

***Of Mice and Men* by John Steinbeck**
Mock Trial
Right versus Wrong
The State of California v. George Milton
Trial Date: _____

Essential Questions: How does justice determine justice? How does our perception of right and wrong allow us to make decisions?

Unit Summary: Over the next few weeks, we will use the text *Of Mice and Men* by John Steinbeck to address the issue of right versus wrong. The unit concludes with a mock trial in which you will play a role such as: the defendant, lawyer(s), expert witness, character witness, bailiff, stenographer, artist, juror, etc.

Assessment: Your grade from this assignment will be based on the following:

- ◆ Trial preparations/paperwork/etc.
- ◆ Mock Trial

Mock Trial: The mock trial is an interesting way for us to examine the intricacies of the book while having a great time. Some of you will be asked to play roles that require leadership and a bit of acting, while others will be asked to examine information carefully and make accurate decisions. I know you will enjoy any role you play! You will use various websites to help you learn how a trial is constructed.

<http://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=2379&context=llr>

<http://statelaws.findlaw.com/california-law/california-first-degree-murder-laws.html>

<http://www.shouselaw.com/murder.html>

***Of Mice and Men* Mock Trial**

While reading *Of Mice and Men*, our class will take a unique approach with the end of the novel. We will dissect the involvement between George and Lennie to determine if crimes were committed. Your first objective is to find out what role you will play during the trial. The assignments are:

Judge-

District Attorney-

Assistant District Attorney-

Defense Attorney-

Assistant Defense Attorney-

Jury Members

- 1.
- 2.
- 3.
- 4.
- 5.

Character Witness 1-

Character Witness 2-

Witness 1-

Witness 2-

Expert Witnesses 1-

Expert Witness 2-

George-

Stenographer/Bailiff-

Courtroom Artist/Reporter-

Judge- Your job is to maintain order in the court, uphold the law, and ensure that George gets a fair trial. You will be responsible for speaking to jury and overruling and sustaining objections made by both attorneys. Be sure to use the provided sources to gain a better understanding of your role. Before the trial, you must inform the jury of the charges and explain their role in the case. During the trial you will keep a log of all objections made and provide a brief explanation for your ruling. At the end of the trial, you will sentence George if he is found guilty. You will also write a three paragraph position paper justifying the sentence. If George is found not guilty, you will write a three paragraph explanatory essay explaining why the prosecution failed to prove him guilty.

District Attorney and Assistant – Your first decision is how to proceed with the trial. You will need to decide what crime to charge the defendant (George) and send him a **subpoena (one paragraph)**. Your subpoena must include all laws and statutes that will be addressed and explain why George has been charged. Then you need to choose and subpoena witnesses (you can choose two), **interview** witnesses,

prepare your **opening** and **closing statements** and **cross examinations**, and get ready for the actual trial. You must dress the part!

Defense Attorney and Assistant – Your first decision is based on what style of defense you will take. I assume you'll think your client (George) is not guilty, but you could be more creative and look to justifiable homicide, self-defense, etc. After you have prepared your **plea**, start to figure out how to prove it. Choose and **subpoena** witnesses (you can choose two), **interview** witnesses, prepare your **opening** and **closing** statements and **cross examinations**, and get ready for the actual trial. You must dress the part! You must complete a one paragraph explanation of your plea and defense using evidence from the text.

Jury Members – In a real trial, there are often twelve jurors, but due to our class size we have less. Before the trial, you will write a **one paragraph justification** regarding your suitability to be a juror. You should include information regarding how you view the judicial process, your ability to be unbiased and make sound decisions, etc. As a member of the jury, most of your work will be done during the trial and immediately after. Evidence will be presented to you on the day of the mock trial and your job will be to deliver a verdict. Once the trial is over, you will support your ruling with a **three paragraph position paper**. Paragraph 1- Thesis, Paragraph 2- Elaboration of position including evidence, Paragraph 3- Conclusion

Witnesses – Your job is to help convict or acquit George, depending on which side has called you. Some of you might be characters from the book, or you might be an expert witness such as a ballistics expert or psychologist. You are expected to work with the lawyer to prepare your line of questioning and be ready for cross-examination. **Questions must be prepared and turned in before you take the stand.** You must dress the part of your character and take on their persona/characteristics. *Character Witnesses* may be Curley, Candy, Crooks, The Boss, Slim, or Carlson. *Expert Witnesses* may be a fingerprinting expert, a ballistics expert, a coroner, a psychologist, or any other expert the lawyers feel the need to prove their case. All witnesses must write a **three paragraph extended response** addressing their relationship with George and their response to his actions. Expert Witnesses must research and provide a Works Cited page. Paragraph 1- Thesis, Paragraph 2- Elaboration of Reaction and Stance with evidence, Paragraph 3- Conclusion

