

# Sexual assault charge stayed against former senior officer once poised to command army

It's the second military sexual offence charge stayed in civilian court since August

[Ashley Burke](#) · CBC News · Posted: Oct 10, 2023 7:30 PM ADT | Last Updated: October 13



A judge stayed a sexual assault charge against retired Lt.-Gen. Trevor Cadieu because the case took too long to go to court. (Jonathan Hayward/Canadian Press )

The Ontario Court of Justice has stayed a sexual assault charge against retired Lt.-Gen. Trevor Cadieu and his co-accused because the case took too long to go to trial.

Cadieu was poised to take command of the Canadian Army in 2021. His case is the second military sexual offence trial to be terminated in recent months due to delays.

Justice Larry O'Brien wrote in his written decision that "someone should be held accountable for allowing nine months to elapse before providing defence counsel with the complainant's first statement" to military police investigators.

"That someone is not defence counsel who each, orally and in writing, early and repeatedly requested the complainant's statement to little if any avail," O'Brien wrote. "It is not enough for the military to hand off 'the file' to the Kingston Crown office in July without providing essential disclosure."

Cadieu was investigated in 2021 amid the military's sexual misconduct crisis that saw a series of senior leaders removed from some of the most prestigious posts in the Canadian Armed Forces amid allegations.

Cadieu's trial was set for February in Kingston, Ont. The legal teams acting for the two accused argued their clients' right to a trial within a reasonable time, guaranteed by the Charter of Rights and Freedoms, had been violated.

In 2016, the Supreme Court of Canada set ceilings for permissible delays in bringing cases to trial. Cases coming through provincial court are supposed to be tried and completed within 18 months.

**WATCH | *Army commander's appointment postponed over misconduct allegations:***

## **Army commander's appointment postponed over misconduct allegations**

The Canadian military has postponed the appointment of Lt.-Gen. Trevor Cadieu as its next commander of the army after it was revealed an investigation is looking into 'historical allegations' against him.

Justice O'Brien said in his written decision the trial would have been completed in 19 months and 22 days, about one and a half months too late.

O'Brien wrote in his decision that the "Crown continued to hold back the complainant's primary interview pending redaction to the video that the Crown asked military police to perform."

The judge wrote "military police were not responsive to this request and the issue remained outstanding in February 2023." After what the judge called "lengthy delays" attributed to the need to make redactions, the statements without any edits were eventually provided to the defence counsel in March this year.

The defence department said in a statement to CBC News that military police released the initial disclosure package to the Crown in July 2022, with all statements and evidence gathered during the investigation.

It's the responsibility of the Crown attorney to provide disclosure to the defence counsel, the defence department said.

CBC News asked the Crown for comment and has not yet received a response. A court-ordered publication ban is in place to protect the identity of the complainant.

## **Allegations date back to 1994**

Cadieu and his co-accused, retired sublieutenant Cory Gelowitz, were charged separately by military police with sexual assault in June 2022, according to the charge sheets. The Crown this year decided to join the two cases together.

The complainant's statements to military police in the fall of 2021 alleged Cadieu and Gelowitz sexually assaulted her at Royal Military College in Kingston almost 30 years ago, the judge's decision said.

Justice O'Brien wrote that the complainant told military police investigators that she was kissing both of the men in her room in 1994 and felt uncomfortable. The complainant asked Cadieu to leave and she had intercourse with Gelowitz, the judge's decision said.

The complainant also said in her statements that at a later date in 1994, Cadieu "forced vaginal intercourse despite her denying consent verbally" due to a "sun burn injury," the judge's decision said.

Cadieu and Gelowitz pleaded not guilty in court and denied the allegations.

***WATCH | Military sexual misconduct investigations should move to criminal courts, report says:***

## **Military sexual misconduct investigations should move to criminal courts, report says**

In a new report, former Supreme Court justice Louise Arbour says the Canadian military should permanently move sexual offence

investigations into civilian criminal courts, citing past mismanagement of sexual misconduct allegations and an overall resistance to change.

Since the charges against Cadieu and Gelowitz have been stayed, the trial has been terminated and they have not been found guilty or not guilty.

Cadieu's lawyer Scott Hutchison said in a media statement that Cadieu "has always been confident that he would prevail. The process has been incredibly stressful for him and his family."

Gelowitz's legal team at Brauti Thorning LLP said in a statement that "any reasonably competent investigator" would have "never proceeded with a charge." The statement said Gelowitz has been "living under the cloud of suspicions for something he did not do" and he looks forward to moving on.

## **Charges stayed in another case**

This case is just the latest military sexual offence case to be stayed in civilian court since August due to delays.

Last month, a retired Canadian Armed Forces corporal said she's lost faith in the justice system's ability to prosecute military sexual assault cases after a judge said he "reluctantly" stayed the charge in her case because of delays.

Arianna Nolet warned that if the courts don't act immediately, "there will be more victims suffering the same fate as my case." The judge in her case concluded there was a nine-month delay in the military's judicial system and another year in the civilian system.

These two cases are among the first to reach conclusions in civilian court since the military started transferring dozens of sexual offence cases to the civilian system in late 2021.

Retired Supreme Court justice Louise Arbour called on the military to hand over sexual offence files to the civilian system as part of her interim recommendations on military sexual misconduct. Then-defence minister Anita Anand acted on that recommendation, which was meant to restore trust in the military.

***WATCH | Government pressed to change law on military sexual misconduct:***

## **Government pressed to change the law on military sexual misconduct**

More than a year after retired Supreme Court justice Louise Arbour recommended stripping the military of its jurisdiction over sexual offences, Defence Minister Bill Blair explains why the federal government has not changed the law.

In her final report in 2022, Arbour called on the government to strip the military of its jurisdiction to investigate and prosecute military sexual offences. The government has yet to change the law.

Retired colonel Michel Drapeau, a military law expert, has repeatedly called on the government to change the law or else face the risk of more sexual offence cases being stayed.

Defence Minister Bill Blair's office said the government is "urgently working" on Arbour's recommendation. Spokesperson Daniel Minden

said the federal government is in talks with provinces and territories about ensuring people "get the justice they deserve."

"To that end, we are currently engaging with [regions] to ensure that we get this right, that cases are heard and documents disclosed within an appropriate time, and that survivors of misconduct are treated with dignity, respect and fairness by all institutions involved," Minden said in a statement to CBC News.

## **ABOUT THE AUTHOR**

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Ashley Burke is a senior reporter with the CBC's Parliamentary Bureau in Ottawa. She focuses on enterprise journalism for television, radio and digital platforms. She was recognized with the Charles Lynch Award and was a finalist for the Michener Award for her exclusive reporting on the toxic workplace at Rideau Hall. She has also uncovered allegations of sexual misconduct involving senior leaders in the Canadian military. You can reach her confidentially by email: [ashley.burke@cbc.ca](mailto:ashley.burke@cbc.ca) or <https://www.cbc.ca/securedrop/>