they are submitted to the referring MERIT Team in time for scheduled court appearances. They should also ensure a copy is sent to all appropriate parties at the court of appearance
  - the referring MERIT Team is responsible for coordinating the submission of court reports for transferred clients as per usual processes.
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## Case Management

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**Key features**

All MERIT clients are provided with case management services from a MERIT caseworker throughout their participation in the program.

In line with the NSW Health Drug and Alcohol Psychosocial Interventions Professional Guidelines, the core activities of case management are:

- screening and assessment, including assessment across all factors relating to the client's presentation
- development of a comprehensive, individual treatment plan
- coordination of the implementation of the treatment plan
- facilitation of access to specialist drug treatment for the client
- facilitation of access to other health services, including mental health, hepatology, emergency etc.
- facilitation of access to a broad range of community services
- maintenance of contact with and support for the client
- monitoring progress and outcomes across the treatment plan
- review and revision of treatment plans.

MERIT is a time-limited intervention and a case review should be undertaken as often as is necessary, and midway through the client's participation in MERIT at a minimum, to ensure timely adjustment of any aspect of the treatment plan.

In addition to the above guidelines for general drug and alcohol clients, MERIT caseworkers are responsible for liaising with and reporting to the court on the client's progress and compliance with the program conditions.

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## Joint Case Management

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### Shared care

MERIT clients are commonly referred to other services during their participation in the program. This can be for drug treatment (e.g. opioid treatment, residential rehabilitation), other health services (e.g. mental health services) or community services (e.g. housing assistance, financial assistance). At times, MERIT clients are allocated case managers from another agency. MERIT clients may also be involved in other court-based programs. Where this occurs it is important that there is clarity between the two case managers about the role of each agency in the client's treatment and care, and about how care will be coordinated. Such situations are commonly referred to as *joint case management* or *shared care* arrangements.

In some cases, MERIT Teams develop formal written agreements governing the joint case management process. More commonly, arrangements are negotiated and agreed verbally between the case managers.

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### Principles

Principles underpinning effective joint case management of MERIT clients are:

- a shared understanding about the MERIT program
  - clarity about the client's treatment plan and goals
  - client consent to the shared care arrangements and to relevant information exchange
  - agreement about information to be exchanged
  - clarity about roles and responsibilities of each agency
  - ongoing collaboration and communication about the client's progress
  - agreed processes for managing differences or problems that arise
  - appropriate documentation in regard to all of the above.
- 

### Roles

MERIT case managers retain a primary case management role for MERIT clients in the majority of cases. Whilst another service may be engaged to provide some aspects of the agreed treatment plan, the MERIT case manager remains responsible for oversight and coordination and for reporting back to the magistrate on client progress. For clients accepted into residential rehabilitation services, the residential agency becomes responsible for the participant's treatment/service interventions and the role of the MERIT case manager is liaison between the residential treatment provider and the court. For more information refer to the *NSW Health MERIT Residential treatment guidelines: a guide for MERIT Teams and residential treatment providers*.

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**MERIT case manager responsibilities**

The MERIT case manager will:

- take responsibility for negotiating joint case management/shared care arrangements as appropriate
- inform other services/caseworkers about the role of MERIT, the responsibilities of the client during participation in the program, and the responsibilities of MERIT caseworkers in regard to their role as officers of the court
- coordinate the client's treatment/service provision whilst in the MERIT program
- undertake all aspects of their role in assisting the administration of justice, including liaison, monitoring and reporting
- provide the partner caseworker with relevant information regarding the client, including that related to identification, drug use, previous treatment and other health and welfare issues. Information about the client's criminal history should not be provided to other services. Information requests related to child protection issues from the Department of Community Services and Child Wellbeing Units (e.g. section 248 Subpoenas, and Chapter 16a) should be referred to the existing Local Health District or NGO channels. No information should be provided between workers without these formal requests
- have ongoing responsibility for monitoring the client's compliance with the agreed MERIT treatment plan, including compliance with treatment provided by other services
- maintain regular contact with the client, including whilst the client is in a residential treatment facility
- liaise regularly with other caseworkers to discuss the client's progress
- be available to assist in problem solving issues that arise for other services in the provision of treatment to the client
- advocate for the client with the other service as appropriate
- inform other caseworkers about their reporting requirements in regard to MERIT clients, including the timing of reports in line with court reports (this can be either verbal or written)
- document relevant aspects of the joint case management/shared care process in the client's case notes
- provide direct treatment interventions to clients such as individual and/or group counselling (although not for clients who are in a residential rehabilitation facility).

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**Responsibilities of non-MERIT caseworkers**

When providing treatment to MERIT clients it is important that other services understand responsibilities that may apply to these clients, in addition to those for non-MERIT clients. Joint case managers are expected to:

- provide information on the client's progress and compliance to the MERIT caseworker at agreed times during the treatment process
- inform the MERIT caseworkers if a client fails to attend or leaves

- a residential or inpatient facility before treatment completion
  - if the client is in a residential or inpatient facility, allow the MERIT case manager access to the client when requested.
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## Court Reports

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**Court reports required** Reporting on a participant's progress to the court is an important responsibility of MERIT caseworkers. Court reports are required to be submitted to the magistrate at various stages throughout the defendant's participation in MERIT. Court reports fall into the following categories:

- Initial Court Report
- Comprehensive Assessment Court Report
- Progress Court Report
- Final Court Report
- Non-Compliance with Program Conditions Court Report
- Voluntary Withdrawal Court Report.

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**Vetting reports** Court reports should be vetted before submission to the court by the MERIT Manager (or their delegate) to ensure consistency and quality.

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**Style of court reports** MERIT reports are 'hearsay evidence', in that they are a compilation of information from various sources and an assessment based on that information. Where information has not been verified the report should indicate this.

The court is entitled to accurate information on the defendant. In turn, the defendant is entitled to object to any evidence that is not relevant to the matter before the court. Expression of personal opinion is not appropriate.

Court reports should:

- be clear, succinct and relevant
- be written in the third person
- be honest, factual and objective, outlining what the client has or has not done, and including both positive and negative aspects of client progress
- make it clear when statements are verified, for example, 'Attendance at an opioid treatment clinic was confirmed through.....'
- make it clear when information is unverified, for example, 'The client states/reports that...'
- use plain English that the client is likely to be able to understand
- avoid technical or specialist terminology.
- include personal medical or health information only where appropriate and with the consent of the client.

Court reports should not:

- include personal opinions or judgments
- read as a plea for leniency
- use the client's first name
- use the names of associates or family members
- name places of employment
- use the words 'appears to be'; rather, use 'as evidenced by'
- make suggestions or recommendations in regard to sentencing
- use colloquialisms
- use abbreviations such as 'he can't' instead of 'he cannot'
- include past information that is not relevant to current circumstances, for example, information about past trauma that has no bearing on current issues
- report a history of sexual abuse of the client without their consent
- name the alleged perpetrator if reporting sexual abuse
- give the impression that the author has expertise in an area where they have no formal qualifications.

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**Presentation of reports in court**

The original (plus two copies) of court reports are provided to the court at least one day prior to the court date. Reports should only be faxed to court as a last resort and by arrangement with the court, ensuring an appropriate level of client confidentiality is maintained.

