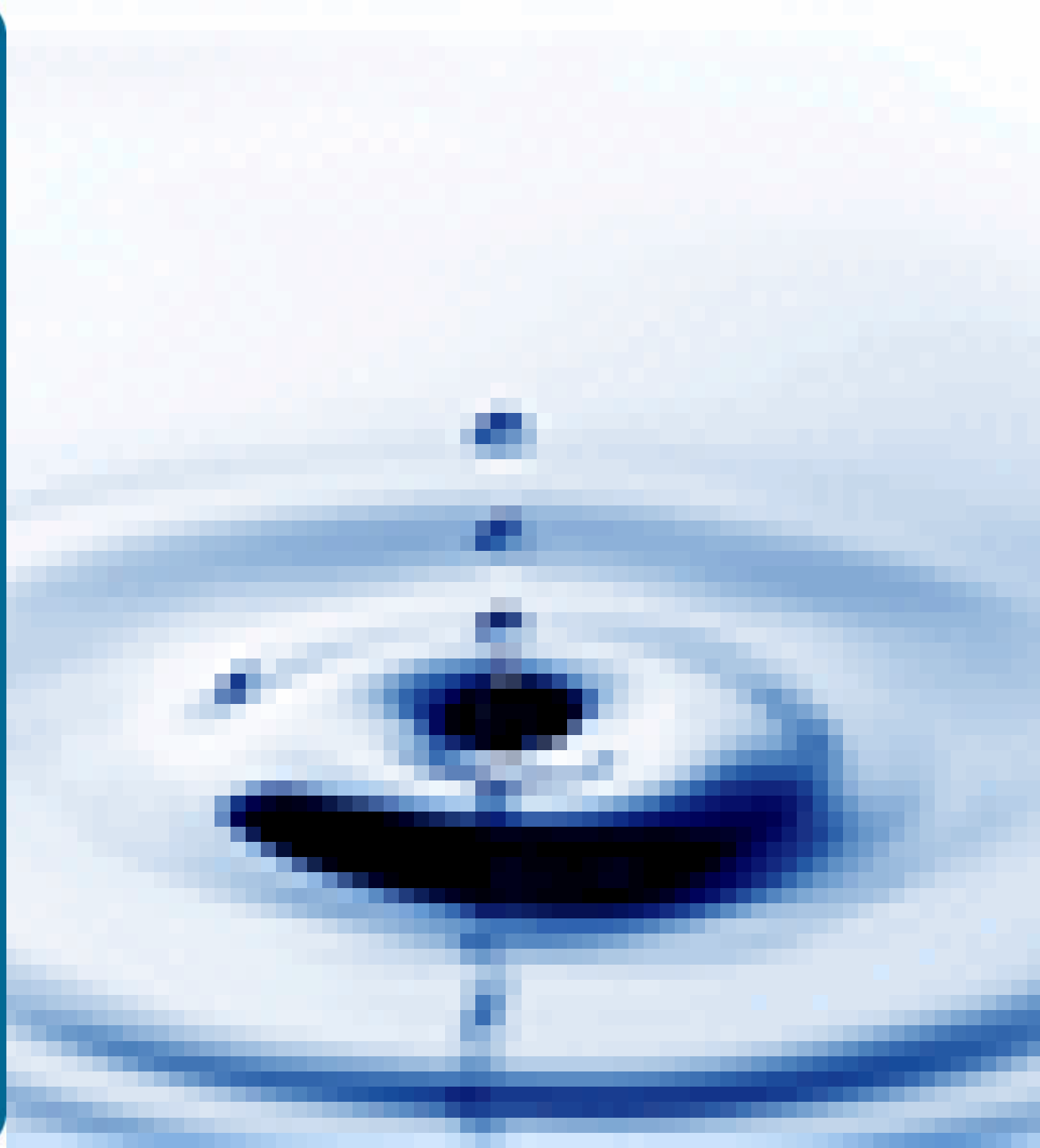




**VICTIM
RIGHTS
LAW CENTER**



Serving Sexual Assault Survivors Conducting a Holistic Intake & Integrating Sexual Assault Into Your Core Services

A presentation by

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Learning Objectives



After this presentation, participants will be able to

- Explain what is a “holistic legal intake” with a SA survivor
- Summarize the steps necessary to conduct a holistic sexual assault intake
- Identify 3 community partners who may be key to serving SA victims

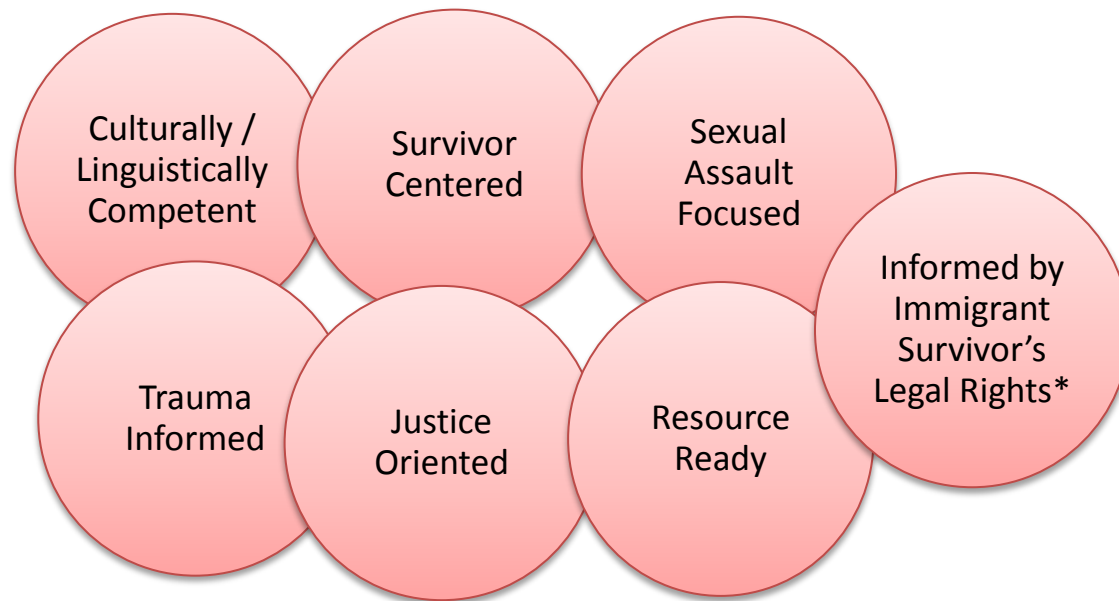


WHAT IS A HOLISTIC SEXUAL ASSAULT LEGAL INTAKE?





Providing Holistic Services to Sexual Assault Survivors Means Being:





Holistic Sexual Assault Intakes Include:

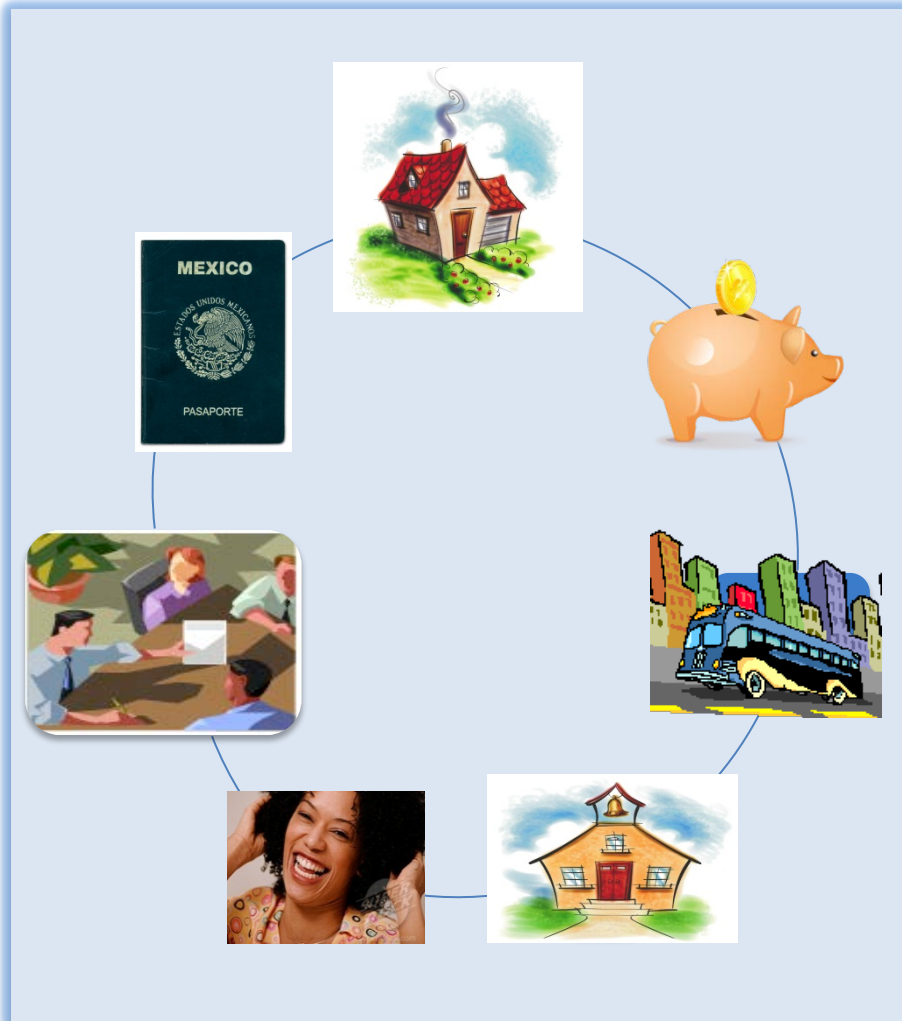
- **TALKING** with survivors about their lives.
- **HELPING** survivors determine what they need to get life back on track.
- **LOOKING** for:
 - What has changed post-assault?
 - What are the victim's priorities?
 - Safety?
 - Privacy?
 - Immigration concerns?
- **PROVIDING** solutions



