



Attorney General  
& Justice

# Annual Report

# 2009 MERIT

Magistrates Early Referral Into Treatment Program



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Kristy Martire

Mark Howard

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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 2009. The key findings from the report are that:

- Between 1 January and 31 December 2009 there were 3,017 referrals to the program; a 10 per cent increase (of 286 referrals) on the previous year. Solicitors and Magistrates accounted for 76 per cent of the referrals to MERIT during 2009. The number of referrals from Solicitors, Magistrates and other sources increased between 2008 and 2009; however only Solicitors showed an increase in proportion of all referrals by source. Part of this increase may be attributed to the addition of the Orange and Bathurst 'Rural Alcohol Diversion' (RAD) and Wellington 'Options' participants under the MERIT operations and data collection in 2009. Ryde Local Court was also granted MERIT provisions in September 2009 and the role of Dubbo Local Court was expanded to permit the referral of participants with alcohol as their primary drug of concern from 1 October 2009.
- Of the 3,017 referrals in 2009, 64% (n=1,930) were accepted onto the program. The most common reasons for non-acceptance included having no demonstrable drug problem, being unwilling to participate and not being eligible for bail. One in four (24%) referred defendants during 2009 had previously been referred to MERIT – a rate which was higher than 2008 (21%).
- The average (median) age of those both referred and accepted was 29 years. In line with activity during recent years, around one in five referrals (21%) and acceptances (20.9%) to the MERIT program during 2009 were female. Women (64.4%) were not significantly more or less likely to be accepted into the program than males (65%). Nineteen per cent of referrals to MERIT during 2009 identified as Aboriginal or as a Torres Strait Islander. This is an increase from 2008 (18%) and the highest proportion of Indigenous status referrals since the program commenced in 2000.
- Cannabis was the principal drug of concern for nearly half (48.6%) of all accepted defendants during 2009. Narcotics users accounted for one in four cases accepted in 2009 (24.1%) and stimulant drug users represented one-fifth of the caseload (19.4%). Heroin was the principal drug of concern for most narcotic using defendants. There was an increase in principal heroin users in 2009 (22.2%) compared to 2008 (18%).
- 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 2009. Principal cannabis users comprised the largest group charged with illicit drug offences (61%). By contrast, users of narcotics were the group most likely to be charged with theft and related offences (40%).
- Sixty-nine per cent of MERIT participants exited the program during 2009 having met all program requirements. This is comparable to rates of the previous year and

represents the highest rates 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 2009 (17.2%) was slightly higher than those of 2008 (16.8%).

- There were statistically significant reductions in both the frequency and intensity of all forms of self-reported substance use amongst accepted MERIT participants in 2009. The largest reductions were recorded for the reported use of cannabis, heroin and amphetamines. For many participants, levels of dependence on illicit drugs upon exit from MERIT continued to exceed established thresholds for dependency using validated measures. This is likely to reflect both the severity of substance dependence in the sample and the fact that MERIT is not an abstinence based program.
- Defendants starting the MERIT program during 2009 had a poorer physical and mental health prognosis than the general population. Upon exit from the program there were significant improvements in both areas of 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 2008 37.4 per cent of defendants had been reconvicted for a further offence. However, program non-completers in 2008 were significantly more likely to be reconvicted for another offence during the 12 weeks in contact with MERIT (38.1% vs. 13.5%), and in the six (36.1% vs. 21.3%) and 12 months (48% vs. 32.6%) following program exit (all at  $p=0.000$ ).

# 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 has 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, NSW Health and NSW Police.

The scheme 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 13 per cent of respondents (aged 14+) to the 2007 National Drug Strategy Household Survey who had used illicit drugs in the previous 12 months (Australian Institute of Health and Welfare, 2008). 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 scheme 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 MERIT is also cost-effective (Northern Rivers University Department of Rural Health, 2003). However, one in three participants fail to complete a 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 a MERIT program has been found to significantly and substantially reduce the likelihood of committing any subsequent offences (Lulham, 2009). However, even upon completion of a MERIT program 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 scheme 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 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; and
- are willing to consent to a drug treatment program.

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

The Wilcannia and Broken Hill Local Courts have accepted defendants citing alcohol as their principal drug of concern since they commenced in the MERIT program. Participants in the Rural Alcohol Diversion (RAD) program operating through Orange and Bathurst Local Courts and the 'Options' program running in Wellington Local Court were integrated into MERIT on 1 July 2009. This allowed referrals to MERIT which include defendants with primary alcohol issues previously covered by these programs. In addition, on 1 October 2009, Dubbo Local Court also began accepting clients with primary alcohol issues.

## 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 Area Health Services 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, behaviours and problems; physical and mental health problems; 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 required.

As a voluntary pre-plea diversion scheme 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.

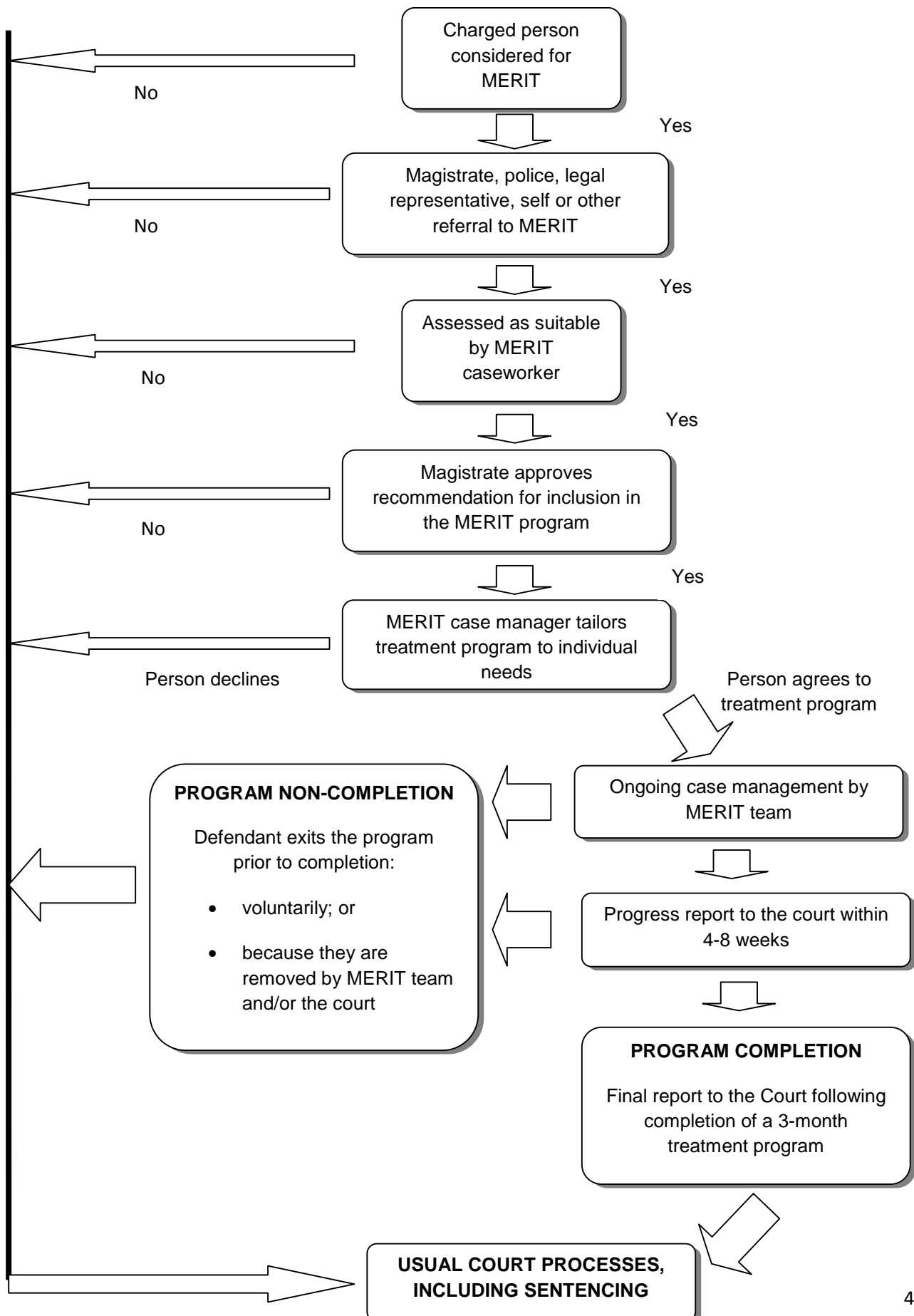
In the event that engagement with MERIT is deemed unsatisfactory or there is evidence of non-compliance (e.g. further offences or failing to appear for appointments/Court), the Magistrate reserves the right to remove defendants from the program.

