



Attorney General
& Justice

MERIT Program

Operational Manual

Magistrates Early Referral Into Treatment Program



Purpose: This manual has been prepared by the Department of Attorney General and Justice with assistance from NSW Health and the NSW Police Force to assist the statewide implementation of the Magistrates Early Referral Into Treatment (MERIT) program across NSW.

This edition of the MERIT Operational Manual supersedes all previous editions.

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This manual is available on the Department's website:
http://www.lawlink.nsw.gov.au/lawlink/cpd/merit.nsf/pages/merit_index

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SECTION 1
INTRODUCTION

INTRODUCTION

Overview of the MERIT program

The Magistrates Early Referral Into Treatment (MERIT) program is an inter-agency initiative of the Department of Attorney General and Justice (DAGJ), the Chief Magistrate's Office, NSW Health and the NSW Police Force.

The MERIT program is a pre-plea drug diversion scheme based in NSW local courts. The target population is adult defendants with drug problems who are motivated to undertake drug treatment. MERIT aims to intervene in the cycle of drug use and crime by addressing the health and social welfare issues considered to be instrumental in bringing defendants into contact with the criminal justice system.

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

Participation in MERIT is voluntary and does not require an admission of guilt. MERIT participants are not required to be drug dependent, but must have a drug problem that influences their offending behaviour. MERIT offers drug treatment within a harm minimisation framework.

The MERIT program was designed to complement the local court system where matters typically progress from initial hearing to sentencing within about three months. Defendants are referred to the program at or before their initial court appearance and, if assessed as eligible and suitable, may be accepted onto the program and undertake supervised drug treatment. Program completion generally coincides with the final hearing and sentencing of the defendant.

The MERIT program is only available within NSW local courts (defendants appearing before District and Children's Courts, for example, are ineligible). At the time of publication, a restricted number of local courts offer the program. A list of participating courts can be found on the DAGJ website.

Program outcomes

The intended MERIT program outcomes for participants and for the community are:

- decreased offending behaviour
- decreased drug use
- improved health and social functioning
- increased community protection
- sentences that reflect the improved rehabilitation prospects of successful MERIT participants.

The following source documents provide information about the outcomes of the MERIT program to date.

The Magistrates Early Referral Into Treatment (MERIT) Program: Health Outcomes, NSW Health 2007.

The Magistrates Early Referral Into Treatment Program: Impact of program participation on re-offending by defendants with a drug use problem, Crime & Justice Bulletin No. 131, July 2009.

Further evaluation and research documents can be found on DAGJ's MERIT website.

Agencies Involved in MERIT

Joint agency approach

The MERIT program operates through the cooperative efforts and contribution of several NSW Government agencies. The partner agencies are:

- the Department of Attorney General and Justice (lead agency)
 - Chief Magistrate's Office
 - NSW Health (including some NGOs)
 - the NSW Police Force.
-

The NSW Department of Attorney General and Justice (DAGJ)

DAGJ is the lead agency in the MERIT program and has primary responsibility for overall program coordination and evaluation. The key responsibilities of DAGJ are to:

- supervise the statewide rollout of the program
 - convene the MERIT Statewide Steering Committee
 - coordinate agency involvement and administration of MERIT
 - assist in coordinating the provision of administrative support and accommodation within the court environment for members of MERIT Teams
 - undertake monitoring and evaluation functions for the MERIT program.
-

Magistrates

Magistrates provide leadership in the operation of the MERIT program at the court. The key responsibilities of magistrates are to:

- determine eligibility of defendants and refer to the MERIT Team for suitability assessment
 - accept eligible and suitable defendants onto the program as appropriate
 - monitor the participant's progress whilst on the program
 - respond to bail breaches
 - finalise defendants' legal matters.
-

NSW Health

NSW Health is responsible for the coordination of drug treatment and related service delivery for MERIT program participants. MERIT Teams attached to local courts are located either in Local Health Districts (LHDs) or in non-government drug and alcohol services. The key responsibilities of MERIT Teams are to:

- assess defendants for suitability for the MERIT program
- identify an appropriate treatment plan for MERIT clients and engage relevant services in the provision of agreed treatment
- provide ongoing case management to MERIT clients during their time on the program
- provide individual counselling for MERIT clients (or ensure this is accessed through another provider)

- monitor clients' progress on the agreed treatment plan
 - report to the court regularly in regard to client progress and compliance with the treatment plan, including breaches of program conditions
 - undertake discharge planning for MERIT clients, including referral to other services for post-MERIT health, drug treatment and/or other support services.
-

**The NSW
Police Force**

The NSW Police Force plays a key role in identifying potential MERIT participants at the time of their arrest and referring them for a MERIT assessment prior to their initial court appearance, where appropriate.

Referral To and Acceptance Onto the MERIT Program

**Referral to
MERIT**

Referrals to MERIT can come from a variety of sources including police, magistrates, solicitors and the defendant themselves (or their friends and family).

Defendants can be referred to the program on more than one occasion.

**Eligibility
(magistrate)**

Eligibility is determined by the magistrate. To be considered eligible for MERIT, defendants must satisfy the following criteria.

The defendant must:

- be an adult
- be eligible for release on bail or not require bail consideration¹
- voluntarily agree to participate in MERIT
- be suspected of using drugs or be known to have a history of drug use.

The defendant must not:

- be charged with offences involving significant violence or have like offences pending before the court
 - be charged with sexual offences or have like offences pending before the court
 - be charged with a strictly indictable offence or have like offences pending before the court.
-

¹ Defendants on bail and defendants for whom bail is not a consideration are eligible for MERIT. The application of a bail condition specific to MERIT is entirely at the discretion of the magistrate.

**Suitability
(MERIT Team)**

Suitability for the MERIT program is determined by the MERIT Team. To be suitable the defendant must:

- have a treatable drug problem for which there is appropriate treatment available
 - usually reside within the defined catchment area (or have sufficient connection to the area, for example, have full-time employment in the area)
 - voluntarily consent to undertake the MERIT program.
-

**Comprehensive
assessment of
potential
participants
(MERIT Team)**

To assist MERIT Teams in determining suitability for the program, defendants undergo a comprehensive assessment by MERIT staff (see 'MERIT Assessment' in Section 4). This assessment covers:

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

If appropriate, an individual treatment plan is then developed, tailored to the participant's identified needs.

SECTION 2
MAGISTRATES AND
COURTS

MAGISTRATES AND COURTS

Magistrates

Philosophy

Magistrates regard the MERIT program as an opportunity to assist defendants with a drug problem before a plea has been entered.

Magistrates consider MERIT to be highly desirable because it allows the court the ability to provide defendants with the opportunity to participate in treatment in the hope of breaking the drug crime cycle. Approaching the drug crime problem in this way is a benefit not only to the individual but also to the community as a whole.

MERIT is a court-controlled program and MERIT caseworkers assist with the administration of justice.

Assessment for eligibility

It is the role of magistrates to decide whether a defendant is eligible for the MERIT program. Key factors that the magistrate needs to decide in terms of eligibility are that the defendant:

- (i) must be an adult.
- (ii) must not have offences involving strictly indictable offences, sexual offences or offences involving significant violence and the defendant should not have like offences pending before a Court.
- (iii) must be suspected of using drugs or have a history of drug use
- (iv) must be eligible for bail and suitable for release on bail or not require bail consideration
- (v) must voluntarily agree to participate

Previous convictions for violent or sexual offences should not be considered except, as usual, in determining bail.

Defendants deemed eligible by the magistrate will then be referred to the MERIT Team for the relevant 'comprehensive assessment' to assist in determining suitability for the program and to provide an opportunity to draw up a treatment plan. Only after this comprehensive assessment and related report (Template 5) are completed does the magistrate make a final determination as to the defendant's acceptance onto the program.

In some cases the comprehensive assessment may have already been completed before the defendant's first court appearance, therefore eligibility and suitability can be determined at the first court appearance (see 'MERIT Assessment' in Section 4).

If at any time during assessment or participation on the program the defendant's court matters are finalised, the defendant becomes ineligible to participate in the MERIT program.

Psychiatric report

In some circumstances, magistrates may obtain a psychiatric report and/or a pre-sentence report for a defendant prior to passing sentence.

It is **not** the responsibility of the MERIT Team to arrange these reports. Provision of these reports remains the responsibility of the clerk of the court.

Bail

What is bail?

According to the *Bail Act 1978*, 'bail' means authorisation for a person accused of an offence to be at liberty under this Act, instead of in custody.

When:

- (a) bail is granted to an accused person in respect of an offence,
- (b) the person enters into the bail undertaking, and
- (c) a bail condition or bail conditions are imposed, or they are entered into, the person is, subject to this Act, entitled to be released (if in custody) and to remain at liberty in respect of the offence, until the person is required to appear before a court in accordance with the person's undertaking.

The *Bail Act* supports a defendant's entitlement to bail for offences punishable summarily (i.e. at a local court level), subject to certain specified exemptions.

The *Bail Act* allows persons accused of an offence to be released into the community prior to any legal consideration of guilt, and supports provision of unconditional bail or bail on both a financial or non-financial basis.

Factors in determination of bail

In making a determination as to the grant of bail to an accused person, the court considers factors such as;

- the probability of whether or not the person will appear in court, having regard to:
 - Their background and community ties, any previous failure to appear and the circumstances of the offence (nature, seriousness, strength of case and probable penalty).
 - the interests of the person, having regard to:
 - The period of time to be spent on remand, the needs of the person to be free to prepare for their case, whether the person is incapacitated by injury, the person's criminal history and whether the person has special needs (arising from being aged under 18, Aboriginal or Torres Strait Islander, has an intellectual disability or is mentally ill).
 - the protection and welfare of the community, having regard to:
 - The protection of the victim and any other person in need of protection because of the case, the nature and seriousness of the offence, whether the person has previously failed to observe a bail condition, the likelihood of the person interfering with evidence and the likelihood of a person re-offending whilst on bail.
-

Bail and MERIT

Magistrates should make determinations about a defendant's suitability for release on bail prior to any consideration being given to the MERIT program.

There are three different bail options for MERIT participants, at the discretion of the magistrate:

1. The requirement for bail has been dispensed with (s. 10, *Bail Act 1978*)

2. Bail is applicable and a MERIT bail condition is added

Section 36A of the *Bail Act 1978* allows bail conditions to be imposed for persons who would benefit from a treatment or rehabilitation/intervention program, such as MERIT. Example wording might be: 'To comply with the reasonable directions of MERIT'.

The MERIT caseworker is responsible for monitoring this condition and, where necessary, reporting non-compliance with the condition to the magistrate (see 'Non-Compliance with Program Conditions' in Section 4).

It should be noted that the NSW Police Force are not required to monitor any bail conditions related to MERIT and are not expected to return non-compliant defendants to court (as allowed for under s. 50 of the *Bail Act*).

Additional bail conditions may or may not be imposed, at the discretion of the magistrate. If imposed, the role of the NSW Police Force under s. 50 of the Act will apply to these conditions.

3. Bail is applicable and a MERIT bail condition is *not* added

Other bail conditions may or may not be imposed, at the discretion of the magistrate. If imposed, the role of the NSW Police Force under s. 50 of the Act applies to these conditions.

It should be noted that MERIT caseworkers are not responsible for monitoring bail conditions other than those related to MERIT, and need not have knowledge of any additional bail conditions. However, should caseworkers have this knowledge and become aware of a breach, they should notify the relevant authorities as soon as possible.

