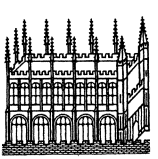
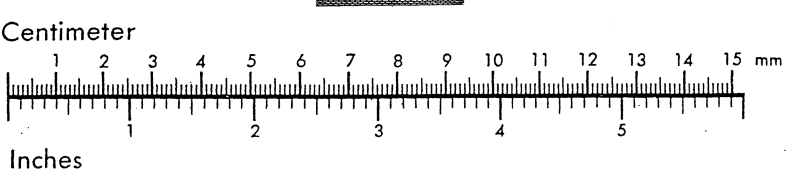
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Female Criminality

1780-1830



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M.Litt in Modern History

Michaelmas 1989 [i.e 1990]

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Abbreviations used:

Throughout this work I have used the following abbreviations;

i.To designate the location of primary source material;

B.L.	British Library.
PRO	Public Record Office (Chancery Lane).
CLRO	Corporation of London Record Office.
BCRO	Berkshire County Record Office.
Bod.	Bodleian Library Oxford.

ii. To refer to the four major courts studied;

B.qs	Berkshire Court of Quarter Session.
B.Assz	Berkshire Assize Court.
London, Peace	City of London Peace Sessions.
London, GD	City of London Gaol Delivery Sessions.

Abstract.

Title: Female Criminality, 1780-1830.

This thesis studies aspects of women's criminal behaviour during the period from 1780-1830, using the criminal court records from two juridical areas: the City of London and the county of Berkshire. It considers all types of indictable crime, that tried in the local quarter session court and in the assize (high) court. It first establishes the numerical significance of female crime, which accounted for as little as one tenth of all indictments, with some variation between different courts and urban and rural areas. It also establishes some characteristics of female criminals, their age, marital status and place of birth. Compared to men, women's crime was less concentrated in the years of early adulthood, though the ill-defined nature of marriage among the lower orders at this period makes it difficult to establish any firm conclusions about the influence of marriage on a woman's criminal career.

To attempt to explain these patterns, this work studies the social context of women's criminal activity, for this purpose separating property and violent crime. In the former case, a stress upon the practical, organizational aspects of crime suggests correlations between criminal potential and wider social freedoms. In the field of violent crime, women's involvement was more prevalent than might have been expected, challenging the notion that women's experience of violence is predominantly as a victim.

Finally, the idea that women's lenient treatment by prosecutors accounts for their absence from the criminal records is addressed. From media accounts of women's crime there is evidence of a general disinclination to invest women with any criminal potential. A study of sentencing patterns reveals that women were less likely to be harshly treated that their male counterparts, though with some variation between crime types. It is argued however that it is women's lesser criminal capacity, pre-determined by her social position, which creates these patterns, rather than the "chivalry" of male prosecutors.

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Michaelmas, 1989.

Abstract.

Female Criminality 1780-1830.

This thesis sets out to study the behaviour of women as criminals from the perspective of questions posed by criminology, and especially to suggest some explanations for gender differences in criminal behaviour. Criminologists have suggested a variety of means of explaining these differences, concentrating upon women's unique social position. The prime purpose of this thesis is to attempt to establish whether the sociological conclusions of criminology will stand application to a period in the past. If crime, and women's crime in particular, can be linked with anything other than biological determinants, as most modern analysts would argue that it can, then it should be possible to chronicle changes in criminal behaviour which stem from social change. If the assumptions of criminologists are correct, changes in women's social experience since the industrial revolution should have engendered changes in their criminal behaviour.

To throw into the sharpest relief possible the relationship between crime and social change, I have chosen to study a period characterised by rapid social change and upheaval, a time when ideas concerning women's place in society were increasingly coming under scrutiny. The fifty year period from 1780-1830 is the focus of this study: a period of social and political upheaval, in the wake

of the French Revolution and, in England, the Industrial Revolution. Although this thesis does not focus on regions that might seem to have been the most affected by industrialization, nevertheless one might still expect to witness the effects of the social and demographic changes which occurred during this period. I have chosen to study the two juridical areas of the City of London and the county of Berkshire. Since in fact, this study does not indicate a situation which varies greatly from that recorded in modern society by criminologists, one must draw one of two conclusions: either the link between criminal behaviour and social circumstances is fallacious, or at least less influential than previously assumed, or alternatively one must re-assess the actual degree of social change experienced by women from the late eighteenth century to the modern day. Throughout this work I have been inclined to favour the latter conclusion.

While the attempt to explain gender differences in criminal behaviour, a problem which has occupied the minds of criminologists since the nineteenth century, may appear to be an over-ambitious one, and is not one fully carried out here, this enquiry has nevertheless made it necessary to devise new ways of conceptualising the relationship between crime, criminals and society at large, which have implications beyond the boundaries of this study. One of the starting points of this research was the conviction that, though compelling to a greater or lesser extent when regarded from the male perspective, the majority of modes of explaining criminal behaviour were clearly inapplicable to the female case. This fact raises doubts about their validity as modes of explanation at all, though

this challenge has usually been avoided by simply discounting the female experience.

I have based this research on a quantitative analysis of the recorded incidence of women's crime, from petty breaches of the peace, occasioning only a warning from a magistrate, to murder resulting in death upon the gallows, though I have concentrated on indictable crimes. Data relating to all such offences can be found in the court rolls of the City and Berkshire, which by this period are well preserved and almost complete. Both in terms of the quantity and quality of criminal behaviour this analysis provided few surprises, and few striking contrasts with modern patterns of criminal behaviour. The only surprise is the regularity with which women were involved in crimes of violence, though admittedly of a petty nature. As in contemporary society women accounted for less than one-quarter of all offenders, and often markedly less.

This general picture of the continuity of women's criminal behaviour over the centuries is modified only by a consideration of some more specific characteristics of eighteenth and nineteenth-century criminals. During this period, a woman dwelling in an urban area was more likely to be criminal than her rural sister, while in both settings, she was likely to be aged nearer thirty than twenty, in contrast with both her male counterparts and her modern equivalents.

These findings posed a series of questions which prompted a closer inspection of how female criminals functioned in relation to other aspects of their social

experience. This thesis looks especially at the organisation and creation of opportunities for crime, and the range of social resources upon which different types of crime rely. To a great extent the criminal records themselves facilitate this approach, containing, as they do, a wealth of social detail incidental to the investigation of a crime. This is especially true of depositions, a source little previously utilized, but which has provided unique information about the context of offences. Depositions make possible a comparison of the ways in which men and women behaved as criminals, and by extension the ways in which this behaviour was linked to their wider social experience. Hence it becomes possible to suggest a clearer picture of the ways in which women might have been limited in their potential for crime by their social experience: where and with what they worked, and how they spent their leisure time. To this extent, apparently paradoxically, it is possible to view criminal ability as symbolic of the possession of positive social assets, significantly of the type which are denied in the punishment of a crime: freedom of movement, freedom of association and rights of privacy. This approach suggests that women may be less criminal because they are already in a guarded and protected social position, where they are denied full rights of citizenship. The ability to commit crime is only morally the antithesis of full citizenship; in practical terms, one can only actually and legally be criminal if one is in possession of a broad range of social freedoms. It is woman's exclusion from full participation in society which determines her non-criminal nature.

No historian can approach the task of documenting criminal behaviour, whether of men or women, without realising that by relying on the offences recorded in indictments and gaol calendars alone one cannot hope to comprehend the totality of potential or actual criminal acts. This problem is especially acute in the female case, as it has been suggested that people would have been particularly unwilling to prosecute women. All the conclusions in this work might be challenged on the grounds that, however women behaved, criminally or not, that behaviour was masked behind prevailing attitudes and the administrative practices of the law officials whose documents are studied here. It is impossible totally to deny this possibility, but I have attempted to explain the ways in which perceptions of women's crime might have influenced prosecutors and judges. My intention has been to cover as broad a range as possible of what one might loosely call "popular opinion", and indicate the ways in which this might have influenced the number and type of women who were prosecuted in the courts. It is at least possible that what kept women out of the criminal courts was less their failure to indulge in criminal behaviour than society's disinclination to recognize that behaviour as criminal, or worthy of punishment.

I have limited this work to the study of newspapers, trial reports and broadsheets relating to crime. I cannot claim to have made an exhaustive study of all shades of opinion, or even to have pin-pointed the variety of social strata in which such opinions were formed. In fact distinctions of this nature are hardly significant, as a relatively homogeneous body of opinion has emerged, sharing the basic presumption that women and criminality are antithetical. Hence it seems that

women might have avoided the stigma of criminality simply because society failed to recognize that they had any criminal potential sufficient to deserve the punitive response of the state. Certainly these sources reveal that women were less likely to be convicted even if committed than were men.

Popular assumptions tended to be couched in overtly moralistic terms, stressing women's essential goodness as the reason for her lack of criminal behaviour. In fact, it was less morality than their actual social experience which defined women's behaviour. Rather than being confined by her goodness, a woman was doomed to be "good" by virtue of her position in society. Ideology and reality converged in the individual decisions of those in whom the state vested the right to punish and prosecute criminals. The leniency of the courts towards women reflected the fact that society provided means of controlling women which precluded the need for the criminal code.

Introduction.

In the past few years, historians have documented the involvement of women in many spheres of social activity, and the ways in which this experience has changed over time, with particular reference to the impact of the industrial revolution and changing modes of production. I have chosen to study a period during which it has been alleged that women's experience was rapidly changing, to consider one aspect of women's experience which, as it turns out, appears to have changed little, namely the involvement of women in crime.[1]

In the main, crime has been viewed as a wholly masculine phenomenon. One of the earliest analysts of women's crime wrote of women that:

> "The female criminal is doubly deviant, both as a woman and as a criminal."[2]

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[1] It has recently been argued that in other spheres of activity women's experience has changed less than has been previously assumed, see: J.M.Bennet, "History that stands still. Women's work in the European past", Feminist Studies, 14 (1988).

[2] C.Lombroso & G.Ferrero, The Female Offender (London, 1895), pp. 151-2.

In contemporary society women account for only a small percentage of all criminals; the most recently available statistics reveal that women account for less than one third of all those receiving criminal sentences in Britain.[3] This relatively low rate of involvement has led to the exclusion of the female experience from debates about crime and its relationship to society, though as I shall argue later, this exclusion has an ideological, as well as a pragmatic cause.

Similarly, although criminal history is now a well-documented field of historical enquiry, very little attention has been paid to women's activities as criminals in the past. Moreover, the majority of explanatory models which have been used in an attempt to uncover the historical meaning of criminal behaviour manifestly fail to comprehend the very real differences between patterns of male and female crime.[4]

The aim of this research is firstly, to uncover in detail the patterns of women's criminal activities during one specific historical period, and then to look at ways of explaining criminal behaviour in general which are applicable to women, as it seems that the experience of women as criminals has important implications for theories concerning the relationship between crime and society.

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[3] T.Griffiths, Social Trends, 19 (1989), Table 12.8.

[4] Beattie's seminal work Crime and the Courts in England 1660-1800 (Oxford, 1986), devotes only ten of its six-hundred odd pages to female offenders, pp. 237-243.

In the past criminologists have explained female criminal behaviour as a distinct phenomenon, unrelated to either male crime, or wider social factors. They have relied on two main types of model; Theorists such as Lombroso, to whom I referred above, and twentieth-century writers, including Glueck and Eysenck, have argued that women are biologically non-criminal, their only deviant activities being rooted in their sexuality.[5] Others, such as Pollak, have argued less that women are naturally non-criminal, than that society persists in treating them as if they were. He argued that women, naturally deceptive, have succeeded in concealing their criminality from society in general, and have been able to do so because they are consistently treated "chivalrously" by male prosecutors.[6]

Much recent feminist criminology has been a direct response to theories such as these. Work by Heidenson, Smart and Adler has gone some way towards a greater integration of women's crime into criminological theory.[7] Adler for example suggests that women's minimal involvement in crime is a reflection of their marginal involvement in society as a whole. I shall be attempting to apply some of the theories generated by these criminologists, and to establish their

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[5] H.J.Eysenck, Crime and Personality (London, 1965); S.& E.T Glueck, Five Hundred Delinquent Women (New York, 1965).

[6] O.Pollack, The Criminality of Women (Philadelphia, 1950). For a recent discussion of the "chivalry" theory see E.A.Anderson," The chivalrous treatment of the female offender in the arms of the criminal justice system. A review of the literature", Social Problems, 23 (1976).

[7] B.Heidenson, Women and Crime (London, 1985); C.Smart, Women, Crime and Criminology (London, 1977); D.Adler, Sisters in Crime (London, 1975).

applicability to women's behaviour in the past.

Criminal historians have concentrated on explaining crime in terms of its relationship to broad social changes, rather than individual experience, the former being the easier to document. The fifty year period which is the subject of this thesis provides many examples of the type of social dislocation which has been associated with changes in criminal behaviour. It covers several periods of economic hardship; the last years of the eighteenth century, the end of the second decade of the nineteenth century and the final years of the 1820s. It also includes times of political unrest, commencing in the years of the Gordon riots and continuing through to the Peterloo massacre of 1819 and the agricultural unrest of the late 1820s. It comprehends several periods when Britain was engaged in continental warfare, and periods of transition from war to peace, such as the final years of the American Wars (1783) and the Napoleonic wars (1793/1805).

This is also a period when both governments and social commentators were preoccupied with social problems and social change, not least the apparent increase in crime. Similarly, a sense of social crisis encouraged the generation of new ideals of individual behaviour, including prescriptive demands detailing the role of women, coming mainly from the pens of evangelicals and middle-class reformers. The documents created in response to these fears and ideals are

a rich source of information about the social condition of the country, and provide an interesting backdrop to the reality of individual criminal behaviour.[8]

While this work is an attempt to document the social reality of women's criminal behaviour, the very nature of this search demands some appreciation of prevailing attitudes in that period. Historians have recognised the degree to which crime is in the eye of the beholder, arguing that the recognition of a criminal act is itself peculiarly dependant upon subjective and discretionary decisions by individuals.[9] This is an attempt to study both the social context of women's crime, and how popular perceptions of the female as a criminal shaped women's experience of the criminal law.

I have chosen two contrasting geographical areas as the basis of this research, in order to comprehend as broad a range of the female experience at this period as possible. London was an obvious choice due to the attention it has previously attracted from criminal historians and because of the wealth of its documentation. I chose the City of London because it offered the best surviving records of the two major London judicial areas, the City and Middlesex. Berkshire provided a rural and provincial contrast to the London material, and was also a rich source of data, though it cannot be taken as typical of provincial counties during this

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[8] A good example of social commentary written in response to a sense of social crisis is the work of J.Bowles, Reflections on the Political and Moral State of Society at the End of the Eighteenth Century (London, 1800).

[9] See J.A.Sharpe's discussion of the definition of a crime in his introduction to Crime in Early Modern England, 1550-1750 (London, 1984).

period. It was an area where the impact of industrialization was minimal, the main industries being brewing and spinning, while the majority of the population were involved in agriculture.[10]

This research relies primarily on the court records provided by these two areas. At this period the criminal courts were divided between upper and lower courts, the precise name and character of which varied from jurisdiction to jurisdiction: the upper courts tried all serious cases, mainly felonies which carried the death penalty, such as robbery, burglary, murder and thefts of more valuable property, while the lower courts tried all other offences, including thefts of lesser worth, minor assaults and other behavioural offences. The boundaries defining the type of cases tried in each court were less than clear in practice. In the City for example, nearly all cases of theft were drawn to the Old Bailey, rather than the lower courts.[11]

In Berkshire the criminal cases were divided between the assize (upper court), which sat twice yearly at Abingdon, presided over by two high court judges and the quarter sessions (lower court), which sat four times each year. The largest of the Berkshire towns had their own borough courts which replaced the quarter sessions court. In the City the courts were similarly divided, although the high court was the Old Bailey, where all serious cases from both the City and

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[10] W.Pearce, A General View of Agriculture in Berkshire (London, 1794).

[11] See J.Fletcher, "An account of the constitution and operation of the criminal courts of the Metropolis", Journal of Royal Statistical Society, Oct. (1846).

Middlesex were tried. This court heard cases eight times a year. The quarter sessions equivalent, the peace sessions, were held concurrently before magistrates sitting at the Guildhall.

To establish the overall patterns of offences at each of these courts, I have used the "minute books", compiled by the court clerk at every session, which record the details of all cases set down for trial, in a condensed form. For a more detailed study of female cases in particular, I have used indictments, the formal legal charge of the accused which was read out in court. I have also used the gaol delivery calendars compiled by the gaol keeper before each session, which recorded all those held in the gaol awaiting trial, or having been sentenced. Calendars were retained with indictments in the roll of documents relating to each session, and have a relatively high survival rate. These two sources provide, between them, more biographical details of individual criminals than can be obtained from the minute books alone, such as the age, marital status and employment of the accused. The quantitative data revealed by these sources form the main focus of chapter one, which establishes trends in indictments over time and patterns of criminal behaviour.

A further source of information about offenders which exists only for the City is the "Newgate Calendar". This lists in some detail all those imprisoned in Newgate at each court session, commencing in 1791. It includes some personal details of female offenders which are not found in any other source, such as their place of birth. Unfortunately by the early eighteen-hundreds the amount of

detail given about each offender decreases, however it does continue to record the ages of all the women in Newgate.

I have used a variety of other sources to illuminate the less formalised work of the courts in these two areas. In the Berkshire quarter sessions rolls house of correction calendars record those held awaiting trial, as well as the names of those who had committed minor offences and had been sent to the house of correction without trial, by one or two magistrates acting summarily between quarter sessions. These provide evidence of offences which were too petty even for the quarter sessions. Evidence of a similar range of crimes is provided in the City by the records kept by the Justices, who attended daily at the Mansion House and Guildhall to deal with all common grievances. Again these records provide evidence of the type of cases which were not of sufficient import to reach a formal court hearing. Offences of this nature are not the main focus of this work, but I have utilized these sources where they provide evidence which cannot be obtained elsewhere and in general terms to illustrate the full range of female offences.

Together these sources provide a wealth of information about women's involvement in crime. However, they provide little basis for explanation, or very detailed analysis. In chapters two and three, I shall turn to deal in more detail with the two major crime types, property crime and violent crime, but to do so I shall be relying on one further type of document found in the court rolls, depositions. These are the statements of witnesses to a crime, sworn before a magistrate, as one of the first stages in the formulation of a criminal case.

Depositions, unlike indictments, did not form part of the legal record of a case, and for this reason their rate of survival is not so high. They survive for as little as one fifth of all cases. They are invaluable as they provide the kind of details of a crime which cannot be ascertained from any other source. Social details concerning both the victim and the offender are often revealed as incidental evidence when witnesses give their accounts of a crime. Depositions can reveal exactly when and where a crime took place, the relationships between those involved, where they lived and how they spent their time. From these documents it is possible to provide not only a qualitative account of criminal behaviour, but also some type of social context. In the City the type of information provided by depositions can be augmented by the Old Bailey Sessions Papers,[12] printed transcripts of cases tried at the Old Bailey during this period, including statements by witnesses under examination in court. These papers are extant for the whole of this period and they become increasingly comprehensive in the percentage of all cases which they cover in detail.

In two final chapters, I shall be looking at the idea that women's presence, or absence, from court records was influenced as much by the way in which women were treated by those who enforced the law, as by the actions of the women themselves. It has been argued that women's constantly low involvement in crime can be explained by a general disinclination to prosecute women. Of course, it is not possible to document unprosecuted crime from these records, but

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[12] Properly referred to as: An Account of the King's Commission of Peace, Oyer and Terminer and Gaol Delivery of Newgate, held for the City of London and for the County of Middlesex at the Old Bailey from hence "Sessions Papers" as they are now conventionally called by historians.

it is possible to ascertain the actions and attitudes of those who did prosecute women. This in part entails a return to a more quantitative approach, analyzing the way in which women were sentenced for all types of crime by the criminal justice system. I have used recognizances, (legal records of those being bound to appear at each court session to prefer an indictment or present evidence to the court) to study the character of those who prosecuted women, and minute books and indictments to study the ways in which they were punished by the court.

Aside from legal documents, I shall also be using a variety of extra-legal sources to uncover evidence of attitudes to women in general and to women as criminals in particular. Newspaper reports of criminal cases can be used to the same end as depositions, but they also reveal prevailing attitudes and assumptions which surrounded the women convicted as criminals at this period, attitudes which might have affected the ways in which women were treated by the law, or indeed whether they were prosecuted at all. Newspapers were not the only medium which was concerned with crime during this period. Broadsheets and chap books catered to the popular taste for crime, while collections of trials provided an ostensibly less sensationalist interpretation of criminal cases.

From these sources I have been able to construct a detailed picture of the character of women's crime during this period, and working from this basis to suggest ways of conceptualising criminal activity which are applicable to the female case. This has implications for the understanding of crime in general, and the experience of women as criminals.

The very nature of this research implies that there was something unique about women's involvement in crime, such that their experience merits being treated separately from that of their male counterparts, as a distinct unit. While theorists have concentrated upon the class structure of criminal activity, it appears that gender is a far more decisive factor in pre-determining the likelihood of one's involvement in crime.[13] The distinctive nature of female crime can only be understood by constant reference to comparable male experience. Theories of women's crime have frequently been constructed with reference to the "norm" of male crime, and for this reason I have endeavoured to include as much information as is possible about equivalent male crime here. Of course, it has not been possible to deal with male cases with the same degree of detail as has been accorded the female. However, when arguments which I am presenting might equally well be applied in the male case, I have referred to this fact. At least in part, the aim of this study is to suggest ways of conceptualising crime which can comprehend both the male and the female experience.

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[13] For class based interpretations of crime see; E.P Thompson, Whigs and Hunters, the Origins of the Black Act (London, 1975) and collected essays in D.Hay at al, Albion's Fatal Tree. Crime and Society in Eighteenth-Century England (London, 1975).

CHAPTER ONE.

Quantitative Analysis and Basic Trends.

The focus of this thesis is not primarily the study of quantitative changes in the crime rate over time, whether for men or women. However, in this chapter I intend to establish some of the basic characteristics of female crime over this fifty year period, using records from the upper and lower courts in Berkshire and the City of London.

Approaches to criminal history have tended to be mainly quantitative in the past, but this has not meant that any solutions to the problems of interpreting criminal statistics have been found. Historians continue to debate the validity of criminal statistics as a measure of "real" crime rates, as do commentators on the contemporary scene.[1] The fundamental problem remains the so called "dark figure" of crime, ie those crimes which are either not detected or not prosecuted, and therefore which do not appear in any legal records of crime, but nevertheless existed as a social fact. This is further complicated by the fact that the

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[1] See for a range of opinions on this issue:
J.Beattie, Crime and the Courts in England 1660-1800 Intro, pp. 20-21; J.Sharpe's discussion of the definition of a crime, "History of crime in late medieval and early modern England. A review of the field", Social History , 7 (1982); P.Linebaugh, "Tyburn, a study of the labouring poor in London during the first half of the eighteenth century", (Warwick Phd. 1975), Intro; P.King, "Crime, law and society in Essex", (Cambridge Phd. 1984), Chap 2; V.Gatrell, "The decline of theft and violence in Victorian and Edwardian England and Wales", in Gatrell, Lenman and Parker, Crime and the Law. The Social History of Crime in Western Europe since 1500 (London, 1980).

relationship between prosecuted and unprosecuted crime is unlikely to be constant, as the types and number of crimes which are recorded vary due to factors totally unrelated to actual changes in criminal behaviour. These factors might include the increased vigilance, or the increased resources, of those who detect and prosecute crime. Such increases mean, however, only that more crimes are detected, rather than that more crimes are actually committed.[2]

Of course the further away one is temporally from this process, the more difficult it becomes to assess such external factors and their impact upon recorded levels of crime. Responses to this problem range from the pessimistic rejection of historians such as Tobias:

> "Criminal statistics have little to tell us about crime and criminals in the nineteenth century."[3]

to those like Wilson, who believe that with sufficiently detailed background information, interpretation is possible:

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[2] Hay argues that it is the response of "controlling agencies" which has most effect on recorded crime rates. D.Hay, "War, dearth and theft in eighteenth-century England", Past & Present, 95 (1982).

[3] J.J.Tobias, Crime and Industrial Society in the Nineteenth Century (Oxford, 1967), Chap 2.

"A thorough examination of local social and economic conditions is an essential precondition to the interpretation of criminal statistics".[4]

Gatrell and Hadden similarly advocate an approach which concentrates on a short time span, tempered with a sufficient sensitivity to influential factors. They argue that unless there is positive proof of the existence of external factors influencing recorded rates, it is legitimate to assume the changes in the crime rate are "real", ie that they represent a social rather than a legal and administrative change.[5]

Quantitative studies have relied on counts of indictments to indicate changes in crime rates. As the basis for this chapter, I shall be using both indictments from the sessions rolls and minute and order books; the latter provide a condensed list all those offenders whose cases were set down for trial at each session.[6] The correspondence between offences recorded in Order and Minute books and those found as indictments in the sessions rolls is not usually exact; offenders recorded in the minute books might appear on an indictment in the sessions rolls only at

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[4] S.Wilson, "The court of quarter session and larceny in Sussex, 1775 - 1820 ", Criminal Justice History, vii (1986).

[5] See Gatrell and Hadden,"Criminal statistics and their interpretation", in E.A. Wrigley, Nineteenth-Century Society (Cambridge, 1972), pp. 336-396.

[6] Berkshire data is taken from: Quarter Sessions; BCRO MF 6-10 Order Books, Q/sr Sessions Rolls, all sessions 1780-1830. Assize Sessions; PRO, Assize 2 Crown Books 1780-1805, Assize 5 Sessions Rolls, all sessions 1780-1830.
London Data is taken from: CLRO Peace Sessions; SMP Minute Books, SFP Sessions Files, 1780-1830. Gaol Delivery Sessions; SMG Minute Books, SFG Sessions Files, 1780-1830. Five yearly sample, commencing in 1780.

a later session, or not at all, and vice-versa. The degree of over-lap between these two sources varies from court to court; they correspond most closely in the City gaol delivery and Berkshire quarter session courts, in contrast the sessions rolls of the City peace sessions contain many more indictments than those recorded in the minute books, while the same is true of the Berkshire assize courts. For basic data comparing male and female offences I have relied on the information provided by the order and minute books, but for more detailed analysis I have included indictments found only in the sessions rolls. In all instances I have included all those charged with an offence and awaiting trial at each session, regardless of whether their cases ultimately reached trial, including those whose indictments were not found by the grand jury.[7] Due to the discrepancy in the number of cases brought before the City and Berkshire courts, I have taken five yearly samples of the City data, but yearly samples of the Berkshire data, including only indictable offences in both cases.

This research has highlighted some of the interpretive problems discussed above. This work is dealing not with a single judicial area, as previous studies have tended to do, but with a sub-section of the criminal population. Evidence has been culled from a variety of different courts, operating in two distinct geographical areas, each of which are likely to have their idiosyncratic means of defining and recording crimes. While of course, in principle they are all dealing with the same legally defined crimes, there is no means of establishing how far such definitions were uniformly implemented in the different courts.

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[7] The Berkshire assize crown books and the City peace sessions minute books do not list those whose bills were not found.

The focus of the Berkshire quarter session court differed from that of the London peace sessions, though in theory their criminal jurisdiction was identical. The crimes which the Berkshire court dealt with were overwhelmingly petty larceny cases, accounting for seventy - seven percent of the criminal business of the court. In contrast, the London peace sessions very rarely dealt with cases of theft, but were mainly involved in trying petty assaults. These made up eighty percent of all the criminal cases tried at the peace sessions. Contemporaries commented upon the fact that, in the City, the jurisdiction of the peace sessions was rendered practically redundant by the wide jurisdiction of the Old Bailey. It was in the Old Bailey that cases of theft perpetrated in the City were tried.[8] Some cases of petty theft in London are recorded in the minute books relating to the daily business of the magistrate at the Guildhall or Mansion House; however, records of these transactions have survived only haphazardly.[9]

These problems can be partially sidestepped here, by concentrating not on absolute levels of female crime, but rather on its relative level compared to male crime. It is, after all, this aspect of female crime which has most concerned criminologists, and which is the main issue which I shall be dealing with here. To this extent it is legitimate to rely to a great extent upon recorded rates, though it is possible that changes in recording procedure and prosecuting practices affected male and female crime rates in distinctive ways. A judicial

[8] See J.Fletcher, "A statistical account".

[9] CLRO Rough Minute Books, (237 E), extant for the years 1785, 1787, 1790, 1801, 1803, 1819, 1820.

effort directed at a field of crime in which men were already disproportionately involved would have the effect of independently increasing male indictments, for example. This possibility can be controlled for by comparing increases in different types of crime, as well as patterns for all crimes.

In this chapter I shall firstly consider changes in male and female criminal behaviour over time in relation to broad social and economic change, looking specifically at women's experience and the ways in which this can be related to their criminal behaviour. I shall then look more closely at the types of crime which women committed. My ensuing sections will involve a change of focus, moving to consider crime on an individual level, considering the personal characteristics of criminals, such as their age and marital status. These two contrasting perspectives are not discrete, as, for example, even in a period of social stress, there will nevertheless be some individuals who are more likely to commit crimes than others.

i. Male And Female Indictments.

Throughout this period, on both a regional and national basis, without exception, female indictments run at a much lower rate than male indictments. (See figures 1-3)[10] This supports the findings of historians whose work has concentrated on a

[10] Data from; (National) Parliamentary Papers, 1819 Accounts, Judicial Statistics 1819 xvii & 1826-7 xix 1805-1830; (Berkshire) BCRO, MF 6-10, Order Books 1780-1830, PRO Assi 5 Sessions Files & Assi 2 Crown Books, (City) CLRO SMG/SMP Sessions Minutes, Peace & Gaol Delivery, 1780-1830. Sample is taken at five yearly intervals in all cases. The national statistics refer to all those charged with serious

range of different periods and places; Johnson's work on Imperial Germany, Ruff's work on pre-revolutionary France and Diedrick's work on Holland during the nineteenth century reveal similar patterns.[11] Historians have also reached back into pre-industrial England, to establish whether the passive and non-criminal female is a creation of post-eighteenth-century industrial society and is related to the role of women in such societies. However, it appears that however far back one takes one's research women play a similarly minor role in criminal offences. Weiner found no evidence of more aggressive and criminal women in her study of Elizabethan Hertfordshire.[12] Hanawalt's study of female felons during the fourteenth century in England showed similar results. Women made up about one in ten of all offenders in her sample of indictable offences in eight English counties.[13] Amid what historians would consider to be extensive social changes, from the fourteenth to the nineteenth century, women's marginal involvement in crime appears to be relatively constant.

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offences.

[11] E.A.Johnson,"Women as victims and criminals; female homicide and criminality in Imperial Germany, 1873 -1914 ", Criminal Justice History, vi (1985). Women account for 20% of all offenders here; J.R. Ruff, Crime, Justice and Public Order in Old Regime France (London, 1984), Chap 4. Women make up about 11% of his sample; H.Diedricks, "Patterns of Law enforcement during the Ancien Regime. The Dutch case", Criminal Justice History, i (1980). Women account for 30% of commitments in urban areas, 20 % in rural areas; See also J.Beattie, Crime and the Courts pp. 237-43; G.Rude, Criminal and Victim (Oxford, 1985), pp. 41-5 and S.Pole, "Crime, society and law enforcement in Hanoverian Somerset, 1730-1820", (Cambridge Phd. 1983), p. 140, for English studies.

[12] C.Weiner,"Sex roles and crime in Elizabethan Hertfordshire", Journal of Social History, 38 (1975).

[13] B.Hanawalt, Crime and Conflict in English Communities, 1300 - 1348 (Cambridge, Mass., 1979), Table 5, p. 118.

One further common characteristic of female crime has emerged: women consistently make up a higher percentage of all indictments in urban than in rural areas.[14] A comparison of women's indictments in the City and Berkshire for this period reveals differences in metropolitan and provincial offenders, as Table One illustrates. Women account for seventeen percent and eighteen percent of indictments in the upper and lower courts in the City respectively, and only eleven percent in the Berkshire courts.

I have categorised the two areas which I am studying as metropolitan and provincial, as of course the Berkshire data includes cases from the large population centres in that county, along with those from rural areas. Unfortunately no data is available relating to the borough court of Berkshire's largest town, Reading. On examination of data which relates to three large population centres in Berkshire, however, it seems that the real distinction might be between rural and urban crime rates, as previous historians have suggested. Women make up a higher percentage of all indictments in the borough courts of Abingdon, Newbury and Maidenhead than they do in the quarter session court, which dealt with most of the rural parishes of the county. This is particularly true of Abingdon, where female indictments account for twenty - one percent of the whole, as Table Two illustrates. I shall later discuss possible explanations for these urban/ rural differences, which Beattie attempted to explain in terms of

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[14] See for example G.Rude's work on Gloucestershire Criminal and Victim ; J.Beattie,"The criminality of women in eighteenth-century England", Journal of Social History, 8 (1975); J.A.Sharpe, Crime in Early Modern England, 1550-1750 (London, 1984), Chap 4, and Johnson,"Women as victims and criminals".

Berkshire and City Courts.

Male - Female Indictments.

BERKSHIRE				LONDON			
Quarter Sess.		*Assize.		Peace.		Gaol D.	
Male	**Female**	**Male**	**Female**	**Male**	**Female**	**Male**	**Female**
3066	437	1701	170	831	173	2591	549
Male and female % of all Indictments							
89%	11%	89%	11%	83%	17%	82%	18%

Aggregate totals of indictable offences set down for trial at the City and Berkshire Courts, 1780-1830.

TABLE ONE.

Sample is five yearly for the City courts and yearly for the Berkshire courts commencing in 1780.
For these aggregate totals I have concentrated upon offences recorded in Minute and Order Books, with the exception of the Berkshire Assize courts, where I have used the indictments found in the Sessions Files to augment the data from the Crown Books as these cease to record all offences after 1805.
**(See Below)*
Sources;
Berkshire: PRO Assi 5, Sessions Files 1780-1830, PRO Assi 2, Crown Books 1780-1805.
BCRO MF 6-10, Order Books, 1780-1830.

