

# **Durbin, Whitehouse Announce Vote To Authorize Subpoenas For Crow, Leo, And Arkley Related To Supreme Court Ethics Reform In Judiciary Committee**

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WASHINGTON – U.S. Senate Majority Whip Dick Durbin (D-IL), Chair of the Senate Judiciary Committee, and U.S. Senator Sheldon Whitehouse (D-RI), Chair of the Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights, today announced that the Senate Judiciary Committee will vote to authorize issuing subpoenas to Harlan Crow, Leonard Leo, and Robin Arkley II as it relates to the Committee’s Supreme Court ethics investigation.

“The Supreme Court is in an ethical crisis of its own making. Thanks to investigative reporting, we now know that for decades, some justices have been joining billionaires with business before the Court on their private planes and yachts or receiving gifts such as private school tuition for a family member. And it is through this reporting that we learned the justices have not been disclosing these gifts as required by federal laws that expressly apply to them. By accepting these lavish, undisclosed gifts, the justices have enabled their wealthy benefactors and other individuals with business before the Court to gain private access to the justices while preventing public scrutiny of this conduct.

“But this is just what we know from investigative reporting. In order to adequately address this crisis, it is imperative that we understand the full extent of how people with interests before the Court are able to use undisclosed gifts to gain private access to the justices. The inquiries the Committee has sent to Harlan Crow, Leonard Leo, and Robin Arkley are critical to this work. However, they have either refused to comply or offered to produce certain limited information that fell well short of what the Committee needs and to which it is entitled.

“Due to Crow, Leo, and Arkley’s intransigence, the Committee is now forced to seek compulsory process to obtain the information they hold. Therefore, Chair Durbin will be asking the Committee to grant him authorization to issue subpoenas to these individuals.

“The Chief Justice could fix this problem today and adopt a binding code of conduct. As long as he refuses to act, the Judiciary Committee will.”

In July, the Senate Judiciary Committee [advanced](#) the *Supreme Court Ethics, Recusal, and Transparency (SCERT) Act* to the full Senate. The bill would require Supreme Court Justices to adopt a code of conduct, create a mechanism to investigate alleged violations of the code of conduct and other laws, improve disclosure and transparency when a Justice has a connection to a party or amicus before the Court, and require Justices to explain their recusal decisions to the public.

Durbin and Whitehouse have been calling on the Supreme Court to adopt an enforceable code of conduct for more than a decade. They first sent a [letter](#) to the Chief Justice on this issue more than 11 years ago.

### Leo and Arkley Intransigence

The need to subpoena Leonard Leo and Robin Arkley is clear. There are no other steps for the Committee to consider other than compulsory process when presented with outright defiance of legitimate oversight requests.

Leo's and Arkley's responses to the Committee's initial July 11, 2023, requests were blanket refusals to comply. Neither individual engaged in any private discussions with the Committee. The Committee [reiterated its requests](#) to both Leonard Leo and Robin Arkley on October 5, noting that they had identified no proper basis to withhold information from Congress. Both repeated their refusals to cooperate.

Neither has identified a proper basis to withhold information from Congress. Both claim that the Committee's inquiry lacks a valid legislative purpose, despite decades of legislation passed by Congress regulating the ethical conduct of the judiciary, including Supreme Court justices.

### Crow's Insufficient Proposal

The need to subpoena Harlan Crow is also clear, although the route to this decision differs slightly. The Committee [sent separate inquiries](#) to Crow and the three holding companies that own his private jet, yacht, and Topridge Camp, respectively. Crow's counsel purports to speak for Crow and all three holding companies. While Crow's [public responses](#) to the Committee's requests included arguments similar to those of Leo and Arkley, Crow had initially claimed a willingness to engage with the Committee privately, through his counsel.

However, his proposal to provide the Committee with responses to only a small subset of its requests, and only for the past five years, is wholly inadequate. Additionally, tying this insufficient response to an agreement that the Committee would pursue no further inquiries regarding Crow's relationship with Justice Thomas would inappropriately and prospectively undermine the Committee's constitutional oversight authority.

Throughout the negotiations, a steady drip of new reporting on Crow's relationship with Justice Thomas highlighted the untenable limitations of Crow's offer to the Committee.

- In September, *ProPublica* revealed that not only has Crow been hosting Justice Thomas at the private, all-male club Bohemian Grove over the last 25 years, but the Koch brothers—architects of one of the largest, most influential political apparatuses in recent history—also stayed in this camp with Justice Thomas.
  - Justice Thomas has since participated in fundraising events for the Koch political network, and that network is bankrolling lawyers representing the petitioners in *Loper Bright Enterprises v. Raimondo*, a case that is currently before the Court.
- *Politico* has revealed that in 2009, Crow provided an initial \$500,000 in funding to Ginni Thomas's non-profit group, which Leonard Leo directed, that advocated on issues before the Court.

It would be irresponsible for the Committee to accept a response that merely covers the past five years, given that (1) Crow's extravagant gifts to Justice Thomas go back more than two decades; (2) these previously undisclosed gifts have played a role in connecting Justice Thomas to special interest networks such as those led by Leonard Leo and the Koch brothers; and (3) Crow has engaged in other efforts to influence the Court through Justice Thomas's wife.

In light of all this, all Committee Democrats [rejected](#) Harlan Crow's proposal on October 5 and invited him to engage in further negotiations. He has instead refused to engage further or comply, and as a result the next step for the Committee is to pursue compulsory process.