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 also instrumental in guiding Magistrates in their dealings with those 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 review 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. However, 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 (Martire and Larney, 2009a: 8)



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

Information about MERIT's coverage by Area Health Service, MERIT Team and NSW Local Court, as at 31 December 2009, is provided in Table 2.1. As was the case with the previous Annual Report, Courts have been grouped here according to their geographic location and linked to the relevant Area Health Service. During 2009 MERIT operated in 44 per cent (n=63) of all 142 NSW local courts. This is an increase of 1% from 2008 reflecting the addition of MERIT provisions to Ryde and Wellington courts. In terms of the total charge population in 2009, the MERIT program was potentially available to 81.8 per cent of finalised cases appearing before the NSW Local Court during this period (down from 84% of cases in 2007; 80% in 2008).

Table 2.1: MERIT coverage by Area Health Service and NSW Local Courts (as at 31 December 2009)

Area Health Service	MERIT teams	Courts contained within AHS boundaries	Court Coverage <sup>2</sup>
		<i>Courts with MERIT appear in <b>bold</b></i>	
<b>South Eastern Sydney and Illawarra</b>	South East Sydney Illawarra	<b>Wollongong, Albion Park, Kiama, Port Kembla, Nowra, Sutherland, Kogarah, Downing Centre, Central<sup>3</sup>, Waverley, Milton</b>	100%
<b>Sydney South West</b>	South West Sydney Central Sydney	<b>Liverpool, Campbelltown, Camden, Burwood, Fairfield, Bankstown, Newtown, Picton, Balmain</b>	96.3%
<b>Sydney West</b>	Western Sydney Wentworth	<b>Parramatta, Katoomba, Penrith, Blacktown, Mt Druitt, Windsor</b>	94.6%
<b>Hunter and New England</b>	Hunter New England	<b>Tamworth, Cessnock, Muswellbrook, Newcastle, Maitland, Raymond Terrace, Toronto, Singleton</b> , Belmont, Kurri Kurri, Scone, Dungog, Armidale, Glen Innes, Gunnedah, Inverell, Moree, Narrabri, Quirindi, Walcha, Wee Waa, Boggabilla, Tenterfield, Mungindi, Wyallda,	70.2%
<b>Greater Western</b>	Mid West Far West Macquarie	<b><u>Bathurst*</u>, <u>Broken Hill</u>, <u>Orange</u>, <u>Dubbo</u>, <u>Parkes</u>, <u>Oberon</u>, <u>Blayney</u>, <u>Forbes</u>, <u>Wilcannia</u>, <u>Wellington</u></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%
<b>North Coast</b>	Mid North Coast Northern Rivers	<b>Lismore, Byron Bay, Ballina, Casino, Kyogle, Port Macquarie, Kempsey, Wauchope, Mullumbimby, Murwillumbah, Tweed Heads, Grafton, Maclean</b> , Coffs Harbour, Forster, Macksville, Taree, Bellingen, Gloucester	67.4%
<b>Greater Southern</b>	Southern Greater Murray	<b>Queanbeyan, Wagga Wagga, Junee, Cooma</b> , 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	29.7%
<b>Northern Sydney and Central Coast</b>	Northern Sydney Central Coast	<b>Gosford, Manly, Wyong, North Sydney, Hornsby, Ryde</b> , Woy Woy	95.6%

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

<sup>2</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>3</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), was to provide the NSW Department of Attorney General and Justice with information regarding the uptake and efficacy of the MERIT program during 2009.

A key consideration when producing this document was to ensure consistency with the approach adopted during the reporting of 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**

This Annual Report has been informed using existing administrative data 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>4</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: 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>4</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 were 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 2009 Annual Report 83.2 per cent of relevant MERIT defendants had sentence outcome information available having been successfully matched against the GLC. This is lower than the match rate for the 2008 Annual Report (86.8%).

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 2009 Annual Report 96.1 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 2009 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. 2008). 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 SPSS (the Statistical Package for the Social Sciences). Descriptive statistics were used to profile the characteristics of the MERIT cohort during 2009. 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 2009

This chapter provides a descriptive overview of MERIT program activity during the 2009 calendar year.

### 4.1 MERIT referral and acceptance rates

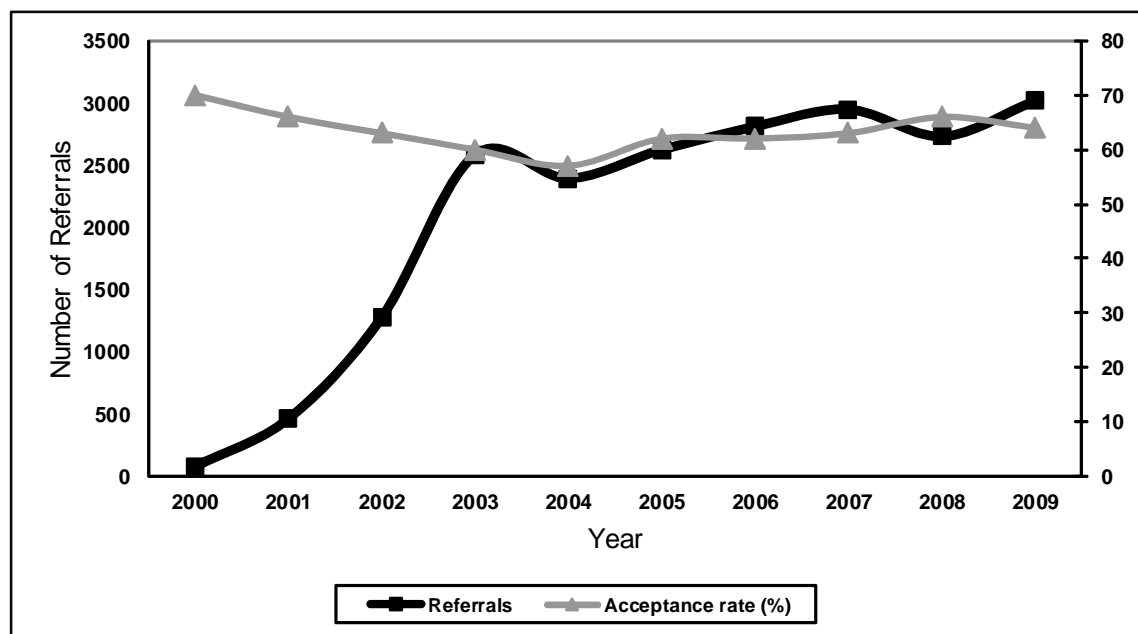
#### 4.1.1 Number of MERIT referrals

Between 1 January and 31 December 2009 there were 3,017 referrals to the program; a 10 per cent increase (of 286 referrals) on the previous year. This is the seventh year on year increase in referrals since 2000, and the largest rate of referral activity in the history of MERIT operations. Although the number of referrals to MERIT increased for Solicitors, Magistrates and Other sources, Solicitors showed the only increase in proportion of referrals between 2008 and 2009.

#### 4.1.2 MERIT acceptance rates

Of the 3,017 referrals in 2009, close to two-thirds (n=1,930) 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 (2000-2009) (N=20,930)



Thirty-six per cent of referred defendants (n=1,087) did not access the MERIT intervention during 2009; 147 (5%) failed to attend for an assessment (referral only) and 106 (4%) declined an offer 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 2 percentage points).

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

Just over one quarter (n=834; 27%) of those referred to MERIT during this period were not accepted to participate in the program – a rate consistent with 2008 activity (27%). As illustrated in Table 4.2, the most common reasons for non-acceptance included having no demonstrable drug problem, being unwilling to participate and not being eligible for bail.

Table 4.2: Reasons for non-acceptance of MERIT program referrals (2009) (n=834)

Reason for non-acceptance		2009	
		n	%
Not eligible	No demonstrable drug problem	271	32.5
	Not eligible for bail	123	14.7
	Strictly indictable offence(s)	66	7.9
	Not an adult	2	0.2
	<b>Sub total</b>	<b>462</b>	<b>55.4</b>
Not suitable	Unwilling to participate	163	19.5
	Mental health problem	4	0.5
	Already in court ordered treatment	2	0.2
	<b>Sub-total</b>	<b>169</b>	<b>20.3</b>
Program logistics	Resides outside of effective treatment area	12	1.4
	Program full	11	1.3
	<b>Sub-total</b>	<b>23</b>	<b>2.7</b>
Program entry not endorsed by Magistrate	<b>Sub-total</b>	<b>107</b>	<b>12.8</b>
Other	<b>Sub-total</b>	<b>73</b>	<b>8.8</b>
<b>TOTAL</b>		<b>834</b>	<b>100</b>

Compared to the previous year, there was an increase in the proportion of MERIT referrals with no demonstrable drug problem (from 27.2% in 2008), but a reduction in the proportion of defendants not eligible for bail (from 15.4%) and unwilling to participate (from 23.6%).

## 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 2009 (Table 4.3). Solicitors were the only source of referral to MERIT which measured a proportional increase between 2008 and 2009.

Table 4.3: Sources of referral and acceptance rates (2009)

Referral source	Referrals by source		Acceptances by source	
	n	%	n	%
Solicitor	1,378	46.0	896	65.0
Magistrate	946	31.6	659	69.7
Self	250	8.3	151	60.4
Other <sup>5</sup>	232	7.7	125	53.9
Police	127	4.2	65	51.2
Probation and Parole	35	1.2	19	54.3
Family /friend	29	1.0	13	44.8
<b>TOTAL</b>	<b>2,997</b>	<b>100</b>	<b>1,928</b>	

\* Data on referral source were missing in 20 cases.

