



CENTER *for* HEALTH LAW
and POLICY INNOVATION
HARVARD LAW SCHOOL

i This presentation has subtitles

A NEW WAY HOME: MEDICAID & REENTRY

SECTION 1115 DEMONSTRATION WAIVER 101 WEBINAR

PRESENTED BY:

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Agenda

- **Background of Incarceration and Public Health Implications in the U.S.**
- **Medicaid and Section 1115 Waivers**
- **Medicaid Reentry Waivers**
- **Medicaid Reentry Waivers: Purpose, Components, and CMS Guidelines**
- **State Examples: California, Washington, and Montana**
- **CMS Submission and Approval Process**
- **Implementation and Reinvestment Plans**
- **Ways for Advocates to Get Involved**

By the end of this presentation, you will:

3/29



Goal 1

Know what a **Medicaid Section 1115 waiver** is and understand its uses



Goal 2

Understand the **Medicaid Section 1115 Reentry waiver** purpose and components



Goal 3

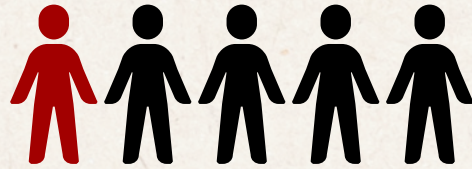
Understand **states' current approaches** to developing waivers



Goal 4

Understand ways **advocates can get involved**

Incarceration and Public Health Implications in the U.S.



1 OUT OF 5

prisoners in the world are incarcerated in the **U.S.**

this is the **largest share** compared to any other country in the world

WHY DOES THIS MATTER?



Racial and ethnic disparities in correctional facilities exist with **Black, Native, and Latinx** populations overrepresented

WHAT IS THE IMPACT?



People within incarceration have higher rates of **some chronic conditions** (asthma, diabetes, heart disease) and **infectious diseases** (Hep C, Hep B, HIV)

2 MILLION



people with **mental illness** are jailed annually

68%

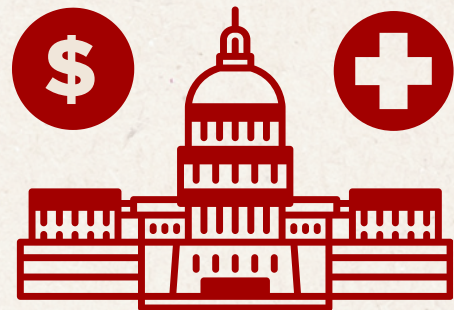
of the jail population meets diagnostic criteria for **SUD**

Medicaid & Section 1115 Demonstration Waiver Basics

5/29

What is Medicaid?

Joint **state and federal** entitlement program that covers health and long-term care for individuals with **low incomes** who qualify



What is CHIP?

The Children's Health Insurance Program is a joint **state and federal** health coverage program that serves **children** in families with incomes too high to qualify for Medicaid, but too low to afford private coverage



What is a Section 1115 Demonstration Waiver?

An opportunity for a **state Medicaid agency** to implement and evaluate **new policy approaches** to better address the healthcare needs of their communities



Why Apply for Medicaid Section 1115 Reentry Waivers?

Purpose

Partially repeal the
**Medicaid Inmate
Exclusion Policy**



6/29

Impact

Allow Medicaid to cover a package of **pre-release services** prior to individuals being released

Why Should States Apply?

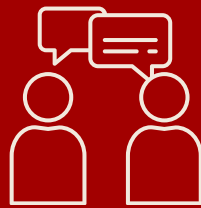
Tailor Medicaid programs, **expand coverage**, and improve linkage to community care



