



Justice &  
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# M E R I T

**Magistrates Early Referral Into Treatment**

# ANNUAL REPORT

## Acknowledgements

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## Contents

<b>EXECUTIVE SUMMARY.....</b>	<b>III</b>
<b>1 INTRODUCTION.....</b>	<b>4</b>
1.1 PROGRAM DESCRIPTION .....	4
1.2 ELIGIBILITY FOR MERIT .....	4
<b>2 THE MERIT PROCESS &amp; PROGRAM COVERAGE.....</b>	<b>6</b>
<b>3 RESEARCH METHOD.....</b>	<b>10</b>
3.1 MERIT OPERATIONAL DATA .....	10
3.2 CRIMINAL JUSTICE DATA.....	10
3.3 BASE-LINE DATA.....	10
<b>4 PROGRAM ACTIVITY IN 2007.....</b>	<b>12</b>
4.1 MERIT REFERRAL AND ACCEPTANCE RATES .....	12
4.2 MERIT REFERRAL .....	14
4.3 THE DEMOGRAPHICS OF REFERRED/ACCEPTED DEFENDANTS .....	15
4.4 PRINCIPAL DRUG OF CONCERN .....	17
4.5 NUMBER OF CHARGES AND TYPE OF OFFENCE .....	20
<b>5 MERIT PROGRAM EXITS.....</b>	<b>22</b>
5.1 EXIT STATUS OF PERSONS ACCEPTED INTO MERIT .....	22
5.2 PROGRAM DURATION.....	22
5.3 TREATMENTS AND SERVICES.....	23
<b>6 HEALTH OUTCOMES.....</b>	<b>25</b>
6.1 DRUG USE .....	25
6.2 GENERAL HEALTH AND WELL-BEING .....	28
<b>7 FACTORS RELATED TO PROGRAM COMPLETION.....</b>	<b>30</b>
<b>8 CRIMINAL JUSTICE OUTCOMES.....</b>	<b>32</b>
8.1 SENTENCE OUTCOMES .....	32
8.2 RE-OFFENDING .....	34
<b>9 DISCUSSION.....</b>	<b>36</b>
<b>10 REFERENCES.....</b>	<b>38</b>

## List of tables

TABLE 1 MERIT COVERAGE BY AREA HEALTH SERVICE AND LOCAL COURTS AT 31 DECEMBER 2007 .....	9
TABLE 2 REASONS FOR PROGRAM NON-ACCEPTANCE OF MERIT REFERRALS .....	13
TABLE 3 SOURCE OF REFERRAL .....	14
TABLE 4 PROGRAM STATUS BY NUMBER OF REFERRALS TO MERIT .....	15
TABLE 5 AGE AT REFERRAL AND ACCEPTANCE AS A PROPORTION OF REFERRALS .....	16
TABLE 6 INDIGENOUS STATUS OF REFERRED DEFENDANTS AND ACCEPTANCE AS A PROPORTION OF REFERRALS.....	16
TABLE 7 PRINCIPAL DRUG OF CONCERN RECORDED BY THE MERIT TEAM - ACCEPTED CASES .....	18
TABLE 8 PRINCIPAL DRUG OF CONCERN PERCENTAGES, 2006 AND 2007 .....	19
TABLE 9 OFFENCE TYPES FOR REFERRED AND ACCEPTED DEFENDANTS .....	21
TABLE 10 EXIT STATUS OF MERIT PARTICIPANTS, 2007 .....	22
TABLE 11 PREVIOUS ILLICIT DRUG TREATMENTS RECEIVED BY MERIT PARTICIPANTS .....	23
TABLE 12 CHANGES IN NUMBER OF DAYS OF USE PER MONTH PRE- AND POST- PROGRAM .....	26
TABLE 13 MEAN SDS SCORES BY PRINCIPAL DRUG.....	27
TABLE 14 VARIABLES RELATED TO MERIT PROGRAM COMPLETION .....	31
TABLE 15 PRINCIPAL PENALTY BY COMPLETION STATUS: 2006 .....	32
TABLE 16 RE-OFFENDING WITHIN THE 12 WEEK MERIT PROGRAM PERIOD .....	34
TABLE 17 RE-OFFENDING BY MERIT EXIT STATUS, 6 MONTHS AND 12 MONTHS .....	35

## List of figures

FIGURE 1 MERIT PROCESS.....	8
FIGURE 2 NUMBER OF PROGRAM REFERRALS AND PERCENTAGE ACCEPTANCE: 2000-2007 .....	12
FIGURE 3 PRINCIPAL DRUG OF CONCERN BY REGION .....	19
FIGURE 4 PROPORTION OF PARTICIPANTS USING EACH DRUG TYPE AT PROGRAM ENTRY AND EXIT .....	25
FIGURE 5 DAYS OF USE IN PREVIOUS MONTH (PARTICIPANTS REPORTING USE ONLY) .....	26
FIGURE 6 DISTRIBUTION OF K-10 PSYCHOLOGICAL DISTRESS SCORES .....	28
FIGURE 7 SF-36 SUBSCALE SCORES.....	29

## Executive summary

In 2007, 2949 defendants were referred to MERIT, a small increase of 5% from the year 2006 (2801 referees). Of those referred, 1869 (63.4%) were accepted into the program at a rate consistent with previous years. Of the 1820 MERIT participants who exited the program in 2007, 1222 successfully completed it (67% completion rate, consistent with previous years).

In 2007, 80% of accepted clients were men, 16% identified as Aboriginal or Torres Strait Islander and almost half were referred by their solicitor. The majority of clients were educated until year 10 only, most were aged between 21 and 29 years (42.9%) and 88.9% were born in Australia.

Accepted MERIT clients were most likely to present with cannabis as their principal drug of concern (41.7%), this was more evident in regional and non-Sydney metro areas than urban areas. Almost half of MERIT participants were facing only one charge, this most often being an illicit drug offence (35.6%). Over one-third of accepted clients reported that MERIT was the first time they had engaged in treatment for their substance misuse problem.

Indigenous status, age, gender, previous gaol time, principal income, and the number of previous MERIT episodes were all found to have a significant effect on a participant's likelihood of successfully completing MERIT. Specifically, older non-Aboriginal males who were employed were more likely to complete the program. Having previously spent time in gaol and having previously been a MERIT participant reduced a participant's likelihood of success.

In 2007, those defendants who did complete the program were 37.7% less likely than program non-completers to re-appear in court within 6 months, and 29% less likely to re-appear in court within 12 months of finishing the program.

Participants completing the MERIT program reported reduced drug use at program exit when compared with program entry, along with improved social functioning, better general and mental health and reduced levels of psychological distress.

# 1 INTRODUCTION

## 1.1 Program description

The Magistrates Early Referral Into Treatment (MERIT) program is an inter-agency initiative of the Department of Justice and Attorney General, Chief Magistrate's Office, NSW Health and NSW Force Police. It was developed as a result of the NSW Drug Summit of 1999<sup>1</sup>.

The Program is a pre-sentence diversion scheme targeting adult defendants appearing in local courts who have a demonstrable illicit drug use problem. MERIT aims to intervene in the cycle of drug use and crime amongst defendants by addressing the health and social welfare issues considered to be instrumental in bringing them into contact with the criminal justice system.

The MERIT program was originally trialed and evaluated<sup>2</sup> in the Northern Rivers region in July 2000 before being progressively introduced into 61 local courts around New South Wales.

## 1.2 Eligibility for MERIT

Acceptance into the MERIT program is guided by a deliberately inclusive set of eligibility criteria designed to target a large proportion of those defendants appearing in local courts with a demonstrable history of drug problems<sup>3</sup>.

In contrast to other court-based diversion schemes, participation in MERIT is voluntary and does not require an admission of guilt. Moreover, MERIT participants are not required to be drug dependent. However, they must be assessed as having an illicit drug problem that is serious enough to justify the intensive intervention offered through MERIT.

To be approved for acceptance into MERIT the defendant must:

- be 18 years or older;
- be suitable for release on bail;
- have a demonstrable<sup>4</sup> and treatable illicit drug problem;

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<sup>1</sup> The NSW Drug Summit (1999) resulted in the implementation of five diversionary schemes targeting offenders who had committed minor drug or drug-related offences, and is designed to be used at different stages of an offenders' contact with the criminal justice system. The five schemes were:

- The Cannabis Cautioning Scheme;
- The Youth Drug Court;
- Amendments to the *Young Offenders Act* 1997 to include the option of police cautions, warnings and conferences for minor drug offences;
- A Drug Offenders Compulsory Treatment pilot; and
- The Early Court Intervention Pilot, which became the Magistrates Early Referral Into Treatment (MERIT) Program.