MERIT Court Hearings

First court attendance

In the majority of cases, the defendant's initial appearance at court is the first opportunity to conduct a MERIT eligibility/suitability assessment.

Where a magistrate finds a defendant ineligible, court matters proceed as normal.

Where a defendant is deemed eligible, MERIT Teams are required to determine suitability. Having MERIT Team members present at court to conduct this suitability assessment is ideal but not always possible.

MERIT present at court

Where a defendant is deemed eligible by the magistrate and the MERIT caseworker **is** available at court, the caseworker conducts an initial suitability assessment on the day. The MERIT Team submits an Initial Court Report (Template 4) to the magistrate, noting initial suitability/unsuitability.

Where the defendant is found unsuitable, the case proceeds as normal.

If the defendant is found initially suitable, a further comprehensive assessment should be undertaken by the MERIT Team in order to confirm suitability and develop a treatment plan. If it is not possible to complete this on the day, it may be necessary for the magistrate to grant an adjournment (of up to three weeks) for this assessment to take place.

Should the defendant fail to report as required for this assessment during the adjournment period, the MERIT Team will inform the court as soon as possible following the missed appointment.

MERIT not present at court

Where a defendant is deemed eligible by the magistrate and the MERIT caseworker **is not** available at court, the defendant is directed to attend the MERIT office for an initial assessment within three working days.

To reduce the number of adjournments, the MERIT Team should conduct both an initial and comprehensive assessment of defendants during this period, if possible.

At the defendant’s subsequent court appearance:

- If they have reported to the MERIT Team for their assessment as directed, the Team presents the Magistrate with either an Initial Court Report (Template 4) noting initial suitability/unsuitability, or a Comprehensive Assessment Court Report (Template 5).
- If the defendant has failed to attend the MERIT office for their assessment, next steps in the criminal process are at the discretion of the magistrate.

Comprehensive assessment

Following a comprehensive assessment, the MERIT Team provides a Comprehensive Assessment Court Report (Template 5) to the magistrate, confirming whether or not the defendant is suitable for the program, the type of drug treatment services that may be appropriate and available, the relevant support that can be provided and a proposed treatment plan.

Following receipt of this report, where the defendant is found suitable, the magistrate has discretion to determine whether the defendant should be accepted onto MERIT.

Where the defendant is found unsuitable, the case proceeds as normal.

Further adjournments

Where a defendant is placed on MERIT, the magistrate is encouraged to impose an increased level of court supervision as a core element of the program. Additional 'mentions' establish how the participant is progressing and offer encouragement, as appropriate. On the other hand, if a participant is not going well, court supervision could play a role in encouraging treatment completion.

Each adjournment (following any adjournments for assessment) will be accompanied by a short progress report from the MERIT Team (Template 6) indicating the participant's progress and compliance with their treatment plan. The MERIT Team may also suggest the length of any future adjournments.

MERIT is a 12-week program. Some guidelines for adjournments are:

- up to three weeks for comprehensive assessment
- appearance to report on progress at four to eight weeks (from the commencement of treatment)
- final appearance at 12 weeks (from the commencement of treatment).

Relevant and timely progress reports to the magistrate are essential throughout a participant's time on the program.

Treatment period

Throughout the treatment period, the MERIT Team will maintain contact with the client with a focus on providing treatment, support, structure and/or supervision as set out in the agreed treatment plan. That contact may include participation in various forms of drug assessment, treatment and monitoring, and/or maintaining regular contact and interviews with a MERIT caseworker.

Removal from the program

Magistrates have discretion to remove a defendant from the MERIT program at any time. Examples of factors that may inform this decision include receipt of a caseworker report (see below) or re-offending by the defendant.

MERIT caseworkers are responsible for monitoring the defendant's compliance with their agreed treatment program (see 'Non-Compliance with Program Conditions' in Section 4). Non-compliance can be defined as:

- failure to attend MERIT appointments
- failure to engage in drug treatment
- incidents of aggression or violence towards staff or damage to MERIT property.

In instances of non-compliance, MERIT caseworkers will report this to the magistrate. The consequences are that the magistrate may remove the defendant from the program. If removed from MERIT, the defendant's matters proceed to plea or hearing.

It should be noted that a defendant's non-compliance with the MERIT program, where there is a MERIT bail condition, is not considered a breach of bail (see 'Bail and MERIT' on page 9).

Voluntary withdrawal

A defendant may voluntarily withdraw from the MERIT program at any time.

A defendant's voluntary withdrawal from the program, if there is a MERIT bail condition, is not considered a breach of bail (see 'Bail and MERIT' on page 9).

In cases of voluntary withdrawal, the MERIT Team will notify the court and the magistrate will formally remove the participant from the program. When removed from the program, the defendant's matters proceed to plea or hearing.

Final hearing/sentencing

The completion of the MERIT program generally coincides with the final hearing and sentencing of the defendant. A plea is generally not sought or entered until this time.

The MERIT caseworkers are intensively involved with the clients over the program period and provide to the court a detailed report pertaining to the client's past drug use, response to treatment and a relapse prevention plan that has been discussed with the client (Template 7). The report does not make any comment as to sentence recommendations.

The MERIT Team does not generally attend the sentencing hearing.

As the MERIT program is voluntary, unsuccessful completion should not, on sentence, attract any additional penalty. This information will have been conveyed to the defendant at the beginning of the program. Defendants are to be assured that failure to respond to a drug treatment program will not be dealt with by punitive measures, and that if convicted of the offence(s) as charged, any penalty would relate to that offence only, and not to the defendant's failure to respond to treatment.

Types of sentences used after successful completion of MERIT vary but should reflect successful completion of MERIT and also take into account any recommendations for further treatment.

Post plea

Whilst MERIT is focused on a pre-plea process, defendants have sometimes entered MERIT post plea, or have entered a plea whilst on the program.

Generally, if a full MERIT report has been provided for the client at the point of sentencing then it is not necessary to obtain a full Probation and Parole Report.

SECTION 3
NSW POLICE FORCE

NSW POLICE FORCE

Overview

What is MERIT?

MERIT is a voluntary program offering drug treatment to offenders appearing at a local court. It is available for offenders who have a drug use problem and who are eligible and suitable for release on bail, or where bail is not a consideration.

The program is highly intensive and involves ongoing contact with the treatment agency and the court.

Police role

MERIT provides an opportunity for offenders to deal with their problematic drug use and its social, legal and health consequences, and for police to encourage offenders to seek professional assistance they otherwise may not have considered.

Police play an important role in referring offenders to MERIT. Police referral presents an opportunity to identify potential MERIT clients as early as possible. They are often the first point of contact with an offender and can therefore provide the earliest possible referral into drug treatment. A police referral to MERIT enables the offender to be assessed before the first court appearance. This saves court time as the court does not have to adjourn matters until an assessment can be conducted.

Once police have referred the offender, other agencies become responsible for providing treatment and monitoring compliance (or otherwise) with the program.

Police Force Referral Procedure

When to refer

Any police officer can make a referral for a MERIT assessment. The entire referral process, including the paperwork, is easy to complete. In deciding to refer to MERIT, officers need to determine, as best they are able, that the offender:

- (i) must be an adult.
- (ii) must not have offences involving strictly indictable offences, sexual offences or offences involving significant violence and the defendant should not have like offences pending before a Court.
- (iii) must be suspected of using drugs or have a history of drug use
- (iv) must be eligible for bail and suitable for release on bail or not require bail consideration
- (v) must voluntarily agree to participate

Note: Responsibility for accepting defendants onto the program rests with the magistrate at a later date.

On arrest

To make a MERIT referral at the time of arrest, undertake the following steps:

- Establish whether the offender has a drug issue – it can sometimes be difficult for an officer to determine this, so it is sufficient to make a determination based on:
 - the offender's presentation
 - self-disclosure by the offender
 - the nature of the offence
 - the prior offending history of the offender
 - what is known about the offender and/or the company they keep.

Police need only act on a reasonable suspicion that the offender is a drug user. The health service will ultimately assess the offender's level of drug use and consequent suitability for MERIT.

- Explain the MERIT program, ensuring that the offender is aware that their details will be passed on to a third party and that police can release information about their current offences to the MERIT Team.
 - Provide the offender with the MERIT brochure to read.
 - Seek the consent of the offender to refer them for a MERIT assessment (see below).
-

Informed consent

Participation in MERIT is voluntary and the offender must give informed consent to be referred for an assessment.

Police are required to provide potential MERIT participants with sufficient information as to the nature of the program and the implications of agreeing to be referred for an assessment.

Offenders must consent to the police providing the referral notice to the MERIT Team.

Informed consent is obtained when the offender signs either the COPS-generated MERIT Referral Form or the MERIT Field Referral Form.

Where the offender has not agreed to the referral, they must be informed that police will note this decision on the Facts Sheet.

In the field

If the person consents:

- Complete the MERIT Field Referral Form and ensure that the offender and the referring officer both sign the form.
- Hand the offender their (yellow) copy of the MERIT Field Referral Form that contains contact information for the local MERIT Team.
- On returning to the station, fax the completed MERIT Field Referral Form plus the Facts Sheet to the MERIT Team identified in the Drug Diversion Field Referral Folder and process the action on COPS.

See Appendix 2 for a sample MERIT Field Referral Form.

At the station

If the person consents:

- Commence the processing of the offender on COPS.
 - When the MERIT Referral Form is generated by COPS, ensure that the offender and the referring officer both sign this form.
 - Include the MERIT Referral Form in the facts (narrative) and include the antecedents. (If the offender declines to be referred to the MERIT program this should also be recorded on the Facts Sheet.)
 - Fax the MERIT Referral Form plus the Facts Sheet to the local MERIT Team identified in the Drug Diversion Field Referral Folder.
 - Do **not** provide MERIT Teams with a copy of the offender's criminal record.
 - Hand the offender the contact information for the local MERIT Team.
-

What happens next?

The MERIT Team will acknowledge receipt of the referral by way of fax or letter.

It is the responsibility of the offender to make contact with the MERIT Team to attend the assessment. However, if this does not occur within three days of receiving the referral, the MERIT Team will make reasonable efforts to contact the offender and follow up the referral for assessment.

Police MERIT Liaison Officer responsibilities

A senior police officer in each Local Area Command (LAC) will be appointed as the MERIT Liaison Officer (MLO). The role of the MLO is to:

- promote referrals to MERIT by police and monitor the number of police referrals
- liaise with the local MERIT Team as necessary
- ensure MERIT brochures are accessible to police for distribution.

It is not the responsibility of LAC police to provide criminal record information to local MERIT teams.

Non-compliance provisions

Where bail is a consideration, it is at the magistrate’s discretion as to whether participation in MERIT is made a condition of the offender’s bail.

MERIT caseworkers report non-compliance with the MERIT program to the court as soon as possible and the magistrate determines the outcome of this non-compliance (see ‘Non-Compliance with Program Conditions’ in Section 4).

Non-compliance may result in the offender being removed from the program by the magistrate. Where this occurs, the matters will proceed to plea and hearing as normal.

It should be noted that the NSW Police Force are not required to monitor any bail conditions related to MERIT and are not expected to return non-compliant defendants to court (as allowed for under s. 50 of the *Bail Act*). See ‘Bail and MERIT’ on page 9.

MERIT Teams

Role

MERIT caseworkers assist in the administration of justice and are expected to report regularly and objectively to the court on the client’s progress.

MERIT Team liaison with police

Ongoing liaison between MERIT Teams and police is seen as beneficial.

