

**“She procured a couple of Chirurgions”: unearthing social and medical care for survivors of sexual violence from the Old Bailey *Proceedings*, 1674-1800**

by

Marlies Couch

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Department of History  
Faculty of Humanities  
University of Amsterdam  
Dr. D.W.A.G. van den Heuvel  
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## **Abstract**

The focus of this thesis is on social and medical care for female survivors of rape and sexual assault in early modern London. Most historical writing on sexual violence in the period has focused on rape law, low conviction rates, the credibility of prosecutor's testimonies, the difficulties of available sources, and men's motivations for rape. As a socio-medical analysis, this study explores the theme of care, which has been overlooked by historians of sexual violence. It draws upon published accounts, the *Proceedings*, from trials held at the Old Bailey. Prosecutors' depositions and medical and lay witnesses' testimonies are closely read inspired by the verb- or task-oriented method. The aim is mapping the social care networks around survivors and the medical care practices applied by both lay people and professional practitioners. Due to the legal requirements to convict a rape and the socio-cultural restrictions on women's speech, the evidence presented in cases concerning either women or girls is different. Social support and medical care mechanisms are certainly present in women's cases, but the majority of information on medicines, remedies and treatments is found in cases involving girls. Further research is needed to continue to uncover historically specific social and medical care practices for survivors of sexual violence.

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### *Notes on spelling*

Quotations from the *Proceedings* retain the original spelling, punctuation and capitalisation, with the minor additions and alterations indicated by square brackets [ ] when this assists in reading the material. Further, some words in quotations were italicised for emphasis by the author.

## Introduction

On 11 December 1678 Stephen Arrowsmith stood trial at the Old Bailey in London for raping and assaulting eight-year-old Elizabeth Hopkins. She said that “he had had to do with her for half a year together every sunday”. He hindered her from crying out for help by stopping her mouth and he gave her money afterwards to silence her. She told no one about it until a friend observed “her to go [to wee] as if she were very sore”. The friend questioned Elizabeth, and by telling her “she would be in danger of hanging in Hell” got her to confess that the man who raped her was her father’s apprentice Stephen. One Mrs. Cowel (likely the mistress of the household) deposed that “upon observing her going [urinating], and other Circumstances” decided to question Elizabeth, who then told her what had happened. Mrs. Cowel searched the girl’s body, found her “shamefully abused, and sent [her] to the Doctors to cure.” The abuse was attested by one Mrs. Sherwin and a midwife, who said Elizabeth “had got a very foul disease by it.” The doctor in question found what troubled her “was indeed the Pox”.<sup>1</sup>

No symptoms of venereal disease were found on the defendant Stephen when his body was examined to secure proof of rape, and he deposed “with a great many tears” that he was innocent. However, “the Court with great detestation and abhorrence of so Horrid and Vile an Offence, told him the Matter was so plain against him, that he must have as great impudence to deny it, as he had wickedness to commit it”. The jury was not satisfied with the evidence against him, however, and it resulted in extended deliberations between the jury and the court. One of the members of the jury was an apothecary and of the opinion that a child of that age could not be raped. Having not yet been sworn under oath because of their age, it was agreed that Elizabeth and another young witness would be sworn to testify, it being perceived that despite the tenderness of their age, they understood the nature of an oath and the danger of perjury. Upon their sworn testimonies, the jury again deliberated and found Stephen guilty of raping Elizabeth and was sentenced to death.<sup>2</sup>

For both the prosecutor and the defendant, the verdict was of paramount importance; a matter of life and death, of justice, vindication and reputation. This is one of many trials that contains a wealth of information that historians have studied from various perspectives. This thesis will focus on an aspect of historical cases of rape and sexual assault that has been overlooked, which is that of social and medical care for early modern survivors of sexual

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<sup>1</sup> *The Proceedings of the Old Bailey* (hereafter OBP), December 1781, trial of Stephen Arrowsmith (t1781211e-2).

<sup>2</sup> OBP, December 1781, trial of Stephen Arrowsmith (t1781211e-2).

violence. Elizabeth Hopkins' case is one of over published 250 sexual offence trials held at the Old Bailey that contain several mentions of medical care: the midwife who upon inspecting Elizabeth's body believed she had been abused and had venereal disease, and the doctor who was tasked with curing her. We also find references to non-medical care by acquaintances who observed the girl being in pain during peeing, found her in need of a doctor's treatment, pressed her to confess what happened, and presumably took legal action. The central aim of this thesis is to shed light on how women and girls sought and received social support and medical care after suffering rape and sexual assault in late seventeenth- and eighteenth-century London. It attempts to map networks of care and to show how early modern lay people and medical professionals treated injury and disease sustained by illicit sexual contact. This has not yet been undertaken.<sup>3</sup>

The research draws upon a study of 265 accounts of trials held at the Old Bailey between 1674 and 1800, which will be analysed inspired by the verb- or task-oriented method to be expanded upon later. The focus will be on prosecutors' testimonies, the depositions of witnesses and the expert examinations of medical practitioners who were tasked to provide physical evidence in court. As the assizes and central criminal court for the City of London and the County of Middlesex, the Old Bailey was where people indicted for serious crimes such as murder, larceny and rape were tried.<sup>4</sup> Between 1674 and 1913, these trials were published in a series of pamphlets, or *Proceedings*.<sup>5</sup> Digitised and accessible through an

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<sup>3</sup> For notable research on early modern sexual violence (in England), see: Nazife Bashar, 'Rape in England between 1550 and 1700', in: London Feminist History Group ed., *The sexual dynamics of history: men's power, women's resistance* (London 1983) 34-40; Barbara Baines, 'Effacing rape in early modern representation', *English Literary History* 65:1 (1998) 69-98; Miranda Chaytor, 'Husband(ry): narratives of rape in the seventeenth century', *Gender & History* 7:3 (1995) 378-407; Anna K. Clarke, *Women's silence, men's violence: sexual assault in England, 1770-1845* (London and New York 1987); Shani D'Cruze, 'Approaching the history of rape and sexual violence: notes toward research', *Women's History Review* 1:3 (1993) 377-397; Edward Shorter, 'On writing the history of rape', *Signs* 3:2 (1977) 471-482; Roy Porter, 'Rape: does it have historical meaning?', in: Roy Porter and Sylvana Tomaselli eds., *Rape: an historical and cultural enquiry* (Oxford 1986) 216-236; Sarah Toulalan, '"Is he a licentious lewd sort of a person?": constructing the child rapist in early modern England', *Journal of the History of Sexuality* 23:1 (2014) 21-52; Sarah Toulalan, 'Child sexual abuse in late seventeenth and eighteenth-century London: rape, sexual assault and the denial of agency', in: Katrina Honeyman and Nigel Goose eds., *Childhood and child labour in industrial England: diversity and agency, 1750-1914* (Farnham 2013) 23-43; Garthine Walker, 'Men's non-lethal violence', in: Garthine Walker, *Crime, gender, and social order in early modern England* (New York 2003) 23-74; Garthine Walker, 'Rereading rape and sexual violence in early modern England', *Gender & History* 10:1 (1998) 1-25; Garthine Walker, 'Everyman or a monster? The rapist in early modern England, c. 1600-1750', *History Workshop Journal* 76 (2013) 5-31; Garthine Walker, 'Sexual violence and rape in Europe, 1500-1750', in: Sarah Toulalan and Kate Fisher eds., *The Routledge history of sex and the body: 1500 to the present* (London 2013) 429-443.

<sup>4</sup> Clive Emsley, Tim Hitchcock and Robert Shoemaker, 'Crime and justice - crimes tried at the Old Bailey', *The Proceedings of the Old Bailey* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 9.0, Autumn 2023) (accessed 1 July 2024).

<sup>5</sup> The full title under which the pamphlets were published was '*The Proceedings of the King's Commission of the Peace and Oyer and Terminer, and Gaol-Delivery of Newgate, held for the City of London and the County of Middlesex, at Justice-Hall, in the Old Bailey*'. Esther Snell, 'Trials in print: narratives of rape trials in the

online database since 2003, the archive contains over 100,000 trials, “representing the largest single source of information about non-elite lives ever published.”<sup>6</sup> Historians are understandably drawn to the collection and have previously researched the laws that framed it, conviction rates, the language and context of people’s narratives, and the creation and reception of the *Proceedings*.<sup>7</sup>

They are not the only printed accounts of rape available for the period and do not represent sexual violence in England generally. Their significance and exceptionality lie in the level of detail, sheer number and longevity of appearance. They reveal both the intimate and mundane details of people’s lives and their relationships, and transmit intimate knowledge that otherwise might have been lost.<sup>8</sup> Covering a large geographical area, the Old Bailey served both rural and urban populations, and a socially diverse blend of rich and poor of all ages. The majority of defendants resided in the more central and crowded parishes of London, but some lived in areas further out such as Hounslow, Stepney, Bishopsgate and Hackney.<sup>9</sup> The persons appearing in the sexual offence trials hailed predominantly from the lower and middling sorts of the urban population. Those from the higher social sorts, both as prosecutors and defendants, rarely appeared.<sup>10</sup> Most were from the artisanal, servant, shop- and public house-keeping and labouring classes. Prosecutors were almost exclusively violated by men of the same social sorts. They were acquaintances of the household or men with whom they came in contact through the daily course of their lives.<sup>11</sup>

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Proceedings of the Old Bailey’, in: David Lemmings ed., *Crime, courtrooms and the public sphere in Britain, 1700-1850* (Abingdon 2012) 37-56, at 23.

<sup>6</sup> Tim Hitchcock and Robert Shoemaker, ‘Digitising history from below: the Old Bailey Proceedings Online, 1674-1834’, *History Compass* 4:2 (2006) 193-202, at 193.

<sup>7</sup> Hitchcock and Shoemaker, ‘Digitising history from below’, 193; Olivia Weisser, ‘Poxed and ravished: venereal disease in early modern rape trials’, *History Workshop Journal* 91:1 (2021) 51-70, at 52; Antony E. Simpson, ‘The ‘blackmail myth’ and the prosecution of rape and its attempt in eighteenth-century London: the creation of a legal tradition’, *The Journal of Criminal Law & Criminology* 77:86 (1986) 101-150; Snell, ‘Trials in print’, 37-56; Toulalan, ‘Constructing the child rapist’, 21; Toulalan, ‘Child sexual abuse’, 23-43; Garthine Walker, ‘Rape, acquittal and culpability in popular crime reports in England, c.1670–c.1750’, *Past & Present* 220:1 (2013) 115-142.

<sup>8</sup> Snell, ‘Trials in print’, 26, 40-41; Toulalan, ‘Child sexual abuse’, 24; Seth Stein LeJacq, “‘O my poor arse, my arse can best tell’: surgeons, ordinary witnesses, and the sodomitical body in Georgian Britain”, *Journal of the History of Sexuality* 31:2 (2022), 137-168, at 155-6.

<sup>9</sup> Only the place of residence is noted for the defendant in the indictment of each trial. Where the prosecutors lived, worked and visited is occasionally mentioned in their testimonies and those of witnesses.

<sup>10</sup> Toulalan, ‘Child sexual abuse’, 31-32; Walker, ‘Rape, acquittal and culpability’, 123-124. A rare exception is the trial of Sir Charteris, February 1730 (t17300228-69).

<sup>11</sup> Toulalan, ‘Constructing the child rapist’, 29-30; Donatella Pallotti, “‘A most detestable crime’”.

Representations of rape in the popular press of early modern England’, *LEA – Lingue e letteratura d’Oriente e d’Occidente* 1:1 (2012), 287-301, at 294. London is not necessarily representative of the whole of seventeenth- and eighteenth-century England when it comes to sexual violence, and there are likely to have been regional variations. However, from her analysis of geographically wider-ranging studies, Sarah Toulalan concluded that the evidence recorded in the Old Bailey trials for rape and sexual assault does not appear to be substantially

The *Proceedings* cannot be regarded as a typical collection of legal records. Historians' approaches to them as historical records will be further elaborated upon in the first chapter. Because the (social) history of sexual violence is a relatively recent field of study, this chapter will also include a brief overview of previous discussions when rape was put on the academic agenda. Many topics intersect in the early modern socio-medical history of sexual violence: rape law, obstacles for prosecution, women's rape narratives, the unseen (healthcare) work of women, gendered roles, the capabilities and activities of various medical practitioners and lay witnesses, and urban communities of care. These matters have impacted both the primary source material that forms the foundation of this analysis, and the narratives contained in them. Therefore, these will be included in the historiographical discussions in the first chapter. The subsequent chapters consist of primary source analyses and are divided to focus, firstly, on the social and medical care for girls under the age of 14, and secondly, on care for young and adult women. How were injury and illness following rape and sexual assault communicated? Or discovered, and by whom? Who did survivors seek out, and who provided care? What did these social and medical care efforts entail?

In the last four decades, much work has been done to give rape historical presence, being practically non-existent before. This early work was primarily concerned with the motivations and explanations for men's sexual violence. The present study owes much of its context and conceptual framework to past research. Early modern historians, however, have long neglected rape and other forms of sexual violence. Those who have considered it, have predominantly focused on rape law, culpability, the incidence of prosecutions relative to other crimes, the credibility of prosecutors' testimonies, and why the majority of rapes and assaults were never reported.<sup>12</sup> The social history of rape in early modern England was described by Garthine Walker in 1998 as "a non-history, a history of absence". Upon stepping into this academic void, Walker noted that rape was "defined and interpreted in terms of the silence of historical actors, the impediments of successful prosecution, a perceived lack of historical evidence, and the limitations of early modern criminal court records as sources."<sup>13</sup>

Her observations on the primary sources on rape available to historians and their interpretations are important here. Throughout her body of work, Walker encouraged

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different to that from other areas. She argued that London's rapidly increasing size and population density likely resulted in more cases of sexual crime, see: Toulalan, 'Child sexual abuse', 26.

<sup>12</sup> Walker, 'Rereading rape', 1-2.

<sup>13</sup> Ibidem, 1 and 19. In this article, Walker engaged with historians' past interpretations of early modern English women's rape narratives and offered alternative explanations for their structure and content.



awareness of the “difficulties inherent in locating rape as a historically specific rather than a transhistorical phenomenon”.<sup>14</sup> Recognising historical and cultural specificity depends in part on the understanding of a framework of available, gendered and conditioned languages.<sup>15</sup> Her cautioning against viewing rape as a transhistorical phenomenon can be jarring initially as sexual violence did not, and does not, occur in an ahistorical vacuum as its omnipresence illustrates. More recently, she expanded on this argument by stating that in emphasising the naivety and ignorance of seventeenth- and eighteenth-century people, or insisting that pre-modern misogyny rewrote rapes as either normative sexual relations or lies, we misrepresent the history of rape. Importantly, we then also draw a greater distinction between the past and the present than can be sustained by evidence.<sup>16</sup> In the commitment to understanding rape’s history and how survivors were cared for, we enable the evaluation of past and present injustices and our treatment of survivors of sexual violence. Precisely on this topic of social and medical care there are gaps in academic knowledge.<sup>17</sup> Venereal disease, and remedies for combatting it, and sexual knowledge have attracted attention in past decades.<sup>18</sup> However, research on medicines and treatment methods for injury and illness resulting from sexual violence specifically is non-existent, which this analysis attempts to change.

In socio-medical analyses of trials records, historians have also focused on medical experts’ examinations, leaving the testimonies by relatives and acquaintances and their knowledge of the body untouched.<sup>19</sup> Olivia Weisser’s recent study on the use of venereal disease as a narrative for speaking about rape at the Old Bailey marks a notable shift of perspective. However, her focus was on stories of discovery, disclosure and medical observations, rather than care and support. The long-neglected care by lay people is also deserving of attention, not in the least because the home was at the heart of healing.<sup>20</sup> The

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<sup>14</sup> Walker, ‘Rereading rape’, 1.

<sup>15</sup> Ibidem, 1 and 5.

<sup>16</sup> Walker, ‘Rape, acquittal and culpability’, 141-142. According to Walker, it implies the superiority of our own’s society’s treatment of rape.

<sup>17</sup> Only Olivia Weisser’s 2021 article ‘Poxed and ravished’, and an unpublished thesis by Michelle Silva, ‘Second skin: linen as a proxy for the body in early modern England’ (2022), applied a socio-medical approach to early modern English medical inspections.

<sup>18</sup> Mercury is a well-studied historical treatment for venereal disease, see: Kevin P. Siena, *Venereal disease, hospitals and the urban poor: London’s “foul wards”, 1600-1800* (Rochester 2004); Linda E. Merians, *The secret malady: venereal disease in eighteenth-century Britain and France* (Lexington 1996).

<sup>19</sup> Margaret Pelling, ‘Compromised by gender: the role of the male medical practitioner in early modern England’, in: Hilary Marland and Margaret Pelling eds., *The task of healing: medicine, religion and gender in England and the Netherlands, 1450-1800* (Rotterdam 1996) 101-134, at 120.

<sup>20</sup> Sharon T. Strocchia, ‘Introduction: women and healthcare in early modern Europe’, *Renaissance Studies* 28:4 (2014) 496-514, at 498; Margaret Pelling, “‘Thoroughly Resented?’ Older women and the medical role in early modern London”, in: Lynette Hunter and Sarah Hutton eds., *Women, science and medicine 1500-1700* (Cambridge 1997) 63-88, at 70.

ever-complex role of physical evidence was an important part of early modern sexual offence trials, which crucially allows us to study the opinions of medical experts and lay witnesses.<sup>21</sup> Primarily the experts were deemed ideally qualified to interpret physical evidence and the court highly regarded their opinions.<sup>22</sup>

So who made up this group of experts? Eighteenth-century mainstream medical practice recognised four primary categories of caregivers: surgeons, who focused on disease and external injuries that could require manual or operative intervention; apothecaries, who concocted medicines for patients; midwives, who concentrated on pregnancy and birth; and physicians, who were university trained scholars and expected to employ an analytical approach to deciphering the internal ailments of their patients. Surgeons were the most common witnesses at the Old Bailey, and midwives' expertise was called upon less and less through the course of the century.<sup>23</sup> The *Proceedings* show that they were asked whether the prosecutor's body and linen had been inspected, if any signs of forced intercourse or venereal disease had been found, and occasionally, whether the prosecutor had received medical treatment.<sup>24</sup> Proof of penetration constituted stiffness, soreness, lacerations, swellings, and unusual 'fetid stinking' discharge.<sup>25</sup> Confusingly, these symptoms overlapped with those of venereal disease – likewise intimately discussed during trials – which also included stains of blood, semen and unusual discharge present on the linen and shifts (undergarments) of the prosecutor, and sometimes the alleged assailant.<sup>26</sup>

Lay witnesses were also questioned on these matters, but discussions around physical observations mostly took place between the court and the medical experts. This reveals a

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<sup>21</sup> Snell, 'Trials in print', 24. The discussion and analysis of intimate medical investigations and the scrutiny of moral behaviour and reputation were crucial in the jury's verdict.

<sup>22</sup> Snell, 'Trials in print', 39; Antony E. Simpson, 'Popular perceptions of rape as a capital crime in eighteenth-century England: the press and the trial of Francis Charteris in the Old Bailey, February 1730', *Law and History Review* 22:1 (2004) 27-70, at 60; Weisser, 'Poxed and ravished', 56-57. Historians have grappled with the reputation of practitioners as expert witnesses, however. Antony Simpson went as far as to state that evidence provided by medical practitioners was frequently useless, referencing the poor state of medical knowledge and their incapacity to determine whether penetration had occurred. Simpson regarded the lack of other evidence and assumed impartiality of the experts (although we find proof to the contrary) as reasons for being taken very seriously by the court. His argument is somewhat anachronistic, but we encounter cases that end in acquittal due to insufficient diagnostic skills.

<sup>23</sup> Stephan Landsman, 'One hundred years of rectitude: medical witnesses at the Old Bailey, 1717-1817', *Law and History Review* 16:3 (1998) 445-494, at 452-453 and 460; Silvia De Renzi, 'The sick and their healers, 1500-1700', in: Elmer, Peter ed., *The healing arts. Health, disease and society in Europe, 1500-1800* (Manchester 2004) 27-57, at 28; Marland and Pelling, *The task of healing*, 19. Besides attending rape trials, medical experts also testified in murder and infanticide trials.

<sup>24</sup> Snell, 'Trials in print', 37-38; Wendy D. Churchill, *Female patients in early modern Britain. Gender, diagnosis, and treatment* (Farnham 2012) 85.

<sup>25</sup> OBP, July 1694, trial of Samuel Eales (t16940711-37).

<sup>26</sup> Weisser, 'Poxed and ravished', 56.

contemporary hierarchical regard of the information presented in lay and expert testimonies. Past historians' tendencies to perpetuate this approach caused lay experience-based knowledge to be snowed under by that of university-educated professionals. More recently, historians have grappled with the notion of 'expert knowledge', indicating the poor state of medical knowledge and diagnostic challenges.<sup>27</sup> Notably, Doreen Evenden argued that there was no clearly defined separation between the methods used by authorised practitioners and those used by lay practitioners in the treatment of patients. From seventeenth-century doctors' records, Evenden recognised the striking similarity between 'expert' treatments and those used by lay practitioners, which were drawn from oral tradition and handed down across generations.<sup>28</sup> Further, misdiagnoses occurred and experts' opinions could be inconclusive. Practitioners were often cautious, especially regarding modes of transmission for venereal disease. The professional status and knowledge of all experts was under scrutiny by testifying.<sup>29</sup> None faced more scrutiny than midwives, however. If the testimony of a female midwife contradicted that of a male surgeon, it was the man's evaluation that took precedence.<sup>30</sup>

When late twentieth century historians first started investigating early modern English medical practitioners' practices, they found that the advancement of formally educated male practitioners excluded women from professionally practicing medicine.<sup>31</sup> This impacted

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<sup>27</sup> Antony Simpson went as far as to state that evidence provided by medical practitioners was frequently useless, referencing the poor state of medical knowledge and their incapacity to determine whether penetration had occurred. Simpson regarded the lack of other evidence and assumed impartiality of the experts (although we find proof to the contrary) as reasons for being taken very seriously by the court, see: Simpson, 'Popular perceptions of rape', 60. His somewhat anachronistic argument notwithstanding, we do encounter cases that end in acquittal due to insufficient diagnostical skills. Weisser also emphasised that the overlapping symptoms of sexual violence injuries and (venereal) disease often led to difficulty in identifying the cause of disorder, see: Weisser, 'Poxed and ravished', 56-58.

<sup>28</sup> LeJacq, 'The sodomitical body', 142; Doreen Evenden, *Popular medicine in seventeenth-century England* (Bowling Green 1988) 43. Evenden's early insightful research on lay medical practice aligns with the work later done by historians to frame the often overlooked medical and care activities of lay people. For these varying levels of knowledge Mary Fissell developed the concept of 'vernacular forensics', initially referring to the female reproductive body especially, see: Mary Fissell, *Vernacular bodies: the politics of reproduction in early modern England* (Oxford 2004).

<sup>29</sup> Weisser, 'Poxed and ravished', 56-58; Snell, 'Trials in print', 39. In Mary Faucet's case, for example, the surgeons a midwife had recommended, refused to examine either Mary or the defendant "for fear they should have the Trouble of attending at the Trial", see: OBP, September 1733, trial of John Cannon (t17330912-55).

<sup>30</sup> Weisser, 'Poxed and ravished', 65.

<sup>31</sup> Margaret Pelling, *Medical conflicts in early modern London: patronage, physicians, and irregular practitioners, 1550-1640* (Oxford 2003); Evenden, *The midwives of seventeenth-century London* (Cambridge 2000) 24-27; Marland, *The art of midwifery*, 3; Wiesner-Hanks, *Women and gender*, 94-96; Churchill, *Female patients*, 47 and 87; Strocchia, 'Introduction', 496; Mary E. Fissell, 'Introduction: women, health, and healing in early modern Europe', *Bulletin of the History of Medicine* 82:1 (2008) 1-17, at 1-6; David Harley, 'Provincial midwives in England: Lancashire and Cheshire, 1660-1760', in: Hilary Marland ed., *The art of midwifery: early modern midwives in Europe* (London 1993) 27-48, at 39.

midwifery especially. The diminishing regulated practice of midwifery is reflected in the *Proceedings* by midwives' declining appearance as expert witnesses across our period. The frequent undermining of women's knowledge is evident. Eight-year-old Bridget Gerrard's female neighbours and a midwife believed her to have been forcibly penetrated by a man. However, "an eminent surgeon" sent for by the court argued that Bridget had contracted venereal disease merely by touch.<sup>32</sup> We also find cases in which midwives admit to a lack of skills. Upon examining Mary Mackneal, the midwife believed that "she was forc'd by a Man". Initially, she took on the care for Mary, "but found it beyond her skill" and advised the services of a surgeon.<sup>33</sup> Midwife Mary Mason found nine-year-old Mary Faucet "in a very bad Condition". According to her, Mary "had been grosly abused by a Man", "was torn as much as a Child could be" and had contracted "an ill Distemper". Having "no Judgement" in matters venereal Mason advised to seek the care of a surgeon.<sup>34</sup> Crucially, midwives spoke with confidence about rape and sexual assault, but often deferred to the expertise of male practitioners when it came to disease.<sup>35</sup> This reveals a paradox at the core of early modern English rape trials: women's knowledge of rape often did not suffice to convict it. Women's bodies were by their nature perceived as mysterious and dubious, and therefore, assessments of lost virginity and forced penetration were not regarded as objective truths by the court. Precisely midwives' expert knowledge of sexual matters and women's bodies made it suspect.<sup>36</sup> Importantly, there were male practitioners who would testify to observing marks of rape or sexual assault, as we shall see in chapters 2 and 3.

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<sup>32</sup> OBP, August 1694, trial of Thomas Mercer (t16940830-9). Although the defendant was acquitted for rape, a new indictment was ordered for assault on Bridget Gerrard, for which Mercer was tried, found guilty and fined. In a 1726 case, Mary White's mistress sent for the nurse of the house and had her examine the girl after finding "a disorder in her Linnen". Nurse Stevens believed that Mary had the 'foul disease' and that her father, the defendant, had given it to her. A surgeon who was then sent for had found no signs of injury or penetration and merely perceived a running, which he could not positively say was caused by venereal disease, see: OBP, July 1726, trial of Adam White (t17260711-69). In a 1688 trial, the clerk revealed his doubts in the midwives' competence by noting that their professional opinion was "according to the best of their Skill". These midwives had confidently declared that Ruth Ubanck "was used in a very bad manner, and that it came to pass by the Use of a Man, and no other way". A surgeon and "another strange Midwife" differed in their opinions and deposed that "it was not done by any force of a Man". The defendant was convicted for rape, see: OBP, July 1688, trial of A – E – (t16880711-12).

<sup>33</sup> OBP, February 1719, trial of John Murry (t17190225-43).

<sup>34</sup> OBP, September 1733, trial of John Cannon (t17330912-55). Midwife Mason deposed that they consulted surgeons, but "they would not be concern'd in it for fear they should have the Trouble of attending the Trial". Therefore, Mary "was forc'd to be sent to an Hospital", from where she was brought to attend the trial.

<sup>35</sup> Weissner, 'Poxed and ravished', 65.

<sup>36</sup> Ibidem, 65-66; Patricia Crawford, 'Sexual knowledge in England, 1500-1750', in: Roy Porter and Mikuláš Teich eds., *Sexual knowledge, sexual science. The history of attitudes to sexuality* (Cambridge 1994) 82-106, at 100. Perhaps midwives knew to defer to male practitioners' expertise of venereal disease to increase the chances of conviction of the defendant.

The patriarchal legal system and socio-cultural expectations of female modesty also affected female prosecutors and lay witnesses when having to talk of rape and sexual assault. In order to evade the constraints on their speech, women focused on physical and material damage from their resistance to men's violence. Prosecutors were questioned by the court on their behaviour and actions during and after the rape. They would speak of injuries and disease, but evidence was gathered primarily from verbal testimony. Consequently, physical examinations by medical practitioners feature less heavily here than in trials involving girls. Others in the household or neighbours also testified to observing injury and irregularities. Women tasked with doing the laundry or who shared a bed with the prosecutor alerted mothers or mistresses upon finding alarming stains in the woman's clothing or on the sheets, thereby avoiding speaking of sex. Although socio-cultural obstacles impacted women's languages, we must bear in mind that their narratives were above all constructed to be plausible, to make sense to contemporary ears. The prosecuting women spoke in familiar themes, based on established knowledge, and commonly known fears and assumptions.<sup>37</sup> The accounts preserve speech that was intended to convince judges, juries and the wider public.<sup>38</sup> Therefore, the credibility of prosecutors' testimonies and veracity of their depositions are not questioned here.

The speech of prosecuting girls was constricted in other ways, which was in part due to the evidence required for conviction. Of the 265 examined trials for rape and sexual assault, over half involved girls under the age of 14.<sup>39</sup> There were remarkably high numbers of children in early modern English rape cases overall, which most historians have attributed to the fact that convictions were more attainable when rape victims were virgins or under the

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<sup>37</sup> Pallotti, 'Narratives of rape', 213-214; Crawford and Gowing, *Women's worlds*, 10-11; Hubbard, *City women*, 12-13; Malcolm Gaskill, 'Mentalities from crime: listening to witnesses in early modern England', in: Philippe Chassaing and Jean-Philippe Genet eds., *Droit et société en France et en Grande-Bretagne (XIIIe-XXe siècles)* (Paris 2003) 91-101. DOI: [books.openedition.org/psorbonne/44898](https://books.openedition.org/psorbonne/44898).