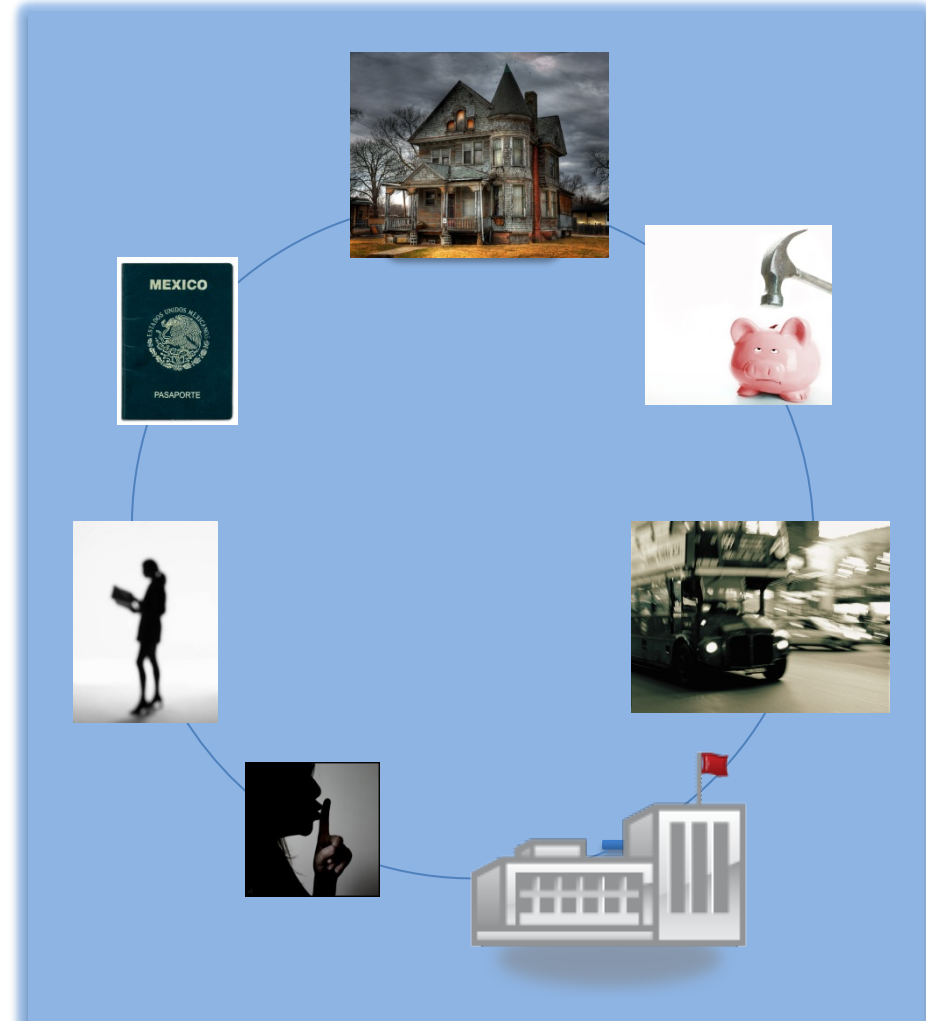


Survivor's Life

Before



After






Differences Between a Legal and a Non-Legal Intake:

- **Using the civil legal system to find concrete solutions to real life problems that survivors face post-assault.**
- **Differentiating between identifying the survivors' trauma-related *mental health care needs* and the trauma-related *legal needs*.**
 - Distinguishing between civil and criminal matters
- **“Issue spotting” needs that may have legal solutions.**

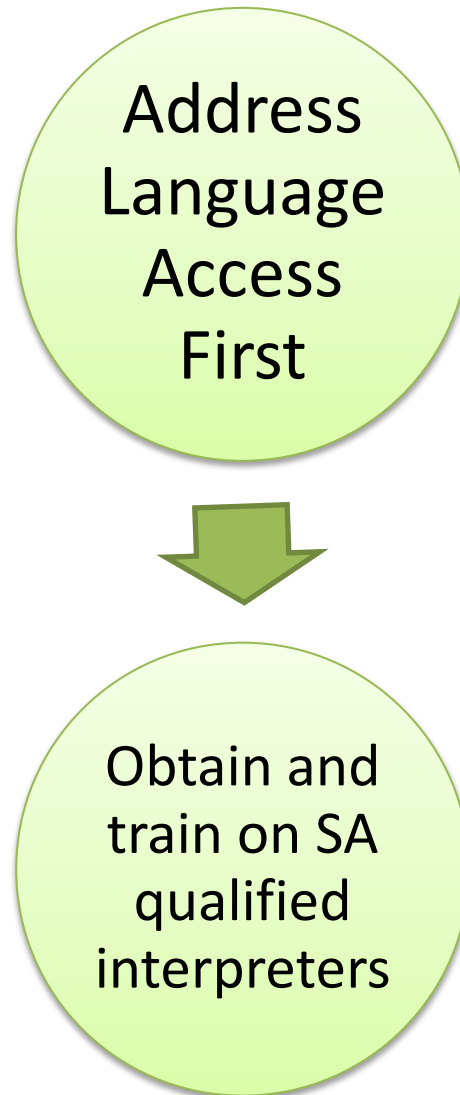


HOW DO I CONDUCT A HOLISTIC SEXUAL ASSAULT LEGAL INTAKE?



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Elements of Holistic Legal Intake With Immigrant Survivors

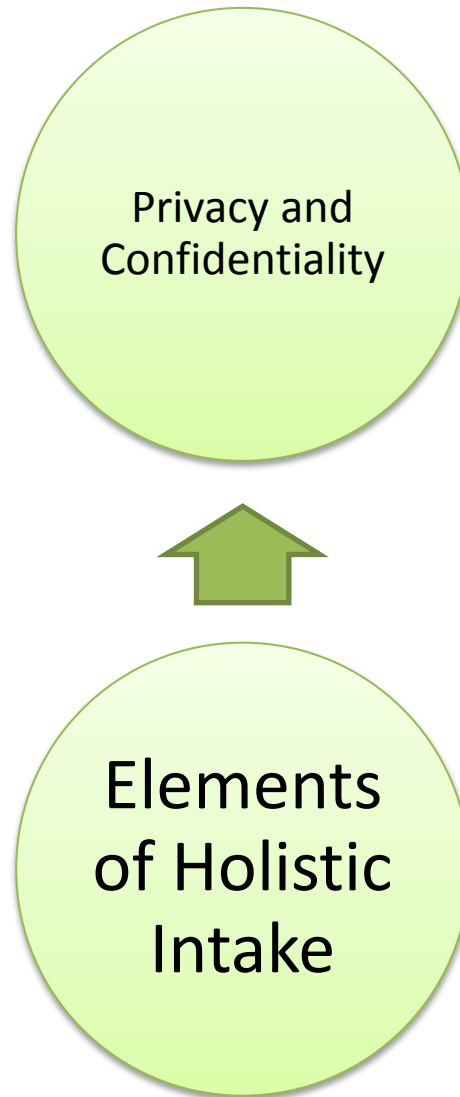




SA Civil Legal Intake

- If your client is limited English proficient
 - (LEP) how will you safely communicate
- Address privacy issues / concerns
- Use open-ended questions
- Use plain language not legalese
- Let victim set the pace
- Be aware of body language and tone
- Explain purpose of follow up questions
- Ask about terms you don't know
- Recognize that disclosure is a process
- Ensure *informed* consent
- Set priorities w/ the Victim (safety; time-sensitive remedies, etc.)

