

THE MAGISTRATES EARLY REFERRAL INTO TREATMENT PROGRAM EVALUATION AND 'REAL WORLD' CHALLENGES

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MERIT PAPER “Evaluation and Real World Challenges”

Overview slide

Goodmorning.

This morning I am going to present an overview of the Magistrates Early Referral Into Treatment Program, an **innovative** drug-crime diversion initiative **currently** being implemented by the NSW Attorney General’s Department in partnership with other agencies from the health and criminal justice sectors.

In particular, I will present an overview of our current monitoring and evaluation strategy which assists and guides us to **monitor** MERIT progress, and, to **evaluate** whether the program is achieving its key objectives.

In developing and implementing this strategy we have faced a number of challenges which I would like to share with you today. In addition, I will present some of our **key achievements** to date.

Background

Following the NSW Drug Summit in 1999 the NSW Government committed to a range of drug-crime diversion initiatives.

The MERIT program is one initiative that responds to the recommendations of the NSW Drug Summit. In addition, MERIT was one of the outcomes of the Council of Australian Government (COAG) meeting on drugs held in 1999. This meeting agreed to a national approach on diversion of drug offenders into treatment programs

MERIT is funded under the Illicit Drug Diversion Initiative Agreement 2003-2007 which is an agreement between both the NSW and Australian Government.

MERIT is part of a continuum of drug diversion treatment options offered in NSW today. Other drug crime diversion programs include the Adult Drug Court, the Youth Drug and Alcohol Court, the Cannabis Cautioning Scheme, and, the Rural Alcohol Diversion Pilot program.

What is MERIT?

MERIT is a local court based drug crime diversion program that allows defendants with illicit drug use problems to undertake treatment and rehabilitation as part of their bail.

It operates at the **pre plea** stage of the court process and is designed to divert adults into drug treatment at an early stage in the legal process.

MERIT is an inter-agency initiative between the health and criminal justice sectors. Partner agencies include the Attorney General's Department (as lead agency), NSW Health and NSW Police.

MERIT is guided by a Local Court Practice Note and operates under the NSW Bail Act of 1978.

What is MERIT

Participation in the MERIT program is voluntary and subject to approval by the Magistrate

If approved, MERIT clients participate in an intensive 3 month drug treatment and case management program.

Magistrates may take program completion into account when determining an offender's final sentence.

The Program Objectives

There are 4 main program objectives of MERIT, these include :

- To decrease drug related crime for the duration of the program, and, post program completion
- To decrease illicit drug use for the duration of the program, and, post program completion
- To increase community protection, and, to have
- Sentences that better reflect the rehabilitative prospects of offenders

MERIT Screening Criteria

The MERIT assessment is a two phased process. The first phase of assessment involves an eligibility screen.

To be eligible for MERIT, a defendant:

- must be an adult
- must be eligible for release on bail
- must have a treatable illicit drug problem, and,
- must give informed consent to participate

If eligible, a short adjournment will take place to enable the MERIT team to assess whether the defendant is **suitable** for the program.

Suitability involves:

- a comprehensive assessment being made by the MERIT team to assess issues associated with offending.
- It covers drug use and associated problems, family relationships, the clients social situation, legal issues, health issues including mental health, motivation for change, and potential to engage in treatment.

If the defendant is deemed to be **both** eligible and suitable for the program, the MERIT worker will develop a comprehensive case plan for the defendant which addresses their needs.

MERIT Exclusions

There are a number of reasons why a person may be deemed ineligible for MERIT. Exclusions criteria includes:

- defendants with current or outstanding serious violent or sexual offences
- defendants charged with strictly indictable matters
- defendants on other court ordered treatment programs

MERIT Treatment

During the bail period defendants undertake treatment as required and are case managed by their MERIT caseworker

Progress reports are provided to the court throughout the process to inform the Magistrate as to the defendant's progress in treatment.

Magistrates are encouraged to undertake an increased level of judicial supervision as a core element of the MERIT program. This allows the Magistrate the opportunity to offer encouragement where appropriate, and, if a defendant is not progressing according to their plan, judicial supervision can emphasise the consequences of non-compliance.

The greater involvement of the judiciary and the individualised nature of this judicial voice are consistent with the philosophy of therapeutic jurisprudence where a court's potential to facilitate therapeutic outcomes for defendants is encouraged alongside the carriage of justice.