George - Your role is to stand before the court and defend your actions. You will need to meet with your defense lawyer, testify on the stand, answer cross-examination by the State, and sit on the bench with your legal counsel. You are also expected to dress and act the part! At the end of the trial, you will **deliver a 250-word speech** to the courtroom explaining your actions.

Stenographer/Bailiff – Usually two different people would hold this job, but for our mock trial I have combined them. For record keeping purposes, you will sit with your laptop and type a log of what happens in the court. At the end of each day of trial, you should type a summary of the day's events. It should not only include the

dialogue from testimony, but who is present in the courtroom and what role he/she is playing. Also you will maintain order in the courtroom, act on any directive of the judge, and handle the defendant. (If George is convicted, you get to cuff him!)

Courtroom Sketch Artist/Reporter – Your job is to create a minimum of three artistic representations of scenes from the courtroom, as news cameras are not allowed in courtrooms. You will also write up a news **article**, detailing what took place during the trial.

Assessment – You will be assessed on the following:

- 1) Written documents (subpoenas, explanations, speeches, questions, etc.) 50%
- 2) Case Involvement (present during trial dates, notes, etc.)- 20%
- 3) Attire- 20%
- 4) Courtroom Etiquette (focus, engagement, respect towards others, etc.)- 10%

Courtroom Etiquette – When we are in “court” the expectation is you will behave according to courtroom rules. This includes knowing when it is OK to talk and when you need to be absolutely silent. For instance, the jury will not talk to anyone during court unless directed to do so by the judge. Witnesses only talk when prompted by a lawyer (or judge). Lawyers only talk when prompted by a judge. Your attire should be appropriate for the role you play. Try to watch a segment of Court TV or the like if needed.

Judge Task Sheet

- A judge is to be impartial, fair and unbiased and to follow the laws of the state of California and the United States Constitution, to listen to all evidence without passing judgment until all is heard, understand the law and be able to clearly explain it to the jurors.
- You must meet with the jurors before the trial and explain the charges and what must occur before they can find the defendant guilty. Use the provided sources to assist you.
- Keep a log of objections made and explain why you overruled or sustained those objects. <http://litigation.findlaw.com/going-to-court/how-does-a-judge-rule-on-objections.html>
- If the defendant is convicted of a crime, the judge passes sentence, imposing a penalty that can range from a fine to a prison term depending on the severity of the offence.
- Write your position paper if George is guilty or an explanatory essay if George is found not guilty.

District Attorney Task Sheet

“The State of California”

- Decide what charge(s) you will bring against George.
- Inform the defense in writing (subpoena form)
- Clearly determine what you will need to prove for a guilty verdict. You have to prove “beyond a reasonable doubt” that the defendant is guilty. The burden of proof is on the district attorney.
- Decide what witnesses you will need (two) – prosecution witnesses
- Submit a list of witnesses to the defense counsel
- Meet with each witness and supply them with tasks to aid your research
- Write opening and closing statements
- Use findlaw.com to develop strategies that will work in court...when to object, what an opening/closing statement should be, how to cross-examine a witness, etc.
- Develop a specific list of questions for each witness you will call to the stand
- Develop a specific list of cross examination questions for each witness the defense calls to the stand
- Practice the questions and answers with your witnesses multiple times. Be sure they are ready to be cross-examined as well.
- Rehearse your opening and closing statements
- Be sure you dress like a lawyer on the day of the trial!

Defense Attorney Task Sheet represents George Milton

- Decide how you will plead (although you might want to wait to hear what the charges are brought against George)
- Inform the district attorney, in writing, how you will respond to these charges
- Clearly determine what you will need to prove for a not guilty verdict
- Decide what witnesses you will need (two) – defense witnesses
- Submit a list of witnesses to the district attorney
- Meet with each witness and supply them with tasks to aid your research
- Write opening and closing statements
- Use findlaw.com to develop strategies that will work in court...when to object, what an opening/closing statement should be, how to cross-examine a witness, etc.
- Develop a specific list of questions for each witness you will call to the stand
- Develop a specific list of cross examination questions for each witness the district attorney calls to the stand
- Practice the questions and answers with your witnesses multiple times. Be sure they are ready to be cross-examined as well.
- Rehearse your opening and closing statements
- Be sure you dress like a lawyer on the day of the trial!

