

CRIME PREVENTION ISSUES



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June 08

No.2

Magistrates Early Referral into Treatment: An overview of the MERIT program from July 2000 to December 2007

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Background

MERIT is a court-based scheme targeting adult defendants appearing before a participating Local Court who have a demonstrable illicit drug problem, and who are motivated to participate in drug treatment and rehabilitation. In contrast to some other court-based drug diversion programs, defendants are not required to admit guilt and are referred to MERIT **pre-plea**.

The MERIT program aims to break the cycle of drug abuse and crime. To achieve this, the program addresses both the criminal conduct of the offenders as well as the underlying health, mental health and social welfare issues considered instrumental in bringing them in contact with the criminal justice system. While MERIT participants are not required to be drug dependent, they must be assessed as having an illicit drug use problem serious enough to justify the significant treatment interventions available through MERIT.

MERIT eligibility criteria are intentionally broad, allowing referral sources substantial discretion and flexibility.

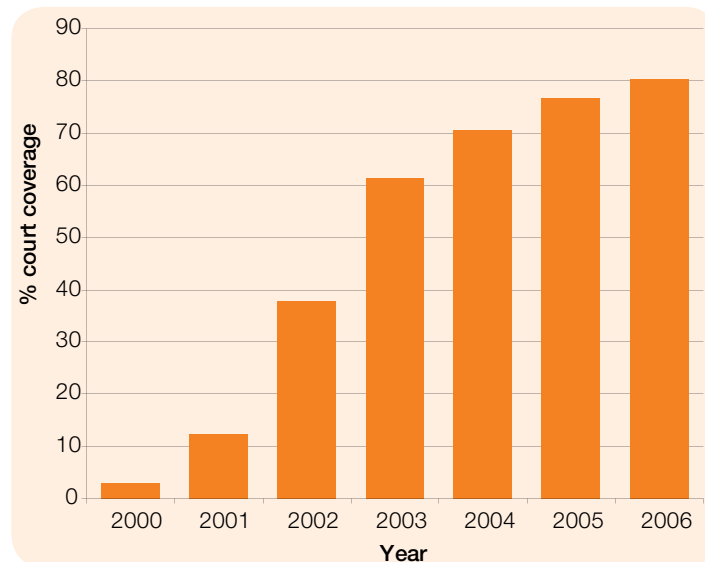
Funding for the program is provided under an Agreement between the NSW and Commonwealth Governments - the Illicit Drug Diversion Initiative (IDDI).

Growth of MERIT in NSW Local Courts

MERIT commenced in the Northern Rivers region as a pilot program in July 2000, accepting referrals from 5 NSW Local Courts: Lismore, Casino, Kyogle, Ballina and Byron Bay. Following an evaluation¹ of the pilot program in 2003, the program has been progressively introduced into a total of 61 Local Courts across the State.

Figure 1 shows the proportion of the NSW Local Court defendant population that MERIT has been available to, by year, from program inception to the end of December 2006.²

Figure 1. MERIT court coverage



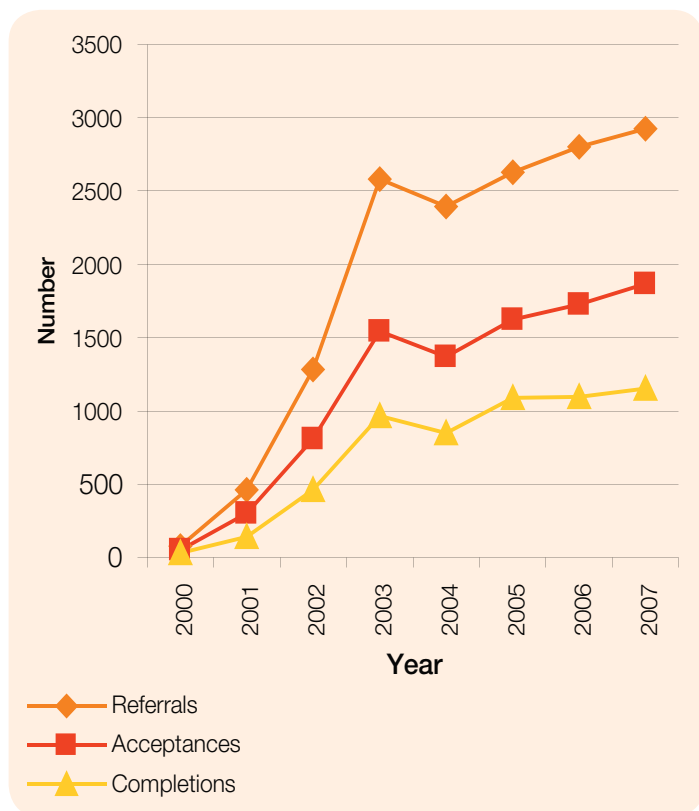
As indicated, there has been rapid growth in MERIT coverage. Starting with program availability to 3% of all finalised cases in NSW courts in 2000, the program quickly grew to become available to over one-third of cases (37.8%) by 2002. By the end of 2006, coverage had increased to 80.3%, that is, the MERIT program had become potentially available to 4 out of 5 defendants coming before the NSW Local Court.