Those referred to the program by Magistrates<sup>6</sup> during 2009 were more likely to be accepted by MERIT than those referred from other sources. Referrals from the police<sup>7</sup> and 'other'<sup>8</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 in Table 4.2, above, that a defendant might not have been accepted or completed the program following an earlier referral.

<sup>5</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>6</sup>  $\chi^2=19.4$ ,  $df=1$ ,  $p=0.000$ .

<sup>7</sup>  $\chi^2=9.4$ ,  $df=1$ ,  $p=0.002$ .

<sup>8</sup>  $\chi^2=11.1$ ,  $df=1$ ,  $p=0.001$ .

Almost one in four (n = 677; 23%) referred defendants during 2009 had previously been referred to MERIT. This rate is higher than that recorded in 2008 (n = 569; 21%).

In addition to increases in referrals for defendants with previous MERIT contacts, those who had one or more previous referrals were more likely to be accepted into the program (68.9%) than those who had no previous referrals (62.5%).<sup>9</sup>

*Table 4.4: Program status by number of referrals to MERIT (2009)*

Extent of past contact with MERIT	Program status								
	Accepted		Declined		Not accepted		Referral only		Total
	n	%	n	%	n	%	n	%	n
No previous referrals	1,461	62.5	90	3.9	669	28.6	116	5.0	2,336
1 previous referral	341	70.2	11	2.3	113	23.3	21	4.3	486
2+ previous referrals	125	65.4	5	2.6	52	27.2	9	4.7	191
<b>Total</b>	<b>1,927</b>	<b>64.0</b>	<b>106</b>	<b>3.5</b>	<b>834</b>	<b>27.7</b>	<b>146</b>	<b>4.8</b>	<b>3,013</b>

\* Data on previous referrals were missing in 4 cases.

### 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=626; 21.0%) and acceptances (n=403; 20.9%) to the MERIT program during 2009 were female<sup>10</sup>. Women (64.4%) were not significantly more or less likely to be accepted into the program than males (65.0%).

The gender ratio of defendants referred to MERIT during this period is consistent with that for those found guilty following an appearance before all NSW Local Courts in 2009 (NSW Bureau of Crime Statistics and Research, 2010).

<sup>9</sup>  $\chi^2 = 9.2$ ;  $df = 1$ ;  $p = 0.002$

<sup>10</sup> Data on gender were missing in 41 cases.

### 4.3.2 Age

Defendants referred to the program during 2009 ranged in age from 16 to 75 years. The average (median) age of those both referred and accepted was 29 (consistent with median age from last year). As was the case during 2008, the largest proportion of referred defendants in 2009 was aged between 25-29 years, accounting for over one in five referrals (21%). This was followed by the 30-34 (17%) and 21-24 (16%) age group. As shown in Table 4.5, collectively, these groups accounted for slightly more than half (55%) 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 4.5: Age at referral and acceptance as a proportion of referrals (2009)*

Age group	Referred		Accepted	
	n	% of all referrals	n	% of age group
17 or under	6	0.2	1	16.7
18-20	445	14.8	273	61.3
21-24	492	16.4	301	61.2
25-29	638	21.3	409	64.1
30-34	513	17.1	355	69.2
35-39	439	14.6	293	66.7
40-49	383	12.8	252	65.8
50+	85	2.8	46	54.1
<b>Total</b>	<b>3,001</b>	<b>100</b>	<b>1,930</b>	

\* Due to missing data age at referral could not be calculated for 16 cases.

### 4.3.3 Indigenous status

As illustrated in Table 4.6, 19 per cent (n=520) of referrals to MERIT during 2009 identified as Aboriginal or as a Torres Strait Islander<sup>11</sup>. This is an increase from 2008 (18%) and 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 (13.6%) (NSW Bureau of Crime Statistics and Research, 2010).

There was no significant difference in the number of acceptances into MERIT between Indigenous defendants (70%) and non-Indigenous defendants (70.8%). There were differences in the reasons given for non-acceptance by Indigenous status; Indigenous defendants were more likely to have participation not endorsed by

<sup>11</sup> Data on indigenous status were missing (n=222) or not stated (n=121) in 11.4 per cent of cases.



the magistrate (6.0% v 3.2%)<sup>12</sup> and were more likely to reside outside of the area of administration (1.0% v 0%)<sup>13</sup> compared to others. Non-indigenous defendants were more likely to have no demonstrable drug problem (9.2% v 3.3%)<sup>14</sup>.

*Table 4.6: Indigenous status of referred defendants (2009)*

Indigenous status	Referred	
	n	%
Indigenous*	520	19.4
Non-indigenous	2,154	80.6
<b>Total</b>	<b>2,674</b>	<b>100</b>

\*Includes those identifying as Aboriginal (n=502), Torres Strait Islander (n=6) or Aboriginal and Torres Strait Islander (n=12). Data on indigenous status was missing or not stated for 343 cases.

#### 4.3.4 Country of birth

The majority of participants referred to the MERIT program during 2009 were born in Australia (89.3%)<sup>15</sup>. This is similar to figures for 2008 (89.3%)<sup>16</sup>. The most common countries of origin for defendants born outside Australia in 2009 were New Zealand (n=54), Vietnam (n=37) and England (n=21).

#### 4.3.5 Educational attainment

As has been the case throughout the life of the MERIT program, the majority of referred defendants in 2009 were those for whom the highest level of educational attainment was equivalent to Year 10 or less (72.6%; from 72.4% in 2008)<sup>17</sup>. Fewer than one in five (n=318; 17.7%) 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=44) 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=938; 48.6%) of all accepted defendants during 2009. As indicated in Figure 4.2, this is more than twice the proportion of cannabis users dealt with in 2000 (21.8%) and an increase from 2008 (46.6%).

<sup>12</sup>  $\chi^2 = 8.85$ , df = 1, p = 0.003

<sup>13</sup>  $\chi^2 = 15.66$ , df = 1, p = 0.000

<sup>14</sup>  $\chi^2 = 19.87$ , df = 1, p = 0.000

<sup>15</sup> Data on country of birth were missing (217) or not stated (43) in 260 cases relating to 2009 activity.

<sup>16</sup> Country of birth information was missing for 163 referrals in 2008.

<sup>17</sup> Data on educational attainment were missing in 1,221 (40.5%) cases in 2009.

Narcotics users accounted for one in four of cases accepted in 2009 (n=464; 24.1%), and stimulant drugs represented one-fifth of the caseload (n=347; 19.4%). Heroin was the principal drug of concern (n=429) for most narcotic using defendants, and showed an increase of almost 4% of total accepted cases compared to 2008 (n=337).

The number of different drugs used problematically by accepted defendants in 2009 ranged from one to nine, with an average (median) of two. Figure 4.2 below shows that while 'Other' drug and 'Stimulant' use have remained relatively consistent over the 9 years since 2001, 'Cannabis' use has been steadily increasing across that period. While Narcotic use has stabilised after showing consistent declines from 2000 to 2005.

Figure 4.2: Trends in principal drug of concern addressed by MERIT (2000-2009) (N=13,041)

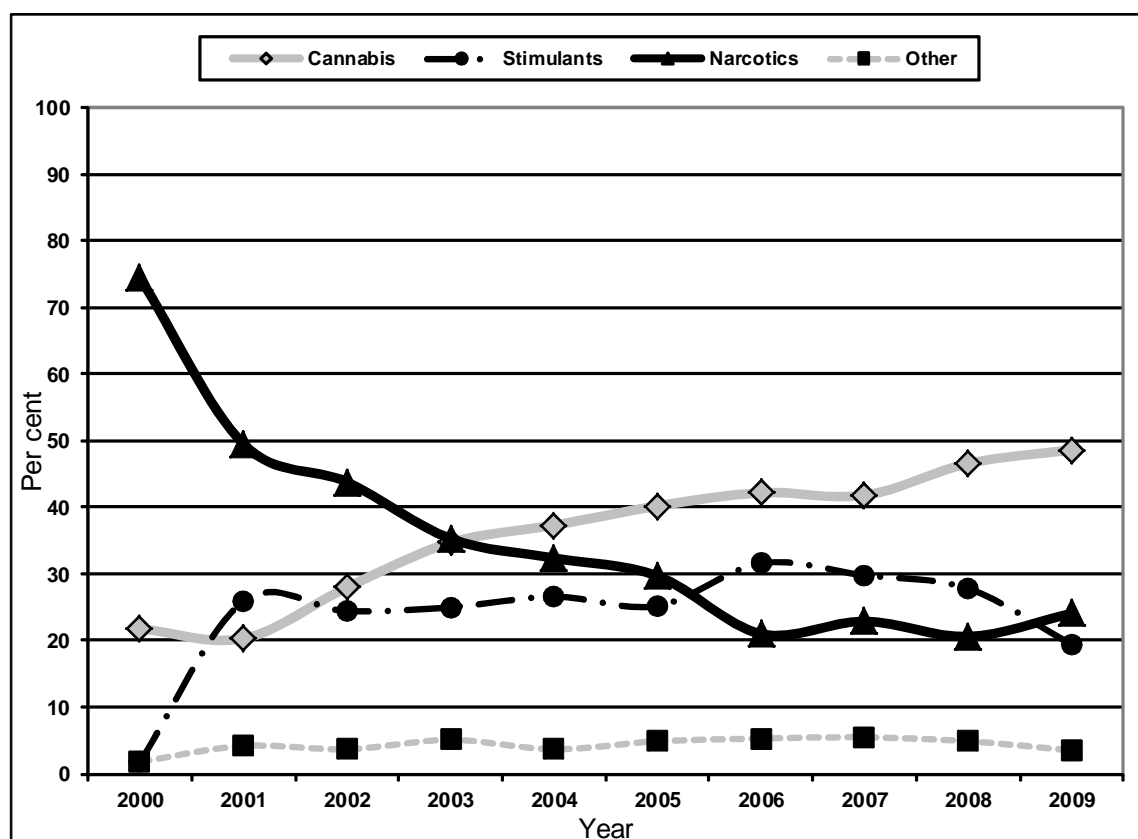


Table 4.7: Principal drug of concern for accepted MERIT defendants (2009)