Copies of reports should be provided to the participant's solicitor and are also to be placed in the client's case notes.

Caseworkers are not normally required to appear in court in person.

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**Information common to all court reports**

All reports to the court need to include the following summary information:

- defendant information (Name, DOB, identifier number)
- offence/s (as outlined on the Police Facts Sheet)
- court information (date of appearance and court location)
- referral source and date
- name and contact details of the MERIT worker completing the report
- signature of MERIT worker and date.

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**Initial Court Report**

The MERIT worker submits an Initial Court Report to the court following the first interview with the defendant.

The purpose of the Initial Court Report is to:

- provide the magistrate with information to assist in determining eligibility; and
- request an adjournment to allow eligible and potentially suitable defendants to attend MERIT for a comprehensive assessment; or

- suggest that defendants deemed ineligible/unsuitable are not accepted onto the program.

The Initial Court Report should be a maximum of one page (see Template 4 in Appendix 1).

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### **Comprehensive Assessment Court Report**

The Comprehensive Assessment Court Report is submitted following the comprehensive assessment of the defendant by the MERIT worker.

The purpose of the Comprehensive Assessment Court Report is to:

- inform the magistrate of the defendant's suitability (or not) to participate in the MERIT program.

For suitable defendants, to:

- inform the magistrate that the defendant has given informed consent to comply with program conditions and their agreed treatment plan
- outline the key components of the defendant's proposed treatment plan
- request a further adjournment in order to commence treatment
- if the defendant is to undertake treatment in a residential rehabilitation service, suggest that they be excused from attending at the next scheduled court appearance date, if appropriate.

For unsuitable defendants, to:

- inform the magistrate of the reason(s) for their unsuitability.

The Comprehensive Assessment Court Report should be a maximum of one page (see Template 5 in Appendix 1).

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### **Progress Court Report**

Progress Court Reports are provided to the magistrate during the treatment period on adjournment dates, commonly within four to eight weeks of commencement on MERIT. The frequency of court appearances is determined by the magistrate, but there is usually at least one scheduled appearance to report on progress.

The purpose of the Progress Court Report is to:

- provide a brief summary outlining the client's attendance and compliance with the agreed treatment plan
- highlight any major concerns
- request an adjournment in order for the client to continue treatment.

The Progress Court Report should be a maximum of one page (see Template 6 in Appendix 1).

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### **Final Court Report**

The Final Court Report is completed at the end of the client's 12-week participation in MERIT program and submitted to the court on the final court appearance date.

The purpose of the Final Court Report is to provide information to the magistrate to assist in the sentencing proceedings. This includes

information about the client's overall compliance and progress with their drug treatment plan, psychosocial issues, discharge planning and any ongoing treatment or referrals agreed to by the client.

The Final Court Report should be a maximum of three pages (see Template 7 in Appendix 1).

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**Non-Compliance with Program Conditions Court Report**

Participants are expected to comply with MERIT program conditions. Where participants are not complying with the MERIT program (see 'Non-Compliance with Program Conditions' below), the MERIT caseworker will advise the court of this in a Non-Compliance with Program Conditions Court Report.

The magistrate then decides whether the client should continue on the program, or whether the client should be removed from the program and the matter proceed to plea or hearing.

The Non-Compliance with Program Conditions Court Report should be a maximum of one page (see Template 8 in Appendix 1).

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**Voluntary Withdrawal Court report**

A Voluntary Withdrawal Court Report is submitted to the court if a client decides to withdraw from the program and informs the MERIT worker of this decision.

The purpose of this report is to:

- inform the magistrate that the client has chosen to withdraw from MERIT, and the date of the decision
- allow the magistrate to formally remove the client from the program.

The Voluntary Withdrawal Court Report should be a maximum of one page (see Template 9 in Appendix 1).

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## **Non-Compliance with Program Conditions**

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**Reporting non-compliance to the court**

Participants are expected to comply with MERIT program conditions. When MERIT caseworkers identify serious issues related to a client's compliance with those conditions, this will be reported to the court.

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**Determining non-compliance**

Determining at what point a Non-Compliance with Program Conditions Court Report is warranted is a matter of clinical judgment on the part of the MERIT staff based on agreed factors. There are three primary reasons for reporting non-compliance:

**Sustained non-attendance**, demonstrated by:

- The client has missed a number of consecutive appointments with their MERIT case manager and/or other treatment or service providers.

- The client has been consistently late for scheduled appointments.
- The client has not attended and cannot be contacted by the MERIT case manager.

**Non-compliance with the treatment plan**

At the commencement of the program the client signs a Treatment Agreement undertaking to participate in a mutually agreed upon tailored treatment program. The client will be subject to a Non-Compliance with Program Conditions Court Report if they develop a pattern of non-compliance with this plan. This can include non-compliance with particular aspects of the plan, for example, leaving a residential rehabilitation facility, or if urinalysis results are repeatedly inconsistent with client reports of reduction or abstinence.

**Incidents of aggression or violence towards staff or damage to MERIT property**

Clients agree to abide by a code of non-violent behaviour in signing their Treatment Agreement. If there are safety concerns related to a client’s aggressive or violent behaviour towards staff, or there has been damage to the MERIT premises, this will result in a Non-Compliance with Program Conditions Court Report to the court.

In the event that any of the above circumstances occur, the MERIT worker MUST submit a Non-Compliance with Program Conditions Court Report to the magistrate. It is then up to the discretion of the magistrate whether to continue the participant on the program or not.

Where possible, MERIT workers should inform clients if they are at risk of being reported due to attendance or compliance issues.

**Decisions re: non-compliance**

In determining whether any of the above non-compliance conditions apply (leading to submission of a Non-Compliance with Program Conditions Court Report) consultation should occur with the MERIT Manager and/or the MERIT Team as part of usual clinical case review processes.

The decision should take into account the client’s behaviour and the relevant events and facts. Questions to consider are:

- On how many occasions has the client attended MERIT appointments and how many sessions have been missed?
- What attempts has the client made to contact MERIT?
- What attempts have MERIT made to contact the client?
- What (if any) are the other key issues related to non-compliance with the treatment program?
- What attempt has MERIT made to follow up on the client’s progress with agreed treatment?
- Are there extenuating circumstances that may be influencing the client’s involvement in treatment (e.g. children, homelessness, mental health issues, domestic violence, threats or transport)?
- Does the client claim to have left messages that have not been



communicated to MERIT, and has this been investigated?

- What documentation has occurred and does the information adequately represent and detail the relevant events?
- Is reporting reasonable under the circumstances?

A decision needs to be made about how the client will be informed that they are to be reported for non-compliance, and the need for any risk management strategies to be put in place if there are concerns regarding safety for the client or staff.

---

**Informing the client**

If possible, the client should be informed in person of the decision to submit a Non-Compliance with Program Conditions Court Report. However, where there are issues of distance, personal risk or safety concerns, notification should occur by phone or in writing.

The reasons for the non-compliance report are to be given to the client in clear, objective language.

If written communication to the client is required, the notification will be signed by the MERIT Manager or their delegate.

Where possible, clients will be given information about alternative treatment or support that may be available outside the MERIT program.

