

# Magistrates Early Referral Into Treatment (MERIT) Program

Annual Report 2016

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## Executive Summary

This Annual Summary has been prepared by Community Corrections, NSW Department of Justice to report on the Magistrates Early Referral Into Treatment (MERIT) program in 2016.

MERIT was established in 2000, and in 2016 operated in 62 Local Courts in NSW. MERIT Alcohol (a derivative of the MERIT program) operates in seven Local Courts in NSW. MERIT is a voluntary pre-plea program that targets adult defendants with a demonstrable drug problem (or alcohol problem in the case of MERIT Alcohol). The defendant will only be accepted into the program if they are charged with a non-indictable offence and are eligible for bail. The program is designed to allow defendants to focus on treating their drug issues on a pre-plea basis, with court matters adjourned while treatment and case management services are provided over a 12 week period.

The main objectives of the MERIT program are to achieve the points below for its participants during and after program completion:

- Decrease drug related crime
- Increased community protection
- Decrease illicit drug use
- Improved health and social functioning
- Facilitate sentences that reflect better rehabilitation prospects

## **1.0 Introduction**

### **1.1 Background**

MERIT is a voluntary pre-plea program for defendants that fit the following criteria:

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

The program aims to intervene in the cycle of drug use and crime by addressing the health and social welfare issues considered to be instrumental in bringing defendants into contact with the criminal justice system. Progress in the MERIT program is taken into consideration upon sentencing.

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

Once assessed as suitable and accepted into the program, an individually tailored treatment plan is designed for each defendant. This plan 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, employment, housing and legal advice), as appropriate.

In order to inform sentencing decisions, MERIT teams provide Magistrates with a progress report commonly within four to eight weeks of commencement. This includes information on the nature and extent of the defendant's participation, compliance and progress in the program and details any final recommendations with regards to ongoing treatment needs. The frequency of court appearances is determined by the Magistrate, but there is usually at least one scheduled appearance to report on progress.

The Department of Justice is the lead agency for the MERIT program, while the NSW Ministry of Health provides service delivery. Local Health Districts are the primary provider of MERIT services.

## ***1.2 Report Objectives***

Overviews of efficacy and success indicators of the MERIT program are reported on annually:

- Drug usage frequency and intensity (measured pre and post MERIT program intervention)
- Psychological status (measured pre and post MERIT program intervention)
- Recidivism of MERIT program completers and non-completers

## ***1.3 Methodology***

Administrative data have been collated from a number of sources:

- MERIT Information Management System (MIMS)
- Local Court Database (Justice Link)
- NSW Bureau of Crime Statistics and Research (BOCSAR)
- Re-offending data (ROD)

## 2.0 Key Findings

- The greatest number of MERIT referrals (4,589 defendants), since the program began in 2000 was seen in 2016, and exceeded 2015 referrals by 13.7%. A number of defendants (n=82) had not been assessed or accepted into the program at the time of reporting, therefore they have been excluded from the acceptance rate. Of the 4,507 defendants that had been assessed at the time of reporting, 56.5% (2,545 defendants) were accepted into the program.
- Just under a third (29.9%, n=1,347) of referred defendants were not accepted into the program. Of these defendants, over a third (35.9%, similar to 2015) were unwilling to participate in the program. In some cases the Magistrate did not endorse the program for a particular defendant. This accounted for 12.3% of reasons for non-acceptance. However, this figure has been on the decline for a number of years; 19.9% in 2014 and 16.8% in 2015.
- In 2016, the largest number of referrals came from Solicitors, and accounted for just under half (44.9%) of referrals, however this was a decline compared to 2015, (48.1%). Referrals from Magistrates accounted for under a third (29.6%) of all referrals, while Self-Referrals increased considerably in 2016 compared to 2015, (12.4% and 9.0%, respectively).
- Under two-thirds (60.6%) of Solicitor referred defendants were accepted into the program - the highest acceptance rate of all referral sources. Over half of Magistrate referrals and Self-Referrals were accepted into the program (57.3% and 51.4% respectively).
- One in five referrals to the program were of Aboriginal and/or Torres Strait Islander origin (Indigenous) and over half of these referrals (58.0%) were accepted into the program while 61.7% of non-Indigenous referrals were accepted into the program.
- *Defendant decline* of the MERIT program was higher among Indigenous defendants than Non-Indigenous defendants (7.1% vs. 4.6%). *Referral Only* (where the defendant does not use their referral to the program) was also higher among Indigenous defendants than Non-Indigenous defendants (6.9% vs. 4.8%). Indigenous defendants may benefit from an increase in knowledge of the MERIT program, and how it can assist them.
- The MERIT program determines each participant's principal drug of concern (PDC). When the program began in 2000, around three quarters (74.5%) of participants were principal opiate/heroin users, and this has declined to only 8.4% in 2016. Principal cannabis users have been on the decline since 2010 when almost half of MERIT participants (46.9%), were principal cannabis users - however now principal cannabis users make up a third (33.1%) of participants. In 2006, principal stimulant users made up around a third (31.6%) of participants, and then began to decline and reached 18.0% by 2010, however, by 2013, principal stimulant users again made up around a third of participants (30.3%), and in the three years since, has increased by 20.7% to make up just over half (51.6%) of MERIT participants. In 2016, principal stimulant and principal cannabis users accounted for 84.7% of MERIT participants.



- Among MERIT participants in 2016, there were considerable reductions in both the frequency and intensity of all forms of self-reported substance use at program exit compared to program entry. The largest reductions recorded were for cannabis and amphetamines usage.
- In 2016, upon admission to the program, a third of participants (33%) were assessed as experiencing 'severe' psychological distress, however, upon exiting the program this dropped to just 9% of participants. Also, upon program exit, 64% of defendants had 'no psychological distress'.
- There were considerable differences between the principal penalty outcome for MERIT program completers and non-completers, with completers fairing much better than non-completers. In line with 2015 results, the rate of imprisonment for non-completers was 20.1%, compared to 5.6% for program completers.
- When assessing recidivism, MERIT program completers re-offended at a much lower rate than program non-completers. In line with 2015 results, at the 12 week mark, program completers were much less likely to be reconvicted of another offence than program non-completers (14% vs. 40%, respectively). At the 6 month period following the program, the reconviction gap between completers and non-completers begins to narrow (21% vs. 37%), a gap of 16%. At the 12 month mark, the size of the gap between completers and non-completers stabilises; (31% vs. 48%), a difference of 17%.
- Around three in five (61.0%) of the 2,682 MERIT participants who entered the program in 2016 had completed the program (met all of the program requirements). This represents a slight decline in completion rate compared to 2015 (63.1%), and 2014 (65.1%). The decrease was primarily driven by an increase in non-compliance with program conditions. Non-compliance has been increasing from 20.5% in 2014, 23.0% in 2015 and just over a quarter (26.2%) in 2016.
- Just over three quarters (76.6%) of principal alcohol users completed the program – the highest rate of all principal drug users. This was followed by principal cannabis users (68.6%). Principal opiate/heroin users and principal stimulant users both had the lowest program completion rates. Of the principal stimulant users who did not complete the program, just over three quarters (77.2%) did not comply with program conditions, this was slightly lower for principal opiate/heroin users (69.0%). Principal cannabis and principal opiate/heroin users were the most likely of all principal drug types to voluntarily withdraw from the program. Extra attention may need to be given to these participants to determine and address their non-compliance issues, and reasons for voluntarily withdrawal.
- When assessing PDC by region, principal stimulant users accounted for 53.4% of Sydney metro participants, (a slight decline compared to 2015, 54.0%). While principal stimulant usage was the highest in non-metro Sydney (NMS), where almost two thirds (63.4%) of participants were principal stimulant users - a considerable increase from 55.3% in 2015. Regional areas once again had the lowest principal stimulant usage (41.2%), however this increase compared to 2015 (38.9%).
- Just under two-thirds (62.4%, an increase of 3.2% compared to 2015) of principal stimulant users were charged with a *Theft related offence* – the most common offence

for principal stimulant users. Principal stimulant user's contributions to other offences however was also quite high - *Illicit Drug Offences* (51.9%) and *Dangerous or negligent acts* (48.5%).

- Around two in five (41.0%) principal cannabis users were charged with *Dangerous or negligent acts* (the most common offence for principal cannabis users), followed closely by *Illicit drug offences* (38.9%), while 15.9% of principal cannabis users were charged with *Theft related offences*.
- Principal opiate/heroin users were charged with *Theft related offences* more than any other offence (17.5%, a decline of 3.0% compared to 2015). Principal opiate users were around three times more likely to be charged with *Theft related offences* than *Dangerous or negligent acts*, and twice as likely to be charged with *Theft related offences* than *Illicit drug offences*.

