

Question I (Abu Ghraib tableaux) (70 points)

- speech-fully protected pol sp or symb exp? Not ambiguous, only expressive-street theater(5) _____
- symbolic speech - Spence test-intended to communicate and likely to be understood------(3) _____
- application of test - laughter, applause - only some looked puzzled------(5) _____
- O'Brien - important interest - morality?, protect from offense,? captive audience?------(3) _____
- narrowly tailored-are means narrowly tailored-bans public lewdness like in Barnes, alts--(4) _____
- unrelated to expression-ban on all lewdness not just when expressive, but primary effects(4) _____
- strict scrutiny if content based - application of test to facts------(5) _____
- low level speech - nudity as low level speech - intermediate scrutiny not strict------(3) _____
- content based or content neutral (manner not message)- but primary not secondary effects(4) _____
- content neutral reasonable time place and manner reg - test and application to facts------(5) _____
- Miller obscenity-not obscene on facts-no appeal to prurient interest, serious value------(5) _____
- overbroad - standard - legit vs. illegit applications - is it substantially overbroad------(3) _____
- application to facts-not limited to actual nudity; based on subjective reaction of audience(5) _____
- vague- language of statute and definition are vague - no description of degree of nudity--(5) _____
- Cohen - ad hoc balancing approach - weighing competing interests-sp vs. govt ints------(5) _____
- public forum(PF)-trad'l PF - public street-is street outside convention center still a street(3) _____
- miscellaneous _____ (3) _____

Question II (Survivor campus leaflet distribution) (70 points)

- prior restraint - justif to use, clear standards? discretion? status of speaker not speech?---(6) _____
- prior restraint procedures - procedural DP (e.g.-any appeal, timeliness)------(5) _____
- political speech - leaflets, signs - fully protected expression?, unique means?------(4) _____
- trad'l public forum (PF)-can flagpole area be viewed as street or park even if on campus-(5) _____
- Kennedy trad'l PF- physical characteristics, open to public, compatible, apply to facts----(8) _____
- TPM reg-content neutral, sub int, narrowly tailored, alt avenues-Plaza?, apply to facts----(7) _____
- designated public forum or nonpublic forum-intent, policy, practice as applied to facts---(5) _____
- limited PF-only for campus groups-reasonable limit on speakers?, not based on viewpt--(6) _____
- commercial use (pushcarts) in flagpole area vs. unsponsored nonstudent political groups-(5) _____
- nonpublic forum-limits reasonable?, not viewpt based?- based on status, or PF immunity(6) _____
- viewpt discrim - prochoice group allowed, not prolife - based on message or status?------(5) _____
- strict scrutiny review - compelling reason, least restrictive alternative means------(5) _____
- miscellaneous _____ (3) _____

Question III (40 points)

- fighting words - unprotected speech - def in Chaplinsky and as drafted in Statute 65------(4) _____
- app to facts - face to face?, directed at group not individual?------(4) _____
- personal insult or pol hyperbole? right wing crazies, Nazis; make resort to violence?------(4) _____
- Brandenburg incitement - test (imminent lawless action and likelihood) - Statute 75------(4) _____
- make sure can't spread evil ideas anymore- specific threat? carried out at specific time?--(4) _____
- I wouldn't be surprised- rally is tomorrow - advocacy of imminent? lawless action?------(4) _____
- likelihood of such action - didn't occur, police intervened and prevented, if no police?---(3) _____
- true threat - def - serious expression of intent to commit an act of unlawful violence------(3) _____
- intimidation-def-threat w/intent to place victim in fear of bodily harm-Statute 75------(3) _____
- True threats vs pol hyperbole-make sure can't spread . . . gas chamber, intent to do unnec(2) _____
- other unprotected categories - e.g., Feiner incitement, if a criminal statute available------(2) _____
- miscellaneous _____ (3) _____