MCDONALD, C. J., dissenting in part and concurring in the result. The majority agrees with the commissioner's claim that Michaela Lee has no constitutional right to the nondisclosure of personal information contained on a birth certificate. It suggests that privacy interests are limited to only ''the most basic personal decisions such as contraception, marriage or the decision to procreate,'' and holds that this category does not include Michaela Lee's privacy interest in her birth records. I disagree. I do not believe that we need to decide in this case that Michaela Lee has no constitutional privacy interest in the parental information contained in the state's birth records. Instead, I would hold that she may have such an interest, but the record in this case does not show that it was violated.

The United States Supreme Court has recognized that there may be a constitutional privacy interest in public records containing sensitive personal information, and that that privacy interest should be protected by statutory confidentiality requirements. In *Whalen* v. *Roe*, 429 U.S. 589, 591, 97 S. Ct. 869, 51 L. Ed. 2d 64 (1977), the United States Supreme Court considered the constitutionality of the New York State Controlled Substances Act of 1972; N.Y. Pub. Health Law § 3300 et seq. (McKin-

ney Sup. 1976-1977); which required the recording, in a centralized computer file, of the names and addresses of all persons who had obtained certain drugs pursuant to a doctor's prescription. The court wrote, ''[t]he cases sometimes characterized as protecting 'privacy' have in fact involved at least two different kinds of interests. One is the individual interest in avoiding disclosure of personal matters, and another is the interest in independence in making certain kinds of important decisions. . . . The mere existence in readily available form of the information about patients' use of Schedule II drugs creates a genuine concern that the information will become publicly known and that it will adversely affect their reputations.'' *Whalen* v. *Roe*, supra, 598–600. ''We are not unaware of the threat to privacy implicit in the accumulation of vast amounts of personal information in computerized data banks or other massive government files. . . . The right to collect and use such data for public purposes is typically accompanied by a concomitant statutory or regulatory duty to avoid unwarranted disclosures. Recognizing that in some circumstances that duty arguably has its roots in the Constitution, nevertheless New York's statutory scheme, and its implementing administrative procedures, evidence a proper concern with, and protection of, the individual's interest in privacy. We therefore need not, and do not, decide any question which might be presented by the unwarranted disclosure of accumulated private data—whether intentional or unintentional—or by a system that did not contain comparable security provisions. We simply hold that this record does not establish an invasion of any right or liberty protected by the Fourteenth Amendment.'' Id., 605–606; see also id., 607 (Brennan, J., concurring) (because recordkeeping scheme contains numerous safeguards of confidentiality, it does not amount to deprivation of constitutionally protected privacy interest, and, therefore, state need not show that challenged statute is absolutely necessary to accomplish legitimate goal); *Planned Parenthood of Central Missouri* v. *Danforth*, 428 U.S. 52, 79–80, 96 S. Ct. 2831, 49 L. Ed. 2d 788 (1976) (considering state's recordkeeping requirements for health facilities and physicians concerned with abortion and holding that recordkeeping requirements that respect patient's confidentiality are permissible).

Relying on these cases, I would hold that Michaela Lee may have a constitutional privacy interest in her birth records, which reveal, among other things, the identity of her birth parents.[1] As the facts of this case show, there may be very good reasons, which the state should respect, that a person does not wish the information in those records to be made public.[2] Even if it is assumed, however, that Michaela Lee has such a constitutional right, I do not believe that that right has been infringed in this case. First, I note that the state has a substantial interest in maintaining the accuracy

and integrity of birth records. The value of accurate and detailed genealogical records has been recognized since time immemorial. See, e.g., 1 Chronicles 1:1–9:44 (commonly known as ''the begats''). The United States Supreme Court cases suggest, however, that, even when the state has a vital interest in keeping records containing sensitive personal information, it must take steps to protect the confidentiality of those records. The statutes governing the maintenance of birth records in Connecticut do provide such protection.[3] Furthermore, as the majority has noted, the state has done nothing to publicize the information on Michaela Lee's birth certificate. Rather, the defendant herself voluntarily provided the birth certificate to third parties.

In summary, I would hold that Michaela Lee may have a constitutional privacy interest in the information contained in her birth records, but that the state has a countervailing interest in maintaining complete and accurate records. Furthermore, I would find that any such interest that Michaela Lee may have is adequately protected under Connecticut's statutory recordkeeping scheme. Accordingly, I dissent in part and concur in the result.

[1] Although Michaela Lee may have a privacy interest in her birth records that requires the state to take steps to maintain their confidentiality, I do not believe that Michaela Lee's interest can be extended to include a right to alter confidential records to delete information that she finds embarrassing.

[2] In *Perkins* v. *Freedom of Information Commission*, 228 Conn. 158, 170–71, 635 A.2d 783 (1993), this court looked to tort law to construe the phrase ''invasion of personal privacy'' for purposes of defining the scope of that exception to the Freedom of Information Act. General Statutes (Rev. to 1993) § 1-19 (b) (2), now General Statutes § 1-210 (b) (2). We held that the exception applied ''when the information sought . . . does not pertain to legitimate matters of public concern and is highly offensive to a reasonable person.'' *Perkins* v. *Freedom of Information Commission*, supra, 175. Tort law might also be the starting point for the development of a constitutional standard.

Because, however, as stated elsewhere in this dissenting opinion, there was no disclosure of any information by the state in this case, there is no need to decide whether disclosure of birth records could, in some circumstances, be ''highly offensive to a reasonable person''; id.; or could constitute an invasion of personal privacy in a constitutional sense. Nevertheless, I do not see any need to rule out such a possibility.

[3] As noted in footnote 29 of the majority opinion, birth certificates are protected from general public disclosure pursuant to General Statutes § 7-51. See footnote 29 of the majority opinion for the text of that statute.