<sup>2</sup> Passey, M., (Ed.), 2003, *Evaluation of the Lismore MERIT Pilot Program*, Northern Rivers University Department of Rural Health.

<sup>3</sup> Matruglio, T. (2008). *MERIT Annual Report 2006*. Sydney: Crime Prevention Division, NSW Attorney General's Department.

<sup>4</sup> Indicators of a demonstrable drug problem are stated in the MERIT Operational Manual as:

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

- consent to voluntarily participate in the program;
- be assessed as suitable for the program;
- be a usual resident 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 serious violence or sexual assault.

## 2 THE MERIT PROCESS & PROGRAM COVERAGE

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, program participants are generally referred to the program at or before their initial court appearance, with program completion coinciding with the final hearing and sentencing of the defendant (see Figure 1).

Defendants referred to the program are comprehensively assessed for suitability by dedicated teams of health staff (employed by an Area Health Service or a Non-Government Organisation) attached to 61 participating local courts in New South Wales.

These assessments cover:

- drug use behaviours and problems;
- family relationships and drug history;
- the defendant's social situation;
- legal issues;
- general and mental health problems;
- motivation for change; and
- potential to engage in treatment for drug use problems.

Participants deemed suitable for the program and subsequently accepted onto the program by the Magistrate are then matched to appropriate and available drug treatments (e.g., detoxification, counseling, pharmacotherapy, residential rehabilitation, community outpatient services and case management) and ancillary health and welfare services (e.g., mental health, unemployment, housing and legal advice) as required.

The program is voluntary and defendants may decline to participate, or withdraw from the program at any time, electing to have the Magistrate determine their case without prejudice. The Magistrate is also in a position to remove participants from the program where participation has been unsatisfactory or where the defendant has been non-compliant with various criminal justice procedures (e.g., committed further offences, failed to appear in Court).

MERIT operates under the *NSW Bail Act (1978)* and Magistrates are guided by Practice Note 5/2002<sup>5</sup>. The Practice Note states that "On sentence, the successful completion of the MERIT program is a matter of some weight to be taken into account in the defendant's favour. At the same time, as the MERIT program is a voluntary opt in program, its unsuccessful completion should not, on sentence, attract any additional penalty." To this end Magistrates hearing a case receive a detailed report from the MERIT team containing information on the defendant's participation in the program, along with any further treatment

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<sup>5</sup> Chief Magistrate of NSW (2002). Magistrates Early Referral Into Treatment (MERIT) Programme. (Local Court Practice Note No. 5). Sydney, Australia.

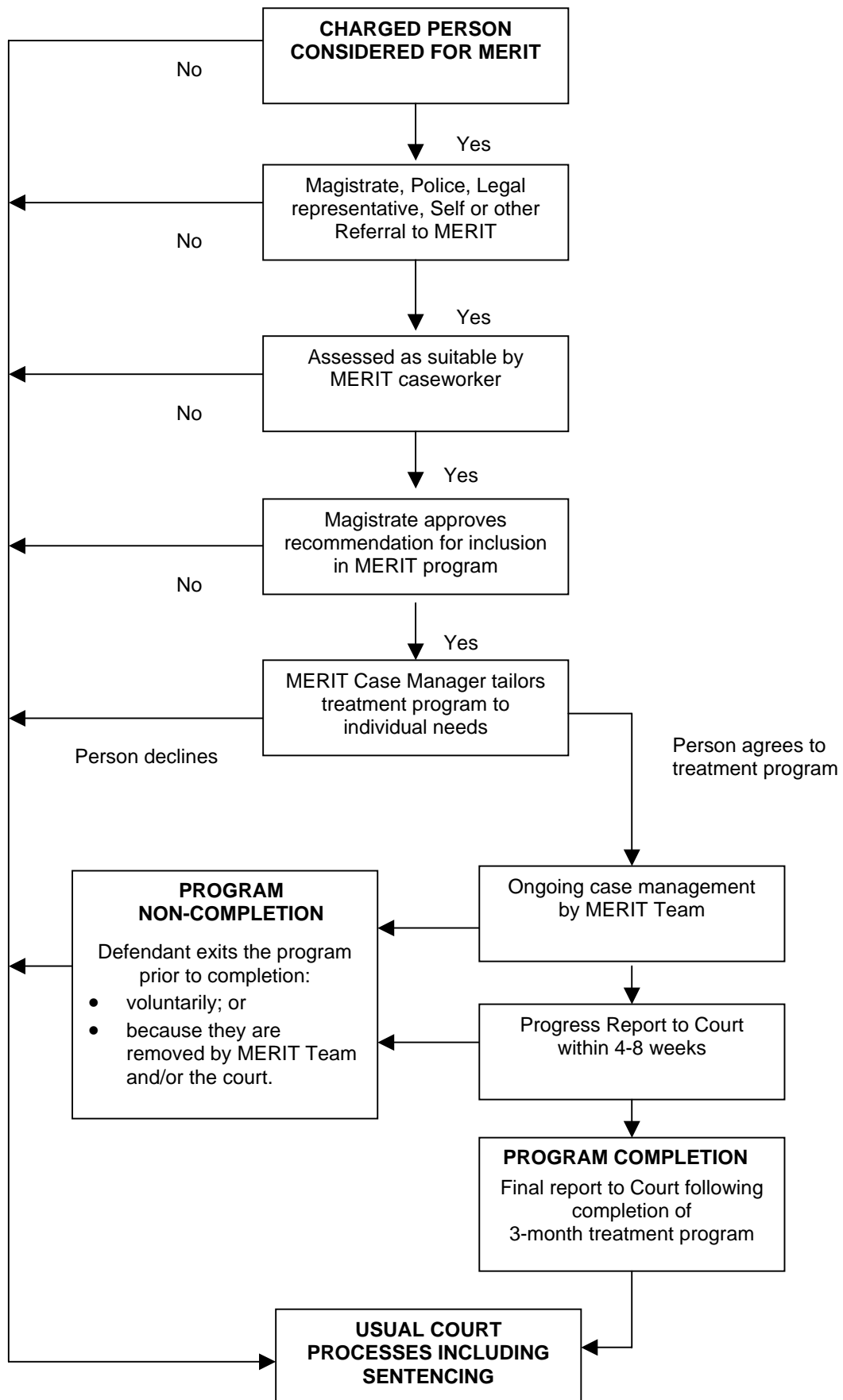


recommendations. The extent to which a Magistrate ultimately weighs a defendant's participation in MERIT, successful or otherwise, at sentencing is a matter of his or her own discretion.

Table 1 presents information about MERIT coverage by Area Health Service, MERIT Team and Local Court as at 31 December 2007. In the table, courts have been grouped according to geographic location and linked to the relevant Area Health Service. The MERIT program expanded to Milton Local Court in July 2007.

When examined in relation to the total charge population in 2007, the MERIT program was potentially available to 83.6% of cases before the NSW Local Court.

**Figure 1 MERIT Process**



**Table 1 MERIT coverage by Area Health Service and Local Courts at 31 December 2007**

<b>Area Health Service</b>	<b>MERIT Teams</b>	<b>Courts contained within AHS boundaries</b> <i>Courts with MERIT appear in bold</i>	<b>Court Coverage<sup>6</sup></b>
<b>South Eastern Sydney and Illawarra</b>	South East Sydney Illawarra	<b>Wollongong, Albion Park, Kiama, Port Kembla, Nowra, Sutherland, Kogarah, Downing Centre, Central*, Waverley, Milton</b>	100%
<b>Sydney South West</b>	South West Sydney Central Sydney	<b>Liverpool, Campbelltown, Camden, Burwood, Fairfield, Bankstown, Newtown, Picton, Balmain</b>	95.3%
<b>Sydney West</b>	Western Sydney Wentworth	<b>Parramatta, Katoomba, Penrith, Blacktown, Mt Druitt, Windsor</b>	93.5%
<b>Hunter and New England</b>	Hunter New England	<b>Tamworth, Cessnock, Muswellbrook, Newcastle, Maitland, Raymond Terrace, Toronto, Singleton,</b> Belmont, Kurri Kurri, Scone, Dungog, Armidale, Glen Innes, Gunnedah, Inverell, Moree, Narrabri, Quirindi, Walcha, Wee Waa, Boggabilla, Tenterfield, Mungindi, Warialda,	70.0%
<b>Greater Western</b>	Mid West Far West Macquarie	<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	55.0%
<b>North Coast</b>	Mid North Coast Northern Rivers	<b>Lismore, Byron Bay, Ballina, Casino, Kyogle Port Macquarie, Kempsey, Wauchope, Mullumbimby, Murwillumbah, Tweed Heads, Grafton, Maclean,</b> Coffs Harbour, Forster, Macksville, Taree, Bellingen, Gloucester	72.0%
<b>Greater Southern</b>	Southern Greater Murray	<b>Queanbeyan, Wagga Wagga, Junee, Cooma,</b> Albury, Cootamundra, Corowa, Deniliquin, Finley, Moama, Tumut, Hay, Temora, Tumbarumba, Lockhart, Moulamein, Griffith, Gundagai, Hillston, Holbrook, Leeton, Narrandera, West Wyalong, Batemans Bay, Bega, Narooma, Bombala, Eden, Crookwell, Yass, Goulburn, Moruya, Young	29%
<b>Northern Sydney and Central Coast</b>	Northern Sydney Central Coast	<b>Gosford, Manly, Wyong, North Sydney, Hornsby, Ryde, Woy Woy</b>	85.6%

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

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

<sup>6</sup> Courts have been grouped according to AHS. The percentage in the 'Court Coverage' column represents the volume of cases in MERIT local courts as a proportion of cases in all local courts by AHS. The figures were calculated using 2007. Court statistics provided by BoCSAR.