*Principal drug of concern (PDC)* was looked into more closely to develop a profile of users and found:

- A greater proportion of females were principal stimulant users than males (59.9% vs. 49.5% respectively). The case was also the same for principal opiate users (10.1% of females vs. 8.0% of males). Females also represented a greater proportion of principal sedatives users than males (2.1% vs. 1.3% respectively).
- A greater proportion of males were principal cannabis users than females (35.7% vs. 23.2% respectively), the case was also the same for alcohol, where 5.6% of males were principal users compared to 4.8% of females.
- A larger proportion of Indigenous participants were principal alcohol users compared to Non - Indigenous participants (11.2% and 3.5% respectively). While a greater proportion of Non - Indigenous participants than Indigenous participants were principal opiate/heroin users (9.0% and 6.5% respectively).

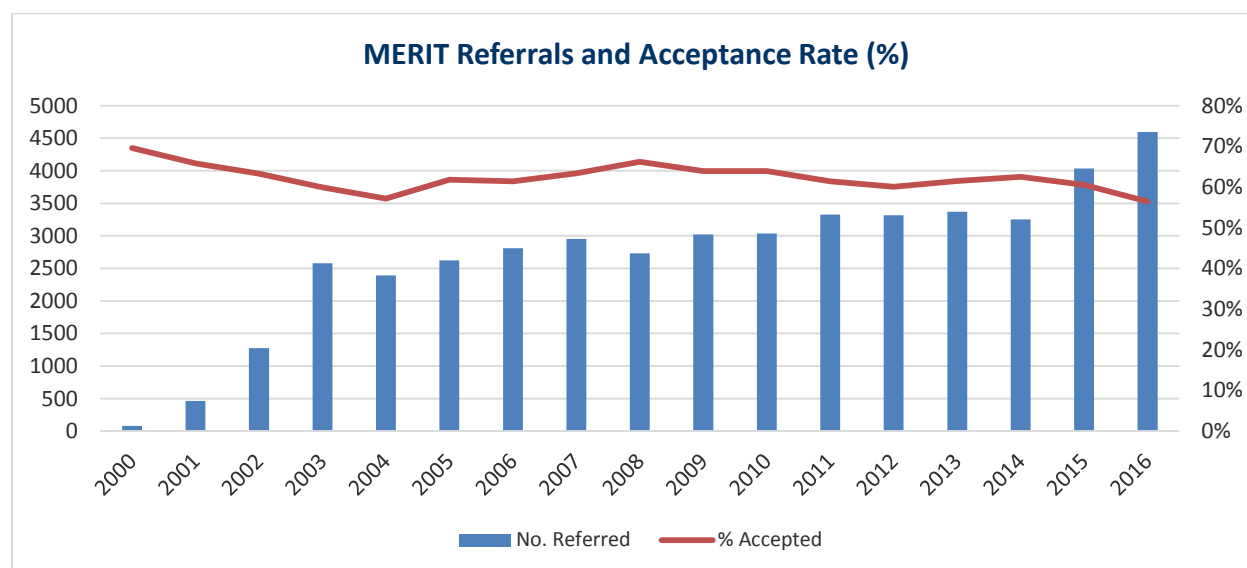
### 3.0 MERIT Program Activity

#### 3.1 Referral and Acceptances

In 2016, MERIT operated in 62 Local Courts and MERIT Alcohol operated in seven Local Courts (Wilcania, Broken Hill, Coffs Harbour, Orange, Dubbo, Bathurst, Wellington).

There were 4,589 referrals to the MERIT program in 2016, the greatest number of referrals since the program began in 2000 (as can be seen in Chart 1). Compared to 2015, there was a 13.7% (n=554) increase in referrals. At the end of 2016, n=82 referrals were still pending assessment or acceptance. When calculating the acceptance rate, these 82 defendants have not been included. The program acceptance rate for 2016 is 56.5%, a decline compared to 2015 (60.5%) and the lowest acceptance rate since the program began.

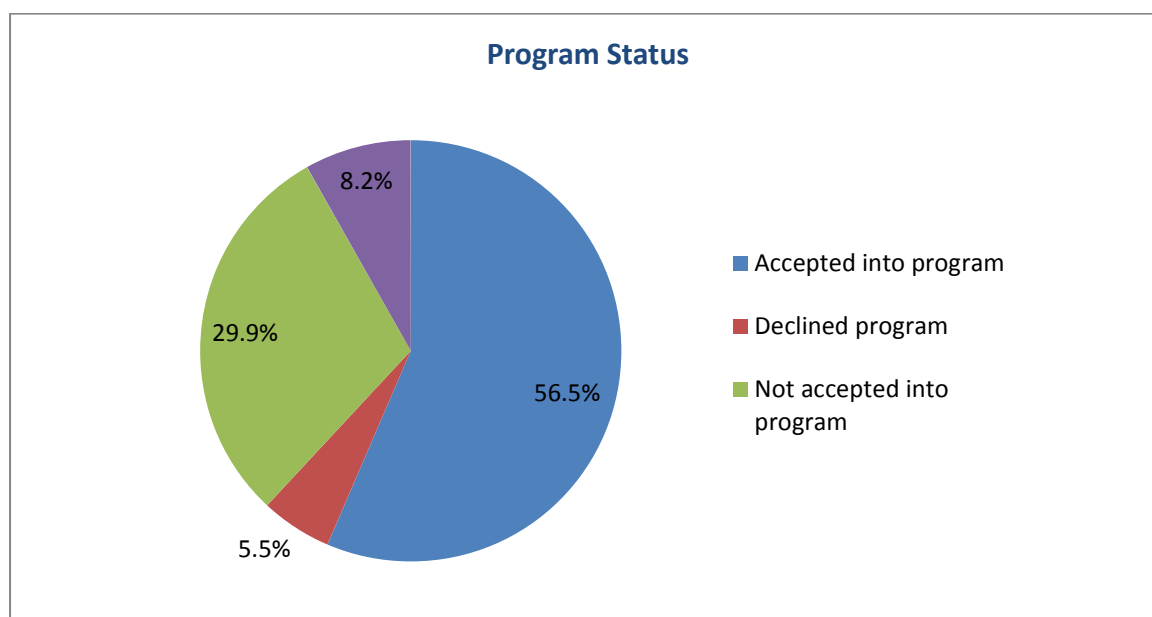
**Chart 1**



### 3.2 Program Status

Chart 2 shows the program status of the 4,507 defendants (excluding the 82 defendants that were still pending assessment or acceptance into the program). Over half (56.5%) of defendants referred were accepted in 2016, compared to 60.5% in 2015. While all other areas increased; *Not accepted into program* increased by 2.4%, *Declined program* increased by 0.8%, and *Referral Only* increased by 0.9% when compared to 2015.

**Chart 2**



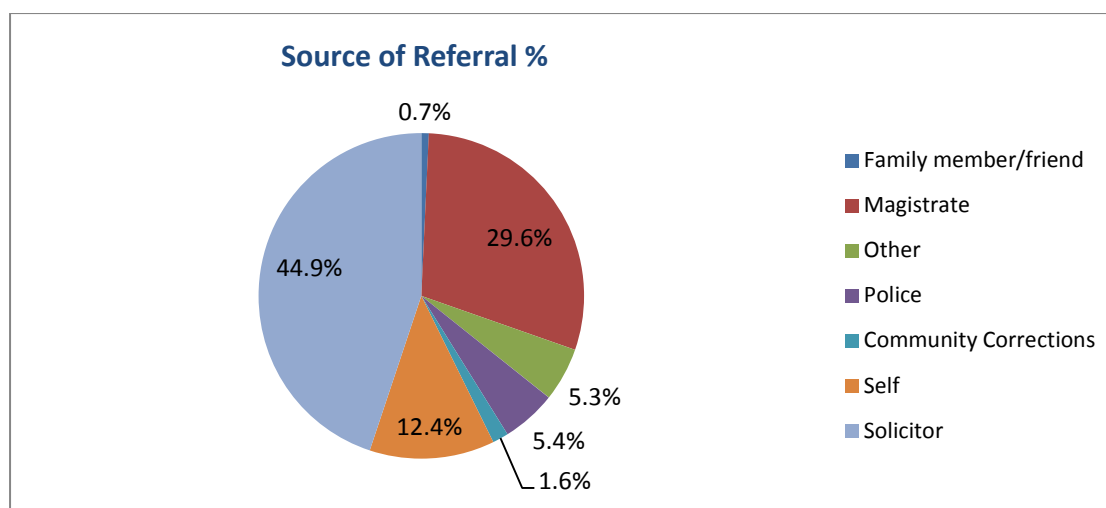
*Note: Referral only is a referral in which the defendant does not make contact with the MERIT team, and therefore program suitability and eligibility is not established.*

*The number of MERIT Referrals (n=4,589) in 2016 are the highest since the program began, while the MERIT Acceptance rate (56.5%) is the lowest since the program began. The MERIT program would benefit from an increase in knowledge of the referral criteria by those who refer defendants to the program.*

### 3.3 Referral Sources<sup>1</sup>

In 2016, *Solicitors* (44.9%), accounted for close to half of all referrals (a decline from 2015, 48.1%), while *Magistrates* accounted for almost a third of referrals, (29.6%), similar to 2015 results. *Police* referrals increased slightly compared to 2015 (5.4% and 5.1%, respectively). Interestingly, *Self - referrals* increased compared to 2015 (12.4% and 9.0%, respectively). Referrals from *Community Corrections*, along with *Family member/Friend* remained low.

