

# NATIONAL FAMILY VIOLENCE PREVENTION LEGAL SERVICES

WORKING TO ACHIEVE IMPROVED JUSTICE OUTCOMES FOR ABORIGINAL AND TORRES STRAIT ISLANDER  
VICTIMS/SURVIVORS OF FAMILY VIOLENCE AND SEXUAL ASSAULT

## National Family Violence Prevention Legal Services Forum submission to the Review of the Indigenous Legal Assistance Program (ILAP)

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The National Family Violence Prevention Legal Services Forum (National FVPLS Forum) welcomes the opportunity to provide this submission on the Indigenous Legal Assistance Program Review. We note that as one of the four national legal assistance services providers (alongside Aboriginal and Torres Strait Islander Legal Services (ATSILS), Community Legal Centres (CLCs) and Legal Aid Commissions (LACs), the National FVPLS Forum has contributed to and endorsed submissions from the Australian Legal Assistance Forum (ALAF) and Change the Record. In addition to the content outlined in those submissions, we now make the following broad points:

### **About the National FVPLS Forum and FVPLSs**

The National FVPLS Forum is the national, peak body for the fourteen Family Violence Prevention Legal Services (FVPLSs) located across Australia. It provides a leading, national voice on preventing and addressing violence against Aboriginal and Torres Strait Islander people – predominantly women and children. The National FVPLS Forum works in collaboration across FVPLSs to achieve improved justice outcomes for Aboriginal and Torres Strait Islander victims/survivors of family violence and sexual assault.

As noted above, FVPLSs are one of the four legal services providers nationally – along with ATSILS, CLCs, LACs. Like ATSILSs, FVPLSs play a key role in supporting self-determination and community control. ATSILSs and FVPLSs have distinct, unique and complementary roles.

FVPLSs were established over 16 years ago in recognition of:

- the gap in access to legal assistance for Aboriginal and Torres Strait Islander victims/survivors of family violence and sexual assault (predominantly women);
- the high number of legal conflicts within Aboriginal and Torres Strait Islander Legal Services (ATSILS); and
- the high rates of family violence within Aboriginal and Torres Strait Islander communities.

FVPLSs are specialists in providing culturally safe and holistic legal and non-legal supports to Aboriginal and Torres Strait Islander people who experience family violence and sexual assault, as well as non-Aboriginal carers of Aboriginal children who are victims/survivors of family violence. Nationally, 90% of FVPLS clients are Aboriginal and Torres Strait Islander women. FVPLSs provide frontline legal assistance, innovative early intervention, prevention and community education programs. Our legal services predominantly specialise in the areas of: family violence law (intervention orders), child protection, family law and victims

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of crime assistance. Where resources permit, some FVPLSs also assist with other civil law areas connected to a client's experience of family violence or sexual assault such as police complaints, tenancy, debt and infringements, Centrelink and child support matters.

## **Collaboration with NATSILS and ATSILSs**

The National FVPLS Forum undertakes policy and law reform work to identify systemic issues in need of reform and advocate for strengthened law and justice outcomes for Aboriginal and Torres Strait Islander victims/survivors of family violence and sexual assault. As a national body informed by FVPLSs across Australia, the National FVPLS Forum is best placed to do this work because of our members' in-depth on the ground experience, through specialist frontline work and early intervention and prevention supports. It is the specialist knowledge and expertise of our members which informs our work nationally.

At a National level, the National FVPLS Forum has worked closely with the National Aboriginal and Torres Strait Islander Legal Services (NATSILS). As well as working collaboratively with NATSILS and other peak bodies in the sector, our individual services often develop their own relationships and referral pathways with local ATSILS. These on-the-ground working relationships with National FVPLS Forum members and collaborative national level advocacy between our peak bodies means that we are well placed to provide evidence as to the importance of the ILAP program, ATSILS and NATSILS.

## **Culturally Safe Legal Services**

NATSILS, ATSILSs, the National FVPLS Forum and FVPLSs have distinct, essential and compatible roles. NATSILS works to support and facilitate the provision of high quality legal services for vulnerable and disadvantaged communities, through the ASTSILS network. In playing this peak role, NATSILS provides a crucial service for Aboriginal and Torres Strait Islander Australians. As with the National FVPLS Forum, NATSILS serves to advocate for a population that is all too often legally and financially disadvantaged.

Given the complexity and sensitivity of family violence and the different cohorts with whom ATSILS and FVPLSs frequently work, having two separate yet complimentary voices for Aboriginal and Torres Strait Islander people is incredibly valuable – the National FVPLS Forum provides a distinct voice for Aboriginal and Torres Strait Islander people (predominantly women) who experience or are at risk of family violence and sexual assault, ensuring the lived experience of the people with whom we work inform policy, law and service development.

Though our member FVPLS services do not currently receive funding through the Indigenous Legal Assistance Program, we see the need for immediate, increased investment into the Aboriginal legal sector and collaborate regularly with ILAP-funded services to deliver much needed legal support to the communities we work with.

