



Utilizing Post-Conviction Review to Raise Race



- ☐ Does your jurisdiction have a mechanism for getting back to the juvenile court for post-conviction review?
 - Post-conviction petition
 - Motion for new trial
 - Motion to vacate
- ☐ If so, what procedural hurdles do you have to clear before you can have an evidentiary hearing?
 - Prima facie case of ineffective assistance of trial counsel?
 - Manifest injustice for failing to allow for withdrawal of plea?
- ☐ What information do you want to present that is different from what was in the original trial record?
 - Affidavits from prior counsel who knew that race was an issue but failed to investigate
 - Example: Where the state alleged that a youth's nickname "Gunner" meant he pulled the trigger in a homicide, but counsel failed to investigate that the nickname was one he had earned from his skills in running the anchor leg on his relay team.
 - Experts on the racial justice issue that you want to advance
 - Redlining
 - Specific bias of local law enforcement
 - Specific patterns of abuse by local prosecutor's office
- Data from your state on issues related to racial bias and injustice, disaggregated by race
 - Crime
 - Arrest/hot spots
 - Police and prosecutorial charging
 - Detention and diversion¹
 - Transfer rate
 - Dispositions
 - Probation
 - Mandatory commitments/sentences
 - Sentence length
- ☐ Do you have access to an investigator or social worker who can develop a social history around the issue in your case?
 - An evaluator on the issue of your client's specific trauma related to law enforcement
 - A local sociologist who can testify to the history of your jurisdiction's neighborhoods, racial and ethnic background, etc.
- ☐ When drafting your initial pleading, include all the elements that make up your claim and supporting documents and evidence (e.g., evaluations, affidavits of experts, data reports and research) so that even if you are denied a hearing, you have set out the specifics of your claim sufficiently to have an appellate record if you are unsuccessful at the trial level. Then, get ready to appeal again!

¹ Juvenile Detention Alternatives Initiative (JDAI) Quarterly Reporting System should have data on detention and diversion if you are in a jurisdiction that is JDAI involved.

Acknowledgement

This guide was created with the generous assistance of:
Brooke Burns, Managing Counsel, Youth Defense Department,
Office of the Ohio Public Defender