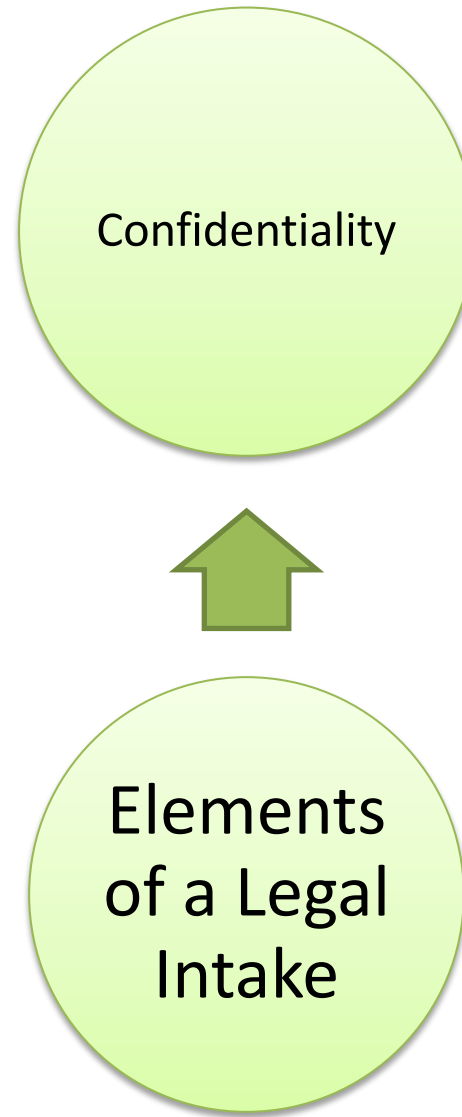


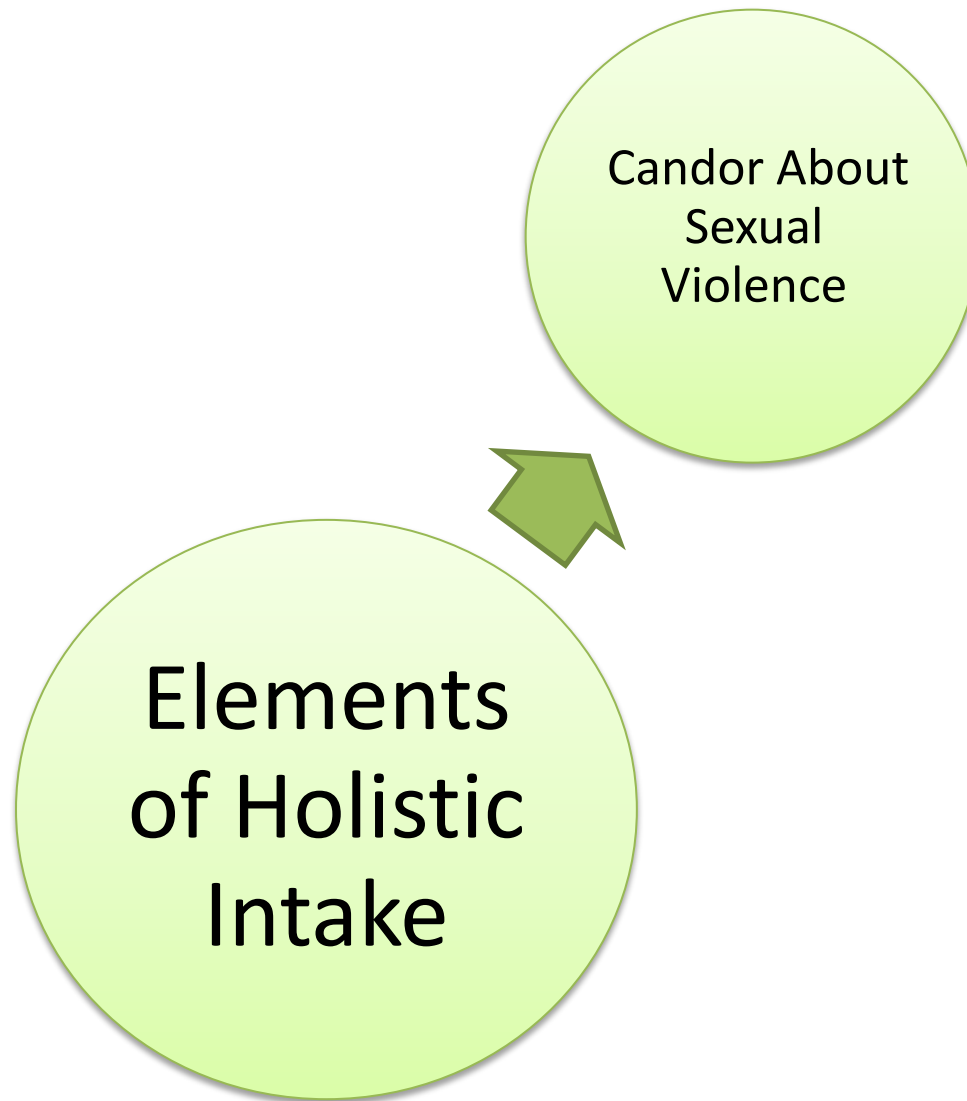




- Mandatory reporting
- Attorney-client privilege
- Advocate-client privilege
- Waiver of privilege
- Release forms (VAWA compliant)
- Confidentiality within organization
- Communications with other agencies
- VAWA confidentiality in immigration cases

Discuss It!