The MERIT Manager will ensure police are adequately supplied with MERIT brochures in English. Where appropriate, the MERIT Manager will provide MERIT brochures translated into community languages.

SECTION 4
MERIT TEAMS AND
OPERATIONS

MERIT TEAMS AND OPERATIONS

MERIT Teams

MERIT Teams MERIT Teams are funded through Local Health Districts (LHDs). Teams are located either within the LHD drug and alcohol service or in a drug and alcohol NGO through a sub-contracted arrangement. MERIT caseworkers have joint responsibilities as drug treatment providers and in assisting the administration of justice.

Key responsibilities

The primary responsibilities of the MERIT Team are to:

- assess referred defendants for suitability for the MERIT program
 - develop treatment plans in consultation with clients
 - provide case management to MERIT clients for the duration of their participation
 - provide drug treatment counselling services to MERIT clients (or ensure they access this through another provider)
 - facilitate access to appropriate drug and alcohol treatment services for MERIT clients, including within LHDs, NGOs and the private sector
 - refer clients to other relevant health and welfare services in line with their needs and treatment plan
 - liaise with other services involved in the client's treatment in relation to their progress, compliance, motivation and recommendations for further treatment
 - monitor the client's progress towards treatment goals and their compliance with the program requirements
 - provide reports to the court as required throughout the client's participation in MERIT, including assessment, progress, completion and non-compliance with program conditions
 - maintain regular contact with the client throughout their MERIT participation
 - provide data as required for the purposes of statewide monitoring and reporting
 - liaise with other MERIT agencies to facilitate effective operation at the local level (such as magistrates, NSW Police and solicitors)
 - provide information about the MERIT program to other health and welfare service providers as required.
-

Assisting the administration of justice

MERIT caseworkers are employed by NSW Health as health professionals; however, their involvement in the local court process creates a dual role in that they also assist with the administration of justice.

Obligations of MERIT staff are the same as those of other professional staff employed within the NSW health system. However, the role of assisting the administration of justice requires the MERIT Team to:

- recognise and discharge their duty to the court by way of honest and impartial representation
- ensure that the court is not misled
- refuse to tolerate any action which might improperly delay the course of justice or contribute to the abuse of its processes
- disclose any improper conduct which is calculated to defeat the course of justice (except where ethically obliged to maintain confidentiality)
- recognise their duty to the law by ethical and well-informed representation of their clients' interests
- comply with recognised professional, ethical standards in the conduct of their matters.

MERIT caseworkers may have access to confidential and/or sensitive information about clients, for example, criminal Facts Sheets. MERIT staff must ensure this information is used appropriately and is not passed on or disclosed to other service providers without the appropriate authority.

Conduct at court

In representing MERIT in the court environment, staff should:

- adhere to the court dress code
 - wear appropriate identification
 - ensure mobile phones are turned off
 - present quality reports, verbal and written
 - maintain standards consistent with court protocol
 - follow court procedures and court protocol
 - address the magistrate appropriately
 - behave respectfully with other court staff
 - return all court papers to their correct location.
-

Reporting and accountability

MERIT Teams comprise:

- Team Leader or Manager
- Caseworker/counselling staff
- Administrative support staff

MERIT Teams are responsible through the MERIT Manager to the relevant line manager in the drug and alcohol service or NGO.

NGO MERIT Teams have contractual arrangements in place with the local LHD that outline reporting and accountability arrangements.

All MERIT Teams are expected to operate within the parameters outlined in this Operational Manual.

Clinical governance

MERIT Teams operate within appropriate LHD/NGO clinical governance arrangements. Such arrangements include:

- the use of evidence-based treatment interventions

- processes for clinical and case review
 - clinical supervision of staff
 - clinical line management
 - complaints management procedures
 - critical incident reporting systems
 - ongoing professional development.
-

Relevant documents

MERIT Teams should be familiar with the latest versions of the following policy and practice documents and utilise them in practice:

NSW Health Drug and Alcohol Psychosocial Interventions Professional Practice Guidelines, NSW Department of Health 2008.

http://www.health.nsw.gov.au/policies/ql/2008/GL2008_009.html

NSW Clinical Guidelines – For the Care of Persons with Comorbid Mental Illness and Substance Use Disorders in Acute Care Settings, NSW Health 2009.

http://www.health.nsw.gov.au/pubs/2009/comorbidity_report.html

Drug & Alcohol Treatment Guidelines for Residential Settings, NSW Health 2007.

http://www.health.nsw.gov.au/policies/ql/2007/GL2007_014.html

Program Stages

General

MERIT is generally a 12-week program which commonly cycles through three stages:

- Program entry and commencement of treatment
- Ongoing treatment
- Program exit and discharge.

Whilst there can be variations in the MERIT experience for individual clients, each stage generally includes the same basic components outlined below.

**Stage 1:
Program entry
and
commencement
of treatment**

Key steps in Stage 1 (in no particular order) are:

- comprehensive client assessment (including clinical and psychosocial issues and drug use history)
 - completion of mandatory entry questionnaires
 - withdrawal management (if appropriate)
 - home visits with client and direct family (if appropriate)
 - client gives informed consent to participate in the program and comply with the agreed treatment plan
 - client agrees to allow the release of their information
 - clients are registered on the MERIT database and initial data is entered into the MERIT database
 - development of a tailored treatment plan
 - commencement of client on drug treatment program
 - preparation of initial court report(s) recommending MERIT acceptance and treatment plan
 - secondary needs of the client are identified, for example, education, family, social, health/medical, skills training, housing and other needs
 - urinalysis, where appropriate
 - additional psychometric testing, where warranted.
-

**Stage 2:
Ongoing
treatment**

Key steps in Stage 2 are:

- case management
 - provision of drug and alcohol counselling
 - continuation of treatment
 - monitoring client progress and treatment compliance
 - urinalysis, where appropriate
 - client case review and adjustment of treatment plan, as required
 - progress report(s) to court.
-

**Stage 3:
Program exit
and discharge**

Key steps in Stage 3 are:

- discharge planning, including referrals to other appropriate services and consideration of relapse prevention strategies
 - completion of mandatory exit questionnaires
 - final urinalysis screen, if clinically appropriate
 - completion of Final Court Report summarising progress and compliance.
-

Referral to MERIT

The common sources of referrals to the MERIT program are magistrates, Legal Aid solicitors, private solicitors, police and self-referral by defendants. MERIT Teams can help to ensure all defendants who are potentially eligible and suitable for MERIT are referred to the program at the appropriate time through:

- networking with local referring agencies and individuals to promote MERIT and inform about the referral process
- having a visible presence on MERIT court days and making themselves known to solicitors and court staff
- reviewing court lists to identify potential MERIT participants
- attending Court User's Forums
- placing MERIT advertising material in local drug and alcohol facilities and at court.

Referral by police at the time of arrest offers the earliest opportunity for engagement with MERIT and such referrals should be processed as soon as possible.

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

MERIT Assessment

Assessment processes

Defendants referred to MERIT are initially assessed for eligibility and potential suitability for the program.

Eligible and potentially suitable defendants then undergo a comprehensive clinical and psychosocial assessment to make a firm determination of their suitability. A treatment plan is also formulated at this time.

See Figure 1 on page 26 for a depiction of the MERIT process.

Eligibility and initial suitability assessment

Magistrates determine eligibility for the MERIT program and MERIT Teams determine suitability for treatment.

Preliminary suitability information may be gathered during an initial interview between the MERIT caseworker and the client, either in the MERIT office if referred prior to the first court date, at court on the day of the first appearance, or immediately following the first appearance.

The MERIT Team determines a defendant's initial suitability for treatment through establishing that the defendant:

- voluntarily consents to participate in MERIT
- has a treatable drug problem

- usually resides in the defined catchment area (or has sufficient connection to the area, for example, has full-time employment in the area).

In addition, other relevant issues can be identified at this stage, for example, whether there are any indications of serious physical or mental health issues suggesting the need for an urgent referral/assessment.

The MERIT caseworker should access the Police Facts Sheet which provides information in relation to the current charges and the Criminal Names Index (CNI) number which must be obtained for data purposes. The above information is captured on an Initial Assessment Form along with client identification data and charge information (Template 1).

An Initial Court Report is submitted to the magistrate (Template 4). The magistrate will assess the defendant in terms of the information provided in the Court Report and then against the program eligibility criteria (page 7 'Eligibility (magistrate)' section) to determine if the defendant is eligible and should be sent for a comprehensive assessment with the MERIT Team.

If the magistrate deems the defendant ineligible, their court matters will proceed as normal.

Comprehensive clinical and psychosocial assessment

The comprehensive assessment is most commonly undertaken during an adjournment period following the initial court appearance.

Less often, the comprehensive assessment is undertaken at an earlier point in the process, in conjunction with the initial eligibility/suitability assessment; for example, where police have referred the offender at the point of arrest.

MERIT case managers undertake a comprehensive assessment of the defendant in terms of:

- quantity, frequency and pattern of current drug use. This includes an assessment of the use of all psychoactive drugs, both licit and illicit; the circumstances in which drug use occurs; the route(s) of administration; and the level of dependence
- the extent and severity of previous drug use problems, including the outcome of any previous treatment attempts or self-initiated periods of abstinence
- drug-related risk-taking behaviour
- family relationships and family drug history
- social situation
- child protection issues
- legal issues, including any arrests, the nature of offences committed and sentences imposed prior to, or following, commencement of drug use
- medical and health problems associated with or exacerbated by drug use
- mental health, including suicide risk assessment

- domestic violence screening (for women)
- motivation for change and treatment goals
- potential to engage in treatment for drug use problems
- the type of treatment that would be appropriate.

Informed consent should be established before the comprehensive assessment takes place. To enable this, the client is provided with sufficient information about the MERIT program and what will be expected of them if they agree to participate. The client signs the Permission To Obtain and Release Information Form (Template 3) and the MERIT Treatment Agreement (Template 2).

Following the comprehensive assessment, a brief report to court is prepared (Template 5). The comprehensive assessment process may indicate that some clients are, in fact, not suitable for the MERIT program, despite earlier indications. In this case the MERIT caseworker will inform the court of the apparent reasons for unsuitability and the client's court matters will proceed in the usual way.

Assessment forms

A template for the Initial Assessment Form to be used by MERIT Teams is in Appendix 1. The forms used for comprehensive assessments may vary in format, but all collect the information outlined above. Please refer to local protocols for the correct templates.