## 3 RESEARCH METHOD

### 3.1 MERIT operational data

The MERIT Information Management System (MIMS) is a database designed specifically to facilitate the monitoring and evaluation of the MERIT program. Program data includes participant demographic information, court dates, program entry and exit dates, and treatments received as well as National Minimum Dataset (NMDS) items.

Participant health status is also recorded in MIMS after being assessed at program entry and again at program exit. Information regarding patterns of drug use, risk behaviour, psychological distress and physical/social/emotional functioning is collected from consenting participants.

Data recorded in MIMS is subject to frequent quality control procedures to identify missing and anomalous data entries. The database manager also runs quarterly data quality reports for each Area Health Service to ensure that the data entered into MIMS by MERIT teams is reliable and accurate.

### 3.2 Criminal justice data

The Bureau of Crime Statistics and Research (BoCSAR) provides data on sentence outcomes and re-offending of defendants referred to the MERIT program.

Sentence outcome data are gathered by matching MERIT referral information (recorded in MIMS) to sentence outcomes on the Local Court database (GLC). The quality of sentence outcome data is dependent upon the accurate identification of MERIT referrals in the GLC. Over the last three years 80% of MERIT defendants have been matched.

Re-offending data is gathered by matching a defendant's Criminal Number Index (CNI) (recorded in MIMS) to BoCSAR's re-offending database (ROD). Data quality is threatened by difficulties associated with matching a CNI 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 verify the accuracy of the matches made. This year, 81.9% of cases were matched.

### 3.3 Base-line data

Consistent with previous years, the 2007 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 2007 inclusive. This reflects the MERIT program inputs for that calendar year. Similarly, the baseline for MERIT outcomes are defendants who *exited* the MERIT program between 1 January to 31 December 2007, reflecting all program outputs for the calendar year.

Sentence outcome and recidivism data are presented for the cohort of defendants exiting MERIT in the *previous* calendar year, in this case 2006. This is done to ensure accurate sentence information can be collected and to allow for recidivism to be measured over a suitable time period.

MERIT program duration is measured by calculating the number of days between the court date at which the Magistrate endorses the defendant's referral to MERIT and the date at which the Magistrate determines that the defendant has exited the MERIT program. It should be noted that a defendant could commence treatment prior to formal acceptance onto the program.

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 generally limited to chi-square analyses. Analyses are presented as statistically significant at the conventional .05 level. Only selected statistics are presented in order to facilitate ease of reading. Missing data is recorded where appropriate in order to accurately frame interpretation of analyses. Percentages have been calculated with missing data excluded.

## 4 PROGRAM ACTIVITY IN 2007

### 4.1 MERIT referral and acceptance rates

This section provides a statistical overview of the operation of the MERIT program during the 2007 calendar year.

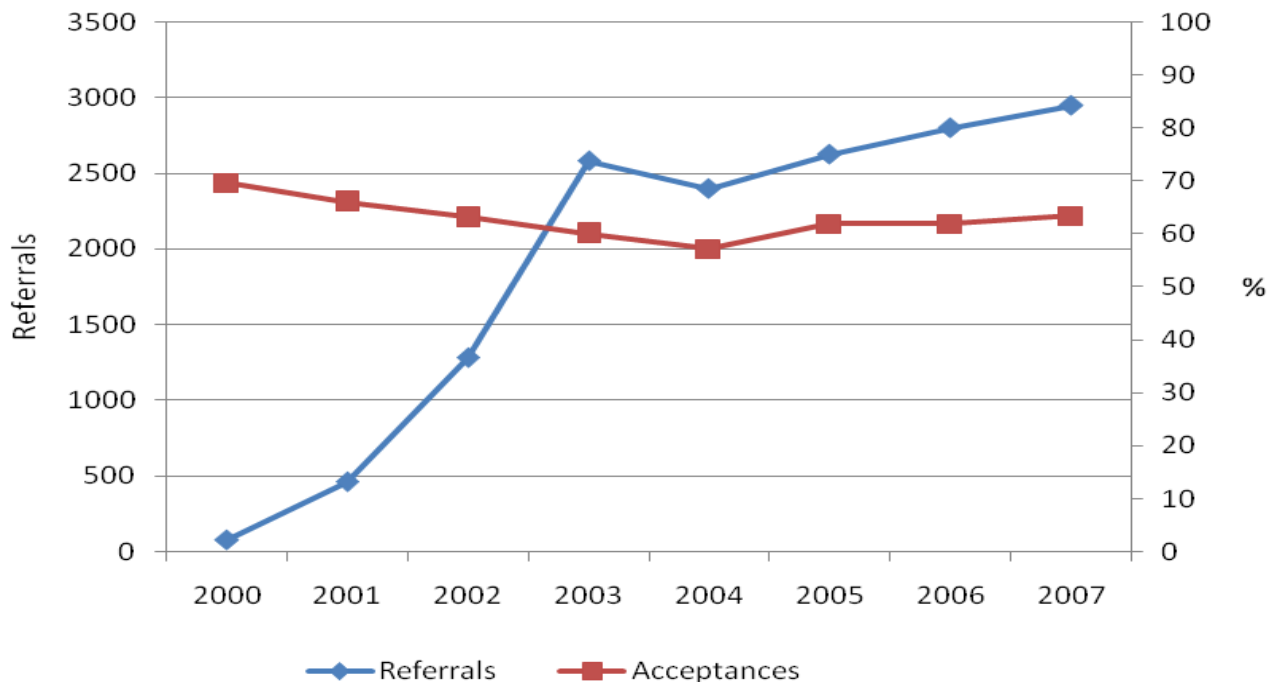
#### 4.1.1 Number of MERIT referrals

From 1 January to 31 December 2007, there were 2949 referrals to MERIT, a small increase of 148 (5.0%) from the 2006 calendar year. This increase was consistent across the range of MERIT referral sources.

#### 4.1.2 MERIT acceptance rates

Of the 2949 referrals in 2007, 1869 (63.4%) were program acceptances. Figure 2 illustrates the relationship between referral numbers and acceptance rates over time. There has been continued growth in the number of referrals to MERIT, and stabilisation of the proportion of program acceptances at just over 60%. This follows a low of 57% in 2004.

**Figure 2 Number of program referrals and percentage acceptance: 2000-2007**



In 2007, a total of 1080 referred defendants did not enter the program. Of these, 148 (5.0%) did not attend for a MERIT assessment (referral only), and 122 (4.1%) declined the program before a treatment protocol was devised. Compared to the year 2006, the proportion of referrals not attending for

assessment remained stable, and the proportion declining to participate reduced slightly from 5.5%.

#### 4.1.3 MERIT non-acceptance

A further 810 defendants were referred to MERIT but ultimately not accepted to participate in the program. As was the case for 2005 and 2006, in 2007 this number represented just over one-quarter of total program referrals (n=810 of 2949 at 27.5%).

Table 2 provides the frequency and percentage for the reasons for non-acceptance into the MERIT program. The most common reasons were unwillingness to participate in MERIT and lack of demonstrable drug problem. Compared to the year 2006, there was a reduction in the proportion of referrals that were not accepted due to a Magistrate's non-endorsement of the referral (10% in 2007 compared to 16% in 2006).

