

# US judge advocates 'shock incarceration' for domestic violence cases in Australia

ELEANOR HALL: A former US judge is calling for the Australian Government to introduce specialised courts and what he terms "shock incarceration" to deal with domestic violence.

Judge Eugene Hyman presided over the first juvenile domestic violence and family violence court in the United States.

Now retired, he's in Melbourne to talk to magistrates and police prosecutors about taking a tougher line to stop women dying.

In Melbourne, Sarah Farnsworth reports.

SARAH FARNSWORTH: Retired US judge Eugene Hyman never thought he could be helping the perpetrators of domestic violence when they came to court.

He remembers the day he realised he was.

EUGENE HYMAN: By allowing them to get continuances, by allowing them to their intervention programs in case they had missed sessions, by rescheduling them and other kinds of things that I was doing, that I had no idea was enabling, and I was.

SARAH FARNSWORTH: So giving them the benefit of the doubt?

EUGENE HYMAN: Yes, whereas the general rule is that you don't cut them any slack because they will, they're like children, they will take advantage every opportunity there is, because then they'll go home and tell their partners, see, I'm in charge, you're not.

SARAH FARNSWORTH: In the US specialised domestic violence courts use what's called "shock incarceration" for men who breach court orders.

EUGENE HYMAN: So if someone's there for a breach, it can be a text, it can be voicemail, it can be an email, and showing up with the most serious violation. So if the person's in front of you, they're going to go to jail.

The question is how much...

SARAH FARNSWORTH: Straight away?

EUGENE HYMAN: Straight away, the question is whether they get to do it on the weekends or whether it's straight time.

If they show up they're going to jail for straight time, the only question is whether it's 30, 60 or 90 days, depending upon their history.

The other thing that we do that I don't think they do here, we have reviews.

So let's say hypothetically that you were either found guilty, or you pled guilty to a domestic violence related offence, you are given a whole bunch of conditions of probation, including no contact or peaceful contact, and the judge is going to set a review date.

You're going to come back in front of that judge in say a period of a month to make sure you've gone to probation and you've been interviewed by them, to make sure you've been interviewed by the intervention program.

If you haven't, then that's a breach of conditions which might subject you to incarceration to that particular point.

SARAH FARNSWORTH: It sounds incredibly resource heavy, so you would have specialised judges and magistrates, in the Australian context, you have specialised police prosecutors.

Is it an extremely costly model?

EUGENE HYMAN: It certainly is expensive but then how expensive is it when women are murdered and the children go to foster care and then the guy's incarcerated?

I imagine even for killing a person on average it's going to be 15 or 20 years, how expensive is that?

SARAH FARNSWORTH: With two women killed a week in Australia, there is a push for immediate jail for those who breach orders to be introduced here.

In its submission to the Victorian Royal Commission into Family Violence, the Centre for Innovative Justice advocated the need for 'shock' or 'flash' incarceration in Australia.

ROB HULLS: Perpetrators of family violence need to know that the court is actually following them and they'll be held to account.

SARAH FARNSWORTH: The former Victorian attorney-general, Rob Hulls, is the director of the centre. He says while the approach is costly, it's necessary.

ROB HULLS: In the UK for instance, saving one family violence related death enables an early intervention program to run for four years.

SARAH FARNSWORTH: Across most states and territories, specialised family violence divisions within the Magistrates Court stream have been trialled and ran, but in each case it works differently.

Mr Hulls is now calling on the Federal Government to back a more streamlined approach.

ROB HULLS: I think that as a nation if we're going to take family violence seriously, and politicians keep talking about taking family violence seriously, we have to have a look at holding perpetrators to account, we have to look at our justice system being more proactive, we have to have a look at specialist training, we have to look at specialists courts.

Otherwise family violence will just continue to be the blight that it is in our community and on the justice system.

ELEANOR HALL: That's the former Victorian attorney-general Rob Hulls ending Sarah

Farnsworth report.