

Intellectual History of Privacy I

Information Privacy with Applications
David Sidi (dsidi@email.arizona.edu)

Administrative

- Sign in
- New OH: Fridays 10:30am
- The wiki is up and running
 - subscribe to changes
 - check it for readings not linked in the syllabus
- The tool for questions is at <http://cyber.harvard.edu/questions/list.php>
- Syllabus update: Robert Ellis on the 31st

Warm-up

- List some of the privacy technologies that were used by the Colonists to protect the confidentiality of their mail (2 minutes)

A modern combination of older ideas

If we go back in time,
the first definition that
we use of privacy
[comes] from Warren
and Brandeis.”

-Claudia Diaz
([link](#))



Census and Censure in the Bible (ca. 800 BCE)

‘Satan rose up against Israel and incited David to take a census of Israel. 2 So David said to Joab and the commanders of the troops, “Go and count the Israelites from Beersheba to Dan. Then report back to me so that I may know how many there are.” ...

‘But Joab replied, “May the Lord multiply his troops a hundred times over. My lord the king, are they not all my lord’s subjects? Why does my lord want to do this? Why should he bring guilt on Israel?”

‘The king’s word, however, overruled Joab; so Joab left and went throughout Israel and then came back to Jerusalem. Joab reported the number of the fighting men to David: In all Israel there were one million one hundred thousand men who could handle a sword, including four hundred and seventy thousand in Judah.

‘But Joab did not include Levi and Benjamin in the numbering, because the king’s command was repulsive to him. This command was also evil in the sight of God; so he punished Israel.

‘Then David said to God, “I have sinned greatly by doing this. Now, I beg you, take away the guilt of your servant. I have done a very foolish thing.’

‘The Lord said to Gad, David’s seer, “Go and tell David, ‘This is what the Lord says: I am giving you three options. Choose one of them for me to carry out against you.’”

‘So Gad went to David and said to him, “This is what the Lord says: ‘Take your choice: three years of famine, three months of being swept away[a] before your enemies, with their swords overtaking you, or three days of the sword of the Lord—days of plague in the land, with the angel of the Lord ravaging every part of Israel.’ Now then, decide how I should answer the one who sent me.”

‘David said to Gad, “I am in deep distress. Let me fall into the hands of the Lord, for his mercy is very great; but do not let me fall into human hands.”

‘So the Lord sent a plague on Israel, and seventy thousand men of Israel fell dead. And God sent an angel to destroy Jerusalem. But as the angel was doing so, the Lord saw it and relented concerning the disaster and said to the angel who was destroying the people, “Enough! Withdraw your hand.” The angel of the Lord was then standing at the threshing floor of Araunah[b] the Jebusite.

‘David looked up and saw the angel of the Lord standing between heaven and earth, with a drawn sword in his hand extended over Jerusalem. Then David and the elders, clothed in sackcloth, fell facedown.

‘David said to God, “Was it not I who ordered the fighting men to be counted? I, the shepherd, have sinned and done wrong. These are but sheep. What have they done? Lord my God, let your hand fall on me and my family, but do not let this plague remain on your people.”

Jewish Law (ca. 500 BCE)

“no one may place an entrance ... opposite the entrance [of another]... nor a window opposite [another's] window ... No one shall open up windows facing a jointly owned courtyard.”

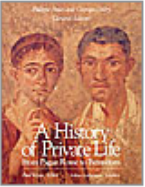
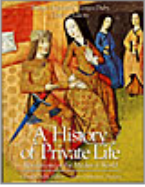
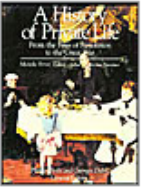
Elon, *Principles of Jewish Law*, 1859-1860

Hippocratic Oath (between 460-377 BCE)

“Whatever, in connection with my professional service, or not in connection with it, I see or hear, in the life of men, which ought not to be spoken of abroad, I will not divulge, as reckoning that all such should be kept secret.”