City: CLRO SMG, Sessions Minutes, Gaol Delivery, 1780-1800.
CLRO SMP, Sessions Minutes, Peace, 1780-1830.

** Below I distinguish Berkshire Assize data before and after 1805, as it is possible that the sample of offences recorded changes when the Crown Books cease to be comprehensive.*

	Male Tot.	Female Tot.	Female %
1780-1805	623	81	11%
1806-1830	908	89	9%

Borough Courts.

Male - Female Indictments.

COURT	*MALE TOTAL*	*FEMALE TOTAL*	*FEMALE % OF ALL INDICTMENTS*
Abingdon.	*165*	*45*	*21%*
Maidenhead.	*136*	*22*	*15%*
Newbury.	*356*	*64*	*15%*

Data is available for;
Abingdon: 1780-1830 Sources; BCRO A/jq 1-2
Maidenhead: 1804-1830 BCRO M/jq s1-4
Newbury: 1780-1830 BCRO N/jq 1-2

In all cases I have included all sessions, yearly, indictable offences only, commencing in 1780.

TABLE TWO.

women's relative freedoms and especially their different work patterns in the town and countryside.[15]

ii. Long Term Trends And Social Change.

Quantitative studies of crime in the past have been concerned less with explanations for absolute levels of crime, than with explaining periodic fluctuations in the crime rate. I am interested in changes in male and female criminal behaviour during this fifty year period, less in order to explain causes of crime in general, than to compare and contrast the behaviour of male and female indictments, in the hope that this will suggest some fruitful ways of understanding female crime in particular.

For this discussion I shall largely ignore the data relating to the City peace sessions as these consist almost entirely of cases of assault, rather than property crimes. When discussing the relationship between crime and social change historians have tended to concentrate on property offences and it is these which I shall be focussing on here. Crimes of violence do not in general follow the

[15] See J.Beattie, "The criminality of women".

same patterns as property crimes, as data relating to the City peace sessions illustrates (see Figs 1-3).

It has often been presumed that female crime differs from male crime only quantitatively, its causation being in general identical to that of male crime. However, from figures 1-3 it is clear that female crime rates do not always mirror male rates exactly. A degree of divergence is particularly evident after 1815, in both the City and Berkshire courts.[16] From a starting level in 1780, male indictments steadily increase, with especially high levels of indictments in 1785, 1800 and a sharp increase in 1820. Female indictments follow these earlier peaks, but fail to shadow the final and sustained male increase after 1820.[17]

While one might expect a general increase in numbers of indictments at this period in line with population increases, shorter-term fluctuations in the crime rate cannot be explained so easily. Historians have suggested a variety of explanations for fluctuations in property crimes, the most common of which I shall consider here, concentrating on their relevance to patterns of female crime.

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[17] Data from the work of S.R.Wilson in the Sussex quarter session courts also reveals that indictments peak in 1820. See S.R. Wilson, "Petty larceny and the court of quarter session", pp. 75-6, Table 1.

Male & Female Commitments. Berkshire Courts. (1780-1830)

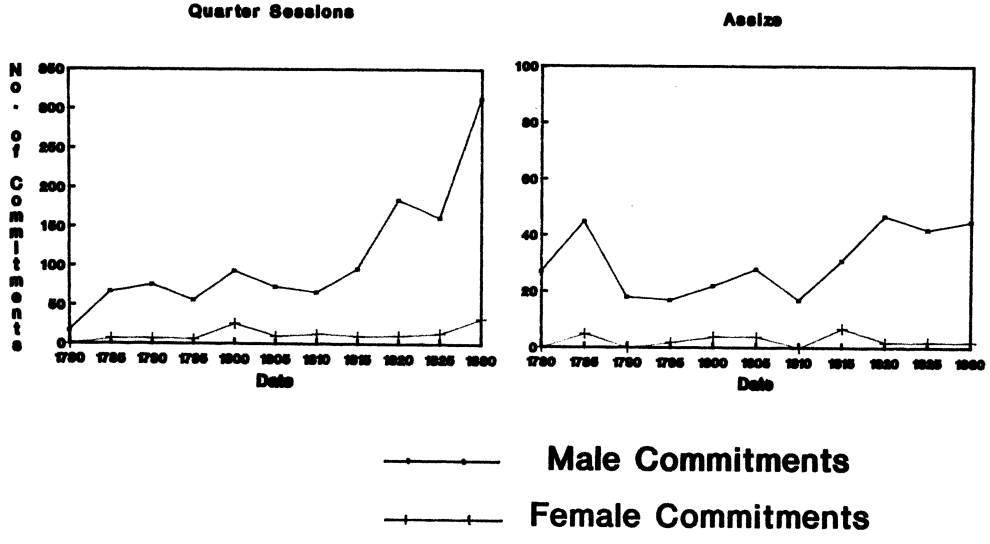


Figure 1.

Male & Female Commitments. London Courts.
(1780-1830)

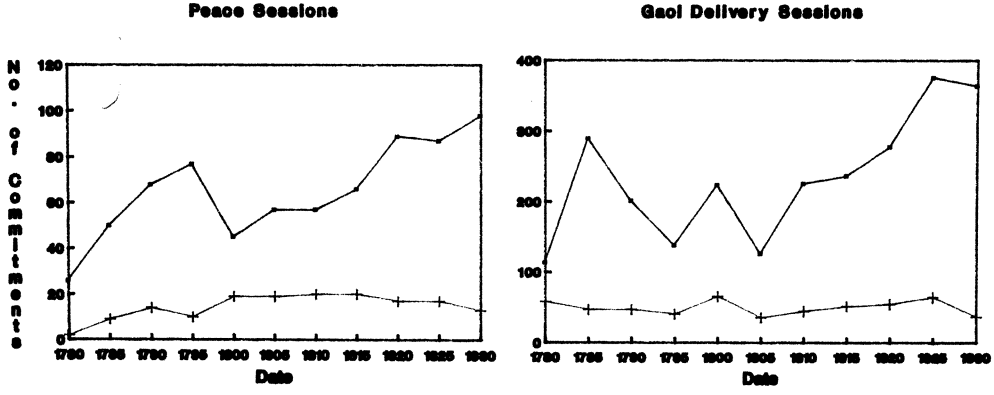


Figure 2.

Male & Female Crimes: National. (1805-1830)

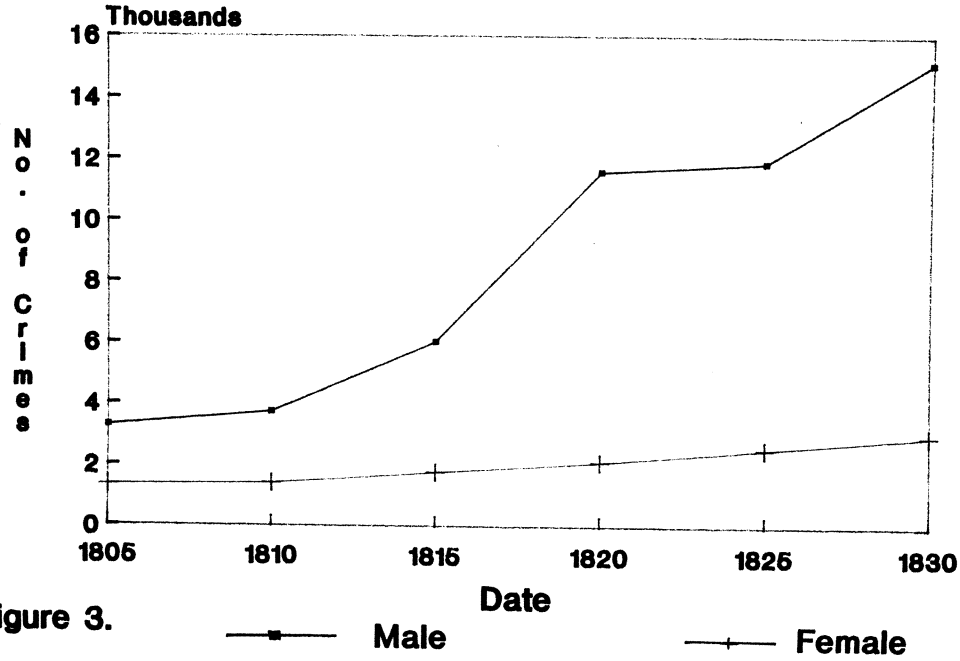


Figure 3.

a. Economic Deprivation and Theft.

One of the most common, if not the most common, way of attempting to explain fluctuations in the numbers of crimes committed in a given society has been to correlate changes in criminal behaviour with changes in the economic fortunes of the lower orders. This rests upon the assumption that crime is mainly motivated by material need, and so this type of explanation can only logically be applied to property crimes. However historians have generally concluded that it is difficult to establish any clear correlations between economic hardship and crime, though some assert that a proportion of all crime can be related to this cause.[18]

Nineteenth-century social commentators also sought to explain crime in relation to poverty. Colquhoun made explicit links between economic deprivation and crime in his writing on indigence.[19] In his work on the duties of a JP, Burn referred to the fact that theft might be motivated by hunger, though he emphasised that it should nevertheless be treated as a crime.[20] Those who compiled the Board of Agriculture Reports in 1816 made the same assumption:

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[18] See for a variety of opinions; D.Hay," War, dearth and theft in eighteenth-century England"; P.King, "Crime, law and society in Essex", Chap 2; R.Williams, "Crime and the rural community in eighteenth-century Berkshire", (Reading Phd. 1985), p. 253; P.Linebaugh, "Tyburn", Intro.

[19] P.Colquhoun, Treatise on Indigence (London, 1806).

[20] R.Burn, The Justice of the Peace and Parish Officer (17th Ed. Lond., 1793).

> "The increased business of the quarter sessions for trifling offences, shows the wretched state of the poor and how badly they are supplied."[21]

The main periods of economic hardship during the fifty year period which I am studying, were the final years of the eighteenth century, the period from 1817 to 1821 and the late 1820s. These periods do correspond with periods of increased criminal activity for both men and women (see figs 1-3). This suggests that both male and female crime was reacting to the same economic stimuli. Gatrell and Hadden have claimed that women's crime was identical to male in this respect:

> "No less than men, women stole more frequently in times of depression than in times of prosperity."[22]

That this is so challenges one general explanation for all female criminal behaviour, namely that women are less criminal because they are less likely to suffer economic deprivation. Weiner argues that female crime was distinct from male crime during the seventeenth century because women's economic position was different. In her view women were economically more protected than their male counterparts and this meant that they were also less criminal.[23] Although

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[21] "The state of the kingdom", Board of Agriculture Reports (1816).

[22] See Gatrell and Hadden, "Criminal statistics", p. 369.

[23] See C. Weiner, "Sex roles and crime in Elizabethan Hertfordshire".

her work is instructive to the extent that it attempts to link female crime to a distinct female experience, it is not wholly convincing nevertheless. In fact it is possible to argue that, rather than being economically protected, it was women who bore the brunt of periods of economic stress. This was asserted by contemporary commentators, including the Rev.Clay who wrote that:

> "Everyone conversant with the conditions and habits of the poor knows that when distress falls upon families, it is the mothers who feel it the most poignantly."[24]

The idea that women were in an economically favourable position is derived from the assumption that they could rely upon a male breadwinner for their support. From evidence which I shall be discussing in more detail later, this assumption appears to be false on two counts: firstly because women themselves played a critical part as wage earners and economic managers within the family; secondly because, even if the woman was theoretically the subordinate partner in a family economy, there were many contexts in which women were left to support themselves, while as independent workers women were unable to command wages as high as those of men.

Recent work concerned with women's changing role during the industrial revolution has stressed the positive participation of women within the family

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[24] J.Clay,"On the effect of good or bad times on committals to prison", Journal of Royal Statistical Society, March (1855).

economy.[25] It has been argued that women's presence in bread riots indicates their positive role as economic agents.[26] Tebbutt, in her study of the use of pawnbrokers by the poor, alleges that women controlled the family budget and the consumption of the family as a whole.[27] There were also many occasions when women could not rely on any source of income other than that won by their own labour; as single and even as married women, women could not always rely upon a male breadwinner.[28] As independent producers women were more vulnerable than their male counterparts, as men were always able to squeeze women out of an overcrowded labour market. This phenomenon was recorded by the Board of Agriculture in 1816:

> "Strong and able men are now employed in picking stones etc, which would otherwise have been done by women and children, for whom work can no longer be found."[29]

Historians have found much evidence to support claims such as these. Malcomson suggests that women were more liable than men to serious

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[25] See for example E.Higgs, "Domestic service and household production", in A.V.John (Ed), Unequal Opportunities. Women's Employment in England 1800-1918 (Oxford,1986); L.A.Tilly and J.W.Scott, Women, Work and the Family (Lond., 1978).

[26] J.Bohstedt, "Women in English riots, 1790-1810", Past & Present , 120 (1988).

[27] See M.Tebbutt, Making Ends Meet. Pawnbroking and Working Class Credit (Leicester, 1983).

[28] See discussion later for evidence of instability of lower-class marriage during this period.

[29] "The state of the kingdom", Board of Agriculture Reports (Lond., 1816).

impoverishment.[30] Kussmaul reveals the differences in male and female wages during the latter part of the eighteenth century. Taking data from Lincolnshire she gives, for the period from 1768-1785, the wages of a male labourer as 6.5s per annum, with the female equivalent being 2.15s.[31] In his study of London during this period, Schwartz makes the point that casual work was always more readily available to men than to women in the Metropolis, a point further emphasised by Place, in his comments on working class life:

> "The number of male beggars is considerably smaller than that of females, men have more means of employment than women, a single woman more than a married woman and especially those who have children. The great number of widows amongst the beggars may be accounted for by their frequently being advanced in life and in many cases having children to provide for."[32]

Women would have been especially vulnerable when they could not rely upon a husband or some form of family network, as women's wages were regulated with the presumption that hers was a subsidiary, rather than a breadwinner's wage.

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[30] R.W.Malcomson, Life and Labour in England 1700-1780 (Lond., 1981), p. 79.

[31] A.Kussmaul, The Case of Servants in Husbandry in Early Modern England (Cambridge, 1981), p. 37, Table 3.1.

[32] See L.W.Schwartz, "The condition of life & labour in London c.1770-1820" (Oxford D.Phil. 1976), Chap 2; B.L. Add. Mss 27830, (Place Papers) f vi : "Beggars."

Reports from the Society for Mendicity show that a large proportion of the women to whom that society administered had lost their husbands.[33]

In reality the majority of female members of the lower orders would have been sufficiently economically marginal to ensure that theft was always an attractive means of obtaining goods, hence women's marginal involvement in crime cannot simply be explained as the concomitant of a favoured economic position. I shall be examining other possible explanations in a later chapter.

b. War and Increases in Crime.

Historians have not simply relied on economic explanations for fluctuations in the crime rate, but have attempted to associate crime with other types of social dislocation, particularly the dislocation attendant upon warfare.[34] It has been persuasively argued that crime rates were artificially low during periods of war because of the absence of a large pool of potential criminals, who were enlisted into the armed forces. Periods of peace on the other hand, meant that returning conscripts flooded the employment market. The conscript's difficulty in finding

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[33] First Report of the Society for the Suppression of Mendicity Appendix, (Lond., 1819).

[34] See J.Beattie, Crime and the Courts pp. 213-235 ; D. Hay, "War, dearth and theft", p. 138. Hay estimates that as many as 30% of the (male) adult poor were enlisted; P.King,"Crime, law and society", Chap 2. For a more detailed discussion of the relationship between wartime experience and crime see D.A. Cohen, "A fellowship of thieves. Property criminals in eighteenth-century Massachusetts", Journal of Social History, Fall (1988); for a conflicting opinion see J.Innes and J.Styles, "The crime wave, recent writing on crime and the criminal law", Journal of British Studies, (1986).

employment and the contacts which he had made while at war were a positive incentive to crime.

Initially it would seem that this argument is not applicable to women, although it does appear to be plausible in the male case. Years of change-over from war to peace during this period were: 1783, 1802 and 1815, all of which coincide with high levels of criminal activity. While women did not experience warfare directly themselves, nevertheless periods of warfare were likely to have affected them in indirect ways. Women whose husbands were away from home fighting as soldiers and sailors were left without the main family wage-earner. The plaints of many of the women who attempted to justify their thefts in front of the Old Bailey judges bear ample witness to the plight of many such abandoned wives.[35] Examinations of female paupers also reveal the vulnerability of wives left by conscripted husbands. Sarah Kewser appeared before the Newbury magistrates in 1783 as a vagrant and claimed that her (common law) husband had left her and travelled off with the militia.[36] Figures One - Three do not provide any clear evidence of a link between periods of warfare and increases in female crime, however, I have not attempted to apply detailed statistical analysis of the kind which led Hay to his conclusions about the relationship between war and property crime.[37] Moreover, though my data consists mainly of property

[35] There are many examples of such pleas in the Old Bailey Sessions Papers, which recorded the defence of the accused.

[36] See BCRO, N/jq 15/1.

[37] Hay, "War, dearth and theft".

offences, it is possible that the inclusion of crimes of violence obscures any patterns.

c. Procedural Changes and the Recorded Rate of Crime.

I have been discussing the social and economic factors which might have influenced the "real" rate of criminal activity. It is possible however, that fluctuations in recorded crime rates are no more than an artefact, resulting from changes within the legal procedure itself. The fifty years covered by this research comprehend periods of intense reforming activity in the field of the criminal law and law enforcement, from the institution of the stipendary magistrates in Middlesex in 1792 to reforms of the criminal law in the 1820s and the establishment of the first professional police force in London in 1829.[38]

Of all the factors influencing the crime rate, it is the impact of changes in prosecution practices which are the most difficult to analyze. Administrative changes are more likely to engender long-term change than periodic fluctuations, while an increase in judicial effort at certain periods might explain shorter term changes.[39] Historians are divided as to the likely impact of changes within the prosecuting system on crime rates. Hay argues that, during the eighteenth century at least, the individual and non-centralised nature of the prosecution

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[38] The 1829 Police act did not apply to the City.

[39] See P.King,"Crime, law and society", Intro; D.Hay, "Crime and the administration of the criminal law", Chap.1.

procedure made it relatively immune to attitudinal changes among prosecutors because these are unlikely to have been sufficiently widespread to make a difference. Yet there is at least one period of high indictment levels in both the Berkshire and City courts, which coincides with what one might reasonably term a period of "moral panic." The high numbers of indictments preferred in the period from 1818-1821 coincide with a period of political unrest, at a time when the response of Liverpool's Tory government was repressive rather than reformist.[40] It is interesting that at this period it is male, rather than female, crime which was increasingly prosecuted. This suggests that at times of crisis it is fears of male rather than female criminal activity which loom largest. In ensuing chapters I shall return to discuss how conceptions of male and female crime and their relationship to society differed, and the effect which this might have had on levels of prosecution in both cases. The male and female experience of 1818-1820 suggests that if a period of social crisis encourages criminal prosecutions, it is against male criminals that social fears will be directed.

Aside from attitudinal changes among those who prosecuted crime, the impact of reforms within the criminal law also needs to be considered. Much recent research has moved away from a "whig" approach to argue that reforms during this period were less decisive and had a more gradual impact than has previously

[40] This period includes the suspension of "habeas corpus" in 1818 and the "Six Acts" of 1819.

been supposed.[41] They stress that many reforms represent less a radical change in practice than changing attitudes and expectations. In his study of London crime, Linebaugh argues that neither changes in the law, nor in the personnel of law enforcement, can explain the behaviour of the crime rate during the eighteenth century.[42] Data relating to the City during this period does provide some examples of an increase in indictments for certain types of crime, which would appear to be the result of a novel deployment of the law. Prior to 1820, very few men were accused of larceny from the person, whereas there is a dramatic increase in prosecutions for this offence from 1820 onwards. This change is best explained by the abolition of the death penalty for this offence and a broadening of the scope of the law dealing with pick-pockets in 1808.[43]

iii. The Crimes Which Women Committed.

In searching for ways of explaining male crime, historians have appreciated that different types of crime might be subject to diverse social and economic influences.[44] I have so far discussed female crime as if it were a homogeneous

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[41] See R.Paley, "The Middlesex Justices Act of 1792", (Reading Phd. 1983); J.Styles, "The emergence of the new police, explaining police reform in the eighteenth & nineteenth centuries", British Journal of Criminology, 27 (1987).

[42] P.Linebaugh,"Tyburn", Chap 1, "Secular and seasonal movements".

[43] See L. Radzinowicz, History of the English Criminal Law (vol 1, Lond., 1948), "The movement for reform", pp. 497-9.

[44] See J.Rule, "The manifold causation of rural crime. Sheep stealing in England c.1740-1840", in J.Rule (Ed) Outside the Law. Studies in Crime and Order 1650-1850 Exeter papers in Economic History, 15 (1982).

unit. In fact this is the way it has tended to be seen by theorists, and was certainly viewed by contemporaries. This undifferentiated approach is exemplified by the fact that, while nineteenth-century gaols insisted on the segregation of male criminals depending upon the type of crime which they had committed, women were routinely thrown together in the women's quarters.[45] The explanation for this lies, of course, in the relatively low number of female prisoners; however one should not confuse a paucity of numbers with a lack of variation among female prisoners.

Historians have accepted the need to differentiate between types of male criminals, having recognised that different types of crime might need distinct explanations, and that different types of criminals might commit the same crime but in different circumstances.[46] However, the same approach has not been adopted in respect of females. Theorists have tended to assume that it is possible to identify one aspect of the female character or condition and thereby explain at a stroke all female criminal or non-criminal activity. In fact there is no reason why women's absence from one type of crime should imply their absence from another. It is difficult to see, for example, how a disinclination to commit theft can be related to a disinclination to commit assault.

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[45] See E.Fry, Observations on Superintendence, Government and Visiting of Women Prisoners (London, 1827). For a recent commentary on the way in which women were treated once inside penal institutions, see L.Zedner, "The criminality of women and its control in nineteenth-century Britain", (Oxford D.Phil. 1988).

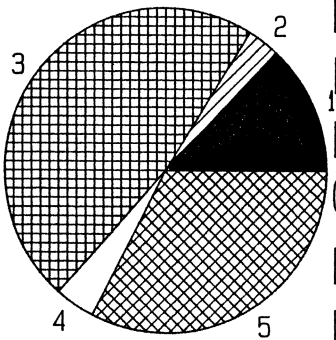
[46] See D.Hay, "Crime and the administration of the criminal law", Chap 3.

In order to establish which types of crime women were mainly involved in, or indeed absent from, I have calculated the dispersion of female crimes between types in both Berkshire and the City. I have concentrated on indictable crimes. (see Figures 4-5 and Table Three below). It is evident from Table Three that in both locations it was property crime which accounted for the majority of female indictments. Men were equally heavily involved in property crime, but were more likely to be indicted for the most serious types, eighty - two percent of male indictments during this period in the City were for serious (and mainly capital) crimes, compared to sixty percent of female indictments.[47] Women were mainly involved in petty larceny, while men were more likely to be indicted for both grand larceny and aggravated forms of theft, though women dominated in thefts from shops and houses. It is the task of the next chapter to account for the different types of property crimes in which men and women were involved. There is little difference in each sex's involvement in crimes of violence, save the fact that women were more likely to be tried for petty than felonious assault.

There are also some differences in the crimes for which women were prosecuted in Berkshire and the City: overall women were more likely to be indicted for both felonious and capital crimes in the City than in Berkshire. It is possible that this is the result of procedural differences; especially the previously noted tendency for all property crimes to be tried in the Old Bailey in the City. These differences might also be explained by differences in the types of goods to

[47] See appendix 1.i. for the equivalent dispersion of male crimes.

Fig. 4 Female Crime Dispersion: Berkshire (Major Crime Types)



Property Crimes:

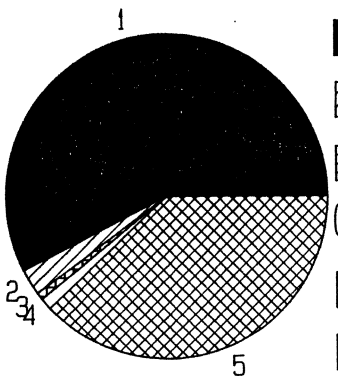
1. Grand Larceny (Larceny from house/shop/person) (16)
2. Burglary/Breaking & Entering/ Robbery (4)
3. Petty Larceny (58)

Crimes of Violence:

4. Infanticide & Murder & Felonious Assault (5)
5. Non Felonious Assault & Riot (40)

Total No. of Cases = 123

Fig. 5 Female Crime Dispersion: London (Major Crime Types)



Property Crimes:

1. Grand Larceny (Larceny from house/shop/person) (481)
2. Burglary/Breaking & Entering/ Robbery (22)
3. Petty Larceny (6)

Crimes of Violence:

4. Infanticide & Murder & Felonious Assault (10)
5. Non Felonious Assault (318)

Total No. of Cases = 837

Rural And Urban Crime Types.
Female.

CRIME	*LONDON*		*BERKSHIRE*	
GRAND LARCENY	*397*	*47.4%*	*9*	*7.3%*
BREAKING & ENTERING	*7*	*1 %*	*4*	*3.3%*
LARCENY FROM HOUSE/SHOP	*53*	*6 %*	*3*	*2.4%*
LARCENY FROM PERSON	*31*	*3.7%*	*4*	*3.3%*
ROBBERY/ BURGLARY	*15*	*1.8%*	*0*	
INFANTICIDE	*2*	*0.2%*	*4*	*3.3%*
MURDER	*1*	*0.1%*	*1*	*0.8%*
FELONIOUS ASSAULT	*7*	*1 %*	*0*	
NON FELONIOUS ASSAULT	*309*	*37 %*	*34*	*27.6%*
PETTY LARCENY	*6*	*0.7%*	*58*	*47.2%*
BREACH OF PEACE	*9*	*1 %*	*6*	*4.8%*
TOTAL	*837*	*100*	*123*	*100*

TABLE THREE.

Indictable offences of which women were accused in the Berkshire and City courts, 1780 - 1830.

Sample is five yearly all sessions, commencing in 1780.
Sources: Berks: PRO Assi 5 (Sessions Files,) 1780-1830 & Assi 2 (Crown Books) 1780-1805. BCRO MF 6-10 Order Books, 1780-1830.
City: CLRO SFG (Sessions Files, Gaol Delivery) & SMG (Minute Books, Gaol Delivery), SFP (Sessions Files, Peace) & SMP (Minute Books, Peace), 1780-1830.

which women had access in both situations, as the division between grand and petty larceny was based upon the value of the goods stolen. Of other types of property crime, larceny from the person was equally common in both situations. However, thefts from shops and dwelling/ lodging houses were more common in the City. I shall return to explain the context for these differences when I discuss property crimes in the ensuing chapter.

iv. Female Criminals.

a. Age.

Aside from establishing long-term trends, court rolls can help to establish characteristics not only of crimes, but of those committing crimes. House of correction calendars, which recorded all those held in local gaols and houses of correction, included the age of accused women, while indictments record the occupation of all male offenders and the marital status of all female offenders.

Gaol delivery calendars were drawn up to record all those currently held in local gaols and houses of correction pending trial, as well as those already sentenced and incarcerated and those committed for summary offences. In the City age was also recorded in the Sessions Papers in the latter half of this period (from 1795), but only if a conviction was obtained.

Historians and criminologists have established that aside from social trends, patterns of criminality are also linked to personal characteristics of criminals themselves. It was established by nineteenth-century social observers that the peak age at which crimes were committed was from twenty to twenty - five, while it appears that at present younger criminals are becoming more and more common. The most recent statistics, relating to 1987, give seventeen to twenty - one as the age of peak criminal activity.[48] The majority of modern studies use samples based on male offenders. Those who have studied women suggest that they are likely to commence their criminal careers at a later age.[49] This fact was also remarked upon during the nineteenth century. One of the most sophisticated commentators on female crime then wrote:

> "In both England and France, crime develops at an earlier age among men, and prevails to a greater extent among females at more advanced periods of life."[50]

Historians have also concentrated upon the age of male offenders. King used transportation records to establish that men were most likely to be convicted of

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[48] H.Mayhew and J.Binny, Criminal Prisons of London and Scenes of Criminal Life (London, 1862), pt II. (They give the average age of criminals as 15 - 25); Statistical Trends, 19 (1989), Table 12.8.

[49] See A.K.Bottomley and K.Pease, Crime and Punishment. Interpreting the data (Oxford, 1986), p. 15; Pollak links female crime with stages in their reproductive cycle, and so claims that married women are more likely to be criminals.

[50] Rawson.W.Rawson,"Statistics of crime in England and Wales", Journal of Royal Statistical Society, iii Oct. (1839).

crimes between the ages of twenty and twenty - five. His current research suggests that during the early years of the nineteenth century, the mean age of those involved in crime was decreasing, as more and more juveniles were convicted.[51]

I have attempted to establish whether women fit into the same patterns of age-related crime. These biographical details are important because they might provide some clues about the context and motivation for criminal activity, as age can be related to social experience and lifestyle. The mean age of prosecuted women was about thirty (see Table Four). Information from the Sessions Papers supports these figures. The average age of the women tried there was also about thirty.[52] This is significantly older than the male peak age suggested by King, and certainly older than contemporary averages. However, in accordance with King's present theories, no less than the male mean age, the female mean age does decrease during this period.[53] The modal age decreases from twenty - five to thirty in the earlier part of this period, to less than twenty by 1830.

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[51] P.King, "Crime, law and society in Essex", chap 3, and unpublished work relating to juvenile offenders from Newgate Calendar, PRO HO 26 1 - 30; S. Pole, "Crime, society and law enforcement", Graph v.6.

[52] I have taken a sample of one session (April) at ten yearly intervals commencing in 1780, giving a total of 116 cases.

[53] King used the Newgate Calendar to establish his conclusions, and this has proved to be one of the fullest sources of age data. I took samples at five yearly intervals, three sessions per year (Sept, Oct, Dec) commencing in 1792 of City cases, giving a total of about 2000 women.

Female Criminals: AGE.

COURT	*BERKSHIRE*		*LONDON*		
H OF CORR		*ASS*	*SMP*	*SMG*	*NEWGATE*
MEAN AGE	*29*	*26.8*	*34*	*33*	*25-30*
TOTAL IN SAMPLE	*235*	*26*	*174*	*207*	*2378*

The mean ages of women held in the Berkshire & City Gaols.

TABLE FOUR.

Data from the Newgate Calendar is based on sample of three sessions per year (Sept, Oct, Dec.) taken at five yearly intervals commencing in 1792.
Data from the Berkshire House of Correction and the City Peace Sessions Calendars includes the ages of women held for summary offences in these gaols. I have taken one House of Correction Calendar per year from the Berkshire Sessions Rolls, commencing in 1780, though calendars are not extant for the years:1780,1781,1810,1814,1815,1823-5,1830.
Berkshire Assize data is drawn from Gaol Calendars recording those held for trial at Assize sessions, taken at three yearly intervals, where Calendars are extant:1786,1789,1798,1801,1804,1807,1816,1819,1822.
The City Compter Calendars record the ages of women held only from 1820. Sample is five yearly, 1820-1830.
City Gaol Delivery data is taken from the Sessions Papers, though these record only the ages of those who were convicted. Sample is five yearly, commencing in 1795.

Sources;
Newgate Calendar PRO (Kew) HO 26, 1792-1830.
Berkshire Gaol Delivery and House of Correction Calendars, BCRO Q/sr, Sessions Rolls, 1780-1830.
City Compter Calendars CLRO SFP, Sessions Files 1720-1830.

b.Marital Status.

In an attempt to explain the preponderance of younger men in the criminal courts, criminologists have suggested that marriage is a critical caesura for men involved in criminal activities. Marriage appears to act as a natural social break upon a male's criminal activities. This must be related to other changes in lifestyle associated with marriage. This age data suggests that the same was not true for women, during this period at least. The average age of marriage at this period is generally considered to be about twenty - four for women (though age at marriage was falling during the early nineteenth century).[54] Yet as we have seen, the majority of women committed crimes when they were several years older than this. The significance of marriage to women's criminal behaviour can be further explored using information provided by indictments.

Indictments include details of the occupation of all men who appeared before the courts, but when the accused was a woman, they described her instead in terms of her marital status, and included the occupation of her husband if she had one. Legally a woman's status altered dramatically on marriage, her legal identity being subsumed under that of her husband. By judicial convention it was accepted that if a woman committed a crime in the company of her husband, the culpability lay entirely with him, though this does not appear to have prevented

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[54] See Gillis, For better, For Worse pp. 110-112, Table 11; E.A. Wrigley & R.S. Schofield, A Population History of England, 1541-1871 (Lond., 1981), p. 255, Table 7.26.

the name of the wife from appearing on the indictment, though she was often discharged subsequently.[55] The previously mentioned correlation between diminishing criminal activity and marriage among men assumes that marriage engenders not only legal, but also social changes, which are in turn linked to criminal activity. Weiner assumed that marriage for women meant at least the type of economic protection which militated against criminal behaviour. The evidence which I am presenting here suggests that marriage did not entail a sufficiently critical change in a woman's lifestyle to influence her criminal activities.

Four main categories were used to describe a woman's marital condition on indictments:

Single woman.

Spinster.

Wife.

Widow.

Table Five represents the number of women who were described as falling into each of these categories, in both the upper and lower courts of Berkshire and the City. These percentages can only fully be understood in comparison with data relating to the dispersion of each category throughout the population as a whole.

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[55] W.Blackstone, Commentaries on the Laws of England (ed. S.N. Katz, Lond,. 1975), Chap xv.

Female Criminals:MARITAL STATUS.

COURT	*BERKSHIRE*		*LONDON*	
STATUS	*Q.SESS*	*ASS*	*SFP*	*SFG*
WIFE	*38 %*	*27.5%*	*59 %*	*25 %*
SINGLE WOMAN	*53 %*	*70.5%*	*29 %*	*64 %*
WIDOW	*9 %*	*2 %*	*12 %*	*12 %*
TOTAL IN SAMPLE	*63*	*131*	*301*	*471*

TABLE FIVE.

