The desire for corrections options to provide a panacea for recidivism problems is driven by the lack of programming in prisons or the perceived failure of the rehabilitative ideal. Corrections options programs are asked to perform the rehabilitation work that might be expected of prisons. However, evaluations of several corrections options programs have been disappointing in this regard.

Many corrections options programs have not reduced recidivism, and added surveillance enhances the effectiveness of capturing offenders in technical violations. Officials were faced with a dilemma. To punish violators means returning them to prison, possibly for longer periods of incarceration than the initial offense requires, thereby robbing the programs of their cost control rationale. To ignore violations or treat them too lightly, robs corrections options of deterrent value and possible leverage that may spur personal change and rehabilitation.

Some observers believe that the new generation of corrections options programs emphasize offender control and punishment rather than rehabilitation. In fact, the goals of corrections options may mirror the general shift in correctional philosophy in the early 1970s from a focus on offender rehabilitation to a focus on crime control by means of incapacitation.

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Rather than viewed as a panacea for cost goals or crime reduction goals, corrections options may be viewed as a more balanced approach to a rational criminal justice system philosophy, one seeking both to control and to rehabilitate offenders at reasonable costs$^6$. Under this balanced approach, the criminal justice system recognizes that many offenders deserve and require restraint in prison or surveillance in the community. The approach also recognizes a body of evidence that offenders can change their behavior in rehabilitation programs$^7$.

4.2 State Options. Maryland has an array of state and local intermediate sanctions programs. In testimony before the Commission, representatives of the Maryland Department of Public Safety and Correctional Services (DPSCS) explained their Corrections Options Program (COP), a group of state-run intermediate sanctions programs. These programs include prison boot camp, regimented offender treatment center, home detention, day reporting, intensive supervision, and standard supervision. Also included under the DPSCS’s COP is the Baltimore City Drug Treatment Court. Drug courts also operate locally in Anne Arundel and Harford counties.

In 1990 Congress authorized funding for a Correctional Options Program to encourage states to pursue the development and implementation of programs that are alternatives to traditional incarceration for selected offenders whose addiction to

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controlled and dangerous substances precipitates their criminal behavior and who are low public safety risks. The DPSCS’s Correctional Options Program was initiated in March 1994. According to the DPSCS, the COP is structured to manage non-violent, substance abusing offenders in the community under strict control without compromising public safety. Also, the program intends to decrease the number of parole violators and to reduce recidivism among its participants.

Drug testing is used in combination with intermediate sanctions during community supervision. The COP works on a dual track of progressive incentives that reward good behavior and regressive sanctions that further restrict offenders who fail to comply with the terms of supervision. According to DPSCS, offenders placed in COP may begin their period of supervision in the intensive level, such as home detention. If they comply with the conditions of their supervision, the restrictions are gradually reduced. However, if offenders do not comply (e.g., a drug test indicates they have recently used drugs, or they are not in compliance with supervision requirements), a more severe punishment including a period of incarceration may result. In this way, offenders are accountable for their own behavior.

Options programs focus on sentenced, incarcerated, non-violent offenders who meet stringent program eligibility criteria, and on offenders having problems during assignment to traditional community supervision. Each month, the number of COP intakes ranges from 130 to 150 offenders. In fiscal year 1997, total participation is estimated to have been about 3,000. Participation is expected to increase in fiscal year 1998.

In FY 1997, the State had approximately 1,000 offenders under intensive supervised probation through the Corrections Options Program. In addition, 400 offenders were in home detention, 360 in day reporting, 560 in boot camps, 90 in Regimented Offender Treatment Center, and 50 in Baltimore Pre-Release Unit for Women. During the same period, 540 offenders went through the Baltimore City Drug Treatment Court, according to the DPSCS.