Chart 3



*Self - Referrals had the largest increase compared to 2015 (12.4% and 9.0%, respectively). There appears to be an increase in awareness and knowledge by defendants of the MERIT program.*

### 3.4 Program Acceptance by Referral Source

Table 1 shows the acceptance rate by referral source. It can be seen that referrals from *Family member/Friend*, *Solicitor*, and *Magistrates* are the most likely to be accepted into the program (61.8%, 60.6% and 57.3% respectively). Although *Police* referrals have been increasing since 2015, their acceptance rates are the lowest of all referral sources; 33.5% in 2015 and declining further in 2016 to 25.5%.

<sup>1</sup> In 2016 Source of Referral data were missing for n=33 cases

**Table 1**

Referral Source	No. Referred	Referred %	No. Accepted	% Accepted (within each source category)
Solicitor	2044	44.9%	1239	60.6%
Magistrate	1350	29.6%	774	57.3%
Self	566	12.4%	291	51.4%
Police	247	5.4%	63	25.5%
Community Corrections				
	72	1.6%	31	43.1%
Family member/friend	34 <sup>2</sup>	0.7%	21	61.8%
Other	243	5.3%	117	48.1%
Total	4556 <sup>3</sup>	100.0%	2,536 <sup>4</sup>	

### 3.5 Reason for non-acceptance into MERIT

Just under a third of referrals (29.9%, n=1,347) were not accepted into the program, a slight increase compared to 2015 (27.5%). Table 2 shows the reason for non-acceptance into the program in 2016 and 2015 for comparison purposes. In 2016, over a third of those not accepted into the program (36.5%) were determined to be *Not Eligible* (a slight increase compared to 2015, 35.8%). Defendants deemed to have *No demonstrable drug problem*, (28.9% of those not accepted into the program) increased by 2.4% compared to 2015.

Almost two in five (38.4%) defendants who were not accepted into the program in 2016 were determined as *Not Suitable* for the program; a slight increase on 2015 results. As in 2015, the *Not Suitable* category was primarily made up of defendants who were *Unwilling to participate in the program*. The proportion of defendants who were unwilling to participate increased considerably between 2014 (27.0%) and 2015 (35.8%), and has now stabilised at just over a third of participants (35.9%).

*Program entry not endorsed by Magistrate* has been on the decline for the past few years, from 19.9% in 2014, to 16.8% in 2015, and now 12.3% of those not accepted into the program. *Program being full* increased from 0.5% in 2015 to 1.3% in 2016.

<sup>2</sup> Note: small base size

<sup>3</sup> In 2016 Referrals data by source were missing for n=33 cases

<sup>4</sup> In 2016 Accepted data by source were missing for n=9 cases

**Table 2**

Reason for non-acceptance (29.9% of defendants referred)		2015 %	2016 %
<b>Not Eligible</b>	No demonstrable drug problem <sup>5</sup>	26.5	28.9
	Not eligible for bail	6.4	4.7
	Strictly indictable offence(s)	2.8	2.7
	Not an adult	0.1	0.2
	<b>Sub total</b>	<b>35.8</b>	<b>36.5</b>
<b>Not Suitable</b>	Unwilling to participate	35.6	35.9
	Mental health concern	1.2	1.6
	Already in court ordered treatment	0.6	0.9
	<b>Sub total</b>	<b>37.4</b>	<b>38.4</b>
<b>Program logistics</b>	Resides outside treatment area	1.3	1.1
	Program full	0.5	1.3
	<b>Sub total</b>	<b>1.8</b>	<b>2.4</b>
<b>Program entry not endorsed by Magistrate<sup>6</sup></b>		<b>16.8</b>	<b>12.3</b>
<b>Other</b>		<b>8.4</b>	<b>10.4</b>
<b>Total</b>		<b>100.0</b>	<b>100.0</b>

### 3.6 Previous Referrals

Given the chronic, relapsing nature of drug dependency, a previous referral to MERIT does not render a defendant ineligible for a subsequent referral at a later date. It is also possible that a defendant might not have been accepted into or completed the program following an earlier referral.

In 2016 just over a quarter (25.7%) of defendants had previously been referred to the MERIT program, similar to the 2015 results (26.0%).

### 3.7 Gender

In line with 2015 results, around one in five referrals (21.4%) to the MERIT program in 2016 were females. Females had a lower program acceptance rate than males (54.5% compared to 58.3%).

<sup>5</sup> Includes the categories: *No suspicion or history of drug use* and *No treatable drug problem*

<sup>6</sup> Includes the categories: *Current offences deemed ineligible by Magistrate* and *Court matters finalised/dismissed prior to program entry*

### 3.8 Age

In Table 3, in 2016 the age group with the largest proportion of defendants referred to the program was again the 25-29 years olds (18.2%), a slight increase from 17.8% in 2015. The age group with the lowest proportion of referred defendants were again the over 50 year olds, who made up 4.9% of all defendants referred (similar to last year's results, 4.8%).

The age group who were most likely to be accepted into the program were the 35-39 year olds; almost two thirds (60.9%) were accepted, followed by the 25-29 year olds (57.0%), and 40-49 year olds (56.9%). Defendants least likely to be accepted into the program were the 18-20 year olds (50.6%).

The median age for defendants referred into the program was 33 years, and the median age for those accepted was 31 years.

**Table 3**

Age	2015 Referred		2015 Accepted (within age group)		2016 Referred <sup>7</sup>		2016 Accepted (within age group)	
	n	%	n	%	n	%	n	%
<b>17 or under</b>	1	0.0	0	0.0	6	0.1	0	0
<b>18-20</b>	496	12.3	269	54.2	544	11.9	275	50.6
<b>21-24</b>	649	16.1	388	59.8	757	16.5	408	53.9
<b>25-29</b>	714	17.8	433	60.6	834	18.2	475	57.0
<b>30-34</b>	692	17.2	439	63.4	813	17.8	447	55.0
<b>35-39</b>	575	14.3	347	60.3	657	14.3	400	60.9
<b>40-49</b>	700	17.4	444	63.4	743	16.2	423	56.9
<b>Over 50</b>	194	4.8	122	62.9	226	4.9	117	51.8
<b>Total</b>	4021	100.0	2,442		4580	100.0	2545	

### 3.9 Indigenous Status

#### 3.9.1 Indigenous Status (Referred and Accepted)

As illustrated in the Table 4, 20.9% of defendants referred to MERIT in 2016 identified as Aboriginal and/or Torres Strait Islander (Indigenous), in line with 2015 figures. In 2016, Indigenous defendants accounted for 19.9% of defendants accepted into the program.

Table 5 shows that Indigenous defendants, were slightly less likely (by 3.7%) to be accepted into the MERIT program than Non-Indigenous defendants (58.0% and 61.7% respectively). However, given the similarity of non - acceptance rates between Indigenous and Non-Indigenous defendants (28.0% and 28.9% respectively), this lower rate of acceptance

<sup>7</sup> In 2016, Age data were missing for n=9 cases



appears to be primarily driven by Indigenous defendants not making further contact with the MERIT clinician (*Referral Only*), or declining the MERIT program all together. This is verified by considerably higher rates of program decline by Indigenous defendants than Non-Indigenous defendants (7.1% and 4.6% respectively).