The marital status of all women indicted in Berkshire & the City, expressed as a % of all status types.

Sources:
Quarter Sessions: BCRO Q/sr, 1780-1830, all sessions at five yearly intervals, commencing in 1780.
Assize: PRO Assi 5 (Berks) 1780-1830, yearly, commencing in 1780.
City Peace Sessions: CLRO SFP, 1780-1830, five yearly sample, commencing in 1780.
City Gaol Delivery: CLRO SFG, 1780-1830, five yearly sample, commencing in 1780.

While detailed data is not available for this period, the dispersion taken from the 1851 census is as follows;[56]

WIFE 33%

SINGLE WOMAN 60%

WIDOW 7%

There is little significant deviation from the normal dispersion among the criminal population. Widows are the only group who are constantly over-represented. This can be partially explained by the fact that at this period, compared to 1851, widows were likely to have made up a higher percentage of the normal population since mortality was higher. The only other pattern worth noticing is that married women were more likely to be indicted at lower than higher courts, ie for less serious crimes. This suggests that marriage was likely to act as an obstacle to involvement in some types of crime, rather than crime in general. It might also reflect the fact that the courts were more willing to apply the legal ruling concerning the non-culpability of a wife when dealing with more serious crimes.

In general however it appears that, in line with the conclusions from data relating to age, marriage was not a significant obstacle to criminal activity for women. This suggests that for women of the type who appeared before these

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[56] Taken from B.R. Mitchell and P.Deane, Abstract of British Historical Statistics (Cambridge, 1962), p. 16, Table 5; Wrigley & Schofield, Population History p. 260, Table 7.28. The number of women never marrying was lower from 1780-1830 than in 1850.

courts, marriage did not entail a degree of social or economic change which was sufficient to influence their propensity to commit crime. Indeed throughout these criminal records, there appears to be an underlying tension between the precise legal demarcations of the married and the unmarried and the social reality of these women's lives.

c. Legal Definitions of Marriage.

In his work on court records, Cockburn refers to the problems posed by the unreliability of the terms used on indictments. He is most concerned to pin-point these inaccuracies, and explain them in terms of the idiosyncracies of recording clerks and the workings of the legal system itself.[57] For women, one of the most problematic terms used to described the accused on an indictment is "spinster" and the status which this represents.[58] For the purpose of this analysis I have combined the two categories of spinster and single woman, as I am most interested in the social impact of marriage.

From evidence other than indictments, it is possible to uncover the social background to such apparently confused labelling. This period is after all only some twenty-five years after Hardwicke's marriage act, which attempted to re-

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[57] J.Cockburn, Introduction to the Calendar of Assize Court Records (HMSO, 1975), Intro.

[58] See C.Weiner,"Is the spinster an unmarried woman ?", American Journal of Legal History, 20 (1976).

define a binding marriage, and problems of definition and clandestine marriage continued. In his biography, Place refers to a law-suit pursued by his father in order to deny a false charge that he had been party to a Fleet Marriage during the early nineteenth century.[59]

The frequent practice of court clerks, especially in the City, of defining women firstly by their maiden name and then adding "otherwise known as the wife of..." to the indictment, underlines these problems of definition. The Times reported the strategy of the court for dealing with definitions of marriage:

> "In the criminal courts it was not the practice to act so rigorously as to insist on the production of a marriage certificate, or any other proofs of matrimony, than that the two partners lived together as man and wife." (Times Jan. 1785)

However, even such attempts at discerning a woman's marital status could not overcome the complex marital situations which appear to have been common-place among the women who appear in these records.

Even if a woman was legally married, she could in fact have been functioning as a single woman, if her husband were absent as a result of war or economic difficulties. In her work on the poor of France, Hufton refers to the practice of the male heads of household leaving the area to look for work at times of

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[59] See Autobiography of Frances Place, (Ed.M.Thale, Cambr., 1972), p. 22.

economic stress, thus also relieving the family of its major consumer.[60] To return to Place, he recalls how his father simply abandoned his family when his debts caught up with him, leaving his mother, with no idea where he was, to support the family. There is also ample evidence of this kind of reaction to economic stress in the records of examinations of paupers in Berkshire and elsewhere.[61]

It should also be remembered in this context that the ecclesiastical courts had long held that a marriage was void if a spouse had been absent for an extended period of time. This must have added a further complicating factor in defining who was and who was not married.

Historians have suggested that common law marriage and other non-orthodox forms of marriage continued to be common among the lower classes during the nineteenth century.[62] Sometimes, even those who lived in close proximity of an accused woman could not be sure of her marital status. One witness against a certain Mary Scott stated that:

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[60] O.Hufton, The Poor of Eighteenth-Century France (Oxford, 1974), Chap 3.

[61] Entry one in "The Deposition Book of R.Wyatt, (1767-76)" refers to a woman whose husband has left her to look for work in London. M.Gollancz, Surrey Record Society, 30 (1978).

[62] See J.R.Gillis, For Better, for Worse pp. 199-224.

"I have heard that the prisoner is married, and that her husband left her in distress, but I have never seen him."[63]

This could lead to confusion and denials in court. Sometimes such confusion was sufficient for the woman to claim that the indictment was not true, as did Sarah Gardener in 1818: "The man is not my husband, we were in distress."[64] Elizabeth Johnson was examined in court with respect to her relationship with a male accomplice and when asked whether they were living together as man and wife she could only reply: "No.....not constantly."[65]

It appears therefore, that problematic legal categorization reflects the fluidity of working class marriages during this period. Amid such fluidity, it is not surprising that definitions of marriage as recorded by legal documents do not appear to be the critical social divide that one might expect.

d. Marriage and Changing Social Experience.

The question remains whether, even if actually living as a married woman, a woman's experience underwent as much change as might be assumed. There are strong reasons to suppose that a woman's experience in marriage was likely to

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[63] R v Mary Scott, Sessions Papers, May 1818.

[64] R v Mary Gardener, Sessions Papers, April 1818.

[65] R v Hannah Wickfall and Elizabeth Johnson, Sessions Papers, May 1787.

differ little from her experience as a single woman in many important respects. Davidoff suggests that whether married or single, women existed under a unique sort of authority which meant that they were always in an essentially servile position.[66] Even if women no longer worked as servants when married, as Kussmaul suggests, they were still likely to live in shared accommodation, such as a lodging house along with their single or widowed counterparts, rather than in their own domicile. [67] Depositions and the Sessions Papers show, moreover, that marriage was not the obstacle to work as a servant which it has been presumed to be. One mistress declared in court that she had no idea whether her female servant was married or not, and had not enquired when she had employed her.[68] Another woman explained in court that she had returned to work as a servant because her husband had left her in distress.[69] Catherine Macabe was fifty-eight and a widow when she was employed as a live-in servant to an upholsterer, from whom she stole.[70] It seems that only the presence of a young family would have prevented a woman from working as a live-in servant.

Under the pressure of poverty even child birth was unlikely to have kept women from working for long. It has been suggested that far from being a time of economic security, marriage, especially with young children, was likely to have

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[66] L.Davidoff,"Mastered for life. Servant and wife in Victorian and Edwardian England", Journal of Social History, 7 (1974).

[67] A.Kussmaul, Servants in Husbandry pp. 78-85, Table 5.4.

[68] R v Sarah Hufton, Sessions Papers, April 1818.

[69] R v Mary Scott, Sessions Papers, April 1818.

[70] R v Catherine Mcabe, CLRO Sessions Papers, 226 b-c Jan. 1825.

been the time of greatest economic stress, as a family's consumption was then most likely to outrun its earning potential.[71]

Schwartz refers to the limited opportunities for women's work in the metropolis at this period.[72] Married women, spinsters and widows worked as servants, washerwomen, cleaners and apprentices in the metropolis. It is only in the countryside that employment appears to be more differentiated. It was usually assumed that only married women worked as agricultural labourers in the fields.[73] Even this must be tempered by the recognition that women who were employed as servants in the countryside would also have been called upon to work in the fields, at least at harvest time.

What this would seem to illustrate is that marriage was unlikely to have been a critical dividing point in a woman's criminal career for two major reasons. Firstly, because definitions of what it meant to be married were anyway likely to have been nebulous among this strata of the population. Secondly, economic and social reality meant that even in marriage, women's social experience was unlikely to differ significantly from that of her unmarried counterparts.
The relationship between crime and lifestyle, and the types of crime which women were likely to commit will be explored more fully in the next chapter.

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[71] T.Wales, "Poverty, poor relief and the lifecycle, evidence from seventeenth-century Norfolk", in R.Smith (ed) Land, Kinship and Lifecycle (Lond., 1974).

[72] L.D Schwartz, "Conditions of life and work in London", Chap 2.

[73] Parliamentary Papers, 1843 xii, (510), p.11, Report on the Work of Women & Children in Agriculture.

e. Social Mobility and Crime.

It has been suggested that crime was concentrated among the most mobile sections of the population, being in the main characteristic of the transient and vagrant. The 1821 Parliamentary enquiry into vagrancy clearly assumed that to be a vagrant was to be criminal per se.[74] Records of the Philanthropic Society include the early life histories of young female criminals found on the streets of London. The majority of them had been abandoned by one, or both, of their parents and left to support themselves by crime.[75] There is evidence in the court records too, that this type of social dislocation could lead to crime. Jane Garlick was committed for trial in 1815, accused of being a vagrant. She recounted her life history to the recording clerk:

> "She was the bastard child of a woman who now lived in Gloucestershire. She had left home and travelled from place to place, lodging in the open air and sometimes going to work at hay making. She had a bastard child of her own."[76]

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[74] Parliamentary Papers, 1821 iv, (543), Report from Select Committee on Existing Laws Relating to Vagrancy.

[75] Surrey CRO, Philanthropic Society Records, 2271/18, Girls'registers.

[76] R v Jane Garlick, BCRO Q/sr, April 1815.

Unfortunately the majority of court records can provide no evidence about the places whence those who filled the criminal courts came. Indictments can only provide information about the current habitation of those accused in court, while Cockburn suggests that even these descriptions are unlikely to be reliable.[77] Information of this kind is available however, in the Newgate Calendars, which did record the place of birth of all those held within that prison. This relates only to those tried in the City, and no similar data is available for the Berkshire cases.[78]

It is clear that many of the women tried at the City high court were not native Londoners (see Table Six). Of course it is not possible to judge at what stage of their life they had come to London, or for what reason. The Sessions Papers do give evidence of some women who claimed to have come to London looking for work as servants, and this was certainly viewed by contemporaries as one of the main reasons why women were drawn to the metropolis. William Hutton, a visitor to London in 1818 wrote that :

> "Most of the ladies I conversed with were not natives of London, but were a sacrifice to the Metropolis, offered by the thirty-nine counties."[79]

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[77] Cockburn, Calendar of Assize Courts Chap 3.

[78] PRO. HO 26, I have taken a sample of three sessions per year (Sept, Oct, Dec) at five yearly intervals 1792 - 1800.

[79] W.Hutton, Journey to London (London, 1818), p. 43.

Female Criminals:PLACE OF BIRTH.

PLACE OF BIRTH	*TOTAL*	*% OF TOTAL*
London	*142*	*41%*
Ireland	*31*	*9%*
North England (Newcastle, Leeds, Liverpool)	*24*	*7%*
Home Counties	*17*	*5%*
Midlands	*35*	*10%*
South England	*35*	*10%*
Scotland/Wales	*21*	*6%*
Unknown	*42*	*12%*

Total in sample = 347. Source: PRO HO 26, Newgate Calendar. Sample is three sessions per year (Sept, Oct, Dec), five yearly, 1792-1800, including only women tried under the City jurisdiction. The Calendars cease to record place of birth after 1800.

TABLE SIX.

However this data does suggest that a significant proportion of the women who did turn to crime, did not do so as a result of migration to the metropolis and social dislocation. This tallies with the data which I have previously discussed relating to the age of accused women, which shows that they were generally not of an age when women might have been expected to be most mobile, ie as young servants searching for work.

v.Conclusion.

This chapter has established some fundamental characteristics of women's crime; primarily offenders against property, women were most likely to be involved in the least serious of crimes. Although the intensity of their criminal activity was influenced by social and economic trends, other peculiarities of their criminality cannot be explained in this way. Women's criminal activity was little influenced by age or marriage, testifying to a greater continuity in women's lifestyle than in that of their male counterparts. Women's crime was not, for the most part, the concomitant of vagrancy and transiency, but was often committed in the town of their birth. In the following chapters I shall be using evidence from sources other than indictments to add more detail to the statistical patterns which I have uncovered here.

CHAPTER TWO.

Property Crimes.

Having established the incidence and range of female criminal activity during this fifty year period, and looked at a variety of ways of explaining patterns of crime, in this chapter I shall be looking at the most numerically significant type of female crime, theft, and considering some alternative ways of explaining the fundamentals of female crime: its apparent paucity when compared to male crime, its different levels in rural and urban environments and its concentration among the least serious and complex forms of crime. The evidence which I shall be using is taken mainly from depositions, the Sessions Papers and newspaper reports, augmented by quantitative analysis of minute books and indictments. Depositions and the Sessions Papers provide detailed evidence relating to a total of about three - hundred cases, to which can be added about twenty - five cases taken from newspaper reports.[1]

Anyone who purchased a copy of the Sessions Papers during the period under study here would have been left in little doubt as to the most common female crimes tried at the Old Bailey. The Sessions Papers reveal a striking

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[1] For depositions relating to London see CLRO Sessions Papers, 226 b-c 1780-1830 and Sessions Papers (sample is ten yearly commencing in 1780, one sessions (April) per year); For Berkshire see PRO Assi 5 Berkshire, Assi 6/1, and BCRO Q/sr, 1780 -1830. Depositions survive relating to about one-fifth of all cases of theft. Newspapers sampled are; Times, Morning Chronicle, Star and Reading Mercury (sample is ten yearly, commencing 1780).

preponderance of three types of crime: thefts by servants from their mistresses, thefts by prostitutes from their clients and shoplifting. Popular prints of this period also commonly illustrated prostitutes stealing from their clients.[2]

Crimes of property were numerically by far the most significant form of female criminal activity. Whether one looks at quarter sessions or assize courts, property crimes accounted for on average about seventy percent of all female indictments, although this percentage was slightly higher in the City than in the provinces.[3]

The legal definitions of types of larceny depended upon the exact location of the crime, and the monetary value of the goods stolen. The theft of goods worth more than 12d was classed as grand larceny, while this could be aggravated to become robbery, breaking and entering or burglary depending on the exact circumstances of the offence, all of which carried heavier penalties at law. The most common types of aggravated grand larceny as far as women were concerned were larceny from the person, and larceny in a dwelling house or shop. All other thefts were petty larcenies, and were treated more leniently by the courts. The former were usually tried by the higher (assize) courts, the latter in the local courts of quarter session. Women's property crimes were overwhelmingly concentrated among the least serious of these types of theft. When compared to men's involvement in different types of theft, women were

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[2] J.A.Sharpe, Crime and the Law in English Satirical Prints, 1600 - 1832 (Cambr., 1986).

[3] See Table Three, Chap 1.

far more likely to be committed for the most "petty" types of theft and were especially unlikely to be committed for the most complex, (and mainly capital) larcenies, such as robbery and burglary.[4] The aim of this chapter is to explore the context of thefts by women and suggest why women committed the types of theft which they did.

i. Ways Of Thinking About Property Crime.

Prevailing paradigms of female crime suggested a simple picture of the female thief. Women stole due to their greed and vanity, and what they stole was clothing and other items of adornment. One witness to a government commission on police in 1828, when asked to describe a typical female theft, said:

> A female servant goes to a tally shop and buys clothes, agreeing to pay off her debts in weekly installments. However at the end of the first week she has no money to pay, so she turns to stealing.[5]

Such individualistic interpretations of women's crime, dwelling upon innate female characteristics, are not only characteristic of nineteenth-century

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[4] See Table Three and appendix 1.i, Chap 1.

[5] Parliamentary Papers, 1828 vi, (533), p. 53, Commission on the Police of the Metropolis.

commentators, but have been a constant theme of those attempting to explain female crime. One of the main purposes of this research is to establish an interpretation of female crime which does not rely on such biological determinism. The work of modern criminologists suggests a variety of ways of conceptualising crime which offer alternative models of explanation, though these have largely been ignored by historians.

Criminologists have recently stressed the importance not simply of the sort of incentives to crime which I discussed in chapter one, but also the way in which criminal activity is determined by the availability of opportunities for crime provided by a given individual's lifestyle. Clarke demands for example:

> "A deeper understanding of the causal role of opportunity than has sometimes obtained in the past."[6]

Criminal opportunities are viewed as contingent upon one's "normal" lifestyle. Cohen states that:

> "What is called the illegitimate opportunity structure is the legitimate opportunity structure from another point of view."[7]

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[6] R.V.Clarke,"Opportunity-based crime rates", British Journal of Criminology, 24 (1984).

[7] A.K.Cohen, "The concept of criminal organisation", British Journal of Criminology, 17 (1977).

This implies that an individual's criminal potential is bound up with other aspects of his/her experience. This has important implications for women. Adler extrapolates from this premise that women's absence from crime reflects their generally limited social opportunities:

> "The participation of women in crime will broaden and increase with broadened opportunities afforded to women in all ways in society."[8]

It is this relationship between crime and lifestyle which I shall be concentrating on here, as a means of explaining both differences in female criminal behaviour in urban and rural areas, and, ultimately, differences in male and female criminal behaviour as a whole. Historians have recognised that, for men at least, crime is related to some aspects of an individual's lifestyle. Linebaugh's study of London crime stressed the inextricable links between crime and employment for many of those working in the city.[9] Those who have discussed, if briefly, the differences between female crime in urban and rural areas have made similar suggestions.[10] The first section of this chapter looks at the characteristics of female property crime and considers the circumstances in which women were most likely to steal property, with particular reference to the different opportunities provided by

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[8] Adler, Sisters in Crime p. 4.

[9] Linebaugh, "Tyburn", Chap 4.

[10] See Beattie, "The criminality of women".

differing lifestyles in rural and urban areas.

It seems that women would have been involved in a very different type of community in urban areas from in rural areas, especially in the City.
The relative laxity, not to say immorality of urban life, especially in London, had long been commonplace. Contemporary commentators had little doubt of the very real difference between London life and life elsewhere. Place talks of different modes of behaviour in the city:

> "There is a laxity of manners among the women of London generally which strikingly contrasts with the same sex in the country."[11]

Historians agree with this picture of the greater social freedoms available in London; Roberts states that

> "Metropolitan living had always given more freedom and opportunity to the young than rural or village life."[12]

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[11] B.L. Add Mss 27825, (Place Papers), f V:" Manners and morals".

[12] M.J.D.Roberts, "Public and private in early nineteenth-century London", Social History, Oct. (1988).

I will be arguing that women's property crime differed in urban and rural environments because it was based upon specific types of opportunity provided more readily by women's lifestyle in urban regions.

It might be claimed that to suggest that criminal behaviour is simply the result of an acceptance of available opportunities is to divest the criminal of any positive choice. However, it is possible to posit a more complex view of opportunities, such that the potential for the creative involvement of the individual is retained. Walker describes criminals as falling into three categories, depending upon the degree of positive organisation which their crime demands. His categories include opportunity-makers, opportunity-searchers and opportunity-takers.[13] I will be arguing that a fundamental characteristic of women's property crime is a lack of positive opportunity creation.

I have analysed all available depositions for this period relating to Berkshire and the City and a sample of cases from the Sessions Papers and identified the general characteristics of female property crime with reference to Walker's definitions, concentrating on the types of "opportunity" upon which they were based and suggesting ways in which available opportunities might have differed, especially in an urban environment such as the City. Depositions are especially useful here as they provide a more accurate description of the exact context of a

[13] N.Walker, Crime and Criminology (Oxford, 1987), Chap 8, p. 58.

crime than do indictments. I have dealt with the evidence from the quarter sessions courts in a separate section at the end of this analysis.[14]

I have chosen to concentrate on the exact location of the crimes which women perpetrated, and the relationship between a crime and what might be presumed to be the woman's "normal" social surroundings. I have taken this as symptomatic of the degree of positive organisation upon which a crime was based. In these terms the most "organised" and "complex" of crimes are those which demand the greatest deployment of time and resources away from one's normal lifestyle. My argument is that the large majority of female crimes were perpetrated within a context which was closely related to the normal social experience of the offender, and which demanded very little organisation of resources away from this norm towards specifically criminal ends. The difference between women's criminal activities in urban and rural areas was contingent upon their different social experience in these two environments.

I have used three main categories to describe the social location of thefts perpetrated by women. These categories are far from clear cut, and should be taken as general descriptions only. It is difficult to define the exact boundaries between home as a place of work and home as a place of residence when dealing with servants for example. These categories attempt to comprehend the whole range of women's habitual living and working situations, in order to locate

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[14] Total number of depositions relating to property crimes = 160; from BCRO Q/sr (n= 58), PRO Assi 5, Assi 6/1 (n= 25) and CLRO Sessions Papers, 226 b-c (n = 77), 1780-1830. Total cases from the Sessions Papers = 128, sample is ten yearly, one session per year (April) commencing in 1780.

crime in its relationship to these aspects of lifestyle (see appendix 2.i for more details of analysis).

a. Crimes Committed in the Home of the Offender.

(Home as a place of residence and home as a place of work.)

At its widest this category comprehends those crimes committed within the normal place of residence of the offender. This includes thefts by servants from their mistresses. In fact about one-third of all thefts for which evidence survives occurred within the normal domestic dwelling place of the female offender. In Berkshire this figure is slightly but not significantly lower. Of these, the majority of thefts were by servants. These may be seen as paradigmatic "opportunity taking" female crimes. Cases usually involved the theft of goods from mistresses, such as table-ware and linen to which the offender already had some sort of legitimate access, and perhaps use rights, if not property rights. These crimes involved little specific organisation, other than the timing of the actual theft itself in order to avoid detection. The type of goods stolen were usually easily concealable and were often found simply hidden among the offenders' own belongings.

Of a similar character to crimes of this type are those cases, concentrated in the City, which were concerned with the theft of property from a lodging house in which the offender dwelt. This usually meant that the offender had escaped with the linen and some of the furnishings of her room which she had hired with the

room from the lodging house keeper. Again this is a type of theft which was dependent upon relatively easy access to the stolen goods, and involved simply transforming rights of use under a tenant's agreement into absolute property rights via theft.

Opportunities for thefts of this type were likely to have been greater in the City than elsewhere; London contained a higher proportion of servants than did other urban centres, while the problems of urban living were intensified here where the poor were crowded together in lodging houses and tenements. Schwartz estimates that fifty - three percent of shops in the City contained lodgers, as did thirty - five percent of houses.[15]

b. Crimes Committed in the Home of the Victim.

The second most common situation for female theft was in the home of the victim. Thefts committed here make up between a further twenty and fourty percent of all cases in both the Berkshire and the City records. This might tempt one at first to argue that here one is witnessing instances of women actively seeking out and creating opportunities for crime beyond their normal surroundings. Once again however the context of the majority of these crimes was firmly related to the woman's habitual social behaviour. This is particularly true of the City cases which are almost entirely made up of shoplifting. It is

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[15] L.D.Schwartz, "Social class and social geography. The middle - class in London at the end of the eighteenth century", Social History, 7 (1982), Table 3.

highly indicative of female criminal behaviour that witnesses describing how these crimes took place usually described women entering a shop claiming to be seeking to make a legitimate purchase. It was only having established a legitimate claim to be in the shop that women took any criminal actions.

However, shoplifting could demand a degree of skill and possibly organisation beyond that demanded by the types of theft previously discussed. Because the theft was often perpetrated within the physical presence of the victim, shoplifting demanded some degree of manual dexterity which in some case amounted to a professional skill. Take for example the actions of Mary Widdison, attempting to steal opium from a shop.[16] In his deposition the shop-keeper described how she carefully covered the goods which she intended to steal with a handkerchief, which she was continually moving over the counter, and with which she also concealed her actions while slipping the opium into her clothing. In other cases shoplifting skills relied upon certain tools of the trade. In his work on contemporary London life Parker referred to women who used fish hooks concealed in lace in order to lift goods from shops.[17]

Cases other than shoplifting which come into this category appear to be mainly opportunistic thefts of goods left easily accessible in the victim's home. One witness described leaving a pair of shoes on a window ledge which were

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[16] R v Mary Widdison, BCRO Q/sr, April 1825.

[17] G.Parker, A View of Society in High and Low Life (Lond., 1781).

subsequently stolen.[18] Another case involved a female offender in "breaking in" to the property of a neighbour by using the key to his property which had been left by him for safe keeping in her mother's possession.[19] Once again this illustrates women's tendency to use resources which were readily and legitimately available for criminal purposes.

Spontaneous incursions into private property such as this were facilitated by living conditions, more prevalent in London, of shared and crowded living accommodation with little internal security. In such a situation it was relatively easy to gain access from the street to a foreign domicile, and even later claim some false pretext for one's presence if questioned. A woman accused of theft from a lodging house in the City, had simply wandered into the garret of a lodging house via the open street door, and when stopped by the owner of the house, claimed that she had been visiting a shoemaker in the garret.[20]

c. Crimes Committed in Public Places.

I have concentrated so far upon crimes which were perpetrated within what might be broadly defined as women's normal and legitimate social sphere, and this has generally been a domestic sphere. I shall now consider those crimes

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[18] R v Elizabeth Outram, BCRO Q/sr, April 1801.

[19] R v Martha Cullin, PRO Assi 5 (Berks), Summer 1799.

[20] R v Suzannah Beckett, Sessions Papers, May 1818.

which were perpetrated outside a domestic context, for example those which were attached to employments which took women away from their homes. In fact only a small proportion of all cases come into this category, about three percent for the City and none in Berkshire. This is one indication of women's limited social experience and therefore her limited capacity for crime.

My final category comprehends those crimes perpetrated in the streets, or in a place of public leisure, which usually means at an inn. Street crimes were certainly more common in the City than in Berkshire, accounting for twenty - nine percent as compared to sixteen percent. A high proportion of these City cases can be directly linked to prostitution.

To contemporaries prostitution was synonymous with crime. A contributor to the Times in July 1785 wrote that:

> "The increase in the number of prostitutes is one of the principal causes of the increase of thieves. Prostitutes in general co-operate with vagabonds in the destruction of the public peace. They even possess a degree of depravity rare if found in men."

Once again, the City would seem to have provided more opportunities for thefts of this type, not least because prostitutes were more common here. In 1797

Colquhoun estimated that there were fifty - thousand prostitutes in London, alongside two - thousand brothel keepers.[21]

In the same way as servants relied upon the opportunities which came their way for theft in the course of their employment, so did the prostitute. However the prostitute's work allowed her a distinct range of freedoms, especially freedom of movement. She was likely to spend far more of her time out on the streets, and at a late hour of the night. Most thefts by prostitutes occurred after 10pm.

Such crimes often involved a degree of organisation not evident in other types of female theft. They often involved physical confrontation with a victim in order to steal goods, and relied upon female accomplices, who could support the offender when she was challenged by her victim. Typical of the victim of the prostitute was the man who was walking home from business or pleasure late at night, in a less than sober state. He would agree to accompany a woman first to a gin shop, and then eventually to her lodging house, to "have connections with her" as one victim euphemistically described it. In the morning he would wake to find his watch, money, or silk handkerchief missing. His attacker was likely to have long since disappeared, and might even have taken his clothes and shoes with her, to render him incapable of giving chase.

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[21] P.Colquhoun, Treatise on the Police of the Metropolis (Lond., 1791), although these estimates were purely speculative, they reflect general conceptions of the condition of the lower orders in London.

Not only did the prostitute have greater freedom of movement than women in many other situations, but her circumstances were conducive to crime in other ways. From descriptions given in depositions and newspaper reports, it is clear that prostitutes were likely to live in a close community of other women. The evidence of many men lured and enticed into a prostitute's room and subsequently robbed, reveals the community spirit and readiness to resort to violence exhibited by the other women with whom the prostitute shared a lodging. There were many examples of male victims accusing a prostitute of a theft, only to be confronted not only with the spirited self-defence of the prostitute herself, but also with the anger of other members of her household.[22] Typical is the experience of Richard Bonmade, who declared that he was accosted by Ann Groon, accompanied her home and slept with her. However he awoke in the morning to find that his pocket handkerchief was missing. When he accused Ann, she called other women to her aid, and he was forcibly ejected from the house. Ann claimed that she had taken his handkerchief because he had refused to pay her enough money for her services.[23]

It is significant that this type of positively created criminal opportunity is most often linked to a situation where the female offender had denied other normal aspects of a woman's social behaviour, mainly the denial of normal controls over a woman's sexuality. Crimes linked to prostitution represent a unique type of criminal organisation on the part of the female offender.

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[22] In this connection Walkowitz talks of the "distinct sub-group" created by the prostitute; Prostitution and Victorian Society (Cambr., 1980), p. 26.

[23] R v Ann Groon, CLRO Sessions Papers, 226 b-c, Dec. 1781.

d. Quarter Session Material.

I have previously been dealing with serious crimes which were tried at the Old Bailey and the assize courts. I have chosen to deal with the quarter session material as a distinct category as it exhibits some interesting characteristics quite different from those already revealed. Unfortunately no depositions survive relating to the City peace sessions, the City equivalent of quarter sessions, so the data which I am presenting here is drawn exclusively from Berkshire. Different patterns of criminal behaviour at this court level can only partially be explained by differences in the types of crimes which were tried at the quarter sessions.[24]

While the quarter sessions were likely to deal with crimes which involved property of small financial worth, as far as women are concerned, the scope of their criminal activities appears to have been wider. A far higher percentage of all crimes tried here were perpetrated outside a domestic context (forty - two percent), while more also demanded some specific type of organisation, demanding a higher degree of deviation from normal modes of behaviour. For example, there are several instances of crimes involving women going in groups in the middle of the night to steal crops from the fields.[25]

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[24] Total depositions relating to quarter session property crimes = 58.

[25] For an example of this see the deposition relating to Flora Gibbs' theft of barley from the fields, BCRO Q/sr, Oct. 1785.

While this material does not include many thefts from shops, thefts do appear in the context of thefts from a foreign domicile. However, these tend to be opportunistic and spontaneous, rather than involving any great degree of prior organisation. That more crimes were committed here in the context of non-domestic employment indicates that women were likely to have access only to goods of relatively little worth unless they were employed in domestic service. There are several cases of women being accused of stealing crops from the fields while they were at work.

As one might expect, the preponderance of goods such as basic foodstuffs is one major difference between these cases and those previously discussed. The kind of goods which women were likely to come into contact with in a rural environment meant that their crimes were more likely to be tried in the lower courts, or even tried summarily. While a concentration upon certain types of goods is to be expected in this court material, the wider creative control of opportunities for committing crime is less easy to explain. Perhaps in the broadest of terms it indicates that in some respects women's movements were less circumscribed in rural areas than in the City, though the lack of City peace session depositions means that it is impossible to compare offences of this type in the two areas.

ii. Opportunities For Crime And Lifestyle.

This study of the exact contexts in which women committed crimes has suggested that women were rarely involved in crime which demanded anything other than the most simple forms of organisation, and that their criminal activity in general was dependant solely upon readily available opportunities. Urban and rural areas provided women with different opportunities for crime. The distinct type of opportunities upon which female crime was based helps to explain some of the characteristics of female criminals themselves.[26] The types of crime which women committed, and the stucture of these crimes was not dependent upon any complex organisation beyond a woman's routine lifestyle. The age spectrum and marital status of women who were involved in crime illustrates the fact that the types of opportunity utilized by women were not specific to one stage of their lifecycle, as the structure of male crime appears to have been.

What remains to be explained however, are the reasons why women, as opposed to men, were so unlikely, or unable, to create, rather than accept, opportunities for crime. It was only as prostitutes that women were involved in more "complex" types of crime. The fact that women only attained this criminal potential as "fallen" women is a point of some significance. It suggests that the social mechanisms which kept women within the bounds of accepted sexual behaviour also influenced women's ability to commit all types of "deviant"

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[26] See Chap One, Tables Four, Five & Six.

activities, including crime.

Those who have studied the positions of women in the eighteenth and nineteenth centuries have stressed the extent to which women were constantly subjected to various forms of authority. Kussmaul argues that the employment of young girls as servants was a strategy to control their sexuality prior to marriage. Davidoff argues that not simply when employed as a servant, but throughout their lives, women existed in essentially "servile" situations.[27] It is in the light of arguments such as these that I want to consider some aspects of the relationship between women's lifestyle and crime. I want to look first at women who were actually employed as servants.

I am concerned with the female experience, however it is obviously important to keep comparable male experience in mind. I will be using evidence from male cases to counterpoint the general conclusions which I draw about women.

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[27] A. Kussmaul, Servants in Husbandry pp. 11-27; L. Davidoff, " Mastered for life. Women as servants in Victorian and Edwardian England" ; J.Humphries," The most free from objection.... The sexual division of labour and women's work in nineteenth-century England" Journal of Economic History, Dec. (1987).

a. Employment and Criminal Opportunities.

For women, work as a servant could comprehend a broad variety of tasks, from the woman who was apprenticed to a shop-keeping artisan, probably in the clothing trade, whose work included working in the trade of her master, to the domestic maid of all work who, if she lived in a rural area, would have been involved in agricultural labour. While many servants lived in the homes of their employers, women also worked at a whole range of other types of domestic work, which also brought them regularly into the homes of others. Among such women one might list washer-women, char-ladies and other types of casual domestic employment, such as casual and "occasional" servants. One contemporary commentator wrote of the poor women in Westminster:

> "The women are not generally employed at home, nearly two fifths are in work. Their occupations include washing, domestic work, needlework and hawking goods."[28]

There were certain fundamental characteristics which all types of service shared. To work as a servant was to be in a relationship with one's employer which was quite distinct from the wage relationship of the factory worker, or the male day-labourer with his or her employer. Characteristic of the live-in servant relationship was the lack of any division between work and home. In a real way, all the time of the servant belonged to her employer. This meant that not

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[28] W.Felkin, "Report on working class in Westminster", Journal of Royal Statistical Society, iii April (1840), pp. 14-24.

only was she likely to have been restricted in the amount of time which she could direct towards her own ends, but she was also highly supervised and had few rights of privacy.

