

Noisy Sexual Proclivities: The Exception or the Rule?



By Brian Madigan LL.B

Recently, we looked at the obligation of a seller to make certain disclosures to a prospective purchaser in the sale of a house. If the neighbour was excessively noisy, did the vendor have to tell. But, that was based upon just loud, annoying, interfering noises that were objectionable and harmful. What about a neighbour who is simply rather unduly enthusiastic about certain matters, and indeed rather vocal about them?

So, here's a "for and against".

Brendan O'Neill is "for" the right to be vocal

Here are his views as expressed in the Toronto Star 16 May 2009:

"Unlike Winston, (Julia) had grasped the inner meaning of the Party's sexual puritanism. It was not merely that the sex instinct created a world of its own which was outside the Party's control and which therefore had to be destroyed if possible. What was more important was that sexual privation induced hysteria, which was desirable because it could be transformed into war-fever and leader-worship."

So wrote George Orwell in 1984, his dystopian vision of a future world where mankind's every thought, desire, and bodily tingle would be policed by the powers-that-be. Orwell imagined a Junior Anti-Sex League that spied on kissing and cavorting adults, and a ruling Party that sought to squash the "sex impulse." The heroes of his nightmarish tale – Winston and Julia – had to sneak off to a wood in order to explore each other's bodies in a bit of peace and quiet.

It turns out that Orwell was suffering from premature speculation. It was not in 1984 that a major Western government made the "sex impulse" – the grunting, groaning sex instinct – into a police matter; it was in 2009. In the U.K., to add to

the already-existing panoply of Orwellian measures – 5 million CCTV cameras that watch our every move; "speaking cameras" that warn us to pick up litter or stop loitering; the government's attempt to recruit child spies to re-educate anti-social adults – we now have the bizarre and terrifying situation in which a woman has been arrested for having sex too loudly.

Yes, in modern-day Britain even the decibels of our sexual moaning can become the subject of a police investigation. At the end of April, Caroline Cartwright, a 48-year-old housewife from Wearside in the north east of England, was remanded in custody for having "excessively noisy sex." The cops took her in after neighbours complained of hearing her "shouting and groaning" and her "bed banging against the wall of her home."

Cartwright has, quite reasonably, defended her inalienable right to be a howler: "I can't stop making noise during sex. It's unnatural to not make any noises, and I don't think that I am particularly loud."

Pleasurable groaning and bed-banging are common noises in crowded towns and cities across the civilized world. Most of us deal with them by sticking a CD in the stereo. Those who complain are normally told to stop being prudish or to have a discreet chat with the creators of the offending sex sounds. So how did Cartwright's expressions of noisy joy become a police case, which will be ruled on at Newcastle Crown Court, one of the biggest courts in the north of England?

Because, unbelievably, Cartwright had previously been served with an Anti-Social Behaviour Order (ASBO) – a civil order that is used to control the minutiae of British people's behaviour – that forbade her from making "excessive noise during sex" anywhere in England.

That's right, going even further than Orwell's imagined authoritarian hellhole, where at least there was a wood or two where people could indulge their sexual impulses, the local authorities in Wearside made all of England a no-go zone for Cartwright's noisy shenanigans. If she wanted to howl with abandon, she would have to nip over the border to Scotland or maybe catch a ferry to France. It was because she breached the conditions of her Anti-Social Behaviour Order that Cartwright was arrested.

This case sheds harsh light not only on the Victorian-style petty prudishness of our rulers, who seriously believe they can make sexually expressive women timid again by dragging them to court, but on the tyranny of Anti-Social Behaviour Orders themselves.

Introduced by Britain's Labour government in 1998, anyone can apply for an ASBO to stop anyone else from doing something that they find irritating, "alarming," or "threatening." Local magistrates' courts issue the orders, sometimes on the basis of hearsay evidence (permissible in "ASBO cases").

In short, the applicant for an ASBO does not have to go through the normal rigors of the criminal justice system in order to get a civil ruling preventing someone he doesn't like from doing something that he finds "alarming" or "dangerous." Once you have been branded with an ASBO, if you break its conditions – by having noisy sex in your own home, for example – you are potentially guilty of a crime and can be imprisoned.

The ASBO system has turned much of Britain into a curtain-twitching, neighbour-watching, noise-policing gang of spies. The relative ease with which one can apply to the authorities for an ASBO positively invites people to use the system to punish the irritants who live in their neighbourhoods.

