The Ultimate AP® US Government and Politics Unit 3 Cheat Sheet

3.1 The Bill of Rights

Liberties vs Rights

Civil liberties: constitutional guarantees protecting citizens, opinions & property FROM arbitrary govt action.
Civil rights: protection FROM discrimination (race, sex, national origin, religion) via equal protection & laws.
Bill of Rights (1791): first 10 amendments; Anti-Federalists demanded limits on the new national govt.

The 10 Amendments

Amend.	Protects
1st	Religion, speech, press, assembly, petition
2nd	Keep & bear arms
3rd	No quartering soldiers
4th	No unreasonable search/seizure
5th	Grand jury, no double jeopardy, no self-incrim., due process, takings
6th	Speedy public trial, jury, counsel
7th	Civil jury trial
8th	No cruel/unusual punishment, excessive bail/fines
9th	Unlisted rights retained by people
10th	Reserved powers to states/people

How Rights Are Applied

Not absolute: courts balance liberty vs order & safety; the BoR is continuously interpreted by courts.
Originally federal only: Barron v. Baltimore (1833); the 14th Amend. (1868) applies most of the BoR to states.
9th Amend.: unenumerated rights (e.g., privacy, 3.9). **14th**: due process + equal protection, Unit 3's core.

⚠ Liberty = freedom FROM govt (speech, religion); right = equal treatment BY govt. MCQs swap them.

✓ Every Unit 3 case = a balance: individual liberty vs govt interest in order, safety or majority rule.

3.2 First Amendment: Freedom of Religion

Two Religion Clauses

Establishment clause: govt can't establish or favor a religion; Jefferson's "wall of separation" between church & state.
Free exercise clause: govt can't prohibit religious practice; beliefs absolutely protected, actions can be limited.
Tension: helping religion (vouchers, aid) risks establishment; restricting it risks free exercise; Court balances both.

Required Cases

Case	Clause	Holding
Engel v. Vitale (1962)	Establishment	School-led prayer unconst., even voluntary
Wisconsin v. Yoder (1972)	Free exercise	Amish exempt from school past 8th grade

Engel facts: NY Regents wrote a short, nondenominational prayer for public schools; 6–1 → govt-sponsored prayer = establishment, even if students may opt out.
Yoder facts: Amish parents fined for ending school at 8th grade; Court: free exercise outweighs the state's interest in 2 more yrs of school; Amish way of life at stake.

Related (Not Required) Cases

Oregon v. Smith (1990): peyote use in ceremony not protected; neutral, generally applicable laws OK → Congress passed RFRA (1993) to restore strict scrutiny.
Lemon v. Kurtzman (1971): 3-prong test (secular purpose, no advancing religion, no entanglement); **Kennedy v. Bremerton** (2022) dropped it for history & tradition.
Kennedy facts: coach's quiet post-game prayer on the field protected by free exercise & speech; not govt establishment.

⚠ Engel = ESTABLISHMENT (govt sponsors prayer); Yoder = FREE EXERCISE (govt burdens practice). Name it.

✓ SCOTUS FRQ: Smith vs Yoder (both free exercise); Yoder won b/c the law burdened a sincere, long-held faith.

3.3–3.4 Freedom of Speech & Press

Required Cases

Case	Holding
Schenck v. US (1919)	Clear & present danger; draft leaflets not protected
Tinker v. Des Moines (1969)	Armbands = protected symbolic speech in school
NYT Co. v. US (1971)	No prior restraint; Pentagon Papers printed

Schenck: anti-draft leaflets in WWI; Espionage Act conviction upheld 9–0; "shouting fire in a theater" (Holmes).
Tinker: Vietnam protest armbands; 7–2: students don't shed rights "at the schoolhouse gate" unless speech causes substantial disruption of school activities.
NYT v. US: Nixon admin tried to block the leaked Pentagon Papers (Vietnam War study); 6–3: heavy presumption against prior restraint, even for national security.

Limits on Speech (EK 3.3.A.2)

Time, place & manner: content-neutral limits on when, where & how loud (permits, noise caps) are OK.
Obscenity: Miller v. California (1973) test; **defamation**: libel (written) & slander (spoken) not protected.
Clear & present danger → narrowed by **Brandenburg** (1969): only incitement to IMMINENT lawless action is unprotected.
Symbolic speech: flag burning protected (Texas v. Johnson, 1989); Barnette (1943): no forced flag salute.
Schools: Morse v. Frederick (2007) "BONG HiTS" banner restricted; Bethel v. Fraser (1986) lewd speech restricted.
Press: officials must prove **actual malice** to win libel (NYT v. Sullivan, 1964); Hazelwood (1988): schools may edit papers.