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**Informing the court**

Once a decision has been reached, the MERIT case manager must prepare a Non-Compliance with Program Conditions Court Report and submit to the court as soon as possible.

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**Additional steps**

The MERIT Manager or their delegate should also inform the client's solicitor (if they have one).

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**Bail conditions other than MERIT**

It should be noted that MERIT caseworkers are not responsible for monitoring bail conditions other than those related to MERIT, and need not have knowledge of any additional bail conditions. However, should caseworkers have this knowledge and become aware of a breach, they should notify the relevant authorities as soon as possible.

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## Completion of MERIT

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**Standards for completion**

Clients complete the program if they are compliant with the program conditions for the 12 weeks duration. Evidence of compliance is:

- a good attendance record throughout the 12 weeks
- substantial progress towards the treatment goals set out in the client agreement
- reduction or cessation of drug use
- a sustained level of engagement.

Should a client appear to have achieved their treatment goals prior to 12 weeks it is recommended they remain on the program for its full duration.

---

**Client's level of achievement**

The extent to which clients meet the required standards for completion varies, with some achieving the minimum standards required of their treatment plan and others exceeding expectations. On sentence, the successful completion of the program is a matter of some weight to be taken into account in the defendant's favour. To assist the magistrate with this, the Final Court Report will outline the relevant facts related to the client's progress, compliance and achievements, with particular reference to:

- their past and current substance use
- relevant psychosocial information
- the treatment plan and progress towards the treatment goals
- their attendance record and level of engagement.

Some MERIT Teams provide clients with a certificate of completion.

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## **Exit from MERIT**

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**Discharge planning**

It is important that discharge planning occurs for MERIT clients. MERIT is a time-limited intervention and in many cases clients will have some ongoing needs once they exit the program, for example, associated with their drug use or other health and welfare matters.

The client treatment plan identifies the range of issues the client agrees to work on during the MERIT program. The need for referral to services outside MERIT should be considered throughout the assessment and treatment phase in response to the presenting issues and the treatment plan. Ideally, MERIT clients will already have accessed other services during the 12-week program and can continue to access these services if required once they have exited from MERIT.

Towards the end of the 12 weeks, MERIT workers should review the client's case and discuss with the client issues related to:

- relapse prevention
  - the need for ongoing drug treatment, including counselling and/or other interventions
  - ongoing support needs
  - the range of presenting issues identified at the commencement of the program and whether any of these require ongoing attention
  - the need for referral to other services for ongoing treatment or support. Referrals to other agencies should be negotiated between the case manager and the client dependent on the client's needs.
-

**SECTION 5**  
**MERIT INFORMATION**  
**MANAGEMENT SYSTEM**

# MERIT INFORMATION MANAGEMENT SYSTEM

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## **MERIT Information Management System**

The MERIT Information Management System (MIMS) is a unique database specifically designed for use by the MERIT program.

The MERIT Information Management System:

- provides for the collection of a data set for the MERIT program that conforms with requirements and standards of the major stakeholders in the program (both Health and Criminal Justice)
- ensures confidentiality of all participants' records
- contains sufficient and appropriate information to:
  - identify the participant
  - detail the assessment and treatment phases of his/her MERIT intervention
  - document progress and health outcomes
  - record relevant information relating to the participant's involvement with the police and with the courts
- is required to be used and maintained by all agencies providing the MERIT program (whether the agency is community health-based, hospital-based or an NGO)
- provides useful local reporting facilities to MERIT Teams to help in monitoring and managing their team and individual caseloads and LHD reporting requirements
- is integrated into a statewide data collection and reporting system (via quarterly uploads of de-identified records to a centralised statewide database) which minimises the need for MERIT Teams to provide reports to various stakeholders at state and Commonwealth level.

---

## **Database support and maintenance**

MIMS is maintained and supported centrally at a statewide level by the MERIT Database Manager. All enquiries regarding access, database training, database documentation, data extracts, standard and ad hoc reporting or any database-specific issues should be directed to this position.

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## **Data Collection Guidelines**

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### **Data collection guidelines**

Data for entry into MIMS is collected by the MERIT Team officers from a variety of sources at different times. This section outlines the general tasks involved with collecting data from each source at each phase of the program. The main categories are:

- Referral, Initial and Comprehensive Assessment Data
- Police Data and Court Data, including court appearance dates
- Health Data, including Health Outcome Indicators
- Program Exit and Treatment Cessation Data.

For more detailed information on sources, particular data items and data quality, refer to the MERIT Data Dictionary and Collection Guidelines and MIMS User Guide and associated documentation (appendices, supplements etc.).

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**Referral,  
Initial and  
Comprehensive  
Assessment  
Data**

The available details of any person officially referred to the program (e.g. by the Police, court, Probation and Parole etc.) or any person for whom an assessment appointment is made must be recorded in the database, even if they do not later present to the MERIT Team to continue the assessment process.

Where a caseworker carries out the initial assessment of a client, all information gathered is entered onto the associated MERIT templates/forms. Local file handling procedures may vary, but essentially this information should be made available for immediate entry into MIMS. Keeping data collection as up-to-date as possible ensures the database is useful for caseload monitoring and management, ad hoc queries and regular uploads to the statewide database.

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**Police Data &  
Court Data**

The MIMS database also requires information contained in documents that can be sourced from the NSW Police Force or the local court that pertain to the client's court matters, current criminal charges and prior involvement with the justice system, where appropriate. Relevant source documents may include 'Charges and Facts Sheet' and bail papers. These may contain more detailed information regarding the client's current charges, than that self-reported by the client.

Police/Court Data is usually retrieved at court by the MERIT caseworker at the client's first court appearance, but MERIT Teams may devise other arrangements locally with court/Police administration to obtain this information.

For confirming upcoming court appearance dates for MERIT clients, some Teams may obtain access to the JusticeLink computerised court record system, while others rely on the court providing court listings or faxing client-specific forms back to the MERIT Team.

All clients accepted onto the MERIT program must have the Police Identifier (CNI) recorded and, where the system allows, the JusticeLink number.

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**Health Data**

Health-related information is obtained from the client by the MERIT caseworker at their first assessment and is entered onto the appropriate form/template for entry into the MIMS database. This health information includes the client's previous treatments and details of drug use history. Specific health outcome indicators incorporating drug use frequency/quantity, risk behaviour, mental distress levels and social functioning are collected at (or shortly after) assessment and again shortly before the client completes the program for comparison.

The commencement of residential treatments provided to MERIT clients

should be promptly recorded to allow for reporting on MERIT bed utilisation.

Diagnostic test data (such as drug screen test dates and other test results) may also be recorded in MIMS.

---

**Program Exit/  
Treatment  
Cessation  
Data**

Program Exit Data is to be recorded for all clients. When the MERIT Team has deemed the client to have completed the program or the client will not continue, the Program Exit Data must be entered promptly to ensure adequate reporting standards are maintained. This includes the following:

- Program Exit Date (date of the final report to court)
- Program Exit Status (Completed, Non-Compliance, Withdrew, Never entered program etc.).

At program cessation, the following information may also be entered:

- Main Service Provided by the Team
- Other Services Provided by the Team
- Services Provided by External Services during the client's MERIT episode
- Referrals to Other Services (the principal service that the client is referred to at program exit)
- All Occasions of Service (contact dates)
- All Minimum Data Set information not yet already recorded (see Minimum Data Set section for details).