ASBOs have been used to prevent young people from wearing hoods or hats (they look "threatening"), to ban a middle-aged couple from playing gangsta rap (the expletives offended workers and children at a nearby kindergarten), and to prevent a 10-year-old boy from having contact with matches until he turns 16, after he was found to have started a fire.

And now, prudish people who previously would have been told to "put up or shut up" over their neighbours' noisy sex have been empowered to turn one woman's private affairs into a very public trial. This, too, is Orwellian: the creation of new layers of spies and inter-communal suspicion.

In Orwell's dystopia, "the sexual act, successfully performed, was rebellion." So it is in Wearside in 2009, where the excessively noisy exploits of Cartwright and her possibly very talented partner are a form of rebellion against the arbitrary and interventionist nature of the ASBO-wielding powers-that-be. They are screwing for liberty.

Brendan O'Neill is editor of Spiked in London. This piece originally ran on Reason.com.

Rosie Dimanno is “against” the right to be vocal

Here are her comments as published on 17 May 2009: “I am writing this column propped up in bed, laptop on my knees.

This is for the purpose of verisimilitude: The subject is noisy, juddering sex. Which I am not having – more's the pity – but my neighbour is. Though we've never exchanged more than a passing nod, I know entirely too much about the woman, as captive participant in her balls-to-the-wall sexual romps. It's vicarious, voluble shagging and I've had an earful, frankly. Baby-baby-baby. Shriek, groan, grunt, ah-ah-ah and sigh. It's like living inside a showing-nightly – also in the a.m. – porn flick, *Behind the Green Door* or *The Story of O-Knock-It-Off*. By rhythm, juxtaposition of voices and familiar sounds, I can also figure out, I think, what carnal acts are being executed. Perhaps I'm thinking too much, but it's difficult to block out the interactive experience.

So forceful is the snogging, great thumps against the thin partition separating us, that picture frames slide off my bedside table and the brass headstand rattles against the wall. Such are the realities of urban existence, especially in an old factory building never intended to be subdivided into residential lofts.

There are times when I've seriously thought about making a noise complaint, then told myself to get a grip and buried my head under a pile of pillows. Also, not to put too fine a point on it, this is a two-way street. Her street just happens to have more traffic. Still, I've lived in a townhouse next door to a drummer, over a Queen St. bar and across the street from a head-banger after-hours joint and never has the ruckus been so annoying. But I can't quite bring myself to pound on the wall and urge the copulating enthusiasts to put a sock in it. On occasion, however, I've come this close to yelling: She's faking it! By now, I can tell. Some cheek-by-jowl neighbours, their right to peaceful enjoyment of domicile infringed, are not so roll-with-the-thrusts sanguine.

There was frantic activity on the Star's website yesterday, tons of readers downloading a wire story from England about a 47-year-old woman re-arrested and fined £515 for breaching a noise abatement law. Her crime: Deafening marathon sex with her husband, so disturbing to the ears that the couple had drawn 23 noise complaints.

One hard-of-hearing neighbour said she hadn't had a decent night's sleep in two years, given the high-decibel sound effects coming out the window.

Environmental Health officers actually placed recording equipment in an adjoining flat to document the audible wavelengths. The official testified primly: "There was an excessive screaming female voice on the recordings." A poor magistrate was forced to listen to these tapes before pronouncing sentence. The woman's husband escaped prosecution because he was less noisy. This case is not precedent-setting.

I recall a similar incident in the U.S. a few years back – Kansas City I think it was – where a woman was ordered to sound-proof her windows after police responded to multiple noise complaints from people living nearby. Her sex screeches were louder than a leaf-blower, apparently.

I do not wish to muzzle anybody. How, then, to resolve the problem?

A friend suggested slipping a note under my neighbour's door, delicately requesting the woman at least push her bed away from the wall to kill the shockwaves.

This is the same friend who once received just that kind of note from the elderly couple residing one floor below, fed up with the pile-driving throb of her bed frame overhead.

She was a little bit embarrassed and a lot rather chuffed with herself. Me, I don't have the nerve to protest. But I hope my neighbour subscribes to the Star and reads this.”

COMMENT

So, all of this leads us back to the basic question in the first place: Do you tell the purchaser?

Well, when I wrote the first article on the subject, I perhaps simply assumed that all noises emanating from the property next door would be objectionable and lower the value of your property. Maybe, that's not the case!

So, what do you think? Your guess is as good as mine!

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