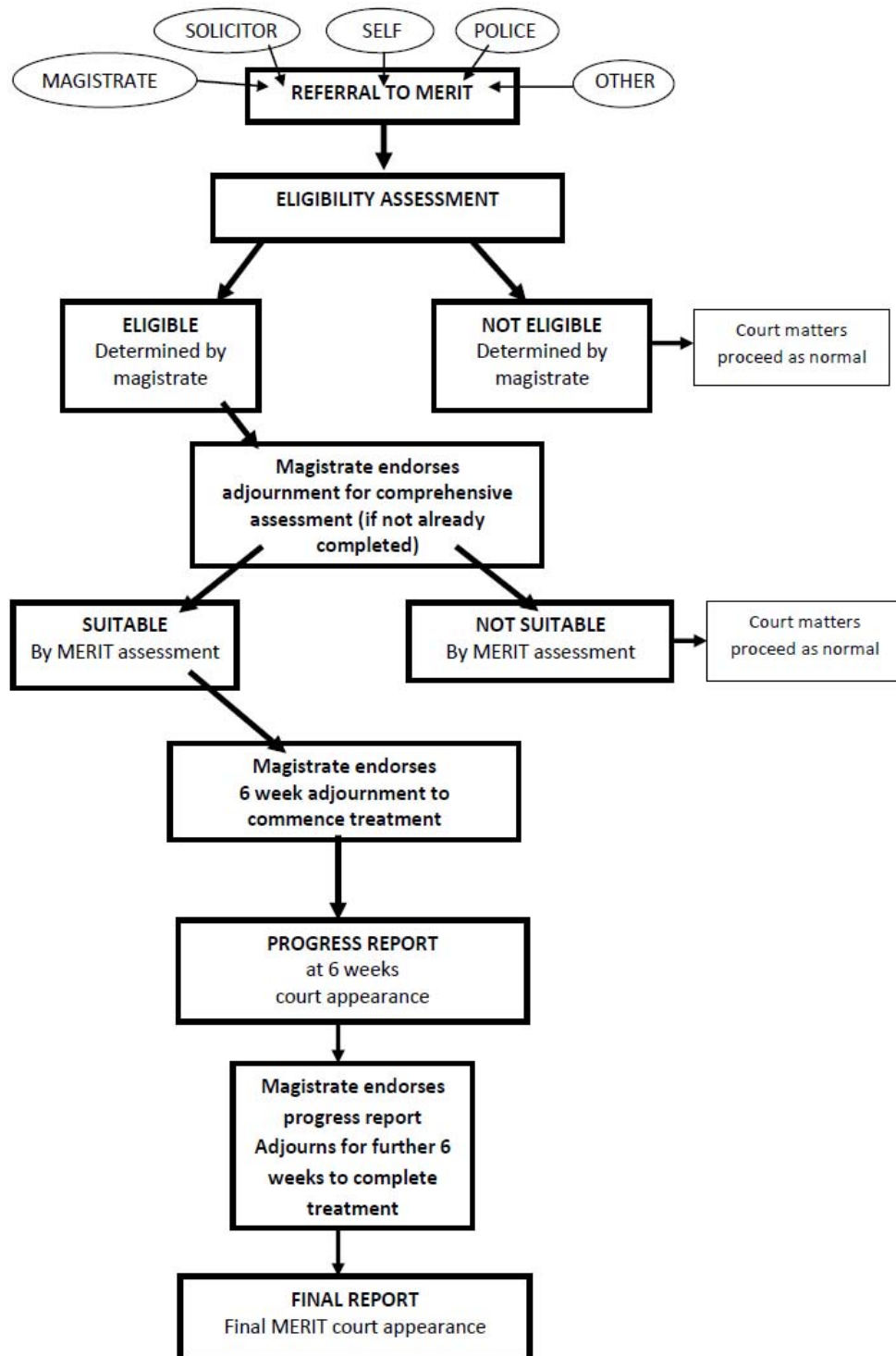
Templates for court reports following these assessments are also in Appendix 1.

MERIT health outcomes information

A number of assessment tools are routinely administered on a client's entry to and exit from the program for the purposes of gathering information on health outcomes for MERIT participants. These tools may include:

- items measuring drug use
 - items measuring risk behaviour (BTOM component)
 - Severity of Dependence Scale (SDS)
 - psychological adjustment questionnaire (Kessler-10)
 - physical/social/emotional functioning questionnaire (SF 12)
 - client satisfaction questionnaire.
-

FIGURE 1: The MERIT Process



A client may withdraw from the MERIT program at any time and the MERIT Team will inform the magistrate. Should a client fail to comply with the MERIT program conditions the magistrate will be informed and the client may be removed from the program.

Informed Consent

Informed consent – MERIT Teams

At commencement of the assessment process, informed consent of the client to participate in the MERIT program is established. The client will be provided with information about the MERIT program, including the duration and his/her responsibilities as a participant (consistent with the treatment plan).

The client will be informed that:

- involvement in the MERIT program is not an admission of guilt in relation to the offence(s) for which s/he has been charged and that voluntary participation in the program may be taken into consideration at the time of sentencing
- during the treatment period they will be required to appear before the court to report on their progress (unless exempted by the magistrate, for example, due to undertaking residential drug treatment)
- information provided by them to the MERIT caseworker will be used to provide regular reports to the court
- his/her attendance or non-attendance at assessment or treatment appointments, and general treatment progress, will be reported to the court
- urinalysis is not mandatory but is used at the MERIT caseworker's discretion as a clinical tool to assist treatment
- should the caseworker require him/her to undertake urine drug screening throughout the program, and if this screening is conducted according to Australian Standard AS 4308, the results of these urine drug screens will be reported to the court (see 'Urinalysis' on page 30)
- any failure to respond to, or partake in, drug treatment will not result in punishment by the court, given the voluntary nature of the program
- they may voluntarily withdraw from the program at any time without penalty
- if they do not comply with the agreed treatment plan, the MERIT caseworker will notify the court and the magistrate may withdraw them from the program
- if they are withdrawn from the program (either voluntarily or by the magistrate) their legal matters will proceed as per usual processes
- non-identifying information about them may be used for the purposes of evaluation and research of the MERIT program.

The client gives their informed consent by signing the MERIT Treatment Agreement (Template 2).

Informed consent – police

Offenders referred to MERIT for an assessment by the NSW Police Force will be informed at that stage that:

- participation in MERIT is voluntary
- by signing either the COPS-generated or the MERIT Field Referral Form they are consenting to participate in a MERIT assessment.

Offenders will be provided with sufficient information from police in relation to the nature of the program and the implications of agreeing to an assessment.

Permission to obtain and release information

During assessment the client signs an agreement outlining how information they provide to MERIT workers can be used. This agreement states that the MERIT worker can use information provided by the client to:

- provide a report to the court on their progress in the MERIT program
- formulate a treatment plan to address substance use and other health and psychosocial issues
- arrange a referral to another service, including a drug treatment service, medical practitioner or psychiatric or psychological service
- provide and obtain information about their opioid treatment to and from their opioid treatment provider
- permit research and evaluation by the MERIT program.

The agreement authorises the exchange of client information between the MERIT caseworker and the NSW Police Force, medical practitioners, psychiatric or psychological services, Justice Health, Probation and Parole, Department of Community Services, Department of Housing, any courts the client is required to appear before, and with Centrelink (regarding payments made to the client).

The client also agrees that the MERIT caseworker may notify appropriate authorities if any information provided by the client during their participation raises serious concerns about the client's or another person's welfare.

See Appendix 1 for the MERIT standard template.

Once a client has been deemed suitable for participation in MERIT by the magistrate, the client's criminal history may be sought with the client's consent if the caseworker considers that it would be useful for treatment purposes.

Criminal history documentation and any other criminal justice-related materials (aside from MERIT Court Reports, which are submitted to the court only) must only be kept on the client's file for the period of their engagement with MERIT, and both electronic and hard copies must be destroyed at the end of this period. This information must not be passed on to any parties outside MERIT Team personnel involved in the client's assessment and/or case management without the appropriate authority.

MERIT Treatment Options

Drug treatment Treatment provided to MERIT clients will be:

- evidence-based
- client-focused
- tailored to the individual.

Treatment options for MERIT clients are outlined below.

Case management

Case management is a service in which the case manager and the client collaborate in individual care planning, service facilitation, outcome monitoring and advocacy. It may overlap with the clinical interventions detailed below. The key distinction is that case management provides a central process of coordination and works to overcome obstacles in access to services, maximise communication between professionals and agencies involved in the client's care, and minimise the duplication of services where overlaps occur. See page 36 for the key features of case management.

Psychosocial interventions

Psychosocial interventions are a foundation of drug and alcohol treatment and all MERIT clients will be provided with individual counselling, either by the MERIT caseworker or another service provider. The most common treatment utilised is Cognitive Behaviour Therapy (CBT), which includes elements of problem solving and relapse prevention, but there is a range of other effective therapeutic interventions. Some MERIT clients also access group counselling services. Psychosocial interventions should be provided in line with the NSW Health Drug and Alcohol Psychosocial Interventions Professional Practice Guidelines.

Withdrawal services

Withdrawal is a neurophysiological adjustment that the body undergoes following the cessation or significant reduction of drug use. The nature and severity of withdrawal depends on an individual's drug use history and the types of drugs used. The aim of withdrawal management is to ensure that withdrawal is completed safely and comfortably. This is often a necessary first step before further treatment can commence. Managing withdrawal involves providing a combination of information, support, monitoring and medication. These components can be delivered in hospital, residential, home or outpatient settings, depending on the individual's needs and circumstances. Withdrawal services should be medically supervised and carried out by an appropriately qualified professional.

Opioid treatment

The NSW Opioid Treatment Program includes the use of pharmacotherapies such as methadone or buprenorphine for the treatment of opioid dependence. Considerable research has demonstrated the effectiveness of pharmacotherapy treatment for opioid dependence. Additional benefit may be achieved when combined with psychological treatment approaches. Treatment is most commonly provided through outpatient clinics (public or private), community pharmacies and local hospitals (particularly in rural areas). Prescribers can be in either public or private practice.

Residential rehabilitation

Residential rehabilitation is a term used to describe 24-hour staffed, residential treatment programs that offer intensive, structured interventions after withdrawal from drugs of dependence. Residential treatment is based on the principle that a structured drug- and alcohol-free residential setting can provide an appropriate context to address the underlying causes of dependence. There are a variety of modalities or treatment approaches for residential treatment available in NSW reflecting the range of philosophies and interventions available and specific populations serviced by different programs. Examples of residential programs available in NSW are programs targeting comorbid conditions, short-term CBT-based programs, culturally sensitive treatment, 12-step programs, and the Therapeutic Community model.

Urinalysis

Urine drug testing is routinely conducted in drug and alcohol facilities as a tool to be used in conjunction with a clinical intervention. For the MERIT program, urinalysis is not mandatory but used at the MERIT caseworker's discretion as a clinical tool to assist treatment.

The collection of urine samples and the analysis conducted can vary widely, hence not all drug urine test results are suitable for reporting in a court environment.

If in doubt, MERIT caseworkers should seek expert medical opinion in the interpretation of urine drug test results, especially in cases where urinalysis results are to be included in court reports.

Routine drug analysis

For example, those conducted in a methadone unit are qualitative only. That is, only the presence (or absence) of a drug is reported. Furthermore, some drugs are not tested for (e.g. cannabis).

Medico-legal drug analysis (Australian Standard AS 4308)

Those conducted for MERIT should be quantitative; that is, the concentration of the drug is reported. Positive results are confirmed by Gas Chromatography/Mass Spectrometry. A large number of drugs are tested for, including cannabis.

Sample collection for Medico-legal drug analysis

- The donor provides photo identification to the supervisor.
- The donor provides the specimen under direct supervision.
- The supervisor inspects the urine specimen to determine its colour and look for any indication of adulterants or diluents.
- The specimen temperature is taken and should be in the range of 33°C to 38°C.
- The specimen is placed in tamper-resistant bottles.
- The donor signs the seals.

Urinalysis should also be random.

Reporting urinalysis results to court

Urinalysis results should not be reported in court reports unless they meet Australian Standard AS 4308 (collected under direct supervision and

analysed by legally defensible, state-of-the-art techniques).

Where such standards are met, MERIT caseworkers must include **all** urinalysis results in court reports, regardless of whether they indicate reduction/abstinence or not. Caseworkers should provide contextual information in these reports to accurately represent the client's progress through treatment.