A huge diversity of experiences making up “private life”

- The volumes of ‘The History of Public Life’ give diverse examples of private life throughout history (family, citizenship/enslavement, sex, childhood, public and private space...)
- 5 volumes, beginning with “Pagan Rome” and ending with “Modern Times”

1.		A History of Private Life, Volume I: From Pagan Rome to Byzantium Veyne, Paul Goldhammer, Arthur Ariès, Philippe Duby, Georges First of the widely celebrated and sumptuously illustrated series, this book reveals in intimate detail what life was really like in the ancient world. Behind the vast panorama of the pagan Roman empire, the reader discovers the intimate daily lives of citizens and slaves—from concepts of manhood and sexuality to marriage and the family, the roles of women, chastity and contraception, techniques of childbirth, homosexuality, religion, the meaning of virtue, and the separation of private and public spaces.
2.		A History of Private Life, Volume II: Revelations of the Medieval World Duby, Georges Goldhammer, Arthur Ariès, Philippe Duby, Georges The second volume of <i>A History of Private Life</i> is a treasure trove of rich and colorful detail culled from an astounding variety of sources. This absorbing “secret epic” constructs a vivid picture of peasant and patrician life in the eleventh to fifteenth centuries.
3.		A History of Private Life, Volume III: Passions of the Renaissance Chartier, Roger Goldhammer, Arthur Ariès, Philippe Duby, Georges Readers interested in history, and in the development of the modern sensibility, will relish this large-scale yet intimately detailed examination of the blossoming of the ordinary and extraordinary people of the Renaissance and the Enlightenment. This third in the popular five-volume series celebrates the emergence of individualism and the manifestations of a burgeoning self-consciousness over three centuries.
4.		A History of Private Life, Volume IV: From the Fires of Revolution to the Great War Perrot, Michelle Goldhammer, Arthur Ariès, Philippe Duby, Georges The nineteenth century was the golden age of private life, a time when the tentative self-consciousness of the Renaissance and earlier eras took recognizable form, and the supreme individual, with a political, scientific, and above all existential value, emerged. Volume IV of this award-winning series chronicles this development from the tumult of the French Revolution to the outbreak of World War I—a century and a quarter of rapid, ungovernable change culminating in a conflict that, at a stroke, altered life in the Western world.
5.		A History of Private Life, Volume V: Riddles of Identity in Modern Times Prost, Antoine Vincent, Gérard Goldhammer, Arthur Ariès, Philippe Duby, Georges

A Leap to the Early Modern: Chomsky on Pascal

- Noam Chomsky visited UA for a talk, and was asked “...how do you perceive this new curated, and often very public, digital self that people are creating online?” He answered, “[...] my own view is that the answer was given centuries ago by Blaise Pascal, [...] he observed that the root of man’s misfortunes is the lack of a room in which you can sit quietly and undisturbed. And if he’d thought about surveillance, he would have said, “without surveillance.”

Snowden, Greenwald, Chomsky talk, “Conversations on Privacy” (mirrored on the Privacy Projects page), beginning at 48:05.

“When I have occasionally set myself to consider the different distractions of men, the pains and perils to which they expose themselves at court or in war, whence arise so many quarrels, passions, bold and often bad ventures, etc., I have discovered that all the unhappiness of men arises from one single fact, that they cannot stay quietly in their own chamber. A man who has enough to live on, if he knew how to stay with pleasure at home, would not leave it to go to sea or to besiege a town. A commission in the army would not be bought so dearly, but that it is found insufferable not to budge from the town; and men only seek conversation and entering games, because they cannot remain with pleasure at home.

But on further consideration, when, after finding the cause of all our ills, I have sought to discover the reason of it, I have found that there is one very real reason, namely, the natural poverty of our feeble and mortal condition, so miserable that nothing can comfort us when we think of it closely.”

Discussion

- How do you think Chomsky understands this passage?
- 2 minutes to think about it separately, then join with your neighbor to discuss it for 2 minutes, then we'll talk about it as a class

Privacy in Early US History

Introductory themes from Ellis

“Nearly all other books about privacy assume that this is a positive value shared by all Americans. I’m not sure that it is. Our feelings about personal privacy – our privacy and everyone else’s – are ambivalent.”

Ellis, p. 4

Technological advance spurs privacy concern

- In US history technological advance often spurs privacy concern, specifically, technology wielded to concentrate power
 - pre 1890, cameras, telephones, fast publishing
 - ca. 1970, computers
 - 1990s, the internet

Discussion

- ‘In this new era, individuals and small organizations have gained cyberpower that seems comparable to what large organizations can effectively manage.’

Ellis, p. 8

Privacy at America's Beginnings

An early (!) FAQ from 1582

“How are we made Kings?”

A FAQ from 1582

“We must all watch one another, and try out all wickedness. We must privately and openly rebuke the private and open offenders. We must also separate the willful and more grievous offenders, and withdraw ourselves from them.”

