

# 2024

# MERIT

**MAGISTRATES EARLY REFERRAL INTO TREATMENT**

## **ANNUAL REPORT**



**Attorney General's**  
department of nsw



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## Executive Summary

In 2004 MERIT expanded to include Broken Hill and the Downing Centre Local Courts. The number of defendants completing the program decreased slightly from 2445 in 2003 to 2417 in the 2004 period of study. Of the 2417 persons completing contact with MERIT during 2004, 1413 (58.5%) defendants were accepted onto the program. Of these, 883 (62.8%) completed the program. The primary reason for non-acceptance into MERIT continued to be a unwillingness to participate, followed by ineligibility for court bail.

The primary sources of referral to MERIT continued to be Magistrates and Solicitors. However, in the 2004 period of study, Solicitors were found to have made referrals at a greater rate than Magistrates.

There continues to be difference between regions in rates of referral, acceptance and completion. The average age of MERIT participants in the 2004 period of study was 28 years. The majority were male (78.5%), non-Aboriginal (83.5%), not married (75.7%), unemployed or financially dependent on others or social security (86.4%), had spent time in jail (53.2%), had a highest educational level of Year 10 (74.5%), nominated English as their preferred language (98%), and were born in Australia (89.6%).

A number of defendants were referred (n= 110) and accepted (n= 45) into MERIT on more than one occasion during the period of study. Of the defendants accepted to the program on more than one occasion, 19 completed the program once and 11 completed the program twice.

The most common principal drug of concern was cannabis, representing a change from the 2003 period of study when heroin and cannabis presented in equal proportions. The most common type of service provided by MERIT teams continued to be general support and case management. The average length of time on the program for those who completed was 96 days.

Analysis of access to the program revealed no significant differences in rates of referral, acceptance and completion across gender, age or country of birth. However, Aboriginal defendants were less likely to be accepted into and to complete MERIT than non-Aboriginal defendants. A number of factors were found to significantly predict MERIT completion: age, Aboriginality, residential stability, income and having no prior history of imprisonment.

There was evidence that 41.2% of the defendants who completed MERIT in 2003 reappeared in the Local Court within 12 months, compared with 54.4% of defendants who did not complete the program. While this suggests that MERIT has gone some way toward meeting its criminal justice aim of reducing re-offending, in the absence of a matched control group this outcome should be interpreted with caution.

The limited information available on sentencing outcomes also suggested that those who completed the program were less likely to receive a custodial sentence than those who did not complete the program. The most common sentence outcome for completers was a good behavior bond, while for non-completers it was imprisonment.

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## **1.0 Introduction**

This is the third annual report on the Magistrates Early Referral Into Treatment (MERIT) program. The MERIT annual report is a requirement of the MERIT program evaluation strategy and supplements the monthly and quarterly reports that have been produced since program inception. The monthly reports provide cumulative numbers regarding participants entering and leaving the program and the acceptance and completion rates across health areas. Quarterly reports contain a greater depth of information on participant characteristics and drug use. The Annual Report draws on these data in order to provide an overview of program statistics across the year. The Annual Report also provides an update on criminal justice outcomes using both sentencing and re-offending data.

## **1.1 Program Description**

### **1.1.1 Background**

The MERIT Program arose out of the New South Wales (NSW) Drug Summit of 1999. It is an inter-agency initiative between the NSW Attorney General's Department (lead agency), Chief Magistrates Office, Office of Drug and Alcohol Policy, NSW Health and NSW Police. The program was piloted in Lismore, a Local Court in rural NSW, in July 2000. Following an evaluation of the pilot program (see Passey et.al., 2003), MERIT was implemented in a number of Local Courts across the state. MERIT commenced in Wollongong and Liverpool Local Courts in 2001, and in 16 of the 17 NSW area health services over 2002 and 2003. By the end of 2004 MERIT was operational in all 17 area health services regions. The decision to implement MERIT in a Local Court is driven by consideration of a number of issues including: the volume of finalised Local Court matters, the presence of existing treatment services to support MERIT, the projected cost-effectiveness and efficiency savings derived from expansion, the capacity to work in partnership with local non-government organisations that support the implementation of MERIT, the availability of after-care services to support MERIT participants following completion of the program and the number of Aboriginal defendants eligible for MERIT.

### **1.1.2 MERIT Process**

MERIT is a court based diversion initiative that attempts to address both the health and criminal justice issues of adult defendants with a demonstrable drug problem, who present at participating Local Courts. It operates at the pre plea stage of the court process. Participants need to meet specific eligibility criteria, be suitable for release on bail, and be motivated to engage in treatment and rehabilitation for their illicit drug problems. Unlike the NSW Drug Court, which is a post sentence option for Magistrates at the District Court, the pre plea nature of MERIT means that defendants appearing at the Local Court do not have to enter a plea of guilt before being eligible. The program is designed to deal with offenders facing less serious drug or drug related charges than those appearing before the NSW Drug Court.

The entry criteria for MERIT are intentionally quite broad. Participants are not required to be 'drug dependent' to enter the program. But, they should have an illicit drug use problem that is sufficient to justify the significant treatment interventions available through MERIT.

Magistrates, NSW Police, Probation and Parole, Aboriginal Legal Services, the Legal Aid Commission and private legal practitioners operating in the participating courts may refer potential clients to MERIT. Individuals may also refer themselves to MERIT, or be referred by family and friends. Eligibility for bail (either Police or court based) is an essential condition for entry into MERIT.

MERIT teams are attached to particular participating Local Courts and employed by the closest Area Health Service. There may be a number of MERIT teams in each Area Health Service, and each team may service a number of Local Courts. The number of workers in each MERIT team varies according to the volume of referrals expected from courts in each Health Area. MERIT workers have a range of professional backgrounds, including probation and parole, drug and alcohol counselling, psychology and nursing. Training is provided to ensure that MERIT workers have the necessary blend of criminal justice and health knowledge required for their position.

Potential participants are referred to MERIT at their first court appearance. Because there is typically a three to four-week period between the charging of a person and the initial court appearance, the defendant may agree to participate in a drug treatment program after the assessment but before formally being enrolled in MERIT.

When the MERIT Team receives a referral a thorough eligibility and treatment assessment of the defendant is undertaken. This covers drug use behaviours, drug use problems, family relationships and family drug history, their social situation, legal issues, health problems associated with drug use, mental health, motivation for change, and potential to engage in treatment for drug use problems. At the next court hearing, the MERIT team provides a written report to the Magistrate, recommending whether or not the defendant should enter the MERIT program, and an appropriate drug treatment plan. The Magistrate has discretion to determine whether defendants are accepted into MERIT. If the defendant is accepted into MERIT the MERIT team is given a copy of the bail order.

A range of health and welfare services may be provided to meet the complex needs of MERIT participants. The needs of these defendants might include varying levels of drug dependence, mental health disorder, disability, unemployment, finance, housing, family dysfunction, children at risk, health problems as well as their legal problems. Participants are matched to appropriate illicit drug treatments, including detoxification, counselling, pharmacotherapies (for example methadone, buprenorphine and naltrexone), residential rehabilitation, community outpatient services, and case management.

In addition to the specialised drug treatment services available within MERIT, a wide range of ancillary services may be accessed as appropriate. These include medical and primary health care services, accommodation and housing, employment and vocational services, education and training, family counselling, and psychiatric and psychological interventions.



Magistrates are encouraged to undertake an increased level of judicial supervision as a core element of the MERIT program. Typically this judicial supervision involves one or two additional “mentions” at court to establish how a defendant is progressing. It allows the Magistrate the opportunity to offer encouragement where appropriate, and to monitor compliance with the program goals. If a defendant not found to be making progress, judicial supervision can emphasise the consequences of non-compliance with the program.

