

# ‘Intimate Crime’ in Early Modern England and Wales, c.1660-1760



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A dissertation submitted in fulfilment of the requirements for the  
degree of Doctor of Philosophy

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Cardiff University  
February 2018

## Summary

Intimacy was essential to criminal activity in the early modern period. The uses and abuses of intimacy – in physical, local, and emotional terms – are located firmly within the criminal record. Historians of crime, gender, social relations, emotion, sexuality, and the body have illustrated the wider social and cultural contexts in which intimacy would have been understood and transacted, yet their questions have not explicitly addressed intimacy as a practice. The present thesis brings intimacy to the fore and develops a suitable analytical framework for discussing its contemporary significance.

I consider the textual content of both original and familiar source material, namely depositions from the Welsh Great Sessions, informations sworn before the warden of the London Mint, along with printed trial summaries, crime pamphlets, and broadside ballads. Such a diverse source base stands the thesis in stark contrast to other histories of emotion that have considered ‘emotional communities’. Instead, I explore the vibrant ‘social worlds’ of contemporaries who desired to seek the truth, gain closure, or even distance themselves from the shocking and tragic events that often accompanied serious criminal offences.

The ambitious geographical and chronological breadth of the present study expands on recent historiography of crime in early modern Wales. Not only do I herein provide cultural analyses of male-male homicide and coinage offences – topics not before considered in a similar depth by scholars of early modern and eighteenth-century Wales – I have also consulted cases from all three Welsh circuits over the period of an entire century. Throughout, I re-imagine the boundaries of family, friendship, and community in the light of their flexibility as contemporary categories, from metropolitan London to rural Merionethshire.

Date 01.02.2018

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## Acknowledgements

First and foremost, I wish to thank the Arts and Humanities Research Council for providing me with a generous stipend which helped me to both undertake research and pay my rent. I also want to thank the helpful and friendly staff at the National Library of Wales and The National archives, and the anonymous peer reviewers for *Cultural and Social History* who made comments on a shorter article version of chapter four. Their feedback helped me enormously in refining my ideas and writing style for the entire thesis.

My gratitude extends to my supervisors: Garthine Walker, Elaine Chalus, Mark Williams and Martyn Powell, who have read numerous chapter drafts and provided me with extensive guidance and comments. I'm sure there's a budding PhD project somewhere in analysing Mark's marginalia, which kept me chuckling even when I doubted the plausibility of my arguments. I have incurred many debts to other members of academic staff in the History department at Cardiff who have not only offered their honest professional advice, but have also recognised when I could do with a coffee and a chat (and sugary snacks).

To Mr. Kingswood and Mr. Mainwaring (whom I suppose I should call Ben and Andy these days). This teaching double act are a credit to the profession and keep the humour alive in the study of history, and whose spirit I try to bring to all seminars I teach – even when my students are too hungover to appreciate a decent pun.

Abby and Jazz, who both understand the unique pain of completing a PhD. I hope that you come out of the process as unscathed as possible. I will be waiting for you on the other side with armfuls of cats and wine. Ol' Bernie would be proud.

My oldest and best friends made during my first eighteen years in Worcestershire; I can't thank you enough for plying me with drinks, memes, and laughs. I'm grateful for how patient you've been – especially over these last few years when I didn't return to the shire for months on end and then disappeared pretty much as soon as I arrived.

For my family: Gordon Baker, whose interest in the past has influenced mine; Gwen Scammell whose misbehaviour and gin-drinking capability I can confirm is genetic. Dad, Jo, Laura, and Ella, who have waited (im)patiently for this all to be over, and have humoured my conversations on gender and murder during family gatherings. For my little sister Luchia and niece Lainey, who will hopefully see this as an example that girls can achieve anything they set their mind to. Mum (the most practical woman in the world), whose strength continues to fill me with awe. You have taught me that the times when you feel the most out of your depth are the times that help you become the best version of yourself.

Finally, I want to dedicate this to my Cardiff Gals (and guys). In seven years, I have made a new family. While some of you have now left and others arrived, this place and the people I've met here will always be home.

## Prefatory Note

Dates follow old style but the year is taken to begin on January 1. Capitalisation has been standardised but I have retained contemporary spellings and use of punctuation. I have also retained original spellings of place names in quotations, but have used modernised spellings retrospectively in the body of the thesis. Place names that have since changed have kept their contemporary name, i.e. Trelawynd (current name) is referred to as Newmarket. I have expanded contractions such as ‘examinant’ and ‘deponent’. Where the same name is spelled differently in one case, I have used the name given first in deposition preamble, or the spelling that is used most often over the course of the text. For the accused, I have used the spelling given on the indictment. I have used the Latin term *billa vera* when referring to indictments laid before Latin ceased to be used as a formal language of the court in 1733. I have used *true bill* thereafter.

## Abbreviations

NLW GS	National Library of Wales, Aberystwyth, Great Sessions Gaol Files
OBP	<i>Old Bailey Proceedings</i>
OA	<i>Ordinary's Account</i>
TNA MINT	The National Archives, London, Royal Mint records

## Introduction

### The Historical Study of Intimacy and Crime

At daybreak on September 11<sup>th</sup>, 1750 in Llanrug, a small town about four miles from Caernarfon in North Wales, a woman named Rebecca Morgan went out to milk as usual. Unusually, however, on this particular morning her husband Evan Thomas seemed keen to accompany her. The couple set off to complete the duty together and soon approached a bank near the local millpond. Yet the animals were never milked. Rebecca never returned. Instead, three days later, Evan found himself in front of the Justice of the Peace for the county denying that he had murdered his wife.<sup>1</sup> The inquest into Rebecca's death took place on September 15<sup>th</sup>, the day after her husband was first examined. There, the coroner's jury found that she had suffered three blows to the back of the head with a shoemaker's hammer and her body left floating in the millpond.<sup>2</sup> While the coroner's inquest stated the culprit of the crime was 'person[s] unknown', Evan was prosecuted as a suspect. The grand jury found a true bill of indictment and remanded him in gaol.<sup>3</sup> It took six months in prison until he finally confessed to striking the fatal blows.<sup>4</sup> The confession sealed his fate. Evan was found guilty of the murder and sentenced to death.

Yet Evan was not the only suspect implicated in his wife's death. Unbeknown to Rebecca, Evan had been conducting an affair with their maidservant, Catherine Jones. Evan told his friend Harry Ellis that he 'loved the said Catherine as well as his own soul', but that *she* was the one who had convinced him to carry out the crime. She was allegedly 'offerin hannog, i.e. an incentive instrument to stir [him] up to do the fact'.<sup>5</sup> He admitted his culpability for the affair, but claimed that she pursued and seduced him before making him carry out her desire of killing Rebecca. Their relationship began a year earlier

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<sup>1</sup> National Library of Wales, Great Sessions (NLW GS), 4/272/3, nos. 26-29, informations and examinations relating to the death of Rebecca Morgan (Caernarfonshire, 1750)

<sup>2</sup> NLW GS 4/272/3 no. 36, inquest of Rebecca Morgan.

<sup>3</sup> NLW GS 4/272/3 no. 35, indictment of Evan Thomas and Catherine Jones, *true bill*. Evan Thomas, guilty. Catherine Thomas, not guilty.

<sup>4</sup> NLW GS 4/272/3 no. 26, examination of Evan Thomas.

<sup>5</sup> NLW GS 4/272/3 no. 29, information of Harry Ellis, drover.



when, according to Evan, the ‘filthy wench’ would continuously seduce and ‘interrupt’ him while he was privately reading his bible in the barn. Somewhat predictably perhaps, Catherine’s examination described their relationship differently. She admitted that the affair began when she accompanied him to Methodist meetings where afterward he ‘had a mind to debauch her’.<sup>6</sup> Catherine swore that she had nothing to do with the killing. She was later found not guilty of murder and freed by the court.

How is this case culturally significant? The secret affair between Evan and Catherine jarred with themes of religious piety that both lovers drew upon to mitigate their culpability for the killing. There was talk of poison when Evan allegedly admonished Catherine for her inability to administer it to her mistress – which invoked echoes of the crime petty treason on the maid’s behalf. The passions also featured prominently in the examinations. On the day the body was found, Catherine alleged her ‘heart pricked’ with ‘mistrust’ when she saw Evan to be in a ‘sullen’ and ‘thoughtful’ mood.<sup>7</sup> References to ‘weeping’, ‘kiss[es]’, ‘love’ and ‘courage’ also appeared in the five surviving examinations and informations relating to the case. Despite his use of violence, Evan’s attempt to depict Catherine as the sole instigator of the crime played on discourses from earlier in the period, which connected female sexual immorality with the capability for murder.

A broadside ballad from 1684 stresses the continuity of these discourses from the late seventeenth- to the mid-eighteenth century. *The Unfaithful Servant; and the Cruel Husband*, performed in the voice of condemned woman Judith Brown, told the story of how she yielded to the ‘wicked base desire’ of her master and was subsequently convinced to poison his wife on his behalf. Her fate was to burn at the stake as a petty traitor. Yet in the ballad, the husband was not depicted as under the spell of a wicked temptress, nor was the servant maid depicted as unquestioningly following the orders of her seducer. Both characters wavered in their consciences, disagreed with, and encouraged each other.<sup>8</sup> The author described a disagreement between the murderers as to who would administer the poison to the unsuspecting wife, similar to Evan Thomas and Catherine Jones

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<sup>6</sup> NLW GS 4/272/3, no. 27, examination of Catherine Jones.

<sup>7</sup> NLW GS 4/272/3, no. 27, examination of Catherine Jones.

<sup>8</sup> *The Unfaithful Servant; and the Cruel Husband* (London, 1684), s. 11-13.

(‘But we did disagree/[...]For conscience would not suffer me/to put it in her hand’).<sup>9</sup> The ballad shows that it was plausible for an audience to imagine that the moral culpability of both parties was never static, much in the same way as historical actors demonstrated in court records. Yet in the 1684 example, the jury prosecuted and convicted the maid of petty treason. The 1750s Caernarfonshire court prosecuted both husband and servant for murder: they found Evan Thomas guilty, and acquitted Catherine Jones. The difference in sentencing may reflect the change in the application of the petty treason law. Women prosecuted at the Old Bailey for petty treason had increased access to narratives of self-defence or provocation as the period progressed, which allowed them to be convicted in greater numbers for excusable homicides previously reserved for male plaintiffs, as opposed to petty treason.<sup>10</sup>

However, this can be an unhelpful comparison to make. Both cases concerned the killing of a mistress rather than a tyrannical master or husband, which was never mentioned in official laws for petty treason. Instead, what the cases can show is the significance of how actors accorded agency and culpability in a cultural context. The cases do not emphasise the female servant as unequivocally devious, nor do they construct her as a completely helpless victim of manipulation. The ballad-writer and the actors in the Caernarfonshire case oscillated between whom they judged as bearing the greatest moral responsibility for the murders. While the disparity between print and court records means that the differences between these representations of ‘intimate crime’ far outweigh their similarities, the cases demonstrate that female agency could be discussed in terms of both ambiguity and absolutes, and were often done so in the same breath.

## Gender and homicide

Yet these snippets of the historical record must go beyond merely supporting the arguments of feminist and gender historians who have exposed the double sexual standards of seventeenth-century printed crime literature and interrogated how new modes of patriarchal oppression emerged in cultural and

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<sup>9</sup> *The Unfaithful Servant; and the Cruel Husband* (London, 1684), s. 11.

<sup>10</sup> Matthew Lockwood, ‘From treason to homicide: changing conceptions of the law of petty treason in early modern England’, *The Journal of Legal History*, 34:1 (2013), 31-49.

legal spheres after the Restoration and into the eighteenth century. Although Evan's act of brutal violence against an intimate partner is shocking, it is by no means unfamiliar to the historian of gender and crime. To compare Evan's case with the ballad adds more statistical weight to the axiom that while homicidal expressions of deviant femininity dominated earlier, seventeenth-century printed accounts of homicide, in reality men continuously harmed and killed within and outside of the household-family in far greater numbers.<sup>11</sup> So too do these examples contribute to a broader contextualisation of changes in post-Restoration literary trends to do with gender and violence. After all, authors of crime literature writing after 1660 paid far more attention to petty tyrants who abused their position as head of household by targeting vulnerable victims.<sup>12</sup>

Indeed, literary scholars have argued that such a change in focus facilitated the development of murderous male intimates and increasingly sexually passive female victims as character tropes in fictional literature by the mid-eighteenth century.<sup>13</sup> Evan's culpability for the murder (and Catherine Jones's acquittal) thus feeds into a contemporary image of masculinity that refers to men's inherent capability of murderous violence. His relationship with Catherine also gestures towards new languages of coercive sexual intimacy and female vulnerability to voracious male desire that became an essential component of eighteenth-century novels such as Richardson's *Pamela*, for example.<sup>14</sup> Yet while they can be used

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<sup>11</sup> Sandra Clark, 'Deeds against nature: women and crime in the street literature of early modern England', *Sederi*, 12 (2002), 9-10; *Women and Crime in the Street Literature of Early Modern England* (Basingstoke and New York, 2003), 33-6. See also Frances Dolan, *Dangerous Familiars: Representations of Domestic Crime in England, 1550-1700* (Ithaca and London, 1994); J.A. Sharpe, 'Domestic Homicide in Early Modern England', *The Historical Journal*, 24:1 (1981), 29-48. I am referring here to the 'household-family' explained by Naomi Tadmor, which was a unit composed of the conjugal family and live-in domestic servants or apprentices. See for example, Naomi Tadmor, 'The concept of the household-family in eighteenth-century England', *Past and Present* 151 (1996), 111-140 and her monograph, *Family and Friends in Eighteenth-Century England: Household, Kinship, and Patronage* (Cambridge, 2004), esp. chs. 1 and 2.

<sup>12</sup> Dolan, *Dangerous Familiars*, 17-19; 89-90; , 'Tracking the petty traitor across genres' in Patricia Fumerton et al., *Ballads and Broadsides in Britain, 1500-1800* (Farnham, 2010), 154-5; Joy Wiltenburg, *Disorderly Women and and Female Power in the Street Literature of Early Modern England and Germany* (Charlottesville and London, 1992), 221.

<sup>13</sup> Daniel Cohen, 'The beautiful female murder victim: literary genres and courtship practices in the origins of a cultural motif, 1590-1850', *Journal of Social History*, 31:2 (1997), 277-306; Martin Weiner, 'Alice Arden to Bill Sikes: changing nightmares of intimate violence in England, 1558-1869', *Journal of British Studies*, 40:2 (2001), 184-212.

<sup>14</sup> Faramerz Dabhoiwala, *The Origins of Sex: A History of the First Sexual Revolution* (London, 2012), 169-179. See also Brean Hammond and Shaun Regan, *Making the Novel: Fiction and Society in Britain, 1660-1789* (Basingstoke, 2006), esp. ch.4, 85-122.

tentatively to contextualise literary phenomena, reductive assumptions about female sexual passiveness and male bodily assertiveness cannot be applied directly to the legal sources. Tantalising as it may be, I have not found a so-called ‘modernisation’ of sexual desires and identities (and their implied relationship to violence) to be operating seamlessly at the level of the everyday in England and Wales.<sup>15</sup> Evan Thomas’s case *is*, however, one significant iteration of the uses and abuses of intimacy that are firmly located within the criminal record.

Intimacy was essential to criminal activity in the early modern period. Its uses and abuses – in physical, spatial, and emotional contexts – can be recovered from the legal record of prosecutions for violent homicides and offences against property and the state. Historians of crime, gender, social relations, emotion, sexuality, and the body have illustrated the wider social and cultural contexts in which intimacy would have been understood and transacted, yet their questions have not explicitly addressed intimacy as a practice.<sup>16</sup> The idea of intimacy insofar as it is bound up with gender relations and patriarchal structures of power is, however, a key theme in the historiography of early modern homicide in particular. For example, the largest number of homicides caused by interpersonal violence occurred only between adult men, and yet early modern crime literature paid far more attention to killings within the household-family.<sup>17</sup> This contemporary phenomenon has led historians and critics to prioritise the incidence of ‘domestic’ homicide when exploring contemporary understandings of family, gender, sexuality and violence.

Laws against homicide and petty treason covered killings committed within the patriarchal household. Petty treason was the killing of a husband by his wife, a master or mistress by their servant, or the killing of a clergyman by his prelate.<sup>18</sup> The idea that a man could be murdered in his own home by someone who was supposed to show him love and obedience was an insult to the natural

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<sup>15</sup> Dabhoiwala, *The Origins of Sex*, passim. See also, Tim Hitchcock, ‘The reformulation of sexual knowledge in eighteenth-century England’, *Signs*, 37:4 (2012), 823-832.

<sup>16</sup> For a notable exception in early modern Scottish history, see Katie Barclay, *Love, Intimacy and Power: Marriage and Patriarchy in Scotland* (Manchester, 2011).

<sup>17</sup> Clark, ‘Deeds Against Nature’, 9-10; *Women and Crime*, 33-6.

<sup>18</sup> Michael Dalton, *The Countrey Justice* (London, 1619), 213-215; Sir Edward Coke, *The Third Part of the Institutes of the Laws of England* (London, 1629), 19-36; Sir Matthew Hale, *Summary of the Pleas of the Crown* (London, 1678), 23-5; *Historia Placitorum Coronae Vol. I* (London, 1736), 377-382.

domestic order, and was reflected by the punishment of burning at the stake if found guilty. Killing a wife, however, did not represent a similar overturning of godly or patriarchal order. Men culpable for spousal murder, while unequivocally guilty for their actions, were understood as acting in excess of their natural duties as master of a household and labelled a 'petty tyrant'.<sup>19</sup> The historical significance of petty treason for what it can reveal about the gendered order means that studies of criminal violence have discussed deviant feminine violence for its subversion of domestic intimacy, but have not considered the multi-faceted nature of intimacy as a practice.

Natural duties within the patriarchal household also extended to the care of children and servants. Fathers and mothers who killed their legitimate children were tried under the standard law for homicide. Legal handbooks linked physical discipline of subordinates with filicide by stating it was acceptable for parents to use certain forms of violence against their children. However, the chastisement had to be proportionate to the age, size and health of the child. Dalton wrote:

a man correcting his child, or seruant in reasonable manner; and the scholler, child or seruant, happen to dye thereof, this is homicide by misadventure.<sup>20</sup>

The verdict of misadventure reflected the notion that the correction was fair, but unforeseeable circumstances had aggravated the effect of the punishment and caused the death, such as if a child with a constitution weakened by illness happened to die after a customary punishment they usually withstood. The correction itself was lawful and so could not be judged murder. However, if the homicide was judged misadventure, a father or master forfeited their lands and goods to the crown.<sup>21</sup> Juries reached verdicts of murder when the punishment was judged as unreasonable or disproportionate to the child or servant's perceived infraction. While women could be found guilty of manslaughter in this context, unlike men they faced the death penalty if convicted (branding as punishment for

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<sup>19</sup> Dolan, *Dangerous Familiars*, esp. Ch. 2, 'The subordinate(s) plot: petty treason and the forms of domestic rebellion', 59-88; Garthine Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge, 2003), 138-148; Lockwood, 'From treason to homicide'; Krista Kesselring, 'Bodies of evidence: sex and murder (or gender and homicide) in early modern England, c.1500-1680', *Gender & History*, 27:2 (2015), 245-262.

<sup>20</sup> Dalton, *The Countrey Justice*, 216.

<sup>21</sup> Dalton, *The Countrey Justice*, 216.

manslaughter was not available to women).<sup>22</sup> This discrepancy meant that grand juries were less likely to draw up homicide indictments against women in order to make up for the difference in sentencing practice between women and men.<sup>23</sup>

The issue of starvation and neglect in cases of child murder also concerned jurists, but was hard to prove in court. For example, Blackstone argued in his discussion of men's provision for illegitimate children that 'the duty of parents to provide for the maintenance of their children is a principle of natural law', writing that upon conceiving a child, parents 'entered into a voluntary obligation' to ensure that the lives of their children were 'supported and preserved' in both economic and emotional terms.<sup>24</sup> Blackstone also claimed that the relation of 'guardian and ward' bore 'a very near resemblance' to that of parent and child. The guardian was a 'temporary parent' as long as their servant was 'an infant, or underage', which implied that they required care and nurture just as much as biological children.<sup>25</sup>

Parricide did not have its own separate legal category even though judges considered it particularly heinous.<sup>26</sup> Dalton included parricide in his discussion of petty treason:

The child maliciously killeth the father, or mother, this is petty treason (although the father and mother at the same time give neither meat, drinke, nor wages to such child:) But it is treason in the child, in respect to the duty of nature violated.<sup>27</sup>

Dalton also wrote that children who killed step-parents should be indicted for petty treason but suggested that the accused be listed on the indictment as a servant.<sup>28</sup> Hale reiterated Dalton's interpretation, arguing that a child who killed their father or mother should be prosecuted for petty treason at common law (yet

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<sup>22</sup> Walker, *Crime, Gender and Social Order*, 136-138.

<sup>23</sup> Randall Martin, *Women, Murder, and Equity in Early Modern England* (London and New York, 2008), 52; Hale, *Historia Placitorum Coronae*, 377-382.

<sup>24</sup> Sir William Blackstone, 'Chapter 16: Of Parents and Children', in *Commentaries on the Laws of England, Book 1*, online at: [http://avalon.law.yale.edu/18th\\_century/blackstone\\_bk1ch16.asp](http://avalon.law.yale.edu/18th_century/blackstone_bk1ch16.asp)

<sup>25</sup> Blackstone, 'Chapter 17: Of Parents and Guardians', *Commentaries, Book 1*, online at: [http://avalon.law.yale.edu/18th\\_century/blackstone\\_bk1ch17.asp](http://avalon.law.yale.edu/18th_century/blackstone_bk1ch17.asp)

<sup>26</sup> Garthine Walker, 'Imagining the Unimaginable: Parricide in Early Modern England and Wales, c.1660-c.1760', *Journal of Family History*, 41:3 (2016), 271.

<sup>27</sup> Dalton, *Countrey Justice*, 214.

<sup>28</sup> Dalton, *Countrey Justice*, 214.

if a servant entered into a spontaneous quarrel with their master it should be judged manslaughter as the conflict lacked premeditation).<sup>29</sup> However, not all jurists agreed. Coke argued:

If the child commit parricide in killing of his father or mother (which the law-makers never imagined any childe would doe) this case is out of this statute, unlesse the child served the father or mother for wages, or meat, drink or apparell, for that is none of these three kinds specified in this law.<sup>30</sup>

The inclusion of a mother or mistress in the category was largely interpretative as the laws on petty treason only explicitly mentioned masters.<sup>31</sup> Furthermore, while jurists' recommendations of how to draw up indictments reflected a legal difference in the treatment of children and servants, as Blackstone's remarks attest; masters and mistresses were encouraged to treat both with parity.

A danger arises, however, from a strict focus on the incidence of so-called 'domestic' or household crime, which prioritises traditional or rigid patriarchal familial relationships. Of course, only 'conventional' patriarchal relationships were mentioned in laws on homicide: parental, spousal and service.<sup>32</sup> However, a consequence of such a restrictive approach is the neglect of relationships that could aid understanding of inter- or intra-generational relationships, for example. I shall argue in chapter one that early modern people understood that domestic homicide implicated members outside the traditional nuclear family unit, and used patriarchy as a system to be negotiated. Another symptom of the above approach is the uncritical usage of 'domestic' as a synonym for 'intimate' without the necessary contextualisation of individual experiences of place, space, or emotion that comprised it. This lack of a coherent definition of intimacy can restrict historians to particular scenarios of 'domestic' homicide, which first underestimates the significance of non-conjugal relationships and secondly, neglects textual evidence of violence that does not fit into the gendered model of legal definitions of homicide.

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<sup>29</sup> Hale, *Pleas of the crown: a methodical summary*, 24; *Historia Placitorum Coronae*, 380.

<sup>30</sup> Coke, *Institutes*, 20.

<sup>31</sup> Walker, 'Imagining the Unimaginable', 3.

<sup>32</sup> Frances Dolan, *Dangerous Familiars: Representations of Domestic Crime in England, 1550-1700* (Ithaca and London, 1994), 2; J.A. Sharpe, 'Domestic Homicide in Early Modern England', *The Historical Journal*, 24:1 (1981), 29-48.

The aim of chapter one, therefore, is to challenge the narrow approach taken by scholars who have discussed crime and intimacy in an early modern context. 'Intimate murders' were not just cases of petty treason, filicide, and spousal homicide committed by women who were desperate victims of or rebels against the patriarchal household structure. In fact, those who existed on the so-called periphery of the household committed intimate homicides. Just as the nature of care within family networks was flexible, so too was its subversion by uncles, grandparents, or adult children. Obligations of hospitality left extended families vulnerable to greedy, selfish, or mentally unstable relatives. Attempts at navigating the expectations of young adulthood were thwarted by intimate homicides and exposed the porous boundaries between courtship, sex, marriage, and service. Though exceptional, these crimes reveal the very real concerns that underpinned cultural and legal discourse, mainly the fear of economic and emotional neglect from those that shared the closest of bonds.

The pervasiveness of humoral understandings of the gendered body affected the official application of homicide law as well as wider cultural discourses of moral culpability for illegal violence, a key theme of chapters one and two.<sup>33</sup> Historians of gender and crime have explored the ways in which contemporary biological understandings of gendered adult bodies and their capacity for homicidal violence changed from the seventeenth to the nineteenth centuries. A distinction drawn between murder and manslaughter was that murder was premeditated and 'cold-blooded', while manslaughter typically occurred in a 'heat of passion'.<sup>34</sup> In humoral theory, men's higher natural body heat made them susceptible to angry outbursts which were explicable and somewhat expected, though rarely condoned. Women, however, were naturally cold and wet which made them less prone to violence. A woman who committed homicide therefore, was much more likely to be perceived as bestial and her actions inexplicable.<sup>35</sup>

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<sup>33</sup> Walker, *Crime, Gender and Social Order*; Martin, *Women, Murder, and Equity in Early Modern England*; Kesselring, 'Bodies of evidence', 245-262; Lockwood, 'From treason to homicide', 31-32.

<sup>34</sup> Dalton, *The Countrey Justice*, 217; Coke, *Institutes*, 51-3; Hale, *Pleas of the Crown*, 44-5; *Historia Placitorum Coronae*, 451.

<sup>35</sup> Walker, *Crime, Gender and Social Order*, 140; Kesselring, 'Bodies of Evidence', 253-4.



Conduct authors and medical practitioners also wrote that expressions of female anger were short-term and inconsequential, and any resulting violence was deemed absurd and ineffective.<sup>36</sup> Therefore, the statute books did not explicitly give examples of circumstances in which women committed ‘hot-blooded’ manslaughter, as they pertained to male codes of violence and honour. As a result, the law implied that when women *did* kill, their crimes were active, premeditated, and ‘cold-blooded’.<sup>37</sup> However, some of these ideas changed over time. For example, women prosecuted at the Old Bailey for petty treason had increased access to narratives of self-defence or provocation as the period progressed, which allowed them to be convicted in greater numbers for excusable homicides previously reserved for male plaintiffs.<sup>38</sup> This development in cultural discourse allowed accused women to explain their violent actions as a response to their husbands’ ‘domestic tyranny’, which positioned women as increasingly physically passive and vulnerable to male violence.<sup>39</sup>

Men’s ‘hot-blooded’ violence, therefore, was far more common a discourse in the legal record. Apart from its status as the most common type of killing, male-male homicide has not been systematically analysed for its cultural value in terms of masculine relationships, and as such shall form the focus of the second chapter. Men’s homicide must be contextualised in terms of masculine friendship and the role of violence in the breaking and making of male intimate bonds. The concept of friendship, however, is a complex bond to historicise. As Naomi Tadmor has identified, linguistically the word ‘friend’ was often reserved for extended family members or indeed those with whom one conducted regular and trusted business. ‘Friendship’ had close links to business, property, and political or religious affiliation, too.<sup>40</sup> While it could take a form resonant with modern ideas as spontaneous and affective, friendship was also understood to be functional and hence usually formed out of utility or deference. Other scholars have explored the

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<sup>36</sup> Linda Pollock, ‘Anger and the Negotiation of Relationships in Early Modern England’, *The Historical Journal*, 47:3 (2003), 570-1.

<sup>37</sup> Clark, *Women and Crime*, 33-69.

<sup>38</sup> Matthew Lockwood, ‘From Treason to Homicide: Changing Conceptions of the Law of Petty Treason in Early Modern England’, *The Journal of Legal History*, 34:1 (2013), 31-49.

<sup>39</sup> Lockwood, ‘From Treason to Homicide’, 47; for other references to resistance theory, see Dolan, *Dangerous Familiars*, 17; Walker, *Crime, Gender and Social Order*, 70-1.

<sup>40</sup> Tadmor, *Family and Friends in Eighteenth-Century England*, 167-174; ‘The concept of the household-family, 122.

rich landscapes of gendered friendship, and in the process have identified words and gesture associated with physical, emotional, or erotic intimacy between members of the same sex.<sup>41</sup>

And yet, while homicide law was written with gendered expectations of male violence in mind, the importance of male emotions and friendship in cases of fatal violence remains underexplored. Legal discourse necessitated the discussion of male passions, emotions and violence, which in turn prompted actors to refer to aspects of male homosocial intimacy and friendship in their testimonies. Public places, alcohol, and violence had key roles to play in processes of male bonding and hierarchical negotiation.<sup>42</sup> My aim in chapter two is to bring intimacy to the fore in places where it has been overlooked.

### Locality, community, and crime

The historiography of crime in early modern and eighteenth-century Wales has grown over the last ten years, yet remains relatively sparse in terms of gendered analyses of violent offences. Scholars have tended to produce studies that either focus on specific areas of Wales, or on certain offences in the eighteenth century preceding the abolition of the court of the Great Sessions in 1830.<sup>43</sup> Perhaps the most comprehensive study of crime in post-Restoration Wales, impressive for both its quantitative and qualitative breadth, is by Sharon

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<sup>41</sup> Patricia Crawford and Laura Gowing, *Women's Worlds in Seventeenth-Century England* (London, 2000); Penelope Anderson, *Friendship's Shadows: Women's Friendship and the Politics of Betrayal in England, 1640-1705* (Edinburgh, 2012); Alan Bray, 'Homosexuality and the signs of male friendship in Elizabethan England', *History Workshop Journal*, 29:1 (1990), 1-19; Alan Bray and Michel Rey, 'The Body of the Friend: continuity and change in masculine friendship in the seventeenth century', in Tim Hitchcock and Michèle Cohen (eds.), *English Masculinities, 1600-1800* (Harlow, 1999), 65-84; Alan Bray, *The Friend* (Chicago, 2003); Laura Gowing, Michael Hunter and Miri Rubin (eds.), *Love, Friendship and Faith in Europe, 1300-1800* (Basingstoke, 2005); Lorna Hutson, *The Usurer's Daughter: Male Friendship and Fictions of Women in Sixteenth-Century England* (London and New York, 1994); Thomas McFaul, *Male Friendship in Shakespeare and his Contemporaries* (Cambridge, 2007); Katherine O'Donnell and Michael O'Rourke (eds.), *Love, Sex, Intimacy and Friendship Between Men, 1550-1800* (Basingstoke, 2003).

<sup>42</sup> Alexandra Shepard, *Meanings of Manhood in Early Modern England* (Oxford, 2003); 'Swil-bols and tos-pots: drink culture and male bonding in England, c.1560-1640', in Gowing, Hunter and Rubin (eds.), *Love, Friendship and Faith*, 110-130.

<sup>43</sup> See for example David J.V. Jones, 'Life and death in eighteenth-century Wales: a note', *Welsh History Review*, 10:4 (1981), 536-546; John Minkes, 'Wales and the "bloody code": the Brecon circuit of the Court of the Great Sessions in the 1750s', *Welsh History Review*, 22:4 (2008), 673-704.

Howard.<sup>44</sup> Her focus on Denbighshire (the Welsh county with the best surviving record sets from the Quarter Sessions and Great Sessions) has not only shown that Wales was far more than a satellite of English jurisdiction, but that Welsh responses to theft and other forms of serious crime demonstrated culturally unique elements of communal restorative justice, gender relations, and social structures.<sup>45</sup> Nicholas Woodward's extensive quantification of felonious property crimes and infanticide for the century between 1730 and 1830 is useful for insight into conviction rates in comparison with English cases, yet cultural assumptions therein are largely anachronistic, especially in his association of bastardy with infanticide.<sup>46</sup> Recent discussions of female criminality in the eighteenth and nineteenth centuries in Wales have addressed some of the inadequacies of this research.<sup>47</sup> Yet my project surpasses the analytical reach of previous studies, first in its geographical and chronological breadth by considering twelve Welsh counties from the Restoration up to the 1750s and secondly, in its method of integrating masculinity and femininity in the qualitative study of serious offences.

Furthermore, the community-orientated framework that underlies much of the Welsh historiography can also be linked with the recent revival of the 'new social history', in turn producing a fuller picture of what intimacy meant in a contemporary social context, in both English and Welsh experience.<sup>48</sup> Recent developments in social relations historiography are especially useful when considering the types of environment and personal interactions that engendered intimacy. Historians have used communities-orientated frameworks to trace how people adopted distinct national or local identities and the extent to which physical spaces within a community affected the performance of such identities.<sup>49</sup>

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<sup>44</sup> Sharon Howard, *Law and Disorder in Early Modern Wales, Crime and Authority in the Denbighshire Courts, c.1660-1730* (Cardiff, 2008).

<sup>45</sup> Sharon Howard, 'Investigating responses to early modern Wales: communities, thieves and the courts', *Continuity and Change*, 19:3 (2004), 409-430.

<sup>46</sup> N. Woodward, 'Infanticide in Wales, 1730-1830', *Welsh History Review*, 23:3 (2007), 94-125; 'Burglary in Wales, 1730-1830: evidence from the Great Sessions', *Welsh History Review*, 24:2 (2008), 60-91; 'Seasonality and sheep-stealing: Wales, 1730-1830', *Agricultural History Review*, 56 (2008), 25-47; 'Horse-stealing in Wales, 1730-1830', *Agricultural History Review*, 56 (2009), 70-108.

<sup>47</sup> Catherine Horler-Underwood, 'Aspects of female criminality in Wales, c.1730-1830: evidence from the court of Great Sessions', DPhil, Cardiff University (2014).

<sup>48</sup> See for example, Steve Hindle, Alexandra Shepard, John Walter (eds.), *Remaking English Society: Social Relations and Social Change in Early Modern England* (Woodbridge, 2013).

<sup>49</sup> Steve Hindle, 'A sense of place? Becoming and belonging in the rural parish, 1550-1650', in Alexandra Shepard and Phil Withington (eds.), *Communities in Early Modern England: Networks, Place, Rhetoric* (Manchester, 2000), 96-114; Geraint H. Jenkins (ed.), *The Welsh Language Before the*

So too did class and gender relationships depend on physical space, which meant that the success and failure of neighbourly relations described by litigants in court records were influenced by the social interactions of specific locations: the parish church, the birthing chamber, the middle-class urban household, or the village alehouse.<sup>50</sup>

It is necessary to pause and acknowledge that my use of the word ‘space’ describes particular locations in early modern communities where people engaged in the practice of intimacy as a result of physical proximity in their daily lives and social interactions. This use is different to how space is conceptualised in discussions of material culture and domesticity by historians of the ‘spatial turn’, who have mainly focused their discussions on middle class houses.<sup>51</sup> While this study does not address material culture, it shows that servants and extended family members were not pushed out of domestic spaces as a consequence of the so-called ‘nuclearisation’ of the family over the course of the eighteenth century.<sup>52</sup> Rather, my use of ‘space’ focuses on the types of everyday intimacies exchanged by members of the labouring classes who lived in the rural spaces of Wales and urban spaces of London. More often than not, community relations merged social and economic transactions, which meant that honesty in terms of credit and work

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*Industrial Revolution* (Cardiff, 1997); Nia Powell, ‘Do numbers count? Towns in early modern Wales’, *Urban History*, 32:1 (2005), 46-67; ‘Urban population in early modern Wales revisited’, *Welsh History Review*, 23:3 (2007), 1-43; “Near the margin of existence?” Upland prosperity in Wales during the early modern period’, *Studia Celtica*, 41 (2007), 137-62; Mark Stoyle, *West Britons: Cornish Identities and the Early Modern British State* (Exeter, 2002); ‘English “Nationalism”, Celtic particularism, and the English civil war’, *Historical Journal*, 43:4 (2000), 1113-1128; Peter Roberts, ‘Tudor Wales, national identity and the British inheritance’, in Brendan Bradshaw and Peter Roberts (eds.), *British Consciousness and Identity: The Making of Britain, 1533-1707* (Cambridge, 1998), 8-42.

<sup>50</sup> Phil Withington, ‘Company and sociability in early modern England’, *Social History*, 32:3 (2007), 291-307; Mark Hailwood, *Alehouses and Good Fellowship in Early Modern England* (Woodbridge, 2014); Karl Westhauser, ‘Friendship and family in early modern England: the sociability of Adam Eyre and Samuel Pepys’, *Journal of Social History*, 27:3 (1994), 514-536.

<sup>51</sup> See for example Sara Pennell, ‘“Pots and pans history”: the material culture of the kitchen in early modern England’, *Journal of Design History*, 11:3 (1998), 201-216. Karen Harvey’s recent work has placed men back into the domestic space and the practice of domesticity. See, *The Little Republic: Masculinity and Domestic Authority in Eighteenth-Century Britain* (Oxford, 2012).

<sup>52</sup> See Katie Barclay, ‘Space and place’ in Susan Broomhall (ed.), *Early Modern Emotions: an Introduction* (London, 2017), section I.6. While Lawrence Stone’s arguments charting a change from large family structures based on lineage in the sixteenth century to the smaller nuclear unit in the eighteenth have largely been proven inadequate, it is necessary to recognise the continuity of domestic servants as part of the household-family. See Tadmor, *Family and Friends in Eighteenth-Century England*; ‘The concept of the household-family’, *passim*. See also Helen Berry and Elizabeth Foyster, *The Family in Early Modern England* (Cambridge, 2007), 1-17.

was an essential component of relationship-building for both early modern men and women.<sup>53</sup> Work had a cultural as well as economic importance – which meant that economic wellbeing formed a core part of day-to-day identity, and affected the way that many people conducted relationships within a household, extended family, or community network.<sup>54</sup> In fact, the morality of work and economic wellbeing was crucial to assessments of culpability across a wide variety of genres that dealt with the prosecution of both homicide and serious property crimes like grand larceny and coinage offences.

Furthermore, certain studies of social relations have touched upon issues of community responsibility for the economic welfare of the vulnerable. However, historians have not yet considered in detail local community reactions to mental illness aside from modes of vilification, or confinement in Bridewells or asylums.<sup>55</sup> However, studies that use Poor Law and other parish records have revealed the ubiquity of non-nuclear relationships that were common in cases of illegitimacy or extreme poverty, such as one-parent families or inter-generational guardian/wardship.<sup>56</sup> Issues of economic welfare and lay reactions to mental strife and hardship were linked for early modern people, which contributed to their presence in discussions of motives for serious crime in printed literature and depositional evidence. By linking experiences of economics, work, and social relations with the performance of intimacy, this project sets out an original

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<sup>53</sup> Alexandra Shepard, 'Poverty, labour and the language of social description in early modern England', *Past & Present*, 201 (2008), 51-95; with Judith Spicksley, 'Worth, age and social status in early modern England', *Economic History Review*, 64:2 (2011), 493-530; *Accounting for Oneself: Worth, Status and the Social Order in Early Modern England* (Oxford, 2015); Eleanor Hubbard, *City Women: Money, Sex and the Social Order in Early Modern London* (Oxford, 2012); Tim Reinke-Williams, *Women, Work and Sociability in Early Modern London* (Basingstoke, 2014).

<sup>54</sup> Brodie Waddell, 'The politics of economic distress in the aftermath of the Glorious Revolution, 1689-1702', *The English Historical Review*, 130 (2015), 318-351; *God, Duty and Community* (Woodbridge, 2012).

<sup>55</sup> Michael MacDonald, 'Insanity and the realities of history in early modern England', *Psychological Medicine*, 11 (1981), 11-25; *Mystical Bedlam: Madness, Anxiety and Healing in Seventeenth-Century England* (Cambridge, 1983); Roy Porter, *Mind Forg'd Manacles: a History of Madness in England from the Restoration to the Regency* (London, 1987); Paul Griffiths, 'Bodies and souls in Norwich: punishing petty crime, 1540-1700', in Simon Devereux and Paul Griffiths (eds.), *Penal Practice and Culture, 1500-1900: Punishing the English* (Basingstoke, 2004), 85-120.

<sup>56</sup> Patricia Crawford, *Parents of Poor Children in England, 1580-1800* (Oxford, 2010); Richard Adair, *Courtship, Illegitimacy, and Marriage in Early Modern England* (Manchester, 1996); Anna Brueton, 'Illegitimacy in South Wales, 1660-1870', DPhil, University of Leicester (2015); Steve Hindle, *On the Parish? The Micro-politics of Poor Relief in Rural England, c.1550-1750* (Oxford, 2004).

analytical agenda to narrow the gap between the social and internal worlds of early modern people.

The body and selfhood had an important role in shaping external relationships, especially in the context of contemporary friendship, for example, where interactions could range from the purely economic to the erotic. Bodies were also a key marker of one's ability to commit fatal violence. For example, women's bodies could be defined in terms of biological restrictions or 'weaknesses', whereas men's bodies were vessels of capability. Thus, a woman who demonstrated the potential to cause violence overturned discourses of prescribed femininity. To see the physical female body in a mode usually reserved for men, both contradicted her biological 'weaknesses' and undermined male bodily assertiveness, suggesting perhaps that she did wield some form of dangerous female power.<sup>57</sup>

The history of sexuality, the body, and subjectivity is therefore essential in its identification of how early modern people understood and related external experiences of crime to their inner lives.<sup>58</sup> Laura Gowing has done much to link contemporary understandings of the corporeal with everyday life of women by considering how physical gesture and touch were coded with meaning.<sup>59</sup> The female experience of maternity and birth was an obvious realm where intimacy was negotiated and contested – which again emphasises the natural recourse of historians working with criminal records to neonaticide in discussions that link intimacy with criminal activity. Lay understandings of medicine and the physical body further connected bodily intimacies with suspected homicide, as the communal nature of care of the sick and dying was commonplace throughout both England and Wales; it influenced descriptions of physical pain, injury and illness

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<sup>57</sup> Anthony Fletcher, *Growing up in England: the Experience of Childhood 1600-1914* (New Haven and London, 2008), 23.

<sup>58</sup> See Sarah Toulalan and Kate Fisher (eds.), *The Routledge History of Sex and the Body 1500 to the Present* (London and New York, 2013), esp. Katherine Crawford, 'The good, the bad, and the textual: approaches to the study of the body and sexuality, 1500-1750', 23-37; Michael Roper, 'Slipping out of view: subjectivity and emotion in gender history', *History Workshop Journal*, 59 (2005), 57-72.

<sup>59</sup> Laura Gowing, *Common Bodies: Women, Touch and Power in Seventeenth-Century England* (New Haven, 2003); 'The politics of women's friendships in early modern England' in Laura Gowing, Michael Hunter, and Miri Rubin (eds.), *Love, Friendship and Faith in Europe, 1300-1800* (Basingstoke, 2005), 131-149.

in the testimonies of historical actors, especially in reference to vulnerable or speechless victims.<sup>60</sup> The language of the humours was also ubiquitous to early modern concepts of gendered difference.<sup>61</sup> While court testimonies of the lower orders did not engage with elite medical or scientific trends in humoral theory, they described aspects of gender, temperament, illness, melancholy, and emotion in terms of a perceived balance (or imbalance) in bodily fluids.<sup>62</sup>

The embodied and social worlds of intimacy were thus closely intertwined, and this relationship was reflected most starkly in deposition evidence where witnesses were required by law to connect the embodied experiences of others (such as sex, violence, or childbirth) with their own interpretation of events. Chapter three considers the ways in which historical actors encountered the embodied intimacy of childbirth in peripheral, tangential or even absent ways. Here, I assess the significance of incidental witnesses to ideas of community cohesion, and consider the tensions between willing and unwilling participants in restorative community justice under the 1624 Concealment Act. In this chapter, I depart from the perpetrator-victim dynamic considered in the first two in order to discuss the ways in which agency and subjectivity were allocated to witnesses in a setting that merged locality and community with the body. The main aim of this chapter is thus to restore agency where it has been removed, and to show that

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<sup>60</sup> Hannah Newton, 'Children's physic: medical perceptions and treatment of sick children in early modern England, c.1580-1720', *Social History of Medicine*, 23:3 (2010), 456-474; '“Very sore nights and days”: the child's experience of illness in early modern England, c.1580-1720', *Medical History*, 55:2 (2011); *The Sick Child in Early Modern England, 1580-1720* (Oxford, 2012); Alun Withey, *Physick and the Family: Health, Medicine and Care in Wales, 1600-1750* (Manchester, 2011); Gillian Avery and Kimberley Reynolds (eds.), *Representations of Childhood Death* (Basingstoke, 2000); Katie Barclay, Ciara Rawnsley and Kimberley Reynolds (eds.), *Death, Emotion and Childhood in Premodern Europe* (Basingstoke, 2016); Ralph. A. Houlbrook, *Death, Religion and the Family in England, 1480-1750* (Oxford, 2000).

<sup>61</sup> Karen Harvey, 'The substance of sexual difference: change and persistence in representations of the body in eighteenth-century England', *Gender & History*, 14:2 (2002), 202-223; 'The century of sex? Gender, bodies, and sexuality in the long eighteenth century', *The Historical Journal*, 899-916; Thomas Laqueur, *Making Sex: Body and Gender from the Greeks to Freud* (London, 1990); Patricia Crawford, 'Sexual knowledge, sexual science: the history of attitudes to sexuality', in Roy Porter and Miklaus Teich (eds.), *Sexual Knowledge, Sexual Science: the History of Attitudes to Sexuality* (Cambridge, 1994), 82-106.

<sup>62</sup> See Fay Bound Alberti, '“A victim of violence of the vapours”: case study of an eighteenth-century separation suit', *Medizin Gesellschaft und Geschichte*, 24 (2005), 47-57; Katie Barclay, 'New materialism and the new history of emotions', *Emotions: History, Culture, Society*, 1:1 (2017), 161-183.

languages of shock, fear, and surprise were neither monolithic nor exclusionary in nature.

These intimate worlds of space, place, and community operated in similar ways in both crimes against the person and crimes against property. While for the sake of space I do not deal with theft in the thesis, scholarship on serious property crime has been instrumental in identifying the largely participatory and discretionary nature of English and Welsh law.<sup>63</sup> The theme of discretion identified by these scholars prompts questions about the extent to which men and women could access the law, as well as how individual personalities within a given community may have affected its application.<sup>64</sup> The forms of property crime that influenced historians writing in the 1970s and 1980s were those associated with the 'Bloody Code' – laws which made a huge swathe of property offences capital in the eighteenth century in order to protect the interests of the propertied classes.<sup>65</sup> Some of these such as smuggling, wrecking, poaching, and rioting over food and enclosure were included in these offences and gained the term 'social crimes'.<sup>66</sup> However, another form of crime that had an intense – but short-lived – presence as a danger to the fabric of society was coining.

'Coining' was a catch-all term for three crimes which involved defacing or imitating silver and gold money. The first was counterfeiting, where perpetrators made false coins using less valuable metals that were then painted. 'Clipping' was defined as any form of reducing the size of coins. Usually this was done by filing the edges off coins and selling them to counterfeiters, or melting them down to make new coins. Occasionally, criminals used chemicals to 'wash' lower value

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<sup>63</sup> The reason I do not deal with theft here is due to the size of the source base, which far exceeds the scope of this project in terms of primary material available. Cynthia Herrup, 'Law and morality in seventeenth-century England', *Past & Present*, 106 (1985), 102-123; *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge, 1987); J.A. Sharpe, *Crime in Seventeenth-Century England: A County Study* (Cambridge, 1983); J.S. Cockburn (ed.), *Crime in England, 1550-1800* (London, 1977); Joel Samaha, 'Hanging for felony: the rule of law in Elizabethan Colchester', *The Historical Journal*, 21:4 (1978), 763-782;

<sup>64</sup> See also Peter King, *Crime, Justice and Discretion in England 1740-1820* (Oxford, 2000).

<sup>65</sup> Douglas Hay et al, *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (New York, 1975).

<sup>66</sup> E. P. Thompson, 'The Moral Economy of the English Crowd in the Eighteenth Century', *Past & Present*, (1971), pp. 76-136; *Customs in Common* (London and New York, 1993); Peter Linebaugh, *The London Hanged: Crime and Civil Society in the 18th Century* (London, 1991); John G. Rule, 'Social crime in the rural south in the eighteenth and early nineteenth centuries', *Southern History*, 1 (1979), 135-153.



coins and paint them to resemble those of a higher value. ‘Uttering’ was a lesser offence, which meant knowingly spending or passing on counterfeit and clipped coins.<sup>67</sup>

While scholars in the 1970s categorised offences against the coin for their utility as ‘social crimes’, more recently historians have recognised their value for revealing networks of criminals that were drawn from family, gendered, or neighbourly groups.<sup>68</sup> The legal status of counterfeiting and clipping as treason sat uneasily with the fact that most who committed the crimes came from the labouring classes and appeared (at least to elite commenters) ambivalent to the consequences. However, due to the unique prosecutorial procedure for treason, which relied on the voluntary information of witnesses (or hired informers), those suspected of coining regularly betrayed the people closest to them – both in practical and personal terms. Chapter four therefore considers offences against the coin in order to show how families and friends had to sacrifice their most intimate relationships to avoid being convicted of treason.

The aim of chapter four is to draw together several main themes that arise through a study of intimacy and crime. The first is that historical actors negotiated supposedly ‘natural hierarchies’ of age, social status, or patriarchy. Secondly, that they also deployed multivalent languages of friendship in testimonies. The role of incidental witnesses and unexpected forms of agency comprises the third main theme, and the fourth concerns the importance of economic identity and wellbeing to discourses of emotion, mental strife, and culpability.

Yet how is it possible to contextualise appropriately such a wide range of practice? As I have suggested above, intimacy to contemporaries could have practical, spatial, or embodied qualities. Yet it also existed as emotional performance. The analysis of linguistic evidence of emotion is therefore central to the methodology of the thesis.

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<sup>67</sup> Dalton, *The Countrey Justice*, 198-199; 203; Coke, *Institutes*, 16-18; Hale, *Pleas of the Crown*, 18-20.

<sup>68</sup> Malcolm Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge, 2000), esp. chs. 4 and 5, 123-200; Nicholas Tosney, ‘Women and “false coining” in early modern London’, *The London Journal*, 32 (2007), 103-123.

## Emotions: theories and methods

Attempting to separate the physical and emotional in early modern understanding is arbitrary. Evidence of emotional intimacy in the historical record is exciting when found, but difficult to contextualise. Scholars working in the areas discussed above have identified the contemporary conditions that were conducive to both physical and mental intimacy, which in terms of embodiment could be fluid and flexible. There are numerous approaches the historian can take when attempting to locate and understand the expression of emotion in the past.<sup>69</sup> Studies which draw upon scientific or anthropological approaches to locating emotion are largely unworkable, as they tend to restrict the agency of individual actors, notwithstanding the fact that it is impossible to practice neuroscience on historical subjects.<sup>70</sup> Other studies of emotion do not adequately consider change. Historians of the emotions acknowledge that while it is possible to historically locate a specific way of expressing emotion, or speculate upon the social or cultural conditions that encouraged its expression, it is difficult to adequately account for why circumstances had been different before the practice can be identified, or changed thereafter.<sup>71</sup> For example, Peter and Carol Stearns plot change along linear narrative, where acceptable or ‘modern’ emotions such as shame are the teleological endpoint. While their community-based focus on particular linguistic emotional ‘standards’ of a society has merit, they depict elite conduct literature as indicative of a change towards modern [American] emotional culture, which does little for understanding the nuances in relationships between people in the past in their own terms.<sup>72</sup> Barbara Rosenwein’s method of tracing ‘emotional communities’ on the other hand, effectively links the historical

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<sup>69</sup> Jan Plamper and Keith Tribe (trans.), *The History of Emotions: An Introduction* (Oxford, 2015); Nicole Eustace, Eugenia Lean, Julie Livingston, Jan Plamper, William Reddy, Barbara Rosenwein, ‘AHR conversation: the historical study of emotions’, *American Historical Review*, 117:5 (2012), 1487-1531.

<sup>70</sup> Cf. William M. Reddy, ‘Against constructionism: the historical ethnography of emotions’, *Current Anthropology*, 38 (1997), 327–51; William M. Reddy, *The Navigation of Feeling: A Framework for the History of Emotions* (Cambridge, 2001).

<sup>71</sup> Barbara H. Rosenwein, ‘Problems and methods in the history of emotions’, *Passions in Context*, 1:1 (2010), 9. Joanna Bourke, *Fear: a Cultural History* (London, 2005); Katie Barclay, ‘Introduction: emotions and change’, *Emotions: History, Culture, Society*, 1:2 (2017), 5.

<sup>72</sup> Peter N. Stearns and Carol Z. Stearns, ‘Emotionology: clarifying the history of emotions and emotional standards’, *The American Historical Review*, 90 (1985), 813–36.

study of emotion with the relationships people shared in specific groups, determined by national, religious, cultural and social contexts, and is therefore a more useful approach to take in the present study.<sup>73</sup> The term ‘emotional community’ has attracted criticism precisely for its flexibility and overlapping nature between varied groups of people.<sup>74</sup> However, this flexibility can become an asset to studies of early modern crime because the law created specific emotional communities that cut across regional, gender, and class boundaries. However, I argue that the concept of emotional communities requires modification to account for the vast amount of primary literature available to early modern historians in comparison to Rosenwein’s medieval source base.

Thomas Dixon’s etymological history of the word ‘emotion’ is especially important for early modern emotional history. The word ‘emotion’ itself was not used in contemporary vocabulary until the nineteenth century – in one seventeenth-century dictionary, for example, ‘emotion’ was defined as a forward movement or surge and attributed to crowds of people.<sup>75</sup> Medical texts and conduct literature defined the expression of innermost thoughts and feelings by referring to passions (extreme emotions) or affectations (milder or more complex feelings).<sup>76</sup> Here, I use the word ‘emotion’ in a retrospective context, but shall refer to ‘passions’ in contemporary examples. Passions and affectations involved closely connected bodily and mental processes as they were perceived as disruptive to the humours as well as the thoughts.<sup>77</sup> Early modern medical

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<sup>73</sup> Rosenwein, ‘Problems and methods in the history of emotions’, 11; Barbara Rosenwein, ‘Worrying about emotions in history’, *The American Historical Review*, 107:3 (2002), 842; *Emotional Communities in the Early Middle Ages* (Ithaca, 2006), 2; Plamper and Tribe, *The History of Emotions*, 69-70; Jan Plamper, ‘The history of emotions: an interview with William Reddy, Barbara Rosenwein, and Peter Stearns’, *History and Theory*, 49 (2010), 252-253.

<sup>74</sup> Andrew Lynch, ‘Emotional Community’, in Susan Broomhall (ed.), *Early Modern Emotions: an Introduction* (London, 2017), section I.1.

<sup>75</sup> Thomas Blount, *Glossographia: or a Dictionary, Interpreting all such Hard Words* (London, 1656). The entry for emotion reads ‘Emotion (emotio) a stirring or moving forth’, n.p.; Patricia Simons, ‘Emotion’, in Broomhall (ed.), *Early Modern Emotions*, part II.2.

<sup>76</sup> See Thomas Dixon, *From Passions to Emotions: The Creation of a Secular Psychological Category* (Cambridge: Cambridge University Press, 2003); “‘Emotion’: The History of a Keyword in Crisis”, *Emotion Review*, 4:4 (2012), 338–44; Bronach Kane, ‘Reading Emotion and Gender in the Later Medieval English Church Courts’, *Fruhneuzeit-Info*, 23 (2012), 53-63; Ulinka Rublack, ‘Fluxes: the early modern passions’, *History Workshop Journal*, 53:1 (2002), 1-16; Hannah Newton, ‘“Rapt up with joy”: children’s emotional responses to death in early modern England’, in Barclay, Katie, Rawnsley, Ciara, and Reynolds, Kimberley (eds.), *Death, Emotion and Childhood in Premodern Europe* (Basingstoke, 2016), 9-10.

<sup>77</sup> See Danijela Kambaskovic, ‘Humoral Theory’, in Broomhall (ed.), *Early Modern Emotions*, part II.3.

interpretations of passions and affectations form studies in their own right, yet it is necessary to recognise basic humoral language in textual references to bodily clues or facial expressions attributed to certain emotions.<sup>78</sup> As I will show, the close association of bodily with mental disruption also meant that early modern people interpreted gesture or outward demonstrations of extreme emotion as indicative of inner feelings. The gap between emotion and embodiment was thus far narrower to early modern people than it is now.<sup>79</sup> The fact that intimacy acted as a bridge between the two in turn demonstrates its importance as a category of analysis, especially for studies of crime where emotions and gestures were recorded in official records.

