

# 2005

# MERIT

MAGISTRATES EARLY REFERRAL INTO TREATMENT

## ANNUAL REPORT



**Attorney General's**  
department of nsw



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## **Executive Summary**

In 2005 the MERIT program expanded to include Blacktown, Wilcannia, Cooma and Fairfield Local Courts, bringing MERIT to a total of 55 courts across NSW. During the 2005 calendar year a total of 2625 referrals were made to MERIT. This represented an increase of 10% in referral numbers from 2004. The two main sources of referrals to MERIT were Solicitors and Magistrates.

Just under two-thirds, 62%, of the referrals resulted in a program acceptance. The most common reasons for defendants not being accepted were due to them being ineligible for the MERIT and the unwillingness of the defendant to participate in the program. Defendants who have had multiple referrals to MERIT are less likely to be accepted into the program than are defendants who have been referred on only one occasion.

Males have made up three-quarters of the MERIT referral population across all years of program operation. This is consistent with the proportion of males who face charges in the NSW Local Courts. Male and female referrals are equally likely to be accepted. The three most common age groups of referred defendants were 21-24 years, 25-29 years and 30-34 years, with these three groups making up 59% of all referrals during 2005. Aboriginal defendants were referred to the MERIT program at a rate proportionate to the rate at which they appear before the Local Courts (16.2%). However, the rate of acceptance of Aboriginal defendants into the program continued to be slightly lower than non-Aboriginal defendants. The majority of the defendants referred to MERIT have a highest education level of Year 10 or less.

The most common principal drug of concern during 2005 was cannabis, followed by narcotics (principally heroin). This finding is consistent with that reported in the 2004 Annual Report. Regional differences in the principal drug of concern were again found, with cannabis use being highest in rural areas and heroin use highest in urban areas.

Half of the defendants referred to MERIT during 2005 were facing only one charge. Just under one-third (29%) were facing two charges. Acceptance into the program was not related to the number of charges being faced. The most frequent charge type being faced by MERIT referred defendants was for illicit drug offences (40%). This was followed by theft offences (33%), road and traffic motor regulatory offences (17%) and then, assault (14%).

Program completion statistics in this report are based on those defendants who had a completed contact with the program recorded for the 2005 calendar year. On this basis, this group includes some defendants who were referred late in 2004 and excludes defendants who were referred during 2005 but who did not complete the program in that calendar year. The 2005 program completion rate of 67% represents an increase of 4% from the previous year. The most common reason for program non-completion was due to the defendant being breached for non-compliance with program requirements (21%).

The standard duration of the MERIT program is 3 months (84-90 days). The median number of days for program completers was 90 days. The MERIT team typically

provides participants with general support and case management. It was found that two-thirds of the MERIT participants had previously participated in drug treatment and/or rehabilitation services. Indicating that for one-third of the participants MERIT represented their first opportunity to address their illicit drug problem.

Criminal justice outcome information was sought from the Bureau of Crime Statistics and Research. This required matching data from the MERIT Information Management System (MIMS) database to data held by the Bureau. There was a match in 76% of cases. Considerable differences in sentence outcome were found for MERIT program completers and non-completers. The most common sentence outcome for program completers was a bond, with or without supervision by the Probation and Parole Service. By comparison, the most common sentence outcome for program non-completers was either a term of imprisonment or a fine. Significant differences in re-offending rates were also found between program completers and non-completers, with 37% of defendants having completed MERIT during 2005 reappearing in court within 12 months of completing contact with MERIT compared with 56% of the program non-completers. A significant number of defendants were also found to have re-offended while on the MERIT program. When interpreting this data, it is important to consider that program completers and program non-completers differ systematically across a number of variables, and so the outcomes may not be the result of a program effect.

A number of factors are related to whether or not a defendant will complete the MERIT program. The variables found to be most predictive of program completion were the age of the defendant (with older defendants being more likely to complete), the defendant's living arrangements (with those living in privately owned or rented accommodation being more likely to complete), the principal drug of concern (with narcotics users being least likely to complete) and Aboriginality (with Aboriginal defendants being less likely to complete).

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# 1. INTRODUCTION

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This is the fourth Annual Report on the Magistrates Early Referral into Treatment (MERIT) program. The Annual Report is a product of the MERIT program evaluation strategy and draws on data provided by NSW Health to present an overview of MERIT program operation across the year, and by the Bureau of Crime Statistics and Research (BOCSAR) to report on MERIT participant criminal outcomes.

## 1.1 PROGRAM DESCRIPTION

The MERIT program is one of the drug-diversion strategies developed as a result of the New South Wales (NSW) Drug Summit of 1999.<sup>1</sup> The Summit supported a range of diversionary approaches to deal with offenders who use illicit drugs, rather than using traditional legal methods.

MERIT is an inter-agency initiative between the NSW Attorney General's Department (lead agency), Chief Magistrate's Office, NSW Health and NSW Police.<sup>2</sup> The program commenced on a pilot basis in Lismore in July 2000. Following an evaluation of the pilot program,<sup>3</sup> MERIT has been progressively introduced into Local Courts across New South Wales.

The decision to implement MERIT at a Local Court is driven by consideration of a number of issues including: the volume of finalised Local Court matters, the presence of existing treatment services to support MERIT, the projected cost-effectiveness and efficiency, the capacity to work in partnership with local non-government organisations that support the MERIT program, and the number of Aboriginal defendants eligible for MERIT.

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<sup>1</sup> The NSW Drug Summit resulted in the implementation of five diversionary schemes, as it was recognised that no one scheme can address the needs of a diverse group of offenders. The schemes were designed to be used at different stages of the offenders contact with the criminal justice system, and targeted offenders who had committed minor drug or drug-related offences. The five schemes were:

- the Cannabis Cautioning Scheme;
- a Youth Drug Court;
- amendments to the *Young Offenders Act 1997* to include the option of police cautions, warnings and conferences being given for minor drug offences rather than juveniles being charged with a drug-related offence;
- a Drug Offenders Compulsory Treatment pilot; and
- the Early Court Intervention Pilot, which became the Early Magistrates Referral Into Treatment (MERIT) program.

<sup>2</sup> The Legal Aid Commission, Office of the Director of Public Prosecutions and the Department of Corrective Services are also represented on the MERIT Statewide Steering Committee.

<sup>3</sup> Passey, M., (Ed.), 2003, *Evaluation of the Lismore MERIT Pilot Program*, Northern Rivers University Department of Rural Health.

## 1.2 ELIGIBILITY FOR MERIT

MERIT is a court-based scheme that targets adult defendants who appear before a participating Local Court and who have a demonstrable illicit drug problem. In contrast to other court-based drug diversion programs, defendants are not required to admit guilt and are referred to MERIT **pre-plea**.

The MERIT program aims to break the cycle of drug abuse and crime. To achieve this, the program has been developed to address both the criminal conduct of the offenders as well as the health, mental and social welfare issues that are considered to be instrumental in bringing the offenders before the criminal justice system.<sup>4</sup> While MERIT participants are not required to be drug dependent to enter the program, they must be identified as having an illicit drug use problem that is serious enough to justify the significant treatment interventions available through MERIT.

MERIT accepts referrals from police at the time of arrest, solicitors before the initial court appearance, or at court by the magistrate. Referrals from Probation and Parole officers, the defendants themselves and their family or friends may also be considered.<sup>5</sup>

MERIT eligibility criteria are intentionally broad, allowing referral sources substantial discretion and flexibility in determining participant suitability. The criteria are assessed against the charge the defendant is currently facing, and do not take a defendant's criminal history into account. To be eligible for MERIT the defendant must:

- be 18 years or older;
- be suitable for release on bail;
- have a demonstrable<sup>6</sup> and treatable illicit drug problem;
- consent to voluntarily participate in the program;
- be assessed as suitable for the program;
- be usual residents of the defined program catchment area; and
- be given magistrate approval to participate in the program.

In addition the defendant must not:

- be involved in charges related to serious violence, sexual offences or wholly indictable offences; or
- have matters pending involving violence or sexual assault.

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<sup>4</sup> Barnes, L.A., and Poletti, P., 2004, *MERIT: A Survey of Magistrates*, Judicial Commission of New South Wales.

<sup>5</sup> NSW Health Department, 2002, *Magistrates Early Referral into Treatment (MEIT) Program Operational Manual*.

<sup>6</sup> Indicators of a demonstrable drug problem are stated in the operation manual as:

- a history of recidivist offending to support drug dependence;
- admission of problematic illicit drug use; or,
- under the influence of an illicit substance or exhibiting drug withdrawal symptoms.

## **2. THE MERIT PROCESS<sup>7</sup>**

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

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

Following referral the MERIT Team undertakes a comprehensive assessment of the defendant. The assessment covers: drug use behaviours; drug use problems; family relationships and family drug history; the defendant's social situation; legal issues; health problems associated with drug use; mental health; motivation for change; and potential to engage in treatment for drug use problems.

At the next court hearing, the MERIT team provides a written report to the Magistrate, recommending whether or not the defendant should enter the MERIT program, and if recommended - an appropriate drug treatment plan. The Magistrate has discretion to determine whether defendants are accepted into MERIT. If the defendant is accepted into the program, the MERIT team is given a copy of the bail order.

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

In addition to specialised drug treatment services, a wide range of ancillary services may be accessed as appropriate. These include medical and primary health care

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<sup>7</sup> Most of the following information is taken from the MERIT operational manual.

services, accommodation and housing, employment and vocational services, education and training, family counselling, and psychiatric and psychological interventions.

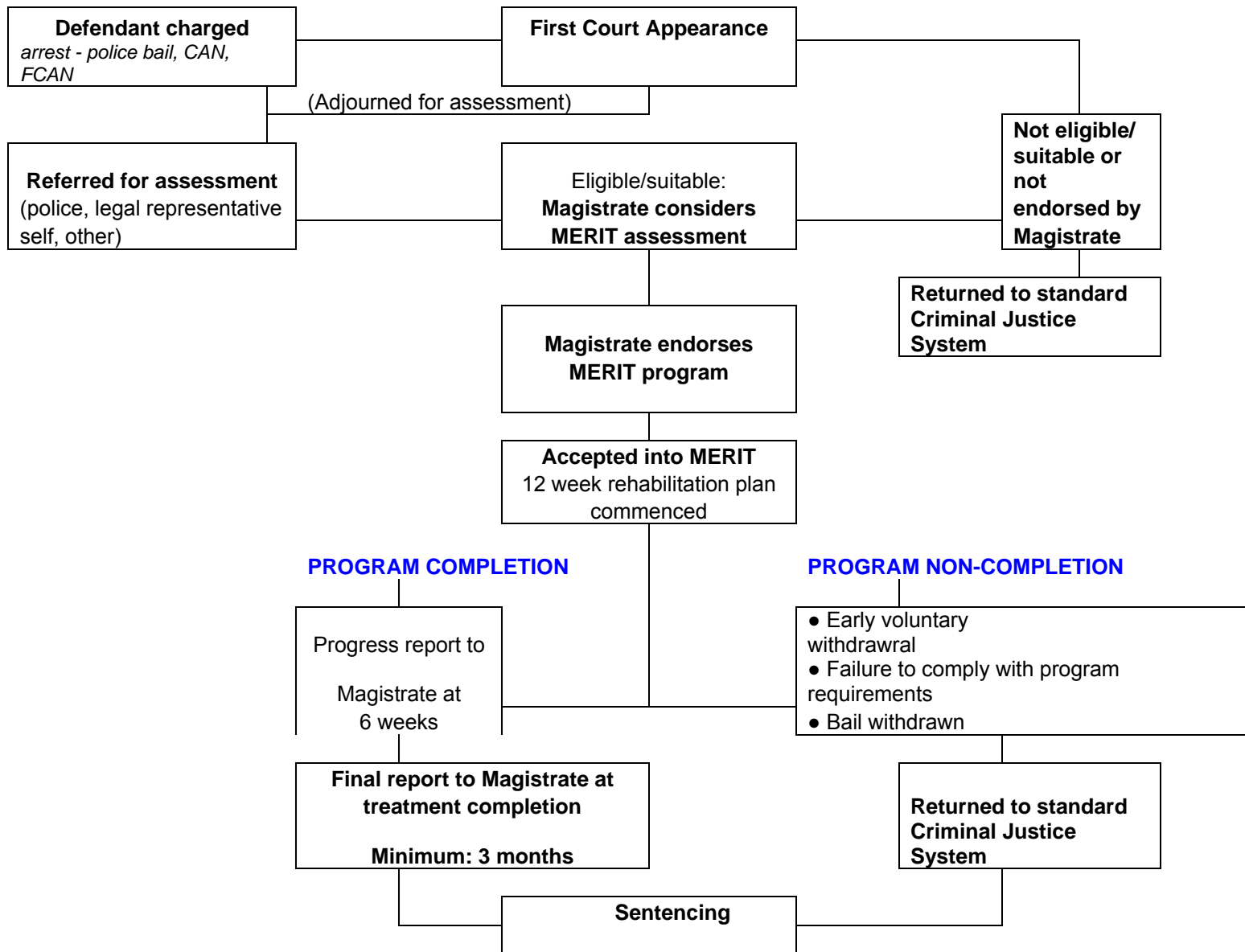
A core element of the MERIT program is an increased level of Magistrate supervision. Typically, this involves one or two additional “mentions” to establish how a defendant is progressing. This process provides the Magistrate with the opportunity to monitor compliance with program goals, and to offer encouragement or admonishment to emphasise the consequences of non-compliance where appropriate. Where possible, the same Magistrate deals with the defendant throughout the bail period.