Where possible, the same Magistrate deals with the defendant throughout the bail period. The greater involvement of the judiciary and the individualised nature of this judicial voice are consistent with the philosophy of therapeutic jurisprudence, where a court’s potential to facilitate therapeutic outcomes for defendants and offenders is encouraged alongside the carriage of justice.

MERIT is a voluntary program for defendants where the Magistrate may take successful program completion into account during sentencing. A reduction in sentence outcome is not guaranteed. However, depending on the rehabilitative potential of a defendant as shown by their participation in MERIT, the sentence may provide a balanced, individualised response to both justice and individual need.

As a voluntary program, participants may withdraw from MERIT or decline to participate and have their case determined by the Magistrate without prejudice. It is also possible for participants to be removed or ‘breached’ from the program without having their bail removed. The Magistrate will usually breach a participant from the program following a report from the MERIT team. Breaches usually relate to the commission of further offences, non-compliance with bail conditions, or failure to participate in the program.

The MERIT program was designed to complement the Local Court system where matters typically progress from initial hearing to sentencing within about three months. Thus, the completion of the program generally coincides with the final hearing and sentencing of the defendant. The Magistrate hearing the case receives a detailed report from the MERIT team containing information on the defendant's participation in drug treatment and any further treatment recommendations. A representative of the MERIT Team may attend the sentencing hearing if requested by the Magistrate or the defendant. The weight attached to compliance or non-compliance with the MERIT program in the determination of final sentence is totally within the discretion of the Magistrate. MERIT operates under the *NSW Bail Act (1978)* and Magistrates are guided by a Local Court Practice Note (No. 5/2001).

## 2.0 Method

### 2.1 Program Data

The MERIT Information Management System (MIMS) is a purpose-designed database used to gather program participant data. It was designed to be both an operational management tool and a means of collecting a large amount of quantitative data for the ongoing monitoring and evaluation of the program. Data are collected at the Area Health Service level and downloaded regularly for the purpose of analysis.

In July 2005 data from all area health services were collated for this report. Analysis was conducted using the statistical software program 'SPSS'. The growth of the program, as measured by program expansion and the numbers of referrals, acceptances and completions, since the Lismore pilot program has increased the potential for statistical power thus improving the reliability and validity of analysis.

This report is based on data collected on 2417 defendants who had a completed contact with the MERIT program in 2004. This group is comprised of 395 (16%) persons who were referred to the program at the end of 2003, and 2022 (84%) of persons who were referred during 2004. Persons who were referred to the program during 2004 but who did not complete until 2005 are excluded from the subsequent analyses (n=360). The total number of MERIT defendants referred to the program since inception was, at the end of December 2004, 6768 with 4043 (59.7%) acceptances.

As most variables in the report are measured on a nominal or ordinal scale, the primary presentation of data is in cross tabulation format and statistical analyses are limited to chi-square analyses, except where otherwise stated. Analyses are presented as statistically significant at 0.05. Only selected statistics are presented in order to facilitate ease of reading. All statistics are rounded to the nearest one decimal place. Missing data are recorded in this report where appropriate in order to accurately frame interpretation of analyses. Percentages are based on data excluding missing values.

### 2.2 Data description

There are a large number of data items collected on MIMS. Variables include participant characteristics, medical treatment episodes and health outcomes. A number of data items are captured for reporting as part of the National Minimum Dataset (NMDs) provided to the Commonwealth as part of the Illicit Drug Diversion Initiative funding agreement. The database is maintained by NSW Health and does not focus on variables relating to criminal justice outcomes. The NSW Bureau of Crime Statistics and Research (BOCSAR), as part of the NSW Attorney General's Department, provide data on sentence outcomes and re-offending.

Referrals to MERIT are recorded on the NSW Local Courts database (the GLC) as part of the bail conditions. Sentence outcome data are gathered by requesting BOCSAR to match data concerning MERIT referrals to sentence outcomes on the GLC. Re-offending data is gathered by linking MERIT participants to the Bureau's Re-offending Database (ROD).

While NSW Health provides a participant's unique identification number, the Bureau returns this data to the Crime Prevention Division in an aggregated format in order to protect the privacy of individuals.

### **2.3 Data quality**

The data collected for the MIMS database are recorded by each MERIT team and collated by NSW Health. Data quality in terms of completeness and number of errors varies across area health service and across items. There are a number of data checks built into the database that warn against missing and anomalous data entries, and, the MIMS database Manager oversees quarterly data check reports from each Area Health Service. These reports again highlight anomalous data entries that are then corrected. Demographic data and data required for reporting to the Commonwealth are collected routinely. More data are available for participants who enter and complete the program, than those who are referred but not accepted, and those who depart early.

The quality of sentence outcome data is dependent upon the accurate identification of MERIT referrals at the Local Courts on the NSW Local Court database (the GLC). In previous years there have been varying degrees of accuracy with this process, with substantial under-reporting of referrals to the program. Ongoing training of court staff promotes the importance of this data collection process, however it will always compete with other pressing demands at the court site. As well, individuals may present with a number of charges with different sentence outcomes, making it difficult to sort through GLC records to find the relevant information.

Re-offending data is gathered by matching a defendant's unique identification number provided by NSW Health with BOCSAR's re-offending database. Data quality here is primarily compromised by difficulties associated with matching this identification to a record on the database. Defendants may present with a number of names and aliases, different dates of birth and other demographic inaccuracies making it difficult to match with re-offending information and compounding any data recording problems.

## **3.0 Program overview**

### **3.1 Program expansion**

The MERIT program expanded during 2004 to include two additional Local Courts: Broken Hill within the Far West Area Health Region (30 July 2004) and the Downing Centre which is part of the South East Sydney Area Health Service region (20 November 2004). Bankstown Local Court was closed for refurbishment at the end of December 2003 with matters being transferred to Burwood. Thus the total number of Local Courts operating MERIT during 2004 was 51. Collectively, these courts cover approximately 75% of the volume of criminal matters finalised at Local Court. Table 3.1 presents Local Courts by Area Health Service and MERIT team as at 31 December 2004.

**Table 3.1: MERIT coverage by Area Health Service and Local Court**

<b>Area Health Service</b>	<b>Start date of first court in Health Area</b>	<b>Courts contained within AHS boundaries<sup>1</sup></b> Courts where MERIT services are presently being delivered appear in <b>bold</b> .	<b>Court coverage<sup>2</sup></b>
Northern Rivers	2 July 2000	<b>Ballina, Casino, Byron Bay, Grafton, Lismore, Maclean, Tweed Heads, Mullumbimby, Murwillumbah, Kyogle</b>	100%
Illawarra	5 February 2001	<b>Albion Park, Kiama, Port Kembla, Nowra, Wollongong, Milton</b>	95%
South West Sydney	2 July 2001	<b>Bankstown*, Camden, Campbelltown, Liverpool</b> , Fairfield, Moss Vale, Picton, Bowral	70%
Mid West	7 Jan 2002	<b>Bathurst, Forbes, Oberon, Orange, Parkes, Blayney</b> , Rylstone, Peak Hill, Lake Cargelligo, Condobolin, Cowra, Dunedoo, Grenfell, Lithgow	71%
Hunter	11 Feb 2002	<b>Cessnock, Toronto, Maitland, Muswellbrook, Newcastle, Raymond Terrace</b> , Scone, Singleton, Dungog, Belmont, Kurri Kurri	84%
Greater Murray	22 April 2002	<b>Wagga Wagga, Junee</b> , Albury, Cootamundra, Corowa, Deniliquin, Finley, Moama, Tumut, Hay, Temora, Tumbarumba, Lockhart, Moulamein, Griffith, Gundagai, Hillston, Holbrook, Leeton, Narrandera, West Wyalong	28%
Macquarie	27 May 2002	<b>Wellington, Dubbo</b> , Narromine, Gulgong, Gilgandra, Coonamble, Coonabarabran, Cobar, Mudgee, Warren	55%
Central Coast	20 May 2002	<b>Gosford, Wyong Woy Woy</b>	92%
Mid North Coast	15 July 2002	<b>Kempsey, Port Macquarie, Wauchope</b> , Coffs Harbour, Forster, Macksville, Taree, Bellingen, Gloucester	34%
North Sydney	5 Aug 2002	<b>Hornsby, Manly, North Sydney</b> , Ryde	84%
South East Sydney	25 Nov 2002	<b>Kogarah, Sutherland, Downing Centre</b> , Waverley	82%
Wentworth	6 Jan 2003	<b>Katoomba, Penrith</b> , Windsor	88%
Southern	2 Sept 2002	<b>Queanbeyan</b> , Batemans Bay, Bega, Narooma, Bombala, Braidwood, Eden, Crookwell, Yass, Cooma, Goulburn, Moruya, Young	28%
Western Sydney	27 Nov 2002	<b>Parramatta</b> , Blacktown	59%
New England	9 Dec 2002	<b>Tamworth</b> , Armidale, Glen Innes, Gunnedah, Inverell, Moree, Narrabri, Quirindi, Walcha, Wee Waa, Boggabilla, Tenterfield, Mungindi, Wyallda, Manilla	30%
Central Sydney	20 Jan 2003	<b>Burwood, Redfern</b> , Balmain, Bankstown*, Central, Newtown,	69%
Far West	28 July 2004	<b>Broken Hill</b> , Bourke, Brewarrina, Wilcannia, Walgett, Warren, Nyngan, Lightning Ridge, Wentworth	44%