Jury Member Task Sheet

- You will prepare your suitability paragraph first to ensure the judge and your teacher that you will do your best to uphold the law.
- You will create (along with the other jurors) and fill in a note-taking template on the day of the trial.
- Be sure you have a PEN or PENCIL at the trial!!
- Juror members must strike (ignore/disregard) all objections that are sustained by the judge. <http://litigation.findlaw.com/going-to-court/how-does-a-judge-rule-on-objections.html>
- You will be responsible for reaching a verdict the day of the trial.
- After the trial, you will write a position paper.

How to Reach a Verdict:

Your challenge is to evaluate the information presented to you by the defense and prosecution to determine which side proved their case. The burden of proof remains with the prosecution. Remember the phrase, “innocent until proven guilty”.

With the foreman as the facilitator, please talk about the following:

What was the charge?

What did the prosecution have to prove for you to vote guilty?

Did they prove this charge?

If yes, are there extenuating circumstances, which force you to examine other information (such as the defense has pleaded self-defense).

If no, it is time to take a vote.

If you are not unanimous either way, look over your notes from the trial and discuss areas where jurors are unclear or need more proof.

To Vote:

Voting is done by secret ballot and the foreman of the jury will distribute paper.

Write GUILTY or NOT GUILTY on your paper

Fold once and give it back to the foreman

Continue voting until there is a unanimous GUILTY verdict or a unanimous NOT GUILTY verdict

Jurors' Position Paper

As a juror, you had final say in our mock trial. Your decision may anger some and excite others. You cannot legally make a decision as a juror without having a strong reason to support your choice. In many instances the decisions jurors make impact the life or death of the defendant. In this piece of writing you are to justify why you voted the way you did.

Paragraph #1 – Introduction – 2-3 sentences – briefly outline your vote

Paragraph #2 – Defend your vote – 5-9 sentences – What specific evidence compelled you to vote as you did? Cite specific parts of the trial which exemplify

your point of view. Refer to *direct quotes* from the attorneys and witnesses to reinforce your decision. Cite the flaws in the losing case.

Paragraph #3 – Conclusion – 1-2 sentences – Restate your vote. Summarize the most compelling evidence from above.

Witness Task Sheet

- Meet with your lawyer to figure out who you will portray if you do not already know.
- Look over the fact sheet to make sure you understand it. Ask questions to your lawyer or the teacher if needed.
- Use your book *Of Mice and Men* to gather information about your character. If you are an expert witness, look online to help you.
- When you find relevant information, fill in your fact sheet.
- Meet with your lawyer during each class as needed.
- Practice your answers to questions with your lawyer. (Do this more than once!) Remember, witnesses can only testify to what they have actually WITNESSED. You cannot testify to what you heard (hearsay), what you think, or what you inferred based on what happened before or after the crime. If you do, you may hear an objection from the opposing counsel. STICK TO THE FACTS!!!
- Brainstorm what might be asked of you on cross-examination and how to respond appropriately.
- Plan what you will wear the day of the trial to accurately portray your character. How will you talk? How will you act?
- The day before the trial, complete a full practice of your questions and answers with your lawyer.

George's Task Sheet

- Once you receive your subpoena, meet with your lawyer to figure out what your defense will be.
- Look over the fact sheet to make sure you understand it. Ask questions to your lawyer or teacher if needed.
- Use your book *Of Mice and Men* to gather information about George.
- When you find relevant information, fill in your fact sheet.
- Meet with your lawyer during each class as needed.
- Practice your answers to questions with your lawyer. (Do this more than once!)
- Brainstorm what might be asked of you on cross-examination and how to respond appropriately.
- Plan what you will wear the day of the trial to accurately portray George. How does he act? How does he talk?
- The day before the trial, complete a full practice of your questions and answers with your lawyer.
- Prepare your 250-word speech!