<sup>38</sup> LeJacq, 'The sodomitical body', 142. The analysis of the records here is partly inspired by the approach of Natalie Zemon Davis, *Fiction in the archives: pardon tales and their tellers in sixteenth-century France* (Stanford 1987). It has been suggested that the general population (as well early modern jurists) did not well understand the legal ramifications of rape, see: Simpson, 'Popular perceptions of rape', 42; Walker, 'Rape, acquittal and culpability', 124. Conversely, Walker reminded that crime reporting was widely read. She argued that many people demonstrated a reasonably sophisticated understanding of the law and the administration of justice, to which crime publications themselves potentially contributed. The public understood that acquittals did not inevitably denote to contemporaries the innocence of the accused, and it recognised the difficulties of prosecuting rape, see: Walker, 'Rape, acquittal and culpability', 120-125 and 139-140. The extent to which prosecuting women understood their legal position varied according to their social standing, see: Sara Mendelson and Patricia Crawford, *Women in early modern England 1550-1720* (Oxford 2003) 49.

<sup>39</sup> Of the 265 trials, 141 (53.2%) involved girls under the age of 14. Not every trial recorded the age of the prosecutor, however. In many such cases, an estimated age can be deduced from the context and witness testimonies.

age of ten, the legal age of consent.<sup>40</sup> A girl is defined here as aged 14 and under because the age of 14 coincides with contemporary definitions of childhood, and more loosely with the age when a child might formally enter paid employment and the development of sexual maturity.<sup>41</sup> At least two cases involving boys under the age of 14 were found in the *Proceedings*. These are not included because this would raise a range of issues relating to the prosecution of, and attitudes towards, sodomy.<sup>42</sup>

In order to convict a girl's assailant, a lack of agency on the part of the child had to be proven, either through the inability of giving consent or through having been violently forced. Physical proof of penetration was pivotal here, hence the greater role of medical practitioners. During examinations, medical practitioners gleaned from girls' bodies what had been done to them. These trials focused on genital injuries and venereal disease sustained by forcible penetration, rather than signs of struggle and verbal testimony in cases concerning women.<sup>43</sup> We primarily learn of girls' experiences through the words of others. The first signs of disorder were usually discovered by those entrusted with intimate care of the girl, such as a mother, sister, servant, washerwoman, or mistress of the house.<sup>44</sup> Mothers deposed that they observed their daughter to walk 'comically' or with difficulty, would not sit down, or had trouble urinating as the Arrowsmith trial showed.<sup>45</sup> Another reason for the absence of girls' stories in the *Proceedings* is the fact that girls were rarely admitted to give evidence because they could not swear to an oath. Toulalan deemed this a denial of agency of children.<sup>46</sup>

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<sup>40</sup> Weisser, 'Poxed and ravished', 54.

<sup>41</sup> Toulalan, 'Child sexual abuse', 24 and 35-38. As a consequence of early modern rape statutes, there was some confusion in law at the time about how the ages between ten and 12, and even up to 14, should be treated with regard to consent. This confusion is regularly visible in the *Proceedings*, when girls are questioned by the court on perceptions of consent and their susceptibility to bribes and manipulation.

<sup>42</sup> Walker, 'Sexual violence and rape', 437; Toulalan, 'Child sexual abuse', 26; Weisser, 'Poxed and ravished', 63. Early modern rape legislation did not apply to male survivors of any age; forced sexual intercourse concerning men and boys legally constituted sodomy. For considerations of sodomy in rape trials, see: LeJacq, 'The sodomitical body'. For two sodomy trials involving young male prosecutors, see: OBP, May 1730, trial of Isaac Broderick (t17300513-27); OBP, October 1779, trial of Charles Atwell (t17791020-5).

<sup>43</sup> Weisser, 'Poxed and ravished', 54.

<sup>44</sup> Snell, 'Trials in print', 37; Walker, 'Sexual violence and rape in Europe', 436.

<sup>45</sup> OBP, April 1740, trial of William Carrol, Mac Carrol (t17400416-50); OBP, July 1773, trial of John Lennard. Thomas Graves. James Guy (t17730707-2); OBP, September 1748, trial of William Garner (t17480907-50); Walker, 'Sexual violence and rape in Europe', 436.

<sup>46</sup> Toulalan, 'Child sexual abuse', 23-24; Walker, 'Rape, acquittal and culpability', 133. In reality, the trial records show that many girls between the ages of ten and 14 struggled to understand the concept of consent and the nature of an oath. The following prosecutors gave, by the court's judgement, unsatisfactory answers regarding their understanding of the nature of an oath and thus their testimony on the alleged offence of rape held no legal bearing: Catherine Black (t17231016-52); Elizabeth Robinson (t17150713-35); Mary Tennet (t17200427-38); Charity Land (t17200712-39); Elizabeth Hall (t17230116-36); Elizabeth Crawford (t17230828-64); Dorcas Reeves (t17240226-73); Elizabeth Bickle (t17300228-66); Elizabeth Long (t17321206-69); Mary Fido (t17391017-39); Elizabeth Lacey (t17500912-29); Catharine Poor (t17520625-30); Ann Hawley (t17530718-26); Anne Brown (t17540530-36); Mary Reynolds (t17571207-14); Ann Bean (t17641212-63);

These matters of rape law and socio-cultural impediments to prosecution will be considered in the first chapter as both determined who we find in the records and how rape narratives were constructed. Historians have also linked low conviction rates for sexual offences to the motivation to prosecute rape. In early modern England, around one in every eight or ten trials ended with guilty verdicts for rape, bearing in mind that these were a small proportion of initial accusations.<sup>47</sup> Nazife Bashar discovered both a decline in the number of rape cases reaching court in the second half of the seventeenth century, as well as a decrease in the proportion of men being convicted of rape. The effect may have been cumulative. Women had become more reluctant to charge a man with rape when the probability of his conviction was decreasing. Additionally, convictions for rape or assault were unlikely for women over the age of 14.<sup>48</sup> In our *Proceedings* sample the conviction rate is 14.5% (see table 1 below). With 26.95% guilty verdicts for rape or assault, success rates increased markedly when prosecutors were below the age of 14.<sup>49</sup>

Table 1. *Conviction rates for rape or assault of 265 Old Bailey trials, 1674-1800*<sup>50</sup>

	Convictions	Acquittals	Cases of total
Women (>14)	18 - 14.52%	106 - 85.48%	124 - 46.79%
Girls (<14)	38 - 26.95%	103 - 73.05%	141 - 53.21%

Bashar added that attending court proceedings at the assizes, which the Old Bailey was, required an investment of time and money which many women would not have been able to afford.<sup>51</sup> Esther Snell recognised that negative employment consequences of revealing

Phyllis Holmes (t17660903-38); Mary Brand (t17670909-69); Elizabeth Mills (t17671209-64); Jane Field (t17680413-47); Ann Wallis (t17690405-49); Ann Fletcher (t17740907-63); Martha Tedman (t17760911-71).

<sup>47</sup> Bashar, 'Rape in England', 34; Walker, 'Rape, acquittal and culpability', 115-116; Toulalan, 'Constructing the child rapist', 26; Pallotti, 'Narratives of rape', 213; D'Cruze, 'Approaching the history of rape', 387; Mendelson and Crawford, *Women in early modern England*, 48; Laura Gowing, *Common bodies: women, touch, and power in seventeenth-century England* (New Haven 2003) 90.

<sup>48</sup> Mendelson and Crawford, *Women in early modern England*, 48; Walker, 'Rape, acquittal and culpability' 115-116; Pallotti, 'Representations of rape', 296; Capp, *When gossips meet*, 238.

<sup>49</sup> Attempted rape, or sexual assault, is included in these numbers. This was a misdemeanour and likewise formed a small minority of prosecutions for assault, although the conviction rates were higher than for rape, see: Walker, 'Rereading rape', 1; Walker, 'Rape, acquittal and culpability', 115, 119 and 127. A lack of evidence, rape legislation and the mistrust of women's words are among the explanations scholars have offered to explain these low conviction rates. The suggestions that rape was a rare occurrence, or that the severity of the penalties dissuaded men from rape are among the less tenable arguments for low conviction rates, see: Bashar, 'Rape in England', 34-35; Walker, 'Rape, acquittal and culpability', 115-116; Weisser, 'Poxed and ravished', 58 and 64; Hitchcock and Shoemaker, 'Digitising history from below', 193.

<sup>50</sup> These percentages are based on the present sample of 265 accounts from the Old Bailey online archive.

<sup>51</sup> Bashar, 'Rape in England', 35. Capp also argued that survivors were deterred from reporting rape because of this low chance of conviction. See: Capp, *When gossips meet*, 238.

a rape also made survivors reluctant to report assault.<sup>52</sup> Simpson and Walker pointed out that considerable differences in social standing and economic status between offenders and survivors were further impediments to pursuing legal action.<sup>53</sup> The emotional cost of prosecution must be mentioned too.<sup>54</sup> A significant obstacle for women, especially if their cases were to reach trial, was the exposure of having to disclose intimate details of (attempted) rape. The *Proceedings* illustrate that many prosecutors struggled with this. They “had to be prepared for their rapes to become public knowledge, as prosecution took them from the private into the public sphere.”<sup>55</sup> Snell signalled that there is a tension present in women’s narratives between the demands of the standards of evidence, popular ideas of acceptable discourse for women regarding sexual behaviour, and the fact that survivors were required to have their experiences publicly scrutinised.<sup>56</sup> Some survivors will have chosen not to prosecute sexual violence for these reasons. It makes the experiences of the women and girls we find in the *Proceedings* all the more valuable. Despite the considerable obstacles, they apparently deemed rape and sexual assault prosecution worthwhile and were strongly enough persuaded to see their rapist brought to justice. As the following chapters will show, survivors needed, and often received, the support from the people around them. The women’s determination within structures that discouraged them has left us with invaluable information on their experiences, social networks and medical care.

## Methodology

The 265 trial records at the heart of this analysis are the result of scouring the Old Bailey online archive with various search terms and strategies.<sup>57</sup> These are predominantly for indictments of rape and sexual assault, but occasionally for theft or robbery. The trials contained in the archive are categorised under the offences under the Old Bailey’s jurisdiction, filed under the different indictments. Sexual crimes comprise one of these

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<sup>52</sup> Snell, ‘Trials in print’, 29. Mary Acres, for example, explained why she was not able to apply to a lawyer the same day of the rape but a day later, upon being questioned on this by the court. Mary said that she “could not, because there was nobody to take care of the house but [herself]”, see: OBP, October 1752, trial of Richard Dale (t17521026-49).

<sup>53</sup> Simpson, ‘Popular perceptions of rape’, 45-46; Walker, ‘Rape, acquittal and culpability’, 140.

<sup>54</sup> Bashar, ‘Rape in England’, 35.

<sup>55</sup> Snell, ‘Trials in print’, 27; Walker, ‘Rereading rape’ 4-5.

<sup>56</sup> Snell, ‘Trials in print’, 24-27 and 41.

<sup>57</sup> Given the sheer volume of published court cases, it is inevitable that some cases will have evaded the search windows. It is nonetheless a large enough collection of records to draw conclusions from. Esther Snell, Olivia Weisser and Sarah Toulalan have also conducted research based on a more or less the same number of *Proceedings* accounts, see: Snell, ‘Trials in print’, 23-41; Weisser, ‘Poxed and ravished’, 51-70; Toulalan, ‘Child sexual abuse’, 23-43.



categories and contains subcategories such as rape, assault, bigamy and sodomy.<sup>58</sup> In order to collect information on care, the entire *Proceedings* database was searched using various search terms. The same terms were entered when scanning the sexual offences category.<sup>59</sup> The full list of terms is found in table 3 (Appendix I). Entering the terms ‘rape’ or ‘carnal knowledge’ led to uncovering more expressions that were used to signal rape and sexual assault, such as ‘used ill’, ‘badly used’, ‘violently used’, ‘had his will’ and ‘effected his purpose’. Upon further reading, recurring phrases were found that could indicate the presence of information on social and medical care and medical treatments; these are listed in table 4 (Appendix II). Some trial accounts contained a wealth of information, others a single relevant sentence.

The sought-after evidence here is often circumstantial rather than a central feature; this required meticulous reading of the depositions. In this pursuit, inspiration was taken from the verb-oriented or task-oriented method, first pioneered by Sheilagh Ogilvie in her 2003 study of women’s role in the early modern German economy.<sup>60</sup> It was since developed by Maria Ågren’s ‘Gender and Work’ project on pre-industrial Sweden, and Jane Whittle’s and Mark Hailwood’s ‘Women’s Work in Rural England, 1500-1700’ project.<sup>61</sup> This approach intends to bring to light the ‘invisible’ agents of the economy such as women and the poor who were often pushed into nonregulated, informal markets by formal sector institutions.<sup>62</sup> Household work and care work have long gone undetected and remain underappreciated. Women’s work activities have also been obscured by occupational titles that were rarely accorded to women in early modern records and overwhelmingly to men. For instance, defendant Thomas Coventry was recorded as a “Labourer” and prosecutor Catherine Southall, like the majority of prosecutors, as a spinster. Upon reading the trial account we learn that Catherine worked as a servant and was reportedly out buying cheese when she was

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<sup>58</sup> Deception, killing and theft are also among the broad crime categories that were tried at the Old Bailey. Further sexual offences that were tried here were: assault with intent to rape, assault with sodomitical intent, keeping a brothel and indecent assault.

<sup>59</sup> Some of the search results are from the *Ordinary’s Accounts*, a sister publication of the *Proceedings*, that contain biographies of the prisoners who received a death sentence after their trial. These accounts were not included here as they do not contain depositions of prosecutors and witnesses, but the last reflections of offenders, written by the chaplain of Newgate prison, see: Clive Emsley, Tim Hitchcock and Robert Shoemaker, ‘The Proceedings – Ordinary of Newgate’s Accounts’, *The Proceedings of the Old Bailey*, (www.oldbaileyonline.org, version 9.0, Autumn 2023) (accessed 1 July 2024).

<sup>60</sup> Sheilagh Ogilvie, *A bitter living: women, markets, and social capital in early modern Germany* (Oxford 2003).

<sup>61</sup> Jane Whittle and Mark Hailwood, ‘Methodology’, *Women’s work in rural England, 1500-1700*, <https://earlymodernwomenswork.wordpress.com/methodology/> (accessed 1 July 2024).

<sup>62</sup> Ogilvie, *A bitter living*, 305-308.

attacked.<sup>63</sup> The defendant Christopher Pearson in Elizabeth Worsley's case was noted as a "breeches maker" and she a wife to Joseph.<sup>64</sup>

Whittle and Hailwood problematise the term 'domestic work', with which women have historically been most associated, chiefly because the home was the primary location of work in the early modern period. The alternative phrase 'sustaining life' was suggested and Whittle coined the term 'subsistence services' to denote housework and care work.<sup>65</sup> Both historians applied the third-party criterion to record women's activities, meaning that any activity that could be substituted with purchased goods or services, should be considered 'productive' and part of the economy. Under the third-party criterion, sleeping and eating would fail to qualify, whilst cooking, home maintenance, and child-care are considered productive activities as they could be undertaken (paid or unpaid) by someone else.<sup>66</sup> Employing this method to our *Proceedings* records illuminates not merely women's work activities generally. Most importantly, it allows us to study the (medical) care practices all witnesses – lay and expert – applied to survivors of rape and sexual assault. With the methods of analysis in mind, we will now take a closer look at historians' previous approaches to the work of medical practitioners, the *Proceedings* as a historical source and the history of sexual violence.

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<sup>63</sup> OBP, January 1727, trial of Thomas Coventry (t17270113-21). However, the *Proceedings* are somewhat of an exception as for a large number of women it was indeed recorded how they kept themselves, or were asked by the court 'what situation of life they were in', see: OBP, May 1780, trial of James Purse (t17800510-57). When the court asked prosecutor Elizabeth Midwinter what situation of life she was in, she replied that she lived as a servant to a Mr. Deacon in St. John's Street.

<sup>64</sup> OBP, September 1766, trial of Christopher Pearson (t17660903-70).

<sup>65</sup> Whittle and Hailwood, 'Methodology'; Jane Whittle, 'A critique of approaches to 'domestic work': women, work and the pre-industrial economy', *Past & Present* 243:1 (2019) 35-70, at 36-38.

<sup>66</sup> Whittle and Hailwood, 'Methodology'.

## 1. Medical care work, sexual violence and the *Proceedings* in the hands of historians

This chapter will firstly shed light on how historians have teased out the medical care activities of practitioners and lay women. The history of sexual violence crosses with law and crime, but as a socio-medical topic, care for survivors also intersects with the history of care networks and women's work. Historians have developed alternative angles and research methods for uncovering both. Next, their approaches to the atypical collection that are the *Proceedings* will be discussed, as well as the social backgrounds of the people appearing in our accounts. A brief historiographical discussion then brings attention to sexual violence as an object of historical research. Finally, how rape law and conviction rates impacted rape prosecution are considered. Past issues raised by scholars have provided crucial information for the present analysis, simultaneously laying bare gaps of knowledge in this developing field of study.

### Medical care work

The history of medicine has developed into an established academic discipline in the last century. Interest in its social history and the role of women in medicine and healthcare developed more recently, however. Spurred on by the concept of history from below, attention shifted from outstanding physicians and innovations of the higher social sorts onto popular healing and the perspective of patients.<sup>67</sup> Historians started investigating the (urban) poor and marginalised, bodies and touch, women and children, medical professionalisation and 'domestic' medicine.<sup>68</sup> Mary Fissell noted that two interconnected problems continue to

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<sup>67</sup> Andrew Wear, 'Religious beliefs and medicine in early modern England', in: Hilary Marland and Margaret Pelling eds., *The task of healing. Medicine, religion and gender in England and the Netherlands, 1450-1800* (Rotterdam 1996) 145-169, 145; Fissell, 'Introduction', 6. See also: Andrew Wear, *Knowledge and practice in English medicine, 1550-1680* (Cambridge 2000). For research on patients, see: Roy Porter, ed., *Patients and practitioners: lay perceptions of medicine in pre-industrial society* (Cambridge 1985); Churchill, *Female patients in Britain*.

<sup>68</sup> In recent years, notable studies taking a micro perspective to women's healing work have been published. For recipe and remedy books and popular healing, see: Deborah E. Harkness, 'A view from the streets: women and medical work in Elizabethan London', *Bulletin of the History of Medicine* 82:1 (2008) 52-85; Kristine Kowalchuk, *Preserving on paper: seventeenth-century Englishwomen's receipt books* (Toronto 2017); Laroche, Rebecca, *Medical authority and Englishwomen's herbal texts, 1550-1650* (Abingdon 2009); Elaine Leong, 'Collecting knowledge for the family: recipes, gender and practical knowledge in the early modern English household', *Centaurus* 55 (2013) 81-103; Elaine Leong, "'Herbals she peruseth': reading medicine in early modern England", *Renaissance Studies* 28:4 (2004) 556-578; Elaine Leong, 'Making medicines in the early modern household', *Bulletin of the History of Medicine* 82:1 (2008) 145-168; Elaine Leong and Sara Pennell, 'Recipe collections and the currency of medical knowledge in the early modern "medical marketplace"', in: Mark S. Jenner and Patrick Wallis eds., *Medicine and the market in England and its colonies, c. 1450-c. 1850* (New York 2007) 133-152; Newton, Hannah, "'Nature Concocts & Expels': the agents and processes of recovery from disease in early modern England", *Social History of Medicine* 28:3 (2015) 465-486; Sara Pennell,

shape attempts to write early modern histories of women and healing. First, women's healthcare work is underdocumented compared to that of men, whose occupational status was recorded more often. Second, scholarship continues to uphold boundaries between types of healers, between men's work and women's work, and between healing and caregiving. Fissell is one of many historians who suggest to loosen that grip.<sup>69</sup>

Recent women's history has underlined the importance of moving beyond occupational titles and engrained methodologies, only now teasing out the breadth of women's activities and networks of (medical) knowledge.<sup>70</sup> It makes sense, however, how these aforementioned boundaries came to be. Older literature put women healers, already barely visible in the historical records, at the margins.<sup>71</sup> Influenced by the 1970s second feminist wave, academics began to uncover the activities of early modern midwives and challenged perceptions that were largely shaped by the uncritical acceptance of accounts written by contemporary male midwives and physicians.<sup>72</sup> These had resulted in the longstanding stereotypical portrayal of midwives as ignorant, incompetent and poor. Historians found that across Europe between 1500 and 1800, female medical practitioners were increasingly marginalised by the rising tide of professionalisation, which emphasised formal education, occupational titles and licensing mechanisms.<sup>73</sup> Midwifery is the most

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Perfecting practice? Women, manuscript recipes, and knowledge in early modern England', in: Victoria E. Burke and Jonathan Gibson eds., *Early modern women's manuscript writing* (Aldershot 2004) 237-258; Jennifer Richards, 'Useful books: reading the vernacular in sixteenth-century England', *Journal of the History of Ideas* 73:2 (2012) 247-271; Wendy Wall, *Recipes for thought. Knowledge and taste in the early modern English kitchen* (Philadelphia 2016). Sara Pennell has studied the kitchen as a place in the home and a place of work that holds valuable information on social relations and knowledge transmission. She noted that the kitchen especially was often home to (sexual) abuse and assault, which we see reflected in the *Proceedings* depositions, see: Sara Pennell, *The birth of the English kitchen, 1600-1850* (London and New York 2017) 145-147. Garthine Walker and Laura Gowing have previously recognised the kitchen as a potentially perilous space for women. Rape featured in narratives through metaphors of open, closed, and locked doors and chambers, which is likewise reflected in the *Proceedings*. Locks and keys constituted common metaphors for sex, representing male intrusion of female privacy and honour in the home, see: Walker, 'Rereading rape', 14-15; Gowing, *Common bodies*, 93.

<sup>69</sup> Strocchia, 'Introduction', 497; Fissell, 'Introduction', 6 and 13-15.

<sup>70</sup> Fissell, 'Introduction', 6. Kowalchuk, *Preserving practice*, 5-6, 44, 51 and 503; Evenden, *Popular medicine in seventeenth-century England*, 43; Newton, "'Nature Concocts & Expels'", 465-467, 473, 476 and 484.

<sup>71</sup> The identity of midwives has traditionally been shrouded in anonymity as they often appear nameless in parish records, especially in London, see: Evenden, *The midwives of seventeenth-century London*, 1; Marland, *The art of midwifery*, 1-2.

<sup>72</sup> Fissell, 'Introduction', 2-4; Strocchia, 'Introduction', 496; Hilary Marland ed., *The art of midwifery: early modern midwives in Europe* (London 1993) 1. For example, in their marxist-feminist work Eherenreich and English argued that the European witch prosecutions could be marked as the starting point for the oppression of women healers by men, see: Barbara Eherenreich and Deirdre English, *Witches, midwives, & nurses: a history of women healers* (London 1976) 3-14.

<sup>73</sup> There is evidence that the number of licensed female medical practitioners declined in major urban areas, see: Strocchia, 'Introduction', 496-497. Margaret Pelling showed that members of the College of Physicians of London actively created opposition between themselves and other practitioners and demarcated themselves to promote themselves on the crowded medical marketplace, see: Pelling, *Medical conflicts*. Prior to male medical

obvious example that was impacted by male medical advancement, but other female practitioners too were forced out of more regulated areas of the economy.<sup>74</sup> Central to their denigration were critiques on their empirical knowledge and abilities by university-trained physicians and guildsmen, such as surgeons and apothecaries, eager to establish superior professional competencies in an increasingly competitive medical marketplace.<sup>75</sup>

The recovery work by historians has pieced together the scope of midwives' practices and demonstrated the ongoing medical work of female practitioners and the challenges they faced in doing so.<sup>76</sup> In the late 1990s, Margaret Pelling was among the first historians to study male and female medical practitioners' shifting tactics and work fields in early modern England.<sup>77</sup> Around the same time, Patricia Crawford and Laura Gowing started researching women's social networks, access to information, and knowledge transmission. Crawford found that women's knowledge was primarily obtained through, and based on, practice, observation and experience. These were precisely the customs and oral traditions male physicians maligned.<sup>78</sup> Whilst acknowledging the marginalisation of female practitioners, historians have worked to create a more nuanced picture of the healthcare work women continued to practice, albeit in less visible structures.<sup>79</sup> Crawford argued against a

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professionalisation, women obtained work licenses from the church after years of training with other midwives. The collapse of midwifery licensing and the advancement of university-educated male practitioners gradually excluded women from their field of expertise, see: Wiesner-Hanks, *Women and gender*, 84 and 94-96; Evenden, *The midwives of seventeenth-century London*, 24-27; Marland, *The art of midwifery*, 3; Fissell, 'Introduction', 1-6; David Harley, 'Provincial midwives in England: Lancashire and Cheshire, 1660-1760', in: Hilary Marland ed., *The art of midwifery* (London 1993) 27-48, at 39. For the regulation of midwives, see: Sarah Fox and Margaret Brazier, 'The regulation of midwives in England, c.1500-1902', *Medical Law International* 20:4 (2020) 308-338.

<sup>74</sup> Pelling, 'Compromised by gender', 117-120. Midwives and other female practitioners were excluded from regulated medical work by male practitioners across much of early modern Europe, not just England, see: Wiesner-Hanks, *Women and gender*, 94-96.

<sup>75</sup> Strocchia, 'Introduction', 496-497; Crawford, 'Sexual knowledge in England', 91-100; Doreen Evenden, 'Mothers and their midwives in seventeenth-century London', in: Hilary Marland ed., *The art of midwifery: early modern midwives in Europe* (London 1993) 9-26, at 9-17. From the late medieval period onwards, women were increasingly excluded from formal membership of the male-dominated guilds, see: Pelling, 'Compromised by gender', 103. For the invisible work of women and (flawed) concept of 'working mothers', see: Alexandra Shepard, 'Working mothers' in eighteenth-century London', *History Workshop Journal* 96 (2023) 1-24.

<sup>76</sup> Hilary Marland highlighted that the practical work of midwives went beyond the duties of birth attendance. As ordinary working women, they were also active community members, political figures and expert witnesses in court, but nevertheless subjected to shifting social, economic, political and religious forces, see: Marland, *The art of midwifery*, 1. Mary Fissell stated that women were central to health and healing before 1800, arguing that "almost everyone in early modern Europe was brought into the world by women and ushered out of it by women", see: Fissell, 'Introduction', 1.

<sup>77</sup> Pelling, 'Compromised by gender', 101-133. See also: Pelling, *Medical conflicts*.

<sup>78</sup> Crawford, 'Sexual knowledge in England', 91-96 and 100; Crawford and Gowing, *Women's worlds*, 144. Crawford found that popular knowledge was based on a variety of sources, depending on sex, age, and level of literacy – social standing as well as gender affected access to information.

<sup>79</sup> For historiographic discussions on the domestic and commercial exchanges of early modern women's continued healthcare work, see: Strocchia, 'Introduction', 511; Fissell, 'Introduction', 8-9; Evenden, 'Midwives in seventeenth-century London', 174-176; Evenden, 'Mothers and their midwives', 17; Elaine Leong and Sara

predominantly male medical monopoly of knowledge for the general population. At a popular level, women across social classes continued to seek and heed the advice of midwives and other women.<sup>80</sup> This premise is supported by the testimonies in the *Proceedings*. However, identifying the undercounted and undervalued care work women provided to households and communities requires alternative frameworks of analysis. Fissell introduced the concept of ‘bodywork’ to “abolish hierarchies of value created by learned physicians and reproduced by later generations”.<sup>81</sup> It overlaps with Monserrat Cabré’s and Monica Green’s term ‘techniques of the body’. For those who were recognised as attending to the human body, Sandra Cavallo and Green coined the terms ‘artisans of the body’, and ‘medical agents’ or ‘agents of health’, respectively.<sup>82</sup> The verb- or task-oriented method should also be included in these approaches.<sup>83</sup>

Reconstructive paradigms of women’s healthcare activities and reviewing ‘female’ medical tasks has also occasioned historians to scrutinise the work of male practitioners. Pelling studied how gendered social constructs compromised the status of London’s male medical practitioners, prior to the intervention of the College of Physicians. The private realms and secrecy in which they operated was perceived as dubious by contemporaries.<sup>84</sup> Manual labour was negatively associated with female tasks and many physicians’ activities, such as physical touch and dealing with disagreeable bodily substances, were consigned to the domestic realm of women and servants.<sup>85</sup> David Harley stated that attendance by man-midwives was initially met with reluctance, partly because of their reputation for “immodest behaviour.”<sup>86</sup> Persistent efforts towards the professionalisation of male medical practices managed to shift negative associations. In the period between 1717 and 1817, Stephan Landsman recognised a subtle increase in the authority ascribed to medical evidence

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Pennell, ‘Recipe collections and the currency of medical knowledge in the early modern “medical marketplace”’, in: Mark S. Jenner and Patrick Wallis eds., *Medicine and the market in England and its colonies, c. 1450-c. 1850* (New York 2007) 133-152.

<sup>80</sup> Crawford, ‘Sexual knowledge in England’, 100; Pelling, ‘Compromised by gender’, 120; Marland, *The art of midwifery*, 4. David Harley argued the extant records need to be reconstructed if midwives and their clients are not to be seen as passive victims of the rise of men-midwives, see: Harley, ‘Provincial midwives’, 27 and 41.

<sup>81</sup> Fissell, ‘Introduction’, 1 and 10; Strocchia, ‘Introduction’, 497.

<sup>82</sup> Fissell, ‘Introduction’, 10-11. These terms do not distinguish between social classes and consider the early modern preventative nature and perception of illness. For medieval research, see: Monica Green, ‘Women’s medical practice and health care in medieval Europe’, *Signs* 14 (1989) 434-473.