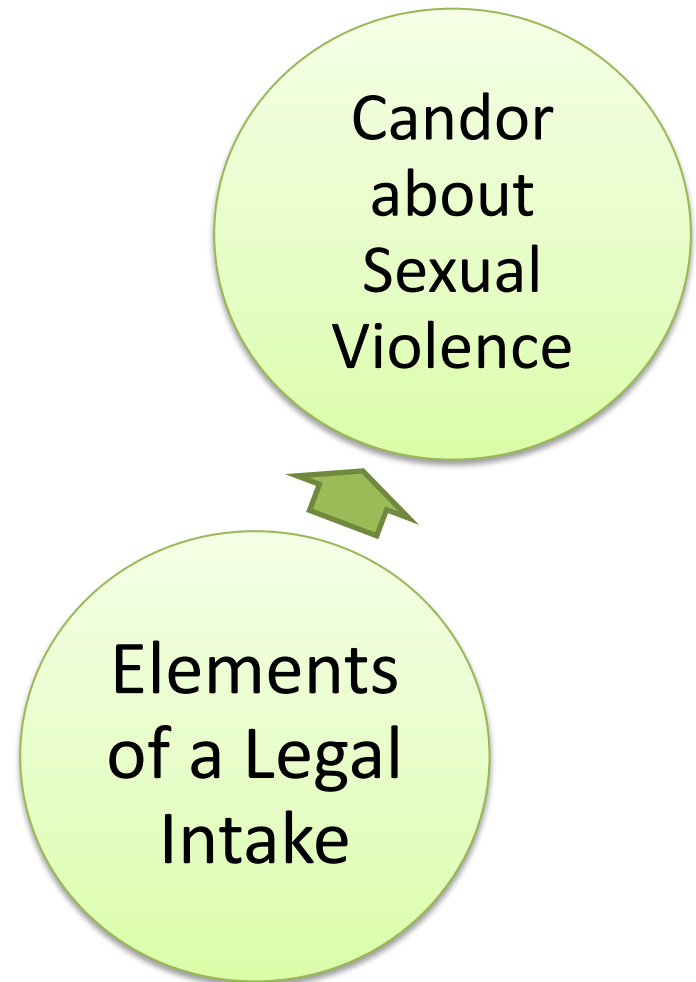


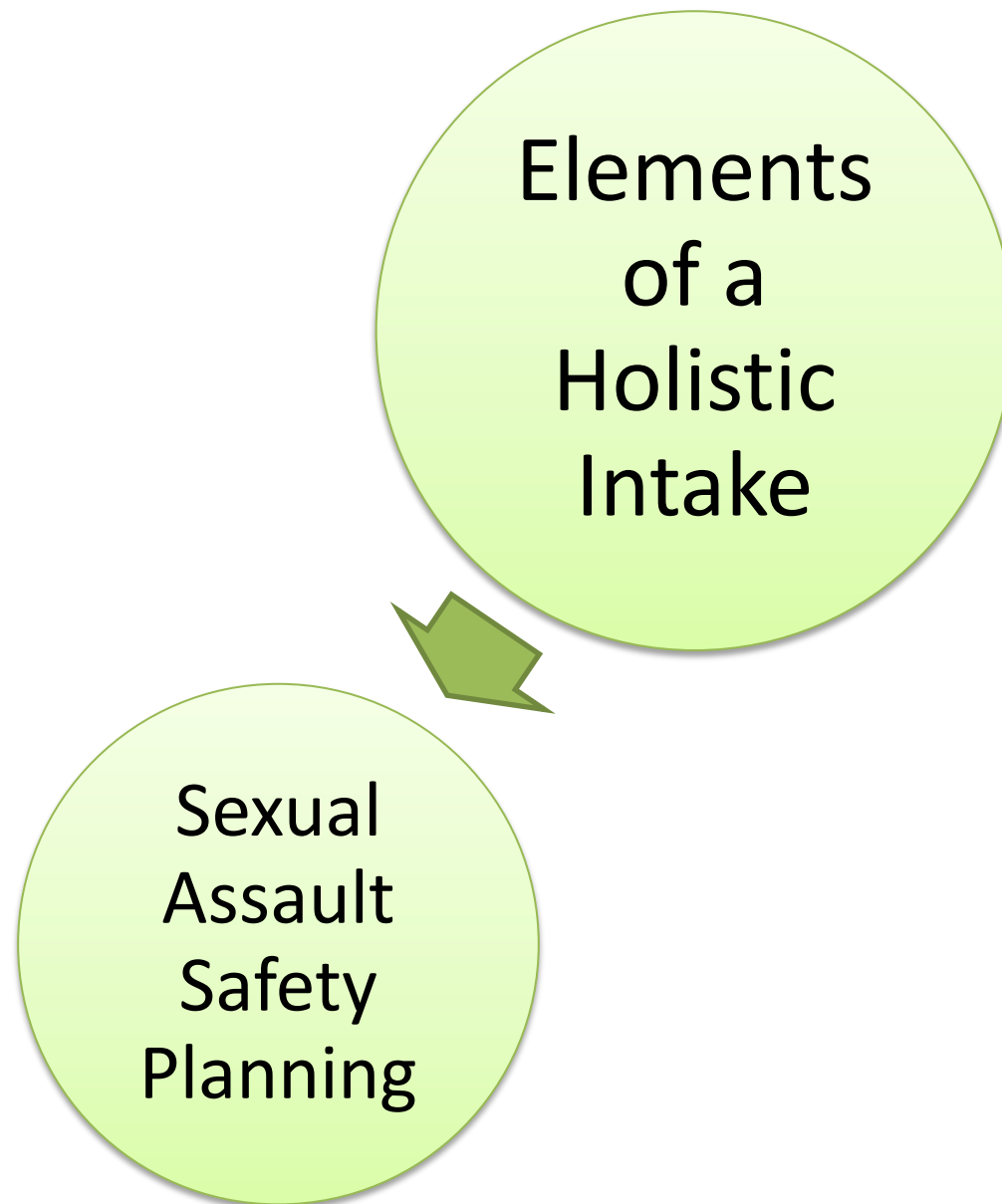




Name It!

- Shame in talking about sexual violence
- Impact of trauma on memory
- Fear of deportation
- Omissions - to protect privacy
- Impact of sexual assault on life and well-being
- Depression/anxiety/substance use/suicidality
- STI's, pregnancy, abortion, injuries and other medical concerns
 - How an immigrant rape victims health care needs can be met
- Societal perceptions vs. realities of sexual assault
- Cultural beliefs about sexual assault
- Distrust of law enforcement

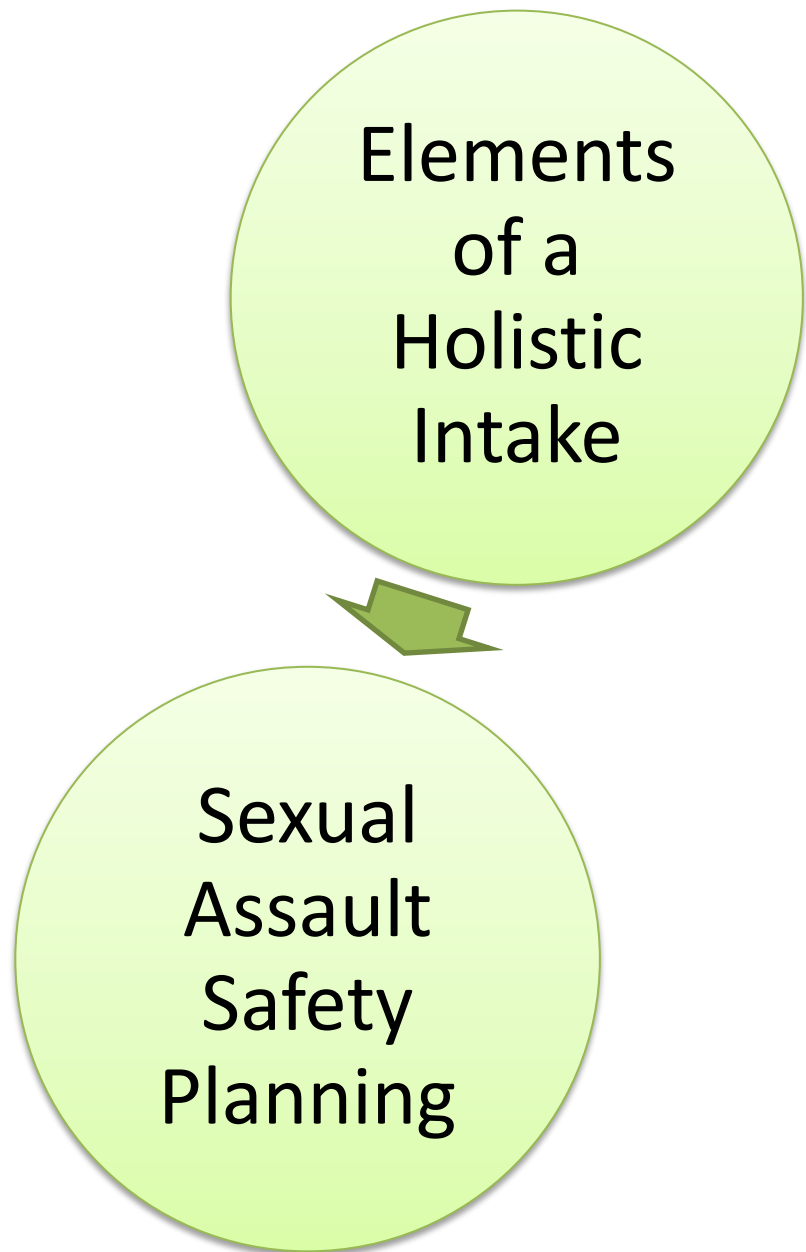






Make a plan!

- Safety planning with SA survivors is different than with DV survivors
- Perpetrator may be co-worker, employer, another student, teacher, landlord, neighbor; plan accordingly
- Social media & privacy risks
- May be threats/fears of retaliation in home country or cultural community
- Victim-blaming safety issues
- Safety plan on first visit/intake call
- Safety planning is a process, not a one-time event



Immigration Impacts Safety

- Discuss concerns about deportation
- Identify who victim fears may call DHS about her (perpetrator, police, other)
- Screen for
 - immigration relief eligibility and
 - red flags
- Inform victims about the steps they will need to take to qualify (U visas need police report)
- Help victims apply
- Application filed = VAWA confidentiality's protection against deportation

IMMIGRANT SEXUAL ASSAULT SURVIVOR WALKS THROUGH THE DOOR OF YOUR AGENCY

Is the survivor eligible for immigrant relief under either VAWA or T/ U-visa? In order to be eligible for T/U visa survivor must report to assault to law enforcement

HIGH

What is the risk level of the survivor being subjected to immigrant enforcement or immigration-related retaliation from the perpetrator?