Program exit details should be entered within three working days of the client's exit from the program; or where the client has finalised the assessment phase and does not continue to participate in the program, within three days of that decision.

Other information regarding the client can be added or existing information may be edited, with care, after cessation.

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**Team  
involvement  
and feedback  
to data entry  
personnel**

It is important that the whole MERIT Team utilises the data recorded electronically in MIMS in order to ensure that the data is reliable and as current as possible.

Database-generated reports (such as the Pending/Current Client List) should be utilised in team caseload monitoring procedures on a regular basis (weekly at team meetings is recommended). Other reports such as Exit Lists and Residential Agency Reports should be reviewed regularly by Managers/Team Leaders to check on operations and that data is as complete and current as possible. Health outcome indicator reports can also be printed after data entry for insertion into client files and review by caseworkers.

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## Minimum Data Collection

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**National Minimum Data Set** All Australian states and territories have agreed to collect a defined set of treatment data items when clients enter drug and/or alcohol treatment services to comprise the Alcohol and Other Drug Treatment Services (AODTS) National Minimum Data Set (NMDS).

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**Overview of NSW Minimum Data Set** The Drug Summit held in NSW in 1999 endorsed the collection of a data set of treatment items that are essentially those defined by the National Minimum Data Set, though with some additional items.

The intention of the NSW Drug Treatment Data Collection (known as the 'Minimum Data Set') is to guide planning and assist in improving the quality of drug treatment service provision within NSW.

The NSW Minimum Data Set consists of approximately 35 separate items to be collected at the beginning of, during, and upon cessation of treatment. Data is submitted monthly.

The data consists of a broad range of items relating to:

- administrative data items that describe the function and location of the collection agency
- social and demographic items about the client
- items describing the drug use of the client
- items related to the service provided to the client.

The collection of the MIMS items will satisfy the requirements of both the National and NSW Data Sets.

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**Provision for reporting the Minimum Data Sets** MIMS includes provision for detailed reporting of the Drug and Alcohol Minimum Data Set locally by MERIT Teams. Details of how to produce the Minimum Data Set for each Local Health District are provided in the MIMS User Manual.

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**Frequency of data collection** All drug treatment agencies reporting to NSW Health are required to submit a complete set of the Drug and Alcohol Data to the Local Health District Data Coordinator for every completed treatment episode. Data is submitted monthly. An additional submission of the Drug and Alcohol Minimum Data Set is required annually.

---

**Data submission to DAGJ and Commonwealth** Each quarter approximately 150 MIMS data items are submitted to the Department of Attorney General and Justice to inform reporting and monitoring and research activities.

Similarly, the statewide MERIT database also provides for the requirement of the MERIT program to report regularly to NSW Health. Reports are sent by the Database Manager through the Mental Health Drug and Alcohol Office, NSW Health.

**SECTION 6**

**APPENDICES**



## APPENDIX I: MERIT TEAM STANDARD TEMPLATES

### TEMPLATE 1: INITIAL ASSESSMENT FORM (TEAM USE ONLY)

#### *MERIT Initial Eligibility and Suitability Assessment Form*

Name:  
DOB:  
CNI number:  
Address:  
Phone number:  
Medicare number:  
Referred to MERIT Team by:  
Referral date:  
Current charges:  
Assessment conducted by:

#### **Checklist:**

*[tick as relevant]*

- Is an adult
- Is using drugs or has a history of drug use
- Has a treatable drug problem
- Voluntarily consents to participate in MERIT
- Usually resides in the defined catchment area (or has sufficient connection to the area, for example, has full-time employment in the area).

#### **Other information:**

Drug use:

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Accommodation/employment:

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Involvement of other services/providers:

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Risk of self-harm or suicide:

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**Appears eligible and suitable** (magistrate to confirm eligibility):

- Yes
- No – provide reason:

Case manager:  
Assessment date and time:  
Next court date:  
Court:

## TEMPLATE 2: MERIT TREATMENT AGREEMENT

**Name:** \_\_\_\_\_ **DOB:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Case manager:** \_\_\_\_\_ **Date:** \_\_\_\_\_

I, \_\_\_\_\_ agree to participate in the **MERIT program which includes a tailored treatment program made by mutual agreement with my case manager.**

### **I understand that:**

- The MERIT program has a three-month treatment phase.
- At any time I can voluntarily withdraw from the program.
- My treatment may include:
  - appointments with my MERIT case manager on a weekly basis
  - individual counselling
  - other drug treatment programs as agreed to in my treatment plan (for example, withdrawal management and/or residential rehabilitation, attendance at groups).
- Urinalysis is not mandatory but used at the MERIT caseworker's discretion as a clinical tool to assist treatment. I may be required to undertake urine drug screening throughout the program and, if conducted according to Australian Standard AS 4308, the results of these urine drug screens will be reported to the court.
- Information I share with my MERIT case manager is confidential except for the requirement to report regularly to the court and the legal obligations pertaining to mandatory notification.
- My court matters will be adjourned a number of times (usually three) to allow the MERIT Team to report on my progress and attendance to the magistrate.
- I will be required to attend court at each adjournment unless the magistrate has agreed that my solicitor will represent me in my absence.
- If I do not comply with the program as set out in this agreement the court will be notified and I may be removed from the program.
- If I display aggressive or violent behaviour towards MERIT staff or damage MERIT property the court will be notified and I may be removed from the program.
- If I voluntarily withdraw or I am removed from the program my legal matters will proceed and I will not be penalised for any failure to respond to drug treatment.

- Information that does not identify me will be used for the ongoing monitoring and evaluation of the MERIT program.

**I accept the following program conditions:**

**I will:**

- Work towards my treatment goals.
- Attend individual appointments on time and as required.
- Notify my case manager in advance if I am unable to attend an appointment.
- Follow all reasonable directions of the court and my MERIT case manager.
- NOT attend MERIT appointments under the influence of drugs or alcohol.
- Inform my case manager of any change of address or contact numbers.
- Inform my case manager of any medication prescribed to me by a doctor.

**AGREEMENT**

**Case manager**

I have explained the terms and conditions of this undertaking to the participant and answered all questions by the participant concerning his/her entry and participation in the MERIT court program. I have explained to the participant the consequences of entering the MERIT court program, including successful completion and failure on the program.

**Participant**

I have received a copy of this undertaking. It has been explained to me and I understand it.

---

MERIT court participant	_____	Date:    /    /
MERIT case manager	_____	Date:    /    /

This authorisation remains current for the full term of my participation in the MERIT program.

Copy given to client:    Yes             No     Reason:

## TEMPLATE 3: PERMISSION TO OBTAIN AND RELEASE INFORMATION

### CLIENT'S PERMISSION TO OBTAIN AND RELEASE INFORMATION FORM

Surname: \_\_\_\_\_

Given names: \_\_\_\_\_ DOB: \_\_\_\_\_

Address: \_\_\_\_\_

I agree that the information I provide to the MERIT Team during the course of this assessment and my treatment may be used to:

1. Provide a report to the relevant local court for the purpose of my progress.
2. Formulate a treatment plan to address my substance use.
3. Formulate a treatment plan to address any psychiatric/medical issues.
4. Arrange a referral to another service, if necessary. For example, any drug treatment service, medical practitioner, psychiatric or psychological service.
5. Provide and obtain information regarding my opioid treatment to and from my opioid treatment prescriber.
6. Permit research and evaluation by the MERIT program (including follow up contact by independent researchers who will be given my contact details).