Many thefts were discovered because masters and mistresses could easily search the servant's box, with little regard for the servant's property rights. Prosecutions for theft also provide clear indications of the strict control exercised over a servant's time. As part of her evidence in a case of infanticide one mistress mentioned that it was extremely unusual for servants to go outside in the evening without her permission.[29] This lack of privacy is often most clearly illustrated in cases of infanticide, as these reveal the difficulty which servant women had in concealing both their condition and the birth of their child. In giving their evidence, those women with whom the servant spent the majority of her time revealed the close scrutiny which was attendant upon employment as a servant. In these cases scrutiny is directed at a sexual transgression, but in practice the nature of a servant's position would have militated against all "deviant" activity.

The case of Catherine Heath is a good example. Despite the fact that Catherine had told no one with whom she lived that she was pregnant, deposition evidence shows that all the women who lived with her were well aware that she was. It was not easy for Catherine to conceal the actual birth of her child either. When she felt birth pangs she retired to bed, claiming that she had a bad back from

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[29] R v Sarah Dixon, Sessions Papers, April 1810.

doing the household chores. However, a fellow servant followed her to her room and was immediately suspicious. This servant, Ann, said that she had not witnessed the actual birth of the child, although she did go as far as to follow Sarah to the privy, in order to ascertain whether she was going to be delivered of a child there.[30] The privy might have been one of the only places where a woman could have hoped to be alone to deliver herself of a child.

This evidence illustrates the degree of intimacy in which women in households such as this lived, and the difficulties this posed for a woman wishing to conceal her criminal activities. This type of scrutiny should be compared with the type of freedom which Frances Place claimed he had as an apprentice at the same period. He wrote in his autobiography that:

> "My master had in fact no control over me, neither did he care much about me, nor what became of me."[31]

Indeed, crime has been particularly associated with the system of outdoor apprentices and the lack of supervision which was a concomitant of this system.[32] While females were employed as apprentices, they were far more likely to be

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[30] R v Catherine Heath, PRO Assi 6/1 (Berks), Lent 1827.

[31] Autobiography of Frances Place p.78.

[32] D.George, London Life in the Eighteenth Century (Lond., 1951), Chap vi.

indentured to work in a domestic situation, while for boys there was a far wider range of types of apprenticeship, including sea service.[33]

In contrast servants were subject to the supervision of both employers and fellow employees. The fact that servants so often appeared in depositions informing against each other emphasises the socially isolated position of the servant. Many servants in artisan households would have been working as the only maid of all work in a household. Burnett refers to the social isolation which this meant:

> "In a small household the maid of all work was isolated and impotent."[34]

Higgs estimates that about sixty - three percent of servant-owning households owned only one servant during this period.[35] A servant was unlikely to have been able to rely upon connections of kin to support and protect her either. Many of the servants who worked in the metropolis had left their families in the provinces from whence they came.

Servants had neither the necessary free time and privacy, nor the potential for creating the kind of personal contacts necessary for more highly organised types of criminal activity. McDougal suggests moreover that this was true of many

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[33] Parliamentary Papers, 1814-5 v, (304) pp. 1567-76, Select Committee on the State of Bound Apprentices in England.

[34] J.Burnett, Useful Toil. Autobiographies of Working People from the 1820s to the 1920s (Lond., 1974), Intro.

[35] E.Higgs, "Domestic service...", in A.V.John Unequal Opportunities.

female employments during the industrial revolution:

> "Those dispersed in many workshops and homes had trouble even getting together. The nineteenth-century woman faced all these barriers and more. They had no traditional solidarity outside the home."[36]

Of course, not all women were employed as servants; in a rural environment such as Berkshire many women would have been employed in agricultural work of all kinds. I have suggested that evidence taken from the Berkshire quarter sessions courts indicates that employment of this type provided women with broader opportunities for crime. Here I want to examine the experience of women in agriculture and suggest why this might be so.

The evidence of the Government Commissioners who questioned witnesses about agricultural work in the 1840s indicates firstly, that women who worked in the fields were not under the same degree of close supervision as servants were, and that they were more likely to work with other women.[37] The Commissioners expended a great deal of effort in establishing whether men and women worked together, in the fear that such patterns of work were inevitably to the detriment

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[36] M.L.McDougal, 'Working class women during the industrial revolution", In R.Bridenthal and C.Koontz: Becoming Visible, Women in European History (Boston, 1979), Chap 11.

[37] Parliamentary Papers, 1843 xii, (510), Report of Select Committee on Inquiry into Work of Women and Children in Agriculture, pp. 5-10. This report reflects the situation in the latter part of the period under study here, it is possible that patterns of employment were different during the late eighteenth-century, as Snell argues, "Agricultural seasonal unemployment", p. 146, fig.7.

of the female worker's morals. (Note again that the limiting of women's freedom is conceptualised as the need to protect her sexuality.) It transpired from their enquiries however, that it was only during the harvest period that men and women were likely to be found working together. At all other times women's work was differentiated both by its type and its pace relative to that of men. One witness questioned by the commission alleged that:

> "In general the women don't mix much with the men when working in the fields, except during harvest time."[38]

This implies that a woman working in the fields was unlikely to have been constantly supervised, either by her master or by her husband. However, their hours of work were still long enough to allow them little free time.

The types of opportunities for crime available to women in an agricultural context were nevertheless limited in another way, by the types of goods which they were likely to have easy access to. In an agricultural, as opposed to an urban, setting, wealth was stored in different ways. Commentators suggested that luxury goods were more difficult to find in rural areas; Commissioners investigating the consumption of the labourer referred to his lack of access to a variety of quality goods, as his only retail outlet was the local chandler's shop.[39] In an agricultural society, such as that represented by the quarter session and

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[38] Parliamentary Papers, 1843 p. 85.

[39] Parliamentary Papers, 1837-8 (Accounts), pp. 485-9, Government Reports showing the Weekly Diet of Several Independent Labourers.

assize courts of Berkshire, wealth was mainly invested in livestock. Wealth stored in other ways, as coins or luxury items, was relatively scarce.

Women were unlikely to have had easy access to livestock while at work and they were almost wholly absent from thefts of livestock. I have found only one example of a woman who attempted to steal livestock, and she hired a boy servant to actually drive the animal off the common for her.[40] Women were most commonly prosecuted for stealing goods such as fruit and vegetables taken from the fields, reflecting the fact that they were most likely to encounter goods of relatively little worth in a rural environment.

This point about relative ease of access to valuable goods is probably best illustrated by giving an example not of a female crime, but of a male crime: The man in question is a certain Richard Gibbs, and his case shows how his working experience was inextricably linked to his criminal behaviour. My evidence comes from his own confession to the crime.[41]

One Saturday night a man who called himself John Fisher turned up at Richard's house. He suggested to Richard that they both went out to look for sheep. Richard explained that he knew it would take as many as four men to capture a sheep, unless it was one which was already in the fold. Accordingly the two of them went to where Richard knew they could find sheep in the fold. They took

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[40] R v Martha Martin, BCRO Q/sr, Jan. 1789.

[41] R v Richard Gibbs, PRO Assi 5 (Berks), Summer 1788.

one sheep from the fold into another field and skinned it there, each making off with a portion of the carcass.

There are several important points to note about this crime:
firstly, that it was based upon a clear and precise knowledge of how sheep were handled and managed, secondly that it was perpetrated by two men working together, who must have had the opportunity to establish prior social contacts. It is likely that Richard was being somewhat disingenuous in suggesting that his accomplice simply turned up at his house with no prior warning, perhaps in order to present his case in a better light. Finally, this crime was crucially dependant upon some prior knowledge of the practices of the farmers in the vicinity and knowledge of where livestock were likely to be found at that moment.

In none of these aspects of the planning and perpetrating of such a crime would a woman have had the same sort of advantages. She was less likely to have dealt with the herding of livestock as part of her day to day routine in the open fields, (with the possible exception of dairy-maids working with cows) and her ability to deal with animals as the object of a theft must have been limited by this fact. Moreover, behaviour which was unusual would have been more likely to arouse suspicion; the very fact that she was dealing with goods of this type would have been more likely to have aroused suspicion than would the comparable actions have been when carried out by a man. It would have been a common sight to see a labourer driving his master's sheep to a nearby market. A woman doing the same thing would have aroused no small degree of

suspicion. A woman's general lack of legitimate access to the most valuable of rural society's assets ensured her corresponding absence from crimes involving valuable property.

In both rural and urban areas women were also far less likely to have had easy access to the type of material resources which were the necessary tools for serious crime. The Reading Mercury of 1820 provided a comprehensive list of the tools found in the home of a convicted burglar, Richard Povey:

> "One neat pair of brass barrelled pistols, a variety of lock keys, centre bits, a crow bar, a pot of stiff paste, a dark frock and cap, a saw for cutting iron bars, a diamond for cutting glass, and many more things."[42]

A man such as Povey might legitimately have had access to tools of this type in the course of his daily labour, which he could then use for criminal purposes. He was also more likely to have be skilled in the type of technical knowledge necessary for making the best use of such tools, especially in order to perpetrate crimes which involved some forceful incursion upon property. In the same year the Reading Mercury again referred to the transference of skills learnt at work to the field of crime, in another report concerning a burglary:

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[42] Reading Mercury April 1820.

"From the skilful manner of the execution of the crime, it was concluded that the thieves had been involved in the mechanical trades."

I have found few instances of women using either specific skills or professional tools for their crimes. One of the only exceptions is the case of Mary Johnson, who when she was committed for breaking and entering was found to have twelve false keys on her.[43] Women were also less likely to have had access to the type of casual social acquaintance which appears to have formed the basis for many male crimes, including the one discussed above. Such partnerships appear to have often originated in the local inn or ale house, a domain from which women were usually excluded, with the exception of the prostitute. This brings me to consider a further aspect of women's social experience, namely the ways in which they spent their time when they were not at work.

b. Crime and Leisure.

The foregoing part of this discussion has suggested the close correlation between criminal activities and the opportunities different types of employment made available for crime. However, the significance of an individual's working lifestyle should not be overstated. The ability to control at least a significant

[43] R v Mary Johnson, Times Jan. 1805.

proportion of one's own time is a significant factor in determining one's potential for some types of criminal activity. Crime takes time, and this is especially true of types of complex crime, which are more than spontaneous actions, and demand a degree of pre-planning and foresight. In this respect it is essential to look more closely at male crime to illustrate the ways in which it differed in form and content from female crime.

Much work has been done to establish the ways in which a member of the lower class would have spent his time away from work.[44] However, in many of these studies, though not explicitly stated, leisure is cast within a male framework. Sports which are obviously a male preserve are listed, but little attempt is made to suggest any female equivalents. It has only been lamely suggested that women used communal tasks such as nut-gathering and wood-collecting as a means of amusement. Of course, there were some types of leisure which were available to both sexes. Local fairs were seen as a meeting place for members of the opposite sex, and were often disparaged as scenes of great immorality for that reason. Other types of communal activities would also have brought women into contact with each other and their peers, such as the celebration of religious feasts. One late eighteenth-century observer described the many types of community festivals celebrated during this period, including some which were specifically celebrated by women.[45] However, it appears that

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[44] See for example R.W.Malcomson, Popular Recreations in English Society, 1799 - 1850 (Cambr.1973); H.Cunningham, Leisure and the Industrial Revolution, 1780-1800 (Lond., 1980).

[45] For a detailed account of such feast see J.Brand, Observations on Popular Antiquities (Lond., 1777), pt ii. He mentions Candlemas (wives'feast day), when women celebrated together and any woman caught working was liable to have

on a routine basis what leisure pursuits were available, were available mainly to men.

Nowhere does this appear to be more true than in that centre of the social community, the ale house. Many historians have established its essentially masculine focus. Harrison states for example that:

> "The drinking place was primarily a masculine republic.....if women were excluded from the public house they had their own forms of amusement in stairhead drinking clubs, chapel life, and local gossip."[46]

Contemporary commentators do nothing to dispel this picture. In the course of his "Rural Rides", Cobbett often had occasion to spend the evening with admirers in the local inn. On one such occasion he wrote in his diary that:

> "The great business of the evening, namely smoking, drinking and singing .....was proceeded in by a company whose wives were, for the greater part, at a convenient distance."[47]

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her distaff burnt.

[46] B.Harrison, Drink and the Victorians (Lond., 1971), p. 47.

[47] W.Cobbett, Rural Rides 1822-30, (Ed. C.D.H. & M.Cole Lond., 1930), p. 480.

The importance of the pub as the actual scene, or at least the initiating scene in criminal activity is shown by depositions relating to male crime. Of a total of nearly two hundred cases, in more then twenty - five percent of these the pub played an important role at some stage of the crime.[48] The activities of Henry Brown, a labourer are a good example. Eleven o'clock of a Saturday night found him in the local pub. Here he got into conversation with a certain Richard, who suggested that they both went out in search of turkeys. A soldier who was also with them in the pub agreed to go as well. They made off together into the fields and succeeded in finding an outhouse, the door of which they broke down between them. They took the fourteen ducks which were inside and made their escape by climbing a tree and leaping over the yard wall. They later sold the ducks in the same pub from which they had set out.[49]

If one considers a comparable set of cases for women, a quite different picture emerges. I have found only one example of a crime which was actually committed by a woman in a pub, and another which referred to a man and woman drinking together before going out to commit a burglary. The only exceptions are crimes which involved prostitutes, which I have already discussed. It is significant that the prostitute is the main exception to many of the conclusions drawn here. Again we see that women were only free from

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[48] These male cases are taken from: BCRO Q/sr, 1780-1830, three yearly sample (Two sessions per year) commencing 1780; PRO Assi 5 (Berks), 1780-1830; Sessions Papers, 1780-1830, ten yearly sample, one session per year (April) commencing 1780.

[49] R v Henry Brown, PRO Assi 5 (Berks), Lent 1805.

supervision and control if they had already betrayed one purpose of that control, the protection of their sexuality.

From the comments of contemporaries, it seems that women were not totally absent from some drinking places. Witnesses before the 1834 Commission on Drunkenness worried over the women who abandoned their families in order to spend more time and money in the gin shops of the metropolis.

> "I am sorry to say" claimed one witness,"that I have found numbers of women, and sometimes respectable women in these places."[50]

Others added further testimony to this effect, talking of the problems of beer shops near dwelling houses encouraging wives to use them while their husbands were away at work. The commission concentrated on the situation in the metropolis and it seems likely that there was a greater concentration of inns and gin shops here. Part of this general concern about women drinking, however, was the way in which their drinking was divorced from any social purpose. The image presented is of a woman addicted to drink, rather than simply interested in using the social facilities provided by the ale house. This suggests that drinking outside the home was not related to the same kind of social intercourse for women as it was for men. This meant that women were excluded from one

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[50] Parliamentary Papers, 1834 viii, (599), "Report of Select Committee into Drunkenness", p. 14.

important means of establishing the type of social contacts which could be used for criminal activities.

This is not to say that women had no alternative means of social interaction, particularly with other women; however, what opportunities did exist for women were qualitatively distinct from the type of culture provided by the pub. Recent research has emphasised the importance of women's role in establishing and sustaining bonds of kinship outside the family.[51] From deposition evidence it appears that women could rely on some types of domestic networks of friendship and communication. In some cases quite clear evidence of women's domestic networks is revealed. One case which illustrates the kind of social interaction available to women is that of Hannah Lord.[52]

Hannah was tried for infanticide in the Berkshire assize court in the summer of 1781. At her trial as many as six women gave evidence against her. They all claimed a degree of intimacy with Hannah, and I am interested here in the variety of means by which they claimed this had been established. Two of the women explained that they had been in the habit of taking their work to Hannah's house, so that they could work together and keep each other company as they spun and carded wool. Another claimed that she and Hannah used to go out collecting wood together, while a fourth simply stated that she was often at

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[51] M.Leonardo,"Women, families and the work of kinship", Feminist Studies, 12 (3) (1987). For an earlier period see R.A Houlbrooke, "Women's social life and common action in England from the fifteenth century to the end of the civil war", Continuity & Change, 1 (1986).

[52] R v Hannah Lord, PRO Assi 5 (Berks), Summer 1781.

Hannah's house, and had come particularly when she had heard that Hannah was going to have a child.

Historians have documented women's domestic networks, and especially the way in which they were utilised as the basis for other types of organisation.[53] However it is my contention that the type of interaction available to women was not conducive to criminal activity in the same way as was that provided by the pub in the case of men. One might posit several distinctive aspects of a leisure culture which centred around the pub which made it especially conducive to criminal activities.

Firstly, there was the fact that the pub was the centre of community in the evenings, a time which was also auspicious for crime, there being few other demands on one's time, while the darkness of the night provided a convenient cover. Secondly, consumption of alcohol could well have conferred a greater readiness to act beyond the bounds of the licit. Finally, the pub was an area of social interaction unsupervised by any form of authority, and which might even have been involved in illegal dealings itself, as a receiving house perhaps.

In the field of the organisation of human resources, as in so many other fields, women appear to have been less likely than their male counterparts to be able to command the types of resources necessary for complex crimes, or indeed any

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[53] See for example M.P Ryan,"The power of women's networks", in J.L. Newton at al., Sex and Class in Women's History (Lond., 1983), pp. 167-87.

type of crime.

iii. Dealing With Stolen Property.

It was not only from the aspect of the deployment of time that women's criminal potential was limited in some important ways. A successful theft depended not only upon some means of obtaining goods illicitly, but also upon processing these goods once stolen, such that their value could be realised by the offender. For this reason some types of goods might be more attractive as the objects of a theft than others.

In illicit as in licit transactions, the female offender must have exercised a degree of choice in the goods which she stole. Contemporaries persisted in suggesting that for women this simply meant that they were likely to give into their vanity and steal luxury goods for their own adornment. I have analyzed the types of goods which women were likely to steal and found that this is an inappropriate stereotype. In fact, far from concentrating on luxury goods, women were equally likely to steal a wide range of property, including basic foodstuffs, but clothing was the item most commonly stolen (see Table One). Other characteristics of female theft patterns are worth noting, especially the fact that they were far more likely to steal coins and cash in an urban, as opposed to a rural situation.

TYPES OF GOODS STOLEN.

	L.smg	L.mh	B.ass	B.qs.
CLOTHES	27% (57)	26% (12)	26% (14)	22% (25)
CLOTH	6% (13)	2% (1)	13% (7)	9% (10)
FOOD	0% (0)	12% (6)	4% (2)	24% (29)
LUXURY	15% (31)	16% (7)	24% (13)	5% (6)
COINS	28% (59)	6% (3)	17% (9)	4% (5)
CHATTELS	16% (34)	19% (9)	7% (4)	5% (6)
LVSTOCK	0.5% (1)	0% (0)	7% (4)	0% (0)
PEWTER POTS	7.5%(16)	14% (6)	0% (0)	0% (0)
FUEL	0% (0)	0% (0)	2% (1)	19% (22)
OTHER	0% (0)	5% (2)	0% (0)	12% (14)
SUM	100 (210)	100 (46)	100 (84)	100 (117)

TABLE ONE.

The types of goods which women were prosecuted for stealing in the City & Berkshire courts, expressed as a percentage of all types of theft.

Sources:
i.L.smg = CLRO, SMG Sessions Minutes, (Gaol Delivery)
ii.L.mh = CLRO 237E Mansion House Minute Books.
iii.B.ass = PRO Assi 5, Sessions Files.
iv.B.qs = BCRO MF 6-10 Order Books.

1.Luxury goods include lace, silk, jewells, watches.
2.Chattels includes household furniture and linen.
3.Pewter pots are drinking vessels stolen from ale houses, only common in the city.
4.These thefts include petty offences tried summarily.

Sample is five yearly for City Gaol Delivery data, yearly for Berkshire data, 1780-1830 and two sessions (Jan/June) for years 1785,1787,1790,1801 & 1803 of Mansion House Minute Books.

That women so regularly chose clothing as the object of their thefts can be explained by a variety of factors, including however an element of choice based upon personal consumption preferences. Historians have suggested that clothing was the most sensitive "status asset" which a woman possessed. The 1843 Commission on women and children in agriculture noted that all women expected to own a "better gown" for wear on Sundays, while evidence taken from other sources illustrates that the majority of the poor had little disposable income to spend on clothing.[54] Clothing would have been one of the most valuable items of property owned by the poor and was a lifetime investment. Hecht suggests that servant women were especially likely to be encouraged to indulge in such conspicuous consumption, encouraged by their close interaction with mistresses of a higher social status and the desire of emulation.[55] Others claim that the eighteenth century witnessed a growth in commercialisation and casual shopping which can only have encouraged such types of consumption, or the desire for such.[56] It has been argued that by the late eighteenth century the concept of fashion had reached even the poorer members of society.[57]

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[54] Parliamentary Papers, Accounts 1837 p. 485-9, see also G.Fussell, The English Country Woman (Lond., 1953), p. 149, where he lists the average cost of several items of clothing at the end of the eighteenth century.

[55] J.J.Hecht, The Domestic Servant Class in Eighteenth Century England (London, 1956), Chap 8.

[56] N.McKendrick et al, The Birth of a Consumer Society, The Commercialisation of Eighteenth-Century England (Lond., 1982).

[57] For a detailed treatment of the growth of the British fashion clothing industry see: B.Lemire, "The British cotton industry and the domestic market. Trade and fashion in an early industrial society, 1750 -1800", (Oxford DPhil. 1984).

This interpretation of the factors influencing the choice of stolen goods suggests that women stole things, and clothing in particular, for their own use. In some cases this would appear to be true. It was certainly true of Suzannah Hazell, who was prosecuted because she was spotted by her victim wearing the bonnet which she had stolen from her some six months earlier.[58] However, the object of a theft did not have to be used or consumed by the offender in order for her to benefit from it, she could realise the economic worth of the theft by retailing the property to a second party.

In order to clarify these different ways of dealing with stolen goods, I have analyzed available depositions to establish the most common means of dealing with stolen property.[59] If goods were not meant for immediate consumption, it is reasonable to assume that some consideration of the means of processing the goods would have influenced a woman's decision to steal in the first place. Her knowledge of possible opportunities must in turn have been defined by her normal social experience. I have divided the type of goods which women stole into two categories:

"Primary goods" are goods which needed no further processing for the offender to achieve the enjoyment of the results of her crime. The name applies therefore mainly to goods which could be immediately consumed or used by the offender. Basic foodstuffs are the type of goods most likely to fall into this

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[58] R v Suzannah Hazell, BCRO Q/sr, April 1822.

[59] Sample is as in note 14.

category. In fact goods of this type make up only one percent of all City cases and three percent of all Berkshire cases tried in the higher courts. "Secondary goods" make up by far the highest proportion of all cases, twenty - one percent for the City and only slightly less for Berkshire. These are all cases which involved a woman offender in some further form of economic exchange in order to benefit from her crimes. Of course there remain the many cases in which it is unclear exactly what the intentions of the thief were. Goods might have been found on her person only because she had not had either time or opportunity for processing them, though she might have been intending to in the future.

That evidence of women processing stolen goods is common implies that women were able to organise effective outlets for the fruits of their crime. However, this is more evident in some circumstances than in others. Particularly in the City, women appear to have had relatively easy access to a means of both transforming stolen goods into cash and at the same time returning stolen property to the legitimate market: the pawnbroker. In 1840 one investigator counted nineteen pawnbrokers in two Westminster parishes.[60] This gives some credibility to contemporaries who associated pawnbrokers with criminal receiving networks. The pawnbroker was an effective receiver of stolen goods as his trade was one in which ideas of property were anyway fluid. As Tebbutt suggests in her study:

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[60] See "Report on working classes in Westminster", Journal of Royal Statistical Society.

> "The pawnbroker's very nature made it susceptible to dubious transactions"[61]

The only evidence which a woman need retain of her dealings with a pawnbroker were the duplicates which she received of the goods which she pawned. Goods could be dispensed with quickly and with relatively little effort from the woman concerned, who did not have to retail the goods herself. Moreover she might have considered that the relative anonymity of dealing with a pawnbroker, rather than entering into a direct sale with another individual, protected her from detection.

The use of a pawnbroker does not indicate any particularly complex organisation of resources by the female offender; in fact the majority of these women must have been familiar with the pawnbroker in a strictly legitimate context: it was usually women who dealt with pawnbrokers for their family. This relationship between the legitimate and the illegitimate is emphasised by Linebaugh:

> "The distributing and receiving networks of criminal and legitimate business were identical."[62]

In contrast I have found few examples of women using criminal networks to pass off stolen goods, even in the countryside, where pawnbrokers do not appear

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[61] M. Tebbutt, Pawnbrokers p. 70.

[62] Linebaugh, "Tyburn", p. 478.

to have been a readily available option. Instead women attempted to process goods as individuals, usually by direct sale to individuals who were known to them in another context, and particularly by passing goods within a family network. Hannah Bailey gave the earrings she had stolen from her master to her sister, who in turn sold them to a woman she worked with in the fields.[63] However, resources for dealing with stolen goods appear to have been more limited in rural areas, and this is further indicated by the larger number of rural cases in which the stolen goods were found still in the possession of the accused. Other cases from the Berkshire material indicate the limited opportunities which existed for retailing stolen property. The case of Ann Witts is a good example:[64] she had stolen a number of horseshoes from a local iron monger, which she sold to a woman of her acquaintance. However, this woman almost immediately sold them back to the same ironmonger, and thus Ann's theft was revealed.

Problems of transferring stolen goods back into the local economy were likely to be more acute with some types of goods than with others. The best types of goods to steal from this point of view were goods which were hard to identify and relatively common. Once again one's chances of concealment were greater if one stole goods which one might have been expected to deal with legitimately. This might help to explain the types of goods which women were most likely to steal. Women's limited access to valuable goods in a legitimate context limited

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[63] R v Hannah Bailey, BCRO Q/sr, Oct. 1825.

[64] R v Ann Witts, BCRO Q/sr, April 1805.

the range of goods which they were able to deal with illegitimately.

I have so far excluded from discussion thefts of coins, cash and bank notes, as these obviously do not pose the same problems of retailing as do other types of stolen property. Thefts of this type account for twenty - six percent of all cases in the City, while in Berkshire the figure is only ten percent. This reflects the higher incidence of certain types of theft in the City: the theft of coins was most commonly the result of thefts by prostitutes.

As a commercial centre London provided more potential targets for such thefts than did Berkshire. London victims of such thefts often describe being robbed on their way home from business transactions in the City. In Berkshire, similar opportunities were only occasionally provided by local fairs. At such times the Reading Mercury never failed to comment upon the thefts which had been carried out during the fair. After the spring fair of 1790 it commented that:

> "We hear that pickpockets have been very busy at out fair, besides which a great number of trifling robberies were informed of."[65]

In this as in other respects, however, it appears that not only were women's opportunities for theft more extensive in the City, but the available resources for dealing with stolen property were also more numerous there. In general, however, women had limited access to valuable goods. Their potential for theft

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[65] Reading Mercury May 1790.

was limited by the need for concealment, which encouraged them to limit their dealings to the type of goods which they might have been licitly expected to deal with.

Women were themselves often involved, and prosecuted for, their involvement in this aspect of property crime, particularly as receivers. Receiving was not in itself a felony, but a misdemeanour, though it was usually necessary to have prosecuted the perpetrator of the felony before a receiver could be prosecuted as an accessory.[66]

The number of women committed as receivers during this period is nowhere very large, the total number of cases being only twenty - three. However evidence other than that created by the courts suggests that women were nevertheless often involved in receiving stolen property. Taking evidence from broadsheets in his study of Jonathan Wild, Howson mentions several women who acted as professional fences during Wild's time in London.[67] That legal records fail to reflect this female activity must in part be due to the relative immunity of receivers to prosecution. Not only did the principal felon involved have to be caught first, but the prosecutor also had to prove that the accused knew that the goods she had handled were stolen. Hence even if committed the likelihood of being convicted for receiving was low. Of the twenty - three cases mentioned

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[66] An act of 1782 ruled that a receiver could be prosecuted without the prior prosecution of the principal felon.

[67] G.Howson, It Takes a Thief. The Life and Times of Jonathan Wild (Lond., 1987).

above, only six resulted in convictions.

iv. Conclusion.

This chapter has indicated the range of crimes of property in which women were involved and has attempted to proffer some explanations for these patterns. Women were mainly involved in the type of thefts which were not far removed from their legitimate environment and were relatively simple crimes in organizational terms. I have suggested a variety of ways in which women's lifestyle made it difficult for them to partake in more complex forms of crime. Women's property crimes reveal the extent to which crime is related to one's normal lifestyle. Women's marginal social position is reflected in their criminally marginal behaviour. Women's criminal capacity was limited by the fact that a whole range of social assets were denied them. Continually existing under the authority of another, be it father, husband or employer, women lacked the ability to control their own activities which was a fundamental pre-condition of anything but the least complex forms of crime. Denied access to the most valuable of society's goods, women were also limited in the range of objects which they could successfully steal and process. Women's criminal activity was dependant upon the passive acceptance of given opportunities and increased only when such opportunities were more widely available, such as in urban areas. An urban environment provided women with a greater concentration of opportunities for theft, particularly of relatively valuable goods. In the countryside women's petty theft relied upon more complex forms of organisation, as in some respects

their freedom of movement was greater, but were limited by the types of goods which were available. Women's property crime was defined not by some biologically determined inherent characteristic, but by their marginal social position.

CHAPTER THREE.

Crimes of Violence.

i. Definitions Of Violence And The Context Of Women's Violence.

Crimes of violence have not attracted the same degree of attention from historians as have property crimes. This emphasis is evident in the works of historians such as Hay, who purports to explain the rationale behind the criminal justice system as a whole in terms of the use of law to protect property.[1] Crimes of violence reveal a quite different face of the criminal law, somewhat at odds with Hay's conclusions. As Steinberg argues, the frequent use of the common law by members of the lower classes to deal with disputes and violence between themselves suggests that access to the law was not the monopoly of the wealthy.[2] Here I am interested less in the class, than the gender of those

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[1] See D.Hay, "Crime and the administration of the law", Chap 1, and discussions in Albion's Fatal Tree D.Hay et al. This concentration is justified to the extent that property crime is the most numerically significant crime type. Hay states that only 22% of the cases he studied were violent crimes. Rude's figures relating to Sussex & London are similar, see Criminal & Victim pp. 11-17 & 25-40. For a modern comparison see N.H. Rafter & E.A.Stenko, Judge, Lawyer, Victim, Thief (Boston, Mass., 1982), N.Parisi, "Women as offenders", pp. 111-181, which draws on statistics from the US for the last decade. For British data see Social Trends, 12.

[2] A. Steinberg,"The spirit of litigation. Private prosecution in nineteenth-century Philadelphia", Journal of Social History, 70 (1986).

involved in crimes of violence. For if historians have in general neglected crimes against the person, this is especially true of women's crimes of violence.

Paradigms of violent crime more often refer to women as the victim than the perpetrator of violent crime. A clear example of this approach is Anna Clarke's study of violence in seventeenth-century England.[3] Herein women are viewed as permanently and inevitably victimised by the physical and institutional powers of patriarchy. Similarly, Tomes suggests that violence was endemic to working class life, but that changing perceptions of women's role through the nineteenth century produced a situation of stress which increased violence; however, this is seen only as affecting levels of male violence towards women.[4]

Criminologists have produced an etiology of violent crime, but reference is rarely made to the sex-specific nature of their theories. Those who have studied modern crimes of violence have also tended to see women only as victims:

> "It is still true that for a woman to be brutally or systematically assaulted, she must first enter our most sacred institution, the

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[3] See A.Clarke, Women's Silence, Men's Violence (New York, 1987). For a critique of her work see R.Porter & S.Tomaselli, Rape (Lond.,1986), Chap 10, R Porter, "Does rape have a historical meaning ?". For views similar to Clarke's see Diedrick, "Patterns of law enforcement"; R.Williams, "Crime and the rural community", Chap 4, who both presume that violent crime was a male activity.

[4] See N.Tomes,"A torrent of abuse, crimes of violence between working class men and women in London, 1840-75", Journal of Social History, 11 Spring (1978).

family."[5]

In none of these interpretations is there room for women's active deployment of violence themselves.

Prosecutions of women for all types of violent crime during this period belie the above assumptions (see Table One). In fact, as a ratio of all crimes committed by each sex, crimes of violence accounted for the same proportion of all offences for both men and women (see Table Three Chap 1 & Appendix 1.i).

The type of evidence which I have used to provide an indication of women's violent activity makes it difficult to assess the actual degree of violence used in many cases. For example, the legal category "assault" might have been used to describe a broad range of behaviour. For the same reason it is difficult to compare male and female violent crimes, as different expectations of male and female behaviour might have led to a greater tolerance of male behaviour before it was considered to be violent. Evidence from depositions reveals women involved in "violence" ranging from petty assaults to wielding heavy weapons to inflict manslaughter. The most common serious violent crime which women committed was infanticide, though the majority of female prosecutions were for petty assault.

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[5] R.E.Dobash and R.Dobash, Violence Against Wives (Lond., 1979), p. 32.

Women's Violent Crimes.

OFFENCE	TOTAL INDICTMENTS.	
	LONDON	BERKSHIRE
INFANTICIDE	2	4
MURDER	1	1
ROBBERY/ BURGLARY	9	0
FELONIOUS ASSAULT	7	0
NON-FELONIOUS ASSAULT	309	34
RIOT	0	10
BREACH OF PEACE	9	6
TOTAL	337	56

TABLE ONE.

Crimes of violence of which women were accused in the City and Berkshire courts 1780-1830.

Sources: PRO Assi 5, Sessions Files,1780-1830
& Assi 2, 24-27, Crown Books, 1780-1805
BCRO MF 6-10, Order Books, 1780-1830
CLRO SFG Sessions Files, 1780-1830
SFP Sessions Files, 1780-1830

Sample is five yearly in all cases commencing in 1780 and includes only indictable offences.

