

8

years of
bipartisan advocacy



DUE PROCESS
INSTITUTE

2025 **Impact Report**

6

years of
*non partisan public
education + research*



CLAUSE 40
FOUNDATION



JUSTICE

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



53
reform
bills
advanced



103
court
briefs
filed



5,430
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 levels of 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 prisons

➤ ***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***

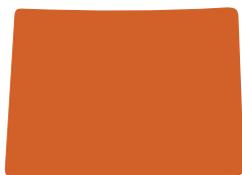
requires the FCC to ensure charges for audio and video phone services in federal prisons are fair

➤ ***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.



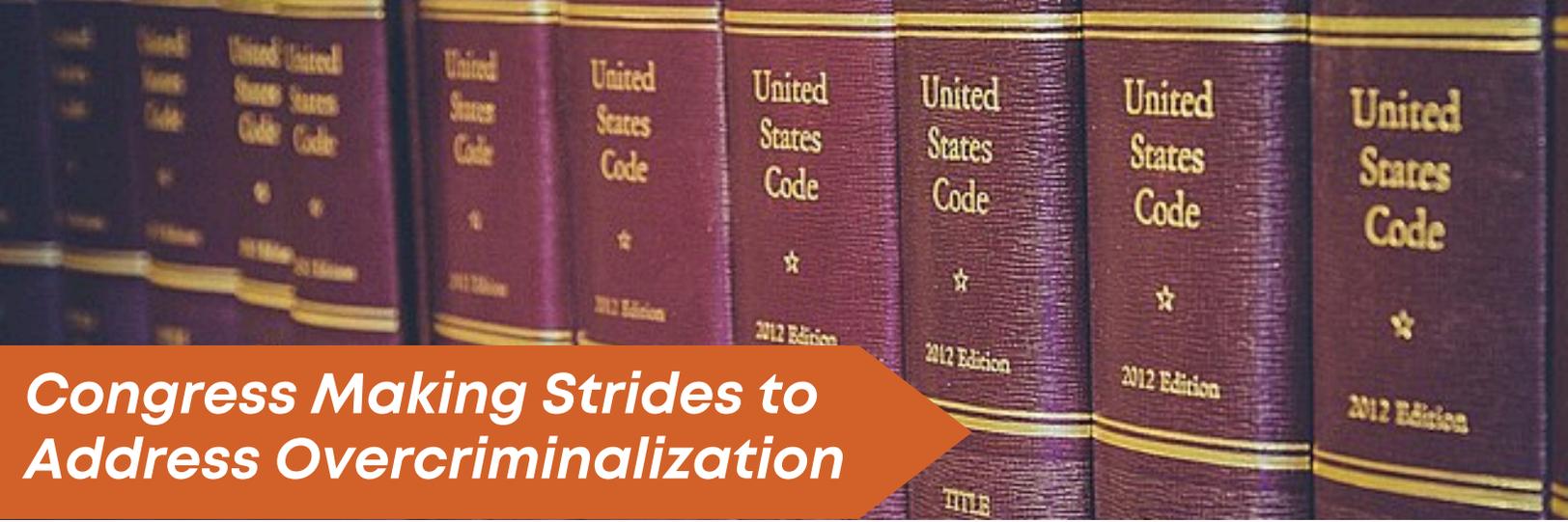


Landmark Supreme Court Decisions in *Hewitt v. United States* and *Barnes v. Felix*

Earlier this year, the Supreme Court ruled in *Hewitt v. United States*, a case in which Due Process Institute served as part of a prominent *amicus* advocacy coalition. In *Hewitt*, DPI argued that when a sentence is vacated, it should be treated as if it never existed, and that individuals who are resentenced should receive the benefit of Congress's reforms under the First Step Act. SCOTUS agreed and rejected a narrow interpretation that would have locked people into outdated, harsher penalties. This ruling marked a win for the rule of law, equal treatment, and the fairer implementation of the First Step Act.