A range of health and welfare services may be provided to meet the complex needs of MERIT participants. Participants are matched to appropriate illicit drug treatments including:

- detoxification,
- counselling,
- pharmacotherapies
- residential rehabilitation,
- community outpatient services, and
- case management.

Program Non compliance

The completion of MERIT generally coincides with the final hearing and sentencing of the defendant, with a final report containing ongoing treatment recommendations provided by the MERIT team.

If a defendant commits further offences or fails to attend MERIT they will return to court and progress through the justice process as usual.

As an "opt-in" program, participants may withdraw from MERIT or decline to participate and have their case determined by the Magistrate without prejudice.

MERIT implementation

MERIT commenced as a pilot program in Lismore in 2000, and, is now available at 54 local courts covering 75% of the local court population.

MERIT is delivered by 17 MERIT located across each of the 8 Area Health Services.

MERIT Statistics

At the end of September 2005:

- there had been 8797 referrals to the program,
- 5212 acceptances to the program, and,
- 2941 completions.

The majority of MERIT participants are:

- males aged on average at about 28 years old.
- non-Aboriginal (83%)
- not married (75%)
- unemployed (86%),
- born in Australia
- have spent time in jail (53%), and,
- have a highest educational level of Year 10 (74%),

MERIT Statistics

The primary referral sources to MERIT are Magistrates and Solicitors. An emerging trend seems to be for Solicitors to refer to the program at a greater rate than Magistrates.

Another emerging trend is for the most common principal drug of concern to be cannabis followed by Heroin. This represents a change from when heroin presented as the most common principal drug of concern, or heroin and cannabis presented in equal proportions.

The most common offence type is theft and related offences, followed by illicit drug offences and road traffic offences

The most common sentence outcome for program completers is a good behaviour bond while for non completers it is imprisonment.

In terms of reoffending about 41% of defendants who completed the program had a recorded reappearance at court within 12 months of program completion compared to 54% of defendants who did not complete the program.

MERIT-Monitoring and Evaluation - Lismore MERIT Pilot Program

As previously mentioned, MERIT commenced as a pilot program in Lismore, in 2000. The program was evaluated in relation to a number of areas, including:

- Reoffending
- Cost effectiveness
- Legal issues
- Social and health outcomes, and,
- Participants feedback

In terms of Re-offending & sentencing outcomes

The data showd that program graduates were less likely than non-graduates to have re-offended at 3 and 12 months after exiting the program, and, that successful completion of the program had a greater impact on drug, theft and property offences than on any other types of offences

Cost effectiveness

It was estimated that there **have** been *likely savings* of about 1.28 million in terms of reduced incarceration, police, hospital and criminal activity costs

Legal Issues

The key finding from the legal component of the study considered the role of legislation and suggested that separate legislation to govern the program be developed.

Social and health outcomes

Overall, there was a significant decline in drug use by participants interviewed from program entry to program exit, which was sustained at interviews 3-9 months after program exit (p44).

There was a significant decline in risk-taking associated with drug use between the entry and exit interviews

Participants' feedback

Over 80% of participants interviewed were satisfied with the treatment plan and caseworker support. A majority of graduates interviewed 3-9 months after exiting the program reported maintaining positive changes acquired from the program.

MERIT – Monitoring and Evaluation Current Strategy

MERIT, like all social programs ultimately aims to **ameliorate** a social problem and **improve** social conditions. In investing in a particular social program it is important to evaluate the quality of the program and its effectiveness in producing its purported social benefits.

The measure of performance is a key element in the NSW Government's commitment to managing results in the public sector.

Our commitment to engage in appropriate and worthy monitoring and evaluation of the MERIT program is reflected in 4 main ways:

(1) We have a MERIT Program Monitoring and Evaluation Group that exists to specifically develop and implement the evaluation strategy. The Evaluation Group meets on a quarterly basis with representatives from the NSW Attorney General's Department, NSW Health and NSW Police. This groups reports to the MERIT Statewide Steering Group.

(2) We have three funded roles that specifically focus on evaluation. 2 of these positions are based in NSW Health and the third in AGD.

(3) We have a formal evaluation strategy that is updated on a regular basis, and,

(4) We have a MERIT state-wide database. The MERIT Information Management System (MIMS) is a purpose-designed database used to gather program participant data. Data are collected at the Area Health Service level and downloaded regularly for the purpose of analysis.

