

Effective Advocacy for Noncitizen Clients in the Wake of Trump 2.0

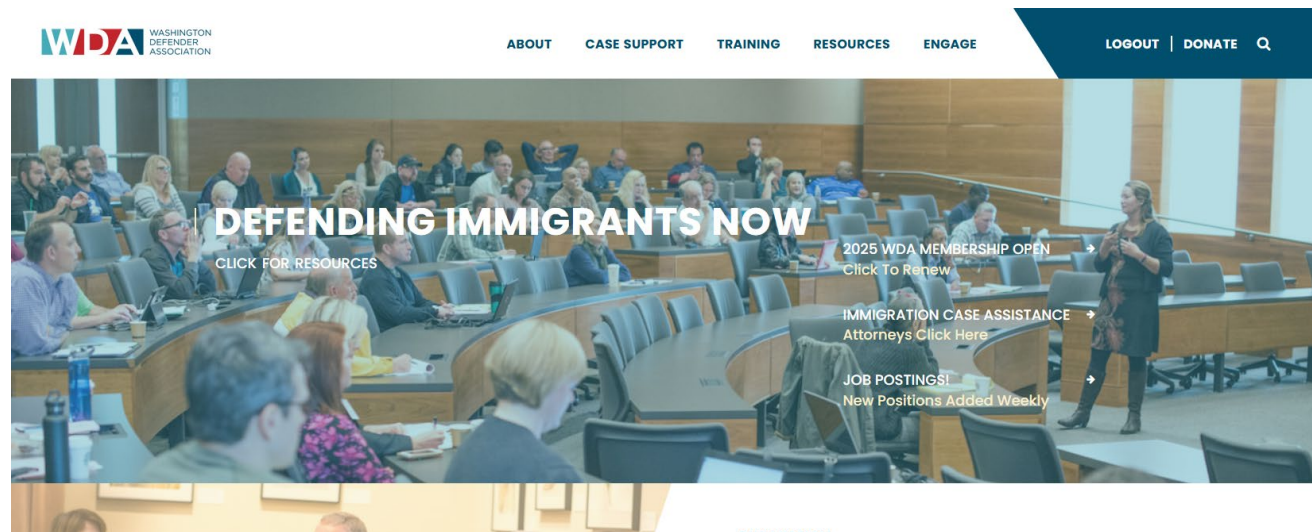
Presentation to:

Washington Defender Association

March 2025



Amidst the flurry of action on immigration, focus on what is relevant. WDA NEW IMMIGRATION PROJECT RESOURCES:



It's a constantly evolving situation!

DEFENDING IMMIGRANTS NOW

With the new administration promising stepped-up immigration enforcement, the crimmigration field is facing rapid changes and challenges.

This space will track changes that impact you and your noncitizen clients. We will post news, updates, and links to resources here.

CRIMMIGRATION CONVERSATIONS

The WDA Immigration Project (WDAIP) hosts *Crimmigration Conversations* on the **second Monday of each month from 12:00-1:00.**

Crimmigration Conversations is an informal space for those interested in learning more about crimmigration law. We will address substantive issues (what on earth is a CIMT anyway?), legal updates, best practices, etc. You are welcome to bring your own questions.

Immigration Policy Tracking Project

🔍 Search for Keywords, Topics, Events, Issues, Names, and more.

135 Policy Actions

Filter: **Trump 2.0** **All Policies**

For Policy Actions subject to litigation

By Subject Matter ▾

By Agency ▾

By Type of Administrative Action ▾

[Home](#) / [Policies](#)

Trump Policy Actions

Sorted by date announced ↓

Filter

Policies by Year

- 2021 (30)
- 2020 (304)
- 2019 (236)
- 2018 (283)

February 2025

February 18, 2025 **2.0**

Trump administration issues stop-work order for legal service providers representing unaccompanied minors

Minors | HHS | Reported | Agency Directive

Trump Administration 2.0

- Ended humanitarian parole programs for Cubans, Haitians, Nicaraguans, Venezuelans, Ukrainians, Afghans.
 - People who currently have parole status still have it. Will not be able to renew. No new applications.
- * All OTHER applications by individuals who were beneficiaries of these parole programs are apparently “indefinitely” on hold and not being adjudicated, to “identify fraud and enhance vetting procedures.”

Trump Administration 2.0

- Ended Temporary Protected Status for certain Venezuelans and Haitians (in flux, lawsuits filed, may be TRO(s) in place).
- “Protecting the American People Against Invasion” executive order, directing implementation and enforcement of INA 262 (8 U.S.C. 1302) requiring noncitizens to register with the government.

