Worksheet for Lesson 11: “The Criminal Justice System”

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Directions: Read “The Criminal Justice System” by Chris Jeub and answer the following questions.

1. How did English Common Law favor retribution over rehabilitation? What criminal justice system began moving away from it?

2. What is “double jeopardy” in relation to the Fifth Amendment? When does this appear to be compromised legally?

3. In relation to criminal justice, what is the most important right listed in the Sixth Amendment?

4. The Eighth Amendment has been the most challenged in regard to the NCFCA resolution, pertaining to what important application? Why is this application so egregious?

5. What is *mens rea* and how does it relate to the NCFCA resolution?

6. In understanding the sources of law, what is the starting point for the American criminal justice system? How does it set parameters around legislation?

7. Of all crimes brought to trial, how many end up plea guilty? What most controversial criminal justice tactic does this involve, and why is it so controversial?

8. What must the government do before seizing property they suspect was part of a crime? What must the owner do to get the property back? Does the owner need to be found guilty of a crime for the government to move or seize his or her property? Do you think this is fair?

9. Of all the aspects of our justice system, which is perhaps the most evidentiary example of the conflict between rehabilitation and retribution? What United States war was fought for this? Do you think it succeeded?

10. Besides drug rehabilitation and retribution, what other two problems are considered at the end of the article? Briefly explain what these two problems are.

Answers for Lesson 11: “The Criminal Justice System”

1. English Common Law favored retribution in the form of sentencing and punishing (pillories, branding, public whipping and hangings were used regularly). The US criminal justice system began moving away from it.

2. Double jeopardy is the clause in the Fifth Amendment that provides you cannot be tried twice for the same offense. A case can be retried or dismissed in the case of a “hung jury.” A person can also be tried under different jurisdictions (i.e. state vs federal courts, military vs tribal courts). A person can also be tried under criminal courts and again under civil courts.

3. The most important right listed in the Sixth Amendment is the right to have defense counsel.

4. The challenging application in regard to the NCFCA resolution is capital punishment. It is the most egregious example of retribution over rehabilitation in that is puts someone to death for the crime caused on another.

5. *Mens rea* means “guilty mind,” meaning if a person can prove that they did not have the mental capacity to know right from wrong, they can argue that they could not form the *mens rea* to commit and crime and thus should be acquitted. This is one of the fundamental defenses people rely on in defense.

6. The starting point in understanding sources of law is the US Constitution. It sets parameters around what the three branches of government (executive, legislative and judicial) may do or not do.

7. About 95% of criminal convictions in the United States happen because someone pleads guilty. Plea bargaining is one of the more controversial practices in US criminal law. It is controversial because it centers on the criminal, not the victim(s) of the crime.

8. The government must prove that it has probable cause (a relatively low standard) to believe that the property is subject to forfeiture. The owner then has to prove by a “preponderance of the evidence” (a much higher standard) that the property was not involved. It is not necessary for the owner to be found guilty of a crime for the government to move to seize the property. Answers may vary on whether the student thinks this is fair, but chances are good they will say no.

9. Perhaps the most evidentiary example of the conflict between rehabilitation and retribution is drug abuse. The War on Drugs has been the United States war to fight drug abuse. Answers will vary on whether it succeeded.

10. The other two problems considered at the end of the article are prisons and corporate crime. Prisons are overcrowded and aging. Corporate criminals fill many of these prisons even thought the criminal is not a detriment to society; they should instead be made to pay back their crimes.