



Attorney General  
& Justice

Annual Report

# 2010 MERIT

Magistrates Early Referral Into Treatment Program



**The Magistrates Early  
Referral Into Treatment  
(MERIT) program:  
2010 Annual Report**

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# CONTENTS

<b>ACKNOWLEDGEMENTS</b> .....	<b>i</b>
<b>KEY FINDINGS</b> .....	<b>v</b>
<b>1. INTRODUCTION</b> .....	<b>1</b>
1.1 Background to the program and previous research.....	1
1.2 Program eligibility criteria.....	2
<b>2. HOW MERIT OPERATES AND THE SCOPE OF ITS COVERAGE</b> .....	<b>4</b>
2.1 The MERIT process.....	4
2.2 The scope of MERIT's coverage .....	5
<b>3. RESEARCH OBJECTIVES AND METHODS</b> .....	<b>8</b>
3.1 The report's aim.....	8
3.2 Research methods .....	8
<b>4. MERIT PROGRAM ACTIVITY IN 2010</b> .....	<b>11</b>
4.1 MERIT referral and acceptance rates.....	11
4.2 MERIT referral.....	13
4.3 The demographic profile of referred/accepted defendants .....	14
4.4 Principal drug of concern.....	16
4.5 Number of charges and type of offence.....	20
<b>5. MERIT PROGRAM EXITS</b> .....	<b>22</b>
5.1 Exit status of defendants accepted into MERIT .....	22
5.2 Program duration.....	23
5.3 Treatments and services .....	23
<b>6. SUBSTANCE USE AND HEALTH OUTCOMES</b> .....	<b>26</b>
6.1 Substance use.....	26
6.2 Severity of Dependence .....	29
6.3 Injecting behaviour .....	30
6.4 General Health and Well-being.....	30
<b>7. FACTORS ASSOCIATED WITH PROGRAM COMPLETION</b> .....	<b>34</b>
<b>8. CRIMINAL JUSTICE OUTCOMES</b> .....	<b>36</b>
8.1 Sentence outcomes.....	36
8.2 Re-offending.....	38
<b>9. DISCUSSION AND CONCLUSIONS</b> .....	<b>40</b>
<b>10. REFERENCES</b> .....	<b>42</b>

## TABLES

Table 2.1: MERIT coverage by Area Health Service and NSW Local Courts (as at 31 December 2010).....	7
Table 4.1: Reasons for non-acceptance of MERIT program referrals (2010) (n=765) .....	12
Table 4.2: Sources of referral and acceptance rates (2010) .....	13
Table 4.3: Program status by number of referrals to MERIT (2010).....	14
Table 4.4: Age at referral and acceptance as a proportion of referrals (2010) .....	15
Table 4.5: Indigenous status of referred defendants (2010).....	15
Table 4.6: Principal drug of concern for accepted MERIT defendants (2010) .....	18
Table 4.7: Principal drug of concern for accepted defendants, by region (2009 and 2010).....	19
Table 4.8: Offence types for referred and accepted MERIT defendants (2010) .....	21
Table 5.1 Status of participants exiting the MERIT program (2009 and 2010).....	23
Table 5.2: Previous substance use treatments received by exiting MERIT participants who had accessed services (2010) (n=1,220) .....	24
Table 6.1: Changes in the number of days using substances and the intensity of use in the month on entry to and exit from the MERIT program.....	28
Table 6.2: Average (mean) Severity of Dependence Scale scores for accepted defendants during 2010 .....	29
Table 6.3: Changes in average (mean) Severity of Dependence Scale (SDS) score upon entry to and exit from the MERIT program, by principal drug .....	30
Table 8.1: Sentence outcomes for MERIT defendants (2009) (n=1,688) .....	37
Table 8.2: Rate of reconviction within the 12-week MERIT program period (2009) (n=1,854) .....	38
Table 8.3: Rates of reconviction at 6 and 12 months for exiting MERIT defendants (2008) (n=1,854).....	39

## FIGURES

Figure 2.1: The MERIT process .....	6
Figure 4.1: MERIT referrals and percentage acceptance rates (2000–2010) (N=23,965) .....	11
Figure 4.2: Trends in principal drug of concern addressed by MERIT (2000–2010) (N=14,982) .....	17
Figure 4.3: Principal drug of concern for accepted defendants, by region (2010) .....	19
Figure 5.1: MERIT program completion rates for accepted defendants (2000–2010) (N=14,510) .....	22
Figure 6.1: The nature and extent of drug use among accepted MERIT defendants at program entry (2010) .....	26
Figure 6.2: Average (mean) frequency of substance use upon entry to and exit from the program (2010) (n=957) .....	27
Figure 6.3: Changes in levels of psychological distress on entry to and exit from MERIT during 2009 (n=936) .....	31
Figure 6.4: Average (mean) SF-36 subscale scores for MERIT participants during 2010 at entry versus the general population .....	32
Figure 6.5: Changes in average (mean) SF-36 subscale scores on entry to and exit from the MERIT program (2010) (n=821) .....	33

## KEY FINDINGS

This report by the School of Psychology, University of New South Wales (UNSW), provides the New South Wales (NSW) Department of Attorney General and Justice with an independent assessment of the activities and efficacy of the *Magistrates Early Referral Into Treatment* (MERIT) program during 2010. The key findings from the report are that:

- Between 1 January and 31 December 2010 there were 3,035 referrals to the program; a 0.6 per cent increase (of 18 referrals) on the previous year. Solicitors and Magistrates accounted for 76 per cent of the referrals to MERIT during 2010. The small increase in referrals may be attributable to the granting of MERIT provisions to Woy Woy and Coffs Harbour Local Courts in April and November 2010 respectively; in addition to expansion of the Manly and Wollongong programs to permit referrals of participants with alcohol use as their primary drug of concern in March and June 2010.
- Of the 3,035 referrals in 2010, 64% (n=1,941) were accepted onto the program. The most common reasons for non-acceptance included having no demonstrable drug problem, being unwilling to participate and having program entry not endorsed by the Magistrate. Close to one in four (23.3%) of referred defendants during 2010 had previously been referred to MERIT – a rate which was commensurate to that of 2009 (23%).
- The average (median) age of those both referred and accepted was 30 years. In line with activity during recent years, around one in five referrals (20.6%) and acceptances (21.3%) to the MERIT program during 2010 were female. Women (66.3%) were not significantly more or less likely to be accepted into the program than males (64.2%). Almost one in five (19.3%) defendants referred to MERIT during 2010 identified as Aboriginal or as a Torres Strait Islander. This is a slight increase from 2009 (19%) and the highest proportion of Aboriginal and Torres Strait Islander referrals since the program commenced in 2000.
- Cannabis was the principal drug of concern for nearly half (46.9%) of all accepted defendants during 2010. Narcotics users (20.6%) and stimulant users (17.9%) accounted for around one in five cases each. Heroin was the principal drug of concern for most narcotic using defendants. There was a decrease in principal heroin users in 2010 (18%) compared to 2009 (22.2%). In contrast, 2010 saw increased referral for primary alcohol use (9.8%) relative to 2009 (3.1%). This is consistent with the expansion of MERIT sites accepting alcohol use as the primary drug of concern throughout 2009 and 2010.

- Illicit drug offences and theft and related offences were the most common charges faced by MERIT defendants – for both those referred to and accepted by the program in 2010. Principal cannabis users comprised the largest group charged with illicit drug offences (56.2%). By contrast, principal users of narcotics were the group most likely to be charged with theft and related offences (40.5%).
- Seventy-one per cent of the 1,939 MERIT participants who exited the program during 2010 had met all program requirements. This represents the highest rate of completion recorded for accepted participants throughout the life of the MERIT program. The rate at which defendants were breached by the MERIT team for non-compliance with program requirements in 2010 (16.3%) was slightly lower than that in 2009 (17.2%).
- There were statistically significant reductions in both the frequency and intensity of all forms of self-reported substance use amongst accepted MERIT participants in 2010. The largest reductions were recorded for the reported use of alcohol, cannabis and amphetamines. However, for many participants, levels of dependence on illicit drugs upon exit from MERIT continued to exceed established thresholds for dependency using validated measures.
- Defendants starting the MERIT program during 2010 had a poorer physical and mental health prognosis than the general population. Upon exit from the program there were significant improvements in both general and mental health, moving the MERIT sample above the Australian population average in four of eight assessed domains (Physical Functioning, Role Limits Physical, Bodily Pain, and Vitality). There were also significant reductions in the levels of self-reported psychological distress experienced by MERIT defendants following their contact with the program.
- Twelve months after exiting the MERIT program in 2009, 38.3 per cent of defendants had been reconvicted for a further offence. However, program non-completers in 2009 were significantly more likely to be reconvicted for another offence during the 12 weeks on the MERIT program (35.5% vs. 14%), and in the six (31.4% vs. 22.5%) and 12 months (44.4% vs. 35.5%) following program exit (all at  $p < 0.005$ ).



# 1. INTRODUCTION

## 1.1 Background to the program and previous research

Launched in 2000, the *Magistrates Early Referral Into Treatment Program* (MERIT)<sup>1</sup> was one of five diversionary initiatives to emerge from the recommendations of the New South Wales (NSW) Drug Summit in 1999. The initiative was expanded following a successful pilot of the program in the Northern Rivers region from July 2000 (Northern Rivers University Department of Rural Health, 2003). MERIT operates as an inter-agency program led by the NSW Department of Attorney General and Justice, Chief Magistrate's Office, the NSW Ministry of Health and NSW Police.

The program has developed in recognition of the fact that the prevalence of self-reported illicit drug use is higher amongst known offenders than the general population. During 2008, for example, 65 per cent of a national sample of Australian police detainees tested positive for at least one illicit drug; cannabis was the most common drug detected (48%; Gaffney et al., 2010). This compares with 14.7 per cent of respondents (aged 14+) to the 2010 National Drug Strategy Household Survey who had used illicit drugs in the previous 12 months (Australian Institute of Health and Welfare, 2011). Forty-three per cent of Australian detainees who tested positive for at least one illicit drug attribute at least some of their offending to their drug use (Gaffney et al., 2010). Furthermore, half of all drug using suspects detained by Australian police are poly-drug users (Sweeney, 2009).

Within this context MERIT operates as a pre-plea diversion program targeting adult defendants appearing in NSW Local Courts who have a demonstrable illicit drug use problem. The program aims to use drug treatment and related health and social welfare support to tackle any links that might exist between defendants' use of illicit drugs and their offending behaviour.

There is a growing body of research which demonstrates that participation in MERIT reduces rates of reconviction and re-offending (Passey et al., 2007; Lulham, 2009). MERIT has also been shown to contribute towards reductions in self-reported illicit drug use and associated risk behaviours, and improvements to physical and psychological health (NSW Department of Health, 2007; Martire & Larney, 2009a). There is some evidence to suggest that MERIT is also cost-effective (Northern Rivers University Department of Rural Health, 2003). However, one in three participants fail to complete their MERIT program (Martire & Larney, 2009b) and completion rates are significantly lower for amphetamine and heroin users – who are the poorest performers across a range of health and dependency indicators on admission to treatment (ibid), women (Martire & Larney, 2009c) and Aboriginal

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<sup>1</sup> MERIT was originally launched as the Early Court Intervention Pilot.

defendants (Martire & Larney, 2009d). These are important findings since completion of the MERIT program has been found to significantly and substantially reduce the likelihood of committing any subsequent offences (Lulham, 2009). However, even upon completion, there is a tendency for participants to continue using illicit substances at dependent levels (Martire and Larney, 2009c).

## **1.2 Program eligibility criteria**

The eligibility criteria for the MERIT program seek to ensure the proactive targeting of a large proportion of drug-using defendants appearing before the NSW Local Courts. Whilst presenting with a demonstrable drug *dependency* is not a prerequisite for consideration by the program, defendants must nevertheless be clinically assessed as having an illicit drug problem of sufficient seriousness to warrant the intensive intervention offered through MERIT.

MERIT is a voluntary drug diversion program where both referral and treatment occur prior to the defendant making a plea of guilty or not guilty for the relevant offence(s). Involvement in MERIT may be made a condition of bail and progress is taken into consideration upon sentencing. Defendants are eligible for MERIT if they:

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

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

In 2010, defendants citing alcohol as their principal drug of concern were accepted into MERIT at some courts, namely:

- Orange Local Court, Bathurst Local Court, Wellington Local Court.

