

The Common-Law Right to Quiet Enjoyment Should Be Expanded to a Literal Right to Quiet in One's Home

Daniel Fink MD MBA

The Quiet Coalition, a program of Quiet Communities, Inc. Lincoln, Massachusetts, USA

INTRODUCTION

The Right to Quiet Enjoyment is a centuries-old doctrine based on English Common Law.¹ This doctrine does not have anything to do with noise, however, but refers to the right of a tenant not to be bothered unnecessarily and/or without advance notice by a landlord. In a multi-unit building, the landlord is also responsible for dealing with complaints about noise from another unit. In the United States, the Right to Quiet Enjoyment is assumed in residential leases in many states, but explicitly included in legislation in others.

The question considered in this poster presentation is whether the Right to Quiet Enjoyment should be changed into a literal right to enjoy quiet, a legal right not to be bothered by unwanted noise, in one's own home, whether owned or rented.

Why might such a change in legal doctrine be needed? The ASA/ANSI definition of noise is *noise is unwanted sound*. This definition does not acknowledge the proven fact that noise harms living things. An updated definition was presented at the December 2019 ASA meeting and subsequently published: *noise is unwanted and/or harmful sound*.² The new definition opens the American Public Health Association policy statement *Noise as a Public Health Hazard* and was adopted by the International Commission on Biological Effects of Noise and added to the ICBEN Constitution in 2023.

Noise has auditory and non-auditory health effects.² Adverse auditory health effects of noise include noise-induced hearing loss, tinnitus, and hyperacusis. The proven lesser-known health effects of noise include hypertension, cardiovascular disease, and increased mortality. Other effects may include obesity, diabetes, and lessened fertility.

SAFE NOISE LEVELS

Safe noise levels were calculated by the Environmental Protection Agency in 1974, as mandated by Congress in the Noise Control Act of 1972.³ These are explicitly **not** noise exposure standards or regulations for the public.

EFFECT	LEVEL	AREA
Hearing Loss	$L_{eq(24)} \leq 70$ dB	All areas
Outdoor activity interference and annoyance	$L_{dn} \leq 55$ dB	Outdoors in residential areas and farms and other outdoor areas where people spend widely varying amounts of time and other places in which quiet is a basis for use
Outdoor activity interference and annoyance	$L_{eq(24)} \leq 55$ dB	Outdoor areas where people spend limited amounts of time, such as school yards, playgrounds, etc.
Indoor activity interference and annoyance	$L_{dn} \leq 45$ dB	Indoor residential areas
Indoor activity interference and annoyance	$L_{eq(24)} \leq 45$ dB	Other indoor areas with human activities such as schools, etc.

WORLD HEALTH ORGANIZATION NOISE EXPOSURE RECOMMENDATIONS⁴

Noise Type	RECOMMENDATION
Leisure noise	Limit yearly average from all leisure noise sources combined to 70 dB LAeq24h.
Road traffic noise	Reduce noise levels produced by road traffic. Below 53 dB Lden. For night noise exposure, reduce noise levels produced by road traffic noise during nighttime below 45 dB Night.
Railway noise	Reduce noise levels produced by railway traffic below 54 dB IDen. For night noise exposure, reduce levels produced by railway traffic during nighttime below 44 dB Night.
Aircraft noise	Reduce noise levels produced by aircraft below 45 dB Lden. For night noise exposure, reduce noise levels produced by aircraft during nighttime below 40 dB Night.
Wind turbine noise	Reduce. Noise levels produced by wind turbines below 45 dB Lden. No recommendation is made for average night wind turbine noise exposure.

NOISE CAUSES STRESS WHICH IS BAD FOR HEALTH

Humans and other animals evolved in quiet, with the 50th percentile of natural sound pressure levels ranging from 25-40 dBA.⁵ (See Figure 1.) Loud sounds in nature are rare: thunderstorms, waterfalls, earthquakes, landslides and avalanches, the calls of animals or birds gathered in a tree at dawn or dusk. Loud noise indicates danger. The perception of danger causes an involuntary three-phase stress response: an almost immediate increase in blood pressure and pulse, mediated by the autonomic nervous system; a slower increase in stress hormone levels, mediated by the hypothalamic-pituitary-adrenal axis; and more slowly, inflammation of the vascular intima mediated by activation of the amygdala in the brain.⁶

Several studies show that people living in cities, near airports in Europe, and in the United States are exposed to unsafe noise levels. Transportation noise has been linked to atherosclerosis, cardiovascular disease, and increased mortality. Average noise measurements obscure the effects of intermittent noise. The mechanisms by which noise exposure might cause cardiometabolic disease are shown in Figure 2. Nighttime noise disrupting sleep is especially harmful.⁷