By signing this authority I authorise the MERIT Team to obtain and provide information relating to me from any drug treatment service, the NSW Police Force, medical practitioners, psychiatric or psychological services, Justice Health, Probation and Parole, Department of Community Services, Department of Housing, any courts that I am required to appear before, and information regarding payments made to me by Centrelink.

If during the course of the present assessment or at any time during my treatment program I provide information to the MERIT case manager which leads him/her to have serious concerns for either my own or someone else's welfare, I understand that the MERIT case manager may have to notify appropriate authorities.

Client signature: \_\_\_\_\_ Date: \_\_\_\_\_

Case manager name: \_\_\_\_\_ Position: \_\_\_\_\_

Case manager signature: \_\_\_\_\_ Date: \_\_\_\_\_

This authorisation remains current for the full term of my participation in the MERIT program.

- Copy given to the client.

## TEMPLATE 4: INITIAL COURT REPORT

### *MERIT Confidential Court Report*

Name:  
DOB:  
Identity number[s]:  
[e.g. JusticeLink]  
Next court date:  
Court:  
Magistrate:  
Offence/s:  
Referred to MERIT Team by:  
Referral date:

[*client name*] was interviewed on [*date*] by a MERIT case manager.

The initial interview indicates that the defendant [*tick as relevant*]:

- Is an adult
- Is using drugs or has a history of drug use
- Has a treatable drug problem
- Voluntarily consents to participate in MERIT
- Usually resides in the defined catchment area (or has sufficient connection to the area, for example, has full-time employment in the area).

Based on this information:

[*Either*]

The MERIT Team requests that the magistrate determine the client's eligibility for the program. If deemed eligible, an adjournment of [*1, 2 or 3 weeks*] is requested to enable a comprehensive assessment to be undertaken to establish suitability for the program.

[*or*]

The defendant does not appear to be eligible for the program in that [*provide reason*]. Should the magistrate concur with this, the MERIT Team requests that the defendant is not accepted onto the program at this time.

Please contact me on [*telephone number*] if any further information is required.

Signature:

Case manager:

Date:

# TEMPLATE 5: COMPREHENSIVE ASSESSMENT COURT REPORT

## *MERIT Confidential Court Report*

Name:  
DOB:  
Identity number[s]:  
[e.g. JusticeLink]  
Next court date:  
Court:  
Magistrate:  
Offence/s:  
Referred to MERIT Team by:  
Referral date:

[Either]

[insert name] was assessed for suitability on [date] by a MERIT case manager. [He/She] was assessed as suitable and has given their consent to participate in the program.

Brief summary of:  
[drug use history and current drug use]  
[past and current drug treatment]  
[components of the treatment plan]  
[client's stated motivation to participate in drug treatment]

Mr/Ms [insert name]'s next appointment with MERIT is on [date].

If accepted onto the program, an adjournment of [4 to 8 – state number required] weeks is requested to implement the treatment plan, at which time a progress report will be submitted.

[or]

[insert name] was assessed for suitability on [date] by a MERIT case manager. [He/She] was assessed as not suitable for the program due to [insert reason/s]. The MERIT Team requests that they are not accepted onto the program at this time.

Please contact me on [telephone number] if any further information is required.

Signature:

Case manager:

Date:

## TEMPLATE 6: PROGRESS COURT REPORT

### *MERIT Confidential Court Report*

Name:  
DOB:  
Identity number[s]:  
[e.g. JusticeLink]  
JusticeLink number:  
Next court date:  
Court:  
Magistrate:  
Offence/s:  
Referred to MERIT Team by:  
Referral date:

[*insert name*] was accepted onto the MERIT program on [*date*] and has been undergoing treatment for [*x*] weeks.

Brief summary of:  
[*the primary drug problem identified at assessment*]  
[*attendance and punctuality record*]  
[*progress towards treatment goals and, if relevant, any major concerns*]  
[*any adjustments to the treatment plan*]

An adjournment of [*x – state number*] weeks is requested to enable Mr/Ms [*insert name*] to continue with their treatment, at which time a further report will be presented to the court.

Please contact me on [*telephone number*] if any further information is required.

Signature:

Case manager:

Date:

# TEMPLATE 7: FINAL COURT REPORT

## ***MERIT Confidential Court Report***

Name:  
DOB:  
Identity number[s]:  
[e.g. JusticeLink]  
JusticeLink number:  
Next court date:  
Court:  
Magistrate:  
Offence/s:  
Referred to MERIT Team by:  
Referral date:

Please allow this to serve as the Final Report for Mr/Ms [insert name] who was accepted onto MERIT on [insert date] and has now completed the program.

### **Sources of information**

*[insert a list of the sources of information used in preparing the report]*

### **Substance use history**

*[insert information about the defendant's past and current substance use, type and quantity of drugs used and level of use on entry to MERIT and on completion]*

### **Psychosocial information**

*[insert relevant information related to issues such as housing, employment, relationships, education, family and mental health]*

### **Treatment plan**

*[insert summary information about the initial plan and any subsequent changes or amendments agreed upon]*

### **Implementation of the treatment plan**

*[insert information about the participant's progress towards treatment goals, their commitment to the program, appointments kept, general engagement, attendance at other groups or services, completion of homework]*

### **Post MERIT plan**

*[insert discharge planning information, including any planned ongoing treatment, referrals to other services and relapse prevention strategies as agreed with the client]*

### **Summary**

*[insert brief paragraph summarising the client's overall compliance and progress throughout their MERIT participation]*

Mr/Ms [insert name] has completed MERIT. We would like to thank the court for their support in this matter. No further reports will be tendered unless otherwise requested by the court.

Please contact me on [telephone number] if any further information is required.

Signature:

Case manager:

Date:



## TEMPLATE 8: NON-COMPLIANCE WITH PROGRAM CONDITIONS COURT REPORT

### *MERIT Confidential Court Report*

Name:  
DOB:  
Identity number[s]:  
[e.g. JusticeLink]  
Next court date:  
Court:  
Magistrate:  
Offence/s:  
Referred to MERIT Team by:  
Referral date:

[*insert name*] was accepted onto the MERIT program on [*insert court date*]. As part of the MERIT assessment process Mr/Ms [*insert name*] signed a MERIT Treatment Agreement outlining his/her responsibilities whilst participating in the MERIT program.

Mr/Ms [*insert name*] has failed to accept their responsibilities under the terms of that agreement in that [*insert information pertaining to the lack of compliance*].

It is therefore requested that Mr/Ms [*insert name*] be removed from the MERIT program and that the MERIT bail conditions are removed.

Please contact me on [*telephone number*] if any further information is required.