Such defendants have been accepted into MERIT at these courts since July 2009 (and were accepted under programs similar to MERIT that operated at these courts prior to this date).

- Wilcannia Local Court, Broken Hill Local Court.

Defendants with primary alcohol issues have been accepted since the commencement of MERIT in these courts in June 2004 and May 2005 respectively.

- Dubbo Local Court, Manly Local Court and Wollongong Local Court.

The eligibility criteria of the existing MERIT programs at these courts were expanded to include defendants with primary alcohol issues in October 2009, March 2010 and June 2010 respectively.

## 2. HOW MERIT OPERATES AND THE SCOPE OF ITS COVERAGE

### 2.1 The MERIT process

Once charged, defendants are typically referred to MERIT at or before their initial court appearance. In order to ensure compatibility with existing NSW Local Court processes – where matters are expected to progress from initial hearing to sentencing within a three-month period – MERIT program completion is scheduled to coincide with the final hearing and sentencing date set for the defendant. Figure 2.1 illustrates this process from charge and referral through to final hearing and sentencing.

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

Once assessed as suitable and accepted onto the program an individually tailored treatment plan is drawn up for each defendant. This seeks to match participants to a range of appropriate and available drug treatments (e.g. detoxification, counselling, pharmacotherapy, residential rehabilitation, community outpatient services and case management) and related health and social welfare services (e.g. mental health, unemployment, housing and legal advice), as appropriate.

As a voluntary pre-plea diversion program defendants can opt not to engage with the program, or withdraw from it at any time, electing instead to have the Magistrate determine their case through the usual court process and without prejudice.

In the event that engagement with MERIT is deemed unsatisfactory or there is evidence of non-compliance (e.g. further offences or failing to appear for appointments/Court), the Magistrate reserves the right to remove defendants from the program without prejudice.

In addition to the *Bail Act (NSW) 1978*, which provides the legal framework under which the program operates, the MERIT Local Court Practice Note 5/2002 is instrumental in guiding Magistrates in their dealings with defendants engaging with the program. Point 14.1 of the Practice Note states that:

*“On sentence, the successful completion of the MERIT program is a matter of some weight to be taken into account in the defendant’s favour. At the same time, as the MERIT program is a voluntary opt in program, its unsuccessful completion should not, on sentence, attract any additional penalty.”*

In order to inform sentencing decisions MERIT teams provide each Magistrate with a progress report providing information on the nature and extent of the defendant's participation in the program and detailing any final recommendations with regards to ongoing treatment needs. How the Magistrate uses the information contained within the report and assesses the impact of engagement with MERIT at sentencing is ultimately a matter for his or her discretion.

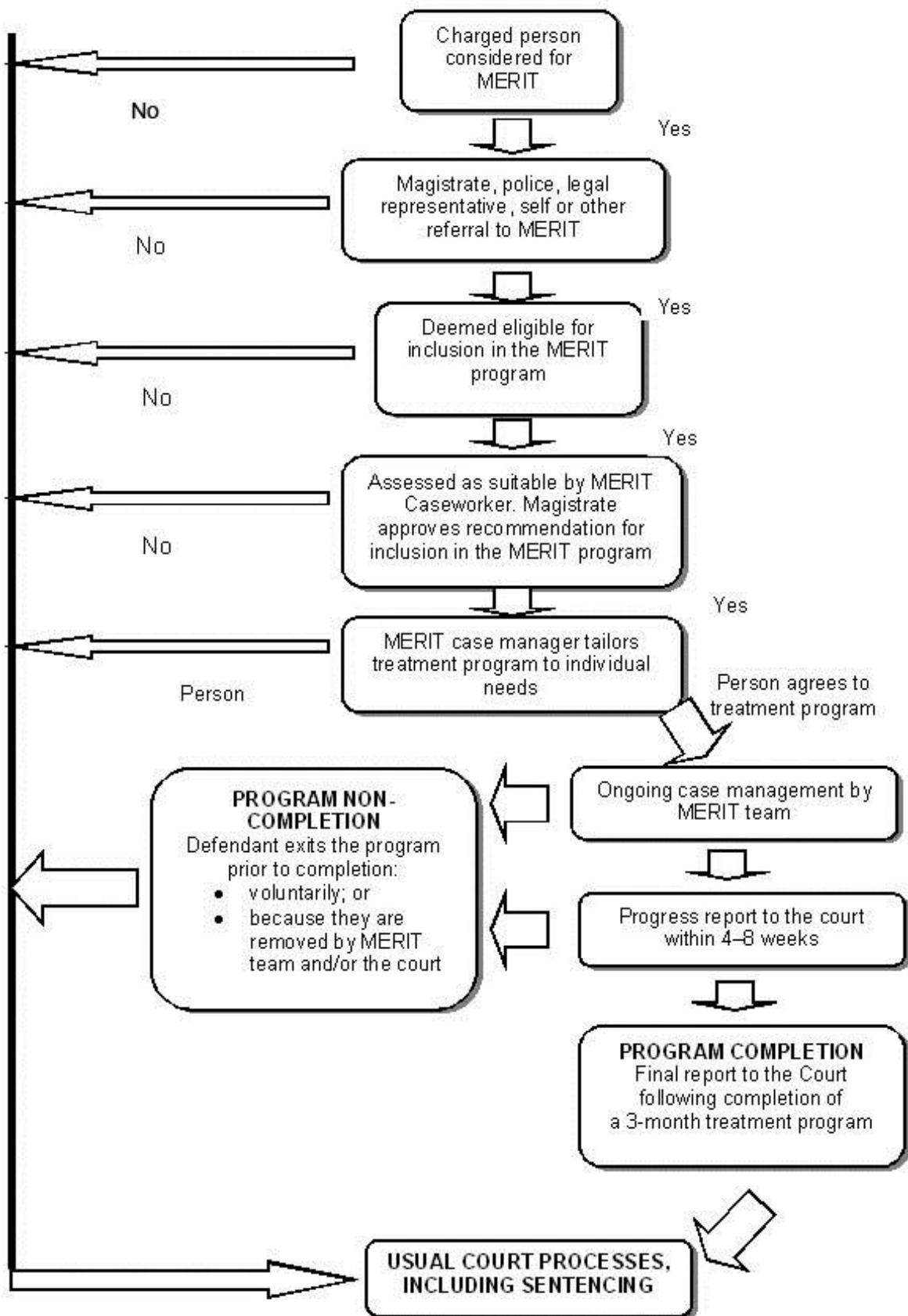
## **2.2 The scope of MERIT's coverage**

Information about MERIT's coverage by Area Health Service<sup>2</sup>, MERIT team and NSW Local Court, as at 31 December 2010, is provided in Table 2.1. As was the case with the previous Annual Report, Courts have been grouped according to their geographic location and linked to the relevant Area Health Service. During 2010 MERIT operated in 45.1 per cent (n=65) of all 142 NSW local courts. This is an increase of 1 percentage point from 2009 reflecting the addition of MERIT provisions to Woy Woy and Coffs Harbour courts. In terms of the total charge population in 2010, the MERIT program was potentially available to 98,037 or 81.2 per cent of finalised cases appearing before the NSW Local Court during this period.

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<sup>2</sup> The Area Health Service (AHS) structure that existing in 2010 has since been replaced by Local Health Districts (LHDs).

**Figure 2.1: The MERIT process**



**Table 2.1: MERIT coverage by Area Health Service and NSW Local Courts (as at 31 December 2010)**

Area Health Service	MERIT teams	Courts contained within AHS boundaries <i>Courts with MERIT appear in bold</i>	Court coverage <sup>3</sup>
South Eastern Sydney and Illawarra	South East Sydney Illawarra	<b>Wollongong, Albion Park, Kiama, Port Kembla, Nowra, Sutherland, Kogarah, Downing Centre, Central<sup>4*</sup>, Waverley, Milton</b>	100%
Sydney South West	South West Sydney Central Sydney	<b>Liverpool, Campbelltown, Camden, Burwood, Fairfield, Bankstown, Newtown, Picton, Balmain</b>	96.3%
Sydney West	Western Sydney Wentworth	<b>Parramatta, Katoomba, Penrith, Blacktown, Mt Druitt, Windsor</b>	94.6%
Hunter and New England	Hunter New England	<b>Tamworth, Cessnock, Muswellbrook, Newcastle, Maitland, Raymond Terrace, Toronto, Singleton, Belmont, Kurri Kurri, Scone, Dungog, Armidale, Glen Innes, Gunnedah, Inverell, Moree, Narrabri, Quirindi, Walcha, Wee Waa, Boggabilla, Tenterfield, Mungindi, Warialda,</b>	70.2%
Greater Western	Mid West Far West Macquarie	<b>Bathurst, Broken Hill, Orange, Dubbo, Parkes, Oberon, Blayney, Forbes, Wilcannia, Wellington,</b> Condobolin, Cowra, Dunedoo, Grenfell, Lithgow, Rylstone, Peak Hill, Lake Cargelligo, Bourke, Brewarrina, Walgett, Warren, Nyngan, Lightning Ridge, Wentworth, Narromine, Gulgong, Gilgandra, Coonamble, Coonabarabran, Cobar, Mudgee, Balranald	57.5%
North Coast	Mid North Coast Northern Rivers	<b>Lismore, Byron Bay, Ballina, Casino, Kyogle, Port Macquarie, Kempsey, Wauchope, Mullumbimby, Murwillumbah, Tweed Heads, Grafton, Maclean, Coffs Harbour, Forster, Macksville, Taree, Bellingen, Gloucester</b>	73.6%
Greater Southern	Southern Greater Murray	<b>Queanbeyan, Wagga Wagga, Junee, Cooma, 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</b>	29.7%
Northern Sydney and Central Coast	Northern Sydney Central Coast	<b>Gosford, Manly, Wyong, North Sydney, Hornsby, Ryde, Woy Woy</b>	100%

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

<sup>3</sup> As with previous Annual Reports, courts have been grouped here according to AHS. Similarly, the percentage in the 'Court Coverage' column represents the volume of finalised cases in MERIT local courts as a proportion of finalised cases in all NSW local courts, by AHS. These figures were calculated using 2009 court statistics supplied by BoCSAR.

<sup>4</sup> The Central Court registry works in conjunction with the Downing Centre.

## **3. RESEARCH OBJECTIVES AND METHODS**

### **3.1 The report's aim**

The main aim of this independent report by the School of Psychology, University of New South Wales (UNSW), is to provide the NSW Department of Attorney General and Justice with information regarding the uptake and efficacy of the MERIT program during 2010.

A key consideration when producing this document was to ensure consistency with the approach adopted in preceding annual reports; thus aiding an accurate assessment of current performance against previous years' activity and key trends over the life of the program.

### **3.2 Research methods**

Existing administrative data have been collated from two sources: the MERIT Information Management System (MIMS) and the NSW Bureau of Crime Statistics and Research (BoCSAR) Re-Offending Database (ROD).

#### **3.2.1 MERIT operational data**

MIMS was developed with the explicit intention of facilitating the ongoing monitoring and evaluation of the MERIT program. In addition to National Minimum Dataset (NMDS) items, MIMS also records a range of information pertaining to the demographic profile of participants, their relevant court dates, program entry and exit dates, and the types of intervention received as part of the program.

MIMS is also used to routinely collate assessment data of consenting participants<sup>5</sup> relating to self-reported patterns of substance use, related risk behaviours, psychological distress and physical, social and emotional functioning. Assessment data collated on the self-reported health status of defendants at entry to and exit from the program is also recorded on MIMS.

MIMS is subject to frequent internal quality assurance processes. Furthermore, quarterly data quality reports are produced for each Area Health Service in order to cross-reference and ensure both the reliability and accuracy of the data submitted by individual MERIT teams.

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<sup>5</sup> Participants accessing the MERIT program provide their informed consent for the (appropriately anonymised) information provided to the MERIT team during the course of the assessment process to be used in order to facilitate research and evaluation by the MERIT program.



The nature of the MIMS dataset does however introduce a number of inherent limitations to the data presented in this report: in some cases it is reliant upon defendants' self-reporting of their behaviour; and, like any large-scale administrative dataset, MIMS invariably suffers from a degree of missing data.

Program exit data relating to substance use and health outcomes are also biased towards program completers. These data tend to be restricted to this group for a range of reasons: non-completers fail to re-engage with MERIT after breaching, being removed or withdrawing from the program; they may be detained in custody for further offences; or they might leave the program shortly after entering it. Given the differences between program completers and non-completers (described in more detail in Chapter 7) the outcomes reported here should not be considered representative of all program participants.