The thesis aims to address problems inherent in current discussions of the emotions by historians of domestic violence, child-murder, defamation, and slander.<sup>80</sup> The largest amount of scholarship on homicide and emotion concerns relationships between mothers and young children, where intimacy meant love, nurture and close proximity. A scenario where a woman was suspected to have killed her child could only produce a few proscribed sets of emotional reactions based on how she may have met or violated those markers of intimacy. This has created a dichotomy of interpretation, whereby the female perpetrator could only have been a passive victim of her social situation/mental state, or a rebellious, sexually deviant abomination of womankind.<sup>81</sup> On one side, the woman is

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<sup>78</sup> Angus Gowland, 'The problem of early modern melancholy', *Past & Present*, 191 (2006), 77–120; Fay Bound Alberti, *Matters of the Heart: History, Medicine, and Emotion* (Oxford, 2010); Helen James, *Passion and Action: the Emotions in Seventeenth-Century Philosophy* (Oxford, 1999).

<sup>79</sup> Susan Broomhall, 'Introduction: emotions in the household', in Susan Broomhall (ed.), *Emotions in the Household, 1200-1800* (Basingstoke, 2008), 6-7; 11; 13; Newton, " "Rapt up with joy" ", 9; Fay Bound Alberti, *Matters of the Heart: History, Medicine, and Emotion* (Oxford, 2010), 142-143.

<sup>80</sup> Fay Bound Alberti, ' "A victim of violence of the vapours" ', ' "An angry and malicious mind? Narratives of slander in the church courts of York, c.1660-c.1760', *History Workshop Journal*, 56 (2003), 59-77; Joanne Bailey, Joanne and Loreen Giese, 'Marital cruelty: reconsidering lay attitudes in England, 1580 to 1850', *The History of the Family*, 18:3 (2013), 289-305; Laura Gowing, *Domestic Dangers: Women, Words, and Sex in Early Modern London* (Oxford, 1996); Linda Pollock, 'Anger and the negotiation of relationships in early modern England', *The Historical Journal*, 47:3 (2003), 567-590.

<sup>81</sup> See for example Marilyn Francus, 'Monstrous mothers, monstrous societies: infanticide and the rule of law in Restoration and eighteenth-century England', *Eighteenth-Century Life* 21:2 (1997), 134; *Monstrous Motherhood: Eighteenth-Century Culture and the Ideology of Domesticity* (Baltimore, 2012), 110-119; Anne-Marie Kilday, 'Desperate measures or cruel intentions? Infanticide in Britain since 1600' in Anne-Marie Kilday and David Nash (eds.), *Histories of Crime: Britain 1600-2000* (London, 2010), 60-79; Dana Rabin, 'Bodies of evidence, states of mind: infanticide, emotion and sensibility in eighteenth-century England', in Mark Jackson (ed.), *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550-2000* (Aldershot, 2002), 73-92; Mark Jackson, 'The trial of Harriet Vooght: continuity and change in the history of infanticide' in Jackson (ed.), *Infanticide*, 1-

assumed to have felt sadness, fear of social stigma, a sense of disassociation with the child, and the community sadness, shock and sympathy. On the other, she must have exhibited signs of hatred towards the child or callously discarded it as an inconvenience; the resulting community reaction was one of disgust, fear and exclusion.<sup>82</sup>

I shall re-evaluate such ‘typical’ emotional responses to crime by considering themes such as incidental witnesses, the negotiation of natural hierarchies, and unexpected forms of agency. Of course, the above interpretation of emotional responses to neonaticide is not without merit. It has arisen from the vast textual evidence contained in pre-trial depositions and printed trial summaries from the application of homicide law and the 1624 statute that targeted mothers of newborn illegitimate children.<sup>83</sup> Necessary for the legal criteria, clerks and court reporters recorded bodily intimacies and psychological reactions to childbirth and motherhood, which could appear similar or formulaic. Yet textual expressions of maternal love, disassociation, fear or disgust were not uniform. They were historically and locally specific despite containing similar language or descriptions of gesture, and must be subject to careful contextualisation. Irrespective of the laws under which they were prosecuted, such a concerted historiographical focus on mothers who killed children leaves little room for consideration of murderous ‘friends’, fathers, carers, or even adult children.<sup>84</sup> These actors, as well as victims and incidental witnesses, have much more to offer than the extent to which their roles differed from a ‘typical’ killer-victim dynamic. The failure to consider a

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17; Laura Gowing, ‘Secret Births and Infanticide in Seventeenth-Century England’, *Past & Present* 156 (1997), 87-115.

<sup>82</sup> This is a problem identified and explored by Garthine Walker. See for example, ‘Just Stories: Telling Tales of Infant Death in Early Modern England’ in Margaret Mikesell and Adele Seeff, *Culture and Change: Attending to Early Modern Women* (Newark and London, 2003), 98-115; more recently, ‘Child-killing and emotion in early modern England and Wales’, in Katie Barclay, Ciara Rawnsley and Kimberley Reynolds (eds.), *Death, Emotion and Childhood in Premodern Europe* (Basingstoke, 2016), 151-171.

<sup>83</sup> 21 Jac I c 27. ‘An Act to Prevent the Destroying and Murthering of Bastard Children’. This law shall be considered in chapter three, as it concerns the act of concealment rather as opposed to homicide, *per se*.

<sup>84</sup> Note the title of Hoffer and Hull, *Murdering Mothers*, which describes itself as a study of ‘infanticide’. Anne-Marie Kilday in her monograph, *A History of Infanticide in Britain, c.1600 to the Present* (Basingstoke, 2013) dedicates three pages to a discussion of murderous fathers, 69-72. This is a problem currently being addressed in a forthcoming AHRC-funded doctoral thesis by Abby Johns, ‘Children, Accidents and Death in Early Modern England and Wales’, PhD, University of Exeter.

broad range of historical actors means that crimes such as parricide or male-male homicide are often relegated to a brief comment or statistical note in studies of homicide, which in turn justifies placing these themes, crimes, and historical actors at the centre of analysis in the chapters that follow.<sup>85</sup>

Emotions naturally figure in key moments of early modern historiography. For example, emotions associated with family and parenthood – such as love – affected the ways that actors over time adapted to and modified social systems such as patriarchy, as I aim to demonstrate in chapter one. Embodied ‘performances’ of emotion shaped individual personal relationships or friendships, but as chapter two argues, specific expressions of emotion in legal settings conformed to recognised discourses of gender, violence, and culpability. Language was especially important in shaping cultures of inclusion and exclusion for certain emotional communities, as I show in chapter three when I consider the crime of concealment.<sup>86</sup> Chapter four argues that the flexibility of patriarchal systems, individual emotional performances of culpability, and language as a tool of inclusion or exclusion merged in the testimonies of coiners whose personal relationships were betrayed by accusations of treason. My focus on the practice of intimacy unifies these three methodological concepts and links them with broader legal discourses and issues of historical change.

Furthermore, historians of modern and premodern emotions have debated extensively the limits of specific types of text for supplying evidence of proscribed or experienced emotional states.<sup>87</sup> It is the aim of this thesis to identify and contextualise emotional language in terms of space, gender, family, friendship, and community relations in a holistic manner, which accounts more thoroughly for the close link between embodied, textual, and mental experiences of emotion.<sup>88</sup> The innovation of the present study lies in the wealth and qualitative difference of

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<sup>85</sup> A notable exception is Garthine Walker, ‘Imagining the Unimaginable: Parricide in Early Modern England and Wales, c.1600-c.1760’, *Journal of Family History*, 41:3 (2016), 271-293.

<sup>86</sup> Katie Barclay, ‘Introduction: emotions and change’, 4-5.

<sup>87</sup> Nicole Eustace, Eugenia Lean, Julie Livingston, Jan Plamper, William Reddy, and Barbara Rosenwein, ‘AHR conversation: the historical study of emotions’, *American Historical Review*, 117:5 (2012), 1487-1531; Rosenwein, ‘Worrying about emotions in History’; ‘Problems and methods in the history of emotions’, *passim*.

<sup>88</sup> In a way similar to Susan Broomhall, see *Emotions in the Household, 1200-1900* (Basingstoke, 2008); *Authority, Gender and Emotions in Late Medieval and Early Modern England* (Basingstoke, 2015); with Sarah Finn (eds.), *Violence and Emotions in Early Modern Europe* (London, 2015).

early modern source material in comparison to medieval counterparts.<sup>89</sup> However, with such richness comes great responsibility on the part of the scholar to recognise the uses and limits of such material.

## Legal documents

After the Acts of Union, the Welsh legal system adopted English administrative procedures and language.<sup>90</sup> Wales was split into thirteen counties, and four assize circuits. Monmouthshire seceded into the Oxford circuit, which left twelve counties under the jurisdiction of the Welsh Great Sessions. The North Wales circuit comprised of the counties of Merionethshire, Caernarfonshire, and Angelsey. Court records from these three counties are relatively sparse in comparison with other circuits, yet pre-trial depositions and examinations for criminal cases do survive in small numbers.<sup>91</sup> In contrast, records for the Chester circuit – Flintshire, Denbighshire, and Montgomeryshire – are the best preserved and most numerous. As such, they have formed most of the quantitative and qualitative data in the aforementioned studies of crime in early modern Wales.<sup>92</sup> Records of indictments, recognizances, warrants, and calendars of prisoners from Brecon, Glamorgan and Radnorshire (the Brecon circuit) have good survival rates before the eighteenth century, but it is relatively rare to find consistent depositions records before the 1720s.<sup>93</sup> A similar story of relative paucity for depositions and examinations is the case for the Carmarthen circuit (Carmarthenshire, Cardiganshire and Pembrokeshire).

When a suspect was arrested for a crime, they faced questioning by a local Justice of the Peace. Indictments were the court documents which listed the crime for which the accused was prosecuted. Cases were brought to a grand jury by the victim, who either judged it as *ignoramus*, or reached a verdict of *billa vera*.

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<sup>89</sup> In comparison to the medieval source base used by Barbara Rosenwein in *Emotional Communities in the Early Middle Ages* (Ithaca, 2006).

<sup>90</sup> See Thomas Glyn Watkin, *The Legal History of Wales* (Cardiff, 2007); Glyn Parry, *A Guide to the Great Sessions in Wales* (Aberystwyth, 1995); Howard, *Law and Disorder*, 60.

<sup>91</sup> Parry, 'Gaol Files', *A Guide to the Great Sessions*, lxi-lxxviii.

<sup>92</sup> See Howard, *Law and Disorder*, 13-26.

<sup>93</sup> Parry, *A Guide*, lxv.

*Ignoramus* cases were removed from the business of the court and any written evidence destroyed (though this did not always happen in practice). *Billa vera* ('true bill') indictments proceeded to trial.<sup>94</sup> Depositions and examinations were written documents for the magistrate who was in charge of pre-trial hearings, and concerned the questioning of the accused and witnesses.<sup>95</sup> They were not formal pieces of evidence, but instead used as a guide for court judges, and in fact were usually destroyed after a trial had been conducted – hence their lack of survival for most English assize circuits.<sup>96</sup> The lists of questions used by magistrates (interrogatories) rarely survive. 'Deposition' was the word for the voluntary questioning of witnesses, whereas 'examinations' concerned suspects or those implicated in the alleged crime, however, these terms were regularly used interchangeably by clerks and indiscriminately in the Welsh courts.<sup>97</sup> An 'information' was given by someone who was not necessarily the victim of a crime, but who believed a crime had occurred and reported it of their own volition – hence why 'informations' figure heavily in the prosecution of coinage offences and occasionally in cases of concealment. For the records of coining, I have supplemented the Welsh evidence with a book of informations and depositions kept by Sir Isaac Newton while he was warden and master of the London Mint in the late seventeenth and early eighteenth centuries. The book contains around 420 individual numbered entries, which vary in length and detail, and cover the discovery of prolific networks as well as the more 'ordinary' criminals.<sup>98</sup> For my consideration of Welsh crime, I shall be analysing the textual content of pre-trial depositions and examinations from the court of the Great Sessions Gaol files, occasionally using corresponding indictments, coroner's inquests, and recognizances for contextual information.

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<sup>94</sup> Cynthia Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge, 1987), 93; 198.

<sup>95</sup> Beattie, *Crime and the Courts*, 21-22.

<sup>96</sup> Herrup, *The Common Peace*, 67; Sharpe, *Crime in Seventeenth-Century England*, 12;

<sup>97</sup> Malcolm Gaskill, 'Reporting Murder: Fiction in the Archives in Early Modern England', *Social History* 23:1 (1998), 3.

<sup>98</sup> The National Archives, Royal Mint records of prosecutions for coining offences. Depositions against, or by, counterfeiters sworn before Sir Isaac Newton, while Warden of the Mint, 1698 to 1706 (TNA MINT 15/17). The items are numbered from 1-520, however they have been misnumbered and skip from 399-520. I have kept the original numbering when I refer to specific items.



I have consulted in total 453 Great Sessions Gaol Files covering all twelve historic counties, using online databases and finding aids where appropriate to gather depositional evidence for crimes of homicide, concealment, and coining.<sup>99</sup> For the dates and regions that the finding aids do not cover – such as the North Wales circuit before 1730 – I have independently indexed and consulted all available files. The physical condition of the Great Sessions Gaol files differ substantially from those held at The National Archives, where depositions and examinations are kept separately from indictment or recognizance information. The Welsh records are categorised by each session of the court, and all documents for a particular session are bound together with string. As such, many papers are ripped or impossible to separate without causing further damage to the records. While records such as indictments, recognizances and writs survive for all counties, the fact that witness examinations and depositions were only used for reference by a trial judge mean that many were discarded. Therefore, it is unlikely that any meaningful quantification of examinations or depositions can be produced, aside from that which considers the evolution of clerical practice across Wales.

Where Welsh examinations and depositions do survive, they offer a qualitative richness superior to records from the Northern Circuit Assizes. In fact, the legal and textual conventions of Welsh criminal records complicate scholarly critiques of the authenticity and/or methodological limits of pre-trial documentation.<sup>100</sup> The formulaic style that dictated English assize depositions was altogether less rigid and more unstable in surviving documents from the Welsh Great Sessions. While depositions and examinations were generally produced in

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<sup>99</sup> The most comprehensive guide covers the period after 1730 and is the National Library of Wales, Crime and Punishment database at: [https://www.llgc.org.uk/sesiwn\\_fawr/index\\_s.htm](https://www.llgc.org.uk/sesiwn_fawr/index_s.htm). The database gives details of indictments that have corresponding depositions, examinations, informations, or confessions. I tabulated them by searching for particular offences and consulting the relevant files at the National Library of Wales, Aberystwyth [accessed between October 2014 and January 2018]. For pre-1730 gaol files, I have used the digital image repository FamilySearch, Wales Court and Miscellaneous Records, 1542-191, Court Records – Gaol Files, at: <https://www.familysearch.org/ark:/61903/3:1:3QSQ-G94C-XQZM?owc=9SBR-BZ9%3A383499601%3Fcc%3D2040546&wc=9SBT-KX3%3A383499601%2C383674201&ccc=2040546> [accessed between January 2015 and January 2018]. For the North Wales circuit over the entire study period, I indexed the files independently. Survival for the Northern circuit is limited, but the files still contain valuable depositional evidence.

<sup>100</sup> See Frances Dolan, *True Relations: Reading, Literature, and Evidence in Seventeenth-Century England* (Philadelphia, 2013), 113-116.

accordance with English legal practice (which means that sadly the original Welsh of oral testimonies is lost), linguistic and clerical slippages provide evidence of some fascinating idiosyncrasies in local clerical convention.<sup>101</sup> For example, clerks in Wales regularly shortened deposition preamble, which left off information on status, or whether the document was produced for a Justice of the Peace or a Coroner (which cannot always be gleaned from the signature at the end of the document). Clerks included crossed-out omissions of material in their final copy; they also inserted occasional Welsh words that were then translated into English. Moreover, in some parts of the Chester circuit (Denbighshire and Flintshire), clerks even wrote the ages of all witnesses when a child had to be examined, which implies unique and long-term local clerical tradition and are novel insights into the potential cultural discourses around issues of age and culpability.<sup>102</sup>

That such practice can be identified proves the innovative nature of this research for its combined geographical and qualitative ambition. The linguistic flexibility of the official Welsh record in turn problematizes the accusation levelled at historians of early modern legal records that they have romanticised or overstated the ability of the courtroom ‘narrative’ story to gain access to the experiences of historical actors beyond the officials who recorded them.<sup>103</sup> For the Welsh record at least, reconstructing or identifying the multiple and competing ‘voices’ of the official and informal record is a valuable way of marshalling textual evidence.<sup>104</sup> Through idiosyncratic omissions and insertions in Welsh depositions, the incidental details that scholars of the English legal system have argued as essential for locating the incidental detail of everyday life and ‘ordinary’ people becomes just as pronounced – perhaps even more so.<sup>105</sup>

The flexibility of language and clerical convention is a logical result of how far removed Welsh market towns were from English administrative centres.

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<sup>101</sup> Dolan, *True Relations*, 115, Gowing, *Domestic Dangers*, 44-47, Shepard, *Meanings of Manhood*, 12.

<sup>102</sup> There is nothing in Glyn Parry’s *Guide* to suggest that this practice has been noted before.

<sup>103</sup> Dolan, *True Relations*, 113-116.

<sup>104</sup> I am using the word ‘voice’ in a way that recognises the multiplicity of legal and cultural discourses within the pre-trial record. See Garthine Walker, ‘Just Stories: Telling Tales of Infant Death in Early Modern England’ in Margaret Mikesell and Adele Seeff, *Culture and Change: Attending to Early Modern Women* (Newark and London, 2003), 99-100; *Crime, Gender and Social Order*, 7; Gowing, *Common Bodies*, 14; Howard, *Law and Disorder*, 60.

<sup>105</sup> Gowing, *Common Bodies*, 12-13; Gaskill, ‘Reporting Murder’, 5.

Geography influenced the production of the official written record between England and Wales on both a local and a national level. Although it is problematic to assert that Wales became a ‘colony’ of England after the Acts of Union, from the perspective of studies into official record-keeping, one can ask valuable questions about how external territories were kept under control by Westminster, and the ways in which distance changed bureaucratic power structures to accommodate for the individual personalities of record-keepers.<sup>106</sup> For the most remote parts of Wales, to distinguish between an ‘official’ Justice of the Peace and those who gave evidence can be rather anachronistic. Many local justices were drawn from the pool of second sons denied inheritance after the abolition of primogeniture, whose interests and qualifications while far from amateur, were not strictly regulated.<sup>107</sup> Despite the sparse population, men, women, and even children travelled great distances from tiny parishes to the Great Sessions. Taking into account the mountainous terrain in parts of Wales where records still survive, it reveals a tenacity on the part of Welsh litigants to travel and give evidence. This engagement suggests that Welsh people were as determined as the English to use the court system as litigants.

This is not a quantitative study, but rather uses the textual record to locate embedded emotional language and cultural discourse in what are already subjective texts. Issues of legal and moral culpability can be contextualised in terms of conviction rates for homicide calculated over the last forty years by scholars of England and Wales. As mentioned previously, many indictments did not have corresponding depositions attached so those that survive are not representative of actual levels of crime. However, when taken alongside such clerical idiosyncrasies, it does raise some significant questions: first over the individual retention of specific records by officials, and secondly the extent to which practices of record keeping or bureaucracy reveal the hidden personalities of those who helped to produce them. I suggest that what emerges from the Welsh records in particular proves that analysing depositional evidence is as legitimate a method as any in ‘making contact’ with historical actors, experiences, and

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<sup>106</sup> See Jenny Wormald, ‘The creation of Britain: multiple kingdoms or core and colonies?’, *Transactions of the Royal Historical Society*, 6:2 (1992), 175-194.

<sup>107</sup> Thomas Glyn Watkin, *The Legal History of Wales*, 146-148.

voices.<sup>108</sup> The Great Sessions offer only echoes and imprints of lost verbatim language and personalities that melded together in the record to produce what survives today. This necessitates a narrowing of the interpretive gap between those who recorded official evidence and those who gave it.

### Printed crime literature and digital sources

In order to contextualise adequately the key themes of the thesis, printed material from the *Old Bailey Sessions Papers* forms a significant part of the primary source base of the thesis. This is especially important for consideration of coinage offences where there were few extant Welsh records. The *Old Bailey Sessions Papers* are printed sets of trial summaries, authored by shorthand writers who reported details from inside the courtroom for felony trials held at the Middlesex assizes. The summaries were published eight times per year from 1674 until the twentieth century.<sup>109</sup> The *Sessions Papers* were quasi-official, requiring approval from the Mayor of London before they were published and distributed to a large, literate, middle-class audience. While literary critics have described the trial summaries as 'objective' or 'dispassionate', they in fact contained moralistic censure and embellished testimony.<sup>110</sup> The reports were also highly selective. They regularly omitted defence testimonies or positive character references yet provided detailed cases for the prosecution. Reports of acquittals were shorter still.<sup>111</sup> Trial summaries themselves expanded from a few pages in the 1680s to up to 24 pages in the early eighteenth century, when shorthand writers began to include more verbatim testimony and provided subtler linguistic techniques of according culpability to prisoners.<sup>112</sup> Occasionally, the *Sessions Papers* even allocated culpability where juries did not. Suspects acquitted of rape, for example, were regularly presented as guilty of the deed but had escaped conviction as a result of

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<sup>108</sup> Cf. Dolan, *True Relations*, 116-117.

<sup>109</sup> Robert Shoemaker, 'The *Old Bailey Proceedings* and the Representation of Crime and Criminal Justice in Eighteenth-Century London', *Journal of British Studies* 47:3 (2008), 559-80.

<sup>110</sup> Margaret Doody, 'Voices of record: women as witnesses and defendants in the *Old Bailey Sessions Papers*' in Susan Sage Heinzelman, and Zipporah Batshaw Wiseman (eds.), *Representing Women: Law, Literature and Feminism* (Durham, North Carolina, 1994), 289; Francus, 'Monstrous mothers', 133. See also Joy Wiltenburg, 'True crime: the origins of modern sensationalism', *American Historical Review*, 109:5 (2004), 1377-1404.

<sup>111</sup> Shoemaker, 'The *Old Bailey Proceedings*', 567.

<sup>112</sup> John Langbein, 'The criminal trial before the lawyers', *The University of Chicago Law Review* 45:2 (1978), 268-9; Shoemaker, 'The *Old Bailey Proceedings*', 563.

the strict legal criteria.<sup>113</sup> In total, I have consulted 1158 of these summaries, which concern trials for concealment under the 1624 Act (161); murders with a manslaughter verdict (340); coinage offences (632); and a further 25 murder trials where the mental state of the accused is called into question.

A vast range of other printed literature reported on crime in early modern England, too. From the late sixteenth-century onwards, the literate read chapbooks and pamphlets, while the illiterate listened to ballads of infamous cases of robbery, murder, and treason.<sup>114</sup> News writing existed at the cusp of oral and print culture and as such was accessible across England, though its prevalence in Wales is harder to measure. There is convincing evidence to suggest that bilingual traders, minstrels, and even the clergy conveyed news and political commentary orally as well as translated ballads they heard from English into Welsh.<sup>115</sup> Yet most printed crime literature was produced and consumed in London, for audiences who had a small amount of disposable income to purchase the texts. Pamphlets that reported serious crime were characteristically brief in length and fairly cheap to purchase.<sup>116</sup> They focused primarily on murders committed in the household (especially by women) to capitalise on the ways in which such crimes overturned natural hierarchies and the gendered order.<sup>117</sup> However, I shall demonstrate that printed pamphlets and ballads did report the crimes of non-conjugal family members. The literature adopted familiar motifs of care for relatives which emphasised the subversive nature of intimacy outside of the patriarchal unit.

It was rare for ‘news’ pamphlets and ballads to report on male-male homicide – their relatively common occurrence (in comparison to women’s)

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<sup>113</sup> Garthine Walker, ‘Rape, Acquittal and Culpability in Popular Crime Reports in England, c.1670-c.1750’, *Past & Present* 220 (2013), 115-142.

<sup>114</sup> Gowing, *Common Bodies*, 10. Clark, *Women and Crime*, 1; Frances Dolan, *Dangerous Familiars*, 7-8. For wider context, see also Adam Fox, *Oral and Literate Culture in England, 1500–1700* (Oxford, 2000); David Cressy, *Literacy and the Social Order: Reading and Writing in Tudor and Stuart England* (Cambridge, 1980).

<sup>115</sup> See Richard Sugget, ‘Vagabonds and minstrels in early modern Wales’, in Adam Fox and Daniel Woolf (eds.), *The Spoken Word: Oral Culture in Britain, 1500-1800* (Manchester, 2002), 138-172; Lloyd Bowen, ‘Information, language and political culture in early modern Wales’, *Past & Present*, 228 (2015), 127-128; ‘News networks in early modern Wales’, *History*, 102:349 (2017), 24-44.

<sup>116</sup> Dolan, *Dangerous Familiars*, 7.

<sup>117</sup> Clark, *Women and Crime*, 2. See also Dolan, ‘Tracking the petty traitor across genres’; Stuart A. Kane, ‘Wives with knives: early modern murder ballads and the transgressive commodity’, *Criticism, a Quarterly for Literature and the Arts*, 38:2 (1996), 219-37.

coupled with expected norms of male violence did not lend such crimes to sensational treatment by print authors. Occasionally, ballads were produced about duels, but by the late seventeenth century men rarely entered into formal duels and its presence waned as a cultural context of male violence.<sup>118</sup> Few broadsides existed describing men's criminal violent exploits against each other – most depictions of male-male violence concerned incidents on the battlefield or against foreign adversaries. Some genres contained positive discourses of feminine violence but these had their own specific literary contexts and did not translate to accounts of women's crimes.<sup>119</sup> Ballads that discussed coinage offences presented the treasonous act as a form of insidious makeshift economy that harmed the economic wellbeing of the immediate local community, another subversion of intimacy which in this case did not depend on either violence or the patriarchal household.

Although crime pamphlets and broadside ballads were far from accurate representations of true events, they were informed by real experience and *vice versa*. Even when material was completely fabricated it remains relevant for analysis of stereotypes about gender, family, credit, sex, and violence. Contemporaries engaged with printed crime literature in varied and contradictory ways depending on their own subjective identities. In fact, readers and listeners actively sought out conflicting accounts of the same crime in an attempt to judge the culpability of criminals for themselves.<sup>120</sup> As such, ballad and pamphlet accounts of homicides and treason were regularly published alongside summaries from actual trials held at the Old Bailey courthouse.<sup>121</sup>

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<sup>118</sup> See Donna T. Andrew, 'The code of honour and its critics: the opposition to duelling in England, 1700-1850', *Social History*, 5:3 (1980), 409-434; Robert Shoemaker, 'Reforming male manners: public insult and the decline of violence in London, 1660-1740' in Hitchcock, Tim and Cohèn, Michelle (eds.), *English Masculinities, 1600-1800* (Harlow, 1999), 133-150; 'Male honour and the decline of public violence in eighteenth-century London', *Social History*, 26:2 (2001), 190-208; Alexandra Shepard, 'Violence and civility in early modern Europe', *The Historical Journal*, 49:2 (2006), 593-603.

<sup>119</sup> Diane Dugaw, *Warrior Women and Popular Balladry 1650-1850* (Chicago and London, 1989).

<sup>120</sup> Martin, *Women, Murder, and Equity*, 11.

<sup>121</sup> For example, see Lincoln Faller, *Turned to Account: The Forms and Functions of Criminal Biography in Late Seventeenth- and Early Eighteenth-century England* (Cambridge, 1987); J. A. Sharpe, '“Last dying speeches”: religion, ideology and public execution in seventeenth-century England', *Past & Present* 107 (1985), 144-167.

While limitations in the content of printed sources should be of primary concern, present researchers must recognise the limitations of *how* such literature is accessed. Many students and researchers now gather contemporary printed literature through online databases such as the *English Broadside Ballad Archive* (EBBA), *Early English Books Online* (EBBO), and *The Old Bailey Proceedings Online* (OBP).<sup>122</sup> The primary way that scholars use these resources is through keyword searching, which itself is dictated by the specific words or categories selected by an individual scholar with their own preferences, much in the same way as one approaches a secondary literature review. Searching for early modern language where spelling and names were often non-standardised means items can be missed or categorised incorrectly. After the categories for analysis have been chosen, as Patricia Fumerton has pointed out, the ‘searches are only as good as the underlying coding’ of the databases themselves, though digital systems are subject to constant maintenance and improvement.<sup>123</sup> For example, at the time of writing the *Old Bailey Proceedings* website operates on version 7.2 (March 2015), yet the statistics function over the last two years has added search criteria such as the gender and ages of participants.<sup>124</sup> For EBBA, the resource provides categories of ballad such as ‘crime’, ‘gender’, or ‘violence’ – yet in reality, there would be many possible entries where the categories overlap. The site usefully includes Pepys’ own categories for the digitised collection, which maintains a sense of its contemporary curation. However, it is impossible to know how commonly circulated Pepys’ ballads were – in reality they reflect one man’s collection habits, but not the level of engagement from contemporary audiences.<sup>125</sup>

When ballads, pamphlets, and printed trial summaries are curated into online repositories (much in the same way as surviving physical copies are), their level of contemporary circulation or interaction can be obscured or overstated. However, sites like EBBA and the *OBP* website do have their own user guides which help contextualise the provenance of the resources as online repositories.

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<sup>122</sup> For *English Broadside Ballad Archive*, see: <http://ebba.english.ucsb.edu/> ; *Early English Books Online*, at: <http://eebo.chadwyck.com/search> ; and for the *Old Bailey Proceedings Online*, see: <https://www.oldbaileyonline.org/> .

<sup>123</sup> Patricia Fumerton, ‘Reviews: Bodleian Library Broadside Ballads and English Broadside Ballad Archive’, *Journal of the American Musicological Society*, 67:3 (2014), 849.

<sup>124</sup> See *OBP* online statistics function: <https://www.oldbaileyonline.org/forms/formStats.jsp>

<sup>125</sup> Fumerton, ‘Reviews’, 854-868.

What is unfortunate however, is the relative absence of printed crime literature, digital or otherwise, which concerns Wales on a level comparable with England. Yet what Wales lacks in printed resources, it makes up for in qualitative richness of surviving court records. The records of the Court of the Great Sessions offer a wealth of textual evidence of intimacy in all of its guises – spatial, emotional, and physical – and demonstrate the significance of including Welsh records in studies of early modern and eighteenth-century crime.

## Conclusion

Back in Caernarfonshire in 1750, Lydia Cadwallader visited her brother Evan Thomas in prison at Michaelmas. There, she found him ‘weeping bitterly’, acting ‘sorrowfull’ and ‘penitent’ because he had not yet eaten on the holy day. She took the opportunity to ask him outright if Catherine Jones knew of his plan to murder Rebecca. His answer was cryptic: ‘an artisan after he has leaven his work must have a great many fools to finish it’.<sup>126</sup> Perhaps Evan was better at manipulating intimacy to suit his purposes than he ever admitted. Over five fairly short statements, it seemed that he utilised a variety of subject-positions – brother, husband, male friend, and lover – in his attempts to deny the crime or minimise his culpability. While justice was served in a legal sense, the ‘truth’ of Evan’s, and to some degree Catherine’s, motivations remained out of reach for the community of Llanrug.

So what is the significance of analysing cases such as Evan Thomas’s in the light of these theoretical and methodological issues? The main aim of the thesis is to develop an analytical framework for identifying the intimate worlds of early modern people using the criminal record. Four main argumentative themes run throughout the thesis in order to demonstrate the utility of such a framework. The first concerns the ways in which intimacy informed individual experience of social systems in my discussions of patriarchy. Second and third concern the merging of the practical and emotional demands of intimacy through the bond of friendship and the restoration of agency to incidental historical actors as a result of proximal or local intimacy. The final theme considers the symbiotic relationship between

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<sup>126</sup> NLW GS 4/272/3, no. 28, information of Lydia Cadwallader.



economic identity and the management of intimate relationships. In the following chapters, my approach to both original and familiar source material reimagines the boundaries of family, friendship, and community in the light of their flexibility as contemporary categories, from metropolitan London to rural Merionethshire. I shall prove that intimacy – emotional, physical, and local – was an essential part of social interaction between contemporaries who desired to seek the truth, gain closure, or even distance themselves from the shocking and tragic events that often accompanied serious criminal offences.

## Chapter One

### 'Intimate Murder': A Reconsideration of 'Domestic' Relations in Cases of Homicide

#### Introduction

On Epiphany 1731 in Llanasa, Flintshire, Thomas Brown emerged for breakfast at sunrise freshly washed and 'spar'd' with his hunting gun at his side. He was ready to 'finish his Christmas' by going to shoot fowl with two other men: his cousin Peter Brown, and his close friend and neighbour Thomas Jones. Thomas Brown's sister, Mary, offered to make her brother a 'quick' meal of bread soaked in 'drinke' as he seemed 'in a hurry' to leave.<sup>1</sup> Yet before he even set foot outside, Thomas was vomiting profusely; he had an unquenchable thirst, and complained of pain 'at his hart'.<sup>2</sup> After five days of enduring this mysterious illness – which also took the life of his beloved dog, Wasp – Thomas was dead. The three surgeons who examined the corpse agreed that Brown had died as a result of a massive internal haemorrhage. In his stomach, they found several 'particalls' of an unidentifiable 'mineral'. To test its toxicity, the surgeons fed half a grain of the substance to a pigeon, which immediately became ill and vomited.<sup>3</sup> The ruling was that Thomas had suffered a horribly 'violent' death. The subsequent criminal investigation involved 26 witnesses from three parishes, took three months to complete, and ended in the prosecution of Mary Brown for poisoning her own brother.<sup>4</sup>

Thomas Brown's poisoning follows many of the cultural and gendered patterns of a typical 'domestic' homicide identified by scholars of early modern

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<sup>1</sup> National Library of Wales, Great Sessions (NLW GS), 4/1000/8, no. 8, examination of Mary Jones; no. 9 examination of Alice Hughes; no. 16, examination of Elizabeth Hughes (Flint, 1731).

<sup>2</sup> NLW GS 4/1000/8, no. 8, examination of Jane Hughes and Mary Davies.

<sup>3</sup> According to Randall Martin, poison cases 'reflected new standards of forensic enquiry'. See Randall Martin, *Women, Murder, and Equity in Early Modern England* (London and New York, 2008), 124. He also notes where animals or children could be unintended victims, see pages 129 and 153.

<sup>4</sup> NLW GS 4/1000/8, no. 24, indictment of Mary Brown for poison, found *billa vera* by the grand jury.

crime. The household in this case blatantly ‘function[ed] as a locus of conflict’ – Mary’s violence only served to emphasise that it was the place where ‘the most fundamental ideas about social order, identity, and intimacy were contested’.<sup>5</sup> After all, the two siblings had previously come to violent blows over Thomas’s refusal to let Mary marry a local man named George Norman, which witnesses cited as the only grievance Thomas had in the weeks leading up to his death.<sup>6</sup> With poison as her weapon of choice, Mary subverted her intimate status in a way similar to a petty traitor. She manipulated her gendered role of care and nurture and prepared food unwittingly eaten by the head of household, to whom she was meant to owe ‘love and obedience’ – or at least according to the legal criteria for petty treason (there was no mention of either a father or stepfather in the records).<sup>7</sup> However, the true significance of this case diminishes if it is only considered in terms of such a rigid patriarchal model.<sup>8</sup> It is true in theory that in the absence of a father or stepfather, Thomas Brown was the *de facto* head of household. Yet Mary Brown was not indicted for petty treason, which was rarely invoked as a legal category by the time this homicide occurred.<sup>9</sup> In reality (and in contrast to gendered stereotypes in printed crime literature), poison as a method of homicide was not uniquely *feminine* as it was simply a horrific abuse of intimacy.<sup>10</sup> Instead, pre-trial examinations for the case reveal that strict patriarchal hierarchies were not necessarily a priority for the vast group of witnesses in their attempts to allocate culpability for what happened that January morning.

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<sup>5</sup> Frances Dolan, *Dangerous Familiars: Representations of Domestic Crime in England, 1550-1700* (Ithaca and London, 1994), 1.

<sup>6</sup> NLW GS 4/1000/8, no. 9, examination of Thomas Jones.

<sup>7</sup> Michael Dalton, *The Countrey Justice* (London, 1619), 214; Sir Matthew Hale, *Pleas of the Crown or a Brief, but Full Account of Whatsoever can be Found Relating to that Subject* (London, 1678) 21-23; Sir Edward Coke, *The Third Part of the Institutes of the Laws of England* (London, 1669), 19-36; Randall Martin, *Women, Murder, and Equity*, 128; Matthew Lockwood, ‘From treason to homicide: changing conceptions of the law of petty treason in early modern England’, *The Journal of Legal History*, 34:1 (2013), 33-34.

<sup>8</sup> For definitions of early modern patriarchy and how it helped to legitimise violence in the household, see: Susan Amussen, ‘Gender, family and the social order, 1560-1725’ in in Fletcher, Anthony, and Stevenson, John (eds.), *Order & Disorder in Early Modern England* (Cambridge, 1985), 196-217; Dolan, *Dangerous Familiars*, 12-13; Garthine Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge, 2003), 9; Katie Barclay, *Love, Intimacy and Power: Marriage and Patriarchy in Scotland, 1650-1850* (Manchester, 2011), 6-7.

<sup>9</sup> Lockwood, ‘From treason to homicide’, 48.

<sup>10</sup> Martin, *Women, Murder, and Equity*, 125; Walker, *Crime, Gender and Social Order*, 145.

For example, Elizabeth Hughes, mother to both victim and accused, had a particularly difficult role to play in protecting the memory of her deceased son as well as the reputation of her vilified daughter – notwithstanding coping with the emotional turmoil that events brought. Witnesses reported that when her son's body was taken to be examined, Elizabeth Hughes had regular outbursts of grief where she was 'crying, bawling and wringing her hands', and also expressed outward signs of hatred towards neighbours who allegedly spread the gossip about her daughter being implicated in the death.<sup>11</sup> She pointed at neighbours and said 'I hate this man [...] and I hate his wife worse than he', later going 'down upon her knees' to 'curse' them.<sup>12</sup> Other relations close to the siblings were examined at length: an aunt, a cousin, the alleged fiancé, even an 'intimate acquaintance' (whom Elizabeth called upon to mediate the siblings' heated dispute).<sup>13</sup> Cases like the Browns' prove that incidental detail is essential for locating *both* conjugal and extended familial or neighbourly relationships in cases of 'domestic' homicide; furthermore, such cases highlight an oversight on the part of scholars who have favoured obvious patriarchal themes in their analyses of 'intimate' homicides.<sup>14</sup> In fact, the entire concept of what counts as domestic relations must be reconsidered in order to appropriately contextualise intimate homicide.

Early modern people committed crimes against all sorts of kin. So too did they subvert intimate roles as uncles, grandparents, lovers, or even children. In the first part of the chapter, I explore homicides committed by extended family members (by way of definition those *not* in the conjugal unit) to show the flexibility and breadth of contemporary intimate experience.<sup>15</sup> Social and

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<sup>11</sup> NLW GS 4/1000/8, no. 12, examination of Ann Hughes.

<sup>12</sup> NLW GS 4/1000/8, no. 13, examination of Thomas Blithyn.

<sup>13</sup> NLW GS 4/1000/8, no. 9, examination of Thomas Jones.

<sup>14</sup> See for example, J.A. Sharpe, 'Domestic homicide in early modern England', *The Historical Journal*, 24:1 (1981), 29-48; Sandra Clark, 'Deeds against nature: women and crime in the street literature of early modern England', *Sederi*, 12 (2002), 9-10; *Women and Crime in the Street Literature of Early Modern England* (Basingstoke and New York, 2003), 33-6; Marilyn Francus, 'Monstrous mothers, monstrous societies: infanticide and the rule of law in Restoration and eighteenth-century England', *Eighteenth-Century Life* 21:2 (1997), 133-56; *Monstrous Motherhood: Eighteenth-Century Culture and the Ideology of Domesticity* (Baltimore, 2012); Krista Kesselring, 'Bodies of evidence: sex and murder (or gender and homicide) in early modern England, c.1500-1680', *Gender & History*, 27:2 (2015), 245-262; Frances Dolan, 'Tracking the petty traitor across genres' in Patricia Fumerton et al., *Ballads and Broadides in Britain, 1500-1800* (Farnham, 2010), 149-172.

<sup>15</sup> Studies which go beyond the immediate conjugal unit are: Patricia Crawford, *Parents of Poor Children in England, 1580-1800* (Oxford, 2010); Joanne Bailey, *Parenting in England, 1760-1830*

emotional obligations – hospitality for example – within extended family networks left members vulnerable to greedy and selfish relatives. I move on to consider in the second part of the chapter homicides which shared similarities with Thomas Brown's. Here, while the notion of patriarchy may well have informed the circumstances of intimate homicide, historical actors by no means adopted its strictures in conventional ways. As I shall show, cultural discourses of gender and violence interacted with actors' individual mental states to produce varied and unpredictable scenarios. The final part of the chapter departs somewhat from archival evidence to consider a more literary phenomenon. While statistically, men had always harmed women in greater numbers than *vice versa*, it was not until after 1660 that popular crime literature began to represent male-perpetrated homicide against women they knew on a proportional scale.<sup>16</sup> Printed depictions of homicides committed against sexual intimates or romantic partners, then, reveal the porous boundaries between courtship, sex, and patriarchal marriage for young adults living in early modern and eighteenth century England and Wales.

### Ungrateful nephews, barbarous uncles, unnatural grandmothers

Homicides involving extended relatives show the breadth of contemporary understandings of familial intimacy. Familial intimacy involved not only members of patriarchal households, but also care for economic or emotional dependants, young and old. The idea of care naturally invoked prescriptive expectations of parenthood and parenting, as well as the more practical emotional and physical labour of looking after those who did not yet have, or no longer had, the physical and mental capabilities of a healthy adult. In some instances, care required economic assistance or sociability that extended beyond the household and into wider community obligations under the umbrella of hospitality, for example.<sup>17</sup> Homicides committed by and against extended family members therefore were examples of how non-conjugal kin relationships could be violated. They served as a reminder of the broader responsibilities expected of extended

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(Oxford, 2012); Helen Berry and Elizabeth Foyster (eds.), *The Family in Early Modern England* (Cambridge, 2007).

<sup>16</sup> Dolan, *Dangerous Familiars*, 17; Lockwood, 'From treason to homicide', 47.

<sup>17</sup> See for example Felicity Heal, 'The idea of hospitality in early modern England', *Past & Present*, 102 (1984), 66-93; *Hospitality in Early Modern England* (Oxford, 1990).

family members in unexpected circumstances: from something as inconsequential as a surprise visit (which required hospitality) to something as transformative as raising prematurely orphaned children (which required a lifetime of duty and care).

Certain kindred could be treated as friends or guests to be cared for with polite hospitality, rather than family, *per se*. The tradition of hospitality persisted throughout the seventeenth and into the eighteenth century, when the phenomenon expanded to both urban and rural social circles outside of the upper classes, and started to interact with notions of sociability and politeness.<sup>18</sup> The interactions that accompanied hospitality had both emotional and social standards, which were built on notions of reciprocity, humility, and thankfulness. Good hospitality involved the exchange of food, drink, and shelter – the most universal of traditions that transcended social class and space.<sup>19</sup> As part of its Christian charitable tradition, hospitality was expected to extend to strangers, ‘aliens’, or the deserving poor. Indeed, the relative seclusion and local traditions of many Welsh households lent themselves to a more ‘open’ attitude of hospitality towards strangers and travellers than their English counterparts.<sup>20</sup> Yet the concept of openness that pervaded Protestant conduct literature on hospitality sat uneasily with a wider cultural suspicion about the threat outsiders posed to the patriarchal unit.<sup>21</sup>

Printed crime literature was the perfect breeding ground for sensational tales of dangerous strangers. Writers described scenarios where well-mannered dissembling visitors were admitted into the household, only to destroy it (both symbolically and physically) with acts of robbery, arson, or even murder. The 1661 pamphlet *Bloudy Newes from St. Albans* took relish in recounting how the ‘lustie hostis’ and wealthy widow Mrs. Bass was ‘most cruelly torn, mangled and

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<sup>18</sup> Naomi Tadmor, ‘The concept of the household-family in eighteenth-century England’, *Past & Present*, 151 (1996), 122; Karl Westhauser, ‘Friendship and family in early modern England: the sociability of Adam Eyre and Samuel Pepys’, *Journal of Social History*, 27:3 (1994), 517-536; Lawrence Stone, *The Family, Sex, and Marriage in England 1500-1800* (Harmondsworth, 1977), 94-5; Naomi Tadmor, *Family and Friends in Eighteenth-Century England: Household, Kinship and Patronage* (Cambridge, 2001), 172; 218.

<sup>19</sup> Heal, *Hospitality in Early Modern England*, 3; 194.

<sup>20</sup> Heal, ‘The idea of hospitality’, 91.

<sup>21</sup> Heal, ‘The idea of hospitality’, 67.

dismembred, her brains being dasht out against the walls' by unknown assailants. The authors reported that she 'lived gallantly', providing 'entertainment' to a variety of 'company'.<sup>22</sup> Through hospitality, she had unwittingly revealed her wealth to potential criminals and suffered the tragic consequences. Another account spoke of four male criminals who conspired to rob a reputable doctor by lighting a small fire and throwing it through a window. While the house was burning, and 'under the pretence of friendly assistance', the men planned to 'rush in and robb the house'.<sup>23</sup> The plan backfired when the fire burned far more quickly than anticipated and alerted other people to come to the family's aid. The idea that the men believed they would be admitted into a stranger's house if they acted in a 'friendly' manner reveals the dubious side to hospitality that concerned consumers of crime literature. Such descriptions also served as calls to the propertied classes to protect themselves from members of the lower orders out to make a quick fortune – as was the case with James Hall, executed in 1741 for murdering his master and stealing from him a variety of expensive silver and tortoiseshell instruments.<sup>24</sup> The fact that Hall worked within the household also showed that a master's generosity in employing urban strangers was always in danger of exploitation.

Crime literature capitalised on common discourses of fear surrounding the extension of hospitality and kindness to so-called 'strangers'. In reality, however, the lines that separated welcome from suspicion and friend from stranger were not always as clear-cut. The crimes of Edward Morgan, who murdered his elderly great uncle, great aunt, and second cousin in 1757, show how he occupied an ambivalent role as both the 'friend' and the 'stranger'. In a detailed confession retained by the court, Morgan (through a translator and clerk) explained how he abused his uncle's generosity in a most extreme fashion, which 'reverse[d] the power relationship that was implicit in the giving of hospitality'.<sup>25</sup> The story began when Morgan decided to visit Monmouth to visit a *different* uncle to the murder

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<sup>22</sup> *Bloody Newes From St. Albans* (London, 1661), 1; 3.

<sup>23</sup> *An Account of the Apprehending and Taking of John Davis, and Phillip Wake for Setting Dr. Sloan's House on Fire, to Robb the Same with their Committed to Newgate* (London, 1700), 1; See Bernard Capp, 'Arson, threats of arson, and incivility in early modern England', in Peter Burke, Brian Harrison and Paul Slack (eds). *Civil Histories: Essays Presented to Sir Keith Thomas* (Oxford, 2000), 197-213.

<sup>24</sup> *The True Account of the Behaviour, Confession, and Dying Words of James Hall* (London, 1741), 2.

<sup>25</sup> Heal, *Hospitality in Early Modern England*, 199.

victim. Morgan had barely set off on his journey when the ‘wicked thought’ entered his mind to pay a ‘friendly’ visit to his other, wealthier uncle. This uncle was an ‘old man’ with failing sight, easy to overpower, and from whom he could steal a ‘considerable sum’ of money.<sup>26</sup> Morgan arrived at the house to greet his extended family. His great aunt described him to the blind old man, telling her husband that Morgan was indeed ‘your brother William’s grandson’. With that, the family invited Morgan to sit, eat and drink with them, and then to stay that night.<sup>27</sup> Morgan’s great uncle and aunt exchanged hospitality with their great nephew – a supposed ‘friend’ to be entertained and welcomed.

Eventually, the family and their new guest retired to sleep. During the night, Morgan allegedly became tortured with the temptation to kill the family. He rose many times from his bed intent on committing the murders, only to return moments later in a fit of guilt. He eventually overcame his reservations and used an iron poker to bludgeon and stab the entire conjugal family to death. A younger male servant was strong enough to fend off Morgan. He survived the attack and escaped to raise the alarm. Morgan frantically searched the house for items of value yet found nothing but two silk handkerchiefs – the supposed fortune either did not exist, or was not kept in the house. Realising his mistake Morgan rushed to escape, in his haste knocking over several oil lamps that set the thatch on fire.<sup>28</sup> He fled, but was later caught and arrested. Morgan’s case demonstrates some parallels with the types of robberies and arson depicted in printed crime literature, however to claim that there was a direct cultural link between printed literature from London and legal records from Wales is anachronistic given the form, content, and provenance of each genre of text. Yet Morgan’s actions can at least be associated with the discourse of strangers abusing hospitality. His role as both great nephew and opportunistic criminal further complicates the notion that there are clear-cut types of ‘domestic’ killer.

Moreover, Morgan’s kin exposed themselves to the murderous violence of their greedy and selfish relative through specific contexts of generosity and

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<sup>26</sup> NLW GS 4/617/4, no. 1, confession of Edward Morgan. Nos. 22-24, examinations of witnesses (Glamorgan, 1757).

<sup>27</sup> NLW GS 4/617/4 no.1, confession of Edward Morgan.

<sup>28</sup> NLW GS 4/617/4 no. 1, confession of Edward Morgan.



intimacy that came with hospitality exchanged between ‘friends’. As Naomi Tadmor has demonstrated, the middling eighteenth-century man Thomas Turner mentioned in his diary that he received friendly hospitality from extended relatives.<sup>29</sup> Furthermore, the role of the old woman in encouraging her husband to welcome Morgan into their household adheres to some of the social conventions of post-Restoration hospitality, where the entertainment of guests could be a unifying moment for husbands and wives (if done correctly).<sup>30</sup> Thus with all of its embedded intricacies, Morgan’s case demonstrates the need to reconsider the kinds of relation involved in ‘intimate’ homicide where actors negotiated the boundaries between family, friendship, and the unknown.

Murderous extended relatives also violated forms of intimacy that echoed parental care. This was most obvious in homicides where killers had been tasked with the care of young orphaned relatives. In printed accounts, the defining motive was greed because the child usually stood in the way of an inheritance that a relative would gain in their absence. The murderer’s dissemblance was twofold: first they deceived the dead biological parent whom they had promised to serve; secondly they abused the child whose age and innocence meant unquestionable trust of a new parental figure. For example, one man named Mr. Bridges was tried at the Kent assizes in 1680 for the murder of his three-year-old niece by trapping her in sack and suffocating her with fumes from a nearby fire. The printed sessions papers claimed that he ‘was possessed with covetousness, the root of all evil’ after finding out that his lately deceased brother had bequeathed the little girl ‘a considerable competency of monies, if not lands or houses’.<sup>31</sup> So too did printed broadsides refer to murders that came from the temptation to steal a child’s inheritance for oneself. The antagonist in the 1706 ballad *The Barbarous Uncle* attempted to starve his two-year-old niece to death for similar ends. According to the broadside, he abandoned her inside a tree trunk in order to claim for himself the little girl’s three hundred pound yearly income.<sup>32</sup> Both of these ‘barbarous’ uncles were treated as cold-blooded and calculated killers by the respective

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<sup>29</sup> Tadmor, *Family and Friends*, 114-6.

<sup>30</sup> Westhauser, ‘Friendship and family’, 519.

<sup>31</sup> *The Full and True Relation of all the Proceedings at the Assizes Holden at Maidstone, for the Countie of Kent* (London, 1680); *Protestant (Domestick) Intelligence or News Both from City and Country*, Apr 2, 1680, issue 78.

<sup>32</sup> *The Barbarous Uncle* (London, 1706).

authors, yet in legal terms they were not convicted of murder. The newspaper reported that Bridges was found guilty of manslaughter, and the uncle in the ballad did not succeed in his attempt to kill his niece. Her cries alerted passers-by, who rescued and later adopted her.<sup>33</sup>

Furthermore, in both cases, each of the men's actions were not ones of brutal or bloody violence – instead they used concealed methods such as suffocation and neglect. While it was hard to prove in a legal sense, the writers still emphasised both uncles' intent to kill. In the absence of an actual conviction, such emphasis at least allowed for the allocation of culpability in a moral sense.<sup>34</sup> Intentional neglect or starvation was also a common method of killing attributed to female killers of children when ballad-writers or pamphlet authors were only able to speculate on the suspicious deaths of infants.<sup>35</sup> Neglectful methods of killing inverted parental provision of necessities for dependent babies and children, such as love, food, shelter, and clothing. Looking back to the ballad *The Barbarous Uncle*, the antagonist's brother (a man named Esquire Solmes) implored the killer 'for my sake' to 'be kind and mild' and 'faithfully defend' his niece. The dying man also asked his brother to 'bring her up in fashion' and 'use her with compassion'.<sup>36</sup> These requests reflected the ballad writer's interpretation of brotherly obligation between the two men, but also touched upon aspects of good fatherhood, where emotional support ('kind and mild'), good discipline ('compassion'), and financial support ('fashion') were paramount to the little girl's wellbeing. Here, both the practical and emotional components of fatherhood were expected to be performed by a non-biological 'parent'.

The two barbarous uncles demonstrated a wider societal trend in that it was fairly common for men and women to take on young relatives such as nieces

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<sup>33</sup> According to the printed proceedings of the trial, the crime had been concealed for eighteen years. Due to the time elapsed and testimony from only one witness, the report lamented that 'the least the jury could make of this barbarous act was manslaughter'.

<sup>34</sup> Scholars have identified how cultural and moral ideas of culpability often contrasted with legal outcomes. See for example, Sandra Clark, *Women and Crime*, 104; Martin, *Women, Murder, and Equity*, 5; Garthine Walker, 'Rape, acquittal and culpability in popular crime reports in England, c1670-c.1750', *Past & Present*, 220 (2013), 115-142.

<sup>35</sup> Martin, *Women, Murder and Equity*, 199-201; Anne-Marie Kilday, *A History of Infanticide in Britain, c. 1600 to the Present* (Basingstoke, 2013), 65, 93-5.

<sup>36</sup> *The Barbarous Uncle* (1706), s.2 ll. 3-4; 6;8.

and nephews in the event of a biological parent's premature death.<sup>37</sup> It was also not unheard of for men and women to support their own adult children and young grandchildren, or for the fathers of bastards to contribute towards their maintenance and general upbringing.<sup>38</sup> Although wealth or inheritance chiefly motivated the 'barbarous' uncles above, everyday economic concerns underpinned their crimes, too. For other killer relatives, mundane aspects of economic hardship were more obvious. Contemporary authors projected from the killer's perspective the idea that dependants could be a drain on resources that must be removed.<sup>39</sup> In 1659, for example, Elizabeth Hazard murdered one of her grandchildren by drowning it in a tub of water. A pamphlet account of her crime, *The Unnatural Grand Mother*, reported that she, her adult daughter, and her two grandchildren lived together in relative poverty. It mentioned that the family unit barely survived on Hazard's single income as a lemon-seller. Hazard killed one of the children, described as a 'poor innocent babe', while her daughter was out of London searching for a cheaper nurse for the youngest child.<sup>40</sup> While the pamphlet did not speculate on Hazard's motives beyond the fact that she was inherently 'unnatural' and 'horrid', the author mentioned how the women (it did not explicitly refer to any male family members) were 'forc't to take paines' for their labour. The fact that the women lived a life of subsistence, and Hazard committed the murder while her daughter sought a cheaper nurse left readers to speculate on the material conditions that precipitated the heinous crime.

By tapping into themes of economic hardship exacerbated by non-patriarchal dependants, Hazard's case demonstrates the dangers faced by early modern people of inadequate preparation for the unexpected demands of care. These concerns were not limited to English sources. At the Great Sessions in 1741,

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<sup>37</sup> Crawford *Blood, Bodies and Families*, 220-3.

<sup>38</sup> Crawford, *Blood, Bodies and Families*, 89; 124-130. Joanne Bailey, *Parenting in England*, esp. ch. 8, 199-221; Laura Gowing, 'Ordering the Body: Illegitimacy and Female Authority in Seventeenth-Century England', in Michael J. Braddick and John Walter (eds.), *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland* (Cambridge, 2001), 43-62; Crawford, *Parents of Poor Children in England, 1580-1800* (Oxford, 2010), esp. ch 2, 74-111, ch.3, 112-149; Angela Muir, 'Illegitimacy in eighteenth-century Wales', *Welsh History Review*, 26 (2013), 351-388.

<sup>39</sup> For a cohesive discussion of non-maternal killers of children, see Kilday, *A History of Infanticide*, 64-72.

<sup>40</sup> *The Unnatural Grandmother, or, a True Relation of a Most Barbarous Murther Committed by Elizabeth Hazard* (London, 1659).

for instance, James John was found guilty of drowning his two-year-old illegitimate daughter Sarah Powell in the river Usk.<sup>41</sup> The day before the murder, it emerged that he had persuaded the child's mother to skip a parish vestry meeting – the very topic of which was John's child maintenance payments. However, members of the labouring poor did not regularly resort to intentional homicide to solve financial difficulties brought on by caring for unexpected dependants.<sup>42</sup> The censure of printed crime literature and James John's guilty verdict reflected the inexcusable nature of killing a dependent child to relieve oneself of financial burden.

