

7

years of
bipartisan advocacy



DUE PROCESS
INSTITUTE

2024 **Impact Report**

5

years of
*non partisan public
education + research*



CLAUSE 40
FOUNDATION



About Us



OUR MISSION AT DUE PROCESS INSTITUTE

As a 501(c)(4), we create and support achievable bipartisan solutions for challenging criminal legal policy concerns. Procedural due process rights and concerns over public safety transcend political labels; therefore, we focus on the core principles and values that are shared by all Americans.



OUR MISSION AT CLAUSE 40 FOUNDATION

This nonpartisan tax exempt 501(c)(3) was founded on the belief that the constitutional promise of justice for all is yet unfulfilled in our modern society and that failure is preventing the advancement of this country and its people. Through public education, research, and litigation, we believe that honoring procedural due process rights will move us toward justice.

These sibling organizations work together to achieve one main goal: a more just criminal legal system. We combine robust legislative advocacy at Due Process Institute with public education, events, and research at Clause 40 Foundation to achieve our vision for a safer and more just America.



Our Impact



52
reform
bills
advanced



96
court
briefs
filed




4,438
people
educated

Our collective organizational impact demonstrates
our commitment to the motto:

Res, non verba.
Deeds, not words.



Legislation



Federal legislative advocacy is our priority at Due Process Institute. Despite a dysfunctional Congress engaged in historically low lawmaking, we've played a major role in passing these crucial reforms into law:

➤ ***Federal Prison Oversight Act***

improves safety for incarcerated people and prison staff by requiring inspections of all BOP facilities

➤ ***First Step Act***

reduced certain unnecessarily long federal sentences and improved conditions in federal prison

➤ ***Clyde-Hirsch-Sowers RESPECT Act***

prevented unfair prosecutions under structuring laws and increased due process protections in forfeiture proceedings

➤ ***CARES Act Pandemic Relief***

released over 13,000 non-violent, aging, and health-compromised people from federal prisons to home confinement

➤ ***Pell Grant Restoration***

lifted 26-year ban on Pell Grant eligibility for all incarcerated students

➤ ***Fair Chance Act***

encourages federal employers to make conditional offers despite an applicant's criminal history


➤ ***Just and Reasonable Communications Costs Act***

requires the FCC to ensure charges for audio and video phone services in federal prisons are fair

➤ ***Executive Clemency***

thousands of people have been pardoned or had their sentences commuted since our founding

Our State Efforts



While our main focus is on the federal level, Due Process Institute is also active in certain state efforts to reform the criminal legal system. For example, we were instrumental in passing discovery reform in Virginia, eliminating juvenile court fees in Colorado and Oregon, and fixing unreasonable felony thresholds in Kentucky.





Federal Prison Oversight Act Signed into Law

On July 25th, 2024, President Joe Biden signed the Federal Prison Oversight Act into law. This was a landmark piece of legislation that improves safety for incarcerated people and prison staff by requiring inspections of all Bureau of Prison (BOP) facilities and reporting the findings to Congress. These reforms ensure proper oversight of the BOP and create accountability, transparency, and safety within our federal prison system.

This passage was a culmination of tireless work from a wide array of reform organizations, including Due Process Institute, over a number of years. Passed with overwhelming bipartisan support in the House and by unanimous consent in the Senate, it was another example of how commonsense criminal legal reform has wide-ranging appeal to people with diverse political viewpoints.





Priorities

In addition to the laws we've successfully helped to pass, we continue to advocate for these necessary and urgent reforms:

- ➡ ***passing
"second chance" initiatives***
- ➡ ***ending
acquitted conduct sentencing***
- ➡ ***achieving
prosecutorial accountability***
- ➡ ***funding
public defenders***
- ➡ ***reforming
criminal and civil asset forfeiture***
- ➡ ***reigning in
warrantless surveillance***
- ➡ ***implementing
prison oversight***



Advocacy in the Courts

In 2024, we filed successful *amicus*, or “friends of the court,” briefs at the Supreme Court and nationwide on these, and many other, important issues:

- ➡ *preventing voter disenfranchisement of formerly incarcerated persons*
- ➡ *ending unreasonable searches and seizures*
- ➡ *rectifying overreaching or vague laws and regulations*
- ➡ *curtailing qualified immunity for egregious police misconduct*
- ➡ *ensuring the right to a fair trial*
- ➡ *stopping unfair federal sentencing practices*
- ➡ *addressing lack of fair notice*
- ➡ *detering grand jury irregularities*
- ➡ *stopping Confrontation Clause violations*

We look past
ideological divides
to find common ground
in order to restore
principles of fairness



Hosting DC's Best SCOTUS Event

Every year, Due Process Institute and its sibling organization Clause 40 Foundation host *Two Views: An Exploration of SCOTUS' Criminal Law Docket* at the historic Willard Hotel in downtown Washington. This one-of-a-kind event features the only balanced and bipartisan examination of the Supreme Court's criminal law docket.

Over the past five events, we've provided hundreds of attendees, including lawyers, judges, policy advocates, and Hill staff, with the highest level of constitutional law discussion, free of charge.