Increase coverage, continuity of coverage, and appropriate service uptake



Increase additional investments in health care and related services

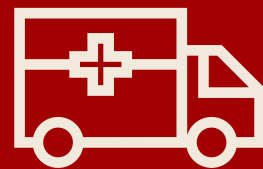


Improve access to services, as well as coordination & communication

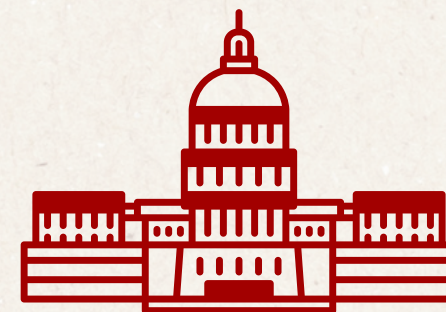
Goals for Reentry Waivers



Improve connections between carceral settings and community services



Reduce number of ED visits and inpatient hospitalizations

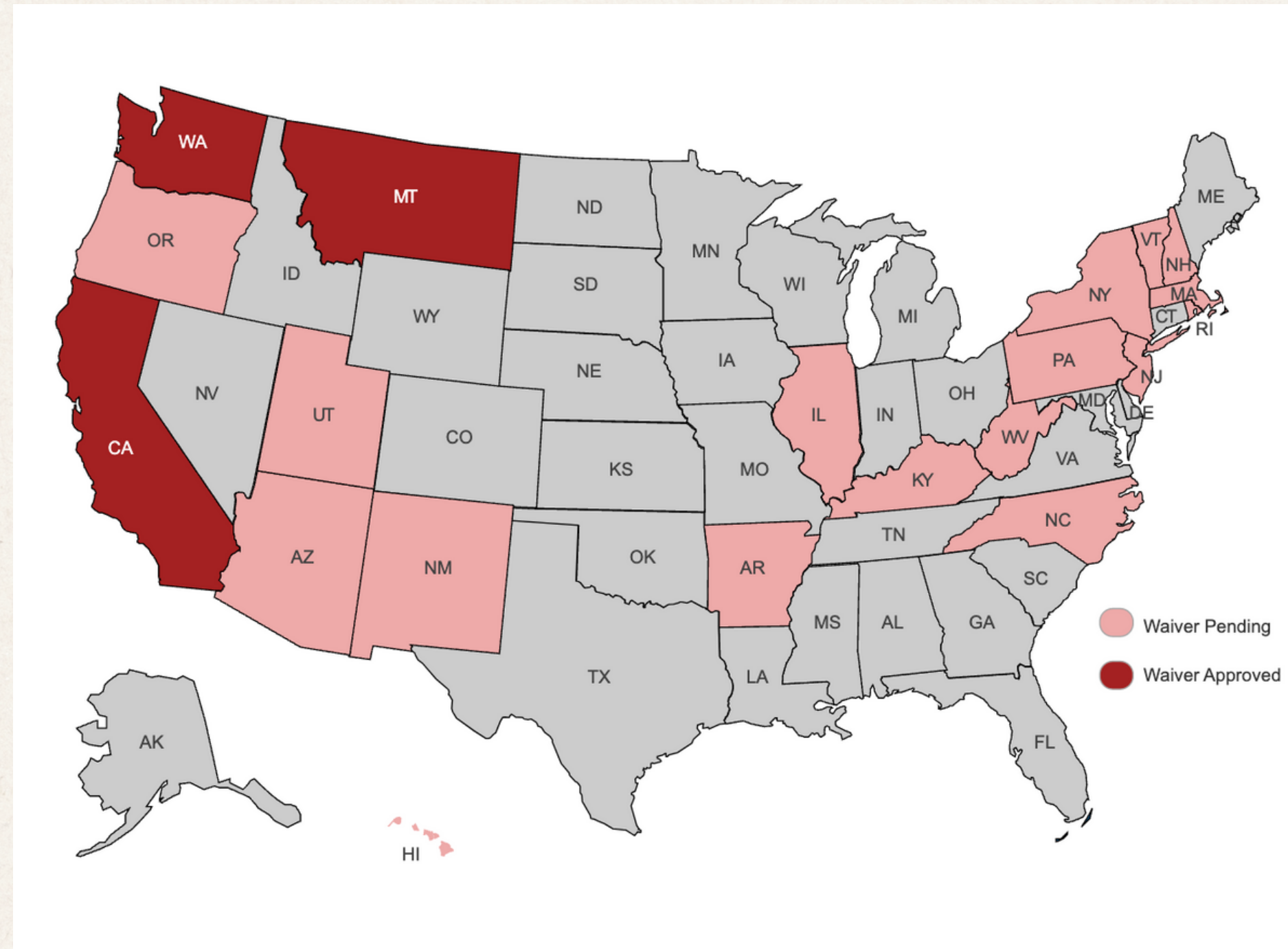


Reduce all-cause deaths

Where are we now?