What authors *could* do was warn readers about long-term economic carelessness by using homicide as its most extreme consequence. For example, during her adulthood Hazard did not (or most likely could not) prepare for the changes in her economic circumstances that came with needing to support an adult daughter and two bastard grandchildren on her pitiful income. Hazard's circumstances reflected a real trend where family structures of care and economic wellbeing changed during the life-cycle in the face of death, illness, precarious employment, or bastardy.<sup>43</sup> The varied nature of the life-cycle meant that non-conjugal relatives could have central roles in household relations, and as such were likely to be implicated in homicides. Of course, such homicides statistically occurred less frequently than those within the patriarchal unit.<sup>44</sup> Yet the examples of Hazard, the 'barbarous' uncles, and indeed Edward Morgan show that greedy, selfish, and careless relatives on the so-called periphery of the patriarchal household were bound to those at its centre by specific expectations of intimacy. Each killer exploited those expectations – in these cases hospitality or care – in varied ways for their own material gain.

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<sup>41</sup> NLW GS 4/377/2, no. 18, indictment of James John, *billa vera*, guilty.

<sup>42</sup> See for example, Crawford, *Parents of Poor Children*, *passim*, for a study of the methods the labouring poor used in order to care for dependants in extreme poverty.

<sup>43</sup> See Bailey, *Parenting in England*, 222-244; Sara Mendelson and Patricia Crawford, *Women in Early Modern England* (Oxford, 1998), esp. chs. 2 and 3.

<sup>44</sup> Kesselring, 'Bodies of Evidence', 248-9; Beattie, *Crime and the Courts in England*, 98-106.

## Unconventional hierarchies

The flexibility of intimacy in early modern household networks prompts a redrawing of the lines of familial or domestic homicide. This redrawing must also allow for agency and negotiation of conventional patriarchal structures that made episodes of intimate homicide and the relationships implicated within unique. For example, court cases from the Great Sessions yield far more exceptions than concessions to normative patriarchal and gendered discourses of violence. The real, practical contexts of female violence as shown in trial reports for the Old Bailey also show the ways in which homicidal women accessed multiple discourses of female violence – some of which mitigated and some of which exacerbated culpability. Moreover, individual personalities or the perceived mental and emotional states of historical actors often had a significant bearing on the way witnesses and authors of printed texts interpreted events and allocated culpability. For example, the economic motives for parricide were similar to those of abovementioned extended relatives who saw their victims as obstacles to wealth, inheritance, or financial stability, yet the dynamics of power in the top-down carer-child relationship were grossly inverted.<sup>45</sup> Such themes show the significance of rethinking the role of intimacy in homicide because it allows new questions about issues of gender, violence, and culpability to arise.

It is easy to assume that when homicide affected a traditional-looking patriarchal unit, contemporaries prioritised the symbolic power of its destruction. For example, multiple printed accounts of the crimes of Mary Aubry, a French midwife executed in 1688 for killing her husband, lingered on the physical decapitation of a physically and sexually abusive intimate partner to indicate the allegorical link with the so-called ‘head’ of household.<sup>46</sup> Although each retelling

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<sup>45</sup> Garthine Walker, ‘Imagining the unimaginable: parricide in early modern England and Wales, c.1600-c.1760’, *Journal of Family History*, 41:3 (2016), 274.

<sup>46</sup> *An Account of the Manner, Behaviour and Execution of Mary Aubry, Who Was Burnt to Ashes, in Leicester Fields* (London, 1687); *A Warning-piece to all Married Men and Women Being the Full Confession of Mary Hobry the French Midwife* (London, 1688); *A Cabinet of Grief, or, the French Midwife’s Miserable Moan* (London, 1688); Roger L’Estrange, *A Hellish Murder Committed by a French Midwife, on the Body of her Husband* (London, 1688); Elkanah Settle, *An Epilogue to the French Midwife’s Tragedy* (London, 1687); *OBP*, trial of Mary Aubry, Dennis Fanet, John Fanet, John Desermo, February 1688, t16880222-24. See Susan Amussen, ‘Gender, family and the social order, 1560-1725’, in Fletcher, Anthony, and Stevenson, John (eds.), *Order & Disorder in Early Modern England* (Cambridge, 1985), 196-217.

of Aubry's crime acknowledged that her husband's awful behaviour drove her to commit an 'unnatural' act (indeed some granted her relatively complex legal and cultural identities), print authors still treated with ambivalence women who committed 'ideologically destabilizing [sic]' crimes like petty treason.<sup>47</sup> Yet patriarchy in its contemporary context was not a singular ideology, nor was it simply waiting to be subverted by homicide. Of course, examples of overt displays of male dominance or female insubordination through extreme violence do indicate some of the ways in which early modern people conceptualised the disruption of normative gendered hierarchies. Yet the day-to-day regulation of patriarchal relationships (within households and wider local communities) was a more effective vehicle by which historical actors connected their own everyday experiences with exceptional events.

For example, witnesses to a homicide in Montgomery in 1737 connected the everyday treatment of children with Samuel Jones's fatal violence towards his wife Margaret. The only motive put forth by witness Mary Morris (and Jones himself) was that husband and wife had disagreed over Margaret's use of a whip to discipline their child. Margaret Jones's injuries were sustained and brutal. According to medical practitioners, her nose was scarred and crushed, her lips cut, her back and sides bruised, and her neck swollen.<sup>48</sup> In fact, her neck was so flexible that her head 'easily' rotated in the hands of the apothecary, which suggested dislocation.<sup>49</sup> These were not the injuries of a woman who had only been pushed once as Samuel Jones admitted in his confession. He claimed that Margaret had fallen down with the child in her arms, but that 'he did not offer any more violence'.<sup>50</sup> Jones's attempts to diminish the injuries continued when witness Catherine Pugh noticed that Margaret's cap had been washed of blood and refused to lay out the body. Pugh added that when she came to the body, Margaret was not 'dying' as Samuel claimed, but had in fact been dead 'a long time'.<sup>51</sup> It is

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<sup>47</sup> Susan Amussen, ' "Being stirred to much unquietness": violence and domestic violence in early modern England', *Journal of Women's History*, 6:2 (1994), 76. Martin, *Women, Murder, and Equity*, 68-79; Elizabeth Foyster, *Marital Violence: an English Family History* (Cambridge, 2005), 107-8.

<sup>48</sup> NLW GS 4/179/4, no. 30, examinations of Elizabeth Lownds and Robert Parton (Montgomery, 1737).

<sup>49</sup> NLW GS 4/179/4, no. 30, examination of Edward Arnold.

<sup>50</sup> NLW GS 4/179/4, no. 31, confession of Samuel Jones.

<sup>51</sup> NLW GS 4/179/4, no. 30, examination of Catherine Pugh.

unknown as to what exactly prompted Pugh to assume that his actions were suspicious rather than committed out of regret and heightened emotion. After all, Jones was heard crying out in grief two hours after the alleged ‘difference’, and the washing of the cap could have been his own frantic attempts to care for the body after death.<sup>52</sup> In the end, however, Samuel Jones was found guilty of manslaughter.

Jones was convicted of manslaughter because he used unreasonable violence against his wife. Legal guidelines explicitly stated that *reasonable* physical correction of subordinates (women, servants, or children) was acceptable in the right circumstances.<sup>53</sup> Yet what counted as reasonable correction or the seriousness of the fault that warranted violence was highly subjective. Samuel Jones presented his wife’s discipline of their child with the whip as excessive, yet she only described what had happened as a ‘difference’ between husband and wife. The theme of unreasonable correction of subordinates – Margaret Jones’s alleged whipping of their child and Samuel Jones’s attack on his wife – hung heavy over the case and showed the difficulties inherent in negotiating patriarchy in practice.

Yet men from outside the patriarchal unit committed intimate homicide in ways that did not prioritise economic motives or the discipline of subordinates. When fishermen discovered the drowned body of William Williams in the river Usk in March 1747, it at first seemed like a tragic accident. After all, Williams had gone to an alehouse with his companion David Howell and was seen by witnesses walking drunkenly down a footpath in Brecon near the river. Yet David Howell’s role was far from companionate. In fact, he had been engaged in some form of relationship with Williams’s wife, Margaret. The only information available about the alleged relationship comes from the examination of Margaret herself, who presented Howell as having ‘privately solicited her’ on many occasions to leave her husband and children and run away with him.<sup>54</sup> Even if Margaret had played down her role, Howell exploited his relationship with Williams to pursue his

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<sup>52</sup> NLW GS 4/179/4, no. 30, examination of Mary Morris.

<sup>53</sup> Dalton, *Countrey Justice*, 216; Blackstone, *Commentaries on the Laws of England*, Book 1, Chapter 14, ‘Of Master and Servant’; Chapter 15, ‘Of Husband and Wife’; Chapter 16, ‘Of Parent and Child’ (Oxford, 1765-1769).

<sup>54</sup> NLW GS 4/379/2, no. 17, examination of Margaret Williams (Brecon 1747).

imagined or real one with Margaret. Howell had previously told Margaret of his desire to kill her husband, to which she pled with him not to carry out. However, during the time that Williams was missing, Howell privately accosted Margaret and told her in ambiguous terms that 'she was free'. When she became 'surprized' and appeared 'under a great concern' at the statement, Howell sat on a stone and fell into a 'fit' of emotion, 'earnestly' begging her not to report him to the authorities. According to her examination, Margaret chastised him for 'destroying the father of her children'. Yet Howell did not address the accusation. Instead, he tried to 'comfort' the widow by allegedly 'promis[ing] to give her all the assistance in his power'.<sup>55</sup> Whether Howell committed the homicide or not is unknown – a surviving recognisance mentions that he was held on suspicion of murder, but no formal indictment survives.<sup>56</sup> Nonetheless, Howell's actions demonstrate three things: that 'domestic' homicide did not always disrupt from within, it did not conform outwardly to gendered stereotypes of violence, and men committed it in unexpected ways.

So too could intimate homicides be committed by women in unexpected ways. Women were far more likely to be prosecuted for killing servants over their husbands, despite printed literature emphasising the crimes of petty traitors.<sup>57</sup> After all, relationships between a mistress and her servants, as well as among female servants, were regularly sites of contested intimacy.<sup>58</sup> There were few discourses of explicable or justified forms of violence for women, and none of these were described plainly in homicide law.<sup>59</sup> According to conduct literature aimed at housewives (assumed to be both mothers and mistresses), women were expected to educate errant servants and children through 'affectionate persuasion', as opposed to physical chastisement.<sup>60</sup> Eighteenth-century judge William Blackstone argued for example that masters could strike their servants 'with moderation', but should his wife do the same 'it is good cause of departure'. Blackstone's recommendation does demonstrate the 'problematic' nature of

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<sup>55</sup> NLW GS 4/379/2, no. 17, examination of Margaret Williams.

<sup>56</sup> NLW GS 4/379/2, no. 15, recognizance shows that David Howell alias Prosser was held on suspicion of murdering William Williams.

<sup>57</sup> Clark, *Women and Crime*, 35; Kesselring, 'Bodies of Evidence', 246.

<sup>58</sup> Gowing, *Common Bodies*, 59-66; 69.

<sup>59</sup> Walker, *Crime, Gender and Social Order*, 121-130.

<sup>60</sup> Meldrum, *Domestic Servants and Gender*, 43-5.



women physically correcting servants.<sup>61</sup> Blackstone's language implies that while it was a departure from the usual proscriptive guidelines for a woman to beat her servants, women's disciplinary violence could be deemed acceptable in exceptional circumstances. Thus, contemporaries recognised that women did have opportunities to wield physical power over servants, but the discourses and proscriptive guidelines governing such situations were far stricter than they were for men. A practical implication in terms of homicide prosecution was that women had very few opportunities to defend excessive disciplinary violence, and it was primarily because of the ways in which common understandings of the gendered body interacted with those of anger and violence.

For example, according to humoral theory, women were known as susceptible to quick flashes of irrational anger, which in day-to-day life were largely unthreatening or inconsequential.<sup>62</sup> When the target of female anger was a younger and physically weaker servant or child (as it so often was), any resulting violence could be considered especially harmful. After all, a child's transgression was far more likely to be insignificant or borne of ignorance. On occasions where women's violence led to homicide, the incommensurability between the triggers and consequences of female anger were laid stark. For example, Old Bailey trial reports described the 'cruel rage' that overcame Elizabeth Wigenton when her thirteen-year-old servant committed a mere 'trivial fault'. Wigenton whipped the child 'so unmercifully, that the blood ran down like rain'; rubbed salt into the wounds; and silenced the child's screams by pushing a cloth into her mouth.<sup>63</sup> Another case summary from 1681 reported how Elizabeth Deacon's anger 'bred a tempest within her breast', and turned her into a 'savage dame' who tortured seventeen-year-old servant Mary Cox to death over an unproven allegation of theft. The trial report and accompanying broadside ballad of Deacon's crimes emphasised Cox's innocence and praised the maid's honesty and courage during her mistress' inquisition, which involved beating, burning, and whipping.<sup>64</sup> In both cases, the meteorological language of savage tempests and storms of blood

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<sup>61</sup> Meldrum, *Domestic Servants and Gender*, 44. Blackstone, *Commentaries*, 416.

<sup>62</sup> Walker, *Crime, Gender and Social Order*, 83.

<sup>63</sup> *OBP*, trial of Elizabeth Wigenton, January 1681, t16810117-1; trial of John Sadler, February 1681, t16810228-2.

<sup>64</sup> *OBP*, trial of Elizabeth Deacon, February 1690, t16900226-1; *The Whipster of Woodstreet* (1690)

emphasised the women's disproportionate emotional reactions to minor transgressions. The implication for both cases was that the women resorted too hastily to brutal and fatal violence. They did not attempt to investigate perceived allegations or use verbal discipline as expected of a decent and reasonable mistress.

Women's rash outbursts of angry violence were also dangerous when they attempted to chastise physically those who were not under their direct supervision. Frances Coats was convicted of manslaughter in July 1720 for throwing a brick at six-year-old Thomas Baker. The boy and his two companions disturbed her by playing beneath her window, which prompted Coats to threaten that 'if they did not go away, she would throw a brickbat down and beat their brains out'.<sup>65</sup> The implication of this selective witness testimony was that only an extremely volatile person would be react in such a way to the sight and noise of small children playing together – which should rouse feelings of endearment rather than anger. The juxtaposition of a harmless and vulnerable victim with an unmerciful violent woman is also evident in the trial report of Mary Tims, who allegedly beat her one hundred-year-old grandmother to death. Witnesses expressed that it was shameful for Mary to strike 'her old grandmother, who was grown childish with age', yet the surgeon was unable to prove that her 'mortify'd' hand was the result of violence, 'for great allowance must be made for old age, and poorness of blood'. Tims was acquitted.<sup>66</sup> The poor health of the vulnerable, then, could in fact be turned and used as a defence for some women.

Poor health was used in a similar mitigating fashion for Judith Bayly, tried in 1692 for the killing of her young apprentice, Richard Tate. The trial report described him as a 'sickly distempered boy, troubled with ulcers and running sores in his legs', which contributed to her acquittal for murder. However, the report later revealed that much of the evidence against Bayly was in fact more to do with her failure to prevent her husband's 'unreasonable, illegal, inhumane, and most brutish correction' of the child, and did not mention whether she had physically harmed him herself.<sup>67</sup> Even though these three women were not *legally* culpable

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<sup>65</sup> *OBP*, trial of Frances Coats, July 1720, t17200712-1.

<sup>66</sup> *OBP*, trial of Mary Tims, April 1726, t17260420-39.

<sup>67</sup> *OBP*, trial of Judith Bayly, January 1692, t16920115-7.

for the deaths of their victims, the trial reports reveal the most common practical contexts in which women were understood as most likely to commit homicidal violence – against the weak, needy and vulnerable, or alongside men. While these situations still served to emphasise their inherent feminine weakness, they showed that contemporaries acknowledged multiple and conflicting languages of female violence. Despite the fact that female perpetrators' claims to authority over their victims were illegitimate or flawed, there was still relatively clear distinction between these women and their victims as to who held authority, especially in the cases where the victims were servants. Yet other practical contexts of female violence existed, which provide further examples of the complex agencies held by violent women.

In 1740, a woman named Elizabeth Branch beat her servant Jane Buttersworth to death. The homicide was the culmination of months of systematic abuse that Branch and her daughter, Betty, inflicted on multiple servants in their household (which included making a young boy eat excrement). The printed accounts of the murder show how women held ambivalent positions of power in a household. Pamphlet writers were ambiguous in their treatment of Betty Branch as Betty's status as either a fully culpable instigator of violence, or an impressionable pupil of her mother's evil ways. For example, the author of one pamphlet claimed that Branch 'train'd her daughter up in the same disposition, til it became custom with them to sling knives, plates, forks, etc. at the heads of their servants on the most trifling occasions'.<sup>68</sup> The statement represented one of the common discourses of female violence from the above Old Bailey trials: that it could occur for any 'trivial' infraction, and was carried out using household objects as weapons. Yet the 'young mistress' also appeared to help her mother administer violence in a secondary role by kneeling on Buttersworth's neck while her mother turned up the girl's skirt and beat her with twigs. Betty also continued the attack without encouragement from her mother when she savagely beat the servant with her shoe, and rubbed salt into Buttersworth's wounds.<sup>69</sup> The jury found mother and daughter legally culpable for the crimes and both women were

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<sup>68</sup> *The Cruel Mistress; Being, the Genuine Trial of Elizabeth Branch, and her own Daughter; for the Murder of Jane Buttersworth, their Servant Maid* (London, 1740), 33.

<sup>69</sup> *The Cruel Mistress; Being, the Genuine Trial of Elizabeth Branch, and her own Daughter*, 17-20. See also, *The Trial of Mrs. Branch, and her Daughter, for the Murder of Jane Buttersworth* (London, 1740).

executed. Culturally however, print authors placed a greater responsibility on Elizabeth Branch as the instigator of her daughter's behaviour. On the scaffold, Branch admitted: 'I have by my example and by my command made my own daughter guilty with me of the same follies'.<sup>70</sup> It was likely a contemporary audience understood Elizabeth Branch's more authoritative role as an instigator of violence, yet in the eyes of the court, it was not unusual – or excusable – for her daughter to attempt to abuse the recourse to disciplinary violence.

Discourses of gender, authority, and violence were also challenged when men and women in similar positions of subordination – as servants, for example – came into conflict. After all, small distinctions of hierarchy within a working household were unstable, and changed over time as servants moved from household to household, or left service altogether. The spatial intimacy of living arrangements caused conflict as young men and women attempted to negotiate their own place (both physically and symbolically) in a domestic hierarchy where both were subordinate. A ballad called *The Chamberlain's Tragedy: or, the Cook-Maid's Cruelty* recounts the murder of a male chamberlain by the household cook-maid, which occurred as a result of their conflicting temperaments. One was sullen, the other angry, which prompted daily exchanges characterised by 'heat or passion'.<sup>71</sup> The chamberlain tried to make a toast while she was 'busie at her cookery', which angered the maid. She threatened 'that she wou'd stick him to the heart' if he did not leave the room, but he continued to provoke her by challenging the rationality of her response and claiming he did not fear her:

Is blood the heat of your dispute?  
[...]  
Your swelling words are all in vain;  
I do not fear you in the least.<sup>72</sup>

She attacked his face with the knife and stabbed him in the ribs. The language in the ballad referred to normative gendered expectations of female violence: the chamberlain's interruption was a small infraction to warrant the maid's threat, and he interpreted her anger as inconsequential and unthreatening. Yet in this scenario the maid's anger did have consequences, despite the fact that her victim

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<sup>70</sup> *The Cruel Mistress; Being, the Genuine Trial of Elizabeth Branch, and her own Daughter*, 36.

<sup>71</sup> *The Chamberlain's Tragedy: or, the Cook-Maid's Cruelty* (1671-1702), s. 4.

<sup>72</sup> *The Chamberlain's Tragedy*, s. 9-10.

was not especially weak or vulnerable. This was because the ballad's didactic message also referred to conflicts of status that were likely to occur between servants in real life of both genders, when it warned servants to 'Labour to live in love' together 'Least passion should your lives decay'.<sup>73</sup> The status distinction between the cook-maid and the chamberlain was not dissimilar to that which can be found in urban victualling houses; in larger establishments a chamberlain held a 'sub-managerial status' in their role of looking after guests, but still had a similar role to other servants in other aspects.<sup>74</sup>

Like in the ballad, real women resorted to violence when they worked with others in close proximity, such as in households or small businesses. For example, Elizabeth Pew threw a case-knife at her 'fellow servant' Richard Ward, which disembowelled and killed him. Her actions were a retaliation to the insult of 'whore'. The 1734 trial report reminded readers that 'words alone' did not warrant the level of response, which implied that similar scenarios of conflict occurred fairly often between servants but should be arbitrated by non-violent means.<sup>75</sup> In 1681, Alice Enterys stabbed twenty-five-year-old apprentice Philip Avery (described in the trial summary as a 'youth') over a 'small difference'. He had hit her allegedly 'in jest' across the shoulders when they were both at work for their master, a shoemaker.<sup>76</sup> Spatial intimacy was also a factor when William Alesby 'affront[ed]' cook-maid Elizabeth Walton 'by medling with' the plates she was using. She responded by striking him over the head with one and killing him.<sup>77</sup> The ballad of the cook-maid, as well as the trial reports reveal practical contexts of women's violence. Many homicides committed by women did not involve a direct attack on a household patriarch. Instead, violence emerged through unsuccessful attempts to negotiate their position within the daily minutiae of a household hierarchy.

The familial unit became vulnerable to destruction by violence when its members overlooked the expected and unexpected demands of spatial, physical, or emotional intimacy. In some cases, duties of care left people at the mercy of

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<sup>73</sup> *The Chamberlain's Tragedy*, s. 20.

<sup>74</sup> Meldrum, *Domestic Servants and Gender*, 155-6.

<sup>75</sup> *OBP*, trial of Elizabeth Pew, October 1734, t17341016-16.

<sup>76</sup> *OBP*, trial of Alice Enterys, May 1681, t16810520-4.

<sup>77</sup> *OBP*, trial of Elizabeth Walton, t16910422-13.

mentally unstable family members whose illness drove them to homicide. This form of intimate homicide was largely unpredictable and unavoidable, and it shows the significance of individual personalities and mental states of perpetrators to contemporary understandings of culpability. Legally, there were three recognised categories of mental disorder that allowed a jury to bring a verdict of *non compos mentis* in a homicide case. First was the category of 'foole', where the accused had been born with a mental incapacity. Second was that of 'distraction' or 'fury', which applied to those previously of sound mind, but had since lost their faculties through accident or sickness. Last was the category 'lunaticke', where the sufferer's condition was characterised by periods of both lucidity and illness.<sup>78</sup> A verdict of *non compos mentis* by a grand jury meant that the indictment was not prosecuted, whereas at trial, it meant acquittal. Juries brought in this verdict if they believed that at the time of the alleged crime, the prisoner was unable to differentiate between right and wrong, and thus lacked criminal intent and the capacity for premeditated malice.<sup>79</sup> In practice, medico-legal and cultural ideas of distraction, lunacy and idiocy were far from distinct. For example, Old Bailey trial summaries used words such as 'melancholy', 'ill humoured', 'out of their senses', 'distracted', 'crazy', 'light-headed' indiscriminately when discussing the mental state of the accused, which usually fell into attempting to determine a temporary frenzy or evidence of lunacy.<sup>80</sup>

In order to acquit a prisoner and bring them in *non compos mentis*, juries required evidence of 'visible tokens and expressions of distraction' in the suspect at the time of the killing or at the bar.<sup>81</sup> Examples of behaviour that brought in prisoners as *non compos mentis* were varied and depended on the individual and subjective interpretation of witnesses. For example, Elizabeth Cole's behaviour was described as 'extravagant', because she 'danced' around her lying-in chamber

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<sup>78</sup> Dalton, *Countrey Justice*, 222; Hale, *Pleas of the Crown*, 43; *Historia Placitorum Coronae*, 15; 29-37; John Brydall, *Non Compos Mentis, or, the Law Relating to Natural Fools, Mad-folks, and Lunatick Persons* (London, 1700).

<sup>79</sup> Dalton, *Countrey Justice*, 222.

<sup>80</sup> *OBP*, trial of Anne Philmore, October 1686, t 16861013-25; B.J., Gent, September 1691, t16910909-51; H.S., July 1691, t16910708-15; Peter Bluck, July 1730, t17300704-41; Alice Hall, January 1709, t17090117-19; Thomas Nash, April 1727, t17270412-21; Thomas Graham, October 1745, t17451016-13; John Rigleton, t17450710-16; Robert Finch, July 1754, t17540717-43.

<sup>81</sup> *OBP*, trial of Peter Bluck, July 1730, t17300704-41; *Select Trials for Murders, Robberies, Rapes, Sodomy, Coining, Frauds and Other Offences Vol. II*, (London, 1734), 371-2.

shortly before drowning her child in a river. In another report, Richard Chapman claimed that the devil lay under his bed and bid him beat his wife to death with a rolling pin.<sup>82</sup> Claims of mental imbalance were strongest when a prisoner had a history of fits, seizures, or injury which had affected their mental faculties.<sup>83</sup> According to witnesses, Chapman's wife had previously expressed that she was afraid of her husband's illness and handed over his care to a neighbour.<sup>84</sup>

The inability to participate in the household economy was also used in court to suggest poor intellectual capacity or melancholic tendencies. It was a logical way of determining the periods of lucidity necessary in cases of frenzy or distraction, or if there had been an injury or illness preventing the suspect from carrying out simple tasks. Thomas Nash had previously suffered head wounds, which affected his 'intellectuals', prevented him from sleeping, and meant he spent times 'magotting and rambling like a mad-man'.<sup>85</sup> A discussion of the mental state of Peter Bluck, acquitted in 1730 of the murder of his three-year-old daughter included that he had simply given away his 400l. estate for no reason.<sup>86</sup> Another example from the *Ordinary's Account* reported that the convicted uxoricide Robert Finch, whom witnesses described as 'crazy' or 'mad', showed signs of mental disorder while under incarceration and required someone to complete his 'figures' for him.<sup>87</sup> Clearly, having knowledge of, or control over the household economy was an important indication of intelligence and sanity. While many of these suspects failed to obtain a *non compos mentis* verdict, the language used in trial summaries behaviour was important to cultural understandings of 'lunatick' behaviour.

The question follows, therefore, that when a suspect *did* obtain a verdict of *non compos mentis* and were thus unable to understand the illegality and immorality of their crime, did witnesses, juries, or readers of crime literature hold the accused to similar cultural standards of culpability. In other words, did early modern people

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<sup>82</sup> *OBP*, trial of Elizabeth Cole, January 1709, t17090117-20; *OBP*, trial of Richard Chapman, April 1714, t17140407-21.

<sup>83</sup> Walker, 'Imagining the unimaginable', 275.

<sup>84</sup> *OBP*, trial of Richard Chapman, April 1714, t17140407-21.

<sup>85</sup> *OBP*, trial of Thomas Nash, April 1727, t17270412-21.

<sup>86</sup> *OBP*, trial of Peter Bluck, July 1730, t17300704-41; *Select Trials for Murders, Robberies, Rapes, Sodomy, Coining, Frauds and Other Offences Vol. II*, (London, 1734)

<sup>87</sup> *OBP*, trial of Robert Finch, July 1754, t17540717-43; *OA*, OA17540805.

believe that a legally defined ‘lunaticke’ understood that their crimes had violated domestic relationships? The crimes of legally *non compos mentis* family members were rarely capitalised upon in printed crime literature because they did not lend themselves well to moralistic posturing. If the perpetrator had committed their crime in a state of official insanity then there was no culpability to apportion or lesson to be learned, which mitigated the moralistic function of the printed text.<sup>88</sup> To work around this issue, print authors focused on convicted murderers who exhibited mentally unstable behaviour but let other specific legal, political, local and religious contexts influence the ascription of culpability. That way, writers could still explore issues of mental instability and in turn further their own religious or political agenda.

For example, in the well-publicised case of Enoch ap Evan, a Shropshire man convicted in 1633 for beheading his mother and brother, pamphlet authors Richard More and Peter Studley disagreed on the extent to which he was criminally culpable.<sup>89</sup> In three tracts, each author referred to aspects of radical Puritanism and speculated on how far it encouraged mental instability. The men clashed over the meaning of Evans’ refusal to take wine at communion and his belief that kneeling was the correct way to receive communion.<sup>90</sup> In his anti-Puritan pamphlet, Studley argued that these were the practices of a dangerous sectarian – ‘a downrighte separatist’ with a malicious mind – while More claimed Evans’ change in religious practice formed part of a larger change in behaviour that proved he was suffering from a medically disordered mind.<sup>91</sup> More described the local community’s concern that Evan was ‘distracted’ after they intervened in numerous episodes of bizarre behaviour, from standing waist-high in a freezing

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<sup>88</sup> Walker, ‘Imagining the unimaginable’, 275-6.

<sup>89</sup> See Clark, *Women and Crime*, 55; Walker, ‘Imagining the unimaginable’, 275-6; ‘Puritanism, Arminianism and a Shropshire axe-murder’, *Midland History*, 15:1 (1990), 37-64; Alexandra Walsham, ‘Frantick Hacket: prophecy, sorcery, insanity, and the Elizabethan Puritan movement’, *The Historical Journal*, 41:1 (1998), 62-3; Michael MacDonald, ‘Insanity and the realities of history in early modern England’, *Psychological Medicine*, 11 (1981), 11-25. See also, Michael MacDonald, *Mystical Bedlam: Madness, Anxiety and Healing in Seventeenth-Century England* (Cambridge, 1983).

<sup>90</sup> Richard More, *A True Relation of a Barbarous and Most Cruell Murther Committed by One Enoch ap Evan* (London, 1633); Peter Studley, *The Looking-Glasse of Schism Wherein by a Briefe and True Narration of the Execrable Murders, Done by Enoch ap Evan* (London, 1634); Richard More, *A True Relation of the Murders Committed in the Parish of Clunne in the county of Salop by Enoch ap Evan* (London, 1641).

<sup>91</sup> Studley, *The Looking-Glasse of Schism*, 37; More, *A True Relation of the Murders Committed in the Parish of Clunne*, 4; 25; 89-91.



stream in the middle of winter, to accusing his writing teacher of conjuring up an Irish tobacco-seller to murder him.<sup>92</sup> He concluded after having conducted interviews with the residents that Enoch loved his mother and brother dearly, and thus they could not imagine any reason why he would have killed them other than lunacy.<sup>93</sup> The radical elements of Evans' religion and the extreme violence of his crimes no doubt made for exceptional reading during the tumultuous religious times of the 1630s and 1640s.<sup>94</sup> Nonetheless, Evan's case included aspects of mental strife inherently relatable to contemporaries, such as the spiritual and emotional turmoil involved in a decision to change religious practice that conflicted with family beliefs. The fact that this inner turmoil was presented as part of the killer's downward spiral made More and Studley's attention to mental disorder all the more effective by locating the potential for family tragedy in a form of everyday mental strife.<sup>95</sup>

Print authors had certain authorial devices at their disposal in order to link everyday mental strife to murders, which, due to the poor mental condition of the perpetrator, had no discernible motive. In the Great Sessions, however, confusion as to how culpability could be truly ascribed was more obvious. None of the deponents in a case of parricide tried at the Glamorgan Great Sessions in 1734 mentioned a potential motive for John Maddock's crimes. He attacked his father, John Maddocks senior, with a hatchet in full view of witnesses on Oystermouth beach, before running back to the family house and confronting his sister and mother, who he 'hew down' in just as brutal a manner.<sup>96</sup> Instead, witnesses resorted to describing in grim detail the injuries inflicted on the unfortunate parents. Phillip Edward, a neighbour, found John Maddocks senior lying on the beach almost dead. He attempted to carry the man to another nearby house but only managed to travel 'thirty yards' when the killer ran towards them again with the axe. Edward dropped the dying man and threw stones to deter Maddocks

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<sup>92</sup> More, *A True Relation of the Murders Committed in the Parish of Clunne*, 13-14; 18; 20-1; 23.

<sup>93</sup> More, *A true Relation of the murders committed in the Parish of Clunne*, 38.

<sup>94</sup> See Lake, 'Puritanism, Arminianism and a Shropshire Axe-Murder', *passim*.

<sup>95</sup> Interestingly, Enoch ap Evan's mother was reported to have 'gently reprov'd' him in a 'loving manner' for his behaviour, see Studley, *The Looking-Glasse of Schism*, 30.

<sup>96</sup> NLW GS, 4/610/7, nos. 5-8; 12-15; 21, documents relating to the parricide committed by John Maddocks. Examinations of witnesses, nos. 12-15 (Glamorgan, 1734). His indictment (21 in the file) shows he was not prosecuted and brought in *non compos mentis*.

junior. But it was too little, too late. Maddocks had embedded the axe ‘in depth’ into his own father’s ‘brain’.<sup>97</sup>

As in the above examples, mental illness was an uncommon explanation for homicide in pamphlet literature, and was also a relatively rare verdict in court.<sup>98</sup> Again, the cases reveal that daily concerns and preoccupations – how to cope financially, look after dependants, marry the right person, worship the right God, or perhaps even whether one was mentally capable of managing these issues – were ever-changing. Such preoccupations were not limited to the confines of the patriarchal household unit, as demonstrated by the community’s involvement in Enoch ap Evan’s case and by the multiple public spaces in which John Maddocks committed his crimes. By changing focus to consider the role of mental illness in cases of intimate homicide, I have shown that that individual circumstances and the perceived mental states of perpetrators in some instances were just as important as normative discourses of gender and violence for contemporaries in allocating culpability and understanding intimate homicide.

### Lust, lovers, and sweethearts: sexual intimacy and homicide

The point at which patriarchal marriage began was rarely obvious to most early modern people. As such, the idea that men coerced women into premarital sex with reneged marriage promises was a common theme in literature and theatre even before the eighteenth century. It demonstrated the porous and therefore potentially dangerous boundaries between courtship, sex, and marriage that faced young people who were attempting to set up their own, independent lives. The didactic purpose of crime literature which explored this theme was to warn readers of the dangers of incremental sin, one of which was sexually lewd behaviour. Before the Restoration, cheap crime pamphlets disproportionately focused on (real) murderous wives even though statistically, husbands harmed their families in greater numbers. After 1660, authors gave much more attention to petty tyrants

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<sup>97</sup> NLW GS, 4/610/7, no. 15, examinations of Phillip Edward, Alexander Clement and Phillipp Powell.

<sup>98</sup> Beattie, *Crime and the Courts*, 82-85.

who abused their position as head of household.<sup>99</sup> Some scholars have argued that this change in perspective of the literature facilitated the development of murderous male husbands, then later lovers as character tropes, whose victims were increasingly sexually passive female victims.<sup>100</sup> Yet the change in focus from married, female petty traitors in late sixteenth-century plays and ballads to abusive, unmarried male partners in eighteenth-century novels was by no means a linear transition that applied to different literary genres (which in turn dealt with real, semi-fictional or completely fictional homicides).

Neither were developments in literary style symptomatic of a larger 'modernisation' of sexuality represented by an increase in recreational penetrative sex before marriage.<sup>101</sup> Relationships formed for sexual pleasure did create tensions and jealousies which precluded real and fictional homicides, but its uniquely eighteenth-century novelty must be interrogated. While early modern men and women engaged in pre-marital penetrative sex throughout the period, plays and novels presented new narratives and an emergent language of coercive sexual intimacy and female vulnerability to voracious male desire, especially for servants in Richardson's *Pamela*, for example.<sup>102</sup> These literary themes and ideas of change over time cannot be applied uncritically to real cases of homicide, but they can help to contextualise exceptional cases from the mid-eighteenth-century courts that involved issues of contested sexual intimacy: adultery, seduction and broken marriage promises. Instead, new *languages* of female vulnerability to male violence emerged which began to perhaps reflect real statistical trends of intimate murder.

Late seventeenth-century authors encouraged readers to reflect on their own susceptibility to the sin of lust and attempted to warn men and women away

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<sup>99</sup> Dolan, *Dangerous Familiars*, 17-19; 89-90; 'Tracking the petty traitor across genres' in Fumerton et al., *Ballads and Broadides*, 154-5; Joy Wiltenburg, *Disorderly Women and and Female Power in the Street Literature of Early Modern England and Germany* (Charlottesville and London, 1992), 221.

<sup>100</sup> Daniel Cohen, 'The beautiful female murder victim: literary genres and courtship practices in the origins of a cultural motif, 1590-1850', *Journal of Social History*, 31:2 (1997), 277-306; Martin Weiner, 'Alice Arden to Bill Sikes: changing nightmares of intimate violence in England, 1558-1869', *Journal of British Studies*, 40:2 (2001), 184-212; Faramerz Dabhoiwala, *The Origins of Sex: A History of the First Sexual Revolution* (London, 2012), 161-3.

<sup>101</sup> Tim Hitchcock, 'The reformulation of sexual knowledge in eighteenth-century England', *Signs*, 37:4 (2012), 823-832.

<sup>102</sup> Dabhoiwala, *The Origins of Sex*, 169-179. See also Brean Hammond and Shaun Regan, *Making the Novel: Fiction and Society in Britain, 1660-1789* (Basingstoke, 2006), esp. ch.4, 85-122.

from its temptation. Ballads provided examples of young men whose inability to master their sexual urges set them on a path to murder. For example, in *The Downfal of William Grismond* the young man in the title coerced his neighbour's daughter into premarital sex: 'I did dissemble with her,/ my lust to satisfie'.<sup>103</sup> His 'lewd desire' however, had consequences – she later became pregnant. His sweetheart reminded him of his promise, 'saying marry me sweet William/ now you have me defil'd'.<sup>104</sup> Grismond realised that his parents would not consent to the marriage because of her humble background. According to the ballad, Grismond saw murder as his only option. He once again coerced her into a sexual encounter by using 'flattering' overtures. He lured her to a field, where he had his 'pleasure with her' and then cut her throat.<sup>105</sup> The female lover in the ballad was depicted as an innocent victim to deception: she only spoke with 'honest' words, was 'snared by him that was a lyar', and complained of being 'utterly [...] spoyld' by his 'using of her body'. Despite her honesty and innocence, the dangers of premarital sex still culminated in murder.

In reality, unintentional pregnancy was most likely to be the main consequence of illicit sex as opposed to murder. Some murder pamphlets, however, granted female victims more complex agencies than William Grismond's sexual partner. A pamphlet from 1664 described how a man named Richard Rogers poisoned and strangled his pregnant sweetheart Ruth Anton. The author, Abraham Jennings, presented moral culpability for illicit sex as slightly more ambiguous, and his depictions of the subjectivities of both killer and victim encouraged audiences to reflect on their own individual moral character.<sup>106</sup> In a new vocabulary of the Restoration 'rake' masculinity, Rogers demonstrated rakish characteristics, being a 'handsom fellow', who had 'gained [...] repute among the young wenches' in the community.<sup>107</sup> In this case, Anton consented to sex with Rogers out of 'fondness' towards him and her 'wanton nature' as opposed to coerced intimacy, which was perhaps more reminiscent of how real illicit sexual relationships were formed between young, mobile men and women: through

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<sup>103</sup> *The Downfal of William Grismond* (1663-1695), s. 2.

<sup>104</sup> *The Downfal of William Grismond*, s. 4.

<sup>105</sup> *The Downfal of William Grismond*, s. 7-8.

<sup>106</sup> Abraham Jennings, *Digitus Dei, or, an Horrid Murther Strangely Detected* (London, 1664).

<sup>107</sup> Jennings, *Digitus Dei*, 3.

emotional connection and proximity.<sup>108</sup> Ruth became pregnant, but Rogers had no intention of marriage. He wanted to marry someone ‘like to prove a better fortune to him’, which reflected Grismond’s concern over future financial stability.<sup>109</sup> Anton asked Rogers to either ‘help her out’ (procure an abortion), or marry her. Instead, Rogers persuaded Anton to eat an apple poisoned with mercury by telling her it would induce a miscarriage.<sup>110</sup> When she realised the poison was meant for her and not the foetus, she cried out and he choked her to death. On the scaffold, Rogers admitted he was ‘full of lust’, while the pamphlet warned young men and women to beware of bad company. It claimed he in fact did not want the reputation of a whoremaster, and so to avoid his shame committed murder.<sup>111</sup> Here, Jennings explored several concerns and demands of sexual intimacy. First, he mentioned the emotional implications of sexual interaction represented by Ruth Anton’s ‘fondness’; second, the economic concerns that underpinned sensible marriage choices; and third, the moral consequences of unbridled lust.

Richard Rogers’s chosen method of killing was the poison disguised as abortifacient. As I stated above, when poison was used in cases of petty treason its symbolic potency was in the subversion of food, provision, and care which emphasised the violation of trust and intimacy between wife and husband.<sup>112</sup> For Richard Rogers, his use of poison did emphasise a violation of their intimate relationship, because he subverted the idea of ‘help’ that Anton expected of him (even though the author Jennings expressed his disapproval of abortion). However, the abortifacient was not hidden from Anton *per se*, which complicated the idea of culpability on behalf of the procurer. The same pattern of men using poison can be traced to the court of the Great Sessions. In 1753, William Berwick and local doctor Thomas Vaughan were acquitted at the Montgomery sessions for poisoning Rachel Wittingham with arsenic. Wittingham was seven months

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<sup>108</sup> Jennings, *Digitus Dei*, 3-4.

<sup>109</sup> Jennings, *Digitus Dei*, 3-4.

<sup>110</sup> Jennings, *Digitus Dei*, 4. According to Anne-Marie Kilday, the most common ‘non-maternal’ suspects of infanticide offered abortifacients, murdered newborns, or assaulting the mother with intent to murder her or the foetus, and were usually the illegitimate fathers. See Kilday, *A History of Infanticide*, 69.

<sup>111</sup> Jennings, *Digitus Dei*, 28.

<sup>112</sup> Walker, *Crime, Gender and Social Order*, 138. Catherine E. Thomas, ‘Toxic encounters: poisoning in early modern English literature and culture’, *Literature Compass*, 9:1 (2012), 48-55.

pregnant with Berwick's child. The involvement of the doctor problematizes the idea that Berwick's crime was secret and concealed in the same way as Richard Rogers's.<sup>113</sup> Of course, both cases demonstrate that contemporaries understood that it was exceptional and inexcusable for men to resort to abortion and murder as a response to the prospect of illegitimate fatherhood. A hasty marriage was a more likely response to unintended pregnancy between young sweethearts, with some women being recorded in parish records as up to eight months pregnant on their wedding day.<sup>114</sup> The significance of both of these cases was that authors and juries realised that women could be susceptible to male violence in ways that did not always involve bloody conflict.

Furthermore, authors of crime literature explored the tensions of poor marriage matches made in haste to cover up illicit sex. For example, William Barwick and Edward Mangall were both executed in 1690 for killing women with whom they had been sexually intimate.<sup>115</sup> Barwick allegedly drowned his pregnant wife Mary in a pond. The author claimed that Barwick's motives could not be accurately determined from pre-trial examinations (some of which were appended to the trial report), but it did not stop him from speculating on Barwick's motives:

He had got her with Child, before he Married her: And 'tis very probable that being then constrained to Marry her, he grew weary of her; which was the Reason he was so willing to be rid of her.<sup>116</sup>

Edward Mangall, meanwhile, had allegedly killed a woman named Elizabeth Johnson. Johnson had recently given birth to an illegitimate child, whom she claimed was his. According to witnesses, on the day of the murder Elizabeth went to Mangall and asked if he would marry her; he refused. He then changed his mind and asked her to follow him to a church. On the way he beat her to death, and was also suspected of killing the child, whom the pamphlet claimed was missing.<sup>117</sup> The juxtaposition of Barwick and Mangall's crimes reveal their conceptual similarity for early modern readers in the discussion of premarital sex

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<sup>113</sup> NLW GS 4/184/2, no. 28, indictment of William Berwick and Thomas Vaughan (Montgomery, 1753). Verdict not guilty.

<sup>114</sup> Richard Adair, *Courtship, Illegitimacy and Marriage in Early Modern England* (Manchester, 1996), 97-8.

<sup>115</sup> *A Full and True Relation of the Examination and Confession of W. Barwick and E. Mangall, of Two Horrid Murders* (London, 1690).

<sup>116</sup> *A Full and True Relation of the Examination and Confession of W. Barwick and E. Mangall*, 1.

<sup>117</sup> *A Full and True Relation of the Examination and Confession of W. Barwick and E. Mangall*, 4.

and illegitimate pregnancy, despite the fact that Barwick was officially married and Mangall was not.

When Barwick and Mangall's case is considered alongside the Grismond and Rogers case it shows that these accounts conformed in some ways to stereotypical narratives of seduction. In the Grismond ballad, for example, the idea of precisely *who* was morally responsible for initiating a sexual relationship that eventually led to murder was in fact rather varied, and echoed some of the conflicting contemporary discourses in conduct literature about the sexual appetites of young men and women. The persistence of women in manipulating young men into an unhappy marriage was a concern for some late seventeenth-century writers. For example, Edward Kirk, a vintner in his early twenties, killed his new wife after their premarital sex led to pregnancy and a hasty marriage.<sup>118</sup> From then on, his wife 'haunted' him from place to place, demanding more money for her maintenance (she was a poor maidservant) and censuring the young man's excessive drinking and lewd behaviour. Kirk eventually grew tired of her behaviour. He lured her to a secluded place, where he beat her to death and cut her throat. The Ordinary's *Account* of his execution read: 'take timely care therefore all young-men, how you are drawn in by the bewitching lust and love of women', which suggested that it was a young man's responsibility to protect himself from premarital sex with unsuitable partners.<sup>119</sup>

The author cited as Kirk's motive for murder a fear of being poor or marrying into poverty – motives which also influenced Grismond and Richard Rogers.<sup>120</sup> The several printed accounts of Kirk's crimes warned readers that young, sexually active, but relatively poor mobile men and women were at risk of unhappy, economically doomed marriages if they gave into their lewd desires. The idea of men killing lovers or prospective wives through fear of future poverty also echoes the discourses of intimate homicide above where extended family

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<sup>118</sup> *A Full and True Relation of a Most Barbarous and Dreadful Murder Committed on the Body of Mrs. Kirk* (London, 1684); *The Bloody Vintner; or, Cruelty Rewarded with Justice* (London, 1684); *An Exact and True Relation of the Behaviour of Edmund Kirk, John Bennet Morgan Keading and Andrew Hill* (London, 1684); *The Sufferer's Legacy to Surviving Sinners* (London, 1684); *A True Paper Delivered by Edmund Kirk, Vintner* (London, 1684); OBP, trial of Edward Kirk, July 1684, t16840702-6; OBP, trial of Edward Kirk, July 1684, t16840702-6; *Ordinary's Account*, OA16840710.

<sup>119</sup> OA, OA16840710.

<sup>120</sup> *The Bloody Vintner; or, Cruelty Rewarded with Justice*.

members became unexpectedly burdened with dependants. Once again, the men's resort to homicide as a response to the threat of economic instability was never condoned, but the exploration of the motive reveals another situation where authors explored emotional and financial problems associated with contracting intimate relationships. In accounts of men who killed their lovers or very recent wives, the focus was primarily on the sexual element of the relationship and explored various ways in which women became vulnerable to male desire. For some of the above-mentioned perpetrators, this form of intimacy did not always preclude a reciprocal emotional connection, but it came with life-changing consequences for all parties.

On rare occasions, however, a female 'sweetheart' did not reciprocate a man's overtures for a relationship. The revenge killing committed by William Hall against Sarah Butt after she rejected his marriage proposal is an example of how pamphlet authors used the language of the emotions to frame their discussions of violence and warn readers of the dangers that came with 'rebellious passions, and unruly affections' – of which love was one. The author lamented that while 'love is certainly the noblest of our passions', it 'shrouds its own deformity under the covert of that illustrious name'.<sup>121</sup> Hall worked for Sarah Butt's father as a husbandman, and saw her courted by men interested in the family's wealth. The author repeatedly blamed Hall's behaviour on his physiological make-up: his 'sullen surly temper, cholerick, and revengeful' disposition caused him to fall into a deep 'sullen melancholy' when Butt refused his proposal and her parents 'checkt him for his boldness', after all, he was not of their social rank. During this period of melancholy, he decided that 'since she would not accept of his love she should feel the effects of his hate'.<sup>122</sup> He later cornered Sarah when she had left her parents' supervision, hacking the eighteen-year-old woman to death with a billhook. While this case was more shocking than previous examples in its use of sensational language, it still spoke to fairly mundane concerns that preoccupied young people on the cusp of marriage (or perhaps more their parents in this case), related to the moderation of one's passions. Not only was temperament key to

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<sup>121</sup> *The Bloody Lover, or, Barbarous News from Glocester a full and True Relation of how an Inhumane Villain named William Hall, did on the 16<sup>th</sup> October last, most Cruelly Murther a Maid, Whose Name was Sarah Butt* (London, 1673), 4.

<sup>122</sup> *The Bloody Lover*, 5.



compatibility in marriage but expressions of love must be tempered and restrained to avoid such a deathly outcome.

## Conclusion

In the archives of the Great Sessions, there is no surviving record of the outcome of Mary Brown's trial. Some witnesses deposed that the Brown household had a severe rat problem and servants had been sent out regularly to buy poison to kill them.<sup>123</sup> Perhaps Thomas Brown's death was in fact a tragic accident, and could equally explain Elizabeth Hughes's incomprehension and outward emotional turmoil. There is also no surviving examination or confession of Mary Brown herself. Thus, there is no way of knowing for sure whether the siblings' dispute over something rather common – marriage choices – did in fact turn to violence. However, what this case and indeed the whole chapter has demonstrated, is that 'domestic' homicide should not just be seen as rigidly defined by the patriarchal or conjugal household structure and as such should be recategorised as intimate homicide. In their analyses, some historians of domestic homicide have prioritised or neglected certain kinds of intimate relationship depending on how neatly they fit into the patriarchal model. In some cases they have failed to appreciate the flexibility, breadth and varied nature of certain relationships within the household in a way similar to other historians of the early modern family. Here, I have expanded the definition of what can be defined as an intimate homicide in an early modern context by considering homicides that departed from a typically patriarchal or top-down dynamic to reveal the types of bonds and obligations that these intimate murders violated.

Cases from the Great Sessions in Wales and printed accounts from England have revealed that intimate homicide contained unconventional and flexible uses of patriarchal codes. It follows that as experiences of care for family members in the early modern period and eighteenth century were varied in their generational and emotional make-up, so too were homicides that involved

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<sup>123</sup> NLW GS 4/1000/8, nos. 3, Examination of Elizabeth Adams; 8, Examination of William Jones. The indictment for Mary Brown is document no. 24 where there is no sentencing information, only a *billa vera* verdict.

grandparents, uncles, or other extended kin. Concerns relating to economic stability were the main themes that authors of crime literature used to accord culpability where the courts did not. The flexibility of caring relationships also demonstrates that in a lot of communities, pragmatism could take precedence over perceived natural roles or hierarchies – a theme to which I return in chapter four. Moreover, issues of gender, violence, and power were in a constant state of flux depending both on the linguistic conventions of the sources and on cultural context. The importance of individual mental states or personalities to representations of culpability for intimate homicide have been revealed, both through discussion of unconventional ‘household’ murders and mental imbalance in cases of homicide.

While men frequently murdered sexual intimates throughout the period, new languages of female vulnerability to male violence emerged in popular printed literature from England. Yet the lines between official patriarchal marriage, courtship, and parenthood were often complex and blurred. The significance of such a poor distinction meant that contemporary authors still (and consistently) linked such varied experiences of patriarchy with everyday social, economic, and emotional concerns. Mundane but intimate conflicts thus transformed into horrific, shocking murders. As evidence from both the criminal courts and popular literature attests, early modern actors placed immense value on keeping their close emotional and practical relationships in balance. This desire for moderation in personal relationships can also be traced in other arenas of homicide – especially those between adult men – as I shall now demonstrate.

## Chapter Two

### Friends, Brothers, and Superiors: the Role of Masculine Friendship in Cases of Manslaughter

#### Introduction

At the Old Bailey courthouse on 16<sup>th</sup> January 1685, John Bramstone was found guilty of the manslaughter of Aurelius Wiseman, ‘his intimate friend whom he had intirely loved’.<sup>1</sup> On the night of the incident, the two men went to see a play. Afterwards, they retired to the Golden Lion tavern in Fetter Lane, London. Witnesses from the tavern swore in court that the twosome ‘came into the house together in a loving and friendly manner’ and joined in with the sociability of a usual ‘club’ of men who gathered there. After they had shared a few ‘bottles’, Bramstone and Wiseman played a game of ‘even and odd’ in order to decide who should pay for the next one. Wiseman lost, which ‘displeased’ him. According to Bramstone’s defence testimony, Wiseman used ‘rough words’ and suddenly ran towards him with a drawn sword. He was allegedly thus ‘obliged to stand upon his guard’. In the ensuing scuffle, Wiseman was injured and shouted out to his friend: ‘Jack you have touched me’. Bramstone rushed to Wiseman and opened the man’s clothing to find the wound. In order to stem the bleeding, Bramstone

sucked the wound, and begged that a chirurgeon might be sent for with all speed, and because none came went himself, but missing of one, he voluntarily returned and surrendered himself to the constable, that upon notice of what had happened was entered the house, expressing great sorrow for the misfortune, desiring that all manner of means might be used for saving the life of his friend.

Character witnesses in favour of Bramstone claimed he was a man ‘of a mild temper and courteous behaviour’, who endeavoured to ‘prevent than to provoke quarrels’. They described the relationship between Bramstone and Wiseman as based on ‘much love and friendship’.<sup>2</sup> The author of the trial report alluded to the

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<sup>1</sup> See *Old Bailey Proceedings Online*, online at [www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 7.2 (March 2015) hereafter *OBP*, trial of John Bramstone, January 1685, t16850116-4.

<sup>2</sup> *OBP*, trial of John Bramstone, January 1685, t16850116-4.

fact that contradictory evidence was heard but did not include any examples in their final summary. Not only does this suggest that the author offered a partial account of the court proceedings in order to construct the manslaughter verdict as unambiguous, but that the repeated emphasis on the men's 'loving' and close friendship (as well as Bramstone's 'sorrow') was a linguistic vehicle by which this agenda was achieved.<sup>3</sup>

Why such language was included in the criminal record for homicide, and its legal and cultural significance, forms the focus of this chapter. The majority of homicides committed during the period were the result of violent altercations between adult men.<sup>4</sup> Bramstone's case was one of 340 tried at the Old Bailey between 1674 and 1759 that ended in a manslaughter verdict and where both parties were adult men.<sup>5</sup> As a matter of practice, indictments were usually drawn up as murder in the first instance, and then legal texts encouraged juries to bring in a manslaughter verdict if certain criteria were reached.<sup>6</sup> Manslaughter was legally defined as a homicide that lacked premeditated malice.<sup>7</sup> Officially, punishment was death, however those convicted could claim benefit of clergy and receive branding on the thumb instead if they recited a verse from the bible.<sup>8</sup> According to the legal criteria, killing an opponent during a 'sudden heat of passion' or in response to sufficient provocation were scenarios eligible for a manslaughter verdict, because the deceased bore a degree of culpability for their

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<sup>3</sup> Robert Shoemaker, 'The Old Bailey Proceedings and the representation of crime and criminal justice in eighteenth-century London', *Journal of British Studies* 47:3 (2008), 560; 571.

<sup>4</sup> J.M. Beattie, *Crime and the Courts in England, 1660-1800* (Oxford, 1986), 97-8; J.A. Sharpe, *Crime in Seventeenth-Century England: a County Study* (Cambridge, 1983), 117-118.

<sup>5</sup> Between 1674 (when the *Old Bailey Sessions Papers* began) and 1759. Calculated using the *Old Bailey Proceedings Online* statistics function, version 7.2 (March 2015), <https://www.oldbaileyonline.org/forms/formStats.jsp>. The offence category is killing, verdict category is manslaughter, defendant gender is male and victim gender is male, between 1674 and 1759. Counting by offence.

<sup>6</sup> Sir Matthew Hale, *Historia Placitorum Coronae Volume I* (London, 1736), 449; J.M. Beattie, *Crime and the Courts in England, 1660-1800* (Oxford, 1986), 80; Garthine Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge, 2003) 121; J.A. Sharpe and J.R. Dickinson, 'Coroners' inquests in an English county, 1600-1800: a preliminary survey', *Northern History*, 48.2 (2011), 262-3.

<sup>7</sup> Michael Dalton, *The Countrey Justice* (London, 1619), 222; Sir Edward Coke, *The Third Part of the Institutes of the Laws of England* (London, 1669), 54; Hale, *Pleas of the Crown, or, a Brief but full Account of Whatsoever can be Found Relating to that Subject* (London, 1678), 56; *Historia Placitorum Coronae*, 449-450.

<sup>8</sup> Dalton, *The Countrey Justice*, 222; Hale, *Historia Placitorum Coronae*, 450.

own death.<sup>9</sup> Killing in self-defence (*se defendendo*), however – when the killer had exhausted all possibilities for escape – was a justifiable form of homicide and warranted complete acquittal.<sup>10</sup> Witness accounts in the court proceeding as well as in pre-trial documentation tended to invoke a mix of all three scenarios, as interrogatories for Justices of the Peace likely included questions pertaining to each set of circumstances to ensure accurate coverage of each legal definition. Therefore, the referral to friendship in mitigating narratives of prosecuted men is linked to how historical actors conceptualised the lack of malice: either through the need for self-defence to protect life, or through the unfortunate yet natural ‘hot-bloodedness’ of quarrelling men. Hot-blooded anger itself was based on humoral interpretation of uniquely male emotions.<sup>11</sup> Male sociability and the gendering of emotion within homicide law, then, are essential to an appropriate cultural analysis of manslaughter. Yet close attention to men’s everyday connections and their influence on discourses of masculine homicide remain underexplored in histories of early modern friendship *and* crime.<sup>12</sup>

Male friendship was a ubiquitous theme in early modern literary and cultural discourse. Homoerotic relationships did not engender the specific discourses of conflict, violence, and resolution central to accounts of homicide. Nor were romantic relationships between men conceptually linked with the crime of sodomy, which was prosecuted as a political rather than sexual offence. These relationships deserve their own rich history, as scholars such as Alan Bray have so wonderfully demonstrated.<sup>13</sup> In fact, deep emotional ties were not always essential for a relationship to be classed as friendship in a contemporary context.