*There may be some benefit in providing more information about the MERIT program to Indigenous defendants, as well as providing more follow up with them to increase their program participation levels. Conducting further research into the barriers of participation for Indigenous defendants would also be useful.*

**Table 4 – Percentage of all defendants**

Indigenous Status	Referred n	Referred %	Accepted n	Accepted %
Indigenous	846	20.9	491	19.9
Non-Indigenous	3201	79.1	1975	80.1
<b>Total</b>	4047 <sup>8</sup>	100.0	2466 <sup>9</sup>	100.0

**Table 5 – Percentage within Category (Indigenous and Non-Indigenous)**

Indigenous Status	Accepted %	Not Accepted %	Declined %	Referral Only %
Indigenous	58.0	28.0	7.1	6.9
Non-Indigenous	61.7	28.9	4.6	4.8

<sup>8</sup> In 2016, referral data for Indigenous status was missing in n=542 cases

<sup>9</sup> In 2015 accepted data for Indigenous status was missing for n=79 cases

## 4.0 Principal Drug of Concern

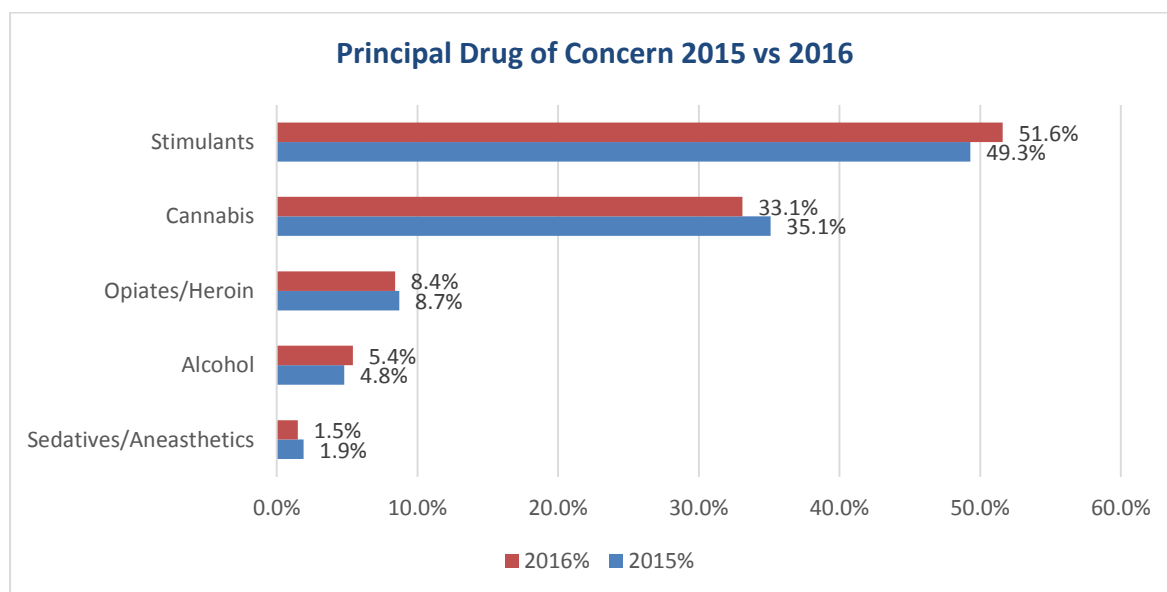
### 4.1 Principal Drug of Concern (PDC) – 2016 compared to 2015

Information relating to the principal drug of concern (PDC) addressed by the MERIT program is provided in Table 6 and Chart 4. Principal cannabis usage continues on a downward trend from 38.7% in 2014, to 35.1% in 2015 and declining even further in 2016 to 33.1%. Conversely, principal stimulant usage has been on an upward trend from 17.9% in 2010 to 38.1% in 2014, and then made a considerable leap (by 11.2%) in 2015 to 49.3%, and increasing further to in 2016 to 51.6%. The stimulant category is primarily made up of amphetamines/methamphetamines (49.2%). Principal alcohol, opiate/heroin, and sedative/anaesthetic users remained fairly stable compared to 2015.

**Table 6**

Principal Drug of Concern		2015 %	2016 %
<b>Stimulants</b>	Amphetamines/Methamphetamines (incl. 'Speed', 'Ice')	46.8	49.2
	Cocaine	1.3	1.2
	MDMA (ecstasy)	1.1	1.2
	Lysergic acid diethylamide (LSD)	0.1	0
	Other	0.1	0
<b>Sub total</b>		<b>49.3</b>	<b>51.6</b>
<b>Cannabis</b>		<b>35.1</b>	<b>33.1</b>
<b>Opiates</b>	Heroin	7.4	7.4
	Methadone	0.4	0.4
	Morphine (incl. MS Contin, Opium)	0.6	0.1
	Buprenorphine	0.1	0.1
	Other	0.2	0.4
<b>Sub total</b>		<b>8.7</b>	<b>8.4</b>
<b>Sedatives/ anaesthetics</b>	Benzodiazepines	1.8	1.4
	Gamma-hydroxybutyrate (GHB)	0.1	0.1
	Other	0	0
<b>Sub total</b>		<b>1.9</b>	<b>1.5</b>
<b>Alcohol</b>		<b>4.8</b>	<b>5.4</b>
<b>Other</b>		<b>0.2</b>	<b>0.1</b>
<b>Total</b>	<b>Sub total</b>	<b>100.0</b>	<b>100.0</b>

**Chart 4**



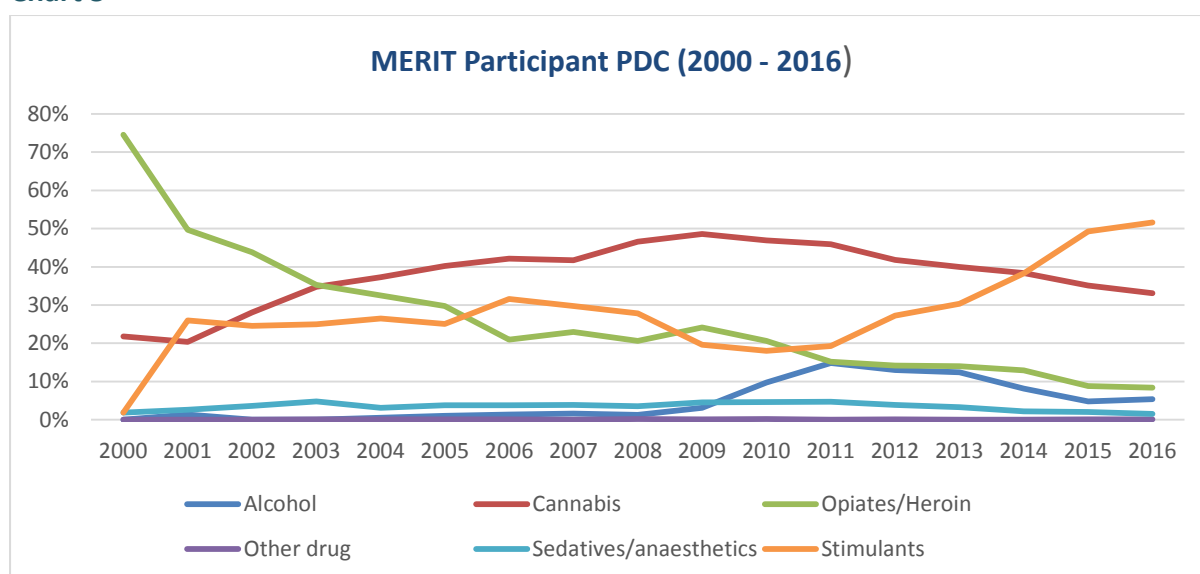
*Note: MERIT Alcohol was only available in 7 out of the 62 MERIT Drug courts.*

*Much of the MERIT resources should be directed towards addressing the considerable increase and large proportion (51.6%) of MERIT participants who are principal stimulant users.*

## 4.2 Principal Drug of Concern – 16 Year Trend

Chart 5 illustrates the PDC trend from the program start, in 2000 to 2016. In 2000, around three quarters (74.5%) of participants were principal opiate/heroin users; this has declined to only 8.4% in 2016. While principal cannabis users have been on the decline since 2010 (where almost half were principal cannabis users, 46.9%), and now make up a third (33.1%) of MERIT participants. In 2006 principal stimulant users made up around a third (31.6%), after which it began to decline, and by 2010 principal stimulant users made up only 18.0% of participants. However, by 2013, principal stimulant users again made up around a third of participants (30.3%), and in the three years since, has increased by 20.7% to make up just over half (51.6%) of MERIT participants.

Chart 5



Note: MERIT Alcohol was only available in 7 out of the 62 MERIT Drug courts.