States Seeking Reentry Waivers

8/29



◆ QR code to KFF State Waiver Tracker on “Additional Resources” page at the end of the presentation

Reentry Waiver Components



Who will be **eligible** for benefits?



When will these services be provided?



Which **facilities** will participate?



What services will be provided in addition to the **required services**?



Who will **provide** these services?

CMS Guidelines for Reentry Components

10/29

Eligible Individuals



- Individuals currently incarcerated, but soon to be released, who are otherwise Medicaid eligible
- Flexibility for target population

Eligible Facilities



- State and/or county jails, prisons, and/or youth correctional facilities
- Implementation options: statewide or a subset of facilities (phased approach)

Covered Services



- Case Management
- Medication-assisted treatment, and counseling
- 30-day supply of all prescription medication

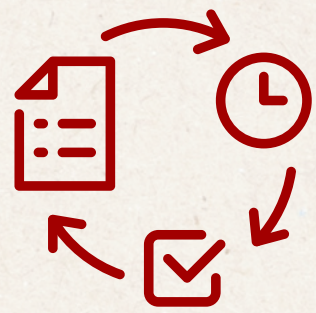
Pre-Release Timeframe



30 days (minimum) to 90 days (maximum)

Covered Services Required by Medicaid

11/29



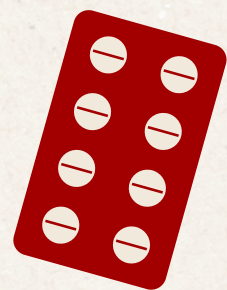
1

Case management for reentry



2

Medication-assisted treatment (MAT) and counseling services



3

Provide 30 days of medication at the time of release

Defining Eligible Individuals: State Examples

12/29



CMS Guideline:

- Individuals currently incarcerated, but soon to be released, who are otherwise Medicaid eligible
- State flexibility for target population

California



All Medicaid eligible youth and Medicaid eligible adults with:

- SUD
- Mental health diagnosis chronic condition
- I/DD
- Traumatic brain injury
- HIV/AIDS
- Pregnant/postpartum

Washington



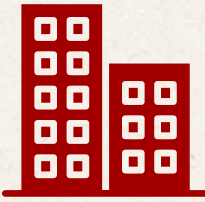
Medicaid eligible youth and adults

Montana



Incarcerated adults in state prisons with 30 days before release who have SUD or mental illness

Defining Eligible Facilities: State Examples



CMS Guideline:

- State and/or county jails, prisons, and/or youth correctional facilities
- Statewide implementation or in a subset of facilities (optional phased approach)

California



State prisons,
county jails, and
youth correctional
facilities

Washington



State prisons,
county jails, and
youth correctional
facilities

Montana



State prisons

Defining Covered Services: State Examples



CMS Guideline:

- Case management
- Medication-assisted treatment (MAT) and counseling services
- 30-day supply of all prescription medications at time of release

California

Limited package of reentry services: case management, physical and behavioral health clinical consultation services, laboratory and radiology services, medications and administration, MAT, community health worker services, durable medical equipment post-release

Washington

Limited package including physical and behavioral health assessments, lab work, care coordination, and medication

Montana

Limited clinical consultation services, case management services, MAT, and a 30-day supply of medication upon release

Defining Pre-Release Timeframe: State Examples

15/29



CMS Guideline:

- 30 days (minimum) to 90 days (maximum)

