

Many argue that there needs to be an express right to privacy in a separate Amendment; I do not agree! I am not sure if the Warren Court was playing politics or planning out a successful future, yet the concept of privacy is more flexible because it exists under numerous (a 'penumbra') of Amendments. This allows Legal Realism to take form...the judge knows what the correct outcome of the case should be as did Chief Justice Warren in the *Brown v. Board of Education* (1954) case, yet the judge needs legal flexibility to be artful with words and logic. This is precisely what the 'penumbra' of privacy does.

The Right to Privacy is not specifically written in the Constitution. Rather, it has been found in a 'penumbra' of rights provided in the Bill of Rights. The Warren Court found that a fundamental right to privacy existed in a 'penumbra' of Amendments in the *Griswold v. Connecticut* (1965) case. This means that there have been a series of Supreme Court rulings holding some rights as 'fundamental'; the rights are established by case precedent and not the actual language in the Constitution. There is a series of cases much too long for this discussion board (they can be found in the class text). These rights are the following:

- * **C**ontraception
- * **A**bstention
- * **M**arriage
- * **P**rocreation
- * **E**ducation (private)
- * **R**elations, family

I believe there is a right to privacy. We know that the European Constitution enumerates a right to privacy. I sometimes think that the strength of our privacy rights (currently enjoyed) is based in the pocket areas and Amendments where it is found. For example, if there were a specific Amendment addressing the right to privacy, it may limit the areas where privacy can be found as society changes (Equal Protection, First Amendment, Fourth Amendment, and so on). This is because it would focus all cases and Constitutional challenges to that specific Amendment; the Court currently has a plethora of areas where privacy can be found (this concept gives life to Legal and American Realism).