MERIT caseworkers must ensure that MERIT clients are informed of, and consent to, the urine drug screen process and that the results of those conducted according to Australian Standard AS 4308 will be reported to the court.

Health and ancillary interventions

The client treatment plan will identify the need for engaging other (non-drug treatment) specialist services for the client during their participation in MERIT. This can include:

- health-related services in the public and private sector, including mental health services such as psychiatric and psychological assessment and interventions, General Practice, specialist medical services, and pre-natal and post-natal services for drug-using pregnant women
- ancillary and welfare services, including vocational and employment services, assistance with housing, family counselling, education and training, child at risk services, disability services or financial counselling/assistance.

Engaging Specialist Services

Awareness of available services

It is important that MERIT workers are familiar with the local agencies and services commonly utilised by MERIT participants, and the specific services provided. For drug treatment services this should include comprehensive knowledge about criteria for acceptance, intake and assessment processes, what the treatment involves and what the client can expect.

It is also helpful for MERIT workers to develop professional relationships with relevant services, for example, through informal contact, attending interagency forums and providing timely information about the MERIT program.

Referral

Specialist health services have their own referral processes and MERIT workers need to refer the client in accordance with these. Generally, referral is initiated by phone with written follow up if required by the referral agency. Some services require the client to make direct phone contact with the service. MERIT workers should assist in facilitating appropriate referral pathways.

Some services will also have an intake and assessment process that will need to be completed prior to acceptance of the client.

Information exchange

Services will generally require relevant client information to be forwarded. The client signs a Permission to Obtain and Release Information Form (Template 3) at the commencement of the program that allows for the provision of referral information.

MERIT workers need to exercise discretion in providing client information as part of referrals and tailor the information according to the particular service. Only information necessary to enable the service to provide assistance to the client should be passed on. For drug treatment service referrals this generally includes information about medication, previous treatment episodes, mental health status (including suicide and self-harm risks) and relevant psychosocial issues. Information about a client's charges or criminal history should never be provided to other services.

Assisting MERIT clients to access other services

MERIT caseworkers play an important role in assisting clients to access other health, welfare and support services. This can include working with the client to prioritise their needs, assistance in navigating the process of referral, advocating on their behalf, assisting them to find information online and generally increasing their capacity to engage with the services they need.

Ongoing communication with specialist services

The MERIT caseworker is responsible for monitoring the client's compliance with the program and reporting on their progress to the court. This requires assertive follow up of clients referred to other services. The MERIT caseworker needs to communicate regularly with relevant staff in regard to attendance and progress to ensure they can report accurately to the court. In some cases MERIT workers request a written report of progress.

Where clients are in an inpatient withdrawal management unit or a residential treatment service, MERIT workers should continue to maintain contact with the client.

For more information about MERIT and residential treatment services please refer to the MERIT Residential Treatment Guidelines.

MERIT Protocols

Management of caseload

At times MERIT Teams may reach the limit of their caseload capacity. It is the responsibility of the MERIT Manager to monitor caseload, notify the court and the magistrate if capacity is reached and to collaborate with magistrates in identifying local procedures for managing the situation. This may include magistrates allowing a longer adjournment period until the situation changes.

Assaults on staff	Local Health Districts have a zero tolerance policy towards violence. Any violence from clients to MERIT staff will be dealt with in accordance with NSW Health Policy.
Mail	Mail addressed to clients care of MERIT must be forwarded or handed to the person. Requests for delivery of mail may come from creditors, the Sheriff's Office, or the participant's solicitor. It must not be certified that the correspondence was delivered, as this could lead to staff being involved in legal action outside of their MERIT role.
Legal enquiries	MERIT staff should direct all enquiries of a legal nature, including subpoenas, to the Manager or the Local Health District Legal Section. Clients' legal enquiries should be directed toward their own legal representatives.
Service of legal documents	MERIT staff must not accept service of legal documents on behalf of clients. Staff should agree only to inform clients of the name and address of the person wishing to serve the documents. Staff must not give any indication of the client's likely response.
Police entry for questioning	Police will exercise discretion in the vicinity of the MERIT office. Where possible, police wishing to question a person at the MERIT office should contact the MERIT Manager by phone in the first instance to discuss the request. If approached by police for assistance, MERIT staff are obliged to cooperate.
Police entry for arrest	Police are entitled to enter any premises in order to make an arrest. MERIT staff should make all reasonable efforts to cooperate with the police. In the event of an investigation of serious charges, staff cannot refuse to be interviewed by police and may need either legal representation and/or support services.
Variation of bail conditions for MERIT clients in a residential treatment facility	Clients attending residential treatment as part of the MERIT program and who have bail conditions related to reporting to police should be advised by the MERIT caseworker to seek a variation of bail conditions through the court. In these instances the court will advise the police, via fax, of the change to bail conditions. The offender should also take their copy of the notice of change of bail conditions to the police station immediately.
Case notes	Ongoing case notes should be recorded on Local Health District's (or NGO's) standard case note forms detailing the significant contacts, intervention strategies, referrals and contact with significant others. The relevant LHD or NGO policies should be followed when recording case notes.

Information management MERIT uses a unique Information Management System specifically designed for use by the MERIT program. The system conforms to the requirements and standards for the major stakeholders in the program (both Health and Criminal Justice). The system ensures confidentiality of client records. Please refer to Section 5 of this Manual for further information about MERIT information management.

Participants' requests for information If a participant requests access to documents or files held by MERIT, staff should, after consulting with the Manager, attempt to assist the participant to obtain as much information as possible outside of the terms of the *Freedom of Information (FOI) Act 1989*.

Requests for court documents should be referred to the relevant court. The court will usually deal with these outside of the terms of the FOI Act and charge a fee per page.

If a participant requests access to documents on a MERIT file where the information concerns a third party, appears confidential, or disclosure may threaten the life, health or safety of any person, the request must be made under the FOI Act. MERIT staff must not supply any documents or comment on the availability of the information to applicants in these cases.

Liaising with other MERIT stakeholders The effectiveness of MERIT is dependent on collaboration between the key stakeholders involved in the program. MERIT Teams are encouraged to develop and maintain relationships at the local level, including with magistrates, police, Legal Aid and private solicitors, and other appropriate service providers. In particular it is important that MERIT staff promote and encourage awareness of the program to potential referrers. These activities are an integral part of a MERIT Manager's role.

Client Transfers

Circumstances requiring transfer Transfer of MERIT clients from one Team to another is required when a client has matters before a local court in a different LHD catchment area to where they reside. Most commonly, this occurs at the time of their referral to MERIT. Less commonly, a client will move to a different LHD catchment area during their MERIT treatment phase.

Transfer at the time of referral The responsibilities of the transferring Team are to:

- process the referral as usual
- conduct the initial interview with the defendant and identify the closest MERIT Team to their place of residence
- if the defendant appears to be eligible and suitable, ring the relevant MERIT Team to check they are taking referrals and to request an appointment for a comprehensive assessment for suitability
- if the referral MERIT Team agrees to accept the referral:

- submit the initial report to the court requesting that if the magistrate determines the defendant is eligible then an adjournment is granted for the required time to attend at the assessment appointment
- provide the defendant with the address and phone number of the MERIT office, the name of the case manager (if known), a map and the appointment time
- enter the information into the MERIT database and generate a Diversion Identification Number for the client
- fax to the other MERIT Team the completed Initial Assessment Form, the Facts Sheet and the Diversion Identification Number
- if the MERIT Team is not in a position to accept the referral:
 - include this information in the Initial Court Report and request that the client not be accepted onto MERIT at this time.

The responsibilities of the referral (receiving) Team are to:

- accept the referral if there is capacity to do so
- provide an appointment time for the client to attend for a comprehensive suitability assessment
- conduct the comprehensive assessment and determine whether the client is suitable for MERIT or not
- if the client is accepted onto the MERIT program by the magistrate at their next court appearance, continue as per any other MERIT client.

Transfer during MERIT treatment phase

The responsibilities of the transferring Team are to:

- contact the relevant MERIT Team to discuss the potential for transferring the client. Issues that will need to be considered include:
 - the client's treatment plan and whether the client will be able to access the agreed treatment from the new location
 - where the client is intending to reside and whether this will enable access to the MERIT office and other treatment, health or ancillary services

Note, consideration of the above issues is particularly relevant when referring to rural MERIT Teams due to issues related to access to services.

If the referral Team agrees to accept the referral:

- make an appointment time for the client to attend at the MERIT office in the new location
 - provide the client with the address and phone number of the MERIT office, a map and the appointment time
 - fax to the other MERIT Team all the client's assessment information, the treatment plan, the Facts Sheet and the Diversion Identification Number.
-

Court reports for transferred clients

Court matters for transferred clients remain with the court of their initial appearance (unless transfer of court matters has been granted through a separate legal process). For transferred clients:

- the MERIT Team responsible for treatment is also responsible for preparing all court reports once the transfer is completed, and ensuring they are submitted to the referring MERIT Team in time for scheduled court appearances. They should also ensure a copy is sent to all appropriate parties at the court of appearance
 - the referring MERIT Team is responsible for coordinating the submission of court reports for transferred clients as per usual processes.
-

Case Management

Key features

All MERIT clients are provided with case management services from a MERIT caseworker throughout their participation in the program.

In line with the NSW Health Drug and Alcohol Psychosocial Interventions Professional Guidelines, the core activities of case management are:

- screening and assessment, including assessment across all factors relating to the client's presentation
- development of a comprehensive, individual treatment plan
- coordination of the implementation of the treatment plan
- facilitation of access to specialist drug treatment for the client
- facilitation of access to other health services, including mental health, hepatology, emergency etc.
- facilitation of access to a broad range of community services
- maintenance of contact with and support for the client
- monitoring progress and outcomes across the treatment plan
- review and revision of treatment plans.

MERIT is a time-limited intervention and a case review should be undertaken as often as is necessary, and midway through the client's participation in MERIT at a minimum, to ensure timely adjustment of any aspect of the treatment plan.

In addition to the above guidelines for general drug and alcohol clients, MERIT caseworkers are responsible for liaising with and reporting to the court on the client's progress and compliance with the program conditions.

Joint Case Management

Shared care

MERIT clients are commonly referred to other services during their participation in the program. This can be for drug treatment (e.g. opioid treatment, residential rehabilitation), other health services (e.g. mental health services) or community services (e.g. housing assistance, financial assistance). At times, MERIT clients are allocated case managers from another agency. MERIT clients may also be involved in other court-based programs. Where this occurs it is important that there is clarity between the two case managers about the role of each agency in the client's treatment and care, and about how care will be coordinated. Such situations are commonly referred to as *joint case management* or *shared care* arrangements.

In some cases, MERIT Teams develop formal written agreements governing the joint case management process. More commonly, arrangements are negotiated and agreed verbally between the case managers.

Principles

Principles underpinning effective joint case management of MERIT clients are:

- a shared understanding about the MERIT program
 - clarity about the client's treatment plan and goals
 - client consent to the shared care arrangements and to relevant information exchange
 - agreement about information to be exchanged
 - clarity about roles and responsibilities of each agency
 - ongoing collaboration and communication about the client's progress
 - agreed processes for managing differences or problems that arise
 - appropriate documentation in regard to all of the above.
-

Roles

MERIT case managers retain a primary case management role for MERIT clients in the majority of cases. Whilst another service may be engaged to provide some aspects of the agreed treatment plan, the MERIT case manager remains responsible for oversight and coordination and for reporting back to the magistrate on client progress. For clients accepted into residential rehabilitation services, the residential agency becomes responsible for the participant's treatment/service interventions and the role of the MERIT case manager is liaison between the residential treatment provider and the court. For more information refer to the *NSW Health MERIT Residential treatment guidelines: a guide for MERIT Teams and residential treatment providers*.