<sup>83</sup> Ogilvie, *A bitter living*, 305-308; Whittle and Hailwood, ‘Methodology’.

<sup>84</sup> Pelling, ‘Compromised by gender’, 101-113. For gender differences in medical practices, see: Doreen A. Evenden, ‘Gender differences in the licensing and practice of female and male surgeons in early modern England’, *Medical History* 42 (1998) 194-216.

<sup>85</sup> Pelling, ‘Compromised by gender’, 107.

<sup>86</sup> Harley, ‘Provincial midwives’, 40.

presented at the Old Bailey, and a concurring restriction of non-professional opinions. According to him, this was coupled with a demand for the degree of certainty with which medical witnesses articulated their opinions and the symptoms-based evidence following their physical examinations.<sup>87</sup> Midwives bore the brunt of this shift. The decline of midwives' practices as expert witnesses at the Old Bailey is demonstrated in the table below.

Table 2. *Trials featuring female and male expert witnesses at the Old Bailey, 1674-1800*<sup>88</sup>

	Female practitioners (midwives and nurses)		Male practitioners (surgeons, doctors, male-midwives and apothecaries)	
Age of prosecutors	<14	>14	<14	>14
1674-1750	30	13	56	8
1750-1800	8	5	41	12
1674-1800	38	18	97	20

Midwives' diminishing presence in the *Proceedings* during our period underscores the problems of attempting to write women's healing work into history. How do we acknowledge their work if they practically disappear from the records? Through the recovery efforts of historians, the activities of English midwives and other female careworkers are not lost to us. Women were generally expected to have knowledge of the common diseases peculiar to women and children. Midwives could diagnose disease, would undertake minor surgical procedures, administered medicines, and many were highly literate before their decline in licensed practicing.<sup>89</sup> Through their knowledge about the distinctively female bodily functions and standing within communities, midwives had an important role in educating other women.<sup>90</sup> Initially, these capabilities saw parish officials and justices call upon them to act as expert witnesses in trials on bastardy, infanticide and rape. Midwives were gradually supplanted by male surgeons as autopsies became more common.<sup>91</sup>

Further, in the *Proceedings* we find midwives confidently testifying to observing signs of rape. Precisely herein lies another major clue for their declining practice in the trial

<sup>87</sup> Landsman, 'One hundred years of rectitude', 449 and 454.

<sup>88</sup> These numbers are based on the present sample of 265 accounts from the Old Bailey online archive.

<sup>89</sup> Harley, 'Provincial midwives', 28-29 and 34; Marland, *The art of midwifery*, 6.

<sup>90</sup> Crawford, 'Sexual knowledge in England', 96

<sup>91</sup> Harley, 'Provincial midwives', 36-41. Harley stated that as autopsies by surgeons became more routine in infanticide cases, midwives' services were required less. He supposed that the supplanting of midwives in one of their most prominent public functions appeared to have been occasioned by coroner's growing familiarity with surgeons as witnesses rather than by any superiority of their evidence.

accounts. Like those of other female witnesses, the court mistrusted the female medical experts. Midwives' evaluations drew on their expert knowledge of "those natural Symptoms that are incident to Women" and entailed assessing marks of lost virginity and forced penetration.<sup>92</sup> Midwives found evidence of forced sexual contact in bruises, pain, lacerations, runnings and bleedings. Male experts, who enjoyed more authority than their female counterparts, often attributed these symptoms to venereal disease. Weisser strikingly pointed out these contradictions by stating that "the very subject of midwives' expertise – the mysterious female body – paradoxically made their expert knowledge suspect." Like other female medical workers, midwives were invested with authority and simultaneously stripped of it.<sup>93</sup> Midwives were perceived as interpreting ambiguous signs on deceptive bodies to discern objective truths. Their opinions in court could have very real consequences over matters of life and death; this is precisely what made these women so threatening, according to Weisser.<sup>94</sup>

So where does this leave us in terms of finding the care female practitioners provided for survivors of sexual violence? Regarding their waning presence, it means that we will find more opinions and treatments from male than female medical experts. We know that the former diagnosed venereal disease more often than the latter. Thus, the care practices in men's testimonies were predominantly intended to target symptoms of disease rather than injury from sexual violence. However, as we shall see in the upcoming chapters, we find male practitioners who are exceptions to these generalisations and testified to treating injury sustained by rape. Further, it is important to repeat here that the present sharp distinctions for curing either rape injuries or venereal disease did not exist in the early modern period. Aligned with contemporary perceptions of illness management, the medical practitioners in

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<sup>92</sup> OBP, August 1694, trial of Thomas Mercer (t16940830-9); Weisser, 'Poxed and ravished', 64; Crawford, 'Sexual knowledge in England', 100. For women's knowledge of birth control and abortion, see: — McLaren, Angus, "'Barrenness against nature': recourse to abortion in pre-industrial England', *The Journal of sex research* 17:3 (1981) 224-237.

<sup>93</sup> Weisser, 'Poxed and ravished', 64-65; Strocchia, 'Introduction', 508 and 511-513; Fissell, 'Introduction', 11. An example of the other female medical workers Weisser referred to were searchers hired by London's parish authorities to tally deaths during times of plague. Despite their important work of codifying disease and determining quarantine orders, the searchers were viewed with suspicion based on their often old age, female gender and marginal status. For early modern searchers, see: Rachele Munkhoff, 'Searchers of the dead: authority, marginality, and the interpretation of plague in England, 1574-1665', *Gender & History* 11 (1999) 1-29; Margaret Pelling, "'Thoroughly Resented?'" Older women and the medical role in early modern London', in: Lynette Hunter and Sarah Hutton eds., *Women, science and medicine 1500-1700* (Cambridge 1997) 63-88.

<sup>94</sup> Weisser, 'Poxed and ravished', 65. Crawford and Mendelson recognized that medical and popular theories of the body "constructed women's bodies as possessing dangerously unstable qualities. The misogynists found in these ideas further justification for not trusting women." They argued that men were to some degree in awe of women's (physical) power. Fearing the female body, they sought to contain and control it, see: Mendelson and Crawford, *Women in early modern England*, 30.



the *Proceedings* will have recognised the need for health promotion and might not have distinguished the specific cause of that need.<sup>95</sup> Meaning that midwives, arguably, would have applied similar care or recommended similar remedies for different physical observations. The trial accounts rarely offer this information.

Some final points must be made on female lay networks of care. Home-based healing, which fell to women, was similarly derived from galenic principles of illness prevention and health promotion. Women were expected to develop the necessary know-how to manage illness and administer remedies, and were thus critical resources within more complex hierarchies of resort.<sup>96</sup> Women across social strata gained practical skills and varying levels of health literacy through oral exchanges within their communities. Whilst expanding their methodologies of research, historians started studying contemporary medical literature and the long neglected printed and manuscript recipe collections. Female householders consulted, adapted and personalised these widely available printed herbals and recipe books to fulfil some of their principal duties.<sup>97</sup> Elaine Leong has written extensively about the ways in which early modern women produced and consumed (vernacular) medical information and the wide range of activities they applied this knowledge to.<sup>98</sup> Lay women's testimonies in the *Proceedings* display these varying levels of practical medical skills and the people they resorted to when their observations of potential foul play exceeded their own knowledge and capabilities. Having considered the work of professional and lay practitioners, we will now

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<sup>95</sup> Fissell, 'Introduction', 14; Strocchia, 'Introduction', 498-500. Strocchia stated that household medicine remained fully integrated with, rather than separate from, the wider medical economy, across all social standings. The very pervasiveness of domestic medicine does raise important questions about the relationship between charitable care and commercialised practice, referring to skilled medical care provided by a female neighbour, for example. Did this require compensation, or was this act of charity freely given?

<sup>96</sup> Strocchia, 'Introduction', 498; Silvia de Renzi, 'The sick and their healers' 33-35. For these hierarchies of care and decisions between patients and practitioners, see: Lisa W. Smith, 'Society for the Social History of Medicine Student Millennium Prize Essay: Reassessing the role of the family: women's medical care in eighteenth-century England', *Social History of Medicine* 16:3 (2003) 327-342. For a shift of focus to the domestic duties of men, see: Lisa W. Smith, 'The relative duties of a man: domestic medicine in England and France, ca. 1685-1740', *Journal of Family History* 31:3 (2006) 237-256.

<sup>97</sup> Strocchia, 'Introduction', 500-503; Kowalchuk, *Preserving on paper*, 3-7, 17-19, 44 and 51. See also: Deborah E. Harkness, 'A view from the streets: women and medical work in Elizabethan London', *Bulletin of the History of Medicine* 82:1 (2008) 52-85; Rebecca Laroche, *Medical authority and Englishwomen's herbal texts, 1550-1650* (Abingdon 2009); Sara Pennell, 'Perfecting practice? Women, manuscript recipes, and knowledge in early modern England', in: Victoria E. Burke and Jonathan Gibson eds., *Early modern women's manuscript writing* (Aldershot 2004) 237-258; Hannah Newton, *Misery to mirth. Recovery from illness in early modern England* (Oxford 2018); Hannah Newton, '"Nature Concocts & Expels": the agents and processes of recovery from disease in early modern England', *Social History of Medicine* 28:3 (2015) 465-486; Elaine Leong, 'Making medicines in the early modern household', *Bulletin of the History of Medicine* 82:1 (2008) 145-168; Leong and Pennell, 'Recipe collections and the currency of medical knowledge'; Jennifer Richards, 'Useful books: reading the vernacular in sixteenth-century England', *Journal of the History of Ideas* 73:2 (2012) 247-271

<sup>98</sup> Leong, '"Herbals she peruseth"', 556-578; Strocchia, 'Introduction', 506-507.

turn to the characteristics of the *Proceedings* and the backgrounds of the people we find in them.

### **The *Proceedings* and social demography**

The rape trial accounts, even as legal records, do not offer unproblematic reflections of the past, as historical records seldom do. They are constructions built on conventional language and represent a version of how rape and sexual assault were expressed based on contemporary cultural, social, legal and medical ramifications.<sup>99</sup> Many of the published trials do not always express what transpired in court – they are not transcripts. Not every trial was published and there are gaps in the records. That which was recorded was filtered by court recorders or the compilers of the later published reports.<sup>100</sup> It has been argued that clerks might have substituted stock legal phrases for more colloquial expressions.<sup>101</sup> Toulalan pointed towards formulaic phrases and expressions that would clearly not have been used by witnesses, especially by children.<sup>102</sup> Walker, conversely, stated that depositions were likely to have been transcribed more or less verbatim.<sup>103</sup> Further, the historians Emsley, Hitchcock and Shoemaker, who oversaw the digitising project of the *Proceedings*, noted that there is no need to question the accuracy of most of the details in the published accounts. Given the regular adoption of shorthand, first-person narratives and language variances between the testimonies, the records will be treated as essentially verbatim here.<sup>104</sup>

As the publications changed over the period, so does the value as historical sources. The published trials became lengthier and more detailed through the course of the eighteenth

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<sup>99</sup> Pallotti, 'Narratives of rape', 213; Patricia Crawford and Laura Gowing eds., *Women's worlds in seventeenth-century England: a sourcebook* (London and New York 1999) 10-11; Walker, 'Rape, acquittal and culpability', 120; Eleanor Hubbard, *City women: money, sex and the social order in early modern London* (Oxford 2012) 12.

<sup>100</sup> Toulalan, 'Child sexual abuse', 25; Snell, 'Trials in print', 26. The defence of the accused was regularly omitted in order not to provide the public with information on successful alibis or defence strategies. For this reason, between 1790 and 1792 the City prohibited the publication of trials in which the defendant was acquitted. The effect of (partly) omitting the case of the defendant was to weaken that case in the eyes of readers, and as a consequence, to make the case for the prosecution appear stronger, helping to justify the wider public convictions and punishments, see: Emsley, Hitchcock and Shoemaker, 'The value of the *Proceedings* as a historical source'.

<sup>101</sup> Weisser, 'Poxed and ravished', 52; Walker, 'Rereading rape', 8; Emsley, Hitchcock and Shoemaker, 'The value of the *Proceedings* as a historical source'; Shoemaker, 'The Old Bailey *Proceedings*', 564-565 and 578.

<sup>102</sup> Toulalan, 'Constructing the child rapist', 28.

<sup>103</sup> Walker, 'Rereading rape', 8. For more information on the historical analysis of depositions and verbal evidence, see: Frances E. Dolan, 'Chapter 4. First-person relations: reading depositions', in: Frances E. Dolan, *True relations. Reading, literature and evidence in seventeenth-century England* (Philadelphia 2013) 111-153. For the difficulties researchers face regarding 'authentic' female voices in legal records, see: Tim Stretton, 'Women, legal records, and the problem of the lawyer's hand', *Journal of British Studies* 58 (2019) 684-700.

<sup>104</sup> LeJacq, 'The sodomitical body', 144. For example, on the front page of a July 1783 publication it was noted that the trials were taken verbatim in short-hand by E. Hodgson, see: OBP, July 1783, front matter for the rape trial of Jeremiah Landegren (t17830723-54).

century, coming to include cross-examinations that are absent in earlier accounts. Toward the end of the century, owing to changing cultural attitudes, the reporting of sexual offence trials was radically curtailed. Terms for intimate body parts were censured or abbreviated, resulting in less sexually explicit accounts. After 1798, the testimonies in rape trials ceased to be published.<sup>105</sup> Already from 1793 onward, however, sexual offence trials were severely redacted before publication. The majority of extant trials between 1793 and 1799 only contain the indictment, verdict and sentencing and thus provide no information on injury, illness and care.<sup>106</sup> This presents some limitations, but due to the sheer volume of *Proceedings* and longevity of its appearance, our large sample is not severely impacted.<sup>107</sup> Despite these possibly compromising characteristics for other research objectives, the aim here is neither judicial in nature nor concerned with the credibility of depositions. Rather, the information we are after is, in part, circumstantial. The accounts still preserve an extraordinary archive of ordinary people's thinking and speech about rape and sexual transgressions that enable this study.<sup>108</sup>

Appearing around eight times a year following each session at the Old Bailey, the *Proceedings* widely circulated among Londoners amid a surge of printed works on crime, and fed a great popular interest in crimes and criminal lives.<sup>109</sup> Selling for three to six pence, the *Proceedings* were aimed at the middling and upper sorts of London.<sup>110</sup> This intended

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<sup>105</sup> Emsley, Hitchcock and Shoemaker, 'The value of the Proceedings as a historical source'.

<sup>106</sup> Two accounts from these years are exceptions, it being apparent that their publishing served didactic purposes. It has been argued that some men raped and sexually assaulted young girls because of a belief that intercourse with a virgin could cure venereal disease. In the cases of Ann Thacker and Mary Homewood, this idea was not raised by the defendants themselves, but by the presiding judge in both trials. He asked surgeon Gale, who had examined the defendant and 11-year-old Ann, 'for the sake of enlightening the public', whether "a venereal taint" could be cured through "connexion with a child". Gale responded that it was "an extremely false idea", see: OBP, February 1796, trial of Thomas Davenport (t17960217-37). Upon being asked the same question in Mary's case, the surgeon responded that "it would do more harm", see: OBP, September 1796, trial of David Scott (t17960914-12). For discussions on this theory, see: Toulalan, 'Constructing the child rapist', 41-43; Antony Simpson, 'Vulnerability and the age of female consent: legal innovation and its effect on prosecutions for rape in eighteenth-century London', in: George Rousseau and Roy Porter eds., *Sexual Underworlds of the Enlightenment* (Manchester 1987) 181-205, at 193; Martin Ingram, 'Child sexual abuse in early modern England', in: Martin Ingram, *Negotiating power in early modern society* (Cambridge 2001) 63-84, at 78; Siena, *Venereal disease*, 193.

<sup>107</sup> The *Proceedings* are not the only printed representation of rape available for the period and do not represent rape and sexual violence generally across England. Although London was not necessarily representative of the whole of England as there are likely to have been regional variations, the nature of the evidence recorded in the *Proceedings* does not appear to be substantially different to that from other areas, according to Toulalan, see: Toulalan, 'Child sexual abuse', 26.

<sup>108</sup> LeJacq, 'The sodomitical body', 142.

<sup>109</sup> Hitchcock and Shoemaker, 'Digitising history', 193; Walker, 'Rape, acquittal and culpability', 119.

<sup>110</sup> Shoemaker, 'The Old Bailey Proceedings', 565. In the 1720s, each edition cost three or four pence, rising to six pence in the 1730s. In the 1770s, the price remained at six pence, which was roughly the twice the cost of a daily or weekly newspaper. Three pence represented a few hour's wages for a labourer, or the price of a few

readership and the goal to produce entertaining but primarily didactic reading material framed how clerks recorded depositions and how publishers edited these transcripts for publication.<sup>111</sup> Published trials on sexual offences were mostly intended to be respectable, authoritative and an informative legal resource.<sup>112</sup> Regarding its intention of inspiring practical and spiritual improvement and to deter readers from committing crimes, Esther Snell suggested that in the *Proceedings*, the Old Bailey “met popular culture and was assimilated by it.”<sup>113</sup> The consensus among historians appears to be that the accounts contributed to popular discourse on rape and illicit sexual behaviour, and provided legal information and a means on how to speak of crime in court generally. This in turn influenced the legal process itself.<sup>114</sup>

The prosecuting women and witnesses hailed predominantly from the lower and middling sorts of London.<sup>115</sup> Women were not immediately identified by their occupation as male defendants and witnesses were but they could be asked to explain how they kept themselves.<sup>116</sup> Most adult prosecutors worked in household labour and service, others worked as pubkeepers, with their labouring husbands or selling foodstuffs.<sup>117</sup> Widow and mother-of-four Sarah Robertson kept a public house, and Anne Wingate sold fruit.<sup>118</sup> Anna Maria Viator

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loaves of bread or quarts of beer. This meant that the *Proceedings* were not beyond the reach of the literate lower sorts, but their purchase would have required a significant sacrifice.

<sup>111</sup> Weisser, ‘Poxed and ravished’, 52; Shoemaker, ‘The Old Bailey Proceedings’, 565; Walker, ‘Rape, acquittal and culpability’, 120, 123-124. Walker stated that some newspapers drew heavily on the *Proceedings* for information about metropolitan trials. Demonstrating its wide interest, crime reporting constituted a regular and significant proportion of home news for both London and ‘country’.

<sup>112</sup> Walker, ‘Rape, acquittal and culpability’, 122; Snell, ‘Trials in print’, 26. Ann Barret’s account of the defendant’s alleged rape was “too indelicate for publication”. It did, however, “not amount to legal proof of the crime charged against the prisoner”. He was detained in custody and indicted for assault with intent to rape, see: OBP, December 1789, trial of Thomas Cole (t17891209-91).

<sup>113</sup> Snell, ‘Trials in print’, 25; Shoemaker, ‘The Old Bailey Proceedings’, 564-565; Pallotti, ‘Representations of rape’, 297. From 1679, publication of the *Proceedings* required approval of the Lord Mayor of London, who licenced it on an annual basis. Prior to the late eighteenth century, the City did not exert regular control and rarely intervened. This did occur occasionally to ensure that its content and language remained decent.

<sup>114</sup> Snell, ‘Trials in print’, 25; LeJacq, ‘The sodomitical body’, 144; Walker, ‘Rape, acquittal and culpability’, 120. In a trial account for theft from 1727, the intention was explicitly noted: “the reasons for writing this trial directly as it was spoke, is, that others may provide themselves with proper terms of speech before they appear at such a court of judicature”, see: OBP, July 1727, trial of John Hutton (t17270705-14). Throughout the *Proceedings* potential prosecutors were warned that they should present their cases in reputable language, see: Snell, ‘Trials in print’, 25.

<sup>115</sup> Snell, ‘Trials in print’, 24. Despite their erratically recorded ages, we learn that women of all ages took to the courts. The oldest recorded prosecutor was approximately 80-year-old Sibila May, see: OBP, October 1683, trial of William Williams (t16831010a-11).

<sup>116</sup> Laura Gowing, *Domestic dangers. Women, words, and sex in early modern London* (Oxford 2005) 14; Toulalan, ‘Child sexual abuse’, 31.

<sup>117</sup> The fact that the majority of survivors of rape were domestic servants is in accordance with evidence across early modern Europe, see: Walker, ‘Sexual violence and rape in Europe, 1500-1750’, 435; Gowing, *Common bodies*, 90.

<sup>118</sup> OBP, January 1755, trial of Benjamin Jones (t17550116-37); OBP, September 1768, trial of David Taylor (t17680907-21).

was an apprentice to her mistress, learning embroidery.<sup>119</sup> Mary Davis, who had been married for 24 years, maintained herself by doing washing work.<sup>120</sup> Ann Ward from Warwickshire deposed that she was a servant and took in milliners work and washing “small cloaths.”<sup>121</sup> We further encounter fluid hierarchical boundaries within households. Bedsharing between mistresses and servants, for example, was not uncommon.<sup>122</sup>

Many adult prosecutors were well-established and secure wives, but the majority were young women working under the less protected conditions of domestic service.<sup>123</sup> Between 1570 and 1640 London’s population tripled, greatly changing its demography through the influx of immigrants, consisting mostly of young adolescents from the country and abroad seeking apprenticeships and employment. Many young women who migrated to London sought informal employment as maidservants.<sup>124</sup> Historians have long noted their vulnerability to assault. A lack of social security, living under the authority and whim of their employers upon whom they depended for their livelihoods, and little privacy made them vulnerable.<sup>125</sup> Servants risked social isolation, reputational damage, financial losses and unemployment if they prosecuted their masters or those they regularly worked with.<sup>126</sup> Forging a close bond with their master or mistress could offer security. The *Proceedings* show that many had supportive bonds with their mistresses and other servants in the household.<sup>127</sup> Those who did not – for example the more socially isolated newcomers in

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<sup>119</sup> OBP, May 1771, trial of William Phillips (t17710515-6).

<sup>120</sup> OBP, September 1787, trial of William Wellen (t17870912-48). Mary also received three shillings a week from the parish to help her. Her “misfortune” was that her husband had been transported a year and a half prior to the trial taking place.

<sup>121</sup> OBP, July 1762, trial of John Sullivan. William Caswell. William Fitzgerald (t17620714-34).

<sup>122</sup> Hubbard, *City women*, 17. Servant Mary Currell deposed that she shared a bed with her mistress, see: OBP, February 1771, trial of Simon Clark (t17710220-14). After prosecutor Christian Streeter left her place of employment to live with publican Jane Hatchet, the latter deposed that she “lai[d] with her on nights, and talked to her time after time”, see: OBP, April 1757, trial of Daniel Lackey (t17570420-42).

<sup>123</sup> Gowing, *Domestic dangers*, 15.

<sup>124</sup> Ibidem, 12-17; Hubbard, *City women*, 2-3. Like Ann Ward, prosecutors Elizabeth Harris (t17750218-1) and Christian Streeter (t17570420-42) had also come to London seeking employment.

<sup>125</sup> Kitchens, shared beds and rooms that locked are oft-mentioned sites of sexual violence, see: Walker, ‘Rereading rape’, 14-15; Gowing, *Common bodies*, 93.

<sup>126</sup> Walker, ‘Sexual violence and rape, 1500-1750’, 435; Capp, *When gossips meet*, 86-88; Tim Meldrum, ‘London domestic servants from depositional evidence, 1660-1750: servant-employer sexuality in the patriarchal household’, in: Tim Hitchcock, Peter King and Pamela Sharpe, *Chronicling poverty: the voices and strategies of the English poor, 1640-1840* (Basingstoke and London 1997) 47-69, at 57; Laura Gowing, ‘The haunting of Susan Lay: Servants and mistresses in seventeenth-century England’, *Gender & history* 14:2 (2002) 183-201, at 186-189. For marital violence, see: Elizabeth Foyster, *Marital violence: an English family history, 1660-1857* (Cambridge 2005).

<sup>127</sup> Capp, *When gossips meet*, 161; Gowing, ‘Servants and mistresses in seventeenth-century England’, 186-189.

London and not yet stable in their recently acquired positions – would unlikely prosecute a rape at the Old Bailey.<sup>128</sup>

Girls between the ages of seven and 12 formed the peak age group in rape trials. Just over a handful of girls were recorded to be working as servants or apprentices.<sup>129</sup> 12 was young to commence household service, but not unusual among the London poor.<sup>130</sup> Sarah Pearse, 12, was servant to her rapist master.<sup>131</sup> Servant Anna Dixon also accused her master of rape.<sup>132</sup> Ten-year old Mary Matthews worked for a publican in Clare Market when she accused a lodger of raping her.<sup>133</sup> Some girls were daughters of publicans or ale-housekeepers, where they would also work as servants or take on other tasks. Mary Homewood, 11, was the daughter of a publican in Spitalfields and employed as a ‘pot-girl’ (barmaid). She was raped by a man who worked at the nearby dye-house.<sup>134</sup> Nine-year-old Phillis Holmes lived and worked with her uncle and aunt who kept a pub where her rapist was head-waiter.<sup>135</sup> Mary Marsh, 12, was apprentice to the defendant’s wife, who trained her in starching clothes.<sup>136</sup>

Most young prosecutors did not work, but were old enough to be out and about. The alleged offences occurred when the girls were temporarily out of the sight of others and alone with the defendants. The records suggest that caregivers were relaxed about leaving their children in the temporary care of others (male or female), and this is often when abuse took place. Toulalan argued that the omnipresence of lodgers may have required such trust and

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<sup>128</sup> Capp stated that more witnesses brought to court would strengthen the prosecutor’s credibility as they demonstrated their role in the life of the community or neighbourhood, whose support they could thus depend on, see: Capp, *When gossips meet*, 242, 248-249 and 268. However, the low conviction rates for rape trials at the Old Bailey prove that testimonies attesting to prosecutors’ good character did not aid in securing convictions for their offenders.

<sup>129</sup> Toulalan, ‘Child sexual abuse’, 27. Two-year-old Eleanor Clay was the youngest recorded prosecutor. She tragically died from lacerations, “a violent Gonorrhoea”, from being given gin by her parents and “want of proper Care”, according to the testifying medical experts. The defendant was charged a second time by the coroner’s request, see: OBP, April 1738, trial of George Manning (t17380412-56).

<sup>130</sup> Usually young people entered service or apprenticeship aged between 13 and 15, though orphans or children of very poor people would enter employment sooner, see: Toulalan, ‘Child sexual abuse’, 27-28.

<sup>131</sup> OBP, December 1721, trial of Christopher Samuel Graff (t17211206-67).

<sup>132</sup> OBP, July 1772, trial of John Coates (t17720715-52). Anna, the daughter of a ‘plaisterer’, deposed that they did not have a bed for her so she lay ‘at the foot of the bed’, sharing it with her master, mistress, their child and a “nurse child”. She added that her master beat his wife and turned her out of the house on the night that he raped Anna, and would also ‘use his wife so’.

<sup>133</sup> OBP, December 1770, trial of Charles Earle (t17701205-39). Mary’s mother deposed that she was “a very poor woman”, which would explain her young daughter’s young was working. In another case, Anna Barnard also was a servant in the house where the defendant lived, see: OBP, February 1754, trial of Stephen Hope (t17540227-56).

<sup>134</sup> OBP, September 1796, trial of David Scott (t17960914-12); *Oxford English Dictionary* (hereafter *OED*), s.v. ‘pot-girl (n.)’, March 2024, <https://doi.org/10.1093/OED/4239633365> (accessed 1 July 2024).

<sup>135</sup> OBP, September 1766, trial of Edward Brophy (t17660903-38).

<sup>136</sup> OBP, July 1715, trial of William Cash (t17150713-54).

caregivers did not appear concerned about the vulnerability of the children in their company.<sup>137</sup> Defendant Aaron in three-year-old Frances Moses' case "lived but a step" from her house and sometimes took her to and from school. When Frances' mother learned that he hurt her, she "could not talk to Aaron about it, [her] heart ached so."<sup>138</sup> In the majority of cases, girls were abused whilst running errands to defendants or because they shared lodgings with them.<sup>139</sup>

There was equally little social diversity among the defendants, whose occupational status was generally recorded, again showing that women and girls were most at risk from men in the same cultural and social milieu.<sup>140</sup> Although they do not appear in the *Proceedings*, it is improbable that no girls in London's upper social sorts were raped and that no men in these circles raped women. The former's family were probably inclined to keep sexual transgressions out of the public eye for concerns over their daughters' marriageability.<sup>141</sup> Women accusing men of higher rank were unlikely to be believed (and the men rarely punished).<sup>142</sup> The *Proceedings* show that women and girls were prepared to prosecute their masters or acquaintances if they shared similar socio-cultural environments, perhaps for slightly diminished risk of shame and damage to their reputation in the case of unsuccessful prosecution.<sup>143</sup> Identifying rapists and their motivations was in fact how rape and sexual violence were first academically studied, which we will turn to now.

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<sup>137</sup> Toulalan, 'Child sexual abuse', 29-31.

<sup>138</sup> OBP, December 1759, trial of Aaron Davids (t17591205-25).

<sup>139</sup> In another case, five-year-old Elizabeth Treadway's mother deposed that the defendant lived one door down from them and that the girl was at his house occasionally, see: OBP, April 1694, trial of Richard Smith (t16940418-7).

<sup>140</sup> Toulalan, 'Child sexual abuse', 32; Pallotti, 'Representations of rape', 294. The age of defendants was not usually recorded; there are exceptions. In three-year-old Ann Radford's case, the defendant was 15 years old, see: OBP, July 1774, trial of Richard Freelove (t17740706-57). The offender in five-year-old Ann Milton's case was the same age, see: OBP, May 1722, trial of James Booty (t17220510-34). The oldest recorded defendant was 83 years of age and lived in an alms house near eleven-year-old prosecutor Charity Land, see: OBP, July 1720, trial of Thomas Merrick (t17200712-39).