\* Bankstown Local Court closed for redevelopment on 12 December 2003. All Bankstown Court matters will be transferred to Burwood Local Court until May 2006.

<sup>1</sup> Courts have been grouped according to Area Health Service (AHS) regions.

<sup>2</sup> The percentage in the column represents the volume of persons charged in MERIT courts as a proportion of persons charged in all courts by AHS region. The figures were calculated using figures provided by the NSW Bureau of Crime Statistics and Research for the number of persons charged by Local Court in 2004.

## 4.0 Program Activity

### 4.1 MERIT program completion and referrals

#### 4.1.1 Number of persons completing contact with MERIT

The number of persons who had a MERIT program exit date in the 2004 period of reference was 2417. This number will be used as the base in all ensuing analyses concerning referrals for the 2004 Annual Report. Though MERIT expanded in the 2004 period to further two courts, the number of referrals over the study period is slightly fewer than the referral numbers in the 2003 period of study (n=2445). The reason for this small decrease is not clear. It may reflect a maturing of interest by participating stakeholders, or, a lower number of potential defendants in the target population, perhaps a residual effect of the recent heroin drought in Australia (Weatherburn et al, 2001).

#### 4.1.2 Source of referrals

Referrals to MERIT may be initiated by Magistrates, Police, Probation and Parole, Solicitors (including Legal Aid and Aboriginal Legal Services), by the defendant themselves or by friends and family. The proportion of referrals from each source during the 2004 period of study is shown in Table 4.1.

**Table 4.1: Referral sources in 2004**

Source of referral	Number	%
Solicitor	973	40.6
Magistrate	867	36.2
Other	210	8.8
Self	195	8.1
Police	68	2.8
Probation and Parole	59	2.5
Family/friend	25	1.0
<b>TOTAL</b>	<b>2397</b>	<b>100</b>

*Missing data (n=20)*

While Magistrates were the primary source of referrals in 2002 and 2003, Solicitors referred defendants to MERIT at a slightly higher rate than Magistrates, 40.6% and 36.2% respectively, in the 2004 period of study. Referral rates from other sources were proportionately similar to those in 2002 and 2003. The 'other' category includes referrals from practitioners such as Doctors (usually General Practitioners) and other health professionals.

Figure 4.1 shows the proportion of referrals by source from mid 2000 to the end of 2004. It can be seen that referrals made by the defendant themselves, by family and friends and Probation and Parole have remained relatively constant over time. The proportion of referrals from Magistrates has decreased, though this trend slowed during 2003 to 2004. Police referrals peaked in the first year of the program, decreased significantly and have remained stable for the remaining time. The higher proportion of Solicitors referring defendants to MERIT commenced in the last quarter of 2002, and has continued to increase steadily through 2003 and 2004.

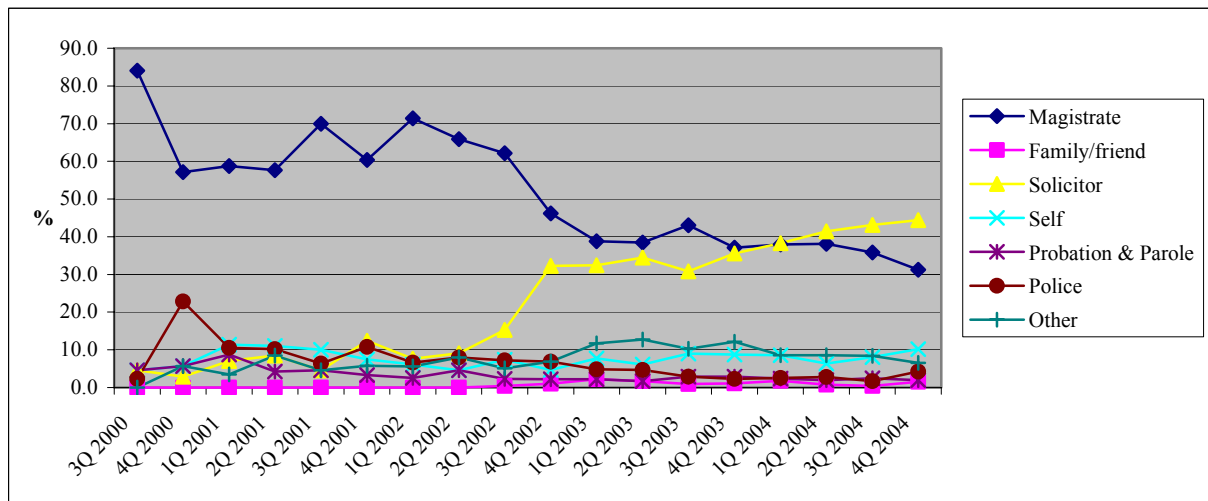
**Figure 4.1: Source of referrals over time: July 2000 to December 2004**

Table 4.2 shows a breakdown of source of referral by area health service for 2004. It can be seen that referral sources vary between area health services reflecting local influences and dispositions. The main difference between health areas is the percentage of referrals that stem from Magistrates as opposed to Solicitors. The Macquarie and New England Area Health Services had the highest percentages of Solicitor referrals. The Macquarie and New England Area Health Services had the highest percentages of Solicitor referrals. The South West and Illawarra, the highest percentages of referral by Magistrates. Central Sydney and the South East Area Health Services had the highest percentage of self-referrals. The referral numbers from the remaining categories are too small to draw any regional comparisons.