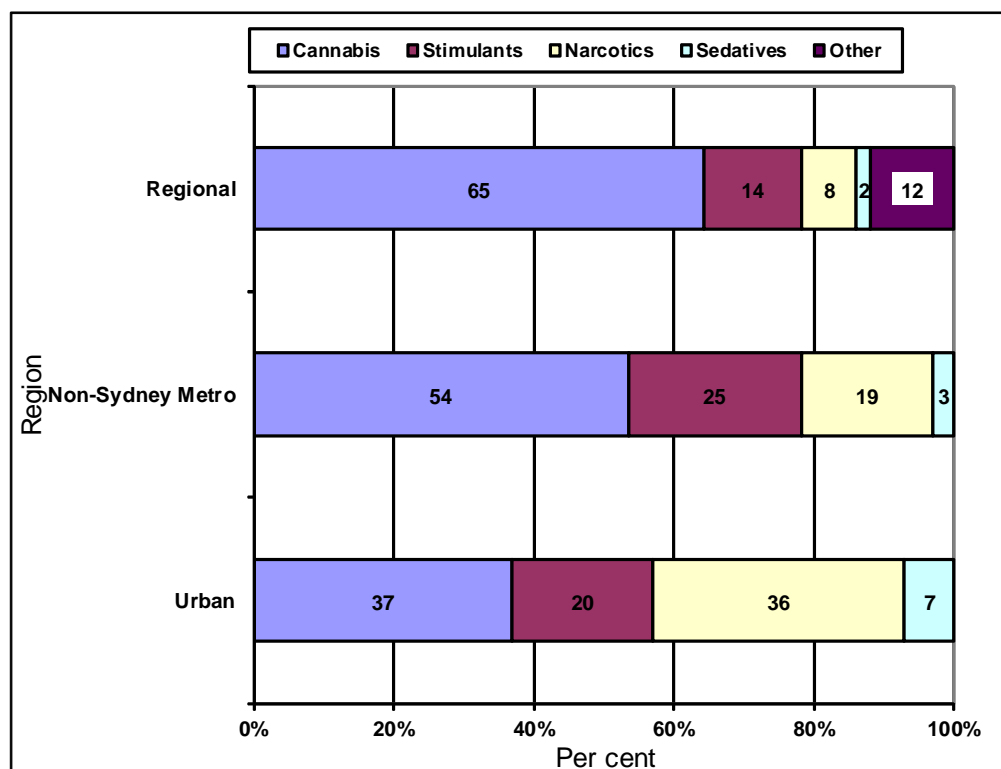
Principal drug of concern		n	%
Cannabis		<b>938</b>	<b>48.6</b>
Stimulants	Amphetamines/Methamphetamines (inc. Speed, Ice)	301	15.6
	Cocaine	39	2.0
	MDMA (ecstasy)	36	1.9
	Other	1	0.1
	<b>Sub-total</b>	<b>377</b>	<b>19.6</b>
Narcotics	Heroin	429	22.2
	Methadone	8	0.4
	Morphine (inc. MS Contin, Opium)	20	1.0
	Buprenorphine	3	0.2
	Other	4	0.3
	<b>Sub-total</b>	<b>464</b>	<b>24.1</b>
Sedatives/anaesthetics	Benzodiazepines	82	4.2
	Gamma-hydroxybutyrate (GHB)	2	0.1
	Other	2	0.1
	<b>Sub-total</b>	<b>86</b>	<b>4.5</b>
Alcohol <sup>18</sup>		<b>60</b>	<b>3.1</b>
Other		5	0.3
<b>TOTAL</b>		<b>1930</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. 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 2008 cannabis was the main drug of concern for half (51.8%; n=1,594) of all regionally based accepted defendants, compared with 30 per cent of urban defendants (31.2%; n=1,507). By contrast, reporting of narcotics as the principal drug of concern increased as a function of urbanisation across Regional (18.8%; n=579), Metro (23.3%; n=747) and Urban (38.5%; n=1,845) based defendants accepted into the program. The principal drugs of concern for persons accepted by MERIT by region in 2009 are set out in Figure 4.3. As illustrated in Table 4.8, there has been a decrease across all regions in referrals for stimulant use. Whereas Urban and Metro areas have seen increases in referrals for narcotics, there has been a decrease in narcotics referrals and an increase in 'Other Drug' referrals – which is related to increased referral for alcohol use – in Regional areas.

Figure 4.3: Principal drug of concern for accepted defendants, by region (2009)



<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 4.8: Principal drug of concern for accepted defendants, by region (2008 and 2009)

Principal drug of concern	2008			2009		
	Urban	Non-Sydney Metro	Regional	Urban	Non-Sydney Metro	Regional
Cannabis	35.7	52.8	61.6	36.8	53.5	65.0
Stimulants	28.3	33.8	19.7	20.1	24.6	13.8
Narcotics	30.3	11.0	12.1	36.1	18.6	7.7
Other	5.7	2.4	6.6	7	3.4	13.4
<b>n</b>	<b>879</b>	<b>509</b>	<b>422</b>	<b>926</b>	<b>484</b>	<b>520</b>

## 4.5 Number of charges and type of offence

### 4.5.1 Number of charges

There were a total of 5,388 charges against 2,749 defendants<sup>20</sup> referred to MERIT during 2009. One defendant was recorded as receiving 28 charges; the range of the remaining defendants was one to thirteen.

The average (median) number of charges was one. The number of charges against a defendant had no bearing on the likelihood of being accepted onto the program in 2009; those with one charge had an acceptance rate of 68.6% whereas those with two or more charges had an acceptance rate of 71.7%.

<sup>20</sup> Data on charges were missing for 268 of referrals; data for all accepted cases were available

#### 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 2009 were awaiting sentence. As alluded to above, around half (n=1,425; 52%) of defendants had two or more outstanding charges at the point of referral<sup>21</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 2009. More than three-fifths of the defendants at referral (60.5%) and acceptance (60.6%) stages of the MERIT process had pending charges relating to these offences. Amongst those accepted onto the program in 2009, those assessed as having cannabis as their principal drug of concern comprised the largest group charged with illicit drug offences (59.6%; n=441). By contrast, users of narcotics were the group most likely to be charged with theft and related offences (43.6%; n=240).

Just under half those referred (n=726; 45.9%) and accepted (n=640; 45.7%) onto the MERIT program in 2009 had previously served a custodial sentence<sup>22</sup>. Those engaging with MERIT for support principally around their use of cannabis were significantly less likely to report having previously been imprisoned (36.5%) than others (56.6%) accepted during this period<sup>23</sup>.

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<sup>21</sup> The offences considered have been structured according to the Australian Bureau of Statistics' Australian Standard Offence Classification (ASOC) system.

<sup>22</sup> Information on previous experience of prison was missing in a total of 1437 referrals; this included missing data for 530 accepted cases.

<sup>23</sup>  $\chi^2 = 62.6$ ,  $df=1$ ,  $p=0.000$

Table 4.9: Offence types for referred and accepted MERIT defendants (2009)

Offence type	Referred (n=2,749)		Accepted (n=1,930)	
	n	% of defendants	n	% of defendants
Acts intended to cause injury	464	16.9	297	15.4
Against justice procedures, government security/operations	353	12.8	236	12.2
Dangerous or negligent acts endangering persons	181	6.6	132	6.8
Deception and related offences	78	2.8	61	3.2
Homicide and related offences <sup>24</sup>	2	0.1	2	0.1
Illicit drug offences	1078	39.2	740	38.3
Miscellaneous offences	207	7.5	164	8.5
Property damage and environmental pollution	237	8.6	172	8.9
Public order offences	84	3.1	56	2.9
Road traffic and motor vehicle regulatory offences	378	13.8	273	14.1
Robbery, extortion and related offences	55	2.0	39	2.0
Sexual assault and related offences	4	0.1	0	0
Theft and related offences	746	27.1	551	28.5
Unlawful entry with intent/burglary, break and entry	176	6.4	129	6.7
Weapons and explosives offences	100	3.6	60	3.1

<sup>24</sup> Note that the homicide and related offences category includes charges for death and injuries arising from road accidents. Both defendants in this category were facing charges for driving causing death.