Stenographer/Bailiff Task Sheet

- As stenographer, you will sit with your laptop and type a log of what happens in the court. You may also record the court proceedings in order to work on your log outside of class. It should not only include the dialogue from testimony, but who is present in the courtroom and what role they are playing. You do not have to record the trial verbatim; however, you must record all important details from the case. You must turn in a printed record at the end of the trial.
- As bailiff, you will lead George into the courtroom at the beginning of the trial. You will swear in each witness when they take the stand. (We'll use a dictionary instead of a Bible.....) At the end once the jury reads their verdict, if George is convicted you get to cuff him and take him to jail!

Courtroom Artist/Reporter Task Sheet

- Your job as the courtroom sketch artist is to create a minimum of three artistic representations of scenes from the courtroom during the trial
- Be sure to bring your own sketch paper, pencils, charcoal, craypas, whatever to the trial. I will NOT loan you anything that day! I expect your drawings to be well done. Do not do them with pen and notebook paper!!!! Stick figures are not acceptable. Hopefully, you chose this role because you can draw.
- Your job as the reporter is to write up a news article for the front page of the Salinas County newspaper, detailing what took place during the trial. You can interview lawyers, witnesses, or even George! Your newspaper article should be as realistic as possible. You must create a name for the newspaper, name the article, and include at least one picture and caption.

CHARACTER SKETCH

The purpose of the character sketch fact sheet is to paint a picture of the character. Your fact sheet will concentrate on revealing the personality and disposition of the character. If you are portraying a character from the book, you **MUST** compose a fact sheet on that character. *Be very descriptive!* As a writer, it is your job to choose words that will allow your reader to envision the character accurately. Your fact sheet must include descriptions of the character's appearance, but the majority of it will explain what the character is like as a person – his personality and character traits.

STEP 1 – Prewriting

- ◆ List your characters physical characteristics
- ◆ Make note of mannerisms, gestures, language, voice
- ◆ Describe actions, events, interactions, interests

STEP 2 – Write

- ◆ Character traits are explained through the character's actions and interactions with others
- ◆ Create a two column chart that includes character actions and interactions on one side and the traits revealed on the other. Be sure to cite actions and interactions.
- ◆ You will want to include specific examples from the book to support your descriptions with page numbers
- ◆ Be sure to choose at least THREE major character traits with examples

STEP 3 – Implement

- Use the information to determine how you will function in the courtroom. Your speech, clothing, mannerisms, etc. should be based on the character!

Lawyers' Opening and Closing Statements

Your opening and closing statements may be the most decisive aspect of the trial. You have an open forum to use your persuasive techniques to convince the jury of your side.

- ◆ Develop a theme early in your opening and continue its prominence throughout the opening, questionings of witnesses, and your closing.
- ◆ Start strong and end strong by reminding the jury of key evidence and points of emphasis early in the opening and late in the closing.
- ◆ Use a well-crafted mix of ethos, pathos, and logos to build your argument.
- ◆ Use rhetorical questions to get the jury thinking about and agreeing with your side
- ◆ Inoculate (obliterate) your opponent's argument from the beginning by showing how it is flawed
- ◆ Reference physical evidence which you will be entering later in the case
- ◆ Your job is to persuade the jury! Be as persuasive as possible!
- ◆ Think about the power of pauses
- ◆ DO NOT stay at the podium! It is important that the jury form a bond with you. Move towards them, look them in the eye, and make them trust you
- ◆ Make sure you CLEARLY articulate what charge/plea you are bringing forth and define what evidence you need to prove your charge/plea

Opening Statement:

- ◆ Clearly you are familiar with the saying "you only have one chance to make a first impression". Remind yourself of this theme as you prepare your opening statement. The outcome of the case is most heavily influenced by the opinions of the jury. Use everything you've got to get them on your side early!
- ◆ Introduce yourself and your client (if you are representing George Milton)
- ◆ Start to develop your theme. For example, if you believe George acted in compassion, develop a theme that shows this, such as man vs. the world
- ◆ Outline the charge/plea. For instance, does the jury know what voluntary manslaughter is? Make sure they fully understand your charge/plea.
- ◆ After the introduction, focus in a very detailed manner on the who, what, when, where, why, and how of your case. While you are not introducing evidence at this time, you should reference what the jury will see for evidence during the trial.

Closing Statement:

- ◆ Your closing is much like your opening. Remind the jury of the charge/plea, the evidence, your overall theme, and the witness' statements.

- ◆ Be sure to cast a favorable light for your side, showing how you have proved your case. Point out flaws in the opposing side's argument.
- ◆ Craft vivid language and themes that will increase the jury's retention of your key facts as they head into deliberation