

Question I (audiotape of jury deliberations) (40 points)

- 1) CBS-strong presumption ag prior restraint----- (1) \_\_\_\_\_
- p.r. because inj. based on content of tape----- (1) \_\_\_\_\_
- lawfully acquired tape-not party to wrongdoing----- (2) \_\_\_\_\_
- grave, immed&irrep-jury sequestered, future juries-speculate (3) \_\_\_\_\_
- Neb. Press-no comp int & alts-sequester, prosecute taper--- (3) \_\_\_\_\_
- inj. not effective-other copies, stories about tape----- (2) \_\_\_\_\_
- presumption of openness as to trial-public forum----- (2) \_\_\_\_\_
- 2) Judge-judge can raise issue even if parties don't----- (1) \_\_\_\_\_
- tape was made in violation of criminal law----- (2) \_\_\_\_\_
- grave, immed & irrep-about to be played, integrity & chill (3) \_\_\_\_\_
- Neb Press-comp int-fair trial, integrity of jury process-- (2) \_\_\_\_\_
- no alt means-sequestratn not enough to keep jury from info (3) \_\_\_\_\_
- no Richmond Newspapers pres of openness & no pos pub role- (3) \_\_\_\_\_
- 3) judge's procedure-in camera review & specific findings-- (3) \_\_\_\_\_
- to decide scope(whole tape?) & time (lift after trial?)--- (2) \_\_\_\_\_
- 4) can CBS play anyway-risk contempt if do----- (2) \_\_\_\_\_
- collateral bar unless transparently invalid&seek app rev-- (3) \_\_\_\_\_
- Miscellaneous \_\_\_\_\_ (2) \_\_\_\_\_

Question II ("Scavenger" magazine) (40 points)

- args for Scavenger:chilling eff if liable under tort law-- (2) \_\_\_\_\_
- fully protected informational speech not commercial ad---- (2) \_\_\_\_\_
- no liab. under Brandenburg test-no lawless activity----- (4) \_\_\_\_\_
- print not broadcast so less likely to incite----- (1) \_\_\_\_\_
- only one person injured----- (1) \_\_\_\_\_
- no Weirum liab:not dangerous act & no urging to eat poison (3) \_\_\_\_\_
- no liability under Gutter for neg. mistake by mag.----- (3) \_\_\_\_\_
- args for Roth:Brandenburg-direct adv. of mushrm hunting--- (3) \_\_\_\_\_
- directions likely to be followed----- (3) \_\_\_\_\_
- no warning unlike Hustler v. Herceg----- (1) \_\_\_\_\_
- physical harm not merely economic harm----- (1) \_\_\_\_\_
- Weirum-urged inherently dangerous activity to win a prize- (3) \_\_\_\_\_
- known potential vic-long time subscriber and prize winner- (3) \_\_\_\_\_
- not pol sp - eco sp. like commercial sp so less protection (2) \_\_\_\_\_
- Braun modified neg.-risk clear on face of article----- (4) \_\_\_\_\_
- mistake by ed not author so can hold mag liab-less chill-- (2) \_\_\_\_\_
- Miscellaneous \_\_\_\_\_ (2) \_\_\_\_\_

Question III (grand jury inquiry into dogfighting) (40 points)

- args for Bergen:covered by shield law provisions----- (2) \_\_\_\_\_
- shield law protects as to source(sub. a)----- (1) \_\_\_\_\_
- protects as to aired tape and outtakes----- (2) \_\_\_\_\_
- abs immunity as to person employed by news to report news- (2) \_\_\_\_\_
- grand jury is legal proceeding under shield law----- (1) \_\_\_\_\_
- eyewitness exc-should apply only to violence betw. persons (4) \_\_\_\_\_
- Branzburg priv not to reveal confidential source----- (3) \_\_\_\_\_
- gov't hasn't made nec'y showing to defeat priv.----- (3) \_\_\_\_\_
- alt means by locating other witnesses----- (3) \_\_\_\_\_
- not protected by shield law-literal lang of eyewitness exc (4) \_\_\_\_\_
- no const'l protection-Branzburg plurality and Cohen----- (3) \_\_\_\_\_
- even if qual priv-govt int outweighs when witness to crime (3) \_\_\_\_\_
- government can satisfy three Stewart criteria----- (3) \_\_\_\_\_
- no constitutional protection for outtakes-LaRouche----- (3) \_\_\_\_\_
- Miscellaneous \_\_\_\_\_ (3) \_\_\_\_\_