Rev. Robert Brown, 1582

- For Puritans in Colonial New England, the church regulated behavior
- Unlike back in England, there were no church-run courts in the Colonies. Guesses Why not?
- There were some intrusions of the church into public life...

Privacy-related roles of the Church in public life

- Churches were responsible for taking the census
 - illnesses, births, mortality, employment, mobility
 - dissenters to the Church of England
 - Why might you object to this (as the colonists did, in increasing numbers)
- Tithingmen

Discretionary enforcement

- Written records of the time indicate that tythingmen could inspect private homes. The records also show that the tythingmen seemed not to exercise the vague and broad authority they had been given, instead confining themselves to a few arrests for drunkenness and absences from church services.
- Why might that be? What are the side effects of information gathering in a home?

Privacy-related roles of the Church in public life

- Settling in a New England town did require permission of the inhabitants or their representatives
- Prohibition on living alone, unmarried (including widows, young people)
- Nightwatch
 - Most intrusive in Boston, even there quickly curtailed

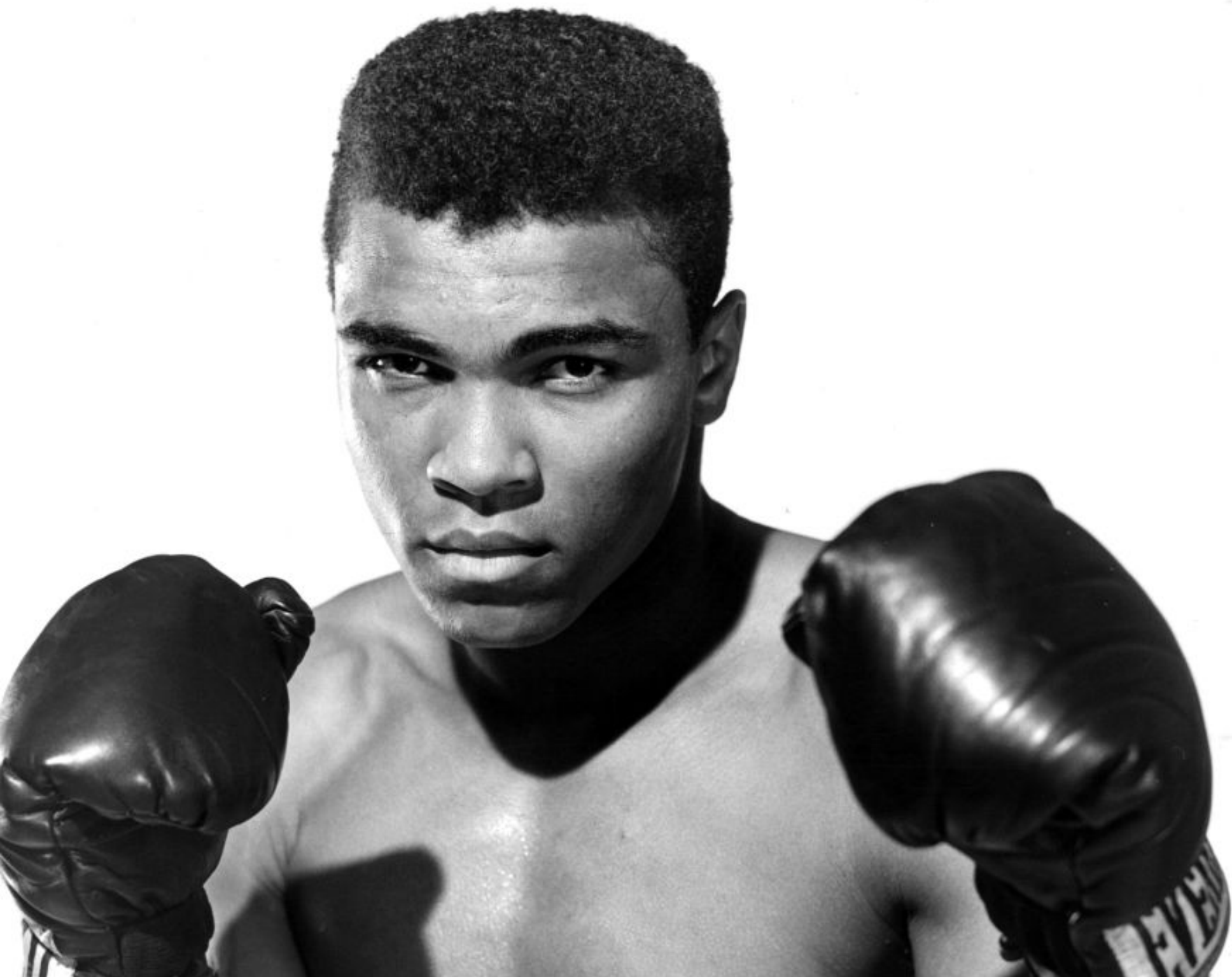
Early PET: A good Cudgel apply'd in the Dark