\* Data on charges were missing in 268 referred cases; data for all accepted cases were available



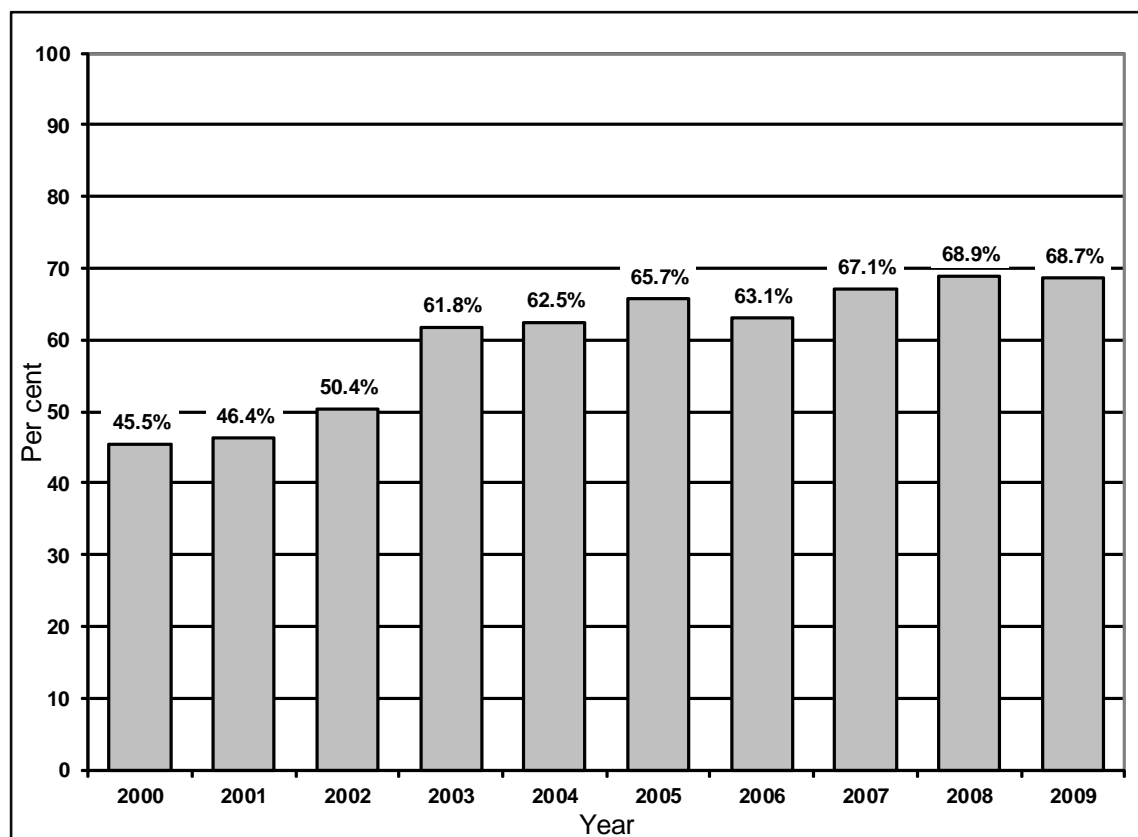
## 5. MERIT PROGRAM EXITS

This chapter considers the 1,917 defendants who were accepted into MERIT and subsequently exited the program at some point during 2009. Around one in four of these participants (n=458; 23.8%) had accessed the program during 2008. The remainder engaged with MERIT during 2009 (n=1,459). 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

Sixty-nine per cent of MERIT participants exited the program during 2009 having met all program requirements. As illustrated in Figure 5.1, this is similar to the rate recorded in 2008.

*Figure 5.1: MERIT program completion rates for accepted defendants (2000-2009)*  
(N=12,571)



The remaining participants who exited MERIT during 2009 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 2008, there was an increase in the proportion of participants removed by the court. The rate at which defendants were breached by the MERIT team for non-compliance with program requirements was similar to that of 2008.

Table 5.1 Status of participants exiting the MERIT program (2008 and 2009) (n=1,917)

Exit status	2008		2009	
	n	%	n	%
Completed program	1,279	68.9	1,317	68.7
Breached by MERIT	314	16.9	329	17.2
Withdrew voluntarily	161	8.7	151	7.9
Removed by court	86	4.6	103	5.4
Died	1	0.1	2	0.1
Other	16	0.9	15	0.8
<b>TOTAL</b>	<b>1,857</b>	<b>100</b>	<b>1,917</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>25</sup> in 2009 was 88 days; as expected, this is a significantly longer period of contact time than non-completers (49 days)<sup>26</sup>. This trend is consistent with previous Annual Reports; both completers and non-completers in 2009 spent similar times in contact with MERIT to their counterparts in 2008 (median 90 days and 49 days respectively). However, whilst completers in 2009 had more overall contact with staff during their time engaged with MERIT (mean 21; median 18 contacts) than non-completers (mean 14; median 10 contacts)<sup>27</sup>, there were no significant differences in the average (median) rate of service access between completers (one contact every 5.0 days) and non-completers (one contact every 5.2 days) during their engagement with the program.

## 5.3 Treatments and services

This section considers both the nature and extent of previous treatment exposure of defendants prior to accessing MERIT and the range of treatment services delivered by external providers to participants as part of their contact with the program.

<sup>25</sup> Calculated using program entry and exit dates as recorded in MIMS database.

<sup>26</sup> Mann-Whitney U = 121888.5, p=0.000

<sup>27</sup> Mann-Whitney U = 2342285.0, p=0.000

### 5.3.1 Treatment history prior to MERIT

Data on previous exposure to substance misuse treatment services were available for 95 per cent (n=1,829) of the 1,917 MERIT participants who exited the program in 2009. Just over one third (n=633; 34.6%) reported MERIT as their first contact with drug treatment services; an increase on figures for 2008 (31.6%). Amongst those reporting having accessed specialist support prior to their contact with MERIT (n=1,196; 63.5%), the number of different types of intervention accessed range from one to eight, with an average (median) of one. The main treatment modalities accessed in the past by exiting MERIT participants during 2009 are set out in Table 5.2, below.

*Table 5.2: Previous substance misuse treatments received by exiting MERIT participants who had accessed services (2009) (n=1,196)*

<b>Previous treatment modality*</b>	<b>n</b>	<b>%</b>
Counselling	738	61.7
Pharmacotherapies	654	54.7
Withdrawal management	452	37.8
Residential rehabilitation	365	30.5
Support and case management	84	7.0
Information and education	37	3.1
Consultation (not withdrawal management)	51	4.3
Other	118	9.9

\* 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. Deploying what might be described as a generic 'support and case management' approach (which was received by 98.7 per cent of exiting participants during 2009), 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 (42.7%; n=819) of the 1,917 exiting defendants in 2009 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 693 (84.6%)<sup>28</sup> of the 819 exiting MERIT participants in 2009 who were referred for such support. This group accessed 1,198 separate forms of intervention from external providers during their time with the program; more than two-fifths (n=298) 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 10 days (ranging from 0 to 390 days). The most common forms of support received by these referred exiting participants during 2009 were:

- withdrawal management (35.5%; n=246);
- residential rehabilitation (37.6%; n=261);
- other interventions (e.g. mental health, education and employment support, health services) (43.0%; n=298);
- pharmacotherapies (39.5%; n=274); and
- counselling (12.3%; n=85).

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<sup>28</sup> With the exception of inpatient treatments (rehabilitation and detoxification), other interventions and services provided by agencies external to the MERIT team can be poorly recorded on MIMS.