MERIT program activity

From 1 July 2000 to 31 December 2007, a total of 15,148 defendants have been referred to MERIT. Of these, 9,299 (61.4%) were accepted into the program and a total of 5,798 (62.4% of acceptances) were recorded as having successfully completed the program.³

The growth in the number of MERIT referrals year to year reflects the increase in the number of courts in which MERIT has become available. The proportion of referrals to acceptances, and acceptances to completions, has remained relatively consistent over time (see Figure 2).

Figure 2. Number of MERIT referrals, acceptances and completions by year of referral: 2000-2007



Source of referrals

Since program inception there has been an increase in the proportion of referrals made by solicitors relative to Magistrates. During the first 2½ years of operation, Magistrates accounted for around two-thirds of all referrals to MERIT. By 2007 this proportion had fallen to less than one-third, with solicitors accounting for almost half of all referrals. Each year, a small proportion of referrals come from other sources, including Police and self-referrals.

Profile of MERIT participants in 2006

The following information has been taken from the 2006 MERIT Annual Report⁴ and relates to persons accepted into the MERIT program in the 2006 calendar year, a total of 1,726 defendants.

Gender, age, Aboriginal status, place of birth, educational achievement

In 2006, around three-quarters (79%) of MERIT participants were male. This is consistent with the gender ratio of persons appearing before the NSW Local Courts (81.1% male in 2006). There is no difference in program acceptance based on defendant gender. The age of defendants accepted into MERIT in 2006 ranged from 16 to 60 years, with a median age of 28 years. The majority of defendants fell between 21 and 34 years of age (62.3%). Gender and age distributions have remained consistent across all years of program operation.

In 2006 the proportion of MERIT participants who identified as Aboriginal was 14%, a figure consistent with the proportion of Aboriginal identified defendants appearing before the NSW Local Courts that year (13.9%).

A relatively small proportion of 2006 MERIT participants were born outside Australia (13%).

Consistent with previous years, the highest educational achievement for the majority of participants (69%) was Year 10 or less.

Principal drug of concern, charges faced

Cannabis was the principal drug of concern for 42% of accepted defendants. This was followed by stimulants (32%) and narcotics (21%).⁵ These percentages are consistent with the figures reported for 2004 and 2005, but represent a departure from the figures for the early years of the program when the majority of defendants reported narcotics as the principal drug of concern.

In 2006, narcotic drugs still featured most prominently in urban locations. Those reporting cannabis as their principal drug of concern were more likely to be found in regional and rural locations.

In 2006 over half of defendants accepted into MERIT were facing two or more charges (54.8%). The most commonly reported charges involved illicit drug offences (41.9% of defendants), which is consistent with that reported for 2005. The next most common charges for MERIT participants in 2006 were theft and related offences (32.0%), offences against justice procedures (16.7%) and road traffic offences (16.2%).

Profile of MERIT exits in 2006

A total of 1688 defendants exited MERIT in 2006, of whom 1064 (63%) completed program requirements (completers) and the remaining 37% did not (non-completers).

Completing the program

For those exiting in 2006, a number of factors were found to be significantly related to program completion, including:⁶

- **Aboriginal status**
Significantly fewer Aboriginal defendants completed MERIT (52.6%) than non-Aboriginal participants (64.7%).
- **Prior term of imprisonment**
Having previously spent time in gaol was related to program completion with 59.6% of non-completers having a prior term of imprisonment compared with 47.5% of completers.
- **Education**
Significantly fewer defendants whose highest education was Year 10 completed the program than those with a higher level of education.
- **Principal drug of concern**
Significantly more cannabis users completed the program (67.7%), than narcotics (58.8%) or stimulants (57.8%) users.

Treatment received on MERIT

While participating in MERIT, all defendants are provided with an individualised treatment plan developed by their caseworker. As well as support and case management from a caseworker, MERIT participants receive individual and group counselling. Additional treatments are provided externally. Around one third of MERIT participants who exited the program in 2006 received inpatient/residential withdrawal management, residential rehabilitation or pharmacotherapy as part of, or all of, their external treatment.

A number of participants also received non-drug related services while on the MERIT program, such as education, employment and mental health care services.

Importantly, one third of defendants who exited the program in 2006 reported that participation in MERIT was the first time they had received any formal treatment for their illicit drug problem.

Criminal Justice outcomes for MERIT participants

Criminal justice outcomes are presented for defendants exiting MERIT in 2005 to allow sufficient time for follow-up.⁷

Sentence outcomes

MERIT is intended to produce sentence outcomes that reflect the increased rehabilitative prospects of a defendant as a result of successfully completing illicit drug treatment.

