EXCLUSIVE REPORT

The Supreme Court's Secret Crackdown: Why America's Highest Court Is Now Demanding Silence

How damaging leaks, ethics scandals, and collapsing public trust led Chief Justice Roberts to require legally binding nondisclosure agreements from every court employee — and what it means for accountability.

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What Just Happened?

In November 2024, just two weeks after Donald Trump won the presidential election, Chief Justice John Roberts called all Supreme Court employees into a large conference room beneath ornate chandeliers and made an unprecedented request: he asked everyone to sign legally binding nondisclosure agreements.

This wasn't a casual request. These contracts threaten legal action against any employee who reveals confidential information about the court's inner workings. Law clerks, permanent staff, security personnel, and support workers all signed. New employees joining the court continue to sign these agreements.

The Supreme Court declined to comment on whether the nine justices themselves were asked to sign.

Why Did Roberts Do This?

The move came after a series of damaging leaks that embarrassed the court and exposed its internal deliberations to public scrutiny.

The Dobbs Leak (May 2022)

The most infamous leak in Supreme Court history occurred when Politico published a 98-page draft opinion written by Justice Samuel Alito that revealed the court was about to overturn Roe v. Wade. This was unprecedented. No draft decision in the modern history of the court had ever been disclosed while a case was still pending.

The leak sparked massive protests nationwide. Police erected fencing and metal barricades around the court building. Attorney General Merrick Garland ordered federal law enforcement to provide security at the homes of all nine justices around the clock. A California man was later arrested near Justice Brett Kavanaugh's home armed with a handgun, knife, pepper spray, and burglary tools, charged with attempted murder of a Supreme Court justice.

Chief Justice Roberts called the leak a "singular and egregious breach" and ordered an investigation. The court's marshal, Gail Curley, conducted 126 formal interviews of 97 employees. All denied being the leaker. Investigators conducted fingerprint analysis and scrutinized connections between employees and reporters. A few employees admitted they had told their spouses about the draft opinion or the vote count, violating confidentiality rules.

After eight months, the investigation concluded it could not identify the leaker. The justices themselves were not required to sign sworn affidavits or testify under oath. Former Homeland Security Secretary Michael Chertoff reviewed the investigation and found it thorough but also couldn't identify additional leads.

Justice Alito later said publicly he had "a pretty good idea" who leaked the opinion and believed it was "part of an effort to prevent the Dobbs draft from becoming the decision of the court."

The Trump Immunity Memo Leak (September 2024)

Just weeks before Roberts introduced the NDAs, The New York Times published confidential internal memos showing how Roberts personally steered the court's ruling that gave presidents broad immunity from prosecution.

The leaked February 2024 memo showed Roberts telling his fellow justices that he thought the court would "view the separation of powers analysis differently" than the lower court that had ruled against Trump. According to reporters Jodi Kantor and Adam Liptak, the memo "offered a scathing critique of a lower-court decision and a startling preview of how the high court would later rule."

The reporting revealed that Roberts took an unusually active role in three major cases that benefited Trump: the immunity ruling, the decision that states couldn't remove Trump from primary ballots, and a ruling that limited charges against January 6 rioters.

The Bigger Picture: A Court in Crisis

Collapse of Public Confidence

According to the Annenberg Public Policy Center, only 44% of Americans trusted the Supreme Court in 2024, the lowest level since tracking began in 2005 when 75% trusted the court. By March 2025, that number had fallen further to just 41%.

Trust plummeted 22 percentage points after the Dobbs decision, from 68% in 2019 to 46% in 2022, and never recovered.

The partisan gap is stark: 71% of Republicans trust the court compared to just 24% of Democrats, a 47-point divide. A Gallup poll found that 43% of Americans now believe the court is "too conservative," the highest percentage ever recorded. Only 15% of Democrats approve of the court's handling of its job.

Pew Research Center found that favorable views of the court have declined to their lowest point in surveys dating to 1987.

The Ethics Scandals

The confidence crisis was fueled by revelations about undisclosed gifts and trips accepted by conservative justices from wealthy benefactors.