**Table 2 Reasons for program non-acceptance of MERIT referrals**

Reason for non-acceptance		2007	
		n	%
Not eligible	No demonstrable drug problem	187	23.1
	Not eligible for bail	161	19.9
	Strictly indictable offence(s)	52	6.4
	Not an adult	1	0.1
<b>Sub-total</b>		<b>401</b>	<b>49.5</b>
Not suitable	Unwilling to participate	222	27.4
	Mental health problem	11	1.4
	Already in court ordered treatment	3	0.4
<b>Sub-total</b>		<b>236</b>	<b>29.2</b>
Program logistics	Resides outside of effective treatment area	12	1.5
	Program full	5	0.6
<b>Sub-total</b>		<b>17</b>	<b>2.1</b>
Program entry not endorsed by Magistrate	<b>Sub-total</b>	<b>81</b>	<b>10.0</b>
Other	<b>Sub-total</b>	<b>75</b>	<b>9.3</b>
<b>TOTAL</b>		<b>810</b>	<b>100</b>

## 4.2 MERIT referral

### 4.2.1 MERIT referral sources and acceptance rates

Sources of referrals to MERIT remained consistent from 2006, with just under half of all referrals made by solicitors (Table 3).

**Table 3 Source of Referral**

Referral source	Referrals by source		Acceptances by source	
	n	%	n	%
Solicitor	1307	44.6	867	66.3
Magistrate	856	29.2	573	66.9
Self	277	9.4	170	61.4
Other <sup>7</sup>	240	8.2	119	49.6
Police	137	4.7	59	43.1
Probation & Parole	78	2.7	60	76.9
Family /friend	37	1.3	21	56.8
<b>Total</b>	<b>2932</b>	<b>100</b>	<b>1869</b>	<b>???</b>
Missing	17			

Table 3 also shows the acceptance rate by referral source. Over 75% of referrals from Probation and Parole staff resulted in program acceptance, an increase from 63% in 2006. Around two-thirds of solicitor, Magistrate and self-referrals resulted in program acceptance. Referrals from police have the lowest acceptance rate (43%).

### 4.2.2 Previous referrals to MERIT

A previous referral to MERIT does not preclude a defendant from further referral. This is in recognition of the fact that chronic drug dependent persons may require more than one episode in drug treatment. It is also possible that a defendant may have had a previous referral to MERIT, but may not have been accepted into or completed the program.

Twenty-one per cent of defendants referred in 2007 (n=625) were recorded as having had a previous referral to the program, a slight increase from 2006 (18%) (Table 4). This increase is to be expected, because as time progresses, there is a greater number of defendants who have had contact with MERIT.

<sup>7</sup> "Other" MERIT referrals are typically made by health care professionals.



There was a slight increase in the acceptance rate of those defendants referred multiple times by the year 2007, at 63.7%, compared to 61.6% in 2006. In 2007, there were no statistically significant differences in program status (e.g. whether a person was accepted or not accepted to the program) between those referred for the first time and those referred for the second or later time.<sup>8</sup> See Section 7 for outcomes for defendants referred to MERIT more than once.

**Table 4 Program status by number of referrals to MERIT**

	Program status								Total n
	Accepted		Declined		Not accepted		Referral only		
No. referrals	n	%	n	%	n	%	n	%	n
1 referral	1471	63.3	106	4.6	625	26.9	122	5.2	2324
2+ referrals	398	63.7	16	2.6	185	29.6	26	4.1	625
<b>Total</b>	<b>1869</b>	<b>63.4</b>	<b>122</b>	<b>4.1</b>	<b>810</b>	<b>27.5</b>	<b>148</b>	<b>5.0</b>	<b>2949</b>

### 4.3 The demographics of referred/accepted defendants

#### 4.3.1 Gender

In 2007 females made up 19.8% (n=579) of referrals to MERIT and 19.5% (n=364) of all MERIT acceptances.<sup>9</sup> Women were neither more, nor less, likely than men to be accepted to MERIT. The gender ratio of defendants referred to MERIT is consistent with the gender ratio of persons appearing before NSW local courts in 2007, where females constituted 19.7% of finalised cases. These findings are consistent with previous years

#### 4.3.2 Age

The age range of defendants referred to MERIT during 2007 was 16 to 64 years. The median age at referral was 28 years consistent with 2006. The largest proportion of defendants referred was in the 25-29 age group (23.1%) followed by the 21-24 age group (19.8%) and the 30-34 age group (16.6%). Together, these three age groups accounted for 59.5% of all referrals to the program. This age distribution is consistent with previous years. See Table 5 below.

<sup>8</sup>  $\chi^2=7.3$ ,  $df=3$ ,  $p=0.06$ .

<sup>9</sup> Note that the gender of 32 referred defendants was missing.

**Table 5 Age at referral and acceptance as a proportion of referrals**

Age	Referred		Accepted	
	n	% of all referrals	n	% of age group
<18	2	0.1	0	0
18-20	372	12.7	235	63.2
21-24	580	19.8	364	62.8
25-29	676	23.1	449	66.4
30-34	485	16.6	324	66.8
35-39	425	14.5	270	63.5
40-49	332	11.3	198	59.6
50+	55	1.9	29	52.7
<b>Total</b>	<b>2927</b>	<b>100</b>	<b>1869</b>	
Missing	22			

#### 4.3.3 Indigenous status

Table 6 shows the number and proportion of defendants referred to MERIT who identified as Aboriginal or Torres Strait Islander. The proportion of Indigenous defendants referred to MERIT in 2007 was 16.1%. This figure is consistent with the proportion of Indigenous defendants who appear before the local court (15% in 2007). A significantly lower proportion of Indigenous defendants are accepted into MERIT, 63.3% compared with 69.8% for non-Indigenous defendants.<sup>10</sup>

**Table 6 Indigenous status of referred defendants and acceptance as a proportion of referrals**

Indigenous status	Referred		Accepted	
	n	%	n	% of referrals
Indigenous	427	16.1	271	63.5
Non-Indigenous	2222	83.9	1552	69.8
<b>Total</b>	<b>2649</b>	<b>100.0</b>	<b>1823</b>	

'Indigenous' includes people identifying as Aboriginal (n=403), Torres Strait Islander (n=12) or Aboriginal and Torres Strait Islander (n=12). Indigenous status was missing for 300 referrals.

<sup>10</sup>  $\chi^2=17.3$ ,  $df=3$ ,  $p=.001$

#### **4.3.4 Country of birth**

The information in this section concerns only those defendants who were *accepted* into MERIT during 2007. This is due to the high numbers of missing cases in relation to this variable at the referral stage.

In 2007, information about country of birth was available for a total of 1863 of the 1869 defendants accepted into MERIT. Of these, 206 (11.1%) were born outside Australia. This figure is comparable to 2006 (222 of 1719 at 12.9%). The most common countries of origin for defendants born outside Australia in 2007 were New Zealand (n=36), the United Kingdom (n=32) and Vietnam (n=23).

#### **4.3.5 Highest educational achievement**

As has been the case in previous years, the great majority of defendants referred to MERIT were those whose highest educational achievement was Year 10 or less (74%). Fifteen per cent were educated to the level of Year 11 or 12. Nine per cent had trade or TAFE qualifications and only a small proportion (2%) were tertiary educated.

### **4.4 Principal drug of concern**

Table 7 provides information about the principal drug of concern to be addressed by the MERIT program. It is important to note that a substantial number of defendants accepted into MERIT may present with multiple drug problems.

Cannabis was the principal drug of concern for 41.7% of accepted defendants. This is followed by stimulants at 29.8%, and narcotic drugs at 22.9%. Note that heroin makes up the bulk of the narcotic drug category.

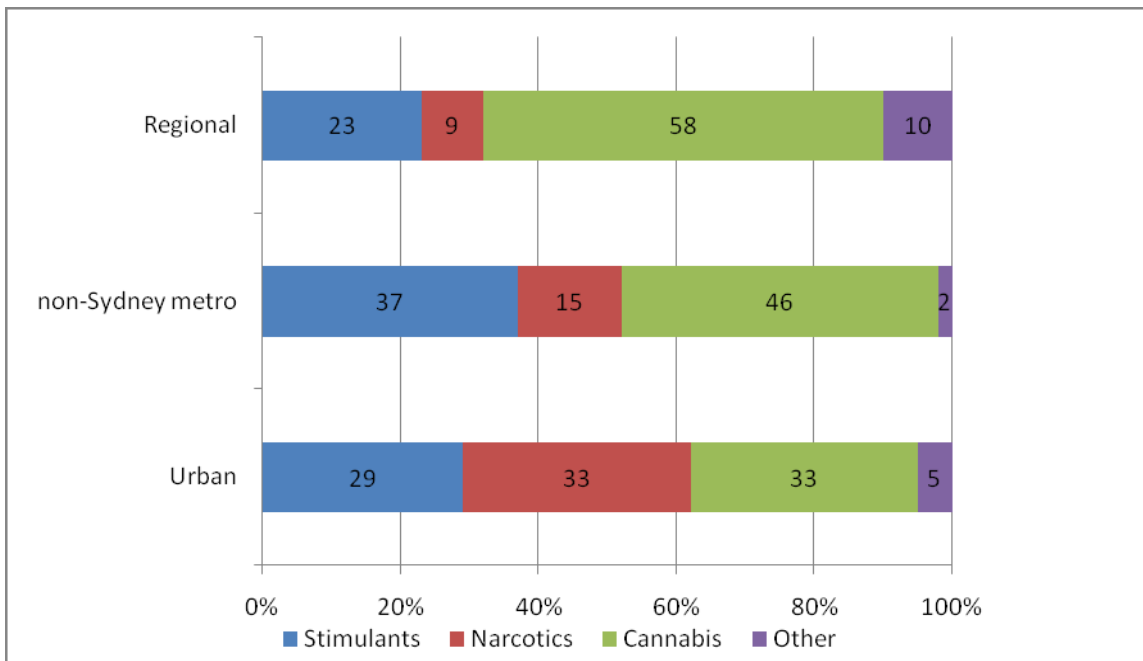
**Table 7 Principal drug of concern recorded by the MERIT team - accepted cases**