### **3.2.2 Criminal justice data**

BoCSAR provided the School of Psychology with anonymised and aggregated data on sentence outcomes and re-convictions for defendants referred to the MERIT program. Information regarding the court appearances and convictions of MERIT participants was sought by MERIT from BoCSAR on behalf of the School of Psychology.

As with previous Annual Reports, sentence outcome data were assembled by matching MERIT referral information to sentence outcomes on the Local Court database (GLC). For the 2010 Annual Report, 88.1 per cent of relevant MERIT defendants had sentence outcome information available having been successfully matched against the GLC. This is higher than the match rate for the 2009 Annual Report (83.2%).

Re-conviction rates were calculated by matching a defendant's Criminal Name Index (CNI) number and date of birth to BoCSAR's Re-Offending Database (ROD). For the 2010 Annual Report 96.7 per cent of cases were successfully matched to the ROD.

### **3.2.3 Base-line data**

In line with the approach adopted for previous reports we have employed two baseline reference points. The baseline for considering MERIT inputs (referrals and acceptances) and outputs (completion rates) was 1 January to 31 December 2010 inclusive. This reflects the MERIT program's activity for that calendar year.

By contrast, sentence outcome and reconviction data are presented for the cohort of MERIT defendants exiting the program during the *previous* calendar year (i.e. 2009). Measuring program outcomes in this way is necessary to

allow for a sufficient period of time to have elapsed in order to measure reconviction outcomes.

### **3.2.4 Data analysis**

All data were subject to analysis using IBM SPSS (the Statistical Package for the Social Sciences). Descriptive statistics were used to profile the characteristics of the MERIT cohort during 2010. Missing data are recorded where appropriate in order to aid interpretation of results. All percentages have been calculated with missing data excluded.

Levels of association between binary dependent and independent variables were tested using Pearson correlations (chi-square tests). The Wilcoxon signed-rank test was used to assess the significance of changes in continuous variables (e.g. number of days of substance use) involving the same defendants at entry to and exit from MERIT.

## 4. MERIT PROGRAM ACTIVITY IN 2010

This chapter provides a descriptive overview of MERIT program activity during the 2010 calendar year.

### 4.1 MERIT referral and acceptance rates

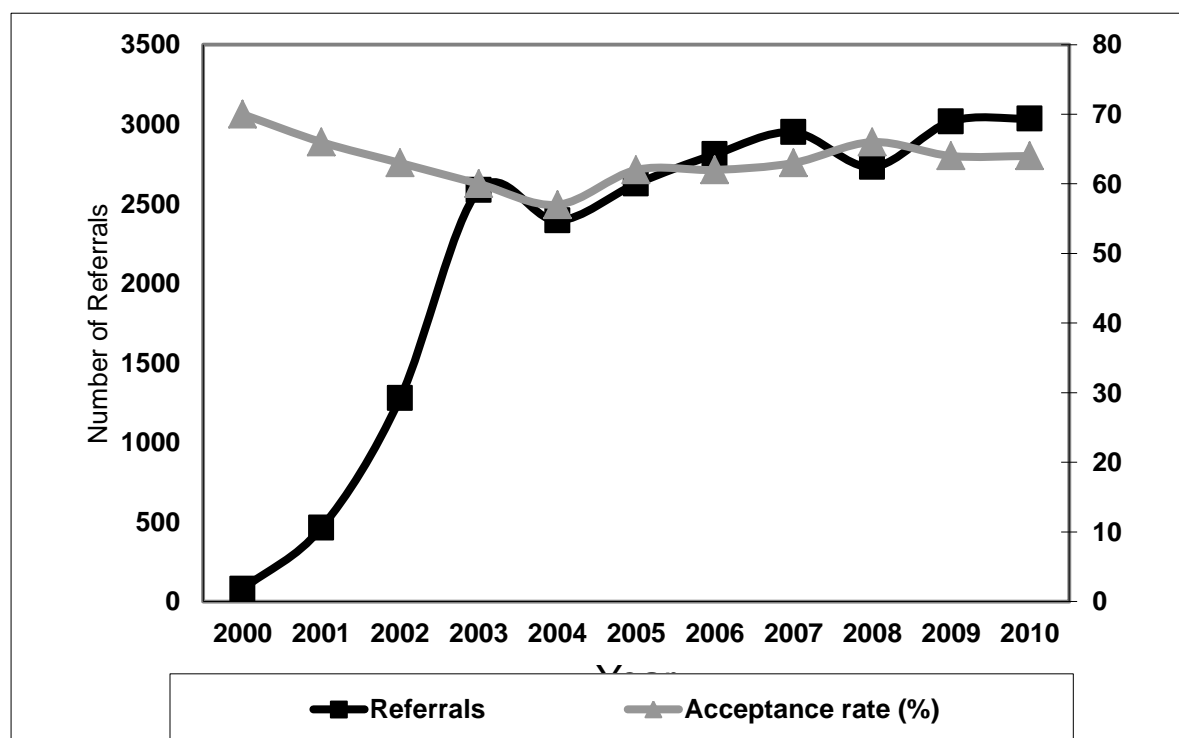
#### 4.1.1 Number of MERIT referrals

Between 1 January and 31 December 2010 there were 3,035 referrals to the program; a 0.6 per cent increase (of 18 referrals) on the previous year. This is the eighth year on year increase in referrals since 2000, and the largest rate of referral activity in the history of MERIT operations. Both the number and proportion of referrals from Self and 'Other' sources increased between 2009 and 2010.

#### 4.1.2 MERIT acceptance rates

Of the 3,035 referrals in 2010, close to two-thirds (n=1,941) were accepted onto the program. Figure 4.1 charts referral and acceptance rates over time. Whilst there has been a consistent overall growth in referrals to MERIT since 2000, acceptance rates fell by 13 percentage points up to 2004, but have increased by seven percentage points since then.

**Figure 4.1: MERIT referrals and percentage acceptance rates (2000–2010)**  
(N=23,965)



Thirty-six per cent of referred defendants (n=1,094) did not access MERIT during 2010; 178 (5.9%) failed to attend for an assessment (referral only) and 151 (5%) declined to attend the program before a treatment protocol had been devised. When compared to the previous year's activity, the proportion of referrals not attending for assessment and declining to participate had increased slightly (by 1.9 percentage points).

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

Just over one quarter (n=765; 25.2%) of those referred to MERIT during this period were not accepted to participate in the program – a rate which was slightly lower compared to 2009 activity (27%). As illustrated in Table 4.2, the most common reasons for non-acceptance were having no demonstrable drug problem, being unwilling to participate and the Magistrate not endorsing program entry.

**Table 4.1: Reasons for non-acceptance of MERIT program referrals (2010) (n=765)**

Reason for non-acceptance		2010	
		n	%
Not eligible	No demonstrable drug problem	265	34.6
	Not eligible for bail	75	9.8
	Strictly indictable offence(s)	41	5.3
	Not an adult	2	0.2
	<b>Sub total</b>	<b>383</b>	<b>49.9</b>
Not suitable	Unwilling to participate	147	19.2
	Mental health problem	11	1.4
	Already in court ordered treatment	4	0.5
	<b>Sub-total</b>	<b>162</b>	<b>21.2</b>
Program logistics	Resides outside of effective treatment area	13	1.7
	Program full	34	4.4
	<b>Sub-total</b>	<b>47</b>	<b>6.1</b>
Program entry not endorsed by Magistrate	<b>Sub-total</b>	<b>102</b>	<b>13.3</b>
Other	<b>Sub-total</b>	<b>71</b>	<b>9.3</b>
<b>TOTAL</b>		<b>765</b>	<b>100</b>

Compared to the previous year, there was an increase in the proportion of MERIT referrals who were refused as a result of MERIT teams reaching full capacity (up from 1.3% in 2009) and a reduction in the proportion of defendants not eligible for bail (down from 14.7%).

## 4.2 MERIT referral

### 4.2.1 MERIT referral sources and acceptance rates

Solicitors and Magistrates accounted for over three quarters of the referrals to MERIT during 2010 (Table 4.3). Self-directed and 'Other' referrals were the only sources of referral to MERIT which measured a proportional increase between 2009 and 2010.

**Table 4.2: Sources of referral and acceptance rates (2010)**

Referral source	Referrals by source		Acceptances by source	
	n	%	n	%
Solicitor	1,373	45.3	892	65.0
Magistrate	940	31.0	646	68.7
Self	276	9.1	172	62.3
Other <sup>6</sup>	252	8.3	138	54.8
Police	124	4.1	62	50.0
Probation and Parole	34	1.1	19	55.9
Family /friend	30	1.0	11	36.6
<b>TOTAL</b>	<b>3,029</b>	<b>100</b>	<b>1,940</b>	

\* Data on referral source were missing in 6 cases.

Those referred to the program by Magistrates<sup>7</sup> during 2010 were more likely to be accepted into the program than those referred from other sources. Referrals from the Police<sup>8</sup> and Family / Friend<sup>9</sup> sources were the least likely groups to be subsequently accepted onto the program during this period.

### 4.2.2 Previous referrals to MERIT

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

Almost one in four (n = 707; 23.3%) referred defendants during 2010 had previously been referred to MERIT. This rate is similar to that recorded

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<sup>6</sup> As noted in earlier Annual Reports (e.g. Martire and Larney, 2009: 14), 'Other' MERIT referrals are typically made by health care professionals.

<sup>7</sup>  $\chi^2=12.9$ ,  $df=1$ ,  $p<0.005$ .

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

<sup>9</sup>  $\chi^2=9.8$ ,  $df=1$ ,  $p=0.002$ .

in 2009 (n = 677; 23%). Those who had one or more previous referrals were more likely to be accepted into the program (67.2%) than those who had no previous referrals (63.0%).<sup>10</sup>

**Table 4.3: Program status by number of referrals to MERIT (2010)**

Extent of past contact with MERIT	Program status								
	Accepted		Declined		Not accepted		Referral only		Total
	n	%	n	%	n	%	n	%	n
No previous referrals	1,466	63.0	117	5.0	603	25.9	142	6.1	2,328
1 previous referral	331	66.2	27	5.4	117	23.4	25	5.0	500
2+ previous referrals	144	69.6	7	3.4	45	21.7	11	5.3	207
<b>Total</b>	<b>1,941</b>	<b>64.0</b>	<b>151</b>	<b>5.0</b>	<b>765</b>	<b>25.2</b>	<b>178</b>	<b>5.9</b>	<b>3,035</b>

### 4.3 The demographic profile of referred/accepted defendants

#### 4.3.1 Gender

In line with activity during recent years, around one in five referrals (n=624; 20.6%) and acceptances (n=414; 21.3%) to the MERIT program during 2010 were female<sup>11</sup>. Women (66.3%) were not significantly more or less likely to be accepted into the program than males (64.2%).

The gender ratio of defendants referred to MERIT during this period is consistent with that for those found guilty before all NSW Local Courts in 2010 (NSW Bureau of Crime Statistics and Research, 2011).

#### 4.3.2 Age

Defendants referred to the program during 2010 ranged in age from 17 to 72 years. The average (median) age of those both referred and accepted was 30 (one year older than median age from last year). As was the case during 2009, the largest proportion of referred defendants in 2010 were aged between 25–29 years, accounting for almost one in five referrals (19%). This was followed by the 30–34 (18.6%) and 21–24 (16.5%) age group. As shown in Table 4.4, collectively, these groups accounted for slightly more than half (54.1%) of all referrals to the program during this period. This age distribution is broadly consistent with the pattern followed throughout the lifetime of MERIT.

<sup>10</sup>  $\chi^2 = 4.2$ ;  $df = 1$ ;  $p = 0.041$

<sup>11</sup> Data on gender were missing in 33 cases.

**Table 4.4: Age at referral and acceptance as a proportion of referrals (2010)**

Age group	Referred		Accepted	
	n	% of all referrals	n	% of age group
17 or under	5	0.2	1	20.00
18–20	404	13.4	242	59.9
21–24	496	16.5	304	61.3
25–29	571	19.0	386	67.6
30–34	550	18.3	372	67.6
35–39	440	14.6	298	67.7
40–49	425	14.1	262	61.6
50+	122	4.0	76	62.3
<b>Total</b>	<b>3,013</b>	<b>100</b>	<b>1,941</b>	

\* Due to missing data age at referral could not be calculated for 22 cases.