The MERIT Map

The MERIT evaluation strategy is summarised in this powerpoint. The map presents past, current and future activities to do with monitoring and evaluation of MERIT. It is used to report on progress for current studies and is updated on a regular basis to reflect new monitoring and evaluation projects.

The Map divides evaluation into two components:

- Monitoring, and,
- Evaluation

It is then divided into the measurement of:

- Process, and, the measurement of
- Impact

In terms of Monitoring in MERIT, we monitor:

Operations and Activities: this includes referral numbers and rates, sources of referrals, acceptances and reasons for non completion

We monitor performance: which examine program quality and standards. Key performance indicators are currently being devised for the MERIT program.

We monitor target participation: that is, the characteristics of clients referred, participating and completing the program

We monitor service utilisation: so the number and nature of services

And, we monitor court coverage: the number of courts operating the MERIT program

All of the above data are reported on in monthly bulletins and quarterly reports.

We also monitor whether MERIT is progressing towards the achievement of program goals.

This helps to generate information for program managers in order to efficiently administer and improve the program.

Progress on meeting selected program outcomes are reported periodically in the MERIT Annual Report produced by the Attorney General's. We are able to compare data collected across years and gain a sense of change over time, and, we are able to assess trends in the meeting of program outcomes.

Evaluation

Dr Valerie Caracelli in her recent key note address to the Australasian Evaluation conference noted that one of her key 'gripes' regarding program evaluation in Australia at the moment is too much of a focus on monitoring, when, monitoring is in it self, not enough. Many programs are able to set up systems that frequently and consistently report program data. But, ultimately, to assess whether a program is achieving its intended outcomes it is essential to conduct more formal process and *impact evaluations*.

Summary of evaluation studies

Currently, we evaluate process *and* some impact components of MERIT.

Process

To assess program processes or program fidelity, we have undertaken a process/standards study. This involves an investigation of MERIT implementation at an operational level. Over the last 3 months we have conducted field visits to a sample of MERIT teams across the State as well as other key stakeholders to find out how the program works at a local level. This study aims to enable good practices to be identified, standards to be developed and the MERIT Operational Manual to be revised.

Part of any process evaluation strategy should be the specific study of participation. This data will be used in particular to answer questions about the equitable participation of groups traditionally under represented in diversion programs.

The Aboriginal Participation Study investigates the participation and completion of Aboriginal clients in the MERIT program. The Annual Report also analyses referral data, acceptance and completion by gender, first language and country of birth.

We have also committed to examining 2 key stakeholder groups in terms of their attitudes to MERIT. The Magistrates study was completed in 2003, and the Police attitudes study begins data collection in 2006.

Aftercare - The MERIT aftercare study is examining evidence on best practice in aftercare for offenders and non offenders following drug treatment. Following this review a trial model of aftercare may be developed, implemented and evaluated in one or two regions.

And finally, it is of course important to measure participant satisfaction. This component of evaluation was undertaken in the Lismore Pilot evaluation and is also undertaken as part of the health outcomes study.

Evaluating outcomes

To evaluate program outcomes we have:

- Evaluated the Lismore MERIT Pilot Program. This was a full impact assessment of each of the components of the program
- We have a Health Outcomes Study currently being undertaken by NSW Health. This study is designed to ascertain MERIT participants' health, well-

being and drug use status at program entry and exit and to measure changes across time. And,

- We have also just completed a project proposal to examine the cost effectiveness of MERIT.

In terms of criminal justice outcomes we presently measure re-offending rates and sentence for MERIT completers vs non-completers.

At this point it is important to note that we do not use control group methodology to compare MERIT participants with matched non-MERIT participants and this will be discussed in the next section.

So that concludes an overview of our current evaluation strategy for MERIT.

REAL WORLD CHALLENGES

As you can see, this evaluation strategy is both comprehensive and detailed. However, when evaluating a program like MERIT which is delivered at multiple sites by multiple agencies across the justice and health sectors evaluation challenges abound!!!