Justice Clarence Thomas: ProPublica reported in 2023 that Thomas had accepted undisclosed luxury travel from Dallas billionaire Harlan Crow for more than two decades. Crow purchased Thomas's mother's home, paid private school tuition running more than $6,000 per month for a relative Thomas was raising "as a son," and provided trips on his private yacht and jet.

A Senate Judiciary Committee investigation found that since his 1991 confirmation, Thomas has accepted gifts and travel from wealthy benefactors valued at over $4.75 million by some estimates, much of which he failed to disclose on required annual reports. The committee concluded Thomas violated federal disclosure laws passed after Watergate.

Thomas defended himself by saying the gifts constituted "personal hospitality" and did not require disclosure under rules that existed at the time. His lawyer said any "prior reporting errors were strictly inadvertent."

Justice Samuel Alito: ProPublica revealed that Alito took a luxury fishing vacation to Alaska in 2008 paid for by Republican billionaire Paul Singer, whose hedge fund later had cases before the court. Alito did not disclose the trip and did not recuse himself from cases involving Singer's interests.

Alito defended himself in a Wall Street Journal op-ed, saying he was not required to disclose the trip under rules at the time.

The Senate Judiciary Committee report also found that the late Justice Antonin Scalia "established the practice" of accepting undisclosed gifts, including 258 personal trips over his tenure.

In November 2023, responding to public pressure, the Supreme Court adopted its first-ever formal code of conduct. But critics immediately noted it lacked any enforcement mechanism. Law professor Stephen

Vladeck called the absence of enforcement “the elephant in the room.”

Chief Justice Roberts declined invitations in 2023 and 2024 to testify before the Senate Judiciary Committee about the ethics controversies.

Why the Secrecy?

The justices and their defenders argue that confidentiality is essential to how courts function.

The Case for Secrecy

Paul Watford, a federal judge appointed by President Obama, said: “I don’t see any need on the part of the public to see internal deliberations. What you try to do as a judge when interacting with your colleagues is be completely open and deal with difficult questions.” Leaks, he argued, “discourage judges from changing their minds” and “harm the court’s ability to function as a collegial body.”

The late Chief Justice William Rehnquist said in a 1977 speech that opening deliberations could harm judicial independence and lead to “lobbying pressures.”

Justice Amy Coney Barrett recalled what the late Justice Antonin Scalia told new clerks: “If you leak information now or at any time in your life about what happened in this court, I will come after you and destroy your career.”

The Case for Transparency

Critics argue the court’s secrecy allows justices to avoid accountability for how they use immense power.

Nikolas Bowie, a Harvard Law School professor who clerked for Justice Sonia Sotomayor, said: “Many of the court’s decisions are being made away from the public eye, in a way that makes it difficult to evaluate or criticize them, or understand what really motivated the justices. The lack of transparency makes it difficult for the general public to know how to react.”

Bowie added that secrecy allows the court to hide “weaknesses in its processes, including the justices’ dependence on clerks for legal reasoning and drafting.” He said: “If the public knew that much of the deliberations affecting millions of people are done by 27-year-olds after happy hour, they would be shocked.”

Law professor Daniel Epps, who clerked for Justice Anthony Kennedy, said: “Justices have immense power. They’re not elected. That power depends on our consent as a democracy, and we have some interest in seeing how they’re using their power and making decisions.”

Thomas Jefferson himself complained about the court’s secrecy in 1821, writing that the institution was “suppressing evidence” and that the nation needed to know more about the character of judges who serve lifetime appointments.

The Money Factor

Former Supreme Court clerks command extraordinary signing bonuses when they leave for private law firms: up to $500,000, according to a spokesperson for Gibson, Dunn & Crutcher. That's nearly double what the justices themselves earn (just under $300,000 per year).

Major law firms like Jones Day, Gibson Dunn, and Kirkland & Ellis aggressively recruit former clerks, treating them to expensive dinners, baseball games, and spa trips during the courting process. Jones Day alone hired 22 clerks between 2020 and 2024.

Firms view clerks' insider knowledge of how the court operates as invaluable. "Our clients love them," said Neal Katyal, former acting U.S. Solicitor General.