LOW

Contact law enforcement and/or file for a Civil Protection Order to deter contact and from committing further acts of violence against survivor

Gather information/evidence of crime victimization that could be used to elicit favorable DHS prosecutorial discretion on humanitarian grounds for the survivor, including the following factors:

- ❖ Survivor of a crime (never called the police)
- ❖ Parent of USC children
- ❖ School children^{2,3}

NO

YES

File for immigrant relief through either VAWA or T/ U-visa

[Survivor's case is flagged in the VAWA 384 computer system to prevent immigration enforcement and confidentiality protections]^{1,2}

File/Serve perpetrator with notice of a Civil Protection Order (and/or any other criminal court proceeding, if applicable) to deter perpetrator from committing further acts violence against survivor

File/Serve perpetrator with notice of a Civil Protection Order (and/or any other criminal court proceeding, if applicable) to deter perpetrator from committing further acts violence against survivor

[Wait approximately 9 months – one year for VAWA/T/U-Visa]

Perpetrator attempts to get survivor removed from the U.S. by reporting the survivor to DHS

Survivor is detained in immigration custody

Perpetrator attempts to get survivor removed from the U.S. by reporting the survivor to DHS

Perpetrator attempts to get survivor removed from the U.S. by reporting the survivor to DHS

Victim's representative/ advocate/attorney provides evidence gathered for DHS + copies of DHS memos when DHS arrives^{2,3}

DHS stops enforcement^{2,4}

DHS enforcement stopped because of 384 system (protection from deportation)

[Approved petition grants survivor work authorization]

Gather information/evidence of crime victimization that could be used to elicit favorable DHS prosecutorial discretion on humanitarian grounds for the survivor, including the following factors:

- ❖ Survivor of a crime (never called the police)
- ❖ Parent of USC children
- ❖ School children^{2,3}

Provide information for survivor to be released on humanitarian grounds, if eligible

IF APPROVED...

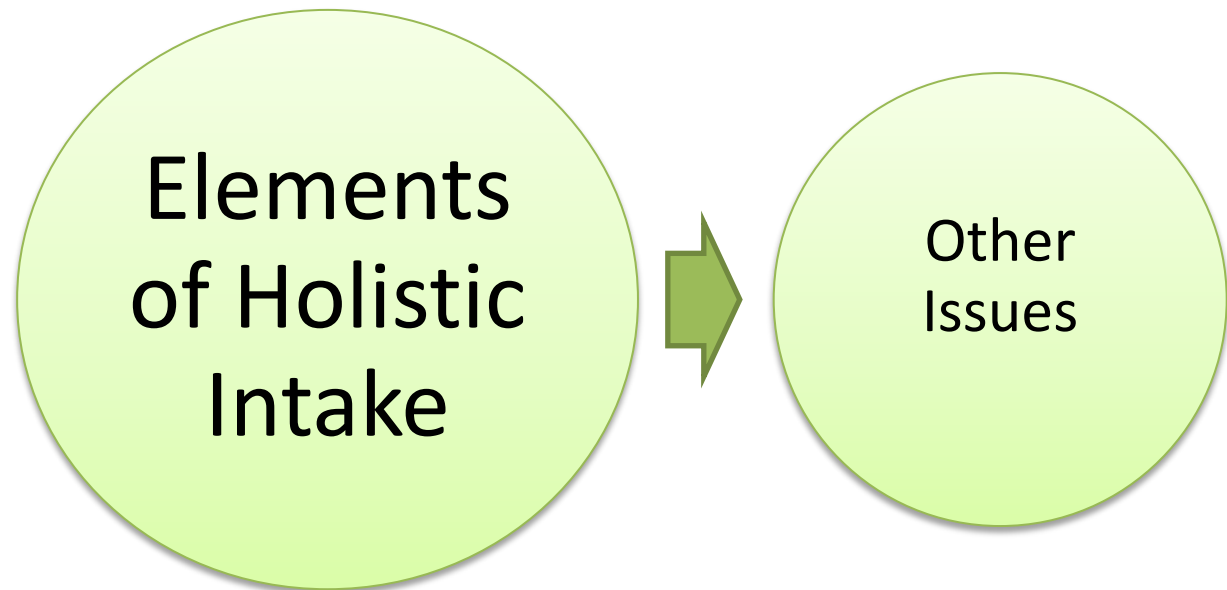
Survivor is released from detention.

Request a stay of removal with DHS-ICE to buy time to determine what other options are available to the survivor¹

Determine that the survivor is eligible for U-visa /T visa or VAWA, file for immigration remedy and ask for expedited processing¹

IF APPROVED...

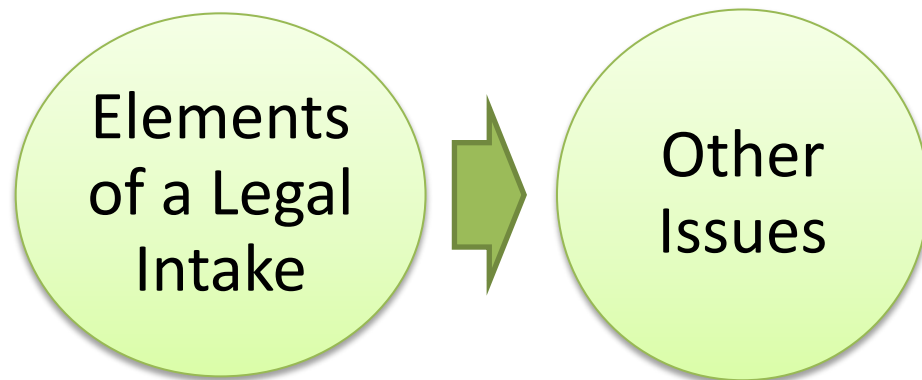
Case against survivor is automatically dismissed even if U-visa, T visa or VAWA status has not been approved^{2,4}

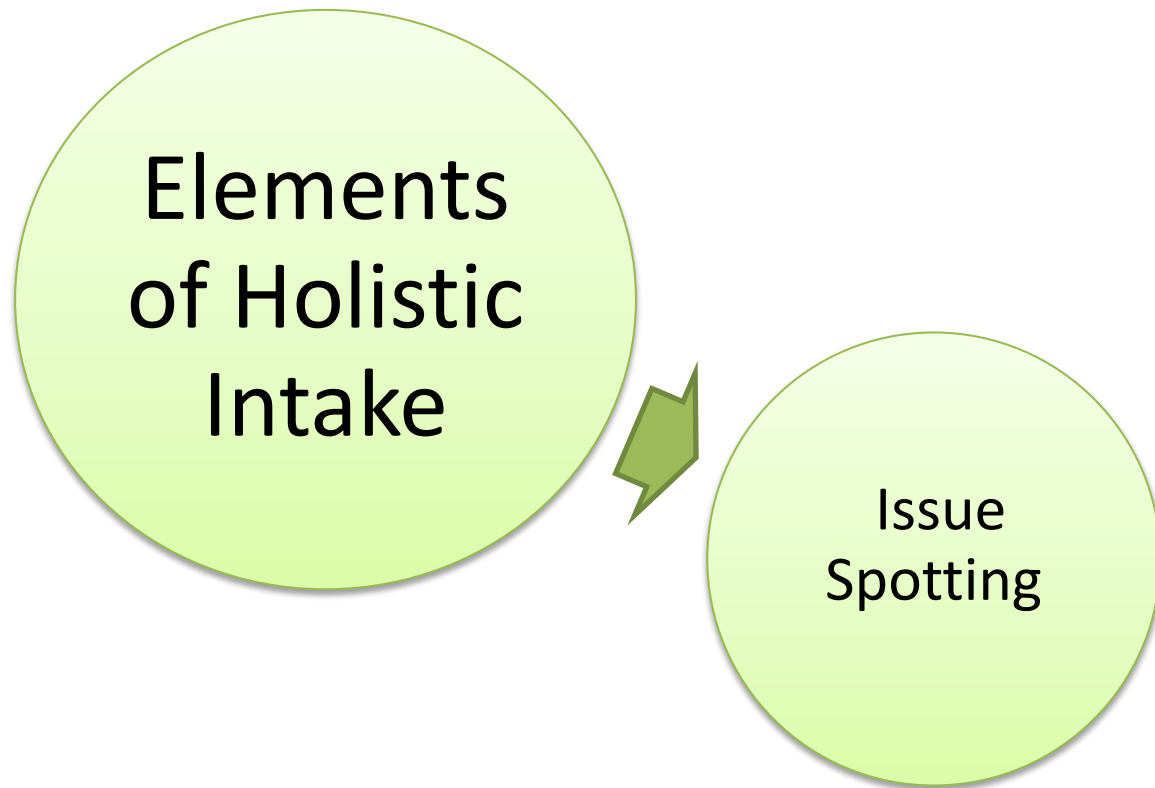




Head's up for:

