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By Stephen J. Wermiel

Fifty years ago, the U.S. Supreme Court recognized a right to privacy implicit in the provisions of the Bill of Rights and the Fourteenth Amendment. The decision in *Griswold v. Connecticut*, 381 U.S. 479 (1965), marked the first time the Court said that privacy was a constitutional right.

The landmark ruling invalidated a Connecticut law under which the executive director of the Planned Parenthood League of Connecticut, Estelle Griswold, and the medical director, Dr. Lee Buxton, were convicted for advising married couples on how to use birth control.

In an opinion written by Justice William O. Douglas, the Court acknowledged that privacy is not mentioned expressly anywhere in the Constitution. However, privacy could be found, Justice Douglas wrote, in the "penumbras" that emanated from numerous provisions of the Bill of Rights. "Various guarantees create zones of privacy," Douglas wrote.

The reasoning of the historic ruling was not a slam dunk. Two justices, Hugo Black and Potter Stewart, dissented. They had little regard for the Connecticut birth control law, they said, but they could find nothing in the Constitution to prohibit a state from passing such a statute. Three others, Justice Arthur Goldberg joined by Chief Justice Earl Warren and Justice William Brennan, suggested privacy was better found in the Ninth Amendment, which recognizes that other rights may exist that are "retained by the people."

The right about which the Court spoke in 1965 was marital privacy. But it was not long before the Court expanded the reach of the privacy right. In *Katz v. United States*, 389 U.S. 347 (1967), the Court found that an individual's expectation of privacy in a phone booth was critical in viewing the government's wiretap as a violation of the Fourth Amendment's protection from unreasonable searches and seizures. In *Stanley v. Georgia*, 394 U.S. 557 (1969), the Court ruled that privacy even extended to the possession of obscene material in the privacy of one's home. In *Eisenstadt v. Baird*, 405 U.S. 438 (1972), the Court extended the right of intimate privacy for married couples in *Griswold* to the same right for unmarried individuals. *Griswold* would also become the foundation for the right to abortion in *Roe v. Wade*, 410 U.S. 113 (1973), and for the right of gays and lesbians to engage in consensual sex in *Lawrence v. Texas*, 539 U.S. 558 (2003).

Today privacy has multiple facets. In addition to intimate privacy and expectations of privacy relevant to the criminal justice system, the field of informational privacy has exploded with new cases, new laws, new standards, and new challenges.

The constitutional foundation of privacy remains unchanged. This issue of *Human Rights* magazine recognizes the Supreme Court as a human rights hero because *Griswold v. Connecticut* established the benchmark of constitutional protection for privacy that is still the gold standard after 50 years.

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