



# Counseling Your Client on Raising Race

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It is critical to talk with your client about the potential racial or ethnic disparity claims that might arise or could be addressed in their case.

Whether you pursue those avenues will ultimately be up to the client.<sup>1</sup> In having that conversation, be mindful of the following:

- ☐ If you and your client are not in the same racial/ethnic group, you will have to build rapport, establish trust, and create a safe space to have a conversation about race.
  - Acknowledge your own privilege.
  - Acknowledge what you know and what you don't know.
- ☐ Your client may already have a list of ways that bias and/or systematic racism has impacted their case—be sure to listen to them!

- ☐ Ensure that your client understands what raising race means and what it doesn't. For example:

- Do not promise that winning on this issue will win the case altogether (e.g., you could win a portion of the claim, but the court could find it to be a harmless error that did not affect the outcome of the trial).
- This issue could result in evidence being thrown out and the client getting the chance to start again (e.g., racial bias in a police show-up/photo array could result in getting a new trial with identification evidence suppressed).
- Winning a selective prosecution argument could result in a statute being declared unconstitutional, but the child could still be adjudicated delinquent of an underlying offense (e.g., discriminatory application of a sex offender registration statute may be unconstitutional, so the registration goes away, but the underlying sex offense adjudication may stay).

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<sup>1</sup> Nat. Juv. Def. Ctr., [National Juvenile Defense Standards](#) 19-21 (2012).

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