Figure 1. National Park Service noise map without anthropogenic noise.⁵

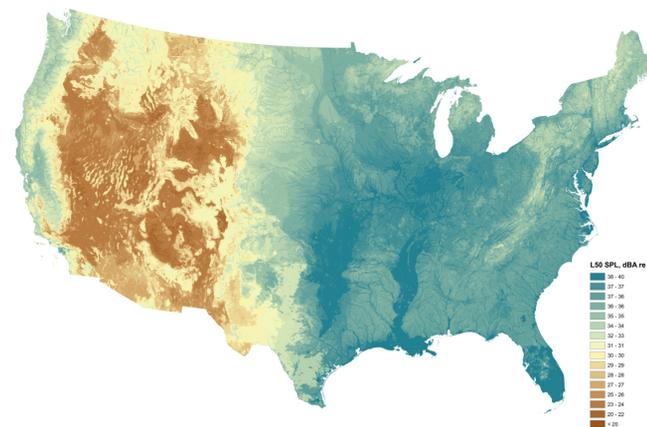
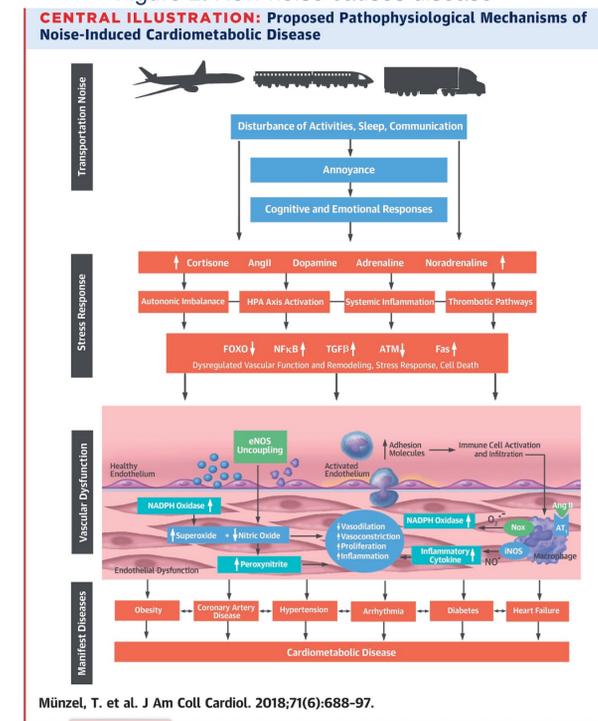


Figure 2. How noise causes disease⁸



DISCUSSION AND CONCLUSION

There can be no rational doubt that noise is harmful. The Noise Control Act of 1972 establishes a national policy to promote an environment for all Americans free from noise that jeopardizes their health and welfare. Expanding the Right to Quiet Enjoyment to a literal right to enjoy quiet in one's home will take either litigation or legislation at the local, state, or national levels. This presentation is a preliminary discussion of this topic, with any expansion of a right to quiet enjoyment undoubtedly something that will take many years to accomplish. One thing is for sure: quieter homes, as part of a quieter world, will be a better and healthier world for all.

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DISCLOSURE and ACKNOWLEDGEMENTS

Quiet Communities, Inc. is suing the Environmental Protection Agency to fund the EPA's Office of Noise Abatement and Control, as mandated by Congress. I am not a party to the lawsuit. I wish to thank my colleagues at The Quiet Coalition and Quiet Communities, Inc. for their support and encouragement over a decade. I may be reached at DJFink@thequietcoalition.org.

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The question considered in this poster presentation is whether for health reasons the Right to Quiet Enjoyment should be changed into a literal legal right not to be bothered by unwanted noise, in one's own home, whether owned or rented. This poster is the first presentation of these ideas.

Why might such a change in legal doctrine be needed? **Noise exposure damages health.** The ASA/ANSI definition of noise is *noise is unwanted sound*. An updated definition of noise was presented at the December 2019 ASA meeting and subsequently published: *noise is unwanted and/or harmful sound*.² The new definition of noise opens the revised American Public Health Association policy statement, *Noise as a Public Health Hazard*, and was adopted for use by the International Commission on Biological Effects of Noise in 2023 and added to Article II of the ICBEN Constitution.

Noise has proven adverse auditory and non-auditory health effects on humans.³ Auditory effects include noise-induced hearing loss, tinnitus, and hyperacusis. Proven non-auditory health effects include hypertension, cardiovascular disease, and increased mortality. Other adverse effects may include obesity, diabetes, and fertility problems.

SAFE NOISE LEVELS IN THE U.S.

Safe noise levels were calculated by the Environmental Protection Agency in 1974, as mandated by Congress in the Noise Control Act of 1972. These are explicitly **not** noise exposure standards or regulations for the public.⁴ Recommendations for noise exposure were made by the World Health organization in 2018.