<b>Principal drug of concern</b>		<b>n</b>	<b>%</b>
Cannabis		780	41.7
Stimulants	Amphetamines/ Methamphetamines (incl. Speed, Ice)	503	26.9
	Cocaine	29	1.6
	M.D.M.A. (Ecstasy)	25	1.3
	<b>Sub-total</b>	<b>557</b>	<b>29.8</b>
Narcotics	Heroin	382	20.4
	Methadone	19	1.0
	Morphine (incl. MS Contin, Opium)	23	1.2
	Codeine (incl. Codral Forte, Disprin Forte, Panadeine)	4	0.2
	Buprenorphine	1	0.1
<b>Sub-total</b>	<b>429</b>	<b>22.9</b>	
Sedatives/anaesthetics	Benzodiazepines	71	3.8
	Gamma-hydroxybutyrate (GHB)	1	0.1
	Ketamine	1	0.1
<b>Sub-total</b>	<b>73</b>	<b>4.0</b>	
Ethanol (Alcohol)		30	1.6
<b>TOTAL</b>		<b>1869</b>	<b>100.0</b>

#### 4.4.1 Principal drug of concern by region<sup>11</sup>

From previous years, we know there are clear differences in the principal drug of concern on the basis of region. Figure 3 shows the regional proportions of the recorded principal drugs of concern for persons accepted into MERIT in 2007. Patterns of principal drug by region remained consistent with those observed in 2006 (Table 8).

**Figure 3 Principal drug of concern by region**



**Table 8 Principal drug of concern percentages in 2006 and 2007**

Principal drug	2006			2007		
	Urban	Non-Sydney Metro	Regional	Urban	Non-Sydney Metro	Regional
Cannabis	34.5	42.8	59.9	33.0	46.0	57.8
Stimulants	30.3	41.8	23.4	29.1	37.0	23.2
Narcotics	29.4	12.7	9.6	32.6	14.9	9.3
Other	5.8	2.7	7.1	5.4	2.1	9.8
<b>n</b>	901	411	374	983	476	410

<sup>11</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 and Central Coast MERIT teams. The Regional region is made up of the New England, Mid West, Far West, Macquarie, Mid North Coast, Northern Rivers, Southern and Greater Murray MERIT teams.

## **4.5 Number of charges and type of offence**

### **4.5.1 Number of charges**

Forty one per cent of defendants referred to MERIT in 2007 were facing one criminal charge at time of referral, down from 46% in 2006. Among accepted defendants, 43.5% were facing only one charge. The median number of charges among referred and accepted defendants was two.

In 2007, participants facing more than one charge were less likely to be accepted into MERIT than those with only one charge.<sup>12</sup> In 2005 and 2006, the number of charges being faced was not associated with program acceptance.

### **4.5.2 Type of offence**

The distribution of offence types MERIT defendants were facing at the time of referral and acceptance into MERIT is presented in Table 9. Note that, as described above, defendants may be facing more than one charge. The Australian Bureau of Statistics' Australian Standard Offence Classification (ASOC) has been used.

In 2007, the most common charges faced by MERIT participants were illicit drug offences (35.6%). This represents a slight decrease when compared with the 2006 figures, which show 42% of the accepted defendants to be facing such charges. The next most common charges for MERIT participants in 2007 were theft and related offences (27.5%) compared with 32% in 2006.

Note that the homicide and related offences category includes charges for death and injuries arising from road accidents. All five defendants in this category were facing charges for driving causing death. Two defendants were accepted into the program, two defendants were excluded from MERIT on the basis of being ineligible for bail and one was excluded for 'other' reasons.

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<sup>12</sup>  $\chi^2=4.6$ ,  $df=1$ ,  $p=.03$ ,  $n=2685$

**Table 9 Offence types for referred and accepted defendants**

Offence type	Referred (n = 2949)		Accepted (n = 1869)	
	n	% defendants	n	% defendants
Acts intended to cause injury	444	15.1	291	15.6
Against justice procedures, government security/operations	428	14.5	256	13.7
Dangerous or negligent acts endangering persons	172	5.8	116	6.2
Deception and related offences	64	2.2	51	2.7
Homicide and related offences	5	0.2	2	0.1
Illicit drug offences	984	33.4	665	35.6
Property damage and environmental pollution	270	9.2	196	10.5
Public order offences	74	2.5	36	1.9
Road traffic and motor vehicle regulatory offences	467	15.8	336	18.0
Robbery, extortion and related offences	64	2.2	41	2.2
Sexual assault and related offences	4	0.1	-	-
Theft and related offences	715	24.2	514	27.5
Unlawful entry with intent/burglary, break and enter	218	7.4	145	7.8
Weapons and explosives offences	128	4.3	75	4.0
Miscellaneous	206	7.0	158	8.5

## 5 MERIT PROGRAM EXITS

This section relates to all defendants accepted into the MERIT program who exited the program some time during the year 2007 - a total of 1820 defendants. Of these, 400 commenced the program in 2006 and 1420, in 2007. This cohort includes participants who completed program requirements (completers), as well as those not completing requirements (non-completers). Table 10 shows the exit status of these defendants.

### 5.1 Exit status of persons accepted into MERIT

In 2007, 67% of MERIT participants exited the program having met all program requirements, consistent with 2006 data. The remaining third of participants did not complete MERIT for various reasons - the most common being breached by the MERIT Team for non-compliance with program requirements (19.2%). This figure is slightly lower than 23.5% in 2006. The Court removed around 4% of the defendants from the program, which is consistent with that reported for 2006 (5%).

**Table 10 Exit status of MERIT participants, 2007**

Exit status	n	%
Completed program	1222	67.1
Breached by the MERIT Team	349	19.2
Withdrew voluntarily	159	8.7
Removed by Court	71	3.9
Died	3	0.2
Other	16	0.9
<b>Total</b>	<b>1820</b>	<b>100.0</b>

### 5.2 Program duration

The expected duration of the MERIT program is three months. However, the actual time defendants spend on MERIT can vary. For example, a defendant may be considered to have met all program requirements in under the three-month period. Or more likely, the defendant may take longer than three months to successfully complete all program requirements. This is at the discretion of the Magistrate dealing with each individual case in consultation with the MERIT team, the defendant and his/her legal representative.

#### 5.2.1 Program duration by completion status

As indicated in Table 10, in 2007 there were 1222 defendants who completed the MERIT program (completers) and 598 defendants who did not (non-completers).



The median number of days completers spent on the MERIT program was 85. Program non-completers spent a median of 42 days on the program, significantly fewer than completers.<sup>13</sup> These figures are consistent with those reported in previous Annual Reports.

### 5.3 Treatments and services

Defendants in MERIT participate in an individually tailored treatment protocol developed by their caseworker. The services provided to the defendants by the MERIT caseworkers are described under the umbrella term “support and case management”. This includes counselling and may include group work and other outpatient clinical interventions.

In addition to direct client services provided by the MERIT caseworkers, program participants may be referred to a variety of external treatment providers for additional services as required.

This section details the previous treatment history of MERIT participants prior to commencing MERIT and treatment services provided by external providers to MERIT participants while on the program.

#### 5.3.1 Treatment history prior to MERIT

Of the 1820 MERIT participants who exited in 2007, previous treatment history was available for 1722 (95%). Of these, 617 (36%) reported no previous drug treatment prior to engagement with MERIT, consistent with 2006 data. Of the 1105 participants who did receive previous treatment, the treatment types reported are shown in Table 11.