As a voluntary “opt-in” program, defendants may decline to participate in, or participants may withdraw from the MERIT program and have their case determined by the Magistrate without prejudice. It is also possible for participants to be ‘breached’ and removed from the program. The Magistrate will usually breach a participant following an unfavourable report from the MERIT team. Breaches usually relate to the commission of further offences, non-compliance with bail conditions, non-compliance with the MERIT treatment plan or failure to appear. Being breached may or may not impact on the bail conditions.

The MERIT program was designed to complement the Local Court system where matters typically progress from initial hearing to sentencing within about three months. Thus, the completion of the program generally coincides with the final hearing and sentencing of the defendant. The Magistrate hearing the case receives a detailed report from the MERIT team containing information on the defendant's participation in drug treatment and any further treatment recommendations. A representative of the MERIT team may attend the sentencing hearing, if requested by the Magistrate or the defendant.

Whether or not a defendant’s participation in MERIT, successful or otherwise, is taken into consideration during sentencing is at the discretion of the Magistrate. However, depending on the rehabilitative potential of a defendant, as shown by their participation in MERIT, the sentence may provide a balanced, individualised response to both justice and individual needs. MERIT operates under the *NSW Bail Act (1978)* and Magistrates are guided by Practice Note 5/2001.

**Figure 1 Referral of defendants to MERIT**



### **3. PROGRAM COVERAGE AND EXPANSION**

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By the end of 2005 MERIT was operational in 55 of the 146 of NSW Local Courts and in all NSW Area Health Services. This represents an expansion of the program into an additional four courts during the 2005 calendar year: Blacktown, Wilcannia, Cooma and Fairfield. Collectively, the 55 courts in which MERIT operated cover 75% of the volume of persons charged in all NSW Local Courts. Table 1 presents information about MERIT coverage by Area Health Service, MERIT team and Local Court.

**Table 1 MERIT coverage by Area Health Service and Local Court<sup>8</sup>**

Area Health Service	MERIT Teams	Start date	Courts contained within AHS boundaries: • Courts where MERIT services are delivered appear in bold	Court Coverage <sup>9</sup>
South East Sydney and Illawarra	South East Sydney Illawarra	25 Nov 2002 5 Feb 2001	<b>Wollongong, Albion Park, Kiama, Port Kembla, Nowra, Sutherland, Kogarah, Downing Centre, Central*</b> , Waverley, Milton,	85.7%
<b>Sydney South West</b>	South West Sydney Central Sydney	2 July 2001 20 Jan 2003	<b>Liverpool, Campbelltown, Camden, Burwood, Fairfield, Bankstown**</b> , Newtown, Moss Vale, Picton, Bowral, Balmain,	88.0%
<b>Sydney West</b>	Western Sydney Wentworth	27 Nov 2002 6 Jan 2003	<b>Parramatta, Katoomba, Penrith, Blacktown</b> , Windsor	93.3%
Hunter and New England	Hunter New England	11 Feb 2002 9 Dec 2002	<b>Tamworth, Cessnock, Muswellbrook, Newcastle, Maitland, Raymond Terrace, Toronto</b> , Singleton, Belmont, Kurri Kurri, Scone, Dungog, Armidale, Glen Innes, Gunnedah, Inverell, Moree, Narrabri, Quirindi, Walcha, Wee Waa, Boggabilla, Tenterfield, Mungindi, Warialda,	67.6%
<b>Greater Western</b>	Mid West Far West Macquarie	7 Jan 2002 28 July 2004 27 May 2002	<b>Bathurst, Orange, Dubbo, Parkes, Oberon, Blayney, Forbes, Wilcannia, Broken Hill</b> , Wellington***, 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	54.6%
North Coast	Mid North Coast Northern Rivers	15 July 2002 2 July 2000	<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	71.0%
<b>Greater Southern</b>	Southern Greater Murray	2 Sept 2002 22 April 2002	<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, Braidwood, Eden, Crookwell, Yass, Goulburn, Moruya, Young	30.3%
Northern Sydney and Central Coast	Central Coast Northern Sydney	20 May 2002 5 Aug 2002	<b>Gosford, Manly, Wyong, North Sydney, Hornsby</b> , Ryde, Woy Woy	87.8%

\* The Central Local Court registry works in conjunction with the Downing Centre.

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

\*\* Wellington Local Court has a MERIT like diversion program operating, but for the purposes of this analysis, it is not included in the MERIT court statistics

<sup>8</sup> The figures for the combined Courts and AHS regions will not be accurate in all cases. There are cases where an individual is referred to MERIT in a Court that is located within a specific AHS area, but that case will be dealt with by a different AHS team.

<sup>9</sup> Courts have been grouped according to AHS regions. The percentage in this column represents the volume of persons charged in MERIT courts as a proportion of persons charged in all Courts by AHS region. The Figures were calculated using 2005 Court Statistics provided by the Bureau of Crime Statistics and Research.

## **4. RESEARCH METHOD**

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### **4.1 MERIT OPERATIONAL DATA**

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

There are a large number of data items collected on MIMS, including participant characteristics, medical treatment episodes and health outcomes. A number of data items are captured for reporting as part of the National Minimum Dataset (NMDS) provided to the Commonwealth as part of the Illicit Drug Diversion Initiative funding agreement. The database is maintained by NSW Health and does not focus on variables relating to criminal justice outcomes.

Data on MERIT participants have been collected since program commencement. The total number of defendants referred to MERIT from July 2000 to 31 December 2005 was 9425, and 5712 (60.6%) of the defendants referred were accepted into the program (see Table 2). The large number of cases contained in the database allows for the analysis of trends over time.

### **4.2 CRIMINAL JUSTICE DATA**

The NSW Bureau of Crime Statistics and Research (BOCSAR), a business centre of the NSW Attorney General's Department, provides data on sentence outcomes and re-offending.

Referrals to MERIT are recorded on the NSW Local Courts database (the GLC) as part of the bail conditions.<sup>10</sup> Sentence outcome data are gathered by requesting BOCSAR to match data concerning MERIT referrals to sentence outcomes on the GLC. Re-offending data are gathered by linking MERIT participants to BOCSAR's Re-offending Database (ROD). While NSW Health provides a participant's unique Criminal Names Index (CNI) number, the Bureau returns the criminal justice data to the Crime Prevention Division in an aggregated format in order to protect the privacy of individuals.

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<sup>10</sup> Note, however, that the recording of this data at the court level is not consistent.



### 4.3 DATA QUALITY

The data collected for the MIMS database are recorded by each MERIT team and collated by NSW Health. There are a number of data checks built into the database that serve to identify missing and anomalous data entries, and, the MIMS database Manager oversees quarterly data check reports from each Area Health Service. Demographic data and data required for reporting to the Commonwealth are collected routinely. More detailed data are available for participants who enter and complete the program, than are available for those who are not suitable or who choose not to participate and those whose MERIT contact is completed prior to program completion.

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

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

### 4.4 BASE-LINE DATA

In contrast to previous MERIT Annual Reports, the 2005 MERIT Annual Report uses two base-line data measures. The baseline for MERIT **referral** information is all referrals made to the program from 1 January to 31 December 2005 inclusive. This reflects the MERIT program in-puts for that calendar year. Similarly, the baseline for MERIT **outcomes** are defendants referred who had a completed MERIT contact<sup>11</sup> date between 1 January to 31 December 2005, reflecting all program outputs for that calendar year.

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<sup>11</sup> A MERIT completion may be defined as a finalised MERIT referral. As such, 'completed contacts' include defendants who complete the MERIT program, defendants who do not complete the program as well as defendants who are referred to MERIT and are either not accepted or do not agree to participate. This base reflects the concept of a 'closed treatment episode' which describes a contact with defined dates of commencement and cessation, and is consistent with the base that is used in the reporting for the National Minimum Data Set (NMDS)

In previous MERIT Annual Reports a single base-line measure was used to report MERIT referral and completion information - being all recorded program exits for the reporting year.<sup>12</sup>

MERIT program duration is measured by calculating the number of days between the court date at which the Magistrate endorses the defendants referral to MERIT, which is known as “the program entry date” (first MERIT court date) and the date at which the Magistrate, on the basis of the MERIT caseworkers report, determines that the defendant has completed the MERIT program, the “exit date” (last MERIT court date).

Note that MERIT treatment can begin before program entry is endorsed by a Magistrate and can finish before the final report is submitted to a Magistrate. Treatment<sup>13</sup> can also continue on a voluntary basis after the MERIT program has been completed.

In addition to calculating program duration using these dates, the 2005 Annual Report provides information relating to the duration between the MERIT assessment and the cessation of treatment.

As most variables in the report are measured on a nominal or ordinal scale, the primary presentation of data is in cross tabulation format and statistical analyses are limited to chi-square analyses, except where otherwise stated. Analyses are presented as statistically significant at .05. Only selected statistics are presented in order to facilitate ease of reading. All statistics are rounded to the nearest one decimal place. Missing data are recorded in this report where appropriate in order to accurately frame interpretation of analyses. Percentages were calculated with missing data excluded.

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<sup>12</sup> Given that MERIT is a three-month program, the single base-line measure included persons who were referred to MERIT during the later months of the previous year in the program in-put data as well as excluding details about persons referred to MERIT during the later months of the reporting year.

<sup>13</sup> “Treatment” can encompass any or all of the following services: pharmacotherapy, counselling or residential or non-residential rehabilitation.

## 5. PROGRAM ACTIVITY

### 5.1 MERIT REFERRAL AND ACCEPTANCE RATES

This section provides a statistical overview of the MERIT program since its inception in July 2000 to end 2005.

#### 5.1.1 The growth in MERIT referrals

From program commencement to 31 December 2005 9,425 people had been referred to the MERIT program. Of these 5,712 (60.6%) people were accepted into the program, and 3,546 (62%) people who were accepted into MERIT completed the program. Table 2 presents information relating to the number of defendants referred to MERIT and the number of MERIT acceptances by calendar year. It also provides information relating to the number of Local Courts in which MERIT was operational at the end of each calendar year.<sup>14</sup>

**Table 2 Number and proportion of MERIT referrals and program acceptances by calendar year**

Year of referral	No. MERIT Courts	No. Referrals	No. accepted into MERIT	Acceptances as a % of referrals
2000	5	79	55	69.6
2001	11	462	304	65.8
2002	30	1282	809	63.1
2003	49	2581	1548	60
2004	51	2396	1372	57.3
2005	55	2625	1624	61.9
Total		9425	5712	60.6

\* MERIT became operational during the second half of 2000. The presented data is from July to December 2000 only.

There was significant growth in the number of referrals made to MERIT from 2000 to 2003, which can be attributed to the growth in the number of MERIT courts over this period. During the 2004 calendar year there was a reduction of 7% in the number of referrals made to the program, despite the program becoming available in two additional courts during that year. This reduction in the number of referrals was noted in the 2004 Annual Report.

During the 2005 calendar year a total of 2625 referrals were made to MERIT. This represents an increase of 10% in referral numbers from 2004, but an increase of only 1.7% from 2003 – despite there being an additional six MERIT court coverage in 2005

<sup>14</sup> Note that MERIT can become operational at any time during a calendar year. Therefore, while, for example, there were 55 MERIT courts at end 2005, two of these (Cooma and Fairfield) became operational during the second half of the year.