Signature:

Case manager:

Date:

## TEMPLATE 9: VOLUNTARY WITHDRAWAL COURT REPORT

### *MERIT Confidential Court Report*

Name:  
DOB:  
Identity Number[s]:  
[e.g. JusticeLink]  
Next court date:  
Court:  
Magistrate:  
Offence/s:  
Referred to MERIT Team by:  
Referral date:

[*insert name*] was accepted onto the MERIT program on [*insert court date*]. As part of the MERIT assessment process Mr/Ms [*insert name*] signed a MERIT Treatment Agreement outlining his/her responsibilities whilst participating in the MERIT program.

Mr/Ms [*insert name*] would like to voluntarily withdraw from the program.

Please remove Mr/Ms [*insert name*] from the MERIT program as of today's date and remove any bail conditions relating to MERIT.

Please contact me on [*telephone number*] if any further information is required.

Signature:

Case manager:

Date:

# APPENDIX 2: NSW POLICE MERIT FIELD REFERRAL FORM

## NSW Police Force MAGISTRATES EARLY REFERRAL INTO TREATMENT (MERIT) FIELD REFERRAL FORM

### OFFENDER DETAILS

<b>Last Name</b>		<b>Given Name/s</b>	
<b>Gender</b>	<b>Date Of Birth</b>	<b>Address</b>	
	/ /		
<b>Home Phone</b>	<b>Mobile Phone</b>		<b>Postcode</b>

### REFERRING OFFICER DETAILS

<b>Name of Officer</b>		<b>Rank</b>	
<b>Registered Number</b>	<b>Phone/Eaglenet</b>	<b>Station</b>	

### Offence Details


### REFERRED TO MERIT TEAM DETAILS

<b>Name of Merit Team</b>	<b>Phone</b>	<b>Fax</b>

Is this a RAD (Rural Alcohol Diversion) Referral? (Please tick)  Yes  No

### Authority for exchange of information between NSW Police Force and Merit

*I have been informed of the Aims and objectives of The Merit Program. I authorise NSW Police to provide this Referral Notice to The NSW Department Of Health Merit Team. I understand that the information provided will not be used for any purpose other than referral to, and assessment of my eligibility for, The Merit Program.*

Signature Of Offender ..... Date .....

Signature Of Police Officer ..... Date.....

Please fax this Merit Field Referral Form to The Merit Office identified above (Merit Team Details are listed on the insert in this folder)

**Remember to enter this Referral on The Cops System upon your return to the Station/LAC and fax It to The Merit Team identified above.**

## **APPENDIX 3: ABORIGINAL PRACTICE CHECKLIST**

To access a PDF copy of the Aboriginal Health and Medical Research Council document **Aboriginal Practice Checklist: A Cultural Assessment Tool for MERIT Teams** use the following link:

[http://www.health.nsw.gov.au/pubs/2010/pdf/aboriginal\\_practice\\_check.pdf](http://www.health.nsw.gov.au/pubs/2010/pdf/aboriginal_practice_check.pdf)



## LOCAL COURT PRACTICE NOTE CRIM 1

ISSUED: 24 April 2012  
COMMENCED: 1 May 2012  
AMENDED: 1 July 2012

### Case management of criminal proceedings in the Local Court

<b>PART A - INTRODUCTION</b> .....	ERROR! BOOKMARK NOT DEFINED.
1. APPLICATION.....	Error! Bookmark not defined.
2. OBJECTS.....	Error! Bookmark not defined.
3. COMMENCEMENT.....	Error! Bookmark not defined.
4. REVOCATION OF PRACTICE NOTES .....	Error! Bookmark not defined.
<b>PART B – PROCEDURE</b> .....	ERROR! BOOKMARK NOT DEFINED.
5. SUMMARY CRIMINAL TRIALS.....	Error! Bookmark not defined.
6. VACATING HEARING DATES .....	Error! Bookmark not defined.
7. AUDIO VISUAL LINK (AVL) FACILITIES .....	Error! Bookmark not defined.
8. DEFENDANTS WITH A MENTAL ILLNESS....	Error! Bookmark not defined.
9. MEDIA RECORDING OF PROCEEDINGS.....	Error! Bookmark not defined.
<b>PART C – SPECIFIC PROCEEDINGS</b> .....	ERROR! BOOKMARK NOT DEFINED.
10. SUMMARY HEARINGS FOR DOMESTIC VIOLENCE OFFENCES ...	Error! Bookmark not defined.
11. SDRO ANNULMENT APPLICATIONS .....	Error! Bookmark not defined.
<b>PART D – DIVERSIONARY PROGRAMS</b> .....	<b>2</b>
12. MERIT.....	2
13. FORUM SENTENCING .....	Error! Bookmark not defined.

## **PART D – DIVERSIONARY PROGRAMS**

### **1. MERIT**

#### **12.1 Description, objects and availability**

- (a) The MERIT program is a pre plea diversion program for defendants with drug problems conducted in the Local Court of NSW. At selected locations the MERIT program includes Alcohol MERIT for persons charged with offences before the Local Court who have alcohol problems.
- (b) The program provides for the early referral for assessment of arrested persons who are eligible for bail (or do not require bail consideration) and who are motivated and volunteer to engage in treatment and rehabilitation for their drug use problem.
- (c) The program brings together the health, justice and law enforcement systems with the focus on the reduction of criminally offending behaviour associated with drug use.
- (d) The successful engagement in the MERIT program can be taken into account in sentence proceedings.
- (e) The MERIT program is available at over 50 Local Court locations across New South Wales. Additional locations may be added from time to time. Those wishing to make a referral to the program should contact their nearest Local Court registry for information as to whether the MERIT program is available at a particular location.

#### **12.2 Referrals to the MERIT program**

- (a) Referrals for assessment into the program may come from one of the following sources:
  - (i) on apprehension by the Police who may refer a defendant for assessment into the program;
  - (ii) at the commencement of proceedings, by:
    - the defendant;
    - the defendant's lawyer;
    - the presiding Magistrate; or
    - any other person (such as family/friend, health professional, probation and parole officer).

### **12.3 Preliminary considerations for entry into the MERIT program**

- (a) The MERIT program is designed as a pre-plea scheme to encourage referral for assessment at an early stage of the court process and entry into the program is not dependant on the person's guilt or innocence.
- (b) Notwithstanding paragraph 12.3(a) above, a plea may be entered at any time from the person's first appearance before the court until the conclusion of the program.

### **12.4 Criteria for eligibility to participate in the MERIT program**

- (a) To be eligible to participate in the MERIT program the defendant must meet the following criteria:
  - (i) The defendant must be an adult;
  - (ii) The offences should not involve strictly indictable offences, sexual offences or offences involving significant violence and the defendant should not have like offences pending before a Court.
  - (iii) The defendant must be suspected of using drugs or have a history of drug use
  - (iv) The defendant must be eligible for bail and suitable for release on bail or not require bail consideration
  - (v) The defendant must voluntarily agree to participate

### **12.5 General procedure**

- (a) If considered eligible to participate, the defendant should be referred to the MERIT assessment team attached to the Court for the relevant assessment to be undertaken to ensure that the defendant is suitable for the program. The Court proceedings should be adjourned for a short period to allow that assessment to occur.
- (b) As part of the assessment, the MERIT case worker will assess the nature of the defendant's drug use and other associated problems.
- (c) The case worker is to assess the defendant against the criteria for suitability for entry to the program and then formulate a proposed treatment plan for the defendant to undertake and prepare a report for the Court.
- (d) If the defendant is considered suitable for the MERIT program, the Magistrate may approve placement of the defendant onto the program.
- (e) If the defendant is considered not suitable for the program, the defendant will be asked to enter a plea and the matter will proceed in the usual way.

