

Staggered Sentencing

Staggered sentencing is an innovative approach to the adjudication and management of DWI offenders. Developed by Judge James Dehn in Insanti County, MN, this sentencing model is similar to DWI Courts as it is an intensive and rehabilitative post-conviction approach designed for repeat offenders. The program relies on increased court involvement in offender supervision, offender accountability, and treatment to reduce recidivism and create positive behavior change (NHTSA, 2005).

In contrast to the traditional approach to punishment, a staggered sentence involves a convicted DWI offender serving a portion of their required period of incarceration followed by appearances before a judge for assessment of their progress. Staggered sentencing divides a standard jail sentence or home electronic alcohol monitoring sanction into three segments. The offender has the burden of proof to show compliance with the agreed upon conditions at the end of each segment served.

If the offender is in compliance with the conditions imposed by the court, they are permitted to serve the remainder of their sentence in the community as opposed to in a correctional facility. Instances of non-compliance or violation of their conditions would result in imposition of the full period of incarceration. For example, if an offender is arrested for another DWI, the remainder of the sentence will be carried out.

A staggered sentencing program is a viable option for jurisdictions that lack the resources to establish a DWI Court or do not have buy-in from all stakeholders needed to establish a specialty court (e.g., prosecutors, probation). The staggered sentencing program is led by the judge and accrues both direct and indirect cost-savings through reductions in DWI recidivism. Moreover, through the reduction in jail time, the burden is lessened on both local and state correctional budgets.

Research Highlights:

- In 2003, the Minnesota House of Representatives Research Department (Cleary, 2003) conducted a preliminary evaluation of the staggered sentencing practice. Key findings included:
 - **Reduced recidivism:** Offenders given staggered sentences experienced almost 50% less recidivism than would otherwise be expected based on statewide recidivism rates for comparable DWI offenders at the same time.
 - **Reduced Jail Time:** The program results in 66% less incarceration time (average of 52 days) for offenders that successfully comply with their conditions.
 - **Considerable cost savings:** Under staggered sentencing an average of 78 days of executed jail time, or 52 days after deducting for good-time earned, are saved. At the approximate per diem jail cost of \$60/day, the 52 days saved translates to a direct jail cost savings of over \$3,000 per successful offender on the current DWI offense.
- In an evaluation of intensive supervision programs, the National Highway Traffic Safety Administration (NHTSA) found that staggered sentencing participants had a 30.6% lower recidivism rate than comparison communities over a four-year post-offense timeframe (Wiliszowski et al., 2011). Estimates indicate that the program prevented 15 to 23 re-arrests for DWI which is substantial due to the small number of offenders included in the analysis (n=200).

Responsibility.org Position:

The Foundation for Advancing Alcohol Responsibility supports the use of sentencing approaches that emphasize both accountability and rehabilitation. Substance dependence and mental health issues are common among the repeat DWI offender population and punishment in a vacuum is unlikely to be successful in deterring future offending. As a result, we are in favor of innovative practices that require offenders to face their problems while simultaneously being held responsible for their actions. Programs such as staggered sentencing are a promising alternative within the criminal justice system for handling recidivist drunk drivers.

References:

Cleary, J. (2003). *Information Brief: Controlling Repeat DWI Offenders with Staggered Sentencing*. St. Paul: Minnesota House of Representatives Research Department.

National Highway Traffic Safety Administration (NHTSA). (2005). *Strategies for Addressing the DWI Offender: 10 Promising Sentencing Practices*. DOT HS 809 850. Washington, D.C.: U.S. Department of Transportation.

Wiliszowski, C., Fell, J., McKnight, S., & Tippetts, S. (2011). *An Evaluation of Intensive Supervision Programs for Serious DWI Offenders*. DOT HS 811 446. Washington, D.C.: U.S. Department of Transportation.