““A good Cudgel apply'd in the Dark is an excellent Medicine for a Malignant Spirit. I know it once Experienced at Boston, with very good success, upon an Old rigged Precisian, one of their Select, who used to be more then ordinary vigilant in discovering every little Irregularity in the Neighborhood; I happened one Night to be pritty Merry with a Friend, opposite to the Zealot's dwelling, who got out of his Bed in his Wast-coat and Drawers, to listen at our Window. My Friend having oft been serv'd so, had left unbolted his Cellar Trap-door, as a Pit-fall for Mr. Busie-Body, who stepping upon it, sunk down with an Outcry like a distressed Mariner in a sinking Pinnacle. My Friend having planted a Cudgel ready, run down Stairs, crying 'Thieves,' and belabour'd Old Troublesome very severely before he would know him. He crying out, 'I am your Neighbor.'”16

Privacy Post WWII

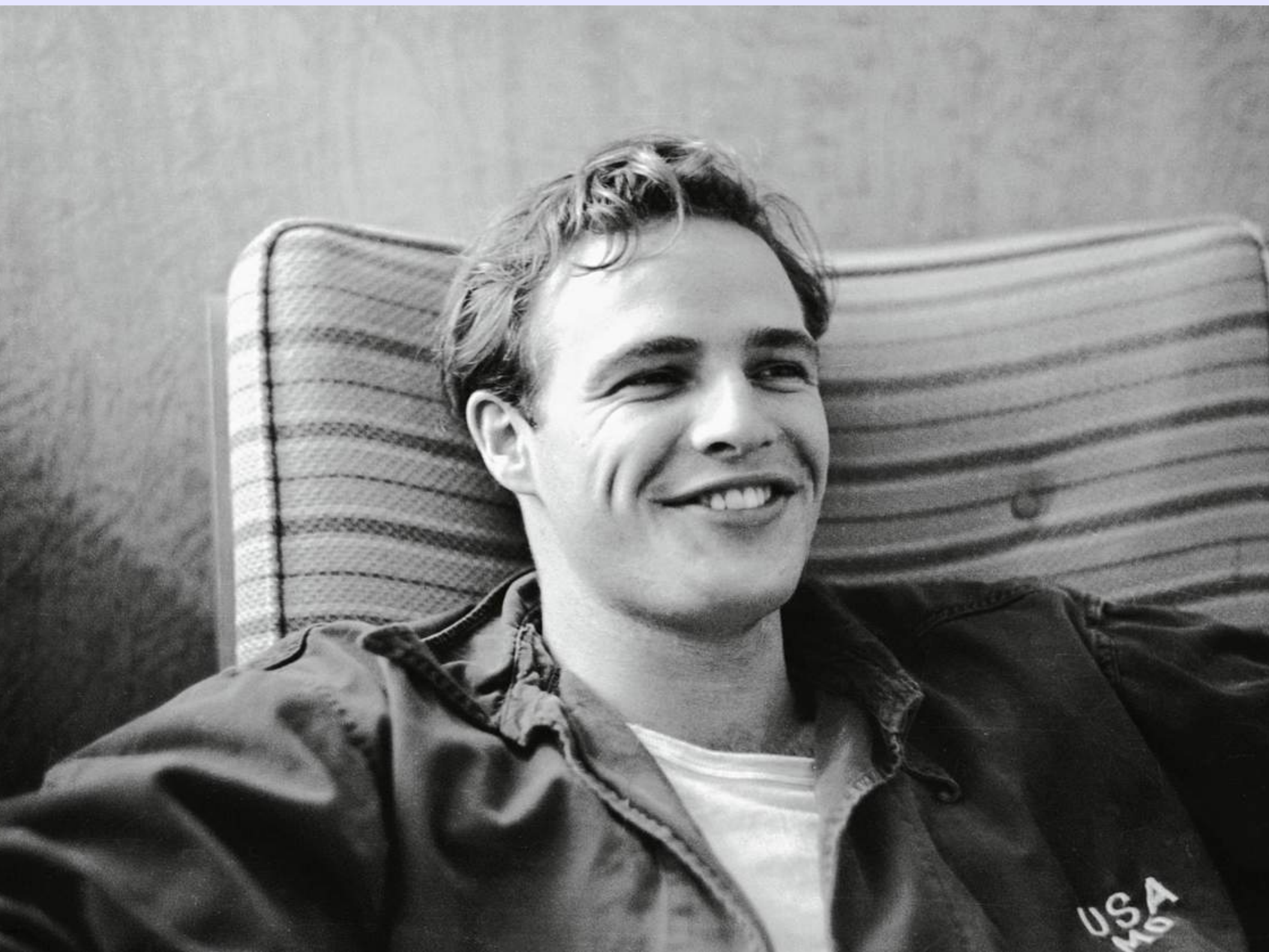
United States













KING,

In view of your low grade, abnormal personal behavior I will not dignify your name with either a Mr. or a Reverend or a Dr. And, your last name calls to mind only the type of King such as King Henry the VIII and his countless acts of adultery and immoral conduct lower than that of a beast.

King, look into your heart. You know you are a complete fraud and a great liability to all of us Negroes. White people in this country have enough frauds of their own but I am sure they don't have one at this time that is any where near your equal. You are no clergyman and you know it. I repeat you are a colossal fraud and an evil, vicious one at that. You could not believe in God and act as you do. Clearly you don't believe in any personal moral principles.

King, like all frauds your end is approaching. You could have been our greatest leader. You, even at an early age have turned out to be not a leader but a dissolute, abnormal moral imbecile. We will now have to depend on our older leaders like Wilkins a man of character and thank God we have others like him. But you are done. Your "honorary" degrees, your Nobel Prize (what a grim farce) and other awards will not save you. King, I repeat you are done.