- (f) While awaiting the assessment report from the MERIT case worker, bail may be granted with specific conditions such as reporting and particular residential conditions applying.
- (g) When placed on the program, bail should be granted in accordance with the *Bail Act 1978*, if appropriate, and consideration may be given to imposing a relevant bail condition such as requiring compliance with all directions of the MERIT Team. Once on the program the defendant is aware that the MERIT team will report any non compliance with program conditions to the court as soon as practicable.

## **12.6 Treatment**

- (a) Once the Magistrate formally approves the placement of the defendant on the MERIT program, the treatment plan as devised by the MERIT case worker, if it has not already commenced, will be commenced.
- (b) The determination of an appropriate treatment module is a matter solely within the discretion of the MERIT case worker. Their trained role is to identify the needs, risks, long and short term goals of the participant and then to oversee the provision of available treatment services in the best interests of that participant. Examples of the drug treatment programs available include:
  - (i) medically supervised and home based detoxification;
  - (ii) methadone and other pharmacotherapies such as naltrexone and buprenorphine;
  - (iii) residential rehabilitation;
  - (iv) individual and group counselling and psychiatric treatment.
- (c) The MERIT program is generally planned as a 12 week intensive program. It may be extended in special circumstances with the agreement of the Magistrate, the MERIT case worker and the defendant.
- (d) During the treatment phase the Court effectively case manages the process. Once accepted into the MERIT Program, the defendant is required to return to Court at such intervals as determined by the Magistrate usually on the recommendation of the MERIT Team. At each adjournment, an update report is provided and the defendant required to attend unless excused by the Court with the concurrence of the MERIT Team. At the conclusion of the program a final report is provided by the MERIT team.

## **12.7 Breaches**

- (a) Should the defendant fail the program despite sufficient opportunities to comply with the directions of the MERIT Team, the MERIT Team must, as soon as possible, notify the Court. The defendant's continuation on the program is a matter for Magisterial discretion. If the defendant is removed from the program by the Magistrate, or withdraws voluntarily at any time, the matter should be relisted as soon as possible for normal judicial management.



- (b) While minor issues of non-compliance with the agreed treatment plan need not necessarily be actioned, reference to such conduct should appear in the interim or final reports.

### **12.8 Conclusion of MERIT program**

- (a) At the conclusion of the program, the final report will set out the achievements or otherwise of the participant under the program. At that time, the defendant will be asked (if it has not already happened) to enter a plea. The case will then proceed through the normal justice process.
- (b) On sentence, the successful completion of the MERIT program is a matter of some weight to be taken into account in the defendant's favour. At the same time, as the MERIT program is a voluntary opt in program, its unsuccessful completion should not, on sentence, attract any additional penalty.
- (c) The final sentencing outcome should be formally communicated by the Court to the MERIT Team for their recording purposes.



# Magistrates Early Referral Into Treatment [MERIT] Program Policy

February 2012

## **ESSENTIAL SUMMARY**

- The Magistrates Early Referral Into Treatment (MERIT) program is an inter-agency initiative of the Department of Attorney General and Justice, Chief Magistrate's Office, the NSW Ministry of Health and NSW Police Force.
- This policy explains the MERIT eligibility criteria, process for participants and the roles and responsibilities for each of the agencies involved.
- MERIT is guided by Local Court Practice Note No 5 (2002)

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## **1 OVERVIEW OF THE MERIT PROGRAM**

The Magistrates Early Referral Into Treatment (MERIT) program is an inter-agency initiative of the Department of Attorney General and Justice, Chief Magistrate's Office, the NSW Ministry of Health and NSW Police Force.

MERIT is now funded under the National Healthcare Agreement entered into by the Australian and NSW Governments. As at 30 June 2011 MERIT operates in 65 local courts around NSW.

The program is a pre-plea drug diversion scheme based in local courts. The target population is adult defendants with drug problems who are motivated to undertake drug treatment. MERIT aims to intervene in the cycle of drug use and crime by addressing the health and social welfare issues considered to be instrumental in bringing defendants into contact with the criminal justice system.

The drug treatment aspects of the program are facilitated by 20 MERIT teams across NSW who are based in Local Health Districts (LHDs) or contracted to Non-Government Organisations (NGOs).

The intended MERIT program outcomes, for participants and for the community, are:

- Decreased offending
- Increased community protection
- Decreased drug use
- Improved health and social functioning
- Sentences that reflect the improved rehabilitation prospects of successful MERIT participants.

Acceptance into the MERIT program is guided by a deliberately inclusive set of eligibility criteria designed to target a large proportion of those defendants appearing in local courts with demonstrable drug problems.

Referrals to MERIT can come from a variety of sources including police, Magistrates, solicitors and the defendant themselves (or their friends and family). Defendants can be referred to the program on more than one occasion.

Participation in MERIT is voluntary and does not require an admission of guilt. Moreover, MERIT participants are not required to be drug dependent, but they must have a drug problem that influences their offending behaviour.

In terms of duration, the MERIT program was designed to complement the Local Court system where matters typically progress from initial hearing to sentencing within about three months. Defendants are referred to the program at or before their initial court appearance and, following assessment for eligibility and suitability may be accepted onto the program.

Participants then undertake supervised drug treatment, possibly as part of their bail conditions. [It should be noted that defendants for whom bail is not a consideration and bailed defendants where participation in MERIT has not been made one of their bail conditions can also participate in the program]. Program completion generally coincides with the final hearing and sentencing of the defendant.

On sentence, the successful completion of MERIT is a matter of some weight to be taken into account in the defendant's favour. At the same time, as the MERIT program is a voluntary program, unsuccessful completion should not, on sentence, attract any additional penalty.

Eligibility is determined by the Magistrate. To be considered eligible for MERIT defendants must satisfy the following criteria.

- Be an adult
- Be eligible for release on bail or not require bail consideration.
- Voluntarily give consent to participate in MERIT.
- Be suspected of using drugs or be known to have a history of drug use (Defendants with a primary alcohol problem may also be accepted at some locations).

The defendant must not:

- Be charged with offences involving significant violence or have like offences pending before the court.
- Be charged with sexual offences or have like offences pending before the court.
- Be charged with a strictly indictable offence or have like offences pending before the court.

Eligible defendants are assessed for suitability for the program by MERIT teams. To be suitable the defendant must:

- Have a treatable illicit drug problem for which there is appropriate treatment available.
- Usually reside within the defined catchment area [or has sufficient connection to the area, for example has full time employment in the area].
- Voluntarily consent to undertake the MERIT Program.

Before commencing MERIT, defendants are comprehensively assessed and a tailored treatment plan of approximately three months is developed. The plan includes drug or alcohol treatment and defendants may also be referred to relevant agencies to address other health and or welfare/support issues.

## **2 POLICY CONTEXT**

### **2.1 LEGAL FRAMEWORK**

MERIT is guided by Local Court Practice Note No 5 (2002) (See Practice Note collection on the [Local Court webpage](#)).