Due Process Institute also weighed in at the Supreme Court in *Barnes v. Felix*, a critical case addressing how courts evaluate police use of force under the Fourth Amendment. Supported by *pro bono* counsel from Jenner & Block LLP, DPI filed an *amicus* brief urging the Court to reject overly narrow analyses that ignore the full context of an officer's actions leading up to a use of force. In a 9-0 decision, SCOTUS ruled in favor of DPI's position, holding that courts must consider the totality of the circumstances—not just the split second when force was used—when assessing whether police conduct was reasonable. This ruling is an important step toward meaningful accountability and stronger constitutional limits on police use of force.





Congress Making Strides to Address Overcriminalization

In December, the House of Representatives passed the Count the Crimes to Cut Act (H.R. 2159) by voice vote. This legislation would require the Department of Justice to produce a report identifying all federal crimes, including clarifying each law's legal elements and penalties, as well as the number of prosecutions over the past 15 years. These reforms represent a first step for Congress in addressing overcriminalization and beginning to remedy a bloated and overly complicated federal code.

The bill's passage was a product of Due Process Institute's sustained leadership in building, over many years, a cross-ideological coalition of civil liberties advocates, conservative allies, progressive reformers, and lawmakers in a Congress defined by partisan gridlock. Together, these stakeholders reached consensus that overcriminalization undermines due process and the rule of law.



President + Founder Shana O'Toole headlined The Federalist Society's panel "Fighting Overcriminalization in Federal Regulations" with UC Irvine School of Law Professor Kenneth Simmons, The Heritage Foundation's John Malcolm, and Council on Criminal Justice's Chief Policy Counsel Marc Levin.



Priorities

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

➤ *passing
clean slate + second chance initiatives*

➤ *ending
acquitted conduct sentencing*

➤ *fighting
against overcriminalization*

➤ *improving
supervised release*

➤ *reforming
criminal and civil asset forfeiture*

➤ *reigning in
warrantless surveillance*

➤ *implementing
prison oversight*



Advocacy in the Courts

In 2025, 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*
- ▶ *ensuring fair notice and preventing punishment under vague criminal laws*
- ▶ *challenging overbroad interpretations of federal criminal statutes that expand liability beyond congressional intent*
- ▶ *protecting the right to a fair trial by limiting improper prosecutorial arguments and procedures*
- ▶ *ending the use of acquitted conduct to increase federal sentences*
- ▶ *promoting judicial impartiality*
- ▶ *ensuring the inclusion of critical defense witnesses*



Hosting DC's Best SCOTUS Event

Due Process Institute and Clause 40 Foundation hosted their annual program *Two Views: An Exploration of SCOTUS' Criminal Law Docket* at the historic Willard Hotel in downtown Washington, D.C. on September 17th. This one-of-a-kind event featured a politically balanced examination of the Supreme Court's criminal law docket. Over the past several years, this program has provided hundreds of attendees, including lawyers, judges, policy advocates, and Hill staff, with the highest level of constitutional law discussion.





Pushing for a Clean Slate

In April, Due Process Institute joined The Clean Slate Initiative and national criminal legal reform partners for a press conference on the Capitol lawn to announce the reintroduction of the Clean Slate Act and the Fresh Start Act in the 119th Congress. These bipartisan bills prioritize second chances by expanding and improving record sealing at the federal and state levels—a proven, cost-effective solution to improving public safety and increasing economic opportunity.

In June, Due Process Institute attended The Clean Slate Initiative's 2025 Convening and led discussions with national organizations on better leveraging lobbying power to achieve criminal legal reform that emphasizes recidivism reduction.



Vice President Jason Pye headlined the panel “A New Era in Criminal Justice Reform: Clean Slate and Beyond” at the Clean Slate Initiative's 2025 Convening with For The People's Hillary Blout, Vera Institute's Insha Rahman, Voters Organized to Educate's Norris Henderson, and Unify.US's Timothy Head.