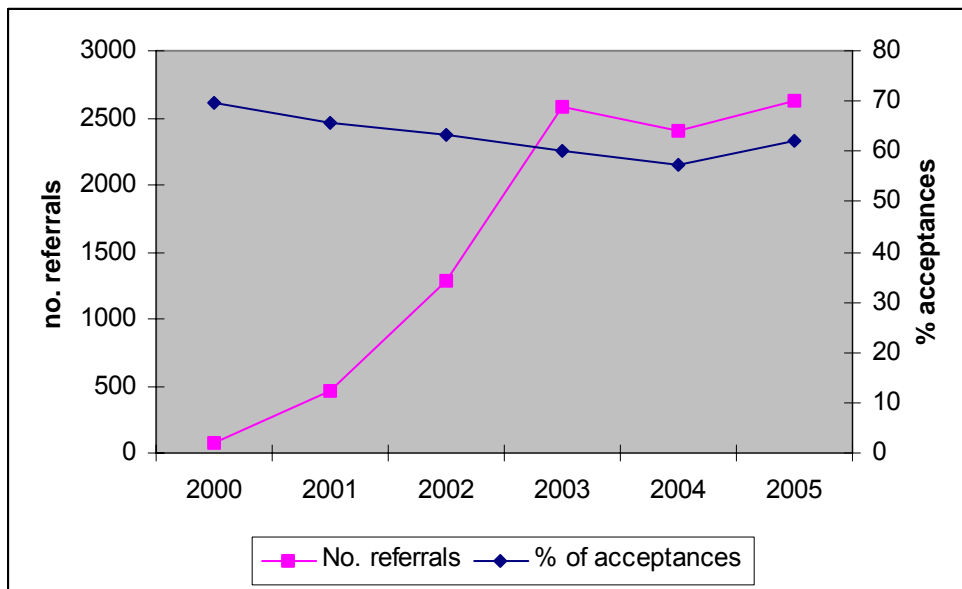
compared with 2003. The slight increase in referral numbers in 2005 (compared with 2003) may demonstrate a stabilisation, or “levelling off”, of MERIT referral numbers.

### 5.1.2 MERIT acceptance rates

Acceptance into the MERIT program is a three-stage process. The first stage is the assessment of the defendant against the program eligibility criteria, the second is the assessment of the defendant in terms of their suitability, and the third is the defendant being given approval by the Magistrate to participate in the program. The MERIT eligibility and suitability requirements were described in Section 1. It is possible that a defendant may be found both eligible and suitable for MERIT, but the Magistrate may not agree to acceptance into the program. Magistrates did not endorse 122 referrals to MERIT during 2005. This represents 5% of all MERIT referrals for that year, compared with 4% (n=92) in 2004 and 3% (n=69) in 2003.

Figure 2 illustrates the relationship between program referral and acceptance numbers over time. Evident from the Figure is the clear growth in the number of MERIT referrals over time. However, what we can also see is that there has been a slight reduction in the proportion of acceptances into the program over time. While the overall program acceptance across the duration of MERIT is 61%, there has been a steady decrease in the proportion of program acceptances over the years, with a 8% decrease in acceptances from 70% in 2000 to 62% in 2005. This issue will be considered later in relation to the sources of MERIT referrals.

**Figure 2: Program referral and acceptance numbers: 2000-2005**



### 5.1.3 Reasons for non-acceptance into MERIT

In any given year, there are a number of defendants referred to MERIT who do not enter the program. This can be due to a variety of reasons. Some persons referred choose not to attend for a program assessment, some decline the offer of the program and others,

for various reasons, are not accepted into the program. Reasons for non-acceptance are provided, by year, in Table 3.

Overall, the proportion of defendants referred who did not have a MERIT assessment stands at 7.8%. The proportion of defendants referred to MERIT who did not attend for an assessment has reduced over time, by half, from 10.4% in 2003 to 5% in 2005. Table 3 also shows that the proportion of defendants who have declined the program has been steady at around 5% since 2001.

Another significant measure for the MERIT program is the proportion of defendants referred, but who are ultimately not accepted into the program. Overall, this group represents just over one quarter of all referrals. What we do see is some variation across the years, with evidence of an increasing proportion of program non-acceptances over time.

**Table 3 Number of referrals not accepted into MERIT by reason for non-acceptance**

Year	Referred only (no assessment)	% of all referrals	Defendant declined program	% of all referrals	Not accepted into program	% of all referrals
2000	1	1.3	7	8.9	16	20.3
2001	54	11.7	27	5.8	77	16.7
2002	127	9.9	63	4.9	283	22.1
2003	269	10.4	102	4	661	25.6
2004	157	6.6	120	5	747	31.2
2005	131	5	144	5.5	726	27.7
<b>TOTAL</b>	<b>739</b>	<b>7.8</b>	<b>463</b>	<b>4.9</b>	<b>2510</b>	<b>26.6</b>

### 5.1.4 Reasons for non-acceptance into MERIT

Table 4 presents information regarding the reasons for non-acceptance into the MERIT program. There are 11 reasons for non-acceptance categories available in the MERIT database. These have been grouped into five main categories.

During 2005 the most common reason for defendants not being accepted into MERIT was due to the defendant being ineligible for the program, with this group accounting for just under half of all non-acceptances during the 2005 calendar year (n=332, 45.9%). The figure for 2005 is down slightly from 2004 (n=374, 49.9%) but is considerably higher than for the 2002 and 2003 calendar years, during which ineligibility accounted for around one-third of all program non-acceptances. Another common reason in this category was the defendant not having a demonstrable drug problem (20%), followed by the defendant not being eligible for bail (15%).

The second most frequent reason for program non-acceptance during 2005 was an unwillingness of the defendant to participate in MERIT, with this category accounting for around 25% of the non-acceptances. This figure is slightly higher than that for 2004 (23%).

Also apparent from Table 4 is that over time, there has been an increase in the proportion of referrals not accepted due to entry into MERIT not being endorsed by the Magistrate. In 2005 this reason accounted for 17% of all non-acceptances, up from 12.3% in 2004 and 10.4% in both 2002 and 2003.

**Table 4: Reasons for non-acceptance in MERIT**

Reason for non-acceptance		Year referred							
		2002		2003		2004		2005	
		n	%	n	%	n	%	n	%
Not eligible for MERIT	Already in court ordered treatment	8	2.8	6	0.9	6	0.8	9	1.2
	No demonstrable drug problem	50	17.7	99	14.9	143	19.1	147	20.3
	Not an adult					1	0.1	2	0.3
	Not eligible for bail	31	11	112	16.9	162	21.6	109	15.1
	Strictly Indictable offence(s)	11	3.9	26	3.9	62	8.3	65	9.0
<b>Sub-total</b>		<b>100</b>	<b>35.4</b>	<b>243</b>	<b>36.6</b>	<b>374</b>	<b>49.9</b>	<b>332</b>	<b>45.9</b>
Program logistics	Mental health problem	22	7.8	13	2	22	2.9	14	1.9
	Program full	0	0.0	3	0.5	3	0.4	6	0.8
	Resides outside of effective treatment area	20	7.1	19	2.9	13	1.7	11	1.5
<b>Sub-total</b>		<b>42</b>	<b>14.9</b>	<b>35</b>	<b>5.4</b>	<b>38</b>	<b>5</b>	<b>31</b>	<b>4.2</b>
Program entry not endorsed by Magistrate	<b>Sub-total</b>	<b>29</b>	<b>10.2</b>	<b>69</b>	<b>10.4</b>	<b>92</b>	<b>12.3</b>	<b>122</b>	<b>16.9</b>
Unwilling to participate	<b>Sub-total</b>	<b>75</b>	<b>26.5</b>	<b>223</b>	<b>33.6</b>	<b>172</b>	<b>23.0</b>	<b>186</b>	<b>25.7</b>
Other	<b>Sub-total</b>	<b>37</b>	<b>13.1</b>	<b>94</b>	<b>14.2</b>	<b>73</b>	<b>9.7</b>	<b>53</b>	<b>7.3</b>
<b>TOTAL</b>		<b>283</b>	<b>100</b>	<b>664</b>	<b>100</b>	<b>749</b>	<b>100</b>	<b>724</b>	<b>100</b>

## 5.2 MERIT REFERRALS

### 5.2.1 MERIT referral sources

Referrals to MERIT can come from a number of sources. The information in Table 5 shows that during the early years of the program the majority of the program referrals were made by Magistrates. Since 2003 there has been a shift in referral sources, with the proportion of referrals being made by Magistrates and Solicitors converging. During 2004 and 2005 the proportion of referrals made by Solicitors exceeded those made by Magistrates. There is also evidence of a decline in the proportion of referrals to MERIT being made by the Police from 2000 to 2004. The differences in referral rates across the sources over time are statistically significant.<sup>15</sup>

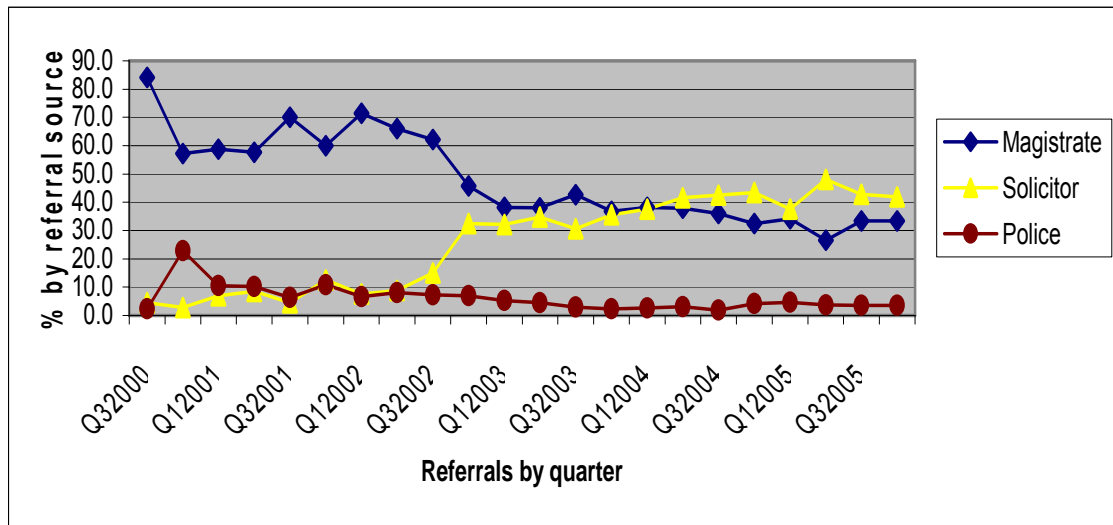
**Table 5: Source of referral 2000-2005**

Source of referral	Referral Year													
	2000		2001		2002		2003		2004		2005		Total	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
Solicitor	3	3.8	38	8.2	237	18.3	913	33.2	1060	41.4	1252	42.6	3503	34.7
Magistrate	57	72.2	284	61.5	769	59.2	1082	39.3	913	35.6	913	31.1	4018	39.8
Self	4	5.1	46	10.0	75	5.8	215	7.8	206	8.0	269	9.2	815	8.1
Other	2	2.5	26	5.6	82	6.3	321	11.7	207	8.1	262	8.9	900	8.9
Police	9	11.4	44	9.5	93	7.2	101	3.7	72	2.8	114	3.9	433	4.3
Probation & Parole	4	5.1	24	5.2	36	2.8	67	2.4	55	2.1	71	2.4	257	2.5
Family member /friend	0	0.0	0	0.0	6	0.5	41	1.5	28	1.1	27	0.9	102	1.0
<b>Total</b>	<b>79</b>	<b>100.0</b>	<b>462</b>	<b>100.0</b>	<b>1298</b>	<b>100.0</b>	<b>2750</b>	<b>100.0</b>	<b>2562</b>	<b>100.0</b>	<b>2939</b>	<b>100</b>	<b>10090</b>	<b>100.0</b>

The high proportion of Magistrate referrals during the early stages of the program is to be expected. Of interest however is the significant increase in the proportion of referrals being made by solicitors over time.

<sup>15</sup>  $\chi^2 = 651.793$ ,  $df=4$ ,  $p<.000$ ,  $n=9285$ .

**Figure 3 Source of referrals over time**



**5.2.2 Referral source by program acceptance/non-acceptance**

Given the results in section 5.1.4 where differences were apparent across years in relation to reasons for program non-acceptance, it is of interest to examine acceptance rates by referral source to see if these variables are related.

**Table 6: Number and proportion of referrals accepted by year and referral source<sup>16</sup>**

	2001		2002		2003		2004		2005	
	n	%	n	%	n	%	n	%	n	%
Family member/friend	-	-	5	83.3	23	63.9	16	69.6	15	62.5
Magistrate	194	82.2	485	75.7	623	75.8	517	70.3	531	71.3
Other	12	63.2	50	72.5	162	62.3	97	57.7	126	63.6
Police	26	81.3	44	64.7	52	71.2	35	63.6	50	66.7
Probation & Parole	14	70.0	22	68.8	48	81.4	38	74.5	47	82.5
Self	36	83.7	46	70.8	122	67.8	108	61.7	135	62.2
Solicitor	22	71.0	157	74.4	518	67.1	560	62.2	720	70.7
<b>TOTAL</b>	<b>304</b>	<b>79.8</b>	<b>809</b>	<b>74.1</b>	<b>1548</b>	<b>70.3</b>	<b>1371</b>	<b>65.1</b>	<b>1624</b>	<b>69.6</b>

<sup>16</sup> Note that the figures in this analysis are based only on referrals that were accepted or not accepted. Defendants who declined the program or who were referred only without presenting for an assessment have been excluded.