*Around 4 in 5 MERIT participants are either principal Stimulant or principal Cannabis users (accounting for 84.7% of participants).*

### 4.3 Principal Drug of Concern by Region (Sydney, NSM, Regional)

The distribution of MERIT participants by region (Sydney, Non-Metro Sydney and Regional) in 2016 compared to 2015 is set out in Chart 6. Sydney MERIT participants declined by 1.7% in 2016 compared to 2015, while MERIT participants in the Non-Metro Sydney (NMS) increase by 1.5% in 2016<sup>10</sup>.

**Chart 6**

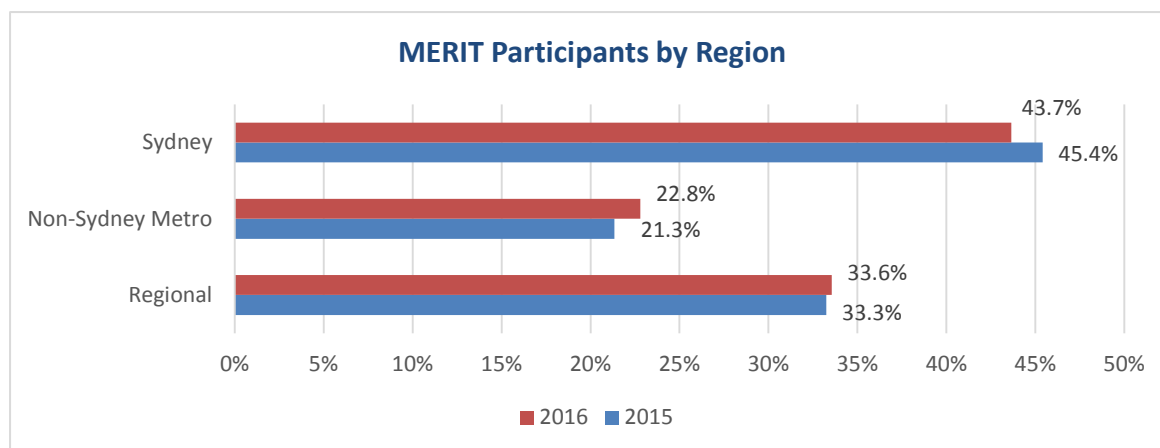
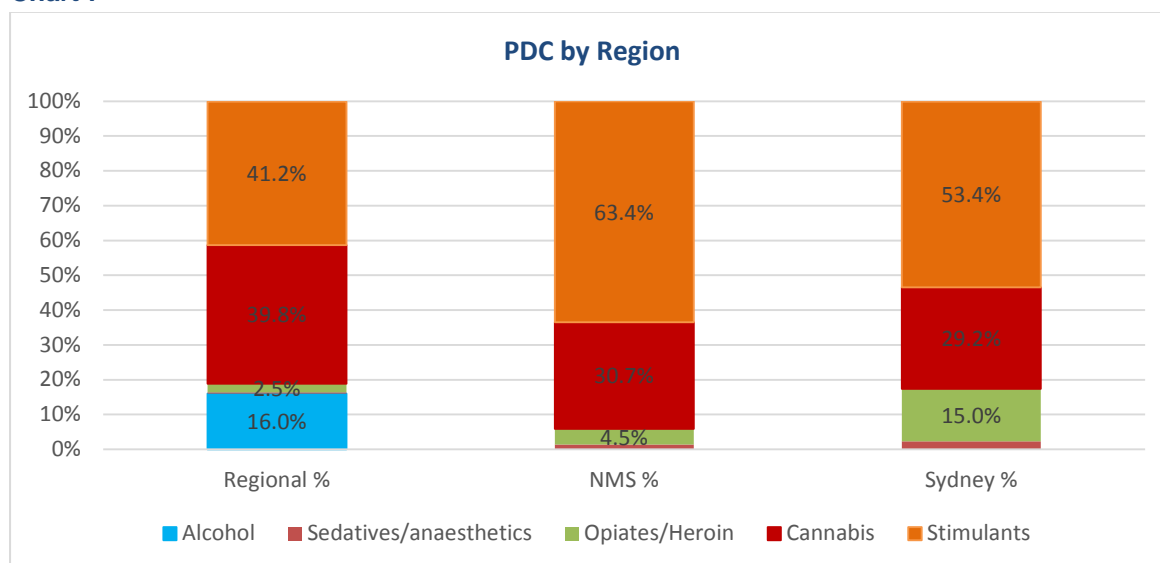


Chart 7 shows that almost two thirds (63.4%) of participants in NMS were principal stimulant users, followed by just over half (53.4%) of participants in Sydney, and 41.2% in Regional NSW. Around a third of participants in each geographic area were principal cannabis users. principal opiate/heroin users mainly resided in Sydney (15.0%, compared to 4.5% in NMS and 2.3% in Regional NSW). MERIT Alcohol is only available in Regional NSW Local Courts.

<sup>10</sup> Note: In keeping with the approach adopted in previous MERIT Annual Reports (Martire & Larney, 2010), the 'Urban region' comprises the Northern Sydney, Western Sydney, South Eastern Sydney, South Western Sydney, Sydney and Nepean/Blue Mountain MERIT teams. For this report, this grouping has been renamed 'Sydney'. The 'Non-Sydney Metropolitan' region consists of the Hunter, Illawarra and Central Coast MERIT teams. The 'Regional' area is made up of the New England, Western NSW, Far West, Mid North Coast, Northern NSW, Southern NSW and Murrumbidgee MERIT teams. It should be noted that participants in the Regional group may live in rural or remote areas.

Chart 7



## 5.0 Type of offence by referred and accepted MERIT Participants

### 5.1 Number of charges and previous custodial experience

There were a total of 8,695 charges against 4,126 defendants<sup>11</sup> referred to MERIT during 2016, while 49 defendants had 10 or more charges (less than one per cent) against them. The range of remaining charges was one to thirty three. The average (median) number of charges for referred defendants was two<sup>12</sup>. The number of charges against a defendant was associated with the likelihood of being accepted into the program in 2016; those with one charge had an acceptance rate of 59.7%, whereas those with two or more charges had an acceptance rate of 65.3%.

### 5.2 Type of offence

Table 7 sets out the nature and extent of the offences of defendants referred and accepted into the MERIT program during 2016<sup>13</sup>. Once again *Illicit drug offences* (40.1%, a decline of 3.4% compared to 2015), *Dangerous or negligent acts endangering persons* (22.0%, an increase of 1.5% compared to 2015), and *Theft and related offences* (20%, an increase of 0.2% compared to 2015), were the most common charges faced by MERIT participants. Results were very similar for defendants referred to the program.

*These findings can be used to create specific drug programs in each geographic area based on the principal drug of concern.*

<sup>11</sup> In 2016 data on charges were missing for n=463 referrals.

<sup>12</sup> Analysis of averages uses a median score when the data is not normally distributed. The median provides a more accurate estimate of the average compared to the mean in these cases.

<sup>13</sup> The offences considered have been structured according to the Australian Bureau of Statistics' Australian Standard Offence Classification (ASOC) system.

**Table 7**

Offence	Referred		Accepted	
	n	%	n	%
Illicit drug offences	1742	42.2%	1019	40.1%
Dangerous or negligent acts endangering persons	904	21.9%	559	22.0%
Theft and related offences	829	20.1%	508	20.0%
Road traffic and motor vehicle regulatory offences	665	16.1%	463	18.2%
Acts intended to cause injury	572	13.9%	372	14.6%
Against justice procedures, government security/operations	554	13.4%	324	12.7%
Property damage and environmental pollution	336	8.1%	218	8.6%
Weapons and explosives offences	264	6.4%	163	6.4%
Unlawful entry with intent/burglary, break and enter	188	4.6%	109	4.3%
Deception and related offences	74	1.8%	45	1.8%
Public order offences	89	2.2%	51	2.0%
Robbery, extortion and related offences	47	1.1%	29	1.1%
Sexual assault and related offences	1	0.0%	0	0.0%
Homicide and related offences	3	0.1%	0	0.0%
Miscellaneous offences	185	4.5%	140	5.5%

### 5.3 Type of offence by PDC

#### 5.3.1 PDC by Offence

Just under two-thirds (62.4%, an increase of 3.2% compared to 2015) of principal stimulant users were charged with a *Theft related offence* – the most common offence for principal stimulant users. Principal stimulant user's contributions to other offences however was also quite high - *Illicit Drug Offences* (51.9%) and *Dangerous or negligent acts* (48.5%).

