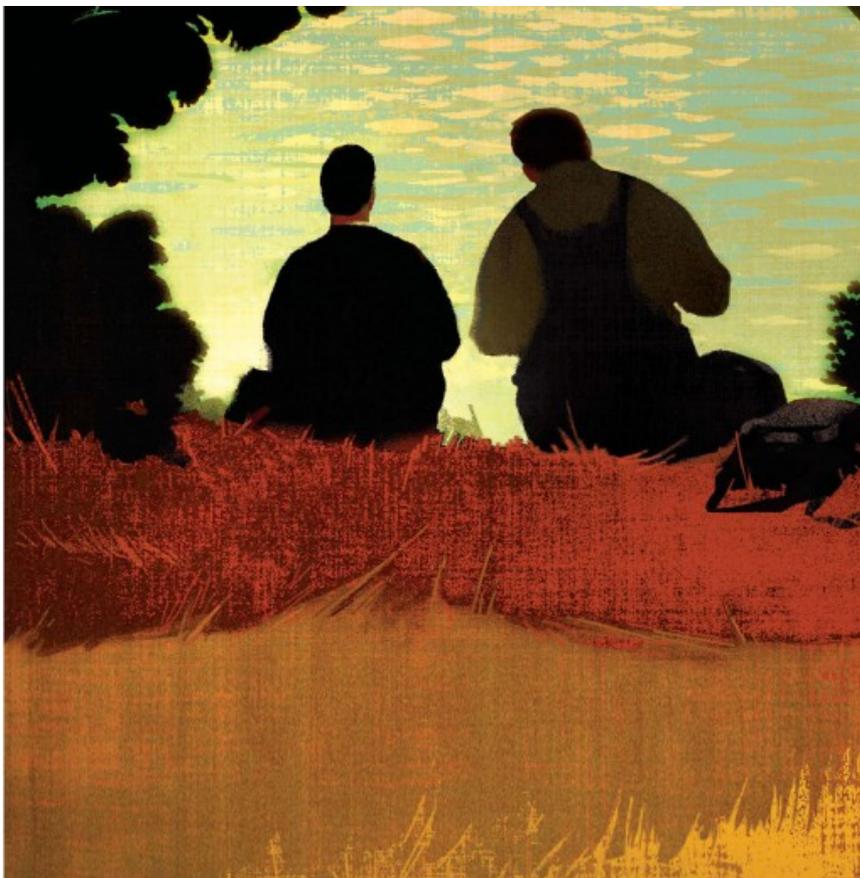


# Of Mice and Manslaughter:

## California Manslaughter Law in the Context of John Steinbeck's *Of Mice and Men*

An Extended Assignment by Felix Manocha, U5A

This essay attempts to answer the question of what would have happened if the events of the novel *Of Mice and Men* had occurred in modern-day California, with a focus on the outcome for Lennie. It assumes that, after the killing of Curley's wife, Lennie would have been arrested and put on trial for her death. I decided to choose this question for my essay because I have interests in the field of literature and law, and because I have already studied *Of Mice and Men* as a GCSE text.



PENGUIN CLASSICS

JOHN STEINBECK

*Of Mice and Men*



## **Of Mice and Manslaughter: California Manslaughter Law in the Context of John Steinbeck's *Of Mice and Men***

### **Of Mice and Men**

Most people are familiar with the play-novelette that is probably John Steinbeck's most well-known work – set in 1930s California, *Of Mice and Men* centres around two men working on a ranch during the Great Depression: George Milton, an intelligent yet uneducated man, and his friend Lennie, a mentally-disabled man who is incredibly strong yet has the mentality of a child. Due to his great physical strength, Lennie often causes harm without meaning to, and his obsession with touching soft things leads throughout the book to the deaths of many small animals such as mice and rabbits. As the book's title suggests, these casualties escalate, eventually resulting in the death of "Curley's wife", the daughter-in-law of the ranch's boss. As a consequence, an angry mob pursues Lennie as he attempts to flee the ranch, which chases after him with the intention of shooting Lennie or handing him to the police – as criminal law was not so well-enforced in Steinbeck's era, this would have resulted in Lennie being sentenced to lynching without a trial. However, George manages to reach Lennie before the mob, and shoots him in the back of the head before they have a chance to kill him, thus granting Lennie a more dignified death at the hands of his friend.

The majority of readers agree that George's decision was the only one that would have allowed Lennie to die with dignity, taking into account the context of the novel. However, I wondered what the outcome would have been, had the events of *Of Mice and Men* unfolded in modern-day California. In the twenty-first century, Lennie would not have been chased by the mob, as they would not be able to harm him without being punished by the law, so instead he would have been arrested and put on trial for the killing of Curley's wife. This essay will examine this question, taking into account the most likely defence that Lennie's lawyer would use today to decrease Lennie's sentence: an insanity defence.