**Table 4.2: Referral sources by Area Health Service**

	Magistrate		Self		Solicitor		Probation & Parole		Police		Friends/ Family		Other		Total n
	n	%	n	%	n	%	n	%	n	%	n	%	n	%	
Central Coast	52	59.8	-	-	30	34.5	1	1.1	-	-	-	-	4	4.6	87
Central Sydney	30	14.6	34	16.5	122	59.2	1	0.5	5	2.4	1	0.5	13	6.3	206
Far West	7	46.7	2	13.3	6	40.0	-	-	-	-	-	-	-	-	15
Greater Murray	52	61.9	4	4.8	18	21.4	3	3.6	7	8.3	-	-	-	-	84
Hunter	153	58.6	7	2.7	81	31.0	2	0.8	4	1.5	-	-	14	5.4	261
Illawarra	122	70.9	9	5.2	15	8.7	8	4.7	6	3.5	-	-	12	7.0	172
Macquarie	4	5.9	3	4.4	53	77.9	2	2.9	-	-	-	-	6	8.8	68
Mid North Coast	11	10.3	4	3.7	56	52.3	4	3.7	-	-	7	6.5	25	23.4	107
Mid West	32	46.4	7	10.1	20	29.0	3	4.3	-	-	1	1.4	6	8.7	69
New England	6	9.0	4	6.0	50	74.6	-	-	-	-	-	-	7	10.4	67
Northern Rivers	10	4.3	33	14.0	126	53.6	17	7.2	13	5.5	8	3.4	28	11.9	235
North Sydney	34	7.8	19	9.9	101	52.9	3	1.6	2	1.0	1	0.5	31	16.2	191
Southern	11	14.3	8	10.4	53	68.8	1	1.3	-	-	-	-	4	5.2	77
South East	44	18.8	29	12.4	100	42.7	13	5.6	13	5.6	5	2.1	30	12.8	234
South West	228	79.7	6	2.1	38	13.3	-	-	5	1.7	-	-	9	3.1	286
Wentworth	38	38.4	14	14.1	26	26.3	1	1.0	4	4.0	1	1.0	15	15.2	99
Western Sydney	33	23.7	12	8.6	78	56.1	-	-	9	6.5	1	0.7	6	4.3	139
<b>TOTAL</b>	<b>867</b>	<b>36.2</b>	<b>195</b>	<b>8.1</b>	<b>973</b>	<b>40.6</b>	<b>59</b>	<b>2.5</b>	<b>68</b>	<b>2.8</b>	<b>25</b>	<b>1.0</b>	<b>210</b>	<b>8.8</b>	<b>2397</b>

Missing data: (n=20)

### 4.1.3 Demographic characteristics of persons referred to MERIT

The majority of participants referred to MERIT in 2004 were male (n =1961, 78.5%). Table 4.3 shows a breakdown of referrals by gender since program inception. There was no significant difference in the proportion of men and women referred to the MERIT program across years.

**Table 4.3: Referrals by gender**

	2000		2001		2002		2003		2004	
	n	%	n	%	n (missing=10)	%	n (missing=67)	%	n (missing=62)	%
<b>Male</b>	61	77.2	357	77.1	1005	77.9	2129	79.4	1961	78.5
<b>Female</b>	18	22.8	106	22.9	285	22.1	553	20.6	536	21.5
<b>TOTAL</b>	79	100	463	100	1290	100	2682	100	2479	100

In 2004 the age of persons completing contact with MERIT ranged from 18-69, with a mean age of 28 years. The frequencies of those completing MERIT by age group are shown in Table 4.4.

**Table 4.4 Program completion by age**

Age	2004	
	Number	%
18-20 years	381	16.0
21-24 years	502	21.0
25-29 years	538	22.5
30-34 years	446	18.7
35-39 years	264	11.1
40+ years	256	10.7
<b>TOTAL</b>	<b>2387</b>	<b>100</b>

Missing data (n= 30)

The majority of persons who completed contact with MERIT in the 2004 period were: non-Aboriginal (n=1662, 83.5%), not married (n=1324, 75.7%), had no dependents (n=666, 70.9%), were unemployed, dependent on others or on social security benefits (n=1167, 86.4%), educated to Year 10 or less (n=1201, 74.5%), had spent some time in jail (n= 740, 53.2%) and had injected a drug in the last year (n=1171, 66%). The vast majority of defendants completing contact with MERIT were born in Australia (n=1854, 89.6%) and almost all nominated English as their preferred language (n=2030, 98.2%).

#### **4.1.4 Persons referred to MERIT on more than one occasion**

Both health and criminal justice literature report that long term drug abuse and criminal justice involvement are problems entrenched in an individual's social system (Putt et al, 2005, Makkai, 2003). Because of the chronic nature of drug dependence and drug use, relapse following treatment is common. It is typical for clients to have more than one episode in drug treatment and thus perhaps on the MERIT program. The decision to have someone participate in MERIT on more than one occasion may be influenced by many factors, including the demand for the program in particular area health services. Currently, there is no upper limit on the number of program entrances a person may have into MERIT.

In 2002 approximately 12% of persons had more than one referral to MERIT while in 2003 this figure was 7%. In the 2004 period of study, 4.5% (n=110) of clients had more than one referral to MERIT. Of these 110 defendants, 102 were referred to the program twice and 8 were referred on three occasions.

## **4.2 Acceptances**

### **4.2.1 Number of acceptances**

Acceptance into the MERIT program is a three-stage process involving the assessment of a defendant against the stated program eligibility criteria, assessment of the defendant in terms of their suitability for the program, and the granting of approval by a Magistrate. To be 'eligible' for MERIT a participant must satisfy certain conditions; they must be suitable for release on bail, have a demonstrable and treatable illicit drug problem, be 18 years or over, give informed consent to voluntary participation in the program, be charged with offences that do not involve serious violence, sexual or wholly indictable drug offences, and have no matters pending of a violent or sexual nature. Potential MERIT cases are given an eligibility screen by the MERIT team, but may also be screened by Magistrates.

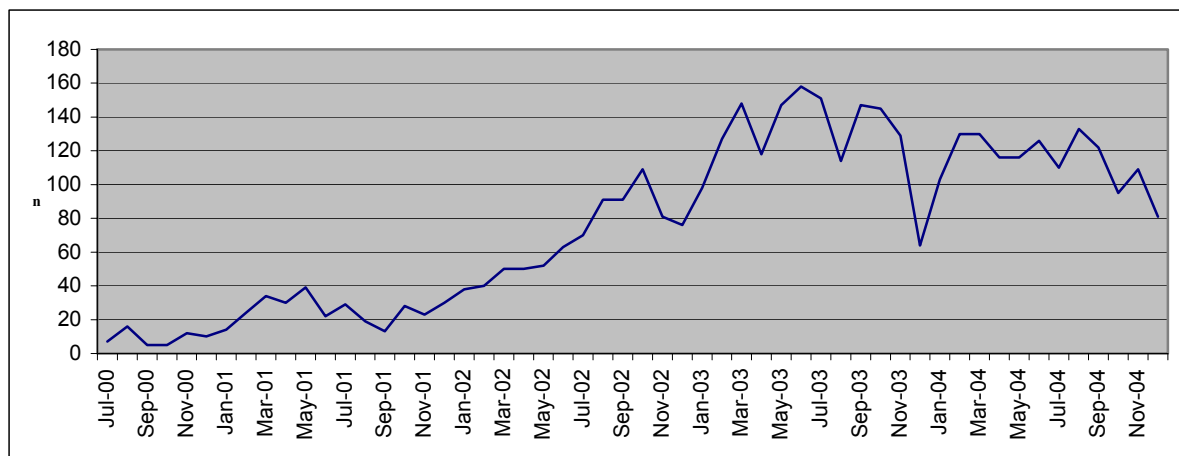


To participate in MERIT, a person must not only be eligible, but also be suitable for treatment based on clinical assessment by the MERIT team. A defendant's motivation may be taken into account as well as experiences with other drug treatment services. Operational issues such as having a full quota of participants relative to the MERIT staff resources, employees and time are also considered. It is possible that defendants may be deemed both eligible and suitable for MERIT, but the Local Court Magistrate may decide not to accept them to the program.

Overall, 58.5% (1413) of the cases exiting MERIT during 2004 were accepted onto the program. This is similar to the 2003 acceptance rate (n=1490, 61%) and the 2002 rate (n=1072, 57%).

Figure 4.2 shows the number of acceptances into the MERIT program per month since inception. There has been some fluctuation in acceptance rates over time reflecting factors such as seasonal influence and funding uncertainty. Monthly acceptance numbers peaked in July 2003 at 158 defendants. Since 2003 the number of acceptances per month has declined, most likely reflecting a decrease in MERIT referrals. It may also relate to the increase in number of referrals from legal practitioners and decrease in the number of Magistrate referrals. In 2004 the rate appears to have stabilised at around 100-120 acceptances per month.