EFFECT	LEVEL	AREA
Hearing Loss	$L_{eq(24)} \leq 70$ dB	All areas
Outdoor activity interference and annoyance	$L_{dn} \leq 55$ dB	Outdoors in residential areas and farms and other outdoor areas where people spend widely varying amounts of time and other places in which quiet is a basis for use
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WORLD HEALTH ORGANIZATION NOISE EXPOSURE RECOMMENDATIONS⁵

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NOISE EXPOSURE LEVELS AND ADVERSE EFFECTS

Humans and other animals evolved in quiet, with the 50th percentile of natural sound pressure levels ranging from 25-40 dBA.⁶ [See Figure 1.] Loud sounds in nature are rare. In general, loud sounds indicate danger. The perception of danger causes an involuntary three-phase stress response: an almost immediate increase in blood pressure and pulse, mediated by the autonomic nervous system; a slower increase in stress hormone levels, mediated by the hypothyseal-pituitary-adrenal axis; and an even slower inflammation of the vascular intima mediated by activation of the amygdala in the brain.⁶ Over time these involuntary physiological responses can lead to increased cholesterol, blood glucose, obesity, cardiovascular disease, and increased mortality.⁷ (See Figure 2.)

In 1981, the U.S. Environmental Protection Agency estimated that 100 million Americans were exposed to harmful levels of road traffic noise. That number is undoubtedly larger now. Multiple studies document excessive exposure to noise for those living in cities, largely from road traffic noise. In London, the median daytime exposure to road traffic noise was 55.6 dB, with increased cardiovascular disease and mortality in those exposed to >60 dB, especially older subjects. In the HYENA study, increased aircraft and road traffic noise exposure was correlated with increased prevalence of hypertension. Average noise levels may hide intermittent noise disrupting sleep. Nighttime noise has particularly deleterious effects on health due to sleep disruption.⁸

Figure 1. National Park Service noise map showing natural conditions.

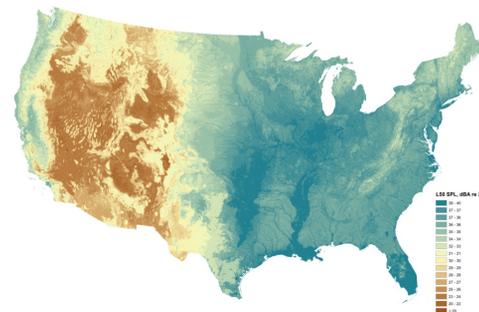
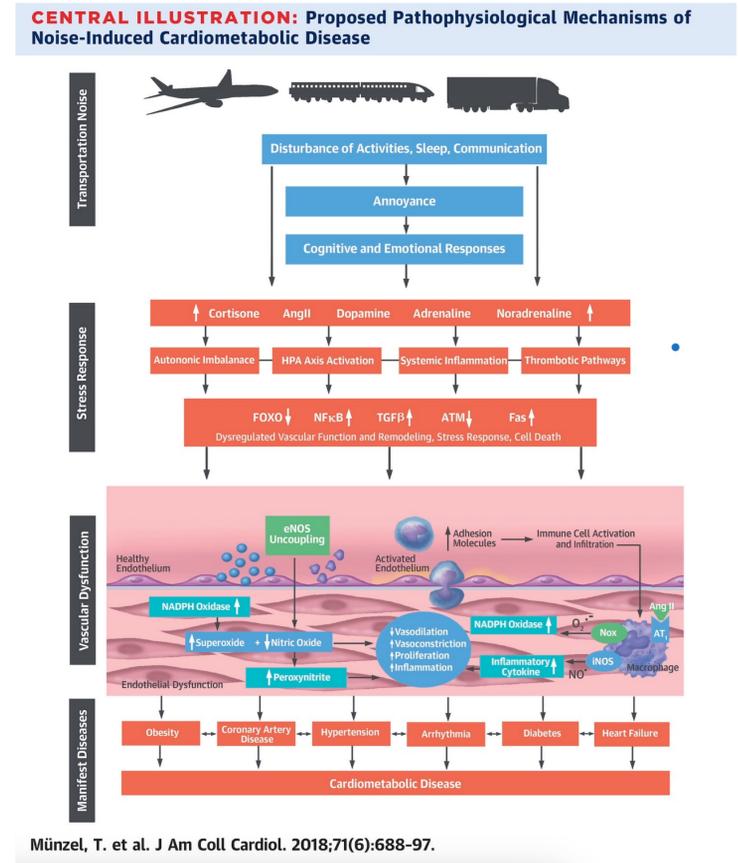


Figure 2. How noise causes disease



DISCUSSION AND CONCLUSION

There can be no rational doubt that noise damages health. The Noise Control Act of 1972 establishes a national policy to promote an environment for all Americans free from noise that jeopardizes their health and welfare. Broadening the common-law Right to Quiet Enjoyment to a literal right to enjoy quiet in one's home, whether rented or owned, may be accomplished by litigation or legislation, at the local, state, or federal levels. This presentation is the first attempt to open a discussion of this topic, which will undoubtedly take years to reach a resolution. One thing is for certain: quieter homes, as part of a quieter world, will be a better and healthier world for all.

REFERENCES

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