



Staggered Sentencing

Responsibility.org Position:

Responsibility.org supports the use of sentencing approaches that emphasize both accountability and rehabilitation. Substance dependence and mental health issues are common among the repeat driving under the influence (DUI) offender population, and punishment in a vacuum is unlikely to be successful in deterring future offending (Nelson et al., 2015). As a result, we are in favor of innovative practices that require offenders to address any underlying contributing factors 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 impaired drivers.

This paper includes the most current and relevant data for this position as of January 9, 2025.

Overview:

Staggered sentencing is a rehabilitative approach for DUI offenders developed by Minnesota-based Judge James Dehn. The program relies on increased court involvement in offender supervision, accountability, and treatment to reduce recidivism and create positive long-term behavior change (National Highway Traffic Safety Administration [NHTSA], 2004).

The basis of staggered sentencing is that offenders serve a portion of their required incarceration, followed by appearances before a judge to assess progress in program completion. In these programs, the offender has the burden of proof to show compliance with the agreed-upon conditions at the end of each segment served. Compliance with requirements allows the offender to serve the remainder of the sentence in the community; however, non-compliance results in full incarceration.

This program is a viable option for jurisdictions without resources for a DUI court or ones that do not have buy-in from all stakeholders needed to establish a specialty court (e.g., prosecutors, community supervision, etc.) while accruing cost-savings through DUI recidivism reductions (NHTSA, 2004).

Research Highlights:

- In 2003, the Minnesota House of Representatives Research Department (Cleary, 2003) conducted a preliminary evaluation of the staggered sentencing practice (Minn. Stat. § 169A.275). 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 DUI 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 sentencing conditions.
- **Considerable cost-savings:** Under staggered sentencing, offenders are forgiven, on average, 78 days of jail time, or 52 days after deducting for good-time earned. 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 participating DUI offender.
- In an evaluation of three intensive supervision programs (ISP), the National Highway Traffic Safety Administration (NHTSA) found ISPs to be successful in the prevention of recidivism among DWI offenders. (Wiliszowski et al., 2011).
 - Specifically, the Minnesota Staggered Sentencing Program had a significant 31% lower recidivism rate, up to 4 years post-offense, compared to a similar group of DWI offenders.
 - The Westchester County (NY) and Oregon DUI ISPs were also found to reduce re-arrest in the short term but not long term.

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). (2004) Strategies for Addressing the DWI Offender: 10 Promising Sentencing Practices. DOT HS 809 850. Washington, D.C.: U.S. Department of Transportation.

Nelson, S. E., et al. (2015). A prospective study of psychiatric comorbidity and recidivism among repeat DWI offenders. *Archives of Scientific Psychology*.

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.