There are considerable differences between the principal penalty outcome for program completers and non-completers. For the 2005 cohort, the most common sentence outcome for MERIT program completers was a bond with supervision (21.5%) or a bond without supervision (19.3%). The most common sentence outcome for program non-completers was a fine (24%) or a term of imprisonment (23.5%).

Recidivism

Another main objective of the MERIT program is to reduce re-offending by participating defendants, both while they are on the program and following program completion.

A person is recorded as having re-offended if, following entry into the MERIT program, they had a finalised court appearance for new charges within a given time period.

Re-offending while on MERIT

Just over one-fifth of all MERIT participants were charged with a new offence within 12 weeks of commencing the program (255/1160, 22%). Differences are apparent on the basis of exit status, with only 14.5% of program completers re-offending within 12 weeks compared with 38.6% 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.

Re-offending after MERIT

MERIT appears to have a positive effect on re-offending rates both at 6 months and 12 months from program completion. However, caution should be exercised when interpreting these results, because, in the absence of an appropriate control group, we cannot separate program effect from other factors.

In 2005, 42.2% of MERIT program non-completers appeared before court within 6 months of exiting the program compared with 22.5% of those who completed the program – a statistically significant difference. By 12 months following program completion, the proportion of both program completers and program non-completers who re-appeared in court increased by about 14% - to 56.1% for defendants not completing MERIT and 37.2% for those completing. This difference in re-offending rates was also statistically significant.

Health outcomes for MERIT participants

It is intended that MERIT participants will stop or reduce their drug use and display improved health and social functioning at program exit.

NSW Health recently released a report investigating the health outcomes of MERIT.⁸ MERIT caseworkers administer a standardised interview to participants at both program commencement and completion. Scores are calculated for individual health-related measures, which provide a 'snapshot' of a defendant's physical, mental and emotional state, as well as their drug use and associated behaviours upon entering and exiting the MERIT program. The data collection period for the health outcomes study was 1 April 2004 to 30 June 2006.

The reported results show MERIT to positively affect the health of participants.

Importantly, the report found that program completion was associated with substantially reduced drug use, including smaller amounts, less frequency and fewer types of drugs. Almost all MERIT participants had reduced their drug use by program exit – with two-thirds (67%) of the participants whose principal drug of concern was heroin or amphetamines achieving abstinence from this drug at program exit, and just under half (46%) of defendants for whom cannabis was the principal drug of concern achieving the same.

Changes in the extent of poly-drug use were also found, with the average number of illicit drugs being used by the defendants at program entry being 1.8, reducing to 1.0 at program exit. This difference was statistically significant.

In addition to the reduction in drug use, program participants were found to exhibit a reduction in other risk behaviours, such as sharing injecting equipment.

The health outcomes report concluded that there are significant improvements for MERIT program completers in relation to health, social and psychological functioning. At program entry, MERIT participants typically displayed scores substantially below the general population for eight health dimensions that encompass psychological well-being, social functioning and mental health.⁹ A statistically significant improvement on all eight scales was found at program exit. It was also noted that a majority of participants showed marked improvement in psychological adjustment at program exit.¹⁰

The report also noted a small increase in the proportion of MERIT participants in paid employment at the end of the program.

In summary, the MERIT program provides access to drug treatment for a large number of Local Court defendants, many of whom have not previously received such services. The program is associated with positive outcomes for participants, consistent with both its criminal justice and health objectives.

Notes

- 1 Passey, M., Patete, S., Bird, G., Bolt, S., Brooks, L., Lavender, K., Scott, D., Sloan, K., Spooner, C., & Vail, J., (2003). *Evaluation of the Lismore MERIT Pilot Program. Final Report*. Northern Rivers University Department of Rural Health, NSW Attorney General's Department.
- 2 MERIT program coverage is measured by dividing the number of appearances in MERIT courts by the total number of Local Court appearances in NSW. This data is provided by NSW Bureau of Crime Statistics and Research. The latest court figures available at the time of writing were for 2006.
- 3 Note that the exit status of 103 defendants was unknown at the time of the data analysis.
- 4 Crime Prevention Division (2008), *2006 MERIT Annual Report*, Attorney General's Department of NSW.
- 5 Heroin was the most commonly used form of narcotic amongst the MERIT defendants.
- 6 Of those tested, the factors found to be significantly related to program completion were: Aboriginal status, Age, Prior term of imprisonment, Accommodation type, Principal income, Education, and Principal drug of concern. See 2006 MERIT Annual Report for details.
Note that the base figure for each of the analyses varied slightly due to missing data in each test variable. All analysis excludes the three MERIT participants who died while on the program
- 7 Criminal justice information was available for 1160 of the 1514 defendants (76.6%) who exited MERIT in 2005.
- 8 NSW Department of Health, *The Magistrates Early Referral Into Treatment (MERIT) program: health outcomes*, Sydney.
- 9 These were measured using the SF-36. See the full report for a description of the test.
- 10 Measured using Kessler-10 test scores. See the full report for a description of the test.