As DPSCS has documented, the COP has helped control costs in Maryland. One strength of these programs is the ability to control costs through controlled growth. Controlled growth is achieved by restricting entry into the program under the authority of corrections officials. Assuming the current level of participation, the department estimates that the State will continue to avoid spending $55 million to construct four 420-bed minimum security correctional facilities and $15 million in annual operating expenses.

The statewide COP does not serve all jurisdictions, and mainly serves the urban corridor of counties in and around Washington, D.C. and Baltimore City. Preliminary evaluations of the DPSCS's COP and the Baltimore City Drug Treatment Court demonstrate that the programs have substantial promise.

4.3 Local Options. Many county-run corrections options exist, but typically on a small scale with no statewide coordination, limited funding, and no state technical support. The limits to local corrections options appear to be most pronounced in the rural jurisdictions. The University of Baltimore and the DPSCS conducted independent surveys of local options programs. Differences in survey results appear to be due to
differences in response rates and the time the survey was conducted. However, the results are generally consistent.

According to the University of Baltimore survey, community service was the most prevalent local option. Home detention, work release, and intensive probation are also in use by county jails. Community service programs included 16,572 participants in FY 1997. The DPSCS survey found slightly less, 15,600 participants.

Home detention operates largely through local jails in Maryland. In FY 1997, there were 1,315 offenders in 11 local electronic monitoring programs, according to the University of Baltimore survey. The DPSCS found a slightly larger number of home detention participants. Twelve counties report pre-trial release programs in FY 1997 involving 7,616 offenders, according to the University of Baltimore survey.

The Commission heard from representatives of the local correctional administrators. The administrators explained the diversity and growth of local corrections options programs, and the importance of retaining local voice in running these programs. The administrators also emphasized that any expansion of state initiatives into local corrections, or other major changes, should be accompanied by adequate funding to support the effort and sufficient time to make a smooth transition.

4.4 Commission Recommendations Regarding Corrections Options

4.4.1 Statement of the Problem. The Commission on Criminal Sentencing Policy was directed by the General Assembly to recommend sentencing and corrections recommendations guided primarily by the following objectives: (1) Concentrate prison capacity on the incarceration of violent and career offenders; and (2) Ensure that sentencing judges in every jurisdiction in the State are able to impose the most
appropriate criminal penalties, including correctional options programs for appropriate nonviolent offenders.

The Commission studied intermediate sanctions programs in other states, and heard from national experts as well as representatives from other states such as Vermont and North Carolina. The Commission also examined Maryland's current methods of placing offenders in corrections options programs, and heard from representatives of the Maryland Department of Public Safety and Correctional Services and local correctional administrators. A subcommittee on Corrections Options was created to review components of Maryland's intermediate sanctions policies.

4.4.2 Overview of Recommended Strategy. The central recommendation of the Commission is that Maryland should expand its Corrections Options Program to allow offenders to be placed in the program through judicial sentencing to a new Corrections Options Authority, under recommendations promulgated by revised sentencing guidelines. The Commission's analysis reveals that more offenders can and probably should receive placement in the Corrections Options Program, and the current program is geographically limited. To accomplish this expansion, a number of preliminary steps are required.

First, the Commission recommends that a Corrections Options Authority be created within the DPSCS, and this Authority have as its primary task the assessment, placement, supervision, and interim sanctioning of offenders. The Commission seeks to provide judges with a means of sentencing offenders to a new Corrections Authority as an alternative to standard probation or traditional incarceration. It is contemplated that sentences would include imposition of a specific period of incarceration, with execution
of all or a portion of that sentence suspended on condition of referral to the Corrections Options Authority. This procedure would assure that in addition to the graduated sanctions that could be imposed in the COP there would be an additional sanction of significant imprisonment available for those who would not complete the program. The Commission further recommends that the State's Break-the-Cycle model be used to guide programming decisions (See Section 4.4.5).