Table 6 provides information relating to acceptance rates by year and referral source. Chi-squared tests showed significant differences in acceptance by source in 2003, 2004 and 2005.<sup>17</sup> The number of referrals in 2000 was not high enough to validate statistical analysis, and for the years 2001 and 2002, no statistically significant differences were found.<sup>18</sup>

Table 6 shows that referrals from Magistrates resulted in consistently high program acceptances, as did referrals from Probation & Parole. Referrals from an “other” source, resulted in significantly lower acceptances in both 2003 and 2005. Referrals from the police have lower rates of acceptances across all years since 2001, and from 2003 to 2005 self referrals also resulted in a low number of acceptances.

Referrals from solicitors are of particular interest. The number of solicitor referrals has increased over the years. In 2003 and 2004 the number of the solicitor referrals that resulted in a program acceptance were low. However, in 2005, the acceptance rate of solicitor referrals showed a marked improvement.

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<sup>17</sup> 2003:  $X^2=28.355$ ,  $df=6$ ,  $p<000$ ,  $n=2202$   
2004:  $X^2=19.287$ ,  $df=6$ ,  $p=.004$ ,  $n=2107$   
2005:  $X^2=15.765$ ,  $df=6$ ,  $p=.015$ ,  $n=2335$

<sup>18</sup> 2001:  $X^2=7.251$ ,  $df=5$ ,  $p=.203$ ,  $n=381$   
2002:  $X^2=5.167$ ,  $df=6$ ,  $p=.523$ ,  $n=1092$

### **5.3 REFERRAL SOURCE BY AREA HEALTH SERVICE**

In the 2004 Annual Report, referral information was presented for 17 separate Area Health Services. Since that time, the 17 Area Health Services have been amalgamated into eight. Table 7 presents referral information for the eight Area Health Services. At the end of 2005, MERIT was operational in 55 NSW Local Courts. These courts are grouped according to geographic location and linked to the nearest Area Health Service. It is important to keep in mind that the information is a reflection of court-based referral differences rather than differences based on Area Health Service. Table 1 (page 11) provides information relating to the courts that fall within each health area.

There is evidence of regional variation in relation to referral source, with a high proportion of solicitor referrals in the Mid West/ Far West/ Macquarie AHS, Mid North Coast/Northern Rivers AHS and the North Sydney/North Coast AHS. High rates of Magistrate referrals in the South West Sydney/Central Sydney AHS region. The Southern/Greater Murray region exhibits a high rate of self referrals – and the Mid North Coast/Northern Rivers and the North Sydney/Central Coast have a high proportion of “other” referrals.

**Table 7 Referral Source by Area Health Service**

Area Health Service	Referral source														Total n
	Magistrate		Self		Solicitor		Probation & Parole		Police		Family member/friend		Other		
	n	%	n	%	n	%	n	%	n	%	n	%	n	%	
South East Sydney Illawarra	182	38.5	65	13.7	147	31.1	23	4.9	13	2.7	4	0.8	39	8.2	473
South West Sydney Central Sydney	214	44.2	49	10.1	169	34.9	3	0.6	25	5.2	3	0.6	21	4.3	484
Western Sydney Wentworth	125	36.7	38	11.1	134	39.3	9	2.6	14	4.1	2	0.6	19	5.6	341
Hunter New England	139	39.3	10	2.8	165	46.6	5	1.4	7	2.0	1	0.3	27	7.6	354
Mid West, Far West Macquarie	31	19.9	10	6.4	85	54.5	6	3.8	8	5.1	3	1.9	13	8.3	156
Mid North Coast Northern Rivers	28	8.0	26	7.5	187	53.7	17	4.9	20	5.7	12	3.4	58	16.7	348
Southern Greater Murray	33	26.8	23	18.7	50	40.7	2	1.6	8	6.5	0		7	5.7	123
North Sydney Central Coast	76	24.1	18	5.7	169	53.5	1	0.3	5	1.6	1	0.3	46	14.6	316
<b>TOTAL</b>	<b>828</b>	<b>31.9</b>	<b>239</b>	<b>9.2</b>	<b>1106</b>	<b>42.6</b>	<b>66</b>	<b>2.5</b>	<b>100</b>	<b>3.9</b>	<b>26</b>	<b>1.0</b>	<b>230</b>	<b>8.9</b>	<b>2595</b>

Missing data = 30: 20 from the Hunter AHS, 7 from the Central Coast AHS and 1 each from New England, Northern Rivers & South West AHS.

Table 8 shows the proportion of defendants referred to and accepted into MERIT by AHS from 2003 to 2005. Some variation in the acceptance rate is evident for a number of AHS regions. While South East Sydney and Illawarra and the Greater Southern regions display consistency over the three year period. The North Coast region is stable from 2004 to 2005, but both of these years show a decrease in acceptance rates when compared to 2003. The greater Western Regions shows a significant increase in the proportion of acceptances in the Greater Western region over the three years, an upward trend for Sydney West and an increase in the Hunter and New England regions from 2003 to 2004, which has stabilised in 2005. The Sydney South West regions shows a significant increase in the rate of acceptances in 2005 when compared to 2004, with the increase returning the acceptance rate that for 2003.

**Table 8 The number and proportion of MERIT acceptances by AHS**

	2003 No. & % accepted		2004 No. & % accepted		2005 No. & % accepted	
South East Sydney & Illawarra	287	66.6	255	63.0	320	67.7
Sydney South West	231	50.4	196	40.9	250	51.5
Sydney West	151	61.6	149	65.6	237	69.5
Hunter & New England	189	55.1	238	63.5	227	60.5
Greater Western	91	49.5	82	52.9	106	67.9
North Coast	292	68.7	214	63.9	220	63.0
Greater Southern	102	62.2	92	61.7	75	61.0
Northern Sydney & Central Coast	205	62.1	146	53.9	189	58.5
<b>TOTAL</b>	<b>1548</b>	<b>60.0</b>	<b>1372</b>	<b>57.3</b>	<b>1624</b>	<b>61.9</b>

## 5.4 MULTIPLE MERIT REFERRALS

Having previously been referred to MERIT does not preclude a defendant from a further referral. This philosophy is based on the knowledge that persons with chronic drug dependence may require more than one episode in drug treatment before breaking the drug-crime cycle. It is also possible that the defendant may not have been accepted into or completed MERIT on the first referral.

Table 9 provides information on the number of defendants who have been referred to MERIT on more than one occasion. As the number of persons referred to the program has increased over time, so has the proportion of persons who have been referred to the program on more than once. In 2000, 7% of the defendants referred to MERIT had had a previous referral to the program. By 2005, the proportion of defendants with more than one referral had increased to 16%. Of the 419 defendants with more than one referral, 339 number had been referred twice and 61 had 3, 16 had been referred four times and three defendants had been referred on five occasions.

**Table 9 Multiple referrals to MERIT**

Year	Number of referrals to MERIT				Total n
	1referral n	%	2+ referrals n	%	
2000	79	100			79
2001	431	93.3	31	6.7	462
2002	1140	88.9	142	11.1	1282
2003	2270	88.0	311	12.0	2581
2004	2016	84.1	380	15.9	2396
2005	2205	84.0	419	16.0	2624

Table 10 provides information relating to the acceptance rates of defendants who have been referred to MERIT on more than one occasion. As time has progressed, the proportion of persons with multiple referrals to MERIT who have not been accepted into the program has increased.

**Table 10 Acceptance of persons who have had more than one referral to MERIT**

	Accepted	Referral only/ declined program	Not accepted		Total
	n	n	n	%	n
	2001	25	3	3	9.7
2002	94	19	29	20.4	142
2003	198	33	80	25.7	311
2004	233	34	113	29.7	380
2005	250	43	126	30.1	419

### 5.5 THE DEMOGRAPHICS OF PERSONS REFERRED TO AND ACCEPTED INTO MERIT

Figure 4 shows the gender proportion of defendants referred to MERIT. Males have made up three-quarters of the MERIT referrals since program inception. This finding is consistent with the gender proportion of persons charged in the NSW Local Courts. Figures provided by the Bureau of Crime Statistics and Research show that males have made up around 80% of persons charged in NSW Local Courts from 2000 to 2005. Figure 4 also shows that acceptance into MERIT on the basis of gender is proportionate to the gender-based referral rates.

**Figure 4 Referral and acceptance rates by gender**

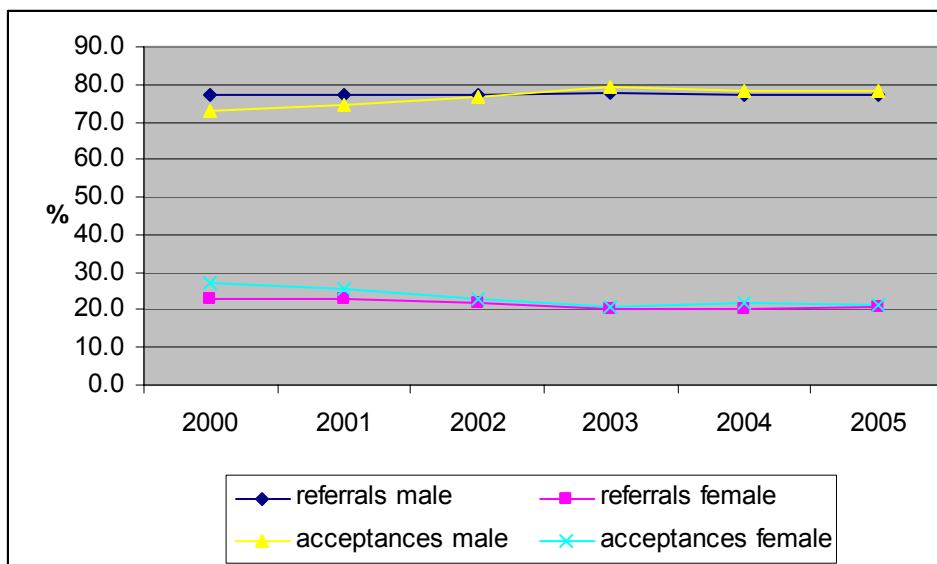


Table 11 shows referral information by defendant age. The bulk of the defendants referred to MERIT are aged from 21 to 34, with these persons representing 59% of all MERIT referral during 2005. Defendants aged 18-20 represent 16% of all MERIT referrals, and defendants aged 35 years and over represent 25% of the MERIT referrals. A chi-squared test of age at referral across the six years showed there to be significant

differences in the rate of referral by age.<sup>19</sup> Grouping the ages in 18-29, 30-39, 40-49 and 50+, referrals in 2000 and 2001 were high for defendants aged 40-49. In the years 2002 and 2004, there was a high rate of referrals for the 18-29 aged group. In 2005, the referral rate of 18-29 year olds was low, and the rate for the three older groups was high. A test for acceptance into MERIT by age in each of the years was undertaken, no statistically significant differences were apparent.<sup>20</sup>

The median age of defendants referred to MERIT during 2005 was 28 years. When the age of the persons referred to MERIT in 2005 were compared with the figures for persons charged in NSW Local Courts some differences were apparent. There was a slight over-representation of younger persons (21-34 years) referred to MERIT when compared with the proportion of younger persons charged in the Local Courts, and conversely, an under-representation of older persons (40+ years). The 35-39 age-group was proportionately represented. Information from other research into drug use in Australian shows the age distribution of the MERIT population to reflect the drug-using population generally.<sup>21</sup>

**Table 11 Referral to MERIT by age**

Age	Referral year													
	2000		2001		2002		2003		2004		2005		Total	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
			(missing=14)		(missing=18)		(missing=55)		(missing=34)		(missing=34)		(missing=43)	
<b>&lt;18</b>			4	0.9	5	0.4	4	0.2	1	0.0	3	0.1	17	0.2
<b>18-20 years</b>	15	19.0	64	14.3	194	15.3	359	14.2	388	16.4	407	15.8	1427	15.4
<b>21-24 years</b>	18	22.8	82	18.3	284	22.5	591	23.4	482	20.4	490	19.0	1947	21.0
<b>25-29 years</b>	12	15.2	117	26.1	307	24.3	565	22.4	544	23.0	536	20.8	2081	22.5
<b>30-34 years</b>	12	15.2	80	17.9	224	17.7	482	19.1	449	19.0	504	19.5	1751	18.9
<b>35-39 years</b>	7	8.9	47	10.5	129	10.2	270	10.7	251	10.6	332	12.9	1036	11.2
<b>40-49 years</b>	15	19.0	49	10.9	106	8.4	230	9.1	206	8.7	267	10.3	873	9.4
<b>50+ years</b>			5	1.1	15	1.2	25	1.0	42	1.8	43	1.7	130	1.4
<b>TOTAL</b>	<b>79</b>	<b>100</b>	<b>448</b>	<b>100</b>	<b>1264</b>	<b>100</b>	<b>2526</b>	<b>100</b>	<b>2363</b>	<b>100</b>	<b>2582</b>	<b>100</b>	<b>9262</b>	<b>100</b>

Table 12 shows MERIT referral and acceptance by Aboriginal<sup>22</sup> status from 2000 to 2005.<sup>23</sup> In 2005, the proportion of persons referred to MERIT who identified as being Aboriginal was 16.2%. Since program inception, this proportion has fluctuated from a low of 13.2% (2001) to a high of 18.1% (2003). The acceptance rate of Aboriginal

<sup>19</sup>  $\chi^2=38.773$ ,  $df=15$ ,  $p=.001$ ,  $n=9245$ .