California



90 days

Washington



90 days

Montana



30 days

Summary Slide: Reentry Components by State

California 

Washington 

Montana 

 **Individual Criteria**

All Medicaid-eligible youth and Medicaid-eligible adults with specified conditions

Medicaid-eligible youth and adults

Incarcerated adults in state prisons with 30 days before release who have SUD or mental illness

 **Facility Criteria**

State prisons, county jails, and youth correctional facilities

State prisons, county jails, and youth correctional facilities

State prisons

 **Covered Services**

Limited reentry services package includes: case management, physical and behavioral health consultations, lab/radiology services, MAT, community health worker support, and post-release durable medical equipment

Limited package including physical and behavioral health assessments, lab work, care coordination, and medication

Limited clinical consultation services, case management services, MAT, and a 30-day supply of medication upon release

 **Pre-Release Timeframe**

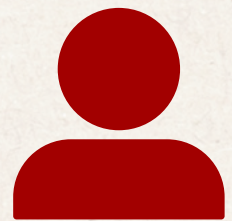
90 days

90 days

30 days

Case Example: Would this Individual be Eligible?

17/29



Sam, 25-year old individual



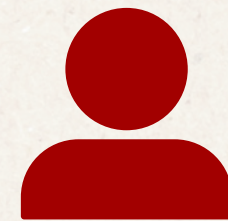
Medicaid-eligible



Has SUD and a mental health condition, currently pregnant



Incarcerated in state prison



Shawn, 40-year old individual



Medicaid-eligible



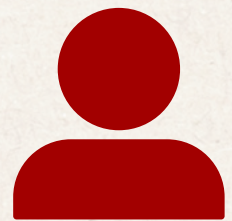
Does not have SUD or other health conditions



Incarcerated in county jail

Case Example: Would this Individual be Eligible?

18/29



Sam, 25-year old individual



Medicaid-eligible



Has SUD and a mental health condition, currently pregnant



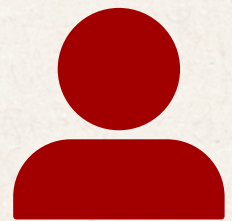
Incarcerated in state prison

California Washington Montana

Individual Criteria	✓	✓	✓
Facility Criteria	✓	✓	✓
Pre-Release Timeframe	90 days	90 days	30 days

Case Example: Would this Individual be Eligible?

19/29



Shawn, 40-year old individual



Medicaid-eligible



Does not have SUD or other health conditions



Incarcerated in county jail

California Washington Montana

Individual Criteria	✗	✓	✗
Facility Criteria	✓	✓	✗
Pre-Release Timeframe	90 days	90 days	30 days

CMS Submission and Approval Process

20/29

What steps are involved in the process?



Step 1

State Public Input Process

- States required to provide at least a **30-day public notice & comment period** for new demonstrations + extensions



Step 2

Application Submission

- **States submit applications to CMS** after the 30-day public comment period ends



Step 3

Federal Public Comment Period

- CMS determines completeness → **30-day Federal comment period**



Step 4

CMS Review & Decision

- **CMS reviews** comments & evaluates application
- **CMS approves or denies** application with a detailed letter laying out requirements

Implementation Plan

What is it?

How the state plans to **implement the reentry services**

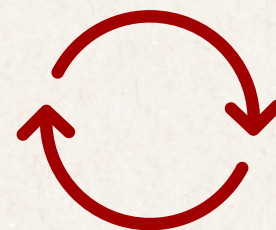
Waiver application asks WHAT services a state wants to implement, implementation plan asks HOW a state plans to implement these services



Maintain
Medicaid
Coverage



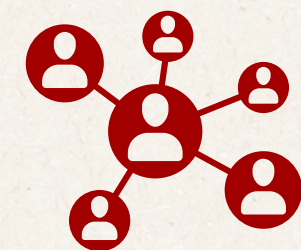
Provide
Pre-Release
Services



Facilitate
Continuity
of Care



Connect to
Post-Release
Services



Promote
Cross-System
Collaboration

Pre-Release Service Providers



22/29

**“In-reach”
community-based providers**



telehealth or in-person

Carceral providers



in-person,
states can build based on
access to providers

✦ *“In-reach” providers are the preferred option, but states can have a combination of in-reach and carceral providers*

Reinvestment Plan

What is it?

