

Question I (gag order on press, courtroom closure) (35 points)

- Prior restraint- local media till trial-Neb Press-fair trial, sub'l pretrial publicity, jury pool(4) _____
- Alternatives available to protect def? Change of venue, sequestration, narrower order etc(5) _____
- PR effective to protect def?-wouldn't impact nonlocal media, but publicity local, enough time for jury pool to forget earlier publicity, etc?------(5) _____
- Ctrm closure-test-presumption of openness if traditionally open?/access plays positive role in functioning; hearings/ trial testimony have presumption of openness so must overcome--(4) _____
- Hearing-exclusion of evidence-preserve higher values-fair trial right------(3) _____
- Specific findings to support closure-narrowly tailored/are alts available? Apply test------(4) _____
- Child witness-essential to preserve higher values-apply-harm to particular child------(3) _____
- Specific findings, narrowly tailored (only indiv child)/alts (by video, etc)? Apply to facts(4) _____
- Miscellaneous _____ (3) _____

Question II (weapon system plans and health club video) (35 points)

- Part A- injunction- heavy presumption against constitutionality-Pentagon Papers case----(3) _____
- Near exception-would publication of plans harm national security like troop movements-(5) _____
- Plans acquired legally? If rpt'r participated in illegality, NYT may lose 1st A protection---(3) _____
- Is there a statute that authorizes the gov't to obtain injunction-PP vs. Progressive------(3) _____
- Judge examine report in camera to determine if gov't has met its burden------(3) _____
- Part B-tort of intrusion-intentional intrusion in private place/offensive manner------(3) _____
- Private place-reasonable expectation of privacy in health club?, not from other members-(3) _____
- Reporter obtained membership under false pretenses, defeats right to be at club------(3) _____
- Hidden camera in health club-level of offensiveness------(4) _____
- Is it likely actress will win?------(2) _____
- Miscellaneous _____ (3) _____

Question III (Open Records Act requests/publication of photo) (35 points)

- Open Records Act - police investigative reports-initial incident report not exempt------(2) _____
- ORA-police reports-is investigation pending if it can be reopened?------(4) _____
- ORA-police reports-could it be reasonably expected to invade privacy, fair trial?------(3) _____
- ORA-service log-is Royal Limo exempt-private provider of services?, does Royal maintain log? car in state garage, what service at issue; garage needs to keep track of vehicles it stores-(4) _____
- Publicatn of photo-crim statute not pr-SG not party to illegally obtaining photo------(3) _____
- Caption on back-SG aware confidential govt photo so would publish w/knowledge------(3) _____
- Constitutionality of statute-1st A-crim penalty not pr-content based or content neutral-----(3) _____
- Application of standard of review: strict or intermediate scrutiny applied------(5) _____
- Less restrictive alts-gov't's burden to prevent leaking or punish leaker------(3) _____
- Vopper-pub int in publication overrides int in discouraging wrongdoing------(2) _____
- Miscellaneous _____ (3) _____