**Figure 4.2: Number of acceptances into MERIT by month: July 2000 to December 2004**



With year of program exit as the base measure, Table 4.5 shows the proportion of defendants referred to and accepted in the MERIT program, by Area Health Service for years 2002 to 2004. While in some Area Health Services the acceptance rate remained relatively similar across the years, there were noticeable increases in acceptance rates in Southern, Western Sydney, Macquarie and New England Areas from 2003 to 2004. There were noticeable decreases in the rate of acceptances from 2003 to 2004 for South West Sydney, Mid North Coast and Mid West. The difference between Area Health Service and proportion of acceptance was found to be significant across each year (chi-square analysis,  $p < 0.001$ ). Differences in acceptance rates likely reflect a number of factors including different implementation of eligibility and suitability screening and differences in client profiles across Area Health Services.

**Table 4.5: Acceptance rate by Area Health Service**

<b>Area Health Service</b>	<b>Number &amp; proportion accepted 2002</b>		<b>Number &amp; proportion accepted 2003</b>		<b>Number &amp; proportion accepted 2004</b>	
	<b>n</b>	<b>%</b>	<b>n</b>	<b>%</b>	<b>n</b>	<b>%</b>
Hunter	98	49.0	166	64.1	191	68.2
Northern Rivers	160	74.4	200	72.2	160	67.5
Illawarra	151	66.2	171	71.8	130	74.7
Central Coast	40	56.3	139	73.2	64	70.3
South East Sydney	-	-	95	52.8	140	56.7
Northern Sydney	8	53.3	76	51.7	106	51.0
South West Sydney	95	54.3	143	53.2	127	41.6
Wentworth	-	-	59	60.2	87	64.4
Mid North Coast	17	53.1	105	67.3	65	60.2
Central Sydney	-	-	93	50.3	136	55.1
Southern	5	55.6	47	67.1	58	74.4
Western Sydney	-	-	95	60.5	116	68.6
Greater Murray	14	35.0	50	57.5	45	52.9
Macquarie	7	36.8	27	50.0	39	57.4
New England	-	-	23	31.5	29	42.0
Mid West	18	27.7	74	53.6	33	45.2
Far West	-	-			12	80.0
<b>TOTAL</b>	<b>613</b>	<b>57.0</b>	<b>1563</b>	<b>60.6</b>	<b>1538</b>	<b>59.4</b>

#### 4.2.2 Reasons for non-acceptance into MERIT

During the 2004 study period information was available for 752 finalised MERIT cases that were not accepted. The reasons for 'non acceptance' are provided in Table 4.6. The reasons for non-acceptance into the program during 2004 were similar to the reasons reported previously for the 2002 and 2003 periods of study, with the most common reason for non-acceptance into MERIT being "unwillingness to participate" (23.4%). In 2004, the defendant being unwilling to participate was followed closely by the defendant not being eligible for bail (21.5%).

**Table 4.6: Reasons for non-acceptance**

Type	Reason	Number	%
Ineligible	Unwilling to participate	176	23.4
	Not eligible for bail	162	21.5
	No demonstrable drug problem	143	19.0
	Strictly indictable offences	63	8.4
	Resides outside of effective treatment area	14	0.4
	Not an adult	1	0.1
Unsuitable	Mental health problem	21	2.8
	Already in court ordered treatment	6	0.8
Other	Program entry not endorsed by Magistrate	88	11.7
	Miscellaneous other	76	10.0
	Program full	3	0.4
<b>TOTAL</b>		<b>752</b>	<b>100</b>

*Missing data (n=252)*

### 4.2.3 Demographic characteristics of persons accepted into MERIT (n=1413)

The majority of the defendants accepted into the program were male (n=1095, 77.6%), had injected illicit drugs in the last year (n=927, 66.5%), were not married (n=1021, 75.3%), had no dependents (n= 522, 70.7%), were unemployed/dependent on others/on a benefit (n= 1184, 84.3%), had a highest education level of Year 10 (n=948, 73.4%), and had served time in jail (n= 596, 52.5%). The average age of those accepted was 28 years, with a range of 18 to 69 years. The most common age group was 25-29 years.

There were 40 different countries of birth recorded for participants. However, the majority of those accepted into the program during the period of study were Australian born (n=1251, 88.6%). This is a similar proportion to past years (89% in 2003 and 84% in 2002). The majority of those accepted to the program noted that their preferred language was English (n=1371, 87.7%).

Table 4.7 compares the number of Aboriginal identified<sup>3</sup> persons accepted into MERIT compared with non-Aboriginal persons accepted during the 2004 period of study. Aboriginal persons represented 14.6% of the MERIT acceptance population. This figure is the same as that reported for 2003.

**Table 4.7 Participants by Aboriginal status**

	Number	%
Non Aboriginal	1165	85.4
Aboriginal	199	14.6
<b>TOTAL</b>	<b>1364</b>	<b>100</b>

Not stated (n=49)

<sup>3</sup> Throughout this paper, "Aboriginal" refers to persons who identified as being Aboriginal (n=191), Torres Strait Islander (n=2) and Aboriginal and Torres Strait Islander (n=6).

The majority of MERIT participants were living with another person (usually with parents, friends or children) at the time of their MERIT assessment. Just under half had dependents (n=505,45%). The majority of participants were living in rented accommodation (64%) followed by privately owned homes (27%). Other types of accommodation included boarding houses, caravans, hostels and refuges. In the 2004 period of study a very small proportion of those accepted into MERIT stated that their usual residence was a detention centre (0.4%), and 1.5% were homeless. Living arrangements for those involved in MERIT are shown in Table 4.8.

**Table 4.8: Living arrangements of MERIT participants**

	Frequency	%
With friends/parents/relatives	773	55.1
With spouse or partner	241	17.2
Alone	208	14.8
With spouse or partner and children	89	6.3
Alone with children	50	3.6
Other	43	3.1
<b>TOTAL</b>	<b>1404</b>	<b>100</b>

Missing/not known (n = 9)

Table 4.9 presents the charges being faced by the MERIT defendants who were accepted into the program. The frequencies of offence type are very similar to those reported in the 2002 and 2003 MERIT Annual reports. It can be seen that the charges most commonly faced by defendants involved in the MERIT program are for theft related offences (32.3%), followed by illicit drug offences (18.2%), road traffic and motor vehicle regulatory offences (11.5%) and 'other' offences (12.8%).

**Table 4.9 Participants by offence charges**

Offence type	Number	%
Theft and related offences	445	32.3
Illicit drug offences	251	18.2
Road traffic and motor vehicle regulatory offences	159	11.5
Unlawful entry with intent	84	6.1
Acts intended to cause injury	76	5.5
Property damage and environmental pollution	38	2.8
Deception and related offences	35	2.5
Fraud	35	2.5
Weapons and explosives offences	31	2.2
Offences against justice procedures	28	2.0
Public order offences	12	0.8
Robbery, extortion and related offences	8	0.5
Other	177	12.8
<b>TOTAL</b>	<b>1379</b>	<b>100</b>

Missing data (n = 34)

A principal drug of concern is recorded for each MERIT client. Table 4.10 presents the frequency of principal drugs of concern in the 2004 period. It can be seen that cannabis was the most common principal drug of concern. This differs from 2003 when both heroin and cannabis presented equally as principal drugs of concern (33%). The 2004 figures represent a further shift away from the 2002 statistics where heroin was recorded as being the principal

drug of concern for 44% of accepted MERIT participants. The order of other drugs as 'principal' drugs of concern is the same as 2003.