Second, the Commission recommends that the DPSCS, the proposed permanent sentencing commission, and representatives of local government begin planning for the creation of a State and Local Partnership for Corrections Options. The purpose of the Partnership is to invite local treatment programs and detention centers to participate in a State-funded COP with local choice in daily operations. The Partnership is designed to find an economical means of building on the emerging infrastructure of drug testing, sanctions, and drug treatment activity.

Third, the Commission recommends that the permanent sentencing commission incorporate corrections options as a sentencing guideline recommendation to help guide selection of offenders and to help manage growth in the Corrections Options Program. The guideline framework provides a means of controlling costs as well as keeping punishment proportional to the crime.

Recommendation 8: The State of Maryland should expand Correctional Options statewide and plan the creation of a Corrections Options Authority within the Department of Public Safety and Correctional Services to implement assessment, placement, supervision, and sanctioning of offenders within the programs.

Rationale. Many of the eligible candidates for DPSCS's current Corrections Options Program are not placed into the program. Eligible candidates may have a prior
record, and most offenders have prior records that would be classified by the present sentencing guidelines as non-violent and minor to moderate in seriousness. The DPSCS performs an initial classification for prison inmates. According to this classification in 1997, 56.7 percent of all inmates had no history of violence, and another 15.5 percent had a minor violent offense over five years ago. Seventy-three percent of inmates with property offenses and seventy-seven percent of inmates with drug offenses had one of these two security classifications. In 1997, of the 10,400 inmates classified and admitted to prison, 4,329 had no history of violence and were admitted to prison for a non-violent crime. Further, the surveys of local options found geographical limitations to existing programs.

Based on this analysis, the Commission concludes that a new Corrections Options Authority can identify additional good candidates for placement in the COP without great additional risk to public safety. However, a thorough assessment of offender risk to the community and need for treatment is necessary before program placement.

The development of a new Corrections Options Authority is necessary. The current COP has a smaller scope and moves offenders from prison into its programs. The current Options Program is managed entirely by the State, and does not maintain a State and Local Partnership. As discussed in the next section, providing judge’s with the option to sentence into COP requires cooperation with a new and empowered Corrections Options Authority.

4.4.3 Corrections Options Expansion with Judicial Input. Most corrections options programs can be operated as either front-end or back-end programs. Front-end programs admit offenders at time of sentencing, or in some cases prior to sentencing as a
form of pre-trial diversion. A judge typically controls initial access to a front-end program. Back-end programs admit offenders after sentencing and a preliminary period of incarceration. Corrections officials typically control access to a back-end program.

Currently, the Corrections Options Program is a back-end State program that moves selected offenders into corrections options after a period of incarceration. Local programs need better documentation, but also appear to be graduated release. The exceptions are drug courts, currently operating in Baltimore City, Anne Arundel County, and Harford County, which allow program entry prior to incarceration.

Judge Jamie Weitzman, a judge in the Baltimore City’s District Court, explained to the Commission that the Baltimore City Drug Treatment Court emphasizes early assessment and treatment that is immediate, intensive and sustained. The judge assesses the defendant’s progress every two weeks. Successful completion of the program takes approximately one year. Drug courts in Maryland as elsewhere are highly labor intensive, and involve a judge developing a close working relationship with defendants in his or her court. Not only is entry into the program granted through the judge, but the judge continues to monitor an offender’s progress through the program. Drug courts are promising programs, but may not be a cost-effective alternative to the type of expanded front-end corrections options programs envisioned here.

Recommendation 9: The Commission recommends the creation of a new sentencing option for judges statewide. Under this plan, judges would sentence offenders to the Corrections Options Authority within DPSCS. Further, the new unit within the DPSCS should provide support services, including assessment, and control the movement of offenders once judges sentence the offenders to the Corrections Options Authority.
Rationale. The Commission has concluded that the DPSCS COP could include judicial sentencing, a front-end option to supplement the existing back-end options. An examination of inmate prior record information indicates that additional offenders may be eligible for Corrections Options, should judges have direct access to these programs. The DPSCS records indicate that many Maryland inmates have no history of violence, especially among drug and property offenders.