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<sup>9</sup> Walker, *Crime, Gender and Social Order*, 116; Sharon Howard, *Law and Disorder in Early Modern Wales: Crime and Authority in the Denbighshire Courts, c.1660-1730*, 68.

<sup>10</sup> J.H. Baker, *An Introduction to English Legal History* (London, 1990), 600-2; Walker, *Crime, Gender and Social Order*, 114-5; Hale, *Historia Placitorum Coronae*, 452.

<sup>11</sup> Krista Kesselring, ‘Bodies of evidence: sex and murder (or gender and homicide) in early modern England, c.1500-1680’, *Gender and History*, 27:2 (2015), 254-255.

<sup>12</sup> Alexandra Shepard noted that it was surprising that the ‘masculinist context’ of violence had not been analysed fully by scholars, and recognised the importance of violence to men’s social relations. See *Meanings of Manhood in Early Modern England* (Oxford, 2003), 128. Yet I argue that specific links between men’s emotional relationships, friendship, and homicide have still not been explicitly noted or discussed to a satisfactory degree.

<sup>13</sup> Alan Bray, *The Friend* (Chicago, 2003); Alan Bray and Michel Rey, ‘The body of the friend: continuity and change in masculine friendship in the seventeenth century’, in Tim Hitchcock and Michèle Cohen (eds.), *English Masculinities, 1600-1800* (Harlow, 1999), 65-84; Laura Gowing, Michael Hunter, Miri Rubin (eds.), *Love, Friendship and Faith in Europe, 1300-1800* (Basingstoke, 2005).

Instead, men's friendships were borne from deference, practicality, and sociability – as well as pleasure. Contemporary writers and humanist thinkers were preoccupied with charting the scope of these connections; indeed the cases I examine here emphasise the destructive nature of men's incorrect management of them.<sup>14</sup>

Plays and literature explored friendship's potential for violent conflict in ways that privileged its philosophical or political roots. Authors explored prescriptive deferential friendship with tales of kings and favourite, lords and courtiers.<sup>15</sup> A frequent – and historiographically over-represented – cultural motif that engaged contemporary audiences was the unseating of powerful men whose status and reputation was at the mercy of dissembling, lower status 'friends'.<sup>16</sup> This unseating usually involved the presence of a serious politically-motivated crime, such as an assassination by poison or accusations of sodomy and treason.<sup>17</sup> Humanists, on the other hand, were primarily concerned with idealised forms of pleasurable friendship explored by Cicero, Aristotle and Seneca in a pursuit to locate the true and equal 'second self'.<sup>18</sup> Here, it was difference that could engender conflict between both parties. Despite their disparity in power balance, both royal servile and humanist 'equal' friendship were rooted in politics, logic,

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<sup>14</sup> Hester Lee-Jeffries, 'No country for old men? Ciceronian friendship and old age in Shakespeare's second tetralogy and beyond', *The Review of English Studies*, 62:257 (2011), 716-737; Thomas McFaul, *Male Friendship in Shakespeare and his Contemporaries* (Cambridge, 2007), esp. ch. 1, 'True friends?', 1-29; Laurie Shannon, *Sovereign Amity: Figures of Friendship in Shakespearean Contexts* (Chicago, 2002); John Garrison, 'Shakespeare and Friendship: An Intersection of Interest', *Literature Compass*, 9:5 (2012), 371-379; Bronwen Price and Paraic Finnerty, 'Amity in Early Modern Literature and Culture: Introduction', *Literature & History Special Edition*, 20:1 (2011), 1-4; David Schalkwyk, 'The Discourses of Friendship and the Structural Imagination of Shakespeare's Theater', *Renaissance Drama*, 38 (2010), 141-171.

<sup>15</sup> J. Elliott and L. Brockliss (eds.), *The World of the Favourite* (New Haven, 1999).

<sup>16</sup> Francis Bacon, 'Of Followers and Friends' in *The Essayes or Counsels, Ciuill and Morall, of Francis Lo. Verulam, Viscount St. Alban* (London, 1625), 284-287.

<sup>17</sup> Catherine E. Thomas, 'Toxic encounters: poisoning in early modern English literature and culture', *Literature Compass*, 9:1 (2012), 48-55; Alan Bray, 'Homosexuality and the signs of male friendship in Elizabethan England', *History Workshop Journal*, 29:1 (1990), 1-19. Notable examples included the assassination of Thomas Overbury: see the contemporary ballad, *A Sorrowfull Song Made upon the Murther and Untimely Death of Sir Thomas Overbury Knight* (London, 1615); Alistair Bellamy, *The Politics of Court Scandal in Early Modern England: News, Culture and the Overbury Affair* (Cambridge, 2002), 212-5; 256. Sodomy was understood to be a political crime, and was conceptually different to romantic male relationships, a prime example being the trial of the Earl of Castlehaven for rape and sodomy. See Cynthia Herrup, *A House in Gross Disorder: Sex, Law, and the 2<sup>nd</sup> Earl of Castlehaven* (Oxford, 1999); 'Finding the Bodies', *GLQ: A Journal of Lesbian and Gay Studies*, 5:3 (1999), 255-265.

<sup>18</sup> McFaul, *Male Friendship*, 6; 14; Michael Pakaluk, *Other Selves: Philosophers on Friendship* (Indianapolis and Cambridge, 1991), vii-xiv; 108.

rhetoric, polite conversation – all of which were elite male realms. Aside from excluding women, these conceptions of friendship also excluded most men for whom such a high level of power or education was out of reach.<sup>19</sup>

Beyond the philosophical or overtly political, early modern writers subtly engaged with themes of male friendship and conflict. Lorna Hutson has found that Shakespeare used insubordinate female behaviour as a rhetorical device to comment on problematic financial or social agreements between male characters.<sup>20</sup> Hutson's approach is far more contextually rooted in the everyday life of the early modern period, where men's interactions that contained opportunities for conflict were informed by patriarchal masculinity and normative understandings of honour, credit, and reputation.<sup>21</sup> Of course, historians have more broadly charted the relationship between masculinity and violence in their analyses of formal duelling rituals, and have also assessed the ways in which normative expectations of manhood informed ordinary men's violent reactions to insults or affronts to honour.<sup>22</sup> Honour depended on class, honesty, sexual reputation, adherence to religious principles, probity in business, and effective rule of the patriarchal household.<sup>23</sup> Yet the very codes of masculine honour and

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<sup>19</sup> Jacques Derrida, 'The politics of friendship', *The Journal of Philosophy*, 85:11 (1988), 632-644; Vanessa Smith and Richard Yeo, 'Friendship in Early Modern Philosophy and Science', *Parergon*, 26:2 (2009), 1-9. For discussions of friendship, see Laura Gowing, 'The politics of women's friendship in early modern England', in Gowing, Hunter and Rubin (eds.), *Love, Friendship and Faith*, 131-149, Amanda Herbert, *Female Alliances: Gender, Identity, and Friendship in Early Modern Britain* (New Haven, 2014).

<sup>20</sup> Lorna Hutson, *The Usurer's Daughter: Male Friendship and Fictions of Women in Sixteenth-Century England* (London and New York, 1994).

<sup>21</sup> Karen Harvey, 'The history of masculinity, circa 1650-1800', *Journal of British Studies*, 44:2 (2005), 298; Alexandra Shepard, 'From anxious patriarchs to refined gentlemen? Manhood in Britain circa 1500-1700', 291. For discussions of the role of creditworthiness as a key part of (male) social identity, see Alexandra Shepard and Judith Spicksley, 'Worth, age and social status in early modern England', *Economic History Review*, 64:2 (2011), 493-530; Alexandra Shepard, 'Poverty, labour, and the language of social description in early modern England', *Past & Present*, 201 (2008), 51-95.

<sup>22</sup> Walker, *Crime, Gender and Social Order*, 37-38; 124-5; 130; Alexandra Shepard, 'Violence and civility in early modern Europe', *The Historical Journal*, 49:2 (2006), 596; Beattie, *Crime and the Courts*, 91-5; Robert Shoemaker, 'Male honour and the decline of public violence in eighteenth-century London', *Social History*, 26.2 (2001), 193-5; Sharpe and Dickinson, 'Coroners' inquests in an English county', 258; Sharon Howard, *Law and Disorder in Early Modern Wales: Crime and Authority in the Denbighshire Courts, c.1660-1730* (Cardiff, 2008), 64; Sharpe, *Crime in Seventeenth-Century England*, 131-3.

<sup>23</sup> Faramerz Dabhoiwala, 'The construction of honour, reputation and status in late seventeenth- and early eighteenth-century England', *Transactions of the Royal Historical Society*, 6 (1996), 201-213, Elizabeth Foyster, 'Male honour, social control and wife beating in late Stuart England', *Transactions of the Royal Historical Society*, 6 (1996), 215-224; Thomas, Courtney, 'The honour and

violence arose from the minutiae of the day-to-day friendships formed between men while they worked, traded, gambled, worshipped, or travelled. As Naomi Tadmor has argued, friendships were not necessarily spontaneously chosen affective bonds and were instead forged through links with business, extended kin, guilds, religious groups, and more.<sup>24</sup> So too were these relationships negotiated in public spaces such as alehouses, coffeehouses, marketplaces, shops, or squares. While alcohol facilitated interactions, on other occasions, it encouraged dispute as the encounter at the Golden Lion tavern between Bramstone and Wiseman attests.<sup>25</sup> Their dispute bridged the activities of leisure – drinking, watching plays, and gaming – with the potential for fatal violence. A model of the everyday performance of male sociability thus requires explicit attention in studies of male-male homicide because it reveals the hidden intimacies between men who engaged in violent conflict and the multi-faceted nature of early modern male ‘friendship’. Considering everyday interactions between men also encourages an analysis of homicide on its own terms, rather than plotting it on a linear ‘decline of violence’ timeline during the period.<sup>26</sup>

Violence could serve a reconciliatory function between friends, and men understood the importance of a fair fight or scuffle to iron out disagreements and restore balance in a relationship.<sup>27</sup> The legal criteria for manslaughter focused on when dispute resolution became excessive, which means that cases demonstrate how the use of violence for a positive outcome turned destructive. I shall thus begin by considering how homicide law linked the emotion of anger with

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credite of the whole house”: family unity and honour in early modern England’, *Cultural & Social History*, 10:3 (2013), 329-345.

<sup>24</sup> Naomi Tadmor, *Family and Friends in Eighteenth-Century England: Household, Kinship, and Patronage* (Cambridge, 2001), esp. Chap. 5, ‘Friends’, 167-215.

<sup>25</sup> Alexandra Shepard, ‘Swil-bols and Tos-pots: Drink Culture and Male Bonding in England, c.1560-1640’, in Gowing, Hunter and Rubin (eds.), *Love, Friendship and Faith*, 110-130; Mark Hailwood, *Alehouses and Good Fellowship in Early Modern England* (Woodbridge, 2014), 38; Phil Withington, ‘Intoxicants and society in early modern England’, *The Historical Journal*, 54:3 (2011), 1469-5103.

<sup>26</sup> Lawrence Stone, ‘Interpersonal violence in English society 1300-1980’, *Past & Present*, 101 (1983), 22-33; J.A. Sharpe, ‘The history of violence in England: some observations’, *Past & Present*, 108, (1985), 206-215; Stone, ‘The history of violence in England: some observations: a rejoinder’, *Past & Present*, 108 (1985), 216-224; Pieter Spierenburg, ‘Faces of violence: homicide and cultural meanings: Amsterdam, 1431-1816’, *Journal of Social History*, 27:4 (1994), 701-716; ‘Violence and the civilizing process: does it work?’, *Crime, Histoire & Sociétés*, 5:2 (2001), 87-105. This debate has since been proven largely unworkable. See Alexandra Shepard, ‘Violence and civility’, 594.

<sup>27</sup> See Alexandra Shepard, *Meanings of Manhood in Early Modern England* (Oxford, 2003), esp ch. 5, ‘The violence of manhood’, 127-151.



masculinity and men's capacity for dispute resolution. While the intellectual specifics of friendship did not translate to everyday life, some manslaughters adhered loosely to criteria identified by writers and philosophers. One of these criteria was the idea that emotional friendship was contracted between social 'equals', so in the second part of the chapter I shall consider manslaughters where it was a given that the men implicated were 'equals' – exploring the tensions when men attempted to gain a slight upper hand in everyday interactions.<sup>28</sup> Close emotional relationships – like that between Bramstone and Wiseman – come to the fore in the recorded final interactions between killer and victim, where the language of forgiveness is essential to the ascription of moral culpability. Yet deferential and servile friendship was also part of everyday masculine interaction and as such can be identified in cases of manslaughter. I shall thus address 'unequal' and conflicting discourses of masculinity in the final part of the chapter. Here, age and the male body were key indicators of how violence informed inferior, unsuccessful, or corrupted manhood.

### Gender, anger, and violence

According to homicide law, the defining features of manslaughter were that it was quick, unplanned, and committed in 'hot blood' (a 'heat of passion'). In popular legal handbooks, such as those written by Michael Dalton and Matthew Hale, examples of these 'sudden disputes' were based on social interactions between men. Moreover, the 'heat' that accompanied manslaughter was informed by humoral understandings of the physical male body, where men were thought to have a higher latent bodily heat than women.<sup>29</sup> For example, in Hale's posthumous work *Historia Placitorum Coronae* (1736), he described the following scenario:

If *A.* and *B.* fall suddenly out, and they presently agree to fight in the field, and run and fetch their weapons, and go into the field and fight, and *A.* kills *B.* this is not murder but homicide, for it is but a continuance of the

<sup>28</sup> Walker, *Crime, Gender and Social Order*, 124.

<sup>29</sup> Walker, *Crime, Gender and Social Order*, 115; Krista Kesselring, 'Bodies of evidence', 253; Baker, *An Introduction to English Legal History*, 600-603; Beattie, *Crime and the Courts*, 79-82; Vanessa McMahon, *Murder in Shakespeare's England* (London, 2004), 176; Fay Bound Alberti, ' "An angry and malicious mind? Narratives of slander in the church courts of York, c.1660-c.1760", *History Workshop Journal*, 56 (2003), 65-66. Hale, *Historia Placitorum Coronae*, 453.

sudden falling out, and the blood was never cooled, but if there were deliberation, as that they meet the next day, nay, tho it were the same day, if there were such a competent distance of time, that in common presumption they had time of deliberation, then it is murder.<sup>30</sup>

The passing of time is essential to Hale's guidance on finding a manslaughter verdict – yet what was classed as 'sudden', or a 'competent' length of time would be left to the discretion of the judge and jury. Michael Dalton similarly wrote that juries had to decide whether the homicide was committed during 'one continuing fury' where it was impossible for the men's anger to be 'appeased', or 'asswaged' in any way.<sup>31</sup> The mention of hot blood that never had a chance to cool tapped into discourses of harmful, but nonetheless biologically predetermined male characteristics. Dalton described a further situation, which implied familiar contexts of male conflict:

So if two have borne malice the one to the other, and be reconciled, and after meeting againe, they fall out upon new occasion, and by agreement immediately they go into the field to fight, and the one killeth the other' it is manslaughter, unless there had been enough time for their heat to be calmed.<sup>32</sup>

Hale clarified the criteria further by stating:

If there be an old quarrel betwixt *A.* and *B.* and they are reconciled again, and then upon a new and sudden falling out *A.* kills *B.* this is not murder, but if upon circumstances it appears, that reconciliation was but pretended or counterfeit, and that the hurt done was upon the score of the old malice, then it is murder.<sup>33</sup>

Thus, there was conceptual space in the legal criteria for witnesses in their testimonies to construct several quarrels between the same men over the course of an extended period of time (say an evening at an alehouse) as separate and spontaneous. This implied that while men might hasten to angry violence, men also had a strong propensity for reconciliation, and were therefore unlikely to harbour the specific type of cool, hard malice that defined murder. Moreover, the notion of provocation was a recognised mitigating discourse, as men were

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<sup>30</sup> Hale, *Historia Placitorum Coronae*, 453.

<sup>31</sup> Dalton, *The Countrey Justice*, 223.

<sup>32</sup> Dalton, *The Countrey Justice*, 223.

<sup>33</sup> Hale, *Historia Placitorum Coronae*, 452.

expected to retaliate angrily and violently to affronts to their personal honour and credit.<sup>34</sup>

The relationship between bodily heat and anger persisted in other types of text, too. According to John Downname in his influential treatise *Spiritual Physicke*, hot-blooded anger was a result of the blood literally boiling around the heart and producing 'deforming' physical symptoms such as redness of face, quickness of breath, and the beating of inanimate objects. By contrast, the 'malice' that accompanied premeditated murder was generated over a long period of time; it was the consequence of leaving hot anger unchecked, where it would cool and harden into something far more sinister and evil.<sup>35</sup> A by-product of this conceptualisation of anger was that women were understood as more prone to developing malice because of their naturally colder, wetter temperament. While women could experience 'hot' anger, conduct and medical writers claimed that it was 'petty' and any accompanying violence was weak, absurd, comical, or inconsequential.<sup>36</sup> Therefore, women did not have recourse to the language of hot-blooded manslaughter that pertained to the male codes of violence and honour in their defence testimonies.

Instead, the law implied that when women *did* kill, their actions were calculated, premeditated, and 'cold-blooded'.<sup>37</sup> Homicidal women, who most often killed their husbands, servants, or children, were therefore frequently depicted as unnatural or animalistic in cultural discourse.<sup>38</sup> Yet as I demonstrated in the previous chapter, there were legal fictions in place that mitigated particular contexts of women's violence and allowed them to be convicted of manslaughter.<sup>39</sup> Furthermore, in witness depositions for non-fatal crimes where anger was also a key part of the legal criteria – slander for instance – both men

<sup>34</sup> Walker, *Crime, Gender and Social Order*, 115-116; 125; 132; Kesselring, 'Bodies of evidence', 254.

<sup>35</sup> John Downname, *Spiritual Physicke to Cure the Diseases of the Soule, Arising from Superfluitie of Choller, Prescribed out of Gods Word* (London, 1616; Glasgow, 1673), 2-3; 19; 52.

<sup>36</sup> Kesselring, 'Bodies of evidence', 254; Walker, *Crime, Gender and Social Order*, 83; Linda Pollock, 'Anger and the Negotiation of Relationships in Early Modern England', *The Historical Journal*, 47:3 (2004), 579-80.

<sup>37</sup> Walker, *Crime, Gender and Social Order*, 124; Kesselring, 'Bodies of evidence', 253-4; Sandra Clark, *Women and Crime in the Street Literature of Early Modern England* (Basingstoke, 2003), 33-69.

<sup>38</sup> Walker, *Crime, Gender and Social Order*, 140.

<sup>39</sup> Though how mitigating these 'fictions' were in practice is another question, seeing as women convicted of manslaughter were not eligible for benefit of clergy until 1691, and as such were still executed (unless they obtained a pardon or reprieve).

and women displayed malicious *and* angry behaviour interchangeably.<sup>40</sup> In the church courts, men and women legitimated violent words and gestures in terms of honour codes available to their respective gender. Such codes related to sexual behaviour, maintenance of households, care of dependents, creditable dealing, orderly and pious conduct, moderation of appetites, and the use of reason.<sup>41</sup> Malice could therefore never be truly separated from anger, which encouraged Hale to comment that ‘murder and manslaughter differ not in the kind or nature of the offence, but only in the degree’.<sup>42</sup> However, historical actors in cases of homicide took for granted that men’s higher natural body heat made them predisposed to excessive anger – that male anger, while not necessarily condoned, was itself a natural phenomenon. The link between emotion and violence in homicide law, then, meant that men had more opportunities to justify fatal violence as arising from a latent, natural tendency to anger: the ‘sudden heat of passion’.<sup>43</sup>

Narratives of manslaughter in the *Old Bailey Sessions Papers* frequently followed a sequence of events similar to that defined in the legal criteria. For example, a trial summary of a murder tried at the Old Bailey in 1679 reported that the two men’s fatal fight occurred ‘on a fray and sudden heat, they were just before good friends, so it was onely manslaughter’.<sup>44</sup> Witnesses often referred to an initial quarrel, which raised the tempers of victim and killer but was quickly reconciled. Then, another spontaneous quarrel occurred a short while later where the fatality ensued. The language that witnesses used to indicate a true resolution to the first quarrel was that the deceased and prisoner seemed to be ‘friends’ again, or talked to each other in a friendly manner. In a report from 1680, defendant Andrian Scroop ‘acknowledged his sorrow for some unadvized words he had thrown out in Passion’ after he was separated from a fight with deceased William Best outside a tavern. However, ‘not having long renewed that Friendship, ere a greater contest arose’. The ‘greater contest’ here referred to the new, allegedly spontaneous

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<sup>40</sup> Bound Alberti, ‘“An angry and malicious mind”’, 65.

<sup>41</sup> Dabhoiwala, ‘The construction of honour’, 201-213; Gowing, ‘Women, status and the popular culture of dishonour’, 225-234; Garthine Walker, ‘Expanding the boundaries of female honour’, *Transactions of the Royal Historical Society*, 6 (1996), 235-245.

<sup>42</sup> Hale, *Historia Placitorum Coronae*, 449.

<sup>43</sup> McMahon, *Murder in Shakespeare's England*, 170.

<sup>44</sup> *OBP*, trial of unnamed man, December 1679, t16791210-12.

argument that led to Best's eventual death.<sup>45</sup> In a 1693 trial, fellow soldiers William Francis killed William Strowd after a disagreement over payment of their reckoning. Yet this was not the first time over the course of the evening that they had fought: 'they had had some difference about their Horses some small time before, but they were Friends again'.<sup>46</sup> The idea that men regularly quarrelled, but did not harbour grudges for very long was emphasised in these accounts. Rather than to refer to a close affective relationship, witnesses used the language of making friends to indicate that the men did not harbour malice, and that passions from any previous dispute had cooled.

However, the fact that men's anger was regarded as natural did not mean that it was always acceptable. Like other unruly passions, anger required moderation.<sup>47</sup> Theologians and didactic writers such as Timothy Nourse and Lancelot Blackburne saw the appropriate management of anger as a duty for all good, respectable Christian men to follow.<sup>48</sup> Nourse and Blackburne wrote within a larger Protestant cultural discourse preoccupied with the appropriate outward expressions of emotion, such as grief, sorrow or joy, namely during formative life-cycle experiences such as marriage, birth and death.<sup>49</sup> Popular literature and stories also contained 'positive' stories of male anger where brave and courageous feats of aggression overcame enemies to prescribe the appropriate outlets for a specifically masculine form of anger. Contemporary conduct literature and religious texts offered contradictory and conflicting opinions on whether male anger was healthy or sinful. However, the idea that anger robbed men of reason

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<sup>45</sup> OBP, trial of Andrian Scroop, January 1680, t16800115-2.

<sup>46</sup> OBP, trial of William Francis, September 1693, t16930906-8.

<sup>47</sup> Pollock, 'Anger and the negotiation of relationships', 570.

<sup>48</sup> John Downname, *Spiritual Physicke*; Timothy Nourse, *A Discourse upon the Nature and Faculties of Man in Several Essayes with Some Considerations of Humane Life* (London, 1686); Lancelot Blackburne, *The Unreasonableness of Anger a Sermon Preach'd before the Queen at White-Hall* (London, 1694).

<sup>49</sup> For discussions of formative life-cycle experiences, see Alan Macfarlane, *The Family Life of Ralph Josselin, a Seventeenth-Century Clergyman: An Essay in Historical Anthropology* (London, 1970); Rosemary O'Day, *The Family and Family Relationships, 1500-1900: England, France and the United States of America* (Basingstoke, 1994); Ralph Houlbrooke, *Death, Religion, and the Family in England, 1480-1750* (Oxford, 2000); Patricia Crawford and Laura Gowing, *Women's Worlds in Seventeenth-Century England* (London, 2000); Laura Gowing, *Common Bodies: Women, Touch, and Power in Seventeenth-Century England* (New Haven, 2003); Patricia Crawford, *Blood, Bodies and Families: In Early Modern England* (Harlow, 2004); Helen Berry and Elizabeth Foyster (eds.), *The Family in Early Modern England* (Cambridge, 2007).

persisted throughout the period. It was frequently described as a corrupting and emasculating force on the male body.<sup>50</sup>

Yet these writers consistently used the language of the passions and the humoral body to frame their discussions on male anger. Even though the concept of Cartesian dualism began to influence medical and philosophical writers from the latter part of the seventeenth century, a close association between the humours and the passions continued in daily usage. This link affected historical actors' explanations for male violence in cases of homicide well into the eighteenth century.<sup>51</sup> For example, the language of moderating the passions featured heavily in witness examinations for a homicide that occurred in Merionethshire in 1702. Samuel Evan killed his neighbour Evan ap Richard when a former conflict was left unresolved and erupted into violence. Witnesses for the prosecution conceptualised the homicide as cold-blooded murder because Samuel Evan had refused to reconcile with Evan ap Richard, which meant his anger hardened over the course of several months. The first quarrel was over the price of some butter, as Evan believed his account was one shilling more in credit than Richard would accept. Witness Anne Griffyth deposed that after this disagreement, 'Samuel went out in a very Angry Humour, and very much in passion, and the deceased Evan ap Richard very mild'. She 'heard not of their reconciliation'. Richard's widow Jane verch Kadwalader further claimed that 'so angry he [Samuel Evan] was that he would not stay to drinke', suggesting the two women considered it plausible for the difference to be reconciled over a drink, and that Evan's anger was immoderate.<sup>52</sup> Three months later, the men argued again when Richard's maidservant Ellin Rowland pilfered some 'good carrotts' from Evan's garden. Evan saw the maid's actions as a 'proxy' assault on him and his household: first Richard had cheated his neighbour out of money and now he was using household servants to steal from him.

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<sup>50</sup> Elizabeth Foyster, 'Boys will be boys? Manhood and aggression, 1660-1800', in Tim Hitchcock and Michele Cohen (eds.), *English Masculinities 1660-1800* (London & New York, 1999), 151-156.

<sup>51</sup> Susan Broomhall, 'Emotions in the household' in Susan Broomhall (ed.), *Emotions in the Household, 1200-1900* (Basingstoke, 2008), 6-7; Fay Bound Alberti, *Matters of the Heart: History, Medicine, and Emotion* (Oxford, 2010), 142-3.

<sup>52</sup> National Library of Wales (NLW), Great Sessions Gaol Files (GS), 4/296/2 no. 58, examinations of Anne Griffyth and Jane verch Kadwalader (Merionethshire, 1702).

Ellin Rowland constructed her actions as an honourable defence of her master. She asserted to Evan that she entered the garden of her own accord, and not under instruction from her master, but claimed Evan was by then 'in a great passion' and ran towards her with his knife in his hand – a potential weapon of attack. She presented her own master as calm and rational, telling Evan 'hearken to reason, touch not the maid', which implied that the outburst was unmanly and disproportionate to the offence. Evan ignored the warning and stabbed Richard multiple times. The earlier dispute over the shilling and its lack of proper reconciliation showed potential for premeditated malice, while witnesses contrasted the excessive anger and irrationality of Evan's behaviour with that of the 'mild' and calm Richard. They implied that Evan's 'angry humours' had continued to simmer in the months after their initial dispute, when he should have attempted to resolve the dispute and cool his temper.<sup>53</sup> The examinations show that the gendered language of moderating natural male passions was enmeshed with practical expectations of dispute resolution, and the two men's personal honour in terms of their local credit. Witnesses against Evan depicted his anger as unjust, excessive, and disproportionate to the perceived affront to his honour.

Learning to curb physical aggression and expressions of anger was an essential part of growing up male – boys and young men had to learn the appropriate outlets for anger.<sup>54</sup> Part of this learning process involved bonding through types of disorderly behaviour that involved aggression or violent words and gestures, such as drinking, fighting, gaming, vandalism, or inappropriate sexual language and gesture. Such excess was generally met with disapproval, but was considered a normative mode of achieving 'full' patriarchal manhood.<sup>55</sup> However, on the rare occasion that boys strayed into the territory of homicide, the question of whether they should be held to account using standards reserved for adult male violence was ambiguous. For example, only one examination survives for the killing committed by thirteen-year-old 'lad' Owen Probert against his twelve-year-old peer Edward Williams in the parish of Llandyfrydog, Anglesey.

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<sup>53</sup> NLW GS 4/296/2 no. 58, examinations touching the death of Evan ap Richard.

<sup>54</sup> Anthony Fletcher, *Gender, Sex and Subordination in England, 1500-1800* (New Haven and London, 1995), 136. Foyster, 'Boys will be boys?', *passim*; Ethan H. Shagan, *The Rule of Moderation: Violence, Religion and the Politics of Restraint in Early Modern England* (Cambridge: Cambridge University Press, 2011), 8-18; Kesselring, 'Bodies of evidence', 254-5.

<sup>55</sup> Shepard, 'Swil-bols and tos-pots', 113; *Meanings of Manhood*, 94-95.

At seventeen, sole witness Rowland Hughes was the only one of the threesome over the legal age of discretion (fourteen). The altercation arose when Hughes and Probert, both servants, were sent by their master Owen Thomas Morris to guide carts of straw to the nearby parish of Coedana. They came across Edward Williams stripping gorse and loading it into a dray. Hughes accidentally dropped the halter from his horse, which Williams ‘very kindly and readily’ handed back to him. Probert’s attitude, however, was a stark contrast. Probert allegedly ‘gave the said Edward Williams hard language and a blow with a rod that had a lush to it’ while still mounted on his horse. In response, Williams threw the pitchfork he was using to move the gorse at Probert, which ‘stuck in his head’. Hughes rushed to remove it ‘and blood ran out of the wound’. Later that evening, Probert ‘found himself sick and indisposed all over his body and fell very ill that night’. On hearing the news, his mother came to take her son back to his parental household where he died a short while afterwards. Hughes deposed that the cause of Probert’s outburst was that Williams had ‘broak some time before his knife and auls’.<sup>56</sup> Williams was found guilty of manslaughter. His punishment – whipping – appeared tempered to account for his age and perceived lack of control over his anger.<sup>57</sup>

While the examination followed a standard linguistic formula in that it invoked discourses from the legal criteria of provocation by the deceased, the altercation between the two boys was not a lesser version of adult male violence but rather an incident that involved children. For example, while Rowland’s age permitted his evidence to be officially used in court, the examination preamble suggested that his words were still those of a child – the clerk referred to him as an ‘infant’ – which complicates the idea that early modern people considered young people in service as having adult-like ‘capabilities’.<sup>58</sup> In fact, court records for crimes such as rape and larceny show that contemporaries understood that maturity in body *and* mind happened at varying rates during childhood.<sup>59</sup> For

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<sup>56</sup> NLW GS 4/250/3, no. 80, examination of Rowland Hughes (Merioneth, 1702).

<sup>57</sup> NLW GS 4/250/3, no. 81, indictment of Edward William, *billa vera*, guilty of manslaughter, to be whipped.

<sup>58</sup> Hugh Cunningham, *The Invention of Childhood* (London, 2006), 245.

<sup>59</sup> See Peter King, *Crime and Law in England: 1750-1840: Remaking Justice from the Margins* (Cambridge, 2006); Garthine Walker, ‘Everyman or a monster? The rapist in early modern England’, c.1600-1750’, *History Workshop Journal*, 76 (2013), 15.



instance, if a judge decided that a child was too immature to understand the nature of an oath, then they would not be able to provide sworn testimony in court.<sup>60</sup> In his examination, Hughes also used the word ‘lad’ to describe the two boys, but whether this label was attributed by him or the clerk is unknown. Moreover, the boys were all employed in the service of Owen Thomas Morris, yet the household was only one mile away from Owen Probert’s mother’s house. So near were they that when she heard of her son’s injuries, she immediately came to ‘fetch him *home* [my emphasis]’. Hughes’s examination implies that the ties of family still reached children who worked away from their conjugal family in service, especially in the most remote parts of Anglesey. The case also gives valuable insight into the daily lives of children and the work they were expected to undertake while in service.<sup>61</sup> The incident demonstrates that while boys may have received education on the consequences of anger, the courts did not hold them to the same standards as they did mature men.

The propensity for homicidal anger could also be associated with regional stereotypes. For example, in sixteenth- and seventeenth-century England, popular literature and balladry satirised Welsh military prowess to claim that Welsh men had particularly rash tempers. The existence of such a stereotype encouraged eighteenth-century antiquarian societies to investigate whether popular ideas about the ‘hot passions’ of the Welsh and phrases such as ‘my Welsh blood is up’ had any basis in fact.<sup>62</sup> The Great Sessions were mostly presided over by English judges, who may well have been influenced by prejudicial views. It is possible that bilingual clerks who translated and recorded pre-trial documents used certain turns of phrase to indicate the hot blood or raised passions of Welsh men that were not necessarily the verbatim words of the witness or suspect.<sup>63</sup> Popular English ballads of the late seventeenth century, for example, mocked Welsh claims to righteous violence. *The Unfortunate Welch-Man* depicted the Welsh protagonist

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<sup>60</sup> Sarah Toulalan, ‘“Is he a licentious lewd sort of a person?”: constructing the child rapist in early modern England’, *Journal of the History of Sexuality*, 23:1 (January 2014), 37.

<sup>61</sup> Cunningham, *The Invention of Childhood*, 82.

<sup>62</sup> Michael Roberts, ‘More prone to be idle and riotous than the English? Attitudes to male behaviour in early modern Wales’ in Michael Roberts and Simone Clarke (eds.), *Women and Gender in Early Modern Wales* (Cardiff, 2000), 259-260.

<sup>63</sup> Thomas Glyn Watkins, *The Legal History of Wales* (Cardiff, 2007), 126-130; Sharon Howard, *Law and Disorder in Early Modern Wales: Crime and Authority in the Denbighshire Courts, c. 1660-1730*, 30-34.

Shonny ap-Morgan's violent threat as feminine and inconsequential at the beginning of the ballad, using a female pronoun and describing his drab and scruffy appearance and horse.<sup>64</sup> Later, meeting a Scottish man on the road, the two agreed to drink together in a tavern. The Scottish man, however, was a 'false Loon' who abandoned Morgan with the reckoning. Morgan was whipped up into a furious rage:

The Welch blood was up, and her mind was bent  
For speedy persuing he then did prepare,  
Then Morgan did mount upon Bob the grey-mare,  
Then whip and spur stout Shonny did ride,  
And overtook Jockey near to a wood-side,  
And pull'd out her sword in the height of her pride  
And wounded poor Jockey who suddenly dy'd.

The mixing of the female and male pronouns in this stanza was engineered so that Morgan's anger could be depicted in a feminine way – as comical and irrational – but could be reconciled with the idea that his violence was dangerous. According to the ballad, he dramatically killed the Scotsman with one stroke of his sword.<sup>65</sup> This was by no means an inconsequential act as demonstrated by his imprisonment and execution. Shonny ap Morgan's reaction was most certainly an unreasonable and excessive outburst.

The ballad confused gendered stereotypes of anger and violence in order to emphasise that Morgan's actions held weight, but that his use of violence was not righteous or justified as a real man's should be. Another way that the ballad sought to 'other' Morgan was in its description of his execution. The ballad reported that Morgan was executed alongside a highway robber, who died in a typical 'game' fashion. 'Game' deaths disturbed the conventional gallows scene when the prisoner was impenitent, made lewd speeches on scaffold, or insulted the executioner and other prisoners.<sup>66</sup> The highway robber in the ballad lived up

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<sup>64</sup> *The Unfortunate Welch-Man, or the Untimely Death of Scotch Jockey* (London, 1685-1688).

<sup>65</sup> The idea that comical 'female' violence acted as a tool to emasculate or trivialise national or political opponents was also a theme of popular balladry at times of Jacobite threat. See for example, *An Excellent New Song Call'd, the Female Duel; or, the Victorious Williamite Lady, who was Challeng'd to Fight a Duel by a Jacobite Lady* (London, 1700).

<sup>66</sup> Andrea McKenzie, 'Martyrs in low life? Dying "game" in Augustan England', *The Journal of British Studies*, 42:2 (2003), 167-205.

to this stereotype. He also insulted Morgan by asking to be hanged further away, to which:

The Welch-man he heard him, and was in a rage.  
That nothing almost could his passion assuage;

Even on the scaffold, the Welsh man was a hostage to his anger – note here the use of the male pronoun. However, this kind of national stereotyping of anger did not persist in cases tried at the Great Sessions, nor in the very few trial reports from the Old Bailey which involved English men's witness testimony about conflicts between Welsh men.<sup>67</sup> While Matthew Hale even included in his explanation of manslaughter an example of a Welsh man killing on St. David's Day, he made no mention of the man's nationality as a contributing factor to the rage which ended in homicide.<sup>68</sup> It was far more likely in popular literature at least, for writers to comment on geography and masculinity by contrasting images of urban and rural masculinities. Ballads measured the honourable violence of simple, rustic, country people against effeminate, luxurious, and cowardly city men. The ballad *The Unfortunate Fencer*, for example, told the story of a 'huffing' London fencer bent on challenging anyone he met to the field with his flashy rapier. He was outsmarted and declared a fool by a lusty country man who beat him, fairly, in combat.<sup>69</sup>

Similar to Samuel Evan and Shonny ap-Morgan's homicidal anger, the danger that murderous rage could erupt from a seemingly trivial slight was a recognised discourse in popular texts. A ballad of 1675 describing the murder of a knight by two men emphasised the ease with which men could turn from common hector to brutal murderer. The author expressed that such 'bloody acts' were only usually committed by those base criminals who expected material gain, but in this case the murder was committed 'in a furious rage', with little real reason. The author expressed: 'No profit this base act could bring, / Nor no abuse did cause

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<sup>67</sup> OBP, trial of John Griffith, September 1715, t17150907-25; trial of Robert Dickinson, December 1738, t17381206-38.

<sup>68</sup> Hale, *Historia Placitorum Coronae*, 469.

<sup>69</sup> *The Unfortunate Fencer; or, the Courageous Farmer of Gloucester-shire* (London, 1675-1696).

this thing'.<sup>70</sup> The main warning of this particular ballad was that too much drinking and bad company could exacerbate men's naturally quarrelsome tendency, causing them to seek out pointless conflicts that had the potential to end disastrously. The murdered knight tried honourably to 'appease' the two killers, but they were so intent on a quarrel that it did little to help. This kind of seemingly motive-less violence was rare in real life, but it reflected real concerns over men's moderation of their passions as well as a general desire on the part of the author to comment on the links between social status, drinking, and violent behaviour.

Alternative cultural discourses of non-fatal masculine violence existed, such as when older men disciplined younger men as a way of preparing them for patriarchal masculinity.<sup>71</sup> However, this rarely went as far as homicide. There was a contemporary legal assumption that the types of scenario which most often led to homicide concerned men of comparable status in terms of age or social standing. Samuel Evan and Evan ap Richard's 'friendship' was one of utility, primarily based on the mutual exchange of goods. While Evan's case demonstrates that witnesses did not always use the words 'friend' or 'friendship' in their discussions of dispute resolution, the theme of equity in male relationships produced cultural discourses of violent conflict that were closely associated with contemporary ideas of friendship.

### Equal friendship

I established earlier that witnesses in court used the language of 'making friends' to indicate the spontaneity and heat of male quarrels in order to mitigate homicidal violence. The similar status of men implicated in homicides rested on older ideas about the formal rules of challenge to physical combat, which had to be made by a man who considered himself a similar (or slightly superior) social status to his opponent.<sup>72</sup> No other occasion where a relationship was more similar was when a fight occurred between brothers. In December 1714, Robert Powell

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<sup>70</sup> *Being a Sad and True Relation of the Apprehension, Tryal, Confession, Condemnation, and Execution of the Two Barbarous and Bloody Murtherers, who Basely and Unawares Killed a Worthy Knight of the North County* (London, 1675).

<sup>71</sup> See Shepard, *Meanings of Manhood*, 135-139.

<sup>72</sup> Walker, *Crime, Gender and Social Order*, 132; Shepard, *Meanings of Manhood*, 140.

was indicted for killing his brother, Peter, after the two engaged in a series of quarrels one evening.<sup>73</sup> The two men entered Robert Watkin's alehouse at about 9pm on a Saturday night, where they were:

rangling about a sadle, but Robert Powel tould his brother that he had no minde to quarrel with him in the town for that would breake his credit.<sup>74</sup>

Robert Powell's declaration showed his desire to preserve his public reputation in front of the other men in the alehouse, and Peter's belligerence in continuing the conflict. According to witnesses Robert Conway and Simon Roberts, in response to Robert Powell's concerns Peter boasted about his strength and claimed he would 'beat' his brother 'at any time' in a physical altercation. Adopting the language of the man of honour, Robert then replied 'he would not go home lest he should be called a coward' and went outside followed closely by his brother.<sup>75</sup> There were contrasting forms of masculinity at play in the exchange, which first emphasised Robert's reasonable nature in his initial refusal to engage in conflict. Secondly, Peter's affront to his brother's honour by questioning his strength presented Robert Powell with an opportunity to use righteous violence in retaliation. However, some of the witnesses implied that this retaliation was unnecessary or excessive, as there existed a level of ambiguity in the wording of the depositional evidence as to whether Peter's insult was indeed a clear enough challenge.

The victualler Robert Watkin used vague language in his examinations as to who precisely was to blame for the fight. He alleged that 'one of them challenged the other', but did not specify which of the brothers initiated the fight. This statement in fact replaced the crossed out words 'went out both' and was a later insertion into the text by the clerk. The lack of precision allocates equal culpability to both men for the decision to fight, or at least left it to the discretion of the jury to debate.<sup>76</sup> Watkin provided a further examination, which was recorded in the first person, and lends a linguistic immediacy to his own role in the encounter. He along with his wife parted the two brothers and carried Peter

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<sup>73</sup> NLW GS 4/998/1, no. 2, indictment of Robert Powell for murder, *billa vera*. No. 3 in the file is another *billa vera* indictment for 'petit felony'; nos. 6 and 7, examinations of witnesses (Flint, 1714).

<sup>74</sup> NLW GS 4/998/1, no. 6, examination of Robert Watkin.

<sup>75</sup> NLW GS 4/998/1, nos. 6-7, examinations of Robert Conway and Simon Roberts.

<sup>76</sup> NLW GS 4/998/1, no. 6, examination of Robert Watkin.

inside to examine his injuries, thinking that the man was simply ‘in a faint not thinking he had bin dead’.<sup>77</sup> The written record in this case shows the instability of language and narrative slippages in the Welsh records that came from the multiple forms of mediation through legal convention and translation. Furthermore, the location of the violence shifted from inside the alehouse to ‘fighting in the street’ of the town approximately ‘2 roods’ away from the door of the alehouse. This reinforces the idea that the physical space in which the brothers’ violence took place was also unstable, and as such is not a reliable indicator of whether certain kinds of men’s violence can be neatly categorised as ‘public’ or ‘private’.<sup>78</sup> After all, Peter and Robert Powell’s brotherly relationship blurred the boundaries between family and male sociability, which precludes its categorisation as wholly ‘domestic’ nor wholly pertaining to male ‘friendship’.

Usually however, when two social equals agreed to fight, there were implications in the legal criteria that both parties *willingly* entered the violent confrontation that ultimately led to the victim’s death. If both parties desired violent conflict (though this was not conceptualised as fight to the death), then the balance of culpability of both victim and killer rested on ideas of fair play or a fight between equals to solve a disagreement.<sup>79</sup> This is evident in numerous trial reports from the *Sessions Papers*. For example, upon a disagreement with several men about the payment of a reckoning, Michael Young challenged one of the company to a fight. Joseph Hutton, however, volunteered himself and refused the original pairing because Young’s chosen opponent ‘was not an equal match’. The two men ‘fought fairly, and were friends again’ afterwards. The men allegedly exchanged fifteen blows, twelve of which came from Hutton, but a knee to the stomach from Young proved fatal. Young was found guilty of manslaughter and sentenced to

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<sup>77</sup> NLW GS 4/998/1, no. 6, further examination of Robert Watkin. It could be that this further examination taken slightly later but recorded on the same four-sided piece of paper. The first examination was written in a different hand; it was also signed by the Justice of the Peace, and had an official preamble whereas the latter did not.

<sup>78</sup> i.e. that ‘outside’ violence was public and committed generally between men, and ‘inside’ violence was domestic violence committed by men. See Joanne Bailey, ‘“I dye [sic] by inches”: locating wife beating in the concept of a privatization of marriage and violence in eighteenth-century England’, *Social History*, 31:3 (2006), 274. Cf. Robert Shoemaker, ‘Male honour and the decline of public violence in eighteenth-century London’, *Social History*, 26:2 (2001), 190-208. As I argued in the previous chapter, and as this example of the two brothers suggests, the description of ‘domestic’ rarely accounts for the nuances in understandings of intimate relationships and gendered violence in cases of homicide.

<sup>79</sup> Beattie, *Crime and the Courts*, 91-4; Walker, *Crime, Gender and Social Order*, 115; 120-121.

branding.<sup>80</sup> In 1744, Benjamin Howard offered William Paulet the lie. The men ‘agreed to fight, and they both stripped very fairly and fought’. It was later proven that Paulet was in a very poor state of health before the encounter, which led to Howard’s acquittal as opposed to a manslaughter verdict.<sup>81</sup> In both examples, each man entered into the fight willingly and sought to navigate the encounter according to fairness and the expectations of male friendship.

The very wording *fair play* denoted a merging of the boundaries between violence for recreation and fatal encounters. Violence and friendship were not incommensurable. Men implicated in more structured violent encounters – wrestling or ‘grappling’, for instance – tried to downplay the violence as part of friendly interaction. Fighting or rough play was an act that confused aspects of friendship, physical intimacy, and aggression.<sup>82</sup> It could also merge positive emotions with tragic consequences. When a drunken Thomas Dudleyston jumped on his brother in law John ap John for a play-fight, the last thing that the witnesses expected was a death.<sup>83</sup> After a night of drinking, Denbighshire men Thomas Wynn, David Peeter, Levi Hughes, and John ap John were getting ready to leave the alehouse, when Dudleyston turned up ‘far in drinke’. He approached Thomas Wynn, telling him ‘I love thee’, to which Wynn humoured him by responding: ‘I love thee well’.<sup>84</sup> According to Peeter, Dudleyston went over to his brother in law, who was sitting on a bed, ‘took him by the arm and plucked him onto him’, where they both ‘grappled’ together, but did not exchange any blows.<sup>85</sup> They ended collapsed together on the floor, with Dudleyston underneath his brother ‘in a swoone’.<sup>86</sup> He was taken up and brought to a window for air, but ‘could not be brought to lyfe again’.<sup>87</sup>

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<sup>80</sup> *OBP*, trial of Michael Young, December 1722, t17221205-40.

<sup>81</sup> *OBP*, trial of Benjamin Howard, September 1744, t17440912-25.

<sup>82</sup> Shepard, *Meanings of Manhood*, 114-115.

<sup>83</sup> NLW GS 4/27/5, nos. 51-53, examinations of Thomas Wynne, David Peeter, Levi Hughes, John ap John, and Anne Murray. See no. 73, indictment of John ap John, *billa vera*. (Denbigh, 1669).

<sup>84</sup> NLW GS 4/27/5, nos. 51 and 53, examinations of Thomas Wynne and Anne Murray.

<sup>85</sup> NLW GS 4/27/5, no. 51, examination of David Peeter.

<sup>86</sup> NLW GS 4/27/5, no. 53, examination of Anne Murray.

<sup>87</sup> NLW GS 4/27/5, nos. 51-53 all report the same sequence of events.

Ann Murray, who was also present, insisted that ‘she could perceive no anger or malice to be betweene them’. Dudleyston approached his brother:

in a merry jestinge manner to this examinats apprehension, for they both smyled the one on the other.

Dudleyston then said ‘now I will master you’ and grabbed his brother’s arms to play fight.<sup>88</sup> This case once again demonstrates the level of detail included in the Welsh depositional material, to the extent that Ann Murray even described the facial expressions of the men involved in the exchange. She used the presence of smiling to support her interpretation that the brothers were engaged in a light-hearted as opposed to tense exchange. Only Murray’s testimony included interpretation of the men’s moods, whereas the men’s testimonies focused more on the physical action and placement of actors. This also raises significant questions as to what sorts of incidental detail female witnesses provided that male actors did not.

Furthermore, men even fought to *make* new friendships with one and other. For example, accused man Joseph Greenfield claimed in his testimony that he and his victim agreed to ‘fight for love’. According to one witness, they ‘boxt fairly’, where the deceased appeared to have the advantage: ‘the prisoner clapp’d him on the Back, and call’d him a good Lad. They shook hands three times very lovingly, and went to boxing again’.<sup>89</sup> In a 1729 trial, Thomas Hargrave stood trial for the murder of William Hill. After a bet from the deceased, the two men agreed to fight. They stripped and fought where both gave and received blows in a seemingly equal measure (at least the tone of the trial report indicated thus), until the deceased called a stop to their fight. The report stated:

The Prisoner and the deceas'd were friendly, and the deceas'd offer'd to fight him again at some other time; that sitting down on a stool, in a few minutes he laid his head against the chimney, and died immediately’.<sup>90</sup>

Here, being ‘friendly’ and the offer of a new physical altercation were not necessarily incompatible, because both men understood that the physical fight was for their own entertainment or social benefit. Non-fatal violence between men was

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<sup>88</sup> NLW GS 4/27/5, no. 53, examination of Anne Murray.

<sup>89</sup> *OBP*, trial of Joseph Greenfield, June 1734, t17340630-3.

<sup>90</sup> *OBP*, trial of Thomas Hargrave, August 1729, t17290827-4.



at the heart of normative masculine identities. It was essential for regulating male hierarchies and working out the subtleties of status and power between men in particular groups premised on age, employment, patriarchal status, or friendship.<sup>91</sup> If they were legitimate and moderate, then physical altercations helped men to police each other's behaviour and allowed them to maintain healthy and beneficial interpersonal relationships with each other.<sup>92</sup> Even though Greenfield and his victim John Jones were unknown to each other before the incident, just as the Bridewell boy in a trial of 1743 and his victim Thomas Baker were 'not friends', the fact that Greenfield and Jones fought 'for love' and the young men 'fought in order to be friends with one and other' shows that violence played a part in the making, as well as breaking of male bonds.<sup>93</sup>

So far, I have shown that contemporary understandings of men's emotions and the language of friendship interacted with the ascription of culpability in cases of manslaughter in both legal and cultural contexts. Assertions of friendship and friendly behaviour between killer and victim existed in mitigating narratives, even if the language was not always indicative of a deep affectionate bond. I have suggested too, that the gendering of anger and its necessity to verdicts of manslaughter in the event of a spontaneous quarrel could indicate that men whose tempers were quick to flare may have had an equally fast response when faced with the prospect of reconciliation. Moreover, killers often accepted their culpability for the angry outburst that ended in the death of a friend, but the fact that they were convicted of manslaughter meant that the deceased was not wholly innocent in the matter. A victim's acceptance of partial responsibility could invoke ideas of fair play, which merged both practical and emotional demands of male bonds. The acceptance of responsibility from both killer and victim also evoked discourses of sadness and remorse for their actions. This involved declarations of forgiveness for the fatal fight by both parties. Forgiveness was thus an essential component of how actors conceptualised male bonds.

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<sup>91</sup> Walker, *Crime, Gender and Social Order*, 128; Alexandra Shepard, *Meanings of Manhood in Early Modern England* (Oxford, 2003), 132.

<sup>92</sup> Walker, *Crime, Gender and Social Order*, 23; Pollock, 'Anger and the negotiation of relationships', *passim*.

<sup>93</sup> OBP, trial of Bridewell Boy, December 1743, t17431207-37.

Cultural discourses of manslaughter between ‘friends’ were heavily loaded with notions of reconciliation and forgiveness, which tempered perceived immoderate behaviour and fulfilled or restored masculine expectations. In order to die a typically ‘good death’ and appear truly penitent, a convicted felon had to admit full culpability for their actions at their public execution. While in practice many criminals did not die according to such a conventional narrative, criminal biographies and printed ‘last dying speeches’ invoked a discourse where the perpetrator was supposed to accept sole responsibility for their fate in order to die at peace with the world. Part of this discourse was a penitent expressing a desire for reconciliation and forgiveness to those whom they had hurt: victims, family, or alleged accomplices.<sup>94</sup> The desire for forgiveness from peers and God was bound up with the admission and acceptance of culpability for one’s sins in order to die well and enter heaven.<sup>95</sup> The reported dying words of a murder victim – which included identification of murderers as well as outward declarations of forgiveness to the killer – had the ability to influence murder convictions. These scenes involved participants’ individual understandings of divine providence and the law, which produced narrative ‘fictions’ for early modern people to use in order to ascribe culpability in cases of murder.<sup>96</sup> Forgiveness was also a key theme in cases of manslaughter, and formed part of narrative ‘fictions’ of men’s relationships which helped actors mitigate murder but still ascribe culpability to both parties. As I demonstrated above, the language of the equal fight and fair play were important in establishing legal culpability, yet this language was also important for regulating affective regimes between men.<sup>97</sup> Writers for the *Sessions Papers* emphasised the bond between killer and victim for its emotive and dramatic qualities, which brought up two issues. First was the extent to which gesture lent legitimacy to internal strife, and second was the impact such gesture had on legal and moral culpability.

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<sup>94</sup> Andrea McKenzie, *Tyburn’s Martyrs: Execution in England, 1675-1775* (London: Hambledon Continuum, 2007), 158-169.

<sup>95</sup> Ralph A Houlbrooke, *Death, Religion, and the Family in England, 1480-1750* (Oxford, 2000), 183-219; Ralph A. Houlbrooke (ed.), *Death, Ritual and Bereavement* (London, 1989).

<sup>96</sup> Howard, *Law and Disorder*, 68; Malcolm Gaskill, ‘Reporting murder: fiction in the archives in early modern England’, *Social History*, 23.1 (1998), 23-6. See also: Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford, 1987).

<sup>97</sup> Shepard, *Meanings of Manhood*, 115.

One of the reasons that a victim forgave their killer on their deathbed was because their fight had been fairly conducted and as such both parties were to blame for the victim's death. Thomas Olivant was desperate for his victim John Lewis to accept some culpability for their quarrel when he:

Laid his hand upon his [John Lewis] shoulder, and said, Lewis, Lewis, was not you the aggressor? And the deceased answer'd, I forgive you; 'twas all fair.<sup>98</sup>

Olivant recognised the importance of witnesses being present to hear Lewis say that Olivant was not the sole party responsible for the violent altercation and they had fought fairly. In James Quinn's trial, witnesses heard victim William Bowen say to the landlord, 'I am wounded in your House; but the Gentlemen has done it fairly, If I die I forgive him, but if I live I will be revenged of him'.<sup>99</sup> Bowen admitted that the fight was fair if he died, but in the same breath implied it was unequal if he lived, in order to justify any later retaliation against Quinn as a righteous response. This statement of forgiveness showed that fatal and non-fatal violence had different meanings even if the altercation began for the same reason, and the men used the concept of a fair fight to distribute culpability.

Expressions of forgiveness by men who died after a sudden fray with a friend also obeyed normative expectations of male bonds that were present in the law. In a trial summary of 1715, witnesses reported that the deceased William Lloyd:

desir'd of every body that saw him afterwards, that the Prisoner might come to no Trouble about it, for that it was fairly done; and particularly told one of the Evidences. That Esq. Griffith was his very good Friend; that he heartily forgave him; but since he knew the Laws must have their Course, he earnestly beg'd him to do his Friend all the Service he could upon his Trial.<sup>100</sup>

When Flintshire man Robert Scott attacked John Thomas for insulting his virility, he claimed that in the event of Thomas's death, he would 'stand by and suffer' for it.<sup>101</sup> The fact that both men knew and accepted that prosecution was inevitable

<sup>98</sup> *OBP*, trial of Thomas Olivant, January 1725, t17250115-49.

<sup>99</sup> *OBP*, trial of James Quinn, July 1718, t17180709-1.

<sup>100</sup> *OBP*, trial of John Griffith, September 1715, t17150907-25.