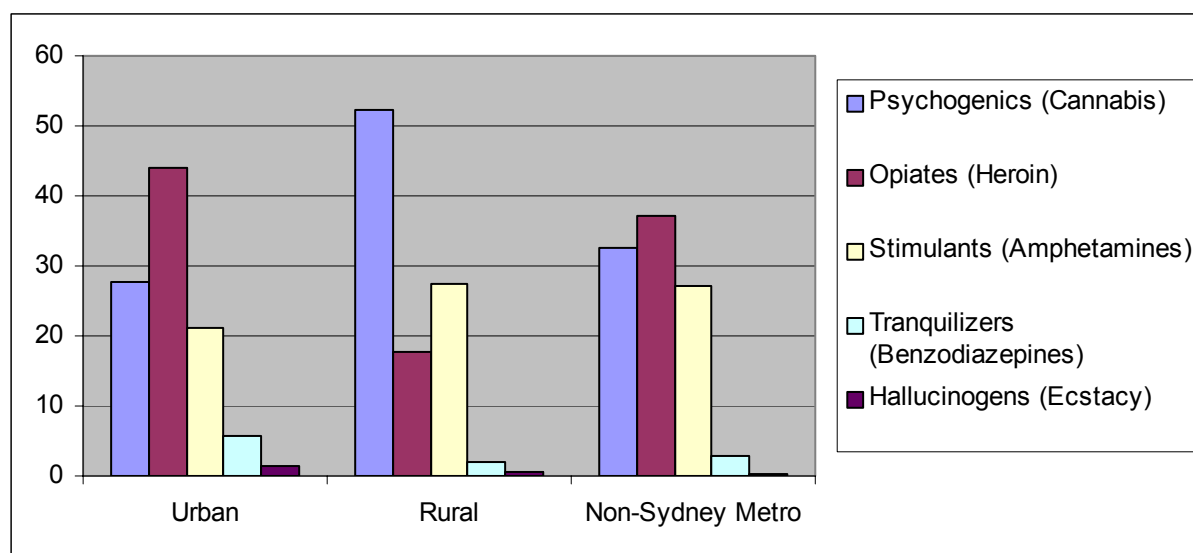
**Table 4.10: Participants by principal drug of concern**

Principal Drug of Concern	Number	%
Cannabinoids (Cannabis)	516	36.8
Heroin	447	31.8
Amphetamine	340	24.2
Benzodiazepines	50	3.6
Methadone	18	1.3
M.D.M.A. (Ecstasy)	11	0.8
Cocaine	7	0.5
Morphine	6	0.4
Methamphetamine	5	0.3
Organic Opiate Analgesics (eg Codeine)	1	0.0
Toluene (incl. Glue, Paint, Lacquer/Paint Thinners)	1	0.0
<b>TOTAL</b>	<b>1402</b>	<b>100</b>

Missing data (n= 11)

Figure 4.3 presents the 2004 breakdown of the principal drug of concern by region (recoded into urban, rural and non-Sydney metro). It can be seen that cannabis is more prevalent in rural areas than in both the non-Sydney metro and urban areas. Opiates (heroin) are more prevalent in urban and non-Sydney metro regions than in rural regions. There is little by way of difference for Stimulants (Amphetamines) across the three regions. These trends are the same as those found in 2003.

**Figure 4.3: Principal drug of concern by region**



Source: Urban region (Northern Sydney, Western Sydney, South Eastern Sydney, South Western Sydney, Central Sydney and Wentworth Health Areas), non-Sydney Metro (Hunter, Illawarra, Central Coast), Rural (all other areas)

As well as primary drug problem, the method of drug administration is recorded in the MERIT database. Table 4.13 presents the frequencies of method of use in the 2004 period for those completing MERIT.

**Table 4.11: Participants by method of drug use**

Method	Number	%
Inject	723	51.4
Smoke	537	38.2
Ingest	126	9.0
Sniff	12	0.8
Inhale	9	0.6
<b>TOTAL</b>	<b>1407</b>	<b>100</b>

*Missing data (n = 6)*

The method of drug administration for 2004 is similar to 2003, with injecting being the most common method (51.4%). While the proportion of persons who inject has remained constant over the last 2 years (52% in 2003) there has been a marked decline since 2002 (62%). This decline would be the result of the decline of heroin as the principal drug of concern.

#### **4.2.4 Number of persons accepted into MERIT on more than one occasion**

During 2004 110 people were referred to MERIT on more than one occasion. Of the 110, 39 (35.5%) were accepted into the program only once, 45 (40.9%) were accepted into the program twice (40.9%), and 20 people not accepted into the program at any time (18.2%). To contextualise these numbers it is important to note that overall, the 45 repeat participant cases represent 3.2% of the total number of acceptances.

## **5.0 Equity issues**

### **5.1 Is access to MERIT equal?**

Monitoring the equity of access to the MERIT program is undertaken in order to ensure that defendants from traditionally disadvantaged groups are provided with equitable access to the program in 2004. There were no significant differences in acceptance rates into the program based on age or gender.

Equity in program participation also requires an analysis of variables such as country of birth and preferred language. Acceptance rates into MERIT did not significantly differ on the basis of country of birth ('Australia' versus 'all other countries of birth'). Just over two thirds of Australian born defendants were accepted into MERIT (n= 1250,67.5%), which was mirrored by the proportion of defendants accepted who were born overseas (n=161, 71.6%). Similarly, no difference was found between these two groups with regard to completion rates, both of which were around 63%.

An examination of equity for program effect on Aboriginal identified defendants is important given the over representation of Aboriginal persons in both the New South Wales and Australian criminal justice systems (Aboriginal Justice Advisory Council, 2003). Three hundred and twenty eight Aboriginal defendants were referred to MERIT during 2004. This represents 16.5% of the total sample of defendants. Of these, 199 (60.7%) were accepted into MERIT. This is a significantly ( $p < 0.001$ ) lower rate of acceptance than for non-Aboriginal referrals, 1165 (70.2%)

Further to this, while 749 (64.5%) of non-Aboriginal participants completed MERIT, only 100 (50.8%) of the Aboriginal participants completed the program. This difference is statistically significant ( $p < 0.001$ ). The analysis of the reasons for non-acceptance into the program (presented in Table 5.1) may provide some explanation. The most common reason

for the non-acceptance of Aboriginal defendants was due to an unwillingness to participate (30.5%). For non-Aboriginal defendants, an unwillingness to participate (24.5%) came second to them not being eligible for bail (27.4%). Other differences between the groups include Aboriginal defendants being slightly less likely to have a demonstrable drug problem and being less likely to have their entry endorsed by a Magistrate.

**Table 5.1: Reasons for non-acceptance into MERIT by Aboriginal status**

Reason not accepted into MERIT	Aboriginal (n=95)		Non Aboriginal (n= 339)	
	N	%	N	%
Unwilling to participate	29	30.5	83	24.5
Not eligible for bail	21	22.1	93	27.4
No demonstrable drug problems	20	21.1	59	17.4
Program entry not endorsed by Magistrate	11	11.6	61	18.0
Strictly indictable offence	8	8.4	17	5.0
Reside outside of area	3	3.2	9	2.7
Mental health problems	3	3.2	13	3.8
Already in court ordered treatment	0	0	2	0.6
Program full	0	0	2	0.6
<b>TOTAL</b>	<b>95</b>	<b>100</b>	<b>339</b>	<b>100</b>

Missing data: Aboriginal defendants (n= 233), Non-Aboriginal defendants (n= 1323)

## 6.0 Services provided

### 6.1 Types of services provided

Data are collected on the treatment services provided by the MERIT team. The most frequent service provided to defendants referred to MERIT in the 2004 period was general support (primarily counselling) and case management (n=1403, 60.3%), followed by assessment (n= 913, 39.2%) and the provision of information and education (n= 12, 0.5%).

Data are also collected on the participant's previous treatment history. This is presented in Table 6.1. Over one quarter (27%) of the defendants accepted into the MERIT program reported having had no treatment for their drug problem prior to their acceptance into MERIT.