How states intend to use the **money saved by federal funding** that replaces existing state and local funding for carceral health services to fund health-related social services and other programs that improve health for the justice-involved people and those at risk of incarceration



Creates opportunities to **fund HRSN and upstream interventions**



Cannot be used to build new or enhance existing facilities

Investments include:

- Behavior & physical health
- Community-based provider capacity
- Reentry services & supports

Ways for Advocates to Get Involved

Step 1:

Browse CMS Website & KFF Section 1115 Waiver Tracker

Research waivers that are pending and in-progress to determine what steps other states have taken and what advocates in your state can potentially do



Step 3:

Review Proposals and Respond to Comment Periods

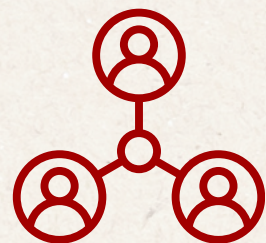
Contact your state Medicaid agency to determine public comment periods in your state



Step 2:

Stakeholder Mapping & Program Scoping

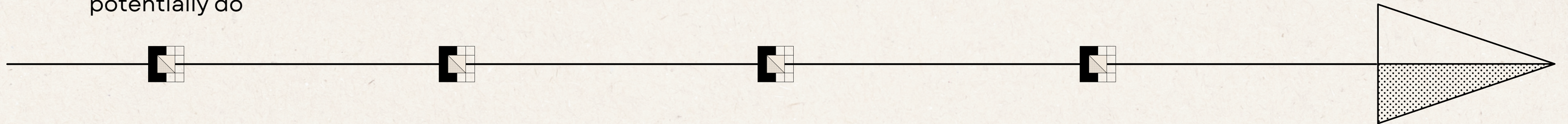
Assess current status of waiver submission process specific to your state → i.e. call your state health department, identify stakeholders and providers



Step 4:

Follow the Implementation Process and Participate in Stakeholder Meetings

Follow along the implementation process, participate in community advisory boards → seek opportunities for technical assistance as needed





Conclusion

25/29

Reentry waivers offer a unique opportunity for states to tailor healthcare access and reduce health disparities among justice-involved individuals.

We urge **collective action** to champion reentry waivers within our respective states.

Let's work together towards **equity** in healthcare and beyond!

Advocate Resources

CMS Waiver Application Process:

<https://www.medicaid.gov/medicaid/section-1115-demonstrations/1115-application-process/index.html>

CMS Guidance for Waiver Components:

<https://www.medicaid.gov/sites/default/files/2023-12/smd23003.pdf>

CMS Waiver Submission Process:

<https://www.medicaid.gov/medicaid/section-1115-demonstrations/1115-transparency-requirements/index.html>

Waiver Reference Examples in other States:

https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html?f%5B0%5D=waiver_authority_facet%3A1566#content

- *Filter by state and 1115 waiver category, view and submit comments here*

KFF Waiver Tracker (QR code on next page):

<https://www.kff.org/medicaid/issue-brief/medicaid-waiver-tracker-approved-and-pending-section-1115-waivers-by-state/>

Advocate Resources

Visit this link
for the **KFF State
Waiver Tracker**



Thank you!

28/29

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Appendix: Glossary of Terms

CMS: Center for Medicare and Medicaid Services

CHIP: Children's Health Insurance Program

SUD: Substance use disorder

I/DD: Intellectual/developmental disorder

Carceral settings:

- Federal and state prisons (facilities for the confinement of individuals convicted of a serious crime, usually for a sentence over one year in length, or a felony)
- Local jails (short-term confinement facilities that typically hold individuals awaiting trial or other proceedings, as well as convicted offenders serving sentences of one year or less) and other correctional settings