⚠ NYT v. US (1971, Pentagon Papers, prior restraint) ≠ NYT v. Sullivan (1964, libel). Check the date & issue.

✓ Cartoon/visual MCQs: find the symbol (gag, censor, armband), then name the clause & case it depicts.

3.5–3.6 Second Amendment & Public Order

Right to Bear Arms

2nd Amend.: "A well regulated Militia... the right of the people to keep and bear Arms, shall not be infringed."

Case	Holding
DC v. Heller (2008)	Individual right to a handgun at home (federal DC)
McDonald v. Chicago (2010)	2nd Amend. incorporated → binds states
NYSRPA v. Bruen (2022)	Carry outside home; text, history & tradition test
US v. Rahimi (2024)	OK to disarm people under DV orders

McDonald (required): Chicago handgun ban struck 5–4; right applied to states via the 14th Amend. due process clause.
Heller facts: DC banned handguns in homes; 5–4 (Scalia): the 2nd protects an individual right, not just militia service.
US v. Lopez (1995, required): Gun-Free School Zones Act struck; guns near schools ≠ interstate commerce.

Balancing Freedom & Safety

8th Amend.: death penalty OK (Gregg, 1976); barred for minors (Roper, 2005) & intellectually disabled (Atkins, 2002).
Cruel & unusual: "evolving standards of decency"; no death penalty for non-homicide (Kennedy v. LA, 2008).
2nd + 4th Amend. debate (EK 3.6.A.2): does govt regulation of firearms or collection of digital metadata promote public safety or interfere with individual rights?
Metadata: Patriot Act (2001) let the NSA collect bulk phone records after 9/11; USA Freedom Act (2015) ended NSA bulk collection (phone companies keep records).

⚠ Heller = federal (DC) only; McDonald extended the same right to states through selective incorporation.

✓ Argument essay: liberty vs safety claims need a case + a reason; e.g., McDonald (liberty) vs Rahimi (safety).

3.7 Selective Incorporation

The Doctrine

Selective incorporation: Court applies BoR protections to the states 1 by 1 through the 14th Amend.'s due process clause.
Why selective: case-by-case, not all at once; a right is incorporated if it's fundamental to liberty & justice.
Effect: limits state regulation of civil liberties; states can give MORE protection, never less, than the incorporated right.

Landmark Incorporation Cases

Case	Year	Right → states
Gitlow v. NY	1925	Speech (1st case)
Near v. Minnesota	1931	Press
Cantwell v. CT	1940	Free exercise
Everson v. Bd. of Ed.	1947	Establishment
Mapp v. Ohio	1961	Exclusionary rule (4th)
Gideon v. Wainwright	1963	Counsel (6th)
Malloy v. Hogan	1964	Self-incrimination (5th)
McDonald v. Chicago	2010	Bear arms (2nd)
Timbs v. Indiana	2019	Excessive fines (8th)

Not Incorporated

Still federal only: 3rd (quartering), 5th grand jury indictment, 7th civil jury trial; states may choose their own rules.
Illustrative: bans on polygamy & on peyote in ceremonies show states can still limit religious actions (Reynolds, Smith).
Ramos v. Louisiana (2020): 6th Amend. unanimous jury for serious crimes incorporated; Louisiana's 10–2 verdicts struck.
Link to docs: Articles of Confederation had no BoR; Federalist vs Anti-Federalist debate → BoR (1791) → 14th Amend. (1868) extends it to state govts.

⚠ Due process clause of the 14th, NOT the equal protection clause, is the vehicle for incorporation.

✓ Gideon, Engel, Yoder & McDonald all apply BoR rights to STATE action; say "via the 14th Amend." in FRQs.

3.8–3.9 Due Process: Accused & Privacy

Procedural Due Process (3.8)

5th & 14th Amend.: no deprivation of life, liberty or property w/o due process; 5th binds federal govt, 14th binds states.
Procedural = fair, non-arbitrary methods; govt interests (public safety) may justify limits on some rights.