The most popular offence for principal cannabis users was *Dangerous or negligent acts*, around two in five (41.0%) users were charged with this offence, which was closely followed by *Illicit drug offences* (38.9%). Only 15.9% principal cannabis users were charged with *Theft related offences*.

Principal opiate users (17.5%, a decline of 3.0% compared to 2015) were more likely to be charged with *Theft related offences* than any other offence. Principal opiate users were around three times more likely to be charged with *Theft related offences* than *Dangerous or*

*negligent acts*, and twice as likely to be charged with *Theft related offences* than *Illicit drug offences*.

**Table 8**

	Illicit Drug Offence		Dangerous or negligent Acts		Theft-related Offences	
PDC	2015 %	2016 %	2015 %	2016%	2015 %	2016 %
Stimulants	51.0	51.9	44.0	48.5	59.2	62.4
Cannabis	39.2	38.9	44.0	41.0	17.0	15.9
Opiates/Heroin	7.3	7.9	4.4	5.7	20.5	17.5
Sedatives/anesthetics	1.3	0.8	3.0	0.9	2.9	3.1
Alcohol	1.0	0.5	4.6	3.9	0.4	1.0
Total	100	100	100	100	100	100

*This data may be beneficial in terms of developing programs for offenders based on their offence committed.*

## 6.0 Profile by PDC

### 6.1 Females

A greater proportion of females were principal stimulant users than males (59.9% vs. 49.5% respectively). The case was also the same for principal opiate users (10.1% of females vs. 8.0% of males). Females also represented a greater proportion of principal sedatives users than males (2.1% vs. 1.3% respectively).

### 6.2 Males

A greater proportion of males were principal cannabis users than females (35.7% vs. 23.2% respectively), the case was also the same for alcohol, where 5.6% of males were principal users compared to 4.8% of females.

### 6.3 Indigenous and Non-Indigenous

A larger proportion of Indigenous participants were principal alcohol users compared to Non-Indigenous participants (11.2% and 3.5% respectively). While a greater proportion of Non-Indigenous participants than Indigenous participants were principal opiate/Heroin users (9.0% and 6.5% respectively).



## 7.0 MERIT Program Exit

### 7.1 Exit Status of defendants accepted into MERIT

In 2016, 61.0% of those who entered the MERIT successfully completed the program, a slight decline compared to 2015, (63.1%). Just over one quarter (26.2%) of MERIT participants did not complete the program due to Non-compliance with program conditions, an increase of 3.2% compared with 2015. Non-compliance as a category has been increasing since 2014, where around one in five (20.5%) participants were non-compliant, to 23.0% in 2015, and 26.2% in 2016. All other categories have remained relatively stable.

**Table 9**

Exit Status	2015		2016	
	n	%	n	%
Completed program	1433	63.1	1637	61.0
Non-Compliance with Program Conditions	522	23.0	703	26.2
Withdrew voluntarily	197	8.7	213	7.9
Removed by Court	86	3.8	86	3.2
Court matters finalised/dismissed prior to completion	19	0.8	32	1.2
Died	4	0.2	4	0.1
Other	9	0.4	7	0.3
	<b>2,270</b>	<b>100.0</b>	<b>2682</b>	<b>100.0</b>

*It may be beneficial to conduct further research into why non-compliance with program conditions is increasing.*

## **7.2 Exit Status of defendants by PDC**

In 2016, principal alcohol users (76.6%) were the most likely to complete the program, followed by principal cannabis users (68.6%). The categories with low program completion rates were principal opiate/heroin users and principal stimulant users, where just over half completed the program (58.2% and 54.3% respectively).

One third (33.2%) of principal stimulant users did not complete the program due to non-compliance with program conditions, which was greater than all other principal drug types. Principal stimulant users were followed by principal opiate/heroin users, where over a quarter (28.8%) did not complete the program due to non-compliance. One in ten principal cannabis users withdrew from the program voluntarily (the highest of all principal drug categories), followed by principal opiate/heroin users (8.2%).

*Specific attention should be given to principal stimulant and opiate/heroin users to decrease their high non-compliance rate. While specific attention should be given to principal cannabis and opiate /heroin users to decrease their voluntary dropout rate. More research should be conducted into program non-compliance and voluntary withdrawal among principal Cannabis, Stimulant and Opiate/Heroin users to determine the main causes and how they can be addressed.*

## **7.3 Length of days in MERIT program**

Although it is anticipated that MERIT participants will generally 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 their legal representative. The average (median) length of time completers spent on the program was 85 days, as expected this is a longer period of contact time than non-completer (49 days). This trend is consistent with previous years.

## 8.0 Substance use and Health Outcomes

This section provides information on the 2,545 defendants accepted into the MERIT program in 2016, as well as comparisons to 2015. Self-reported substance use and physical and psychological health information was collected upon entry to and exit from the MERIT program, where possible<sup>14</sup>.

### 8.1 Substance use

Chart 8 illustrates the nature of substance use among MERIT participants upon entry to the program during 2016 and 2015. Almost nine out of ten (88.7%) defendants accepted by MERIT (and for whom data were available) had reportedly used an illicit<sup>15</sup> drug in the 30 days prior to program entry<sup>16</sup>, a slight increase (by 2.8%) compared to 2015. Tobacco and Cannabis use prior to entry remained stable, however use of alcohol decreased by 2.4% compared to 2015. Use of amphetamines prior to entry has been increasing since 2014; by 2.9% in 2015, and 3.7% in 2016.

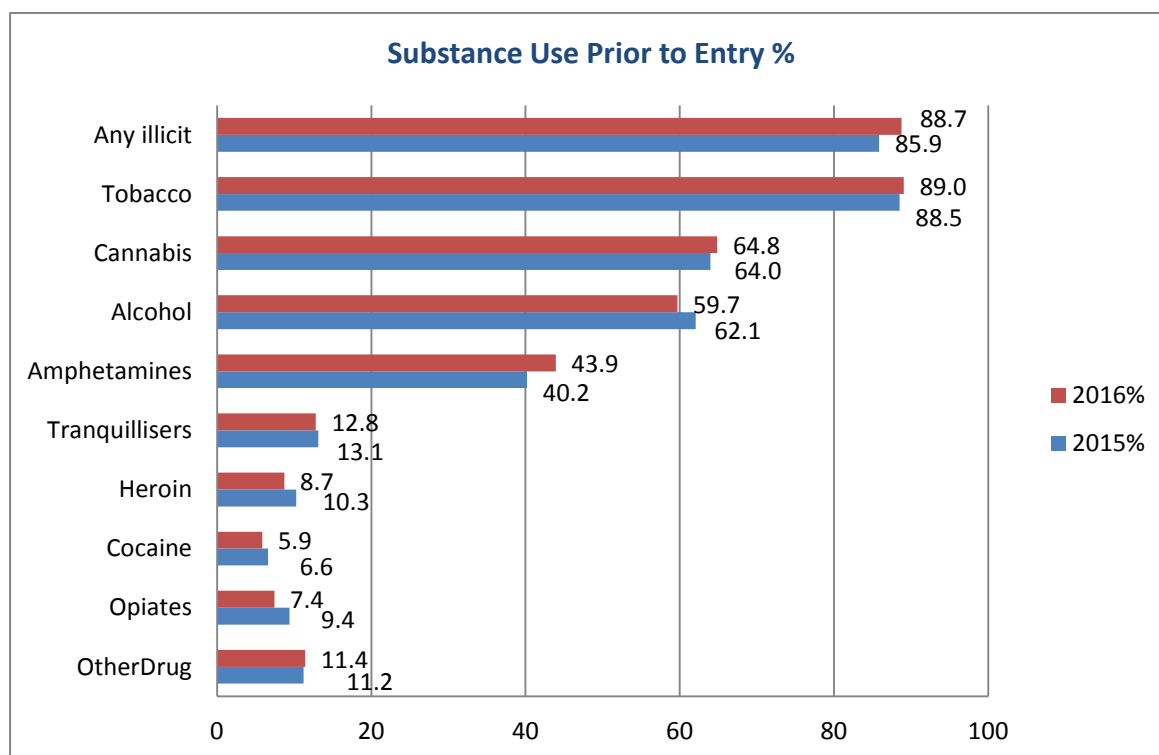
Heroin usage prior to program entry continued on its declining trend from 13.0% in 2014, to 10.3% in 2015, and 8.7% in 2016. Opiate usage also declined slightly from 10.8% in 2014 to 9.4% in 2016, to 7.4% in 2016. Cocaine also continued to decline in proportion of MERIT participants, from 7.0% in 2014, to 6.6% in 2015, and 5.9% in 2016.