Trump Administration 2.0

- Expansion of “expedited removal”
 - If person can’t prove they’ve been continuously present in the U.S. for at least two years, summary removal (unless express fear of harm)
 - Advise undocumented clients to carry proof of presence for at least two years.
 - Do NOT present evidence of citizenship
 - Do NOT present false/fraudulent documents.

Trump Administration 2.0

ADVICE FOR OUR CLIENTS

- #1 best response: **REMAIN SILENT!**
- Carry evidence of 2+ years in U.S.
- Proof of lawful entry
- Proof of pending application for asylum, upcoming hearing, etc.
- If you have a fear of return, **SAY SO!**
- Do **NOT** show fake/fraudulent documents
- Do **NOT** offer documents that show “alienage”

Trump Administration 2.0

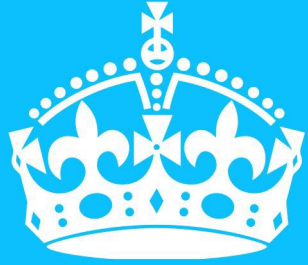
➤ FEAR and DISTRUST

- You may have to work harder to get your client to trust you. Explain that you need to know immigration information in order to effectively represent them. You will try and help them *mitigate* immigration consequences.

➤ Rescinded policy on ICE enforcement in courthouses and other “sensitive locations.”

➤ Laken Riley Act

- Expands categories of people who will be subject to mandatory detention (no bond) *if and when* they are detected by ICE.
- Does NOT add or change criminal grounds of removal
- In WA, narrow(ish) circumstances in which it will have impact, depending on individual case. CONSULT WDAIP.



**KEEP
CALM
AND**

CONTACT WDAIP!

» [Immigration Project](#)

» [Online Intake Form](#)

wdaip@defensenet.org

Washington's
sanctuary
laws remain in
effect

KEEP WASHINGTON WORKING,
RCW 10.93.160

COURTS OPEN TO ALL,
RCW 2.28.300-340

KEEP WASHINGTON WORKING

“The immigration status of an individual or an individual's presence in, entry, or reentry to, or employment in the United States alone, is not a matter for police action...”

State and local law enforcement agencies, school resource officers

May not inquire into or collect information about immigration/citizenship/place of birth.

May not provide information in response to requests from federal immigration authorities.

May not detain a person solely for immigration purposes

RCW 10.93.160

WASPC
STATEMENT ON
LOCAL LAW
ENFORCEMENT
INVOLVEMENT
IN IMMIGRATION
ISSUES
12/18/2024

Washington State law does not permit the housing of individuals in local jails solely for federal administrative matters such as immigration status.

The federal government has no direct authority over local law enforcement.

WA Sheriffs and Police Chiefs want all Washington residents to know that no one in our state should fear calling 911 for help due to their immigration status. The role of our officers, deputies, troopers and agents is to serve and protect everyone. We will always seek to provide that protection fairly, and without regard to immigration status.

KEEP WASHINGTON WORKING

State or local government or law enforcement agencies:

May not deny services, benefits, privileges, or opportunities to individuals in custody, or under community custody ..., or in probation status, on the basis of the presence of an immigration detainer, hold, notification request, or civil immigration warrant....

DOC exception: “except as necessary for classification or placement purposes” for individuals in the physical custody of the department of corrections.

KEEP WASHINGTON WORKING

KWW covers all state agencies, not just law enforcement!

No state agency, including law enforcement, may use agency funds, facilities, property, equipment, or personnel to investigate, enforce, cooperate with, or assist in the investigation or enforcement of any federal registration or surveillance programs or any other laws, rules, or policies that target Washington residents solely on the basis of race, religion, immigration, or citizenship status, or national or ethnic origin.

All public schools, health facilities either operated by the state or a political subdivision of the state, and courthouses must adopt model policies or explain why not....

KEEP
WASHINGTON
WORKING

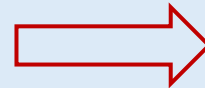
The DOC Carve-out:

The Department of Corrections is exempted from the restrictions on sharing information with ICE for persons in the physical custody of DOC.

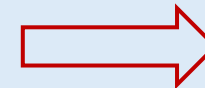
DOC can and will notify ICE about any noncitizens in the physical custody* of DOC.

*Physical custody does not include community custody.