<sup>141</sup> In Mary Homewood's case, the matter of her reputation is explicitly mentioned. Initially, the 11-year-old's parents had delayed rape prosecution because they "thought it would make an alarm in the neighbourhood, and disgrace the child's character". They thought the defendant would flee to Scotland. Clearly, Mary's parents hoped that their daughter's experience would not become common knowledge in the local community, see: OBP, September 1796, trial of David Scott (t17960914-12).

<sup>142</sup> Toulalan, 'Child sexual abuse', 32-34; Walker, 'Rape, acquittal and culpability', 123-124 and 140.

<sup>143</sup> Hubbard, *City women*, 101-102; Toulalan, 'Child sexual abuse', 32; Walker, 'Rereading rape', 19-20; Capp, *When gossips meet*, 238-242, and 247. Capp argued that many women chose to report attacks as assaults or attempted rapes rather than actual rapes. The offender would escape with a far lighter punishment, but a conviction was easier to secure with less collateral damage to her own reputation. Looking at the indictments in the *Proceedings*, which were primarily for the offence of rape, his argument cannot be generally applied.

## Sexual violence in historical research

Rape and the rapist came into view as an object of academic research following Susan Brownmiller's ground-breaking 1975 *Against our will: men, women and rape*. Giving "rape its first history" and arguing "first and most forcefully" that every man could be a rapist, she can be credited for sparking wider debates on the history of sexual violence.<sup>144</sup> She grappled with the ideology and sociology of rape from ancient Babylonian society to 1970s America.<sup>145</sup> She presumed sexual violence as a consequence of men's conditioned nature, a primary means by which men as a group maintain political and social dominance over all women in patriarchal societies.<sup>146</sup> Rape was not the isolated act of the deviant, but a learned violent act present throughout time and rooted in an ever-present male bonding project of subordinating and oppressing women.<sup>147</sup> The adage that all men are potential rapists was not restricted to feminist analyses. Responding to Brownmiller's work in 1977, Edward Shorter asserted that male libidinal drives appeared to be historically constant, even if rape itself was not.<sup>148</sup> Shorter explained rape in early modern Europe as repressed male sexual frustration occasioned by the late age of marriage. According to him, most men were relatively chaste and rape was an act of the uncontrolled deviant.<sup>149</sup>

Roy Porter entered the debate in 1986 and discussed rape as an aberration within the context of building patriarchally controlled states in post-early modern Europe. He argued that assault and rape were the "socially disruptive acts of marginal men [i.e., young men not yet absorbed into patriarchy] and thus not in the interests of patriarchal power maintenance".<sup>150</sup> Shani D'Cruze engaged with both historians, among others, in her 1993 article on approaches to the history of rape. She countered Shorter's argument of male frustration by stating that prostitution was openly practiced by accredited prostitutes and permitted by local authorities. Yet, rape remained a common occurrence.<sup>151</sup> D'Cruze refuted

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<sup>144</sup> Walker, 'Everyman or a monster?', 5.

<sup>145</sup> Susan Brownmiller, *Against our will: men, women and rape* (New York 1975).

<sup>146</sup> Brownmiller, *Against our will*; Walker, 'Sexual violence and rape in Europe', 429.

<sup>147</sup> D'Cruze, 'Approaching the history of rape', 378-381; Janis Kelly, 'Against our will: men, women and rape by Susan Brownmiller', *Off Our Backs* 6:3 (1976) 17; Cartol Riddell, 'Against our will – men, women and rape by Susan Brownmiller', *Sociology* 11:2 (1977) 389-391, at 390; Nanette J. Davis, 'Against our will: men, women, and rape: the charge is rape', *Crime and Delinquency* 23:4 (1977) 455-457.

<sup>148</sup> Walker, 'Sexual violence and rape in Europe', 429; Walker, 'Everyman or a monster?', 8.

<sup>149</sup> Shorter, 'On writing the history of rape', 473-475; Walker, 'Everyman or a monster?', 8-9; D'Cruze, 'Approaching the history of rape', 382. In 1993, D'Cruze pointed to the open and regulated practice of prostitution that did not change the occurrence of rape.

<sup>150</sup> Porter, 'Rape', 216-236. D'Cruze refuted Porter's theory by arguing that these deviant acts of sexual violence did not in fact disrupt, but "formed one aspect of the maintenance of patriarchal power", see: D'Cruze, 'Approaching the history of rape', 381-382.

<sup>151</sup> D'Cruze, 'Approaching the history of rape', 382.



Porter's theory by showing that these aberrations of sexual violence did not in fact disrupt, but "formed one aspect of the maintenance of patriarchal power."<sup>152</sup> In her 2013 historiographical analysis, Walker also contended with previous scholarly approaches to sexual violence in early modern Europe. She asserted that later contributions from the perspective of evolutionary psychology naturalised "male sexual violence in ways that appear to offer an explanation and, arguably, an *apologia* for this apparent constant of gender relations." This position contributes to the notion that ultimately women are responsible for both avoiding and inviting rape.<sup>153</sup> Walker discerned that much historical writing about sexual violence tends to "combine an essentialist acceptance that men have a natural propensity for sexual aggression with an account of change over time in which men gradually learn to control their drives and urges as they become more modern."<sup>154</sup>

Toulalan argued that in early modern England the rape of a child, too, was perceived as a crime of immoderation rather than perversion, "one of uncontrolled lust rather than an abnormal sexual desire or the desire to assert power and dominance."<sup>155</sup> From this perspective, Walker noted, sexual violence becomes a gauge of how 'modern' or 'civilised' any given society is. Naturally, evidence for the occurrence of rape throughout history does not support this idea of linear progression.<sup>156</sup> These discussions are among many in Walker's outstanding contributions to the history of sexual violence, to which the present study owes greatly.<sup>157</sup> Her scholarship is testament to the work that has been done in recent decades to give rape historical presence since feminist activism and criticism put it on the political, social and academic agenda in the 1970s.<sup>158</sup> Walker was not alone in criticising the broad sweep of many early studies, such as Brownmiller's. Perhaps due to the overarching ambitions and criticisms of the feminist movement, initial studies are characterised by lacking historic specificity.<sup>159</sup> This transhistoricity regarding men's supposedly unchanging misogynist motivations and ideologies for rape also disregards the changing experiences of

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<sup>152</sup> D'Cruze, 'Approaching the history of rape', 381-382.

<sup>153</sup> Walker, 'Sexual violence and rape in Europe', 430.

<sup>154</sup> Ibidem, 430; Walker, 'Everyman or a monster?', 5, 7-10.

<sup>155</sup> Toulalan, 'Constructing the child rapist', 47.

<sup>156</sup> Walker, 'Sexual violence and rape in Europe', 430.

<sup>157</sup> For further discussions and historiography on early modern rape sexual violence, see: Baines, 'Effacing rape'; Chaytor, 'Husband(ry): narratives of rape'; Clarke, *Women's silence, men's violence*; D'Cruze, 'Approaching the history of rape'; Shorter, 'On writing the history of rape'; Porter, 'Rape'; Simpson, 'The 'blackmail myth''; Toulalan, 'Constructing the child rapist'; Walker, 'Men's non-lethal violence'.

<sup>158</sup> Walker, 'Rape, acquittal and culpability', 115.

<sup>159</sup> D'Cruze, 'Approaching the history of rape', 378; Walker, 'Sexual violence and rape in Europe', 430; Walker, 'Rereading rape', 1 and 5; Walker, 'Rape, acquittal and culpability', 141-142.

female survivors throughout time and between cultures.<sup>160</sup> Over the years, historians have refined their explanations, adjusted their frameworks and changed the discourse on women as passive and weak victims who lacked agency within patriarchal systems.

Much research on sexual violence has focused on the later eighteenth and nineteenth centuries, when legal and cultural changes crystallised modern attitudes towards rape, which long left the early modern period neglected.<sup>161</sup> In 1983, Nazife Bashar was one of the first scholars to venture into late medieval and early modern sexual violence from the perspective of the English legal system, highlighting the impediments women faced when prosecuting rape.<sup>162</sup> Stepping away from the judicial perspective, Gowing's work has illuminated the ways in which early modern English culture held women responsible for illicit sexual activity. Gowing demonstrated that the languages in which sexual violence could be expressed, implicated women in the very acts about which they complained.<sup>163</sup> Particularly these matters of early modern rape law, the criminal justice system and the curtailment of women's speech, have impacted the women and girls we find in the *Proceedings* and how they shared their experiences in court, therefore warranting a closer look.

### **Early modern rape law and obstacles to prosecution**

Women were required to prove both penetrative sex and non-consent to convict a rape, which was to be communicated in a modest manner. They were not accorded sexual agency, and any reference to sexual behaviour could result in attacks on their reputation, being branded a "whore" or a "common vile woman". The evidence required and limits on women's speech meant that the demands of the law were very hard to meet.<sup>164</sup> The *Proceedings* represent those cases the justices deemed strong enough to appear at the central criminal court. This means, firstly, that these trials are more likely to contain potential evidence for physical injuries from sexual violence, which aids the purpose of our present endeavour. Secondly, the

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<sup>160</sup> Walker, 'Everyman or a monster?', 7; Walker, 'Sexual violence and rape in Europe', 429; Walker, 'Rape, acquittal and culpability', 115.

<sup>161</sup> Walker, 'Rape, acquittal and culpability', 115. For examples of studies on the eighteenth and nineteenth centuries, see: Clark, *Women's silence, men's violence*; Kim Stevenson, 'Unequivocal victims: the historical roots of the mystification of the female complainant in rape cases', *Feminist Legal Studies* 8:3 (2000) 343-366; Shani D'Cruze, *Crimes of outrage: sex, violence and Victorian working women* (London 1998); Martin J. Wiener, *Men of blood: violence, manliness, and criminal justice in Victorian England* (Cambridge 2004).

<sup>162</sup> Bashar, 'Rape in England', 28-30.

<sup>163</sup> Gowing, *Common bodies*, 99; Gowing, *Domestic dangers*, 59-110; Walker, 'Rape, acquittal and culpability', 116.

<sup>164</sup> OBP, December 1731, trial of John Ellis (t17311208-58); OBP, July 1747, trial of Daniel Bright (t17470715-26); OBP, July 1718, trial of Jacob Wykes (t17180709-37); Gowing, *Common bodies*, 101; Weisser, 'Poxed and ravished', 54; Capp, *When gossips meet*, 227-228.

records also include the testimonies of women who were willing to stomach the burden of prosecution and had some form of social support. Whilst many women struggled with disclosing vulnerable information and traumatic details of their experiences, many also acted on the conviction to see their rapist brought to justice. Still, recorded prosecutions were likely merely a proportion of actual incidences of rape and sexual violence.<sup>165</sup> A violation shrouded in shame and fear, the stigma attached to rape with its attending social ramifications, meant that most survivors never reported their abuse to the authorities.<sup>166</sup> It has been estimated that for the seventeenth century this number is as high as 95 percent.<sup>167</sup> Additionally, few initial accusations actually made it to trial. Walker stated that rape constituted about one percent of indicted felonies in early modern England.<sup>168</sup>

Rape was a capital crime in early modern England, meaning that a guilty verdict led to death by hanging. However, rape was very hard to prosecute successfully, because it was poorly defined in law. Meaning that the contemporary definition of rape was formulated clearly but it was almost impossible to prove, and judges erred on the side of caution before sending a man to his grave on the basis of women's words.<sup>169</sup> Legally, rape was 'the carnal knowledge of the body of a woman by force and against her will'.<sup>170</sup> It required penile penetration of the vagina, that the act had been committed without the woman's consent, and corroboration (to protect men from false accusation). Many jurists interpreted carnal knowledge to require also the emission of semen for it to be rape, otherwise it was not a rape but an assault in the eyes of the law.<sup>171</sup> Producing evidence of penile penetration, force (actual

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<sup>165</sup> Toulalan, 'Child sexual abuse', 25.

<sup>166</sup> Bashar, 'Rape in England', 34; Walker, 'Rape, acquittal and culpability', 116; Toulalan, 'Constructing the child rapist', 26; Pallotti, 'Narratives of rape', 213; D'Cruze, 'Approaching the history of rape', 387; Mendelson and Crawford, *Women in early modern England*, 48; Gowing, *Common bodies*, 90.

<sup>167</sup> This estimation was made by James Sharpe in: James Sharpe, *Crime in seventeenth-century England: a country study* (Cambridge 1983) 63; Snell, 'Trials in print', 26.

<sup>168</sup> Walker, 'Rereading rape', 1.

<sup>169</sup> Simpson, 'Popular perceptions of rape', 65; Walker, 'Rape, acquittal and culpability', 125; Crawford and Gowing eds., *Women's worlds*, 144; Mendelson and Crawford, *Women in early modern England*, 53; Capp, *When gossips meet*, 237; Weisser, 'Poxed and ravished', 64. Nota bene, caution was advised in all capital crimes.

<sup>170</sup> The legal definition of rape has varied over time, and the semantics of the term is closely connected to legal attitudes to rape. Early modern English rape law was a continuation of medieval statutes, both showing influence from other discourses, in particular those of Old Testament law, classical and medieval theories and literature on men's and women's purpose and bodies, and human generation, see: Pallotti, 'Representations of rape', 288; Baines, 'Effacing rape', 69; Merry E. Wiesner-Hanks, *Women and gender in early modern Europe* (Cambridge 2019) 22-60. The first chapter of Wiesner-Hanks' book is particularly enlightening on the pervasive continuation of misogynist ideas on women by learned men since recorded history.

<sup>171</sup> Until around the turn of the seventeenth century, justices and the written law were also influenced by the theory that women's sexual pleasure was necessary for conception. It was a commonly held view that pregnancy disproved rape, for it implied consent, see: Pallotti, 'Representations of rape', 292; Mendelson and Crawford, *Women in early modern England*, 47; Crawford, 'Sexual knowledge in England', 87; Gowing, *Common bodies*, 91. In a 1755 trial, this theory is explicitly mentioned by the prosecutor upon being asked by the court if she had

or threatened violence) and lack of consent that relied not just on the survivor's testimony was extremely difficult.<sup>172</sup> The involvement of practitioners and discussions of their medico-legal advice in court were primary means of circumventing these difficulties.<sup>173</sup>

Besides proof of physical injury, rape was understood to require adult women's active refusal. There was no popular language for non-consent, the notion of which is a modern one. Women had "no words for the rape's reality" when also having to avoid speaking of sex.<sup>174</sup> Gowing poignantly wrote that rape narratives "suppressed the act of sex and the trauma of the sexual body".<sup>175</sup> Bashar recognised that the significance of women's words increased after a shift in the legal view of rape in the late sixteenth century. Rather than a crime against male property, rape came to be considered a crime against the person.<sup>176</sup> The shift toward a sexual crime meant that greater emphasis was placed on women's consent, reputations, resistance, and the 'credibility' of their testimonies – elements that are clearly present in the *Proceedings*. Donatella Pallotti pointed out that this revised focus in turn resulted in growing anxiety about women's ability to lie about their consent, which highlights a fear of women's sexual independence. In failing to prove non-consent, women could become complicit in the crime.<sup>177</sup> This meant that prosecutors bore the responsibility to carefully construct their narratives, ensuring that their words would not become incriminating traps. Walker reminded that "many rape accusations resulted not in the prosecution of the alleged rapist but of the woman herself for slander."<sup>178</sup>

The trial accounts also show how women navigated these obstacles by shifting the attention away from their own words and onto the actions of men. Women's rape narratives tended to focus on female resistance and male violence.<sup>179</sup> The linguistic framework gave

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sensed penetration and whether she was with child. Widowed mother of four and public house keeper Sarah Robertson, responded that it was impossible for her to be pregnant "for where a woman has no inclination, it is impossible there can be a child", see: OBP, January 1755, trial of Benjamin Jones (t17550116-37).

<sup>172</sup> Walker, 'Rape, acquittal and culpability', 128-129. Without proof of penetration, it was legally not considered a rape, but also an assault.

<sup>173</sup> Weisser, 'Poxed and ravished', 65-66.

<sup>174</sup> Walker, 'Rereading rape', 8; Chaytor, 'Husband(ry): narratives of rape', 382; Gowing, *Common bodies*, 90. The notion of sexual consent was crafted by gradual developments in interpretations of women's rights over their bodies. Gowing stated: "[Consent] continues to be problematic, and the seventeenth century saw some of those problems solidify."

<sup>175</sup> Gowing, *Common bodies*, 99.

<sup>176</sup> Bashar, 'Rape in England', 41. Nevertheless, women continued to be viewed to some extent as male property because a married woman could not prosecute for rape without her husband's consent, see: Mendelson and Crawford, *Women in early modern England*, 47.

<sup>177</sup> Pallotti, 'Representations of rape', 289; Gowing, *Common bodies*, 90; Capp, *When gossips meet*, 236, 239 and 241; Crawford, 'Sexual knowledge in England', 100.

<sup>178</sup> Walker, 'Rereading rape', 19.

<sup>179</sup> Weisser, 'Poxed and ravished', 54; Gowing, *Common bodies*, 90 and 95.

women some agency in communicating their “otherwise unspeakable” experience without using the morally loaded language of sex.<sup>180</sup> In order to meet the demands of the law and without debasing their character, women communicated their refusal in specific ways: by screaming and shouting for others to hear, physically resisting the rapist as much as they could, and alerting others and the authorities as soon as possible. Women were further required exhibit their bruised, beaten and bloodied bodies, torn or stained clothes, signs of lost virginity, and emotional distress. Cases in which these extremes of violence were absent, were unlikely to result in prosecution, conviction and punishment.<sup>181</sup>

Weisser argued that using the language of venereal disease, rather than struggle and male violence, also functioned as a proxy for communicating sexual abuse. Claiming to have contracted venereal disease facilitated emphasis on the physical rather than the moral and sexual, and could simultaneously provide corporeal evidence. The symptoms and ambiguities of venereal disease certainly gave prosecutors agency in discussing sexual violence and it often functioned as a frame for witnesses’ stories of discovery.<sup>182</sup> There are two problems with this argument, however. Firstly, evidence from the *Proceedings* shows that mothers, mistresses, midwives and surgeons *also* spoke of injury from rape and of raped bodies, not merely of sickly bodies. Talk of rape was not shunned entirely. Secondly, whilst the presence of venereal infection *could* constitute evidence for rape, it did not unequivocally prove whether penetration had taken place.<sup>183</sup> There was overwhelming contemporary agreement among medical practitioners that it was possible to transmit venereal disease by other means, such as touch.<sup>184</sup> Toulalan further found that the presence of venereal infection in a child, specifically, did not necessarily mean that prosecution for rape was more likely to succeed, although it was more likely for the defendant to be retried for assault.<sup>185</sup> Weisser held that the

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<sup>180</sup> Gowing, *Common bodies*, 95-96; Weisser, ‘Poxed and ravished’, 52.

<sup>181</sup> Walker, ‘Rape, acquittal and culpability’, 133, 135-136; Walker ‘Sexual violence and rape in Europe’, 434; Pallotti, ‘Representations of rape’, 290 and 294; Gowing, *Common bodies*, 92. Bernard Capp similarly argued that if women had no serious injuries to show or no witnesses to corroborate their allegations, the court construed their behaviour as consent, see: Capp, *When gossips meet*, 237.

<sup>182</sup> Weisser, ‘Poxed and ravished’, 52-56. Weisser was neither the first nor the only historian to recognise that signs of venereal disease were a frequent theme within rape narratives, see: Snell, ‘Trials in print’, 38-39; Toulalan, ‘Constructing the child rapist’, 39-40 and 43-44.

<sup>183</sup> Weisser conceded that venereal disease and its appearance on deceptive bodies were considered problematic proxies for rape. Soiled clothing offered more tangible, seemingly reliable proof – much like a second skin. The records show that medical experts often testified to diagnoses of venereal disease on the basis of stained linen, thus avoiding ambiguous bodies altogether, see; Weisser, ‘Poxed and ravished’, 58-62.

<sup>184</sup> Toulalan, ‘Constructing the child rapist’, 38-39. Venereal disease was a way for witnesses to speak about coerced sex, but the likelihood of its presence should not be underestimated. Toulalan and others pointed to the high incidence of infection in the general population, especially among the London poor, see: Toulalan, ‘Constructing the child rapist’, 43-44; Siena, *Venereal disease*, 4; Merians, *The secret malady*, 128.

<sup>185</sup> Toulalan, ‘Constructing the child rapist’, 39-40.

narrative framework of venereal disease was used in both women's and girls' cases, insufficiently emphasising that this tactic primarily worked for children, especially since the defendant could use disease to tarnish a woman's reputation. Across our sample, venereal disease was mentioned more frequently in trials involving girls.<sup>186</sup>

The same legal definition of forced carnal knowledge applied to children, with the exception that non-consent was not required as evidence if the prosecutor was under the age of ten.<sup>187</sup> The concept was not infallible as many girls above this age will have had no understanding of consent, nor the capacity to physically resist an adult man.<sup>188</sup> This was further complicated by defendants' psychological pressure or manipulation. To circumvent these issues, medical practitioners were requested to present their evidence in court to either support or refute an allegation of rape. This frequently turned to girls' genital area – specifically whether the vaginal passage had been 'unnaturally' dilated for their age due to either forced penetration or other means, or the manner in which they had contracted venereal disease.<sup>189</sup>

Caregivers' stories of discovery were also part of evidence gathering because a conviction could not solely rest on a girl's account of events, particularly if girls could not swear to an oath.<sup>190</sup> Swearing to the truthfulness of their statements was often beyond the understanding of young prosecutors, making their testimony inadmissible. This legal hurdle could be bypassed when the court, often by repeated questioning, was persuaded that they understood the nature and obligation of an oath and could distinguish between right and

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<sup>186</sup> Weisser, 'Poxed and ravished', 54; Snell, 'Trials in print', 38; Toulalan, 'Constructing the child rapist', 38; Landsman, 'One hundred years of rectitude', 460-461.

<sup>187</sup> Gowing, *Common bodies*, 96; Mendelson and Crawford, *Women in early modern England*, 39; Weisser, 'Poxed and ravished', 54; Toulalan, 'Constructing the child rapist', 35-36 and 38-39. Girls were deemed legally of age earlier than boys. Girls could consent to marriage, and thus intercourse aged 12, whilst for boys this age was 14, see: Walker, 'Rereading rape', 3; Walker, 'Rape, acquittal and culpability', 131-132; Weisser, 'Poxed and ravished', 54; Toulalan, 'Child sexual abuse', 37-38. Mendelson and Crawford, *Women in early modern England*, 39; Snell, 'Trials in print', 34-35. This statute of consent was seriously disadvantageous for girls over the age of ten, as Grace Pitts' case shows. Her mistress and a surgeon both found convincing physical evidence for rape. Because of Grace's age however – a few months past the age of ten – her case was treated "in the same Manner as [it] would have been in a Fact committed on a Woman of mature Age." The clerk noted that proof was presented that could constitute rape, but since Grace was considered an adult, evidence of force and non-consent were also required. In the perceived absence of this evidence, the defendant was acquitted, see: OBP, April 1747, trial of John Hunter (t17470429-28).

<sup>188</sup> Walker, 'Rape, acquittal and culpability', 131-134; Toulalan, 'Child sexual abuse', 37-38.

<sup>189</sup> Toulalan, 'Child sexual abuse', 38; Landsman, 'One hundred years of rectitude', 460.

<sup>190</sup> Walker, 'Rereading rape', 3; Walker, 'Rape, acquittal and culpability', 128, 131 and 134; Snell, 'Trials in print', 34-35; Toulalan, 'Constructing the child rapist', 38-39; Weisser, 'Poxed and ravished', 55. A few trial accounts explicitly mention that the girls' words were hearsay. Prosecutor Anne Brown was recorded as being younger than seven and not understanding the nature of an oath, she could not be examined, see: OBP, May 1754, trial of William Kirk (t17540530-36). Elizabeth Long, nine, was also thought too young to be sworn and "was set aside", see: OBP, December 1732, trial of Joseph Pearson (t17321206-69).

wrong. Still, many trials involving girls ended in acquittal as they were deemed ‘too young to swear to the fact’.<sup>191</sup> When girls themselves spoke in court, whether under oath or not, those aged 12 or younger typically gave more graphic accounts of sex than teenage or adult women. Recognised by Walker and Gowing, and visible in the *Proceedings*, girls were more explicit and used less legally conventional vocabulary. They barely had the words to describe what happened to them, but were also less constrained by the socio-cultural constraints that affected women.<sup>192</sup> The following chapter will consider in more detail how we learn of girls’ experiences, and the ways in which they were cared for.

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<sup>191</sup> Toulalan, ‘Child sexual abuse’, 23-24; Weisser, ‘Poxed and ravished’, 64. Walker found that in the late eighteenth century, judges were increasingly less inclined to allow children to give evidence, which led to a decline in prosecutions, see: Walker, ‘Rape, acquittal and capability’, 133-134.

<sup>192</sup> Gowing, *Common bodies*, 94-95; Walker, ‘Sexual violence and rape’, 436. However, some young girls were given a bad character by witnesses. Ten-year-old Mary Westbury was found to be a “forward wicked girl” which the defendant took advantage of, see: OBP, August 1728, trial of Francis Sibley (t17280828-26). Mary Edwards, 14, was considered “very pert”, see: OBP, June 1739, trial of Samuel Bird. Susannah Clark (t17390607-41). A female witness testifying to 11-year-old Susan Marshall’s character stated that she “was well known to every body for all manner of Impudence.” Other witnesses refuted these claims of her “Impudence or Forwardness”, see: OBP, October 1735, trial of Julian Brown (17351015-28).

## 2. Social and medical care for girls

This sample of 141 trials shows that the girls' mothers were usually the first to notice signs of disease or abuse and the ones who sought medical practitioners. Before delving into these care mechanisms later in this chapter, we will explore how disorder was perceived. Most mothers began their testimony by stating that they observed changes in their daughters' behaviour: a wriggling of their bodies, not wanting sit down, walking strangely or having difficulty urinating. Some deposed that their daughters complained of being sore. They also discovered disorder by observing 'a running' and finding their daughters' shifts or linen (undergarments) 'soiled' with blood or other stains that were 'unnatural' for a child.<sup>193</sup>

Mistresses, aunts and sisters under whose care girls resided, or those they worked or lived with – maids, servants and washerwomen – shared the same stories of discovery.<sup>194</sup> Fathers seldomly testified or shared such stories of discovery, perhaps because they rarely discovered abuse.<sup>195</sup> Most girls would not tell of their own accord, keeping the rape or assault a secret out of fear for their caregiver's violent reaction.<sup>196</sup> Days or weeks could pass before the incident came to light. The fear of severe physical chastisement by caregivers was perhaps encouraged

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<sup>193</sup> Mary Faucet's mother had perceived "a disorder" in her daughter's linen, which was "no natural thing" according to their fellow resident Mary Bishop, see: OBP, September 1733, trial of John Cannon (t17330912-55). In Susannah Tabart's case, the washerwoman brought back linen that Susannah's mother had sent for washing. On it they found signs "uncommon to a child" that alarmed them, see: OBP, January 1749, trial of John Osborne (t17490113-11).

<sup>194</sup> OBP, December 1770, trial of Charles Earle (t17701205-39). Mary Mead and prosecutor Mary Matthews, 10, both worked as servants for pubkeeper James Ivory. Mead deposed that she shared a bed with the girl and found the sheets "in a very bad situation" upon making the bed. She alerted their mistress when she found similar signs in the defendant's bed upon making his.

<sup>195</sup> Richard Brand, the prosecutor Mary's father, is an exception. He examined and testified, see: OBP, September 1767, trial of Joseph Payne (t17670909-69). In the case of Elizabeth Moreton, we learn that her father physically examined her, and yet it was her mother who provided the details. The father's testimony is included in a single sentence: "John Moreton's Evidence was agreeable to that of his Wife", see: OBP, April 1740, trial of William Carrol. Mac Carrol (t17400416-50). Weisser argued that perhaps the editors of the *Proceedings* considered these matters to be the sole purview of women, see Weisser, 'Poxed and ravished', 55. Because she was 15, Ann Lowther's case is not included in this chapter, but it contains telling statements from her father. He saw that Ann "had been very severely beat" but did not examine her body because "it was not for [him] to examine". He also did not question her, believing his daughter would not "have courage to reveal such a thing" to him, see: OBP, July 1779, trial of James Barrett (t17790707-49).