No person can overcome facts, not even a fraud like yourself. Lend your sexually psychotic ear to the enclosure. You will find yourself and in all your dirt, filth, evil and moronic talk exposed on the record for all time. I repeat - no person can argue successfully against facts. You are finished. You will find on the record for all time your filthy, dirty, evil companions, male and females giving expression with you to your hideous abnormalities. And some of them to pretend to be ministers of the Gospel. Satan could not do more. What incredible evilness. It is all there on the record, your sexual orgies. Listen to yourself you filthy, abnormal animal. You are on the record. You

it is all there on the record, your sexual orgies. Listen to yourself you filthy, abnormal animal. You are on the record. You have been on the record - all your adulterous acts, your sexual orgies extending far into the past. This one is but a tiny sample. You will understand this. Yes, from your terrible evil playmates on the east coast to and others on the west coast and outside the country you are on the record. King you are done.

The American public, the church organizations that have been helping - Protestant, Catholic and Jews will know you for what you are - an evil, abnormal beast. So will others who have backed you. You are done.

King, there is only one thing left for you to do. You know what it is. You have just 34 days in which to do (this exact number has been selected for a specific reason, it has definite practical significant. You are done. There is but one way out for you. You better take it before your filthy, abnormal fraudulent self is bared to the nation.

“the committee noted, every president from Franklin Roosevelt to Richard Nixon improperly used government surveillance to obtain information about critics and political opponents.”

--The Church Committee

“While the declared purposes of these programs were to protect the "national security" or prevent violence, Bureau witnesses admit that many of the targets were nonviolent and most had no connections with a foreign power. Indeed, nonviolent organizations and individuals were targeted because the Bureau believed they represented a "potential" for violence—and nonviolent citizens who were against the war in Vietnam were targeted because they gave "aid and comfort" to violent demonstrators by lending respectability to their cause..”

-- The Church Committee

References

- Keenan, K.M. Invasion of Privacy: A Reference Handbook. Contemporary World Issues. ABC-CLIO, 2005.
<http://literati.credoreference.com/content/title/abcinvpri?institutionId=6437>.
- Smith, R.E. Ben Franklin's Web Site: Privacy and Curiosity from Plymouth Rock to the Internet. Privacy Journal, 2000.
<https://books.google.com/books?id=Pppc5LgmB9IC>.