DOC



ICE



COURTS OPEN TO ALL

Judges, court staff, court security personnel, prosecutors, and prosecutor's office staff may not:

- Inquire into or collect information about an individual's immigration or citizenship status or place of birth;
- Disclose nonpublic personal information about an individual, including individuals subject to community custody, to immigration authorities.

RCW 2.28.310

COURTS OPEN TO ALL

No person is subject to civil arrest while going to, remaining at, or returning from, a court facility....

RCW 2.28.330

Wash. Gen. R. 38

(a) Prohibition on Civil Arrests.

(1) No person shall be subject to civil arrest without a judicial arrest warrant or judicial order for arrest while the person is inside a court of law of this state in connection with a judicial proceeding or other business with the court.

(2) No person shall be subject to civil arrest without a judicial arrest warrant or judicial order for arrest while traveling to a court of law of this state for the purpose of participating in any judicial proceeding, accessing services or conducting other business with the court, or while traveling to return home or to employment after participating in any judicial proceeding, accessing services or conducting business with the court.

COURTS OPEN TO ALL

Applies to all Washington courts. RCW 2.28.340

Courts must have policies and procedures in place to identify any law enforcement presence, including federal, and must immediately notify court staff. RCW 2.28.320

KEEP WASHINGTON WORKING ACT

GUIDANCE, MODEL POLICIES, AND BEST PRACTICES FOR WASHINGTON COURTHOUSES

[KWW Courthouse Model Guidance.pdf](#)

III. Model Policies

- A. Legal Authority
- B. Access to [Courthouse]
- C. Civil Arrests at or Near Courthouse Facilities
- D. Gathering Information Related to Immigration or Citizenship Status
- E. Responding to Requests for Information
- F. Use of Courthouse Resources

V. Training Recommendations & Best Practices Guidance

- A. Training for Courthouse Personnel
- B. Strategies to Provide Greater Access to the Courts
- C. Facilitating Access to Services
- D. Consular Notification Requirements
- E. Coordination with other Courthouse Facilities and Programs
- F. Compliance Monitoring
- G. Feedback to the State

Report Violations of KWW and COTA

If you believe there has been a violation of KWW or COTA involving your client, tell WDA Immigration Project. wdaip@defensent.org; 206-623-4321, ext. 107.

If active incident of ICE enforcement, have someone on the scene/with direct knowledge call WAISN Deportation Defense Hotline. They have rapid responders who may be able to go to scene and verify/monitor. **WAISN HOTLINE: 1-844-724-3737**

For first-hand, verified reports: Civilrights@atg.wa.gov or KWW@atg.wa.gov.

KWW Roundtable of advocacy orgs and AG's office, meets monthly.

KWW Violations in Your Case

- If immigration authorities appear anywhere in your case investigation, get records through discovery, public records requests. Share with us!
- Violations may support pretrial motions
 - E.g. motion to dismiss “in furtherance of justice” if the prosecution has engaged in “arbitrary action or misconduct.” See CrR 8.3(b).
 - motions to dismiss as an interference with the constitutional right to counsel or the right to bring or cross-examine witnesses.
- If you see any law enforcement communication with ICE, explore whether the client was targeted for impermissible reasons or whether grounds exist to challenge the prosecution’s or witnesses’ objectivity.
 - WDA Practice Advisory, [Outrageous Governmental Conduct](#).
 - CrR 8.3(b) and WDA Practice Advisory, [CrR 8.3\(b\) Dismissal for Government Misconduct](#).

If ICE Takes Your Client

- Find your client: ICE Detainee Locator, <https://locator.ice.gov/odls/#/search>
- If prosecutor cannot produce client from ICE custody, motion to dismiss for failure to prosecute, violation of right to counsel, etc.
- Object to issuance of warrant

If ICE Takes Your Client

How to communicate with your client in NW ICE Processing Center (NWIPC)

- In-person attorney visits, 7:30am – 10:00pm
 - What to bring:
 - ID, proof of bar admission
 - Laptop, phones, paperwork allowed
 - Lockers available for personal items
- OUTOING calls only.
 - Call front desk, (253) 396-1611, give brief message for client [“call me tomorrow at 10am”]
- LEGAL MAIL
 - CLIENT NAME
 - A# XXX-XXX-XXX
 - 1623 East J Street, Ste. 5
 - Tacoma, WA 98421

Resources for Your Clients

WASHINGTON IMMIGRANT SOLIDARITY NETWORK (WAISN)

- Accompaniment: immigration court, courthouse visits, ICE and USCIS appointments, bond hearings
- Bond fund
- Rapid response network
- Know-your-rights training
- Resource finder (<https://resources.waisn.org/>)