After careful screening and assessment, some offenders may be good candidates for front-end selection into corrections options programs. For example, the majority of offenders sentenced for distribution of cocaine receive incarceration (78%). It is estimated that at least half will serve their sentence in a local jail. Sixty-five percent of offenders sentenced for distribution of cocaine with no prior record received an incarcerative sentence. Similarly, the majority of offenders convicted of theft greater than $300 receive incarceration (57.2%). Most will serve these sentences in local jails.

Thirty-three percent of offenders convicted of theft greater than $300 with no prior record received an incarcerative sentence.

Further, the Commission finds that judges currently have limited options when the judge believes an offender is too serious for standard probation, but may not need a prison term. Consequently, some offenders placed on standard probation or traditional incarceration may be better suited to intermediate sanctions. The Commission’s proposed expansion of Corrections Options is expected to draw from offenders formerly sentenced to standard probation and from offenders formerly sentenced to a prison or jail sentence, thereby closing a gap in the current sanctioning system.
Tough front-end sanctions controlled by the judge at sentencing may offer promise of long-run public safety benefits including reduced recidivism. Early drug court evaluations and the initial Maryland Corrections Options evaluation are positive. Effectiveness will require (1) close collaboration between criminal justice and drug treatment and (2) early intervention for problem behaviors with the judiciary’s support and Correction Authority’s speed. Great cost savings may be unlikely, due to the costs of effective drug treatment and the inclusion of offenders formerly sentenced to standard probation.

The Commission finds that judicial sentencing options are unnecessarily limited in Maryland. However, extension of judicial options requires careful planning and cooperation between the courts and corrections authorities. Judges are not in a position to respond with the swift and certain incentives and punishments that are the hallmark of the Break-the-Cycle model (Section 4.4.5). The Corrections Authority can provide this response. For this reason, the Commission recommends that judges sentence offenders to a specific period of incarceration, with execution of the sentence suspended on condition of referral to the Corrections Options Program. While the offender serves the Corrections Options sentence, the Corrections Options Authority should have substantial latitude to move the offender within sanctions, after sentencing and the completion of a contract signed by the offender. More planning for the Authority is necessary to insure that the judiciary and the Corrections Options Authority can provide sufficient offender oversight to insure public safety.

Recommendation 9a: The DPSCS and the permanent sentencing commission should return to the General Assembly by December 1, 1999 with a plan for formation of a corrections Authority to work in
concert with the judiciary and the permanent sentencing commission.

Recommendation 9b: The DPSCS should prepare bench cards informing judges of corrections options programs and offender contracts along the lines of the Break-the-Cycle framework.

Recommendation 9c: The DPSCS should also report on the resources needed to staff probation offices to perform preliminary screening for eligibility prior to sentencing and conduct risk and needs assessment after sentencing.

Recommendation 9d: The DPSCS should report on plans to report assessment results and offender placement plans to the judge.

Recommendation 9e: The permanent sentencing commission should work with the Maryland Department of Public Safety and Correctional Services to refine its estimate of the number of program slots necessary to provide judges appropriate levels of access statewide. The study should initially assume an average length of stay in corrections options of one year to allow significant improvements through reduced drug use and reduced criminal propensities.

Recommendation 9f: The permanent sentencing commission should work with state and local corrections officials to develop a plan for a state and local partnership.

Rationale. Credible corrections options programs must exist in sufficient number to provide a viable tier in a statewide sentencing scheme. Judges may become discouraged from using corrections options if programs have few or no vacancies. If waiting periods are long, offenders facing short traditional sentences will opt for incarceration in plea agreements. For these reasons, and to remain cost effective, the State must maximize its use of existing intermediate sanctions programs, including any local programs that are willing to participate.

