

# When Sex Is Not as Private as You Expect

## Some States Regulate Sex Toys and Suggestive Dancing

by John Stossel and Patrick McMenamin

ABC News / July 18, 2008

People are (or will be) having sex all around America today. But that's nobody's business. Sex is a private matter, right?

Except that local authorities sometimes say it IS their business!

At a public park in Columbus, Ohio, a topless woman asked a man to expose himself. The park appeared empty to him. But police were actually [videotaping him from an unmarked car](#) nearby as part of a sting operation. Once he exposed himself, police officers drove up and arrested him -- but not her. Columbus law says being topless is okay even if you're female.

Sex in parks is a long tradition. Movies show how teens have always used parks and the backseats of cars as places to fool around. And if a cop catches them, they'll often tell the kids to put their clothes back on and move along.

But that's not how some local authorities react in the real world.

### **"I Was Horrified"**

Authorities in Johnson City, Tennessee responded to complaints that gay men were using a local park for sex by setting up a sting operation. Ken Giles, 54, was one of the men they arrested. But he says he simply stepped off the trail to go to the bathroom. "I just thought I was in trouble for urinating in public," he said.

Police allege that Giles exposed himself to an undercover officer. They charged him with indecent exposure and disorderly conduct but did more than just arrest him. Before Giles and the other men were convicted, police released the names, photos, and addresses of everyone who had been arrested.

On his way to court, Giles saw his picture in the newspaper and front-page headlines. "I was horrified," he said.

He says he was told to plead guilty and did so to avoid a harsher punishment that would have come had Giles pled innocent and then been found guilty. Afterward, his employer fired him.

"When I lost my job over it, my wife was so upset and distraught and distressed that she had a major heart attack," said Giles, whose wife died shortly after ABC News interviewed him.

"Right now, it's just about destroyed my life."

Another man also named by the police committed suicide.

Sex therapist Marty Klein said this is part of America's "[War on Sex](#)".

"Let's not just simply arrest them -- let's humiliate them," he said. "Let's drag them through the mud. That will make people think twice about ever doing that sort of thing again."

Johnson City Police Chief John Lowry said the town was just doing what's necessary to keep parks safe.

"Anytime someone's charged like that, it becomes public record," he said. "It's no different than drug stings that we've done -- prostitution stings, things like that."

Peter Sprigg -- senior director of policy studies at the Family Research Council in Washington, DC - - agreed. "Anybody who's arrested for any crime, that becomes a matter of public record," he said. "We don't grant privacy to people who have been arrested for and charged with crimes."

I pointed out that some people lost their jobs in Johnson City and that one man killed himself.

"That's very unfortunate," Sprigg said. "But we don't make arrest records confidential just in order to protect people's feelings."

### **Cracking Down on Chippendales**

Now, it's one thing if people engage in sex outdoors in a public place. But it's another thing when it's indoors and frequented by people who want to be there. But police sometimes object to that, too.

Chippendales -- a male burlesque show geared toward women -- isn't as racy as you might think. They keep their private parts private and they say their routines are "PG-13". The men dance, show off their bodies, and flirt with some women in the audience.

"We make 80-year-old ladies giggle like they're 18 again," dancer Kaleb Art said.

For years, Chippendales has toured the Country, performing in big towns and small ones. They have never had a problem with authorities until last year when they came to Jake's Sports Bar in Lubbock, Texas. 10 minutes before the show, police showed up to lay down the Law. Lots of police, said bar owner Scott Stephenson.

"We had 16 uniformed officers, a police car, a K-9 unit, and undercover agents," Stephenson said.

Police warned the dancers to avoid "simulated sex acts". The Chippendales dancers peppered police with questions to determine what was allowed and what was off-limits. "Police said if ladies try and come up and touch you, you know, you can't allow that. Which we don't allow that anyways," Art said.

A dancer even went onstage and warned the audience of the limits set by Lubbock's City Council. They did their usual show. It went smoothly until the portion of the show where the dancers venture into the crowd to thank the audience.

"Right when we stepped off that stage and went in the crowd, it was just like 'Boom!'", Art said of the police reaction. Art says the police told the dancers to "'gather your stuff, you're going to jail.' It's kind of like, 'Really?'"

8 Chippendales dancers, their tour manager, promoter, and the manager of the bar were all taken to jail. The audience wasn't pleased and started chanting "City Council sucks!"

One woman complained to ABC's Lubbock affiliate KAMC. "I'm mad because I paid to see this show. And to me, it's stupid! They're just dancing! It's no big deal!"

Tour manager Scott Shelton says they were never told exactly what they did wrong. "They weren't able to explain it to us that night, the next morning. I haven't been able to get an explanation since."

In a statement to "20/20," Lubbock police claim some of the dancers thrust their pelvic areas toward women in the audience -- what they call a "simulated sex act" -- in violation of the sexually-oriented business code. After a night in jail, the charges were dropped and the Chippendales group was free.

### **Sex Toys for "Medical Reasons"**

Finally, some states have laws that creep right into the bedroom. In Alabama, state legislators have banned the sale of sex toys. That upset Sherri Williams who has owned Pleasures -- the "One-Stop Romance Shop" -- for 14 years.

Williams says her customers certainly seem happy that her store is here. "There's not a day that goes by that I don't get a thank you or 'Oh, gosh! I so much appreciate you telling me about that,'" she said.

But then came the ban on adult sex toys.

Sherri Williams' husband Dave Smith said there's something odd about the law.

"You know in the state of Alabama, I can buy a gun," he said. "I can carry it in my pocket."

But if he buys a vibrator, someone could get arrested and fined up to \$10,000 -- almost 5 times the limit for drunken driving.

American Civil Liberties Union president Nadine Strossen helped Sherri Williams challenge the law.

"When you have a right to engage in certain sexual conducts, sometimes products are involved. You have a right to use sex devices in the privacy of your own bedroom. You can't enjoy that right unless you can buy the sex toys," she said.

But the 11th Circuit of the U.S. Court of Appeals ruled on Jan. 31, 2001 that communities have a "legitimate legislative interest in discouraging prurient interests in autonomous sex" (masturbation in other words) because that may be "detrimental to the health and morality of the State." After numerous appeals affirming the initial ruling, the case was finally settled when the Supreme Court declined to hear an appeal last October.

Oddly, however, Pleasures is still in business because the Law makes an exception if a sex toy is sold for a medical purpose.

"I do not sell sex toys for enjoyment -- no," Williams said. "I only sell sex toys for medical reasons."

Her shop hands out a questionnaire to every customer, asking questions such as "*Do you or your partner have difficulty having an orgasm?*" or "*Do you climax too quickly?*" Saying "yes" once constitutes a medical purpose.

Who's the Government protecting? It's not as if anyone has been killed by a vibrator.

The Alabama state senator who sponsored the legislation wouldn't talk. But Sprigg of Family Research Council shared his opinion.

"The Government is actually protecting the people who patronize those shops because I don't think it's in their interest to use pornography and sex toys," he said.

But don't adults get to choose what's in their interest?

"We have to look at Society's interest as well," Sprigg said. "Society does have an interest in people's private sexual behavior."

No, it doesn't! shopowner Williams countered. She believes "private" should mean private.

"They will have to pry this vibrator from my cold dead hand before I stop selling them," she said.

*Copyright © 2008 ABC News Internet Ventures*