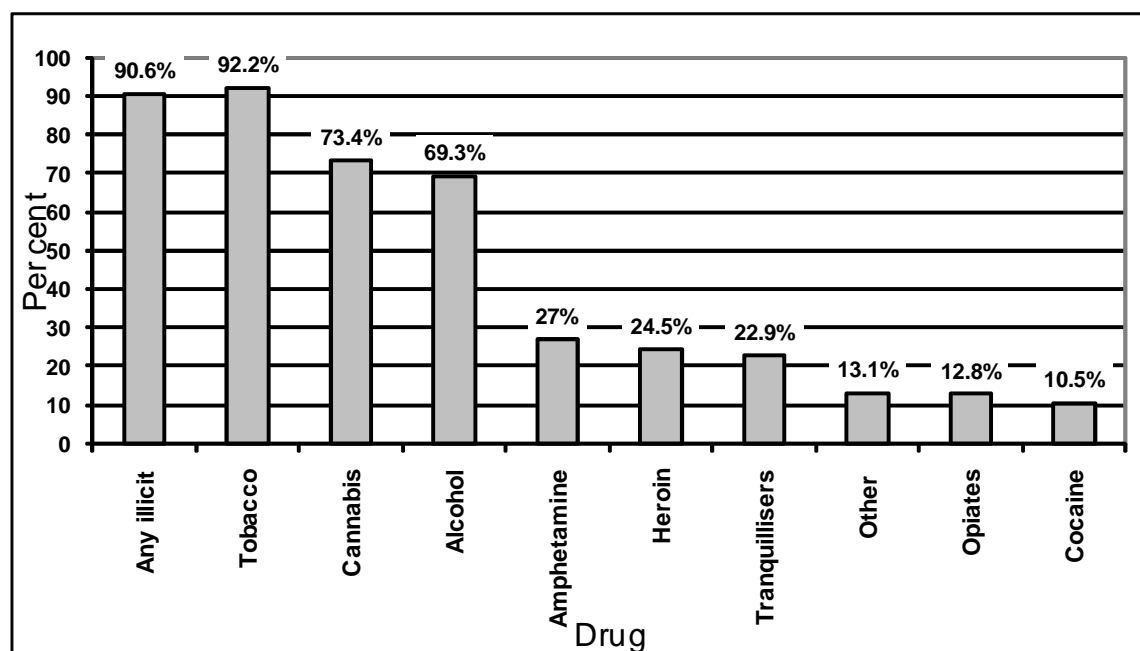
## 6. SUBSTANCE USE AND HEALTH OUTCOMES

This section provides information on the 1,930 defendants accepted by MERIT in 2009. Self-reported substance use and physical and psychological health information is collected upon entry to and exit from the MERIT program, where possible<sup>29</sup>.

### 6.1 Substance use

Nine out of ten defendants accepted by MERIT (and for whom data were available) had reportedly used an illicit<sup>30</sup> drug in the 30 days prior to program entry<sup>31</sup> (n=1,285; 90.6%). Cannabis was the most commonly used illicit substance, consumed by around three-quarters of all defendants during this period (n=1,038). Figure 6.1 illustrates the nature and extent of substance use among accepted defendants upon entry to the MERIT program during 2009.

Figure 6.1: The nature and extent of drug use among accepted MERIT defendants at program entry (2009)



\* Each analysis of drug items involved differing total group size and numbers of missing cases. Group sizes: any illicit (1418), tobacco (1418), cannabis (1414), alcohol (1415), amphetamine (1407), heroin (1410), tranquilisers (1404), other (1362), opiates (1409), cocaine (1404). Percentages are calculated against the total available number of cases.

The average (mean) number of substances used by defendants was 3.4 (ranging from 0 to 8). Excluding the use of alcohol and tobacco, the average (mean) number

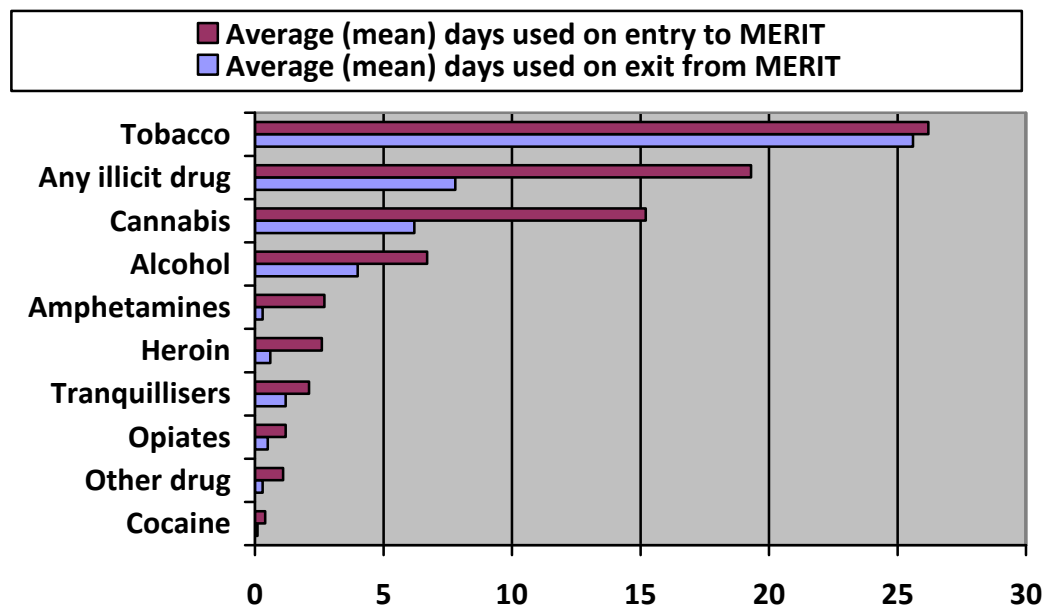
<sup>29</sup> For a range of different reasons (considered in more detail on page 9) exit data on substance use and health outcomes are almost exclusively restricted to program completers and should therefore not be considered representative of all program participants.

<sup>30</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>31</sup> Data on drug use at entry to MERIT were missing for 512 cases.

of *illicit* substances used was 1.8 (ranging from 0 to 6). This compares with a figure of 1.7 illicit substances reported in the 2008 Annual Report. At entry to MERIT around half (52.6%) the defendants during 2009 reported consuming illicit drugs on 25 days out of the last 30 (mean 19.7). 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 2009 revealed reductions in the frequency of use across all nine categories.

Figure 6.2: Average (mean) frequency of substance use upon entry to and exit from the program (2009) (n=748)



Furthermore, the reductions in both the frequency and intensity<sup>32</sup> of self-reported substance use were statistically significant across all categories for this sub-sample of accepted MERIT participants in 2009. 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>32</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 (n=748)

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	746	6.8	4.0	z=8.98, p=0.000,	746	78.1	24.9	z=10.01, p=0.000,
Tobacco	748	26.9	25.8	z=-3.15, p=0.002,	748	457.9	414.8	z=6.19, p=0.000,
Cannabis	747	15.6	5.9	z=-17.09, p=0.000,	745	272.6	41.0	z=17.63, p=0.000,
Opiates	746	1.1	0.4	z=-4.39 p=0.000,	744	5.5	1.6	z=4.39, p=0.000,
Heroin	746	3.1	0.4	z=-10.26, p=0.000,	744	7.5	2.4	z=9.49, p=0.000,

<b>Substance</b>	<b>N</b>	<b>Average (mean) days used on MERIT entry</b>	<b>Average (mean) days used on MERIT exit</b>	<b>Wilcoxon signed-rank test results</b>	<b>N</b>	<b>Average (mean) intensity score on MERIT entry</b>	<b>Average (mean) intensity score on MERIT exit</b>	<b>Wilcoxon signed-rank test results</b>
Cocaine	744	0.4	0.1	z= 5.13, p=0.000,	742	2.3	0.3	Z5.66, p=0.000,
Amphetamines	744	1.8	0.4	z=9.21, p=0.000,	743	9.6	1.0	z=9.40, p=0.000,
Tranquilisers	743	2.7	1.1	z=7.26, p=0.000,	741	15.3	4.6	z=7.78, p=0.000,
Other drug	723	1.2	0.2	z=6.92, p=0.000,	714	3.4	0.3	z=7.05, p=0.000,
Any illicit drug <sup>33</sup>	711	19.7	7.4	z=-18.9, p=0.000,	711	272.9	45.1	z=-18.8, p=0.000,

<sup>33</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 2009 (8.1) is consistent with the figure reported for the 2008 MERIT cohort (8.1). However, while the average dependency score increased between 2008 and 2009 for Alcohol users (from 5.6 to 6.6) and 'Other' drug users (from 6.0 to 6.7), the SDS score for cannabis users fell slightly (from 7.9 to 7.6).

*Table 6.2: Average (mean) Severity of Dependence Scale scores for accepted defendants during 2009 (n=1,410)*

Principal substance	2009	
	N	Mean (SD) <sup>34</sup>
Narcotics	331	9.6 (3.1)
Sedatives	47	8.8 (2.9)
Stimulants	251	7.8 (3.5)
Cannabis	704	7.6 (3.4)
Other	35	6.7 (2.7)
Alcohol	42	6.6 (3.1)
Total	1,410 <sup>35</sup>	8.1 (3.5)

Those accepted MERIT defendants for whom SDS data were available both on entry to the program in 2009 and upon exit (n=744) recorded a 33 per cent reduction in overall dependency scores. As illustrated in Table 6.3, these statistically significant reductions in SDS scores were also apparent for all types of principal problem substance.

<sup>34</sup> SD=standard deviation.

<sup>35</sup> SDS scores are missing for 520 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 (n=744)

Principal drug	N	Average (mean) SDS score on MERIT entry	Average (mean) SDS score on MERIT exit	Wilcoxon signed-rank test results
Cannabis	412	7.6	5.2	$z=10.52$ , $p=0.000$ ,
Stimulants	124	7.7	5.0	$z=6.25$ , $p=0.000$ ,
Narcotics	157	9.6	6.7	$z=7.32$ , $p=0.000$ ,
Sedatives	24	8.8	5.4	$z=3.59$ , $p=0.001$ ,
Alcohol	25	6.6	3.4	$z=3.71$ , $p=0.000$ ,
Other	2	8.0	5.0	$z = .45$ , $p = .655$
Total SDS score	744	8.1	5.4	$z=15.16$ , $p=0.000$ ,

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>36</sup>. For example, most principal users of narcotics (scoring 3+; 87%; n=138), stimulants (scoring 4+; 67%; n=84) and cannabis (scoring 3+; 74%; n=305) 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=792; 55.1%) of all accepted defendants during 2009 had reportedly injected at some point in the past. Most of those with a history of injecting (72.7%; n=773) had also done so during the three months prior to their contact with MERIT.