MERIT case manager responsibilities

The MERIT case manager will:

- take responsibility for negotiating joint case management/shared care arrangements as appropriate
- inform other services/caseworkers about the role of MERIT, the responsibilities of the client during participation in the program, and the responsibilities of MERIT caseworkers in regard to their role as officers of the court
- coordinate the client's treatment/service provision whilst in the MERIT program
- undertake all aspects of their role in assisting the administration of justice, including liaison, monitoring and reporting
- provide the partner caseworker with relevant information regarding the client, including that related to identification, drug use, previous treatment and other health and welfare issues. Information about the client's criminal history should not be provided to other services. Information requests related to child protection issues from the Department of Community Services and Child Wellbeing Units (e.g. section 248 Subpoenas, and Chapter 16a) should be referred to the existing Local Health District or NGO channels. No information should be provided between workers without these formal requests
- have ongoing responsibility for monitoring the client's compliance with the agreed MERIT treatment plan, including compliance with treatment provided by other services
- maintain regular contact with the client, including whilst the client is in a residential treatment facility
- liaise regularly with other caseworkers to discuss the client's progress
- be available to assist in problem solving issues that arise for other services in the provision of treatment to the client
- advocate for the client with the other service as appropriate
- inform other caseworkers about their reporting requirements in regard to MERIT clients, including the timing of reports in line with court reports (this can be either verbal or written)
- document relevant aspects of the joint case management/shared care process in the client's case notes
- provide direct treatment interventions to clients such as individual and/or group counselling (although not for clients who are in a residential rehabilitation facility).

Responsibilities of non-MERIT caseworkers

When providing treatment to MERIT clients it is important that other services understand responsibilities that may apply to these clients, in addition to those for non-MERIT clients. Joint case managers are expected to:

- provide information on the client's progress and compliance to the MERIT caseworker at agreed times during the treatment process
- inform the MERIT caseworkers if a client fails to attend or leaves

- a residential or inpatient facility before treatment completion
 - if the client is in a residential or inpatient facility, allow the MERIT case manager access to the client when requested.
-

Court Reports

Court reports required

Reporting on a participant's progress to the court is an important responsibility of MERIT caseworkers. Court reports are required to be submitted to the magistrate at various stages throughout the defendant's participation in MERIT. Court reports fall into the following categories:

- Initial Court Report
 - Comprehensive Assessment Court Report
 - Progress Court Report
 - Final Court Report
 - Non-Compliance with Program Conditions Court Report
 - Voluntary Withdrawal Court Report.
-

Vetting reports

Court reports should be vetted before submission to the court by the MERIT Manager (or their delegate) to ensure consistency and quality.

Style of court reports

MERIT reports are 'hearsay evidence', in that they are a compilation of information from various sources and an assessment based on that information. Where information has not been verified the report should indicate this.

The court is entitled to accurate information on the defendant. In turn, the defendant is entitled to object to any evidence that is not relevant to the matter before the court. Expression of personal opinion is not appropriate.

Court reports should:

- be clear, succinct and relevant
- be written in the third person
- be honest, factual and objective, outlining what the client has or has not done, and including both positive and negative aspects of client progress
- make it clear when statements are verified, for example, 'Attendance at an opioid treatment clinic was confirmed through.....'
- make it clear when information is unverified, for example, 'The client states/reports that...'
- use plain English that the client is likely to be able to understand
- avoid technical or specialist terminology.
- include personal medical or health information only where appropriate and with the consent of the client.

Court reports should not:

- include personal opinions or judgments
- read as a plea for leniency
- use the client's first name
- use the names of associates or family members
- name places of employment
- use the words 'appears to be'; rather, use 'as evidenced by'
- make suggestions or recommendations in regard to sentencing
- use colloquialisms
- use abbreviations such as 'he can't' instead of 'he cannot'
- include past information that is not relevant to current circumstances, for example, information about past trauma that has no bearing on current issues
- report a history of sexual abuse of the client without their consent
- name the alleged perpetrator if reporting sexual abuse
- give the impression that the author has expertise in an area where they have no formal qualifications.

Presentation of reports in court

The original (plus two copies) of court reports are provided to the court at least one day prior to the court date. Reports should only be faxed to court as a last resort and by arrangement with the court, ensuring an appropriate level of client confidentiality is maintained.

Copies of reports should be provided to the participant's solicitor and are also to be placed in the client's case notes.

Caseworkers are not normally required to appear in court in person.

Information common to all court reports

All reports to the court need to include the following summary information:

- defendant information (Name, DOB, identifier number)
- offence/s (as outlined on the Police Facts Sheet)
- court information (date of appearance and court location)
- referral source and date
- name and contact details of the MERIT worker completing the report
- signature of MERIT worker and date.

Initial Court Report

The MERIT worker submits an Initial Court Report to the court following the first interview with the defendant.

The purpose of the Initial Court Report is to:

- provide the magistrate with information to assist in determining eligibility; and
- request an adjournment to allow eligible and potentially suitable defendants to attend MERIT for a comprehensive assessment; or

- suggest that defendants deemed ineligible/unsuitable are not accepted onto the program.

The Initial Court Report should be a maximum of one page (see Template 4 in Appendix 1).

Comprehensive Assessment Court Report

The Comprehensive Assessment Court Report is submitted following the comprehensive assessment of the defendant by the MERIT worker.

The purpose of the Comprehensive Assessment Court Report is to:

- inform the magistrate of the defendant's suitability (or not) to participate in the MERIT program.

For suitable defendants, to:

- inform the magistrate that the defendant has given informed consent to comply with program conditions and their agreed treatment plan
- outline the key components of the defendant's proposed treatment plan
- request a further adjournment in order to commence treatment
- if the defendant is to undertake treatment in a residential rehabilitation service, suggest that they be excused from attending at the next scheduled court appearance date, if appropriate.

For unsuitable defendants, to:

- inform the magistrate of the reason(s) for their unsuitability.

The Comprehensive Assessment Court Report should be a maximum of one page (see Template 5 in Appendix 1).

Progress Court Report

Progress Court Reports are provided to the magistrate during the treatment period on adjournment dates, commonly within four to eight weeks of commencement on MERIT. The frequency of court appearances is determined by the magistrate, but there is usually at least one scheduled appearance to report on progress.

The purpose of the Progress Court Report is to:

- provide a brief summary outlining the client's attendance and compliance with the agreed treatment plan
- highlight any major concerns
- request an adjournment in order for the client to continue treatment.

The Progress Court Report should be a maximum of one page (see Template 6 in Appendix 1).

Final Court Report

The Final Court Report is completed at the end of the client's 12-week participation in MERIT program and submitted to the court on the final court appearance date.

The purpose of the Final Court Report is to provide information to the magistrate to assist in the sentencing proceedings. This includes

information about the client's overall compliance and progress with their drug treatment plan, psychosocial issues, discharge planning and any ongoing treatment or referrals agreed to by the client.

The Final Court Report should be a maximum of three pages (see Template 7 in Appendix 1).

Non-Compliance with Program Conditions Court Report

Participants are expected to comply with MERIT program conditions. Where participants are not complying with the MERIT program (see 'Non-Compliance with Program Conditions' below), the MERIT caseworker will advise the court of this in a Non-Compliance with Program Conditions Court Report.

The magistrate then decides whether the client should continue on the program, or whether the client should be removed from the program and the matter proceed to plea or hearing.

The Non-Compliance with Program Conditions Court Report should be a maximum of one page (see Template 8 in Appendix 1).

Voluntary Withdrawal Court report

A Voluntary Withdrawal Court Report is submitted to the court if a client decides to withdraw from the program and informs the MERIT worker of this decision.

The purpose of this report is to:

- inform the magistrate that the client has chosen to withdraw from MERIT, and the date of the decision
- allow the magistrate to formally remove the client from the program.

The Voluntary Withdrawal Court Report should be a maximum of one page (see Template 9 in Appendix 1).

Non-Compliance with Program Conditions

Reporting non-compliance to the court

Participants are expected to comply with MERIT program conditions. When MERIT caseworkers identify serious issues related to a client's compliance with those conditions, this will be reported to the court.

Determining non-compliance

Determining at what point a Non-Compliance with Program Conditions Court Report is warranted is a matter of clinical judgment on the part of the MERIT staff based on agreed factors. There are three primary reasons for reporting non-compliance:

Sustained non-attendance, demonstrated by:

- The client has missed a number of consecutive appointments with their MERIT case manager and/or other treatment or service providers.

- The client has been consistently late for scheduled appointments.
- The client has not attended and cannot be contacted by the MERIT case manager.

Non-compliance with the treatment plan

At the commencement of the program the client signs a Treatment Agreement undertaking to participate in a mutually agreed upon tailored treatment program. The client will be subject to a Non-Compliance with Program Conditions Court Report if they develop a pattern of non-compliance with this plan. This can include non-compliance with particular aspects of the plan, for example, leaving a residential rehabilitation facility, or if urinalysis results are repeatedly inconsistent with client reports of reduction or abstinence.

Incidents of aggression or violence towards staff or damage to MERIT property

Clients agree to abide by a code of non-violent behaviour in signing their Treatment Agreement. If there are safety concerns related to a client’s aggressive or violent behaviour towards staff, or there has been damage to the MERIT premises, this will result in a Non-Compliance with Program Conditions Court Report to the court.

In the event that any of the above circumstances occur, the MERIT worker MUST submit a Non-Compliance with Program Conditions Court Report to the magistrate. It is then up to the discretion of the magistrate whether to continue the participant on the program or not.

Where possible, MERIT workers should inform clients if they are at risk of being reported due to attendance or compliance issues.

Decisions re: non-compliance

In determining whether any of the above non-compliance conditions apply (leading to submission of a Non-Compliance with Program Conditions Court Report) consultation should occur with the MERIT Manager and/or the MERIT Team as part of usual clinical case review processes.

The decision should take into account the client’s behaviour and the relevant events and facts. Questions to consider are:

- On how many occasions has the client attended MERIT appointments and how many sessions have been missed?
- What attempts has the client made to contact MERIT?
- What attempts have MERIT made to contact the client?
- What (if any) are the other key issues related to non-compliance with the treatment program?
- What attempt has MERIT made to follow up on the client’s progress with agreed treatment?
- Are there extenuating circumstances that may be influencing the client’s involvement in treatment (e.g. children, homelessness, mental health issues, domestic violence, threats or transport)?
- Does the client claim to have left messages that have not been

communicated to MERIT, and has this been investigated?

- What documentation has occurred and does the information adequately represent and detail the relevant events?
- Is reporting reasonable under the circumstances?

A decision needs to be made about how the client will be informed that they are to be reported for non-compliance, and the need for any risk management strategies to be put in place if there are concerns regarding safety for the client or staff.

Informing the client

If possible, the client should be informed in person of the decision to submit a Non-Compliance with Program Conditions Court Report. However, where there are issues of distance, personal risk or safety concerns, notification should occur by phone or in writing.

The reasons for the non-compliance report are to be given to the client in clear, objective language.

If written communication to the client is required, the notification will be signed by the MERIT Manager or their delegate.