Pushing for a Clean Slate

In June, Due Process Institute attended the Clean Slate Initiative's 2024 Convening and led discussions with national organizations to help better leverage lobbying power and achieve criminal legal reform that emphasizes recidivism reduction.

In September, Due Process Institute and other organizations escorted directly impacted individuals to Capitol Hill for a "lobby day." We met with key congressional staff in order to highlight the personal impact that federal "second chance" legislation (like the Clean Slate Act and the Fresh Start Act) would have.



Vice President Jason Pye headlined a panel at the Clean Slate Initiative's 2024 Convening with the Clean Slate Initiative's Federal Legislative Director Reginald Darby, the Just Trust's Head of Grantmaking Jolene Forman, and Workers Center for Racial Justice's Deputy Director Antonio Lightfoot.



Coalition Leadership

The staff at Due Process Institute is made up of experts in the field and highly regarded public speakers who lead various criminal justice coalitions organized by Due Process Institute throughout the year.

Some of our most recent engagements include an informative discussion with top voices in the criminal legal reform space on the book *Excessive Punishment: How the Justice System Creates Mass Incarceration* and leading a congressional staff briefing event on how clean slate policies embody conservative values to garner support for federal legislation that would lead to economic growth, reduce recidivism, and provide meaningful second chances for people re-entering society.



Shana O'Toole, President and Founder, led the discussion in our panel event *Ineffective Justice: Bipartisan Solutions* with Due Process Institute's Vice President Jason Pye, UDC Law Associate Professor David Singleton, and Vera Institute's Vice President of Initiatives Ed Chung.



Clause 40 Foundation— 2024 Amicus Overview

Won v. United States, Upholding the Confrontation Clause



Clause 40 Foundation filed an *amicus* brief in *Won v. United States*, a case which addressed a Second Circuit opinion that permitted virtual remote testimony, undermining the Confrontation Clause. As part of the Sixth Amendment, the Confrontation Clause guarantees a defendant's constitutional right to confront the witnesses against them face-to-face. Testimony given against a defendant via Zoom does not adequately satisfy a defendant's right to *actual* confrontation of a witness. "*Virtual confrontation might be sufficient to protect virtual constitutional rights; I doubt whether it is sufficient to protect real ones.*" Unfortunately, the Supreme Court denied *certiorari* in this case.

Montague v. United States, Sufficient Facts in Indictments



In *Montague v. United States*, Clause 40 Foundation filed a brief arguing grand jury indictments must be supported by sufficient facts that establish the elements of each crime, and that the defendant and counsel have knowledge of those facts via a well-pled indictment. In Mr. Montague's case, the court allowed prosecutors to charge a continuing criminal enterprise just by simply citing the statutory sections of the predicate offenses that were allegedly committed, without alleging any facts pertaining to the predicate conduct itself. The Supreme Court went on to grant *certiorari* in this case, vacate the judgment, and remand it back to the Second Circuit.

Jackson v. United States, a Powerful Dissent from Justices



In a 6-3 decision on June 24, 2024, the Supreme Court unfortunately ruled against Clause 40 Foundation's position in *Jackson v. United States*. The decision, centered around the application of the Armed Career Criminal Act (ACCA), allows for sentencing enhancements based on a prior state drug conviction even if it involved a drug no longer illegal under, or scheduled, by federal law. However, Justice Ketanji Brown Jackson penned a powerful dissent that was joined by Justices Kagan and Gorsuch. The potentially unlikely trio each agreed with the position taken in Clause 40's *amicus* brief regarding this improper and unfair application of the ACCA.

**Take action to
create a more
just criminal legal
system.**



Support our work today.

Donate

idueprocess.org/support

Due to our work pursuing legislative change, contributions to Due Process Institute, a 501(c)(4), are not tax deductible.

Donate

clause40.networkforgood.com

Contributions to Clause 40 Foundation, a 501(c)(3), are tax deductible!

**You can also take advantage of tax
incentives by donating your stocks!**

Learn More

clause40.org/donate-stock



**Your support transforms lives.
Thank you for being part of our journey.**

\$125,000+

Todd and Erin Farha

\$100,000+

Dr. S. Jim Farha

\$40,000+

Shana and Tim O'Toole

\$25,000+

Barry Boss

\$10,000+

Blair Brown

Cozen O'Connor

\$7,500+

Zuckerman Spaeder

\$5,000+

Michele Morris

\$2,500+

Matt Kaiser

Kaiser PLLC

Jenny Kim

Steven Ragland

\$1,000+

Reginald Brown

William Farha

Ross Garber

Nestor Weigand Jr

\$750+

Justin and Kara Amash

\$500+

Jonathan Lopez

Diane Price

Philip Zaengle

\$250+

Mary Jo Eustice

Michael Hash

Kim Norberg

Erin O'Toole

This donor list represents those who have contributed to Clause 40 Foundation, a 501(c)(3) organization; however, their donation amount total may also include contributions made to its sibling organization, Due Process Institute (DPI). The donation total amounts include all donations made from the founding of the organization until December 18, 2024. As a 501(c)(4), DPI honors the privacy of its donors and therefore generous supporters who have contributed only to it are not included in this list. Despite their absence from this list, our immense gratitude goes towards DPI's donors for supporting its advocacy mission.