**Table 11 Previous illicit drug treatments received by MERIT participants**

<b>Previous treatment type</b>	<b>n</b>	<b>%*</b>
Counselling	661	59.8
Pharmacotherapies	474	42.9
Withdrawal management	372	33.7
Residential rehabilitation	313	28.4
Support & case management	50	4.5
Information & education	27	2.4
Consultation (not withdrawal management)	20	1.8
Other	136	12.3

\*Total participants who had a previous treatment recorded = 1105

<sup>13</sup> Mann-Whitney  $U = 60414.0, p < .0001$

### **5.3.2 Treatments received from external providers while on MERIT**

Information about the types of services provided to MERIT participants by external providers was recorded for a total of 683 (34%) of the 1820 MERIT participants who exited the program in 2007. Just under half of this group (48%) received more than one type of service.

Of the 525 participants for whom information was available, similar proportions received pharmacotherapy treatment (31.3%), residential rehabilitation (32.2%) and inpatient/residential withdrawal management (26.4%) as all, or part of, their external treatment. Other services received include external drug and alcohol counselling and mental health, employment and education services.

## 6 HEALTH OUTCOMES

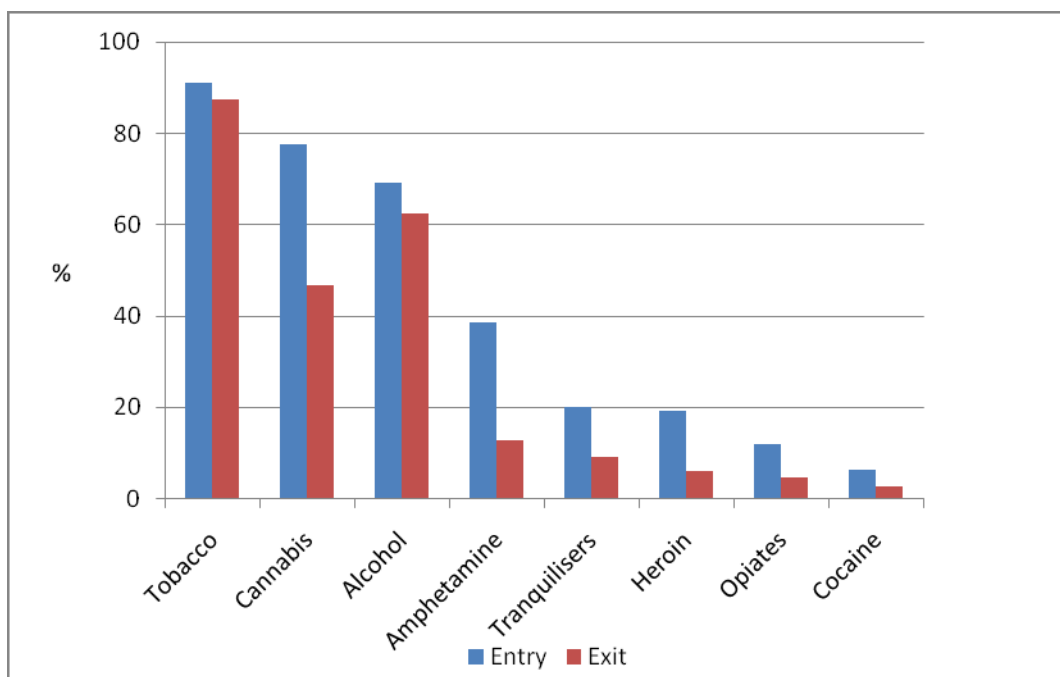
Health outcomes information is presented for all program participants exiting in 2007 who completed the 'Health Outcomes Survey' on entry (n=1820) to the MERIT program and/or at program exit (n=954).

### 6.1 Drug use

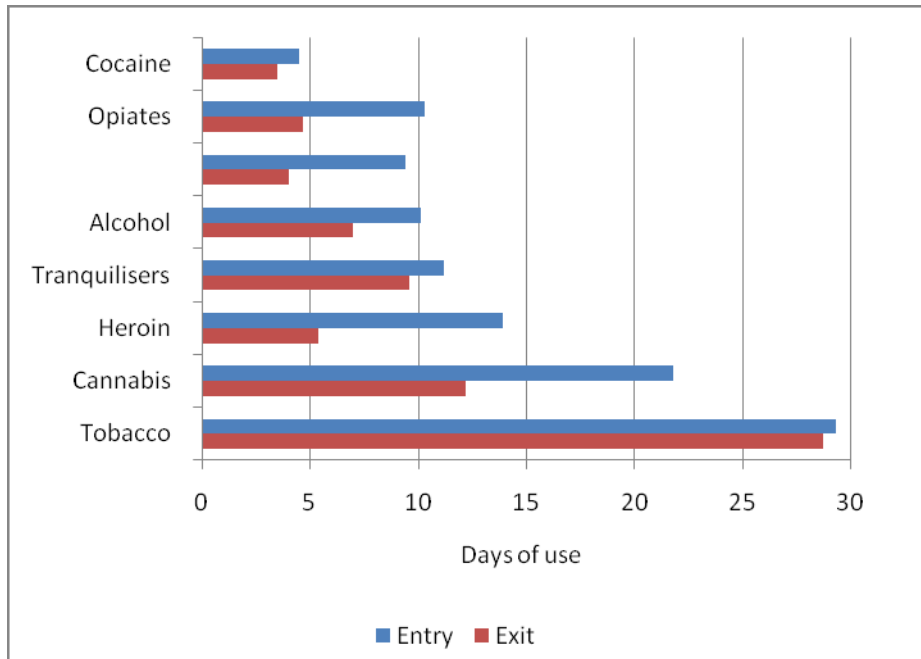
The types of drugs used by MERIT participants at program entry and exit are shown in Figure 4.

Information on frequency of use (number of days of use per month) at entry and exit is shown in Figure 5.

**Figure 4 Proportion of participants using each drug type at program entry and exit**



**Figure 5 Days of use in previous month (participants reporting use only)**



Changes in drug use from program entry to exit were assessed using paired samples *t*-tests. Statistically significant reductions in the number of days of use were seen for all drug types (Table 12).

**Table 12 Changes in number of days of use per month pre- and post-program**

Drug	N*	Pre-MERIT <sup>#</sup>	Post-MERIT <sup>#</sup>	<i>t</i> , <i>df</i> , <i>p</i>
Heroin	146	13.0	1.7	12.3, 145, <.001
Other opiates	95	9.5	1.2	8.4, 94, <.001
Alcohol	653	10.3	5.9	11.6, 652, <.001
Cannabis	721	20.5	7.1	27.6, 720, <.001
Cocaine	59	3.9	0.5	5.0, 58, <.001
Tranquillisers	170	12.4	3.6	9.9, 169, <.001
Amphetamine	294	9.0	1.3	16.0, 293, <.001
Tobacco	852	29.2	27.5	3.9, 851, <.001

\*Participants reporting use only <sup>#</sup> Days of use in last month

On entry to the program, participants reported using a mean of 3.5 different drug classes in the previous month out of a possible nine. When alcohol and tobacco were excluded, participants reported using a mean of 1.9 drug classes in the previous month. At program exit, participants reported using a mean of 2.4 drug classes in the previous month, and a mean of one drug class when alcohol and tobacco were excluded.

### 6.1.1 Severity of dependence

Drug dependence was assessed using the Severity of Dependence Scale<sup>14</sup>. Mean SDS scores by participant principal drug are shown in Table 13. A paired samples *t*-test showed that regardless of principal drug, SDS scores had reduced significantly from program entry to exit.<sup>15</sup>

While this reduction in dependence over time is pleasing, mean SDS scores at program exit still exceeded established cut-offs for dependence. Diagnostic cut-off scores for dependence vary by drug, but are generally in the range 3-5.

**Table 13 Mean SDS scores by principal drug**

Principal drug	Entry		Exit	
	n	Mean (SD)	n	Mean (SD)
Cannabis	739	8.1 (3.4)	393	5.5 (3.6)
Meth/amphetamine	507	8.3 (3.2)	273	5.9 (3.6)
Heroin	349	8.2 (3.3)	168	5.6 (3.7)
Benzodiazepines	71	7.8 (3.5)	39	5.0 (4.4)
Other drugs	65	8.4 (3.9)	33	4.9 (3.4)
Other opiates	40	8.2 (3.6)	21	5.7 (3.3)
Alcohol	30	8.1 (2.9)	19	6.6 (3.5)
<b>Total</b>	<b>1802</b>	<b>8.2 (3.4)</b>	<b>947</b>	<b>5.6 (3.7)</b>

### 6.1.2 Injecting drug use

Data on injecting drug use were available for 1794 (98.6%) accepted clients. Just over half (54%, n=977) reported injecting drugs at least once. Of these, 13% (n=125) had injected in the past three months.

<sup>14</sup> Gossop, M., Darke, S., Griffiths, P., Hando, J., Powis, B., Hall, W., Strang, J. (1995). The Severity of Dependence Scale: Psychometric properties of the SDS in English and Australian samples of heroin, cocaine, and amphetamine users. *Addiction*, 90, 607-614.