- Community-specific concerns
- Immigration status issues
- Minor clients
- Clients with disabilities
- Elder clients



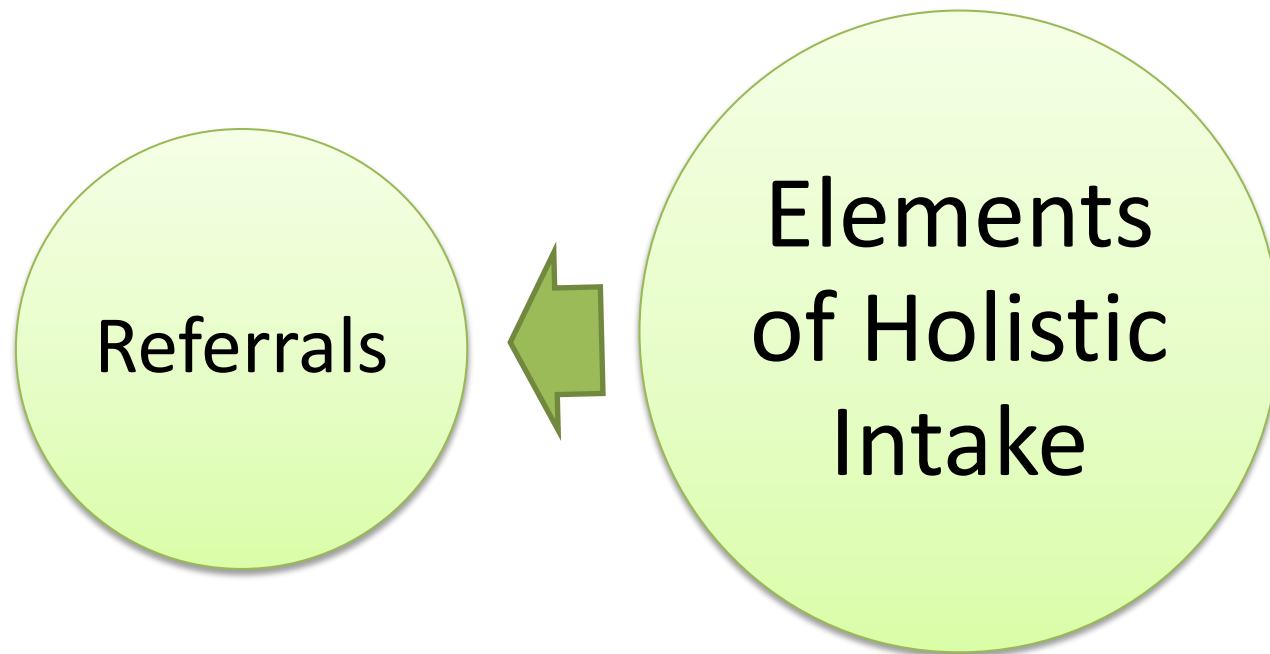




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**Elements
of Holistic
Intake**