The situations in which women used violence of some type are easier to establish. The context in which the women who appeared before the Berkshire and City court used violence corresponds with previously established characteristics of such crimes: it was in the main perpetrated within a domestic situation, against victims who were at least acquainted with their attacker.[6] This is reflected by the type of weapons used by the women involved (see Table Two).

Again it is worth drawing some comparisons with male crimes of this type. In contrast to women, men tended to rely upon different types of weapon for their assaults, especially guns. Men's assaults were far more likely to take place outside the home, and often at an inn or ale house. This must be a further reflection of the different social spaces of men and women at this period.[7]

There are some similarities between male and female violence, however: one of the major weaknesses of an approach to violent crime which stresses violence between the sexes, and specifically the violence of men towards women, is that it fails to recognise an important characteristic of all violent crime, namely that violence is far more likely to be used against a member of one's own sex than

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[6] See S.J.Ruff, Crime, Justice & Public Order Chap 4.

[7] My evidence of male cases is taken from Berkshire PRO Assi 5 1780-1830 (yearly sample), BCRO Q/sr 1780-1830, (3 yearly sample, 2 sessions per year) and the City 1780-1830,(sample is ten yearly commencing 1780) and from the Sessions Papers (sample is one session, ten yearly commencing 1780). Of a total of 21 cases of violent crimes which were perpetrated by men and tried in the City and Berkshire courts, only six took place within the home. Of these, five involved the use of firearms.

Women's Violent Crimes.

DEPOSITION EVIDENCE.

Location of crime:

HOME	(26)	81%
ON STREETS	(5)	16%
OTHER	(1)	3%

Relationship of offender to victim:

LIVING COMPANION	(4)	13%
SPOUSE	(5)	16%
CHILD	(10)	30%
STRANGER	(5)	16%
FIGURE OF AUTHORITY	(3)	9%
OTHER	(5)	16%

Weapon used:

NONE	(23)	72%	
DOMESTIC	(5)	16%	(Knives, bottles
FIREARMS		0	
OTHER	(4)	12%	(Brickbats, bill hooks)

TABLE TWO.

Evidence from depositions demonstrating the most common contexts of women's violent crime, expressed as % of all violent crimes for which depositions survive in the City & Berkshire courts.

Total number of depositions = 32.
Sources: *PRO Assi 5 1780-1830, Sessions Files & Assi 6/1 1719-1951, Depositions.*
BCRO Q/sr 1780-1830, Sessions Rolls.
CLRO Sessions Papers, 226 b-c. 1780-1830.

against a member of the opposite sex. Evidence relating to petty assaults from the City reveal that two-thirds of female assaults were directed at other women.[8] No less than women, men were also more likely to offend against a member of their own sex than the opposite sex, and that person was more likely to be an acquaintance than a stranger.[9] To this extent the dichotomy between female domestic/emotional violence and male public/manipulative violence is somewhat overdrawn. Crimes of violence appear to rest almost by definition upon the dislocation of already established contacts, rather than the creation of specifically targeted ones. In his discussion of violent crime, Monahan stresses the importance of recognising that most murders occur as a violation of the norm, rather than as acts of organised deviance.[10] This is equally true of both male and female crimes.

This chapter is an exploration of the motivations and contexts which drove women to use violence when they did. Spontaneous and intrinsically personal, crimes of violence are far less easy to analyze in any systematic way than

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[8] See Peace Sessions CLRO, SMP 1-11/SFP 1780-1830. The total number of female assault cases recorded in this five yearly sample is 285, of these the victim was female in 188, or 66% of cases.

[9] Of 441 male assaults tried in the City peace sessions, 326 were against other men (sample is five yearly, from CLRO, SMP 1780-1830).

[10] See M.E. Wolfgang and N.A Weiner, Criminal Violence (Beverly Hills, 1982), J. Monahan, "Situational approaches", pp. 300-315. For a historical interpretation see L.Stone, "Inter-personal violence in English society", Past & Present, 3 (1983). He argues that crimes of violence have become increasingly concentrated within domestic situations.

property crimes however. Perhaps this also helps to explain the reluctance of historians to concentrate upon this field of crime.[11]

Criminologists suggest that the use of violence should be seen less in terms of the application of a positive resource, than as a response to a "resourceless" situation. Gelles states that violence is a response to a

> "state of imbalance between the demands of the social and physical environment and the capabilities of an individual to cope with these demands."[12]

Suggested causes of such stress include: crowded living conditions, unemployment, financial problems and single-parent families. Hartman gives some consideration to the idea that violence is a response to social stress for women in her study of middle-class female murderesses. She attempts to pin-point specific periods in a woman's life when social expectations and a woman's own aspirations were likely to form a critical situation, which could induce a woman to turn to violence in order to resolve the conflict.[13] However she deals

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[11] Place discussed the fact that the lower classes had their own ideas of what constituted an assault. See B.L. Add Mss. 27830, (Place Papers), f 3. The legal definition of an assault was: "an intention, coupled with a present ability, of actual violence over his body", See H.Roscoe, Digest of Laws of Evidence In Criminal Cases (Lond., 1835), p. 210.

[12] See Wolfgang and Weiner, Crimes of Violence, Chap 4, R.J Gelles, "Domestic crimes of violence", pp. 202-205.

[13] M.Hartman, " Crime and the respectable woman: towards a pattern of middle-class female crime in nineteenth-century France and England", Feminist Studies, (1974).

only with the least common type of violent crime and only those perpetrated by middle-class women. By expanding on this interpretation of the use of violence by women, I want to suggest a more complex picture of the actors and victims in crimes of violence and to stress that it is simplistic to presume that the deployment of violence was the prerogative only of the male gender.

ii. Alternative Means Of Dealing With Conflict.

Although I am concentrating on the use of violence as a means of resolving conflict, it is also important to consider why violence was chosen as the most appropriate response to a given situation. When women did find themselves in situations of stress and conflict, violence would not have been the only means that they had of solving tensions. Violence was usually only the most immediate means of settling a dispute, amid a variety of alternatives.

a. Legal Redress.

The fact that women appeared against each other in the quarter sessions courts implies that the law was at least one forum in which disputes could be settled, though this was not always either the most effective, or the most accessible resource. Use of the law to settle disputes was likely to have rested on the accessibility of legal representatives, in this case mainly JPs. Geographical

variations in the availability of JPs to the surrounding populace perhaps explains why a far higher number of petty disputes were brought before the City Justices than their Berkshire counterparts. One contemporary claimed of the City Justices that they were kept so busy trying these disputes that they had no time to take depositions.[14] Another testified to the willingness of the poor to use these legal facilities:

> "The lower orders will actually pawn their clothes in order to obtain a warrant."[15]

However there were other legal forums in which personal disputes could be settled.

b. The Ecclesiastical Courts.

Many of the female assault cases which I have encountered were the result of the deployment of violence in defence of their character against a slur. Historians have suggested that women were especially vulnerable to slander of this kind, as their sexual reputation defined their status in society, and especially their purchasing power in the marriage market.[16] However, recourse to violence

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[14] See Morning Chronicle May 1830.

[15] See Parliamentary Papers, 1816 v, (510), Committee on the Police of the Metropolis, p. 61.

[16] See J.Ruff, Crime, Justice and Public Order Chap 6, "Moral crimes".

was not the only means of settling disputes of this kind, though violence was always the most immediate means of settlement. A different form of justice could be had from the ecclesiastical courts, whose jurisdiction included, amongst other moral offences, the prosecution of defamation cases. The ecclesiastical courts offered a different range of sanctions from their common law counterparts. The accused woman was likely to have to undergo some sort of public penance, as well as paying costs to the victim, rather than a period of incarceration, and this in itself might have influenced the decision of an aggrieved party to use this court.[17] One witness to the 1831 Royal Commission investigating the ecclesiastical courts declared that they were used by "very small shopkeepers and artisans". Details are provided in this report about the London court, showing that from 1787 - 9 when twenty - six cases were heard, the number of cases dropped in the late 1820s to only three for the whole period. It seems therefore that, while not used to the same extent as the courts of common law for settling inter-personal disputes, the ecclesiastical courts did provide a further forum for settlement.

b. Community Regulation.

Nor were other forms of legal redress the only alternative means of settling disputes. A community was likely to have had its own means of self-regulation. Amussen refers to the fact that households were ideally to be self-regulatory, based upon the subordination of the wife to the husband. If such regulation

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[17] Parliamentary Papers, Reports, 1831-2 xxiv, (199), Report of Royal Commission on the Practice and Jurisdiction of the Ecclesiastical Courts.

failed, it was upon the local community, rather than upon legal officials, that the duty of settling disputes fell.[18] Indeed the boundaries between official and community sanctions were not absolute. The type of shame punishment meted out by the ecclesiastical courts depended upon the support of the surrounding community for the stance of the church.

I have found several instances of child abuse in which the community, and especially the women of the community, took it upon themselves to punish an offending woman. The Star of 1830 reported the case of Mary Wolfe, who had apparently been prosecuted only after community attempts to correct her behaviour had failed.[19] The case of child abuse brought against Sarah West in the City also indicates that before coming to court neighbours and the local surgeon had already attempted to intervene to halt the abuse.[20] Such close community supervision was to be expected in circumstances where living conditions were cramped; Young suggested that village labourers sometimes lived in double tenements with an average of about six inmates.[21] In such a situation the diffusion of tension and the halting of abuse would have been in the interests of those neighbours who desired to live in peace. However, it seems that such regulatory duties were not always exercised. When the Berkshire woman, Ann Gotelee, assaulted her female victim in this victim's home, she was watched by

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[18] S.D.Amussen, An Ordered Society (Oxford, 1988), pp. 130-2.

[19] Star June 1810.

[20] Sessions Papers, 1833 and CLRO Sessions Papers, 226 b-c, 1833.

[21] A.Young, Annals of Agriculture iii, (Lond., 1784-1804), p. 335.

both her own husband and her victim's husband, neither of whom appear to have made any attempt to intervene.[22]

Domestic conflict could also be solved by the implementation of para-legal sanctions. In his notebooks, the Bedfordshire JP Samuel Whitbread frequently mentioned women who appeared against before him for assaults and slanders, the majority of whom he dismissed with a caution, having encouraged the parties to agree among themselves.[23] The City magistrates' notebooks are full of similar decisions. None of the women who appeared before them charged with an assault were convicted; the most usual response was a reprimand and discharge.

There were a range of sanctions which could be imposed to settle conflict which did not entail the heavy economic and time commitments of prosecution by indictment, but which could have been used as alternatives to violence. A reprimand, or a recognizance which bound an individual over to keep the peace, could be effective alternatives. Shoemaker establishes a wide range of such options, and their usefulness in different types of case.[24]

It seems however that at this period, and among some strata of the population at least, violence remained both the most effective, and a defensible, means of

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[22] See BCRO Q/sr, July 1804.

[23] A.F Cirket,"Samuel Whitbread's Notebooks" Beds Historical Record Society 50 (1971).

[24] R.Shoemaker, unpublished paper, "Strategies for prosecuting petty crime in pre - industrial England", Dec. (1988).

dealing with petty disputes, even among the law enforcers themselves. Miscellaneous records relating to the law in Berkshire include the diary of a local constable.[25] Amid references to deaths, births and marriages, he records some of his duties as a constable, including the following in 1812:

> "Moll Smith.....hit me a pop o'the face, and I hit her....she fetched a warrant for me.
> I was held to justice for hitting Mol Smith, and got off clear."

iii. The Circumstances When Women Used Violence.

I now want to consider in more detail the types of situation in which violence was deployed by women in response to a variety of "stress" situations. Because of the paucity of evidence provided by depositions, I have also used cases of violent crime which were reported in the national and local newspapers. While the latter are difficult to use quantitatively, they can provide useful background information which one does not find in the more legalistic formulae of the deposition.[26] I have categorised these crimes in terms of the various motivations

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[25] BCRO MF 98, (DP 43/10, 1-2), Diary of a constable.

[26] Newspapers are Times, Morning Chronicle, Star, Reading Mercury, sample is ten yearly, commencing in 1780. This yields 54 cases of female crimes of violence.

and aims which they represent. My main categories are:

1.Socio-economic violence.

Violence as a response to a situation of social stress, not directly motivated by personal relationships.

2.Protest violence.

Violence directed against figures of authority, reflecting a lack of alternative means of protest.

3.Affective violence.

Violence directed against an individual as a response to a disruption of personal relationships.

4.Acquisitive violence.

Violence directed with the further aim of gains beyond the immediate injury inflicted on the victim.

Obviously these categories have nebulous boundaries and it is possible for a single crime to contain elements of all of the above, although it is usually possible to establish a dominant theme.[27] Even with the aid of depositions and newspaper reports, it is not easy to assess why violence was utilized in any

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[27] For previous attempts at categorization see Weiner, "Sex roles and crime".

particular case, rather than an alternative means of settling a dispute. However, in some circumstances a woman was obviously more limited in her range of options than others.

1.Socio-Economic crimes.

This first group of crimes occurred in situations in which women had few adequate means of response other than violence.

a. Infanticide.

The most significant female crime of this type is infanticide. In these cases a woman's violence was less an expression of aggression towards the object of her violence, the child, than a response to a wider set of social circumstances beyond her control. Infanticide represents a point at the furthest extreme on a spectrum of violent activities which are a response to situation of social stress. Infanticide is the female crime of violence which has provoked the most attention from historians, and indeed provoked the most comment from contemporaries. Evidence relating to cases of infanticide appears to have been relatively likely to have survived in the court rolls also.[28] Many of the cases

[28] Thirty cases of infanticide were prosecuted in the Berkshire courts during this period (sample is yearly), compared to only two in the City (sample is five yearly). Of these, depositions survive relating to eight cases, while newspapers provide evidence of a further seven cases.

which I have studied here support the conclusions already established by those who have specifically studied infanticide.[29]

While contemporaries viewed the murdering mother as bestial and inhuman, historians have tended to view such women as helpless victims rather than bloodthirsty murderers. Here I shall be emphasising the social situation of the mothers involved in order to understand the nature of their helplessness.

Cases of infanticide occur far more regularly in the provincial than the City high court. On average nearly two cases of infanticide were tried every year in Berkshire, while cases were much rarer in the City.[30] This emphasises some of the previously suggested conclusions about the differing experiences of women in the town and countryside. It suggests primarily that women were in a relatively isolated situation in the rural areas when it came to dealing with an unwanted pregnancy. It is worth noting in this context that bastardy rates were also higher in rural areas.[31] It was only in the metropolis, of course, that there was the foundling hospital (founded in 1741), where unwanted children could be left.

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[29] See for example the work of P.C. Hoffer and N.E.H. Hull, Murdering Mothers. Infanticide in England and New England, 1558 - 1802 (New York, 1984); Beattie, Crime and the Courts pp. 113-124; J.Cockburn, Crime and the Courts Chap 8, R.W.Malcolmson, "Infanticide in eighteenth-century England", pp. 187-209, and S.Pole, "Crime, society and law enforcement", p. 174.

[30] Malcolmson also claims that infanticide was rarer in urban areas. He found an average of one case per year in Staffordshire. "Infanticide in England", p. 187.

[31] See J.Fletcher, "A statistical account", he gives details of bastardy rates for all English counties, and my Table Four, Chap 1. Hull argued that infanticide increased in parallel with bastardy prosecutions, Hoffer & Hull, Murdering Mothers p.18.

Moreover, it would seem likely that women were part of a morally less closely controlled society in the City. One indication of this is the less formal definitions of marriage which pertained here, as I have previously established. In her study of infanticide, Hull stresses the greater difficulties experienced by the authorities in controlling illegitimate births in "teeming London."[32] While the City had a lower rate of infanticide, cases of dropping and abandoning children were more common here. Perhaps this reflects the fact that women could rely upon parish officials to look after an unwanted child. Many women accused of child dropping stated that they left their child purposely for the authorities to find, as they felt they were unable to adequately provide for the child themselves.

The overwhelming majority of the women who were accused of infanticide were servants or ex-servants. Hull has argued that servants were especially likely to commit infanticide as they were in a particularly vulnerable "status position".[33] Others have argued that servants were vulnerable in other ways, to rape for example.[34] If Kussmaul is correct to argue that the servant system was one which was aimed primarily towards the sexual and economic control of the young prior to marriage, then cases of infanticide can be seen to represent the weak points in this system of control.[35] When discussing property crimes I

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[32] Hoffer & Hull, Murdering Mothers p. 131.

[33] Hoffer & Hull, Murdering Mothers Chap 6.

[34] See C.A. Conley, "Rape and justice in Victorian England", Victorian Studies, 29 (1986).

[35] A.Kussmaul, Servants in Husbandry Chap 2.

discussed the characteristics of the servants position, her lack of autonomy and especially her lack of privacy. The closely circumscribed movements of the servant and her lack of privacy are continually reiterated in infanticide depositions. In a case reported in the Times of 1825, a servant explained how she had to wake her mistress in the middle of the night in order to ask for the key to the privy so she could deliver her child there.[36]

While a servant's freedom was circumscribed by the vigilance of those with whom she worked, it was her own conception of the moral condemnation and social consequences of producing a bastard child which demanded that she concealed her condition to the point of killing her child. This social / sexual code appears to have been upheld by the female acquaintances with whom the servant spent most of her time. Women appear in this context less as a source of support than a source of condemnation. It might be that it was only women who lacked some sort of supportive community who were vulnerable to prosecution.

Only in two cases have I found any evidence of a woman being able to rely on any external help when she found herself pregnant.[37] In one case a servant returned to her mother's house, where she was stoutly defended by her mother from the prying eyes of the surrounding community.[38] In another case on the

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[36] R v Mary Kemp, Times May 1825.

[37] Malcolmson also states that women were likely to act alone when committing infanticide, "Infanticide in England", p. 200.

[38] R v Ann Allen, PRO Assi 5 (Berks), Summer 1815.

night of the birth, a mother went next door to ask her sister's lodger for help. This female neighbour appears to have been previously aware of her plight, and helped to conceal soiled linen, pawned clothes in order to buy beer for the mother, and suggested where the body of the child should be hidden.[39] Of course, it is possible that in many cases those who had helped the mother were unwilling to admit as much to the court lest they be accused of some involvement in the crime.

Infanticide can be seen as a crime in which violence was a direct and desperate response to a circumscribed social situation, in which violence remained one of a woman's few resources.

b. Child Abuse.

Infanticide is only the most extreme reflection of the dangers and stresses of pregnancy and child-rearing for women during this period. In fact, it was not only as an unmarried mother that her fertility could threaten a woman's social and economic well being. Historians have stressed that the time of greatest economic vulnerability for the family unit was when the greatest number of children were at pre-wage earning age, when family consumption was likely to

[39] R v Mary Skinner, PRO Assi 5 (Berks), Summer 1786.

outrun family income.[40] While child-rearing was conceptualised as a woman's natural role, in reality it was more likely to have been a threat than a pleasure. It is in terms of this sort of social and economic stress that cases of child abuse can best be seen.

The potential instability of the family unit at this period, and its impact on the care of children, is well illustrated by the records of the Philanthropic Society, which concerned itself with vagrant and homeless children. The inability of many mothers to cope with their offspring is witnessed by the many instances of children running away from the society to return home, only to be immediately brought back to the society by their mothers, who were unwilling, or unable, to care for the children themselves.[41]

Modern criminologists explain the preponderant role of women in child abuse by the fact that they spend more time with children and also invest far greater emotional resources in child rearing than do their spouses. It is upon them that the onus for the day-to-day care of children falls.[42] It is indicative of many of the types of social stress which could lead to child abuse that so many of the court cases refer to a disrupted family situation, either a single parent family, or step-parents. In seven out of the twelve cases for which evidence survives this

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[40] T.Wales, "Poverty, poor relief and the life cycle".

[41] Surrey CRO 2271, 27, Philanthropic Society, Matron's Registers.

[42] Wolfgang and Weiner, Crimes of Violence p. 204.

is true.[43] Mary Smith was the step-mother of the daughter who she threatened to kill unless she was taken away from her.[44] It is interesting that mothers appear to have been more likely to pick on female than male children to abuse. Perhaps this is a reflection of the "social under-valuing of daughters" identified by Walkowitz.[45]

Child abuse could range from simple neglect to the physical torture and murder of young children. It is sometimes difficult to disentangle the neglect which is the concomitant of poverty from actual criminal malice. In the majority of cases, abuses were brought to the attention of the officials by watchful neighbours. This once again illustrates the difficulty of establishing any kind of family privacy in the type of housing in which many of these mothers were forced to dwell. It was often reported that a neighbour could constantly hear a child crying so went to investigate. The mother in this situation appears to have had no means of repelling such intrusions.

Some of the crimes of this type which reached the courts and were faithfully retailed by the press were indeed horrific: the Times reported the case of Elizabeth Dale, a seventeen year old unemployed servant, who held her child over the flames of a fire as a punishment.[46] Hannah Haycock killed her child by

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[43] Evidence is taken from surviving depositions and newspaper reports.

[44] R v Mary Smith, CLRO Sessions Papers, 226 b-c, Sept 1833.

[45] J.Walkowitz, Prostitution and Victorian Society p. 20.

[46] R v Elizabeth Dale, Times Aug. 1805.

dropping it from a workhouse window.[47] Amid the sensationalism of the press however, one can detect the signs of social deprivation which might lead to such actions; the father of Elizabeth's child had left, Hannah lived in the work house, and similar situations surrounded those accused of dropping and deserting children in the streets of London. Ann Copeland left her child out in the streets, but explained afterwards that:

> "she was sorry to see it go, but she had no relief from the parish."[48]

In many cases the links between poverty and abuse are obvious. A court acquitted Ann Moss for the murder of her child by starvation, as the parish officials informed the court that her husband had left her and she didn't have enough food to support herself, let alone a child. The critical economic condition caused by the loss of one half of a working couple could be a catalyst for child abuse.[49]

Nor was it necessarily only the mothers of children who were driven to child abuse. Sarah West was the sister of the child which she had been left to look after, after the death of her mother. Her father was a cab man who was away all day, and she was left to look after the child although she was only eight.

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[47] R v Hannah Haycock, Times Aug. 1815.

[48] R v Anne Copeland, Times Sept. 1815.

[49] R v Ann Moss, Times May 1805.

She was accused of starving the child, but the court decided that she was not old enough to be responsible for her actions. [50]

Women could direct their violence not only against members of their own family, but also at other members of their household, such as servants and apprentices. The abuse of apprentices is less easy to define in terms of socio-economic stress, though undoubtedly a sickly apprentice might have been viewed as more of burden than an asset. Moreover, an apprentice was likely to have few resources at his/ her disposal in order to guard against violence of this kind. Many of the cases of abuse suggest some mental imbalance on the part of the mistress, encouraged by the degree of authority which she had over the apprentice, as in the case of Mrs Atkins, who systematically stripped her female apprentice naked and flogged her with a whip.[51] Such cases are exceptional, however; the majority of cases of child abuse were rather the response of women to unstable marital, social and economic positions, encapsulated in the burden of a child, who was also a vulnerable and accessible target against which violence could be directed. In such cases violence was the response to a situation of social stress by a woman who was unable to remedy her situation by any other means.

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[50] R v Sarah West, CLRO Sessions Papers, 226 b-c, Sept 1833.

[51] Star Aug. 1800.

2. Protest Crimes.

a. Crimes against Figures of Authority.

If infanticide can be seen as a response to a desperate social situation, there are other circumstances in which women used violence as a more direct statement of their own distress. Discussion of property crime has already revealed the degree to which women were constantly subordinated to a range of authorities. The degree of violence to which women sometimes had recourse as a weapon against those to whom they were subservient provides further evidence of their isolated and helpless condition. In these instances violence was used to articulate grievances in the face of the lack of any alternative.

The most obvious example of the use of violence for these ends is the violence deployed in riots. The role of women in riots at this period has recently been discussed by Bohstedt, particularly their role in bread riots. He sees women's decreasing involvement in riots as the concomitant of their declining role in the domestic economy during this period.[52] Women's involvement in riots is interpreted as a statement of their positive status as citizens, in a period when political rights were denied to all members of the lower orders. There are few examples of women involved in riots during this period, in either Berkshire or the City, the few scattered indictments for riot never indicating activity on any

[52] J.Bohstedt, "Women in English riots, 1790 -1800".

significant scale. In 1830, when agricultural rioting was rife in Berkshire, among the three hundred or so men who appeared before the special commission which was sent to deal with the rioters not one woman appeared.[53]

However, women did use violence to protest against authority on an individual scale. There are several instances of women directing their violence against local officials in Berkshire.[54] Sarah Grant was accused of assaulting a local overseer of the poor while he was in her house.[55] His deposition does not make the reason for her attack clear; possibly he was refusing her relief. In the case of Mary Taylor, this was certainly true.[56] She had gone to the overseer's office to ask for relief, but he refused her. In response she threatened him with his life, and grabbed a shilling from his table before running off, telling him she was damned if she was going to suffer if she didn't have to. She returned to the overseer a second time, and behaved in a similar sort of way, and it was in response to this second scene that the overseer decided to prosecute her. In both of these cases the women concerned were making autonomous claims against figures of authority in the name of their perceptions of their social rights. Hence if women cannot be seen to be taking an active role in communal statements against authority, they do nevertheless appear to have been willing to

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[53] PRO Assi 5, (Berks), Summer 1830.

[54] Williams estimated that 15% of all assault cases tried in Berkshire were for assaults against officials. R.Williams, "Crime and the rural community", p. 201.

[55] R v Sarah Grant, BCRO Q/sr, Jan. 1825.

[56] R v Mary Taylor, BCRO Q/sr, Dec. 1830.

establish their own rights by individual confrontation.

It was not only officials with whom women came into contact as figures of authority; others included employers and lodging-house keepers, both of whom were likely to have been female. There are many examples of women using violence against other women in response to a perceived abuse of authority; Eleanor Hester was accused of assault when she attempted to resist being thrown out of her lodging house by her landlady.[57] In such cases violence can be best explained as a resource relied upon when the relationship between the accused and her victim made it difficult to enforce redress by any other means. All such offences represent the use of violence against figures of authority in the face of a lack of any licit channels of influence.

3. Affective Crimes.

If considered at all, women's violence has been associated with crimes of this type, emotionally provoked and directed at "domestic" victims. Depositions indicate that it was indeed in a domestic context that women were most likely to use violence (see Table Two). I want to suggest, however, that, although predominantly domestic, and by definition against acquaintances rather than strangers, the context of women's affective crimes is wider than has previously

[57] R v Eleanor Hester, CLRO 226 b-c, Jan 1825.

been supposed. Among the poorer classes, houses would frequently have included lodgers, servants and apprentices, as well as members of the close or extended family. Hence, even if a woman's violence was usually deployed in a domestic situation, this does not mean that her victims were necessarily only those within her family circle.

Violence of this type is hard to analyze systematically; it cannot be seen simply as the response of women who had few other means of rectifying an oppressive situation, since, as I have earlier suggested, there were a variety of alternative ways in which inter-personal disputes of this sort could be settled, not least by recourse to the law. However, there do appear to be some common characteristics of the situations in which violence was used, rather than any less provocative response, against those with whom women shared their lives.

No less than for men, alcohol was a constant companion of violent activity. In twenty - seven percent of depositions relating to violent crimes by women, alcohol was involved. Violent crime has long been connected with drinking, although perhaps not normally in the case of women. The Parliamentary Commission on drunkenness considered that:

> "Murders, assaults and outrages ....are commonly found to originate at the public house."[60]

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[60] Parliamentary Papers, 1834 Report of Select Committee into Drunkenness, p. 164.

One of the few surviving cases of female manslaughter involved two women who had been drinking. Catherine Ryan and her victim had been out drinking together, and returned to the house which they shared, which appears to have been Catherine's marital home. At home however, they argued over who had paid for the drinks. A scuffle ensued, in which Catherine eventually used a poker and a bottle against her victim. The two of them were eventually pulled apart by a third occupant of the house, and they both went off to bed. However, within two days Catherine's opponent was dead.[61]

Cases of less serious assault between women were also linked to drunkenness. A fairly typical case was reported in some detail in the News of the World. The offenders were two female dealers in old shoes, who lived in the Seven Dials area of the City, plying their trade in Monmouth Street. The crime commenced with verbal abuse, but soon escalated into physical assault. The accused was eventually described as: "hitting her opponent on the neck, and hitting the baby at her bosom", while she of course claimed that it was the victim who started the assault. Both women were described as always drunk and quarrelsome.[62]

A further common characteristic of affective violence is that, though not directed against a public figure of authority, it was likely to be directed at those to whom women were subordinate in domestic situations. It is plausible that in many

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[61] R v Catherine Ryan, CLRO Sessions Papers, 226 b-c, July 1805, & Times Sept. 1805.

[62] News of the World Oct. 1843.

disputes with superiors women were likely to have simply suffered in silence; however, evidence has survived relating to many cases in which they fought back. One woman used violence against her husband and her husband's father who shared their household, claiming that they were continually abusing and criticising her.[63] In such situations violence might have been the most effective means of action against superiors, or preferable to the kind of protracted dislocation of relationships which might have ensued from legal action. Moreover, women would have had a further disincentive to take a husband to court, as they knew that this could entail a period of incarceration which would have punished them as well as him, since they would have been left without his earning power.

These types of crime would seem at first to have little to do with social stress, and be best explained in terms of personal relationships. A close study of evidence from depositions and newspaper cases reveals a variety of impulses behind women's use of violence in similar situations. There are some cases which were obviously based upon emotional/sexual anger. Mary Shelton explained that she was driven to assault her husband with a hammer because he had abandoned her and her family, and run off with a prostitute. She claimed that she had had to sell her clothes in order to afford food for her children.[64] Women also assaulted each other due to conflicting affection. The Morning Chronicle reported a case of two women assaulting each other because one had

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[63] R v Mary Curtis, BCRO Q/sr, April 1804.

[64] R v Mary Shelton, Times Nov. 1825.

returned to claim a long lost husband, who was by now married to her opponent. The Englishman reported a similar case.[65]

While these might be viewed as essentially emotional crimes, they were related to wider social circumstances in so far as they reflect the instability of marriage, and the difficulties in establishing when a marriage was void. The degree of emotion aroused indicates the economic and social importance of marriage for women. Assaults relating to marital stress also reflect the fact that from the seventeenth to the nineteenth century England was a society in which divorce was virtually unobtainable. Many of these assaults might be the venting of frustration against an unsatisfactory marital situation, from which there was no means of escaping. Hartman argues when discussing middle-class women, that it was the social stress attendant on marriage which explains women's attempts to murder their husbands.[66] This is born out by cases of assault in which the woman claimed that she would have left her husband had this been possible.[67] "Personal" stresses in marriage might also have been exacerbated by economic problems. Frances Pearce described how she attacked her husband because he refused to hand over to her the money which she knew he had in his pocket

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[65] R v Martha Jackman, Morning Chronicle Sept. 1830. Catherine Murphy v Margaret Murphy, The Englishman Aug. 1828.

[66] M. Hartman, Victorian Murderesses.

[67] For example claims of Sarah Polgrean, Star Aug. 1820.

book.[68] Winifred Jones alleged that she assaulted her husband because he had spent all his money on drink.[69]

It is apparent that one can not reduce all female domestic violence to a personal/ emotional cause. Moreover, when violence was ostensibly for this reason, there were always further social and economic implications for the woman concerned in the face of the possible defection of a husband. For women the already unstable economic position of all members of the working class was exacerbated by her dependant economic position within the family unit.

The range of offences which I have discussed illustrate the range of experiences which could induce women to use violence in their cause, both against men and against other women. I have suggested that it is simplistic to view women as deploying violence only with personal/emotional aims. Even when these assaults appear to be primarily personally directed, they can also be linked to wider social problems. Women were especially likely to respond to such situations violently if their anger was directed against someone in authority over them, and if they were under the influence of alcohol.

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[68] R v Frances Pearce, BCRO Q/sr, Oct. 1809.

[69] R v Winifred Jones, Morning Chronicle Sept. 1830.

4. Acquisitive Crimes.

I have previously concentrated upon violence which was personally directed and had little aim other than inflicting some degree of injury upon the opponent. However, violence could also be deployed as a means to an end, particularly in the cause of material gain. It is not always easy to distinguish different types of violence here, as many cases of larceny, especially larceny from the person could have included a degree of violence, though this was considered by the prosecutor to be subsidiary to the major offence, the stealing of property. For example, many instances of prostitutes stealing from drunken victims included an element of force. Victims describe how they were threatened with weapons in the prostitute's room, or rough-handled in the street as the prostitute attempted to make off with money and valuables. The Morning Chronicle of August 1830 added to a similar case that it was typical of the prostitute to attack drunk and weak men violently:

> "Many women make frequent assaults on drunk or disabled men for the purpose of plunder."

Many of these cases which were prosecuted as larcenies might well also have included elements of assault. Of depositions relating to property crimes, a

significant percentage contain an element of violence.[70] It is at least plausible that women's use of violence was under-represented because women were more likely to have such crimes described as property crimes due to perceptions of women's likely behaviour, a point which will be pursued in more detail later. Unfortunately it is often difficult to tell exactly what degree of violence was deployed in these cases. The ubiquitous use of the term "accosted" could feasibly cover a multitude of activities, and certainly could include an element of force, if for example, a man refused to give in to a prostitute's request, or would not readily give up property. Mary Dawson called in several other women to threaten her male companion when he refused to pay for her services adequately.[71]

Women would often use violence only after initial attempts to seduce or persuade had failed. Anne Stephens was accused of an assault on the highway, because when her male victim refused to "go with her" as she had requested, she "beat his hat off, and cut his head in three places." [72] The Star reported how one man was threatened with iron bars and pokers in a bawdy house.[73] Nor was it only prostitutes who would turn to violence as a concomitant of theft: Catherine

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[70] Of depositions relating to cases of theft as analyzed in chapter two, 14 (or 17%) included an element of violence (sample from CLRO Sessions Papers 226 b-c, PRO Assi 5 (Berks) & BCRO Q/sr, Sessions Rolls).

[71] R v Mary Dawson, CLRO Sessions Papers, 226 b-c Aug. 1786.

[72] R v Ann Stephens, CLRO Sessions Papers, 226 b-c, Dec. 1810.

[73] Star Aug. 1791.