Links to resources on [WDA Defending Immigrants Now](#) page

And here » [RESOURCES FOR INDIVIDUALS - Washington Defender Association](#)

WAISN HOTLINE: 1-844-724-3737

Resources for Your Clients

[Red Cards / Tarjetas Rojas | Immigrant Legal Resource Center | ILRC](#)

Usted tiene derechos constitucionales:

- **NO ABRA LA PUERTA** si un agente de inmigración está tocando la puerta.
- **NO CONTESTE NINGUNA PREGUNTA** de un agente de inmigración si trata de hablar con usted. Usted tiene el derecho a guardar silencio.
- **NO FIRME NADA** sin antes hablar con un abogado. Usted tiene el derecho de hablar con un abogado.
- Si usted está fuera de su casa, pregúntele al agente si tiene la libertad de irse y si le dice que sí, váyase con tranquilidad.
- **ENTRÉGUELE ESTA TARJETA EL AGENTE.** Si usted está dentro de su casa, muestre la tarjeta por la ventana o pásela debajo de la puerta.

I do not wish to speak with you, answer your questions, or sign or hand you any documents based on my 5th Amendment rights under the United States Constitution.

I do not give you permission to enter my home based on my 4th Amendment rights under the United States Constitution unless you have a warrant to enter, signed by a judge or magistrate with my name on it that you slide under the door.

I do not give you permission to search any of my belongings based on my 4th Amendment rights.

I choose to exercise my constitutional rights.

These cards are available to citizens and noncitizens alike.

PARA CONTACTARNOS:

Por correo: Northwest Immigrant Rights Project
2209 N Pearl Street, Suite 200
Tacoma, WA 98406

Por teléfono: Todas las llamadas a nuestra organización son gratis desde el centro de detención. Marque el **253-383-0519**, o el **877-814-6444**, o también puede usar nuestro código desde su dormitorio:

1. Marque (1) para inglés o (2) para español.
2. Marque su número de identificación y el numeral (#).
3. Marque (6).
4. Marque el código de NWIRP Tacoma: 2279#.
5. Espere entre 30-60 segundos para oír nuestro mensaje.

Después de escuchar nuestro mensaje, deje su **nombre completo**, su **número de A** y un mensaje **explicando el tipo de ayuda** que busca. Por favor hable claramente.

Por correo electrónico: tacoma@nwirp.org

Por fax: 253-383-0111

TO CONTACT US:

Mail: Northwest Immigrant Rights Project
2209 N Pearl Street, Suite 200
Tacoma, WA 98406

Phone: All calls to our organization are free from the detention center. Dial **253-383-0519**, or **877-814-6444**. You can also call using our code from the phones in the dorms:

1. Dial (1) for English or (2) for Spanish.
2. Enter your PIN number and then the # sign.
3. Dial (6) when prompted.
4. Enter the NWIRP Tacoma code: 2279 and then the # sign.
5. Wait 30-60 seconds for our message to play

After listening to our message, please leave **your name**, **A number**, and a message **explaining what type of assistance you need**. Please speak clearly.

Email: tacoma@nwirp.org

Fax: 253-383-0111

**Immigration Status:
How Do You Figure It Out?
Why Does It Matter?**

Immigration Status

Noncitizen

UNDOCUMENTED

- Entered without permission
- Overstayed visa

TEMPORARY STATUS:

- Visas: Student /Tourist/Work
- TPS – Temporary Protected Status
- U & T Visa
- DACA / Deferred Action

PERMANENT STATUS

- Lawful Permanent Resident (Green Card Holder)
- Asylee / Refugee
- Compact of Free Association (COFA)

U.S. Citizen

- Born
- Naturalized
- Acquired
- Derived

Ask Every Client: “Where Were You Born?”

Make no assumptions!

What does a U.S. citizen look like? Sound like?



Interview Questions/Conversations

Clients don't always know what their immigration status is.

- When did you enter? How did you enter? How many times?
- Crossed through immigration checkpoint? Walked across border?
- Any contact with immigration? Ever submitted an application?
- Prior deportations or “voluntary returns”?
- Ever in immigration detention? Immigration court – before a judge?
- Immigration lawyer? Contact info?
- Any immigration paperwork? Copies?

If documented:

- How did you get status?
- When did you get it?
- Get copies, if possible: receipts, work authorization card, visa, I-94, etc.
- ***Don't talk to ICE or police without me.*** Don't sign anything until we discuss it.
- For LPRs: Warn it might be risky to travel abroad, renew green card, or apply for citizenship with criminal history.