### 4.3.3 Indigenous status

As illustrated in Table 4.5, 19.3 per cent (n=515) of referrals to MERIT during 2010 identified as Aboriginal or as a Torres Strait Islander<sup>12</sup>. This is slightly higher than the 2009 rate (19%) and is the highest proportion of referrals identifying as such since the program commenced in 2000. This figure is also higher than the proportion of Indigenous defendants who appeared before all Local Courts in 2009 (13.4%) (NSW Bureau of Crime Statistics and Research, 2011).

There was no significant difference in the proportion of acceptances into MERIT between Indigenous defendants (71.3%) and non-Indigenous defendants (71.8%). There were differences in the reasons given for non-acceptance by Indigenous status; Indigenous defendants were more likely to have program entry not endorsed by the Magistrate (4.7% v 3.2%)<sup>13</sup>. Non-indigenous defendants were more likely to have no demonstrable drug problem (7.5% v 4.1%)<sup>14</sup>.

**Table 4.5: Indigenous status of referred defendants (2010)**

Indigenous status	Referred	
	n	%
Indigenous*	515	19.3
Non-indigenous	2,160	80.7
<b>Total</b>	<b>2675</b>	<b>100</b>

<sup>12</sup> Data on indigenous status were missing (n=251) or not stated (n=109) in 11.9 per cent of cases.

<sup>13</sup>  $\chi^2 = 3.9$ ;  $df = 1$ ;  $p = 0.048$

<sup>14</sup>  $\chi^2 = 8.7$ ;  $df = 1$ ;  $p = 0.003$

\*Includes those identifying as Aboriginal (n=495), Torres Strait Islander (n=11) or Aboriginal and Torres Strait Islander (n=9). Data on indigenous status was missing or not stated for 360 cases.

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

The majority of participants referred to the MERIT program during 2010 were born in Australia (89.9%)<sup>15</sup>. This is similar to the figure for 2009 (89.3%)<sup>16</sup>. The most common countries of origin for defendants born outside Australia in 2010 were New Zealand (n=51), England (n=30) and Viet Nam (n=29).

#### **4.3.5 Educational attainment**

As has been the case throughout the life of the MERIT program, the majority of referred defendants in 2010 were those for whom the highest level of educational attainment was equivalent to Year 10 or less (72.9%; from 72.6% in 2009)<sup>17</sup>. Fewer than one in five (n=319; 17.6%) were educated to the level of Year 11 or 12; seven per cent (n=130) had trade or TAFE qualifications and only a small proportion (2.4%; n=43) were tertiary-level educated.

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

Information relating to the principal drug of concern to be addressed by the MERIT program is provided in Table 4.7. Cannabis was the principal drug of concern for nearly half (n=910; 46.9%) of all accepted defendants during 2010. As indicated in Figure 4.2, this is more than twice the proportion of cannabis users dealt with in 2000 (21.8%), although is slightly lower than the proportion recorded in 2009 (48.6%).

Narcotics users accounted for one in five of cases accepted in 2010 (n=399; 20.6%); stimulant drugs represented a similar proportion of the caseload (n=347; 17.9%). Heroin was the principal drug of concern (n=353) for most narcotic using defendants; however this represented a decrease of almost 4% of total accepted cases when compared to 2009 (n = 429).

Alcohol use was recorded as the principal drug of concern for almost one tenth (n = 190; 9.8%) of accepted defendants in 2010. This indicates a rise of primary alcohol users of more than 6% of total cases when compared to 2009 (n = 60; 3.1%).

The number of different drugs (including alcohol) used problematically by accepted defendants in 2010 ranged from one to twelve, with an average (median) of two. Figure 4.2 below shows that stimulant use has remained relatively consistent over the 9 years since 2001. In contrast, cannabis use has steadily increased since 2001 whereas use of heroin has generally shown

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<sup>15</sup> Data on country of birth were missing (245) or not stated (52) in 297 cases relating to 2010 activity.

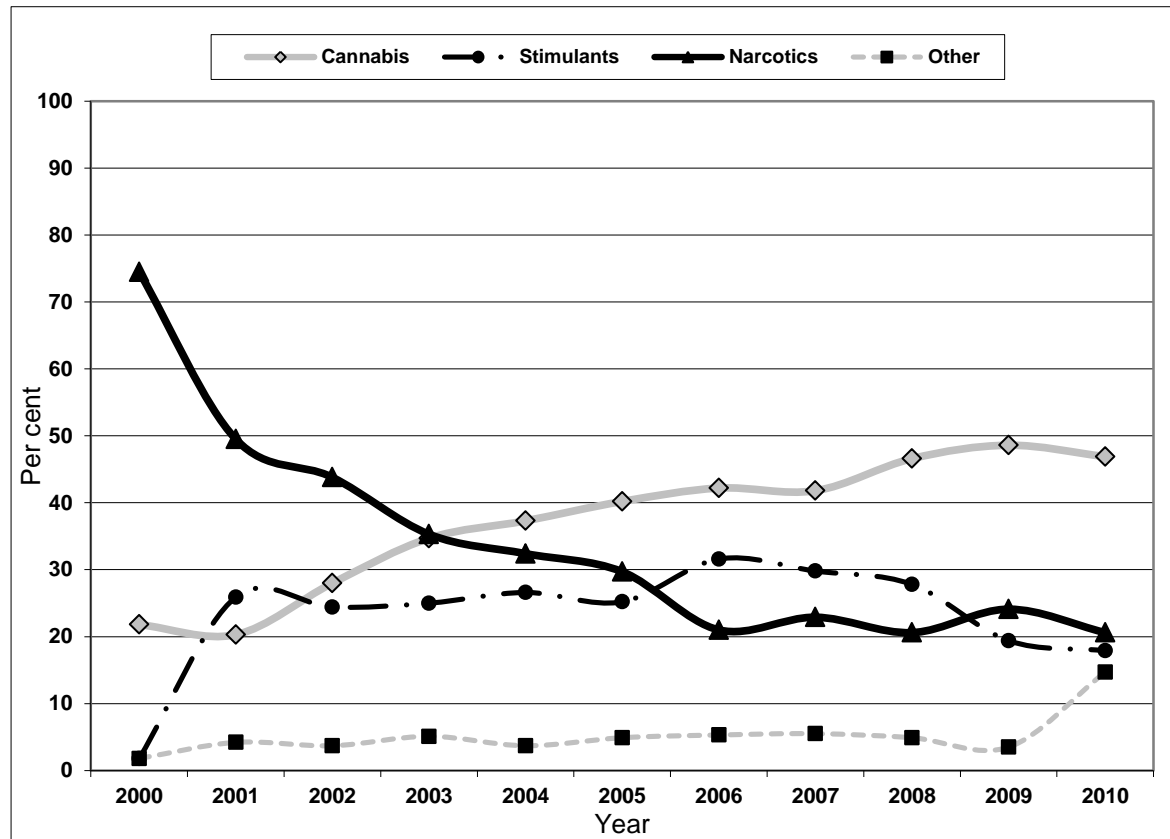
<sup>16</sup> Country of birth information was missing for 260 referrals in 2009.

<sup>17</sup> Data on educational attainment were missing in 1,218 (40.1%) cases in 2010.



declines during this period. 'Other' drug use has shown a significant increase for the year of 2010; this is directly attributable to the increase of primary alcohol users which are allocated to the 'Other' category for the purposes of this analysis.

**Figure 4.2: Trends in principal drug of concern addressed by MERIT (2000–2010) (N=14,982)**



**Table 4.6: Principal drug of concern for accepted MERIT defendants (2010)**

Principal drug of concern		n	%
Cannabis		<b>910</b>	<b>46.9</b>
Stimulants	Amphetamines/Methamphetamines (inc. Speed, Ice)	302	15.6
	Cocaine	29	1.5
	MDMA (ecstasy)	16	0.8
	Other	0	0
	<b>Sub-total</b>	<b>347</b>	<b>17.9</b>
Narcotics	Heroin	353	18.2
	Methadone	8	0.4
	Morphine (inc. MS Contin, Opium)	31	1.6
	Buprenorphine	4	0.2
	Other	3	0.2
	<b>Sub-total</b>	<b>399</b>	<b>20.6</b>
Sedatives/anaesthetics	Benzodiazepines	86	4.4
	Gamma-hydroxybutyrate (GHB)	3	0.2
	Other	1	0.1
	<b>Sub-total</b>	<b>90</b>	<b>4.6</b>
Other	Alcohol <sup>18</sup>	190	9.8
	Other	5	0.3
	<b>Sub-total</b>	<b>195</b>	<b>10.1</b>
<b>TOTAL</b>		<b>1,941</b>	<b>100</b>

#### 4.4.1 Principal drug of concern by region<sup>19</sup>

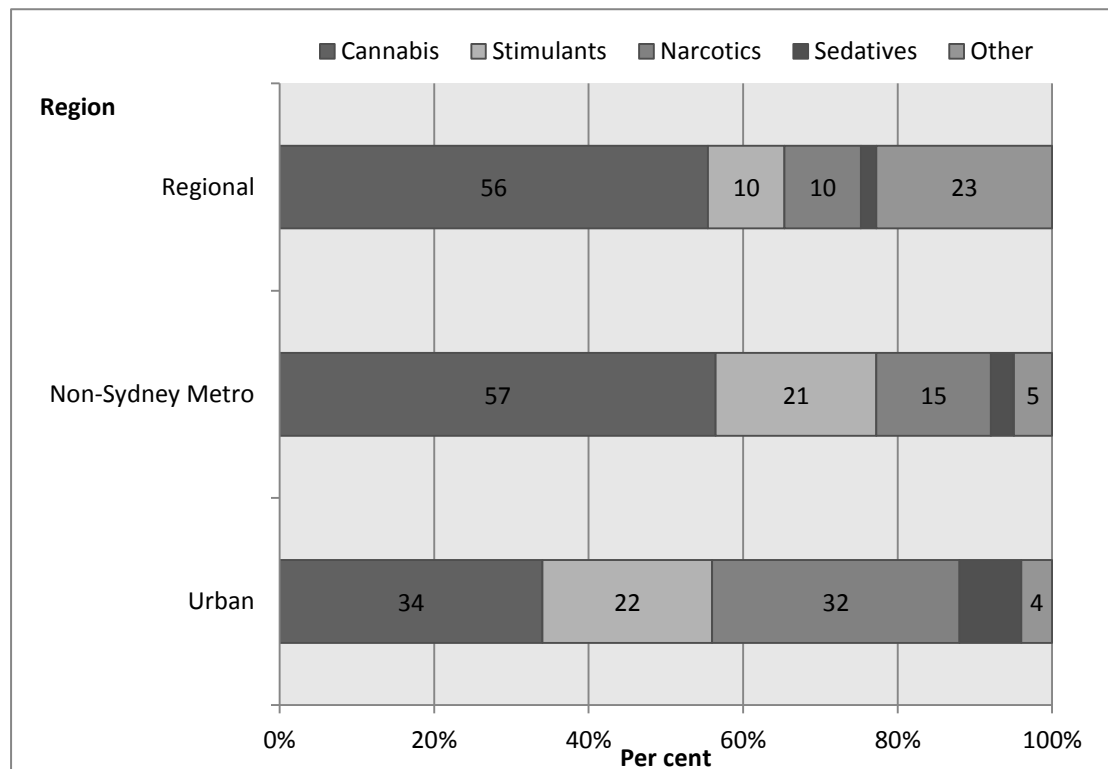
Important differences have emerged over the life of the MERIT program in relation to the principal drug of concern on the basis of NSW region. For example, between 2000 and 2009 cannabis was the main drug of concern for more than half (53.7%; n=1,931) of all regionally based accepted defendants, compared with less than one-third of urban defendants (32.3%; n=1,794). By contrast, reporting of narcotics as the principal drug of concern increased as a function of urbanisation across Regional (17.2%; n=619), Metro (23.4%;

<sup>18</sup> MERIT teams covering Broken Hill, Wilcannia and Dubbo Local Courts are permitted to accept referrals from defendants citing alcohol as their principal drug of concern. As of March and June 2010 this has also been the case with Manly and Wollongong Local Courts respectively. Clients with primary alcohol problems formerly covered by Orange and Bathurst Local Courts' RAD programs and Wellington 'Options' now fall within the MERIT operations and data collection.