Hartmann and Mary Barnsley lured an old clothes dealer into their room, covered him with a blanket, assaulted him, and took all his money from him.[74]

Thus when legally defined, violence was not considered to be the critical aspect of these crimes; nevertheless many of the women involved evidently utilised violence as an adjunct to other types of crime. Crimes were not primarily confrontational might become so if the prime purpose of the crime were frustrated.

Aside from this type of "secondary" violence, there are also some examples of women using violence as a primary means of gaining a desired end, not attendant on the establishment of any prior relationship of any kind. This use of violence for material gain by women is, however, rare. I could find only one deposition from a case in which a woman was involved in the use of violence in order to perpetrate a robbery: Mary Howard broke into a dwelling house with her common-law husband and herself battered to death its sleeping occupants with a candlestick. Even in this case it is made clear that she is using violence at the instigation of her husband, rather than relying upon her own initiative.[75] Newspaper reports also provide only one further example of this type of crime: Mrs Piphoe was accused of holding a knife to her male victim's throat in order to force him to draw up a promissory note for her.[76]

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[74] R v Catherine Hartmann, CLRO Sessions Papers, 226 b-c, Oct. 1780.

[75] R v Mary Howard, PRO Assi 5 (Berks), Lent 1780.

[76] Times May 1795.

iv. Conclusion.

The foregoing discussion has revealed the complex and varied ways in which women used of violence. It has shown that violence was not only a tool which was used against women, but also one which was used by them. By recognising women's positive deployment of violence, and defining the use of violence as a response to a variety of stressful social situations, it has been possible to highlight important aspects of women's social experience, points of social contact and potential sources of friction. Though female violence has previously been associated with crimes of passion, I have shown that not only do women react with violence to a wider variety of situations than this suggests, but also that even personal/emotional motivations can be viewed in a wider social context.

This positive use of violence by women against members of the opposite sex and members of their own sex poses a challenge to theories which suggest that women were inevitably helpless victims in the face of an all-embracing and all-powerful patriarchy. It suggests rather a less than completely closed system of control.

CHAPTER FOUR.

Female Criminals: Popular Images.

The previous two chapters have been concerned with the social context of women's criminal activity; however, crime, as recorded and prosecuted by the courts during this period, was not simply determined by a woman's actual behaviour, but also by the reaction of the criminal justice system to her actions. Both criminologists and historians have recognised the degree to which "crime", as recorded in the legal documents available to historians, is a reflection of only those criminal activities which were actually prosecuted. The selective process which determined which crimes were prosecuted was defined by the opinions and beliefs of the individuals involved at all stages of the criminal justice system, from prosecutor to judge; this process will be the subject of this and the following chapter.

This has led some criminologists, the most notable of whom is Pollak, to argue that the relatively scarce appearance of women in criminal records reflects, not their non-criminal behaviour, but the persistent failure of society to detect and prosecute women and recognise their criminality.[1] More recently criminologists have analyzed the ways in which gender is a significant determinant of the ways

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[1] O.Pollak, The Criminality of Women. For a modern version of this argument see G.Elton's introduction to J.Cockburn, Crime and the Courts in England (Lond., 1977).

in which an individual is treated by the criminal justice system, and suggested the rationale behind this differential treatment, stressing the different behavioural norms applied to men and women.[2]

The aim of this chapter is to uncover a range of attitudes and beliefs about women and women as criminals, during the late eighteenth and early nineteenth centuries and evaluate the extent to which women's absence from criminal records can be explained, at least in part, by the way in which society responded to women's criminality. The following chapter will look at the ways in which the courts actually dealt with women, and trace the impact of the attitudes uncovered here.

To some of the earliest criminal theorists, it was evident that to be a female was to be essentially non-criminal, in a way which was not true for men. Witness the following statements from Lombroso:

> "Criminals are an exception among civilised people and women are an exception among criminals."
> "The female criminal is doubly exceptional, both as a woman and as a criminal."[3]

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[2] See for example M.Eaton, Justice for Women (Open Univ., 1986).

[3] C.Lombroso & G.Ferrero, The Female Offender pp. 151-2.

Social commentators during the early nineteenth century similarly stressed women's essential goodness. To them women were models of the quiescent behaviour which was the antithesis of anti-social activity and crime. Gisborne wrote, concerning the nature of the female:

> "The duty of the woman is to do good by example and to be a blessing to others and herself."[4]

The opinions of middle-class observers cannot necessarily be accepted as coinciding with the opinions which would have been in the mind of the victims and judges of offending women. It is obviously not possible to posit an exact fit between opinion generated in the media and the individual decisions of those involved in the processing of women as criminals. Nevertheless, it is worth establishing some of the general outlines of the range of contemporary thinking on the subject of women and crime.[5] I have concentrated on the most accessible of media sources, encouraged by the fact that these are also likely to have been read by those involved in the decision-making processes of the criminal law.

I have focussed on opinions to be found in newspapers and printed books (principally collections of trials), augmented by reports of official bodies and

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[4] T. Gisborne, An Inquiry into the Duties of the Female Sex (Lond., 1823), p. 225, and similarly P.Wakefield, Reflections on the Present Condition of the Female Sex (Lond., 1817).

[5] For a detailed study of the attitudes of philanthropists and social commentators to women's criminality later in the nineteenth century see L.Zedner, "The criminality of women and its control in England, 1850-1914", (Oxford DPhil. 1988), Chap 1," Normal and deviant women".

philanthropic social commentators. A possible weakness of relying on these sources is that they were the province of the better-educated classes, though in fact this might be open to doubt; according to those whose research took them into working-class homes in London during the 1830's a substantial proportion of even the less "respectable" of the lower orders read newspapers, the most popular being the Times and the Morning Chronicle, which were available in coffee houses and eating places. Local circulating libraries included copies of the Newgate Calendar among other forms of popular literature.[6]

I have also looked at some of the more "popular " media sources, mainly broadsheets and ballads, which would have been commonly available on the streets of London at least during the earlier part of this period, as Place describes in his commentary on working class life early in the nineteenth century:

> "Every one of the songs mentioned might be bought from those who sold ballads in the streets against the walls each song for a half penny."[7]

There is no reason to expect that among these sources a homogeneous body of opinion will emerge; it is quite possible that there were a variety of discourses

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[6] For more details of the reading habits of the poor of one London district during this period see N.Felkin,"Moral statistics of two parishes of Westminster in 1838", Journal of Royal Statistical Society, Dec (1838), pp. 478-493.

[7] B.L. Add. Mss.27825, (Place Papers), f 1, "Songs sung about the streets of London", p. 143.

concerned with female criminals. However, this chapter will be arguing that though there were several ways in which women were portrayed, these all shared a common theme; the establishment of women's essentially non-criminal character. There were a variety of ways in which the ideal of the female was sustained in the face of her criminal activities, and I shall discuss these in detail later.

i. Patterns Of Reporting In The Press.

Historians have suggested that the visibility of punishments at this period and hanging in particular served a social purpose in so far as it impressed upon the mind of the public a specific attitude to the power of the law. Sharpe refers to its didactic and normative intent[8] It is possible to argue that those who recorded trials and crimes for the media were engaged in the same sort of activity, the orchestration of the activity of the law in the name of specific stereotypes, in order to uphold specific attitudes and opinions.

Those who have studied the role of the press in modern-day society have stressed the selectivity and purposiveness of its discourse. Chibnall stresses the role of the press in retailing popular stereotypes, and filtering out threatening and

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[8] See J.A.Sharpe,"Last dying speeches. Religion, ideology and public execution in seventeenth century England", Past and Present, 107 (1985) and also Randall McGovan,"The body and punishment in eighteenth-century England", Journal of Modern History, 59 (1987), pp. 651-679.

unfamiliar images.[9] This role of the press was also recognised by observers in the nineteenth century. In his Picture of London for 1802 Feltham wrote:

> "The press is a mirror where folly may see its own likeness and vice contemplate the magnitude of its own deformity."[10]

Attitudes to women's crime are revealed not only by the way in which individual female crimes were perceived and explained by the media, but also by the types of crimes which the media choose to report in the first place. This very process of selection reveals much about the popular image of the female criminal. One might deduce, for example, that crimes which were over-reported in the press were those which were considered to be especially "serious" and deserving of public condemnation. Patterns of reporting illustrate both positive and negative aspects of the female stereotype as it was orchestrated through the media.

The degree of column space devoted to crime was a flexible attribute of the late eighteenth and early nineteenth-century newspaper press. Crime reports usually appeared on the final page of the newspaper, and tended to be expanded or diminished in relation to the amount of coverage given to the prime targets of the newspaper: events in court and in parliament. Therefore, the amount of crime reported was allied not simply to the amount of crime being committed, or even current perceptions of the levels of crime, but also to what other events of

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[9] R.Chibnall, Law and Order News (Lond. 1977), Chap 2.

[10] See J.Feltham, A Picture of London for 1802 (Lond., 1802), p. 220.

importance where covered by the press. Crime was certainly not considered to be the prime target of the press at this period.[11]

The way in which crime was reported falls into a similar pattern in all types of newspaper. It seems that some of the national newspapers shared the same source of crime coverage, as reporting between papers was virtually identical. Crime reports consisted of detailed coverage of trials of special interest which appeared in the provincial assize courts and in the Old Bailey, plus a more cursory treatment of all cases which appeared at the Old Bailey, as well as accounts of appearances at the London Public Offices such as those at Bow Street and Mansion House. The inclusion of these latter reports was the most dependent upon the volume of other sorts of news. This pattern is reflected not only in the national but also in the local press, such as the Reading Mercury and the Berkshire Gazette. These reported court and metropolitan news at the expense of local matters, although the most notorious of local cases did usually get some coverage.

In both national and provincial newspapers, amid this process of reporting, already limited by the amount of column space given over to crime, quite clear criteria were implemented in deciding which, if any crimes were sufficiently important to be included (see Table One).[12] It is important to bear in mind the

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[11] There were some newspapers which were specifically devoted to crime reporting, such as the Terrific Register (1825-), and later The News of the World. For a study of the growth of the press during the period see G.A.Cranfield, Press and Society, Caxton to Northcliffe (Lond., 1978).

[12] See appendix 4.i for more details of this sample.

Crime Reporting.
Newspapers.

OFFENCE	*NEWSPAPER*		
	TIMES	*STAR*	*READING MERCURY*
LARCENY (Except servant theft)	*35 (29%)*	*52 (30%)*	*2 (33%)*
SERVANT THEFT	*10 (8%)*	*17 (10%)*	*0*
ASSAULT	*22 (18%)*	*15 (9%)*	*1 (17%)*
FRAUD	*19 (16%)*	*26 (15%)*	*0*
INFANTICIDE MURDER	*32 (26%)*	*40 (23%)*	*3 (50%)*
OTHER	*4 (3%)*	*22 (13%)*	*0*
SUM	*122 100*	*172 100*	*6 100*

TABLE ONE.

Analysis of the types of female crime reported in two national and one provincial newspaper, expressed as a % of all cases reported.

Sample = 300 cases. See appendix 4.i for more details of sampling.

ways that these patterns differ from the male equivalent, as I am not suggesting that stereotyping applied only to women, but that it was applied with reference to different norms for women than for men.

Modern sociologists have suggested the criteria used to decide which crimes are newsworthy:

1.Seriousness of offence.

2.Whimsical humorous elements.

3.Sentimental dramatic.

4.Involvement of high status person.[13]

One can see how this applies to the reporting studied here. It is clear that violent crimes were substantially over-reported, and for women infanticide was especially likely to merit the attention of the press. Crimes against the person were equally over-reported when committed by men; however, these were spread over a broad range of types, there being no single violent crime which merited the amount of attention accorded women for infanticide.[14]

This would seem to support the idea that it was those crimes which challenged perceptions of normal behaviour which were most likely to be reported to the

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[13] See S.Cohen and J.Young, The Manufacture of the News (Lond., 1981), p. 40.

[14] My data relating to male crime reporting is taken from a study of the Times 1785-1830, at ten yearly intervals commencing in 1785, giving a total of 850 male cases. For more details of this data sample see appendix 4.ii.

press. Women incurred most public interest and condemnation when they denied their "natural" role as mothers. For men, murder and assault provoked the greatest degree of interest, accounting together for thirty - five percent of all male crimes reported.[15] In contrast the most numerically common of female crimes, theft, gained little media attention. This emphasises the fact that women's most serious criminality was viewed, at least in this context, as allied to her status as a mother and wife, rather than as an economic agent. Male property crimes were also under-reported, accounting for only thirty percent of reported cases.[16]

ii. Printed Collections.

It was not only newspapers which retailed information about crimes and criminal cases to the general public. Although by this period the publication of such personalised accounts of crime as the "Ordinary's Account" of dying speeches was becoming less common, their place had been taken by printed collections of trials.[17] Such collections appear to have been directed at a different audience from the broadsheets and Ordinary's accounts, as is explicitly stated in the preface of one nineteenth-century collection.[18] The author specifically sets

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[15] See appendix 4.ii.

[16] See appendix 4.ii.

[17] See F.W.Chandler, The Literature of Roguery (Lond., 1907), pp. 111-119.

[18] See G.Burrow, Celebrated Trials Intro.

himself aside from the

> "chronicles of roguery and depravity..... which have usually been compiled in a language which sympathised with and accorded with their subjects."

though the Ordinary's Account was supposed to be a moral tract.[19] It is possible that such claims represent less a change in audience, than a change in common ideas of the acceptable means of describing the criminal. Indeed, it is this sort of change which Place claims to detect in his collections concerning the changing morals of the working classes during this period. He specifically condemns works such as the Ordinary of Newgate's Accounts.[20] The aim of such collections as Burrow's was rather to highlight significant criminal cases, with an ostensibly moral purpose, though how far this moral aim overcame the purely lurid aspects of these collections might be open to doubt.

I have taken half a dozen of these collections, published throughout this period, and studied them in the same way as I have studied newspaper reports. The total number of female cases included is eighty. The collections used here are:

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[19] For a detailed discussion of the religious aspect of criminal biographies see L.Fuller Turned to Account. The Forms and Functions of Criminal Biography in Late Seventeenth and Early Eighteenth-Century England (Cambr.,1987), pp. 72-90.

[20] B.L. Add.Mss. 27826, (Place Papers), f 31, "Crimes, punishments and prisons".

1.A Collection of Trials Anon, (1775).

2.Arnot's Criminal Trials (1778).

3.The New Newgate Calendar W.Jackson, (1795).

4.Borrow's Collection of Trials (1825).

5.The Complete Newgate Calendar G.T.Crook, (1826).

6.Annals of Crime Anon, (1830).

These are an invaluable source as they provide a more detailed coverage of the facts of a case and a more interpretive approach, due to their more overtly didactic purpose, than do either newspapers or legal narratives of cases. The collections which I have analyzed above were more selective than were newspapers, as their selection process was not chronologically bound in the same way. They often included cases drawn from other centuries, for example.

As in newspaper reports, it is crimes of violence which figure most highly in printed collections of trials (accounting for forty - eight percent of cases in total). These works do reveal a concentration on a different range of violent crimes (see Table Two).[21] Infanticide does not figure as highly here as it has done in previous contexts. Of far more significance are murder cases involving adults, and especially members of one's own family. The most commonly described form of murder is poisoning.

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[21] Fraud is less heavily reported for men. In Jackson's collection, of 28 male cases, only 2 relate to fraud.

Crime Reporting.
Printed Collections.

OFFENCE	*% OF ALL REPORTS*	
MURDER	*19%*	*(15)*
MURDER OF SPOUSE	*12%*	*(10)*
INFANTICIDE	*10%*	*(8)*
MURDER OF FEMALE	*10%*	*(8)*
ASSAULT	*7%*	*(6)*
ROBBERY	*14%*	*(11)*
LARCENY	*10%*	*(8)*
FRAUD	*10%*	*(8)*
ARSON	*2%*	*(1)*
OTHER (Perjury, treason, witchcraft)	*6%*	*(5)*
TOTAL	*100*	*(80)*

TABLE TWO

The types of female crimes most commonly reported in printed collections of trials, expressed as a % of all female cases reported.

Sources;
Collection of Trials, Anon, 1775.
Arnot's Criminal Trials, 1778.
New Newgate Calendar, 1795.
Borrow's Collection of Trials, 1825.
Complete Newgate Calendar, 1826.
Annals of Crime, Anon, 1830.

This would seem to fit neatly into what historians such as Hartman have labelled as the crimes of middle-class women, perhaps reflecting the fact that works such as this were more directly targeted at a middle-class audience, amongst whom murders such as infanticide were likely to have been uncommon.[22] The list of subscribers published at the beginning of Arnot's 1785 edition of his work names mainly merchants, advocates, writers and surgeons as the purchasers of his volume. Again, however, the cases concentrated on can be seen as articulating fears concerning women who oppose given forms of authority, and challenge women's natural social position of submission to her husband or family.

Neither newspapers nor printed collections focussed upon a representative cross-section of women's crimes, but were highly selective in the types of crime which they chose to report. These sources indicate that women's crime merited attention only when women had offended against their "natural" social position, by deploying violence against those to whom they were supposed to be subservient and those whom it was their "natural" role to nurture. By emphasising the most serious of female crimes they were making implicit judgements about other types of female crime, and this might well have had some effect on the way in which women were treated when involved in these different types of crime.

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[22] M.Hartman, "Crime and the respectable woman, towards a pattern of middle-class women's crime in nineteenth-century France and England", Feminist Studies, 2 (1974).

This only partially supports the notion that women's crime remained unrecognized by society at large. In fact, it was only some types of women's crime which failed to gain attention. Moreover, much the same could be argued of men, for whom the media also failed to depict a representative cross-section of crime. However, there were some differences in the types of crime which were most likely to be reported in each case. Men's violent crimes were heavily concentrated on in collections of trials, though they were far less likely to be portrayed as the murderers of members of their own family. Men were also more likely to be reported for crimes such as robbery and burglary.[23]

The ways in which crimes were described and explained when they were reported also differed significantly between men and women. The media had a specific language for describing the actions of women involved in crime, which was both subjective and distorting.

iii. A Variety Of Discourses.

Having established broad patterns of crime reporting, I now want to turn to look in more detail at the terminology used by the press and other media to describe female criminals. My main contention is that in none of these sources is it

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[23] See for example Arnot, whose collection includes twelve murder cases involving men, in only one of which the victim is a member of the offender's family. Jackson's collection includes seven male murder cases, only two of which are against family members.

possible to find a fusion of the ideas of the feminine and the criminal to suggest that women have in any way a real and enduring capacity for criminal actions in the same way as do men. I will be comparing the language used to describe male and female crimes to illustrate fundamental differences between the two. It is the way crimes are reported, rather than whether they are reported at all, which gives some credibility to the notion that society, or at least the media, was unwilling to accept the fact that women could be criminal.

The female cases which I shall be studying, from whatever source, share a pattern of reporting which concentrates on certain aspects of the criminal and her case:

1.The appearance of the accused.
2.The character of her crime.
3.The social status of the accused.
4.Her behaviour in court.
5.Her defence /her repentance.

It is within this basic framework of reference that women were judged by the media. I shall be illustrating how combinations of all these factors were orchestrated to produce variant images of the female criminal, in accordance with a perceptible set of social stereotypes, and amid four types of discourse. It is worth noting here that the same points of judgement do not appear to have been applied in the male case. Descriptions of male criminals rarely dwell upon their

appearance for example, or their behaviour in court, while reference was far more likely to be made to a man's past experience and lifestyle. [24]

a.The Female Criminal and the Rational Will.

One of the most common themes in media evidence relating to the female criminal was the idea that while women were committing crimes, they were not fully in control of their own actions. This was one means of denying that criminality could be an intrinsic part of the female character. Reports accepted the fact of the woman's criminal actions, while not recognising the validity of her will. There were several different means by which this was achieved.

The woman's actions could be explained by the fact that she was acting "under the will of another", especially that she was acting under the direction of a male accomplice. This attitude was not only a creation of the media, but was also enshrined in the law. Blackstone referred to the legal ruling that if a woman committed a crime with her husband, she was to be considered as having acted under his will, unless it could be positively proven that he was ignorant of her activities. If she was acting under the will of her husband it was with him that culpability lay.[25] This attitude is exemplified in the many cases when women appeared as actors in a group of criminals and it was presumed that their role

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[24] See for example some of the Ordinary of Newgate's accounts for the early part of this period: J.Villette, Genuine Account of the Behaviour, Confession and Dying Words of W.Hawke and W.Jones (Lond., 1774).

[25] Blackstone, Commentaries Vol 1, Chap xv, "On husband and wife".

was that of passive accomplice, rather than of directing force in the crime.

It is true that men were also liable to attempt to exonerate themselves by claiming that they had been incited to commit a crime by another individual; sometimes, although rarely, this could be a wife or mistress. One male murderer whose crimes earned him a place in the Terrific Register alleged that he had been incited by his "vile mistress."[26] However, men were most likely to refer to the generally malign influence of their peers, rather than cite the influence of a specific individual on a specific occasion; thus they were presented as retaining the initiative during the actual committing of a crime, in a way in which women did not.[27]

In contrast, even when women acted alone, it was often presumed that there must have been some unseen (male) influence behind their actions. When the female servant Ann Davis succeeded in burning down her master's house, he told the court that he presumed she had had a "bad adviser."[28] This attitude is evident in sources other than the press. The New Newgate Calendar suggested that:

> "Women seldom commit street robberies without the assistance of a man.....these men who reduce poor credulous girls to the

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[26] Terrific Register 1825, p. 181.

[27] See for example William Jones' final confession as recorded by J.Villette, Genuine Account of Behaviour, Confession and Dying Words of... (Lond., 1774).

[28] R v Ann Davis, Morning Chronicle June 1830.

necessity of plying to the casual passenger in the street have much to answer for."[29]

In the same publication, Mary Finlayson, a female robber was described as having been led astray by men. She herself was portrayed as warning other women:

"All women should be wary of the pride and flattery of men."[30]

In the above cases the female criminal's lack of will was indicated by her reliance upon men, who encouraged her descent into the realms of the criminal, and were an actual presence at the time of the crime. In other cases other types of external influence were described to reinforce the idea that women had no criminal will of their own. This basic stereotype was clearly stated in the trial of Mrs Broaderic, accused of murdering a servant woman. The prisoner was described as being "incapable of lending her will to the perpetration of the crime."[31] In a similarly much reported trial for forgery, Caroline Rudd was described as having been "compelled to an act entirely against her will."[32]

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[29] New Newgate Calendar 5, p. 304.

[30] New Newgate Calendar 5, p. 387.

[31] The Broaderic case was a particularly notorious case of a woman killing two female apprentices, which appeared in many collections of trials published at this period. This quotation is taken from New Newgate Calendar 6, p. 409.

[32] See Trials 1775, Bodleian, Vet.a5.d 1176, p. 852.

Other cases were less explicit in their support of this presumption. Women were described as being variously overcome by emotion, passion, alcohol, drugs and insanity. A common suggested influence was also the diabolical as the following examples illustrate: An accused woman was reported in the Times saying of her theft that "the devil had tempted her to take it", while in a broadsheet Harriet Parker was described as claiming that "you shall find a complete devil in me".[33] Other external influences were viewed in a more godly light. Mrs Broaderic, as mentioned above, was described in a different publication, as being "impelled by the awful visitation and infliction of the author of all nature."[34]

Women and those who commented upon their crimes also used less personalised influences to explain their actions, which all nevertheless overcame the woman's will while she was committing a crime. Some, such as Ann Beddingfield, who appeared in Crook's Newgate Calendar, claimed that they were blinded by passion, as was Jane Jamieson, whose case was described as "a dreadful example to the licentious and those who give way to unbridled passions." [35] Another woman who appeared in the New Newgate Calendar claimed that she had perpetrated her crimes under the influence of laudanum.[36]

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[33] See Times Sept. 1825 and John Johnson Collection, Murders and Executions box no.3.

[34] John Johnson Collection, Crime box no 3.

[35] New Newgate Calendar p. 9.

[36] New Newgate Calendar p. 515.

Such types of explanation were not wholly unique to women. On some occasions men too claimed that they had perpetrated their crimes under the influence of passion, though this idea was far less likely to be applied to men than to women.[37] Men referred to the devil as the reason behind their lawlessness, but men were far less likely to have their crimes explained in terms of individual failings, and far more likely to refer to wider social causes, especially their past experience.[38] This reflects the important fact that crime was seen as a natural and continuous adjunct of the male character in a way in which it was not for women. For men, crime could be assimilated into their lifestyle and embedded in their character, while this was never true for women, (except perhaps for the prostitute). For men, crime could be viewed as part of an innate disposition, as in the infamous case of William Corder, the perpetrator of the "Red barn murder."[39] His biographer describes how "in his early days he had betrayed an iniquitous disposition." It was because prevailing female stereotypes refused to admit the possibility of such innate imperfections that explanations for female crime tended to be both individualised and grounded in some temporary aberration.

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[37] For an example of a male crime of passion see God's Revenge for Murder Pamphlet, Bodleian, Hope 4°.65. Here a factory worker is incited to kill the overseer who has mistreated his lover.

[38] See for example the life history of T.Watkins in G.T. Crook's collection, pp. 17-18.

[39] See J.C.Curtis, An Authentic and Faithful Account of the Murder of Maria Marten, or The Red Barn Murder (Lond., 1828).

The different frameworks of reference which were applied to men and women are clearly evident in one type of explanation for crime which was rarely applied to men, but which can be seen as the logical extension of many of the presumptions about women discussed above. One of the most common ways of explaining female crime was to refer to loss of mental facility in some form of madness.[40] The criminal law accepted that criminal culpability could be mitigated by insanity, though the exact definitions of this were far from clear.[41] Of course the association of women with madness, or at least a diminished capacity for rational thought, has cultural roots stretching back as far as Aristotle. It was possible to argue that it was a woman's gender alone which defined her madness.[42] Nineteenth-century medical theorists gave added force to this attitude by arguing that there were scientific reasons why women were more likely to be mad than men. Falconer argued that women were made more sensitive to influences on the mind, though he added that this could partially be explained by the way in which they were brought up.[43]

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[40] The Morning Chronicle of 1780 recorded the case of a male murderer who claimed he had been insane when he killed his wife, however this claim was ignored by the court and the newspaper described him as simply "stimulated by more than brutal ferocity".

[41] For a detailed discussion of the nineteenth century debate surrounding crime and insanity see A.R.Hayward, "Murder and madness", (Oxford M.Litt., 1982).

[42] For a discussion of women and madness during the nineteenth century see E.Showalter,The Female Malady. Women, Madness and English Culture 1830-1980 (Lond., 1985).

[43] See W.Falconer,"Dissertation on the Influence of the Passions upon Disorders of the Body" (Lond.,1796), p. 134.

Madness was constantly used as a means of explaining female criminal actions compatible with a view of the essential goodness of women. Women who denied their femininity by killing their children were described as doing so in fits of madness. The Morning Chronicle of 1830 described one woman's actions as occurring during a "temporary fit of mental excitement".[44] In this case madness was seen as a temporary state, coinciding with the commission of the crime; in other cases it was viewed as a more permanent malady. The Times described one murdering mother as "deformed in body and mind, knowing not what was going forward".[45] Indeed, in some cases it seemed that the very fact of committing a crime itself defined a woman as mad. A broadside described the criminal Ann Graham as a "wretched woman who laboured under a strong mental derangement, though it had not been observed previous to the crime." [46] In his collection of trials, Arnot commented of one woman who had killed her child that:

> "It was not her crime to have killed her child, it was her misfortune to have lost her judgement."[47]

In all of the above instances, women were defined as mad simply because they had committed the types of crimes which they had. Madness was used as a

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[44] Morning Chronicle July 1830.

[45] Times Aug. 1815.

[46] See John Johnson Collection, Murders and Executions box no.3

[47] See Arnot's Collection of Trials p. 138.

label to explain the conflict between expectations and reality; the woman's natural role, as a mother, and her actual behaviour, in killing her child. It served as a means of explaining a specific criminal action, while sustaining the ideal of woman's enduring moral innocence.

Men's crimes, however apparently irrational, were rarely explained in terms which denied a capacity for individual rational action. When a certain Richard Tolworthy was accused of impulsively attacking and killing his sleeping room-mate with no apparent motive, commentators failed to associate his behaviour with any degree of insanity.[48] The same was true of John Sheen, recorded in a broadside as having cut off his own child's head. His sanity was not called into question, in spite of this seemingly irrational behaviour.[49] In contrast, it was possible to suggest that men could kill for ostensibly rational reasons. Arnot recorded the case of James Stewart who murdered his brother in order to inherit his land. His actions were described as "wicked and desperate," but certainly not mad.[50]

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[48] See The London Policeman July 1833.

[49] See John Johnson Collection, Murders and Executions box 5.

[50] Arnot's Criminal Trials p. 260.

b. Woman as a Victim of Circumstances.

Closely allied to the idea that women who committed crimes did not do so of their own will, was the idea that women who committed crimes had simply been caught in a chain of circumstances over which they had no control. In this way they were absolved from any positive participation in a crime. One of the terms most frequently applied to the women who appear in these sources is "unfortunate", which was often applied to the prostitute, but was also applied to a whole range of other types of criminal. It was most likely to be applied in conjunction with a status evaluation which singled the woman out as extremely unlikely to have been a participant in a criminal act, for example if a woman was described as "respectable".[51] Mary Keaton's murder of her husband was reported in the Times, where she was described as:

> "an unfortunate woman, who by a blow given in a moment of passion, killed her husband."[52]

Such benign interpretations could even be applied to those who had committed infanticide, if they came from a sufficiently respectable station in life. Rosalie

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[51] Respectability was equally important for judgments of male criminals. A gentleman accused of murder was described in The Public Advertiser Jan. 1783 thus: "nothing could be added to make the character of the prisoner more amiable."

[52] R v Mary Keaton, Times March 1825.

Churchod, who came from a respectable family, was treated with the utmost sympathy when it was revealed that she had killed her child. Her story had not only elements of respectability, but also touches of frustrated romance in its favour: she found that she was pregnant only after her lover had been banished by her father. Her case was accordingly described as "an unhappy case, particularly affecting, pathetically romantic". Rosalie herself was described as "a lovely and interesting creature."[53]

This combination of respectability and femininity could produce such a positive interpretation of a crime that women were exonerated as criminals and became victims themselves. Judges could even be drawn to suggest that the real culpability lay with the male victim of a crime rather than with its female perpetrator. This is even true in some cases where one might not necessarily expect it. When discussing some cases of prostitute theft, the image of the helpless woman was often strong enough to overcome even the stigma attached to prostitution. In some cases the male victim was blamed for accompanying the prostitute in the first place and holding out a temptation to her to rob him. The prostitute herself was seen as an unfortunate victim of vice. The Star wrote of one such robbery :

> "What else did the victim expect than to hold out to them the temptation to rob him, of which it was unnatural for them not to

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[53] R v Rosalie Churchod, Star March 1820.

avail themselves ?"[54]

This terminology was particularly likely to have been be applied if the woman could show that she was not so far gone in vice that she was beyond the possibility of salvation. The Star reported of the prostitute Mary Singleton that:

> "She was rescued from that dreadful course of life into which she had been plunged."[55]

Note that the use of the verb in the passive tense here again suggests the woman's lack of control over her own circumstances. Commentators discussing prostitution tended to see women as victimised in the same sort of way; the Parliamentary Commission of 1812 wrote of

> "these prostitutes who mostly from necessity infest the streets of the City."[61]

Other types of case also emphasised the victimised status of the accused woman, by denigrating the character of the prosecutor. The Morning Chronicle reported

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[54] R v Elizabeth Adams, Star July 1810.

[55] R v Mary Singleton, Star Dec. 1820.

[61] Parliamentary Papers, (1812) ii (127), Commission on the Police of the Metropolis, p 38. Of course there were exceptions, see for example W.Hale, Considerations on the Causes and Prevalence of Female Prostitution (Lond., 1812).

a case of bastardy, in which the female accused was viewed in a sympathetic light because the father of her child was a clergyman who had deserted her. The woman had the sympathy of the court and appeared to be suitably overcome by her experience in court: "she was greatly agitated by the nature of her situation."[62]

As in all types of crime, the way in which a woman behaved in court was used here as a further indication of her likely guilt. An innocent woman would behave with characteristic female weakness in court. A woman who fainted or screamed when faced with the jury, or appeared overcome and confused, gained the sympathy of the media. It is as if by revealing her feminine weakness in court, she was also testifying to the fact that she could not be of a truly criminal turn of mind, and must therefore also have been incapable of committing the crime of which she stood accused. Sarah Polgrean was accused of murdering her husband, and claimed that she did so because she wanted to re-marry. During her trial she fainted and appeared overwhelmed by her situation. By stressing such physical signs of her weak femininity, any suggestion of a criminal motivation was correspondingly dissolved. Her lack of resilience in court was taken as a sign of her lack of criminal potential.[63]

The case of Eleanor Ryan reveals similar characteristics: She had killed her husband with the aid of a male accomplice and hidden his body in a bog. The

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[62] Morning Chronicle Aug. 1810.

[63] R v Sarah Polgrean, Star Aug. 1820.

more horrific aspects of her behaviour were under-played and the media concentrated on her behaviour in the court room itself. She was described as:

> "going through great mental affliction. The unhappy woman appeared penitent and resigned."[64]

Of course this tactic could equally be used as a means of condemnation. A lack of remorse in court added further evidence of the depths to which a woman had sunk in her crimes. Sarah Frome's broadside condemned her with the remark that:

> "She did not seem to feel any remorse for the crime she had committed, and her conduct showed the dreadful disorders of her mind."[65]

Cases were more likely to be represented in a positive light if motivations for the crime were in accordance with accepted ideas of the reasons which women could have for murder, especially passion. In such cases it was possible to exonerate the woman without posing any threat to the legal or social order. This was true of Hannah Read, who was accused of killing her husband.[66] She exonerated herself by claiming that he had forced her to live with him against

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[64] R v Eleanor Ryan, Times March 1825.

[65] See John Johnson Collection, Crimes and Executions box no.3.