<sup>20</sup> Kruskal-Wallis by year:

2000:  $\chi^2= .504$ ,  $df=1$ ,  $p=.478$ ,  $n=79$   
 2001:  $\chi^2= 1.564$ ,  $df=1$ ,  $p=.211$ ,  $n=448$   
 2002:  $\chi^2= .019$ ,  $df=1$ ,  $p=.890$ ,  $n=1264$   
 2003:  $\chi^2= 1.120$ ,  $df=1$ ,  $p=.290$ ,  $n=2525$   
 2004:  $\chi^2= .958$ ,  $df=1$ ,  $p= .003$ ,  $n=2363$   
 2005:  $\chi^2= .513$ ,  $df=1$ ,  $p=.474$ ,  $n=2582$

<sup>21</sup> Australian Institute of Health and Welfare, 2007, *Statistics on drug use in Australia 2006*, Australian Institute of Health and Welfare.

<sup>22</sup> In this report, Aboriginal status is used to refer to persons who identify as Aboriginal, Torres Strait Islander or both.

<sup>23</sup> Note that Aboriginal status was unavailable for 13.6% of the MERIT referral population in 2005.

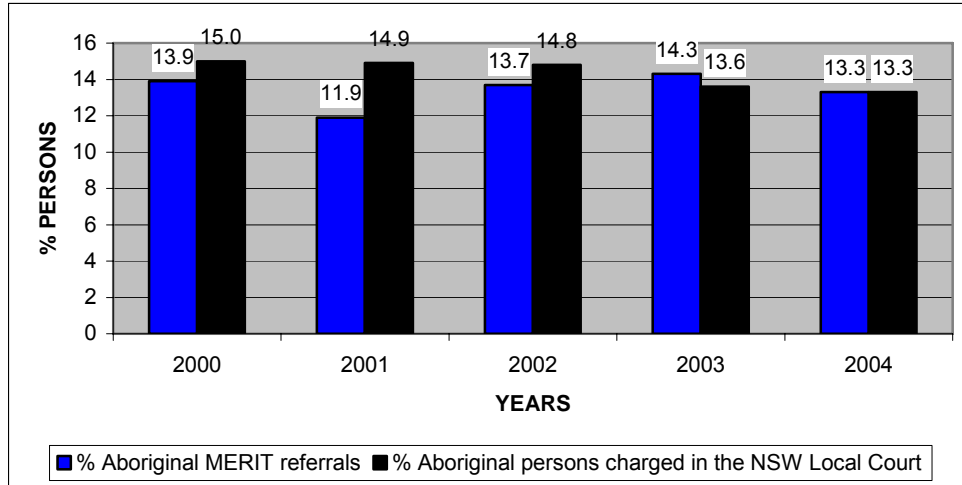
defendants, while slightly lower each year than the referral rates, does reflect the referral rate, with a low of 13% in 2000 to a high of 16% in 2004. The acceptance rate of Aboriginal defendants referred to MERIT during 2005 was 15%.

**Table 12 Aboriginal status**

	2000		2001		2002		2003		2004		2005		Total n
	n	%	n	%	n	%	n	%	n	%	n	%	
<b>Referrals</b>													
ATSI	11	14.3	55	13.1	176	16.0	378	18.1	335	17.1	368	16.2	1323
non-ATSI	66	85.7	364	86.9	926	84.0	1708	81.9	1629	82.9	1899	83.8	6592
Total	77	100.0	419	100.0	1102	100.0	2086	100.0	1964	100.0	2267	100.0	7915
missing	2		43		180		495		432		358		1510
<b>Acceptances</b>													
ATSI	7	12.7	44	14.55	106	13.7	230	15.6	211	15.9	244	15.2	842
non-ATSI	48	87.3	259	85.5	666	86.3	1247	84.4	1116	84.1	1357	84.8	4693
Total	55	100.0	303	100	772	100	1477	100	1327	100	1601	100	5535
missing	0		1		37		71		45		23		177

When compared with Local Court charge figures, the proportion of Aboriginal persons referred to MERIT is consistent with the proportion of Aboriginal persons charged in the NSW Local Courts, see Figure 5.

**Figure 5 The proportion of Aboriginal referrals to MERIT compared with the proportion of Aboriginal identified persons appearing in the NSW Local Court<sup>24</sup>**



When Aboriginal status was examined in relation to program acceptance rates, differences were apparent. Chi-squared tests undertaken for the years 2002 and 2003 showed there to be highly statistically significant differences in program acceptance rates based on Aboriginality.<sup>25</sup> These differences, while still apparent for 2004 and 2005, were reduced.<sup>26</sup>

<sup>24</sup> Cases where the Aboriginal status of the defendants was not known have been excluded from the analysis.

<sup>25</sup> Aboriginality v. program acceptance  
 2002:  $\chi^2=9.642$ ,  $df=1$ ,  $p=.002$ ,  $n=1102$   
 2003:  $\chi^2=21.534$ ,  $df=1$ ,  $p<.000$ ,  $n=2085$

## 5.6 HIGHEST EDUCATIONAL ACHIEVEMENT

Table 13 shows the highest educational achievement of defendants referred to and accepted into MERIT. The majority of the defendants involved with the program have been educated to Year 10 or less, with this group making up 72% of all MERIT referrals. Some differences are apparent over time however, with the proportion of defendants with a Year 11-12 education increasing in 2004 and 2005.

**Table 13 Referrals by highest educational achievement, MERIT referrals 2000-2005**

Year of referral	Education level								
	Year 10 or less		Year 11 or 12		TAFE/Trade		Tertiary		Total
	n	%	n	%	n	%	n	%	n
2000	39	62.9	11	17.7	4	6.5	8	12.9	62
2001	153	69.9	31	14.2	26	11.9	9	4.1	219
2002	654	73.0	133	14.8	91	10.2	18	2.0	896
2003	1350	76.3	273	15.4	105	5.9	41	2.3	1769
2004	1152	73.8	270	17.3	118	7.6	21	1.3	1561
2005	1267	71.5	304	17.2	176	9.9	25	1.4	1772
Total	4615	73.5	1022	16.3	520	8.3	122	1.9	6279

## 5.7 PRINCIPAL DRUG OF CONCERN

Table 14 presents information relating to the principal drug of concern for MERIT referrals, and the proportion that each drug type makes up of the accepted MERIT cases. The most common principal drug of concern for referrals (40.4%) and acceptances (40.1%) is cannabis. Following this are narcotic drugs, mainly heroin, which is the principal drug of concern in 28.4% of referrals and 29.7% of acceptances. Stimulants, typically in the form of amphetamines, are the third most common principal drug of concern, accounting for 23.1% of all referrals and 22.4% of acceptances.

Note that alcohol is accepted as a principal drug of concern in the registries of Broken Hill and Wilcannia, dealt with by the Far West MERIT Team of the Greater Western Area Health Service.<sup>27</sup>

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<sup>26</sup> Aboriginality v. program acceptance  
 2002:  $\chi^2=3.868$ ,  $df=1$ ,  $p=.05$ ,  $n=1964$   
 2003:  $\chi^2=3.947$ ,  $df=1$ ,  $p=.05$ ,  $n=2267$

<sup>27</sup> Note that alcohol as a primary drug problem is accepted into the Rural Alcohol Diversion Program being trialled at Orange and Bathurst Local Courts, but these cases are not included here.



**Table 14 Principal drug of concern for MERIT referred defendants**

Principal drug of concern	MERIT Referrals		MERIT Acceptances	
	n	%	n	%
<b>Cannabis</b>	<b>832</b>	<b>40.4</b>	<b>652</b>	<b>40.1</b>
<b>Narcotics</b>	<b>585</b>	<b>28.4</b>	<b>482</b>	<b>29.7</b>
Heroin	549	26.7	454	28.0
Methadone	21	1.0	16	1.0
Morphine (incl. MS Contin, Opium)	13	0.6	10	0.6
Organic Opiate Analgesics	1	0.0	1	0.1
Codeine (incl. Codral Forte, Disprin Forte, Panadeine)	1	0.0	1	0.1
<b>Stimulants</b>	<b>524</b>	<b>25.4</b>	<b>406</b>	<b>25.0</b>
Amphetamines	476	23.1	364	22.4
M.D.M.A. (Ecstasy)	18	0.9	16	1.0
Methamphetamine (incl. Speed, Ice)	17	0.8	14	0.9
Cocaine	13	0.6	12	0.7
<b>Sedatives (Benzodiazepines)</b>	<b>72</b>	<b>3.5</b>	<b>62</b>	<b>3.8</b>
<b>Ethanol (Alcohol)</b>	<b>39</b>	<b>1.9</b>	<b>17</b>	<b>1.0</b>
<b>Volatile solvents</b>	<b>3</b>	<b>0.1</b>	<b>1</b>	<b>0.1</b>
<b>Other</b>	<b>5</b>	<b>0.2</b>	<b>4</b>	<b>0.2</b>
Nicotine	1	0.0	1	0.1
Other Drug of Concern, NEC	1	0.0	1	0.1
Lysergic acid diethylamide (LSD)	2	0.1	2	0.1
Caffeine	1	0.0	0	0.0
<b>Total</b>	<b>2060</b>	<b>100.0</b>	<b>1624</b>	<b>100.0</b>
Missing/inadequately described	565		0	n/a

**5.7.1 Principal drug of concern by region<sup>28</sup>**

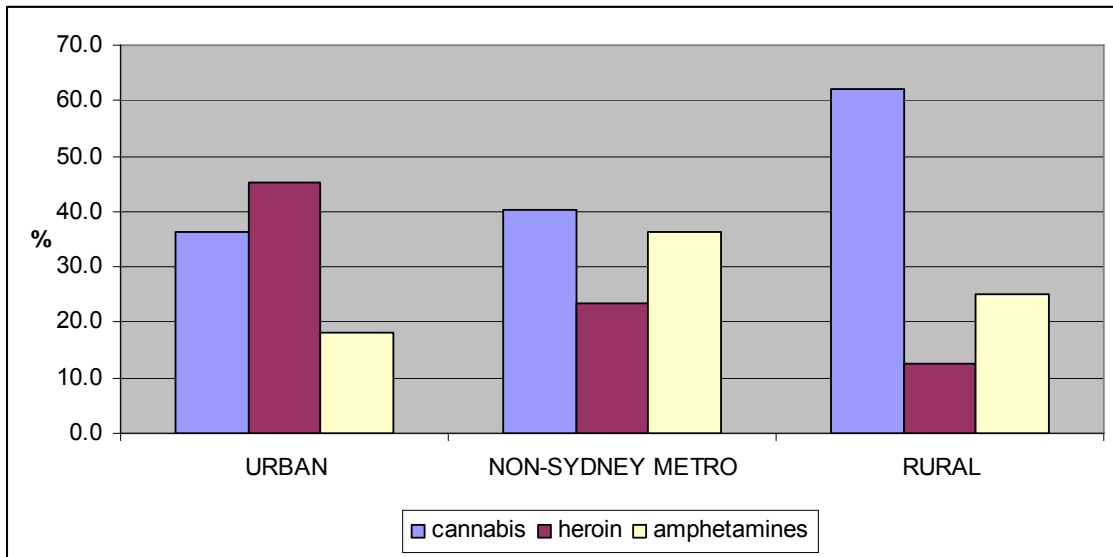
Figure 6 presents the 2005 breakdown of principal drug of concern by region. The differences that are apparent are statistically significant.<sup>29</sup> In the urban region, cannabis and heroin use is high, amphetamine use low. In the Non-Sydney metro region, a higher level of amphetamine use is evident. In the rural regions, the principal drug of concern is largely cannabis.

When compared with the 2004 Annual Report, the level of cannabis as the principal drug of concern in the urban region has increased - with heroin and amphetamine use remaining constant.

<sup>28</sup> The Urban Region is made up of the Northern Sydney, Western Sydney, South Eastern Sydney, South Western Sydney, Central Sydney and Wentworth MERIT teams. The Non-Sydney Metro Region is made up of the Hunter, Illawarra, Central Coast MERIT teams. The Urban Region is made up of the New England, Mid West, Far West, Macquarie, Mid North Coast, Northern Rivers, Southern and Greater Murray MERIT teams.

<sup>29</sup> Principal drug by region:  $\chi^2=213.288$ ,  $df=4$ ,  $p<.000$ ,  $n=1856$ .