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<sup>14</sup> For a range of different reasons exit data on substance use and health outcomes are almost exclusively restricted to program completers and should not be considered representative of all program participants. Reasons include: non-completers fail to re-engage with MERIT after non-compliance with program conditions, 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.

<sup>15</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>16</sup> Data on drug use at entry to MERIT were missing for n=494

**Chart 8**


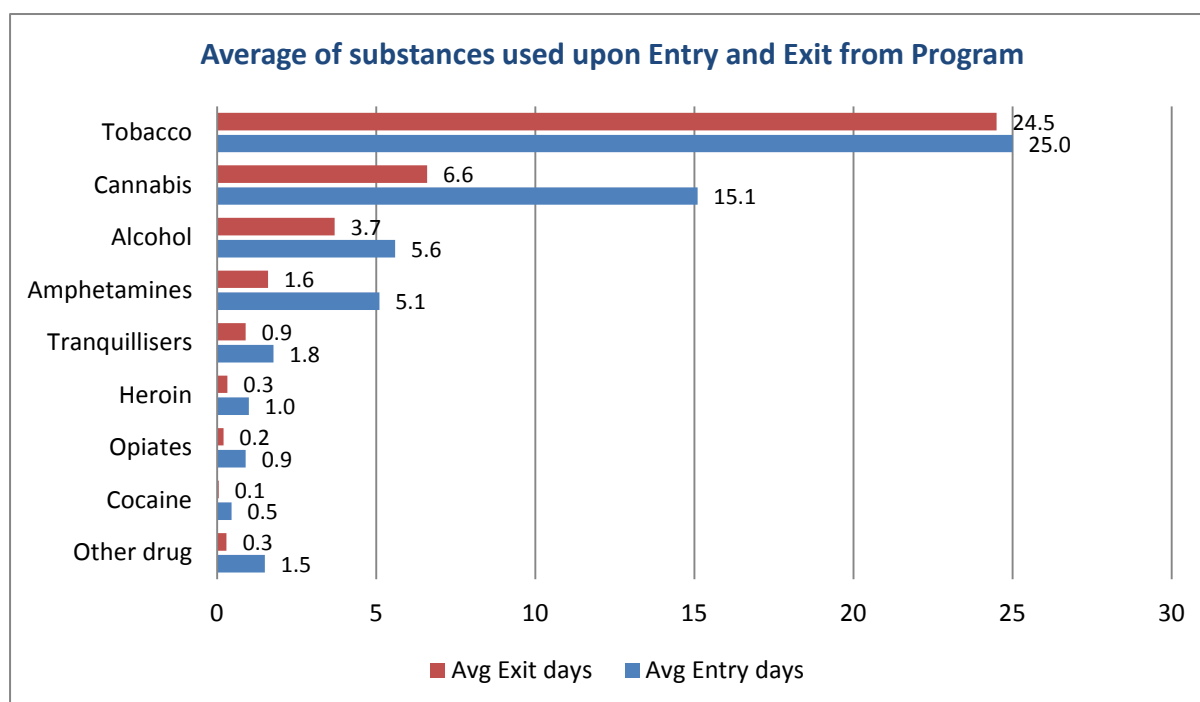
Note: Each analysis of drug items involved differing total group size and number of missing cases. Group sizes: any illicit (2239), tobacco (2236), cannabis (2230), alcohol (2232), amphetamine (2232), heroin (2233), tranquilisers (2232), other (2082), opiates (2232), cocaine (2232). Percentages are calculated using these base numbers for each substance.

*Heroin, Opiate, Alcohol, Cocaine and Tranquilliser usage by MERIT participants prior to entry all decreased compared to 2015, while Amphetamine use increased compared to 2015.*

## 8.2 Average frequency of substance use upon entry to and exit from the program

Chart 9, uses data for those accepted defendants for whom substance use information was available upon entry to and exit from the program in 2016. Reductions in the self-reported frequency of use (past 30 days) across all eight drug types were recorded. In particular, cannabis use was twice as high at entry, amphetamines use was four times higher at entry, heroin use was three times higher at entry, while opiate use was four times higher at entry compared to exit.

**Chart 9**



### ***8.3 Average Frequency and Intensity of substance use upon entry to and exit from the program***

As per Table 10, reductions in both the frequency and intensity<sup>17</sup> of self-reported substance use were observed across all drug types for this sub-sample of accepted MERIT participants in 2016. In particular, reductions for both cannabis and amphetamine use is noted.

<sup>17</sup> An intensity score (Average of Entry/Exit Score) was calculated by multiplying the number of days in the month a substance was used by the units consumed per day.

**Table 10**
**Frequency and Intensity of Substance Use (Entry and Exit)**

Substances	Group size/Base size	Avg Of Entry days in month	Avg Of Exit days in month	Avg Of Entry Score	Avg of Exit Score
Alcohol	1045	5.6	3.7	57.9	22.3
Tobacco	1043	25.0	24.5	369.3	337.2
Cannabis	1040	15.1	6.6	227.1	56.8
Opiates	1041	0.9	0.2	14.0	0.7
Heroin	1042	1.0	0.3	3.1	0.9
Cocaine	1044	0.5	0.1	5.7	0.1
Amphetamines	1044	5.1	1.6	23.4	6.9
Tranquillisers	1044	1.8	0.9	8.6	4.8
Other drug	951	1.5	0.3	3.8	0.5
Any illicit drug	951	20.2	8.4	253.7	65.4

**8.4 Severity of Dependence at Entry**

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 can be seen in Table 11 participants who principally use opiates/heroin had higher mean SDS scores than defendants primarily using other substances, this was followed by principal sedative/anaesthetic users. Interestingly principal stimulant users had only the third highest Severity of Dependence Score.

**Table 11**

PDC	No	Mean	Standard Deviation
Stimulants	986	7.9	3.3
Cannabis	699	7.4	3.6
Opiates/Heroin	145	9.6	3.1
Alcohol	116	6.8	3.5
Sedatives/anaesthetics	27 <sup>18</sup>	8.3	4.1
Other drug	1	0	0
Total	1,974	7.8 <sup>19</sup>	3.5

<sup>18</sup> Note: Small base size

<sup>19</sup> Average upon entry

## 8.5 Injecting Behaviour

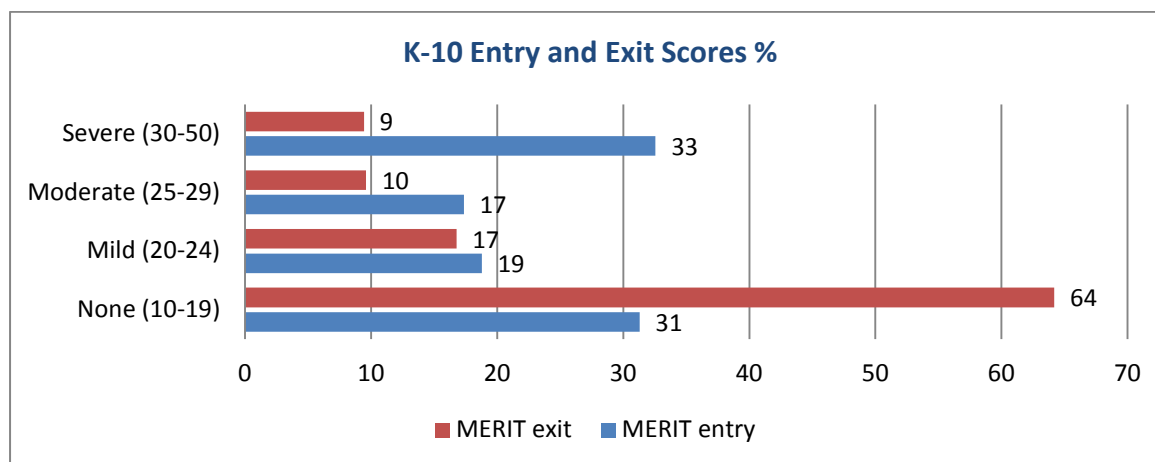
Over a third (38.0%) of participants in the MERIT program had (self-reported) injected at some point in the past, and around three quarters (71.2%) of those with a past of injecting had done so in the past three months.

## 8.6 Psychological Health: Kessler Scale

Levels of psychological distress amongst accepted MERIT defendants during 2016 were measured using the Kessler-10 (K-10) Psychological Distress Scale (Kessler et al., 2002). With possible scores ranging from 10 to 50, lower K-10 scores are indicative of lower levels of psychological distress. Amongst those defendants with K-10 data on entry to, and exit from the program during 2016, the average (median) score for accepted MERIT defendants was 25<sup>20</sup>, (the lowest threshold for moderate psychological distress), a slight increase compared to 2015 (median score of 24). Scores in the region of 25 - 29 indicate moderate levels of psychological distress.