Corrections options state and local partnerships have been established in other states to expand corrections options. For example, the North Carolina General Assembly
established the State-County Criminal Justice Partnership Act in 1994. The Partnership Act provides state grants (approximately $10 million per year) to counties to establish and expand community-based punishments for offenders. The North Carolina Department of Correction administers the partnership. Counties choosing to join create a local advisory board, which develops and implements a local corrections plan. The State-County Partnership funding reimburses participating counties. Eighty percent of the funding is awarded by formula based on population and probation caseload. The remaining twenty percent of state funding is distributed at the discretion of the Secretary of Correction to encourage innovation.

At the present time in Maryland, there is little coordination between the DPSCS COP and a number of promising local programs. Future growth in the Corrections Options Program, as well as growth in local programs, may depend on forging a state and local partnership to take advantage of economies-of-scale, sharing overhead expenses such as assessment and treatment costs.

The partnership should be voluntary and cost neutral to localities, drawing wherever possible on current State and local incarceration spending when offenders sentenced to corrections options would formerly have occupied a prison or jail bed. The State and Local Plan should review intermediate sanctions programs operated by localities, and report on a plan to provide incentives that draw local programs into the partnership that builds a statewide network of corrections options partially funded by the state.

The study should recommend standards for assessment, surveillance, sanctions, and treatment, and discuss local authority in these areas. The study should establish
quality control procedures implemented through State and County memoranda of understanding and State technical assistance. The memoranda of understanding will cover required services such as drug testing, treatment and sanctions; required offender selection criteria such as risk and needs assessment; and details of sanctioning authority and offender contracts. Local governments should be encouraged to make data-driven decisions. Data collection should include data on offenders and programs for program monitoring and evaluation. State coordination of information systems is critical to the monitoring and evaluation needed to insure efficiency and program effectiveness.

The Commission envisions County Correctional Options Advisory Boards that contain representatives of local government, law enforcement, corrections, judges, victims of crime, and citizen representatives. The advisory boards should submit initial community corrections plans to the Maryland Corrections Options Authority for approval.

The study should consider alternative partnership models, including a model with State assessment, local board supervision, and local services with State incentive funding. Finally, the study should conduct a preliminary needs assessment for testing, sanctions, and treatment components and recommend a timetable for implementation. The partnership plan should include consideration of the following state and local program components:

- 24-Hour Restriction
- Daily Accountability
- Standard Supervision
- Boot Camp, Home detention/Electronic monitoring, Halfway house
- Day Reporting Centers, Intensive Supervised Probation
- Standard Supervised Probation
Recommendation 9: Bedspace Impact. The expansion of the DPSCS Corrections Options Program will require gradual implementation. Utilization of corrections options in conjunction with the sentencing guidelines will require additional program resources and Corrections Options Authority staff. The Commission has prepared an initial estimate of the number of offenders that may be directed into the expanded programs under three broad scenarios over the first five years of operation.

Under the first scenario, judges refer and corrections accepts 25 percent of all offenders that fall within corrections options cells on the new guideline matrices. This scenario assumes that the program is used cautiously during its first five years of operation and most offenders are given traditional sentences. The second and third scenarios assume 50 and 75 percent utilization respectively. Under these assumptions, many more offenders are directed into corrections options as a result of direct judicial sentencing to the Authority. By the fifth year, 805 participants enter the program each year under scenario one, 1,610 participants under scenario two and 2,415 participants under scenario three.

The Maryland Commission on Criminal Sentencing Policy used a computer simulation program to estimate the number of prison beds affected by the conversion to an expanded corrections options program. A precise estimate is not possible until more details of the Corrections Options Authority are available, and the inclusion of corrections options in a new sentencing grid are formulated. Under the three initial scenarios, the Commission estimates a bed savings of 340, or 680, or 1,021 prison beds per year, depending on which of the three scenarios is used. This simulation was run on the assumption that the COP draws equally from probationers as well as inmates, since