<sup>101</sup> NLW GS 4/994/6, nos. 4-5, depositions of witnesses concerning the death of John Thomas (Flint, 1695).

substantiates Gaskill's argument that the idea of forgiveness demonstrated not only 'the triangular relationship between God, man and the law central to early modern ideology' but they also 'conformed with secular ideals of legalism and obedience to the state'.<sup>102</sup>

In a similar case from 1715, Francis Edwards was convicted of the manslaughter of Michael Dormer:

The deceas'd reel'd backwards, and fell against some pales, and the prisoner took him in his arms and kiss'd him. Then they went up to the prisoner, who readily surrender'd himself, and ask'd the deceas'd if he had not us'd him fairly, who said yes, and forgave him.<sup>103</sup>

The gesture of holding and kissing was evocative of non-fatal scenes of male violence, such as wrestling, which merged aggression with physical intimacy and played a role in negotiating men's relationships.<sup>104</sup> The inclusion of Edwards surrendering himself and asking if the fight was fair was also important for according culpability to the deceased for the altercation, whereas the act of forgiveness contributed to the ascription of culpability to both killer and victim for the quarrel. Other gestural responses such as hand-wringing, breast-clutching, and descriptions of emotional countenance also suggest that men's control over their affective responses was suspended in the event of such tragedy. For example, William Hill accidentally shot his friend during a play fight and was afterwards described as wringing his hands and shouting out in despair.<sup>105</sup> In another case, the victim Robert Knapper received his death's wound because 'his Friend had mistaken his Kindness'. Despite his own fatal injury:

Mr Knapper ask'd how the prisoner did; that he answered, he was much wounded, but was very much concern'd for him.

When the man (unnamed in the report) realised he had injured Knapper, he was very 'surpriz'd', exclaiming 'Good God! I thought nobody had receiv'd hurt but my self'. Here, the words 'surpriz'd' and 'concern'd' indicated the killer's emotional reaction when he learned of the true gravity of his actions.<sup>106</sup>

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<sup>102</sup> Gaskill, 'Reporting murder', 27.

<sup>103</sup> *OBP*, trial of Francis Edwards, February 1715, t17150223-27.

<sup>104</sup> Shepard, *Meanings of Manhood*, 115.

<sup>105</sup> *OBP*, trial of William Hill, May 1722, t17220510-35.

<sup>106</sup> *OBP*, trial [no name provided], April 1718, t17180423-50.

Prisoners also showed care and concern for their victims when they expressed a desire to look after or take material responsibility for the deceased on their deathbed, by offering to pay for surgeons or helping to dress wounds. Besides remorse, these actions emphasised that the severity of their attack was unplanned, and not representative of their usual character and behaviour towards their friend. James Levingston attempted to disprove ill-will towards Charles Howard by indicating previous goodwill and care towards the deceased. Levingston claimed that he had lent him money several times 'in his necessities'. In fact, on the day of the killing, Levingston had cared for Howard when he was struck by vomiting: 'Levingston was observed to be so kind to hold his head, and was never known to carry himself disrespectfully towards the Deceas'd'.<sup>107</sup> Witnesses in the 1715 trial of Richard Hill claimed he 'express'd a very great concern for what had happen'd, sucking the Wound, and doing all he could for help' when he realised he had fatally stabbed John Arthur.<sup>108</sup> Similarly in 1728, Thomas Otway 'begg'd the Deceas'd might be taken Care of by an able Surgeon' and gave the surgeon four guineas to take extra care looking after his victim William Minnis.<sup>109</sup> In his trial for the killing of Richard Pearce by hitting him with a soldering iron, the trial summary reported that the accused John Williams 'immediately ran to him [the deceased], took him in his Arms, and cry'd out, I am afraid I have hurt him'. Williams then put the deceased in his own bed and cared for him in his final moments alongside the surgeons and physician, while the deceased's brother told the constable he did not think that Williams had intended the killing because of his friendship with Pearce.<sup>110</sup>

Of course victims did not always forgive their attackers. In 1737, Brecon man John Williams was beaten to death after he smashed a window of a local alehouse looking for a lost hat. The accused men were drinking inside the house when Williams attempted to enter the premises. Witnesses deposed that he was punched, kicked, and hit with an iron bar. He lay semi-conscious in the street before making his way to his sister Anne James's house, where he languished for

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<sup>107</sup> *OBP*, trial of James Levingston, December 1693, t16931206-22.

<sup>108</sup> *OBP*, trial of Richard Hill, April 1715, t17150427-60.

<sup>109</sup> *OBP*, trial of Thomas Otway, December 1728, t17281204-13.

<sup>110</sup> *OBP*, trial of John Williams, t17300513-26.

a week and died of his injuries.<sup>111</sup> Anne deposed to the severity of his wounds and her attempts to care for her brother on his deathbed. She also included in her testimony some of his final conversations. At first he refused to forgive his attackers, but later, as he lay dying, claimed he now forgave them. His change of heart towards his attackers may have been influenced by his understanding of male camaraderie and violence. The conflict between John Williams and the six men implicated in the beating could be defined as a brawl, which tended to occur in alehouses between groups of friends where one person thought that another had violated a particular code of behaviour.<sup>112</sup> The perceived violation may have been the damage to the property of the alehouse after the landlord's daughter had expressly told him his hat was not there and refused him entry. However, this interpretation is less plausible when the case is examined closely.

Witness Thomas Beavan deposed that Williams had been drinking at another house with him, and claimed that Williams had already been fighting out in the street with some of the men before he broke the window and was beaten. Moreover, Anne James' account of the circumstances in which Williams 'forgave' his attackers was articulated thus:

she heard a neighbour aske the said John Williams if he did forgive them that had abused him who answered he would not forgive them: but a short time before his death this deponent asked him if he would forgive them: answered slowly he would: but believes he was delirious [...] a short time before his death he desired this deponent in case he should dye: if she could have sufficient proof to see them hanged.

John Williams' death shows that some cases did not fit neatly into specific 'fictions' of murder or those of manslaughter that I have identified above. Here, Anne attributed greater credibility to the utterances that best served her cause from the subject-position of a sister who desired justice for her brother. This desire for justice could explain why she claimed John's deathbed declaration of forgiveness of his attackers was due to delirium, but that his request that she take the attackers to court in the event of his death apparently came from a more lucid place. While

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<sup>111</sup> NLW GS 4/376/1 no. 16, examinations pertaining to the death of John Williams (Brecon, 1737).

<sup>112</sup> Amussen, 'Punishment, discipline, and power', 23. Only two men, Philip Phillips and John Prosser were prosecuted, and later found not guilty of the murder. See NLW GS 4/376/1 no. 30 for indictment.

she invoked the interaction between a victim's forgiveness and the power of the law, she did not link it to the concept of her brother dying well or at peace with the world in order to enter heaven. Of course, it is impossible to know if Williams genuinely forgave the men who attacked him, or his motives for doing so. For all its 'natural' origins, then, the fact that men used violence to temper their friendships was largely problematic when it became excessive and caused homicide. The law allowed mitigating narratives for this excess, yet even when men reconciled or forgave one and other, the negative effects of violence between friends continued to linger in cultural discourse.

### Unequal friendship

The disruption of natural hierarchy that came with homicidal violence against a male superior was a far more obvious concern for early modern lawmakers, yet intimacy and closeness of male bodies were essential in depictions of deferential male friendships.<sup>113</sup> In addition, the boundaries between physical contact and positive male relationships were often blurred. The closeness of bodies in violent episodes between unequal 'friends' was resonant in the legal record, but for its destructive rather than bonding potential. During incidences of non-fatal violence, assailants targeted the noses, beards, ears and clothing of social superiors to make a symbolic attack on their honourable manhood, calling into question issues such as sexual reputation, virility or superiority.<sup>114</sup> Two Welsh case studies – one from the late seventeenth century and another from the mid eighteenth – illustrate particular narrative fictions of deferential male friendships implicated in homicide. Each demonstrate the fine line between restorative and destructive masculine violence, while the latter example shows how language began to be influenced by newer discourses of luxurious and effeminate masculinity as the eighteenth century progressed.

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<sup>113</sup> Alan Bray, *The Friend*, passim; and with Michel Rey, 'The Body of the Friend', passim.

<sup>114</sup> Pieter Spierenburg, *A History of Murder: Personal Violence in Europe from the Middle Ages to the Present* (Polity, 2008), 119; Shepard, *Meanings of Manhood*, 144-5; Walker, *Crime, Gender and Social Order*, 42-4.

In 1697, Flintshire man Evan Griffith killed his landlord Robert Roberts by repeatedly hitting him over the head with a threshing staff.<sup>115</sup> The blows were so hard that they left two clear ‘impressions’ just above Roberts’s ear, and left him feeling ‘giddy in the head’. He returned home to his wife Jane and collapsed on the bed with a ‘moan’. Jane fetched him some ‘comfortable water’, putting it into his mouth herself, but Roberts was now unable to swallow. He was neither able to eat nor speak, and died within 24 hours of the attack.<sup>116</sup> Jane did not see the attack, so all that is left to explain what happened is the examination of Griffith. According to him, the two had a misunderstanding over the days he was supposed to thresh for his landlord. Roberts:

gave him very uprayding language seeming to be angry att him for that he had not come the day before to thresh, and called him a thief and a rogue and that his this examinants brother was soe alsoe.

Griffith admitted that he verbally retaliated to Roberts’s insults. He claimed that Roberts blocked him against a wall and threatened that he ‘would clieve his this examinants braynes with a spade’, all the while lurching towards him. Griffith constructed his actions in terms of several recognised mitigating discourses: first as a response to sufficient provocation, and second as a mode of self-defence.<sup>117</sup> He also described himself as on his way out to work for Roberts that very morning when he was approached, which implied that he would not have missed a day’s threshing out of idleness. The fact that Griffith claimed Roberts insulted the honour of both himself and his brother in his view legitimated physical retaliation: for even though Roberts was of superior social status, the fact that he insulted the honour of both brothers justified the response. He repeatedly referred to Roberts as ‘angry’ throughout his examination, but also claimed that the violence had resolved their dispute. He alleged that once they had exchanged ‘rayling discourse’ and Griffiths had struck Roberts, they both walked ‘together’ to the tenement that required threshing ‘without any further falling out’.<sup>118</sup> What is significant here is that Griffiths’ retelling of events attempted to restore social order as opposed to rebel against it. While he claimed that his violence was justified, the two men’s

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<sup>115</sup> NLW GS 4/994/7, no. 14. Indictment found *billa vera*. Inquest is no. 10 in the file and names Evan Griffith as the assailant. (Flint, 1697).

<sup>116</sup> NLW GS 4/994/7, no. 2, examination of Jane, widow of Robert Roberts.

<sup>117</sup> NLW GS 4/994/7, no. 1, examination of Evan Griffith.

<sup>118</sup> NLW GS 4/994/7, no. 1, examination of Evan Griffith.



hierarchical relationship was upheld when they later returned to the fields for Griffith to continue his work for Roberts. It was simply unfortunate for Griffith that Roberts's death complicated this particular narrative fiction.

However, the wider the status distinction between men, the deeper the contrast between representations of masculine violence. When men of a servile status destroyed the bonds of deference, the male body was imbued with meaning as a physical representation of the breakdown in social relationship between victim and killer. Brothers Lewis and William Ellis were indicted in 1752 for the murder of Jenkin Vaughan esquire, a gentleman from the parish of Pennal in Merionethshire. Lewis was acquitted, but William was found guilty of manslaughter.<sup>119</sup> The two men were day labourers, who had been driving Vaughan's cattle right before the attack. Lewis Ellis first stabbed Vaughan's horse to get him to stop, both kicked and hit him, then William dragged Vaughan into a ditch. William and Vaughan continued the struggle until William fatally stabbed him in the belly.<sup>120</sup> A number of witnesses linked aspects of social rank and bodily boundaries in their depictions of the fatal attack. The witness examinations reveal a contrast between the masculinity of the deceased, who was ill, weak, and may have shown physical signs of an effeminate and luxurious lifestyle with his attackers, who were strong, hardy and determined in their violence. It also emphasises the nuanced nature of servile relationships – while the men did not live in Vaughan's household, he employed them on a continual basis and required deferential treatment.

First, the assailants attempted to render Vaughan, a powerful landed gentleman, powerless. They did this in a variety of ways: through physical assault, by mutilating his horse, and dragging him into a ditch. Lewis Ellis 'stabed a mare he [Jenkin Vaughan] had then under him with a sword, by Which he broke the sword in two', denoting the ferocity of Lewis's initial attack.<sup>121</sup> Violent attacks on

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<sup>119</sup> NLW GS 4/299/4 nos. 42-47 examinations pertaining to the death of Jenkin Vaughan. See nos. 33 and 34 for indictments of William Ellis and Lewis Ellis, both *true bill*. William was found guilty of manslaughter and sentenced to be burned in the hand, while Lewis was found not guilty. See also no 48. in the file for Jenkin Vaughan's inquest. (Merioneth, 1752).

<sup>120</sup> NLW GS 4/299/4, nos. 42-47, examinations of witnesses.

<sup>121</sup> NLW GS 4/299/4 no. 43, examination of Edward Evan Meredith. Garthine Walker has used the example of a woman stabbing an adversary's horse to denote extreme anger. See *Crime, Gender and Social Order*, 85.

property and the mutilation of livestock could be characteristic of local disputes between individuals unhappy with one another's behaviour within the community.<sup>122</sup> Similarly, attacks on the property and livestock of wealthy landlords by workers could also be indicative of grievances to do with customary property and land rights. The horse stabbing had practical as well as a number of symbolic implications. The attack on Vaughan's horse was a mode of incapacitation, an indirect attack on his status and wealth, as well as an act of deliberate nuisance. Second, the examinations reveal the contrast between a physically strong William Ellis and the weaker Vaughan. William made:

several pushes [...] at the said Mr. Vaughan, with the left Arm with a sword in that hand and at the same time beating him with a Clubb he had in the Other hand Mr. Vaughan no more [...] then defending himself with a Walking stick he had in his hand [...] and Observed him to look pale and dreaded his going into a fitt.<sup>123</sup>

The reference to multiple weapons versus the man's walking stick implied a less physically able Vaughan being outmatched in strength and weaponry and thus emphasised the unequal nature of the affray. The reference to the fit also brought up how Vaughan's lack of strength related to poor health. Illness was a prominent theme in his maidservant's examination, as she tended to him while he was languishing from his injuries in bed that evening. Anne Evans deposed that on his deathbed her master linked his pain and uneasiness to an existing medical condition of 'Stone Cholick', but said that it did not affect him 'in the usual Manner'.<sup>124</sup> Vaughan linked his extensive injuries with another type of pain he understood well in order to articulate his physical sensations and receive relief or help from Evans. This further adds to the picture of Vaughan's physical weakness in comparison to his attackers, and shows that former illness (perhaps the result of a rich and selective diet – stone colic may have meant kidney stones or gallstones) exacerbated his injuries. This existing medical condition also explained why it made it difficult for a jury to determine if the attack on its own caused Vaughan's death, and as such contributed to the verdict of manslaughter.

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<sup>122</sup> Howard, *Law and Disorder*, 196.

<sup>123</sup> NLW GS 4/299/4 no. 45, examination of Robert Micah.

<sup>124</sup> NLW GS 4/299/4 no. 42, examination of Anne Evans.

Finally, what ties the links with status and manhood together was the fatal blow. Edward Evan Jenkin deposed that when Vaughan did not loosen his grip during the struggle in the ditch, William Ellis ‘made this answer – Mi rôf butt yn dy bottan fawr di – Anglice, I’ll put a thrust in thy great Belly’.<sup>125</sup> It was not unheard of plebeian people to verbally attack the dress and rotundness of superiors with whom they had grievances; bodies and dress were key markers of class difference.<sup>126</sup> Along with the strikes to his belly with the club, this part of Vaughan’s body was focus of the attack, or at least the part of his body that the witnesses accorded the most significance. The examinations give the impression of an overweight, upper-class man whose infirmities may well have been connected with a rich diet and little exercise, being attacked by physically fit cattle drovers armed with weapons and a sense of righteous anger. Neither depiction of manhood was judged as nominally better or worse than the other, as both demonstrated aspects that were excessive – for the Ellis brothers it was their anger and violence, and for Vaughan it was his physical weakness and fatness. The brothers destroyed the delicate balance of deference and obedience they shared with Vaughan.

The fact that the brothers co-ordinated the attack and took on individual roles while enacting violence did not follow the rules of a fair combat, notwithstanding the fact that a challenge to fight was not acceptable from men of lower social status towards a gentlemen within traditional patriarchal codes. The level of organisation did however demonstrate a level of camaraderie through violence, which suggests that the collective nature of the attack may have strengthened the brothers’ intimate bond.<sup>127</sup> Alexandra Shepard has argued that camaraderie ‘at its extremes’ could reject traditional patriarchal structures in favour of a form of manhood that championed ‘immoderation’. The example here shows that such immoderation could take the form of destabilising acts of violence that required co-operation between ‘friends’ to be successful. The episode of violence thus conformed to a dangerous, alternative masculinity. This alternative masculinity was based on excessive anger and violence – the very opposite of the

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<sup>125</sup> NLW GS 4/299/4 no. 47, examination of Edward Evan Jenkin.

<sup>126</sup> Andy Wood, ‘Fear, hatred and the hidden injuries of class in early modern England’, *Journal of Social History*, 39.3 (2006), 815.

<sup>127</sup> See Shepard, *Meanings of Manhood*, 125.

model of manhood espoused in homicide law that would have given the Ellis brothers a way to align their violence with accepted discourses of the hegemonic form of patriarchal masculinity. Yet Lewis was still found guilty of manslaughter as opposed to murder, which perhaps indicates that there may have been a tacit understanding of alternative models of male anger in contexts other than provocation or a sudden conflict that influenced juries on a discretionary level, but had not yet made it into law.

Furthermore, the case of the Lewis brothers can be linked back to the ballad literature previously explored in relation to regional masculinities and violence. The metropolitan man from *The Unfortunate Fencer* was dressed in ‘rich array’ with a ‘Shirt of Holland fine’ and a shining sword in stark contrast to the ‘stout’ country farmer.<sup>128</sup> Such references to men’s physical appearance, clothing, and gesture could symbolise an intentional contrast between emerging forms of effeminate masculinity in the eighteenth century operating alongside older ideas of masculinity and violence.<sup>129</sup> The Vaughan case however, had as much to do with individual agency, local circumstances, and class grievances as it did broader ideas of effeminacy and masculinity. Both specific and common understandings of male deferential friendships outside the official channels of the law could operate side by side, in both concurrence and conflict.

## Conclusion

As one Old Bailey writer lamented in 1680, the ‘scarlet crime’ of manslaughter ‘is grown so frequent, that it commonly concludes mutual friendship in such a traject Scene’.<sup>130</sup> In this chapter, I have demonstrated that historians must ask questions about male sociability and friendship in order to properly understand the criminal record for homicide. Thus, I have used a model of everyday male relationships – those borne out of utilitarian, pragmatic, or emotional needs – to reveal the multivalent languages of male homosocial

<sup>128</sup> *The Unfortunate Fencer*, ll. 7; 13; 41.

<sup>129</sup> In contrast to the argument presented by Randolph Trumbach, effeminate masculinity was not linked with the crime of sodomy or a distinct homosexual identity in early modern Britain, but instead represented a failure of masculinity. See Rosalind Carr, *Gender and Enlightenment Culture in Eighteenth-Century Scotland* (Edinburgh, 2014), 31.

<sup>130</sup> *OBP*, trial of Edward Harrison, April 1680, t16800421-3.

intimacy that emerged in the testimonies of historical actors before the courts. It was not unusual in printed trial summaries for the word 'friend', or the language of friendship and friendly behaviour to be implicated in discourses of dispute resolution that mitigated accusations of murder and linked to gendered perceptions of male anger. The crime of manslaughter, with its unique nod to men's emotional character, gave them opportunities to use the language of male bonds in mitigating narratives. The emotional and the practical regularly came together in discussion of how men were expected to resolve disputes, which meant that the language of male friendship was thus essential to discourses of legal culpability. Opportunities for violent conflict between men thus arose when the limits of men's relationships were tested. Violence was essential for regulating and maintaining men's relationships, but this chapter has shown the ways in which such desire for moderation regularly failed, including when it influenced boys who were not yet ready to be held to the legal standards of mature manhood.

So too, were male bonds essential to the ascription of culpability to both victim and killer in a cultural context. Each party, through emotional gestures and words, emphasised the affective nature of their relationship while simultaneously accepting culpability for the sudden fight that ended in tragedy. Considering narratives of forgiveness in trials for manslaughter also revealed that multivalent languages of masculinity, friendship, and emotion were employed by historical actors on both sides in cases of homicide. Narratives of forgiveness expressed by perpetrator and victim show that hegemonic and subjective experiences of masculinity were fundamentally unstable, contradictory, and subject to constant reconstruction.<sup>131</sup> The final case studies that explored the failure of deferential friendship shows that the Welsh records offer another dimension through which to access the minutiae of hierarchical male relationships and the tensions between more disparate relationships. For many litigants at the Great Sessions, it is also likely that the pragmatic demands of social relations had the potential to undermine 'natural' patriarchal hierarchies, or at least allowed for them to be bent and abused in ways not accounted for in the *Sessions Papers*, for example. Here,

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<sup>131</sup> Karen Harvey and Alexandra Shepard, 'What have historians done with masculinity? Reflections on five centuries of British history, circa 1500-1950', *Journal of British Studies*, 44:2 (2005), 278.

the subtleties of gender, age, and class within small communities were in a constant state of negotiation: a theme to which the next chapter shall now turn.

## Chapter Three

### Witnesses, Victims, and Communities: Authority and the Search for ‘Truth’ under the 1624 Concealment Act

It is fain for you to deny [...] for we will have women here to search you and the rest of the young women of the neighbourhood and we will have the truth found out for God forbid that anybody or a stranger should bring here any child and leave it in my master’s door.<sup>1</sup>

#### Introduction

Uttering these words, Robert David burst through the door at which he had been listening to his fellow servants Grace Howell and Gaynor Roberts being pressed by their master’s sister. A deceased, newly born child had been found under a stone at the edge of the property where they lived and worked in Maestron, Merionethshire. The previous day, Gaynor Robert had mentioned to another servant, Morgan Rowland, that she was concerned Grace ‘miscarried’ a few nights ago. Throughout the night, Grace had allegedly complained of her body being ‘out of order’, the room they shared was now in a ‘nastie’ condition, and Gaynor suspected she had heard the cries of a new-born baby. This information ‘very much surprised’ Rowland. That night, he went to bed, but ‘could not sleep easy’. He dreamed of a

[...] swine head leaved under a great stone by Llidiar r Hirdir up above the house alias Hirdir Gap and the next morning when he awaked he thought of his dream and went to the same place and perceived the said stone to be removed.<sup>2</sup>

The next morning, enlisting the help of David, Rowland went to the location from his dream. Surely enough, under the stone the two young manservants found the corpse of a newly born child. While they ‘confused themselves what best to do’, David concluded they must seek advice from Sara Evan, their master’s sister.<sup>3</sup> Sara went to question the women, which prompted David’s above display of

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<sup>1</sup> National Library of Wales, Great Sessions Gaol Files (NLW GS), 4/296/2, no. 28, examination of Robert David (Merioneth, 1702).

<sup>2</sup> NLW GS 4/296/2, no. 28, examination of Morgan Rowland.

<sup>3</sup> NLW GS 4/296/2, no. 28, examination of Robert David.

indignation on his mater's behalf. However, it was later revealed that not only was the master of the household, John Evan, the father of the child, he was in fact well aware of the pregnancy. Indeed, upon hearing of Grace's condition, he told her the child 'should not cost her a farthing [...] her master should be at the whole charge and that Grace should want nothing'.<sup>4</sup> He also promised that should the child perish, she could return to his service without question.

These events, revealed through the pre-trial documentation from the Merionethshire Great Sessions draw together a number of elements in cases of concealed newborn child death that have become axiomatic to the historiography of gender and crime in the seventeenth and eighteenth centuries. The 1624 'Act to Prevent the Destroying and Murdering of Bastard Children' concerned the concealment of deaths of illegitimate neonatal infants by their unmarried mothers. To avoid conviction, at least one witness had to testify that the child was stillborn, or had died unexpectedly of natural causes.<sup>5</sup> The burden of proof lay with the mother of the child to sufficiently acquaint others with her pregnancy, as well as to appropriately prepare for the child and laying-in period, otherwise the law would treat her as though she had murdered the newborn.<sup>6</sup> While the law emphasised that concealment was borne out of shame, it did *not* specify that women who concealed pregnancies and deaths of neonatal infants (usually young women in service) were unequivocal murderers, only that they would suffer the same fate as one if found guilty of the concealment.<sup>7</sup>

Grace Howell's case is an illustrative example of those tried before the English and Welsh courts during the seventeenth and eighteenth centuries. Over the last twenty years, historians of gender, crime, and childhood have moved

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<sup>4</sup> NLW GS 4/296/2, no. 28, examination of Gaynor Robert.

<sup>5</sup> 21 Jac. I, c.27, 'An Act to Prevent the Destroying and Murdering of Bastard Children', reads: 'Whereas many lewd women that have been delivered of bastard children, to avoid their shame, and to escape punishment, do secretly bury or conceal the death of their children, and often, if the child is found dead, the said women do allege, that the said child was born dead [...] the mother so offending, shall suffer death as in the case of murder, except such mother can make proof by one witness at the last that the child [...] was born dead'.

<sup>6</sup> See Mary Clayton, 'Changes in Old Bailey trials for the murder of newborn babies, 1674-1803', *Continuity & Change*, 24:2 (2009), 337-359; Allyson May, ' "She at first denied it": infanticide trials at the Old Bailey', in Frith, Valerie (ed.), *Women and History: Voices of Early Modern England* (Toronto, 1995); Mark Jackson, 'The trial of Harriet Vooght: continuity and change in the history of infanticide', in Jackson, Mark (ed.), *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550-2000* (Aldershot, 2002), 1-17.

<sup>7</sup> Garthine Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge, 2003), 151.



away from initial surveys of prosecution rates and socioeconomic causes of infanticide to focus on issues of female subjective experience and the emotional history of child death more broadly.<sup>8</sup> These developments show that it was not the sole aim of seventeenth century judges and juries to shame female suspects for illicit sex, then later in the period, exonerate them in favour of morally condemning the rapacious men who impregnated them. They have proven that seeing changes in prosecution and conviction rates over time solely in terms of harshness developing into lenience teleologises the historical narrative and limits our interpretation of the criminal record.<sup>9</sup> Through textual analysis of pre-trial depositions and courtroom testimony, gender historians have restored agency to suspects and have found accused women to have occupied multiple and changeable subject-positions.

However, the emotion of shame was foundational to the moralistic censure of illegitimate pregnancy that was written into the statute and so women's shame of sexual knowledge was indeed part of a desired emotional performance that underpinned courtroom narratives throughout the period. Such discourse appeared not only in trials for concealed infant death, but also cases of defamation, slander, rape and assault, which demonstrates the importance of emotional lexicons to studies of crime.<sup>10</sup> In Grace Howell's case, the examinations followed a narrative arc familiar to concealment cases: they charted Grace's secret

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<sup>8</sup> Laura Gowing, *Common Bodies: Women, Touch and Power in Seventeenth-Century England* (New Haven, 2003); Garthine Walker, 'Just stories: telling tales of infant death in early modern England', in Mikesell, Margaret, and Seeff, Adele (eds.), *Culture and Change: Attending to Early Modern Women* (Newark and London, 2003), 98-112; Katie Barclay, Ciara Rawnsley and Kimberley Reynolds (eds.), *Small Graves: Death, Emotion and Childhood* (Basingstoke, 2016).

<sup>9</sup> Garthine Walker, 'Child killing and emotion in early modern England and Wales', in Barclay, Reynolds and Rawnsley (eds.), *Death, Emotion and Childhood*, 152, 163.

<sup>10</sup> See Bronach Kane, 'Reading emotion and gender in the later medieval English church courts', *Frühneuzeit-info*, 23:1-2 (2012), 53-63; Faramerz Dabhoiwala, 'The construction of honour, reputation and status in late seventeenth- and early eighteenth-century England', *Transactions of the Royal Historical Society*, 6 (1996), 201-213; Linda Pollock, 'Anger and the negotiation of relationships in early modern England', *The Historical Journal*, 47:3 (2003), 567-590. Julie Gammon, '“A denial of innocence”: female juvenile victims of rape and the English legal system in the eighteenth century', in Anthony Fletcher and Stephen Hussey (eds.), *Childhood in Question: Children, Parents and the State* (Manchester, 1999), 74-95; Antony E. Simpson, 'Vulnerability and the age of female consent: legal innovation and its effect on prosecutions for rape in eighteenth-century London', in Roy Porter and Geoffrey Rosseau (eds.), *Sexual Underworlds of the Enlightenment* (Manchester, 1987), 181-205; Sarah Toulalan, 'Child sexual abuse in late seventeenth and eighteenth-century London: rape, sexual assault and the denial of agency', in Nigel Goose and Katrina Honeyman (eds.), *Childhood and Child Labour in Industrial England: Diversity and Agency, 1750-1914* (Farnham, 2013); Garthine Walker, 'Rape, acquittal and culpability in popular crime reports in England, c.1670-c.1750', *Past & Present*, 220 (2013), 115-142.

sexual relationship with her master, her illegitimate pregnancy, the lone birth followed by tragic death of her infant, and later, her attempt to locate a private grave.<sup>11</sup> Moreover, the providential tone of Morgan Rowland's dream in which the story of the swine's head provided a justification and explanation for his search to find the infant body demonstrates ways in which historical actors shaped and reshaped narratives of violent or shocking events in attempts to understand the place they had in the community.<sup>12</sup>

To depart from previous historiographical trends, here I shall focus on those incidentally involved in the discovery and prosecution of concealed infant death. After all, the story of Grace Howell's alleged concealment is presented in the witness examinations of three fellow servants and their master's spinster sister: Gaynor Robert, Morgan Rowland, Robert David, and Sara Evan. These were actors who typically held the least authority or knowledge in cases of alleged neonaticide, where masters, mistresses, married women, midwives, and propertied neighbours were the driving force in pursuing prosecutions and gathering evidence.<sup>13</sup> Furthermore, while they are the key characters in this story, Grace Howell and John Evan's voices remain silent in the coroner's examinations. Instead, the discoveries and perspectives of the four other actors

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<sup>11</sup> While the historiography on child-killing is vast, I refer here to more recent developments in gender history which focus on reconstructing specific contemporary narrative arcs of cases: see Anne-Marie Kilday, 'Desperate measures or cruel intentions? Infanticide in Britain since 1600', in Anne-Marie Kilday and David Nash (eds.), *Histories of Crime: Britain 1600-2000* (London, 2010), 60-79; *A History of Infanticide in Britain, c.1600 to the Present* (Basingstoke, 2013); Laura Gowing, 'Secret births and infanticide in seventeenth-century England', *Past & Present*, 156 (1997), 87-115; 'Ordering the body: illegitimacy and female authority in seventeenth-century England', in Braddick, Michael J., and Walter, John (eds.), *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland* (Cambridge, 2001), 43-62; *Common Bodies: Women, Touch and Power in Seventeenth-Century England* (New Haven, 2003), esp chs. 4 and 5; Garthine Walker, 'Just stories: telling tales of infant death in early modern England', in Margaret Mikesell and Adele Seeff (eds.), *Culture and Change: Attending to Early Modern Women* (Newark and London, 2003), 98-112; 'Child killing and emotion in early modern England and Wales', in Katie Barclay, Ciara Rawnsley and Kimberley Reynolds (eds.), *Death, Emotion and Childhood in Premodern Europe* (Basingstoke, 2016), 151-172.

<sup>12</sup> See Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford, 1987); Malcolm Gaskill, 'Reporting murder: fiction in the archives in early modern England', *Social History* 23:1 (1998), 1-30; Steve, Hindle, ' "Bleeding afreshe"? The affray and murder at Nantwich, 19 December 1572' in McShane, Angela, and Walker, Garthine (eds.), *The Extraordinary and the Everyday in Early Modern England* (Basingstoke, 2010), 224-245.

<sup>13</sup> See Adrian Wilson, *Ritual and Conflict: the Social Relations of Childbirth in Early Modern England* (Farnham and Burlington, 2013); Gowing, 'Secret births', 90-98; *Common Bodies*, 139-49; Kilday, *A History of Infanticide*, 58-60; Vanessa McMahon, *Murder in Shakespeare's England* (London, 2004), 53.

take centre stage. Therefore, I consider in this chapter how people like Robert, Rowland, David and Evan integrated or distanced themselves from the emotional turbulence of neonaticide prosecutions.

Themes of emotional language and community intimacy are therefore essential to the present analytical purpose. Developments in the history of the emotions help to provide a theoretical framework from which to understand the linguistic evidence and contemporary experiences of emotion. As I argued in the introduction to the thesis, emotional language must be contextualised in terms of wider lay understandings of the body, the passions, medicine and mental illness.<sup>14</sup> Susan Broomhall has further emphasised the importance of the humoral model of selfhood, which influenced individual understanding of emotions. She argues that legal examinations should be seen as opportunities to find out how contemporaries described or understood emotions and the relationships of others. Establishing the 'social worlds of emotion' helps us to identify the rules and structures that governed specific communities.<sup>15</sup> Historians of early modern gender and emotion have also found that communities demonstrated a level of 'solidarity' with grieving households during funerals, but that such solidarity in the face of tragedy reinforced entrenched power structures within the patriarchal family and wider local communities.<sup>16</sup>

Yet the testimonies of incidental witnesses in the Grace Howell case plainly show an incident where pragmatism and a desire to find the truth in a very small community – only a few households in size – eclipsed natural hierarchies of gender, age, or social status. This discrepancy makes it essential to consider episodes of unconventional, absent, or unexpected intimacy in order to demonstrate that community expectations of emotional reactions were influenced as much by local geography and individual obligation as they were larger cultural

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<sup>14</sup> Katie Barclay, 'New materialism and the new history of emotions', *Emotions: History, Culture, Society*, 1:1 (2017), 161-183.

<sup>15</sup> Susan Broomhall, 'Introduction: emotions in the household', in Susan Broomhall (ed.), *Emotions in the Household, 1200-1800* (Basingstoke, 2008), 6-7; 11; 13.

<sup>16</sup> Andrea Brady, '“A share of sorrows”: death in the early modern English household', in Susan Broomhall (ed.), *Emotions in the Household, 1200-1800* (Basingstoke, 2008), 185-6; 199; Susan Broomhall, 'Introduction: authority, gender, and emotions in late medieval and early modern England' in Susan Broomhall (ed.), *Authority, Gender and Emotions in Late Medieval and Early Modern England* (Basingstoke, 2015), 1-17.

trends. In the first part of the chapter I show how incidental witnesses described episodes of shock and fear in order to distance themselves from (or integrate themselves within) the events of a concealed infant death. Secondly, I re-examine the role of deference in ascribing authority and knowledge to historical actors. Deference existed in unexpected places not always dictated by age, gender, or class norms. Finally, I show how those not characteristically granted agency in concealment prosecutions – child witnesses and even infant victims themselves – gave their own informal testimonies, revealing previously unseen intimacies of early modern communities.

### ‘The surprize I was in, I hardly knew what was what’: emotional reactions to neonaticide

Early modern people were used to the sight of dead bodies, but remained emotionally affected in the face of death.<sup>17</sup> While high infant mortality rates put people in contact with the corpses of young children, women and men were deeply emotionally affected when they faced a sight as unexpected as the concealed death (and possible homicide) of a child.<sup>18</sup> Witnesses, as well as accused mothers, experienced dissociative reactions and used distancing tactics when faced with the initial shock of finding an infant body.<sup>19</sup> Suspect Sarah Hanesley’s mistress was present when the infant was discovered in her bed. Hanesley ‘offered to show them; but she (this evidence) said she could not bear the sight’.<sup>20</sup> While early modern people may well have been familiar with the deaths of infants, seeing the corpse of a child could be an upsetting experience. Home medicine manuals claimed that children’s bodies were soft and malleable, which meant that babies had an especially low pain threshold.<sup>21</sup> The horror of seeing a crushed or violently

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<sup>17</sup> See Brady, ‘A share of sorrows’, *passim*; Vic Gammon, ‘Child death in British and North American ballads from the sixteenth to the twentieth centuries’, in Gillian Avery and Kimberley Reynolds (eds.), *Representations of Childhood Death* (Basingstoke, 2000), 11-35; Joy Wiltenburg, ‘Ballads and the emotional life of crime’, in Patricia Fumerton, Anita Guerrini and Kris McAbee (eds.) *Ballads and Broadways in Britain, 1500-1800* (Farnham, 2010), 173-188.

<sup>18</sup> Walker, ‘Child killing and emotion’, 154-156; Brady, ‘A share of sorrows’, 185-6.

<sup>19</sup> Gowing, ‘Secret births’, 105-108. I do not refer to dissociation in modern psychoanalytic terms, but as an act of subjective ‘distancing’ from an unpleasant or shocking event.

<sup>20</sup> See *Old Bailey Proceedings Online*, online at [www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 7.2 (March 2015) hereafter *OBP*, trial of Sarah Hanesley, August 1721, t17210830-20.

<sup>21</sup> Hannah Newton, ‘Children’s physic: medical perceptions and treatment of sick children in early modern England, c.1580-1720’, *Social History of Medicine*, 23:3 (2010), 456-474; *The Sick Child in Early Modern England, 1580-1720* (Oxford, 2012).

treated corpse presented an emotional obligation to be visibly affected, as bodily gesture was a sign by which many early modern people interpreted extreme emotional states.<sup>22</sup> The most common textual expressions of emotion as reported by actors were ‘fright’ and ‘surprise’ – words which regularly appeared together in testimony. For example, multiple witnesses in the trial summary of Sarah Allen spoke of their ‘surprize’ or ‘being very much frightened’ at the discovery of her child’s corpse, while Sarah Lack testified: ‘I was frightened out of my wits, for there was a child found in the street’.<sup>23</sup> A witness in the trial of an unnamed woman in 1675 was so ‘surprized with the horror of the sight, she shreikt out and askt who had done it’.<sup>24</sup> A prosecution witness in the trial of Eleanor Scrogham was ‘so affected she could scarce express herself for tears’.<sup>25</sup> In the Great Sessions, Denbighshire woman Elleanor Tannatt described her ‘great surprise’ at finding the dead body of Jane Edward’s newly born bastard child.<sup>26</sup> Many people used language relating to ‘fright’ or ‘surprise’ to explain their initial reactions, and in some cases to justify their emotional withdrawal from them.

In an early modern context, surprise and fear were linked emotions. Philosophers such as Descartes argued that the ‘chiefe cause of fearfulness is surprize’; the ‘Passion of fear’ occurred when one encountered objects that were ‘very strange, and hideous’, or bore similarity ‘with such things as have formerly been offensive to the body’. He further posited that reactions of men were varied: they may flee, or indeed find courage, as ‘all braines are not alike disposed’.<sup>27</sup> Another French philosopher, Jean-Francois Senault, author of *De L’Usage Des Passions* (translated to English in 1649; reprinted into the 1670s) claimed:

[...] there are evils which are [so] great and so suddain, as they put the soul into disorder, and hinder fear from forseeing or evading of them: the first raise astonishment the second bring an agony upon us; how the one and the other of them throw us into despair, if they be not readily repuls’d.<sup>28</sup>

<sup>22</sup> Broomhall, ‘Introduction: emotions in the household’, *Emotions in the Household*, 6-7.

<sup>23</sup> *OBP*, trial of Sarah Allen, October 1737, t17371012-2.

<sup>24</sup> *OBP*, unnamed woman, January 1675, t16750115-1.

<sup>25</sup> *OBP*, trial of Eleanor Scrogham, October 1743, t17431012-29.

<sup>26</sup> NLW GS 4/47/6, no. 20, examinations of Elleanor Tannatt and Mary Edwards (Denbigh, 1742).

<sup>27</sup> René Descartes, *The Passions of the Soule in Three Books* (London, 1650) 144-5; 30-31.

<sup>28</sup> Henry, Earl of Monmouth (trans.) and Jean-Francois Senault, *The Use of Passions* (London, 1649), 381.

In English texts, the bishop of Norwich Edward Reynolds also emphasised in his *Treatise of the Passions* that fear occurred when there was a ‘suddenesse’ or ‘newnesse’ of a particular ‘evill’.<sup>29</sup> Furthermore, commenters linked fear with an excess of cowardice.<sup>30</sup> Senault even gendered fear as female and used humoural language to explain its cooling effect and excessive nature.<sup>31</sup> Reynolds described the physiological effects of fear as leaving the heart ‘naked’; the body ‘benumbed’; it made the hair turn white, the body tremble; it shocked one into silence, thirst, paleness of skin, horror, teeth-gnashing, and even forced the ‘emission of excrements’.<sup>32</sup> According to the records, witnesses who encountered child death were more likely to subscribe to a type of fear that was related to a sudden panic – hence the presence of the emotional lexicon ‘surprize’ – which problematizes the assumption that community ‘fear’ in cases of neonaticide was related to a broader social ‘anxiety’ to do with unmarried mothers who allegedly murdered their children.<sup>33</sup>

In cases of neonaticide, communities recognised that fear and shock engendered a somewhat natural emotional withdrawal from events – a form of absent or dissociative intimacy. Yet to be frozen by extreme emotion was not necessarily something of which to be ashamed. Robert Prichard, an ‘infant above 15 years’ in the prosecution against Ellin Samuel in 1717 alleged that he found the corpse of her child, which ‘putt this examinant into a mighty fear’. He went to fellow labourer John Williams for help, he too saw the head and shoulders of the child in a ditch, and claimed ‘that sight put him in a great fright’ which prevented him from removing the child.<sup>34</sup> On return to the examination of Ellin Tannatt in the prosecution against Jane Edwards, she was in ‘such consternations’ at discovering the child in a bog that she and Mary Edwards ‘did not know how to

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<sup>29</sup> Edward Reynolds, *A Treatise of the Passions and Faculties of the Soule of Man* (London, 1640), 278-82.

<sup>30</sup> Descartes, *The Passions*, 145; Senault, *The Use of Passions*, 374-5; Reynolds, *A Treatise of the Passions*, 297.

<sup>31</sup> Senault, *The Use of Passions*, 384.

<sup>32</sup> Reynolds, *A Treatise of the Passions*, 297.

<sup>33</sup> See Penny Roberts and William G. Naphy, ‘Introduction’ in Penny Roberts and William G. Naphy (eds.), *Fear in Early Modern Society* (Manchester, 1997), 5. However, Joanna Bourke cautions historians to be wary of imposing arbitrary psychoanalytical categories on subjects, and that short vs. long-term fear were subject to constant negotiation between individual and group, see *Fear: a Cultural History*, 189-192.

<sup>34</sup> NLW GS 4/270/2, no. 15, examinations of Robert Prichard and John Williams (Caernarfon, 1717).

act', and instead sent for a neighbour John Rowland to figure out how to apprehend Edwards.<sup>35</sup> All of these witnesses described their fearful reactions and subsequent inability to act as a natural result of such disruption to the passions.

Even in the *Old Bailey Sessions Papers*, where writers subjected local communities to moralistic censure at the avoidable deaths of infants through neglect (such as in the well-publicised case of Mary Crompton, midwife of Poplar), authors accepted that 'surprise' and fear prevented some witnesses from efficiently reporting concealed deaths or finding assistance.<sup>36</sup> For example, when Elizabeth Wootton realised that she was holding the arm of a child with a pair of tongs as she investigated something suspicious in the vault, she 'squalled out, and let the child drop down again'.<sup>37</sup> In the trial of Hannah Bradford in 1732, a witness looked down into a vault and saw 'the leg of a child, or something like a leg; for in the surprize I was in, I hardly knew what was what'.<sup>38</sup> Elizabeth Husk, witness in Mercy Hornby's 1734 trial, testified that she saw a child in the vault but was 'so frightened, that I could not take much notice'.<sup>39</sup> When he testified at the trial of Hannah Butler in 1736, John Butler said he 'saw the child, but [did not] know what it was – boy or girl; it was naked, but I was not curious enough to examine it'.<sup>40</sup> Ann Stiles alleged that she saw the corpse of Frances Deacon's child floating in a pool next to the prisoner but 'was so surprised that I asked her no questions'.<sup>41</sup> Occasionally, however, certain witnesses were spurred on by their emotional reaction to seeing a child's corpse that they started the initial investigation as was the case in Denbighshire in 1687. After she saw Gwen Griffith furtively scraping at some ground, witness Lowry verch Hugh's suspicions got the better of her. She dug up the earth with a stake, and found the 'foot and a leg of a dead child'. She was:

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<sup>35</sup> NLW GS 4/47/6, no. 25, examination of Ellin Tannatt.

<sup>36</sup> See for example, Anon., *The Bloody Minded Midwife* (1693); *The Injured Children* (1693); *The Midwife of Poplar's Sorrowful Confession and Lamentation in Newgate* (1693); *A Particular and Exact Account of the Trial of Mary Compton* (London, 1693); *An Account of the Seizing or Apprehending, Confession, and Commitment to Newgate of Mary St. Dunstan* (London., 1693). There was also an account of her dying behaviour in the *Ordinary's Account*, OBP, OA16931023.

<sup>37</sup> OBP, trial of Elizabeth Stuart, April 1743, t17430413-51.

<sup>38</sup> OBP, trial of Hannah Bradford, April 1732, t17320419-15.

<sup>39</sup> OBP, trial of Mercy Hornby, April 1734, t17340424-21.

<sup>40</sup> OBP, trial of Hannah Butler, December 1736, t17361208-40.

<sup>41</sup> OBP, trial of Frances Deacon, October 1733, t17331010-5.

So fritted afterwards she threew the earth doene againe and gotte two stones and layd upon it for feare of any dogges or any other things to dig it up.

She then rushed away with her child to tell ‘any body’ what they had discovered.<sup>42</sup> Lowry presented her fright and shock as prompting her to act quickly in the interests of preserving evidence, rather than to distance herself from events. Yet Lowry’s reaction appeared to be in the minority. Incidental witnesses generally used their own shock and surprise as a dissociative tactic, which was considered a natural emotional response to discovering an infant corpse.

Furthermore, while witnesses’ expressions of dissociation were not uniformly gendered, other emotions were. Female witnesses used the gendered language of motherhood, which included tenderness, affection and compassion to construct their own role, or the actions of suspects, as moral.<sup>43</sup> For example, some witnesses claimed that Sarah Rhoades ‘express[ed] herself very affectionately towards the child’ whose death she had allegedly concealed.<sup>44</sup> Elizabeth Powis testified that prisoner Mary Bent, ‘expressed a great liking to her on occasion of her being a lover of children, and having had a great many’ and requested that they be bedfellows. Powis recognised Bent’s implicit pleas for help –perhaps by asking Powis to lie with her and by observing her behaviour towards children, Bent hoped to learn some practical and emotional skills to equip her for motherhood.<sup>45</sup> Margaret Cook continually stressed in her cross-examination that Mary Mussen, whom she had known for nearly twenty years, was ‘remarkable for her tenderness to children’, and said that ‘she used to dress out all the children in the town where she was born, and would give them any thing’, adding repeatedly that she was ‘extremely tender of children’.<sup>46</sup> The mitigating testimony and Mussen’s alleged expression of motherly emotions did not stop her from being found guilty,

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<sup>42</sup> NLW GS 4/33/6, nos. 25 and 26, examinations of Lowry verch Hugh and Magdalen Wynn (Denbigh, 1687).

<sup>43</sup> For gendered emotions and parenting, see Joanne Bailey, ‘Reassessing parenting in eighteenth-century England’, in Helen Berry and Elizabeth Foyster (eds.), *The Family in Early Modern England* (Cambridge, 2007), 209-232; *Parenting in England 1760-1830: Emotion, Identity, & Generation* (Oxford, 2012); Anthony Fletcher, *Growing up in England: the Experience of Childhood 1600-1914* (New Haven and London, 2008).

<sup>44</sup> *OBP*, trial of Sarah Rhoades, June 1690, t16900605-7. She was acquitted of the offence.

<sup>45</sup> *OBP*, trial of Mary Bent, July 1727, t17270705-6.

<sup>46</sup> *OBP*, trial of Mary Mussen, May 1757, t17570526-22.



however. Yet the fact that the *Sessions Papers* included the defence testimony shows that the emotional capabilities of accused women did not go unnoticed.

Examinants and suspects also recognised the close association of motherly love, affection, and the pain of child death with the physical body. Accused women used the potent symbolism of the heart as the seat of all emotion to draw together the physical pain of labour with emotional pain.<sup>47</sup> Dorothy Williams encountered Gwen Foulk ‘uneasy and groaning’ climbing over a stile near her master’s house. When asked what was wrong, Foulk admitted she had a ‘gnawing in her stomach and heart’. When she returned to the stile later that day with Elizabeth Salisbury, the women ‘found a child (as they took it) cover’d with [th]e attendants of nature lyeing in [th]e ditch’.<sup>48</sup> When Mary Robert’s stillborn child was washed and returned to her, Mary Humphrey saw her:

affectionately takeing it in her arms, declar’d and cryd my dear babe the Lord of heaven knows, I have done thee no more hurt then the heart in my body.

Jenet Hopkin similarly deposed that Roberts put the child in her arms and ‘cry[e]d my dear babey I did thee no injury the Lord well knows’. The informants could not see any marks of violence on the child, and Roberts was found not guilty at trial.<sup>49</sup> The words ‘affectionately’ and ‘heart’ were only present in one of the women’s informations, which suggests the Welsh words could have been given verbatim by Mary Humphrey outside of formulaic depositional convention. The bodily language of the passions thus formed a significant part of her own memory and interpretation of Robert’s behaviour. Yet gendered emotional expression was not only allocated to alleged neonaticides. Female examiners also described their own behaviour in terms of specifically feminine emotional traits. For example, when she saw that Elizabeth Morrice ‘looked piteously’ after a suspected labour, Ann Bowcott ‘out of a female and tender compassion offered to make her some ale broth, or caudle’.<sup>50</sup> Here, Bowcott explicitly related her emotional experience

<sup>47</sup> Fay Bound, *Matters of the Heart: History, Medicine, and Emotion* (Oxford, 2010), esp. ch. 1, ‘Humours to hormones: emotion and the heart in history’.

<sup>48</sup> NLW GS 4/41/6, nos. 27 and 28, depositions of Dorothy Williams and Elizabeth Salisbury (Denbigh, 1716).

<sup>49</sup> NLW GS 4/611/3, nos. 11 and 12, information of Mary Humphrey and Jenet wife of Robert Hopkin (Glamorgan, 1736).

<sup>50</sup> NLW GS 4/374/5, no. 1, depositions of Mary wife of Rice Williams and Ann Bowcott (Brecon, 1732).

to her own gendered subjectivity, rather than attempting to comment on Morrice's. Changing perspective to consider incidental witnesses in cases of concealed child death not only reveals the broad range of affective experience within specific local communities, it has shown that absence of intimacy and the need for dissociation regularly extended to people other than the accused mother.

### The search for 'truth': authority, conflict, and collaboration

Another prevalent and complementary narrative arc in depositional evidence concerned occasions where witnesses privileged a collective doggedness in finding the truth, yet this was not the same as a straightforward desire to shame the mother of the child for her 'lewdness'. For example, in his testimony against Elizabeth Davis in 1742, John Hughes reported that he 'pulled off one linen and then another, and discovered a child's hand and arm. I was very much frightened'. He then went to his local justice of the peace, who advised him to first seek the advice of the coroner.<sup>51</sup> Hughes, like Lowry verch Hugh, positioned their emotional reactions as prompting a deferral to others with authority – be it gendered, age, or professional – in order to identify a suspect and prosecute the crime.

Witnesses exercised deference on a number of levels in cases of homicide. While authority could come from coroners, justices of the peace, or medical professionals, it could also mean members of the community who had better experience and knowledge of the perceived situation from the perspective of a particular witness. The maternal agency of older married women, or widows with children (many of whom became midwives) endowed them with special authority in infanticide prosecutions.<sup>52</sup> Yet deference to a social superior depended on a broad range of factors which did not always follow prescribed gendered or class rules, especially in cases from rural Wales, where a smaller population meant deference was practical rather than proscribed. Moreover, the role of a justice or

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<sup>51</sup> *OBP*, trial of Elizabeth Davis, December 1742, t17421208-4.

<sup>52</sup> McMahon, *Murder in Shakespeare's England*, 53; Gowing, 'Secret births and infanticide', 88; Kilday, *A History of Infanticide*, 59.

a coroner was not always as professional as it appeared, especially in parishes with small populations. Officeholders were drawn from men who met a property holding, middling status, and as such, could be influenced by self-interest or external parties.<sup>53</sup> Furthermore, scholars have stressed how previous reliance on apothecaries or laywomen regarding the specifics of birth and maternity shifted in favour of a professional, male-dominated view of childbirth as the eighteenth century progressed.<sup>54</sup> It is imperative to position arguments about the relative importance of lay knowledge versus a change in officialdom or ‘professionalism’ in terms of a wider discourse of deference. Deference appeared in both expected *and* unexpected places, and important roles were accorded to so-called ‘marginalised’ social groups, such as the young or those working in service.

When Jenkin Clement first saw ‘something like a little grave’ in a thorny hedgerow in Llanddewi, Glamorgan, he returned the next morning to investigate with his brother-in-law, Nathaniel Eynon. They opened the grave but found nothing. Upon searching in a nearby heap of lime, however, they found the body of a dead male child. Eynon deposed that he was ‘very much shocked at [th]e sight could not stay there till a farther discovery was made but went away from thence and desired his mother’ (also Clement’s mistress and aunt), to advise them. Clement buried the child near the hedgerow. He admitted that he did not want to ‘bring himself to trouble’ by telling anyone about the child, yet ‘his conscience would not leave him quiet’. The following evening, his resolve broke and he told William Gammon who, with a group of other men, went to the grave to investigate. Meanwhile, Clement’s aunt (and Nathaniel Eynon’s mother) Elizabeth Eynon questioned her servant Margaret Lewis, who had previously complained that her ‘monthly courses’ were the reason for her ‘ill state of health’.<sup>55</sup> This followed a gendered trend in the discovery of bodies in the early modern

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<sup>53</sup> Gaskill, *Crime and Mentalities*, esp. Ch. 7 ‘Murder: police, prosecution and proof’; Carol Loar, ‘Medical knowledge and the early modern English coroner’s inquest’, *Social History of Medicine*, 23:3 (2010), 475-491; J.R. Dickinson and J.A. Sharpe, ‘Coroners’ inquests in an English county, 1600-1800: a preliminary survey’, *Northern History*, 48:2 (2011), 253-269; Keith Wrightson, ‘Two concepts of order: justices, constables and jurymen in seventeenth-century England’, in John Brewer and John Styles, John (eds.), *An Ungovernable People: The English and their Law in the Seventeenth and Eighteenth Centuries* (London, 1980), 21-46.

<sup>54</sup> See, Jackson, ‘The trial of Harriet Vooght, 1-17; Clayton, ‘Changes in Old Bailey trials for the murder of newborn babies’, 337-359.

<sup>55</sup> NLW GS 4/617/2, no. 29, informations of Nathaniel Eynon, Elizabeth Eynon and Jenkin Clement (Glamorgan, 1756).

period, where men tended to find bodies and women investigated potential suspects.<sup>56</sup> Yet the fact that actors took on different roles according to gender did not alienate the witnesses from one and other. The discovery was a collaborative effort based on the two young cousins' deference to their older female relative. At once, she occupied a variety of roles: mother, aunt, and mistress of the household. As such, the two young men deferred to her knowledge and superiority. That he acknowledged his aunt's superior role did not mean that Clement abandoned the investigation completely. His involvement continued when he discussed his troubled conscience with William Gammon and asked him for practical assistance in retrieving the body. Here, natural categories of gender and age were transcended or melded together in the spirit of collaborative pursuit of 'truth'.

A similar process of collaboration occurred in another case from eighteenth-century Brecon. Apprentice blacksmith Thomas Price heard a rumour that blood had been found on the seat of a lavatory near to where he lived. He went to check and there found the corpse of a newly born child.<sup>57</sup> Later, he told William Powel another apprentice blacksmith, who 'seem'd much surprised' at what he had heard, but they both agreed not to mention it to anyone until they had spoken to their neighbour Mary Harris (who had been reported as looking more 'slender' as of late).<sup>58</sup> Price told William that 'he would not discover it', but a few days later confided in a female relative, asking her whether it was more 'appropriate' to conceal what was found as Powel had asked him, or to 'discover' it to others. On this advice, he told his aunt's landlady, Magdalen Powel. Magdalen was married to Thomas Powel, an ironmonger who employed both William Powel (later revealed to be the alleged father of the child) and the suspect Mary Harris.<sup>59</sup> The examinations show that Price was unwilling to keep William Powel's secret without further advice from a figure with greater authority – in this context both older women. First, he approached his aunt, and after receiving confirmation of the best course of action, went to Magdalen Powel, who as his employer's wife would also be Powel's mistress and social superior. The

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<sup>56</sup> McMahon, *Murder in Shakespeare's England*, 56.

<sup>57</sup> NLW GS/381/2, no. 4, confession and examination of Mary Harris; nos. 5, 6, 7 for examinations of witnesses (Brecon, 1755).

<sup>58</sup> NLW GS 4/381/2, no. 5, examination of Thomas Price.

<sup>59</sup> NLW GS 4/381/2, no. 5, examination of Thomas Price.

examinations do not clarify whether William Powel was the son and apprentice of Thomas and Magdalen Powel, or simply their apprentice, but her superior status and respected authority to Thomas Price was clear. Placing Jenkin Clement and Thomas Price at the centre of these two cases illustrates that deference could be tailored to meet the demands of certain unforeseen circumstances. They show that while early modern communities were naturally hierarchical, these relationships were informally negotiable and did not exclude those without official or patriarchal authority.

