



Why Did the Hockey Canada Investigation Take So Long? Legal Expert Has the Answer

February 5, 2024 — On Monday police in London, Ontario held their first press conference regarding the arrest of five former members of the world junior hockey team. The arrests come after the revelation in 2022 that Hockey Canada used a secret slush fund to pay out a settlement following a 2018 group sexual assault in a London hotel room, and that others had been paid out of the same fund and silenced by NDAs or non-disclosure agreements.

At the press conference reporters repeatedly asked, “Why did it take so long for the players to be arrested?” and “What happened to the initial police investigation?” A legal expert says the answer is the police allowed Hockey Canada to “take back” the complaint when the police investigation floundered, and investigate it internally. Hockey Canada’s investigation was then made secret through the use of NDAs.

“We see this time and time again. A victim is sexually assaulted, discriminated against or abused, and then for the matter to be investigated, they have to sign a non-disclosure agreement. And when the matter is settled, they have to sign yet another agreement saying they won’t speak publicly about what happened,” says Dr. Julie Macfarlane, Emerita Distinguished Professor of Law at the University of Windsor, Member of the Order of Canada, and co-founder of [Can’t Buy My Silence](#), a campaign against the misuse of non-disclosure agreements.

“So everything gets swept under the rug, usually forever,” she says. “In rare cases like Hockey Canada or Harvey Weinstein, the truth eventually comes out, but in countless cases it never does.”

In 2022 members of the public were shocked to learn that Hockey Canada used public funds and membership dues to pay out the multimillion-dollar settlements. At the time, Minister of Sport Pascale St-Onge vowed to stop the use of NDAs in Canadian sport. However the [Universal Code to Prevent and Address Mistreatment in Sport](#), which St-Onge required all sporting organizations to sign onto, says nothing about the use of NDAs. Many national sports organizations still use NDAs or non-disparagement clauses in their contracts.

In 2023, Canadian Senator Marilou McPhedran introduced the [Can’t Buy Silence Act](#), which would bar all federally funded agencies and organizations from using federal dollars to pay for or enforce NDAs in cases of sexual misconduct, harassment, discrimination and other abuses. (That legislation is pending second reading in the Senate, but the Liberal government has yet to adopt it.)

However Can’t Buy My Silence is aware of multiple government agencies and Crown corporations that continue to regularly use non-disclosure agreements and confidentiality clauses — as well as taxpayer funds — to hide cases of sexual assault, harassment, discrimination and other abuses.

“Most people have no idea how prolific NDAs are. Lawyers consistently tell us they are used in over 95 percent of settlements,” says Macfarlane. “And of course, we don’t hear about them because people are sworn to secrecy, and told if they break their NDA — which includes saying the NDA exists — they will face dire consequences. However our [anonymous survey](#), as well as other research in the US, indicates that one in three workers will sign an NDA at some point in their working life.”

So why do people sign? Many are coerced by union lawyers and investigators, and told if they don’t sign, their case won’t settle, forcing them into years of brutal and costly litigation. But once they sign, victims soon realize that not being able to speak about what happened to them, and being tethered to their perpetrators for life, is profoundly damaging.

“In a confidential survey of victims who have signed NDAs, 95 percent said that signing was harmful to their mental health,” says Macfarlane. “Typically, NDAs bar people from speaking for life with friends, family members and even therapists about what happened to them — for life. Some even offer to pay the money back to get out of their NDAs, but the answer is no.”

Increasingly the harm of NDAs is being recognized, and legislation restricting their use has been introduced in [British Columbia](#), [Saskatchewan](#), [Manitoba](#), [Ontario](#) and [Nova Scotia](#), and passed in [PEI](#). In Quebec, a government-appointed committee on sexual harassment and sexual assault in the workplace has recommended the legal restriction of NDAs.

Despite widespread legal reform in the US and the adoption of voluntary pledges not to use NDAs by many universities and corporations, Dr. Macfarlane says that for widespread change to happen, the immediate passage of legislation is essential — and until that happens, more victims will be silenced and more perpetrators will be shielded.

At Monday’s press conference, London police chief Tran Truong extended his “sincerest apology” for the amount of time it has taken for the Hockey Canada case to reach this point. “As a police officer working in this space for many, many years, I can tell you that this is a difficult, difficult situation for all victims [and] survivors of sexual violence,” he said. “I don’t think any of our members are happy about this. That’s why I have apologized to the [alleged] victim and to her family,” said Truong. “But I can assure you that I am confident ... this won’t happen again.”

Macfarlane appreciates Chief Truong’s apology and his commitment to change at the police level, but adds that for it to “not happen again,” governments must put a stop to the misuse of NDAs.

“The reality is that as long as NDAs are used with impunity in these cases, there will be countless victims who can never speak out, countless perpetrators who go unpunished, and countless cases like Hockey Canada that never see the light of day,” she says. “It’s time to change the game.”

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- [More information](#) and [victim testimonies](#) at [Can’t Buy My Silence](#)