FIRST SYLLABUS FOR PHASES I and II
(Assignments for Weeks 1-5)

References to "O'Brien" are to the new SEVENTH Edition of VOLUME TWO (2008) of O'Brien, Constitutional Law and Politics (W. W. Norton & Co.). References to “Smith” are to handouts or case excerpts distributed by Professor Smith and/or made available on the class website.

I. An Initial Overview: INDIVIDUAL LIBERTIES AND FUNDAMENTAL RIGHTS UNDER THE U.S. CONSTITUTION

[DISCUSSED IN CLASS, 1/4; No reading assignment]

A. An Introduction to the Scope and Approach of the Course

B. The Role and Jurisdiction of the Federal Judiciary (And the Supreme Court in Particular) (an overview of materials covered in P Sc 104A)

[DISCUSSED IN CLASS, 1/4; READ BEFORE MIDTERM]

C. The Constitutional Framework of Individual Liberties and Fundamental Rights: A Brief Introduction to “State Action”; The Bill of Rights, the Civil War Amendments and the “Incorporation” Controversy O’Brien, pp. 324-338

[ASSIGNMENTS FOR CLASS, 1/11]

II. FREEDOM OF SPEECH: CASE STUDIES IN THE DIFFICULT BALANCING ACT BETWEEN INDIVIDUAL RIGHTS AND IMPORTANT (COMPELLING?) GOVERNMENTAL NEEDS

A. An Introduction to Freedom of Speech & the Constitution
O’Brien, pp. 408-417

B. The Classic Line-Drawing Question: When Can Government

1 For the most recent previous syllabus (from Winter 2008) showing somewhat corresponding page assignments from the previous 6th Edition, see the class website.

2 (As noted on the course information document) Here’s how to access the class website: (1) Visit my law-school website (“www.cwsl.edu”). (2) Click on “Meet the Faculty”. (3) On the alphabetical list, click on “Glenn C. Smith”. (4) Click on “Class Webpages” (at right of page) or scroll down to find the website icon for “Political Science 104B, Winter 2010”.
Penalize “Subversive” Speech?
O’Brien, pp. 419-447
Smith, pp. HO-1 & HO-2 (the “Ron Rash” problem; available on class website)

ASSIGNMENTS FOR 1/18

C. When Government May Penalize Speech Because it is Offensive or Otherwise “Harmful”: The Attempt to Define Categories of Unprotected Sexual Speech & Fighting Words – and Distinguish them from Protected, but Offensive or Intolerant, Speech
O’Brien, pp. 460-471; 477-480; 487-501
O’Brien, pp. 507-520

ASSIGNMENTS FOR 1/18; will carry over to 1/25
O’Brien, pp. 520-538
O’Brien, pp. 543-547

ADDITIONAL ASSIGNMENTS FOR 1/25

D. The Challenge of Applying First Amendment Principles to Special Kinds of Regulation (Content-Neutral) and Special Forms of Speech (“Symbolic Speech”)
Smith, pp. TI-1 through TI-10 (excerpts from Time v. Regan; available on class website)
Smith, pp. SI-1 through SI-___ (materials for in-class simulation, available on class website)
O’Brien, pp. 664-681

IN-CLASS MIDTERM ON 2/1; NO ADDITIONAL READING ASSIGNMENT]