Where participation in MERIT is made a bail condition, this is applied under s36A of the [Bail Act \(1978\)](#).

### **2.2 POLICY FRAMEWORK**

The MERIT program operates within a number of relevant policy frameworks at the Commonwealth and State levels.

#### **2.2.1 National Drug Strategy**

The National Drug Strategy 2010-2015 provides a framework for a coordinated, integrated approach to drug issues in the Australian community. The Strategy aims to improve health, social and economic outcomes by preventing the uptake of harmful drug use and reducing the harmful effects of licit and illicit drugs in Australian society.

#### **2.2.2 Harm minimisation**

The principle of harm minimisation has formed the basis of successive phases of Australia's National Drug Strategy since its inception in 1985. Harm minimisation

does not condone drug use, rather it refers to policies and programs aimed at reducing drug-related harm. It aims to improve health, social and economic outcomes for both the community and the individual, and encompasses a wide range of approaches, including abstinence-oriented strategies. Australia's harm-minimisation strategy focuses on both licit and illicit drugs and includes preventing anticipated harm and reducing actual harm. Harm minimisation is consistent with a comprehensive approach to drug-related harm, involving a balance between demand reduction, supply reduction and harm reduction strategies.

### **2.2.3 NSW Health Drug and Alcohol Policy Framework**

The NSW Health Drug and Alcohol Plan 2006 – 2010 outlines the NSW Government's commitment to reduce the problems caused by drug and alcohol use. The goals of the Plan are to:

- Provide a policy framework for drug and alcohol services and health programs in New South Wales;
- Ensure that there are equitable and effective clinical services across New South Wales to assist people with drug and alcohol problems;
- To set directions based on high standards and the best scientific evidence to treat drug and alcohol related problems; and
- Increase the capacity and competency of the drug and alcohol workforce.

The Plan provides the current best practice and evidence-based approaches to the treatment of drug and alcohol problems. The major treatment services outlined in the Plan are:

- Withdrawal services
- Opioid treatments like methadone and buprenorphine
- Other pharmacological treatments
- Consultation liaison services
- Psychosocial interventions
- Residential programs
- Diversion programs

## **3 KEY AGENCY RESPONSIBILITIES**

### **3.1 NSW DEPARTMENT OF ATTORNEY GENERAL AND JUSTICE (DAGJ)**

DAGJ is the lead agency for the MERIT program and has responsibility for overall program coordination and evaluation. Responsibility for MERIT within DAGJ rests with the Crime Prevention Division (CPD). The CPD leads the development of evidence-based policies and programs to prevent crime and reduce re-offending in NSW.

The key responsibilities of DAGJ in relation to MERIT are to:

- Supervise the statewide roll out of the program.
- Convene the MERIT Statewide Steering Committee.
- Co-ordinate agency involvement and administration of MERIT.
- Provide administrative support and accommodation within the court environment for members of MERIT teams, where possible.
- Undertake monitoring and evaluation functions for the program.

### **3.2 MAGISTRATES**

Magistrates provide leadership in the operation of the MERIT program at the court. The key responsibilities of Magistrates are to:

- Determine eligibility of defendants and refer to the MERIT team for a suitability assessment.
- Accept eligible and suitable defendants onto the program, as appropriate.
- Monitor the defendant's progress whilst on the program.
- Respond to program non-compliance.
- Finalise defendants' legal matters.

### **3.3 NSW HEALTH**

The NSW Ministry of Health is responsible for the coordination of drug treatment and related service delivery for MERIT participants. Program coordination for health-related aspects of MERIT is undertaken by the Mental Health and Drug and Alcohol Office [MHDAO] within the NSW Ministry of Health. MHDAO is responsible for developing, managing and coordinating NSW Health policy, strategy and program funding relating to mental health and the prevention and management of alcohol and drug related harm.

At the operational level MERIT Teams attached to Local Courts are located either in LHDs or in Non Government Drug and Alcohol Services. The key responsibilities of MERIT teams are to:

- Assess defendants for suitability for the MERIT program.
- Identify an appropriate treatment plan for MERIT participants and engage relevant services in the provision of agreed treatment.
- Provide ongoing case management to MERIT participants during their time with the program.
- Provide individual counselling for MERIT participants.
- Monitor participants' progress on the agreed treatment plan.
- Report to the court regularly with regard to participant progress and compliance or non-compliance with the treatment plan/program conditions.
- Undertake discharge planning for MERIT participants, including referral to other services for post-MERIT health, drug treatment and/or other support services.
- Collect relevant statistical information and enter into the MERIT database.

### **3.4 NSW POLICE FORCE**

The primary role of NSW Police Force is to identify potential MERIT participants, seek to engage and encourage participation in the program, provide information about MERIT to offenders, refer where appropriate and provide MERIT with supporting documentation relating to that referral.

At a strategic level NSW Police Drug and Alcohol Coordination (DAC) works in partnership with other agencies to ensure the success of the program. DAC monitors and facilitates police involvement and compliance with MERIT.

## **4 GOVERNANCE ARRANGEMENTS**

### **4.1 STATEWIDE STEERING GROUP**

MERIT is governed at a statewide level by the MERIT Statewide Steering Group. The Steering Group is convened by the Department of Justice and Attorney General and has representation from all the partner agencies involved in MERIT as well as from the NSW Legal Aid Commission and the Aboriginal Legal Service. The role of the Statewide Steering Group is to:

- Provide oversight and support for the implementation of the MERIT program across NSW.
- Advise on the development of policies required for the organisation and delivery of MERIT.
- Advise on relevant legislative issues.
- Resolve issues arising in relation to the effective operation of MERIT.
- Make recommendations to the Attorney General regarding the relationship of the MERIT program to other diversionary schemes currently in operation in NSW.
- Oversee the monitoring and evaluation of the program.

### **4.2 MERIT OPERATIONAL MANUAL**

An [Operational Manual](#) has been developed to assist the statewide implementation of the MERIT program. It provides further details regarding the policies and procedures associated with the MERIT program and the comprehensive workings of the program itself.

## **5 MONITORING AND EVALUATION**

Data for evaluation and monitoring purposes is collected through the MERIT Information Management System [MIMS], a purpose-designed database used to gather quantitative program participant data. Data is recorded by each MERIT team and collated by NSW Health. A data dictionary provides a description of each item recorded.

Analysis of the MERIT program occurs through the periodic production of statistical reports. Process and outcome evaluations are also carried out.

# 1 Document information

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<b>Title:</b>	Magistrates Early Referral into Treatment (MERIT) Program Policy
<b>Business Centre:</b>	Crime Prevention Division
<b>Author:</b>	Senior Policy Officer, MERIT in consultation with the NSW Ministry of Health and NSW Police Force
<b>Key Words:</b>	MERIT, drug treatment, alcohol treatment, pre-plea, voluntary, NSW Health, NSW Police, diversion program,

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# 2 Document history

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<b>Version</b>	<b>Date</b>	<b>Reason for Amendment</b>
1.0	April 2002	Update references to NSW Health governance structures.
2.0	February 2012	Program changes relating to alcohol treatment, updated practice note and new operational manual.

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