However, prosecutions for concealment were by no means a rosy picture of collaborative community effort. Conflict still necessitated collaboration in a potential homicide where a suspect may well have acted violently. Women were treated aggressively or searched without consent. In Swansea in 1747, for example, widow Mary Smith deposed how ‘very hard and black’ suspect Joan Davies’ breasts were, having ‘never heard nor ever saw any women have such breasts but [...] just before they have lain in or soon after’.<sup>60</sup> On this information, searchers entered Joan Davies’ lodgings to look for other physical evidence of recent childbirth. The description implies a physically painful examination of Davies’ breasts and demonstrates the invasiveness of the search not just of Davies’ body, but also of her living space. In a case from 1735 where Denbighshire woman Catherine Roberts was suspected of being pregnant, a male neighbour Robert Jones ‘made bold to feel her belly’, where he found it just as ‘hard’ as his wife’s during her pregnancies. That Jones ‘made bold’ suggests that Roberts did not fully consent to his examination.<sup>61</sup> In Montgomeryshire in 1734, Catherine Williams managed to convince suspected neonaticide Jane Williams to offer a single breast for inspection, yet Jane refused to let the woman attempt to express or ‘suck’ any milk from her. With this small act of defiance, Jane attempted to regain, or at least negotiate the power balance in a humiliating situation.<sup>62</sup>

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<sup>60</sup> NLW GS 4/614/6, no. 11, examination of Mary Smith, widow (Glamorgan, 1748). The word ‘black’ was sometimes used to denote dark spots or injuries on the body generally, such as purple or red bruising.

<sup>61</sup> NLW GS 4/46/2, no. 23, examination Robert Jones (Denbigh, 1735).

<sup>62</sup> NLW GS 4/178/2, no. 23, examination and depositions of witnesses (Montgomery, 1734). Indictment no. 10: *true bill*, guilty, to be hanged.

Accusations of neonaticide could be met with more overt defiance than Jane's actions. In a bizarre case from the Old Bailey in 1677 which involved a faked pregnancy and the body of a deceased infant, the suspect (who in fact was a midwife), refused to allow any of the women present to touch her when she 'pretend[ed] to fall into labour'. A 'friend' offered to put her hands under the bedclothes to better understand the woman's alleged 'pains', the accused 'cried out murder! Murder!' to prevent her body from being searched.<sup>63</sup> Witnesses expected to be met with angry outbursts, especially when the death of the child appeared to be violent, and spoke of their apprehension at pursuing a suspect. Evan Prees admitted that he was 'afraid' to take up Margaret Thomas Prees, 'she being of a dangerous wicked family', while his wife added that Margaret was a 'scandalous woman'. The child was found with its head 'chopt off with a spittle and carryd in the dung to the field'.<sup>64</sup> On hearing that a child had been found dead in her brother's Merionethshire household, Sara Evan exclaimed 'O God' and was 'in great fright and bodily fear to charge the women of the house with the fact they should fall upon her and beat her'. She insisted on two men to accompany her when she confronted the maidservants; she was afraid the women would be 'severe' with her.<sup>65</sup> Ellen Iveyman described Jane Griffith's anger when she urged her to confess what she knew about the burial of a child in their parish of St. Asaph in Flintshire. Jane said she would 'curse' Iveyman 'as long as she had breath in her body', and would rather 'kill herself' than allow Iveyman the 'pleasure of seeing her hanged, for if she was hanged it would be owing to this informant'.<sup>66</sup>

Witnesses were also concerned about reproach when they accused women of pregnancy. When Catherine Edwards charged Jane Edwards with her pregnancy, Jane 'in a great passion told this examinant she lyed and in case she w[oul]d not quit the house she w[oul]d kick her out'.<sup>67</sup> Gwenllian David grew 'warm and angry' with Jennet Jones when she informed her of her suspicions of David's pregnancy. Jennet Jones still demonstrated knowledge or was able to comment upon the body of a pregnant woman, despite being a singlewoman

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<sup>63</sup> *OBP*, trial of unnamed woman, June 1677, t16770601-6.

<sup>64</sup> NLW GS 4/518/2, no. 13, examination of Evan Evans and Evan Prees (Radnor, 1735).

<sup>65</sup> GS 4/296/2, no. 28, examination of Sara Evan for Coroner (Merioneth, 1702).

<sup>66</sup> GS 4/1002/4, no. 13, information of Ellen Iveyman for Justice of the Peace (Flint, 1739).

<sup>67</sup> GS 4/47/6, no. 22, examination of Catherine Edwards (Denbigh, 1742).

herself.<sup>68</sup> These witnesses' fears may well seem congruent with the argument that early modern society understood infanticide suspects in terms of rigid subjective 'characters', one of which was the guilty, 'rebellious' mother.<sup>69</sup> Yet Jane Griffith, Jane Edwards and Gwenllian David were acquitted of their crimes, while Margaret Thomas Prees' indictment was thrown out. In an Old Bailey trial from 1726, Hester George's anger gave away her pregnancy. Witness Isabel Brown deposed that the prisoner:

has often asked me to help her to child-bed-linnen; and because I did not do it, she was very angry with me, and ask'd me how I could serve her so, and that was all the reason that I had to suspect she was with Child.<sup>70</sup>

Hester George was also acquitted, despite her angry outburst. These witnesses did not explicitly associate the women's indignation with culpability, but they still expressed an element of ambivalence. Neither did early modern people understand the concealed death of newly born children solely in terms of a conflict with a dangerous, violent woman. Instead, most instances of suspected infanticide were a mix of collaboration and conflict between local actors and the accused mother, which in turn mirrored the unpredictable effect the crime had on communities. Not only were the subjectivities of accused women complex and individual, so too were those of witnesses who suspected pregnancies or found bodies. As such, historical actors had numerous cultural contexts to draw upon in order to explain their behaviour or reactions to child death.

One such context was that of charity or economic assistance. Pregnant single women faced the dilemma of admitting their pregnancy in order to accept offers of financial assistance from masters and mistresses. Phebe Ward's lodger had faith in the charity of their mistress, telling her, 'she was not the first to have been drawn away; and if she was, her mistress would take care of her, that she should lye in handsomely'.<sup>71</sup> The *Ordinary's Account* similarly alleged that Phebe was 'kindly and charitably offer'd by her mistress (with whom she had not liv'd above a month) to be taken care of, and well provided for' if she admitted her

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<sup>68</sup> GS 4/380/6, no. 5, examination of Jennet Jones (Brecon, 1753).

<sup>69</sup> See for example, Marilyn Francus, 'Monstrous mothers, monstrous societies: infanticide and the rule of law in Restoration and eighteenth-century England', *Eighteenth Century Life*, 21:2 (1997), *Monstrous Motherhood: Eighteenth-Century Culture and the Ideology of Domesticity* (Baltimore, 2012).

<sup>70</sup> *OBP*, trial of Hester George, July 1727, t17261012-8.

<sup>71</sup> *OBP*, trial of Phebe Ward, December 1711, t1711205-21.

pregnancy.<sup>72</sup> The *Sessions Papers* and the *Ordinary's Account* both insinuated that Ward had no need to conceal her pregnancy, when in fact single mothers had the opportunity to be treated fairly by some. If we return again to Grace Howell, she had in fact admitted her pregnancy to her master – also the father of child – whom she deposed was very ‘faer’ in his promise to maintain the child. Both cases demonstrate early modern people’s familiarity with premarital sex and bastardy as a fairly common part of life, and also the charitable treatment of women who found themselves unintentionally pregnant.<sup>73</sup>

Attitudes of witnesses to illegitimate births and pregnancies could manifest ambivalence. Witnesses described themselves as torn between wanting to help the mother and making sure they did not abandon their own self-interest, or that of their local community. Elizabeth Rowland offered Jane Edwards assistance during her pregnancy by offering her shelter, but also took the interests of the parish and her husband seriously. While she initially turned Edwards out after one night sleeping in her household, for a week thereafter Rowland continued to admit Edwards back every evening to sleep, despite being scolded by her husband who later called the parish officers.<sup>74</sup> Rowland may well have been concerned about how assisting Edwards would affect her reputation – or simply wanted to avoid the inconvenience of Jane’s labour happening in her house – but her position towards Edwards was neither fixed nor influenced by an overwhelming desire to shame, but instead was influenced by immediate household and local matters.

Like Elizabeth Rowland, witnesses expressed varied and even conflicting sentiments towards prosecuted women. Witnesses did not attach a uniform subjectivity or motivation to them. For example, Robert ap Richard had ‘private discourses’ with his wife when he suspected his maidservant Gwen Foulk was pregnant but claimed he was ‘glad they had not charg’d her with it because they thought it would have impair’d her credit’.<sup>75</sup> Yet Dorothy Williams deposed that when confronted during her labour, she acted ‘obstinately’ by ‘refusing to come to any house or shelter tho’ much importuned’. Witness Elizabeth Salisbury

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<sup>72</sup> *Ordinary's Account*, December 1711, OA17111222.

<sup>73</sup> Walker, ‘Child-killing and emotion’, 154.

<sup>74</sup> GS 4/47/6 no. 26, examination of Elizabeth wife of John Rowland (March 1742).

<sup>75</sup> GS 4/41/6, nos. 26, examination of Robert ap Evan (Denbigh, November 1716).



revealed another perceived side to Gwen's character when she deposed that Gwen said:

they were women that were not ignorant of [th]e condition she was in, at which she feigned a sort of smile and said her distemper or condition was not at all wicked or extraordinary.<sup>76</sup>

Elizabeth's subjective interpretation of Gwen's speech and gesture, where the 'sort of smile' almost appears as a way of coyly acquainting the women with her condition illustrates the range of ways that the men and women around Gwen perceived her character. The fact that Salisbury also commented on facial expression and Gwen's mood adds weight to the idea I suggested in the previous chapter: that women may have lingered on interpretation of gesture, emotion, and mood more so than male witnesses did in their testimonies. Furthermore, it was not necessarily commented on as extraordinary that Gwen could enjoy good credit, but also act 'obstinately' or even suspiciously in another situation.

Yet, some suspects were protected from accusation and confrontation, especially by female family members. In Glamorgan in 1727, Rachel Thomas insisted that she had asked her daughter Joan absolutely no questions about a possible pregnancy, despite the fact that it was 'often reported' locally that she was with child, and a valuable source of information and support during pregnancy came from female family members.<sup>77</sup> Margaret Edwards put ashes over the body of her deceased grandchild to help her daughter Jane Williams protect it from being eaten by crows. In both of their examinations, mother and daughter diminished the body of child to 'some filthy matter of blood or false conception', a known discourse used by women to disassociate the body from being an actual baby or child.<sup>78</sup> Despite the diminishing language of their examinations, the women's actions of covering the foetus with ashes and earth and inserting it into a small opening in a dingle also suggested care in their burying the body of the child.<sup>79</sup> Here, the language also extended to the mother as a way of protecting her

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<sup>76</sup> GS 4/41/6, nos. 27-28, examination of Dorothy Williams (Denbigh, November 1716).

<sup>77</sup> GS 4/614/6, no. 11, examination of Rachel wife of William Thomas (Glamorgan, 1747). See Linda Pollock, 'Childbearing and female bonding in early modern England', *Social History*, 22:3 (1997), 286-306.

<sup>78</sup> GS 4/49/2, no. 34, examination of Margaret Edwards (Denbigh, March 1746).

<sup>79</sup> Caring discourses were common in pre-trial depositions for neonaticide. See Gowing, 'Secret births', 107-8; *Common Bodies*, 197; Walker, 'Just stories', 101.

daughter and a shared sense of care towards the corpse. Later in her examination Jane admitted that they buried the 'child' privately because its father was already married. While the labour produced a 'filthy matter', the protective burial of the body transformed it into a 'child' and indicated the concern that both mother and daughter held over the spiritual wellbeing of the infant.<sup>80</sup> For some women, however, 'protection' by those close to the pregnancy came at a cost. In a concealment case from Brecon in 1755, William Powell allegedly promised the mother of his bastard child, Mary Harris, that he would maintain their child but only if she concealed her pregnancy.<sup>81</sup> In another Great Sessions case from Montgomery in 1758, Mary Barret informed William Davies of the stillbirth of their child, to which Davies allegedly promised he would conduct the burial, but she saw neither him nor her child again.<sup>82</sup>

Mothers accused of neonaticide did not always receive protection, and instead used their own resources to act obstructively, by moving the corpses of their infants or directing searchers to incorrect burial locations. As I described earlier, Grace Howell removed the body of her child from under the rock at Hirdir Gap and buried him in a field between the time Morgan Rowland saw the newborn and went to fetch another witness.<sup>83</sup> After keeping her child under a little settle or bench in her lodgings, suspected infanticide Joan Davies claimed she did not know who moved the body of her child two days later. She later admitted that the child's father, William Bowen, had wrapped the body of the child in some flannel shortly before its disappearance.<sup>84</sup> Witnesses testified at the Old Bailey in 1696 that Margaret Price told searchers that she had left the body of her dead infant in a cart rut, when it was in fact later found buried in a dung hill.<sup>85</sup> Another suspect tried at the Old Bailey in 1729 changed her story of disposal: first by claiming she left the corpse of her newly born child behind a tub in her mistress's

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<sup>80</sup> GS 4/49/2, no. 33, examination of Jane Williams.

<sup>81</sup> GS 4/381/2, no. 4, confession and examination of Mary Harris (Brecon, March 1755).

<sup>82</sup> GS 4/186/1, no. 41 examination of Mary Barret (Montgomery, April 1758).

<sup>83</sup> GS 4/296/2, no. 28, examinations of witnesses.

<sup>84</sup> GS 4/614/6, no. 12, confession of Joan wife of William Davies. It appears that Joan was initially prosecuted under the 1624 Act, because her husband had not been seen for the past seven years and she had concealed her pregnancy, but the indictment was thrown out because of her marital status.

<sup>85</sup> *OBP*, trial of Margaret Price, September 1696, t16960909-37.

kitchen, then by admitting that she had in fact buried it under a bench.<sup>86</sup> It is not possible to determine whether these particular situations were the result of women attempting to find more time to grieve, locate a final resting place for their child, or whether they acted out of panic or disassociation – though these are all plausible psychological states that have been appropriately contextualised by historians of neonaticide. Instead, these examples show that prosecuted women's agencies were regularly in conflict with the interests of their communities.

As such, acts of hiding or moving bodies were (mostly failed) attempts by women to negotiate or obtain power over the circumstances and prevent discovery. While actors exercised varying levels of authority in individual circumstances, the fact that they had agency in the first place still put them above the infant whose death had been concealed. Yet infant corpses and the testimony of another group of witnesses – children – had significant roles to play in providing a framework of understanding for communities, or allocating responsibility in cases of concealed infant death.

### Agency of 'innocents': infant bodies and child testimony

In cases of neonaticide, the victims were unequivocally innocent. However, they were not without agency – corpses yielded clues. When the cause of death was violent, these clues were obvious and increased chances of a conviction under the statute.<sup>87</sup> When indicators of bloody treatment were ambiguous or lacking, however, bodies could still 'speak' to the morality of their handling or identify a suspect, through providential signs such as cruentation, ghosts, or visions that persisted well into the eighteenth century.<sup>88</sup> At the beginning of the chapter I wrote that Morgan Rowland dreamed of a swine's head under a stone, which he later visited and found the place where Grace Howell had

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<sup>86</sup> *OBP*, trial of Martha Rickets, May 1729, t17290521-43.

<sup>87</sup> Keith Wrightson, 'Infanticide in earlier seventeenth-century England', *Local Population Studies* 15 (1975), 15; Marilyn Francus, 'Monstrous mothers', 145; Walker, *Crime, Gender and Social Order*, 152-4; Anne-Marie Kilday, 'Desperate Measures or Cruel Intentions? Infanticide in Britain since 1600' in Anne-Marie Kilday and David Nash (eds.), *Histories of Crime: Britain 1600-2000* (London, 2010), 64.

<sup>88</sup> Kilday, *A History of Infanticide*, 73; Gaskill, 'Reporting Murder', 16; *Crime and Mentalities*, 215 and 258.

originally laid her dead child.<sup>89</sup> Even as late as the 1750s in Brecon, Daniel John Harry believed in cruentation. When asked if he suspected his servant Gwellian David was responsible for the death of her newly born infant he deposed that ‘the corpse would bleed afresh on her touching it’ if she had killed the child.<sup>90</sup> In both life and death, a newborn child could not identify a suspect through clear speech or gesture, which meant that not only did its body provide the gruesome images which incited fear and surprise in witnesses, but that its physical state had symbolic importance in according culpability and showing the subversion of intimate after-birth moments. Infant corpses, like the actions of animals or extreme weather, could be understood as instruments of divine agency in uncovering a possible homicide.<sup>91</sup>

Soon after birth, it was necessary to tightly wrap an infant body in bandages. Midwives advocated this practice as a form of protection due to the fragility of the infant’s bones and body, which surgeons believed to be as malleable as ‘wax’.<sup>92</sup> The *Old Bailey Sessions Papers* contained graphic descriptions of elastic limbs, in the summary of Sarah Nicholson’s trial, a witness claimed that the infant’s ‘limbs fell at their length, and were very limber’.<sup>93</sup> Elizabeth Browne declared that Mary Wilson’s ‘child was so limber that one might wrap it about one’s hand, like a cloth’.<sup>94</sup> The anonymous author of the pamphlet *Concealed Murther Reveild* referred to the ‘tender’ body of an eight-week old baby that died in suspicious circumstances while at nurse.<sup>95</sup> Immediately swaddling a newly born infant was thought to encourage sleep and prevent injury and pain by keeping the limbs still.<sup>96</sup> The writers of the *Old Bailey Sessions Papers* passed judgement on the

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<sup>89</sup> NLW GS 4/296/2, no. 28, examination of Morgan Rowland.

<sup>90</sup> NLW GS 4/380/6, no. 5, examination of Daniel John Harry (Brecon, 1753).

<sup>91</sup> See Gaskill, ‘Reporting murder’, 16. For an in-depth study of the role of providence in explaining extraordinary events, see Alexandra Walsham, *Providence in Early Modern England* (Oxford, 1999). On its influence in popular pamphlet literature more generally, see Frances Dolan, *True Relations: Reading, Literature, and Evidence in Seventeenth-Century England* (Philadelphia, 2013).

<sup>92</sup> Hannah Newton, ‘Children’s Physic’, 459; 470.

<sup>93</sup> *OBP*, trial of Sarah Nicholson, December 1719, t17191204-9.

<sup>94</sup> *OBP*, trial of Mary Wilson, May 1721, t17210525-59.

<sup>95</sup> *Concealed Murther Reveild. Being a Strange and True Discovery of a Most Horrid and Barbarous Murther, that was Committed in St. Catherins-Lane near Tower-Hill, by Mary Anderson, alias Farrel* (London, 1699).

<sup>96</sup> Adrian Wilson, *Ritual and Conflict: the Social Relations of Childbirth in Early Modern England* (Farnham and Burlington, 2013), 195-6; Ralph A. Houlbrooke, *The English Family 1450-1700* (London and New York, 1984), 132.

subversion of a normal intimate practice that occurred after a childbirth: wrappings considered unfit for purpose, old or damaged were interpreted as a lack of preparation for the infant, and thus an intention to conceal the birth, or even as a potential murder weapon.<sup>97</sup> When Jane verch John David saw ‘much bloody issue’ in her next-door neighbour’s loft where Dorothy verch Thomas had lain, she asked if she could make the bed. There beside Dorothy she found a ‘woman child new born wrapped up and bound in a green apron’. The child’s mouth was open, with a black tongue and ‘three stripes on its throat being also black’. Jane further deposed that the suspect had always denied being pregnant.<sup>98</sup>

When infants were discovered naked and covered in excrement or filth, the suspected mothers faced similar vilification. Mary Hunt’s newborn daughter was considered so ‘dirty’ that examiners were unable to tell if she was bruised.<sup>99</sup> Not only did Ann Gardner allegedly put her dead child in a ‘tub of foul cloaths’, she disposed of the child in a house of office where it was allegedly ‘suffocated with filth’.<sup>100</sup> Yet a dead infant wrapped in some of the mother’s own linens may have also suggested care of an infant corpse using materials on hand during a surprise birth.<sup>101</sup> When Arabella Williams was delivered of a bastard child later discovered buried under a hawthorn bush in Llanbedr-goch, Anglesey, Elizabeth Morris described how Arabella washed the infant in ‘warm water’ before asking her to cut the bedclothes into two pieces in order to swaddle it.<sup>102</sup> Meanwhile, Elizabeth Salisbury reported that she believed Gwen Foulk’s child was stillborn because despite the fact it was found ‘wrapped’ in ‘natural disguise’ (possibly leaves or grass) she claimed it ‘seemed washed’.<sup>103</sup> The way that bodies were disposed of

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<sup>97</sup> *OBP*, Oct 1693, Mary Baker, t16931012-32; Dec 1727, Sarah Hunt, t17271206-36; April 1737, Mary Wilson, t17370420-18; February 1747, Hannah Perfect, t17470225-1; December 1755, Isabella Buckham, t17551204-27.

<sup>98</sup> GS 4/28/2, no. 97, examination of Jane verch John David (Denbigh, June 1670).

<sup>99</sup> GS 4/1003/11, no. 10, examination of Ann Shone (Flint, June 1746). Indictment no. 8: *true bill*, not guilty by the jury.

<sup>100</sup> *OBP*, trial of Ann Gardner, January 1708, t17080115-1.

<sup>101</sup> Walker, *Crime, Gender and Social Order*, 155. Clothing theft was rife in the seventeenth and eighteenth century, which suggests not only the high disposable income potential of clothing, but also the personal value certain items held for people across all social classes. See also Walker, *Crime, Gender and Social Order*, 163 and Beverly Lemire, ‘The Theft of Clothes and Popular Consumerism in early modern England’, *Journal of Social History* 24:2 (1990), 255-276.

<sup>102</sup> GS 4/250/6 no. 14, examination of Elizabeth Morris (Anglesey, October 1737).

<sup>103</sup> GS 4/41/6, no. 28 examination of Elizabeth Salisbury (Denbigh, 1716).

was used by witnesses and authors to make a comment on the suspect's intention to conceal the body, with varying levels of sympathy or vilification.

The way in which infants were wrapped also evoked images of careless treatment and the potential for violence. For example, Jane Cooper's trial report stated that witnesses discovered a bundle of clothes smelling like 'stinking meat'. Inside they 'found something in it all over maggots, filth, and the like; then we open'd it farther, and found a female child'. The midwife testified that the child:

[...] was very much maul'd, the arm and the skull were broke; and as to the face it had none; no eyes nor nose, and the skull was clasp'd one part over the other; I cannot say whether that might happen without violence or not, but the arm was broke between the shoulder and the elbow.<sup>104</sup>

Cooper was later found guilty. The tightness of the wrapping in this case could have mimicked the effects of violence due to the malleable bones forming a similar appearance to a crushed skull, and was reflected in the midwife's inability to determine the cause. The juxtaposition of the bundling of the corpse with crushed, broken bones, stench and decay, could indeed be read as carelessness by a negligent mother at best, at worst, intentional violence. Cooper's case brings to light ways that witnesses used the physical body of the child to pass implicit judgement on whom they thought was morally, but not necessarily legally culpable for the child's death, a theme which links us back to the argument that witnesses had conflicting interpretations of a suspect's varied subject-positions. By commenting on the state of the body, witnesses could hold the accused responsible in some way, but not necessarily convict them.

While the bodies of children were considered as puppets for divine agency, in cases where they lived long enough to make a noise or move, authors of crime pamphlets seized the opportunity to embellish their accounts for readers. Pamphlet and ballad authors rarely wrote about the type of concealment or suspected neonatal infanticide covered by the 1624 statute, and instead explored a number of filicide cases that encompassed a broad spectrum of deviant maternal

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<sup>104</sup> *OBP*, trial of Jane Cooper, December 1736, t17361208-10.

subjectivity.<sup>105</sup> The age ranges of infant victims in pamphlet literature allowed for greater agency in speech and gesture than those in trial summaries or legal documents, but was still rather limited. As scholars have demonstrated, the printed accounts of murderous mother Mary Cook provide useful insight into how contemporaries grappled with the issue of maternal mental illness, but they also demonstrate how child agency was used to accord culpability to a murderous parent.<sup>106</sup> Cook's child Elizabeth was around two years old, which meant she had some ability to communicate with words and gesture.<sup>107</sup> The pamphlet *Inquest after Blood* vividly recounted Elizabeth's speech just before the murder took place. Cook asked her daughter if 'she was willing to have her breakfast' – an authorial device that played on the subversion of maternal provision of food – to which:

the innocent child merrily answered, yes; whereupon this cruel mother took her out of the bed, and carrying her toward the chimney, most inhumanely cut the throat of her child with a penknife.<sup>108</sup>

Imagined verbatim speech and the motion of carrying emphasised the child's innocence, helplessness, and lack of knowledge throughout the encounter. Other authors called the child an 'innocent babe'. The author N. Partridge in his pamphlet *Blood for Blood* even re-created Elizabeth's coos and babbles:

the babe answered, ey, crying, aha, aha, as it used to do when it was pleased, and put forth her hand to stroke her mother.<sup>109</sup>

Partridge used a generic form of movement attributed to babies and toddlers – reaching out its arms – but attached emotional subjectivity to the child. This

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<sup>105</sup> Frances Dolan, *Dangerous Familiars: Representations of Domestic Crime in England* (Ithaca and London, 1994), 126; McMahon, *Murder in Shakespeare's England*, 143; Sandra Clark, *Women and Crime in the Street Literature of Early Modern England* (Basingstoke, 2003), 65.

<sup>106</sup> See for example, Clark, *Women and Crime*, 56; Dolan, *Dangerous Familiars*, 146-148; Susan Staub, 'Early modern Medea: representations of child murder in the street literature of seventeenth-century England', in Miller, Naomi and Yanveh, Naomi, *Maternal Measures: Figuring Caregiving in the Early Modern Period* (Aldershot, 2000), 333-345; *Nature's Cruel Stepdames: Murderous Women in the Street Literature of Seventeenth Century England* (Pittsburgh, 2005); Randall Martin, *Women, Murder and Equity in Early Modern England* (Oxford, 2008), 121.

<sup>107</sup> See *Inquest After Blood, Being a Relation of the Several Inquisitions of all that have Died by any Violent Death in the City of London, and Borough of Southwark* (London, 1670); *The Cruel Mother; Being a True Relation of the Bloody Murther Committed by M. Cook, upon her Dearly Beloved Child* (London, 1670); N. Partridge, *Blood for Blood, or Justice Executed for Innocent Blood-Shed Being a True Narrative of that Late Horrid Murder Committed by Mary Cook Upon her own and Only Beloved Child* (London, 1670).

<sup>108</sup> *Inquest After Blood*, 9.

<sup>109</sup> Partridge, *Blood for Blood*, 15.

encouraged readers to reflect on their own interactions with infants and stressed the unprecedented barbarity of Cook's actions.

The writers also acknowledged the link between 'rage' and malice that was understood to inform the legal criteria for murder that I outlined in the previous chapter (Cook was prosecuted for murder because she was married and the victim was a legitimate child):

she loved this child more than the rest, yet there appeared not the least lunacy or distraction in her responsals made since to divers that visited her in Newgate. Nothing certainly but rage and exorbitant passion, which by continuance is turn'd to malice, and this foster'd by Sathans temptations, can be thought to have guided this bloody hand.<sup>110</sup>

However, this author also linked Cook's excessive love for her child with expressions of 'exorbitant passion' that unbalanced the humours and led to destructive consequences. The debate over Cook's mental state in extant murder pamphlets demonstrates the thin line contemporaries drew between unrestrained or excessive passions (even if they were supposed to be 'positive'), mental disruption, and murder.

Through their use of language, writers of the *Sessions Papers* created echoes of children's gestures, sounds, and physical form to 'haunt' readers with the image of the deceased child and emphasise the heinousness of its death. Two weeks before Martha Busby's child was found dead, she told witnesses that she heard the continuous cries of a child in her ears.<sup>111</sup> Christian Russel's trial summary alleged there was a 'certain report' that the 'child grasp'd her hand as she was going thus to murder him'.<sup>112</sup> This statement was most likely unverified; it did not come directly from witness testimony and instead formed part of an addition by the author. Nonetheless, this insertion by the author showed ways that intimacy could be adopted and repositioned from motherly to murderous. The bodies and movements of babies on the verge of death offered a picture of her guilt in more infamous cases, too. Although Mary Compton, the murderous midwife of Poplar, was not charged under the 1624 Act (she took in bastard children from the parish

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<sup>110</sup> *Inquest After Blood*, 9.

<sup>111</sup> *OBP*, trial of Martha Busby, July 1731, t17310714-29.

<sup>112</sup> *OBP*, trial of Christian Russel, January 1702, t17020114-7.



for which she was paid to maintain, but starved them to death and claimed they had died from illness so she could be paid to take in more), her reputation as a ruthless killer of infants was reported in numerous pamphlets and broadside ballads of the crime.<sup>113</sup> *A Particular and Exact Account of the Trial of Mary Compton* described that two children were found dead in a hand-basket which witness George Hurst claimed 'lookt as black as his hat'. The report stated that the bodies had 'maggots crawling about them, to the great terror and amazement of all that beheld so dreadful a sight'; the corpses were 'rotten', and a 'hatful of maggots and vermine came tumbling out of their bellies' and 'stunk so prodigiously, that no one was able to bear it'. The one surviving baby in a cradle was 'tearing, rending, and yawning its mouth to and fro' from starvation with its headclothes 'stuck fast into the flesh, eat into it, and the skin came off with it'.<sup>114</sup>

Graphic descriptions of children on the verge of death; in pain due to their extremely sensitive bodies; making noises that were both their first and last emphasised the heinousness of the crime and the unequivocal innocence of the victims. Although authors conceded some agency to the speechless victims, the agenda of the published accounts meant that descriptions of gesture were manipulated to fit a narrative of divine providence or to ascribe culpability to a particular suspect. Moreover, most victims' lack of language means it is also necessary to look elsewhere and ask further questions about the agency of infants or children as historical actors in serious crimes like neonaticide. Children were examined at the pre-trial stage of cases tried before the grand jury at the Great Sessions, and were a reported presence during the discovery of neonaticides across England and Wales.

Scholars have recognised the anachronistic nature of categorising infancy, childhood and adulthood in terms of arbitrary distinctions in contemporary conduct literature or indeed employment practice. They have disputed ideas that childhood effectively ended as soon as girls entered service or boys apprenticeship,

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<sup>113</sup> Printed broadside ballads and crime pamphlets produced about the case included: Anon., *The Bloody Minded Midwife* (1693); *The Injured Children* (1693); *The Midwife of Poplar's Sorrowful Confession and Lamentation in Newgate* (1693); *A Particular and Exact Account of the Trial of Mary Compton* (London, 1693); *An Account of the Seizing or Apprehending, Confession, and Commitment to Newgate of Mary St. Dunstan* (London., 1693). There was also an account of her dying behaviour in the *Ordinary's Account*, OBP, OA16931023.

<sup>114</sup> Anon., *A Particular and Exact Account of the Trial of Mary Compton*.

and in the process have revealed the flexibility of terms ‘infant’, ‘child’, ‘youth’, ‘girl’ and ‘boy’.<sup>115</sup> The most useful studies of child agency and serious crime often concern their role as victims of rape or attempted rape. To be sworn in court, children had to understand the nature of an oath, which justices and juries realised was contingent on the age and spiritual education of the child.<sup>116</sup> Moreover, early modern people recognised that children developed at different times, and those older in age could appear more ‘childlike’ in mentality than others and vice versa. Historians have also assessed the extent to which children’s testimonies were accorded legal credibility in cases of domestic violence.<sup>117</sup> Pre-trial examinations of children can reveal the places in communities where children were present for emotionally charged situations. They can also reveal pictures of everyday intimacies and exchanges, and enable us to find further examples of the ordinary in the extraordinary. The ages of child deponents were not routinely noted in pre-trial documents or printed trial summaries (apart from in the Welsh country of Denbighshire – where seemingly idiosyncratic clerical practice means the ages of all deponents were recorded). Even if their testimonies were not heard in court, children were present during exceptional events that shocked communities and their heavily mediated voices can be located.

Children were curious when they encountered sights and sounds that were out of the ordinary, and desired to know the cause. When Jane Wotton, aged thirteen, heard ‘blubbering’ sounds and saw bloody fingerprints in the necessary house, she asked her mother who they belonged to, and what they must do about

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<sup>115</sup> See Fletcher, *Growing up in England: the Experience of Childhood 1600-1914* (New Haven and London, 2008); Newton, *The Sick Child*; Katie Barclay and Kimberley Reynolds, ‘Introduction: small graves: histories of childhood, death and emotion’, in Barclay, Rawnsley, and Reynolds (eds.), *Small Graves*, 1-24; Sarah Toulalan, ‘Child sexual abuse in late seventeenth and eighteenth-century London: rape, sexual assault and the denial of agency’, in Goose, Nigel, and Honeyman, Katrina (eds.), *Childhood and Child Labour in Industrial England: Diversity and Agency, 1750-1914* (Farnham, 2013).

<sup>116</sup> Sarah Toulalan, ‘Child sexual abuse in late seventeenth and eighteenth-century London’; ‘“Is he a licentious lewd sort of a person?”: constructing the child rapist in early modern England’, *Journal of the History of Sexuality*, 23:1 (2014), 21-52; Julie Gammon, ‘“A denial of innocence”: female juvenile victims of rape and the English legal system in the eighteenth century’, in Anthony Fletcher and Stephen Hussey (eds.), *Childhood in Question: Children, Parents and the State* (Manchester, 1999), 94-95; Antony E. Simpson, ‘Vulnerability and the age of female consent: legal innovation and its effect on prosecutions for rape in eighteenth-century London’, in Roy Porter and George Rousseau (eds.), *Sexual Underworlds of the Enlightenment* (Manchester, 1987), 181-205; Garthine Walker, ‘Rape, acquittal and culpability’, 115-142.

<sup>117</sup> Foyster, Elizabeth, ‘Silent witnesses? Children and the breakdown of domestic and social order in early modern England’, in Fletcher and Hussey (eds.), *Childhood in Question*, 57-80.

it. Her mother calmed her, by explaining that a child had probably cut their fingers. Jane's curiosity nonetheless prompted her mother to investigate, and it was later discovered to be the body of Elizabeth's Stuart's (now dead) bastard child.<sup>118</sup> Older children and teenagers were more likely to appear or be mentioned in witness testimony as they started undertaking domestic duties, either alongside their parents, or independently. Twelve-year-old Elyn Jones was present when she and her mother discovered the body of Gwen Griffith's child and helped her mother protect the body with stones and leaves until they could get help. While her mother described her fright, Elyn's examination only described the woman with the white hen (Griffith), and the practical actions she and her mother took that day on the hillside.<sup>119</sup>

Conversely, Robert Prichard, an 'infant above fifteen years' described how he saw Ellin Samuel in 'great pain' and later exit their shared household with something hanging out of her apron. He later went to investigate where he discovered the grave of a child in the garden, which 'putt this examinant into a mighty fear'.<sup>120</sup> While Prichard described his fright, the emotions of children were included in pre-trial depositions even less so than adults'. It is possible that the incidentally reported emotions of adults were accorded greater significance during the examination process – in comparison to adults, children were broadly understood as emotionally underdeveloped and lacking in reason. However, while the idea was expressed in conduct literature and may have influenced general ideas about children's personalities, its influence on directing clerical convention would have been implicit at most. Evidence of emotion, at least in cases of neonaticide, seems to coincide with explaining action or inaction when faced with a potential homicide, as previously explored – but now it has been revealed that adults were not the only people involved.

Younger girls and teenagers would have been privy to (even if they did not fully understand) issues of female reproductive health and suspicious behaviour in houses where unmarried female residents shared beds. Frances Boddyman, found guilty of neonaticide in 1695 was bedfellows with two 'young women',

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<sup>118</sup> *OBP*, trial of Elizabeth Stuart, April 1743, t17430413-51.

<sup>119</sup> GS 4/33/6, no. 25, examination of Elyn Jones (Denbigh, May 1687).

<sup>120</sup> 4/270/2, no. 15, examination of Robert Prichard (Caernarfon, September 1717).

whose proximity allowed them to hear the ‘thump’ of her dead child in the house of office.<sup>121</sup> In a case from Brecon in 1753, eleven-year-old Rebecka Jones was bedfellow to neonaticide suspect Gwenllian David.<sup>122</sup> On the night that Gwenllian allegedly buried the corpse of her illegitimate child, she and Rebecka were the only members of the household left awake. Rebecka fell asleep by the fire waiting for Gwenllian to return instead of going to bed herself. She also noted in her examination that Gwellian had slept in her petticoat for a number of nights, which she had never done before, presumably to hide bleeding or bodily discharges after giving birth. Sharing these intimate practices with Gwenllian allowed Rebecka to detect changes in her routine and demeanour and attempt to find the cause of the behaviour. A similar case of neonaticide uncovered by bed sharing was reported in the *Sessions Papers* in 1680. Margaret Adams’ child was found:

dead in the bed with her Mistresses Daughter, it being conjectured that she had smothered it with the Bed-cloaths, the which the Girl waking found, and called out, saying there was a Child in the bed’.<sup>123</sup>

Again, the close bodily proximity of younger girls with older maidservants meant that eyewitness accounts of children mattered in cases of suspected neonaticide. The report also mentioned the child’s active role in calling out – while she was not examined and did not testify in court, the young girl still participated as an unofficial witness through the testimony of others.

Even when children were not called as witnesses for coroners or justices of the peace, they still maintained a presence in the examinations of adults through reported speech. Alice Hughes reported the speech of Mary Davies the younger, whose mother Mary Davies the elder was prosecuted in 1759 for neonaticide of a bastard child. Mary Davies the younger allegedly told Hughes that she was walking with her mother, who climbed over a stile and instructed her daughter to carry on ahead, circumstances presumed by witnesses to be the moment when Davies gave birth and disposed of the corpse.<sup>124</sup> William Bowen deposed that while conversing with the suspect Joan Davies, her remaining living daughter was

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<sup>121</sup> *OBP*, trial of Frances Boddyman, October 1695, t16951014-3.

<sup>122</sup> GS 4/380/6, no. 5, examination of Rebecka Jones (Brecon, March 1753).

<sup>123</sup> *OBP*, trial of Margaret Adams, December 1680, t16801208-2.

<sup>124</sup> GS 4/1005/11, no. 5, information of Alice Hughes for Justice of the Peace (Flint, September 1759). Indictment no. 31: *true bill*, not guilty by the jury.

'lyeing under the hedge listening to what he said'. Despite the fact that Bowen claimed that 'he saw the girl under the hedge but did not hear her speak', the young girl's eavesdropping on her mother's business revealed that children were present during a range of private, emotionally volatile situations. While the child was under the hedge, Bowen asked Joan what she had done with the body of her newly born child. It is not clear whether Joan's daughter knew the extent of the situation, but reveals her proximity to events, as well as her silent curiosity.<sup>125</sup>

Infant corpses were accorded agency through providential signs on their bodies. The idea that God worked through the body to identify a culprit was one of many conceptual frameworks for understanding neonaticide. Divine providence was used as an explanatory device but did not always dictate the outcome of a trial, or even form the basis of a prosecution; its role was considered and critiqued in the light of other circumstantial and physical evidence. Children also formed an important part of community reactions to neonaticide. Even when they did not give testimony in court, they had an important role as observers, and children's curiosity on occasion provided circumstantial evidence that was later testified to in court by adults.

## Conclusion

In London, hundreds of miles away from Robert David, Morgan Rowland, Sarah Evan and Gaynor Robert, witness Joseph Row testified at the Old Bailey that 'in a surprize', his wife told him she had seen a dead child in a nearby vault. He claimed that he would not 'give credit' to her account until he saw it 'with his own eyes'. After wrongly accusing a local woman, an acquaintance 'took upon him to perceive an uneasiness in his countenance' and asked Row 'whether he was concern'd about the child's being found in the vault'. The mysterious figure 'advised him to be easy, telling him he would know more of it on the morrow'. This prophetic statement hung heavy over Row, and later that night when he could not sleep for thinking of events, he was 'struck' by the image of a woman, whom later turned out to be the prisoner.<sup>126</sup> Row's perception of events bears a

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<sup>125</sup> 4/614/6, no. 13, examination of William Bowen (Glamorgan, December 1747).

<sup>126</sup> *OBP*, trial of Sarah Lucas, July 1718, t17180709-17.

remarkable similarity to the Merionethshire witnesses, despite the fact he lived in another country, another county, another parish; and that a different scribe recorded his account for another type of legal document. His words are a reminder that we cannot forget the record of emotional communities affected by concealed infant death.

On return to Sara Evan's examination one recalls the fear that she expressed to Robert David over confronting Gaynor Robert and Grace Howell of what had transpired in their household. And yet, as soon as Gaynor and the men began to depart, Grace went to Sara and said:

Oh dear Sara what shall I doe the child is mine and your brother is the father of it but the lord knoweth I have done him no harm in the world.<sup>127</sup>

The mix of fear, despair and confusion suggests that Sara and the other witnesses' reactions to the child's death were neither uniform, nor targeted at shaming Grace Howell for what had befallen their household. After all, John Evan had promised to maintain the child. Who held authority, and who deferred to whom, was constantly changing as witnesses gathered information, collaborated, and sought the tragic 'truth' of what had happened that night in Merionethshire. Of course, it will remain unknown what this 'truth' was, but that is unimportant.<sup>128</sup> What the records do show is that intimacy was central to the credibility of testimony, both through its existence and absence. The role of incidental witnesses complicates scholarly arguments about who should have experienced emotions such as fear and dissociation, when, and why they did so. Unexpected bystanders such as children provide additional nuance and colour to the picture of community relations in the event of a shocking crime. Through the testimony of forgotten actors, one sees glimpses of the ordinary in the extraordinary, and the significance of community bonds to both the prosecution and understanding of serious crime in early modern England and Wales.

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<sup>127</sup> GS 4/296/2, no. 28, examination of Sara Evan.

<sup>128</sup> Broomhall, 'Emotions in the household', 11.

## Chapter Four

### Venture a Life to Serve a Friend: Crimes against the Coin and Betrayed Intimacies

#### Introduction

Crimes against the coin in the early modern period have received fleeting historiographical attention. Historians concerned with the institutional history of the London Mint made passing reference to clipping and counterfeiting. These historians referred to the crimes mainly in terms of their role in contemporary political debates about the devaluation of currency in the seventeenth century and the silver recoinage of 1695-6.<sup>1</sup> The few historians 'from below' who wrote about the criminal nature of early modern coining and clipping in the 1970s and 1980s, did so in relation to debates about the value of the category of 'social crime'. Social crimes were property offences made capital by the 'Bloody Code' in the early eighteenth century, and included wrecking, smuggling, enclosure and food rioting, or poaching. Cal Winslow, John Rule, and Douglas Hay argued there was evidence of widespread tolerance or support for these crimes, due to a contemporary belief that the perpetrators defended the integrity of local traditions under assault from property-holding classes.<sup>2</sup> More recently, Andy Wood found that the lower orders defended customary tradition in ways that did not always involve active disorder, such as petitioning landowners.<sup>3</sup> Debate on the usefulness or stability of the term 'social crime' was, and is, far more complex and deserves

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<sup>1</sup> Sir John Craig, *The Mint: A History of the London Mint from A.D. 287 to 1948* (Cambridge, 1953); Joyce Oldham Appleby, 'Locke, Liberalism and the Natural Law of Money', *Past & Present*, 71 (1976), 43-69; Debra Glassman and Angela Redish, 'Currency Depreciation in Early Modern England and France', *Explorations in Economic History*, 25 (1988), 75-97.

<sup>2</sup> Douglas Hay et al, *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (New York, 1975). See also: Eric Hobsbawm, *Primitive rebels: studies in archaic forms of social movements in the nineteenth and twentieth centuries* (Manchester, 1971); *Bandits* (Harmondsworth, 1985). See also E. P. Thompson, 'The Moral Economy of the English Crowd in the Eighteenth Century', *Past & Present*, (1971), 76-136; *Customs in Common* (London and New York, 1993).

<sup>3</sup> Andy Wood, 'Fear, Hatred and the Hidden Injuries of Class in Early Modern England', *Journal of Social History*, 39 (2006), 803-26.

much more detailed consideration than is provided here.<sup>4</sup> Nonetheless, it is important to note that the conceptual framework of social crime informed the foundation of earlier historiography of counterfeiting and clipping.

A problem with this earlier historiography concerned the conception of coining as criminal. John Styles, instance, challenged the extent to which counterfeiting and clipping could be defined as social crimes, because they did not defend a customary right or tradition. However, Styles and other scholars contended that social crime was still a useful interpretative category because, like poaching or smuggling, contemporaries understood that coining was illegal but did not necessarily see it as truly 'criminal'.<sup>5</sup> In fact, Alan MacFarlane claimed that clipping and counterfeiting were but a short step away from legal activities.<sup>6</sup> Malcolm Gaskill has since refined this argument, and suggested that ambivalence towards the treasonable status of the crime was partly due to the absence of a clear and relatable official justification for coining as treason. The sinful nature of other capital crimes, such as murder, grand larceny or burglary were much more clearly articulated in crime pamphlets and broadside ballads, for example, which explicitly justified labelling of perpetrator as 'criminal', and capital punishment appropriate.<sup>7</sup>

Yet, regardless of whether one accepts the category of 'social crime' as satisfying or not, assessing the evidence solely from this perspective is restrictive. Offences against the coin are especially instructive crimes for judging the complexities of interpersonal relationships, which can offer a valuable contribution to the study of both crime and intimacy in the early modern period. After an initial discussion of the legal and cultural context of the crime, I present three main ideas to demonstrate the merit of such a contribution. Firstly, I argue that languages of work, labour and reputation were central to conceptualisations of crimes against the coin in various legal and non-legal sources. Counterfeiting,

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<sup>4</sup> See also Peter Linebaugh, *The London Hanged: Crime and Civil Society in the 18th Century* (London, 1991).

<sup>5</sup> John Styles, "'Our Traitorous Money Makers': The Yorkshire Coiners and the Law, 1760-83", in John Brewer and John Styles (eds.), *An Ungovernable People: The English and Their Law in the Seventeenth and Eighteenth Centuries* (London, 1980), 245-6.

<sup>6</sup> Alan MacFarlane and Sarah Harrison (contrib.), *The Justice and the Mare's Ale: Law and Disorder in Seventeenth-Century England* (Oxford, 1981), 61.

<sup>7</sup> Malcolm Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge, 2000), 132.



clipping or uttering, like theft, existed in the context of ordinary men and women's day-to-day economic activities.<sup>8</sup> To maintain the most common type of clipping or coining 'cottage industry' meant the collusion or support of household members, neighbours and extended kin.<sup>9</sup> For crimes that were regularly practiced alongside those with whom one shared intimate bonds, but which also had such dire consequences, it is no surprise that exchanges recorded in pre-trial documents or in the courtroom could be fraught. Of course, theft and offences against the coin had significant conceptual and legal differences, the most notable of which was that counterfeiting and clipping the coin were treason. However, everyday economic activity is an appropriate context in which to analyse property offences because it underpinned a range of contemporary perceptions of law, criminal behaviour, culpability, and gender. Thus, it is a similarly instructive context in which to understand offences against the coin, too.<sup>10</sup> I shall identify some of the key themes of the crimes which drew on a rich and varied language of economic activity, work and the moral qualities of labour. I shall contextualise these languages in terms of the practical application of the law and assess their significance for a study of intimacy using both legal and non-legal sources.

Women made up a sizeable proportion of those tried at the Old Bailey for clipping, counterfeiting and uttering.<sup>11</sup> Yet the role of gender in crimes against the coin went beyond the fact that women committed the crimes on a level comparable to that of men. Gender also influenced the crimes' cultural status as secret and insidious. Gaskill noted that some elite writers compared counterfeiters to 'secret murderers', an observation which encourages one to consider a conceptual link between crimes against the coin and 'feminine' offences, such as poisoning, witchcraft and child-killing. However, secrecy was not necessarily a uniquely feminine trait in the context of offences against the coin. Firstly, women had no qualms about acting with initiative and bravado, and many female clippers

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<sup>8</sup> Garthine Walker, 'Women, Theft and the World of Stolen Goods', in Jennifer Kermode and Garthine Walker (eds.), *Women, Crime and the Courts in Early Modern England* (Chapel Hill, 1994), 81–105.

<sup>9</sup> Gaskill, *Crime and Mentalities*, 139.

<sup>10</sup> Walker, 'Women, theft and the world of stolen goods', *passim*. See also Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge, 2003), esp. ch. 5 'Theft and related offences', 159–209.

<sup>11</sup> Nicholas Tosney, 'Women and "False Coining" in Early Modern London', *The London Journal*, 32:2 (2007), 103–23.

and counterfeiters commanded respect and authority. Similarly, men behaved secretively and followed a woman's lead were she to have more experience of clipping or counterfeiting. For many coining networks, pragmatism was decisively more important than natural hierarchies. Gender determined the methods perpetrators adopted to prevent discovery and the language they used to exculpate themselves. Methods included the excuses they offered for their suspicious actions, and how they negotiated their relationships with friends and acquaintances who had the potential to report them to the authorities.

Themes of economic life, labour, trust and secrecy together create nuanced picture of the personal and practical relationships that were essential to crimes against the coin. The third part of the chapter combines these themes in order to argue that court reporters changed the way in which they wrote about relationships between suspected counterfeiters and clippers over time. However, the reason for this change in tone was not the result of economic modernisation. According to this view, most seventeenth-century coiners worked in small groups based on a 'moral economy' of paternalistic or filial obligations for small gains. Then, the mechanisation and technological innovation that began to emerge in the later seventeenth century, encouraged the 'professionalisation' of coining enterprises.<sup>12</sup> By the mid-eighteenth century, relationships criminals shared had become contractual, professional, or market-orientated. However, the allegorical potency of the patriarchal household underpinned cultural understandings of many people's economic activities well into the eighteenth century, which emphasises the interconnectedness of emotional and economic life in the later Stuart period.<sup>13</sup> To apply this view to a study of early modern crime strengthens the claim that personal and economic relationships between counterfeiters, clippers, and those with whom they worked, were linked. In fact, the *Old Bailey Sessions Papers* began to explicitly draw attention to the emotional complexities and costs of personal relationships in trial reports for coining offences from around the 1730s, where notions of betrayed intimacy were common motifs in witness testimony. The general expansion in the length and content of the *Sessions Papers*

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<sup>12</sup> Gaskill, *Crime and Mentalities*, 145; 151-2.

<sup>13</sup> See Brodie Waddell, *God, Duty and Community in English Economic Life, 1660-1720* (Woodbridge, 2012), 18-20. Keith Wrightson also explores the deep ties between the personal and the economic. See *Earthly Necessities: Economic Lives in Early Modern Britain* (London, 2000).

over the course of the eighteenth century interacted with other cultural factors which resulted in the appearance of these themes.<sup>14</sup> I shall thus consider the complexity of change over time through an analysis of the language in later printed courtroom accounts.

### Wicked gain for a greedy heart

Before considering the cultural contexts of offences against the coin, it is necessary to provide the legal definition of the crimes and their prosecutorial procedure. Counterfeiting current money had been high treason since the fourteenth century. What made the crime high treason was the intention to pass off the coins and thus profit from the forgery at the expense of the royal Mint and the monarch.<sup>15</sup> Elizabethan statutes passed in 1553, 1554 and 1562 made it high treason to bring false current money into the realm with the intention of making it pass, as well as the act of 'diminishing' current money by clipping or washing. Clipping included rounding coins with files in order to melt down the filings to make new coins. Washing meant to strip the colour of a lower value coin with chemicals so they could be painted and made to resemble a higher value coin. The statute again emphasised that the intention to pass off clipped or washed coins for 'wicked' gain (*lucre*) made the act treasonable.<sup>16</sup> Punishment for high treason was to be hanged, drawn and quartered for male offenders, while the female traitors were burned at the stake.<sup>17</sup> Attempting to pass off counterfeit coins (uttering) was deemed misprision of treason. The utterer knew a treason had been committed but had not reported the crime, or they had partaken in a treasonous act with minimal knowledge of the actual treason. If convicted of misprision of treason, the offender forfeited their goods and chattels to the crown and faced life in prison.<sup>18</sup> However, many suspects tried for uttering at the Old Bailey incurred fines

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<sup>14</sup> See Robert B. Shoemaker, 'The Old Bailey Proceedings and the Representation of Crime and Criminal Justice in Eighteenth-Century London', *The Journal of British Studies*, 47:3 (2008), 559–80.

<sup>15</sup> Michael Dalton, *The Countrey Justice* (London, 1619), 198-9; 203; Edward Coke, *The Third Part of the Institutes of the Laws of England* (1669), 16.

<sup>16</sup> Dalton, *The Countrey Justice*, 198-9 and 203; Coke, *Institutes*, 16-18.

<sup>17</sup> Sir Matthew Hale, *Pleas of the Crown, or a Brief but Full Account of Whatsoever can be found relating to that subject* (London, 1678), 18-20.

<sup>18</sup> Dalton, *The Countrey Justice*, 203.

and sureties, or were pilloried as punishment.<sup>19</sup> Methods of prosecution for coining offences were different to those adopted for other felonies; this was because clipping or counterfeiting rarely had one targeted victim who could lodge a complaint with a local constable or justice as was the case in the event of felonious property crimes such as burglary or grand larceny.<sup>20</sup>

Instead, counterfeiters and clippers were prosecuted by means of ‘hired hands’, that is, informers answerable by the warden of the London Mint, whose role demanded they be in charge of prosecutions for counterfeiting and coining. Informers were ordinary middling men, susceptible to corruption by their own personal foibles or external influences, who travelled to various localities in London and occasionally further with the purpose of cracking counterfeiting networks. The roles evolved into full-time occupations later in the seventeenth century; duties included making informations, providing evidence against suspected coiners to local constables or justices of the peace, and detaining suspects. By the early eighteenth century, these officers had annual budgets in order to pursue a wider reach of coiners more effectively and systematically.<sup>21</sup> In 1696, Sir Isaac Newton became warden of the Mint, and reformed the role to reflect greater credibility and organisation than that of his predecessors. In 1699, he became master of the Mint, a position in which he remained until his death in 1727.<sup>22</sup> Newton heard informations and conducted examinations while he was

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<sup>19</sup> All figures and references from Tim Hitchcock, Robert Shoemaker, Sharon Howard and Jamie McLaughlin et al., *The Old Bailey Proceedings Online, 1674-1913* and *The Ordinary's Account, 1676-1772* at: [www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 7.2 (March 2015) hereafter *OBP*. *OBP*, trials of young man, April 1678, t16780411-7; two persons, May 1678, t16780516-14; Ewen Hill, February 1686, t16860224-30; John and William Redhead, October 1686, t16861013-8; Joseph Browne, May 1688, t16880531-9; Arrabella Reeves, May 1688, t16880531-27; Luke Braseby, October 1690, t16901015-21; Thomas Rogers, October 1690, t16901015-36; Joseph Jones, October 1690, t16901015-37; Elizabeth Cox, October 1690, t16901015-40; Richard Hurt, May 1693, t16930531-43; Elinor Higgs, July 1693, t16930713-27; Jonathan Wadmouth, September 1707, t17070903-27; John Armstrong, August 1724, t17240812-43.

<sup>20</sup> For further information on how felonious property crimes were prosecuted in England and Wales in the early modern period, see J.H. Baker, *An Introduction to English Legal History, Third Edition* (London, 2000); J. A. Sharpe, *Crime in Seventeenth-Century England: A County Study* (Cambridge, 1983); Cynthia Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge, 1987); J. M. Beattie, *Crime and the Courts in England 1660-1800* (Princeton, 1986); Sharon Howard, ‘Investigating Responses to Theft in Early Modern Wales: Communities, Thieves and the Courts’, *Continuity and Change*, 19 (2004), 409–430; Sharon Howard, *Law and Disorder in Early Modern Wales: Crime and Authority in the Denbighshire Courts, c.1660-1730* (Cardiff, 2008).

<sup>21</sup> Malcolm Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge, 2000), 165; 169-171; 172-3.

<sup>22</sup> Craig, *The Mint*, p. 198; Gaskill, *Crime and Mentalities*, 171.

both warden and master, and a book of depositions sworn before him by suspects, informers and witnesses has survived, from which valuable qualitative evidence relating to the crimes can be obtained.<sup>23</sup> This collection of over 400 items taken between 1698 and 1706 is central to the analysis that follows.

The written format of informations and examinations for suspected coining offences was the same as for other crimes. Despite the familiar form of pre-trial documentation, the unique prosecutorial procedure for coining offences presents a challenge for quantification. In his institutional history of the London Mint, for example, Sir John Craig claimed that silver pieces ‘only began to be clipped widely’ in the late 1680s, while J.M. Beattie lamented the near impossibility of determining the ‘level’ of coining in the early modern by quantifying prosecutions.<sup>24</sup> Moreover, the central role of the London Mint in the prosecution of coiners meant that small-scale offenders who operated in sparsely populated areas of England or Wales were less likely to be discovered by professional informers, unless the informers were under specific instructions to travel to a specific town and conduct searches or infiltrate specific groups. Rewards advertised in some provincial newspapers may have enticed non-professional informers to come forward, though, as Gaskill has discovered. He also found that the crimes *did* occur often enough to attract a sustained level of public unease in the late sixteenth and seventeenth centuries. Monarchs and lawmakers throughout the seventeenth century passed new laws and approved the minting of coins which were more difficult for criminals to replicate and clip.<sup>25</sup> Furthermore, the political climate following the Glorious Revolution prompted change to statutes on coinage, as well as treason trial procedure, which contributed again to the unique legal status of coining offences and the way in which they were prosecuted.