<sup>19</sup> In keeping with the approach adopted in previous MERIT Annual Reports (Martire & Larney, 2009), the Urban region comprises the Northern Sydney, Western Sydney, South Eastern Sydney, South Western Sydney, Central Sydney and Wentworth MERIT teams. The Non-Sydney Metro region consists of the Hunter, Illawarra and Central Coast MERIT teams. The Regional region is made up of the New England, Mid West, Far West, Macquarie, Mid North Coast, Northern Rivers, Southern and Greater Murray MERIT teams.

n=832) and Urban (37.7%; n=2,092) based defendants accepted into the program. The principal drugs of concern for persons accepted by MERIT by region in 2010 are set out in Figure 4.3. As illustrated in Table 4.7, there has been a decrease in cannabis users in MERIT in Regional areas which has corresponded with increases in narcotic and 'other drug' – primarily alcohol – cases in 2010. In contrast the Urban and Metro areas have seen slight decreases in MERIT participants using narcotic and 'other drugs' relative to 2009.

**Figure 4.3: Principal drug of concern for accepted defendants, by region (2010)**



**Table 4.7: Principal drug of concern for accepted defendants, by region (2009 and 2010)**

Principal drug of concern	2009			2010		
	Urban	Non-Sydney Metro	Regional	Urban	Non-Sydney Metro	Regional
Cannabis	36.8%	53.5%	65.0%	34.4%	56.7%	55.7%
Stimulants	20.1%	24.6%	13.8%	21.7%	20.6%	9.9%
Narcotics	36.1%	18.6%	7.7%	32.2%	15.0%	9.8%
Other	7%	3.4%	13.4%	11.6%	7.8%	24.7%
<b>N</b>	<b>926</b>	<b>484</b>	<b>520</b>	<b>723</b>	<b>540</b>	<b>584</b>

## 4.5 Number of charges and type of offence

### 4.5.1 Number of charges

There were a total of 5,354 charges against 2,873 defendants<sup>20</sup> referred to MERIT during 2010. One per cent of defendants were recorded as receiving 14 or more charges; the range of remaining defendants was one to 13.

The average (median) number of charges was one<sup>21</sup>. The number of charges against a defendant was associated with the likelihood of being accepted onto the program in 2010; those with one charge had an acceptance rate of 64.9% whereas those with two or more charges had an acceptance rate of 70.7%.<sup>22</sup>

### 4.5.2 Type of offence and previous custodial experience

Table 4.9 sets out the nature and extent of the offences for which those referred and accepted into the MERIT program during 2010 were awaiting sentence. Close to half (n=1,333; 46.3%) of defendants had two or more outstanding charges at the point of referral<sup>23</sup>.

Illicit drug offences and theft and related offences were the most common charges faced by MERIT defendants – for both those referred to and accepted by the program in 2010. More than three-fifths of the defendants at referral (60.8%) and acceptance (63.6%) stages of the MERIT process had pending charges relating to these offences. Amongst those accepted onto the program in 2010, those assessed as having cannabis as their principal drug of concern comprised the largest group charged with illicit drug offences (56.2%; n=422). By contrast, users of narcotics were the group most likely to be charged with theft and related offences (40.5%; n=197).

Just over two-fifths of those referred (n=708; 43.8%) and accepted (n=620; 43.6%) onto the MERIT program in 2010 had previously served a custodial sentence<sup>24</sup>. Those engaging with MERIT for support principally around their

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<sup>20</sup> Data on charges were missing for 162 of referrals; data for all accepted cases were available.

<sup>21</sup> Analysis of averages uses a median score when the data is not normally distributed. The median provides a more accurate estimate of the average compared to the mean in these cases.

<sup>22</sup>  $\chi^2 = 10.9$ ,  $df = 1$ ,  $p = 0.001$ .

<sup>23</sup> The offences considered have been structured according to the Australian Bureau of Statistics' Australian Standard Offence Classification (ASOC) system.

<sup>24</sup> Information on previous experience of prison was missing in a total of 1,419 referrals; this included missing data for 520 accepted cases.

use of cannabis were significantly less likely to report having previously been imprisoned (34.6%) than others (51.7%) accepted during this period<sup>25</sup>.

**Table 4.8: Offence types for referred and accepted MERIT defendants (2010)**

Offence type	Referred (n=2,873)		Accepted (n=1,941)	
	n	% of defendants	n	% of defendants
Acts intended to cause injury	495	17.2	295	15.1
Against justice procedures, government security/operations	411	14.3	259	13.3
Dangerous or negligent acts endangering persons	152	5.2	105	5.4
Deception and related offences	69	2.4	48	2.4
Homicide and related offences <sup>26</sup>	1	0.1	0	0
Illicit drug offences	1099	38.2	751	38.6
Miscellaneous offences	191	6.6	151	7.7
Property damage and environmental pollution	229	7.9	146	7.5
Public order offences	99	3.4	68	3.5
Road traffic and motor vehicle regulatory offences	486	16.9	322	16.5
Robbery, extortion and related offences	29	1.0	19	0.9
Theft and related offences	652	22.6	486	25.0
Unlawful entry with intent/burglary, break and entry	137	4.7	103	5.3
Weapons and explosives offences	109	3.7	80	4.1

\* Data on charges were missing in 162 referred cases; data for all accepted cases were available

<sup>25</sup>  $\chi^2 = 42.3$ ,  $df=1$ ,  $p<0.005$

<sup>26</sup> Note that the homicide and related offences category includes charges for death and injuries arising from road accidents. The single defendant in this category was facing charges for driving causing death.

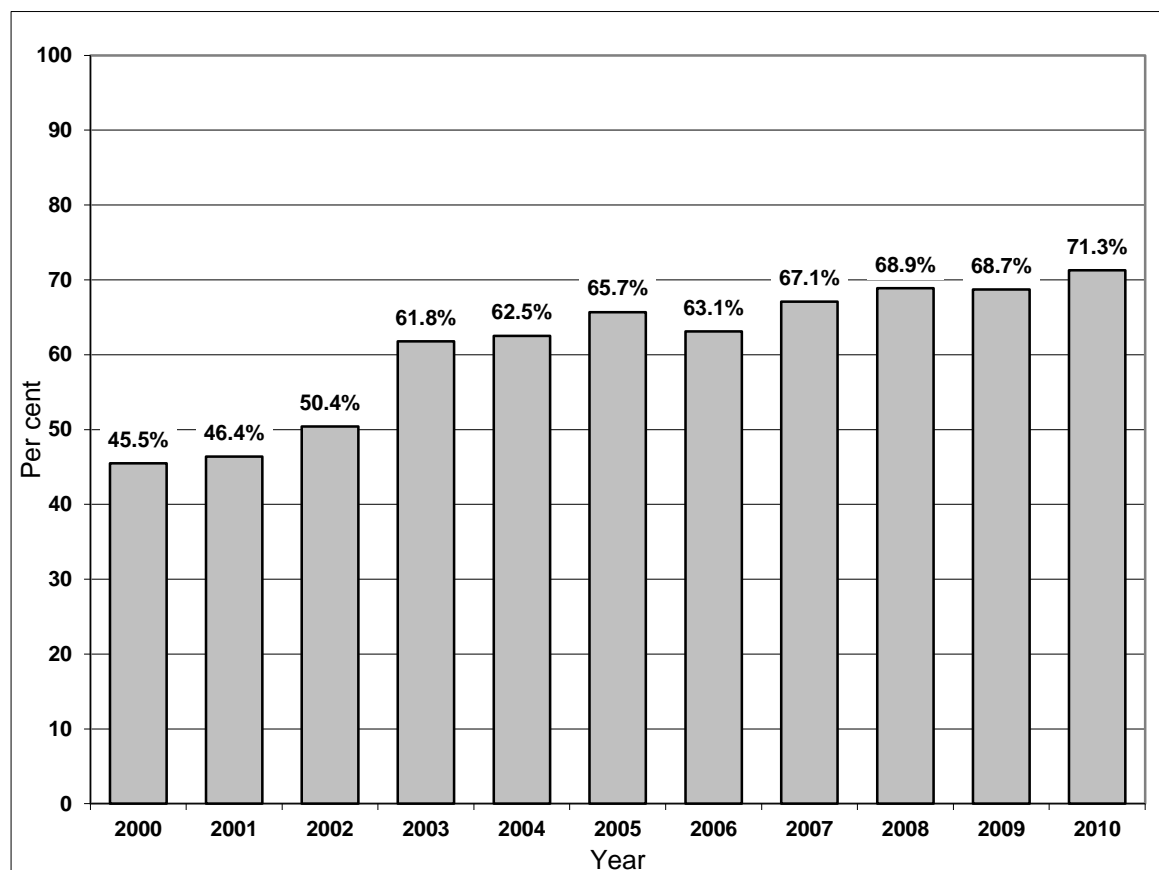
## 5. MERIT PROGRAM EXITS

This chapter considers the 1,939 defendants who were accepted into MERIT and subsequently exited the program at some point during 2010. Around one in four of these participants (n=472; 24.3%) had accessed the program during 2009. The remainder engaged with MERIT during 2010 (n=1,467). This cohort includes defendants who completed program requirements (completers), as well as those not completing requirements (non-completers).

### 5.1 Exit status of defendants accepted into MERIT

Seventy-one per cent of MERIT participants exited the program during 2010 having met all program requirements. As illustrated in Figure 5.1, this is slightly higher than the rate recorded in 2009 and represents the highest rates of completion recorded throughout the life of the MERIT program.

**Figure 5.1: MERIT program completion rates for accepted defendants (2000–2010) (N=14,510)**



The remaining participants who exited MERIT during 2010 did not complete the program for a range of reasons. As indicated in Table 5.1, these included being breached by MERIT, withdrawing from the program voluntarily or being removed by the court. Compared to 2009, there was a small increase in the

proportion of participants who withdrew voluntarily. The rates at which defendants were breached by the MERIT team for non-compliance with program requirements or removed by court were somewhat lower than those recorded in 2009.

**Table 5.1 Status of participants exiting the MERIT program (2009 and 2010)**

Exit status	2009		2010	
	n	%	n	%
Completed program	1,317	68.7	1,382	71.3
Breached by MERIT	329	17.2	317	16.3
Withdrew voluntarily	151	7.9	163	8.4
Removed by court	103	5.4	62	3.2
Died	2	0.1	3	0.2
Other	15	0.8	12	0.6
<b>TOTAL</b>	<b>1,917</b>	<b>100</b>	<b>1,939</b>	<b>100</b>

## 5.2 Program duration

Although it is anticipated that MERIT defendants will typically be engaged with the program for a three-month period, in practice the nature and extent of this contact will vary considerably. Decision-making on this issue is at the discretion of the Magistrate dealing with each individual case, in consultation with the MERIT team, the defendant and his/her legal representative.

The average (median) length of time completers spent on the MERIT program<sup>27</sup> in 2010 was 85 days; as expected, this is a significantly longer period of contact time than non-completers (47 days)<sup>28</sup>. This trend is consistent with previous Annual Reports; both completers and non-completers in 2010 spent similar times in contact with MERIT to their counterparts in 2009 (median 88 days and 49 days respectively). Completers in 2010 had more overall contact with staff during their time engaged with MERIT (median 16 contacts) than non-completers (8 contacts)<sup>29</sup>, and also had a more frequent average (median) rate of service access (one contact every 5.6 days)<sup>30</sup> than non-completers (one contact every 6.2 days) during their engagement with the program.

## 5.3 Treatments and services

This section considers both the nature and extent of any previous treatment exposure defendants had prior to accessing MERIT, as well as the range of

<sup>27</sup> Calculated using program entry and exit dates as recorded in MIMS database.

<sup>28</sup> Mann-Whitney U = 115508.5, p<0.005.

<sup>29</sup> Mann-Whitney U = 211679.5, p<0.005.

<sup>30</sup> Mann-Whitney U = 359094, p=0.02.

treatment services delivered by external providers to participants as part of their contact with the program.

### 5.3.1 Treatment history prior to MERIT

Data on previous exposure to substance use treatment services were available for 95 per cent (n=1,850) of the 1,939 MERIT participants who exited the program in 2010. Just over one third (n=630; 34.0%) reported MERIT as their first contact with drug treatment services; this was similar to figures for 2009 (34.6%). Amongst those reporting having accessed specialist support prior to their contact with MERIT (n=1,220; 64.0%), the number of different types of intervention accessed range from one to ten, with an average (median) of one. The main treatment modalities accessed in the past by exiting MERIT participants during 2010 are set out in Table 5.2, below.