[66] R v Hannah Read, Times Aug. 1825.

her will, thus stressing his brutality and her own weakness. Again the female criminal was transformed into the female victim. In court she appeared to be "pale and agitated, she could hardly stand." Added to this was the fact that she pleaded for herself on behalf of her four children.

In all of the above respects the clash between essential female attributes and essential criminal attributes was avoided by shifting culpability for the crime, mainly by suggesting that the circumstances were stronger than the woman herself. However, not all such crimes were interpreted in this way. One object of this study is to establish the criteria which defined into which sort of framework a crime would be placed. It appears that this depended primarily upon the social status of the accused, and also the type of threat which she might therefore be supposed to pose to society at large by her criminal actions; that is to say, how far she appeared to have deviated from normal expectations of female behaviour.

c. The Inhuman Criminal.

Not all female crimes were cast in the positive light suggested by the previous sub-sections. In some cases, far from being exonerated, women were accused of having sunk to the very depths of inhumanity. This type of terminology was applied to only some types of crime and some types of criminals. It was used when women had offended against their natural role as caring mothers or

obedient wives, by killing children or husbands.[67] This utter condemnation was usually reserved for those of the lowest class, whose depravity was often further emphasised by the way in which they behaved in court. When Mary Limer was accused of infanticide, she was described in one newspaper report as an: "inhuman creature" having committed an act of "shocking barbarity". To Mary's condemnation was added the fact that she stood in court without shedding a tear or showing any signs of contrition.[68]

One might suggest therefore, that it is with crimes of this type that one comes most blatantly to face the problem of reconciling the feminine and the criminal. However, it is a comment upon the complexity of this social discourse that even in these cases any open challenge to the basic innocence of the female was avoided. The very intensity with which women such as Mary were condemned, served to avoid this conflict. Women accused of such crimes were divested by the media of any claims to femininity or indeed to humanity at all. Other women similarly accused were described as "unnatural mothers" indulging in "wanton cruelty". Broadsides deal with infanticide in similar terms. Esther Hibner was recorded in one as stating:

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[67] See broadside of Margaret Cunningham, John Johnson Collection, Crime box.1, where this aspect of her crime is stressed. She is described as having "dissolved the primary bonds of society" when she murdered her husband.

[68] R v Mary Limer, Times July 1825.

"Where were the feelings of a mother and a woman when I could inflict such barbarous and inhuman tortures on such helpless infants ? "[69]

A similar broadside refers to one such criminal as "a monster of the species, rarely met with among civilised beings".[70] To this was usually added some hint of the woman's lowly origins, though in some cases the enormity of the woman's crimes was emphasised in contrast to the way in which she appeared in court. One woman was described as being dressed "remarkably neatly", considering the type of crime which she had committed. This illustrates the extent to which perceptions of fitting behaviour were linked to perceptions of class, indicated by appearance.

Elizabeth Barber's heinous crime in killing her husband was accentuated by the commentator's stress on her behaviour in the court room, where she "was calmly smoking her pipe and claiming that her husband had stabbed himself". Thus the media used a woman's own behaviour as a means of condemning her actions.[71] In this instance the woman's brutality was conveyed by the calculated and threatening character of her criminal actions, her social status and her behaviour in court, all of which were combined to convey the complete depravity of the woman concerned. It was made obvious that Elizabeth and her husband were

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[69] B.L. Add Ms. No.27828, (Place Papers), f 4.

[70] Barbara Malcolm, John Johnson Collection, Crime box 1.

[71] R v Elizabeth Barber, Times March 1805.

less than "respectable". The report indicates that she and her husband were not legally married, moreover that they were both drunk when the crime was perpetrated. Thus Elizabeth was portrayed as a woman who had not only transgressed to the point of killing her husband, but who was anyway part of a disreputable sub-group of society, if indeed she could claim to be part of civilized society at all. This served to divide her successfully from the majority of respectable women to whom she was to be a lesson. Hence a combination of moral and criminal transgression resulted in a picture of female inhumanity and barbarity. A husband accusing his wife of threatening him and running off with another man brought the condemnation of the press upon both his wife and himself, as they taunted each other in court. They were labelled by the Morning Chronicle reporter as "an unnatural pair" [72]

In all of these cases, the female criminal was depicted by the media as being both apart from society and from women in general. She was both beyond and below the reaches of femininity. The idea that women lost their femininity in crime is apparent in other commentators. A writer in the Pamphleteer described how women in Newgate appeared to be "unsexed when they come into gaol."[73] Unlike their male counterparts, when women committed crimes they offended not only against the norms of society, but also against the norms of their gender.

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[72] Morning Chronicle April 1830.

[73] Pamphleteer April 1814.

Of course in some cases the same type of terminology was applied to men, though it seems that for them condemnation was never quite so complete. The Terrific Register recorded the crime of one man who killed every member of his own family and described him as "a monster of depravity, utterly diabolic".[74] Yet even in the most serious of crimes men could retain a degree of humanity and respect in a way in which women could not. The notorious criminal Jack Shephard gained admiration not condemnation from the media. In the Terrific Register his crimes were described as illustrating "wonderful abilities and ingenuity".[75] In his description of the highway robber William Hawke, Villette was at pains to stress that Hawke saved several of his victims when he could have killed them, suggesting that there was some morality even among thieves.[76] Because men were perceived as owning some inherent criminal potential, they were less completely condemned when this potential was activated.

d. The Comic Solution.

It was not only by condemning women as below and beyond the bounds of femininity and society that the feminine ideal was saved from the taint of crime. Women's activities could also be removed from the criminal arena by trivialisation rather than exaggeration. While it is possible to trace the detailed

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[74] Terrific Register, Vol 1 1825, p. 202.

[75] Terrific Register Vol 1 1825, p.757.

[76] See J.Villette, Confession of W Hawke.

ways in which some aspects of female crimes were always conveyed as less serious than their male counterparts, for example in the types of terminology used to describe women's violence, the most obvious way in which this object was achieved was by the use of a comic voice. Women's criminal activity was derided to the extent that it became not threatening, but humorous.

Again this type of depiction was related not only to the gender of the criminal, but also to her social status and the nature of her offence. Respectable women were unlikely to have their crimes described humorously. The humorous approach was most common in newspaper treatments of women's violent crimes, especially when the violence was between two women. The major type of humour utilised was the mock heroic. A good example is the case of a woman accused of assaulting her husband reported in the Star:

> "This chaste virgin, considerably advanced in years, wilfully and maliciously beat her man about the head, with a certain utensil not commonly used as a weapon of defence..... with the fury of a sphynx.... like Virginia or Leucretia....."[77]

This example exhibits a style common to many reports of women's violence of this type. It is possible to predict when such terminology was most likely to be deployed. It was used in order to stress the incongruity of a woman's use of violence, though only if that violence was of a relatively petty nature. The

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[77] Star April 1810.

activities of prostitutes were also relatively likely to be treated in this way. The Morning Chronicle described a case involving two prostitutes as follows:

> "Two women of the town appeared against each other for an assault. At a match of fisticuffs they beat each other soundly. The matter in dispute we did not hear."[78]

The use of the slang term "fisticuffs" here served to trivialise the woman's actions, as did the fact that the court had not even taken the pains to consider the basis of the dispute.

The most common way of trivialising such action was by using grandiose language in order to emphasise the lowly station of the women concerned, and the triviality of their actions. This was usually achieved by the use of classical allusions, as illustrated above. In other cases prostitutes were called "nymphs" or "sybils", while in one case a female vagrant was referred to as a "descendant of Isis". This might also be interpreted as a means of emphasising the social gap between the women who were committing these crimes and the educated middle-class readers of the press who would have understood both the classical allusions and their incongruity.

Euphemistic descriptions of scenes of criminal activity served the same purpose. In one case a female prostitute and the warehouseman whom she accosted were

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[78] Morning Chronicle June 1780.

described as "an amorous swain of fifty" and his "shepherdess". This incongruous pastoral imagery is found in other cases. The incongruity is emphasised here by other aspects of the criminal's character. In the following case the female concerned was first described as approaching seventy years old, but the report subsequently referred to her as a:

> "nymph with her swain,.....who somewhat too pastoral had been pressed to a glass too much.....though he said what he did was for charity."[79]

In this instance, it was both the male victim and the prostitute who were the objects of humour. The scenario of a drunken man being enticed by a prostitute and subsequently robbed was one which was especially suited to comic treatment. Humour could serve to direct attention away from the power of the prostitute over her client.

Finally, humour could be attendant not upon overt literary effects, but simply upon the way in which the form and action of the crime were conveyed. A report of the physical details of an assault could be conveyed in such a way as to produce a comic effect. The Star reported the case of sixty year old Margaret Jackson.[80] She was involved in an assault which was evidently actually part of a long-standing and serious family feud. Her standing as a "respectable matron"

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[79] Morning Chronicle Sept. 1791.

[80] R v Margaret Jackson, Star Jan. 1800.

was however effectively contrasted with her actions as an assailant with comic effect when she was described as pulling her male opponent "heartily by the nose."

Humour can therefore be seen as a further strategy for the avoidance of the reality of female crime, and especially in this case for diverting attention away from the implications of women's violence. In common with the other types of discourse which I have discussed, the humorous approach shares a framework of interpretation which views female criminal activity as alien to the essential female character. Indeed to have accepted that normal women, and therefore any women, were capable of criminal activities would have posed a sufficiently fundamental challenge to the prevailing feminine ideal as to render it ultimately unsustainable.

iv Discourse And Reality.

Some theorists have alleged that prevailing social discourses affect not only the responses of observers, but also the actions of potential criminals. It has been argued that society provides no criminal role-models applicable to women, and that this influences the ways in which women themselves behave.[81] The final part of this chapter will look at the ways women viewed themselves as criminals, and the relationship between this and the discourses examined above.

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[81] D.Cameron and E.Fraser, The Lust to Kill. A Feminist Investigation of Sexual Murder (Oxford, 1987).

Historians have suggested that women used available stereotypes in order to ensure the leniency of the court. Harris talks of "dramatic self-presentation" by women in court, while Edwards claims that women adopt a "dialogue" which allows them to negotiate within the criminal justice system.[82] It is rare for legal sources such as depositions to contain any evidence of a woman's defence of her crime. However, the Sessions Papers often included the personal statement of the accused at the end of the description of a case. I have taken a sample of female cases and analyzed the different ways in which women explained their own activities.[83] I have categorised the types of defence as follows;

1.The creative construction of an alternative interpretation of the facts of the case.

2. An outright denial of guilt.

3.A claim that the crime was motivated by some form of social distress.

4.A claim of having been under the influence of another person or some other external source.

5.Any other type of defence, such as a simple plea for the mercy of the court.

The dispersion between these categories when each case was analyzed was as follows:

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[82] See S. Edwards, Women on Trial (Manchester, 1984); R. Harris, "Melodrama, hysteria and female crimes of passion".

[83] This sample is taken at 10 yearly intervals and from one session per year (April) commencing in 1780, giving a total of 100 cases.

1. 41%
2. 18%
3. 17%
4. 15%
5. 9%

These defences show the great variety of ways in which women themselves explained their own criminal activities. This would seem to suggest at the outset that it is simplistic to assume that women had recourse only to the type of terminology provided by the media. This in turn reflects the lacuna between the personally-perceived reality of the woman's criminal activities, and the way in which these were perceived by external observers. The most common type of explanation offered by these women was the construction of a defence which was an outright contradiction of the statements of the court. Far from willingly adopting the language of external observers and accusers, women challenged their authority and established their own definitions of the reality of a case.

In fact, one of the least common forms of defence was for the woman to declare that she was influenced by some external force when committing the crime, as media images of women would suggest was common. This might partly be explained by the types of crime discussed in the two instances. The Sessions Papers dealt mainly with cases of theft, which are less amenable to the type of criminal explanation applied primarily to the crimes of violence in the press. When crimes of violence were discussed women reported in the Sessions Papers

women were slightly more likely to use the type of explanation provided by the media, the most popular being drunkenness. However, the conclusion here must be that women did not explain their crimes only in terms of the discourse suggested by the media. Rather they utilised a variety of types of explanation for their activities, reflecting both the broader range of crimes which they committed in reality, and their autonomy as criminal actors.

v. Conclusion.

The media had a variety of ways of depicting criminal women; however, none of these included a recognition of their criminal potential, indeed, most denied it. The media did not fail to recognize that women could be involved in criminal activity, though the offences which it did report were not representative of women's actual criminal behaviour. Moreover, the language used to describe these crimes implied that women had no real potential for crime. The possibility of women willingly committing criminal offences was denied by a continual reassertion of women's basic innocence. Women's crimes were both trivialised and exaggerated to sustain this ideal. Only in cases of the latter kind were women depicted as in any way deserving of the harsh treatment of the law.

The following chapter will question whether the ways in which women were treated by the criminal justice system offer evidence that these ideas had any influence in reality. The opinions of the media might not have been influential

in all cases; there are some obvious cases where women were treated quite differently from the suggestions made by the media; thus women were harshly condemned in the press for infanticide, but treated leniently by the court. However, the attitude of the press could have had a material effect upon the way in which women were treated as a group, though it seems that offending women themselves explained their actions in ways quite opposed to the explanations offered by the media.

CHAPTER FIVE.

Detection, Prosecution and Sentencing.

The previous chapter has discussed the fact that common media perceptions of women involved in crime stressed their involvement in certain types of crime and, with a few exceptions, their lack of any real criminal potential. This chapter will examine the treatment of women by the criminal law to assess how far these perceptions were influential in reality. I shall be studying the criminal justice system from three main points of view, corresponding with the main stages in the prosecution procedure. I shall be looking at prosecution, trial and sentencing as the major components of a case and examining the ways in which an offender's gender might have influenced decisions at each of these stages. The outcome of a criminal case was the sum of a series of individual decisions, reaching from victim to judge. In his commentary upon crime and criminals, Place quoted one contemporary who claimed that there were as many as sixteen stages of judgment within the criminal procedure, at each of which a criminal might hope to be able to influence the outcome of his case.[1]

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[1] B.L. Add Mss 27826, (Place Papers), f 3 "Crimes, prisons and punishments". Place refers to the comments of John Hawkins.

Criminologists have claimed to be able to trace the reflection of popular stereotypes in the way in which women are treated by law-enforcing agencies in modern society. Edwards suggests that women are sentenced more harshly if their crimes are especially antithetical to the stereotype of the ideal woman, if they include a degree of violence, and especially if that violence is directed against their spouse or children.[2] Weisberg refers to the "stereotypic assumptions about sex-roles which are likely to affect deviance-processing outcomes."[3] Others have suggested that women are invariably treated more leniently by the courts. Pollak describes the situation thus:

> "Misplaced gallantry interferes with the conviction of female offenders."[4]

Among historians who have compared the ways in which women and men were treated by the criminal law at various periods in the past, the consensus appears to be that women were treated with greater clemency than their male counterparts, though little attempt has been made to suggest how and at what stages this clemency was exercised.[5] Historians have attempted to establish the criteria used in

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[2] See S.Edwards, Women on Trial Chap 5, pp. 121-42.

[3] See D.K.Weisberg,(Ed) Women and the Law (Cambr.Mass., 1982),"Sex differences in processing criminal defendants", pp. 259-82.

[4] See O.Pollak, The Criminality of Women p. 5.

[5] See for example R.Williams, "Crime and the rural community", Chap 5; P.King,"Decision making in the criminal law", Historical Journal, (1984), and

deciding whether a given case was deserving of clemency, but no attempt has been made to suggest how this might have differed between men and women.[6]

I shall start by looking at the characteristics of those who prosecuted women, their motives for turning to the authority of the law, and their attitudes to the women whom they were prosecuting, to ascertain how, if at all, women were treated differently from their male counterparts. I shall then be looking at the way in which a legal case was first defined by witnesses swearing depositions, and whether the descriptive terminology used at this stage reveals any gender bias which might have influenced the subsequent processing of the case. I shall also consider the decisions of the grand jury who used depositions to decide whether a crime merited trial. Finally, I shall look at the way in which the court subsequently dealt with women, looking at patterns of sentencing and relating this to types of crime and comparing female with male patterns.

J.Beattie, Crime and the Courts pp. 436-9. There are some opposing views, for example L.Graff,"Crime and punishment in the nineteenth century, a new look at the criminal", Journal of Interdisciplinary History, 3 (1987). He claims that women were only committed for the most serious of crimes and so were less likely to be acquitted.

[6] Eastwood suggests that courts were especially likely to be harsh in their treatment of sex crimes, violent crimes against vulnerable victims and arson. See D.S.Eastwood, "Authority and the social order in Oxfordshire 1780-1840", (Oxford D.Phil. 1985), p. 172.

i. Prosecution.

It will never be possible for either the historian or even the criminologist to locate crimes which are left unprosecuted. Historians have however continued to grapple with the problem of the "dark figure of crime", attempting to establish the factors which might have increased or decreased the type and amount of unprosecuted crime. This "dark figure" takes on added significance in the female case, because it has been suggested that the prime explanation for the low level of all reported female crime is that the vast majority remains hidden and unprosecuted. This suspicion has been given some credibility by the self-report studies, conducted by modern criminologists, which show that women do commit more crimes which are left unprosecuted than do men. However, the scale of this is not sufficient to make up for the gap between male and female prosecutions in total.[7]

As it is beyond the realms of the possible for the historian to recreate crimes known only to their perpetrators and victims, one must turn instead to the nearest possible source, and take crimes which are recorded at the earliest stage of the criminal justice procedure. Gatrell and Hadden attest the validity of this approach, suggesting that the records created at the nearest possible moment in time to the

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[7] For a discussion of self report studies of this type see R.Mawby,"Sex and crime, a self-report study", British Journal of Sociology, 30 (1980).

commission of a crime have the greatest validity.[8] For this reason, all the data which I have reproduced includes not only convictions, but all recorded offences, which includes "crimes" which were detected and reported as offences to the law enforcing agencies but which never ultimately reached a criminal court.

a. Means of Detection.

The first stage in the processing of any crime was the detection of the crime itself. I have used the available depositions to establish the most common ways in which female crimes were detected. These provide evidence concerning about two - hundred cases taken from Berkshire and City courts, spread fairly evenly through this period.[9] The ability to avoid detection must itself be seen as an aspect of criminal organisation and might be taken as a further illustration of the resources available to women and the degree of "complexity" of their criminal behaviour. To analyze the ways in which crimes were detected I have chosen five categories:

1.The offender detected on the scene of the crime.

2.The offender detected soon after the crime, having attempted to escape.

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[8] See Gatrell and Hadden, "Criminal statistics and their interpretation".

[9] Depositions are taken from Berkshire quarter sessions BCRO Q/sr, Berkshire assize sessions, PRO Assi 5, and London Sessions Papers, CLRO 226 b-c, 1780-1830, all sessions. No depositions survive relating to the London Peace Sessions. This yields a sample of 187 cases.

3.The offender detected after the crime has been witnessed, but also due to a search by the victim or an official.

4.The offender detected due to a routine search not related to the crime.

5.The offender detected because of information passed to the victim from another source.

I have adapted these categories from contemporary sociological studies of the detection process in modern police forces[10] (See appendix 5.i. for more details of this analysis).

Criminals who were detected on the scene of the crime make up the largest category of all types of detection, whether in a rural or an urban context, accounting for more than half of all cases.[11] This must be explained partially by the resources available to the law-enforcement agencies themselves. In fact, at this period constables and watchmen were not perceived as a primarily detective force; hence the majority of cases were detected either at the scene of the crime, soon after, or not at all.[12]

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[10] See D.Steer,"Uncovering crime, the police role", in Royal Commission on Criminal Procedure (HMSO, 1980).

[11] This contrasts with the conclusions of Herrup for an earlier period, she claimed that the majority of crimes were detected only after some sort of search had been organised. See C. Herrup,"New shoes and mutton pies. Investigative responses to theft in seventeenth-century Sussex", Historical Journal, 27 (1984).

[12] For a detailed study of the functions of the police and their precursors during this period see T.A.Critchley, A History of the Police in England and Wales, 900-

Different types of crime were likely to be detected in different ways. "On the spot" detection is most common in thefts from shops, where goods concealed on the offender were spotted by the victim, usually before the offender had had time to realise she had given herself away, or had time to take any evasive action. That victims were commonly detected "on the spot" is not necessarily a reflection of the incompetence of the offender, but was also due to the context of the crime. Women chose to act within a relatively "normal" context, which made concealment and evasion difficult. By stealing from a shop during normal business hours and claiming to be making a legitimate purchase, rather than breaking in at night, the woman risked the immediate attention of the shop holder.

The second most common form of detection is very similar to the first, ie where detection is linked to physical proximity between the offender and her victim. In about twenty percent of cases recorded in the City, the offender was detected by her victim and apprehended by a watchman or constable. This type of detection is strongly correlated with thefts by street walkers. Their victims often realised only after they had left the scene of the crime that their money or watch had been stolen. However, the time lag here was often minimal and the offender had few resources at her disposal for escaping detection, particularly as she was often still in possession of the stolen goods. Her vulnerability was due to the close physical

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1966 (Lond., 1967).

proximity between herself and her victim during the committing of the crime, which meant that she was an easily identifiable suspect. Such crimes as these were the most likely to suffer from deficiencies in the law-enforcing agencies. This might explain why cases of this type were more concentrated in the City than in the countryside, as one might assume watchmen to have been more accessible in the former (detection by this means accounted for as little as six percent of all cases in Berkshire).

In both of the aforementioned cases, and indeed in any type of crime which necessitates the visible exposure of the offender to the victim during its perpetration, the most immediately available means of avoiding detection is flight. In a further twenty percent of cases, the offender was detected only after she had left the scene of the crime. This was particularly likely to have been the case when a theft was committed in a domestic situation, against someone sharing the same domicile. Then, although the crime was often not witnessed by the victim, in effect the offender was immediately identifiable because of the ease of access which she had to the stolen goods.[13]

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[13] It is indicative of differences between male and female crime patterns that men were far more likely to be detected having left the scene of the crime, reflecting the fact that men were less likely to commit crimes within their normal living situation. Of 80 cases for which depositions survive in the Berkshire courts, 55% relate to men who were caught at a place other than the scene of the crime (sample is three yearly,commencing in 1780, BCRO Q/sr, & yearly PRO Assi 5, 1780-1830).

Reliance upon flight as a means of avoiding detection seems to indicate a relative lack of resources other than the ability to hide oneself. It might be added that only in one of these cases did flight imply putting any great distance between the offender and her victim. In one case, the husband of a lodging-house keeper, whose female lodger had stolen the contents of her lodging room, went as far afield as Lancashire to find the offender.[14] Most offenders were caught a short time after committing a crime, and one must infer that, if they were not caught immediately, they were unlikely to be caught at all.

In a few instances, an offender might escape the attentions of the victim, but subsequently be caught via a chain of communication running back to the victim. In this instance the offender's most vulnerable period appears to have been when she was attempting to pass on stolen goods. One element of a successful crime is avoiding, not only the individual attentions of the victim, but also any extended information networks which might work to the advantage of the victim. In this context this might mean divesting oneself of stolen goods at a reasonable distance from the crime. In a further five percent of cases this seems to have been impossible for the woman concerned. Observations of watchmen and particularly pawnbrokers were often sufficient to lead to the offender. I have located only one case in which the offender was detected simply because she was known to be a

[14] R v Ann Wright, CLRO Sessions Papers, 226 b-c, Jan. 1825.

woman of bad character, who had recently returned to the area.[15]

The final context in which crimes were detected was as the result of a routine search, not motivated by the prior knowledge that a crime had been committed. This might occur for example when a mistress searched the box of a departing servant, as appears to have been normal practice. Detection by this means highlights the risks in perpetrating a crime in a context in which one remains easily accessible to the victim. In this case the mistress seems to have had not only easy access, but almost a right to search the property of the offender. It is indicative of the generally reactive character of the role of watchmen and constables at this period that only two cases survive in which crimes were detected simply due to the suspicions of officials such as these.[16]

In most instances, data from Berkshire does not differ from the patterns revealed by the City cases. However, crimes which were detected on the spot include a large number of crimes of inter-personal violence. These were easily detected for reasons broadly similar to those stated above, as they were all perpetrated within a domestic context in which the victim was known to the accused and therefore there were no problems of identity. It seems that in a rural context women were slightly more likely to be detected because of information passed to the victim by subsidiary

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[15] R v Mary Twynham, PRO Assi 5 (Berks), Summer 1798.

[16] For a discussion of changing expectations of the police during this period see J.Styles, "The emergence of the new police".

witnesses and less likely to be detected with the aid of a search by a watchman. This must reflect both the closer community ties of a rural society, where suspicion might be more easily aroused, and a relative lack of access to official law enforcers such as watchmen.[17]

I have already established that women were limited in the types of crimes which they committed by their social circumstances. This limitation extended to the means of concealment available to them, and meant that they were correspondingly vulnerable to detection. For this reason women's absence from criminal prosecutions is unlikely to be due to the concealed nature of their crimes.

b. Prosecutors.

Even when a crime had been detected, prosecution was not the inevitable concomitant of discovery. Modern theorists suggest that women are less likely than men to be drawn into the prosecution procedure at this initial stage. Bottomley claims that women obtain far more cautions, and far less arrests from the police

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[17] For a discussion of the interaction between community and law enforcement agencies see J.Brewer and J.Styles, An Ungovernable People: The English and Their Law in the Seventeenth & Eighteenth Centuries (Lond., 1980), Chap 1, K.Wrightson,"Two concepts of order. Justices, constables and jurymen in seventeenth-century England", pp. 21-46. For the impact of accessibility to officials and law courts see W.R.Cornish, Crime and the Law in Nineteenth-Century Britain (Dublin, 1978), p. 127.

than do men.[18] At this period, this stage of prosecution was under taken by magistrates, and evidence from the minute books of the City magistrates suggests that, here too, a large number of female cases were dismissed at this preliminary stage.[19]

To assess the factors which determined whether a woman's criminal behaviour was prosecuted, my starting point is the character of the prosecutors themselves. This might provide some clues about the reasons for prosecution and illustrate the common social links between prosecutor and accused. This information comes mainly from recognizances, which record the name and occupation of the victims and witnesses to a crime, who were called to be present at the trial of the accused. Their survival however is haphazard, particularly in the Berkshire material.[20] In the majority of cases, prosecutor and victim coincided in one person. In cases of larceny against a married woman it was usually the woman's husband who appeared against the victim in court. There were only a few types of crime in which prosecution was public; crimes against the state such as counterfeiting, and bastardy cases, which were prosecuted by the parish overseers.

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[18] See A.Bottomley, Decisions in the Penal Process (London, 1973), chap 2.

[19] Of a total of 1395 cases recorded 425 relate to women, 31 % of the whole. Sample is two months per annum (Jan, June), 1785, 7, 1790, 1801, 1803.

[20] Only 23 recognizances survive relating to female cases tried in the assize courts, with none surviving after 1800, PRO Assi 5 1780-1830. In the quarter session courts only 11 survive for the whole period, BCRO Q/sr 1780-1830.

The victims of women's crimes were not in the main of a significantly higher social status than was the woman herself (see Table One).[21] Professionals and gentlemen make up only a small percentage of the whole.[22] This is partially to be explained by a consideration of the context in which the majority of female crimes took place. The majority of women had little opportunity for contact with the property of those of a significantly higher class than themselves, with the exception of street-walkers. Even as servants the majority worked in households of artisans rather than the aristocracy.

What is more significant than the class differentials between prosecutor and accused is the social relationship in which they stood. The large number of retailers who appear here reflects the fact that women were most likely to steal from those with whom they had already established a commercial - client relationship, while the large numbers of artisans who appear reflect the type of people by whom women were most likely to be employed as servants. It is the impact of this relationship which was likely to have been the most significant mediator of attitudes to the offender, as I shall explain later.

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[21] Surviving recognizances relating to Berkshire follow the same patterns as those suggested by the City data, although they do not survive in sufficient numbers to make analysis worth while.

[22] These conclusions are supported by the work of others in this field most notably Beattie, Crime and the Courts p. 193, Table 4.10.

Women's Prosecutors:OCCUPATION.

OCCUPATION	*NUMBER OF PROSECUTORS.*	
GENTLEMAN	*27*	*(5.6%)*
PROFESSIONAL/ WHITE COLLAR	*44*	*(9.2%)*
(Of which Law Officers)	*12*	
ARTISAN	*81*	*(17.0%)*
VICTUALLER	*43*	*(8.9%)*
HABERDASHER	*74*	*(15.4%)*
PAWNBROKER	*6*	*(1.3%)*
OTHER RETAILER	*40*	*(8.3%)*
SOLDIER/SAILOR	*6*	*(1.3%)*
HEAVY LABOURER	*43*	*(9.0%)*
SERVANT	*21*	*(4.4%)*
FEMALE (no occupation given.)	***94***	***(19.6%)***
TOTAL	*479*	*(100%)*

Total male prosecutors = 357
Total female prosecutors = 122

TABLE ONE.

The occupation and sex of those who prosecuted women for serious crimes in the City, 1780-1830.
I have categorised the occupation of prosecutors into ten types, but it is difficult to define all occupations exactly. Haberdashers include all those involved in the clothing trade, such as drapers and mercers. Female prosecutors were not usually described in terms of their occupation. When a husband was prosecuting on behalf of his wife, I have included his occupation in the general sample.

Source : CLRO SFG Sessions Files (Gaol Delivery) 1780-1830, five yearly sample, commencing in 1780, all extant recognizances.

Women were more likely to be prosecuted by a male than a female prosecutor. This is explained by the fact that a married woman's husband was likely to prosecute on her account, although I have included in the numbers of female prosecutors the cases where this fact is stated.[23] This must also be the result of the way in which property was dispersed along gender lines, such that men were far more likely to be the owners of goods worth stealing. This might also reflect women's relative lack of resources for prosecuting a crime, in terms of money and knowledge.[24] This pattern is less pronounced in the lower courts, suggesting that it was men who were likely to own the type of valuable goods which merited a high court trial when they were stolen.

A study of the prosecutors who appear in deposition evidence reveals a similar sort of picture, with retailers playing an especially significant role, and male prosecutors being more common than women.

The decisions of the prosecutor could have an important impact upon the processing of a crime. When critics such as Pollak refer to the chivalrous attitudes endemic in the criminal justice system, it is at the stage of prosecution that he envisages them

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[23] This point is made by C.Emsley, Crime and Society in England, 1750-1900 (Lond, 1987), Chap 7.

[24] This point about women tending to prosecute only for the most simple of crimes is also made by Houlbrooke in his study of women prosecuting defamation cases in the Ecclesiastical courts, The Church Courts and the People During the English Reformation p. 81.

to be the most potent. He implies that many prosecutors simply chose not to prosecute women who they knew had committed crimes. There are many objections to this interpretation, not least the fact that a proportion of all prosecutors were female.

The decision to prosecute was likely to have rested upon a more complex set of factors than the personal choice of the prosecutor alone. Once a theft had been reported to a watchman or magistrate, it could not be left unprosecuted. There is evidence of the dilemma which this could cause in the case of Elizabeth Brown.[25] In court her prosecutor, the haberdasher from whose shop she had stolen some linen claimed:

> "She was taken before the Lord Mayor.... I entreated him to let her go, but he refused."

However, the chivalry thesis posits that a prosecutor's decision is critically influenced by the fact that an offender is a woman: men generously allow the weaker sex to avoid justice. Not only is it not clear that prosecutors would have always had much option whether or not to prosecute, but also, even if prosecutors did behave in this way, the explanation for this need not be the magnanimity of the

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[25] R v ELizabeth Brown, Sessions Papers, Dec 1795.

prosecutor. There are alternative ways of understanding this behaviour. I would suggest that at the root of the chivalry theory lies the dimly perceived assumption that women did not deserve punishment in the same way as did men. Though never consciously articulated, this is related to the fact that women were already under alternative forms of authority, in ways in which men were not. It is possible to view this clemency towards women less as a conferring of specific legal advantages, than as the concomitant of a general denial of full civil status to women.[26]

The same social circumstances which constrained women's actual criminal behaviour, also influenced the way she was treated when she did commit a crime. Since women were unlikely to offend against strangers but rather committed their offences within "normal contexts", this affected the way in which a woman's victim could react to her offence.

The law itself was not the only source of sanction against crime, and its use could be nullified if one had one's own means of imposing authority. The law did not claim for itself the right to dispose of all types of authority, but rather delegated a proportion of its rights of punishment. Thus the law endowed husbands with the right to punish the intransigence of their wives; similarly parents, their children and

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[26] For a full discussion of this idea see J.Englestein, "Gender and the juridical subject. Prostitution and rape in nineteenth-century Russian criminal codes", Journal of Modern History, 60 (1988).

masters and mistresses, their servants. I would suggest that, far from simply being treated chivalrously by the law and by prosecutors in particular, women existed under alternative forms of authority which acted as a buffer between them and the common law. It is significant that those crimes for which women were especially harshly punished were those which were infractions of these delegated forms of authority, such as when a woman killed her husband.[27] The prime example of such delegated authority is that of a servant's mistress, who on finding that a woman had stolen from her, could have disciplined the offender herself simply by dismissing her.[28] Theorists such as Davidoff have argued in this context that women spent the whole of their lives in different types of servant (servile) relationships.[29] Others suggest that there were different ways of controlling women which made recourse to the law less necessary. Kruttschnitt refers to the economic dependency which left women in a socially dependant situation.[30] The fact that women were the object of these delegated forms of authority meant that the common law might not necessarily have been the most immediate resource available to a victim to punish a woman. While it has long been established that there were always alternative means of

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[27] For a discussion of this see R.Campbell, "Death by burning of women", Journal of Legal History, (1984).

[28] See Emsley, Crime & Society Chap 7.

[29] See L.Davidoff, "Mastered for life. Servant and wife in Victorian and Edwardian England".

[30] See C. Kruttschnitt, "Female crime and dependency", Criminology, xix (1981-2).

dealing with those who offended against the social order than the official law enforcement agencies, this was especially true in the case of women.