**Criminal
Justice
Advocacy**

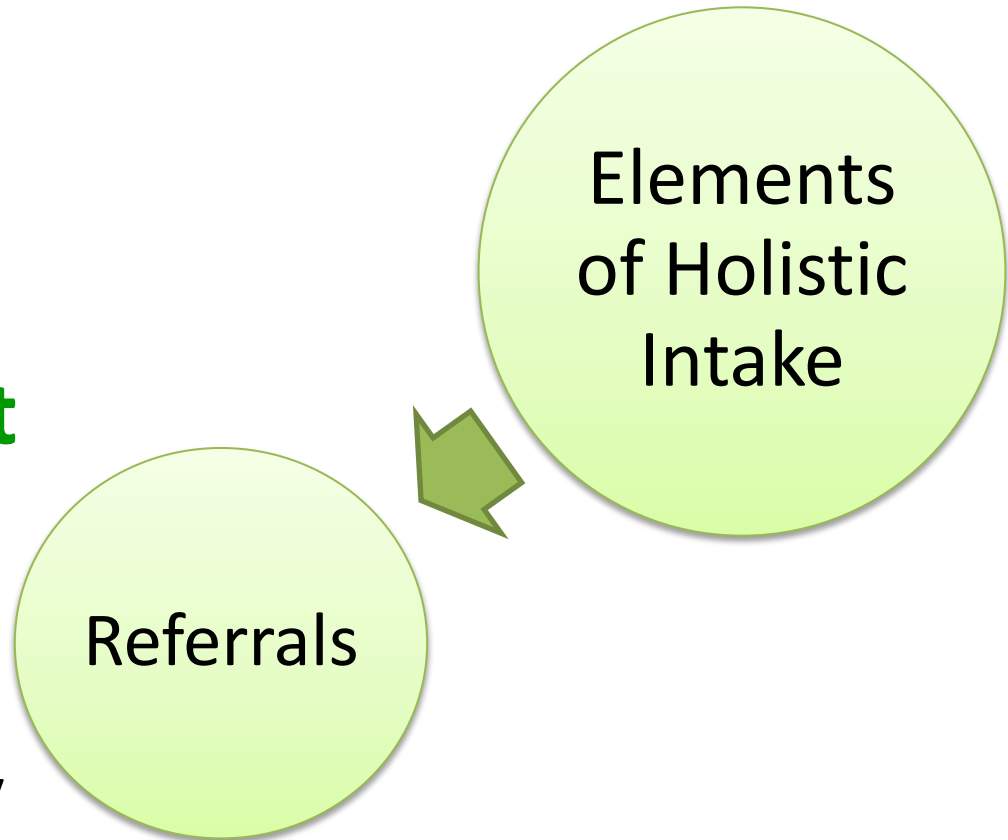


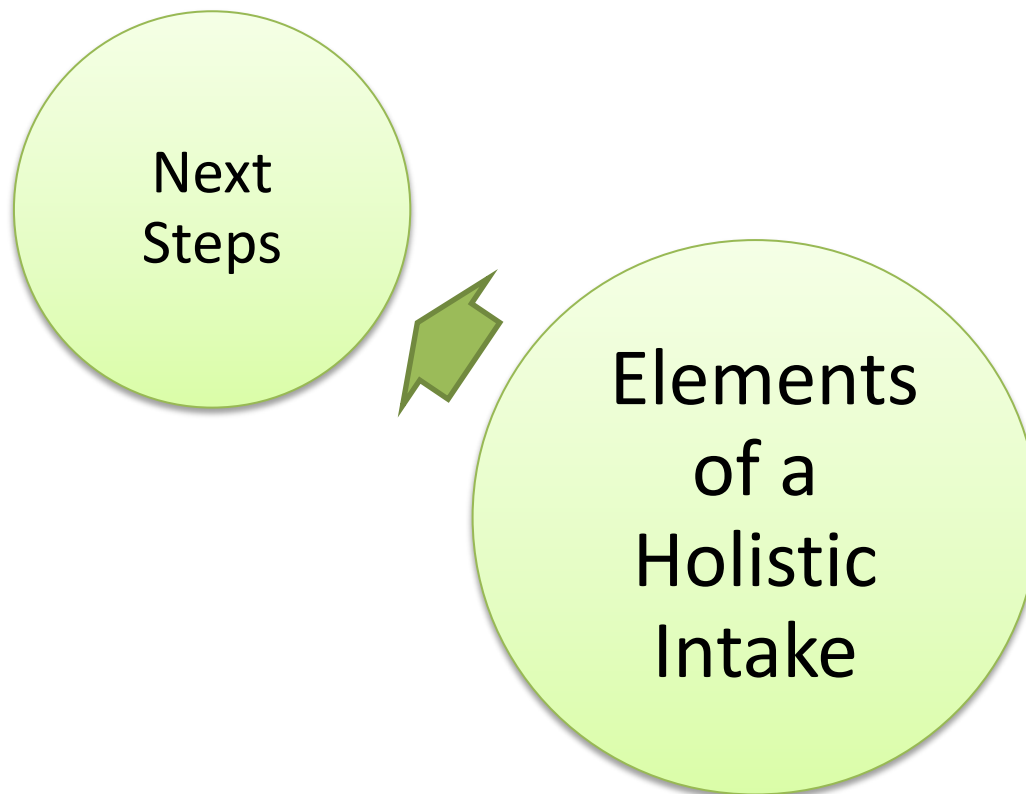


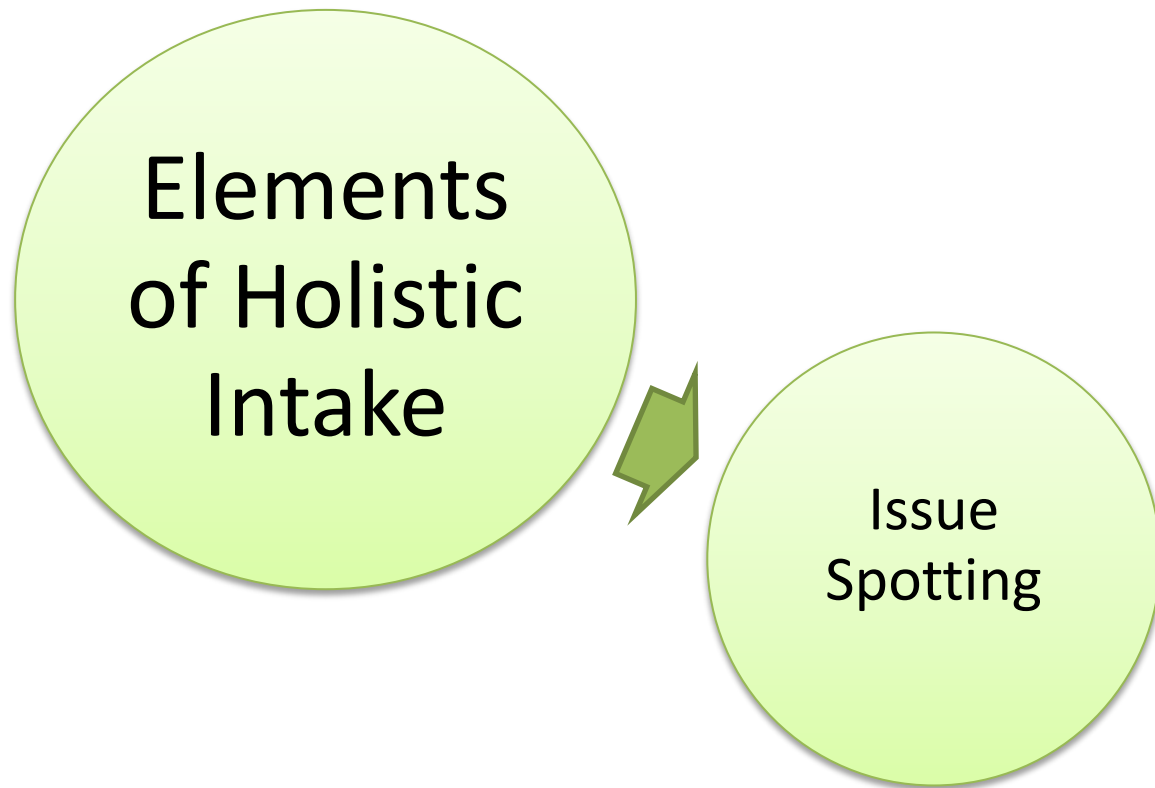
Community Partners – Know them!

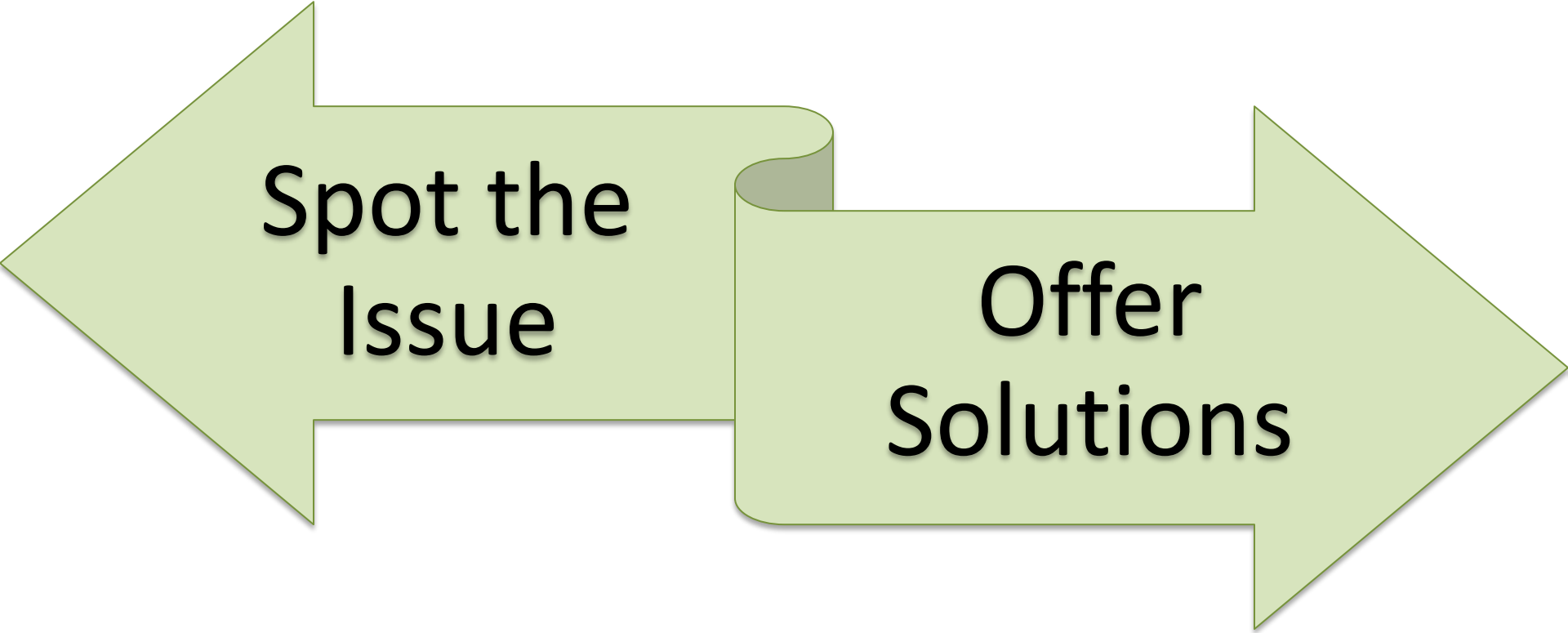
Referrals -- Make the right ones!

- Hot vs. cold referrals
- Necessary community partners









The diagram consists of two large, light green arrows with dark green outlines. The left arrow points to the left and contains the text "Spot the Issue". The right arrow points to the right and contains the text "Offer Solutions". The two arrows are interlocked, with the right arrow's tail fitting into the left arrow's head, creating a continuous path from left to right.

**Spot the
Issue**

**Offer
Solutions**



Claudia was born in Guatemala. She migrated to the United States with her family when she was 10; they came to pick berries in Oregon's Willamette Valley.

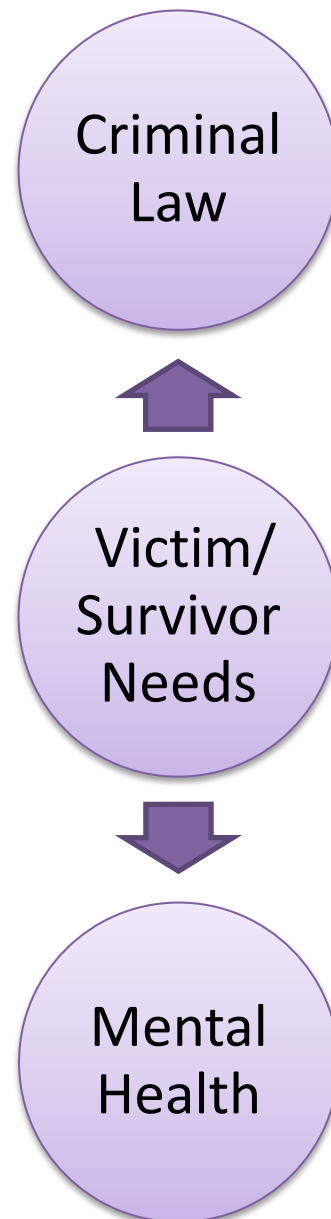
Claudia is now working at a convenience store and going to school. She tells you that she was "molested" at a party by David, a friend-of-a-friend who is also a fellow student. She was drinking at the party.

Claudia does not know if David knows where she lives. She is afraid. She does not have money to move.

Claudia has missed a lot of work and many classes since the party. She is crying a lot and hardly eating.



WHAT DOES CLAUDIA NEED?







Answer questions (and be realistic about it!)

