

Even Donald Sterling is Entitled to Privacy Give it a think before you make a stink about leaked private conversations.

By A. J. Delgado
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Why on earth am I, a minority myself, recommending that we take a deep breath and a step back before further condemning Donald Sterling, this week's most hated American?

Three reasons: privacy, rewarding bad behavior, and context.

We learned this weekend that Sterling, owner of the Los Angeles Clippers NBA team, allegedly made disgusting and bigoted remarks about African-Americans. At best, they are hair-raising, cringe-inducing, and downright repugnant. You may need a paper bag to puke in while listening.

It is no surprise that the nation is outraged.

But privacy is also an issue of hefty importance. In only a few short years, privacy as we know it has fallen by the wayside. Digital communication (e.g., emails, texts) means most private interactions are ripe for disclosure, even when clearly intended to be confidential and even when both parties represented themselves as respecting that confidence. Privacy journalist and Cato Institute fellow Julian Sanchez tweeted in the midst of the chaos, "Actually tend to think the right response here is; 'It's none of your business what I said or why during a private phone call'."

Sanchez's take may seem flippant, even callous, but it seems to touch upon a pressing issue all too often ignored: When will we, as a society, start to reclaim, retake, and demand our privacy?

Here's one way we can start: Thinking twice before giving legs to stories based on the *public* disclosure of a *private* communication would certainly be a moral, sensible course. Much in the same way the justice system refuses to consider evidence obtained without a warrant, why should our conscience allow us to indulge a story involving the betrayal of someone's privacy?

Whether the individual holds loathsome views is irrelevant. There is something unsettling about complicity in breaching a fellow human's (basic?) right. Were Sterling's comments appalling? Of course. But they were said in a private communication. Surely that must count for something?

Then there is the problem of rewarding bad behavior. Adding kindling to the Sterling controversy only rewards the immoral actions of a person who leaked a tape to the media, possibly out of revenge or for financial gain, definitely in the midst of a lawsuit involving not only Sterling but his long-suffering wife.

How does this differ from a man posting topless photos online of an ex-girlfriend to spite her, or a spouse submitting private emails to a court in order to get a leg up in a divorce hearing? The doer has engaged in disturbing behavior for which there is often no excuse. It is behavior based on the violation of trust and the immoral disregard of any implied contract or oral representation that said communications were and would remain confidential. Why would we reward this?

Some journalists have now begun to abstain from naming mass shooters in order to deny them the fame they seek. That's an ethical decision for those journalists, but it is worth considering more broadly. Should we take similar punitive measures by ignoring stories facilitated through the betrayal of privacy? The individual who leaked the tape — believed by many to be Sterling's girlfriend — disclosed a private communication likely to cause another individual harm or for personal gain. Buying into this story, we are buying into such an individual's plan and rewarding his or her breach of another's privacy. Is this something we want to do? If so, at what cost?

Thirdly, there is the aspect of *context*. Sterling was engaged in (a) a heated argument with (b) someone with whom he was in a romantic and/or sexual relationship. Statements made in such circumstances easily fall into the "stuff we don't mean" bin. Overly emotional, irritable, afraid, insecure, furious, paranoid — the list of adjectives to describe the possible mental state of an individual is long. Most importantly, *any* of these situations leads an individual to make remarks that are often completely disconnected from what that individual truly feels and thinks. Some folks may even say things that are *deliberately* provocative, if only to get a rise out of the other party. Are we really going to take what Sterling said under heated circumstances and consider those comments *reflective* of what is in the man's heart and how he *truly* feels about African-Americans?

Ask yourself: what is the worst thing you've ever said during an argument, or said to provoke another? How would you feel if that private communication were then made public and, worse yet, taken as representative of your *true* views? If we are going to brand Sterling a racist, let us do so based on his *actions* (for example, the alleged housing discrimination for which he and his wife were sued) rather than mere words.

Worth noting: some of Sterling's critics are perhaps falling into the trap of bigotry themselves. These are a few of the remarks made on Twitter:

Donald Sterling: another old Jewish racist billionaire who hates blacks but loves to use them for profit. #BoycottClippers #SheldonAdelson

Looking forward to @NOIRresearch weighing in on Sterling controversy! No one wants 2 mention Jewish control of major sports! #StayWoke

Donald Sterling is Jewish. Nothing has happened or ever will happen for all the things he's done and said and he knows it. Because. America.

Funny thing about Sterling is he moves like old money but he isn't. He's a Jewish immigrant.

Once the media finds out Donald Sterling's Jewish I'm sure they'll drop the entire thing.

Also most in the media will ignore the fact that Sterling is Jewish which is what black folks in LA have to deal with all the time.

Donald Sterling is old, Jewish and from Chicago. Most Chicagoans knows what that means.

Those Twitter users, many of whom were African-American and all of whom, unlike Sterling, willingly made their vile comments in public, would no doubt, if pressed, explain: "Well, I may have Tweeted some remarks I didn't mean. I was upset." Oh, in other words, *same as Sterling* was when he made his comments.

Privacy matters. Behavior matters. Context matters. Sterling's comments are appalling. But these factors should not be brushed under a rug. Does Sterling have some 'splaining to do? You bet.

So do we.

— *A. J. Delgado is a conservative writer and lawyer.*