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<sup>23</sup> The National Archives, Royal Mint records of prosecutions for coining offences. Depositions against, or by, counterfeiters sworn before Sir Isaac Newton, while Warden of the Mint, 1698 to 1706 (TNA MINT 15/17). The book is numbered from 1-520, however some items have been misnumbered from 399 to 500. I have kept the original numbers when referring to specific items.

<sup>24</sup> Craig, *The Mint*, 184; J. M. Beattie, *Crime and the Courts in England 1660-1800* (Oxford: Clarendon Press, 1986), 191-2.

<sup>25</sup> Malcolm Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge, 2000), p. 125-6; Richard Westfall, ‘Newton, Sir Isaac (1642–1727)’, *Oxford Dictionary of National Biography* online at: <http://www.oxforddnb.com/view/article/20059> (Oxford, 2004; online, 2009), accessed March 2015.

Growing economic instability after the accession of William III fuelled intense public debate about the state of the current coin.<sup>26</sup> An expensive war with France, price rises and decrease in living standards only served to emphasise the lack of silver coin in circulation and led to an inflation in the face value of the guinea. The Chancellor of the Exchequer appointed various economists and politicians to present their views on how to remedy the gold inflation because of this poor quality of silver currency.<sup>27</sup> William Lowndes (permanent secretary to the Treasury) claimed that the face value of silver coins should be raised, whereas John Locke disagreed on almost every one of Lowndes' recommendations. Newton himself was consulted during the process and agreed mainly with Lowndes' perspective which favoured recoinage.<sup>28</sup> The act was passed by parliament in December-January 1695-6. Thus, all silver in the kingdom had to be collected, remade and redistributed in a matter of months.<sup>29</sup> Not only did this upheaval produce sustained economic hardship through shortage of silver coin, it gave counterfeiters the opportunity to make their own coins to pass off as 'new', precisely the opposite of what the authorities hoped to achieve by removing old clipped coins from circulation.

Other political changes in the 1680s and 1690s contributed to the legal context of coining offences. In the 1680s, a proliferation of treason 'show trials' conducted by the Stuart government revealed that it was all too easy for a ruling body to adopt the rhetoric or law of treason constructively to suppress political opposition.<sup>30</sup> Thus, after much debate in parliament, an act for regulating treason trials was passed in 1696, which legal historians have argued put the treason defendant on more of an equal footing with the prosecution.<sup>31</sup> The defendant

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<sup>26</sup> Brodie Waddell, 'The Politics of Economic Distress in the Aftermath of the Glorious Revolution, 1689–1702', *The English Historical Review*, 130 (2015), 318–51. See also Appleby, 'Locke, Liberalism', *passim*.

<sup>27</sup> Craig, *The Mint*, 184–5.

<sup>28</sup> Craig, *The Mint*, 186–7.

<sup>29</sup> William III, 1695–6: An Act for Remedying the Ill State of the Coin of the Kingdome; William III, 1696–7: An Act for Further Remedying the Ill State of the Coin of the Kingdome; Waddell, 'The Politics of Economic Distress', p. 323.

<sup>30</sup> Alexander H. Shapiro, Political Theory and the Growth of Defensive Safeguards in Criminal Procedure: The Origins of the Treason Trials Act of 1696', *Law and History Review*, 11:2 (1993), 223.

<sup>31</sup> See Shapiro, 'Political Theory', 215–7. See also James R. Phifer, 'Law, Politics, and Violence: The Treason Trials Act of 1696', *Albion: A Quarterly Journal Concerned with British Studies*, 12:3, 235–256.

could only be indicted on the evidence of two witnesses, they were allowed a copy of the indictment, as well as list of jurors before their trial. Previously, witnesses for the defence were not sworn which meant that technically, their evidence was only hearsay. After the act passed, defence witnesses gave evidence upon oath and the defendant was allowed legal counsel for matters pertaining directly to technical matters of law.<sup>32</sup> Some of these practises had been used in a discretionary manner for a number of years because theoretical debates on the constructive use of treason had littered the political sphere for much of the seventeenth century. Furthermore, many prominent judges agreed with the need for reform in principle. Even some members of parliament who stalled the passage of the bill in the earlier part of the 1690s did so mainly because of their political associations, not necessarily because they disagreed with what the bill proposed.<sup>33</sup> At first glance the political context in which the treason trials act arose seems to have little to do with offences against the coin. However, because the change in procedure applied in all cases of high treason, legal requirements at the initial prosecution stage for high treason were standardised. Thus, professional informers and the warden of the Mint had a clearer 'instruction manual' for how to prosecute coiners if not successfully, then at least systematically.

Legal reform, the silver recoinage and institutional reorganisation of the London Mint contributed to an intensified pursuit of suspected counterfeiters and clippers, especially in London by the warden of the Mint and his informers. Of course, an intensified pursuit did not necessarily mean a higher conviction rate for the crimes, but a clearer legal apparatus did help account for the concomitant increase in the amount of printed and manuscript material relating to the offences. The 1690s saw almost 400 extant Old Bailey trial reports for coining offences, compared with 26 for the years 1674-9, and only ten during the decade 1700-09.<sup>34</sup> One eighteenth-century crime pamphlet writer recounted this clampdown on coining offences in the 1690s. He linked the silver recoinage to an increase in prosecutions of ordinary people for clipping and small-scale counterfeiting – the

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<sup>32</sup> William III, 1695-6: An Act for Regulateing of Tryals in Cases of Treason and Misprison of Treason.

<sup>33</sup> Phifer, 'Law, Politics and Violence', 217-8.

<sup>34</sup> There were also 113 extant printed trial transcripts for the decade 1680-9. For the remainder of the study period – 1710-59 – the numbers of transcripts did not rise above 26 again. Figures calculated using *OBP* statistics function.

sorts of people who had previously avoided detection. At first, the author claimed that small-scale offenders did not understand the gravity of their actions, but went on to concede that coining was a crime committed either by the particularly heinous, or the criminally ignorant. It appears that the treasonable status of the crimes, in the eyes of this author at least, should have been common knowledge.<sup>35</sup> As the pamphlet-writer's uncertainty implies, it was perhaps difficult to adopt the same moral tone for accounts of coining offences as for accounts of murder, sodomy or highway robbery, for example.<sup>36</sup> Elsewhere though, such as in tracts which debated the merits and pitfalls of the proposed recoinage, some political men alluded to common stereotypical behaviours associated with counterfeiters.

One of these stereotypical behaviours was that coiners were by nature deceitful, not only because of the level of deception the crimes demanded, but also because they knew how to act when they were caught. The imposture of coiners defied conventional practices of intimacy in economic transactions, and misused the trust accorded to them by members of their communities. Moreover, by falsely claiming they did not know the crimes were treason, coiners could manipulate a jury into granting them freedom or pardon. In *Further Proposals for Amending and Settling the Coyn by a Person of Honour*, for example, former royalist Sir William Temple wrote that juries were too quick to acquit clippers and coiners, and claimed that suspects exploited juries' compassionate natures.<sup>37</sup> In Temple's view, perhaps the unshakeable behaviour of suspect Robert Wootton, tried for clipping in 1693, was more representative of the true character of a coiner:

He being told that he would be hanged for it: he answered, what signifies it, it will be but a quarter of an hours squeek.<sup>38</sup>

Bishop William Fleetwood shared a similar opinion with Temple in his 1694 sermon against clipping, where he remarked that the 'undue compassion' of juries, magistrates and under officers meant that coiners and clippers did not receive the punishments they deserved. He wrote that juries were especially susceptible to

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<sup>35</sup> *The Lives of the Most Remarkable Criminals, Who Have Been Condemn'd and Executed; for Murder, Highway, House-Breakers, Street-Robberies, Coining, or Other Offences; from the Year 1720, to the Present Time Vol I* (London, 1735), 45-6.

<sup>36</sup> Gaskill, *Crime and Mentalities*, 127-9.

<sup>37</sup> Sir William Temple, *Further Proposals for Amending and Settling the Coyn by a Person of Honour* (London, 1696), 12.

<sup>38</sup> *OBP*, trial of Robert Wootton, September 1693, t16930906-61.



emotional manipulation, for ‘passions and affections bribe as well as gifts’.<sup>39</sup> This behavioural trope was echoed in other forms of literature; one advice writer for the periodical *The Athenian Mercury* likened coiners to people who had sexual relationships outside of marriage, because they feigned ignorance at the true moral seriousness of their actions. In more general terms, playwrights and authors of conduct literature compared coiners with flatterers, vain women, or people lived a general loose and idle life.<sup>40</sup> Yet perpetrators did not always act with such coyness regarding dangers of being caught counterfeiting or clipping. In fact, trial transcript writers recorded various emotional outbursts from suspects, a practice which suggests that some perpetrators advertised their knowledge of the dire consequences that awaited them. For example, William Blackford conveniently shouted ‘O Lord, gentlemen, I am a dead man, for I am taken in the very act, and I alone am the only person guilty’ when he was apprehended in for clipping. When Elizabeth Harris’ lodgings were searched she leapt out of a window in fear. She was retaken and her possessions searched; the court reporter claimed Harris cried ‘O Lord: o God: being in a great constetnation and trembling’. When John Bath was acquitted at his trial in 1695, he prayed ‘for the King, and the honourable bench, with tears in his eyes’.<sup>41</sup> The fact that reporters depicted these outbursts as spontaneous emotional reactions in their accounts perhaps shows that Temple and Fleetwood’s claims about the behaviour of coiners was not a view shared by all those who had cause to write about the crimes. Rather, it was the misuse of intimate connections for criminal activity and the concept of wicked gain in the legal criteria (*lucre*) that better translated to wider cultural understandings of coining offences.

The coiner’s intention to profit from deceiving the nation with false money was part of the legal justification of counterfeiting and clipping as treason. Yet it was problematic for moralist crime-writers to equate coiners with other criminals

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<sup>39</sup> William Fleetwood, *A Sermon against Clipping, Preach’d before the Right Honourable the Lord Mayor and Court of Aldermen*, (London, 1694), 25-6.

<sup>40</sup> See Richard Flecknoe, *Enigmaticall characters, all taken to the life from severall persons, humours, & dispositions* (London, 1658), p. 108-9; *A treatise of the sports of wit* (London, 1675), p. 32; William Mountfort, *Greenwich-park a comedy acted at the Theatre-Royal, by Their Majesties servants* (London, 1691), 6-7; *Athenian Gazette or Casuistical Mercury*, Issue 26, March 1693 (London, 1693).

<sup>41</sup> *OBP*, trials of William Blackford, June 1692, t16920629-34; Elizabeth Harris, October 1694, t16941010-32; John Bath, February 1695, t16950220-13.

who used deception in order to obtain goods and money, such as false beggars and tricksters. The physical work involved in clipping and counterfeiting did not fit with the idle behaviour of a cheat. To make false coins required labour, tools, space, as well as the recruitment of associates. For larger networks it was essential to maintain communication and the flow of raw materials across counties, or even the border between England and Wales. Late seventeenth-century ballads and pamphlets, for example, referred to networks of male counterfeiters who operated Gloucestershire and the Cotswolds; the nickname for counterfeit money as 'Burmige' also alluded to the midland roots of some notorious groups.<sup>42</sup> Moreover, Newton's records revealed some of the great distances people travelled in order to acquire materials, make counterfeits, or pass off false coins across England and Wales. In 1698, Rebecca Berry deposed that London mercer Robert Lacy and his wife Mary travelled the great distance to Carmarthen and attracted the suspicion of the local mayor by allegedly making counterfeit money.<sup>43</sup> Moreover, informants and witnesses alluded to the potential mobility of coiners in their claims that utterers or counterfeiters' associates travelled from town to country in order pass off their coins undiscovered.<sup>44</sup> For example, Mary Haycock, leader of a notorious group of counterfeiters in the 1730s, declared that country folk were less discerning or had less to lose by accepting clipped or counterfeit money, which suggested that offenders considered making long journeys in order to prevent their activities from reaching the eyes and ears of local neighbours and acquaintances.<sup>45</sup> Mobility, then, was central to maintaining these larger counterfeiting networks.

As John Styles has shown in his work on coining offences, prolific eighteenth-century counterfeiter Thomas Lightowler used his occupational mobility to maintain outfits in Lancashire, Coventry and Stafford. Evidence from the Welsh Great Sessions further suggests that Lightowler worked as a carpenter

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<sup>42</sup> *The Traitors Mint, or A Full and True Discovery of the Grand Crew of Coyners & Clippers of Money in Gloucestershire* (London, 1674); *The Royal Regulation or King and Parliaments Industrious Care in Regulating the State of the Coin of this Kingdom* (London, 1696).

<sup>43</sup> TNA MINT 15/17, it. 19, deposition of Rebecca Berry (1698). See also TNA MINT 15/17, its. 39, 47, 64 for references to networks in Staffordshire, Herefordshire, Worcestershire and Shropshire.

<sup>44</sup> TNA MINT 15/17, it. 24, information of Mary Miller (1698); *OBP*, trial of John Elton and Sarah Smith, January 1698, t16980114-42.

<sup>45</sup> *OBP*, trial of Elizabeth Tracey and Ann Knight, July 1734, t17340710-18.

near Llansamlet, a small parish between Neath and Swansea in the country of Glamorgan, where he attempted to obtain materials and associates before he was fully active in England.<sup>46</sup> For other male coiners in England and Wales, the mobility that came with one's legitimate occupation as a metalworker, carpenter, or manufacturer provided opportunities to commit offences against the coin, as Gaskill noted.<sup>47</sup> Even peripatetic male traders such as horse-sellers had the opportunity to engage in some low-level uttering of false coins. After all, they travelled from market town to market town, stopped in each location for a few days, and hopefully left before their deception was discovered – a method similar to that used by criminals who passed on stolen horses.<sup>48</sup> Selling horses also presented the circumstances in which to exchange many counterfeit silver and gold coins in one transaction. Isaac Thomas, a carpenter from Brecon, was prosecuted in 1744 for forging money when he attempted to buy a horse at Newtown fair with counterfeit money.<sup>49</sup> Occupational mobility and the effort it took to maintain a cross-county network showed that offenders' behaviour was incompatible with that of other types of criminal cheat, whose motivations were rooted in the sin of idleness. The original sins of counterfeiters, then, must have originated elsewhere.

The sin of covetousness, invoked by the word *lucre* in the legal criteria, helped to bridge the gap between the legal definition of crimes against the coin and cultural understanding of the offences.<sup>50</sup> Ballad-writers, for example, claimed that counterfeiters deserved capital punishment because they had an unquenchable desire to gain riches above their station. *The clipper's execution or treason justly rewarded* (1678) warned that greed drove people to the coining trade:

This woman being covetous  
For to grow rich it was her aim

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<sup>46</sup> See Styles, '“Our traitorous money makers”', 178-9; J. Hewitt, *The Proceedings of J. Hewitt, Alderman, and One of His Majesty's Justices of the Peace, for the City and County of Coventry, in the Year 1756. Being a Particular Account of the Gang of Coiners, Apprehended in the Counties of Oxford, Warwick, and Stafford* (Birmingham, 1783); National Library of Wales, Great Sessions (NLW GS), 4/613/7, nos. 7-9, information of John Dyer; examinations of John Edwards and Thomas Lightowler (Glamorgan 1744).

<sup>47</sup> Gaskill, *Crime and Mentalities*, 143.

<sup>48</sup> Walker, *Crime, Gender and Social Order*, 167.

<sup>49</sup> NLW GS 4/378/3, nos. 3 and 4, examinations against Isaac Thomas (Brecon, 1744).

<sup>50</sup> Gaskill, *Crime and Mentalities*, 139.

She did not value by what means  
Which did procure her lasting shame <sup>51</sup>

The use of the word 'value' in the verse hinted at the responsibilities a virtuous person bore to make the distinction between honest and dishonest ways of making a living and, of course, to choose the morally correct option. Similar themes appeared in accounts of notorious London coiner John Moore, a former tripe-seller turned counterfeiter. Two extant ballads refer to his crimes, which were published at the time of his trial and execution in 1695.<sup>52</sup> Both ballad-writers' imagining of Moore's motivations relied heavily on his sin of covetousness:

Why did I thus increase my store  
By such a crying sin?  
Whose bags were full enough before  
Had I contented been  
But o! my greedy, greedy heart  
[...]  
A peice of bread with honesty  
Is better then rich fare  
That's got by such unlawful ways  
As mony falsely made <sup>53</sup>

The second ballad carried a similar theme:

Oh why did I for riches crave,  
So hastily the same to have,  
Had I the tripe- trade only known,  
And left the coyning trade alone,

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<sup>51</sup> *The Clippers Execution, or, Treason Justly Rewarded* (London, 1678).

<sup>52</sup> *The Counterfeit Coyner, or the Dying Lamentation of John Moore* (London, 1695); *Mr. Moor the Tripe-man's Sorrowful Lamentation for Clipping and Coyning* (London, 1695). For Moore's trial and execution, see *OBP*, July 1695, t16950703-29; *Ordinary's Account*, July 1695, OA16950712.

<sup>53</sup> *The Counterfeit Coyner, or the Dying Lamentation of John Moore*, s.2; 7.

[...]  
 It's true I did great riches gain,  
 In grandure did my self maintain <sup>54</sup>

The first-person 'voice' of John Moore explained in a penitent tone characteristic of ballad literature that a man of his mean station should have remained subsisting on wages earned by selling tripe. In other words, he should have resisted the temptation of covetousness. The *Ordinary's Account* of Moore's execution promoted a similar message and reported that Moore had been presented with many opportunities to undertake honest employment, but was seduced by his insatiable greed. At his execution, Moore attempted to plead his 'frugal' nature and 'industry' by referring to his job selling faggots, but the *Account* revealed his past was littered with economic irresponsibility: he had not only squandered an inheritance but had also failed to complete an apprenticeship as a farrier. <sup>55</sup> The moral message of the *Account* and both ballads claimed that corrupted by the sin of greed, Moore had lusted for excess riches and therefore failed to be satisfied working for a meagre or even modest income, which ultimately led to his atrocious crimes.

While the personal greed of coiners was a potent moralising theme in itself, some writers attempted to link the inner sin of the criminals' greed to the visible effect it had on wider society in order to promote their prescriptive agenda. For example, Exeter cleric Richard Newnam explained in his *Complaint of English Subjects* that during the 1690s the lower orders were subject to terrible living conditions. He attributed the misery of the 'meaner sort' in part to the general economic turmoil of the decade, but also to the great 'cheats' and 'perjuries' of counterfeiters. According to Newnam, the 1695-6 recoinage prompted many counterfeiters to commit their crimes on a larger scale. One effect of this proliferation in coining offences was that the poor were forced into accepting bad money in their transactions because they either lacked the knowledge to be scrupulous, or needed the trade so desperately they accepted bad money in the

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<sup>54</sup> *Mr. Moor the Tripe-man's Sorrowful Lamentation*, s. 2-3.

<sup>55</sup> *OBP, Ordinary's Account*, July 1695, OA16950712.

hope that they could still pass it on.<sup>56</sup> This 1696 ballad written in favour of the proposed recoinage also remarked:

When poor men had taken their wages  
 For which they had labour'd with care  
 To market they'd hey, provision to buy  
 And may be when as they come there  
 Their mony for food would not pass  
 'Twas either clipp'd, Burmige [Birmingham] or brass  
 Then have they lamented, and been discontented  
 For these was sharp sorrows alas [...]<sup>57</sup>

The message, besides promoting recoinage, was that the honest poor suffered when they took clipped coins from wicked utterers and coiners, which was an added insult when they were the ones who worked hard to provide for their households. Newnam and the ballad-writer had picked up on the fact that many retailers, alehouses and street-traders accepted clipped money without realising. If they did notice the poor quality of the money, retailers instead passed the coins to the least scrupulous of their fellow traders or customers. However, much of the silver in circulation before the recoinage was old and worn, and it was difficult to tell if a coin had been deliberately diminished or had simply corroded over time. As Craig noted, reduced weight shillings, for example, were still accepted at the same face value as newly minted coins, despite a marked difference in weight or silver content.<sup>58</sup> Moreover, the recoinage was not regionally consistent in its application. The London Mint established five regional mints, none of which were in Wales. The closest regional mints to the Welsh border were at Bristol, Hereford and Chester, so the distribution of new coins was disproportionate between east and west Wales, as well as within England itself. The regional mints were also slow in their manufacture and distribution of new coin, and closed very quickly.<sup>59</sup> Even if those living far from a regional mint had received new coins or heard news of a recoinage, from travelling traders or family members for example, it was likely

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<sup>56</sup> Richard Newnam, *The Complaint of English Subjects Delivered in Two Parts*. (London, 1700), 15. For a discussion of Newnam's work in the wider context of the economic climate of the 1690s and early 1700s, see Waddell, 'The Politics of Economic Distress', 324-6.

<sup>57</sup> *The Royal Regulation*, s. 5.

<sup>58</sup> Craig, *The Mint*, 187.

<sup>59</sup> Craig, *The Mint*, 192. Other regional mints were at York, Exeter and Norwich.

they had little knowledge of the appropriate size, shape, or appearance of the new coins in order to recognise forgeries. If people were generally unable (or unwilling) to recognise forgeries, perhaps the type of harm Newnam and the ballad-writers claimed counterfeiters and clippers wreaked upon the deserving poor were perceptions or concerns about potential threats, rather than a measured consideration of evidence relating to a widespread phenomenon. That is not to suggest, however, that the actions of counterfeiters and clippers were harmless to those around them. In fact, crimes against the coin harmed the maintenance of normal people's livelihoods if traders or neighbours mistakenly accepted coins and were then unable to pass them on again. It was precisely *because* the work of clipping and counterfeiting slipped easily into the mould of daily economic life that contemporaries realised the extent to which crimes against the coin harmed their own families and those of their neighbours.

### The labour of coining: a deadly trade

Clipping and counterfeiting were damaging and dishonest forms of labour.<sup>60</sup> The correct moral behaviour in work and trade implied the potential to engage in rewarding practical or emotional relationships, as it demonstrated one's capacity for trustworthiness and honesty – a concept which Alexandra Shepard has recently explored in her recent work. Shepard clarifies many of the subtleties and complexities in the language labouring people used to refer to the 'worth' of themselves and others. She found that church court litigants in the late sixteenth and early seventeenth centuries tended to define their own sense of worth in quantifiable terms – the amount and monetary value of movable possessions, for example. However, the tone of deposition preamble began to change in the mid-to late seventeenth century. Increasingly qualitative assessments of the ways in which men and women maintained their households and managed the flow of credit, debt or resources became central to subjects' descriptions of their own 'worth'.<sup>61</sup> Wealth, honesty, labour, and industry were entwined, and were essential to a holistic judgement of one's reputation. Thus, when coining offences

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<sup>60</sup> Gaskill, *Crime and Mentalities*, 137-8.

<sup>61</sup> Alexandra Shepard, *Accounting for Oneself: Worth, Status and the Social Order in Early Modern England* (Cambridge, 2015), esp. Chapter 5, 'Maintaining Oneself', 149-93.

were conceptualised as an illicit trade in the criminal courts, historical actors framed their understanding of culpability for the crimes in the language of honesty and dishonesty in working life.

Some perpetrators were exceptionally skilled at making false coins, which fed into an influential conceptualisation of counterfeiting as a form of ‘art’. There were links between this concept of artistry and the masculine, ‘professional’ form of coining perpetrated by Thomas Lightowler and his gang above, for example. Some coiners took cautious pride in the level of skill and creativity, and undertook a form of illicit ‘apprenticeship’ in forging coins, either while training in another form of metalwork with a crooked master, or in a more informal setting. The concept of learning to coin as a form of illicit apprenticeship – both in terms of the years invested in cultivating a professional skill, and the masculine quality to relationship that master-apprentice invoked – is a plausible one. But it was not a common discourse in printed trial transcripts for coining offences in the *Old Bailey Proceedings*, for example. The word occurred verbatim in ten transcripts for the period and a handful more referred directly to the idea of teaching someone how to coin.<sup>62</sup> Moreover, when the reporters mentioned artistry, the concept did not follow any particular age or gendered dynamic and instead simply focused on the impartation of knowledge. For example, Henry and Jane Atkinson allegedly ‘Coined about 260 l. and Clipt 150 l.’, acts which brought them to stand trial at the Old Bailey in 1696. The report further mentioned that the ‘Woman was the best Artist, having learned her Trade about 11 or 12 years ago of one Devorall’.<sup>63</sup> In another trial, witness Samuel Goodyere testified that the suspect John Irons:

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<sup>62</sup> See *OBP*, trial of ‘two most notorious Coiners and Clippers’, February 1679, t16790226-16; ‘Jersy men’, October 1679, t16791015-12; William Underwood and Elizabeth Cook, April 1680, t16800421-9; Edward Richardson, Jane Digby, Elizabeth Richardson, April 1680, t16800421-10; unnamed, September 1686, t16860901-26; Richard Merriot, Susannah Merriot, December 1686, t16861208-12; John Collet, May 1688, t16880531-22; Valentine Cogswell, July 1688, t16880711-29; John Irons, April 1737, t17370420-45; Terence Conner, January 1749, t17490113-35. Trials which invoke concepts of artistry and teaching skills include: ‘three several persons’, October 1677, t16771010-4; John and William Redhead, October 1686, t16861013-8; Samuel and Mary Porter, January 1691, t16910115-13; Elizabeth Long, August 1694, t16940830-38; Morgan Bourne, October 1695, t16951014-24; Henry and Jane Atkinson, September 1696, t16960909-67; William Penney, December 1696, t16961209-50; Mary Chambers, December 1696, t16961209-94; William Wilson and John Hill, December 1697, t16971208-1.

<sup>63</sup> *OBP*, trial of Henry and Jane Atkinson, t16960909-67, trial of Henry and Jane Atkinson.



learn'd of a woman in Virginia, (whose mother was burnt here for coining) how to make shillings and six-pences, and half-crowns. This womans name was Knight, she had instructed him in the art of making money.<sup>64</sup>

Neither Atkinson nor Irons learned in the context of an imitation formal 'apprenticeship' arrangement (indeed, both were taught by women), instead, general notions of longevity of trade and skill were key motifs in both cases. Further, some people took pride in the skills they acquired from experience in the counterfeiting world. Soldier James Pritchard 'made his boast' in 1698 to a number of witnesses that he was an 'expert' coiner and could produce enough counterfeit money to pay the wages of his entire regiment.<sup>65</sup> William Wilson and John Hill even claimed in court that they were so 'ingenious in Making false Money, that it could scarcely be perceived from that of the Mint'.<sup>66</sup> Unsubtle pride in one's skill and artistry was behaviour explored by the ballads of John Moore, too:

That I had boasted many a time  
To pave the street with silver coyn; <sup>67</sup>

While it was necessary for counterfeiters to ensure they concealed their crimes from the wider world, it appears that some could not help but to boast of their skills. At the same time, one could equally be mocked as a 'bungler', whose pitiful efforts were criticised by confederates with more experience and technical ability.<sup>68</sup> Prosecution witness John Carter claimed that he allowed David Roberts to be privy to his own particular 'method' of clipping, but Roberts's attempts were substandard. Carter declared in court, 'his [Roberts's] edging did not at all imitate a regular mill'. Alehouse keeper Mark Rogers, who also challenged Roberts's handiwork, apparently remarked upon receipt of some diminished guineas: 'some slovenly fellow did this, I could have done it better myself'.<sup>69</sup> Garret Cavenagh called his associate Patrick Kelly a 'dunderhead fellow, because he did not make so good work'.<sup>70</sup> While ideas of artistry and skill can be identified in some of these

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<sup>64</sup> *OBP*, t17370420-45, trial of John Irons.

<sup>65</sup> TNA MINT 15/17, its. 66; 67; 68.

<sup>66</sup> *OBP*, trial of William Wilson and John Hill, December 1697, t16971208-1.

<sup>67</sup> *Mr. Moor the Tripe-man's Sorrowful Lamentation*, s. 4.

<sup>68</sup> *OBP*, trial of 'two persons', May 1680, t16800526-12.

<sup>69</sup> *OBP*, trial of David Rogers, July 1739, t17390718-17.

<sup>70</sup> *OBP*, trial of Katherine Kelly, Patrick Kelly, Garret Cavenagh and Honor Cavenagh, January 1743, t17430114-41.

ballads and trial reports, these offenders were not necessarily ‘professionals’ operating at the same level or standard as the men involved in exceptional eighteenth-century counterfeiting gangs, for example.

Clippers and counterfeiters were still prolific without the attached label of ‘professional’ or ‘artist’, however. Contemporaries recognised that anyone with the skills, materials and opportunity had the capacity to perpetrate the crimes, regardless of reputation. In one 1694 trial transcript, for example, the author warned readers:

That people that are clippers, are commonly of good repute, because they get their money easier than other men, therefore acted fairly with their neighbours; that a man might have a fair character, and yet be an offender in such a case.<sup>71</sup>

In a later trial report from 1743, a witness against suspect Garret Cavenagh claimed he ‘would work in the Day-time, to blind the World’ then return to his true work of filing and washing guineas after taking his supper.<sup>72</sup> Other trial reports described men and women who used young children to run errands or purchase necessities with counterfeit or clipped coins. The tone of the court reports depicted these circumstances as another layer to the criminals’ deception, but pre-trial examinations revealed a more mundane background to the offences. Two women convicted in 1678 at the Old Bailey for clipping (the trial upon which the ballad *the clippers execution* was based), sent one of their young daughters to try and get broad money change in return for clipped money.<sup>73</sup> Jane Conyers similarly sent her daughter to buy bread with clipped shillings.<sup>74</sup> However, women often sent their children to run small errands, so it was logical that at least some false money would be discovered by those means.

Plenty of coin degraded naturally over time and remained in circulation, and it was often hard to tell if a coin had been clipped deliberately or was simply

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<sup>71</sup> *OBP*, trial of Peter Whittingham, S.H. and A.H., May 1694, t16940524-21.

<sup>72</sup> *OBP*, trial of Katherine Kelly, Patrick Kelly, Honor Cavenagh, Garret Cavenagh, January 1743, t174301114-41.

<sup>73</sup> *OBP*, trial of three women, April 1678, t16780411-5.

<sup>74</sup> Trial of Jane and Edward Conyers, February 1684, t16840227-24.

worn.<sup>75</sup> Thus, purchasing food or paying off small debts – the economic minutiae of everyday life – generated accusations of coining offences, especially uttering. At the 1742 summer sessions in Denbighshire, for example, Ellin Jones deposed that Joseph Edwards had bought a hobbet of oatmeal from her husband William, but she was convinced that the half-guinea he presented was forged. Local innkeepers Griffith Owen and his wife Margaret, claimed that their servant also saw Joseph Edwards pay another man, John Evans, with a false half-guinea in order to settle a debt.<sup>76</sup> The most insidious aspect to the crimes, for ordinary people living in Wales like Ellin Jones, Griffith Owen and his wife Margaret, as well as for the metropolitan authors of the *Old Bailey Sessions Papers*, was that the crimes could potentially be indistinguishable from ordinary economic life and ‘traitors’ indistinguishable from ordinary people. These were the traitors who slipped their crimes into the periphery of daily economic life.

Furthermore, printed trial transcripts described coining offences as deadly ‘trade’ or form of business in their own right – language not exclusive to accounts of the activities of ‘professional’, male-dominated, geographically mobile networks. For example, John and Roger Mugleston were described as having a ‘defrauding occupation’ upon their trial in July 1683 even though it was only the two brothers who clipped together, while another local man sourced money for them.<sup>77</sup> Mary Caborne, a convicted clipper:

very obscurely used to follow this too fatal employ [...] to supply the craving importunities of sin’.<sup>78</sup>

Descriptions of the crimes as a ‘trade’ stemmed from the evidence required to fit the legal criteria. Convincing circumstantial evidence included ‘tools’, ‘instruments’ or ‘implements’ that were ‘fit for the trade’ found in a suspect’s lodgings or property. At his trial, Thomas Bailey insisted that someone called Hix had given him some tools ‘whom he supposed designed to bring him into the trade’.<sup>79</sup> Likewise, Elizabeth Cook told a companion eagerly about her ‘new

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<sup>75</sup> Tim Reinke-Williams, *Women, Work and Sociability in Early Modern* (London, 2014) 29; Catherine E. Horler-Underwood, *Aspects of Female Criminality in Wales, c. 1730-1830: Evidence from the Court of Great Sessions*, PhD thesis, Cardiff University (2014), 185-6.

<sup>76</sup> NLW GS 4/47/7, nos. 31-34 informations against Joseph Edwards for uttering (Denbigh, 1742).

<sup>77</sup> *OBP*, trial of John and Roger Mugleston and John Harris, July 1683, t16830712-2.

<sup>78</sup> *OBP*, trial of Mary Caborne, February 1685, t16850225-1.

<sup>79</sup> *OBP*, trial of Thomas Baily, October 1681, t16811017-3.

imploy', which prompted the trial reporter to remark that Cook's way of maintaining herself was 'no better than a Harlot'. After refusing her offers to 'live beyond his expectation', the companion informed a constable. A search of a room she had recently hired revealed a stash of 'equipment' for that 'pernicious employ'. Cook, along with associate William Underwood, was found guilty at the Old Bailey in 1680.<sup>80</sup> Equally, though, the presence of equipment could be explained away by suspects, who claimed that items pertaining to the deadly trade were left by someone else, such as lodgers, previous tenants, or a person since absconded. Mary Cartwright was acquitted at her trial in January 1693 when it appeared that another couple lodged in the room where searchers found clippings and tools. While it did not mean that the other people were necessarily guilty, there was equally no positive evidence to incriminate Cartwright.<sup>81</sup> References to tools, materials and other equipment contributed to the status of coining offences as an illicit trade which could be hidden in plain sight.

Yet the importance of 'trade' to depictions of the crimes was more than the repetition of formulaic language which referred to tools or methods suspects used to clip or counterfeit. In their recent monographs on women's occupational agency in seventeenth-century London, historians Eleanor Hubbard and Tim Reinke-Williams have found a cultural link between female morality, women's work, and certain types of crime such as petty theft or prostitution.<sup>82</sup> Focusing on crimes such as prostitution illuminates the extent to which certain kinds of crime looked like work, and the more 'everyday' kinds of crimes women might have perpetrated to supplement their income. For coining offences, however, the cultural status of 'work' and its associated language could be appropriated in order to conceptualise or even justify the crime, which in turn reveals the depth of this link between work and criminal acts. Informants, suspects, and witnesses drew on richer languages of 'labour' in order to emphasise the extent to which their actions were honest and exculpatory, or the actions of others were inherently dishonest and criminal.

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<sup>80</sup> *OBP*, trial of Elizabeth Cook and William Underwood, April 1680, t16800421-9.

<sup>81</sup> *OBP*, trial of Mary Cartwright, January 1693, t16930116-11.

<sup>82</sup> Eleanor Hubbard, *City Women: Money, Sex, and the Social Order in Early Modern London* (Oxford, 2012); Tim Reinke-Williams, *Women, Work and Sociability in Early Modern* (London, 2014).

Some prisoners used the language of family maintenance in order to mitigate their illegal actions. Thomas Barnes was sentenced to death in August 1695 for making counterfeit shillings, yet he pleaded that ‘it was the first time that ever he made any [counterfeit money], and that he did it only to support his Wife and Children’.<sup>83</sup> Barnes’ admission was incriminating, because the implication that he could have found another, honest way of maintaining his family hung heavy over his words. After all, having to choose between honest and dishonest work was a moral test in one’s ability to resist covetousness, as the prescriptive tone of the John Moore ballads indeed suggested. However, Barnes was the only suspect who mitigated his circumstances by saying he had turned to coining for the sole purpose of maintaining his family in the extant Old Bailey trial reports. Rather, suspects and their character witnesses used the language of honesty in their daily work to refute allegations of coining offences. In December 1690, John James and Johanna Hall were acquitted of clipping the coin. Hall claimed that the files and scissors found in their house were left by a previous lodger, ‘producing several Persons to testifie they took pains for their Living’.<sup>84</sup> Similarly, John Porter, his wife, and Margaret Seymour were acquitted at the same sessions because ‘many Witnesses appearing on their behalf’ testified that ‘they got their Livings by honest Labour and Industry’.<sup>85</sup> It appeared that in some instances subjects attempted to reverse the perception that clippers and coiners worked hard in their everyday labours for the purpose of masking their illicit ones.

More often, however, character witnesses implied that true hard work and coining offences were incommensurable. At their trial in 1692, John and Sarah Browne’s neighbours defended the couple by saying they ‘had always been hard Pains takers, and used to Stich Bodie for their Livelihood’.<sup>86</sup> The neighbours’ testimony suggested that the couple could not be clippers when they worked so honestly in the textile trade – why would they need to turn to another, more dangerous one? The case for the prosecution could, in the same way, be strengthened if prisoners were unable to satisfactorily prove they worked hard for their living. Isaac Turner and Charles Williams’ neighbours testified at the trial in

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<sup>83</sup> *OBP*, trial of Thomas Barnes, August 1695, t16950828-27.

<sup>84</sup> *OBP*, trial of John James and Johanna Hall, December 1690, t16901210-14.

<sup>85</sup> *OBP*, trial of John Porter, his wife, and Margaret Seymour, December 1690, t16901210-38.

<sup>86</sup> *OBP*, trial of John Browne, Sarah Browne and Anne Fisher, October 1692, t16921012-39.

1693 that they often heard noises that sounded like clipping coming from the house, yet unfortunately the prisoners were unable to 'give any satisfactory Account of their Credit'. For these men, not being able to produce evidence that they laboured or dealt in good favour contributed to their culpability. Men and women adopted languages of industriousness and honesty in their labours to legitimise their actions or emphasise the dishonesty of others.

But gender added a degree of nuance to these languages. Men, for example, referred to their hard work in legitimate metalwork professions as jewellers, blacksmiths, silver or goldsmiths to disprove the accusations against them; women said they took pains for their household or small manufacturing labours in order to bolster their reputation and prove they possessed little or no instigation to commit the crimes for which they stood accused. To account for the melting pot and files found in his lodgings, Samuel Sherwin claimed he was a tin man, who made toys for his living and had recently taken up physic.<sup>87</sup> John Dampney was taken up in his bed surrounded by tools which he said he owned because he was a silversmith and knew nothing of counterfeit money.<sup>88</sup> In their 1692 trial at the Old Bailey for clipping, Rathea Desborrow and Elizabeth Warner called witnesses to attest that 'They were Persons who had always been very Industrious to live in the World, the first being a Mantua-Maker, and the latter a Nurse-Keeper'. Conceptions of honest, 'painstaking' work and industriousness, after all, had a significant bearing on a woman's reputation in her community.<sup>89</sup> Desborrow and Warner attempted to exculpate themselves by referring to their 'real', honest labours (of course, women could not claim that they were metalworkers as plausibly as men), as well as to show that a woman called Ann Palmer was the 'chief Actoress' of the whole affair. In 1687, Martha Ashlock successfully proved by witnesses that 'she was a Labouring Woman and got her living by Washing, etc.', which contributed to her acquittal for procuring broad money.<sup>90</sup> While it was not unheard of for men to also say they took pains for their labour, the language

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<sup>87</sup> *OBP*, trial of Richard Piggen and Samuel Sherwin, October 1694, t16941010-22.

<sup>88</sup> *OBP*, trial of John Dampney, January 1719, t17190115-45.

<sup>89</sup> Tim Reinke-Williams opens *Women, Work and Sociability* with a clipping trial in order to illustrate that early modern metropolitan women had agency and authority over their own work and livelihoods in order to bolster their reputation, 1-2. See also Eleanor Hubbard, *City Women, passim*.

<sup>90</sup> *OBP*, trial of Martha Ashlock, February 1687, t16870223-27.

of women's work was essential to female defence testimony for coining.<sup>91</sup> Yet gender added another dimension to the cultural status of the offences – secrecy.

### Secrets 'big enough to ruin the nation'

Secrecy linked both the morality of work and the ability to hide one's illicit trade in plain sight. For pamphlet-writer Richard Newnam, the clippers and counterfeiters who controlled the 'trade' of the late seventeenth and early eighteenth centuries were the unequivocally male 'professionals'. These men dominated the few pieces of elite commentary there were on the crime, but were generally unrepresentative of the true demographic of the perpetrators in terms of gender or occupational identity. In his *Complaint*, Newnam wrote a fictional conversation between men in an alehouse who wanted to expand their current small-scale coining activities into one enterprise that combined clipping, counterfeiting and uttering. Here, Newnam described this imaginary opportunity as something involving greater risks for greater reward. The men 'laid their heads together, and consulted how they might have a trade'. The most crafty 'Fellow' in the group attempted to take charge, saying that he would make all manner of cracked money pass if they were to follow his lead.<sup>92</sup> He claimed that most clipped money did pass, good broad money with a few cracks passed anyway, and any money that was too degraded they could just melt down and clip afterwards. An 'expert' counterfeiter expressed his doubts, to which:

the false coiner reply'd again, sirs, I will warrant to do it artificially and compleatly; and in the doing of it, I will not use six penny-worth of silver in a shilling, and but little more than nine pennyworth in half a crown, and yet he shall be a good artist that discovers it; and if it do look somewhat courser in the eye of an artist, the country will not take notice of it: but on the whole, at such a rate as I have told you, I will make all such money passable, without objection.<sup>93</sup>

The coiner's faith in his own abilities and the professional pride he took in his 'work' and artistry followed many of the cultural tropes identified above (even though the concept of 'artistry' was not as common as others). However, the

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<sup>91</sup> Shepard, *Accounting for Oneself*, 188.

<sup>92</sup> Newnam, *The Complaint of English Subjects*, 9.

<sup>93</sup> Newnam, *The Complaint of English Subjects*, 10.

language Newnam used to describe the relationships between the men were uniquely gendered. For example, after discussion and negotiation between the men present, they agreed that they would commence their new and improved criminal endeavours. The leader of the group wished to toast their agreement, declaring:

Come, drink about, for our Trade will now and than afford us a glass of sack. Ay, (says another of the company) and a rope to boot for some of us, if we have not the more care on't. Tush, (says another of the same company) we must all venture that. And so with a merry fit of laughter amongst them, they all cast off the thoughts of hanging for it: and thus they all agreed. And then by their maker, they all swore fidelity to one another; and then (shaking each other by the hand) they all unanimously promised each other, never to discover one the other, if any of them were taken in the fact. And so unanimously they went on with their trade, some to clipping, and some to false coining; the latter of which 'tis supposed there was abundance of it made, and in a little time, such sorts of money became very plenty, and it was scattered all *England* over in great abundance; and for a short time it procured a very quick, brisk and vigorous trade.<sup>94</sup>

The above passages show Newnam's interpretation of masculine relationships specific to acts of clipping and counterfeiting pursued by the authorities in the 1690s. Firstly, he referred to the stereotypical behaviour of coiners, namely that offenders did not take the risk of punishment for their crimes seriously. In jovial language of male fellowship, they encouraged each other to enjoy a 'glass of sack', and told each other 'Tush' while laughing off the possibility of hanging for their crimes. More telling however, is the oath of fidelity they swore to one and other, sealed with a handshake, an image that presented secrecy in the language of masculine respect and trust. The description of the trade as 'brisk' and 'vigorous' also invoked corporeal images by equating the trade with the actions of young, fit men, bound together by a code of trust and mutual secrecy. Newnam's allegory showed that the masculine bonds the perpetrators shared in this particular criminal 'company' partly enabled them to commit their crimes on a large and dangerous scale.

Pamphlet descriptions of male coiners also referred to the gendered nature of their relationships. One crime pamphlet from 1674 reported the discovery of a large network of coiners in Gloucestershire, thanks to a local man who attempted

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<sup>94</sup> Newnam, *The Complaint of English Subjects*, 11.



to infiltrate the gang when they noticed how poor he was and asked him to join them. Of course, in keeping with the predictable narrative of the pamphlet, the man stayed true to his honest roots and reported the suspicious acts to his local justice. The ‘Brotherhood’ of clippers and counterfeiters encouraged him to swear an oath of secrecy before they fully inaugurated him into their operation. To such a promise, the informant did not swear, lest he tarnish his honour by declaring a false oath.<sup>95</sup> Nearly a century later, similar dynamics of male relationships persisted in accounts of the exploits of notable counterfeiting gangs. From the 1740s to 1760s, Thomas Lightowler instructed a group of counterfeiters over a long career spanning various geographical locations as mentioned above. He also attempted to recruit people into his operation and forge bonds of trust. For example, John Dyer, who gave information in against Lightowler and John Edwards in 1744 claimed that Lightowler attempted to recruit him into his operation, not only by stressing the material benefits of being involved (an apparent income of 300 pounds a year, no less), but also that as his ‘countryman’ he should join them and not discover the group to others – both men were from Lancaster.<sup>96</sup> Whether the men knew each other before they appeared in Glamorgan together is not discernible from the records, nor is John Dyer mentioned in later printed accounts about Thomas Lightowler’s crimes in England.<sup>97</sup> Nonetheless, the appeal from Lightowler to their shared local roots suggests a desire to find common ground with his associates in order to bind them together by a sense of mutual trust and obligation. Similar to the male relationships explored in chapter two, the language of equality and brotherhood was significant for linking forms of men’s intimacy with crime.

While these examples reveal some of the ways in which male relationships operated in accounts of specific counterfeiting enterprises, it does not mean that such discourses were dominant in other sources; that women committed their crimes on a smaller, more inconsequential scale; or that women lacked confidence and bravado in their actions. Women were just as likely as men to participate in

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<sup>95</sup> *The Traitors Mint*, 4-5.

<sup>96</sup> NLW GS 4/613/7 it. 7, information of John Dyer.

<sup>97</sup> Hewitt, *The Proceedings of J. Hewitt*, *passim*.

or be in charge of coining enterprises.<sup>98</sup> Like theft (the most common crime in the early modern period) the frequency with which women clipped or counterfeited the coin depended on the gendered contexts of daily life. The reason women were more likely to steal items such as food and household linens, and men large livestock, was not because they lacked bravado or initiative, but because employment and day to day activities provided gender-specific opportunities for theft. Further, women still participated in crimes for which men were prosecuted, by preparing stolen meat or disguising horses stolen by male family members, for example.<sup>99</sup> For coining offences, women's participation was in fact remarkably visible in the records. As Nicholas Tosney's study of early modern female coiners revealed, gendered work and tasks had the potential to inform what roles women took on in a coining enterprise.<sup>100</sup> Yet this did not mean that women adopted secondary roles, or performed tasks where the perceived risk was lower.

Women were not afraid to act daringly in their criminal pursuits. Dorothy Copping, who was found guilty of passing off false coins in December 1688, was reported in her trial transcript as having often 'clipped monies, and brag'd of the quantities she had put off', ironically being decidedly unsubtle about her ability for stealth and secrecy. Ann Petty, a sixty year-old widow, convinced some 'wild apprentices, servants, or cashiers to eminent citizens' to bring money to her, which she clipped and gave back to them. She negotiated the terms of the deals herself: 'allowing them five pound in the Hundred more or less, and yet got considerably her self for her own pains'. However, the implication that the apprentices and servants were already 'wild' meant that Petty did not require much authority in order to encourage their participation, so the reporters could still call upon Petty's inherent feminine weakness should they need to. Women such as confessed clipper Mary Walters also acted in a disorderly manner which betrayed their true ill character. Her trial account reported that she 'own'd it [the crime] when first taken; saying, that clipping was crime against the nation, but she thought it was

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<sup>98</sup> For example, the *Old Bailey Online* statistics function calculates that between 1674 and 1759, 44.9% (366) of defendants tried for coining offences (inclusive of counterfeiting, clipping and uttering) were female, 53.9% (439) were male, and 0.1% (10) where the gender could not be ascertained.

<sup>99</sup> Garthine Walker, 'Women, theft and the world of stolen goods' *passim*; *Crime, Gender and Social Order*, 159-209.

<sup>100</sup> Tosney, 'Women and "False Coining" in Early Modern London', *passim*.

no sin', a statement which evoked the common image of the counterfeiter who pretended they did not know the true legal status of the treason. The stereotypical behaviour, it seems, extended to women. Further, when she was apprehended Walters threatened to 'knock any man on the head with her shears, that should come up stairs to take her for she had as well be hang'd for murder, as for clipping'. Walter's reaction initially made her seem dangerous. Yet the overall scene created by the language in the passage depicted Walters's threats of violence as inconsequential. The image of the woman waving her shears in a frenzy as the men entered to arrest her was almost comical in nature, and instead served to illustrate her disordered character and culpability for the crime. This discourse fitted in with wider ideas about the 'petty' nature of female violence that prevented them from accessing languages of righteous violence reserved for men<sup>101</sup>.

However, most female coiners were able to act with authority and skill in their groups and as such, commanded respect. Sarah Smith, acquitted in 1698 of counterfeiting alongside her husband John Elton, allegedly blew the fire for their metal crucibles. Once her husband had made the coins, Smith was the person who made sure the coins looked professional, by whitening and finishing them. Even though Elton undertook an essential task of shaping the coins, Smith also had responsibility and authority. Apparently while blowing the fire, Smith expressed dissatisfaction with the metal mixture their counterfeiting group was trying to blend. According to one witness, she wanted the mixture to contain more copper and resemble that which she and Elton had counterfeited before.<sup>102</sup> Smith's attention to the standards of the product indicates that her opinion carried weight, and her past experience allowed her to take charge of the process and instruct others. It was likely then, for the kinds of tasks women completed to depend firstly on the level of responsibility or trust accorded to each accomplice on a case by case basis, and secondly, on gendered contexts in which they could most feasibly obtain materials or spaces, or carry on their work without raising suspicion. Other women used some intriguing cover stories in order to disguise their actions, which

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<sup>101</sup> Krista Kesselring, 'Bodies of evidence: sex and murder (or gender and homicide) in early modern England, c.1500-1680', *Gender and History*, 27:2 (2015), 254; Walker, *Crime, Gender and Social Order*, 83; Linda Pollock, 'Anger and the Negotiation of Relationships in Early Modern England', *The Historical Journal*, 47:3 (2004), 579.

<sup>102</sup> *OBP*, trial of John Elton and Sarah Smith, t16980114-42.

revealed that women could be just as resourceful as men in their criminal activities, even if they were not always successful. Jane Keyes deposed in August 1698 that Rebecca Berry came to her and her husband's victualing house in order to ask the two of them if they were able to find someone who could manufacture counterfeit guineas. According to Keyes's deposition, Berry claimed to be asking for gentleman who wanted some fake coins in order to impress a rich widow whom he was attempting to court.<sup>103</sup> This added colour and detail to Berry's 'cover story', but its lack of plausibility for Jane Keyes added weight to the circumstantial evidence that eventually led to Berry's indictment. Women took initiative, offered valued opinions, brokered deals, and supervised other people.

Besides revealing that women's contributions of aid or knowledge were valued by other members of coining networks, the actions of female participants show that for many offenders, the personal was inextricable from the practical or economic demands of the crime. The need to recruit sufficient skilled and reliable associates, yet keep one's treason concealed, put not only logistical but emotional pressure upon people who coined or clipped with household members, extended family, friends and neighbours. The activities of Mary Haycock's infamous gang of Irish female counterfeiters reveal some of these personal complexities which littered accounts of coining offences. Four members of the London-based gang: Haycock herself, Elizabeth Tracey, Ann Knight and Catherine Bougle received sentence of death for making counterfeit coins in July 1734 and were executed three months later.<sup>104</sup> Former members Ann St. Laurence and Alice Dearing were the chief witnesses in the women's trials. Obligations that came from a shared past and local roots formed a set of loyalties and intimacies between the women which influenced the success of their crimes. Yet over time, their relationships became increasingly precarious and were eventually destroyed, a process revealed by their trial transcripts.

Printed accounts of the exchanges between convicted women and those who had betrayed their intimacy by becoming informers provide insight into the

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<sup>103</sup> TNA MINT 15/17, it. 16.

<sup>104</sup> *OBP*, trials of Mary Haycock, Ann Haycock, July 1734, t17340710-17; Elizabeth Tracey and Ann Knight, July 1734, t17340710-18; Catherine Bougle alias Tracey, July 1734, t17340710-22. *Ordinary's Account*, October 1734, OA17341002.

emotional complexity that belied ‘turning King’s evidence’. Alice Dearing and Ann St. Laurence had informed against sisters Catherine Bougle and Elizabeth Tracey, who were imprisoned and tried for coining in 1734.<sup>105</sup> Alice Dearing’s evidence in the printed accounts of Tracey and Bougle’s trials show how she exploited the relationships within this network to depict the two sisters as violent, harmful and culpable. Dearing attempted to present herself as a harmless bystander in the events, while Tracey was a woman so corrupted by her traitorous greed she had turned to violence. According to Dearing’s testimony, Tracey threatened to stab her, just as she did ‘the bitch who stopt me for shoplifting’. What had provoked Tracey’s threat against Dearing was Dearing’s socialising – ‘going along’ – with Ann St. Laurence. Communal rumour alleged St. Laurence was planning to incriminate Tracey’s sister, Catherine Bougle. The allusion to shoplifting showed Tracey was no stranger to material gain through criminal means; her threat and alleged past violence showed she had the potential to use violence again in a bid to avoid discovery.

Catherine Bougle’s interpretation of Dearing’s relationship to the group was different, however. The Ordinary’s *Account* reported that Bougle had alleged Dearing was the one who led her into the practice of coining; Bougle became her ‘chiefest confidante’.

She reflected much upon one of the chief evidence [Dearing], her great companion, and some others, and earnestly desir’d poor and unwearied people to beware of being ensnar’d by them, who would first draw them in, and then bring them to the same fatal End as they had done herself and some others.<sup>106</sup>

While Bougle’s narrative followed the conventional dying speech in that she admitted her own culpability and sins, she still drew attention to the fact that others were just as culpable through the relationships they formed in order to perpetrate their heinous crimes. Even if Dearing avoided prosecution by turning in her confederates, the Ordinary’s *Account* did not absolve her of the responsibility for the fate of her former friends. The tone of the *Account* implied that Dearing destroyed Bougle and Tracey’s relationship, which was just as much of a pity as

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<sup>105</sup> *OBP*, trial of Catherine Bougle, July 1734, t17340710-22.

<sup>106</sup> *Ordinary’s Account*, October 1734, OA17341002.

those harmed by the crime. It emerged that Tracey told her sister that she intended to inform against Dearing, because she had given evidence against their friend Ann Knight's mother who was executed for counterfeiting. However, Dearing's intimacy with Bougle meant that she immediately told her friend of her sister's plans. Then Dearing, in order to save herself, informed on all three of the women, whose reactions came to the surface in prison:

While under Sentence, this occasion'd Ann and Elizabeth [Tracey] to entertain an irreconcilable animosity against Katharine [Bougle], with whom they would scarce speak but in Wrath and Anger, and therefore she kept mostly at a distance from them [...] Words constantly arose between them when present; nay, even sometimes blows. [...] Katharine frequently telling her sister, that if it had not been for you, she should not have been brought to that miserable end, and accusing her for being a vile woman, a shop-lifter, a stealer of pewter pots, and such like discourse. This I was inform'd of, and once or twice was witness to their jangling, which was their daily practice [...]

The arguments and fights revealed the extent of the betrayal that Knight and Tracey felt they had been subjected to, and that bonds of sisterhood and friendship had been broken by the group's participation in the crime. Of course, Dearing's evidence against Knight and the two sisters was geared towards presenting herself in the best possible light and the actions of the defendants in the worst. Her position was summed up by her admission:

the truth is, I was willing to learn to coin myself, but could not, for they would never let me into the secret.

This was a clever line, because Dearing almost appeared to incriminate herself and plainly admitted her temptation, but absolved herself of any wrongdoing in the eyes of the law by placing the control over the situation with Haycock's gang. However, she knew enough about this open 'secret' to know exactly what they were doing and provide the evidence that condemned them, and the tone of the *Proceedings* and the *Account* reflected this cruel role. What she did was perhaps necessary, but far from honourable in respect to her relationships with the other women.

Women did not have the monopoly on the perceived potential for secretive actions, nor were their actions or relationships always as exceptional as the case above. Likewise, male counterfeiter in the pamphlet about Gloucestershire

coiners and in Newnam's *Complaint* operated in secret 'Brotherhoods' that depended on swearing oaths of fidelity, but these were again exceptional (or fictional) examples of male counterfeiters. Yet secrecy was still an important discourse to more 'ordinary' accounts of coining offences. Witnesses described seeing the crime through small holes in the wall, or hearing strange noises in the dead of night through locked doors or windows. For example, Samuel and Mary Porter's neighbours alleged that they had heard a 'great noise' on a Sunday evening, throughout the night into the early morning. A witness in David Venables' trial said that they 'did peep through a little hole' and saw the prisoner rubbing a false coin.<sup>107</sup> This kind of 'keyhole testimony' has been identified by scholars as a well-established motif in accounts of sodomy. To report that one had witnessed the crime through a crack in the wall or slit in a door, was to allow erotic indulgence in the act without being implicated in sexual deviance, or so scholar George Haggerty has argued.<sup>108</sup>

However, keyhole testimony can also be read as a popular narrative 'story' for witnesses in trials for coining offences.<sup>109</sup> Keyhole testimony had the ability to implicate male and female suspects; the potency of the motif rested on its ability to help witnesses avoid implicating themselves in dishonest or unlawful actions, rather than its role as a vehicle for indulging witnesses' subconscious fantasies of participation in the scene. Moreover, to witness a crime in this manner did not automatically mean that the crime itself was inherently 'secretive' – by using this narrative witnesses asserted the credibility of their testimony but remained morally and physically distant from the criminal actions of others. The time it took for the most prolific clippers and coiners to be successfully prosecuted was not necessarily because they acted under a shroud of impenetrable secrecy. Notwithstanding the unsystematic geographical spread of professional informers, in a local setting offenders also tended to operate under the suspicious eyes of their neighbours for a number of years. The difficulty of apprehending suspects also rested on amassing the correct physical and circumstantial evidence, as well as

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<sup>107</sup> See for example, *OBP*, trial of Samuel Porter alias Vane and Mary Porter, January 1691, t16910115-13; trial of David Venables, July 1696, t16960708-27.