Right	Case / Rule
Counsel (6th)	Gideon v. Wainwright (1963)
Silence & warnings	Miranda v. Arizona (1966)
Exclusionary rule	Mapp v. Ohio (1961)
Cell phone search	Riley v. California (2014)
Public safety exc.	NY v. Quarles (1984)

Gideon (required): poor FL defendant denied a lawyer for a felony; 9–0 → states must provide counsel.
Miranda rule: police must warn suspects of 5th/6th Amend. rights before custodial interrogation; **public safety exception** (Quarles) allows unwarned Qs as evidence.
Exclusionary rule: evidence seized illegally (4th Amend.) can't be used at trial; Riley: phone data needs a warrant.
Also: speedy & public trial, impartial jury; Patriot & USA Freedom Acts limit bulk collection of phone metadata.

Substantive Due Process & Privacy (3.9)

Substantive: asks if a law itself arbitrarily infringes rights; protects some **unenumerated rights** (9th Amend. support).
Griswold v. CT (1965): contraception ban struck; privacy right implied. **Roe** (1973) extended it to abortion.
Dobbs v. Jackson (2022): overturned Roe; no constitutional right to abortion → states/legislatures decide.

⚠ Procedural = HOW govt acts (fair process); substantive = WHAT govt may do at all (the right itself).

✓ Gideon is the go-to required case for any SCOTUS FRQ on the rights of the accused or right to counsel.

3.10–3.11 Social Movements & Govt Responses

Equal Protection & Movements

Equal protection clause (14th Amend., 1868): no state may deny any person equal protection of the laws.
Movements: civil rights, women's (NOW), LGBTQ, pro-life & pro-choice; tools: courts, protest, lobbying.
"Letter from a Birmingham Jail" (MLK, 1963): just vs unjust laws; nonviolent direct action & civil disobedience; "Injustice anywhere is a threat to justice everywhere."
Letter: rejects "Wait!" from white moderates; direct action creates tension → negotiation. Key FRQ evidence doc.
Gettysburg Address (1863): "new birth of freedom"; govt "of the people, by the people, for the people."

Govt Responses (3.11)

Response	Year	Effect
Brown v. Board	1954	School segregation violates EPC
Civil Rights Act	1964	Bans discrim. in public places & jobs
Voting Rights Act	1965	Bans literacy tests; federal oversight
Title IX	1972	No sex discrim. in funded education

CRA 1964: Title II public places, Title VII jobs; upheld via commerce clause (Heart of Atlanta Motel).
Scrutiny: strict (race, national origin), intermediate (sex, from Craig v. Boren 1976), rational basis (age, wealth).
Courts too: Obergefell v. Hodges (2015) same-sex marriage under due process & equal protection.

⚠ Responses come from all 3 branches: courts (Brown), Congress (CRA, VRA, Title IX) & presidents (Truman's 1948 executive order desegregating the military).

✓ Argument essay on expanding rights: pair Birmingham Jail with Brown or the CRA of 1964 as your 2 pieces of evidence, then answer the counterargument.

3.12–3.13 Minority Rights & Affirmative Action

Restricting vs Protecting (3.12)

Emancipation Proclamation (1863): freed enslaved people in rebelling states; 13th Amend. (1865) abolished slavery.
Plessy v. Ferguson (1896): "separate but equal" upheld; Jim Crow laws barred Black Americans from the same restaurants, hotels, schools & trains as whites.
Brown v. Board (1954): 9–0, "separate educational facilities are inherently unequal"; overturned Plessy.
Brown II (1955): desegregate "with all deliberate speed" → slow compliance, Little Rock (1957), federal troops.
Majority-minority districts: Shaw v. Reno (1993): race-based districts face strict scrutiny under equal protection.

Affirmative Action (3.13)

Affirmative action: policies to address workplace & education disparities (race, ethnicity, gender, disability, age).

Case	Year	Holding
Regents v. Bakke	1978	Quotas out; race = 1 factor OK
Gratz v. Bollinger	2003	Point system struck
Grutter v. Bollinger	2003	Holistic review upheld
SFFA v. Harvard	2023	Race-conscious admissions struck

Debate: does the equal protection clause allow race-conscious remedies, or require a colorblind Constitution?
Fisher v. UT (2016): upheld UT's holistic plan; SFFA (2023) then held Harvard & UNC plans violate equal protection.
Related: Milliken v. Bradley (1974) limited cross-district busing; Parents Involved (2007) struck race-based school assignment plans in Seattle & Louisville.

⚠ Brown overturned Plessy for schools; it did NOT end all discrimination, which took the CRA 1964 & VRA 1965.

✓ SCOTUS FRQ: compare a non-required equal protection case to Brown: facts, holding & why outcomes differ.