## 6.4 General Health and Well-being

### 6.4.1 Psychological distress

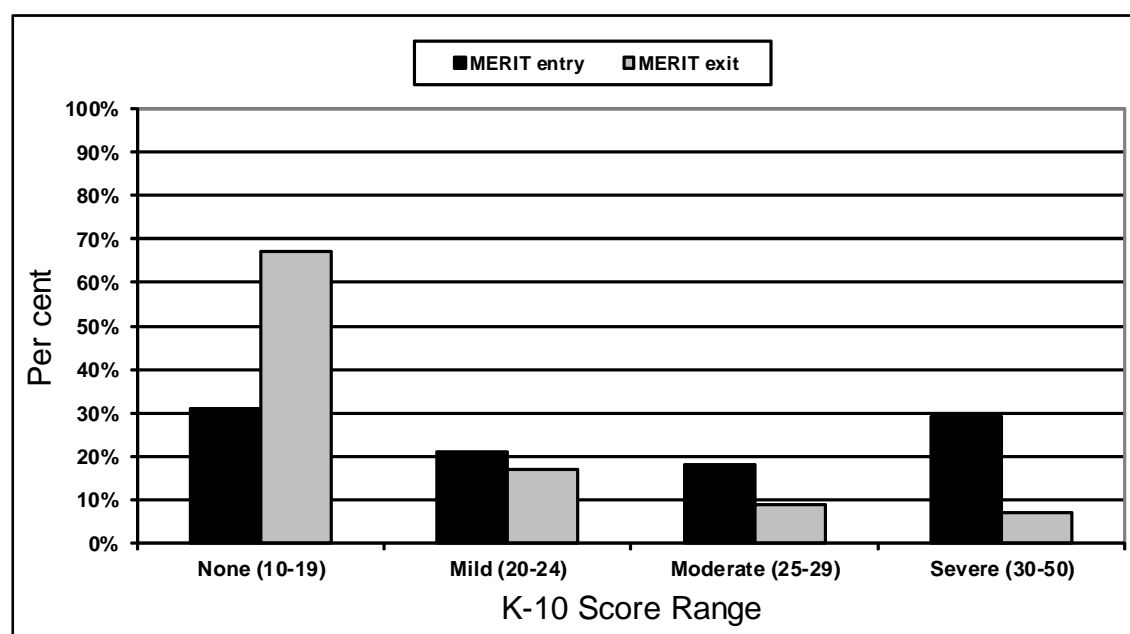
Levels of psychological distress amongst accepted MERIT defendants during 2009 were measured using the Kessler-10 (K-10) Psychological Distress Scale (Kessler et al., 2002). With possible scores ranging from 10 to 50, reduced K-10 scores are

<sup>36</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.

indicative of lower levels of psychological distress. The average (median) score for accepted MERIT defendants during 2009 was 24<sup>37</sup>. This is the highest threshold for mild psychological distress (scores in the region of 25-29 indicate moderate levels of distress). However, 29.4 per cent (n=415) 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 2009 (n=743) there was a significant reduction<sup>38</sup> in overall scores: from 25 to 18 (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=743).



#### 6.4.2 Physical and mental health (SF-36)

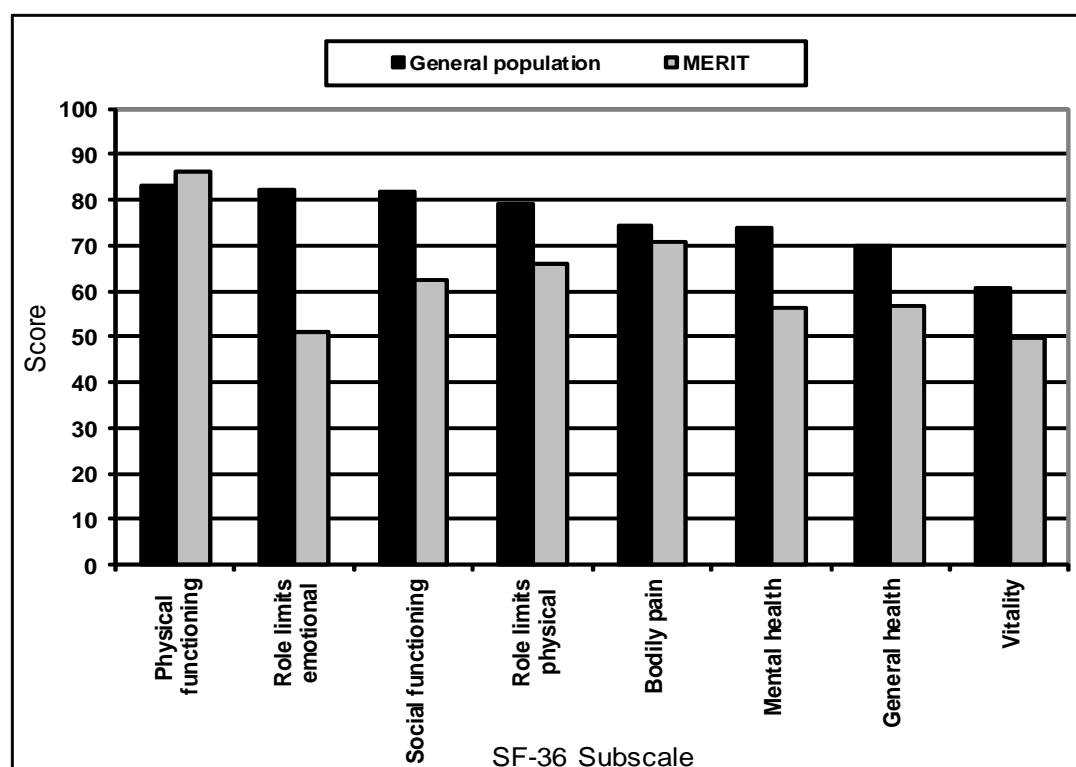
The physical and mental health of accepted MERIT participants was assessed using the SF-36 Health Survey (Ware, Snow & Kosinski, 1993). The survey assesses eight domains with possible scores ranging from 0 to 100, with higher scores indicating enhanced health and functioning. As illustrated in Figure 6.4, the accepted MERIT sample (n=1,393)<sup>39</sup> in 2009 had a poorer physical and mental health prognosis than the general Australian population (Butterworth & Crosier, 2004) in seven of the eight domains considered.

<sup>37</sup> K-10 scores were missing in 519 cases on entry to MERIT.

<sup>38</sup>  $z = -19.15$ ;  $p = 0.000$ .

<sup>39</sup> SF-36 data were missing for 537 accepted cases on entry to MERIT.

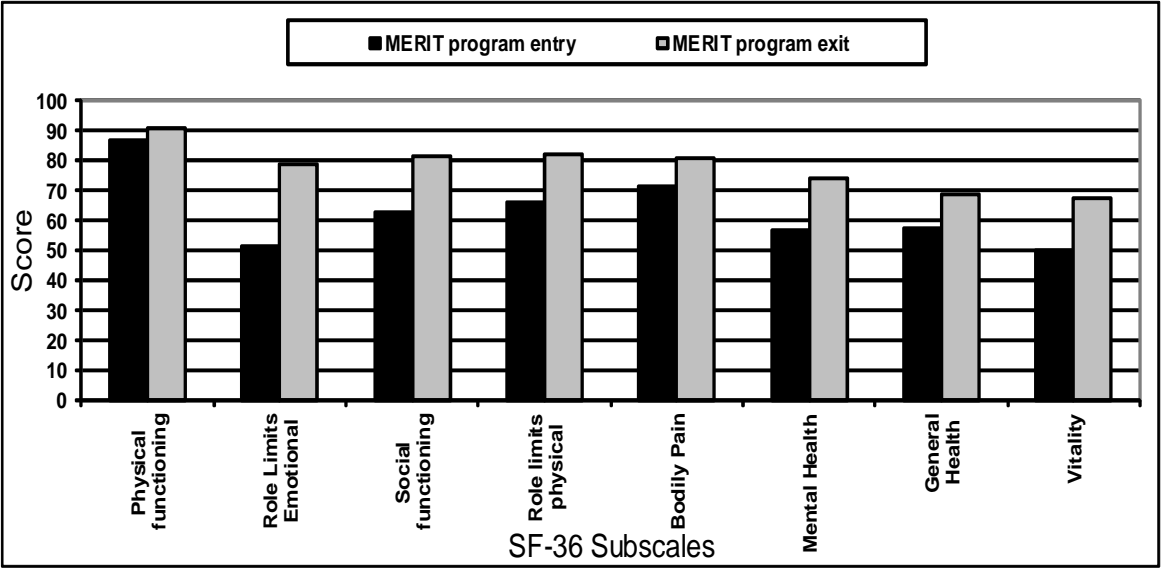
Figure 6.4: Average (mean) SF-36 subscale scores for MERIT participants during 2009 versus the general population



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 2009 following their contact with the program (n=742). Using this approach there were statistically significant increases<sup>40</sup> in SF-36 scores recorded across each of the assessed domains (see Figure 6.5 below). The improvements in domains of Physical Functioning, Role Limits Physical, Bodily Pain and Vitality, were substantial enough to move the MERIT sample above the Australian population average in these domains.