Through our experience working primarily with Aboriginal and Torres Strait Islander women, we understand the importance of supporting Aboriginal self-determination and community controlled organisations. Our services provide culturally safe support in direct response to community need. Many Aboriginal and Torres Strait Islander people engaging with our services are unlikely to receive culturally safe support from mainstream services and may be hesitant to seek out their services. In addition, because of legal conflicts and ATSILSs role representing people who use violence through criminal proceedings, many Aboriginal and Torres Strait Islander people experiencing family violence are not able or willing to access services through an ATSILS and are reliant on FVPLSs to access their legal rights and support for their safety. There therefore remains a critical and pressing need for appropriately resourced ATSILSs and FVPLSs to support Aboriginal and Torres Strait Islander people and communities across urban, regional and rural Australia.

We strongly support the continuation of ILAP and for ATSILSs and NATSILS to retain community control and independence through a distinct national program. Outside of ILAP and this review, the National FVPLS Forum is calling for the re-establishment of a stand-alone, National FVPLS Program with a direct funding allocation. Separate national funding streams and programs for ATSILS and FVPLSs are essential to preserve and promote community control and self-determination for Aboriginal and Torres Strait Islander legal service providers and for maintaining community trust and capacity to develop and deliver services in direct response to community need. Were funding to be rolled into a mainstream program we would be deeply concerned about the adverse impacts this would likely have on community control, culturally safe service models, effective service delivery and outcomes for clients, as well as equity of funding for Aboriginal and Torres Strait Islander people who typically experience complex legal needs and multiple, interlocking legal issues.

The retention of the ILAP as a separate Aboriginal and Torres Strait Islander-specific program must occur alongside appropriate linkages and meaningful engagement with collaborative legal service planning mechanisms at a national level, with NATSILS and the National FVPLS Forum having a seat at the table. In recognition of the critical importance of community control and Aboriginal and Torres Strait Islander self-determination, we also recommend the development of principles to guide funding and collaborative legal service planning akin to the APON principles which provide a preference for funding Aboriginal and

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Torres Strait Islander providers (i.e. ATSILs and FVPLs) to deliver programs and services for Aboriginal and Torres Strait Islander people.

## **National advocacy and representation**

In addition to advocating for culturally safe legal services, NATSILs supports improved cultural awareness in government departments and the broader service sector. They do this by undertaking national advocacy and representation on behalf of the sector and the people and communities their services work with. NATSILs also provides support to services in the sector through the provision of education and capacity building activities. NATSILs contributes to the evidence base that informs improved government policy development and decision-making. This is achieved through a diverse range of activities including research, data collection and analysis, policy development, expert advice and participation in roundtables, sector consultations and written submissions. To achieve this, NATSILs works collaboratively as a member of national social justice coalitions such as Change the Record, and also in direct partnership with other peak bodies, including the National FVPLS Forum.

Peak legal assistance bodies such as NATSILs and the National FVPLS Forum provide a voice to, and for, the community legal sector. NATSILs ensures that the voices and lived experiences of Aboriginal people inform legal, policy and system design. These services, along with those of the National FVPLS Forum, play an important role in translating on-the-ground experiences into meaningful change for Aboriginal and Torres Strait Islander people. The ILAP funding for NATSILs as a peak body is crucial to ensuring that the distinct and varied needs of Aboriginal and Torres Strait Islander people around Australia can be communicated with clarity to Federal and State governments as well as other stakeholders.

## **Need for increased resourcing**

Adequate resourcing of National FVPLS Forum and NATSILs will ensure that the spectrum of complex legal needs of Aboriginal and Torres Strait Islander Australians are heard and addressed. In 2014, the Productivity Commission recommended that the legal assistance sector, including FVPLs and ATSILs, receive an annual \$200 million increase in funding for civil law<sup>1</sup>. This increase in funding would allow for vitally needed, increased capacity to assist in funding for family law matters.

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<sup>1</sup> Productivity Commission, *Access to Justice Arrangements: Productivity Commission Inquiry Report - Overview*, 2014, p. 63, Recommendation 21.4.

This year, the Law Council of Australia recommended in the *Justice Project Final Report* that the Commonwealth, state and territory governments invest significant additional resources in FVPLSs, ATSILs, Legal Aid Commissions and Community Legal Centres to address critical civil and criminal legal assistance service gaps. This should include, at a minimum, \$390 million in additional funding per annum<sup>2</sup>.

The expertise and diverse range of experiences represented by NATSILS ensures that they are well placed to work with Australian government departments to co-design necessary system level changes affecting Aboriginal and Torres Strait Islander people. In conjunction with the National FVPLS Forum, these services are critical to support self-determination and community control and in holding government accountable to the needs of Aboriginal and Torres Strait Islander people.

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<sup>2</sup> Law Council of Australia, *The Justice Project Final Report – Recommendations and Group Priorities*, August 2018, p. 4, Recommendation 2.1