MERIT is a ‘real world’ social intervention program. It is not delivered in a strictly controlled environment where cause and effect can be determined to any significant degree. There are real ethical challenges in evaluating the effectiveness of MERIT to scientific standards. Some of the challenges we have experienced are:

- **Lack of randomised control trial** in both the Lismore Evaluation Trial and the current evaluation strategy. The Lismore Evaluation lacked a control trial because of unwillingness of stakeholders to involve defendants with drug problems in a study whereby one group would be offered no treatment intervention. Also, the attractiveness of the scheme was unknown, and there was concern that the sample size would be too small to validly enact this type of study.

The alternative would be to offer a limited intervention which did not include the comprehensive case management service offered through MERIT. This option was not chosen because both groups would still be offered some form of intervention and therefore could not guarantee program effect could be properly studied.

- **A second challenge is the difficulty ‘selling’ a non randomised control trial evaluation strategy.** In the world of evaluation, scientific randomised controlled trials are viewed as the most rigorous form of outcome evaluation. Even though the data to date indicates that MERIT is achieving program objectives, we cannot conclude with any level of certainty that these objectives are a direct result of the defendants participation in MERIT. ‘Selling’ the current MERIT strategy, given that it does not utilise a randomised trial is a critical challenge to program evaluators.
- **Another challenge is the Inter-agency nature of the program in terms of governance**
 As mentioned MERIT is an interagency program implemented across the health and justice sectors. Key partners involved in MERIT include magistrates and the courts, health staff, NSW Police Officers, Probation and Parole, Legal Aid, Aboriginal Legal Services and various central agencies. Ensuring consistent implementation of the program across all sites given the extent of coverage and multiple stakeholder involvement is a key challenge for program implementation. It is also a key challenge for evaluators in identifying what aspects of MERIT have been effective in achieving program objectives. In terms management at a State level, whilst the AGD is the lead agency, services are delivered by Area Health Services, accountable to their Area Health Directors, not the AGD. This presents challenges in terms of accountability, reporting and program governance.
- **Another difficulty is data consistency across Area Health sites**
 When gathering data to evaluate any program a degree of error in data collection is expected. In a program where multiple people collect data across multiple sites, this error is compounded. A key challenge to MERIT evaluation is to ensure adequate quality control of the data and that staff are properly trained to enter data in a consistent manner.
- **And finally, there is a lack of capacity for long term evaluation**
 MERIT is funded under IDDI until 2007, more longer term evaluation of outcomes is subject to future funding beyond this period. There are also issues in following up with MERIT completers to participate in ongoing evaluation. This difficulty was apparent in the Lismore evaluation of participant satisfaction.

In concluding I would like to end on a more positive note by listing what we do well in terms of MERIT evaluation. Some of these include:

- A strong commitment to evaluation by all partner agencies
- A comprehensive state-wide database
- An evaluation strategy which includes the capacity for monitoring and evaluation, process and impact assessment.
- **Formative and summative evaluation designs** That is, a strategy which is designed to improve and inform, and, determine worth.
- **The use of internal and external evaluators** - Some of our projects are undertaken by external consultants and other are undertaken by internal staff. This combination ensures evaluation in well informed, objective and credible.
- We are undertaking a number of quantitative and qualitative studies to address specific components of the program with data from multiple sources and multiple methods building on each other in a triangulating manner to demonstrate outcome and effect.
- And finally, MERIT is now a **large** scale program with the capacity for powerful statistical analysis.

For any further information on any aspect of MERIT evaluation or the MERIT program, you can visit our MERIT website or contact myself or the Criminal Justice Interventions Team.

Thank you!!

NB Logistic regression analysis

We have tested the extent to which variables were able to predict completion of the program. We used logistic regression analysis and included the variables:

- age,
- gender,
- type of living accommodation (own or renting own house versus other),
- principal income (employed part or full time or on a student subsidy versus other),
- injection of a drug over the past year (yes/no),
- principal drug of concern (recoded into opiates (heroin, methadone, morphine and analgesics), stimulants (amphetamines, speed and cocaine), tranquilizers (benzodiazepines), and cannabinoids (cannabis),
- Country of birth (Australia versus other),
- preferred language (English versus other),
- marital status (married/de facto versus other),
- Aboriginality (Aboriginal and or Torres Strait Islander versus other) and
- level of education (Year 10 completion or less versus other).

The findings from this analysis indicate that there are five variables that significantly predict completion of the MERIT program:

- Age,
- Aboriginality,
- type of accommodation,
- principal income and
- served time.

Together, these variables were able to accurately predict MERIT completion in about 64.4% of cases.