sons, the question arose whether *Hill* applies to all "false-light" cases or only such cases involving public officials or public figures.[1278] And, more important, *Gertz* left unresolved the issue "whether the State may ever define and protect an area of privacy free from unwanted publicity in the press." [1279]

In *Cox Broadcasting*, the Court declined to pass on the broad question, holding instead that the accurate publication of information obtained from public records is absolutely privileged. Thus, the state could not permit a civil recovery for invasion of privacy occasioned by the reporting of the name of a rape victim obtained from court records and from a proceeding in open court.[1280] Nevertheless, the Court in appearing to retreat from what had seemed to be settled principle, that truth is a constitutionally required defense in any defamation action, whether plaintiff be a public official, public figure, or private individual, may have preserved for itself the discretion to recognize a constitutionally permissible tort of invasion of privacy through publication of truthful information.[1281] But in recognition of the conflicting interests—in expression and in privacy—it is evident that the judicial process in this area will be cautious.

[1278] *Cf.* Cantrell v. Forest City Publishing Co., 419 U.S. 245, 250–51 (1974); Cox Broadcasting Corp. v. Cohn, 420 U.S. 469, 490 n.19 (1975).

[1279] Cox Broadcasting Corp. v. Cohn, 420 U.S. 469, 491 (1975).

[1280] More specifically, the information was obtained "from judicial records which are maintained in connection with a public prosecution and which themselves are open to public inspection." 420 U.S. at 491. There was thus involved both the First Amendment and the traditional privilege of the press to report the events of judicial proceedings. Id. at 493, 494–96.

[1281] Thus, Justice White for the Court noted that the defense of truth is constitutionally required in suits by public officials or public figures. But "[t]he Court has nevertheless carefully left open the question whether the First and Fourteenth Amendments require that truth be recognized as a defense in a defamatory action brought by a private person as distinguished from a public official or public figure." 420 U.S. at 490. If truth is not a constitutionally required defense, then it would be possible for the states to make truthful defamation of private individuals actionable and, more important, truthful reporting of matters that constitute invasions of privacy actionable. *See* Brasco v. Reader's Digest, 4 Cal.3d 520, 483 P.2d 34, 93 Cal. Rptr. 866 (1971); Commonwealth v. Wiseman, 356 Mass. 251, 249 N.E.2d 610 (1969), *cert. denied*, 398 U.S. 960 (1970). Concurring in *Cohn*, 420 U.S. at 497, Justice Powell contended that the question of truth as a constitutionally required defense was long settled in the affirmative and that *Gertz* itself, which he wrote, was explainable on no other basis. But he too would reserve the question of actionable invasions of privacy through truthful reporting. "In some instances state actions that are denominated actions in defamation may in fact seek to protect citizens from injuries that are quite different from the wrongful damage to reputation flowing from false statements of fact. In such cases, the Constitution may permit a different balance. And, as today's opinion properly recognizes, causes of action grounded in a State's desire to protect privacy generally implicate interests that are distinct from those protected by defamation actions." 420 U.S. at 500.