It is possible to argue as an extension of this that those who turned to the law to discipline an offender did so only because they did not have sufficient claims of authority over the woman concerned themselves. Women who offended against strangers might thus be presumed to be more likely to have the force of the law directed against them, than those who offended against people to whom they were already in some form of subservient relationship. Women offending against strangers in the streets and shopkeepers were offending against those who had no other corrective powers than those available via the criminal courts.

There are reasons to suppose that women were less likely to be prosecuted than men, however the rationale for this does not accord with the "chivalry" thesis: women were often prosecuted by members of their own sex, while the decisions to prosecute did not rest solely with a prosecutor. If women were relatively immune to prosecution this was due less to the magnanimity of prosecutors than to the fact that women were under alternative forms of authority which rendered the law superfluous.

ii. Trial.

a. The Formulation of the Charge.

Once the decision to prosecute had been made, there were a variety of other points of decision at which a prosecutor could influence the outcome of a trial. The first stage in the legal process was the swearing of depositions before a magistrate. Here a victim and any witness whom he could produce related their accounts of the crime on oath. The way in which a crime was formulated at this stage of the prosecution could have a critical impact upon the subsequent processing of a case. The legal boundaries between crime types depended upon the exact details of how a crime was committed, and this could define whether an offender was tried under a potentially capital statute or not. It was the victim and his/her witnesses who defined important elements of a crime, such as the degree of violence used. Depositions suggest that prevailing conceptions of how a woman could behave influenced these legally-sworn descriptions of how a woman actually had behaved.[31]

The best example of the influence of this stereotype is in cases of larceny from the person. A theft of this type, if it contained sufficient violence, could be defined as a robbery, and thus incur a capital sentence. However, few women were accused of robbery during this period, though many were accused of larceny from the person.

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[31] Weiner argued that this stereotyping was influential, "Sex roles and crime".

When witnesses described crimes of this type committed by women they tended to use terminology which understated any possibly violent elements. Terms used most commonly to describe a theft from the person were "snatched," "laid hold of" or simply "accosted". Mary Smith's victim used even less emotive language:

> "One of them touched me on the breast and drew out my watch seal."[32]

Words which implied any degree of violence were avoided, although sometimes contradictory evidence from other witnesses implied that violence had been used, thus indicating the degree to which the description of a crime could be dependant upon a victim's subjective perception of his/her opponent. A good example is the way in which two witnesses described Suzannah Beckett's theft. She was seen by the husband of her victim, who described her scuffling with his wife outside their lodgings, while his wife declared that she had not been violent.[33] Even when a degree of violence was admitted when depositions were sworn, this fact could later be denied or substantially amended in court. It is possible to analyze this process for cases from the City courts, by comparing evidence given in depositions with the

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[32] R v Mary Smith, CLRO Sessions Papers, 226 b-c, Feb. 1818.

[33] R v Suzannah Beckett, Sessions Papers, May 1818.

transcripts of statements in court, provided by the Sessions Papers.[34]

In some cases quite significant changes are apparent. The prosecution of Elizabeth Masser, who attacked Ann Dixie in the street and stole a bundle of clothing from her, is a good example. The terminology used to describe this theft in the deposition differs substantially from that used in court.[35] It is significant that in this case the prosecutor was a woman, revealing that clemency was not only "chivalrously" meted out by men: In her deposition Ann Dixie described how her attacker "made a violent pull at her bundle", having accosted her on the street. In her statement in court she claimed that she "fell in with Elizabeth" on the street, and that Ann took her bundle and "ran away, without using any violence." In consequence of this change, Ann was accused only of private larceny from the person, and was sentenced to life transportation rather than the death penalty.

It is impossible to analyze quantitatively the impact of decisions such as these, either upon the number of women who appeared in court, or the ways in which they were treated once they got there. It is difficult to avoid the conclusion that women were the objects of a self-perpetuating stereotype, which acted as a more or less conscious means of mitigating their treatment when accused. This represents

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[34] For a discussion of the reliability of the evidence recorded in the Sessions Papers see J.Langbein,"The eighteenth-century criminal trial", University of Chicago Law Review, 50 (1983).

[35] R v Elizabeth Masser, Sessions Papers, Jan. 1825 and CLRO Sessions Papers, 226 b-c, Jan. 1825.

less a conscious application of clemency, than the influence of pervasive beliefs about women of the type which I discussed in the previous chapter.

b. Cases in Court - (Indictable Offences).

The way in which women's cases were treated once they reached court is easier to quantify. Sentences are recorded on indictments and in order books for all the courts dealt with here. Once witnesses had been sworn and recognizances taken, a case was ready for hearing at the next session of the appropriate court, the offender being held in prison meanwhile, unless bail had been allowed. However, there were several more stages through which a case had to pass before reaching trial. A substantial proportion of cases which got beyond the deposition stage still did not result in a conviction.

The way in which male and female cases were treated diverged to a greater or lesser extent at different points in the process.[36] If the courts were in general more lenient to women, this was not uniformly applied. The most striking aspect of these results is the high number of female cases which never reached trial stage. As many as fifty percent of all female cases could be processed out of the system

[36] Data is taken from London; CLRO SMG 1-11 1780-1830, sample is five yearly for women and ten yearly for men, commencing 1780; Berkshire PRO Assi 5 1780-1830 & Assi 2 1780-1805, all sessions.

without incurring any sentence at all (See Tables Two & Three).

One of the most significant differences in the way in which men and women were treated at this stage of the procedure was the way in which their cases were treated by the grand jury.[37] The task of the grand jury was to ensure that the evidence given in depositions was sufficient to make a case worth standing trial in court. They could dismiss any indictment which they did not consider rested upon sufficiently strong evidence. They were particularly concerned to filter out charges based upon malice or false claims.[38] Their attitude to female cases reflects the way in which female crimes were generally considered to be of a less serious nature than were male crimes. It also reflects some divergence between their opinions as to what constituted a criminal act, and the opinions of those who were the victims of such crimes and had decided that a case was worth prosecuting.[39]

Some types of crime were especially likely to be processed out at this stage. Assault cases were extremely likely to be rejected by the grand jury. Cases of

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[37] Beattie argues that women were more likely to drop out at this stage because more rigorous evidence was demanded for female cases, Crime and the Courts pp. 436-9.

[38] For a discussion of the role and character of the grand jury see Beattie, Crime and the Courts pp. 318-331.

[39] Hay suggests that the influence of the prosecutor was paramount at this stage, hence it is possible that this represent a further strategy for opting out of prosecution. See D.Hay,"Crime and Justice in eighteenth & nineteenth-century England", Crime and Justice Annual Review, 2 (1982).

Male & Female NO BILL Decisions.

Serious Offences.

COURT	TOTAL NO BILL DECISIONS		% OF ALL CHARGES	
	MALE	FEMALE	MALE	FEMALE
CITY GAOL DELIVERY	101	160	6.5	24
BERKSHIRE ASSIZE	92	19	6.4	14

TABLE TWO.

The percentage of all charges which received NO BILL decisions in the Berkshire and City high courts, 1780-1830.

Berkshire data includes all cases from 1780-1830, City data is five yearly for women, ten yearly for men, commencing in 1780.

Sources:
Berkshire PRO Assi 5, Sessions Files, Assi 2, Crown Books.
City CLRO SMG, Sessions Minutes.

MALE AND FEMALE ACQUITTALS.

OFFENCE	BERKSHIRE ASSIZE				LONDON GAOL DELIVERY			
	Male		Female		Male		Female	
GRAND LARCENY	17%	(135)	45%	(17)	23%	(198)	36%	(99)
BREAKING & ENTERING	6%	(11)	25%	(4)	4%	(2)	14%	(1)
LARCENY FROM THE PERSON	11%	(2)	60%	(6)	11%	(16)	44%	(13)
LARCENY IN DWELLING HOUSE/ SHOP	11%	(2)	12%	(1)	0	0	18%	(9)
ASSAULT	24%	(43)	33%	(1)	18%	(3)	0	0
FRAUD	30%	(10)	0	0	17%	(23)	35%	(30)
BURGLARY	8%	(8)	100%	(1)	21%	(9)	57%	(4)
HIGHWAY ROBBERY	44%	(15)	100%	(1)	45%	(9)	44%	(4)
RECIEVING	50%	(11)	66%	(4)	28%	(4)	92%	(12)
MURDER	38%	(23)	100%	(1)	50%	(7)	0	0
INFANTICIDE	0	0	100%	(14)	0	0	0	0

The % of all indictments for each serious crime type which gained an acquittal, male and female comparison.

TABLE THREE.

Figures in brackets are absolute numbers of acquittals.
Sample is yearly for Berkshire, five yearly for the City for women, ten yearly for the City for men, commencing in 1780.
Sources: Berkshire PRO Assi 5, 1780-1830, Sessions Files and Assi 2, Crown Books (1780-1805). City CLRO SMG 1780-1830, Sessions Minutes.

assault in the City high court make up nearly one-third of all cases rejected by the grand jury.[40] In the Berkshire assize courts infanticide and assault were the crimes which were most likely to be rejected.[41] In the case of infanticide, this reflects the increasingly stringent standards of evidence necessary in order to convict for infanticide. No convictions for infanticide were successfully pursued at any court during this period. This substantiates the arguments of Beattie and Williams, both of whom claimed that the courts were becoming increasingly lenient in these cases in the course of the eighteenth century.[42] The fact that so few infanticide accusations gained a conviction might also be a reflection of the kind of popular perceptions of women's crimes of this nature to which the previous chapter referred, though, unlike the media, the law dealt with all types of women with clemency. In the face of the death penalty, juries were unwilling to accept the full culpability of women. This was equally true of assault cases, these too were de-criminalized by the media and correspondingly unlikely to be passed by the grand jury.

However the leniency of the grand jury towards female cases was not purely a result of the types of offence for which women were likely to be committed.

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[40] See Beattie, Crime and the Courts pp. 318-331, where he comes to similar conclusions.

[41] From CLRO SMG 1780-1830, five yearly sample, PRO Assi 5 1780-1830 & Assi 2 1780-1805, yearly sample.

[42] See Beattie, Crime and the Courts pp. 113-24. William's data relating to Berkshire records 22 cases from 1740-89, of which only 9 resulted in convictions and 1 in the death penalty, Williams "Crime and the rural community", p. 176.

Whatever type of crime one considers women were more likely drop out of the prosecution procedure at this stage than were men. Men were more likely to have cases of assault rejected, though still not as likely as were women, whereas for offences such as grand larceny a male offender was much less likely to have his case dismissed at this stage.

The decisions of the grand jury were influenced not only by the character of a case, but also by the character of prosecutors. Taking evidence from the large number of assault cases tried at the City Peace sessions, it is clear that cases were more likely to be dismissed by the grand jury if the prosecutor was a woman: of a total of one hundred and thirty - eight cases in which the accused was acquitted at this stage, in thirty - nine cases (twenty - eight percent) the victim was male, while in ninety - nine cases (seventy - two percent) the victim was female.[43] This suggests that women were taken less seriously as victims as well as offenders.

I have spent some time discussing the processing of cases even before they reached the stage of trial because this was a stage at which such a significant number of female cases were filtered out of the system. That this is so must reflect, at least to some extent, and particularly in some areas of crime, beliefs about women's criminal potential, both among those who administered justice in the courts and those who were the victims of women's crimes.

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[43] See CLRO Sessions Minutes/ Sessions Files, SMP/SMG, 1780-1830, 5 yearly sample, commencing 1780.

iii. Sentencing.

a. Jury Trial.

Not only was an indictment against a woman less likely to get through these preparatory stages of processing, but once her case reached the court and the jury it was more likely to escape sentencing through an acquittal than was that of her male counterpart. This is the more surprising since this is in spite of the high percentage of female cases which had already been filtered out by the grand jury. This is true whatever type of crime one considers, at both quarter session and assize level (see Table Three). It was not only for the most serious crimes that women were more likely to gain an acquittal. For cases of petty larceny tried at the quarter session court in Berkshire, in male and female cases together twenty percent of all offenders were acquitted; if one looks at female cases alone, this rises to nearly thirty percent.[44] Moreover, this high acquittal rate seems to have been equally common at other periods and in other places. Donovan's work on the decisions of the French courts during the nineteenth century reveals similar patterns, and he claims that women were increasingly likely to be acquitted as the nineteenth century wore on.[45]

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[44] From BCRO Order Books, MF 6-10, 1780-1830.

[45] J.Donovan, "Justice unblind. The juries and the criminal classes in France 1825 - 1914", Journal of Social History, 15 (1981-2). He gives 58.8% as the proportion of female cases acquitted.

Again this might reflect ideas about women's criminal incapacity, and especially their lack of autonomy. The law itself ruled that a woman should be acquitted of a crime if she had acted with her husband, and in practice, this could be extended to include crimes committed with another man whatever his relationship to her.[46] Mary Howard confessed to having murdered the occupants of a house which she broke into with her husband, but was acquitted as she stressed that all of her actions had been at the instigation of her (common law) husband.[47]

This constantly high level of acquittal is difficult to explain except in terms of some general belief concerning women's behaviour, as it operates even when one compares across crime types, with some exceptions. Two typical female crimes, infanticide and receiving, were especially hard to gain convictions for due to the nature of the evidence demanded by the law. A third common female crime, the uttering or passing of counterfeit coin was likely to incur an acquittal for the same reason, namely that prosecutors had to prove that the accused was aware that what she was doing was illegal, and she had not acted merely in ignorance (see Table Three). However, even taking different patterns of criminal behaviour into account, Table Three illustrates that women were more likely to be acquitted whatever type of offence they had committed, almost without exception.

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[46] See Blackstone, Commentaries on the Laws of England.

[47] R v Mary Howard, PRO Assi 5 (Berks), Lent 1780.

Even when sentenced, women were less likely to incur the harshest of penalties available to the criminal law at this period, transportation (for periods from seven years to life) and the death penalty (see Tables Four i-ii). There is evidence from sources other than the court records that there was a general feeling both that women were likely to suffer more than their male counterparts from such punishments, and that the treatment of women in this way had a less salutary effect upon the population at large than did these punishments when inflicted on men.[48] The 1828 Royal Commission on the Police of the Metropolis claimed that women suffered inordinately when transported.[49] In one of his comments on working-class life, Place adds to the broadside of a woman sentenced to be hanged the observation that this was more likely to produce pity for the woman concerned than to instill the respect for the law which was its primary purpose.[50]

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[48] For a discussion of the ideological purpose of the gallows see Randall McGowan,"The body and punishment in eighteenth-century England".

[49] Parliamentary Papers, 1828 vi (533), Commission on the Police of the Metropolis, p. 54.

[50] See B.L. Add Mss 27828, (Place Papers), f 4.

Crime Type & Sentencing.

The City Gaol Delivery Sessions.

OFFENCE	HOUSE OF CORRECTION		GAOL		TRANSPORT-ATION		DEATH PENALTY	
	M	F	M	F	M	F	M	F
GRAND LARCENY	115 22%	44 30%	99 19%	32 21%	276 54%	67 46%	18 4%	4 3%
BREAKING & ENTRY	10 22%	0 0	7 16%	1 33%	15 32%	2 66%	14 30%	0 0
PRIVATE LARCENY	14 11%	0 0	4 3%	1 8%	108 85%	10 84%	1 1%	1 8%
LARCENY IN SHOP/DWELLING HOUSE	6 12%	10 26%	6 12%	1 3%	22 44%	16 42%	16 32%	11 29%
ASSAULT	0 0	0 0	1 20%	0 0	0 0	0 0	4 80%	0 0
FRAUD	25 23%	12 23%	17 16%	29 53%	48 45%	7 13%	16 16%	6 11%
BURGLARY	1 3%	1 50%	0 0	0 0	9 28%	1 50%	22 69%	0 0
HIGHWAY ROBBERY	0 0	0 0	0 0	0 0	1 10%	2 50%	10 90%	2 50%
RECEIVING	2 20%	1 100%	1 10%	0 0	7 70%	0 0	0 0	0 0
MURDER	1 14%	0 0	2 29%	1 100%	1 14%	0 0	3 43%	0 0

The ways in which men and women were sentenced for serious crimes at the City Gaol Delivery Sessions, 1780-1830.

TABLE FOURi.

Sample is five yearly for women, ten yearly for men, commencing 1780. Expressed as absolute totals and as a % of all recorded sentences for each gender and each offence category.
Sources:CLRO SMG, Sessions Minutes, 1780-1830.

Crime Type & Sentencing.

The Berkshire Assize Court.

OFFENCE	HOUSE OF CORRECTION		GAOL		TRANSPORTATION		DEATH PENALTY.	
	M	F	M	F	M	F	M	F
GRAND LARCENY	120 37%	14 70%	8 3%	1 5%	80 25%	4 20%	115 35%	1 5%
BREAKING & ENTRY	13 11%	1 10%	0 0	0 0	12 10%	0 0	94 79%	9 90%
PRIVATE LARCENY	3 19%	2 50%	0 0	0 0	5 31%	2 50%	8 50%	0 0
LARCENY DWELLING HOUSE/ SHOP	11 73%	1 14%	0 0	0 0	1 7%	1 14%	3 20%	5 72%
ASSAULT	16 32%	1 50%	0 0	0 0	6 12%	0 0	27 66%	1 50%
FRAUD	6 30%	2 50%	1 5%	2 50%	10 50%	0 0	3 15%	0 0
BURGLARY	7 12%	0 0	2 3%	0 0	17 28%	0 0	35 57%	0 0
HIGHWAY ROBBERY	2 13%	0 0	0 0	0 0	1 6%	0 0	13 81%	0 0
RECEIVING	2 22%	0 0	0 0	0 0	7 88%	0 0	0 0	0 0
MURDER	7 38%	0 0	1 6%	0 0	1 6%	0 0	9 50%	0 0

The ways in which men and women were sentenced for serious crimes in the Berkshire Assize Court, 1780-1830.

TABLE FOURii.

Sample is all sessions commencing in 1780. Expressed as absolute totals and as a % of all recorded sentences for each gender and each offence category.
Sources: PRO Assi 5 Sessions Files 1780-1830 and PRO Assi 2 24-27, Crown Books 1780-1805.

b. Sentencing and Crime Types.

The ways in which a woman was treated once her case reached court depended to a great extent upon the exact legal definition of her crime. The ways in which an offender could be sentenced were tightly defined by the legal prescriptions of appropriate sentences for each crime. The critical difference here was the division between clergyable and non-clergyable offences: only the latter carried the death penalty. Non-clergyable offences tended to be aggravated forms of clergyable felonies, usually aggravated by the use of violence. Private larceny from the person became the non-clergyable offence robbery if the victim could claim that violence had been used, and/or that he/she had been put in fear by the offender.

I have discussed the limited range of women's offences and the differences in the types of offence which men and women were likely to commit; to compare the way in which men and women were treated in court it is necessary to take this into account. The lighter sentences which women were given might have been pre-determined by the type of offences which they committed.

Tables Four i-ii illustrate the ways in which men and women were sentenced for the main types of serious crime. This suggests that even when convicted of the same offences as their male counterparts women were less likely to be transported or

hanged. If sentenced at all, women were always more likely to be incarcerated than men and less likely to experience the harshest of available punishments.

Criminologists have suggested that women were more likely to be judged harshly for the types of crime which denied prevailing stereotypes of women's natural role, that of the passive, non-aggressive, caring wife and mother. The focus of the media during this period also suggests that these crimes were especially emotive. However, this is not reflected by sentencing patterns in the courts. I have found no capital convictions for infanticide, while in order to avoid a capital conviction women's violence was often ignored and written out of the accusation. Women accused of assault were not especially harshly treated in court. If one looks at the depositions which survive relating to those cases for which women did incur the death penalty, a quite different set of factors emerge as influential.

Depositions survive for only six cases for which a capital conviction was the punishment, however those that do survive share some interesting characteristics. In one of these surviving cases, the two female offenders were old offenders. It seems that for women no less than men the repetition of criminal offences was likely to lead one to be especially harshly treated.[51] In this case and in another the women concerned had offended against especially vulnerable victims, in one case a sick old man, in another a poor widow. The character of the victim must have influenced

[51] R v Mary & Elizabeth Pither, PRO Assi 5 (Berks), Lent 1794.

the way in which crimes such as this were viewed, by prosecutors, jury and judge.[52] The status of the victim could be influential in other ways. Elizabeth Woller was unlucky enough to offend against a Chelsea Pensioner who was out on the streets with the intent of tracking down criminals. It is hardly surprising that he was not willing to prosecute her theft as anything other than a robbery deserving the harshest of punishments.[53] This evidence suggests that when defining what where the most "serious" offences the opinions of the media and the courts of law were at odds.

c. Pardoning.

Even if a woman received a capital sentence, there was still one further way in which the court could exercise its clemency towards her. All sentences were potentially open to Royal mercy in the shape of a pardon. As some cases in the Sessions Papers show, the judge could pass a sentence only to recommend the accused to the mercy of the crown. In order to ascertain the experience of women at this stage of the trial procedure I have taken evidence from the Crown books of

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[52] R v Ann Wright, CLRO Sessions Papers, 226 b-c, Jan. 1825.

[53] R v Elizabeth Waller, CLRO Sessions Papers, 226 b-c Oct. 1828. For further discussion of the factors influencing sentencing see Beattie, Crime and the Courts pp. 410-9 and King, "Crime, law and society", Chap 8.

the Berkshire assize courts.[54] Data relating to pardons is available for all cases from 1812 - 1830, giving a total of eight-hundred and four cases.

Historians have stressed the importance of the pardon as a means of tempering the workings of a justice system overloaded with capital statutes, while still retaining the citizen's respect for the authority of the law. In her discussion of infanticide, Amussen explains that:

> "The trial would impress the mother with the power of the law, the verdict of its mercy."[55]

From the Berkshire data it appears that women were far more likely to be pardoned then men. The overall pardoning rate for men was sixty percent, while for women it was ninety percent. Moreover, this was not because of the type of offences in which women were involved. Table Five indicates that men and women gained pardons for the same types of offence; in both cases breaking and entering was the crime for which most pardons were given. Whatever the type of offence however, the court was always more likely to pardon a woman than a man. In this final as in all other aspects of the processing and sentencing procedure at law, women

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[54] See PRO Assi 2 (Berks), Crown Books, 28-31. Information about pardons is also available in the Newgate Calendars at PRO HO 26 from 1791-1834.

[55] S.D.Amussen, An Ordered Society p. 115.

Male and Female Pardons

	MALE		FEMALE	
OFFENCE	CAPITAL CONVICTIONS	PARDONS	CAPITAL CONVICTIONS	PARDONS
GRAND LARCENY	80	58	1	1
BREAKING & ENTERING	82	75	5	5
PRIVATE LARCENY	7	7	0	0
LARCENY IN DWELLING HOUSE/ SHOP	3	2	2	2
ASSAULT	16	13	1	1
FRAUD	2	1	0	0
BURGLARY	34	26	0	0
HIGHWAY ROBBERY	7	6	0	0
MURDER	4	1	0	0

The capital offences for which men and women were pardoned.

TABLE FIVE

Source: PRO Assi 2, 28-31, Crown Books, 1812-1830.

appear to be consistently more likely to be treated with leniency than their male counter-parts.[56]

iv. Conclusion.

This, and the preceding chapter, have turned away from the social reality of criminal activity, to look at perceptions of crime and the creation of crime as a legally documented artefact. This has involved surveying the process of prosecution in its entirety and the ways in which women were treated at all stages of the process. The overwhelming evidence is that women were likely to be treated more leniently then were their male counterparts at all stages of the criminal justice system, in general accordance with the way in which their criminal potential was perceived and publicly projected by the media.

This leniency cannot be simply explained by reference to the "chivalry" extended to female criminals, nor by the fact that women's crime remained largely hidden. In fact the nature of women's crime meant that it was relatively easy to detect. If women's crimes were "hidden" from the law, this reflects the fact that, to a greater extent than men, women existed under various forms of authority and control which precluded the need for the law.

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[56] See Beattie's data relating to Surrey in the eighteenth century for further evidence of this trend. Beattie, Crime and the Courts pp. 435-7.

Popular opinion suggested the type of crimes which were the most heinous for women; these were crimes which involved the deployment of violence against those to whom a woman was subordinate and as a denial of a woman's sexual and maternal role. In fact, for these and most serious offences women were not treated as harshly as their male counterparts. Reflecting popular perceptions, the legal system persistently failed to recognise that women had the same criminal potential as men. Women were always more likely to have their cases rejected than were men, particularly if they were accused of using violence. When they were sentenced, women were less likely to be harshly punished than men, even when they had committed comparable crimes. If women were treated leniently by the law courts, this reflects less a society which conferred legal advantages upon women, than one which denied women the full social status which could alone merit the full punitive weight of the law.

Conclusion.

This research has explored a wide range of women's crime, but it has been impossible to embrace all aspects of criminal activity, I have concentrated on the indictable crimes while the whole area of behavioural crime has been excluded from this discussion, since these were mainly tried summarily. It is possible that the inclusion of such types of crime might have provided further interesting conclusions, particularly concerning the relationship between female sexuality and female deviance.

Women's involvement in those range of activities which society defined as criminal appears to have been as limited and marginal at this period as at other times and other places, including the present. The durability and consistency of women's absence from crime challenges many previously suggested models of criminal behaviour. I have relied upon theories posited by modern criminologists, especially those stressing the relationship between opportunities for crime and lifestyle, which have proved more fruitful than many previously suggested approaches. The search for a means of understanding women's criminal behaviour has prompted novel ways of considering the relationship between crime and society.

This approach has entailed a detailed appreciation of the social context of criminal activity, and some knowledge of the lifestyle of the women who

appeared before the courts during this period, and indeed of all lower-class women. Some types of criminal records themselves provide important insights into the social experience of such women, describing their working environment, their experiences as wives and mothers and their relationships with their peers.

The overall picture portrayed has been one of social limitation and attendant criminal limitation; a constantly recurring theme of this work has been the elision of the licit and the illicit, especially in the field of property crime. This relationship between social dispossession and criminal inability challenges previous assumptions concerning the social significance of crime, namely that crime is the adjunct of poverty and dispossession. Rather criminal activity, especially but not only in its most serious and complex forms, appears to rest upon the ownership of positive social rights and resources, many of which are dispersed selectively along gender lines, and are made manifest in many diverse forms in the field of criminal activity. Hence, to be criminal is not to be simply the powerless victim of the force of the law.

There are some areas of crime in which women's involvement has proved to be greater than might have been expected. The most important of these is in the field of violent crime, an area where women have been persistently viewed as victims. Their positive and persistent involvement in assaults of all kinds denies the stereotype of the passive non-violent woman. Not only were women involved in violence to a greater degree than has been previously appreciated, but the context of this violence extended beyond "crimes of passion" and was a response to a variety of types of social stress endemic to the working class.

The nineteenth century shared with contemporary society a persistent belief in the essential innocence of the female, and her lesser capacity for all types of transgression, including crime. Women's absence from recorded and prosecuted crime was not only a reflection of her socially limited position, but also of prevailing ideology, which defined women as conceptually beyond the bounds of the criminal. This might be seen as a positive evaluation of the female, stressing her greater moral integrity; however, beliefs about women's capacity for crime were based upon ideas concerning women's abilities which were far from positive.

Ideal and reality coverged in the decisions concerning women made by a number of individual actors in the criminal justice system, from the victim to the judge. Ideal was reflected in reality to the extent to which each were inclined to treat women preferentially, though this was more in evidence at some stages of the procedure than others.

This preferential treatment was not based simply upon the generosity of prosecutors, but upon a recognition of the degree of control which pervaded the female experience, which in effect negated the need for the punitive power of the criminal law. Women were surrounded instead by the interposing authority of individuals to whom the law delegated its power, as husbands, fathers and employers.

These conclusions support those who have argued that women will only participate more fully in crime when their position in society changes. These arguments have been countered by factual arguments based upon current criminal statistics, indicating little correlation between increasing "liberalization" in modern society and crime. It seems that this might indicate more about the real impact of contemporary liberalization than the relationship between criminal and social experience.

Appendix 1.i.

Male Crime Dispersion.

London & Berkshire Courts.

CRIME	LONDON		BERKSHIRE	
Grand Larceny	1349	55.5%	143	14 %
Br & Entering	88	3.6%	49	5 %
Larceny from house/shop	115	5 %	6	0.5%
Larceny from person	238	10 %	3	0.2%
Robbery/ Burglary	149	6 %	22	2 %
Murder	14	0.5%	4	0.3%
Felonious Assault	27	1 %	28	2 %
Non felonious Assault	441	18 %	179	19 %
Petty Larceny	7	0.3%	350	36 %
Breach of Peace	3	0.1%	214	22 %
TOTAL	2431		954	

Indictable offences of which men were accused in the Berkshire and City Courts, 1780-1830.

Sample is ten yearly all sessions for City data, five yearly all sessions for Berkshire data, commencing in 1780.

Sources:
Berkshire; BCRO MF 6-10 Order Books,
PRO Assi 5 Sessions Files & Assi 2, Crown Books.
City: CLRO SMG Sessions Minutes (Gaol Delivery),
SMP Sessions Minutes (Peace).

Except in the case of the Berkshire Assize Court I have included only those male offences recorded in Minute and Order Books.

Appendix 2.i.

Deposition Evidence.
The location of women's property crimes.

LOCATION	CITY (SFG)	OBSP	BERKS.ass.	BERKS qs.
HOME OF OFFENDER	29 37%	43 34%	7 28%	16 27%
HOME OF VICTIM	14 18%	27 21%	11 44%	18 31%
ON STREETS	22 29%	19 15%	4 16%	16 28%
PUBLIC PLACE OF LEISURE	4 5%	11 9%	3 12%	1 2%
OTHER	8 11%	28 21%	0	7 12%
	n= 77	n= 128	n= 25	n= 58

Sources:
Berkshire: PRO Assi 5, Sessions Files and Assi 6/1 1780-1830.
BCRO Q/sr, Sessions Rolls, 1780-1830.
City: CLRO 226 b-c, Sessions Papers, extant for years: 1785,1786,1787,1788,1818,1825,1828,1833.
Old Bailey Sessions Papers, 1780-1830.

Sample:
Berkshire, all sessions, 1780-1830.
Old Bailey Sessions Papers, One sessions (April), ten yearly, including women tried from Middlesex and the City, commencing 1780.

Appendix.4.i.

Patterns of crime reporting.
Female sample.

Newspaper.	*Years Available.*	*Total Cases.*
Times.	*1785/1795/1805/ 1815/1825.*	*122*
Star.	*1791/1800/1810/ 1820.*	*172*
Reading Mercury.	*1790/1800/1810/ 1830.*	*6*

I have included all female offences reported, even if the newspaper devotes only a few lines to the offence, but I was able to make the most exhaustive study of the Times as its index records all crimes reported in its pages.

Appendix.4.ii.

Patterns of Crime Reporting.
Male.

Data is taken from the Times, 1785 - 1830 ten yearly sample, commencing in 1785, total number of cases = 844.

OFFENCE.	*TOTAL REPORTED.*	*PERCENT OF TOTAL.*
LARCENY	*250*	*30%*
BURGLARY/ ROBBERY	*107*	*14%*
MURDER	*126*	*15%*
ASSAULT	*150*	*18%*
RAPE	*17*	*2%*
RIOT	*26*	*3%*
FRAUD	*93*	*11%*
RECEIVING	*21*	*2%*
PERJURY	*11*	*1%*
TREASON	*15*	*1%*
MISDEMEANOR	*28*	*3%*
Total.	*844*	*100*

Appendix 5.i.

Deposition Evidence.
The Detection of Offences.

DETECTION	*CITY(SFG)*	*BERKS(ASS)*	*BERKS(Q/SR)*
ON SPOT	*28 35%*	*17 50%*	*30 41%*
AFTER PURSUIT	*14 18%*	*7 21%*	*16 22%*
AID OF OFFICIAL	*17 20%*	*2 6%*	*6 8%*
ROUTINE SEARCH	*4 5%*	*2 6%*	*1 1%*
CHAIN OF INFORMATION	*3 4%*	*1 3%*	*13 18%*
UNKNOWN	*14 18%*	*5 15%*	*7 10%*
	n= 80	*n= 34*	*n= 73*

Sample:
Berkshire, all sessions, 1780-1830
City, years extant; 1785,1786,1787,1788,1818,1828,1833.

Sources:
Berkshire: BCRO Q/sr Sessions Rolls, 1780-1830.
PRO Assi 5, Sessions Files and Assi 6/1, 1719-1951.

City: CLRO 226 b-c, Sessions Papers.

Manuscript Sources.

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SM 150	Minute Books, (Peace & Gaol Delivery).	1785(Jan)
SF 1078 - 86	Sessions Files, (Peace & Gaol Delivery).	1780
SF 1123	Sessions Files, (Peace & Gaol Delivery).	1785 (Jan)
SMG 1 - 11	Minute Books, (Gaol Delivery).	1785 - 1830 (Feb)
SMP 1 - 11	Minute Books, (Peace).	1785 - 1830 (Feb)
SFG 1 - 367	Sessions Files, (Gaol Delivery).	1785 - 1830 (Feb)
SFP 1 - 367	Sessions Files, (Peace).	1785 - 1830 (Feb)
226 B - C	Sessions Papers, (Gaol Delivery).	1785 - 1830
226 - 227 D	Sessions Papers, (Peace).	1780 - 1830
237 E	Rough Minute Books, (Mansion House).	1784-7/1790 /1800-3/ 1819-21

ii. Public Record Office (Kew).

HO 26/1-30	Newgate Calendar.	1791 - 1834

b.BERKSHIRE COURTS.

i.Public Record Office (Chancery Lane).

Assize.

Assi 2 /24 -31	Crown Books,(Oxford Circuit).	1780 - 1830
Assi 6 /1	Depositions,(Berkshire).	1719 - 1951
Assi 5 /100-150	Sessions Rolls,(Berkshire).	1780 - 1830

ii.Berkshire County Record Office.

Quarter Sessions.

MF 6 - 10	Order Books.	1780 - 1830
Q/sr 184 - 387	Sessions Rolls.	1780 - 1830
A/jq.s(1-4)	Abingdon Borough Court Rolls.	1780 - 1830
N/jq (1-2)	Newbury Borough Court Rolls.	1780 - 1830
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