<sup>108</sup> George E. Haggerty, 'Keyhole Testimony: Witnessing Sodomy in the Eighteenth Century', *Eighteenth Century: Theory and Interpretation*, 44 (2003), 167–82.

<sup>109</sup> I have used a method of reading for common narratives or 'fictions' from Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France* (Stanford, 1987).

credible witnesses in the neighbours and uncorrupted informers who gave testimony. After all, cases that were only based on circumstantial evidence tended to unravel in court.<sup>110</sup>

Furthermore, suspicious neighbours created viewing holes themselves in order to expose suspected clippers, which suggests that calculated monitoring of comings and goings was necessary in order to build evidence. In order to prosecute Bartholomew Munford, for example, 'two Persons were planted behind a Wainscot Partition, adjoining to the Room where the Exchange was made, observing through a Hole, purposely made, all that passed as to the Delivery of the one Mony'.<sup>111</sup> Similarly, 'suspecting some ill practices' were occurring in a room that Joanna Wood rented from his mother, one Mr Bowder 'cut a Chink in the Partition, resolving to make an Observation' the next time Wood's acquaintance Mary Hunt visited. A few days later, Bowder saw through the hole, Wood in a leather apron diminishing coins. He told his mother, who informed her neighbours, all of whom then approached the constable. According to Bowder's testimony, the party burst in on the women just in time to see counterfeit money fall from Hunt.<sup>112</sup> While the chronology of Hunt and Wood's apprehension was nicely synchronised to benefit of the flow of the printed trial account, the fact that Bowder and other witnesses actually created their own 'keyholes' as a method of catching coiners showed it as an attempt to meet the standards of evidence required – an attempt to convey 'positive proof' of the treason. Such testimonies drew attention to the secrecy of the actions, but importantly, this secrecy was not impenetrable. The morality of work and gender influenced the secretive character of the crime, a secrecy which in turn depended on a precarious balance or maintenance of intimate relationships. However, the approach of contemporary authors towards intimacy and complexity in offenders' relationships changed over time, an issue to which the final section shall now turn.

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<sup>110</sup> Gaskill, *Crime and Mentalities*, 153.

<sup>111</sup> *OBP*, trial of Bartholomew Munford, December 1690, t16901210-18.

<sup>112</sup> *OBP*, trial of Mary Hunt and Johanna Wood, October 1717, t17171016-23.



### 'I have been intimately acquainted with the prisoner these ten years': friendship and betrayal in the courtroom

The detection of crimes against the coin relied on appointed informers, rather than prosecutors who identified as the sole victim of the crime. Middle class people were the most likely sufferers of malicious prosecution for coining offences because perceived motives for coining offences favoured greed over destitution; but incidences were rare. In addition, rewards and notices for witnesses to come forward and expose coiners were seldom successful in the late seventeenth century.<sup>113</sup> By the early eighteenth century though, the number of publicly advertised rewards for the apprehension of coiners by the early eighteenth century had started to increase, especially in London.<sup>114</sup> Yet the number of actual trials conducted at the Old Bailey fell dramatically after the 1690s. For the period 1700 to 1759, only 109 transcripts (an average of just below two trials per year) survive, compared with 497 for 1680 to 1699. The most logical approach is to see the higher numbers of trials in the 1680s and 1690s as anomalous yet instructive. A unique political, social and economic context during these two decades directly affected treason legislation and coinage and by extension, the prosecution of coining offences. Moreover, the amount of trial reports produced after 1700 remained lower, but fairly consistent. Because the number of trials in these remaining decades dropped to double or single figures, it is unwise to see fluctuations in the number of trial reports on their own as representative of any kind of cultural change. Sites of change existed in other, qualitative arenas, but not necessarily in a uniform or linear fashion.

Despite the large number of trial transcripts printed in the *Sessions Papers* during the 1680s and 1690s, the accounts of the trials were short in length, yet contained persistent qualitative themes involving the morality of labour, secrecy, and trust. Occasionally, more exceptional or sensational trials were longer, and the authors had time to consider the motivations of suspects beyond greed, and the relationships of the criminals beyond their 'professional' ties, but this did not happen regularly. During the early eighteenth century, the reputation of the

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<sup>113</sup> Gaskill, *Crime and Mentalities*, 145.

<sup>114</sup> Styles, ' "Our Traitourous Money Makers"', 182.

*Sessions Papers* as an informative quasi-legal source grew, and its readership widened alongside a general increase in crime literature. The *Sessions Papers* texts became longer and contained space for reporters to comment in greater depth on both legal and cultural details of the trials. Thus, while counterfeiting and clipping trials became exceptional occurrences from the first quarter of the eighteenth century, the relative depth with which authors explored legal and cultural aspects of the crime increased. One consequence of these changes was that reporters began to accord greater detail and colour to the relationship histories of key witnesses and defendants.

The relative paucity of textual references to the emotional quality of offenders' relationships in the later seventeenth-century trial reports does not indicate a lack of nuanced relationships in comparison to later accounts, but it does make them more of an implied element. Due to how essential trust and concealment were to the offences it was mainly current and former household members, neighbours and childhood friends who committed the crimes together. Proximity did not always mean complicity, though. For example, an old man was discharged in 1677 for attempting to deliver clippings to his landlord and daughter because 'it was not very probable a person conscious of such a crime, should deliver clippings, which must infallibly cause suspition, discovery, and punishment, into the custody of persons almost wholly strangers'.<sup>115</sup> Christain Penny was acquitted for clipping in 1694 as her lodger William Ayliffe let two rooms in her house but the jury was satisfied that she had no knowledge of his activities.<sup>116</sup> Yet landlords and lodgers were not always strangers. If they lived in very close proximity and used the same rooms, a trustworthy lodger could be an asset to a criminal landlord. But obligations were sometimes stretched to breaking point. Margaret Torrel, who was convicted of clipping in 1687, claimed that her former lodger Eleanor Pride 'impeach'd' her and others in order to save herself. She implied that Pride was involved with the crimes of her and their neighbours, but had now turned, either for a reward or under condition that she was not prosecuted.<sup>117</sup> Pride appeared as a witness in the neighbours' trials at the same

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<sup>115</sup> *OBP*, trial of Old Man, October 1677, t16771010-5.

<sup>116</sup> *OBP*, trial of Christain Penny, August 1694, t16940830-27.

<sup>117</sup> *OBP*, trial of Margaret Torrel, February 1687, t16870223-9.

sessions which gave more weight to the idea that Torrel expected Pride's loyalty to extend to the whole group of suspects and not just towards her landlady.<sup>118</sup> However, by the early eighteenth century, reporters included more explicit expressions of betrayal by suspects who had been incriminated by former accomplices.

In her 1718 trial for counterfeiting, Abigail Newstead clarified what she expected from her criminal relationships, declaring she 'would venture her life to serve her Friend' to her confederate Mary Wilson.<sup>119</sup> John Stone used to buy counterfeit money from Newstead and her associates until a heated quarrel led him to set up his own counterfeiting network. While a witness said he cared not a 'Fig for any of 'em' after these quarrels, Stone claimed he was coerced by constables into giving up his former friends and did not do it out of malice or cruelty. They had 'plied him with drink and geneva, that he was drunk, and put Names to him, and persuaded him that he must of necessity know them, and so had led him into injuring innocent people'. Stone protested his innocence and argued that he was 'much concerned in his Mind that he had gone about to take away the lives of so many innocent persons'.<sup>120</sup> However, the jury convicted Stone and the reporter referred to him as a 'hardned and incorrigible villain'. Even the Ordinary lamented his refusal to give any detail or confess to his crimes.<sup>121</sup> While it is impossible to know the minutiae of the quarrels between Stone, Newstead and their accomplices, or if ill-will towards Newstead provoked a drunken Stone to incriminate her, the importance of friendship to Newstead and her relationship history with Stone was ingrained in the circumstantial evidence of this particular coining network.

As the eighteenth century progressed and trial reports for coining offences grew longer yet rarer, these more explicit motifs based on dangers and betrayals of intimacy became increasingly elaborate and complex. Irishmen Hugh Coffe and Usher Gahagan had been 'intimately acquainted' for at least a decade when

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<sup>118</sup> Pride appeared as a witness in 7 other trials in February 1687: William Reeves, t16870223-12; Esther Mathews and Ann Grantham, t16870223-14; Jane Grey, t16870223-22; Jane Hamilton, t16870223-24; Ann Edmunds t16870223-25; Martha Ashlock, t16870223-27.

<sup>119</sup> *OBP*, trial of Abigail Newstead, January 1718, t17180110-34.

<sup>120</sup> *OBP*, trial of John Stone, January 1718, t17180110-30.

<sup>121</sup> *OA*, January 1718, OA17180127.

Coffe became the chief witness against Gahagan in his 1749 trial for filing and diminishing guineas.<sup>122</sup> Terence Conner, another Irishman, behaved as servant to Coffe and Gahagan and was similarly condemned as a result of Coffe's evidence. He did not lodge with them, but visited them every day, and went around London advertising Gahagan's Latin translations of Pope's writings to rich gentlemen in the city.<sup>123</sup> The trial accounts spent considerable time reporting on Coffe's suspicious behaviour and actions in the same way as they did with Alice Dearing a decade and a half earlier. The writers reflected on the necessary nature of his evidence to support the greater good, but far from exculpated him for betraying his confederates, with the Ordinary remarking at his execution that he had fallen:

Unluckily into the company of his countryman, Coffey, he was easily persuaded to follow that practice, which in the end brought him to his ignominious death. Being strongly persuaded by his companion, that diminishing the coin would soon enrich them all, and put them above the frowns of the world.<sup>124</sup>

The *Account* suggested that their long relationship, which began back when they both lived in Ireland as children, was what weakened Gahagan's strength of character and led him to commit the crime for which he was about to die. In short, Gahagan's intimacy with Coffe made him vulnerable to both persuasion and betrayal.

The trial report maintained some of the earlier conventions of coining trials by its portrayal of Coffe as embodying some of the more persistent stereotypical behaviours of offenders. A bank teller, whom Coffe attempted to entice into their operation, reported that Coffe said:

it was a charming thing, a man [...] could get an estate in a hurry, provided he could get it done privately; but [...] I should be very cautious how I enter into such a state, I am eager of gain as any body.<sup>125</sup>

The writer of the *Sessions Papers* made sure to adhere to the correct stereotyping of Coffe's covetousness, desire for secrecy and privacy, expressed in the context of

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<sup>122</sup> *OBP*, trial of Usher Gahagan, January 1749, t17490113-28; Terence Conner, January 1749, t17490113-35; *Ordinary's Account*, February 1749, OA17490220. An account of the trial was also published later in 1764: *Select Trials for Murder, Robbery, Burglary, Rapes, Sodomy, Coining, Forgery, Piracy, and other Offences and Misdemeanours, Vol. I* (London, 1764).

<sup>123</sup> *OBP*, trial of Terence Conner, January 1749, t17490113-35.

<sup>124</sup> *Ordinary's Account*, February 1749, OA17490220.

<sup>125</sup> *OBP*, trial of Usher Gahagan, January 1749, t17490113-28.

masculine language in his attempt to recruit the bank teller into their operation. Gahagan, in his defence, referred to Coffe's trouble with bailiffs and unpaid debts, which suggested a long-term greed for undeserved riches. Their long acquaintanceship was the reason Gahagan had let Coffe lodge with him in the first place, even if it meant damage to his own credit and reputation. For example, the court emphasised that when he was taken, Gahagan said that Coffe had 'made the cat's paw' of him. The prosecution inferred this meant Gahagan was expressing his shock that Coffe had exposed their crimes and implicated him. Gahagan, on the other hand, claimed it was because he thought he had been taken for something to do with Coffe's debts.<sup>126</sup> Another witness also hinted at the pair's personal history. He said that he heard Coffe confirm Gahagan's innocence when they were originally apprehended. Coffe exclaimed that he would 'die a thousand deaths than subject any innocent blood to be spilt on this occasion', and allegedly swore he 'never intended to turn king's evidence in prejudice of either of those, declaring the prisoner innocent'. Again, it is impossible to know what persuaded Coffe to change his mind and implicate his childhood friend, but the strong suggestion that Gahagan had been tragically taken for a fool by his intimate acquaintance persisted in the tone of the trial report and the *Account*.

Gahagan and Coffe's case was undoubtedly exceptional. Though the men's relationship was not fabricated, trial reporters may have accorded the friendship greater significance in order to sensationalise the crime and make it 'marketable'. After all, it was a good story. The prisoners Gahagan and Conner were Irish gentry, educated in their knowledge of Latin and history, 'unfortunate sons of the muses' who had left Ireland in the wake of poor financial circumstances in their families. Gahagan's Latin translations of Pope's works were advertised in newspapers, and both men's own poetry was reprinted in full in a 1764 volume of famous trials.<sup>127</sup> Yet such detailed attention to the intricacies of personal relationships, and their effect on the ascription of culpability to various actors was central to the cultural significance of the case.

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<sup>126</sup> *OBP*, trial of Usher Gahagan, January 1749, t17490113-28.

<sup>127</sup> *General Advertiser* (1744), Issue 4461, (London, 1749); *General Advertiser* (1744), Issue 4470 (London, 1749); *Select Trials for Murder, Robbery, Burglary, Rapes, Sodomy, Coining, Forgery, Pyracry, and other Offences and Misdemeanours*, Vol. I (London, 1764), 236-246.

Themes relating to the complexities of friendship and betrayed intimacies showed no signs of abating by the latter part of the period. In 1758, convicted clipper Margaret Larney claimed her downfall was a result of the mistaken trust she placed in her friend Alice Diamond. Larney's defence in court was arranged by the reporters in such a way as to optimise the drama of the two women's friendship. According to her defence narrative, in the days leading up to her arrest, Alice had admitted to Larney that she wanted to leave her husband William. Larney offered to help her if she came to her house the next day, but Alice Diamond did not turn up at their arranged time, so Larney went out. Larney alleged that it was during this time that Alice planted the files and tools in her bedchamber for which she was prosecuted. The way that the reporters selected and arranged these parts of Larney's testimony in the trial transcript drew attention to the short amount of time that elapsed between Diamond telling Larney of her unhappiness, and the alleged planting of evidence, leaving room for contemporary readers to speculate upon why Diamond's behaviour had changed so dramatically.

The tone of the report suggested Larney believed that somehow, William Diamond had found out of their conversation and manipulated his wife to condemn her. Later, at her execution, the Ordinary asked Larney to comment on the 'justice of her sentence', where she claimed part of the reason for her condemnation was because:

She was loath to betray her [Diamond], as she had been before charged and taken up for filing of guineas; and she thought she must suffer, if detected again.

The Ordinary then asked Larney, 'you were more tender of her than your own life?' to which she answered 'I was fool enough then to be so'.<sup>128</sup> Such nuances cannot reveal precisely what Larney believed, or what the report aimed to achieve by including these sorts of loaded gaps. Of course, Larney was convicted because

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<sup>128</sup> *Ordinary's Account*, October 1758, OA17581002. See *OBP*, trial of Margaret Larney, t17580113-32. She was sentenced to death, respited for pregnancy, then executed. Alice Diamond and her husband, William, also appeared against Alice Davis, *OBP*, trial of Alice Davis, t17580113-33. For details pertaining to Larney's poor social status, see her entry in Hitchcock, Shoemaker, Howard and McLaughlin et al, *London Lives, 1690-1800* at: [www.londonlives.org](http://www.londonlives.org), version 1.1 (April 2012).

sufficient positive evidence of clipping was found by the jury which met the legal criteria, and the trial report and Ordinary's *Account* emphasised this in due detail. Equally there is no way to know if readers would have made these sorts of subtle connections. Yet the idea that Larney claimed her relationship with Alice Diamond contributed to her downfall, combined with the selective nature of her defence testimony, had the potential to draw attention to and invite speculation upon the complexities of their personal relationships. Elements of friendship, betrayal, protection and saving oneself were embedded in these now rare trial accounts.

## Conclusion

The purpose of this chapter was to open up crimes against the coin in the early modern period to an analysis less restricted by a social crime 'checklist', but also to use the gains of the historiography to consider the nature of intimacy in the event of a largely non-violent offence. It is precisely because of this particular historiography's focus on how early modern people rationalised property offences with the purpose of managing their socially deferential friendships which prompts questions about the subtle, human qualities inherent in crimes which might not immediately be categorised as particularly 'intimate' in nature. The perspective of the chapter has therefore shifted focus from the extent to which one can define coining offences as social crimes, to ask what the legal and cultural status of coining offences can reveal about the nature of relationships between the men and women who perpetrated the crimes. The chapter has drawn together a number of central themes discussed throughout the thesis, namely the negotiation of perceived natural hierarchies, friendship, the role of incidental witnesses, and the importance of economic identity to intimate and emotional worlds of early modern people.

The legal status of crimes against the coin as treason is a reminder that they were prosecuted in different way to felonious property crimes, even though the offences shared some helpful social and economic contexts. The unique prosecutorial procedure which relied on hired informers presents difficulties should one attempt to accurately compare prosecution rates with the 'true' extent

of coining, and by extension, judge the significance of conviction rates. To avoid some of these problems, the first part of the chapter contextualised legal procedure in terms of its role in the wider political and economic climate of the 1680s and 1690s – the two decades where prosecutions for coining offences were at their highest. Such contextualisation reveals links between the legal and cultural status of the crimes to better understand the meanings of the relationships offenders shared with one and other. Insofar as the qualitative nature of the legal criteria was concerned, the concept of covetousness immortalised in the legal criteria was appropriated in various sources and cultural contexts, from broadside ballads to printed trial transcripts and crime pamphlets. The second section of the chapter used these findings to argue that in pre-trial documents and printed trial transcripts, counterfeiting and clipping were not only conceptualised as kinds of dishonest work, but the crimes' cultural status as such provoked many suspects and witnesses to frame their own honest work and the dishonest labour of coining as incommensurable. Themes of the morality inherent in labour, work and reputation were key to contemporary understanding of crimes against the coin in legal and non-legal sources and remained influential throughout the period.

Crime pamphlets paid disproportionate attention to 'professional' male coiners and linked them to some of the stereotypical deceptive and covetous behaviours other authors ascribed to counterfeiters and clippers. However, evidence from trial transcripts showed that gender did not necessarily dictate the roles that men and women undertook within a particular coining network. The methods men and women adopted in order to ensure their work was skilled, profitable and successfully concealed were based on experience and knowledge – of locations, equipment, materials and contacts – but these criteria did not have to be conceptualised as 'professional' or dominated by men to be effective. In turn, experience and knowledge of coining were not always linked to one's gender, or indeed the expectation that one gender was better at keeping the crimes secret than another. Instead, gender exerted its influence on the everyday contexts in which men and women secured each other's trust and kept secrets.

The last part of the chapter considered common themes arising from the preceding sections in order to account for change over time. While it was



important to consider the short term effects of political and economic change in the 1680s and 1690s on prosecutions, longer term patterns in regards to how contemporary quasi-legal sources approached the personal relationships of offenders were identified. Themes of betrayal, saving oneself and the burdens of intimacy emerged in trial transcripts. However, the emergence of these themes do not fit with a linear historical narrative that prioritises neither the increase in emotional complexity and ‘intelligence’ of people over time, nor the development of economic modernisation which allowed relationships between coiners to become more contractual and less dependent on filial obligations. In fact, the perceived benefits of trust and secrecy provided by household, familial, neighbourly and even past relationships, remained essential to coining networks, though these obligations were not always conducive to positive relationships as in the cases of Margaret Larney and Usher Gahagan. Later narratives explored more fully the complexities of intimacy due to a combination of both continuities and changes over time, such as a long term reduction in prosecution rates, changes in the form and content of the *Old Bailey Sessions Papers*, and ingrained stereotypical behaviours of coiners that persisted throughout the period. Coining offers, in effect, a crime which incorporates many of the themes discussed in previous chapters, and to which I shall now draw together by way of conclusion.

## Conclusion

### The Intimate Worlds of Early Modern England and Wales

At the beginning of the thesis, I claimed that although early modern historians have explored the varied cultural contexts in which intimacy was performed, a systematic analysis of its exact status and meaning in contemporary England and Wales was yet to be undertaken. I argued that certain historians of gender, crime, and emotion have considered intimacy in reductive terms that gloss over the complexities of individual (especially female) agency and as such, inadequately account for change over time. In response to these claims, I proposed to develop an analytical framework for considering the criminal record that accounted for aspects of spatial, bodily, and emotional intimacy. In the process, I have read ‘against the grain’ from the textual record of printed and archival sources of serious crime to identify some of the intimate worlds of early modern England and Wales.<sup>1</sup>

#### Re-imagining the boundaries of intimate crime

Chapter one explored non-traditional homicides between family members in order to refine received understandings of ‘domestic’ crime. I posited that perhaps such crimes should be re-categorised as intimate homicides, because the label accounts for relationships of emotional and practical obligation that were not defined by a rigid patriarchal model. Incidental detail pertaining to daily lives of historical actors helped to locate intimate relationships in specific local communities beyond the conjugal family – an oversight by some historians who have only considered the domestic sphere in their analyses of familial homicide. Throughout the period, actors such as servants and neighbours were instrumental

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<sup>1</sup> See Steve Hindle, ‘“Bleeding afreshe”? The affray and murder at Nantwich, 19 December 1572’ in McShane, Angela, and Walker, Garthine (eds.), *The Extraordinary and the Everyday in Early Modern England* (Basingstoke, 2010), 238; Natalie Zemon Davis, *The Return of Martin Guerre* (London, 1983), 4; Anna Green and Kathleen Troup, *The Houses of History: A Critical Reader in Twentieth-Century History and Theory* (Manchester, 1999), 179; Stephanie Tarbin, ‘Raising girls and boys: fear, awe, and dread in the early modern household’ in Susan Broomhall (ed.), *Authority, Gender and Emotions in Late Medieval and Early Modern England* (Basingstoke, 2015), 110-111.

to prosecutions for intimate homicide. My attention to the practical contexts of women's disciplinary violence demonstrates that servants had an important role to play as incidental witnesses in both urban and rural environments throughout the period, and did not disappear to be replaced by the nuclear family unit. While it is unnecessary to linger for too long on disproving the arguments of Lawrence Stone, it is important to note that while servants may not always have spoken in the official record, their presence was noted and accorded significance in cases of homicide.<sup>2</sup> So too were family members such as grandparents, uncles, nephews, and adult children perpetrators of intimate homicide. These killers manipulated aspects of hospitality and care that early modern people understood to have existed, which would not have been ascertained were it not for discussing relationships outside of the conjugal unit.<sup>3</sup> Hospitality thus emerges as a key intimate practice beyond the patriarchal household, which involved extended family. The lines separating 'friendship', family, and the potential harm of strangers could become blurred, especially when distant relatives demonstrated behaviour in accordance with each category as the example of Edward Morgan attests.

Intimate homicides regularly occurred as a result of mundane economic matters. For example, printed literature emphasised that when non-parental carers killed children, their motives stemmed from perceived economic hardship or the difficult demands of care. The implication that daily economic life and intimacy were interconnected featured in print discussions of exceptional murders in order to connect everyday, mundane forms of strife with the threat of murderous violence. Everyday problems within patriarchal households also provided contexts for intimate violence – but in many cases these problems existed separately from the head of the household. For example, trials from the Old Bailey that concerned mistresses and women committing disciplinary violence show that conceptually, women could commit violence in very specific contexts and

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<sup>2</sup> See Helen Berry and Elizabeth Foyster (eds.), *The Family in Early Modern England* (Cambridge, 2007), esp. introduction for discussions on how Stone's theses have been largely disproved in current analyses of the early modern family.

<sup>3</sup> See Joanne Bailey, 'Reassessing parenting in eighteenth-century England', in Berry and Foyster (eds.), *The Family in Early Modern England*, 209-232; *Parenting in England 1760-1830: Emotion, Identity, & Generation* (Oxford, 2012), who considers the role of parenthood as something intra-generational that could involve those outside of the conjugal unit.

negotiated systems of patriarchy from within.<sup>4</sup> Women's homicides also emerged through their attempts to negotiate positions of power within a hierarchy that may not have always been clearly demarcated, such as between servants or adult women and children who were not their own.

The individual mental states of historical actors were also affected by mundane problems and economic strife. The parricides of Enoch ap Evan and John Maddocks show that throughout the period, homicides committed by the mentally unstable were largely inexplicable, and as such emphasised the need for moderation of one's passions and personal relationships in order to avoid such situations as best as one could. Patriarchal obligations were largely mooted in trials where suspects were found *non compos mentis*, however, pamphlet authors referred to their importance for other actors implicated in the crimes. While he was not judged as a true 'lunaticke', the individual passions of William Hall were utilised in a similar way by the author of *The Bloody Lover* to illustrate the potential dangers inherent when young people began to negotiate the demands of finding a compatible spouse.<sup>5</sup> The role that sexual intimacy played in printed representations of murders committed by young men who wanted to avoid the shame of an unsuitable marriage was not necessarily concomitant with the argument that attitudes towards male and female sexuality changed over the period.<sup>6</sup> The language used to hold men accountable for violence may have drawn upon discourses of male bodily assertiveness and female passivity, but this must be read alongside other cultural contexts of sexual desire that existed throughout the period, most notably in other forms of literature such as erotica and pornography.<sup>7</sup> Instead, I have focused on the role of sexual intimacy as one component of larger discourses within contemporary crime literature, which

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<sup>4</sup> Katie Barclay, *Love, Intimacy and Power: Marriage and Patriarchy in Scotland, 1650-1850* (Manchester, 2011).

<sup>5</sup> *The Bloody Lover, or, Barbarous News from Gloucester a full and True Relation of how an Inhumane Villain named William Hall, did on the 16<sup>th</sup> October last, most Cruelly Murther a Maid, Whose Name was Sarah Butt* (London, 1673).

<sup>6</sup> Faramerz Dabhoiwala, *The Origins of Sex: A History of the First Sexual Revolution* (London, 2012); Daniel A. Cohen, 'The beautiful female murder victim: literary genres and courtship practices in the origins of a cultural motif, 1590-1850', *Journal of Social History*, 31:2 (1997), 277-306; Martin Weiner, 'Alice Arden to Bill Sikes: changing nightmares of intimate violence in England, 1558-1869', *Journal of British Studies*, 40:2 (2001), 184-212.

<sup>7</sup> See for example, Karen Harvey, 'The substance of sexual difference: change and persistence in representations of the body in eighteenth-century England', *Gender & History*, 14:2 (2002), 202-223; *Reading Sex in the Eighteenth Century: Bodies and Gender in English Erotic Culture* (Cambridge, 2004).

focused on how the improper management of one's intimate relationships contributed to certain types of economic and mental strife and led to homicide.

Chapter two considered why the language of friendship was included in the criminal record of homicide. I focused primarily on cases where the legal verdict was manslaughter for its close relationship with the humoral language of homicide law. Here, I compared contemporary ideas about the gendering of male passions with the tragic and violent consequences that often accompanied social bonding rituals between men, and in the process uncovered some of the places in the historical record where social and internal worlds collided. I paid close attention to men's everyday relationships for their influence on discourses of masculine honour and violence to account for their lack of consideration in cases of male-male homicide. Male sociability and friendship is essential to any discussion of male homicide, as it explains common attitudes towards masculine violence outside of the patriarchal household. Such bonds existed for a variety of reasons, and merged aspects of equality, deference, practicality and emotion.

While the historiography of male homosocial relationships and friendship is vast, scholars such as Lorna Hutson and Alexandra Shepard recognised that it has engaged with themes of male relationships and conflict in limited ways.<sup>8</sup> Thus, I used their model of everyday masculine relationships to reveal some of the hidden physical and emotional intimacies of men who engaged in violence with those of a similar social status – in some cases they were even brothers. Male emotions were coded into homicide law through the legal criteria for manslaughter as hot-blooded, an emotional state of anger usually attributed to men. As a result, witnesses in court used the language of 'making friends' to indicate a lack of malice and adhere to the legal criteria for a manslaughter verdict. The gendered language of controlling uniquely male passions was therefore also linked with practical qualities of men's dispute resolution – of which regulated violence was a part.

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<sup>8</sup> See Lorna Hutson, *The Usurer's Daughter: Male Friendship and Fictions of Women in Sixteenth-Century England* (London and New York, 1994); Alexandra Shepard, 'Swil-bols and tos-pots: drink culture and male bonding in England, c.1560-1640', in Laura Gowing, Michael Hunter, and Miri Rubin, *Love, Friendship and Faith in Europe, 1300-1800* (Basingstoke, 2005), 110-130; *Meanings of Manhood in Early Modern England* (Oxford, 2003).

The notion of fair play and the restorative potential of violence for male friends often failed in its intention, and as such can be identified in pre-trial and courtroom accounts of manslaughter. The tragic disagreement between Edward Williams and John Probert, for example, demonstrated that young boys were rarely held to the same standards of violence as men, despite the fact that some boys were educated from an early age into how to moderate their passions and avoid excessive anger. Other cases from the Great Sessions revealed how even brothers in blood could fall prey to their natural recourse to anger. Brothers also adhered to codes of intimacy through camaraderie when they committed violence together, as the crimes of the Ellis brothers demonstrated. Furthermore, onlookers' descriptions of violent altercations between men revealed the intense emotions that punctuated cases of fatal violence. Whether or not Ann Murray's description of the light-hearted relationship between John ap John and Thomas Dudleyston was because women paid more attention to the emotional countenance of others cannot fully be ascertained, but it brings to light interesting questions that must be asked in future studies of emotion and the legal record.

Moreover, that witnesses in the courtroom paid attention to the emotional exchanges of forgiveness between victims and perpetrators in cases of manslaughter shows a desire on the part of historical actors to express their internal strife through obvious gestures and words. This was especially important for men whose violence was intended to be used for positive ends and to strengthen social bonds. Forgiveness was also a device through which the deceased claimed partial culpability for their death, and contributed to verdicts of manslaughter. My exploration of deferential relationships traced the fine line between violence for reconciliatory purposes, and its potential to subvert the patriarchal social order. Multiple and conflicting masculinities emerged in the depositional evidence, and complicated manslaughter verdicts where men demonstrated a form of masculinity that upheld notions of excess.

The ubiquity of seemingly 'natural' male emotions such as anger – and the appropriate ways in which to express them – were essential to contemporary understandings of the most commonly perpetrated types of homicide. That certain emotions were coded into official legal strictures prompts further questions about

whether corresponding language and emotional performance affected legal or cultural interpretations of culpability, which from the present study I tentatively argue seems to be the case. These findings build on work of historians of the eighteenth century into how the public understood the role of emotions in the administration of justice in the London courtroom.<sup>9</sup> It also complements recent work on emotional performance of masculine gentility in the courtroom.<sup>10</sup> However, these studies are based on questions concerning the evolution of wider social attitudes to do with criminality and the administration of justice rather than individual actors' interpretations of culpability 'on the ground' and at the pre-trial stage.<sup>11</sup> Furthermore, in order to draw firmer conclusions about the role of specific emotions in representations of culpability, future studies of crime and emotion would need to take into account emotions other than anger, as well as consider a wider variety of crimes than the present scope of the thesis has allowed.<sup>12</sup> Nonetheless, the fact that I have provided evidence to suggest a link between emotion, masculinity, and culpability for homicide is a notable achievement of the research.

In chapter three, I considered relationships other than those between victims and perpetrators in order to challenge received notions of agency regarding the application of the 1624 Concealment Act. Many women prosecuted under the Act are either silent in the legal record, or have dichotomous rebellious/passive subjectivities attached to them by scholars.<sup>13</sup> Yet other actors –

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<sup>9</sup> Dana Rabin, *Identity, Crime, and Legal Responsibility in Eighteenth-Century England* (Basingstoke, 2004); Heather Kerr, David Lemmings, Robert Phiddian (eds.), *Passions, Sympathy and Print Culture: Public Opinion and Emotional Authenticity in Eighteenth-Century Britain* (Basingstoke, 2016).

<sup>10</sup> Amy Milka, 'Imposters: Performance, Emotion and Genteel Criminality in Late Eighteenth-Century England', *Emotions: History, Culture, Society*, 1:2 (2017), 81-108.

<sup>11</sup> See Dana Rabin, *Identity, Crime, and Legal Responsibility in Eighteenth-Century England* (Basingstoke, 2004); Heather Kerr, David Lemmings, Robert Phiddian (eds.), *Passions, Sympathy and Print Culture: Public Opinion and Emotional Authenticity in Eighteenth-Century Britain* (Basingstoke, 2016); David Lemmings, 'Emotions, power, and popular opinion about the administration of justice: the English Experience, from Coke's "Artificial Reason", to the sensibility of "True Crime Stories"', *Emotions: History, Culture, Society*, 1:1 (2017), 59-90.

<sup>12</sup> I am suggesting here an approach that combines the methods of legal historians Bronach Kane and Linda Pollock, for example. See Bronach Kane, 'Reading Emotion and Gender in the Later Medieval English Church Courts', *Fruhneuzeit-Info*, 23 (2012); Linda Pollock 'Anger and the negotiation of relationships in early modern England', *The Historical Journal*, 47:3 (2003), 567-590. Notwithstanding such studies would also need to take into account the distinction between what was tried in the criminal and civil courts, or as serious and petty crime.

<sup>13</sup> See critiques of this by Garthine Walker, 'Child-killing and emotion in early modern England and Wales', in Katie Barclay, Kimberley Reynolds, and Ciara Rawnsley (eds), *Death, Emotion and Childhood in Premodern Europe*, 162-3; Anne-Marie Kilday, *A History of Infanticide in Britain, c.1600*

both official and unofficial – were regularly involved in the discovery of infant bodies and the prosecution of concealment. Taking the idea that accused mothers' actions tended to be described in depositions using the language of absence and rejection as opposed to overt violence as a starting point; I examined how other participants in the justice system may have tangentially experienced intimacy or dissociative reactions at the discovery of infant corpses.<sup>14</sup> I combined this approach with Rosenwein's 'emotional communities' framework in order to contextualise the use of emotional language that appeared in the depositions of those who came into contact with concealed infant corpses.<sup>15</sup>

While gender historians have restored agency to female neonaticide suspects, the role of incidental witnesses has lacked sustained analysis. Shame and dissociation often underscored emotional performances of accused women, however dissociative and absent intimacy were also present in the testimonies of those tangentially affected by the crime of concealment. For example, the emotional lexicons of 'fear' and 'surprise', for example, formed a unifying language of distance for communities in the wake of a shocking and saddening event, and were considered natural reactions as opposed to demonstrations of cowardice. So too were community expectations of emotional reactions influenced by individual factors, such as community or household obligations. Individual understandings of emotion were also understood in terms of the humours and the heart as the seat of emotion throughout the period, despite changes in philosophical thought.<sup>16</sup>

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to the Present (Basingstoke, 2013), 96. Cf. Marilyn Francus, *Monstrous Motherhood: Eighteenth-Century Culture and the Ideology of Domesticity* (Baltimore, 2012), 110-119, where she discusses the characterisation of the 'docile' and 'rebellious' infanticidal mother; Dana Rabin, *Identity, Crime, and Legal Responsibility in Eighteenth-Century England*, 104-107, where women's subjectivities are separated into two distinct categories.

<sup>14</sup> Laura Gowing, 'Secret births and infanticide in seventeenth-century England', *Past & Present*, 156 (1997), 107-108; *Common Bodies: Women, Touch and Power in Seventeenth-Century England* (New Haven and London, 2003), 196-197.

<sup>15</sup> Barbara Rosenwein, 'Worrying about emotions in history', *The American Historical Review*, 107:3 (2002), 842; *Emotional Communities in the Early Middle Ages* (Ithaca, 2006), 2; 'Problems and methods in the history of emotions', *Passions in Context*, 1:1 (2010), 11; Jan Plamper and Keith Tribe (trans.), *The History of Emotions: an Introduction* (Oxford, 2012), 69-70; 'The history of emotions: an interview with William Reddy, Barbara Rosenwein, and Peter Stearns', *History and Theory*, 49 (2010), 252-253.

<sup>16</sup> Fay Bound Alberti, *Matters of the Heart: History, Medicine, and Emotion* (Oxford, 2010), 143.



Through the adoption of specific emotional languages, communities could articulate a broad range of affective experience for only one incident. However, this language was not necessarily exclusionary. In fact, dissociative language brought witnesses together when fear or shock encouraged them to defer to other historical actors in their pursuit of the truth. Deference was not a static practice, and those who held authority through the process of discovery a body to identifying a suspect changed as historical actors obtained more knowledge of events. Deference also existed in unexpected places when men, women, servants, midwives and officials collaborated in their pursuit of the truth – which was not always characterised by a desire to shame or vilify an accused mother. People did hold conflicting sentiments towards prosecuted women, who were understood as having multiple subject-positions, but these were not straightforward or always in concurrence with the law.

The pragmatism of witnesses who encountered the bodies of newly born dead infants regularly overshadowed formal hierarchies of patriarchy, gender, age, or social status, and informal negotiation was common. For example, witnesses such as young single servant men *and* women were accorded credibility by those around them when they participated in community investigations into suspected concealment. The treatment of infant bodies was often used as a way to pass judgement on culpability and to reconcile the conflicting interpretations within a community. Pamphlet accounts, on the other hand, embellished their accounts of infant bodies in horrific detail. Through depictions of the generic speech and gesture of ‘murdered’ children, authors passed moral judgement on the culpability of accused women, even if the courts did not convict.

Moreover, children themselves were regularly reported presence as witnesses to neonaticide. When they were too young to face questioning by a Justice of the Peace, they exerted agency through the speech and recorded testimony of others. Children were significant to the formation of emotional communities because they regularly witnessed emotionally charged situations while undertaking their daily duties. Intimacy was therefore central to the credibility of testimony through its absence and existence. Yet emotional communities of dissociative reactions to crime also had practical implications – after all emotional reactions were bound

up with the official prosecution process. Thus an emotional communities model requires some alteration to account for the practical contexts of intimate crime alongside the emotion.

In the introduction to the thesis, I suggested that a revision of emotional communities framework was required to account for the qualitative difference of legal records in comparison to the medieval source base that Rosenwein works from. I argue for the existence of 'intimate communities': where emotions, embodiment, and social relations interacted in the witness testimony of historical actors and across the textual record. Intimate communities can be detected because in both the printed and legal record, historical actors regularly interpreted gesture (hand-wringing, or kneeling next to the deceased, for example) and outward demonstrations of emotion (weeping; 'crying out'; breast-clutching) as indicative of inner feelings. Examples where this mode of understanding was especially evident included where people referred to and touched their 'hearts' to indicate extremely distressing emotions such as fear, grief, and shock. The model of intimate communities brings together historiographical trends from the history of emotion and those of early modern crime. It challenges received understanding of concealment and reconciles it with the significance of locality and emotion. Further questions now need to be asked in order to determine the extent to which dissociation was an emotional performance for other types of homicide, or indeed whether it was a recognised discourse in other crimes of interpersonal violence such as rape or robbery.

My final chapter considered two main issues. The first was to see whether the social, emotional, and physical characteristics of intimacy identified in cases of homicide operated in similar ways for serious non-violent offences. The second was the concept of betrayed intimacy, where I considered the ways in which intimacy could be used and abused to suit the needs of perpetrators. Betrayal was at the centre of legal records, primarily because the process of prosecution for treason relied on ordinary people to turn against their families and friends. Thus, I took as a point of departure more recent scholarship on offences against the coin where historians had adopted a cultural or gendered perspective, in order to

evaluate the relationships between coiners for a discussion of intimate crime.<sup>17</sup> This chapter drew together the four main themes of the thesis: the role of intimacy in the negotiation of social systems of patriarchy, the combination of the practical and the personal in languages of friendship, the importance of incidental witnesses and testimony, and the interaction between discourses of economic identity and intimacy.

Discourses of illicit labour, trust, and secrecy formed the basis of the intimate communities of coining. The stereotypical behaviour of coiners in printed literature as deceptive and manipulative reiterated the ‘otherness’ of the communities they created and showed that coiners had no qualms about betraying trusted confederates to escape punishment. Coiners defied and misused intimacy in their daily economic interactions and ‘friendships’ in order to commit their crimes, by bending their everyday economic relationships to suit the purposes of covetousness. This not only endangered the local community, it harmed the nation. Suspects attempted to use the concepts of honesty and industriousness to mitigate their culpability in court. These were also tempered to account for gender – the ‘painstaking’ work of women who participated in the makeshift economy, and then men who worked to maintain themselves and their families. Thus, similar types of friendships discussed in chapter two could also be utilised in order to commit crime. The language of brotherhood and friendship used by male coiners in order to recruit new associates in turn demonstrates the importance of narratives of male bonds to crimes other than manslaughter.

The knowledge of personal relationships in a community benefitted those who sought to abuse intimacy in order to portray themselves as innocent in court. As the *Sessions Papers* changed to become a more detailed, semi-official publication, writers lent more space to the emotional complexities of relationships implicated in prosecutions for coinage offences. Of course this did not mean that contemporaries did not engage in emotionally complex relationships before this

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<sup>17</sup> Malcolm Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge, 2000), chs. 4 and 5; Nicholas Tosney, ‘Women and “false coining” in early modern London’, *The London Journal*, 32 (2007), 103-123.

phenomenon. In fact, betrayed intimacies were recorded in the depositions of the London Mint long before the *Sessions Papers* began to comment on similar issues.

An aspect of continuity between the *Sessions Papers* and other forms of printed literature for coinage offences, such as broadside ballads, was the idea that economic responsibility and the morality of work contributed to depictions of culpability. Murder pamphlets implied in a similar way that the irresponsible handling of finance was an indicator of future danger and/or harm. These similarities prompt further examination into the weight that early modern society placed on outward economic prudence as indicative of inner character.<sup>18</sup> Moreover, the kinds of ‘invisible’ witnesses I identified in chapter three – such as children or young servants – were again glimpsed through incidental detail in the legal and printed record for coinage offences. This evidence reaffirms the status of tangential observers or witnesses under the age of discretion as valuable actors in cultural histories of crime. Furthermore, I demonstrated that in many prolific coining networks, especially those led by women, natural hierarchies of age or gender were once again adapted or even plainly ignored in situations where experience or knowledge took precedence. Overall, then, besides re-evaluating and challenging received knowledge of coinage offences in cultural and gendered terms, chapter four proves that the characteristics of intimacy identified in chapters one, two, and three existed across a broad spectrum of time, place, and criminal offences. I have therefore demonstrated my analytical framework to be a useful way of unifying strands in the historiography of early modern crime and providing nuance to current histories of emotion.

### Emotions, language, and Welsh ‘narratives’.

I argued in the introduction that I would take a novel approach to the source material by utilising some of the methodological strengths of the history of emotion. Each chapter has established varied ‘social worlds of emotion’, where contemporaries described or understood emotions and the relationships of others

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<sup>18</sup> See for example work by Alexandra Shepard: ‘Poverty, labour and the language of social description in early modern England’, *Past & Present*, 201 (2008), 51-95; with Judith Spicksley, ‘Worth, age and social status in early modern England’, *Economic History Review*, 64:2 (2011), 493-530; *Accounting for Oneself: Worth, Status and the Social Order in Early Modern England* (Oxford, 2015).

– this was most explicitly the case in the chapters that considered male-male homicide and coining.<sup>19</sup> I have also addressed problems in discussions of the emotions by historians of crime and violence in my consideration of scenarios differing from maternal child-murder. Where I have discussed the 1624 Concealment Act, I have not privileged the relationship between mother and child, but instead have contextualised subjective interpretations of concealment and newborn child death within a community framework. Furthermore, evidence I used to suggest that so-called ‘natural’ patriarchal hierarchies were flexible mainly came from my re-evaluation of typical emotional responses in the cases homicide. However, while the gendered contexts of everyday interaction informed women’s emotional language court testimony for counterfeiting and clipping, the authors of court proceedings did not judge such reactions in terms of patriarchal standards or see them as inferior for their feminine qualities. Therefore, across violent and non-violent offences, emotion played a significant role in the credibility of testimony and justification of certain behaviours in legal and cultural contexts. Historical actors adapted their own interpretations of outward emotional responses to suit specific legal and moral agendas.

I have shown throughout the thesis the wealth and qualitative difference of early modern source material for emotional analyses in comparison with their ancient or medieval counterparts. However, it is essential to reflect upon the limitations of gathering evidence of emotion using linguistic analysis, especially for the Welsh records where the recorded language of the document is not the language in which the statement was given. While texts and words are instrumental to understanding expressions of emotion, I shall finish by discussing some of the methodological issues encountered in the present study order to put forward some initial ideas about how future studies into emotion, intimacy, and crime may begin to address these.

I have been liberal with my use of ‘narrative’ and ‘fiction’ to describe the textual content of the Welsh depositional evidence and interpret how actors retold

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<sup>19</sup> Susan Broomhall, ‘Introduction: emotions in the household’, in Susan Broomhall (ed.), *Emotions in the Household, 1200-1800* (Basingstoke, 2008), 6-7; 11; 13.

stories of violence or illicit behaviour in a legal setting.<sup>20</sup> While it is important to emphasise the creative or constructed element of depositional evidence, I have argued that it is unnecessary to focus on whether such events ‘actually’ happened in the way they were described; I have been vocal in my assertion that the search for objective ‘truth’ in the depositional evidence is unobtainable (and unimportant).<sup>21</sup> I have also argued that the incidental – both linguistically and in the form of specific sorts of witnesses – is especially important for reading events ‘against the grain’ to detect everyday routines and relationships within the unusual and distressing.<sup>22</sup> While it may be possible in some circumstances to overstate the significance of the textual content of legal depositions for their ability to reveal ‘incidental detail pertaining to routine existence’, cases from the Great Sessions reported on the daily lives of children in cases of homicide and concealment. The examinations of Rowland Morgan in chapter two, or Rebecka Jones in chapter three, provide significant information about distribution of labour and participation in intimate communities by children and teenagers.<sup>23</sup> Moreover, the regular insertion of non-formulaic idiom or words into many of the Welsh records also demonstrates that the language of illicit behaviour was not always uniform between communities and authorities.<sup>24</sup> While the fact that silent translation from Welsh into English unfortunately loses most of the original Welsh vocabulary, the orality of the text is obvious, especially when actors used embodied language to refer to their emotions, or clerks rendered the depositions and examinations in the first-person.

Legal plausibility, however, was not the only motivation behind such narratives. As Steve Hindle has argued, examinations and depositions also spoke to what he calls the ‘moral community’, in which actors claimed that their own behaviour reached (or that the behaviour of others did not reach) certain moral standards of a particular local, gendered, or class group. My intimate communities

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<sup>20</sup> Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford, 1987), 3-5.

<sup>21</sup> Steve Hindle, ‘“Bleeding afreshe”? The affray and murder at Nantwich, 19 December 1572’ in McShane, Angela, and Walker, Garthine (eds.), *The Extraordinary and the Everyday in Early Modern England* (Basingstoke, 2010), 224-245/237.

<sup>22</sup> Hindle, 238,

<sup>23</sup> Cf. Dolan, *True Relations*, 116.

<sup>24</sup> Cf. Dolan, *True Relations*, 120.

framework accounts for this concept, through Rosenwein's acknowledgement of the importance of language and Broomhall's establishment of 'social worlds of emotion', to argue that intimate communities contained specific acceptable emotional standards or performances which could grant cultural, though not always legal, mitigation in certain criminal circumstances.<sup>25</sup> Therefore, my approach has not only been a search for embedded emotional language in subjective texts, but has shown that the Welsh 'narratives' and the circumstances under which they were produced interacted and informed each other in ways far more pronounced than their English counterparts.

While my intention here has been to produce a cultural analysis of intimate crime, with more space and time the textual should be combined with quantitative analysis of Welsh indictment rates for the post-Restoration period – a task begun by Sharon Howard, but that has thus far only included one sample county.<sup>26</sup> Moreover, the thesis has shown the need for further in-depth comparative study of assize depositions between England and Wales. While the English printed record has provided valuable insights into cultural discourses of gender, violence, and culpability, the specific characteristics that I have identified as being novel to the Welsh sources should be further scrutinised on a strictly comparative basis, and the linguistic peculiarities tested. For example, further investigation into how far gender influenced the inclusion of facial expression and interpretation of emotional countenance in witness testimony should be conducted to see if this was indeed a uniquely female phenomenon, as some notable examples here have indicated. Moreover, the ambitious geographical and chronological breadth of the present study has helped to expand the recent historiography of crime in early modern Wales. Not only have I produced gendered analyses which include discussions of male-male homicide and coinage offences – topics not before considered in a similar depth by scholars of early modern and eighteenth-century

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<sup>25</sup> Hindle, '“Bleeding afreshe”?' 237.

<sup>26</sup> See Sharon Howard, *Law and Disorder in Early Modern Wales, Crime and Authority in the Denbighshire Courts, c.1660-1730* (Cardiff, 2008). While Catherine Horler-Underwood has quantified women's crimes in Wales, the focus of the study is on the Great Sessions from 1730-1830 and does not integrate the study of masculinity and femininity in terms of cultural analysis. See, 'Aspects of Female Criminality in Wales, c.1730-1860: Evidence from the Court of Great Sessions', DPhil, Cardiff University (2014).

Wales – I have consulted cases from all three Welsh circuits over the period of an entire century.

In early modern and eighteenth-century England and Wales, the economic, social, and emotional spheres overlapped to produce many of the colourful and occasionally shocking examples of intimate crime herein uncovered. Thus, I shall end with the final stanzas of a ballad from 1697, *The Murtherer Justly Condemned*, which recounted the fate of a man named George Feast, who was executed for murdering his wife after she ‘justly reproved him’ for both his emotional and economic ‘neglect’ of their marriage [*italics are my emphasis*]:

His drunken debauchries now swarm in his *mind*,  
 And how he to her and himself was *unkind*,  
 By *spending his money so idley* on those,  
 That Lewdly had brought him to trouble and woes,  
 And though for Repentance it is not too late,  
 Yet death now looks terrible on lifes short da[t]e,  
 Then let all be warnd, etc.  
 [...]  
 Thus let all *rash men* well consider his fall,  
 How innocence loudly for vengeance dos call,  
 And *govern their passions* that bring them to *shame*,  
 For which when too late they themselves do much blame.  
 Consider how rashness brings *troubles and fears*,  
*Shame, ruin, and death*, it oft for them prepares,  
 Then let all be warnd how they rashly proceed,  
 Least trouble and anguish for them be decreed.<sup>27</sup>

Working within the analytical framework I have developed over the thesis, it is now evident where aspects of perceived internal states of mind (anguish; unkindness; rashness), economic wellbeing (spending money; idleness), and desired emotional performances of culpability (shame; fear), interacted in representations of crime between those who shared the most common of bonds (marriage in this example). Only through the lens of intimacy can such links be adequately identified and accounted for.

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<sup>27</sup> *The Murtherer Justly Condemned, or, An Account of George Feast, a Butcher of Shoreditch* (London, 1697).



## Primary Sources

### Manuscript

National Archives, Royal Mint records of prosecutions for coining offences. Depositions against, or by, counterfeiters sworn before Sir Isaac Newton, while Warden of the Mint, 1698 to 1706 (TNA MINT 15/17).

National Library of Wales, Court of the Great Sessions (NLW GS) Gaol Files

File Number	Sessions Date	File Number	Sessions Date
Anglesey		4/380/6	Apr 1753
4/250/1	May 1708 & Sept 1708	4/380/7	Aug 1753
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4/250/3	Apr 1730 & Mar 1732	4/381/3	Aug 1755
4/250/4	Sept 1732 to Apr 1734	4/382/6	Apr 1760
4/250/5	Sept 1734 to Aug 1736		
4/250/6	Apr 1737 to Mar 1740	Caernarfon	
4/251/1	Aug 1740 to Apr 1742	4/270/2	Apr 1718 & Sept 1718
4/251/2	Aug 1742 to Apr 1745	4/270/3	Mar 1730 to Apr 1732
4/251/3	Aug 1745 to Apr 1747	4/270/4	Aug 1732 to Apr 1734
4/251/4	Aug 1747 to Apr 1750	4/270/5	Aug 1734 to Apr 1736
4/252/1	Sept 1750 to Apr 1753	4/271/1	Sept 1736 to Apr 1738
4/252/2	Sept 1753 to Apr 1756	4/271/2	Aug 1738 to Aug 1740
4/252/3	Aug 1756 to Aug 1760	4/271/3	Mar 1741 to Apr 1743
		4/271/4	Aug 1743 to Apr 1745
Brecon		4/272/1	Aug 1745 to Apr 1747
4/373/1	Aug 1727	4/272/2	Aug 1747 to Aug 1749
4/373/2	Apr 1728	4/272/3	Apr 1750 to Apr 1753
4/373/3	Sept 1728	4/272/4	Sept 1753 to Apr 1756
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4/998/2	Apr 1715	4/1005/11	Sept 1759
4/998/3	Sept 1715		
4/998/4	Apr 1716	Glamorgan	
4/998/5	Sept 1716	4/606/1	Aug 1719
4/998/6	Apr 1717	4/606/2	Apr 1720
4/998/7	Sept 1717	4/606/3	Aug 1720
4/998/8	Mar 1718	4/606/4	Apr 1721
4/998/9	Sept 1719	4/606/5	Aug 1721
4/998/10	Mar 1719	4/606/6	Apr 1722
4/998/11	Apr 1720	4/607/1	Aug 1722
4/998/11A	Sept 1720	4/607/2	Aug 1723
4/998/12	Apr 1721	4/607/3	Apr 1724
4/998/13	Mar 1722	4/607/4	Aug 1724
4/998/13A	Sept 1722	4/607/5	Apr 1725
4/999/1	Apr 1723	4/608/1	Aug 1725
4/999/2	Sept 1723	4/608/2	Apr 1726
4/999/3	Apr 1724	4/608/3	Sept 1726
4/999/4	Sept 1724	4/608/4	Apr 1727
4/999/5	Sept 1725	4/609/1	Aug 1727
4/999/6	Apr 1726	4/609/2	Apr 1728
4/999/7	Sept 1726	4/609/3	Aug 1728
4/999/8	Mar 1727	4/609/4	Apr 1729
4/1000/1	Sept 1727	4/609/5	Aug 1729
4/1000/2	Apr 1728	4/609/6	Apr 1730
4/1000/3	Sept 1728	4/609/7	Aug 1730
		4/609/8	Apr 1731
		4/611/1	Aug 1735

<b>File Number</b>	<b>Sessions Date</b>	<b>File Number</b>	<b>Sessions Date</b>
4/611/3	Sep 1736	Montgomery	
4/612/1	Aug 1738	4/177/1	July 1730
4/613/1	Aug 1741	4/177/4	Mar 1732
4/613/6	Mar 1744	4/178/2	Mar 1734
4/613/8	Apr 1745	4/178/4	Apr 1735
4/614/2	Mar 1746	4/179/4	Mar 1738
4/614/4	Apr 1747	4/179/6	Apr 1739
4/614/6	Apr 1748	4/181/3	Aug 1743
4/615/2	Apr 1750	4/181/6	Mar 1745
4/615/4	Mar 1751	4/183/5	Aug 1750
4/616/1	Aug 1752	4/183/6	Mar 1751
4/616/6	Mar 1755	4/184/1	Jul 1752
4/617/1	Aug 1755	4/184/2	Mar 1743
4/617/2	Apr 1756	4/184/3	Aug 1753
4/617/4	Mar 1757	4/185/3	Aug 1756
		4/186/1	Aug 1758
Merioneth		Pembroke	
4/296/2	Sept 1702	4/810/1	Aug 1727
4/297/1	Mar and Aug 1705	4/810/2	Apr 1728
4/297/2	Apr and Aug 1712	4/810/3	Aug 1728
4/297/3	May 1722	4/810/4	Apr 1729
4/297/4	Mar 1725 to Apr 1726	4/810/5	Aug 1729
4/297/5	Sept 1726 to Mar 1727	4/810/6	Mar 1730
4/298/1	Sept 1727	4/810/7	Aug 1730
4/298/2	Mar 1730 to Apr 1732	4/813/3	Aug 1741
4/298/3	Aug 1732 to Apr 1734		
4/298/4	Aug 1734 to Sept 1736	Radnor	
4/298/5	Mar 1737 to Apr 1740	4/516/1	Aug 1730
4/299/1	Aug 1740 to Mar 1743	4/516/2	Mar 1731
4/299/2	Aug 1743 to Aug 1747	4/517/3	Sept 1734
4/299/3	Apr 1748 to Apr 1751	4/517/5	Sept 1735
4/299/4	Aug 1751 Apr 1753	4/517/6	Apr 1736
4/300/1	Sept 1753 to Apr 1756	4/518/2	Apr 1737
4/300/2	Sept 1756 to Mar 1758	4/519/1	Sept 1739
4/300/3	Sept 1758 to Aug 1760	4/519/6	Apr 1742
		4/520/4	Apr 1745
		4/522/1	Aug 1751
		4/522/8	Apr 1755

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