<sup>196</sup> Pallotti, 'Representations of rape', 295. Mary Owen, 14, was an exception as her mother deposed that she had complained in detail about how the defendant "had ravished" her, see: OBP, June 1773, trial of Edward Winch. Susanna Tatham (t17730626-76).



by the abusers who sought to prevent the girls from disclosing their harm.<sup>197</sup> Many girls were manipulated<sup>198</sup> or threatened to silence by defendants.<sup>199</sup>

Trial testimonies show that the fear girls had of telling their caregivers, and even medical practitioners, was not unfounded.<sup>200</sup> Threats of violence are ample and confessions were sometimes quite literally beaten out. Mary Homewood's mother "perceived her to walk very bad". Mary had been afraid to tell her what happened, fearing "she would beat [her] more."<sup>201</sup> Mary Matthews was afraid to tell her master and mistress for fear of losing her position and her parents beating her.<sup>202</sup> Elizabeth Salter's mother deposed that she found "corrupted matter" on her daughter's shift and "tied her to one of the bed-posts to make her tell who she was with."<sup>203</sup> 10-year-old Elizabeth Watson denied that anybody had abused her

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<sup>197</sup> Toulalan, 'Child sexual abuse', 41; Snell, 'Trials in print', 28-29

<sup>198</sup> Deborah Wise was promised a silver box, money, sugar candy and oranges, see: OBP, December 1699, trial of William Pheasant (t16991213a-1). George Rowson promised Elizabeth Bickle money and food, see: OBP, February 1730, trial of George Rowson (t17300228-66). The defendant enticed Bridget Stevenson with "Shells and other playthings", see: OBP, February 1719, trial of an unnamed man (t12190225-48). Thomas Merrick told Charity Land that the garden and flowers were hers, but that she would be hanged if she told anybody what he did to her, see: OBP, July 1720, trial of Thomas Merrick (t17200712-39). Christopher Graff offered twelve-year-old servant Sarah Pearse higher wages if she came to live with him, see: OBP, December 1721, trial of Christopher Samuel Graff (t17211206-67). See also: Toulalan, 'Child sexual abuse', 31 and 37.

<sup>199</sup> Many defendants threatened girls with killing or harming them, or that their parents would harm them if they would tell them what happened. Thomas Broughton threatened to throw Catherine Phrasier in the Thames if she told her parents, see: OBP, January 1686, trial of Thomas Broughton (t16860114-16). John Cannon told Mary Faucet that her mother would whip her for telling lies, see: OBP, September 1733, trial of John Cannon (t17330912-55). Edward Brophy said to Phillis Holmes that if she told anybody, her uncle would kill her and she would be hanged, see: OBP, September 1766, trial of Edward Brophy (t17660903-38). Jeremiah Amenet threatened Mary Martin with putting her in Clerkenwell Bridewell, a prison and correctional institute for prostitutes and vagrants, if she told anybody, see: OBP, May 1774, trial of Jeremiah Amenet (t17740518-43).

<sup>200</sup> In a remarkable instruction from the judge, Ann Thacker's father was told: "Your child complains she is harshly treated by her mother-in-law [stepmother], I hope you will take care of her; it is known in Bow-street, and it is known here; and it will be very necessary for her safety that she should treat the child better in future." In her sworn testimony, Ann, 11, herself had said that she did not tell anybody for two days of having been raped because she "had a bad mother in law [...] who used to beat [her]". She first told the maid, who then told Ann's father. The closing paragraph of the trial record included the information that Ann's father had applied to an attorney for the separation from his abusive wife, see: OBP, February 1796, trial of Thomas Davenport (t17960217-37). Sarah Toulalan argued that the accumulating number of children deposing that they feared a parent's violent response perhaps contributed to a shift in attitudes about disciplinary practices towards children. That views had certainly changed by the late eighteenth century is seen Thacker's case. Toulalan added that historians of crime have noted a shift towards "greater sensitivity towards the use of violence which, together with the detection of an increasing consideration of the needs of the child, meant that toleration of severe disciplinary practices towards children also declined", see: Toulalan, 'Child sexual abuse', 42.

<sup>201</sup> OBP, September 1796, trial of David Scott (t17960914-12). The court questioned Mary Homewood's mother on her treatment of her daughter. Asking whether she regularly corrected her "with great severity", she responded: "I am very passionate to be sure, and sometimes gave her a very heavy blow." She added that she wished she had not. The court ordered the mother a warning, for what she "brought upon the child by [her] passion". In an earlier trial, six-year-old Margaret Thomson's parents had whipped her and told her to never go near her assailant again, see: OBP, September 1734, trial of Thomas Slade (t17340911-6).

<sup>202</sup> OBP, December 1770, trial of Charles Earle (t17701205-39).

<sup>203</sup> OBP, May 1754, trial of John Grimes (t17540530-1). During Susannah Mitchel's trial we learn under threat of getting whipped, Susannah confessed to her mistress who raped her, see: OBP, January 1723, trial of Edward Fox (t17230116-39). In another case, Mary Larmond asked her daughter Elizabeth, 12, what was on her shift,

until her mother warned her that she would “cut [her] to pieces” if she did not tell who had meddled with her.<sup>204</sup> An acquaintance of Elizabeth Sharpe’s mother had examined the girl and said: “if you don’t confess the truth, your mammy won’t get you cured, and you will die.”<sup>205</sup> Because Phillis Holmes refused to tell who had raped her, the apothecary threatened that he would tell the “severe” beadle of the hospital and would “have her cut to pieces”. This strategy “was to affright her, to make her tell”.<sup>206</sup>

Caregivers could not report what the girls told them; this was hearsay. Thus, their testimonies traced their own stories of discovery, focusing on behavioural changes, physical irregularities and stained linen.<sup>207</sup> Seeing girls in agony and finding suspicious stains usually led to bodily inspections, and ultimately, confessions. In most trials, these stories of discovery led to caregivers sharing whether they sent for support. Determining the cause of disorder proved complicated for some. Elizabeth Hall deposed that her daughter complained of “a pain in her groin”. She found “a little scratch there” and “a yellow matter” on her child’s shift, but did not know what was the matter with her.<sup>208</sup> Mary Mead, servant alongside Mary Matthews, initially took no notice of their bedsheet being “all over matter”. She later found the sheet “a great deal worse all where the child lay” and alarmed their mistress. Mead deposed that, as a mother, she feared that “somebody had injured her.”<sup>209</sup> Hepzibah Dover’s mother Esther noticed that her daughter refused to sit down and was unable to complete daily tasks. She made little of it, believing she would improve in a few days. The pain continued and “she walked very badly”, still not raising Esther’s suspicions. Only when she asked Hepzibah, 13, to run a quick errand to a neighbour carpenter, the defendant, did Esther learn of the rape. Breaking her silence, Hepzibah told her mother she would never go there again. Esther examined her and “she appeared to be abused, and in a very vile condition.” She then took Hepzibah to a midwife.<sup>210</sup>

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threatening that she would be “[her] death” if she did not tell her what happened. Elizabeth said she would tell her if she would not strike her, see: OBP, July 1759, trial of Gilbert Wright (t17590711-6).

<sup>204</sup> OBP, July 1768, trial of Henry Johnson (t17680706-42).

<sup>205</sup> OBP, July 1771, trial of James Craige (t17710703-33).

<sup>206</sup> OBP, September 1766, trial of Edward Brophy (t17660903-38).

<sup>207</sup> Weisser, ‘Poxed and ravished’, 55; Snell, ‘Trials in print’, 35.

<sup>208</sup> OBP, September 1768, trial of William Allam (t17680907-40).

<sup>209</sup> OBP, December 1770, trial of Charles Earle (t17701205-39). Having been told by her mistress of the signs found in Mary Matthews’ bed, Mary’s mother saw that her “private parts were swelled to a great degree, and there was blood and nastiness upon her”, it appearing that “a man had lain with her”. In another case, Mary Reynolds’ mother thought she had wet the bed. She took no notice of it when Mary said that her “private part [was] sore”. The next day, she thought “it might be from the heat of her water [urine]”. When Mary grew worse, her mother examined her and “found a sort of corruption coming from her”. She pressed Mary to tell her who hurt her, see: OBP, December 1757, trial of Thomas Crosby (t17571207-14).

<sup>210</sup> OBP, September 1748, trial of William Garner (t17480907-50).

Other caregivers' testimonies show that some assertively connected their initial observations to sexual violence. Elizabeth Nichols' mother found her to have been "Abused by a Man". Her aunt likewise "found some Man had been dealing with her" by the appearance of her "foul Shift", which she wanted to borrow for her own child.<sup>211</sup> Mary Petts' mother "found her much abused in her privy parts, and that there was a great effusion of Blood issued from her, which was occasioned by some Violence used, and did not proceed merely from a Natural Cause."<sup>212</sup> Mary Brand's sister had alerted their father. He questioned Mary and "found her linen and the [bed]sheet in a very bad condition", thinking "that somebody had been concerned with the child".<sup>213</sup> Mary, an acquaintance of Elizabeth Sharpe's parents, learned that the girl "was sore where she made water". She saw that her "shift [was] discoloured" and her body "very much swelled and inflamed". Mary told Elizabeth: "I am afraid some little boy has been playing tricks with you, or some man".<sup>214</sup> Elizabeth Atkins, washerwoman to the household where 12-year-old servant Anna Dixon worked, believed from the "marks of blood" on her shift that she had been 'lain with'.<sup>215</sup> Sarah Pollard initially thought that her servant Jane Bell had "overwalked herself" until she examined her. From the swelling and "great deal of human nature [semen] upon her" Pollard then suspected that Jane "had been violently used".<sup>216</sup>

Tracing the actions undertaken by caregivers upon discovering suspicious signs, leads to uncovering networks of social support. Witnesses' testimonies reveal who discoverers sought help from, which in most cases were other women. Mothers and mistresses usually turned to those within their direct circles, female neighbours especially, showing that they felt safe discussing these sensitive matters with them and believing that they could impart helpful knowledge.<sup>217</sup> Mary Bowden's mother "found some Signs upon the Childs Body" and went to a neighbour "to ask her Advice". Her neighbour told her she "was afraid some Man had meddled with her".<sup>218</sup> Susannah Mitchel's mistress perceived "the Girl's Linnen not as it

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<sup>211</sup> OBP, October 1684, trial of Thomas Benson (t16841008-12).

<sup>212</sup> OBP, April 1694, trial of Richard Smith (t16940418-7). From another trial, we learn that when Susan Marshall, 11, told her female neighbour what happened, the latter sent for her mother "and upon examining [they] found that some Man had abused her", see: OBP, October 1735, trial of Julian Brown (17351015-28).

<sup>213</sup> OBP, September 1767, trial of Joseph Payne (t17670909-69). Mary's father deposed that he spoke to her "in a very soft mild manner", promising not to hurt her if she told him who 'had done her an injury'.

<sup>214</sup> OBP, July 1771, trial of James Craige (t17710703-33).

<sup>215</sup> OBP, July 1772, trial of John Coates (t17720715-52).

<sup>216</sup> OBP, September 1797, trial of John Briant (17970920-12). 'Nature' or 'human nature' refers to semen in this context. It was also occasionally used for the sexual fluid of a woman, see: *OED*, s.v. 'nature (*n.*)', sense I.2.b,' December 2023, <https://doi.org/10.1093/OED/1073022348> (accessed 1 July 2024).

<sup>217</sup> Hubbard, *City women*, 16.

<sup>218</sup> OBP, December 1699, trial of John West (t16991213-40).

ought to be” and asked what ailed her. After discussing the matter with a friend, the mistress searched Susannah and “found she had been very much abused and damaged”.<sup>219</sup> When Mary Upington observed her daughter Elizabeth to walk oddly, the girl “owned that she had been abused.” Examining her in the presence of two female neighbours, Mary “found she had been entered about half the length of [her] finger” and perhaps had “the foul distemper.” The three women suspected Elizabeth had been abused by a man and for this reason, together, went to a midwife to have her further examined.<sup>220</sup>

Phillis Holmes’ nurse Sarah, saw that she was “in a deplorable condition” when she went to wash her. Sarah told her mistress that it appeared like a case of the foul disease she had encountered on a previous nursing job. Sarah examined Phillis and “never saw such a sight in [her] life; her womb was open as wide as [hers]”, having born nine children. She “then thought she had been abused by a man”.<sup>221</sup> The defendant in ten-year-old Mary Craggs’ case watched her while her mother ran an errand. Her mother made an “observation upon her linen” a few days later but could not decipher its cause. She told several of her neighbours that she did not know what was the matter. One of the women told her that “he serv’d another neighbour’s child in the same manner [...] this [was] the third or fourth child he has serv’d so”. Mary’s mother sent for gentlewomen Elizabeth Mears, an apothecary’s widow, and upon examining her together saw that she was “red as scarlet”.<sup>222</sup>

These testimonies reveal that female social circles possessed amongst them sufficient diagnostical skills to help each other in the face of child sexual abuse. In other instances – from a lack of understanding or incentivised by the advice of others – caregivers moved beyond these social networks and applied to trained practitioners. Four-year-old Sarah Poultney’s mother found her daughter’s private parts swollen and asked a neighbour to look at her, who believed that Sarah had “been injured by a man” and contracted the foul disease. Sarah’s mother took her to a physician immediately.<sup>223</sup> Jane Gallicote’s aunt noticed “something the matter by her shift” the day after she had left the children at home with the

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<sup>219</sup> OBP, January 1723, trial of Edward Fox (t17230116-39).

<sup>220</sup> OBP, January 1748, trial of William Page (t17480115-4).

<sup>221</sup> OBP, September 1766, trial of Edward Brophy (t17660903-38). Seeing Phillis’ shift, her master exclaimed: “O you b-h, you are poxed! Hussey, who has meddled with you”.

<sup>222</sup> OBP, January 1749, trial of George Tennant (t17490113-15). After Elizabeth’s examination, Mary told her mother all, who “in a great passion” confronted the defendant. Mary’s father went to the justice for a warrant. In another case of neighbourly support, Judith Charlton’s neighbours collaborated after the 11-year-old had told the servant and her father that a bricklayer whom she was employed to assist, “had used her very ill, and [she] was hurt very much”. One of the neighbours “examined her as well as it lay in [her] power” and found her “exceedingly bloody”, which she supposed was caused by a man’s violence. The neighbours went to fetch a constable to apprehend the girl’s assailant, see: OBP, September 1778, trial of John Jones (t17780916-47).

<sup>223</sup> OBP, September 1779, trial of Charles Ketteridge (t17790915-18).

defendant. Jane told her aunt that “her private parts smarted like fire”, which the latter observed to be “red and inflamed”. She called out for someone to fetch a constable. Jane’s neighbour Amy, who did nursing work, overheard this and examined her with her aunt present. On observing “something extraordinary”, Amy advised Jane’s aunt to call for a midwife, who had persuaded her to prosecute.<sup>224</sup>

Susan Faucet “perceiv’d a Disorder in [her] Child’s Linen” and showed it to fellow resident Mrs. Bishop. She said “that could be no natural Thing”, “it can never be That [menstruation] at 9 Years of age; it must be something else”. Stating that she lacked further knowledge, Bishop told Susan to “ask others that know more” than she did. Mary’s mother then sent for a midwife.<sup>225</sup> Elizabeth Raden’s mother “discovered some alteration in” her daughter’s body, but not knowing what it was, she told Elizabeth’s grandmother. When she was also “ignorant of its cause or effects”, the girl’s mother called upon a surgeon and an apothecary.<sup>226</sup> Mary Duncan did not think herself competent to inspect her four-year-old daughter when she discovered that she was hurt and “could not make water”. She left the examination to a physician.<sup>227</sup> When Mary White’s mistress found the girl’s linen ‘disordered’, she did not examine the matter herself, but sent for a nurse and later a surgeon.<sup>228</sup> Not recognising the ailment after Sarah Southy could no longer hide her “extream torment”, her mother “procured a couple of Chirurgions”.<sup>229</sup>

### **Medical practitioners and diagnostic difficulties**

It appears that most caregivers consulted medical practitioners to validate their observations or suspicions.<sup>230</sup> It is also not unlikely, given the circulation of medico-legal texts and trial records such as the *Proceedings*, that caregivers knew to involve medical experts because they could provide evidence in court.<sup>231</sup> Many cases mention the involvement of more than one medical expert.<sup>232</sup> Elizabeth Crawford’s mother applied to two surgeons after finding

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<sup>224</sup> OBP, July 1751, trial of Christopher Larkin (t17510703-21).

<sup>225</sup> OBP, September 1733, trial of John Cannon (t17330912-55).

<sup>226</sup> OBP, June 1698, trial of Robert Ingrum (t16980608-9).

<sup>227</sup> OBP, October 1765, trial of Samuel Tibbel (t17651016-2).

<sup>228</sup> OBP, July 1726, trial of Adam White (t17260711-69). Mary’s father was indicted for raping her.

<sup>229</sup> OBP, April 1680, trial of William Harding (t16800421-5). In another case, the court asked Sarah Jacobs’ mother if she understood that her daughter had the foul disease. Sarah’s mother responded that it should ask the surgeon that, for ‘she did not understand it [venereal disease]’, see: OBP, December 1759, trial of Aaron Davids (t17591205-25).

<sup>230</sup> Weisser, ‘Poxed and ravished’, 64.

<sup>231</sup> Ibidem, 56-57.

<sup>232</sup> The trials include testimonies from medical practitioners who examined the prosecutors before and during legal procedures, as well as from those working on the defendant’s behalf.

injury and “such Tokens on her [daughter’s] Linnen that surpriz’d her”.<sup>233</sup> 12-year-old Martha Chalkley was examined by a midwife before and during the 1750 trial.<sup>234</sup> Ann Long had her nine-year-old daughter Elizabeth examined by a midwife and a physician, and she was searched by another midwife and an apothecary at the justice’s request.<sup>235</sup> Caregivers’ testimonies offer minimal insight into their primary motivations for seeking a particular medical practitioner.<sup>236</sup> We do not learn whether suspicions of sexual violence or venereal disease (or both) impacted caregivers’ decisions regarding the care they deemed appropriate.

Matters of trust and competence do sporadically appear in the *Proceedings*, perhaps pointing to practitioner preference.<sup>237</sup> Four cases reveal caregivers’ agency and preferences. Upon discovering the abuse, Hepzibah Dover’s mother “sent her to [*her*] midwife”, implying that she was familiar with her services.<sup>238</sup> In another case, a surgeon working on the defendant’s behalf – finding “him free from any Venereal Disorder” that prosecutor Elizabeth Moreton and her sister had contracted – deposed that their mother had refused to let him examine her children without the presence of another surgeon of her choosing.<sup>239</sup> The surgeon testifying for the defendant in Sarah Pearse’s case deposed that her mother also refused to let him examine her daughter because “they had already employ’d an able Surgeon”.<sup>240</sup> Cornelia Winter’s mother wished for her to be examined by “the house-surgeon of Middlesex-hospital”.<sup>241</sup> Frances Moses’ schoolmistress advised her mother to take her to physician Cole when the former was told the girl had the foul disease. Her mother did not heed this advice,

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<sup>233</sup> OBP, August 1723, trial of Benjamin Hullock (t17230828-64).

<sup>234</sup> OBP, December 1750, trial of Richard Knibb (t17501205-40).

<sup>235</sup> OBP, December 1732, trial of Joseph Pearson (t17321206-69). Elizabeth Broadben and Catharine Poor were also “searched by the direction of the justice” by a midwife, and a surgeon and man-midwife, respectively, see: OBP, December 1755, trial of John Baynham. Sarah Clifton (t17551204-29); OBP, June 1752, trial of Patrick White (t17520625-30).

<sup>236</sup> Children of poor people or those who could not sustain themselves when infected with venereal disease would have had to rely on institutional care. Kevin Siena found that people forced to enter a hospital, or ‘workhouse’, almost always faced physically debilitating salivation, see: Siena, *Venereal disease*, 61.

<sup>237</sup> In the *Proceedings*, information on matters of trust and faith in the competence of practitioners is rare. It is an aspect of medical care notably discussed by Churchill, Evenden and Pelling, see: Pelling, ‘Compromised by gender’, 101-133; Churchill, *Female patients in Britain* (for practitioners and patients’ risk of sexual violence specifically, see 87). Evenden discovered that seventeenth-century surgeons were aware of the shortcomings of men-midwives’ knowledge and experience and ensured the presence of an experienced midwife for the births of their own children, see: Evenden, ‘Mothers and their midwives’, 20.

<sup>238</sup> OBP, September 1748, trial of William Garner (t17480907-50). It appears that Hepzibah Dover’s mother had obtained the first midwife’s services before, or was her first choice of practitioner for any ailments. This midwife could not attend the trial for she was “sick in bed of a fever”.

<sup>239</sup> OBP, April 1740, trial of William Carrol. Mac Carrol (t17400416-50). In a 1735 trial, surgeon John West deposed that he wished to examine Susan Marshall, but her parents refused to let him, see: OBP, October 1735, trial of Julian Brown (17351015-28).

<sup>240</sup> OBP, December 1721, trial of Christopher Samuel Graff (t17211206-67).

<sup>241</sup> OBP, October 1787, trial of John Ince (t17871024-78).

deposing that she “was for going to the midwife.”<sup>242</sup> Historians have previously considered the low regard for particular practitioners and noted the inherent potential dangers for female patients of medical examinations by male practitioners.<sup>243</sup>

Midwives spoke with authority on signs of sexual violence, which arguably explains caregivers’ preference for a midwife’s treatment.<sup>244</sup> Male surgeons were treated with suspicion for some time, as Pelling and Wendy Churchill demonstrated.<sup>245</sup> Yet, midwives became marginalised and many of them were undermined despite, or perhaps because of, possessing expert knowledge relating to sexual abuse. Many cases analysed in this thesis give us a glimpse of marginalisation in practice. Male practitioners’ professional opinions were often given precedence over those of their female counterparts.<sup>246</sup> Midwife Eleanor Cox believed that Frances Colomies “had been injur’d by a Man” upon finding her “much disorder’d with an Inflammation”. Conversely, surgeon Stevens found Frances “very well” and was positive there had been no penetration. Another surgeon attested to the same, otherwise he believed he would have found lacerations. The “little Moisture” he observed, he had seen in “a hundred Children”.<sup>247</sup>

Whilst midwives did weigh in on venereal disease, it fell to the domain of male practitioners, surgeons especially. It was a major focus of their physical analyses as its presence could prove rape. Midwives and lay women often connected the two, whereas male practitioners would not rule out other modes of transmission.<sup>248</sup> Surgeon and man-midwife Renton’s observations of Catharine Poor appeared to indicate injuries from rape. He “found the outward lips of her womb somewhat swelled” and the “inward lips [...] were a good deal

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<sup>242</sup> OBP, December 1759, trial of Aaron Davids (t17591205-25). When the midwife opined that “a man had meddled with her, and that she had the [f]oul disease”, Frances’ mother had her examined by a Mr. Waley and she was treated as an outpatient at the hospital.

<sup>243</sup> Pelling, ‘Compromised by gender’, 101-133; Churchill, *Female patients in Britain*, 82-86; Walker, ‘Rereading rape’, 16; Michael MacDonald, *Mystical bedlam. Madness, anxiety, and healing in seventeenth-century England* (Cambridge 1981), 37.

<sup>244</sup> The inexperience or incompetence of some male practitioners in this field is occasionally apparent. In Winifred Strolger’s case, apothecary Mills was sent for to examine her. The court asked him whether he observed any laceration on her private parts, to which Mills responded that he could not “reckon [himself] a competent judge of it.” The court clerk inserted that Mills “gave some reasons, by which it appeared the child had been injured” and that she appeared “not as a child of that age ought to be”, see: OBP, July 1745, trial of Robert Warden (t17450710-15).

<sup>245</sup> Pelling, ‘Compromised by gender’, 101-133; Churchill, *Female patients in Britain*, 82-86.

<sup>246</sup> Weisser, ‘Poxed and ravished’, 64.

<sup>247</sup> OBP, September 1735, trial of Thomas Gray (t17350911-53). Testifying prior to the midwife, Frances Colomies’ mother “concluded by what she saw, a Man had been rude with her.” The defendant was acquitted.

<sup>248</sup> Siena, *Venereal disease*, 83; Weisser, ‘Poxed and ravished’, 65; LeJacq, ‘The sodomitical body’, 140. In the aforementioned case of Elizabeth Salter, her mother pressed her to confess “who she was with” when she observed unusual stains in her linen and signs of injury. The surgeon who found Elizabeth ‘clapped’ argued that she could have contracted venereal disease without penetration, see: OBP, May 1754, trial of John Grimes (t17540530-1).

inflamed with a laceration". Yet, he could not "take upon [him] to swear her body was entered" before adding that Catharine "had the venereal disease on her very strong."<sup>249</sup> Susan Marshall's mother and their neighbour suspected that "some man had abused her". In addition to observing her penetrated and "very much torn", a midwife thought she "had a foul Distemper". Both a surgeon and apothecary deposed to merely observing symptoms of venereal disease.<sup>250</sup>

Due to overlaps of the bodily effects of venereal disease and rape, practitioners were not always able to distinguish them.<sup>251</sup> Experts themselves recognised the challenges of making a definitive diagnosis and were also aware of the considerable legal consequences of their opinions for defendants. Their caution, however, and ideas on the rape of children and venereal disease transmission – predominantly referenced by male experts – naturally also impacted prosecutors. Contemporary understanding held that sexual intercourse with a child would necessarily leave marks of violence upon the body.<sup>252</sup> It was believed to be impossible to penetrate a child without the use of force that would be detectable through tearing, bleeding and swelling of the vagina and vaginal opening.<sup>253</sup> The surgeon testifying in nine-

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<sup>249</sup> OBP, June 1752, trial of Patrick White (t17520625-30). When surgeon Renton examined the defendant a second time, he was certain "from his person he had the venereal disease." Despite ostensibly sufficient physical evidence, the surgeon would not testify that Catharine's injuries and venereal disease resulted from rape. Additionally, the 11-year-old was not questioned under oath because she did not understand its nature. The defendant was acquitted.

<sup>250</sup> OBP, October 1735, trial of Julian Brown (17351015-28).

<sup>251</sup> Weisser, 'Poxed and ravished', 59-60. Weisser argued that caregivers and medical practitioners turned to the appearance of the girls' clothing for evidence of rape.

<sup>252</sup> Detectable intact virginity was considered evidence that rape had not taken place. During the surgeon's first examination, Cornelia Winter was in too much pain to be inspected. Later, he found the hymen in "a tolerable perfect state". An apothecary deposed to the same effect – he found both the defendant and prosecutor to have venereal disease, but added that "no penetration had, or could have taken place." The court ruled that since "the hymen not being broke, there could be no rape", see: OBP, October 1787, trial of John Ince (t17871024-78). Surgeon Munn found Mary Homewood's private parts swelled and "covered with matter", her "hymen ruptured" and internal inflammation, which indicated rape, see: OBP, September 1796, trial of David Scott (t17960914-12).

<sup>253</sup> Toulalan, 'Child sexual abuse', 38-39. Another invalidating contemporary medical theory that practitioners mentioned, was that vaginal injury could have resulted from a 'strain', i.e., physical overexertion. The male practitioners who examined Catharine Poor and Mary Batty did not believe their injuries and venereal infection were caused by a strain, see: OBP, June 1752, trial of Patrick White (t17520625-30); OBP, April 1749, trial of James Penoroy (t17490411-22). Surgeon Haines, who examined Ann Mayne, saw no injury and believed that her body had never been entered. He argued that "the Whites [vaginal discharge]" were not unusual for children and "might come from a strain", see: OBP, October 1777, trial of Benjamin Russen (t17771015-1). During Elizabeth Hall's trial, the court asked the deposing surgeon whether "runnings from these parts" could be "occasioned by strains and other occasions" that were not venereal, see: OBP, September 1768, trial of William Allam (t17680907-40). The defendant in Esther Robinson's case was acquitted when the jury ruled that he did not rape her, "but that the Child had got some hurt by taking a large Step down some Stairs", see: OBP, September 1697, trial of David Martin Shrider (t16970901-26). Two surgeons in the trial for Mary Marsh deposed that there had been no penetration and "that the Gleet might proceed from a Strain, or Weakness, or ill Habit of the Body", see: OBP, July 1715, trial of William Cash (t17150713-54). Surgeon Dove found Grace Pitts' private parts not torn, but extended and "prodigiously clapped". He believed that "the Extension of these Parts" could have resulted from "other Accidents, than to come by the use of Men", see: OBP, April 1747, trial



year-old Elizabeth Coy's case stated that "it was impossible a Child of such tender Year, could be thus abused without hurting her extremely, in Consequence of which she could not help crying out."<sup>254</sup>

A surgeon testifying in Jane Bell's case did not believe it possible "to have the hymen ruptured" without lacerations or "discharge of blood" for a girl of her age, which was 14.<sup>255</sup> Elizabeth Hall was diagnosed with venereal disease but penetration was ruled out. Upon examining her, surgeon Barrel was positive that the discharge he observed was "of the venereal kind" – "it would have been of a different quality" had it resulted from lacerations. He believed it impossible for a man to penetrate a child without "an extension or laceration of the part" in an eight-year-old.<sup>256</sup> It was also believed that children could not physically be penetrated.<sup>257</sup> An apothecary on the jury of Elizabeth Hopkins' case did not believe a child of her age, nine, could be raped.<sup>258</sup> Jane Gallicote, 11, was diagnosed with gonorrhoea by hospital surgeons. Upon being asked by the court if there had been penetration, a surgeon deposed: "no man could penetrate her body, she is too tender of an age for that".<sup>259</sup>

The consideration of contemporary ideas on rape and disease transmission is relevant here because identifying the source of disorder could indicate whether prescribed treatments were intended to treat sexual violence injuries specifically. The link between venereal disease and penetrative sex was not straightforward, as we have seen. Infection was thought to spread in both sexual and non-sexual ways.<sup>260</sup> Weisser found that the scrutiny of swellings, stretched labia and lacerations were key to differentiating external versus internal transmission.<sup>261</sup> The

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of John Hunter (17470429-28). One mother mentioned the theory. When she found her daughter's private parts 'swelled and very dirty', Mary's mother thought she had overstrained herself, see: OBP, September 1796, trial of David Scott (t17960914-12).

<sup>254</sup> OBP, December 1741, trial of Thomas Norris (t17411204-39). A surgeon who happened to be in court during the 1748 case of Elizabeth Upington, desired to give his opinion. He believed "rape impossible without there being a considerable quantity of blood." See: OBP, January 1748, trial of William Page (t17480115-4).