**Table 5.2: Previous substance use treatments received by exiting MERIT participants who had accessed services (2010) (n=1,220)**

Previous treatment modality*	n	%
Counselling	774	63.4
Pharmacotherapies	599	49.1
Withdrawal management	427	35.0
Residential rehabilitation	328	26.8
Support and case management	86	7.0
Information and education	44	3.6
Consultation (not withdrawal management)	62	5.1
Other	137	11.2

\* Defendants may have received more than one treatment modality.

### 5.3.2 Treatment interventions received whilst on MERIT

Individual treatment plans are developed by MERIT caseworkers which are tailored to the specific needs of defendants. Delivering what might be described as a generic 'support and case management' approach (which was received by 98.7 per cent of exiting participants during 2010), defendants can also receive individual counselling and can be referred to a range of treatment providers for additional services as required (e.g. substitute prescribing or mental health support). However, different MERIT teams and Area Health Services have different arrangements in place for funding and commissioning services locally and the availability of extended services varies. Less than half (38.9%; n=756) of the 1,939 exiting defendants in 2010 received such a referral.



Relevant information about the nature and extent of the support delivered by agencies external to the MERIT team was available for 724 (95.7%)<sup>31</sup> of the 756 exiting MERIT participants in 2010 who were referred for such support. This group accessed 1,226 separate forms of intervention from external providers during their time with the program; more than two-fifths (n=322) continued to access this support beyond their contact with MERIT. The number of different interventions accessed ranged from one to seven with an average (median) of one. The median length of time defendants were engaged with these services was 14 days (ranging from 0 to 182 days). The most common forms of support received by these referred exiting participants during 2010 were:

- withdrawal management (31.3%; n=227);
- residential rehabilitation (32.3%; n=234);
- other interventions (e.g. mental health, education and employment support, health services) (45.8%; n=332);
- pharmacotherapies (40.3%; n=292); and
- counselling (19.1%; n=138).

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<sup>31</sup> With the exception of inpatient treatments (rehabilitation and detoxification), other interventions and services provided by agencies external to the MERIT team are often poorly recorded on MIMS.

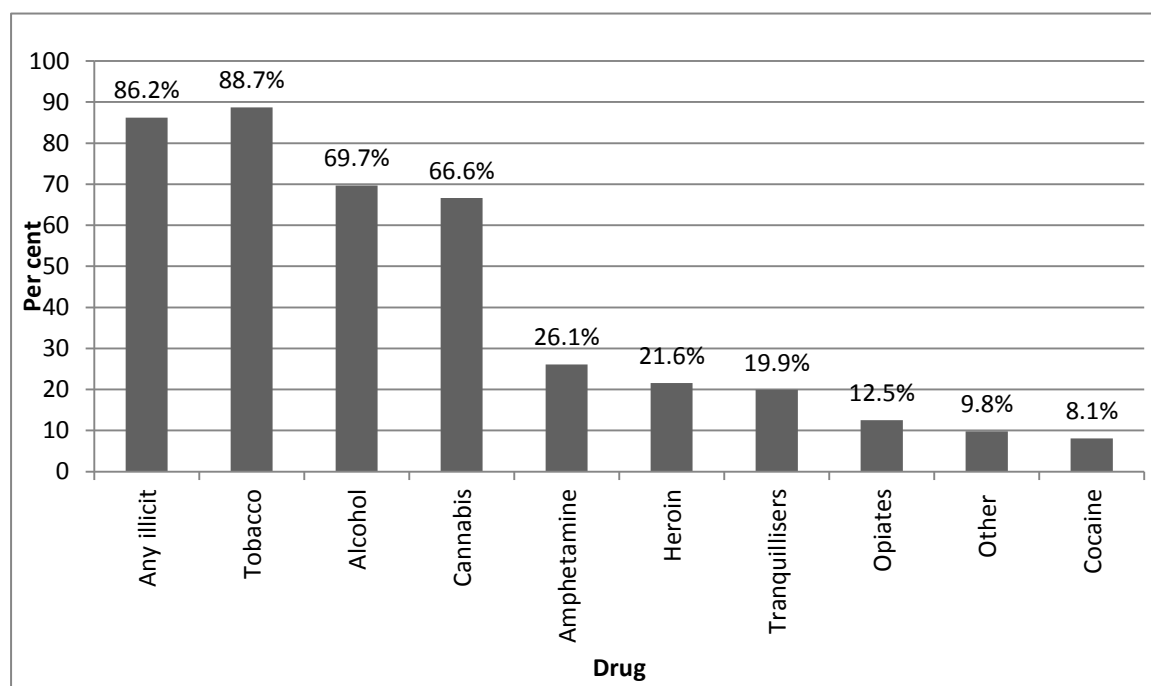
## 6. SUBSTANCE USE AND HEALTH OUTCOMES

This section provides information on the 1,941 defendants accepted by MERIT in 2010. Self-reported substance use and physical and psychological health information is collected upon entry to and exit from the MERIT program, where possible<sup>32</sup>.

### 6.1 Substance use

Slightly less than nine out of ten defendants accepted by MERIT (and for whom data were available) had reportedly used an illicit<sup>33</sup> drug in the 30 days prior to program entry<sup>34</sup> (n=1,412; 86.2%). Cannabis was the most commonly used illicit substance, consumed by around two-thirds of all defendants (n=1,091). Figure 6.1 illustrates the nature and extent of substance use among accepted defendants upon entry to the MERIT program during 2010.

**Figure 6.1: The nature and extent of drug use among accepted MERIT defendants at program entry (2010)**



\* Each analysis of drug items involved differing total group size and number of missing cases. Group sizes: any illicit (1639), tobacco (1640), cannabis (1636), alcohol (1637), amphetamine (1634), heroin (1428), tranquillisers (1634), other (1488), opiates (1427), cocaine (1632). Percentages are calculated against the total available number of cases per substance type.

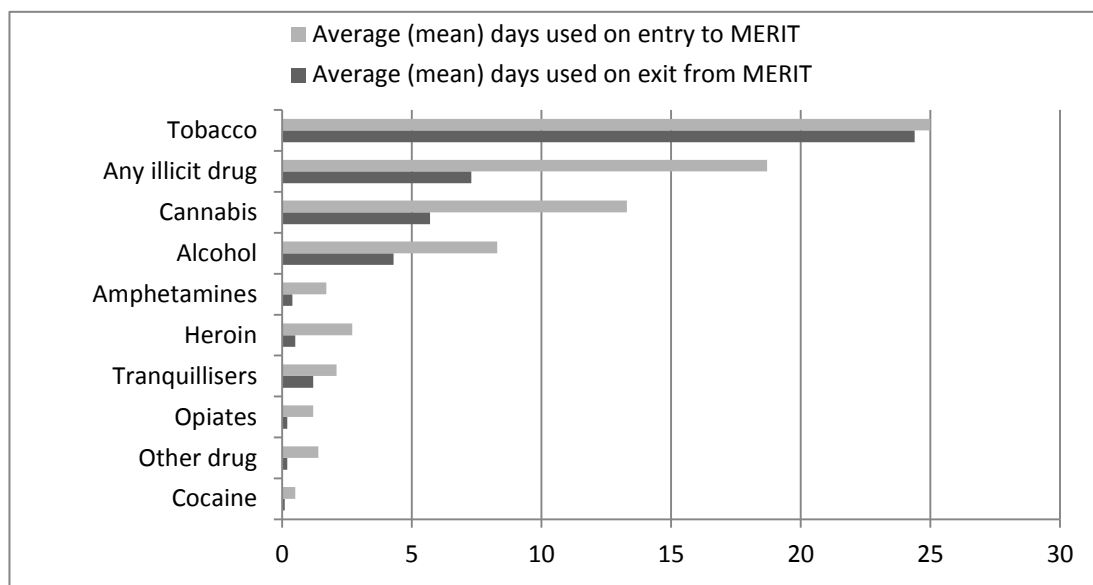
<sup>32</sup> For a range of different reasons (considered in more detail on page 9) exit data on substance use and health outcomes are almost exclusively restricted to program completers and should not be considered representative of all program participants.

<sup>33</sup> With the exception of alcohol and tobacco, an assumption has been made that other substances (e.g. tranquillisers and opiates) were being used for non-medical purposes and were not prescribed.

<sup>34</sup> Data on drug use at entry to MERIT were missing for 302 cases.

The average (mean) number of substances used by defendants over the 30 days prior to program entry was 3.2 (ranging from 0 to 8). Excluding the use of alcohol and tobacco, the average (mean) number of *illicit* substances used was 1.6 (ranging from 0 to 6). This compares with a figure of 1.8 illicit substances reported in the 2009 Annual Report. At entry to MERIT around half (49.3%) the defendants during 2010 reported consuming illicit drugs on 25 days out of the last 30 (median 22 days). As shown in Figure 6.2, below, using data for those accepted defendants for whom substance use information was available upon entry to and exit from the program in 2010, reductions in the frequency of use across all nine categories were recorded<sup>35</sup>.

**Figure 6.2: Average (mean) frequency of substance use upon entry to and exit from the program (2010) (n=957)**



Furthermore, the reductions in both the frequency and intensity<sup>36</sup> of self-reported substance use were statistically significant across all categories for this sub-sample of accepted MERIT participants in 2010. The largest reductions in both the frequency and intensity of reported use for individual illicit drugs were recorded for cannabis and amphetamines (as described in Table 6.1).

<sup>35</sup> It is noted that information on substance use is gathered by respondent self-report. As a result it is possible that ratings may be affected by respondent incentives to underreport or minimise actual use.

<sup>36</sup> An intensity score was calculated by multiplying the number of days in the month a substance was used by the units consumed per day.

**Table 6.1: Changes in the number of days using substances and the intensity of use in the month on entry to and exit from the MERIT program**

Substance	N	Average (mean) days used on MERIT entry	Average (mean) days used on MERIT exit	Wilcoxon signed-rank test results	N	Average (mean) intensity score on MERIT entry	Average (mean) intensity score on MERIT exit	Wilcoxon signed-rank test results
Alcohol	946	8.3	4.3	$z=12.78, p<0.005$	944	99.2	26.8	$z=14.49, p<0.005$
Tobacco	949	25.1	24.4	$z=3.30, p=0.001$	948	426.5	373.7	$z=7.02, p<0.005$
Cannabis	943	13.3	5.7	$z=16.83, p<0.005$	943	239.9	46.3	$z=18.08, p<0.005$
Opiates	817	1.2	0.2	$z=5.81, p<0.005$	814	7.0	0.5	$z=5.29, p<0.005$
Heroin	818	2.7	0.5	$z=9.64, p<0.005$	813	10.4	1.6	$z=8.82, p<0.005$
Cocaine	938	0.5	0.1	$z=6.42, p<0.005$	934	5.4	0.1	$z=6.27, p<0.005$
Amphetamines	942	1.7	0.4	$z=10.69, p<0.005$	942	7.8	1.6	$z=10.45, p<0.005$
Tranquilisers	941	2.1	1.2	$z=4.89, p<0.005$	939	13.7	3.4	$z=5.95, p<0.005$
Other drug	829	1.3	0.2	$z=6.45, p<0.005$	819	4.3	0.5	$z=6.71, p<0.005$
Any illicit drug <sup>37</sup>	718	17.6	7.4	$z=17.31, p<0.005$	718	238.7	48.9	$z=16.96, p<0.005$

<sup>37</sup> Calculated using the maximum value for (i) the number of days in the month an illicit drug was used and (ii) the maximum intensity score recorded for these seven illicit substances.

## 6.2 Severity of Dependence

The degree to which MERIT participants' substance use could be considered dependent was assessed using the Severity of Dependence Scale (SDS) (Gossop et al., 1995). As shown in Table 6.2, those seeking support from MERIT principally around their use of narcotics had higher average (mean) SDS scores than defendants using other substances. The average overall SDS score for 2010 (8.1) is consistent with the figure reported for the 2009 MERIT cohort (8.1). While the average dependency score increased between 2009 and 2010 for alcohol users (from 6.6 to 7.1), the SDS score for 'other' drug users fell considerably (from 6.7 to 5.3).