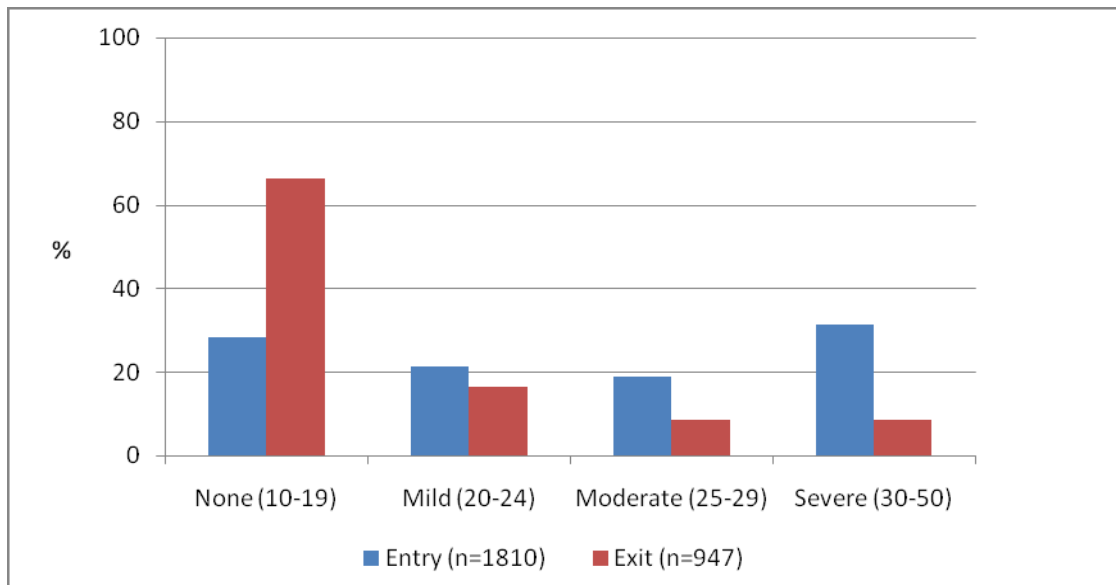
<sup>15</sup> N=935, Entry mean SDS=8.1, exit mean SDS=5.6; paired samples *t*=18.0, df=934, *p*<.001

## 6.2 General Health and Well-being

### 6.2.1 Psychological distress

Psychological distress was assessed using the Kessler-10.<sup>16,17</sup> Distribution of scores is shown in table 6. A paired samples *t*-test showed that mean K-10 scores reduced significantly from program entry to exit, indicating reduced psychological distress from program entry to program exit.<sup>18</sup>

**Figure 6 Distribution of K-10 Psychological Distress scores**



<sup>16</sup> Kessler, R.C., Andrews, G., Colpe, L.J., Hiripi, E., Mroczek, D.K., Normand, S.L., Walters, E.E., & Zaslavsky, A. M. (2002). Short screening scales to monitor population prevalences and trends in non-specific psychological distress. *Psychological Medicine*, 32, 959-976.

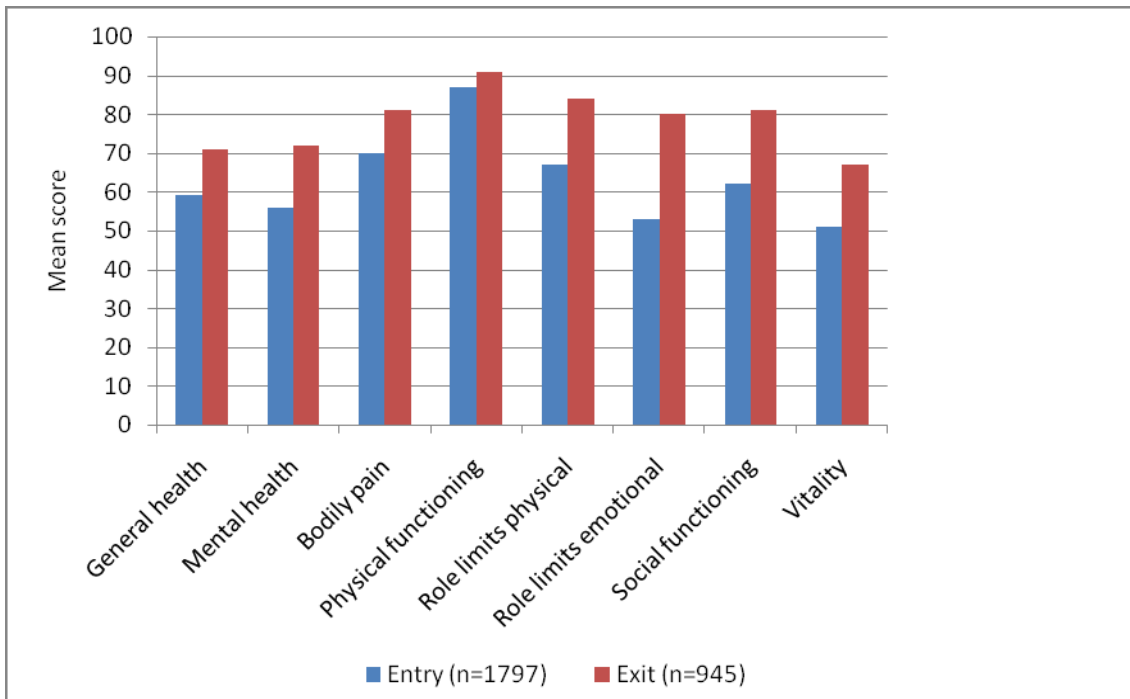
<sup>17</sup> Australian Mental Health Outcomes and Classification Network (2005). *Kessler-10 Training Manual*. Parramatta: NSW Institute of Psychiatry.

<sup>18</sup> N=942 Entry mean K-10=24.9, exit mean K-10=18.0; paired samples *t*=25.6, *df*=941, *p*<.001

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

The SF-36 was used to assess physical and mental health<sup>19</sup>. Subscale scores at program entry and exit are shown in Figure 7. Paired samples *t*-tests were conducted and changes from program entry to exit were statistically significant for all subscales.

**Figure 7 SF-36 subscale scores**



<sup>19</sup> Ware, J.E., Snow, K.K., & Kosinski, M. (1993). *SF-36 health survey manual and interpretations guide*. Boston: Health Institute, New England Medical Center.

## 7 FACTORS RELATED TO PROGRAM COMPLETION

This chapter examines the factors related to defendants completing or not completing the MERIT program.

The analyses are based on the cohort of 1820 MERIT participants who exited the program in 2007. Program completers are compared with defendants who did not complete the program, regardless of reason for non-completion.

Factors assessed were:

- Indigenous status
- age;
- gender;
- number of previous MERIT episodes;
- accommodation type;
- principal income;
- education;
- country of birth;
- principal drug of concern; and
- previous gaol time.

In 2006, Indigenous status, age, previous gaol time, accommodation type, principal income, education and principal drug of concern were all significantly associated with program completion.

In 2007, factors that remained significantly associated with completion were:

- Indigenous status<sup>20</sup>;
- age<sup>21</sup>;
- previous gaol time<sup>22</sup>; and
- principal income<sup>23</sup>.

Factors newly associated with program completion were gender<sup>24</sup> and number of previous MERIT episodes<sup>25</sup> (Table 14).