### **Manslaughter Law in California**

As his killing of Curley's wife was unintended – Lennie did not realise that his actions would lead to her death, even though they were dangerous – it is most likely that he would be out on trial for involuntary manslaughter (manslaughter in California is defined as an "unlawful killing without malice", which in this state carries an average sentence of two to four years imprisonment. Lennie's crime does not reach the requirement for "voluntary manslaughter" (committed "during a sudden quarrel" or "in the heat of passion"), because Lennie did not act with "malice aforethought", i.e., he did not plan or intend to kill Curley's wife.

### **Pleading "Not Guilty by Reason of Insanity"**

In order to ensure that Lennie did not go to prison, his lawyer would use an insanity defence. When pleading insanity in California, you can choose to enter either a joint plea of "not guilty" and "not guilty by reason of insanity", or a single plea of "not guilty by reason of insanity", whereby it is admitted that the crime was committed by the defendant, but stated that they cannot be held culpable because

they were legally insane at the time of the offence. This means that the defendant did not possess the necessary mental awareness to understand the nature of their crime when it was committed. As it was clear that Lennie *had* committed the crime, his lawyer would probably not have entered a joint plea, but instead would have opted for a single plea of “not guilty by reason of insanity”, therefore bypassing the bifurcated (two-part) trial.

The purpose of a sanity trial is to determine whether or not the defendant was legally insane when the crime was committed. (It is worth noting that in the California legal system, the concept of temporary insanity does not exist, and it must be shown that the defendant was legally insane for more than a few hours). If the defendant can prove that it is *more likely than not* that they were legally insane at the time of the offence, then they will not go to prison, but will instead be confined to a state mental hospital until it is decided that they no longer pose a threat to society or themselves, or until the maximum imprisonment time for the sentence has been fulfilled.

The only two factors that are considered at a sanity trial are, firstly, that “the defendant did not understand the nature of the criminal act” and secondly, that “the defendant did not understand that what they were doing was morally wrong.” This is called the M’Naughten rule, and it has existed in California for around one hundred years. If the defendant can convince a jury that either of these factors applied when the defendant committed the crime, then they will be found not guilty by reason of insanity.

In order to prove that either of these factors was present, Lennie would undergo a psychiatric evaluation, and psychiatrists would have to testify at his trial. *Of Mice and Men* contains plenty of evidence that Lennie suffered from a mental disability that was sufficient to impair his functioning – for example, his child-like behaviours, inability to remember information and preoccupation with stroking soft things. In the next part of this essay, I am going to examine evidence from the text that Lennie was not sufficiently mentally competent to be held legally responsible for his actions.

### **Evidence in Of Mice and Men**

The purpose of this section of my essay is to show using extracts from Steinbeck’s novel that Lennie Small would have fit the legal definition of insanity in modern-day California – specifically, to show that he did not possess the mental capacity to realise that what he was doing was morally wrong, in accordance with the second term of the M’Naughten rule.

There is much evidence in the text that Lennie Small’s mental disability prevented him from understanding and retaining information: for example, in the book’s first chapter, where Lennie cannot recall the information the George has told him – when Lennie asks George where they are going, George responds with: “So you forgot that awready, did you? I gotta tell you again, do I? Jesus Christ, you’re a crazy bastard.” In addition, Steinbeck’s writing shows that Lennie

is not able to understand complex concepts, such as death, as exhibited by his apparent surprise at the deaths of the animals that he kills by petting too hard. Neither does Lennie seem to understand the emotions or anticipate the reactions of other humans; for example, George tells Lennie that he should have known not to touch the dress belonging to “the girl from Weed”, who accuses Lennie of trying to rape her. “How the hell did she know you jus’ wanted to feel her dress?”, he says. This shows that Lennie is completely unaware of the effect of his actions on other people, which could imply that he was not aware at the time of the killing that his actions would result in Curley’s wife’s death - *he did not realise that what he was doing was morally wrong.*

Unfortunately, as temporary insanity does not exist in California’s legal system, the evidence in the text that Lennie appears vacant and disassociated from his actions (i.e., not aware of what he was doing due to a temporary state of emotional detachment from his actions) whilst killing Curley’s wife cannot be used as a defence to show that Lennie was legally insane in the few minutes in which Curley’s wife’s death occurred - however, the fact that he became disassociated could be used as evidence of long-term mental illness, which could support the defence that he was not mentally competent to take responsibility for his actions. Lennie’s emotional separation from his actions is also shown when Lennie crushes Curley’s hand, particularly by the words “Lennie watched in terror” - this shows that he is not in control of his actions or that he feels separated from them. The sense of detachment from the situation is also shown when George slaps Lennie “over and over again”, but he doesn’t respond - it is evident that Lennie is not focused on the events around him, which was probably a result of the terror caused by the violence of Curley’s attack on him. The fact that the stress of the attack caused Lennie to disassociate shows that is not always in control of his own actions.

### **In conclusion:**

From the information available in the text of *Of Mice and Men*, I conclude that it is likely that Lennie Small suffered from a mental disability that would have impaired his ability to recognize the wrongness of his actions, and for that reason I have drawn the conclusion that pleading “not guilty for reason of insanity” would be the best course of action for Lennie, and the most likely to result in him not being imprisoned, had he had the fortune to have been born several decades later.

### Sources:

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