Where possible, clients will be given information about alternative treatment or support that may be available outside the MERIT program.

Informing the court

Once a decision has been reached, the MERIT case manager must prepare a Non-Compliance with Program Conditions Court Report and submit to the court as soon as possible.

Additional steps

The MERIT Manager or their delegate should also inform the client's solicitor (if they have one).

Bail conditions other than MERIT

It should be noted that MERIT caseworkers are not responsible for monitoring bail conditions other than those related to MERIT, and need not have knowledge of any additional bail conditions. However, should caseworkers have this knowledge and become aware of a breach, they should notify the relevant authorities as soon as possible.

Completion of MERIT

Standards for completion

Clients complete the program if they are compliant with the program conditions for the 12 weeks duration. Evidence of compliance is:

- a good attendance record throughout the 12 weeks
- substantial progress towards the treatment goals set out in the client agreement
- reduction or cessation of drug use
- a sustained level of engagement.

Should a client appear to have achieved their treatment goals prior to 12 weeks it is recommended they remain on the program for its full duration.

Client's level of achievement

The extent to which clients meet the required standards for completion varies, with some achieving the minimum standards required of their treatment plan and others exceeding expectations. On sentence, the successful completion of the program is a matter of some weight to be taken into account in the defendant's favour. To assist the magistrate with this, the Final Court Report will outline the relevant facts related to the client's progress, compliance and achievements, with particular reference to:

- their past and current substance use
- relevant psychosocial information
- the treatment plan and progress towards the treatment goals
- their attendance record and level of engagement.

Some MERIT Teams provide clients with a certificate of completion.

Exit from MERIT

Discharge planning

It is important that discharge planning occurs for MERIT clients. MERIT is a time-limited intervention and in many cases clients will have some ongoing needs once they exit the program, for example, associated with their drug use or other health and welfare matters.

The client treatment plan identifies the range of issues the client agrees to work on during the MERIT program. The need for referral to services outside MERIT should be considered throughout the assessment and treatment phase in response to the presenting issues and the treatment plan. Ideally, MERIT clients will already have accessed other services during the 12-week program and can continue to access these services if required once they have exited from MERIT.

Towards the end of the 12 weeks, MERIT workers should review the client's case and discuss with the client issues related to:

- relapse prevention
 - the need for ongoing drug treatment, including counselling and/or other interventions
 - ongoing support needs
 - the range of presenting issues identified at the commencement of the program and whether any of these require ongoing attention
 - the need for referral to other services for ongoing treatment or support. Referrals to other agencies should be negotiated between the case manager and the client dependent on the client's needs.
-

SECTION 5
MERIT INFORMATION
MANAGEMENT SYSTEM

MERIT INFORMATION MANAGEMENT SYSTEM

MERIT Information Management System

The MERIT Information Management System (MIMS) is a unique database specifically designed for use by the MERIT program.

The MERIT Information Management System:

- provides for the collection of a data set for the MERIT program that conforms with requirements and standards of the major stakeholders in the program (both Health and Criminal Justice)
- ensures confidentiality of all participants' records
- contains sufficient and appropriate information to:
 - identify the participant
 - detail the assessment and treatment phases of his/her MERIT intervention
 - document progress and health outcomes
 - record relevant information relating to the participant's involvement with the police and with the courts
- is required to be used and maintained by all agencies providing the MERIT program (whether the agency is community health-based, hospital-based or an NGO)
- provides useful local reporting facilities to MERIT Teams to help in monitoring and managing their team and individual caseloads and LHD reporting requirements
- is integrated into a statewide data collection and reporting system (via quarterly uploads of de-identified records to a centralised statewide database) which minimises the need for MERIT Teams to provide reports to various stakeholders at state and Commonwealth level.

Database support and maintenance

MIMS is maintained and supported centrally at a statewide level by the MERIT Database Manager. All enquiries regarding access, database training, database documentation, data extracts, standard and ad hoc reporting or any database-specific issues should be directed to this position.

Data Collection Guidelines

Data collection guidelines

Data for entry into MIMS is collected by the MERIT Team officers from a variety of sources at different times. This section outlines the general tasks involved with collecting data from each source at each phase of the program. The main categories are:

- Referral, Initial and Comprehensive Assessment Data
- Police Data and Court Data, including court appearance dates
- Health Data, including Health Outcome Indicators
- Program Exit and Treatment Cessation Data.

For more detailed information on sources, particular data items and data quality, refer to the MERIT Data Dictionary and Collection Guidelines and MIMS User Guide and associated documentation (appendices, supplements etc.).

**Referral,
Initial and
Comprehensive
Assessment
Data**

The available details of any person officially referred to the program (e.g. by the Police, court, Probation and Parole etc.) or any person for whom an assessment appointment is made must be recorded in the database, even if they do not later present to the MERIT Team to continue the assessment process.

Where a caseworker carries out the initial assessment of a client, all information gathered is entered onto the associated MERIT templates/forms. Local file handling procedures may vary, but essentially this information should be made available for immediate entry into MIMS. Keeping data collection as up-to-date as possible ensures the database is useful for caseload monitoring and management, ad hoc queries and regular uploads to the statewide database.

**Police Data &
Court Data**

The MIMS database also requires information contained in documents that can be sourced from the NSW Police Force or the local court that pertain to the client's court matters, current criminal charges and prior involvement with the justice system, where appropriate. Relevant source documents may include 'Charges and Facts Sheet' and bail papers. These may contain more detailed information regarding the client's current charges, than that self-reported by the client.

Police/Court Data is usually retrieved at court by the MERIT caseworker at the client's first court appearance, but MERIT Teams may devise other arrangements locally with court/Police administration to obtain this information.

For confirming upcoming court appearance dates for MERIT clients, some Teams may obtain access to the JusticeLink computerised court record system, while others rely on the court providing court listings or faxing client-specific forms back to the MERIT Team.

All clients accepted onto the MERIT program must have the Police Identifier (CNI) recorded and, where the system allows, the JusticeLink number.

Health Data

Health-related information is obtained from the client by the MERIT caseworker at their first assessment and is entered onto the appropriate form/template for entry into the MIMS database. This health information includes the client's previous treatments and details of drug use history. Specific health outcome indicators incorporating drug use frequency/quantity, risk behaviour, mental distress levels and social functioning are collected at (or shortly after) assessment and again shortly before the client completes the program for comparison.

The commencement of residential treatments provided to MERIT clients

should be promptly recorded to allow for reporting on MERIT bed utilisation.

Diagnostic test data (such as drug screen test dates and other test results) may also be recorded in MIMS.

**Program Exit/
Treatment
Cessation
Data**

Program Exit Data is to be recorded for all clients. When the MERIT Team has deemed the client to have completed the program or the client will not continue, the Program Exit Data must be entered promptly to ensure adequate reporting standards are maintained. This includes the following:

- Program Exit Date (date of the final report to court)
- Program Exit Status (Completed, Non-Compliance, Withdrew, Never entered program etc.).

At program cessation, the following information may also be entered:

- Main Service Provided by the Team
- Other Services Provided by the Team
- Services Provided by External Services during the client's MERIT episode
- Referrals to Other Services (the principal service that the client is referred to at program exit)
- All Occasions of Service (contact dates)
- All Minimum Data Set information not yet already recorded (see Minimum Data Set section for details).

Program exit details should be entered within three working days of the client's exit from the program; or where the client has finalised the assessment phase and does not continue to participate in the program, within three days of that decision.

Other information regarding the client can be added or existing information may be edited, with care, after cessation.

**Team
involvement
and feedback
to data entry
personnel**

It is important that the whole MERIT Team utilises the data recorded electronically in MIMS in order to ensure that the data is reliable and as current as possible.

Database-generated reports (such as the Pending/Current Client List) should be utilised in team caseload monitoring procedures on a regular basis (weekly at team meetings is recommended). Other reports such as Exit Lists and Residential Agency Reports should be reviewed regularly by Managers/Team Leaders to check on operations and that data is as complete and current as possible. Health outcome indicator reports can also be printed after data entry for insertion into client files and review by caseworkers.

Minimum Data Collection

National Minimum Data Set All Australian states and territories have agreed to collect a defined set of treatment data items when clients enter drug and/or alcohol treatment services to comprise the Alcohol and Other Drug Treatment Services (AODTS) National Minimum Data Set (NMDS).

Overview of NSW Minimum Data Set The Drug Summit held in NSW in 1999 endorsed the collection of a data set of treatment items that are essentially those defined by the National Minimum Data Set, though with some additional items.

The intention of the NSW Drug Treatment Data Collection (known as the 'Minimum Data Set') is to guide planning and assist in improving the quality of drug treatment service provision within NSW.

The NSW Minimum Data Set consists of approximately 35 separate items to be collected at the beginning of, during, and upon cessation of treatment. Data is submitted monthly.

The data consists of a broad range of items relating to:

- administrative data items that describe the function and location of the collection agency
- social and demographic items about the client
- items describing the drug use of the client
- items related to the service provided to the client.

The collection of the MIMS items will satisfy the requirements of both the National and NSW Data Sets.

Provision for reporting the Minimum Data Sets MIMS includes provision for detailed reporting of the Drug and Alcohol Minimum Data Set locally by MERIT Teams. Details of how to produce the Minimum Data Set for each Local Health District are provided in the MIMS User Manual.

Frequency of data collection All drug treatment agencies reporting to NSW Health are required to submit a complete set of the Drug and Alcohol Data to the Local Health District Data Coordinator for every completed treatment episode. Data is submitted monthly. An additional submission of the Drug and Alcohol Minimum Data Set is required annually.

Data submission to DAGJ and Commonwealth Each quarter approximately 150 MIMS data items are submitted to the Department of Attorney General and Justice to inform reporting and monitoring and research activities.

Similarly, the statewide MERIT database also provides for the requirement of the MERIT program to report regularly to NSW Health. Reports are sent by the Database Manager through the Mental Health Drug and Alcohol Office, NSW Health.

SECTION 6

APPENDICES

APPENDIX I: MERIT TEAM STANDARD TEMPLATES

TEMPLATE 1: INITIAL ASSESSMENT FORM (TEAM USE ONLY)

MERIT Initial Eligibility and Suitability Assessment Form

Name:
DOB:
CNI number:
Address:
Phone number:
Medicare number:
Referred to MERIT Team by:
Referral date:
Current charges:
Assessment conducted by:

Checklist:

[tick as relevant]

- Is an adult
- Is using drugs or has a history of drug use
- Has a treatable drug problem
- Voluntarily consents to participate in MERIT
- Usually resides in the defined catchment area (or has sufficient connection to the area, for example, has full-time employment in the area).