**Figure 6 Principal drug of concern by region**



## 5.8 NUMBER OF CHARGES AND OFFENCES COMMITTED

### 5.8.1 Number of charges

Table 15 shows the number of charges being faced per person in relation to MERIT referrals and MERIT acceptances. The majority of persons referred to MERIT are facing only one charge before the court (50.3%). Just under one-third of the defendants referred were facing two charges (29.3%) and one-fifth of the defendants (20%) were facing three or more charges. The range in the number of charges being faced by the defendants referred to MERIT in 2005 was from 1 to 18. There is no difference in acceptance into the program on the basis of the number of charges being faced.<sup>30</sup>

**Table 15 Number of charges per persons: referrals and acceptances**

No. charges per person	Referrals		Acceptances	
	n	%	n	%
1	1103	50.3	792	48.8
2	642	29.3	481	29.6
3	265	12.1	201	12.4
4	108	4.9	91	5.6
5	36	1.6	28	1.7
6	15	0.7	12	0.7
7+	23	1.0	19	1.2
Total	2192	100.0	1624	100.0
missing	433			

<sup>30</sup> Chi-squared: accepted, referral only, not accepted, declined program –  $\chi^2=16.770$ ,  $df=12$ ,  $p=.158$ ,  $n=2192$ .

### 5.8.2 Type of charge

The following information uses the Australian Standard Offence Classification of the Australian Bureau of Statistics (ASOC).<sup>31</sup> The information in Table 16 provides an account of all charges being faced by persons referred to MERIT. Table 16 shows that a total of 2192 defendants faced 3250 charges.

The most frequent charges being faced by persons referred to MERIT are for illicit drug offences (38.8%) followed by theft and related offences (33.1%). This was followed by road traffic and motor regulatory offences (16.8%), assault (13.7%) and offences against justice procedures<sup>32</sup> (12.9%). Also apparent from the table is that acceptance into MERIT is not dependent on the nature of the charge – as the acceptance proportions by charge mirror the referral proportions by charge.<sup>33</sup>

**Table 16 Number of defendants by charge types**

Charge types	Referrals		Acceptances	
	n	%	n	%
Illicit drug offences	850	38.8	642	39.5
Theft and related offences	726	33.1	540	33.3
Road traffic & motor vehicle regulatory offences	342	15.6	273	16.8
Assault	314	14.3	223	13.7
Offences against justice procedures	283	12.9	209	12.9
Break & enter offences	206	9.4	151	9.3
Malicious damage to property	164	7.5	112	6.9
Dangerous or negligent acts endangering persons	116	5.3	92	5.7
Weapons offences	91	4.2	66	4.1
Robbery, extortion & related offences	54	2.5	38	2.3
Public order offences	51	2.3	41	2.5
Fraud	50	2.3	36	2.2
Other	3	0.1	1	0.1
<b>Total</b>	<b>2192</b>	<b>100.0</b>	<b>1624</b>	<b>100.0</b>
Missing	433		0	

<sup>31</sup> Australian Standard Offence Categories, Australian Bureau of Statistics, catalogue No. 1234.0.

<sup>32</sup> Offences against justice procedures includes the following offences: escape custody, breach of bail, breach of parole, breach of domestic violence orders, and breach of other restraining orders.

<sup>33</sup>  $X^2=2.081$ ,  $df=11$ ,  $p=.998$ ,  $n=5670$  (excludes "other" drug type).

## 6.0 MERIT PROGRAM COMPLETIONS

This section provides details about defendants who had a completed MERIT contact recorded during the 2005 calendar year (see Section 4.4 for further detail about completed contacts). Note that the term ‘completed MERIT contact’ is used to define **all** finalised MERIT referrals. As such, ‘completed contacts’ include defendants who complete the MERIT program, defendants who do not complete the program as well as defendants who are referred to MERIT and are either not accepted or do not agree to participate. This base reflects the concept of a ‘closed treatment episode’ which describes a contact with defined dates of commencement and cessation, and is consistent with the base that is used in the reporting for the National Minimum Data Set (NMDS).

The total number of persons recorded as having a completed MERIT contact during 2005 was 1611.<sup>34</sup> Table 17 provides information about the exit status of persons who had a completed MERIT contact during 2005. The Table shows that two-thirds (67%) of the 2005 exit population completed MERIT. The remaining 32.7% did not complete MERIT for various reasons. The most common reason for program non-completion was due to the defendant being breached for non-compliance with program requirements, 20.6%. The program completion rate of 67.3% represent an increase of 4% from 2004.

**Table 17 Exit status of persons accepted into the MERIT program, 2005**

<b>Exit status</b>	<b>n</b>	<b>%</b>
Breached by MERIT	332	20.6
Completed program	1083	67.3
Removed by Court	77	4.8
Withdrew voluntarily	101	6.3
Other	11	0.7
Died	5	0.3
<b>Total</b>	<b>1609</b>	<b>100</b>
missing	2	

### 6.1 NUMBER OF TIMES ON MERIT

Table 18 shows the completion rates of persons accepted into MERIT on the basis of the number of times they had been referred to the MERIT program. There are clear differences in the completion rates on the basis of the number of time a person has been referred to MERIT – with the chances of completing the program being the highest on the first referral, and the changes of completion reducing with the number of referrals. The differences are statistically significant.<sup>35</sup>

<sup>34</sup> Given that the MERIT program is of 3 months duration, this group will include some persons who were referred to MERIT from September 2004 to December 2005 who had not exited by 31 December 2005. The analysis will also exclude persons referred to MERIT from September to December 2005 who did not complete the program before the end of the 2005 calendar year.

<sup>35</sup> Chi-squared:  $\chi^2 = 7.170$ ,  $df = 2$ ,  $p = .028$ ,  $n = 1518$ .

**Table 18      Completion Status by number of MERIT episodes**

	Completed		Not completed		Total
	n	%	n	%	
1 episode	863	67.0	425	33.0	1288
2 episodes	116	61.1	74	38.9	190
3+ episodes	20	50.0	20	50.0	40

## 6.2 PROGRAM DURATION

The MERIT program standard is three months in duration (84-90 days). The actual time spent on MERIT can however vary from case to case. For example, a defendant may be considered to have met all program requirements in under the three month period, or may be considered to require longer than three months to successfully complete the program. This is at the discretion of the Magistrate dealing with the case in consultation with the MERIT Team, the defendant and his or her legal representative.

There are two ways of measuring MERIT program duration. The usual measure is the number of days between the court date at which the Magistrate endorses the defendant's entry into MERIT, which is known as the "program entry date" and the court date at which the Magistrate, on the basis of the MERIT caseworkers report, determines that the defendant has completed the MERIT program, known as the "exit date. This information, for the 2005 calendar year is reported in section 6.2.1. This measure is comparable with the information presented in previous MERIT Annual Reports.

An alternative measure of program duration is the number of days between the date the defendant is first assessed by the MERIT team and the date the treatment ceases. These days may be the same as the first and last MERIT court dates, or may vary considerably due to court adjournments. This information, for the 2005 calendar year, is reported in section 6.2.2.

### 6.2.1 Program duration 1: Magistrate endorsement (first MERIT court date) to last MERIT court date

Given that three months is the MERIT standard, completed cases that were recorded to have completed MERIT in less than 70 days (10 weeks) were removed from the analysis (n=40) on the basis of the high likelihood of these being data entry errors. Similarly, completed matters with a program duration in excess of 180 (n=15) were also excluded. On this basis, the following data for persons completing MERIT are based on 955 cases. The data for program non-completion is based on 516 defendants. The analysis excludes defendants recorded as having died while on the program (n=3) and those recorded as never having entered MERIT.

The median number of program days for persons completing MERIT was 90 days, with a selected range of 70 to 180 days. For defendants not completing the program, the median number of days recorded on the program was 42. For program non-completers, the range in days on MERIT program was from 0 to 175.

The figures for 2005 are consistent with the program duration figures reported in the 2004 MERIT Annual Report, which reported an average program duration for program completers of 90 days and for non-completers, 50 days.

### **6.2.2 Program duration 2: MERIT assessment to MERIT treatment cessation**

In addition to the court-based markers of program duration are dates recorded by the MERIT team that relate to the actual commencement and cessation of treatment for the defendant. These are the “assessment date” which refers to the date the MERIT program commenced from the perspective of the MERIT team and the “cessation date” which refers to the actual date upon which the treatment ended.

Using the same exclusion criteria for program completers (program duration of 70 or more days), the 907 defendants who completed MERIT spent a median of 99 days on the program. The program non-completers, of which there were 512 records available, spent a median of 50 on the program. These median figures indicate that defendants referred to MERIT get around one week more treatment than the court date durations take into account – specifically, a median of nine more days treatment for program completers, and either for program non-completers.

Nevertheless, this analysis shows that there is little difference between the two measures of program duration. On this basis, we can be confident that the court based program entry and exit dates are a valid measure of program duration.

## **6.3 TREATMENTS AND SERVICES**

### **6.3.1 Previous treatments received**

Table 19 provides information relating to the previous treatments the MERIT participants reported receiving for their illicit drug problem. Of all persons (n=2527) persons recorded as completing contact with MERIT during 2005<sup>36</sup> information about previous drug treatments was available for 1882 defendants. The 645 persons for which there was no information have been excluded from the following analysis. While it may be that there is no information about them due to them having had no previous treatment, as there is a “no previous treatment” recording option available we can not be certain that this is the case.<sup>37</sup>

Just under one-third of the participants reported having had no previous treatment (30%). Over half of the participants (54%) reporting having had two or more previous treatments, with 1 persons having received 13. The most common form of treatment previously received by the MERIT participants was pharmacotherapy, 41%. This was followed by counselling (39%) and withdrawal management (detoxification, 31%). Given that most persons reported having received more than one previous treatment, it is likely that a combination of the reported treatments were received at the same time.

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<sup>36</sup> Note that this figure includes the defendants who did not enter the program, n=1006.

<sup>37</sup> Note that all entries of “assessment only” where other forms of treatment were also entered have been removed from the analysis.

### 6.3.2 Services provided by MERIT

The MERIT team typically provides program participants with general support and case management (n=1468, 99.5%). In a small number of cases, the provision of information and education was recorded (n=7, 0.5%). These figures are consistent with previous years.

**Table 19 Previous treatments recorded**

Type of previous treatment		Frequency (n=1882)	% of referrals
Counselling		735	39.1
Pharmacotherapy	Total	772	41.0
	Methadone	476	25.3
	Naltrexone	66	3.5
	Buprenorphine	200	10.6
	Slow release oral morphine	8	0.4
	Acamposate	5	0.3
	Other maintenance pharmacotherapy	17	0.9
Withdrawal management	Total	580	30.8
	Inpatient / residential	424	22.5
	Outpatient withdrawal management	156	8.3
Rehabilitation activities	Total	423	22.5
	Residential	362	19.2
	Day program	61	3.2
Consultation - not w/d management	Total	42	2.2
	Inpatient	21	1.1
	Outpatient	21	1.1
Information and education only		68	3.6
Other (no further detail)		152	8.1
Support and Case management		77	4.1
No previous treatment (including assessment only)		567	30.1

### 6.3.3 External services provided while on MERIT

Information relating to external treatments (n=1521) provided during MERIT was available for 833 participants who exited MERIT during 2005. Table 20 shows the number and proportion of participants who received each of the four rehabilitation treatment types recorded. In cases where the data file included multiple records of the same treatment type, these were excluded from the following analyses.

**Table 20 External treatments provided during MERIT**

Treatment type	n	% (n=833)
D&A Non-residential	528	63.4
D&A Residential	548	65.8
Non D&A Services	582	69.9
Pharmacotherapies	469	56.3

One-third of the participants (n=276, 33.1%) received only one external treatment, the most common of which was a D&A Residential treatment (n=144, 17.3%). The remaining two-thirds received two or more treatments. Table 21 shows the treatment combinations as recorded in the MERIT database.

**Table 21 External treatment type combinations**

<b>No. treatments</b>	<b>External treatment type combinations</b>	<b>Frequency</b>	<b>%</b>
<b>1 treatment</b>	<b>Total</b>	<b>276</b>	<b>33.1</b>
	D&A Non-residential only	30	3.6
	D&A Residential only	144	17.3
	Non D&A Services only	60	7.2
	Pharmacotherapies only	42	5.0
<b>2 treatments</b>	<b>Total</b>	<b>127</b>	<b>15.2</b>
	D&A Non-residential + D&A Residential	11	1.3
	D&A Non-residential + Non D&A Services	50	6.0
	D&A Non-residential + Pharmacotherapies	11	1.3
	D&A Residential + Non D&A Services	25	3.0
	D&A Residential + Pharmacotherapies	9	1.1
	Non D&A Services + Pharmacotherapies	21	2.5
<b>3 treatments</b>	<b>Total</b>	<b>123</b>	<b>14.8</b>
	D&A Non-residential + D&A Residential + Non D&A Services	44	5.3
	D&A Non-residential + D&A Residential + Pharmacotherapies	4	0.5
	D&A Non-residential + Non D&A Services + Pharmacotherapies	71	8.5
	D&A Residential + Non D&A Services + Pharmacotherapies	4	0.5
<b>4 treatments</b>	All service types	<b>307</b>	<b>36.9</b>

Most commonly, MERIT participants received a combination of all four treatment types while on MERIT, n=307, 37%. Similar proportions of participants received two or three treatment combinations.



