Another reason that "privacy" is difficult to define is that the right appears to arise from multiple sources. For instance, the Court first identified issues regarding informational privacy as specifically tied to various provisions of Bill of Rights, including the First and Fourth Amendments. In *Griswold v. Connecticut*,[624] however, Justice Douglas found an independent right of privacy in the "penumbras" of these and other constitutional provisions. Although the parameters and limits of the right to privacy were not well delineated by that decision, which struck down a statute banning married couples from using contraceptives, the right appeared to be based on the notion that the government should not be allowed to gather information about private, personal activities.[625] However, years later, when the closely related abortion cases were decided, the right to privacy being discussed was now characterized as a "liberty interest" protected under the Due Process Clause of the Fourteenth Amendment,[626] and the basis for the right identified was more consistent with a concern for personal autonomy.

After *Griswold*, the Court had several opportunities to address and expand on the concept of Fourteenth Amendment informational privacy, but instead it returned to Fourth and Fifth Amendment principles to address official regulation of personal information.[627] For example, in *United States v. Miller*,[628] the Court, in evaluating the right of privacy of depositors to restrict government access to cancelled checks maintained by the bank, relied on whether there was an expectation of privacy under the Fourth Amend-

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[624] 381 U.S. 479 (1965).

[625] The predominant concern flowing through the several opinions in Griswold v. Connecticut is the threat of forced disclosure about the private and intimate lives of persons through the pervasive surveillance and investigative efforts that would be needed to enforce such a law; moreover, the concern was not limited to the pressures such investigative techniques would impose on the confines of the Fourth Amendment's search and seizure clause, but also included techniques that would have been within the range of permissible investigation.

[626] Roe v. Wade, 410 U.S. 113, 153 (1973). *See* id. at 167–71 (Justice Stewart concurring). Justice Douglas continued to deny that substantive due process is the basis of the decisions. Doe v. Bolton, 410 U.S. 179, 209, 212 n.4 (1973) (concurring).

[627] *E.g.*, California Bankers Ass'n v. Shultz, 416 U.S. 21 (1974). *See also* Laird v. Tatum, 408 U.S. 1 (1972); United States v. United States District Court, 407 U.S. 297 (1972); United States v. Dionisio, 410 U.S. 1 (1973); Zurcher v. Stanford Daily, 436 U.S. 547 (1978).

[628] 425 U.S. 435 (1976). *See also* Fisher v. United States, 425 U.S. 391, 401 (1976); Paul v. Davis, 424 U.S. 693, 712–13 (1976); United States v. Bisceglia, 420 U.S. 141 (1975).