**Table 6.1: Previous treatment history**

Type of previous treatment*	Frequency	Percent
No previous treatment**	372	27
Counselling	564	41
Methadone	404	29
Inpatient / residential withdrawal mgmt	333	24
Residential rehabilitation activities	257	19
Other***	201	13
Buprenorphine	143	10
Outpatient withdrawal management	102	7
Naltrexone	63	5
Day program rehabilitation activities	48	4
Support and Case management	58	4

\* Some participants had multiple types of previous treatment, therefore percentages do not add to 100.

\*\* The 'no previous treatment' category includes those with no treatment history but who may have been assessed and/or received information and education in the past.

\*\*\* The 'other' category includes treatments such as other maintenance pharmacotherapies, outpatient consultations, slow release oral morphine, disulphiram and acamposate

## 6.2 Time on the program<sup>4</sup>

Time on the program is measured by subtracting the date of entry from the date of exit. In the 2004 period of study the average number of days on the MERIT program for those who completed the program was 96 days. The average number of days on the program was similar in this period of study as for the 2003 (92.7 days) and 2002 (99 days) periods. The median was 90 days and the mode (most common) number of days was 84, which is the stated length of the program (3 months). However in practice this may vary. For example, on occasion a client may move away from the MERIT site before 3 months passes but have in essence (and this is based on the MERIT caseworker's clinical judgment) done enough to warrant a recorded 'completion' on the database. The average number of days on the program for non-completers was 50.

## 7.0 Completion of the program

Satisfactorily meeting MERIT requirements results in the official 'completion' of the program. This does not necessarily mean that all health and criminal justice program outcomes have been met. However, it does imply that progress has been made towards such outcomes.

### 7.1 Number of completions

Table 7.1 shows the exit status of defendants accepted into MERIT during the 2004 period of study.

**Table 7.1: Completion rates in 2004**

	Number	%
Completed program	883	62.8
Were breached by MERIT	327	23.2
Withdrew voluntarily	108	7.7
Removed by Magistrate	87	6.2
Died	2	0.1
<b>TOTAL</b>	<b>1407</b>	<b>100</b>

Missing data (n= 6)

Of those who were accepted onto the program more than once (n=45), 9 people completed the program only on the first time they were accepted to MERIT, 10 people completed the program only on the second time they were accepted, 11 people completed the program both times they were on the program, and 15 persons did not complete the program either time.

### 7.2 Characteristics associated with completion

Table 7.2 compares MERIT program completers and non-completers on nine demographic variables. There is a remarkable similarity between the two groups in relation to all but employment status at the time of the 2004 assessment, and whether the person had spent time in jail for a previous offence. A significantly higher proportion of non-completers were recorded as being unemployed/on benefits at the time of their assessment, 91.8% compared

<sup>4</sup> The analysis of "Time on the program" 34 cases recorded as having completed a MERIT program in less than 70 days due to the high likelihood of these being data entry errors.



with 80.4%, and a higher proportion had been jailed for a prior offence (58.9% compared with 48.7%).

**Table 7.2: Completion rate by participant profiles**

	Completed (n= 883)		Did not complete (n=524)	
	Frequency	%	Frequency	%
English is first language	856	97.6	515	97.9
Were born in Australia	781	88.8	470	88.8
Unemployed / benefit	707	80.4	482	91.8
Male	691	78.5	404	76.2
Not married	637	74.6	384	76.3
Highest education = Year 10	603	73.5	345	70.5
Had no dependents	332	70.5	190	71.2
Had spent time in jail	349	48.7	247	58.9
Most common age group = 25-29	210	23.8	125	23.6

The number of participants completing the program in each Area Health Service was compared using chi-square analysis and a significant association ( $p < 0.001$ ). Again, it is important to consider that any differences found between regions may reflect differences between the implementation of MERIT by individual teams as well as differences between the characteristics of clients likely presenting before them. Table 7.3 provides the rate of program completion by Area Health Service.

**Table 7.3: Percentage completing program by Area Health Service**

	Number accepted to program	Number completing program	%
Wentworth	62	53	85.5
Central Coast	60	46	76.7
Far West	12	9	75.0
Mid West	31	22	71.0
Central Sydney	100	69	69.0
Illawarra	128	87	68.0
North Sydney	97	65	67.0
Hunter	187	122	65.2
Mid North Coast	64	41	64.1
South West	111	71	64.0
South East	134	83	61.9
Western Sydney	98	53	54.1
Macquarie	39	21	53.8
Northern Rivers	160	84	52.5
Southern	57	29	50.9
New England	28	11	39.3
Greater Murray	45	17	37.8

Age is also associated with program completion ( $p = 0.01$ ), with fewer younger defendants completing the program than older defendants. In fact, there is evidence of an incremental increase in the proportion of completions as age increases. This is similar to results presented for the 2003 period. This is seen in Table 7.4.

**Table 7.4: Completion rate by age**

	<b>2003</b>		<b>2004</b>	
<b>Age group</b>	<b>Total acceptances</b>	<b>% completed</b>	<b>Total acceptances</b>	<b>% completed</b>
18-20 years	216	55	214	55
21-25 years	350	60	303	62
26-29 years	347	60	335	65
30-34 years	285	62	271	67
35-40 years	143	69	147	71
40+ years	146	72	142	75
<b>TOTAL</b>	<b>1487</b>	<b>62</b>	<b>1412</b>	<b>65</b>

Missing data (n=1)

Table 7.5 highlights differences in completion rate on the basis of principal drug of concern. There is a statistically significant relationship between the principal drug of concern and program completion ( $p=0.001$ ). Defendants with cocaine or cannabis as the principal drug of concern have relatively high completion rates while defendants with amphetamines as the principal drug of concern are completing the program less often.

**Table 7.5: Completion rate by principal drug of concern**

<b>Principal Drug of Concern</b>	<b>Number completing</b>	<b>Number accepted</b>	<b>%</b>
Cocaine	5	7	71.4
Cannabinoids (Cannabis)	351	516	68.0
Methadone	12	18	66.6
Benzodiazepines	33	50	66.0
M.D.M.A. (Ecstasy)	7	11	63.6
Heroin (includes Morphine)	281	453	62.0
Amphetamines (incl. Methamphetamines)	187	345	54.2
<b>TOTAL</b>	<b>876</b>	<b>1400</b>	<b>62.5</b>

Missing data: (n= 13, includes 1 case of organic opiate analgesic and 1 case of toluene)

### 7.3 Predicting program completion

A final analysis of data, using logistic regression, involved testing the extent to which the independent variables were able to predict program completion. The independent variables included in the model were: age, gender, type of living accommodation (own or renting own house versus other), principal income (employed part or full time or on a student subsidy versus other), injection of a drug over the past year (yes/no), principal drug of concern (recoded into opiates (heroin, methadone, morphine and analgesics), stimulants (amphetamines, speed and cocaine), tranquilizers (benzodiazepines), and cannabinoids (cannabis), country of birth (Australia versus other), preferred language (English versus other), marital status (married/de facto versus other), Aboriginality (Aboriginal versus non-Aboriginal) and level of education (Year 10 completion or less versus other). Offence type is not included in this analysis as defendants may have presented with a number of offence charges.

The findings from this analysis indicate that five variables significantly predict completion of the MERIT program: age, Aboriginality, Type of accommodation, Principal income, and prior imprisonment. The predictors of completion are presented in Table 7.6. Together, these variables were able to accurately predict MERIT completion in about 64.4% of cases.

These findings differ to those reported in the *Evaluation of the Lismore MERIT Pilot Program* where predictors of program completion were found to be Aboriginality, type of accommodation and principal drug.