A third of participants (33%) had severe levels of psychological distress on admission to MERIT (similar to 2015 results). However, upon exit, this level reduced to only 9% of participants. Participants with no psychological distress more than doubled (from 31% to 64%) upon exit from the program, compared to entry scores.

**Chart 10**



*A third of participants had severe levels of psychological distress on admission to MERIT, however, upon exit, severe psychological distress reduced to only 9% of participants. Participants with no psychological distress doubled (from 31% to 64%) upon exit from the program, compared to entry scores.*

<sup>20</sup> K-10 scores were missing in n=548 cases on entry to MERIT

## 9.0 Criminal Justice Outcomes

In order to ensure consistency with the approach adopted in previous Annual Reports, sentence outcome and reconviction data are presented here for defendants completing MERIT in the previous calendar years (2015).

By matching unique attributor codes for MERIT participants to Local Court and re-offending databases (ROD), the Bureau of Crime Statistics and Research (BOCSAR), was able to provide measures of criminal justice outcomes by comparing post-program sentences and reconviction rates for program completers and non-completers during the relevant years. More specifically, this process provided information on:

- the principal penalty received by MERIT defendants;
- the number of defendants reconvicted within 12 weeks of commencing MERIT and
- Reconvictions within 6 and 12 months of exiting the program.

From the 2,267 defendants who exited the program in 2015 for whom information was provided to BOCSAR, 2,045 (90.2%) were successfully matched to the relevant court and reconviction datasets. The breakdown of these matches is set out in Table 12.

**Table 12 – Data Matching<sup>21</sup>**

	2014	2015
Number of defendants exiting from MERIT	2,008	2,267
Number of defendants matched with ROD	1,863	2,045
% matched with ROD	92.8%	90.2

### 9.1 Sentence Outcomes

There were considerable differences between the principal penalty outcome for program completers and non-completers as can be seen in Table 13. One of the most important differences in outcomes was that a term of imprisonment was given to 20.1% of MERIT program non-completers, compared to only 5.6% of program completers. The most common sentence outcome for MERIT program completers was a bond with supervision - around a quarter (24.9%) of completers received this penalty, while only 17.1% of program non-completers received this penalty.

When interpreting these sentencing data it is important to note that the penalties imposed against both *program completers* and *non-completers* will be influenced by a broad range of factors including defendant needs, circumstances, levels of risk posed (both of harm and reoffending), seriousness of the current offence(s) and compliance with MERIT.

<sup>21</sup> Source: NSW Bureau of Crime Statistics and Research



## 9.2 Sentence outcomes for MERIT defendants (2014) (n=1,863)<sup>22</sup>

**Table 13<sup>23</sup>**

Principal Penalty <sup>24</sup>	2014				2015			
	Completed		Not Completed		Completed		Not Completed	
	n	%	n	%	n	%	n	%
Imprisonment (adult)	67	5.7	119	20.7	70	5.6	133	20.1
Home detention	4	0.3	1	0.2	1	0.1	0	0.0
Intensive Correction Order	18	1.5	13	2.3	38	3.0	12	1.8
Suspended sentence with supervision (adult)	155	13.2	52	9.1	139	11.0	57	8.6
Suspended sentence without supervision (adult)	52	4.4	22	3.8	68	5.4	27	4.1
Community service order (adult)	77	6.6	12	2.1	46	3.6	19	2.9
Bond with supervision (adult)	287	24.5	94	16.4	314	24.9	113	17.1
Bond without supervision (adult)	202	17.2	57	9.9	196	15.5	72	10.9
Probation without supervision (juvenile)	0	0.00	1	0.20	0	0	0	0
Fine	117	10.0	128	22.3	150	11.9	156	23.6
Nominal sentence	21	1.8	14	2.4	20	1.6	11	1.7
Bond without conviction	109	9.3	20	3.5	143	11.3	17	2.6
No conviction recorded	15	1.3	6	1.0	28	2.2	3	0.5
No action taken	8	0.7	8	1.4	12	1.0	11	1.7
No penalty	41	3.5	27	4.7	36	2.9	30	4.5
<b>Total</b>	<b>1,173</b>	<b>100.0</b>	<b>574</b>	<b>100.0</b>	<b>1261</b>	<b>100.0</b>	<b>661</b>	<b>100.0</b>

<sup>22</sup> Sentencing data were not available for 81 of the cases matched to ROD for defendants exiting in 2015 (3.6%). The total cases matched included multiple counts for persons who had been previously referred to MERIT. In those instances, BOCSAR has selected the person's first relevant court appearance, and this is counted only once in the results. This reduces the number of individual sentence outcomes to 1,922 distinct persons.

<sup>23</sup> Source: NSW Bureau of Crime Statistics and Research

<sup>24</sup> Where the first court appearance was finalised within the six months after program exit in 2014, or in the month before program exit.

*A term of imprisonment was almost five times more likely to be received by program non-completers than program completers.*

### 9.3 Re-offending

As with previous MERIT 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>25</sup>.

#### 9.3.1 Reconviction within 12 weeks of commencing MERIT<sup>26</sup>

Table 14 shows the number and proportion of MERIT participants who were convicted of a new offence within 12 weeks of commencing the MERIT program. Consistent with findings from previous Annual Reports, program non-completers in 2015 were more likely to be reconvicted of another offence in the 12 weeks following commencement of MERIT than program completers (40% vs.14%, a gap of 26%).

When interpreting these figures it is important to note that reoffending while on MERIT can be cause for a defendant to be removed from the program and/or for having their bail withdrawn.

#### 9.3.2 Reconvictions post-MERIT contact<sup>27</sup>

Six months after exiting the MERIT program in 2015, 21% of program completers and 37% of non-completers had been convicted of a further offence with the gap (16%) narrowing between completers and non-completers. In 2015, by the time 12 months had elapsed, 31% of program completers, compared to 48% of non-completers (a gap of 17%) had been convicted of a further crime. The gap between completers and non-completers appears to plateau at the 6 month period. Consistent with findings from previous research examining the impact of MERIT on rates of recidivism, program completers were less likely than non-completers to have been reconvicted 12 weeks, 6 months and 12 months after exiting the program (see Table 14)<sup>28</sup>.

<sup>25</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>26</sup> This refers to any subsequent convictions where the re-offence date was within 12 weeks of commencing MERIT.

<sup>27</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>28</sup> BOCSAR did not have data on whether there were reductions in the frequency (number of offences leading to conviction) or severity of offending during this follow-up period.

**Rate of conviction/re-conviction within the 12-week program period and 6 and 12 months of exiting from the MERIT program**

**Table 14<sup>29</sup>**

Convictions / re-convictions		2014				2015			
		Completed (n=1,173)		Not Completed (n=574)		Completed (n=1,261)		Not Completed (n=661)	
		n	%	n	%	n	%	n	%
Within 12 weeks of program entry date	Yes	153	13	233	41	175	14	267	40
	No	1020	87	341	59	1086	86	394	60
		<b>1,173</b>	<b>100</b>	<b>574</b>	<b>100</b>	<b>1,261</b>	<b>100</b>	<b>661</b>	<b>100</b>
Within 6 months of program exit date		Completed (n=1,173)		Not Completed (n=574)		Completed (n=1,261)		Not Completed (n=661)	
	Yes	269	23	221	39	261	21	243	37
	No	904	77	353	61	1000	79	418	63
		<b>1,173</b>	<b>100</b>	<b>574</b>	<b>100</b>	<b>1,261</b>	<b>100</b>	<b>661</b>	<b>100</b>
Within 12 months of program exit date		Completed (n= 1,173)		Not completed (n=574)		Completed (n=1,261)		Not Completed (n=661)	
	Yes	415	35	296	52	391	31	318	48
	No	758	65	278	48	870	69	343	52
		<b>1,173</b>	<b>100</b>	<b>574</b>	<b>100</b>	<b>1,261</b>	<b>100</b>	<b>661</b>	<b>100</b>

*In the first 12 weeks of starting the program, re-offending was almost three times more likely to occur for program non - completers than program completers. In the 6 months after program completion, the gap between program completers and non-completers narrows - program non - completers were almost twice as likely as program completers to re-offend. At the 12 month mark the proportion gap between completers and non-completers remained the same as the 6 month gap.*

<sup>29</sup> Source: NSW Bureau of Crime Statistics and Research