<sup>255</sup> OBP, September 1797, trial of John Briant (17970920-12).

<sup>256</sup> OBP, September 1768, trial of William Allam (t17680907-40). One midwife mentioned the theory in our sample. Despite believing that "a man had been offering some violence upon" Martha Chalkley, midwife Bennett did not think "he had enter'd her body" because "she was not open, as people are after such", see: OBP, December 1750, trial of Richard Knibb (t17501205-40).

<sup>257</sup> Toulalan, 'Child sexual abuse', 38-39.

<sup>258</sup> OBP, December 1781, trial of Stephen Arrowsmith (t1781211e-2).

<sup>259</sup> OBP, July 1751, trial of Christopher Larkin (t17510703-21). Other surgeons also believed that there had been no penetration.

<sup>260</sup> A diagnosis of venereal disease spread internally through sex could result in the conviction of rape. Disease spread externally through touch, on the other hand, could lead to a charge of assault, see: Weisser, 'Poxed and ravished', 57.

<sup>261</sup> Venereal infection was thought to occur through touch and close proximity, as well as sexually by semen conveyed through intercourse or ulcerous secretions spread by touch. Infection was possible through sharing a bed, by sweating out virulent matter. Weisser also stated that wet nurses were accused of communicating the disease through breast milk, and midwives were said to transmit it by means of their hands. She included the

underlying presumption was that venereal disease looked a certain way, regarding the location and severity of symptoms, when it was contracted through penetration (internal transmission).<sup>262</sup> In the cases above, practitioners believed rape impossible because of the specific appearance of rape injury and disease. There are also cases in which witnesses found evidence for rape (partly) *because* of the presence of venereal disease. The midwife who inspected Mary Batty “feared the child had been abused by a man, for she had the foul disease.”<sup>263</sup> Catherine Black’s surgeon “found her abus’d to the utmost degree, the Parts being violently lacerated, contus’d, and inflam’d, and she pox’d in a miserable manner.”<sup>264</sup> Midwife Collins deposed that Ann Lockwood’s “privy Parts were very much hurt, extended, torn and ulcerated”. She “believ’d the Child was poxt, and that the Damage was done her by having Carnal Copulation with a Man.”<sup>265</sup>

There is, however, undeniable evidence in the *Proceedings* that practitioners testified to rape without referencing venereal disease. Midwives did so more often than surgeons. The two midwives who examined Martha Gilbert believed she “had received damage, that her Body had been enter’d” forcibly.<sup>266</sup> In Susan Marshall’s case, midwife Palmer swore “that a Man had enter’d her in barbarous Manner.”<sup>267</sup> The midwife who examined Phebe Shaw found that “the Wings of her Womb were t[orn] and that the Neck of it was turn’d quite out, which she thought must be done by a too early Copulation.”<sup>268</sup> Again, midwives’ professional opinions were undermined by those of male practitioners. Bridget Gerrard’s female neighbours and a midwife assertively stated that she had been raped by a man. The

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theory that the bodies of women and children were thought to be more porous than those of men, and therefore more susceptible to contracting venereal disease through touch, see: Weisser, ‘Poxed and ravished’, 57.

<sup>262</sup> This was a key element to Weisser’s argument. In terms of location, Weisser argued that internal sores and lacerations were thought to result from penetration, whilst external swellings did not. The prevalence of this notion is demonstrated when the court asked Elizabeth Salter’s mother whether the soreness she observed ‘was inward or outward’, see: OBP, May 1754, trial of John Grimes (t17540530-1). The severity of symptoms also indicated particular modes of transmission; severe was assumed to result from the emission of seed and therefore penetrative sex. Mild symptoms thus presented a problem in terms of determining sexual or non-sexual origins. See: Weisser, ‘Poxed and ravished’, 58.

<sup>263</sup> OBP, April 1749, trial of James Penoroy (t17490411-22).

<sup>264</sup> OBP, October 1723, trial of Gerard Bourn. Jonas Penn (t17231016-52).

<sup>265</sup> OBP, December 1721, trial of John Weston (t17211206-46). This opinion was shared by another midwife. An example of the synonymous mentioning of rape and venereal disease by a lay person, is Ann Bishop’s mother. When she had found her daughter private parts in a bad condition, she sent for a physician to examine her. He stated that Ann had the foul disease, which led to her mother asking her who had meddled with her, see: OBP, October 1744, trial of Francis Moulcer (t17441017-25).

<sup>266</sup> OBP, October 1720, trial of Thomas Belsenger (t17201012-38). In another case, midwife Rebecca Bradford testified that Elizabeth Hall, 10, “had receiv’d a great deal of Damage, by the Pressure of the Parts.” This was confirmed by another midwife, who believed that she “had been lain with”, see: OBP, January 1723, trial of Charles Macarty (t17230116-36).

<sup>267</sup> OBP, October 1735, trial of Julian Brown (17351015-28).

<sup>268</sup> OBP, December 1715, trial of William Willis (t17151207-52).

distinguished surgeon sent for by the court believed that she had not been “enter’d” and only “approached so far” for her to contract a venereal disease.<sup>269</sup> Midwife Scryven searched Elizabeth Long as she would “a Woman in Travail [labour]” and opined that a man ‘had carnal knowledge of her’. An apothecary ascribed the symptoms he observed to venereal disease.<sup>270</sup>

Male practitioners reluctantly testified to rape without mentioning venereal disease. The surgeon caring for ten-year-old Grace Price deposed “that she could not be infected with the Venereal distemper but by carnal Knowledge of a Man.”<sup>271</sup> Surgeon Wilson found Ann Bishop neither lacerated nor torn. However, the “true gonorrhoea” he observed could only have “occasioned by a penetration into the parts.”<sup>272</sup> There are instances nonetheless. Upon inspecting Sarah Pearse, surgeon Cooper “found the Vagina extended, torn and bruise’d with a forcible entry [...] She had been penetrated even to the inner Matrix”.<sup>273</sup> Surgeon Edmonds and his apprentice observed “very great Bruises” externally and a “large Excoriation” internally upon Sanders Ann Parsons, concluding “that there had been a great Attempt made upon her”.<sup>274</sup> Surgeon Duddle deposed “by all circumstances that a man had entered” five-year-old Elizabeth Treadway.”<sup>275</sup> Male and female practitioners were found to share opinions on rape, but men’s caution is never far away. Midwife Pollxen deposed that Mary Elliot’s injuries were caused “by a Man, and no body else.” The surgeon also believed that “her Body had been entred, but [he] could not say by what.”<sup>276</sup> In Susannah Mitchel’s case the midwife

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<sup>269</sup> OBP, August 1694, trial of Thomas Mercer (t16940830-9). The defendant was acquitted for rape, but a new indictment was ordered for the offence of assault on Bridget, for which Mercer was tried, found guilty and fined.

<sup>270</sup> OBP, December 1732, trial of Joseph Pearson (t17321206-69). In a 1726 case, Mary White’s mistress sent for the children’s nurse of the house and had her examine the girl after finding “a disorder in her Linnen”. Nurse Stevens believed that Mary had the foul disease and that her father, the defendant, had given it to her. A surgeon who was sent for found no signs of injury or penetration and merely perceived a running, which he could not positively say was caused by venereal disease, see: OBP, July 1726, trial of Adam White (t17260711-69).

<sup>271</sup> OBP, January 1698, trial of Henry Simpkins (t16980114-38).

<sup>272</sup> OBP, October 1744, trial of Francis Moulcer (t17441017-25).

<sup>273</sup> OBP, December 1721, trial of Christopher Samuel Graff (t17211206-67).

<sup>274</sup> OBP, July 1742, trial of William Rusdell (t17420714-17). In another case, surgeon Joseph de Laver concluded that Mary Tabor, 7, had suffered penetration and “had been forced by a Man”, see: OBP, January 1721, trial of William Robbins (t17210113-28). Following the defendant’s testimony, two further surgeons relayed their opinions. John Brown deposed that he examined Mary with two other surgeons and “found not a Penetration large enough for a Man to make”. He observed a running, but explained he had seen similar “Hurt occasion’d by a Child’s Riding on a Horse.” Another surgeon agreed with his observations. Perhaps these surgeons were testifying on the defendant’s behalf.

<sup>275</sup> OBP, April 1762, trial of Richard Smith (t17620421-11).

<sup>276</sup> OBP, September 1718, trial of William Picket (t17180910-78). In Hepzibah Dover’s case, apothecary Bavan was also reluctant to state the cause of the lacerations he observed. midwife Peters deposed that she found that “the inside of her body was sadly torn” and found further lacerations and swelling. She believed her to have been abused by a man. Bavan declared that he examined Hepzibah later, when those lacerations in her private parts were almost healed, but a running persisted, pointing to the presence of venereal disease, see: OBP, September 1748, trial of William Garner (t17480907-50).

assuredly testified to rape. Two surgeons agreed that Susannah “had been much injured” and “that Endeavours had been used to force her”. One believed that “the Girl’s Body had been a little Way entered”, the other did not, however.<sup>277</sup>

### **Medical care by practitioners and lay women**

Focusing on these physical observations and ideas on the appearance of injury and disease facilitates the search for medical care for girls, which we will turn to now. Due to the emphasis on bodily proof during these trials, this section of our sample is rich in instances of medical care. Although the aim is to uncover treatments for sexual violence injuries specifically, the perceived interchangeability of symptoms of rape and venereal disease complicates this. When administering remedies, it appears that practitioners predominantly focused on general symptom relief over considering the cause of injury or illness. With close analysis, we do find cases in which medical experts testified to having observed rape injuries and shared what treatments they applied – these were regularly of the venereal kind. In the following trials, defendants were convicted for rape or sexual assault. An eight-year-old was treated at the hospital for venereal disease she had contracted from the defendant. He had been “paying 12 d. a week toward her Cure”.<sup>278</sup> Surgeon Cooper, testifying to Sarah Pearse’s injuries, “was forc’d to use the utmost Art, both by external and internal Medicines, to prevent a Mortification [death]”.<sup>279</sup> Nurse Sutherland, working at the hospital where Mary Faucet was examined, deposed that she had venereal disease, with “an Ulcer in the Inside of the Lips of her Body.” A physician opined that she could not “be cur’d without a Salivation”, which she had not yet received because this would have prevented her from attending the trial.<sup>280</sup>

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<sup>277</sup> OBP, January 1723, trial of Edward Fox (t17230116-39). Due to a mistake in the indictment, the defendant was acquitted in this instance, but held in custody to be prosecuted for a new indictment.

<sup>278</sup> OBP, July 1678, trial of an unnamed man (t16780703-3). The cost of 12 pence per week for hospital care amounts to the purchasing power of £5.25 in 2017, see: *The National Archives*, ‘The National Archives Currency Converter 1270-2017’, <https://www.nationalarchives.gov.uk/currency-converter/#currency-result> (accessed 1 July 2024).

<sup>279</sup> OBP, December 1721, trial of Christopher Samuel Graff (t17211206-67). It is not specified which external and internal medicines Cooper used.

<sup>280</sup> OBP, September 1733, trial of John Cannon (t17330912-55). “Salivation” likely refers to medical treatment with mercury, its name owing to the excess production of saliva from administering mercury, see: *OED*, s.v. ‘salivation (n.)’, sense a, December 2023, <https://doi.org/10.1093/OED/7926190974> (accessed 1 July 2024). Mercury was widely used in various treatments for venereal disease, notably syphilis. It was believed to reestablish the humoral balance through sweat and salivation, see: Churchill, *Female patients*, 85. Many scholars have written about the historical medical use of mercury and its harmful effects on health. See especially: Siena, *Venereal disease*; Merians, *The secret malady*.

Midwife Maclemara believed Mary Batty's venereal symptoms were caused by a man's abuse. When Maclemara, who "[had] had many children, and [had] laid many women", observed Mary's condition to have worsened during another examination, she advised her mother "to apply to a proper Doctor". Mary's mother took her to the brothers Wathen – a man-midwife and physician, and his apprentice. Their diagnosis was the same as the midwife's. The apprentice observed internal and external injuries caused "by carnal copulation with a man" and a 'running from the womb'. He did not believe venereal disease would "make its appearance in that manner" without forced penetration. For her injuries they "prescribe[d] things proper for her" and she was "in a good way of recovery".<sup>281</sup> Physician Pinkstone ascribed Mary Holmes' symptoms to rape rather than venereal disease. He recommended Mary's mother to wash the four-year-old's private parts with warm milk and he prescribed an ointment for topical application. Midwife Thomas examined Mary sometime after and believed her injuries were caused "by a man who had forced her". She supposed the girl had "the foul distemper upon her, though the ointment ha[d] done her some good."<sup>282</sup>

Apothecary Bull, testifying in Phillis Holmes' case, opined that her "disorder was venereal [and] she had been laid with by a man". He "gave her some physic [medicine], just to keep the disorder from getting a head". Phillis was later placed under a surgeon's care at St. Bartholomew's hospital.<sup>283</sup> Surgeon Toleman examined Mary Brand, 8, in the presence of her aunt. It appeared to him "beyond a doubt" that "she had been penetrated and carnally known". He also believed "there was some venereal taint" and he treated it as such: Mary

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<sup>281</sup> OBP, April 1749, trial of James Penoroy (t17490411-22). Mary's mother thought her daughter's injuries were caused by a strain. The court asked Maclemara if Mary's injuries could have been the result of a strain rather than the abuse of man, which she did not believe possible. The midwife deposed that she had "heard talk of such things" but "never saw such a case." The brothers Wathen found, from the appearance of Mary's clothing and injuries, that 'the child was foul through the abuse of a man'. The apprentice deposed that "the external lips of the womb [were] extended beyond their natural dimensions [...] by carnal copulation with a man [...] the internal parts were very much inflamed [and a] running proceed[ed] from the womb." He did not believe venereal disease would "make its appearance in that manner" without forced penetration. Additionally, and contrary to conventional medical theory, the apprentice believed that "a man may copulate with a child of that age [far enough for emissio] without a laceration." He did believe venereal disease could be communicated by other means than penetration, but would not appear as severe as in Mary's case. During the trial, the court enquired whether there was a surgeon present. Richard Guy, who said he had been independently practicing for seven years, raised his hand and examined Mary in a separate room in the presence of her mother. The surgeon deposed that it appeared to him "that the child had been ravished by somebody". He found her lacerated and her private parts "distended beyond what it should be for a child at her age: It is impossible it should be so without force." Importantly, he believed that the running he observed "was only the consequence of the lacerated parts" and not venereal infection. He added that "it is usual for people to say it is venereal, when it only proceeds from an inflammation".

<sup>282</sup> OBP, April 1754, trial of Hugh M'kave (t17540424-29). The first physician Mary's parents and aunt went to was not at home, but his assistant or servant gave them a letter to go to the hospital. Mary's family went to another physician for his opinion and he observed evidence for rape. This practitioner was not able to attend the trial because, according to Mary's mother, he was setting a person's leg that day.

<sup>283</sup> OBP, September 1766, trial of Edward Brophy (t17660903-38).

was given “a slight course of salivation for ten days.”<sup>284</sup> Upon examining 11-year-old Ann Thacker at Bow Street police station, surgeon Gale observed internal lacerations and “a very great discharge”. His suspicions of venereal infection were confirmed when he found “a strong ghonorrhoea” on the defendant. Gale had given Ann a “mercurial course” and she continued under his care when the trial was held.<sup>285</sup>

Sarah Homewood did not take her daughter Mary to “a regular bred surgeon” but another practitioner, thinking she had ‘overstrained’ herself. Mary did not improve during the three weeks she was under his care, so her parents employed “a regular gentleman of the profession”. Surgeon Munn deposed that “the hymen had evidently been ruptured, and the internal parts were in a general state of inflammation”. From the appearance of Mary’s linen, he believed her to suffer from gonorrhoea. According to Munn, the “usual medicines” (possibly mercury) he prescribed had been effective.<sup>286</sup> Both a surgeon and an apothecary believed Jane Bell’s injuries to have resulted from a man’s sexual abuse. Jane was so swollen and disordered that surgeon Andrews could not “pretend to say that the disease was infectious; the same appearances might have arisen from violence, independent of infection.” Although he was inclined to think she had venereal disease, he maintained that her injuries could have resulted from violence. Andrews nevertheless “treated it as venereal, in order to guard her constitution against any future attack.”<sup>287</sup> In diagnostical uncertainty, surgeons did not hesitate to prescribe treatments for venereal disease as a precautionary measure.

Cases that ended in acquittal contain similar medico-legal discussions and offer further relevant examples of medical care (networks). Although most girls were treated at home, eleven girls were recorded to have received treatment at the hospital.<sup>288</sup> Surgeon Butler

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<sup>284</sup> OBP, September 1767, trial of Joseph Payne (t17670909-69). For early modern medicine adjusted specifically for children, see: Hannah Newton, *The sick child*, 81.

<sup>285</sup> OBP, February 1796, trial of Thomas Davenport (t17960217-37).

<sup>286</sup> OBP, September 1796, trial of David Scott (t17960914-12). Surgeon Munn was questioned by the court on the possible effects of the unregistered surgeon’s “unskilful treatment”. Munn believed this could have aggravated Mary’s inflammation, but would not have caused her venereal infection, which she sustained by forced penetration.

<sup>287</sup> OBP, September 1797, trial of John Briant (t17970920-12).

<sup>288</sup> Sarah Evans, see: OBP, December 1735, trial of Edward Jones (t17351210-70). Jones gave Sarah “Physick for six Weeks”, pretending to be “a sort of a Surgeon”. The medicine failed to curtail the foul disease, so her father got her into the hospital; Elizabeth Moreton, see: OBP, April 1740, trial of William Carrol. Mac Carrol (t17400416-50). Elizabeth was in the hospital for three weeks “in Order to be cured of the Foul Disease”; Alice Mimms, see: OBP, August 1741, trial of John Senor (t17410828-63); Catherine Glass, see: OBP, July 1741, trial of Ann Glass (t17420714-23); Anna Barnard, see: OBP, February 1754, trial of Stephen Hope (t17540227-56). Anna’s mistress “got her into the workhouse, where she had physick to cure her of a bad distemper.”; Frances Moses, see: OBP, December 1759, trial of Aaron Davids (t17591205-25); Elizabeth Wheeler, see: OBP, May 1753, trial of John Birmingham (t17530502-35); Mary Matthews, see: OBP, December 1770, trial of Charles Earle (t17701205-39); Mary Martin, see: OBP, May 1774, trial of Jeremiah Amenet (t17740518-43); Judith Charlton, see: OBP, September 1778, trial of John Jones (t17780916-47). Mary Northfield, the nurse whose care

deposed that he “did not chuse to administer Mercurials” to four-year-old Alice Mimms while she was home, so she was under his care at the ‘workhouse’ for almost a month.<sup>289</sup> Cornelia Winter was examined by Middlesex Hospital’s house-surgeon and he prescribed a lotion to be applied daily. According to him, this had improved her condition after about three days.<sup>290</sup> Whether at home or the hospital, practitioners again preventatively prescribed remedies for venereal infection despite observing signs of rape. Surgeon Hawkins was “in some doubt as to her disorder”, but he gave Susan Marshall “Medicines as for the French Disease [syphilis], and the Distemper submitted to them.”<sup>291</sup> Upon examining Mary Sherwin, surgeon Oldroyd observed signs of penetration. He also “had reason to suspect she had the venereal disease upon her” for which he prescribed pills.<sup>292</sup> The injuries surgeon Stonehouse found on Mary Edwards – swelling and “some small Damage” – did not point to venereal infection. Yet he prescribed “some Things accordingly [...] for Fear there should be some Foulness” because he heard the defendant was “a vile Fellow”.<sup>293</sup>

Sarah Jacobs’ mother took her to apothecary Davis because the seven-year-old girl had contracted “the foul disease, by a ravishment” and she wished to “have a few medicines” for her. Davis could not tell whether it “was a either a ravishment or the foul disease”. Sarah resisted examination and Davis did not continue “thinking they had surgeons of their own” whom he believed should examine her. The apothecary nevertheless prescribed ‘some medicines to cool her’.<sup>294</sup> In Sarah Poultney’s case, physician Diamond was reluctant to state the cause of inflammation and discharge he observed. Surgeon Pinches deposed that he was called in by Diamond to examine Sarah as he “did not choose to give his opinion himself.” Pinches “washed the parts with milk and water” and examined her, but he was also unable to say whether there had been penetration or whether the “discharge was venereal” because the “inflammation was so great”. Sarah’s mother did not return to these practitioners for further examination.<sup>295</sup>

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Judith was under at Clerkenwell hospital, deposed that her parents came to see her during the fortnight she was there; Cornelia Winter, see: OBP, October 1787, trial of John Ince (t17871024-78).

<sup>289</sup> OBP, August 1741, trial of John Senor (t17410828-63). Surgeon Butler deposed that he ‘cured her of her disorder’ and discharged her. About a fortnight later, Alice “was taken with an inflammatory fever and died”. The surgeon saw no correlation between these tragic circumstances.

<sup>290</sup> OBP, October 1787, trial of John Ince (t17871024-78). When the surgeon first examined Cornelia, he was “obliged to desist” because she was in too much pain. Upon his examination the following day, he found the hymen “in a tolerable perfect state” and thus believed it impossible that there had been penetration.

<sup>291</sup> OBP, October 1735, trial of Julian Brown (17351015-28).

<sup>292</sup> OBP, January 1779, trial of Philip Sherwin (t17790113-36).

<sup>293</sup> OBP, June 1739, trial of Samuel Bird. Susannah Clark (t17390607-41).

<sup>294</sup> OBP, December 1759, trial of Aaron Davids (t17591205-25). Surgeon Davis deposed that Sarah’s mother “came and had a shilling-worth of medicines now and then.”

<sup>295</sup> OBP, September 1779, trial of Charles Ketteridge (t17790915-18).

If the girls' caregivers were so inclined, return visits by or to practitioners appear common. In the case of Sanders Ann Parsons, surgeon Edmonds believed she had been assaulted and was given "a Box of Ointment, to anoint the Child in the Place where [...] [she] was affected". His apprentice examined the girl again days later and deposed that she had improved after the "Application of the Medicines".<sup>296</sup> Observing a "violent discharge" issuing from Ann Hawley, physician Silvester from the London Hospital told her mother "to give her two doses of manna [a mild laxative or purgative]" and to come see him again.<sup>297</sup> For the soreness and "redness upon the parts", surgeon's and apothecary's widow Elizabeth Mears sent Mary Craggs, 10, "some powder directly." Mary's mother deposed that Mears "kept giving her some stuff". Mears testified that the "physick [...] did her service", which implies that she monitored her.<sup>298</sup> A midwife told Mary Tollin, 12, that she "must take a dose of salts", a laxative, and that she could expect its purging effect.<sup>299</sup>

In between these return visits, the care for girls befell their mothers or caregivers. In fact, because women were the first to recognise illness and injury, it is not surprising to find instances in which they themselves sought to alleviate the girls' ailments before pursuing professional care. LeJacq noted that lay people drew on well-established practices of self-regulation that are rarely visible to historians.<sup>300</sup> Despite an imbalance in the *Proceedings*, where the evidence presented by non-professionals was obscured by the expert testimony of authorised practitioners, meticulous reading of the accounts brings some of the former's practices to light. Through lay people's testimonies we find varying levels of basic medical understanding.<sup>301</sup> Hepzibah Dover's mother deposed that she was "forced to wash her three or

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<sup>296</sup> OBP, July 1742, trial of William Rusdell (t17420714-17). In another case, surgeon Lee examined Mary Duncan and "found a weakness on the part, and a suppression of urine". Notably, he observed a running because "she had received hurt on the part" but no venereal symptoms. The surgeon "gave her soft medicines to relieve her." What these medicines for Mary's sexual violence injuries were, was not specified, see: OBP, October 1765, trial of Samuel Tibbel (t17651016-2).

<sup>297</sup> OBP, July 1753, trial of Matthew Griffith (t17530718-26). Manna in this context is a sweet exudate from the branches of the manna ash, which was used as a mild laxative, see: *OED*, s.v. "manna (*n.I*), sense II.3.a," March 2024, <https://doi.org/10.1093/OED/6624982442> (accessed 1 July 2024). Historian Hannah Newton found evidence for manna, to be dissolved in a drink, being prescribed as a mild purgative for children, see: Newton, *The sick child*, 81.

<sup>298</sup> OBP, January 1749, trial of George Tennant (t17470113-15). It is not specified what medical powder Mears gave Mary, but she deposed that it was not applied with plasters. Powders could have been for external application and for external use, to be taken with a liquid, see: *OED*, s.v. "powder (*n.I*), sense II.4.a," March 2024, <https://doi.org/10.1093/OED/8732385815> (accessed 1 July 2024).

<sup>299</sup> OBP, September 1789, trial of Edward Studsbury (t17890909-96). "Salts" likely refers to Epsom salt here, its laxative properties purging the "disorder" from Mary's body.

<sup>300</sup> LeJacq, 'The sodomitical body', 141-142 and 155.

<sup>301</sup> Weisser, 'Poxed and ravished', 64.



four times a day, and tent her with fine line[n]”.<sup>302</sup> Mary Batty’s mother “applied fuller’s earth to her, thinking that would cool her, looking upon the disorder to be the scalding of her water.” The appearance of the cloth that Mary had worn overnight prompted her mother to send for a local midwife.<sup>303</sup> Whilst their mother was away, Mary Hart also “put a piece of fullers earth to” her younger sister Hannah, thinking she was “gall’d [chafed]”.<sup>304</sup> Elizabeth Hodgkin’s mother “had no suspicion of any thing” until she “found a great running upon her”. She gave Elizabeth some turpentine pills, but they were ineffective. Following the advice of a Mrs. Emory, she sent for a surgeon.<sup>305</sup>

Occasional questions from the court reveal that it was aware of the knowledge women possessed and how their lived experience would influence their understanding of perceived physical irregularities. In the case of Mary Matthews, servant Mead was asked: “You being a married woman, now having examined the child, can you take upon to [swear] that she had been laid with by a man?”.<sup>306</sup> Lay (and expert) witnesses were asked whether the blood they observed could have been menstrual blood. When Pollard applied some ointment (“pomatum”) to her servant Jane Bell’s swollen private parts, she found “man’s nature” and a couple tablespoons worth of blood issue from her. The court asked Pollard whether 14-year-old Jane “had any of her menses [menstruation]” before the rape, which she had not. She was

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<sup>302</sup> OBP, September 1748, trial of William Garner (t17480907-50). Hepzibah’s mother then took her to midwife Elizabeth Peters, who deposed that Hepzibah “looked like the picture of death.”

<sup>303</sup> OBP, April 1749, trial of James Penoroy (t17490411-22). Fuller’s earth is a natural clay paste with antibacterial properties. Clay minerals have been widely used for therapeutic and nutritional purposes since prehistoric times, specifically for healing wounds, soothing irritations and the suppression of bleeding, see: Julian E. Davies and Shekooh Behroozian, ‘An ancient solution to a modern problem’, *Molecular Microbiology* 113:3 (2020) 546-549, at 547; Kowalchuk, *Preserving on paper*, 319.

<sup>304</sup> OBP, December 1759, trial of Aaron Davids (t17591205-25).

<sup>305</sup> OBP, July 1750, trial of Anthony Barnes (t17500711-33). Perhaps Mrs. Emory was a neighbour or fellow resident. The surgeon found her “much inflamed and swelled” and suspected the running to be venereal. He further observed ‘that the parts had been lacerated’, which he attributed to “some person having carnal knowledge of her.” He did not believe it possible for there to be penetration without laceration or the appearance of blood. Not mentioning any treatment or use of medicine, he stated that she was doing well at the time of the trial, “but not perfectly well.” Turpentine is a distilled resin or exudate from coniferous trees, see: *OED*, s.v. “turpentine (n.),” September 2023, <https://doi.org/10.1093/OED/9259614430> (accessed 1 July 2024); Kowalchuk, *Preserving on paper*, 269 and 355. To be ingested or applied externally, turpentine was used for a broad range of ailments and medical purposes throughout history. From skin conditions, wounds and ulcers, to intestinal problem and venereal disease, to respiratory issues. Turpentine is frequently mentioned in both Nicholas Culpeper’s *Complete herbal* (1653) and John Pechey’s *The art of physick* (1697), whose medical works were widely disseminated. The resin could be used dried, ground to a powder and mixed with other medicinal ingredients, mercury for example. It could also be used in its liquid form to be added to tonics for its supposed antiseptic properties. Dried or liquid, turpentine was added to lard or wax to create an ointment to be used topically, with or without a plaster, see: Merians, *The secret malady*, 57 and 179.

<sup>306</sup> OBP, December 1770, trial of Charles Earle (t17701205-39). Mary Mead replied that she “found [Mary’s] body so that she must have been lain with by a man.”

questioned on whether she considered “that blood as her courses, or in consequence of violence” – Pollard said the latter.<sup>307</sup>

Remarkably, the medical care practices lay women applied were not considerably different from those of trained practitioners, with the exception that lay people do not appear to have had direct access to medicines for venereal disease. In this regard, the information in the *Proceedings* aligns with Evenden’s earlier research findings that there was no clearly defined separation between the methods used by authorised or lay practitioners in the treatment of illness and injury.<sup>308</sup> The women in our sample considered symptom relief by cooling or soothing remedies. The care targeted the expulsion or absorption of unusual discharge and was aimed to address a perceived imbalance in the girls’ bodies. Like the experts, they hardly appear to differentiate between symptoms of sexual violence or venereal disease in their strategies. Women’s ‘vernacular forensics’ did not reflect the anatomical knowledge and diagnostic abilities of trained practitioners, but lay witness testimonies show that women managed with their varying levels of knowledge and experience. Caregivers’ stories also reveal that they sought authorised practitioners upon recognising that their own methods were inadequate in tackling the girls’ ailments. Often aided by their neighbours’ and acquaintances’ knowledge of female bodies, many lay women found the means to support their girls.