## 7.0 CRIMINAL JUSTICE OUTCOMES

Two of the objectives of the MERIT program are to reduce re-offending of participating defendants while on the program, and following program completion. MERIT is also intended to produce sentence outcomes that reflect the increased rehabilitative prospects as a result of completing the drug treatment. The following information provides a descriptive account of sentence outcomes and re-offending of MERIT program participants. Comparisons are made between defendants who complete MERIT with defendants who do not complete MERIT. In the absence of an appropriate control group (that is, a group of defendants who exhibit similar characteristics of the MERIT participants but who have not participated in the MERIT program) no firm conclusions can be drawn regarding the efficacy of MERIT in relation to the criminal justice outcomes.

Criminal justice outcomes are measured by comparing post-program sentences and re-offending rates. The relevant data are provided by the NSW Bureau of Crime Statistics and Research following a process that matches MERIT participants with the Local Court and Re-offending databases held by the Bureau.

Table 22 provides information relating to the hit-rate of the matching exercise. It presents information from 2002-2005. BOCSAR was able to match on around three-quarters of the MERIT participants in each of the years.

**Table 22      Number and proportion of MERIT participants matched with data held by the Bureau of Crime Statistics and Research**

Program exit year	Data sent to BOCSAR <sup>38</sup>			Cases matched	
	Completed MERIT	Did not complete MERIT	TOTAL	No. matched cases	% matched cases
2002	307	294	601	442	73.5
2003	903	554	1457	1127	77.4
2004	882	527	1409	1052	74.7
2005	999	515	1514	1160	76.6

<sup>38</sup> Note that the data sent to BOCSAR had 97 missing cases.

## **7.1 SENTENCE OUTCOMES**

The sentence outcomes of the defendants accepted into MERIT in the years 2002 to 2005 are presented in Table 23.

The results presented in Table 23 are significantly different to those reported in the 2004 Annual Report. The sentence outcomes for 2004 were based on only 18% of MERIT participants. The information in Table 23 is based on around three-quarters of the MERIT participant population across each of the years.

The first point to note is that there are considerable differences between the principal penalty outcome for program completers and non-completers. The most common sentence outcomes for MERIT program completers are a bond, with supervision (16.5%), and without supervision (14.9%), followed by a suspended sentence without supervision (11.0%). By comparison, the most common sentence outcome for program non-completers is a term of imprisonment (20%) or a fine (20.4%). The second is the consistency of the sentence outcomes by completion/non-completion status across the four years from 2002 to 2005.

When interpreting this information it is important to consider that the program completers and non-completers may differ systematically. AS a result, the observed outcomes may reflect these systematic differences rather than differences due to the effect of the MERIT program. As seen in Table 23, one-fifth of the MERIT non-completers were breached by the MERIT teams for non-compliance with program requirements, and a further 11% were either withdrawn from the program by the court or withdrew from the program voluntarily. The reasons for them not completing the program could have had a significant bearing on the sentence outcomes.

**Table 23 Principal penalty by completion status: 2000 to 2005**

Principal Penalty	2002				2003				2004				2005			
	Completed		Not completed		Completed		Not completed		Completed		Not completed		Completed		Not completed	
Imprisonment	7	2.2	58	26.1	37	3.8	103	23.8	25	2.8	93	23.5	33	3.2	85	20.0
Fine	24	7.7	61	27.5	55	5.6	87	20.1	59	6.6	75	18.9	72	6.9	87	20.4
Bond with supervision	47	15.1	14	6.3	161	16.5	44	10.2	142	15.8	32	8.1	172	16.5	49	11.5
Bond without supervision	28	9.0	10	4.5	161	16.5	28	6.5	137	15.2	52	13.1	155	14.9	31	7.3
Suspended sentence with supervison	36	11.5	12	5.4	111	11.4	29	6.7	78	8.7	30	7.6	115	11.0	26	6.1
Suspended sentence without supervision	38	12.2	9	4.1	74	7.6	15	3.5	66	7.3	20	5.1	50	4.8	17	4.0
Home detention	-	-	-	-	5	0.5	-	-	1	0.1	-	-	2	0.2	-	-
Periodic detention	6	1.9	-	-	7	0.7	2	0.5	15	1.7	1	0.3	11	1.1	4	0.9
Community Service Order	24	7.7	7	3.2	58	6.0	17	3.9	58	6.5	11	2.8	69	6.6	17	4.0
Probation with supervision	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	0.2
Nominal sentence	11	3.5	6	2.7	5	0.5	3	0.7	9	1.0	1	0.3	8	0.8	1	0.2
Bond without conviction	6	1.9	1	0.5	24	2.5	7	1.6	42	4.7	5	1.3	42	4.0	4	0.9
No conviction recorded	8	2.6	3	1.4	20	2.1	3	0.7	28	3.1	3	0.8	29	2.8	-	-
No penalty	6	1.9	19	8.6	36	3.7	34	7.9	38	4.2	27	6.8	41	3.9	38	8.9
Juvenile specific outcomes																
Juvenile control order	-	-	1	0.5	-	-	-	-	-	-	-	-	-	-	-	-
Suspended control order with supervision	-	-	-	-	-	-	-	-	1	0.1	-	-	-	-	-	-
Suspended control order without supervision	-	-	-	-	1	0.1	-	-	-	-	1	0.3	1	0.1	-	-
Dismissed with caution	-	-	-	-	-	-	-	-	-	-	2	0.5	-	-	-	-
<b>TOTAL</b>	<b>312</b>	<b>100.0</b>	<b>222</b>	<b>100.0</b>	<b>974</b>	<b>100.0</b>	<b>433</b>	<b>100.0</b>	<b>899</b>	<b>100.0</b>	<b>396</b>	<b>100.0</b>	<b>1041</b>	<b>100.0</b>	<b>426</b>	<b>100.0</b>

## 7.2 RE-OFFENDING

Re-offending in this report is measured by a subsequent finalised court appearance. It is acknowledged that not all incidences of criminal activity come to the attention of the police and result in charges being laid. On this basis, the following figures may under-represent the re-offending behaviour of MERIT participants.

### 7.2.1 Re-offending within 12 weeks of commencing MERIT<sup>39</sup>

Table 24 shows the number and proportion of MERIT participants who were charged with a new offence within 12 weeks of commencing the MERIT program. Note that these figures include persons who completed contact with MERIT in less than the 3 months standard. Across the four years there is a considerable proportion of defendant who are charged with a new offence within the 12 weeks of their commencing the MERIT program. In 2002 one-third of the MERIT participants were charged with a new offence within the MERIT program period. This figure reduced over the following three years, but still, around one-quarter of all MERIT program participants have faced new charges within the 12 weeks following program commencement. While the majority of these defendants are recorded as being MERIT non-completers (and may therefore no longer have been participating in the program at the time the charges were brought), there are considerable proportions of MERIT completers in each year who were found to be facing new charges while still on the program.

**Table 24 Re-offending within the 12 week MERIT program period**

Exit year	Exit status	Re-offended while on MERIT	
		n	%
2002	Completed (n=241)	43	17.8
	Not completed (n=201)	101	50.2
	<b>TOTAL (n=442)</b>	<b>144</b>	<b>32.6</b>
2003	Completed (n=755)	116	15.4
	Not completed (n=372)	164	44.1
	<b>TOTAL (n=1127)</b>	<b>280</b>	<b>24.8</b>
2004	Completed (n=699)	93	13.3
	Not completed (n=353)	126	35.7
	<b>TOTAL (n=1052)</b>	<b>219</b>	<b>20.8</b>
2005	Completed (n=800)	116	14.5
	Not completed (n=360)	139	38.6
	<b>TOTAL (n=1160)</b>	<b>255</b>	<b>22.0</b>

<sup>39</sup> The point of reference for this analysis was a charge with an offence date after the first MERIT court date but within 112 weeks of the first court date.

### 7.2.2 Re-offending post MERIT contact

Table 25 presents information relating to the re-offending rates of the MERIT participants that BOCSAR was able to match with the Local Courts database, by completion status, at 6 months and 12 months post completing contact with the program. The last MERIT court date was used as the point of reference for the matching exercise.

**Table 25 MERIT exit status by re-appearance at court<sup>40</sup>**

Exit year	Exit status	No. & % re-appearing	
		within 6 months	within 12 months
<b>2002</b> (n=442)	<b>Completed</b> (n=241)	65 27.0	119 49.4
	<b>Not completed</b> (n=201)	98 48.8	144 71.6
<b>2003</b> (n=1127)	<b>Completed</b> (n=755)	226 29.9	341 45.2
	<b>Not completed</b> (n=372)	163 43.8	235 63.2
<b>2004</b> (n=1052)	<b>Completed</b> (n=699)	171 24.5	273 39.1
	<b>Not completed</b> (n=353)	126 35.6	190 53.8
<b>2005</b> (n=1160)	<b>Completed</b> (n=800)	180 22.5	297 37.2
	<b>Not completed</b> (n=360)	152 42.2	202 56.1

The figures in Table 26 show substantial differences the rate of recidivism for MERIT completers compared with non-completers across all years at both 6 and 12 months intervals.

In 2005, 23% of the MERIT program completers appeared before the court within 6 months of program completion compared with 42% of the program non-completers. By 12 months following program completion, the proportion of program completers who had re-appeared on further charges had increased by 14% to 37%. The proportion of program non-completers reappearing at court within 12 months also increased by 14%, to 56%.

<sup>40</sup> Data in Table 25 is based on all MERIT defendants identified during the data matching process, as detailed in Table 22.

## **8.0 FACTORS RELATED TO PROGRAM COMPLETION**

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The following section examines factors that are related to the completion of the MERIT program. First, the two-way chi-squared test is used to determine whether a relationship exists between the completion of MERIT and selected independent variables. The variables were selected on the basis of previous research that has identified them as being potential predictors of the completion of intervention programs.<sup>41</sup>

Once factors related to program completion were identified, they were examined in a multivariate analysis. As the data are mostly categorical, logistic regression was used. This test allows for the examination of the relative influence of a number of related factors simultaneously, and the relative influence of each category with each factor. The aim of logistic regression is to identify the factors which are the best predictors of completion of the MERIT program.

### **8.1 BI-VARIATE ANALYSES**

The following 12 variables were examined in relation to program completion:

- Gender
- Age
- Aboriginal status
- Number of MERIT episodes
- Country of birth
- Type of accommodation
- Marital status
- Served time in gaol
- Principal drug of concern
- Principal income source
- Highest educational achievement
- Preferred language

As indicated in Table 26, nine of these variables were found to be significantly related to program completion. Note that the number of cases for each variable in the table differs on the basis of the availability of information in the MIMS database.

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<sup>41</sup> Passey, M., (Ed.), 2003, *Evaluation of the Lismore MERIT Pilot Program*, Northern Rivers University Department of Rural Health.

**Table 26: Variables related to program completion**

	Completers		Non-completers		Chi-square test
	n	%	n	%	p
<b>No. MERIT episodes</b>					
1	863	67.0	425	33.0	0.028*
2	116	61.1	74	38.9	
3+	20	50.0	20	50.0	
<b>Aboriginality</b>					
Aboriginal	133	53.2	117	46.8	<.000**
non-Aboriginal	852	68.5	391	31.5	
<b>Age</b>					
18-20 years	134	62.6	80	37.4	0.002**
21-24 years	181	62.8	107	37.2	
25-29 years	219	62.2	133	37.8	
30-34 years	197	66.1	101	33.9	
35-39 years	121	66.1	62	33.9	
40-49 years	127	80.4	31	19.6	
50+ years	18	78.3	5	21.7	
<b>Country of birth</b>					
Australia	889	65.0	478	35.0	0.042*
Other	110	73.3	40	26.7	
<b>Type of accommodation</b>					
Owned house/flat	285	74.4	98	25.6	<.000**
Rented house/flat	613	63.5	353	36.5	
Other	91	59.1	63	40.9	
<b>Served time in gaol</b>					
Yes	379	64.6	208	35.4	0.006**
No	368	72.3	141	27.7	
<b>Principal drug of concern</b>					
Cocaine	8	72.7	3	27.3	<.000**
Cannaboids	428	71.8	168	28.2	
Benzodiazepines	44	72.1	17	27.9	
MDMA	16	94.1	1	5.9	
Narcotics	304	63.6	174	36.4	
Amphetamines	193	55.8	153	44.2	
Other	6	66.7	3	33.3	
<b>Principal income</b>					
Full-time employed	110	79.1	29	20.9	=.002
Part-time employed	70	70.0	30	30.0	
Pension (eg.aged)	234	66.7	117	33.3	
Temporary benefit eg. unemployment)	478	61.7	297	38.3	
No income	32	69.6	14	30.4	
Other	60	70.6	25	29.4	
<b>Education</b>					
TAFE/trade	100	76.9	30	23.1	=.025
tertiary	11	73.3	4	26.7	
year 10 or less	654	64.2	365	35.8	
year 11 or 12	162	68.4	75	31.6	

#### 8.1.1 Number of MERIT episodes

A significant difference in program completion based on the number of MERIT episodes was evident, with significantly more defendants on MERIT for the first time completing the program, 67%, compared with 61% of defendants on MERIT for the second time and 50% of defendants who had participated in MERIT for 3 or more times.