Other information:

Drug use:

Accommodation/employment:

Involvement of other services/providers:

Risk of self-harm or suicide:

Appears eligible and suitable (magistrate to confirm eligibility):

- Yes
- No – provide reason:

Case manager:
Assessment date and time:
Next court date:
Court:

TEMPLATE 2: MERIT TREATMENT AGREEMENT

Name: _____ **DOB:** _____

Address: _____

Case manager: _____ **Date:** _____

I, _____ agree to participate in the **MERIT program which includes a tailored treatment program made by mutual agreement with my case manager.**

I understand that:

- The MERIT program has a three-month treatment phase.
- At any time I can voluntarily withdraw from the program.
- My treatment may include:
 - appointments with my MERIT case manager on a weekly basis
 - individual counselling
 - other drug treatment programs as agreed to in my treatment plan (for example, withdrawal management and/or residential rehabilitation, attendance at groups).
- Urinalysis is not mandatory but used at the MERIT caseworker's discretion as a clinical tool to assist treatment. I may be required to undertake urine drug screening throughout the program and, if conducted according to Australian Standard AS 4308, the results of these urine drug screens will be reported to the court.
- Information I share with my MERIT case manager is confidential except for the requirement to report regularly to the court and the legal obligations pertaining to mandatory notification.
- My court matters will be adjourned a number of times (usually three) to allow the MERIT Team to report on my progress and attendance to the magistrate.
- I will be required to attend court at each adjournment unless the magistrate has agreed that my solicitor will represent me in my absence.
- If I do not comply with the program as set out in this agreement the court will be notified and I may be removed from the program.
- If I display aggressive or violent behaviour towards MERIT staff or damage MERIT property the court will be notified and I may be removed from the program.
- If I voluntarily withdraw or I am removed from the program my legal matters will proceed and I will not be penalised for any failure to respond to drug treatment.

- Information that does not identify me will be used for the ongoing monitoring and evaluation of the MERIT program.

I accept the following program conditions:

I will:

- Work towards my treatment goals.
- Attend individual appointments on time and as required.
- Notify my case manager in advance if I am unable to attend an appointment.
- Follow all reasonable directions of the court and my MERIT case manager.
- NOT attend MERIT appointments under the influence of drugs or alcohol.
- Inform my case manager of any change of address or contact numbers.
- Inform my case manager of any medication prescribed to me by a doctor.

AGREEMENT

Case manager

I have explained the terms and conditions of this undertaking to the participant and answered all questions by the participant concerning his/her entry and participation in the MERIT court program. I have explained to the participant the consequences of entering the MERIT court program, including successful completion and failure on the program.

Participant

I have received a copy of this undertaking. It has been explained to me and I understand it.

MERIT court participant	_____	Date: / /
MERIT case manager	_____	Date: / /

This authorisation remains current for the full term of my participation in the MERIT program.

Copy given to client: Yes No Reason:

TEMPLATE 3: PERMISSION TO OBTAIN AND RELEASE INFORMATION

CLIENT'S PERMISSION TO OBTAIN AND RELEASE INFORMATION FORM

Surname: _____

Given names: _____ DOB: _____

Address: _____

I agree that the information I provide to the MERIT Team during the course of this assessment and my treatment may be used to:

1. Provide a report to the relevant local court for the purpose of my progress.
2. Formulate a treatment plan to address my substance use.
3. Formulate a treatment plan to address any psychiatric/medical issues.
4. Arrange a referral to another service, if necessary. For example, any drug treatment service, medical practitioner, psychiatric or psychological service.
5. Provide and obtain information regarding my opioid treatment to and from my opioid treatment prescriber.
6. Permit research and evaluation by the MERIT program (including follow up contact by independent researchers who will be given my contact details).

By signing this authority I authorise the MERIT Team to obtain and provide information relating to me from any drug treatment service, the NSW Police Force, medical practitioners, psychiatric or psychological services, Justice Health, Probation and Parole, Department of Community Services, Department of Housing, any courts that I am required to appear before, and information regarding payments made to me by Centrelink.

If during the course of the present assessment or at any time during my treatment program I provide information to the MERIT case manager which leads him/her to have serious concerns for either my own or someone else's welfare, I understand that the MERIT case manager may have to notify appropriate authorities.

Client signature: _____ Date: _____

Case manager name: _____ Position: _____

Case manager signature: _____ Date: _____

This authorisation remains current for the full term of my participation in the MERIT program.

- Copy given to the client.

TEMPLATE 4: INITIAL COURT REPORT

MERIT Confidential Court Report

Name:
DOB:
Identity number[s]:
[e.g. JusticeLink]
Next court date:
Court:
Magistrate:
Offence/s:
Referred to MERIT Team by:
Referral date:

[*client name*] was interviewed on [*date*] by a MERIT case manager.

The initial interview indicates that the defendant [*tick as relevant*]:

- Is an adult
- Is using drugs or has a history of drug use
- Has a treatable drug problem
- Voluntarily consents to participate in MERIT
- Usually resides in the defined catchment area (or has sufficient connection to the area, for example, has full-time employment in the area).

Based on this information:

[*Either*]

The MERIT Team requests that the magistrate determine the client's eligibility for the program. If deemed eligible, an adjournment of [*1, 2 or 3 weeks*] is requested to enable a comprehensive assessment to be undertaken to establish suitability for the program.

[*or*]

The defendant does not appear to be eligible for the program in that [*provide reason*]. Should the magistrate concur with this, the MERIT Team requests that the defendant is not accepted onto the program at this time.

Please contact me on [*telephone number*] if any further information is required.

Signature:

Case manager:

Date:

TEMPLATE 5: COMPREHENSIVE ASSESSMENT COURT REPORT

MERIT Confidential Court Report

Name:
DOB:
Identity number[s]:
[e.g. JusticeLink]
Next court date:
Court:
Magistrate:
Offence/s:
Referred to MERIT Team by:
Referral date:

[Either]

[insert name] was assessed for suitability on [date] by a MERIT case manager. [He/She] was assessed as suitable and has given their consent to participate in the program.

Brief summary of:
[drug use history and current drug use]
[past and current drug treatment]
[components of the treatment plan]
[client's stated motivation to participate in drug treatment]

Mr/Ms [insert name]'s next appointment with MERIT is on [date].

If accepted onto the program, an adjournment of [4 to 8 – state number required] weeks is requested to implement the treatment plan, at which time a progress report will be submitted.

[or]

[insert name] was assessed for suitability on [date] by a MERIT case manager. [He/She] was assessed as not suitable for the program due to [insert reason/s]. The MERIT Team requests that they are not accepted onto the program at this time.

Please contact me on [telephone number] if any further information is required.

Signature:

Case manager:

Date:

TEMPLATE 6: PROGRESS COURT REPORT

MERIT Confidential Court Report

Name:
DOB:
Identity number[s]:
[e.g. JusticeLink]
JusticeLink number:
Next court date:
Court:
Magistrate:
Offence/s:
Referred to MERIT Team by:
Referral date:

[*insert name*] was accepted onto the MERIT program on [*date*] and has been undergoing treatment for [*x*] weeks.

Brief summary of:
[*the primary drug problem identified at assessment*]
[*attendance and punctuality record*]
[*progress towards treatment goals and, if relevant, any major concerns*]
[*any adjustments to the treatment plan*]

An adjournment of [*x – state number*] weeks is requested to enable Mr/Ms [*insert name*] to continue with their treatment, at which time a further report will be presented to the court.

Please contact me on [*telephone number*] if any further information is required.

Signature:

Case manager:

Date:

TEMPLATE 7: FINAL COURT REPORT

MERIT Confidential Court Report

Name:
DOB:
Identity number[s]:
[e.g. JusticeLink]
JusticeLink number:
Next court date:
Court:
Magistrate:
Offence/s:
Referred to MERIT Team by:
Referral date:

Please allow this to serve as the Final Report for Mr/Ms [insert name] who was accepted onto MERIT on [insert date] and has now completed the program.

Sources of information

[insert a list of the sources of information used in preparing the report]

Substance use history

[insert information about the defendant's past and current substance use, type and quantity of drugs used and level of use on entry to MERIT and on completion]

Psychosocial information

[insert relevant information related to issues such as housing, employment, relationships, education, family and mental health]

Treatment plan

[insert summary information about the initial plan and any subsequent changes or amendments agreed upon]

Implementation of the treatment plan

[insert information about the participant's progress towards treatment goals, their commitment to the program, appointments kept, general engagement, attendance at other groups or services, completion of homework]

Post MERIT plan

[insert discharge planning information, including any planned ongoing treatment, referrals to other services and relapse prevention strategies as agreed with the client]

Summary

[insert brief paragraph summarising the client's overall compliance and progress throughout their MERIT participation]

Mr/Ms [insert name] has completed MERIT. We would like to thank the court for their support in this matter. No further reports will be tendered unless otherwise requested by the court.

Please contact me on [telephone number] if any further information is required.

Signature:

Case manager:

Date:

TEMPLATE 8: NON-COMPLIANCE WITH PROGRAM CONDITIONS COURT REPORT

MERIT Confidential Court Report

Name:
DOB:
Identity number[s]:
[e.g. JusticeLink]
Next court date:
Court:
Magistrate:
Offence/s:
Referred to MERIT Team by:
Referral date:

[*insert name*] was accepted onto the MERIT program on [*insert court date*]. As part of the MERIT assessment process Mr/Ms [*insert name*] signed a MERIT Treatment Agreement outlining his/her responsibilities whilst participating in the MERIT program.

Mr/Ms [*insert name*] has failed to accept their responsibilities under the terms of that agreement in that [*insert information pertaining to the lack of compliance*].

It is therefore requested that Mr/Ms [*insert name*] be removed from the MERIT program and that the MERIT bail conditions are removed.

Please contact me on [*telephone number*] if any further information is required.

Signature:

Case manager:

Date:

TEMPLATE 9: VOLUNTARY WITHDRAWAL COURT REPORT

MERIT Confidential Court Report

Name:
DOB:
Identity Number[s]:
[e.g. JusticeLink]
Next court date:
Court:
Magistrate:
Offence/s:
Referred to MERIT Team by:
Referral date:

[*insert name*] was accepted onto the MERIT program on [*insert court date*]. As part of the MERIT assessment process Mr/Ms [*insert name*] signed a MERIT Treatment Agreement outlining his/her responsibilities whilst participating in the MERIT program.

Mr/Ms [*insert name*] would like to voluntarily withdraw from the program.

Please remove Mr/Ms [*insert name*] from the MERIT program as of today's date and remove any bail conditions relating to MERIT.

Please contact me on [*telephone number*] if any further information is required.

Signature:

Case manager:

Date:

APPENDIX 2: NSW POLICE MERIT FIELD REFERRAL FORM

NSW Police Force MAGISTRATES EARLY REFERRAL INTO TREATMENT (MERIT) FIELD REFERRAL FORM

OFFENDER DETAILS

Last Name		Given Name/s	
Gender	Date Of Birth	Address	
	/ /		
Home Phone	Mobile Phone		Postcode

REFERRING OFFICER DETAILS

Name of Officer		Rank	
Registered Number	Phone/Eaglenet	Station	

Offence Details

REFERRED TO MERIT TEAM DETAILS

Name of Merit Team	Phone	Fax

Is this a RAD (Rural Alcohol Diversion) Referral? (Please tick) Yes No

Authority for exchange of information between NSW Police Force and Merit

I have been informed of the Aims and objectives of The Merit Program. I authorise NSW Police to provide this Referral Notice to The NSW Department Of Health Merit Team. I understand that the information provided will not be used for any purpose other than referral to, and assessment of my eligibility for, The Merit Program.

Signature Of Offender Date

Signature Of Police Officer Date.....

Please fax this Merit Field Referral Form to The Merit Office identified above (Merit Team Details are listed on the insert in this folder)

Remember to enter this Referral on The Cops System upon your return to the Station/LAC and fax It to The Merit Team identified above.

APPENDIX 3: ABORIGINAL PRACTICE CHECKLIST

To access a PDF copy of the Aboriginal Health and Medical Research Council document **Aboriginal Practice Checklist: A Cultural Assessment Tool for MERIT Teams** use the following link:

http://www.health.nsw.gov.au/pubs/2010/pdf/aboriginal_practice_check.pdf