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<sup>307</sup> OBP, September 1797, trial of John Briant (17970920-12). After first discovering Jane’s injuries, Pollard gave her hot brandy and some “pomatum [ointment]”. She took her servant to a corner at Hyde Park the next day, as her milk business “wholly depended there”. She never let Jane out of her sight or “out of the hearing of [her] voice.” Pollard took her to the justice later that day. For ways in which menstruation talk was utilised by women in sexual assault and infanticide cases, see: Willemijn Ruberg, ‘The tactics of menstruation in Dutch cases of sexual assault and infanticide, 1750-1920’, *Journal of Women’s History* 25:3 (2013) 14-37. For early modern (attitudes to) menstruation, see: Patricia Crawford, ‘Attitudes to menstruation in seventeenth-century England’, *Past & Present* 91:1 (1981) 47-73; Sara Read, *Menstruation and the female body in early modern England* (Basingstoke 2013).

<sup>308</sup> Evenden, *Popular medicine*, 43; Anne Digby, *Making a medical living, Doctors and patients in the English market for medicine, 1720-1911* (Cambridge 2002), 29. Evenden mentions the use of particular medicines and remedies, but does not go into much detail about what ailments these were supposed to target.

### 3. Social and medical care for young and adult women

In cases involving women, the emphasis was on their testimonies, contrary to those concerning girls. With the aforementioned restrictions on women's speech in mind, we will first trace how women disclosed their experiences. How and whom they told allows us to study women's support networks, instances of (poor) social care, and the steps undertaken towards medical care. Although physical examinations feature less heavily in these trials, collecting evidence certainly involved medical discussions and expert diagnoses. Through the information contained in these exchanges, we occasionally uncover practitioners' and lay people's medical treatments, with which this chapter will close.

Men's violence was the starting point for women's testimonies in court. Women recounted the moments of struggle before they were overcome and violated by the defendant.<sup>309</sup> Emphasising their resistance was a primary way in which women could communicate their non-consent, whilst diverting attention from their own sexual behaviour onto male misbehaviour.<sup>310</sup> It was also part of the evidence gathering for judges, as any injuries would demonstrate their struggle. Prosecutors were asked if they had physically resisted and screamed out for others to hear in order to stop their assailant.<sup>311</sup> The court's distrust sparked when women deposed that they did not cry out. Because the defendant in *Betteridge May's* case had not made "use of any Threats to terrify her", the court believed that she had been at liberty to cry out. When she stated that it was not within her power to do so, the court responded that "the Jury will judge of that".<sup>312</sup> Elizabeth Midwinter was questioned on whether she screamed after she was lured into a house under false pretences by an acquaintance. After stating that she had as loud as she could, the court suggested that

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<sup>309</sup> Walker, 'Rereading rape', 16-18. Besides the availability of appropriate languages and concepts of sexual violence to women, Walker argued that articulating rape as a violent rather than sexual act, might have been the result of women's and girls' unconscious refusals to remember the sexuality of rape. This may have been more traumatic, and therefore more likely to be repressed, than its violence, which would account for this emphasis in women's accounts. Walker acknowledged that we have no means to verify this historically.

<sup>310</sup> Laura Gowing found that when women were able to explain why it was impossible for them to cry out, it mitigated their blame for illicit sex somewhat, see: Gowing, *Common bodies*, 100.

<sup>311</sup> Out of the 124 young and adult women from the present sample – including the 23 whose age is not specified but were most likely adults – 74 deposed to have cried out for help. During a 1784 trial, the court found "not the least foundation for this prosecution" as 16-year-old prosecutor Elizabeth Tarrier would not have sufficiently resisted, adding that "if she had not consented, she certainly might have made it known", see: OBP, February 1784, trial of Matthew Costillo (t17840225-19). In another case, 27-year-old Ann Cooper deposed that she cried out until she "was dead almost", see: OBP, July 1718, trial of Jacob Wykes. John Johnson (t17180709-37). In 1737, Ann Finch deposed that she had "screamed out till she had strength no longer", see: OBP, December 1737, trial of Thomas Trout. Richard Fastnege (t17371207-46).

<sup>312</sup> OBP, July 1734, trial of unnamed man (t17340710-33). The court reasoned that *Betteridge* "had Liberty to call out for help" as "the Prisoner did not stop [her] Mouth till after he had thrown [her] down."

perhaps she could not scream very loud. Elizabeth replied that she was “too much struck” to cry out for help, “so struck that the place shook under me.”<sup>313</sup>

To underscore their non-consent, women also deposed to have physically resisted as much as they could. 20-year-old servant Susannah Gilman struggled with the defendant “as long as she had Breath”.<sup>314</sup> Having been knocked down by the defendant while she was walking home from hay-making, Sarah Tate “struggled and strove, and did all that a Woman could do, till [she] was quite spent.”<sup>315</sup> Resisting and screaming were not without risk for women. The defendant in Frances Adams’ case swore he would cut her to pieces if she refused to let him lie with her.<sup>316</sup> Elizabeth Jones deposed that the defendant held “her Throat so long, and so hard, that she had no Power to cry out, nor strive any longer”.<sup>317</sup> Focusing on men’s violence was a way for women to highlight their powerlessness against a man’s force. Another reason for this choice of narrative was the fact that speaking of injuries suffered from men’s violence (such as bruises, scrapes torn clothing, a sore throat) provided a means for women to speak of rape without actually mentioning it, and thereby evading possible damage to their character.<sup>318</sup> Gowing argued that stating self-defence allowed women to be more explicit about sexual assault and the body more generally.<sup>319</sup> According to Weisser, “physical conflict indicated non-consensual sex without mentioning the act of sex.”<sup>320</sup>

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<sup>313</sup> OBP, May 1780, trial of James Purse (t17800510-57). The most frequently mentioned tactic deployed by defendants to prevent their victims from crying out, was stopping the latter’s mouth with their hand. Ann Burt, Mary Brickinshaw and Anna Maria Viator are three of the many women who had their mouth stopped by the defendant, see respectively: OBP, October 1715, trial of unnamed man (t17151012-48); OBP, April 1768, trial of John Sheridan (t17680413-30); OBP, May 1771, trial of William Phillips (t17710515-6). Betteridge May, Eleanor Masters and Sarah Tipple among others, had their mouths stopped by the defendants who used handkerchiefs to silence the women, see respectively: OBP, July 1734, trial of unnamed man (t17340710-33); OBP, September 1788, trial of Barton Dorrington (t17880910-46); OBP, February 1793, trial of John Curtis (t17930220-48).

<sup>314</sup> OBP, March 1721, trial of unnamed man (t17210301-58).

<sup>315</sup> OBP, August 1725, trial of John Pritchard (t17250827-74). The defendant and his accomplice stole Sarah’s fork from her while she was making her way from Hammersmith to her master’s house in Kensington. Following them to get her fork back, she deposed that they misguided and raped her.

<sup>316</sup> OBP, April 1716, trial of William Atterbury (t17160411-34). Many women received the same threat. In another case, the knife-bearing defendant threatened Mary Warnett, 17, with cutting her throat from ear to ear if she screamed out. No longer having a voice nor the strength, Mary’s “spirits were so far gone, [she] was forced to resign to him”, see: OBP, June 1769, trial of Thomas Meller (t17690628-8).

<sup>317</sup> OBP, October 1730, trial of John Collier (t17301014-36); OBP, June 1769, trial of John Litchfield (t17690628-9); OBP, June 1772, trial of William Barrett, William Cherry, James Smith (t17720603-9). Mary Hunt and Mary Davis both deposed to have been grabbed by the throat, hardly being able to breathe, see respectively: OBP, September 1787, trial of Luston Vaughan (t17870912-32); OBP, September 1787, trial of William Wellen (t17870912-48).

<sup>318</sup> Gowing, *Common bodies*, 86 and 93. Crawford and Mendelson argued that juries wanted to women to represent themselves as reputable, dependent, subordinate, and not responsible, see: Mendelson and Crawford, *Women in early modern England*, 47.

<sup>319</sup> Gowing, *Common bodies*, 96.

<sup>320</sup> Weisser, ‘Poxed and ravished’, 54.

However, women were often asked to describe the details of the rape ‘very explicitly’ by the court, thereby exacerbating a sense of shame that permeates women’s testimonies.<sup>321</sup> Silk-weaver Mary Batten was ashamed to speak plainly “before all these Gentlemen” and with reluctance shared that the defendant had “ravished” her.<sup>322</sup> 32-year-old widow Ann Clarke responded to the same request by stating: “it is a bold circumstance to mention by a woman.”<sup>323</sup> Some women were not surprised to be derided for speaking of coerced sex. When Elizabeth Berry by request of the court provided more details on how the defendant raped her, there was “a little Laugh about the Court”. Elizabeth said she “knew these Things before I came here; I expected to be laughed at, but it is not a laughing Matter”.<sup>324</sup> Whilst emphasising self-defence accorded women some agency, the court’s questioning nevertheless indicates suspicion over the women’s non-consent. In Sarah Tipple’s case the court reasoned that by using her hands, kicking the defendant and “keeping the legs close” she should have been able to prevent him.<sup>325</sup>

How women shared their experiences within their social circles was equally imbued with shame. Their testimonies show the ways in which women shared their distress and injuries and how this was received by those they told. They also show how others helped, or failed to help them. Most women were selective in who they told and feared the consequences of disclosing their experience. 20-year-old Elizabeth Banks was afraid to tell her mother of it, “she being sick, and distemper’d in her Head [...] supposing it would have put her into Fits, and been the Death of her.”<sup>326</sup> Ann Clarke received support when she finally told what happened. Ann, servant to shoemaker Jenkins, was so ill “by reason of the inhuman usage [she] had received” that she kept to her bed for four days. She was ashamed to seek help and only told fellow lodger Mary, who asked her why she was in bed. Ann replied that

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<sup>321</sup> OBP, December 1742, trial of William Remue (t17421208-41). Many trial records include a statement on the sufficiency of the prosecutor’s testimony. In this trial, the clerk noted: “The Necessity of the Case requiring the [Prosecutor] to be very explicit, she gave sufficient Evidence to maintain the Indictment.”

<sup>322</sup> OBP, March 1726, trial of John Simmons (t17260302-17). Mary Swain was likewise “ashamed to speak what [the defendant] did to [her]” when the court requested details of the rape, but she continued her testimony. She deposed that she “would not take a false oath for the world” and “would not go to take [the defendant’s] life away for a wrong thing.” Recording her testimony, the court clerk wrote in brackets that Mary “with a great deal of seeming unwillingness and reluctance expressed herself in such terms, as were sufficient to prove the fact”, see: OBP, April 1745, trial of John Sutton (t17450424-43).

<sup>323</sup> OBP, October 1777, trial of Edward Hatfield (t17771015-10). The details of the rape were “a very indecent matter to mention, but I am obliged to it”, Ann Clarke stated. In another case, washerwoman Mary Davis was ashamed to tell the constable in detail of having been “ravished”, see: OBP, September 1787, trial of William Wellen (t17870912-48).

<sup>324</sup> OBP, October 1743, trial of Thomas Kill (t17431012-15).

<sup>325</sup> OBP, February 1793, trial of John Curtis (t17930220-48).

<sup>326</sup> OBP, September 1717, trial of John Stevens (t17170911-41).

she was in “a very bad condition” from having been “very badly used by a man”. Upon learning that she was still “in a very ill state” the third morning, Mary brought her “a little wine mulled” along with “a little tea”. Ann told her “the whole circumstances” as she had in the courtroom.<sup>327</sup>

Then we learn about the course of action taken by Ann and her surrounding network leading up to the 1777 trial. Overcoming her sense of shame and by Mary’s persuasions, who said “it was a pity [she] should be so badly used without telling it”, Ann told her master Jenkins what happened. He was “in a passion when he heard it, and said it was hard treatment”. Ann deposed that he was ignorant on how to proceed and inquired with an attorney acquaintance of his. The men engaged in financial negotiations with the defendant, who slandered Ann for a “common prostitute”. Ann “wanted no money” and “desired Mr. Jenkins to let [her] have proper justice done [her] according to law”. About a month later, Ann took matters in her own hands and told townswoman Bartrum how badly she had been used. Bartrum brought Ann into contact with a female acquaintance of hers, who put her “in a way how to act” and recommended her to go to a justice of peace. Together, the women obtained a warrant for the defendant.<sup>328</sup>

Many postponed telling others about having been abused in more specific terms.<sup>329</sup> Desiring to share, or unable to hide their suffering because it affected their behaviour and work, most women would merely tell the people in their immediate circle that they had been ‘ill used’ or ‘ruined’.<sup>330</sup> When women told in more detail they often waited until the person they deemed safest was alone. Servant Mary Currell could not eat and sat “see-sawing in the chair in great agony”. Her mistress asked what troubled her, but Mary was ashamed to share that she was raped in front of her mistress’s family. She waited until the middle of the night to tell her mistress, with whom she shared a bed, “how [she] had been used in every

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<sup>327</sup> OBP, October 1777, trial of Edward Hatfield (t17771015-10).

<sup>328</sup> OBP, 1777, Hatfield (t17771015-10).

<sup>329</sup> Widow Margaret Maccullough “refused to tell [...] the particulars because it was a shame such things be known”, see: OBP, September 1735, trial of Edmund Togwell, Peter Matthews (t17350911-55). In another case, Rebecca Newman testified that her neighbour Betteridge May first complained to her “of a Pain in her Back, and a burning within” and that it was not a fever, see: OBP, July 1734, trial of unnamed man (t17340710-33).

<sup>330</sup> The prosecutors in the following trials deposed to have been ‘ill used’: OBP, September 1756, trial of John Canney (t17560915-27); OBP, February 1746, trial of James Raven (t17460226-32); OBP, July 1762, trial of John Sullivan, William Caswell, William Fitzgerald (t17620714-34). The women in these trials expressed that they were ‘ruined’: OBP, July 1730, trial of William West (t17300704-62); OBP, February 1771, trial of Simon Clark (t17710220-14); OBP, July 1773, trial of John Lennard, Thomas Graves, James Guy (t17730707-2); OBP, February 1775, trial of William Priddle (t17750218-1). Mary May deposed that she was “undone forever”, see: OBP, April 1715, trial of Hugh Leeson, Sarah Blandford (t17150427-43).

shape”.<sup>331</sup> Threats of harm, murder and loss of employment by defendants were further reasons for women not to disclose their experiences. The defendant had threatened to kill 20-year-old servant Susannah Gilman if she told her mistress.<sup>332</sup> Betteridge May was warned of negative employment consequences by the defendant if she told her husband, who worked for him.<sup>333</sup>

Sometimes the threats came from closer within women’s circles and would lead to further physical violence and emotional harm. In these cases, the unsupportive stance following women sharing their experiences are considered poor social care. When Ann Maria Viator told her mistress of the rape, the latter repeatedly warned her not to tell her father or he would “ruin me and kill you.”<sup>334</sup> Frances Adams did not dare “to acquaint her Mistress with it, lest her Master should be the Death of her” and told her brother instead.<sup>335</sup> Mary Curtain’s mistress desired her to settle with the defendant because it ‘was a dreadful thing to have a man hanged for her’.<sup>336</sup> Elizabeth Tarrier’s master and mistress mocked her and would not let her out of the house to tell her aunt. The aunt was told by the mistress not to inform her husband, for the defendant had money and would maintain the 16-year-old and potential child. She also said it was “a pity to take a man up to lose his life”<sup>337</sup>. Anne Lucy’s mistress supposed she was not hurt and her master said she “made a Noise for nothing.”<sup>338</sup> When Mary Swain’s father learned of the rape, he beat her, did not care for her complaints and said she deserved as much for going with the defendant when he told her not to. He deposed that he was “very willing the prisoner should be discharged” because it “was a long time before she would tell me the circumstances of the thing.”<sup>339</sup>

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<sup>331</sup> OBP, February 1771, trial of Simon Clark (t17710220-14). Despite sharing the same name, Mary’s mistress Clark was unrelated to the defendant. In another case, servant Mary Brickinshaw likewise waited until her mistress’s guests had gone because she was ashamed to share in their presence what had held her up, see: OBP, April 1768, trial of John Sheridan (t17680413-30).

<sup>332</sup> OBP, March 1721, trial of unnamed man (t17210301-58).

<sup>333</sup> OBP, July 1734, trial of unnamed man (t17340710-33). The master carpenter said he would turn Betteridge’s husband “out of his Work, and lay him in jail” for the seven guineas and a half he owed him. This made her more dependent on her own work, keeping game fowl for the defendant. In another case, Martha Doe had told her sister of the rape the next day, but her husband about three months later because the defendant had threatened to “cut his Heart out and make a Ball of it to wind [her] Guts on”, see: OBP, March 1720, trial of Michael Dobson (t17200303-48).

<sup>334</sup> OBP, May 1771, trial of William Phillips (17710515-6).

<sup>335</sup> OBP, April 1716, trial of William Atterbury (t17160411-34).

<sup>336</sup> OBP, June 1769, trial of John Litchfield (t17690628-9).

<sup>337</sup> OBP, February 1784, trial of Matthew Costillo (t17840225-19).

<sup>338</sup> OBP, July 1747, trial of Daniel Bright (t17470715-26).

<sup>339</sup> OBP, April 1745, trial of John Sutton (t17450424-43). During another trial, Sarah Robertson’s fiancé admitted in court that he had struck her “some pretty hard blows” because she had not told him the defendant had ‘lain with her’, see: OBP, January 1755, trial of Benjamin Jones (t17550116-37).

Some married women were reluctant or afraid to tell their husbands, whose responses to their wives having been raped or assaulted were varied.<sup>340</sup> A number of cases show that women's fears were warranted.<sup>341</sup> Mary Haddon's husband saw that she "was very much out of order" and he "raved and cursed like a madman" that he would never lie with her again if she did not tell him what happened.<sup>342</sup> When Elizabeth Stone told her husband, he had said that "if she did not prosecute the defendants and clear up her character, he would not live with her; for he would not be made a cuckold".<sup>343</sup> Fearing for her life, Penelope Askew had initially considered not telling her husband because "Mr. Askew is a man that absolutely does not like to have any such thing happen." He himself testified that after "such a disagreeable affair, it was impossible ever to think of living with her".<sup>344</sup> Mary Oldner was so sore that she "could hardly sit in [her] chair" but was afraid of her husband knowing of the rape. She only told him when the venereal disease she contracted from the defendant grew worse and her husband "charged [her] with giving him that distemper."<sup>345</sup>

Besides these concerning responses, it is clear from the *Proceedings* that many married women had supportive husbands, who offered immediate and effective support.<sup>346</sup> Elizabeth Berry's husband John confronted the defendant, who dropped to his knees asking to be pardoned. John called him "an ignorant Blockhead", would not pardon him and said that he should be brought to justice for 'ruining' his wife.<sup>347</sup> Soon after the defendant "had his will", newlywed Elizabeth Worsley went to her neighbour Mary. Upon learning what happened, Mary fetched Elizabeth's husband Joseph and they carried Elizabeth home. Joseph

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<sup>340</sup> These women's reluctance is evident from their depositions: Betteridge May "had such a Dread upon [her] Spirits" to tell her husband, but her declining health did not permit her to conceal it any longer, see: OBP, July 1734, trial of unnamed man (t17340710-33). Ann Finch merely told her husband that she was not well when she kept to her bed for three days, see: OBP, December 1737, trial of Thomas Trout (t17371207-46). Mary Shortney did not tell her husband at first, thinking it would ruin her forever and she "chose rather to pine [her] life away than to let [her] husband know of it", see: OBP, April 1757, trial of John Morris (t17570420-1).

<sup>341</sup> Other court records and memoirs by women reveal that many husbands treated their wives with cruelty or neglect. For more on this topic, see: Mendelson and Crawford, *Women in early modern England*, 132-136.

<sup>342</sup> OBP, August 1726, trial of Jeremy Yates (t17260831-39).

<sup>343</sup> OBP, September 1771, trial of Simon Frazier, Thomas Hodges, John Hasley (t17710911-38). In another case, we learn that Catharine Kensey's husband "was very angry with her" when she told him what happened, see: OBP, September 1751, trial of John Adkins (t17510911-57).

<sup>344</sup> OBP, April 1781, trial of Thomas Normansel (t17810425). Apparently, there had been talk of divorce, but the court clerk noted that no instructions were given to the attorney to draw up articles of separation.

<sup>345</sup> OBP, September 1765, trial of William White (t17650918-29).

<sup>346</sup> Bernard Capp arrived at the same conclusion from his study of primary sources on English sexual violence cases. See: Capp, *When gossips meet*, 243.

<sup>347</sup> OBP, October 1743, trial of Thomas Kill (t17431012-15). In another case, Elizabeth Humphreys' husband "got up in a great wrath" and with visual descriptions from his wife went out to apprehend the defendant, see: OBP, April 1752, trial of John Stevens (t17520408-19). In a later case, young mother Hannah Smart told her tailor husband as soon as he got home that "the rabbit merchant had used [her]". Upon learning from their landlady that the defendant was still in the house, Hannah's husband "went down and laid hold of him", see: OBP, September 1756, trial of John Canney (t17560915-27).



took a week-long leave from work to care for his wife, as she became “subject to fits”, sometimes five or six a day.<sup>348</sup> Hannah Atkins’ stonemason husband helped her obtain a warrant. She accompanied him at his workplace almost every day “since this affair happened, because [she] was unhappy at home.”<sup>349</sup>

The *Proceedings* reveal wider circles of support when husbands were away, when women were unmarried or had recently come to London. Many prosecutors worked in service and their networks consisted primarily of the people they worked for and lived with. These women had managed to create one or more supportive relationships upon which they could depend for help.<sup>350</sup> Elizabeth Harris and Christian Streeter had arrived in London shortly before suffering rape.<sup>351</sup> Christian from Sussex had been in the city ten days when she was targeted by the defendant for this reason. Housekeeper Mrs. Box, who had previously worked for Christian’s father and brought her to London, raised the alarm when she went missing for the night. When she told her what happened, however, Box was indifferent and advised her to go to her father’s house in the country. Instead, Christian confided in publican Jane Hatchet. She deposed that “[Christian] was in such agony, [she] never saw anything like it” and “began to examine her out of compassion”. Christian was afraid to remain in the house and desired to live with Hatchet. Despite being strangers to each other, Hatchet looked after her, “talked to her as much as [she] could” and “[laid] with her on nights”. Christian’s father came to London after receiving a letter from a Mr. Hutchinson and the four of them confronted the defendant and proceeded to the justice for a warrant.<sup>352</sup>

Even the more established women still received or sought support from those they were in daily contact with. Servant Elizabeth Morris was raped by her “poulterer” master and

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<sup>348</sup> OBP, September 1766, trial of Christopher Pearson (t17660903-70). Elizabeth’s husband Joseph went straight to the justice, who said “it did not signify coming [himself]” and that his wife’s presence was required to create the report. They obtained a warrant together days later.

<sup>349</sup> OBP, October 1775, trial of Edward Burdock (t17751018-17).

<sup>350</sup> Meldrum, ‘London domestic servants’, 47-69, at 48 and 54-57. Many historians have noted the dangers of sexual assault for female servants by their masters or master’s sons. See: Tim Meldrum, *Domestic service and gender 1660-1750: life and work in the London household* (Harlow 2000); Gowing, *Domestic dangers*, 15; Capp, *When gossips meet*, 144-146 and 158-164.

<sup>351</sup> Elizabeth Harris’ father also came up to London after she was raped by her master Mr. Priddle only two weeks after she had come to the city. Elizabeth had been invited by Mrs. Priddle to live with them after seeing her at her father’s inn in Oxfordshire. After the rape, Elizabeth first went to the maid Alice in the kitchen to tell her that she was “utterly ruined”. Alice advised her to write to her friends and father because she understood as little of the law as her. Elizabeth left the Priddle house until her father arrived. The night after he did, they went to the justice to charge Mr. Priddle, see: OBP, February 1775, trial of William Priddle (t17750218-1). In a later case, 18-year-old servant Sarah Tipple had only recently come from Norfolk and “did not know a soul in the world in London” when she was allegedly raped. She was also unaware of rape being a criminal offense and initially did not make a complaint of having been raped by her pubkeeper master, see: OBP, February 1793, trial of John Curtis (t17930220-48).

<sup>352</sup> OBP, April 1757, trial of Daniel Lackey (t17570420-42).

told her mistress when she came home. The mistress, “enraged at so monstrous and detestable an Action”, advised her to take out a warrant.<sup>353</sup> Ann Ward’s mistress Allen “had heard such a violent noise in the house” and knew that Ann “had been very ill used” from her beaten and bruised face. Ann “had not a shilling to get a warrant” so Allen lent her the money. Ann stayed “with her in her room near two hours” before going to the justice.<sup>354</sup> Sarah Sharpe’s mistress Leonard did not inspect Sarah’s body for marks of abuse until the 15-year-old’s mother was present too.<sup>355</sup> Margaret Lee’s husband was out of town when she was raped. In his absence, she told two other women that the defendant ‘had served her as a man would his wife’.<sup>356</sup> Ann Boss received support from her neighbours after she was targeted by three men. Shopkeeper Amelia told Ann to “be particular” as “a man’s life was depending”, but added that “if any one particular man has used you ill, and has ravished you, and had any knowledge of your body, in justice to yourself, and in justice to the world, take him up.”<sup>357</sup>

We rarely encounter women seeking a man’s support. There is only one such case in our sample, that of Mary Bradley. This is telling of women’s networks, and, unsurprisingly, of complex male-female relations regarding sexual transgressions. The court’s suggestive questioning on the level of intimacy between Bradley and Hamley, a male acquaintance of her oft-absent husband, reveals that it was suspicious. It clearly found it highly unusual that Hamley was so well-informed and supportive of his female friend. This shows that support from women’s male acquaintances could be met with mistrust and be potentially counterproductive to the prosecutor’s case. He was the first person the married mother of four told. He and Mary went on a walk to discuss what happened. Earlier, he had seen “some alteration in her countenance” and asked what ailed her. After not daring to tell initially, Mary said she had “something particular to acquaint [him] with”. Hamley intended to learn if

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<sup>353</sup> OBP, April 1716, trial of Richard Newall (t17160411-42).

<sup>354</sup> OBP, July 1762, trial of John Sullivan, William Caswell, William Fitzgerald (t17620714-34).

<sup>355</sup> OBP, April 1771, trial of Joseph Dowling, Mary Cove (t17710410-34). Sarah lodged with Mary Leonard, wife of a tailor, who had employed her to assist with her five young children. Leonard and Sarah’s mother examined her together the morning after the latter was able to get away from her nursing work. In another case, the prosecutor’s mistress had sent for the girl’s mother. Servant Catherine Southall, 16, “was in a vile Condition all over dirty” when she came home and was questioned “very strictly” by her mistress Mary. Catherine said that she “had been with a Man who deluded [her] away”. Mary told her husband that “some Man had done something to our Girl which he ought to be punished for”, see: OBP, January 1727, trial of Thomas Coventry (t17270113-21).

<sup>356</sup> OBP, May 1719, trial of Isaac Seaman (t17190514-45). Joan Erwin, possibly her mistress, deposed that Margaret was trembling and unable to speak when she came back from bringing fruit to the defendant. Joan saw marks on pregnant Margaret’s arms and thighs and testified that she lost her child about three days later. Eleanor Smart, perhaps a neighbour, saw bruises on the inside of Margaret’s thighs and also said that she had lost her child. Margaret’s husband James deposed that she told him of the rape and miscarriage when he came home.

<sup>357</sup> OBP, July 1773, trial of John Lennard, Thomas Graves, James Guy (t17730707-2).

there had been any intimacy with the defendant before and whether Mary had consented. If so, he would have dissuaded her to prosecute. When he learned that she did not consent, he advised her to tell her husband and go to the justice directly.<sup>358</sup>

Support from male relatives was not met with similar concern and the *Proceedings* provide a few examples of their (legal) care. Fathers, brothers and uncles also took on supportive roles. Elizabeth Tarrier's aunt defied her niece's mistress by telling her husband what happened. He found her crying in the kitchen of her lodgings and insisted on her telling him what the defendant, "a man of property", had done to her. After Elizabeth told her uncle, he said he was "determined to follow the law of him".<sup>359</sup> When Elizabeth Midwinter's brother learned the details and "nature of the injury" from her, he said he "would see her righted." From Elizabeth's relatives' testimonies, we learn that her family helped her obtain a warrant and looked after her until her health improved.<sup>360</sup> Married mother of four Sarah Bethell, whose husband was "out of his mind" and lived in the workhouse, received similar support. She went to her brother's shop and told his wife that the defendant had "committed a rape on her". Sarah's father was sent for and it "struck [him] very much" to see her injured. He had said that he would "make [the defendant] suffer for it as sure as he [was] born" and should "have what the law directs."<sup>361</sup>

Still, testimonies in the *Proceedings* show that prosecutors mostly sought help from, and were cared for by, female relations.<sup>362</sup> Penelope Askew went to her sister Elizabeth seeking advice. Upon learning of the rape, Elizabeth advised Penelope to "enter an action against him" and told her that "she was a great fool if she did not prosecute him according to law".<sup>363</sup> Whilst most women requested (and required) support from those in their social circle to see their "honour and character" righted, some women were determined to prosecute as an act of self-care.<sup>364</sup> Elizabeth Jervis told her mistress that "she would have justice done her, if

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<sup>358</sup> OBP, September 1777, trial of Ralph Cutler (t17770910-21).