Factors not associated with program completion were principal drug of concern<sup>26</sup>, accommodation type<sup>27</sup>, education<sup>28</sup> and country of birth.<sup>29</sup>

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<sup>20</sup> Indigenous status:  $\chi^2=8.3$ ,  $df=1$ ,  $p=.004$ ,  $n=1780$

<sup>21</sup> Age:  $\chi^2=43.8$   $df=6$ ,  $p<.001$ ,  $n=1820$

<sup>22</sup> Previous gaol time:  $\chi^2=4.0$ ,  $df=1$ ,  $p=.05$ ,  $n=1245$

<sup>23</sup> Principal income:  $\chi^2=13.7$ ,  $df=5$ ,  $p=.02$ ,  $n=1804$

<sup>24</sup> Gender:  $\chi^2=10.5$ ,  $df=1$ ,  $p=.001$ ,  $n=1820$

<sup>25</sup> Previous MERIT episodes:  $\chi^2=7.2$ ,  $df=2$ ,  $p=.03$ ,  $n=1820$

<sup>26</sup> Principal drug of concern:  $\chi^2=8.9$ ,  $df=4$ ,  $p=.06$ ,  $n=1820$

<sup>27</sup> Accommodation type:  $\chi^2=4.0$ ,  $df=2$ ,  $p=.1$ ,  $n=1795$

<sup>28</sup> Education:  $\chi^2=2.3$ ,  $df=3$ ,  $p=.5$ ,  $n=1802$

<sup>29</sup> Country of birth:  $\chi^2=.002$ ,  $df=1$ ,  $p=.9$ ,  $n=1820$



**Table 14 Variables related to MERIT program completion**

		Completers		Non-completers		Chi-square test
		n	%	n	%	p
<b>Aboriginality</b>	Aboriginal	166	60.1	110	39.9	.004
	Non- Aboriginal	1037	68.9	467	31.1	
<b>Gender</b>	Male	999	68.9	450	31.1	.001
	Female	223	60.1	148	39.9	
<b>Age</b>	18-20	133	62.1	81	37.9	<.001
	21-24	217	62.7	129	37.3	
	25-29	266	60.6	173	39.4	
	30-34	264	77.9	75	22.1	
	35-39	172	65.2	92	34.8	
	40-49	147	77.8	42	22.2	
	50+	23	79.3	6	20.7	
<b>Principal income</b>	Full-time employed	193	74.8	65	25.2	.02
	Part-time employed	81	69.8	35	30.2	
	Pension	256	69.4	113	30.6	
	Temporary benefit	620	64.4	343	35.6	
	No income	39	59.1	27	40.9	
	Other	23	71.9	9	28.1	
<b>Served time in gaol</b>	No	409	70.6	170	29.4	.05
	Yes	435	65.3	231	34.7	
<b>Number of previous MERIT episodes</b>	0	990	68.7	452	31.3	.04
	1	182	61.3	115	38.7	
	2+	50	61.7	31	38.3	

## 8 CRIMINAL JUSTICE OUTCOMES

In keeping with previous Annual Reports, the sentence outcome and recidivism data are presented for defendants completing MERIT in the previous calendar year, in this case 2006.

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

Selected information about the defendants accepted into MERIT, who were recorded as having completed contact with the program during 2006, was sent to BoCSAR. The selected information identified the principal penalty received as well as the number of defendants who were brought back before local courts within 12 weeks of commencing MERIT, and within six and 12 months of completing contact with the program.

Of the total of 1688 defendants for whom information was sent to BoCSAR, 1382 were successfully matched in the relevant databases. This represents 81.9% of defendants.

### 8.1 Sentence outcomes

The sentence outcomes of the 1382 MERIT participants matched by BoCSAR are presented in Table 15.

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 (23.4%) or a bond without supervision (16.8%). By comparison, the most common sentence outcomes for program non-completers are a fine (22.6%) or a term of imprisonment (21.6%).

The distribution of sentence outcomes by completion/non-completion status is consistent with previous years of the program.

When interpreting this information it is important to recognise that the program completers and non-completers may differ systematically on factors that influence the severity of penalty. As a result, the observed sentence outcomes may reflect these pre-existing differences or selection bias rather than the effect of the MERIT program.

As previously seen in Table 15, one-fifth of MERIT participants were breached by the MERIT teams for non-compliance with program requirements, and a further 15% were either withdrawn from the program by the court or withdrew from the program voluntarily. The reasons for them not completing the program could also have had a significant bearing on their sentence outcomes.

**Table 15 Principal penalty by completion status: 2006**

Principal Penalty	Completed		Not completed	
	No.	%	No.	%
Fine	73	7.9	105	22.6
Imprisonment	38	4.1	100	21.6
Bond with supervision	215	23.4	75	16.2
Bond without supervision	154	16.8	33	7.1
Suspended sentence with supervision	140	15.3	37	8.0
Suspended sentence without supervision	64	7.0	17	3.7
Community Service Order	64	7.0	20	4.3
Home detention	4	0.4	2	0.4
Periodic detention	13	1.4	9	1.9
Bond without conviction	59	6.4	5	1.1
Probation with supervision	1	0.1	1	0.2
Nominal sentence	12	1.3	4	0.9
No conviction recorded	29	3.2	5	1.1
No action taken	1	0.1	1	0.2
Juvenile control order	-	-	2	0.4
No penalty	51	5.6	48	10.3
<b>TOTAL</b>	<b>918</b>	<b>100</b>	<b>464</b>	<b>100</b>

## 8.2 Re-offending

Re-offending in this report is measured by a finalised court appearance for new charges following entry to the MERIT program. It should be noted that not all incidences of criminal activity come to the attention of the police and/or result in charges being laid.

### 8.2.1 Re-offending within 12 weeks of commencing MERIT<sup>30</sup>

Table 16 shows the number and percentage of 2006 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 program and so may not have actually been receiving drug treatment in MERIT at the time of the offence.

Just under one-fifth of all MERIT participants were charged with a new offence within 12 weeks of commencing the program (294 of 1539 at 19%). Differences are apparent on the basis of exit status, with only 12.2% of program completers re-offending within 12 weeks compared with 31.3% of the program non-completers. This is not unexpected since re-offending while on MERIT can be cause for a defendant being removed from the program and/or for having bail withdrawn.

**Table 16 Re-offending within the 12 week MERIT program period**

		<b>Re-offended while on MERIT</b>	
<b>Exit</b>	<b>Exit status</b>	<b>n</b>	<b>%</b>
<b>2006</b>	Completed (n=979)	119	12.2
	Not completed	175	31.3
	<b>TOTAL (n=1539)</b>	<b>294</b>	<b>19.1</b>

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<sup>30</sup> The point of reference for this analysis was a charge with an offence within 12 weeks of the first MERIT court date.

## 8.2.2 Re-offending post MERIT contact

Table 17 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 six months and 12 months after completing contact with the program. The last MERIT court date was used as the starting point of the follow up period.

**Table 17 Re-offending by MERIT exit status at 6 months and 12 months**

		Number re-appearing in court	
Exit year	Exit status	within 6 months	
		n	%
2006	Completed (n=979)	226	23.1
	Not completed (n=560)	208	37.1

		Number re-appearing in court	
Exit year	Exit status	within 12 months	
		n	%
2006	Completed (n=979)	342	34.9
	Not completed (n=560)	275	49.1

The figures in Table 17 show a substantial difference in the rate of recidivism for defendants who completed compared with those who did not complete - at both six and 12 months intervals.

## 9 DISCUSSION

Overall, there were few notable changes in MERIT participant characteristics, program activity or program outcomes between 2006 and 2007 calendar years. This is to be expected as the program matures, especially as court coverage did not increase significantly in 2007.

From 2006 to 2007 the number of referred and accepted clients, and the number of program completions increased slightly, with higher referral numbers observed across most referral sources. Worthy of note are changes in the variables significantly predicting program completion between 2006 and 2007.

In particular two variables reached a level of statistical significance for the first time in 2007: gender and the number of MERIT episodes. Males and those with fewer previous MERIT episodes were significantly more likely to complete the program.

Conversely, three variables that had previously predicted program completion were no longer significant:

- principal drug of concern;
- accommodation type<sup>31</sup>; and
- education.

While it is likely that the majority of these changes can be attributed to random variation over time, it is plausible that the addition of the number of MERIT episodes as a predictor of program completion will persist. This is because the number of clients with previous MERIT episodes will increase as more clients are referred and accepted.

Thus, the larger number of ex-participants increases the likelihood that the variable will surpass the criterion for statistical significance. The relationship between previous MERIT episodes and completion should continue to be monitored, to see whether there may be a need to restrict the number of times a defendant may be referred to the program.

Also worth noting is the persistence of lower completion rates for Aboriginal participants. This has been a consistent finding across the life of the program.

The 2007 MERIT Annual Report is the first to provide an analysis of health outcomes data. Comparison of the health and well-being of clients at program entry and again at exit indicated that participants reliably demonstrate improvement across many domains over time.

On average, clients reported using significantly fewer types of substances on significantly fewer days at program exit than they did at program entry. For example average days of use for cocaine dropped by almost 90% of pre-MERIT

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<sup>31</sup> While it is clear that accommodation status was a significant predictor of program completion in 2005 ( $p < .05$ ), it is unclear whether this variable *significantly* predicted program completion in 2006, given that the  $p$ -value reported was  $> .05$  – this may reflect either a typographical or an interpretational error.

levels, while “other” opiates dropped by 87%, amphetamines by 86%, and heroin by 87%. Days of use for cannabis, the most frequently cited principal drug of concern, also dropped on average by 61%. These reductions were also reflected on measures of dependence (SDS) where participants showed a significant reduction in their level of drug dependence from program entry to exit irrespective of principal drug type.

Finally, average levels of psychological distress (as measured by the K-10) decreased significantly from entry to exit, while scores on each sub-scale of social functioning (as measured by the SF-36) improved significantly over the same period.

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*Young Offenders Act 1997 NSW*