- Difference between criminal and civil justice
- Steps involved in making a report to law enforcement
- U visa requires reporting to law enforcement
- Local police practice re immigrant crime victims
 - (qualified interpreters, U visa certification, take police reports, report victims to DHS)
- Prosecuting attorney is not victim's attorney
- Victim/witness advocate reports to prosecutor
- Potential for victim to be charged criminally (underage drinking, false reporting, etc.)
- Differences between a campus disciplinary hearing and criminal justice

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graph TD; A((Elements of Holistic Intake)) --> B((Criminal Justice Advocacy));
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Elements
of Holistic
Intake

Criminal
Justice
Advocacy



Criminal Justice System



Government brings case against defendant.



Survivor reports to law enforcement. Law enforcement investigates. If enough evidence is found, prosecutor may decide to prosecute.



Criminal charges may include rape, sodomy, trafficking in persons, unlawful sexual penetration, etc.



If convicted, possible sanctions include jail or prison sentence, probation, mandatory treatment (for drug/alcohol abuse or sex offenses), and/or fines.

Civil Legal System



Survivor brings case against perpetrator, or another entity such as a school, employer, landlord, etc.



Survivor initiates legal action and decides what claims to bring [alone or in consultation with lawyer]. Reporting to law enforcement generally not required.



Civil claims may include issues related to housing, employment, immigration, education, or physical safety, or tort claims such as assault, battery, intentional infliction of emotional distress, etc.



If found responsible, the judge may order the defendant to pay money (damages) to the plaintiff-survivor for expenses such as medical or counseling bills, pain and suffering, or to take or refrain from certain actions (e.g. reinstate or not retaliate against an employee, not evict a tenant, etc.

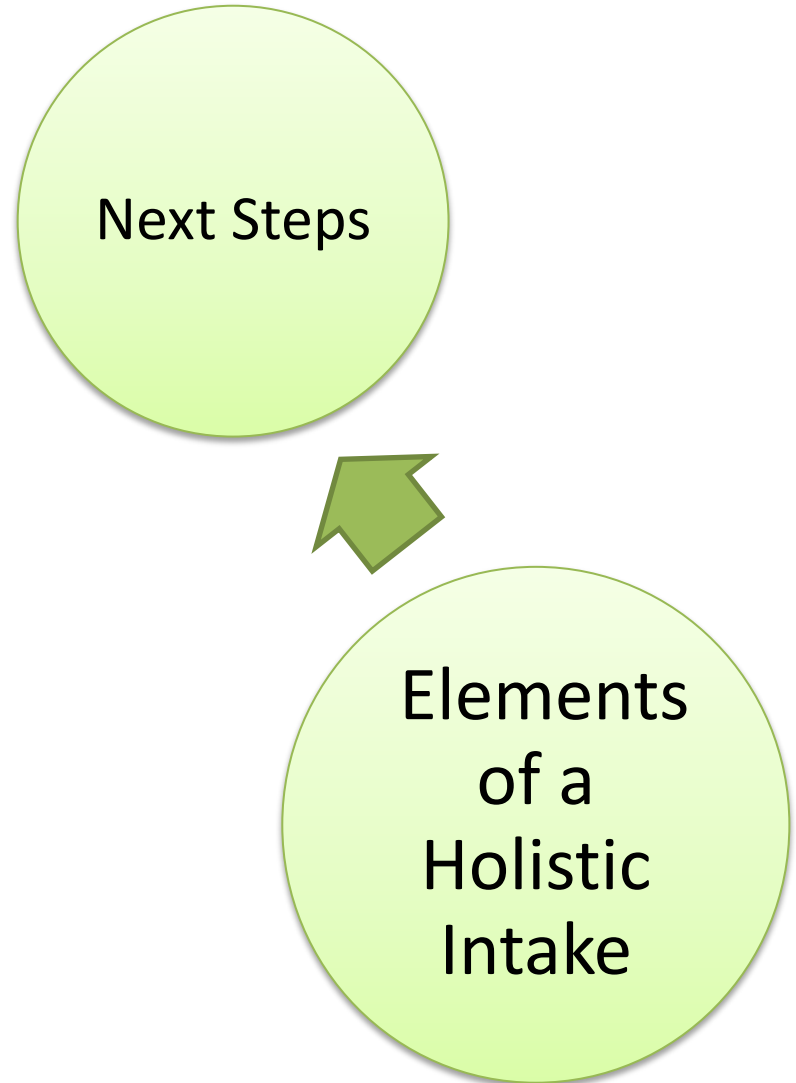
Some Self Assessment Questions

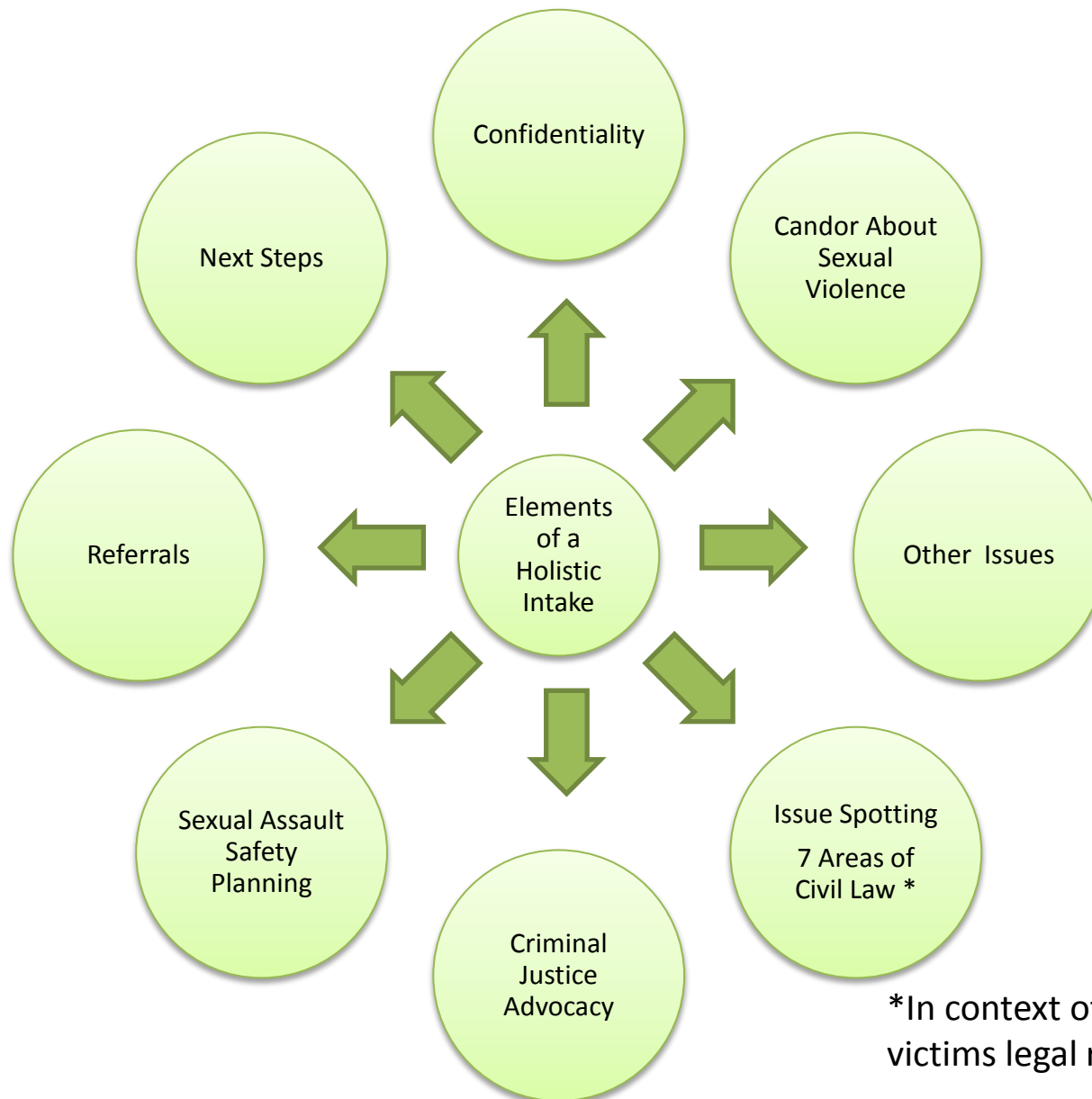


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Take action!

- Identify client priorities
- Identify time-sensitive priorities (statute of limitations, immigration issues, etc.)
- Next steps you will take
- Next steps client will take
- Client “homework”





***In context of immigrant victims legal rights**

Scenarios





Thank you for the work you do!





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Contact NIWAP

- Technical Assistance
 - Call 202.274.4393
 - Email questions @niwap.org
- Materials on U-visa and Immigrant Victims Legal Rights
 - Visit <http://wcl.american.edu/niwap>