Other Sources

Automated immigration court case status: [Automated Case Information \(justice.gov\)](https://www.justice.gov/ice/eoir); 1-800-898-7180. Must enter “A” number; only works if case has been before immigration court.

FBI record check

- Out-of-state criminal history
- Prior immigration proceedings/federal immigration charges

Freedom of Information Act (FOIA)

- ICE, USCIS, Immigration Court (EOIR)

How Immigration Status Matters

UNDOCUMENTED

- Entered w/o permission
- Overstayed visa

Avoid grounds of inadmissibility

Avoid grounds of deportability

TEMPORARY STATUS

- Visas: student /tourist/work
- TPS – Temporary Protected Status
- U & T visas
- DACA

Avoid grounds of deportability

Avoid grounds of inadmissibility

Avoid list of disqualifying grounds

PERMANENT STATUS

- Lawful Permanent Resident (Green Card)
- Asylee / Refugee
- Compact of Free Association (COFA)

Avoid grounds of deportability/
Inadmissibility (if travel abroad)

Avoid grounds of deportability

Avoid grounds of deportability

Avoid grounds of
inadmissibility
(unless previously
admitted)

Immigration Status Determines Consequences!

Example: DUI

DUI doesn't trigger statutory ground of deportability or inadmissibility, so what's the problem?

- Discretion: an issue in virtually all immigration applications
- Revocation of temporary visas for single DUI
- Inadmissibility finding for “physical or mental disorder causing threat of harm to self/others”
- Good moral character: required for naturalization and “ten-year cancellation of removal”
- DACA = “significant misdemeanor”
- Aggregate sentences of five years or more.

DUIs and Lawful Permanent Residents (LPRs)

- DUIs, no matter how many, do not make an LPR deportable.
- If applying for naturalization (citizenship), LPRs must have “good moral character” for 3 or 5 years preceding the application.
- Two or more DUIs within that period = no good moral character. Must wait to apply. (Denial of naturalization does not = deportation.)
- But multiple DUIs and/or other offenses can trigger inadmissibility upon return from travel abroad.

Deferred Action for Childhood Arrivals (DACA)

DUI or Negligent Driving 1 disqualifies a person from DACA!

- A single “significant misdemeanor” disqualifies a person from DACA.
- DUI is a “significant misdemeanor,” and so is Neg 1 (because involves alcohol).
- Note: a sentence to actual confinement (not including suspended time) on any misdemeanor of 90 days or more = “significant misdemeanor”

“Nonimmigrant Visa” (Temporary Visa Holder)

- Examples: Student (F1), Employment* (H1B, H2A), Visitor (B1/B2), etc.)
- Visas can be revoked even for a single DUI *arrest*.
- A person may still be able to finish out current authorized stay in U.S., but after leaving, will not be permitted to return.

* An employment visa is not the same as a work permit. A work permit is issued pursuant to status or a pending application for status.

Undocumented People

- DUIs affect eligibility for relief from removal: two or more DUIs within prior ten years means no good moral character for “cancellation of removal.”
- DUIs affect eligibility for status through USC/LPR family member that requires “consular processing” in home country. Medical exam may result in a finding, based on a single DUI, that a person has a “physical or mental disorder causing threat of harm to self/others.”
- Person must then jump through many hoops involving lengthy delays, possible ultimate denial.

DV-VNCO

DV-VNCO

JUST.
DON'T.
DO IT.



- BEST PRACTICE = AVOID DV-VNCOs.
- DV-VNCO consequences:
 - Makes Lawful Permanent Residents (and anyone lawfully admitted) deportable.
 - No conviction required: any finding by a court that the person engaged in conduct that violates the order is enough. Caution with alternative dispositions, consult WDAIP.
 - Ineligible for DACA (any DV offense is a bar to DACA).
 - Ineligible for “10-year cancellation of removal,” the most common form of relief available to undocumented persons in removal proceedings.
- If you see a DV-VNCO in your client’s history, flag for potential PCR and consult WDAIP or the [Redemption Project of Washington](#).

HARASSMENT

Washington Harassment is categorically a “CRIME OF VIOLENCE.”