**Table 6.2: Average (mean) Severity of Dependence Scale scores for accepted defendants during 2010**

Principal substance	2010	
	N	Mean (SD) <sup>38</sup>
Narcotics	339	9.5(3.4)
Sedatives	69	8.7(3.4)
Stimulants	290	7.9(3.1)
Cannabis	762	7.7(3.6)
Other	3	5.3(5.0)
Alcohol	173	7.1(3.1)
<b>Total</b>	<b>1,636<sup>39</sup></b>	<b>8.1 (3.5)</b>

Those accepted MERIT defendants for whom SDS data were available both on entry to the program in 2010 and upon exit (n=946) recorded a 35 per cent reduction in overall dependency scores. As illustrated in Table 6.3, these statistically significant reductions in SDS scores were apparent for all types of principal problem substance.

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<sup>38</sup> SD=standard deviation.

<sup>39</sup> SDS scores are missing for 305 cases on entry to MERIT.

**Table 6.3: Changes in average (mean) Severity of Dependence Scale (SDS) score upon entry to and exit from the MERIT program, by principal drug**

Principal drug <sup>40</sup>	N	Average (mean) SDS score on MERIT entry	Average (mean) SDS score on MERIT exit	Wilcoxon signed-rank test results
Cannabis	447	7.8	5.2	$z=11.25, p<0.005$
Stimulants	163	7.7	4.9	$z=7.48, p<0.005$
Narcotics	177	9.4	5.7	$z=8.02, p<0.005$
Sedatives	38	7.9	5.7	$z=3.11, p=0.002$
Alcohol	120	7.3	4.2	$z=7.37, p<0.005$
<b>Total SDS score</b>	<b>946</b>	<b>8.0</b>	<b>5.2</b>	<b><math>z=17.57, p&lt;0.005</math></b>

However, while these reductions in levels of dependence on illicit drugs upon exit from MERIT are significant and noteworthy, they still exceed established cut-offs for dependence<sup>41</sup>. For example, most principal users of narcotics (scoring 3+; 77.3%;  $n=140$ ), stimulants (scoring 4+; 63.4%;  $n=104$ ) and cannabis (scoring 3+; 74.7%;  $n=336$ ) continued to score above the relevant dependency thresholds on the SDS upon exiting the MERIT program (González-Sáiz et al., 2009; Topp & Mattick, 1997; Swift, Copeland & Hall, 1998).

### 6.3 Injecting behaviour

More than half ( $n=986$ ; 53.4%) of all accepted defendants during 2010 had self-reported injecting at some point in the past. Most of those with a history of injecting (69.1%;  $n=682$ ) had also done so during the three months prior to their contact with MERIT<sup>42</sup>.

### 6.4 General Health and Well-being

#### 6.4.1 Psychological distress

Levels of psychological distress amongst accepted MERIT defendants during 2010 were measured using the Kessler-10 (K-10) Psychological Distress Scale (Kessler et al., 2002). With possible scores ranging from 10 to 50, lower K-10 scores are indicative of lower levels of psychological distress. The average (median) score for accepted MERIT defendants during 2010 was 24<sup>43</sup>. This is the highest threshold for mild psychological distress (scores in the region of 25–29 indicate moderate levels of distress). However,

<sup>40</sup> Low sample sizes prevented statistically meaningful calculation of SDS scores for those participants who rated 'other' drugs to be their primary drug of concern.

<sup>41</sup> It could be argued that the willingness of MERIT participants to report dependent levels of use on exit from the program perhaps lends weight to the validity and reliability of self-report data for other health outcomes.

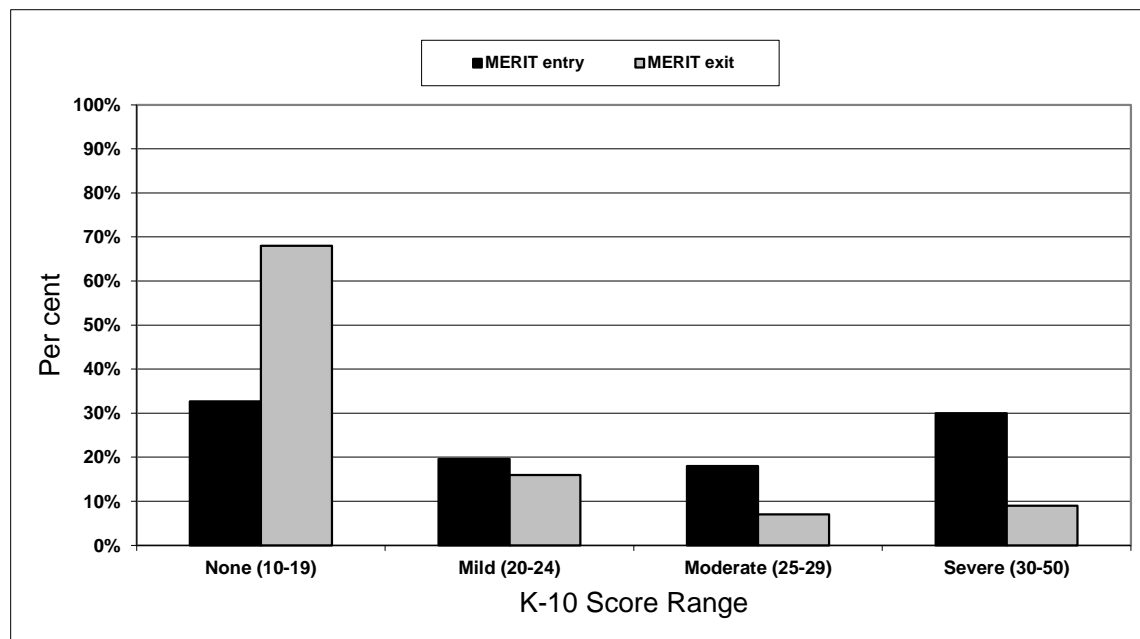
<sup>42</sup> Data for injecting behaviour was missing or inadequately described for 94 participants.

<sup>43</sup> K-10 scores were missing in 310 cases on entry to MERIT.

29.7 per cent (n=484) of defendants had severe levels of psychological distress on admission to MERIT.

Amongst those defendants with K-10 data on entry and exit to the program during 2010 (n=936) there was a significant reduction<sup>44</sup> in overall scores: from 24.3 to 17.8 (i.e. from mild-moderate levels of psychological distress to no distress). As shown in Figure 6.3, below, there were also falls in the proportion of MERIT defendants experiencing moderate and severe levels of distress following their contact with the program.

**Figure 6.3: Changes in levels of psychological distress on entry to and exit from MERIT during 2009 (n=936)**



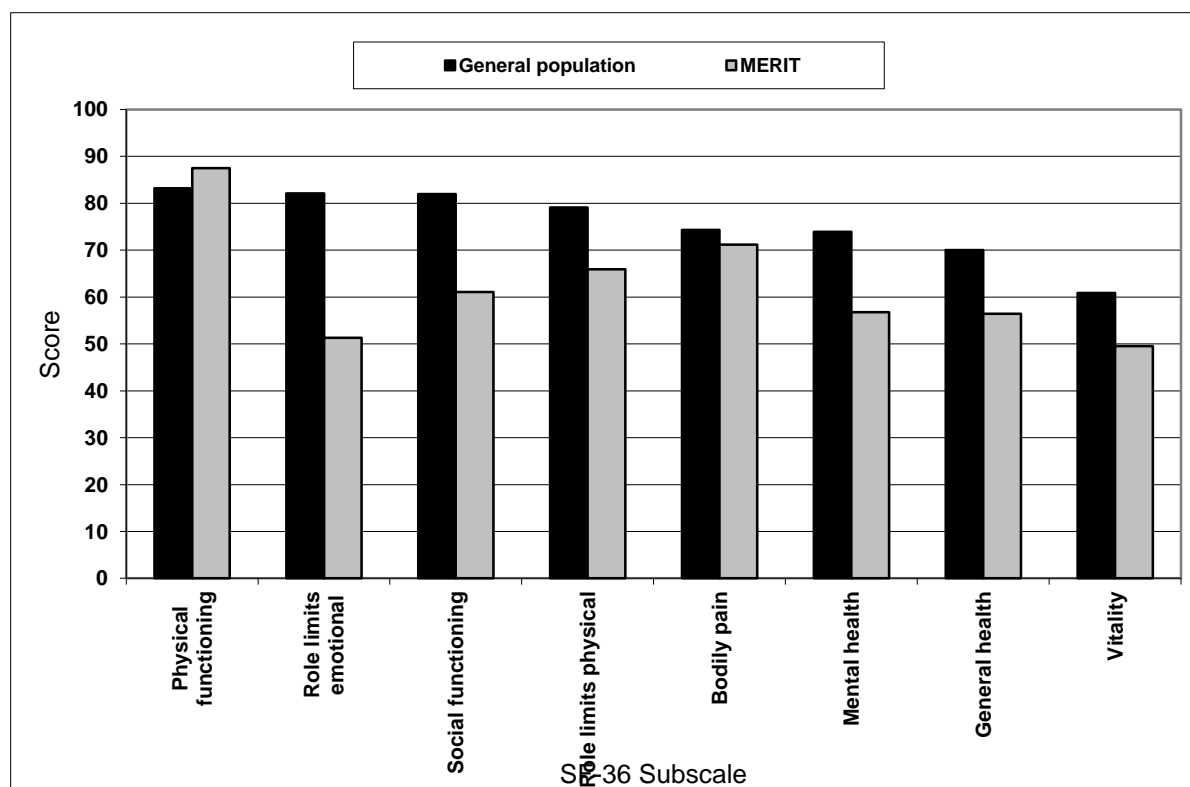
#### 6.4.2 Physical and mental health (SF-36)

The physical and mental health of accepted MERIT participants was assessed using the SF-36 Health Survey (Ware, Snow & Kosinski, 1993) at both program entry and exit. The survey assesses eight domains with possible scores ranging from 0 to 100, with higher scores indicating enhanced health and functioning. As illustrated in Figure 6.4, at program entry the accepted MERIT sample (n=1,408)<sup>45</sup> in 2010 had a poorer physical and mental health prognosis than the general Australian population (Butterworth & Crosier, 2004) in seven of the eight domains considered.

<sup>44</sup> z = -19.99; p < 0.005.

<sup>45</sup> SF-36 data were missing for 533 accepted cases on entry to MERIT.

**Figure 6.4: Average (mean) SF-36 subscale scores for MERIT participants during 2010 at entry versus the general population**

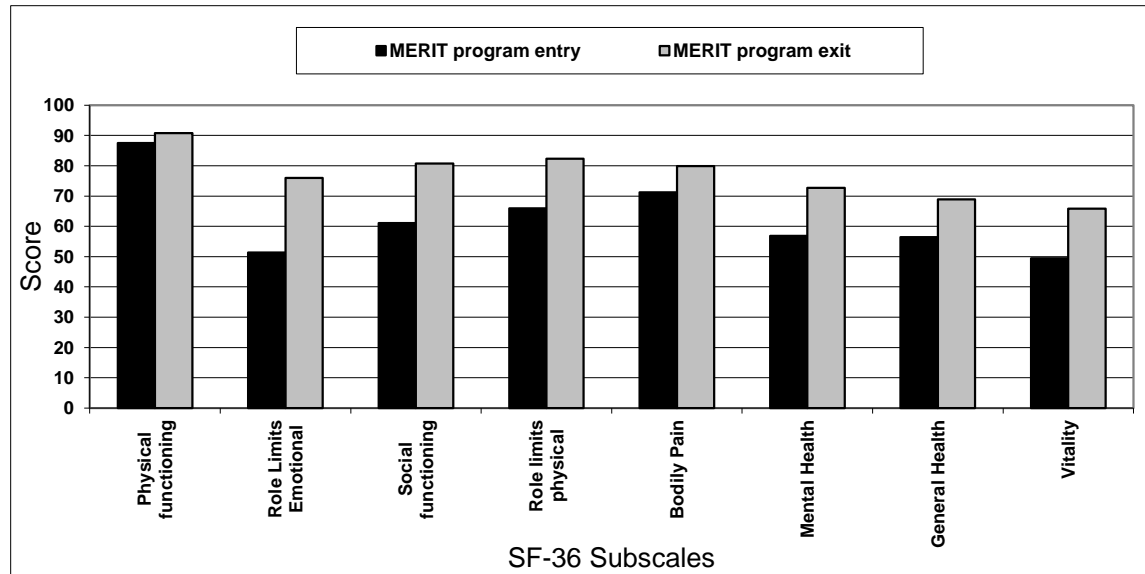


Using available SF-36 data it was possible to assess the nature and extent of changes in physical and mental health amongst a sub-sample of accepted MERIT defendants during 2010 following their contact with the program (n=821). Using this approach there were statistically significant increases<sup>46</sup> in SF-36 scores recorded across each of the assessed domains (see Figure 6.5 below). The largest increases led to improvements in domains of Mental Health, Vitality, Social Functioning and General Health. At exit the MERIT sample rated higher scores compared to Australian population averages in four of the eight assessed domains (Physical Functioning, Role Limits Physical, Bodily Pain and Vitality).