DUE PROCESS
INSTITUTE

We look for
ideological
to find common

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 hosting a meet-and-greet at the National Republican Club of Capitol Hill with advocates, congressional staff, and administration personnel to discuss the introduction of federal “clean slate” policies, such as the Clean Slate Act and the Fresh Start Act. Due Process Institute staff welcomed the opportunity for fellowship and to answer questions about these bipartisan bills, which are designed to provide meaningful second chances and create safer communities.



Jason Pye, Vice President, answered questions from congressional staff on second chance legislation like the Clean Slate Act and Fresh Start Act.



Clause 40 Foundation— Blog Highlight

In 2025, Clause 40 Foundation published a blog highlighting the recent history of police accountability reforms (or lack thereof) and Due Process Institute’s *amicus* brief in *Barnes v. Felix*. Since the murder of George Floyd in 2020, federal legislative efforts to strengthen police accountability have repeatedly stalled. Congress failed to enact major reforms such as the George Floyd Justice in Policing Act, and the Supreme Court has continued to expand qualified immunity through decisions that narrowly define constitutional violations.

Against this backdrop of limited progress, *Barnes v. Felix* emerged as a rare opportunity for the Supreme Court to clarify how courts should evaluate police use of force under the Fourth Amendment. The case arose from the 2016 killing of Ashtian Barnes during a traffic stop in Texas. Lower courts dismissed Barnes’s family’s civil rights claims by applying the Fifth Circuit’s “moment of threat” doctrine, which restricts a court’s excessive-force analysis to the precise instant an officer perceives danger. Using that framework, the court ignored the officer’s actions leading up to the shooting and therefore granted the officer qualified immunity. Barnes’s family appealed, arguing that this approach conflicted with longstanding Supreme Court precedent requiring courts to consider the totality of the circumstances in excessive-force cases.

In its unanimous 9–0 decision, the Supreme Court rejected the “moment of threat” doctrine and reaffirmed that courts must evaluate police use of force in light of all relevant facts, including events that precede the use of deadly force. Writing for the Court, Justice Kagan emphasized that isolating a split second of perceived danger improperly narrows the Fourth Amendment analysis and undermines accountability. While the ruling marked an important doctrinal correction, a concurring opinion signed by four justices underscored that qualified immunity remains a formidable barrier to relief.

Ultimately, the decision in *Barnes* represents a meaningful but limited step toward police accountability. It widens the lens through which courts must assess police conduct and restores a more faithful understanding of the Fourth Amendment, but it does not dismantle the misguided doctrine of qualified immunity or guarantee remedies for victims of police violence. The case nevertheless holds promise for reshaping police training, discouraging escalation, and preserving access to constitutional remedies under Section 1983—objectives Congress originally intended when it created those civil rights protections. Please visit www.clause40.org/blog to learn more.

**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 standing with us.**

\$150,000+

Todd and Erin Farha

\$100,000+

Dr. S. Jim Farha

\$40,000+

Shana and Tim O'Toole

\$20,000+

Barry Boss

Blair Brown

\$10,000+

Cozen O'Connor

Zuckerman Spaeder

\$5,000+

Jenner & Block

Michele Morris

Miller & Chevalier

\$2,500+

Matt Kaiser

Kaiser PLLC

Jenny Kim

O'Melveny & Myers

Steven Ragland

\$1,000+

Justin and Kara Amash

Reginald Brown

Clement & Murphy

William Farha

Ross Garber

Schertler Onorato Mead & Sears

Nestor Weigand Jr

\$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, the total donation amounts shown also include any contributions made to its sibling organization, Due Process Institute (DPI). These totals reflect all donations made from the founding of the organizations until December 22, 2025. 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 except for public event sponsors. Despite their absence from this list, our immense gratitude also goes to DPI's donors for supporting its advocacy mission.