<sup>40</sup> General health (z=-14.19; p=0.000;); mental health (z=-17.31; p=0.000;); bodily pain (z=-9.47; p=0.000;); physical functioning (z=-7.14; p=0.000;); role limits physical (z=-9.94; p=0.000;); role limits emotional (z=-12.99; p=0.000;); social functioning (z=-14.20; p=0.000;); and vitality (z=-16.32; p=0.000;).

Figure 6.5: Changes in average (mean) SF-36 subscale scores on entry to and exit from the MERIT program (2009) (n=742)



## 7. FACTORS ASSOCIATED WITH PROGRAM COMPLETION

This chapter considers those factors related to program completion amongst the 1,917 accepted defendants who exited MERIT during 2009 (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 2008, the factors found to be significantly associated with completion were: employment status, principal drug of concern, receiving counselling and other forms of support, indigenous status, age, and accommodation arrangements (re ownership status and co-occupants). From among the array of assembled variables described above, the factors found to be most significantly associated with program completion during 2009 were:

- Being employed ( $\chi^2=26.8$ ;  $df=1$ ;  $p=0.000$ )
- Being of non-Indigenous status ( $\chi^2=18.9$ ;  $df=1$ ;  $p=0.000$ )
- Receiving counselling support through MERIT ( $\chi^2=13.6$ ;  $df=1$ ;  $p=0.000$ )
- Seeking support principally around the use of cannabis ( $\chi^2=11.7$ ;  $df=1$ ;  $p=0.001$ )
- Living in a privately owned house or flat ( $\chi^2=11.5$ ;  $df=1$ ;  $p=0.001$ )
- Receiving education to the level of Year 10 or higher ( $\chi^2=8.0$ ;  $df=1$ ;  $p=0.005$ )
- Reporting no prior history of injection use ( $\chi^2=7.2$ ;  $df=1$ ;  $p=0.007$ ).

Conversely, the factors most significantly associated with non-completion of a MERIT program in 2009 included:

- Being referred to residential inpatient services in MERIT ( $\chi^2= 30.0$ ;  $df = 1$ ;  $p = 0.000$ )

- Being in receipt of temporary benefits ( $\chi^2 = 20.9$ ;  $df = 1$ ;  $p = 0.000$ )
- Having been previously sentenced to custody ( $\chi^2 = 16.4$ ;  $df = 1$ ;  $p = 0.000$ )
- Being a recent injector ( $\chi^2 = 14.7$ ;  $df = 1$ ;  $p = 0.000$ )
- Being a principal user of narcotics ( $\chi^2 = 11.2$ ;  $df = 1$ ;  $p = 0.001$ )
- Living in temporary accommodation such as boarding houses, refuges and hostels ( $\chi^2 = 9.5$ ;  $df = 1$ ;  $p = 0.002$ )
- Having been previously treated in residential rehabilitation ( $\chi^2 = 5.3$ ;  $df = 1$ ;  $p = 0.022$ ).

## **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 2008).

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 2008. More specifically, this process provided information on:

- the principal penalty received by MERIT defendants;
- the number of defendants brought back before the Local Court within 12 weeks of commencing MERIT; and
- reconvictions within 6 and 12 months of exiting the program.

From the 1,840 defendants exiting the program in 2008 for whom information was sent by MERIT to BoCSAR, 1,769 (96.1%) were successfully matched to the relevant court and reconviction datasets.

### **8.1 Sentence outcomes**

As was the case for the 2007 MERIT cohort, there were considerable differences between the principal penalty outcome for program completers and non-completers in 2008. The most common sentence outcomes for MERIT program completers were again a bond with supervision (18.2%; n=199) or a bond without supervision (17.0%; n=185). By comparison, the most common sentence outcomes for program non-completers were a fine (28.9%; n=127) or a term of imprisonment (18.6%; n=82). Sentence outcomes for the 1,531 MERIT defendants matched by BoCSAR are set out in Table 8.1.



Table 8.1: Sentence outcomes for MERIT defendants (2008) (n=1,531)

Principal penalty <sup>41</sup>	Program completion status	
	Completed	Not completed
Imprisonment (adult)	39 (3.6%)	82 (18.6%)
Juvenile control order (juvenile)	0	1 (0.2%)
Home Detention	5 (0.1%)	1 (0.2%)
Periodic detention	15 (1.4%)	6(1.4%)
Suspended sentence with supervision (adult)	141 (12.9%)	32 (7.3%)
Suspended sentence without supervision (adult)	54(4.9%)	14 (3.2%)
Suspended control order without supervision (juvenile)	2 (0.1%)	0
Community service order (adult)	62 (5.7%)	13 (3.0%)
Bond with supervision (adult)	199 (18.2%)	49 (11.1%)
Bond without supervision (adult)	185 (17.0%)	38 (8.6%)
Fine	147 (13.5%)	127(28.9%)
Nominal sentence	28 (2.6%)	11(2.5%)
Bond without conviction	71 (6.5%)	7(1.6%)
No conviction recorded	57(5.2%)	4 (0.9%)
No action taken	1 (0.1%)	1(0.2%)
No penalty	85 (7.8%)	54 (12.3%)
<b>Total</b>	1,091 (100%)	440 (100%)

\* Sentencing data were not available for 238 of the 1769 cases matched to ROD.

Between 2002 and 2008, the proportion of MERIT non-completers receiving penalties involving imprisonment fell (from 26.1% to 18.6%). The proportion of non-completers for whom the Local Court imposed no penalty also increased over the same period (from 8.6% to 12.3%). During this time there were large increases in the

<sup>41</sup> Where the first court appearance was finalised within the six months after program exit in 2008, or in the month before program exit.

proportion of non-completers sentenced to bonds with and without supervision, and in the use of suspended sentences with supervision.

By contrast, the proportion of program completers subsequently imprisoned increased over this six year period (from 2.2% to 3.6%). However, the rate at which completers received no penalty also increased (from 1.9% to 7.8%).

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: 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>42</sup>.

### **8.2.1 Reconviction within 12 weeks of commencing MERIT<sup>43</sup>**

Consistent with findings from previous Annual Reports, program non-completers in 2008 were significantly more likely to be reconvicted for another offence in the 12 weeks following commencement of MERIT than program completers ( $p=0.000$ ). Table 8.2 describes the number and proportion of 2008 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>42</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>43</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 (2008) (n=1,769)

Any reconvictions within 12 weeks of program entry date?	Program completion status	
	Completed (n=1,223)	Not completed (n=546)
Yes	165 (13.5%)	208 (38.1%)
No	1,058 (86.5%)	338 (61.9%)

### 8.2.2 Reconvictions post-MERIT contact<sup>44</sup>

Six months after completing the MERIT program 25.8 per cent of those defendants exiting the program in 2008 had been convicted for a further offence (n=457). By the time 12 months had elapsed this figure had increased to 37.4 per cent convicted for another offence (n=661). 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=0.000) (see Table 8.3)<sup>45</sup>.

Table 8.3: Rates of reconviction at 6 and 12 months for exiting MERIT defendants (2008) (n=1,769)

Reconviction rates within 6 and 12 months of program exit date	Program completion status	
	Completed (n=1,223)	Not completed (n=546)
Reconvicted at 6 months	260 (21.3%)	197 (36.1%)
Reconvicted at 12 months	399 (32.6%)	262 (48.0%)

<sup>44</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>45</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 2009.

The report identified a number of positive developments during 2009 which indicate that the program had sustained and reinforced many of the achievements made during previous years. Notable examples included:

- Increasing court coverage rates, likely reflecting the addition of Ryde and Wellington 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 Dubbo Local Court.
- Increasing referral rates both overall and specifically for Indigenous defendants.
- Equal acceptance rates for male and female participants.
- Increasing engagement with defendants with a history of previous MERIT episodes (24%) and those reporting not previous contact with treatment services (34.6%).
- Maintaining the high completion rate observed in 2008;
- 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 2008) were significantly less likely to be reconvicted for another offence following their contact with the program.

The predictors of non-completion identified using the 2009 cohort of MERIT participants were largely similar to those identified using the 2008 cohort. In 2009 however, receiving education the level of Year 10 or higher, and reporting no prior history of injecting drug use were both significantly associated with program completion. When combined with the repeat predictors (employment status, indigenous status, counselling support, principal drug and accommodation type) the data indicate that higher functioning individuals 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 for these individuals.

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