Rodriguez-Hernandez v. Garland, 89 F.3d 742 (9th Cir. 2023)

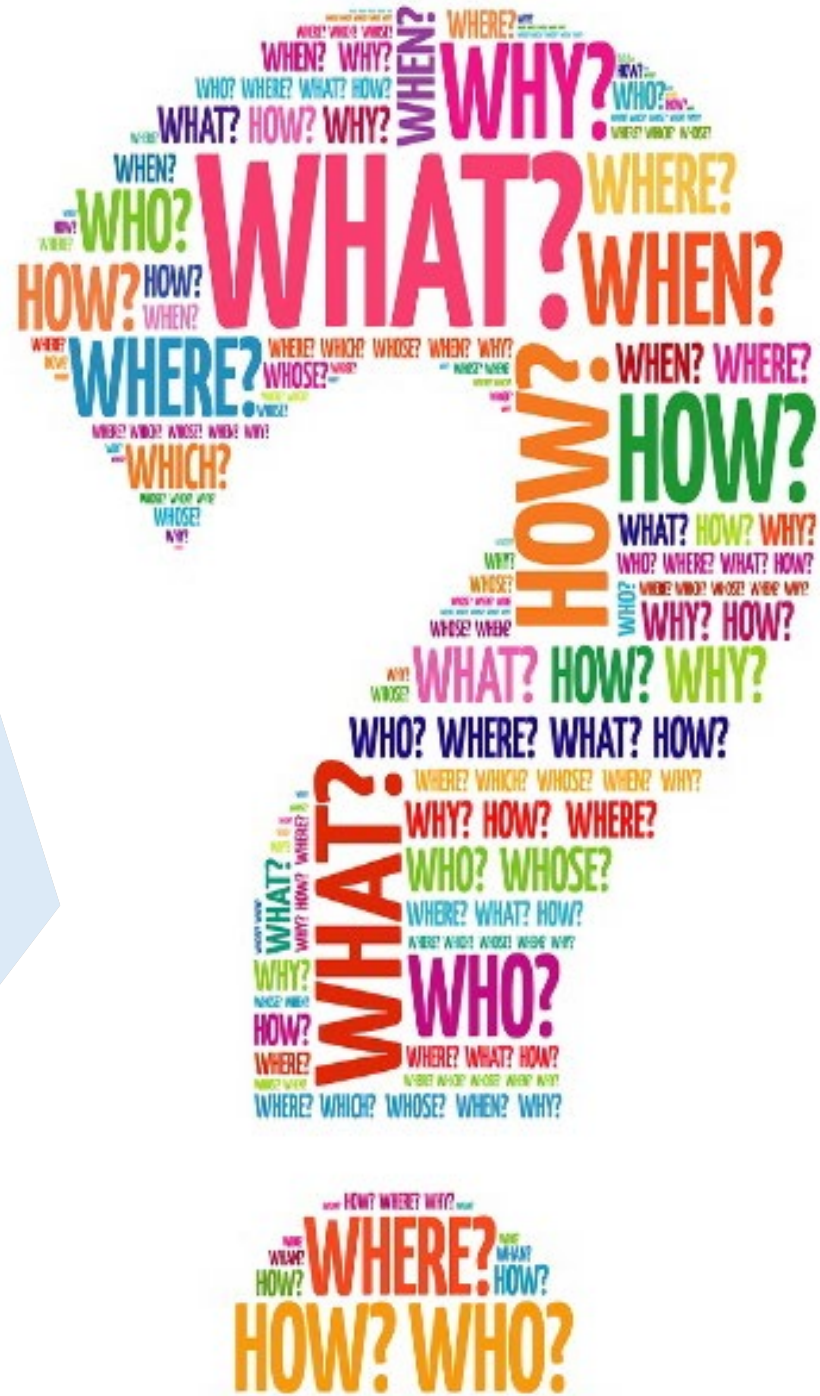
Harassment

- Any Harassment-DV, misdemeanor or felony, risks being deportable “crime of domestic violence.”
- Any felony Harassment with sentence imposed (including time suspended) of one year or more = “aggravated felony.”
 - Aggravated felonies have severe consequences. Virtually certain removal; ineligibility for any discretionary relief from removal.
- Felony Harassment, threat to kill = CIMT.
- Felony Harassment, grounds other than recidivist = risk of CIMT

If you see prior harassment convictions in your client's criminal history:

- A pre-July 2011 misd. harassment with a 365-day sentence is now an “aggravated felony.”
- If you see any prior harassment with a year or more, or prior harassment-DV, **contact WDAIP** to assess for post-conviction relief.

Questions?



IMMIGRATION PROJECT



<https://defensenet.org/case-support/wda-immigration-project/>

<https://defensenet.org/case-support/wda-immigration-project/wdaip-case-assistance/>