**Table 7.6: Significant predictors of program completion**

Variable	Measurement	P value	Interpretation
Age	Measured in years	P<0.01	Older defendants are completing the program more often than younger defendants.
Aboriginality	Aboriginal and/or Torres Strait Islander compared to non Aboriginal/Torres Strait Islander	P=0.03	Non Aboriginal/Torres Strait Island defendants are more likely than Aboriginal and/or Torres Strait Islander defendants to complete the program.
Type of accommodation	Living in a rented or owned home versus living in: a treatment residence, boarding house, caravan, hostel, homeless, prison or shelter	P=0.01	Those living in relatively stable accommodation (rented or owned homes) are completing more often than those currently residing in other less stable accommodation alternatives.
Principal income	Employed part or full time or on a student subsidy versus those on a pension, dependent on others, on a temporary benefit or with no income	P<0.01	Those defendants that are employed or on a student subsidy are completing the program more often than those with less or no stable income.
Served time in jail	Served time in jail versus not having served time in jail	P=0.01	Those defendants with no history of imprisonment are completing the program more often than those who have served time in jail.

## 8.0 Health and Criminal Justice Outcomes

### 8.1 Health outcomes

The desired health outcome following participation in the MERIT program is a decrease in drug use and corresponding health benefits. As part of the MERIT evaluation strategy the NSW Department of Health is currently conducting a detailed study into health outcomes. This is due to be completed in late 2006.

### 8.2 Criminal justice outcomes

MERIT aims to reduce the rate of re-offending during the program and once the program is completed. The program is also intended to produce sentences that reflect increased rehabilitative prospects. The following information provides a descriptive analysis of MERIT in relation to criminal justice outcomes. It does not purport to provide an evaluation of the efficacy of the MERIT program due to the absence of an appropriate control group against which to measure its effects.

Criminal justice outcomes are measured by examining post program sentences and re-offending rates. Sentence outcome is measured by the number of MERIT participants found guilty in Local Court appearances finalised, by type of principal penalty awarded. The rate of re-offending outcome is measured by the number of persons reappearing in court (including NSW Higher Criminal Courts and NSW Local Criminal Courts) for offences committed after participating in the MERIT program. In this analysis if a person participated in MERIT more than once, only their most recent exit date was used. A number of cases were not matched with criminal justice outcomes because of missing demographic characteristics.

#### 8.2.1 Re-offending

This section uses the cohort of participants who were referred and accepted in MERIT during the calendar year 2003 (n=1424). Of these participants, BOCSAR was able to match 1,372 (96.3%) with re-offending data. Table 8.1 presents the number of 2003 MERIT participants who re-appeared in a NSW Local Court within 6 and 12 months of completing contact with the MERIT program.

**Table 8.1 Completion status by reappearance at court (n=1372)**

	Re-appeared within 6 months		Re-appeared within 12 months	
	n	%	n	%
Completed MERIT (n=868, 63.3%)	242	27.9	358	41.2
Did not complete MERIT (n=504, 36.7%)	189	37.5	274	54.4
TOTAL	431	31.4	632	46.1

A total of 632 (46.1%) of persons participating in the MERIT program during 2003 re-appeared in Court within 12 months of completing the program, with 31.4% of these persons having re-appeared within 6 months of program completion. Some difference in the rate of re-appearance is evident on the basis of program completion.

From the table we can see that of the program completers, 41.2% re-appeared in Court within 12 months (27.9% of these within 6 months) compared with 54.4% of persons who did not complete the program (37.5% of whom had re-appeared within 6 months). However, in the absence of a matched control group, it is impossible to say definitively that the rate of re-offending has 'decreased' as a result of the MERIT program. However, it does appear that for the 12 month period following program completion the rate of re-offending was reduced for the program completers. The re-offending rates for the period of study were similar to past years. In the 2003 Annual Report it is noted that 29% of those completing the program reappeared at court within 6 months compared to 45% of non-completers, and by 12 months post program completion, 40% of completers compared to 60% of non completers had reappeared at court.

### 8.2.2 Sentence Outcomes

Court outcomes for persons who completed contact with MERIT during 2003 are presented in Table 8.2, by MERIT program completion status. The total number of matters for which data is available is 256, only a small proportion of the total number who completed contact with the program during the period of study (18%). A large number of data are missing due to BOCSAR being reliant on a "MERIT flag" in the Local Courts database to ensure that the outcome information relates to the person's MERIT court appearance, and not another court appearance. The MERIT flag is not used reliably by the Courts, resulting in a significant under-reporting in the court outcome of MERIT participants.

**Table 8.2: Completion status by sentence outcome (n= 256)**

Principal penalty	Completed (n=172)		Did not complete (n=84)	
	Number	%	Number	%
Imprisonment total term	18	10.5	32	38.0
Fine	14	8.1	19	22.6
Good Behaviour Bond with supervision	31	18.0	12	14.3
Suspended sentence with supervision	28	16.3	6	7.1
Good Behaviour Bond	40	23.3	5	5.9
Community Service Orders	17	9.8	4	2.3
Suspended sentence	13	7.5	3	3.6
Periodic Detention total term	1	0.5	2	2.3
Offence proved, discharged with recognizance	4	2.3	1	1.1
Nominal sentence (sentence until rising of the court)	2	1.2	1	1.1
Offence proved, dismissed	1	0.5	-	-
Home Detention total term	3	1.7	-	-
<b>TOTAL</b>	<b>172</b>	<b>100</b>	<b>84</b>	<b>100</b>

Source: BOCSAR

It can be seen that the most common sentence outcome for completers was a good behaviour bond while for those who did not complete the program it was imprisonment. Individuals who did not complete the MERIT program were more likely to receive an imprisonment term or a fine than completers. This finding should be treated with caution, however, due to the

large amount of missing data related to the sentence outcome and to the fact that the analysis does not include type of offence

## 9.0 Discussion and Conclusions

The MERIT program was implemented in two further Local Courts in 2004, Broken Hill and the Downing Centre. Despite this, there was a small decrease in the number of referrals from 2003 (n= 2455) to 2004 (n= 2417). This may reflect a plateau in stakeholder attitudes where they become less vigilant about maintaining referral levels, reflect a lower incidence of drug related crime, or that offenders being less likely to choose to participate in the program. However, Program acceptance rates (58%) and completion rates (62.8%) were similar to previous years.

The primary sources of referral to MERIT continue to be Magistrates and Solicitors, though in the 2004 period of study, Solicitors, for the first time, referred at a greater rate than Magistrates. The primary reason for non-acceptance into the program continues to be unwillingness to participate, followed by ineligibility for bail.

There continues to be difference between regions in rates of referral, acceptance and completion. However there may also be differences based on demographic profiles of defendants appearing in these regions. The average age of MERIT participants in the 2004 period of study was 28 years old. The majority were male (78%), non-Aboriginal (83%), not married (75%), unemployed (86%), had spent time in jail (53%), had a highest educational level of Year 10 (74%), nominated English as their preferred language (98%), and were born in Australia (89%). The most common principal drug of concern was cannabis, differing from 2003 when heroin and cannabis presented in equal proportions.

Analysis of access to the program revealed no significant differences in acceptances and completions across gender, age and country of birth. However, proportionately fewer Aboriginal defendants were accepted into the program and completed their MERIT program. The most common type of service provided by MERIT teams continues to be counselling and case management. The average length of time on the program was 96 days.

The examination of factors related to program completion demonstrated the importance of that employment status, age, Aboriginality, living arrangements and previous jail time. This suggests that particular attention may need to be paid persons who present with such characteristics. MERIT clinicians may need to further acknowledge the impact of past criminal justice history and associated social problems on program completion and in particular pay attention to career counselling and employment opportunities.

There was evidence that 41.2% of the defendants who completed MERIT in 2003 reappeared in the Local Court within 12 months, compared with 54.4% of defendants who did not complete the program. While this suggests that MERIT has gone some way toward meeting its criminal justice aim of reducing re-offending, in the absence of a matched control group this outcome should be interpreted with caution.

The limited information available on sentencing outcomes also suggested that those who completed the program were less likely to receive a custodial sentence than those who did not complete the program. The most common sentence outcome for completers was a good behavior bond, while for non-completers it was imprisonment.

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