#### 8.1.2 Aboriginality

Being Aboriginal was significantly related to program completion, with 69% of non-Aboriginal defendants completing MERIT compared with 53% of Aboriginal defendants.

#### 8.1.3 Age

Significantly more older program participants completed MERIT than younger participants. Specifically, there were significantly fewer defendants aged 29 years or younger who completed MERIT and significantly more persons aged 40 years and over who completed the program. Around 62% of defendants aged 29 or younger completed MERIT compared with 66% of defendants aged 30 to 39 years and 80% of defendants aged 40 or more years.

#### 8.1.4 Country of birth

Program completion was significantly related to being born outside Australia, with 73% of defendants born outside Australia completing the program compared with 65% who were Australian born.

#### 8.1.5 Type of accommodation

Program completion was related to the participants' accommodation, with significantly more persons living in owned or rented accommodation completing MERIT. Three-quarters (74%) of the defendants living in a privately owned home completed MERIT compared with 64% of defendants living in rented accommodation and 60% living in some other type of accommodation.

#### 8.1.6 Served time in gaol

Having previously served time in gaol was significantly related to program completion, with 65% of defendants having served time completing MERIT compared with 73% of defendants who had not served gaol time.

#### 8.1.7 Principal drug of concern

The principal drug of concern was significantly related to program completion. Significantly more cannabis users completed the program than did narcotics users, 72% compared with 64%.



### 8.1.8 Principal income source

The income source of the program participants was significantly related to completion, with more defendants in full-time or part-time employment completing the program, 79% and 70% respectively. The defendants least likely to complete MERIT were those on temporary benefits, 62%.

### 8.1.9 Education

We saw earlier that the majority of defendants referred and accepted into MERIT are educated to Year 10 or below. This group of defendants are significantly less likely to complete MERIT, 64% compared with 77% of TAFE/trade and 73% of tertiary educated defendants.

## 8.2 LOGISTIC REGRESSION ANALYSIS

The nine significant variables were included in a logistic regression analysis. Following a backwards step-wise reduction, four of the nine variables were found to be the best predictors of program completion: age, living accommodation, principal drug of concern and Aboriginality. The results of the reduced model are presented in Table 27.

**Table 27 Reduced logistic regression model for predicting program completion**

	Estimate	Standard error	Sig.	Odds ratio	95% Confidence Intervals	
					Lower	Upper
Age (<=29 vs 30-39)	-0.91933	0.246739	0.000	0.40	0.25	0.65
Age (<=29 v 40+)	-0.78649	0.256831	0.002	0.46	0.28	0.75
Accommodation (private vs other)	0.439604	0.171338	0.010	1.55	1.11	2.17
Principal drug (narcotics/amphetamines v other)	0.59401	0.14153	0.000	1.81	1.37	2.39
Aboriginality (Aboriginal vs not)	0.526176	0.181053	0.004	1.69	1.19	2.41

## **9.0 DISCUSSION**

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### **9.1 PROGRAM EXPANSION, REFERRALS AND ACCEPTANCES**

During 2005 the MERIT program expanded to an additional four courts, bringing the total number of MERIT courts in NSW to 55. Collectively, these courts account for 75% of the volume of persons charged in all NSW Local Courts.

Since program commencement in July 2000, a total of 9425 defendants have been referred to MERIT, with an over-all program acceptance rate of 61%. In 2005, 2625 defendants were referred to MERIT with 1624 (62%) accepted into the program. The figures for 2005 represent an increase in both referral numbers and the rate of acceptance from 2004.

Just over one-quarter of the defendants referred to MERIT were not accepted into the program. In 2005 the most common reason for non-acceptance was the defendant being deemed ineligible for MERIT, accounting for just under half of all non-accepted defendants (46%). While this figure for ineligibility is down slightly from 50% in 2004, it is considerably higher than that for 2002 and 2003, during which time program ineligibility accounted for around one-third of the non-acceptances. The 2005 calendar year also showed an increase (17% compared with 12% in 2004) in the proportion of referred defendants not being endorsed by a magistrate.

The primary source of MERIT referrals during 2005, as in 2004, was solicitors. This represents a shift from the earlier years when most referrals were made by Magistrates. There has been a consistent reduction in the proportion of referrals made by Police over the years.

Although the number of defendants who have been referred to MERIT on more than one occasion has increased over time, the current report found that their acceptance rates has decreased over time.

Consistent with the reported findings in the 2004 Annual Report, the figures for 2005 showed regional differences in relation to referral sources and acceptance rates. These differences are likely to be due, at least in part, to regionally based demographic differences.

Males have consistently made up three-quarters of the MERIT referrals and acceptance since program inception. This finding is consistent with the gender proportion of persons charged in the NSW Local Courts.

The majority of the defendants referred to MERIT (59%) are aged from 21 to 34. Defendants aged 18-20 represent 16% of all MERIT referrals, and defendant aged 35 years and over represent 25% of the MERIT referrals. Referral rates by age have been consistent across program years of operation. There is no difference in program acceptance on the basis of age. However, the younger age group is over-represented in MERIT referrals and the older age groups under-represented when compared with Local Court charge figures. The majority of the defendants involved with the program have

been educated to Year 10 or less, with this group making up 72% of all MERIT referrals.

In 2005, 16% of the persons referred to MERIT identified as being Aboriginal. Since program inception, this proportion has fluctuated from a low of 13.2% (2001) to a high of 18.1% (2003). The proportion of Aboriginal persons referred to MERIT in 2005 is consistent with the proportion of Aboriginal persons charged in the NSW Local Courts. Of note is that the acceptance rate of Aboriginal defendants is significantly lower than that of non-Aboriginal defendants across all program years.

The most common principal drug of concern for persons referred to and accepted into MERIT is cannabis. Following this are narcotic drugs, principally heroin, which make up 28% of referrals and 30% of acceptances. Stimulants, typically in the form of amphetamines, are the third most common principal drug of concern, accounting for 23% of all referrals and 22% of acceptances. Regional differences also continue to be apparent in relation to the type of principal drug of concern, with cannabis and heroin use high in urban regions, amphetamine use high in non-Sydney metro regions and cannabis high in rural regions. When compared with the figures for 2004, it appears that cannabis use in the urban region is up, while heroin and amphetamine use have remained constant.

The majority of persons referred to MERIT are facing only one charge (50%). Just under one-third of the defendants referred were facing two charges (29%) and one-fifth of the defendants (20%) were facing three or more charges. There is no apparent difference in acceptance into MERIT on the basis of the number of charges being faced. Most frequently, defendants referred to MERIT are charged with an illicit drug offence (38.8%) followed by theft and related offences (33.1%). Road traffic and motor regulatory offences made up 17% of the referrals, assaults, 14% and offences against justice procedures 13%. Acceptance into the program also does not appear to be dependent on offence type.

## **9.2 TREATMENTS AND SERVICES**

Two-thirds of the 2005 MERIT participants reported having previously received drug rehabilitation treatment. Important here is that one-third of these Local Court defendants report that they have not had any previous treatment for their illicit drug problem. The most common form of treatment previously received was pharmacotherapy, 41%, followed by counselling, 39%, and withdrawal management, 31%. While on the program the MERIT team typically provides participants with general support and case management (99.5%). In a small number of cases, the provision of information and education was recorded (.5%).

Information relating to external treatments provided during MERIT was available for 833 participants who exited MERIT during 2005. One-third of the participants (33%) received only one external treatment, the most common of which was a residential treatment (17.3%). Typically however, MERIT participants received a combination of the four available treatment types (Drug & Alcohol non-residential, Drug & Alcohol residential, non Drug & Alcohol services and pharmacotherapies) while on MERIT, 37%.

### **9.3 CRIMINAL JUSTICE OUTCOMES**

Criminal justice outcomes were measured by comparing the post-program sentences and re-offending rates of MERIT program completers and non-completers.

In the absence of an appropriate control group, no firm conclusions can be drawn regarding the efficacy of MERIT in relation to the criminal justice outcomes. Also, it is important to remember that not all subsequent charges are drug-related.

Significant differences were found between MERIT completers and non-completers in 2005 with regard to sentence outcomes. The most common outcomes for program completers were a bond (16.5% with supervision and 15% without supervision), followed by a suspended sentence without supervision (11%). In contrast, the most common outcomes for program non-completers were a term of imprisonment or a fine (both at 20%). It is important to consider here though that many factors other than completion or non-completion of MERIT are used to determine sentencing.

Differences in the rate of recidivism for MERIT completers compared with non-completers were apparent, at both 6 and 12 months intervals. Again, program completion cannot be used as evidence of a direct cause of the difference. In 2005, 23% of the MERIT program completers appeared before the court within 6 months of program completion compared with 42% of the program non-completers. By 12 months following program completion, the proportion of program completers who had re-appeared on further charges had increased to 37% and to 56% for program non-completers.

A sizeable proportion of defendants are charged with a new offence within the 12 weeks of their commencing the MERIT program. In 2002, one-third of the MERIT participants were charged with a new offence within the MERIT program period. This figure reduced considerably over the following three years, but still, around one-quarter of all MERIT program participants have faced new charges within the 12 weeks following program commencement. While the majority of these defendants are recorded as being MERIT non-completers (and may therefore no longer have been participating in the program at the time the charges were brought), there are considerable proportions of MERIT completers in each year who were found to be facing new charges while still on the program.

### **9.4 PROGRAM COMPLETION**

Two-thirds, 68%, of the 2005 exit population completed MERIT, up 4% from 2004. The most common reason for program non-completion was the defendant being breached for lack of compliance with program requirements, 21%. The median number of program days for persons completing MERIT was 91 days and for defendants not completing the program, the median number of days on the program was 42. These figures are consistent with those reported for 2004.

A number of variables were found to be related to program completion. Differences in completion rate were found on the basis of the number of times a person has been referred to MERIT – with the chances of completing the program being the highest on the first referral, and the chances of completion reducing with the number of referrals.

Being Aboriginal significantly reduces the likelihood of completing MERIT, as does being aged 29 years or less. Program completion was significantly related to being born outside Australia. Significantly more defendants living in privately owned accommodation are likely to completed MERIT, and those defendants who had previously served time in gaol were significantly less likely to complete the program. The income source of the program participants was significantly related to completion, with more defendants in full-time or part-time employment completing the program. The defendants least likely to complete MERIT were those on temporary benefits. The majority of defendants referred and accepted into MERIT are educated to Year 10 or below, and it is this group which is significantly less likely to complete the program. These findings point to the defendant having a greater chance of successfully completing MERIT if they have some social and economic stability as a support.

Cannabis and heroin were the most common principal drugs of concern during 2005, and significantly more cannabis users completed the program than did narcotics users.

Through a multi-variate analysis, four of the nine variables were found to be the best predictors of program completion: defendant age, living arrangements, principal drug of concern and Aboriginality.

## 10.0 CONCLUSIONS

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The MERIT program has continued to grow, providing one-third of the MERIT defendant population with drug rehabilitation treatment for the first time. Some of the findings presented in this report have highlighted the need for continued program evaluation and monitoring.

With one-quarter of the MERIT referrals resulting in program non-acceptance, further education of MERIT eligibility and suitability requirements may be in order. It may be timely to review current processes and implement an education strategy aimed at increasing the number of referrals that are more likely to result in a program acceptance, as well as increasing the number of referrals from sources that currently have low rates of referral.

The fact that fewer Aboriginal defendants are accepted into MERIT and fewer complete the program continues to be an issue of concern. This issue is currently being addressed by the Aboriginal Health and Medical Research Centre (AHMRC) through a project aimed at determining the reasons behind the lower acceptance and completion rates. A model of best practice to engage local Aboriginal communities to support MERIT and other diversion programs will hopefully emerge from this project.

A large gap in our knowledge of the effectiveness of MERIT is the health outcomes of the program participants. The NSW Department of Health is currently examining the issue of health outcomes, but the future research agenda needs to examine this in relation to the criminal justice objectives of the program.

Of critical need is the conduct of a comprehensive evaluation of the effectiveness of the MERIT program. While we currently have criminal justice indicators that compare program completers with program non-completers, the program requires a thorough investigation of the efficacy or otherwise of the program when compared with a group of defendants who do not receive MERIT program treatment. It is only through such research that we can determine whether the objectives of the MERIT program are being achieved.