<sup>46</sup> General health (z=-15.07; p<0.005); mental health (z=-16.59; p<0.005); bodily pain (z=-9.05; p<0.005); physical functioning (z=-6.91; p<0.005); role limits physical (z=-9.76; p<0.005); role limits emotional (z=-11.91; p<0.005); social functioning (z=-15.30; p<0.005); and vitality (z=-16.31; p<0.005).



**Figure 6.5: Changes in average (mean) SF-36 subscale scores on entry to and exit from the MERIT program (2010) (n=821)**



## 7. FACTORS ASSOCIATED WITH PROGRAM COMPLETION

This chapter considers those factors related to program completion amongst the 1,939 accepted defendants who exited MERIT during 2010 (i.e. considering both completers and non-completers). Developing a better understanding of the issues affecting such outcomes is important for improving the overall effectiveness of the program since, as previously noted, completion of MERIT has been shown to significantly reduce the likelihood of committing any subsequent offences (Lulham, 2009).

There were a number of good quality variables contained within the MIMS dataset which could be hypothesised as potential factors influencing program completion. These included:

- demographics (e.g. age, gender, indigenous status);
- personal circumstances (e.g. marital status, dependents, educational attainment, housing, employment, current offence and prior prison time);
- substance use (previous exposure to treatment, nature and extent of substance use at entry, principal drug, injecting behaviour, level of dependency); and
- service-level effects (prior contact with the program, referral source, location and interventions received).

In 2009, the factors found to be significantly associated with completion were: employment status, indigenous status, receiving counselling support, principal drug of concern, accommodation arrangements, education history and history of injection drug use. From among the array of assembled variables described above, the factors found to be most significantly associated with program completion during 2010 were<sup>47</sup>:

- Being employed ( $\chi^2 = 28.9$ ;  $df=1$ ;  $p < 0.005$ );
- Being of non-Indigenous status ( $\chi^2 = 11.6$ ;  $df=1$ ;  $p < 0.005$ );
- Receiving education to the level of Year 10 or higher ( $\chi^2 = 11.6$ ;  $df=1$ ;  $p < 0.005$ );
- Seeking support principally for use of alcohol ( $\chi^2 = 11.1$ ;  $df=1$ ;  $p = 0.001$ );

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<sup>47</sup> These results were tested against a more conservative error rate of  $p = .01$  in order to control for inflationary effects of multiple analyses. As a result variables were only reported as significant here if  $p < .01$ .

- Living in a privately owned house or flat ( $\chi^2 = 10.92$ ;  $df=1$ ;  $p=0.001$ );
- Being convicted of a road traffic offence ( $\chi^2 = 9.6$ ;  $df=1$ ;  $p=0.002$ ).

Conversely, the factors most significantly associated with non-completion of a MERIT program in 2010 included:

- Being in receipt of temporary benefits ( $\chi^2 = 28.5$ ;  $df=1$ ;  $p < 0.005$ );
- Being aged younger than 34 years ( $\chi^2 = 19.8$ ;  $df=1$ ;  $p < 0.005$ );
- Being convicted of an offence against Justice or government authorities ( $\chi^2 = 10.6$ ;  $df=1$ ;  $p=0.001$ ); or theft offences ( $\chi^2 = 8.1$ ;  $df=1$ ;  $p=0.004$ );
- Having been previously sentenced to custody ( $\chi^2 = 9.1$ ;  $df=1$ ;  $p=0.002$ ).

## 8. CRIMINAL JUSTICE OUTCOMES

In order to ensure consistency with the approach adopted during previous Annual Reports, sentence outcome and reconviction data are presented here for defendants completing MERIT in the previous calendar year (i.e. during 2009).

By matching unique attributor codes for MERIT participants to their Local Court and re-offending databases, BoCSAR, on behalf of the School of Psychology UNSW, was able to provide measures of criminal justice outcomes by comparing post-program sentences and reconviction rates for program completers and non-completers during 2009. More specifically, this process provided information on:

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

From the 1,916 defendants exiting the program in 2009 for whom information was sent by MERIT to BoCSAR, 1,854 (96.8%) were successfully matched to the relevant court and reconviction datasets.

### 8.1 Sentence outcomes

As was the case for the 2008 MERIT cohort, there were considerable differences between the principal penalty outcome for program completers and non-completers in 2009. The most common sentence outcomes for MERIT program completers were again a bond with supervision (23.5%; n=280) or a bond without supervision (18.7%; n=222). By comparison, the most common sentence outcomes for program non-completers were a term of imprisonment (28.6%; n=143) or a fine (20.4%; n=102). Sentence outcomes for the 1,854 MERIT defendants matched by BoCSAR are set out in Table 8.1.

**Table 8.1: Sentence outcomes for MERIT defendants (2009) (n=1,688)**

Principal penalty <sup>48</sup>	Program completion status	
	Completed	Not completed
Imprisonment (adult)	53 (4.4%)	143 (28.6%)
Juvenile control order (juvenile)	0	2 (0.4%)
Home Detention	2 (0.1%)	0
Periodic detention	19 (1.5%)	8 (1.6%)
Suspended sentence with supervision	149 (12.5%)	45 (9.0%)
Suspended sentence without supervision	70 (5.8%)	28 (5.6%)
Community service order (adult)	77 (6.4%)	10 (2.0%)
Bond with supervision	280 (23.5%)	56 (11.2%)
Bond without supervision	224 (18.7%)	52 (10.4%)
Fine	112 (9.4%)	102 (20.4%)
Nominal sentence	31 (2.6%)	14 (2.8%)
Bond without conviction	72 (6.0%)	11 (2.2%)
No conviction recorded	45 (3.7%)	5 (1.0%)
No action taken	5 (0.4%)	0
No penalty	50 (4.2%)	23 (4.6%)
<b>Total</b>	<b>1,189 (100%)</b>	<b>499 (100%)</b>

\* Sentencing data were not available for 166 of the 1,854 cases matched to ROD.

Between 2008 and 2009, the proportion of MERIT non-completers receiving penalties involving imprisonment increased (from 18.6% to 28.6%). The proportion of non-completers for whom the Local Court imposed no penalty correspondingly decreased between 2008 and 2009 (from 12.3% to 4.6%). During this time the proportion of non-completers sentenced to bonds with and without supervision, and the use of suspended sentences with supervision remained relatively steady.

Similarly, the proportion of program completers subsequently imprisoned increased between 2008 and 2009 (from 3.6% to 4.4%), and the rate at which completers received no penalty decreased (from 7.8% to 4.2%).

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

<sup>48</sup> Where the first court appearance was finalised within the six months after program exit in 2009, or in the month before program exit.

differences in levels of ‘criminogenic’ need between participants as they are by any effect of the MERIT program.

## 8.2 Re-offending

As with previous Annual Reports, details of finalised court appearances for new charges and consequent convictions following entry to the MERIT program serve as a proxy measure of reoffending<sup>49</sup>.

### 8.2.1 Reconviction within 12 weeks of commencing MERIT<sup>50</sup>

Consistent with findings from previous Annual Reports, program non-completers in 2009 were significantly more likely to be reconvicted for another offence in the 12 weeks following commencement of MERIT than program completers ( $p < 0.005$ ). Table 8.2 describes the number and proportion of 2009 MERIT participants who were convicted for a new offence during this period.

When interpreting these figures it is important to note that some defendants may have exited MERIT in less than 12 weeks and consequently may not have been in receipt of MERIT interventions at the time of the offence. Furthermore, re-offending while on MERIT can be cause for a defendant to be removed from the program and/or for having their bail conditions withdrawn.

**Table 8.2: Rate of reconviction within the 12-week MERIT program period (2009) (n=1,854)**

Any reconvictions within 12 weeks of program entry date?	Program completion status	
	Completed (n=1,269)	Not completed (n=585)
Yes	178 (14.0%)	208 (35.5%)
No	1,091 (85.9%)	377 (64.4%)

### 8.2.2 Reconvictions post-MERIT contact<sup>51</sup>

Six months after exiting the MERIT program in 2009, 25.3 per cent of those defendants had been convicted for a further offence (n=470). By the time 12 months had elapsed this figure had increased to 38.3 per cent (n=711). Consistent with findings from previous research examining the impact of MERIT on rates of recidivism, program completers were significantly less

<sup>49</sup> Although the use of convictions data is an internationally established benchmark with which to measure rates of re-offending, previous estimates in other jurisdictions have indicated that only 3 in every 100 offences committed will result in a caution or conviction (Barclay and Tavares, 1999: 29).

<sup>50</sup> This refers to any subsequent convictions where the re-offence date was within 12 weeks of commencing MERIT.

<sup>51</sup> Based on the number of subsequent convictions where the re-offence date was within 6 or 12 months of the MERIT program completion date. These data have not been adjusted to take into account ‘time at reduced risk’ (i.e. periods of imprisonment or inpatient treatment).

likely than non-completers to have been reconvicted 6 and 12 months after exiting the program ( $p < 0.005$ ) (see Table 8.3)<sup>52</sup>.

**Table 8.3: Rates of reconviction at 6 and 12 months for exiting MERIT defendants (2008) (n=1,854)**

Reconviction rates within 6 and 12 months of program exit date	Program completion status	
	Completed (n=1,269)	Not completed (n=585)
Reconvicted at 6 months	286 (22.5%)	184 (31.4%)
Reconvicted at 12 months	451 (35.5%)	260 (44.4%)

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<sup>52</sup> We had no data on whether there were reductions in the frequency (number of offences leading to conviction) or severity of offending during this follow-up period.

## 9. DISCUSSION AND CONCLUSIONS

This chapter summarises the main conclusions reached following our analysis of program activities during 2010.

The report identified a number of positive developments during 2010 which indicate that the program had sustained and reinforced many of the achievements made during previous years. Notable examples included:

- Increasing court coverage rates, reflecting the addition of Woy Woy and Coffs Harbour Local Courts to the MERIT catchment;
- Increasing service provision to Local Court defendants with alcohol as a primary drug of concern through the expansion of MERIT eligibility criteria at Manly and Wollongong Local Courts;
- Increasing referral rates both overall and specifically for Indigenous defendants;
- Equal acceptance rates for male and female referrals ;
- Equal acceptance rates for indigenous and non-indigenous referrals;
- High levels of engagement with defendants with a history of previous MERIT episodes (23.3%) and those reporting no previous contact with treatment services (34%);
- The highest rate of program completion since the commencement of MERIT in 2000, which is consistent with trends towards increasing completion rates each year;
- Continuing to facilitate statistically significant reductions in the self-reported frequency and intensity of all forms of substance use, and in the nature and extent of general, physical and mental health problems experienced by defendants; and
- Contributing towards ensuring that program completers (in 2009) were significantly less likely to be reconvicted for another offence following their contact with the program, compared to those who do not complete the program.

### **Predictors associated with program completion**

The predictors of non-completion identified using the 2010 cohort of MERIT participants were similar to those identified using the 2009 cohort; completions were again associated with receiving education to the level of Year 10 or



higher, having access to private accommodation and current employment, and reporting no previous history of injecting use. When considered in combination with other repeat predictors (Indigenous status, principal drug, custodial history, age) the data indicate that those individuals who maintain higher functioning and stability in the community are more likely to complete the program. While this is an unsurprising result it serves to illustrate the fact that those defendants who fail to complete the program are likely to have a greater and more complex range of needs. This may indicate that additional supports and strategies are required to facilitate continued engagement with the program, or the need for a more intensive, supervised program for these individuals.

From the inception of the MERIT program in 2000 until the time of the current 2010 cohort 23,965 defendants have been referred for intervention; referral numbers have increased over time from 79 in 2000 to 3,035 in 2010. Since 2000 the program has been implemented in 45% of NSW Local Courts and in 2010 was potentially available in 82% of finalised Local Court cases. More than 62% (n = 14,985) of referred defendants were accepted into the program, and throughout the life of the program an average of 63% of those accepted go on to complete the program. Over a number of years of evaluation, participation in and completion of MERIT has been consistently associated with reductions in drug or alcohol use, improvements in indices of physical and mental health status and decreased reconviction rates.

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