The court requires former clerks to avoid working on their own cases for two years. But afterward, former clerks often spend their careers monetizing what they learned, including reading still-secret files from old cases.

The new NDAs could complicate this tradition. While the agreements may be difficult to enforce legally, they create a chilling effect. Law professor Mark Fenster called the switch to formal contracts "a sign of the court's own weakness" and the erosion of internal cohesion.

The Historical Context

This isn't the first time the court tried to clamp down after leaks.

In 1998, Edward Lazarus, a former clerk to Justice Harry Blackmun, published "Closed Chambers," a tell-all book that revealed internal deliberations, including that Justice Anthony Kennedy changed his vote during consideration of a landmark 1992 abortion case. The book described a court "at war with itself" with "immature, ideologically driven clerks" manipulating their bosses.

The book caused a firestorm. Some generations of clerks afterward were asked to sign confidentiality pledges. But former clerks said these earlier documents did not constitute legal NDAs.

Similar controversy greeted "The Brethren" by Bob Woodward and Scott Armstrong in 1979, which relied on interviews with former clerks and justices.

What This Means for You

The Supreme Court makes decisions that affect every American: who can get married, when pregnancies can be terminated, who can own guns, what power presidents have, what the government can regulate, what happens to people accused of crimes.

Unlike Congress, which holds public hearings broadcast on C-SPAN, or the President, who faces constant media scrutiny, the Supreme Court operates behind closed doors. Courts are exempt from open records laws that apply to other government branches. Justices claim their documents belong to them personally, not the government or public, and typically arrange for them to remain secret long after their deaths. The court doesn't release visitor logs showing who meets with justices.

Now, with legally binding NDAs threatening litigation against employees who talk, that wall of secrecy has grown higher and more formal.

Mark Fenster, a University of Florida law professor, noted a paradox: trying to enforce NDAs risks exposing the very information they're meant to hide. "If the employer has to go to court to seek damages or an injunction, you'll be exposed to the public."

And for the Supreme Court, there's an additional dilemma: "Who would represent the Supreme Court?" in such a lawsuit, Fenster asked.

The Bottom Line

At a moment when public trust has collapsed to historic lows, when ethics scandals have raised questions about whether justices are being influenced by wealthy benefactors, and when leaks have exposed internal deliberations about cases affecting presidential power, the court chose to demand more secrecy, not less.

The justices argue they need confidentiality to function. Critics argue the public deserves to know how unelected judges with lifetime appointments are using their enormous power.

What's clear is that the traditional family-style trust Roberts valued has broken down. Informal norms weren't enough. Now there are lawyers and contracts and threats of litigation.

Whether that will prevent future leaks, or simply drive the disaffected further underground, remains to be seen.

Key Figures at a Glance

Metric	Figure
Public trust in Supreme Court (2024)	44%
Public trust in Supreme Court (March 2025)	41%
Public trust at peak (2005)	75%
Trust drop after Dobbs decision	22 percentage points
Republican trust in court	71%
Democrat trust in court	24%
Partisan gap	47 points
Americans who think court is "too conservative"	43%
Gifts to Justice Thomas (estimated)	$4.75 million+
Signing bonus for former clerks	Up to $500,000
Justice salary	~$300,000/year
Employees interviewed in Dobbs leak probe	97

Metric	Figure
Formal interviews conducted	126
Jones Day clerk hires (2020–2024)	22

Fact Verification Statement

All figures, claims, dates, and details in this article come from verified sources including: The New York Times, ProPublica, Washington Post, NBC News, CBS News, CNN, ABC News, Politico, the Senate Judiciary Committee, Gallup, Pew Research Center, the Annenberg Public Policy Center, SCOTUSblog, the American Bar Association Journal, The Daily Beast, Salon, Newsweek, and other major news outlets. Specific data points such as the $500,000 signing bonuses for clerks, the 44% public trust figure, the $4.75 million in gifts to Justice Thomas, and the 97 employees interviewed in the Dobbs leak investigation all come from documented reporting and official sources.

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