<sup>359</sup> OBP, February 1784, trial of Matthew Costillo (t17840225-19).

<sup>360</sup> OBP, May 1780, trial of James Purse (t17800510-57). Elizabeth suffered from debilitating rheumatism and appears to have been cared for regularly by her siblings. She herself proposed the prosecution, which was strategically well-thought-out with indictments for both rape and assault.

<sup>361</sup> OBP, December 1778, trial of Robert Moody (t17781209-58). Sarah and her father John went to the justice the next morning and were granted a warrant.

<sup>362</sup> Prosecutor Mary Currell and her cousin went to the latter's sister-in-law Elizabeth the morning after and told her "how this man had served her". Mary was in such a "filthy condition" that Elizabeth was obliged to lend her some of [her] child's things to wrap around her". She also sent a letter to Mary's father, telling him that his daughter needed his help. Mary and her father went to the justice together and obtained a warrant, see: OBP, February 1771, trial of Simon Clark (t17710220-14).

<sup>363</sup> OBP, April 1781, trial of Thomas Normansel (t17810425).

<sup>364</sup> OBP, May 1780, trial of James Purse (t17800510-57).

it cost her her life.”<sup>365</sup> Mary Brickinshaw’s innkeeper master deposed that she went “of her own will for the warrant, [...] willing and desirous to prosecute him”. Mary’s determination is also apparent when the defendant “said he hoped [she] would not take his life away” and she replied that she “would not spare him an inch”.<sup>366</sup>

The case of Mary Hunt, a self-declared single woman, is equally remarkable. Unlike most women, she dared to give spirited responses to the court’s increasingly suggestive questions regarding her reputation. Mary’s independence, defiant tone and inability to produce witnesses likely did not help her case, however. Hailing from Wiltshire, the fact that Mary had “no relations in town” did not stop her from prosecuting. She had refused the watchman’s suggestion to make it up with the defendant in a public house and instead “gave a written charge [...] because they refused to take him without it.” When inquiring after injuries and material damage sustained by the rape, the jury suggested that Mary’s bonnet would not have “doubled” if she had laid down of her own accord rather than being forced by the defendant. When Mary responded “you would not have him kill me”, the jury said it “would not have him hurt [her]”, to which Mary quipped back: “then you think a woman is not hurt, unless she is quite killed.” The jury asked why she, as “a lady of [her] nice feelings”, did not simply run away at the sight of the defendant’s unbuttoned breeches.<sup>367</sup>

### **Medical care by expert and lay witnesses**

Regarding the emphasis on verbal testimony, women were questioned (occasionally with misogynist sentiment) on minute details and injuries from rape. Because the court did not trust women’s words, it also turned to the body for proof, but the body too was a poor witness as it could obscure reality.<sup>368</sup> Soiled and torn clothing, implying resistance and force, was considered more dependable evidence and women often spoke of material damage. Medical experts were certainly involved but their evidence not deciding. As a result, information on medical care following rape is sparse in the 124 cases analysed here.<sup>369</sup> Discussions of

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<sup>365</sup> OBP, May 1769, trial of Richard Green (t17690510-15).

<sup>366</sup> OBP, April 1768, trial of John Sheridan (t17680413-30). Mary’s master added that “if she had not of her own accord”, he would have advised her to prosecute.

<sup>367</sup> OBP, September 1787, trial of Luston Vaughan (17870912-32). Mary had been living together with Mr. Peacock “as man and wife” for three years. Rumours reached the court about earlier relations with a man out of wedlock, which led the court to inquire after past dealings with parish officers around her supposed “infamous” and “disorderly behaviour”. Mary’s testimony did not contain the elements of female modesty, women’s powerlessness against male force, and witnesses’ corroboration that could have increased her chances of conviction.

<sup>368</sup> Weisser, ‘Poxed and ravished’, 58; Gowing, *Common bodies*, 92.

<sup>369</sup> Of the 124 accounts considered in this chapter, 18 include the involvement of midwives and 20 of male practitioners.

physical observations do not necessarily lead to specific information on if, and what type of care was applied. The presence of physical signs of rape could also still be deemed insufficient evidence by the jury. Obstacles notwithstanding, even from a small number of cases, we learn who disclosed or discovered physical injury, who examined women's bodies, when and by whom practitioners were sent for, who administered care, and when witnesses (medical and lay) had opposing opinions.

Some women sent for practitioners themselves, occasionally stating their motivations. A midwife deposed that prosecutor Elizabeth Morris came to her "to know if she were with Child, desir'd her to search her, to see how she had been injured".<sup>370</sup> Martha Doe was called on by midwife Eastwood after she had "told her how she had been abused by a Man". Eastwood "found her very sore in the Private Parts".<sup>371</sup> Mary Haddon was afraid that the defendants had given her "the clap". Likely sent for by Mary herself, midwife Delavot searched her the day after the rape and "found that there had been force used with her", but she was unable to tell "whether it was done by her Husband or any other Person."<sup>372</sup> The midwife who was sent for by Margaret Maccullough deposed that she "found her bruised on her Arms, Legs, Thighs, Back, and all over, like the Bark of a Tree" – she never saw anything like it.<sup>373</sup> Betteridge May, finding herself "very much out of order" and with "a violent Pain in [her] Back", "apply'd to an Apothecary" around ten days after the rape.<sup>374</sup>

Practitioners were also sent for by others after being told of abuse or discovering suspicious signs. From midwife Kinman's deposition, we learn that Catherine Southall's mother 'desired her to search her daughter'. Kinman "found a Man had had to do with her".<sup>375</sup> Apothecary Cooper was possibly sent for by prosecutor 18-year-old Elizabeth Jones' neighbours, who "gave her Water, and other Things to recover her." Cooper deposed that Elizabeth "was attended with Convulsion Fits" and "continued Ill for 9 or 10 days after". He also "saw Marks of Violence upon her".<sup>376</sup> Mary Simmonds' mistress had pressed her to tell

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<sup>370</sup> OBP, April 1716, trial of Richard Newall (t17160411-42).

<sup>371</sup> OBP, March 1720, trial of Michael Dobson (t17200303-48). Philadelphia deposed that her sister Martha had told her what the defendant had done to her, and had shown her "the Marks on her Thighs, which were very large black Spots."

<sup>372</sup> OBP, August 1726, trial of Jeremy Yates (t17260831-39).

<sup>373</sup> OBP, September 1735, trial of Edmund Togwell, Peter Matthews t17350911-55). Having examined Margaret, the midwife "believed she would never be her own Woman again."

<sup>374</sup> OBP, July 1734, trial of unnamed man (t17340710-33). Betteridge May testified that she suffered rape on January 19 1734, she went to an apothecary on the 30<sup>th</sup> of January. During the trial, she stated that she had been under his care ever since. The session date in the *Proceedings* was 10 July 1734.

<sup>375</sup> OBP, January 1727, trial of Thomas Coventry (t17270113-21).

<sup>376</sup> OBP, October 1730, trial of John Collier (t17301014-36). Apothecary Cooper also found a "very hard Swelling" in her neck, possibly from the defendant's "pinching".

whether anybody had abused her “for [she] never saw any body in such a Condition, unless it was a Miscarriage.” Suspecting rape, she sent for a midwife.<sup>377</sup> Elizabeth Worsley’s husband went in search of an apothecary after she told him what happened. She “complained of a pain in her back and the bottom of her belly, and private parts”, caused by the “man who had ravished her”. Because Elizabeth believed she was pregnant, surgeon and apothecary Perrent “thought it proper to call in a man midwife”. They “consulted together” and prescribed undisclosed medicines for her.<sup>378</sup>

Medical experts were also sent for at the justices’ request.<sup>379</sup> Referring to the notion that rape was to be reported immediately, some practitioners’ opinions reveal a hint of moral judgement for the timing of women’s reporting and (male) ideas on bodily signs of rape. Upon examining Elizabeth Jervis, the physician observed no signs “that she had lately had any violence offered to her”. He added that “on a person of her age” any marks could have dissipated in the five days before she went to the justice.<sup>380</sup> Surgeon and man-midwife Mahom was requested to examine Elizabeth Midwinter for evidence of rape. He deposed that he found neither inflammation, soreness nor blood “which there would have been if a rape had actually been committed”.<sup>381</sup> Occasionally, medical witnesses’ opinions can be explained by them working on the defendant’s behalf.<sup>382</sup> In Elizabeth Harvison’s case, a surgeon on the defendant’s side found no signs of venereal disease upon examining him in Newgate Prison, thus arguing against rape. Other witnesses’ observations contradicted his findings. Elizabeth’s mother believed that she “by all Circumstances, had been ravish’d.” Two weeks later, her parents “found that the Child had the Foul Disease.” Three midwives observed “that

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<sup>377</sup> OBP, December 1742, trial of William Remue (t17421208-41).

<sup>378</sup> OBP, September 1766, trial of Christopher Pearson (t17660903-70). Pregnant Elizabeth had told her neighbour Mary that she was afraid she would miscarry. Mary deposed that she “examined [Elizabeth’s] linen, and it appeared to have something on it that proceeded from a man.”

<sup>379</sup> Surgeon Harvest deposed that he was sent for “the day following the act” to examine Mary Brickinshaw, see: OBP, April 1768, trial of John Sheridan (t17680413-30).

<sup>380</sup> OBP, May 1769, trial of Richard Green (t17690510-15). In two further cases, Mary Curtain and Mary Warnett were out together when they were both raped by different men. Midwife Elizabeth Ham was “called upon by the Bench of Justice to examine the two girls”, see respectively: OBP, June 1769, trial of John Litchfield (t17690628-9); OBP, June 1769, trial of Thomas Meller (t17690628-8).

<sup>381</sup> OBP, May 1780, trial of James Purse (t17800510-57). Before examining Elizabeth, Doctor Mahom deposed that it was “a heavy charge indeed” and that the prosecutor and other witnesses should take care with it “because it affects a man’s life.” He did not believe Elizabeth had been raped because he found that the hymen had not recently been ‘broken’. If it had, “there would have been blood and other appearances” on her shift. In an exceptional ruling, the jury ignored the surgeon’s opinion and convicted the defendant.

<sup>382</sup> Medical practitioners working on the behalf of defendants was not uncommon. See: Weisser, ‘Poxed and ravished’, 56; Landsman, ‘One hundred years of rectitude’, 453. One midwife was found working in this capacity. One midwife found that prosecutor Frances Adams “had been injur’d by a Man”, but a midwife “on their Side”, meaning the defendant’s, swore that “she could not discover any Signs of Violence upon the Prosecutor’s Body”, see: OBP, April 1716, trial of William Atterbury (t17160411-34).

a Man had entred [Elizabeth's] Body", but initially found "no Signs of the French Disease". When one midwife examined Elizabeth again days later, "the Passage appeared to be made much wider; and [she] found a Running upon her."<sup>383</sup> Besides the bias of some experts, it is clear that many had difficulty in determining the cause of prosecutors' conditions.<sup>384</sup>

Many other instances tested practitioners' diagnostical skills and experience. Mary Simmonds' case shows medical experts discussing whether her condition was caused by a man's force or a miscarriage. Midwife Roebank was sent for by Mary's mistress on suspicions of rape. The mistress declared that she never miscarried herself and thus could not "be so good a Judge as those that have." Roebank opined that Mary had miscarried and that the medicines administered by man-midwife Mead, who Mary had consulted before her, were "proper for such a Case." She based her opinion on the fact that she herself had five children, had miscarried and nursed others who had. Mead and a female witness also thought "that there had been a Child, or a large Miscarriage" of "at least seven Months Growth". From his thirteen years of experience, Mead did not believe Mary's condition was the result of "Forcing a Woman". Another midwife, Mrs. Handford, recognised "what Condition [Mary] was in" because she was married and had three children.<sup>385</sup> Holding a different opinion than the other witnesses, Handford and another midwife believed that Mary's injuries were not the effect of a miscarriage but "from being forced [...] by some Man". None of the witnesses, nor the court, considered whether Mary's supposed pregnancy and miscarriage could have been caused by rape.<sup>386</sup>

Experts perhaps purposely exercised caution. However, primarily male practitioners shared forceful opinions, disagreeing with women's observations and disregarding the possibility of rape. When patients displayed psychological complaints, male practitioners were dismissive. Elizabeth Russ had been a servant for four months when her master raped her. She bled so much afterwards that she "was obliged to [...] put a cloth [to her]." Seeking

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<sup>383</sup> OBP, August 1757, trial of Samuel Street (t17250827-14). The defendant was acquitted for rape, but the court ordered his indictment for sexual assault.

<sup>384</sup> Mary May's 1715 case also shows contradicting observations by medical and lay witnesses. Mary told an unnamed woman that "she was undone for ever" and had "receiv'd Damage in her private Parts". The witness deposed that she "found a Scratch, and the Parts somewhat red, as if Violence had been us'd". Mary's mother found the same injuries, and a surgeon testified that "there was a Scratch, and a sort of Inflammation in those Parts." Further practitioners disagreed. Two midwives "swore she had no Damage that they could perceive", and a surgeon found no evidence of "Damage by a Force". He did find Mary 'clapped', and the defendant "very sound" after having searched him twice. Here, it is not noted whether these practitioners worked on the defendant's behalf, see: OBP, April 1715, trial of Hugh Leeson. Sarah Blandford (t17150427-43).

<sup>385</sup> Handford deposed that nobody "but Women that have been married, can know any thing of" the "Flooding by [Mary's] Bed-side, and great Clods of Blood" that she encountered, see: OBP, December 1742, trial of William Remue (t17421208-41).

<sup>386</sup> OBP, December 1742, trial of William Remue (t17421208-41).

help from her washerwoman neighbour, the latter testified that she “was afraid of [Elizabeth] dying in [her] house” and that she “was more in fits than out of them.” Elizabeth was examined and given medicines by physician Vaux. Upon being asked by the court whether the medicines were “to be taken inwardly or to apply outwardly”, Elizabeth said that she was given medicines two or three times a day to take inwardly. This is relevant because internal sores and lacerations were thought to result from penetration, whilst external swellings or damage did not – the applied remedies could therefore indicate the cause of injury.<sup>387</sup>

Elizabeth was placed under the care of another doctor in the countryside and given “medicines, and at night stuff to make [her] sleep”. Her friend Susannah Hart visited her there and deposed that Elizabeth “had been used extremely ill [...] From the outside appearance, she seem’d to have received bodily hurt, she seemed exceedingly sore and inflamed.” Contradicting Hart’s observations, practitioner Grindall “never saw in [his] life less reason to suppose a woman had been injured”. He found no swelling, inflammation or tearing and later thought “that she had been scratching herself with her own nails” when he saw “two or three streaks of blood on her shift”. A practitioner deposed that he had prescribed “internal medicines” at the request of Vaux, “only for the fits” that were “of the hysterical kind”. Grindall and Vaux thought “the fits were all that was the matter with her, and that a little country air would do her good.” The surgeon from St. Thomas’s Hospital whose care Elizabeth was under later, deposed that he saw no signs of violence and could not believe what Susannah Hart had testified to be true.<sup>388</sup>

During Elizabeth Banks’ trial, surgeon Millet appeared to retract his initial observations as her condition worsened. Similar to Elizabeth Russ’ case, psychological distress appears to negatively impact a woman’s credibility. Elizabeth, 20, was raped when she and her sick mother were on their way from London to Salisbury. She “bled very much for a long time after” and went to see Millet two days after their arrival. She “had Medicines” from him and was still “under a Surgeon’s Hand” at the time of the trial. Millet deposed that he found an “Excoriation in the [private] Parts” and “that the Prisoner had offered her Violence”. He added that she later “complained of fainting Fits” for which he “applied proper

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<sup>387</sup> OBP, October 1776, trial of Richard Arnold (t17761016-17). Elizabeth deposed that “if [she] was able to crawl, [she] insisted upon going to [her] aunt’s to let her know the affair”. The defendant was acquitted. Weisser, ‘Poxed and ravished’, 58. Further, the severity of symptoms indicated modes of venereal disease transmission, and penetration or assault. Weisser explained that more severe cases of disease, known as ‘true claps’ or ‘confirmed poxes’, were assumed to result from the emission of seed, and therefore penetrative forced sex. Thus, mild venereal symptoms were also thought to develop from non-sexual sources. This made the disease problematic proxy for sexual intercourse.

<sup>388</sup> OBP, October 1776, trial of Richard Arnold (t17761016-17). The defendant was found not guilty.



Remedies”. When she also complained of headaches, his opinion was that “her Illness might proceed from Heat of Urine.” Upon learning that Elizabeth had continued the journey on foot after the rape and “that the Weather was very bad”, the court reasoned “that might be a great Occasion of her Illness.”<sup>389</sup>

Conversely, midwives and other female witnesses would often confidently testify to rape, or explained their reasoning for inconclusive evidence. Midwife Elizabeth Ham was an expert witness during the separate trials of Mary Curtain and Mary Warnett, who alleged to have been raped when they were out together. Comparing Ham’s testimonies shows how she weighed up the physical evidence and arrived at her conclusions. During her first inspection of 18-year-old Mary, Ham deposed that she did not perceive any signs of violence as Mary’s period prevented her from making observations. Days later, she found no convincing proof for rape, adding that “the discharge [menstruation] she had before might have taken off the inflammation.” She did find “a little venereal complaint [...] something of a running”, but could not account for its appearance. She could not say what she observed “the second time was natural or by force”.<sup>390</sup> Ham found more convincing evidence upon examining 17-year-old Mary Warnett, whom she believed “had been used extremely ill.” Her thighs “were as if she had been cut with a horse-whip.” When this had dissipated days later, Ham asked “if she had drank any thing that occasioned such an inflammation.” Mary said she had not and that the inflammation was caused by “the violence of her struggling”. Ham found her private parts “inflamed and torn” and from her linen “saw she had been used indecently.” Ham’s expert opinion was clear: “If she had not been debauched, there would not have been what I saw.”<sup>391</sup>

The *Proceedings* offer scarce information on the medicines, remedies and treatments practitioners applied to women’s injuries and illness, regardless of whether they believed rape to be the cause. When recorded, this information is often not very specific. From Elizabeth Russ’ case, we find that the court inquired whether the prescribed medicines were for internal or external application – indicating inquiry after the source and severity of injury or disease.<sup>392</sup> We learn about practitioners’ visits to prosecutors, hospital admission and nursing done by relatives. Some cases also tell of (indirect) interaction between practitioners and whether they deemed the prescribed remedy appropriate, as in Mary Simmonds’ case.<sup>393</sup> Of

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<sup>389</sup> OBP, September 1717, trial of John Stevens (t17170911-41). The fact that Elizabeth had not told anybody of having been raped, strengthened the case for the defendant’s acquittal.

<sup>390</sup> OBP, June 1769, trial of John Litchfield (t17690628-9).

<sup>391</sup> OBP, June 1769, trial of Thomas Meller (t17690628-8).

<sup>392</sup> OBP, October 1776, trial of Richard Arnold (t17761016-17). Weisser, ‘Poxed and ravished’, 58.

<sup>393</sup> OBP, December 1742, trial of William Remue (t17421208-41).

the 124 trials studied in this chapter, a single case explicitly discloses which remedy was applied for injury sustained by rape and consequent venereal infection. Sarah Tipple's female neighbour had seen the prosecutor wash herself with fuller's earth and that "she was chafed".<sup>394</sup> Sarah had been seen using it externally, to sooth her inflamed skin. In the record, it is not specified how she obtained fuller's earth or how she knew to apply it to her injuries.

This touches upon lay women's knowledge, affirming the presence of a basic level of understanding of healing principles. We have seen that women living in close quarters did not need formal medical training to recognise altered behaviour and signs of abuse. Lay female witnesses testified with authority on their observations, showing that matters of sexual abuse and illness were well within the realm of women's common knowledge.<sup>395</sup> Like midwife Elizabeth Ham, women would also admit when they found insufficient evidence, were unsure how to interpret the signs, or did not judge themselves competent. Mary Currell's acquaintance Besington, for example, was asked by the court if she examined the prosecutor's body "to see if there was any appearance of force". Besington said that she did not because she was not a midwife.<sup>396</sup> Most women were assertive witnesses. When her mistress and her mother examined Sarah Sharpe together, the former found her to be "badly used" by a man and "very much inflamed." Her mother deposed that Sarah's private parts appeared "very sore and red [...] as if a man had carnal knowledge of her".<sup>397</sup>

Many women gave their experience of being married, having had children, or their knowledge of female bodies as reasons for being able to interpret what they observed; this we have seen in aforementioned testimonies. In another example, on the basis of being a married woman, Jane Hatchet asked Christian Streeter the "particulars" of what the defendant did to her to discover the extent of the abuse. When Christian told Hatchet that her sheets were bloody, she asked "whether it was not about her times", to which the girl replied that she already had her period.<sup>398</sup> Women often referenced menstruation as a means to explain irregularities. In Elizabeth Harris' case, maid Alice deposed that she "saw blood and nature [sperm]" on Elizabeth's clothes as she was washing them. Alice thought this odd and believed "a man must have had something to do with her; or else it was extraordinary [her

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<sup>394</sup> OBP, February 1793, trial of John Curtis (t17930220-48).

<sup>395</sup> Weissner, 'Poxed and ravished', 64.

<sup>396</sup> OBP, February 1771, trial of Simon Clark (t17710220-14).

<sup>397</sup> OBP, April 1771, trial of Joseph Dowling. Mary Cove (t17710410-34). Sarah's mother added that "her linen was in a filthy, bloody condition, and greasy with grease that he put upon her."

<sup>398</sup> OBP, April 1757, trial of Daniel Lackey (t17570420-42). Hatchet had kept Christian's bloodstained linen for evidence in court.

courses] returning so soon again.” Elizabeth herself testified that she saw blood on her linen when she gave it to Alice for washing, adding that she was not menstruating and that it was caused “by the force of Mr. Priddle.”<sup>399</sup>

Upon testifying to Ann Clarke’s injuries, her fellow lodger Mary spoke from the experience of being a woman who had many children. She deposed that Ann “had a great discharge of blood come from her in a most violent manner” and she knew it was from “ill usage.” Upon being questioned by the court how she knew whether the blood was not from a “natural cause”, Mary said she was “sure to the contrary; about three weeks before she was as all women in common are; I am confident it was from ill usage [...] I saw it in the proper manner where the blood came from.”<sup>400</sup> Female witnesses’ testimonies reveal slivers of intimate conversations and moments shared between women of various ages and differing social standing. We learn that the violations of rape and sexual assault were familiar social facts and that women who had been made to suffer it received care for extended periods of time.<sup>401</sup> Witnesses noticed physical irregularities, were able to recognise possible signs of rape or sexual assault and came together for the wellbeing of other (young) women. However, the *Proceedings* offer little information on how specifically women were medically treated, either by practitioners or by those in their social circles. This analysis encourages socio-medical historians to continue to piece together a much needed, more complete picture of medical care remedies for women’s sexual violence injuries.

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<sup>399</sup> OBP, February 1775, trial of William Priddle (t17750218-1).

<sup>400</sup> OBP, October 1777, trial of Edward Hatfield (t17771015-10). Mary also shared that Ann had complained of being “violent fore, and not able to discharge her water by the violence she had received.”

<sup>401</sup> Gowing, *Common bodies*, 101. In another case, we learn that Elizabeth Swetman cared for prosecutor Ann Smith for an undisclosed amount of time. Swetman’s cousin kept the house where Ann lodged. She was attended by a surgeon, but Swetman was employed to nurse her as she was “afflicted with fits at times ever since” the rape, see: OBP, June 1772, trial of William Barrett. William Cherry. James Smith (t17720603-9).

## Conclusion

Out of fear, Grace Pitts told nobody that she had been raped. Her mistress Wilkinson came to suspect ‘ill usage’ through the appearance of Grace’s linen and her gait. She also observed a running, which had not healed when the trial was held. Wilkinson’s consideration for Grace’s well-being is apparent through noticing a change in the girl’s health. Her care is evident by sending for a surgeon, going to the justice with the charge of rape, and monitoring Grace’s condition. Wilkinson’s testimony reveals an understanding of the female body and indications of sexual abuse. She attended the surgeon’s examination and deposed that he believed Grace to have been raped by a man.<sup>402</sup> Another surgeon testified to her bad condition, finding “her Parts very much distended, much enlarged and [f]oul.” He thought, however, that the “Extension of these Parts” could have resulted from “other Accidents, than to come by the use of Men”. Because ten-year-old Grace was above the age of consent, she was treated as an adult. Due to the supposed lack of evidence for non-consent and forcible penetration, the jury acquitted the defendant.<sup>403</sup>

This case shows a lay woman’s care and is exemplary of contemporary medical ideas on female bodies, (medical) witnesses’ opposing opinions, and the impediments of rape law – elements that permeate our trial accounts. The present analysis owes greatly to the work of past and present historians on these matters, providing a historiographical framework on rape for the context and construction of the depositions in the *Proceedings*. As previously demonstrated by historians, the ability to act and speak following a rape was heavily restricted. Women’s speech on coerced intercourse was shaped by the availability of appropriate languages and concepts in early modern English culture.<sup>404</sup> The evidence required to convict a rape nevertheless demanded the disclosure of intimate details, which were elaborately discussed in the male courtrooms and published in the *Proceedings*. Unlikely conviction, insufficient social support, shame and the risk of slander may have persuaded some survivors not to pursue legal action.<sup>405</sup> This has impacted who we do and do not find in the records.

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<sup>402</sup> According to Wilkinson’s testimony, the surgeon she sent for had said that the man should be hanged for his ‘ill use’ of Grace, see: OBP, April 1747, trial of John Hunter (17470429-28).

<sup>403</sup> OBP, April 1747, trial of John Hunter (17470429-28).

<sup>404</sup> Walker, ‘Rereading rape’, 18. Women’s words predominantly survive in records created by male civic authorities and publishers, see: Pallotti, ‘Maps of woe’, 213; Weisser, ‘Poxed and ravished’, 165-166; Gowing, *Common bodies*, 92 and 94; Siena, *Venereal disease*, 57.

<sup>405</sup> Snell, ‘Trials in print’, 40-41; Walker, ‘Rereading rape’, 18.

To meet the demands of the law and without debasing their character, women shaped their narratives to focus on their resistance to men's violence. Unlike Grace's, most girls' stories were not admitted as evidence. We learn of their experiences primarily through witnesses' stories of discovery and the evidence provided by medical experts. The variances in rape law, and the emphasis on verbal testimony in women's trials and on physical proof in those concerning girls, impact our access to information on ill health and care in these respective cases. This has resulted in varying research findings regarding the aim of this thesis, which was to shed light on the ways early modern survivors of sexual violence in London sought and received social and medical care – a topic that has thus far been neglected by historians. The analysis has shown that both women's and girls' cases offer information on social and medical care networks: who disclosed or discovered injuries or illness, who examined their bodies, when and by whom practitioners were sent for, who applied care and administered remedies. However, due to the emphasis on the physical in girls' trials, these provide significantly more information on medicines and remedies for ailments after allegations of rape than those involving women.

Identifying medical practices and mapping social care networks have offered a glimpse into how women and girls' caregivers exerted agency through a complex web of patriarchal cultural and legal systems. Our evidence from the *Proceedings* shows that the majority of survivors had networks they could rely on for emotional, legal, medical, and occasionally, financial support. These informal social networks likely contributed to them appearing at the Old Bailey. Care was highly localised and social boundaries within households were fluid.<sup>406</sup> Mistresses, masters, servants, aunts, husbands and siblings provided varying levels of support. This thesis has shown that women and girls sought and received care mostly from other women, revealing that sexual transgressions and its effects were common knowledge and discussed between midwives, mothers, mistresses, maids and neighbours. Women observed unusual behaviour, suspicious stains and found blood when the prosecutors were not supposed to be menstruating. They would regularly reference their own experiences of being married, having had or delivered children for being able to interpret what they saw.

Our sample also provides information on poor social support and harmful responses from survivors' relations. Women were dissuaded to prosecute or told by their husbands that they had made them into a cuckold. Girls were threatened with violence by their assailants

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<sup>406</sup> Strocchia, 'Introduction', 498; Pelling, 'Older women and the medical role', 70.

not to tell, or aggressively pressured by caregivers to divulge the cause of their ailments. Some girls were actually beaten, which partly explains their fear of telling others. These responses to discovering sexual violence display another expression of London's communities of mutual surveillance, self-policing and self-regulation.<sup>407</sup> Contrasting the supportive networks we have observed, these more punitive approaches perhaps indicate the poor treatment of women and girls whose stories we do not see in the *Proceedings*.

This study has also illuminated the medical care mechanisms following instances of sexual violence. Prosecutors and lay witnesses sought care by authorised medical practitioners directly, or when they and their relations did not know how to interpret their observations. Historians have found that the narrative of venereal disease offered a framework for speaking about rape without mentioning sexual activity when sharing these findings in court. This was applied more frequently in trials involving girls than women. We nevertheless find lay and medical witnesses who spoke of injury from rape and of raped, not merely sickly bodies. The elaborate discussions of witnesses' testimonies also display hierarchies between practitioners. Midwives and other female witnesses deposed with authority on rape. Conversely, male practitioners were reluctant to give evidence for the capital offence and often stated venereal disease as the cause of injury. Sexual violence was the expertise of women, but if the testimony of a midwife contradicted that of a male surgeon, it was the man's evaluation that took precedence.

Comparing male and female practitioners' testimonies has laid bare the socio-medical framework in which they operated. It illustrates the reality of midwives' professional regard in their own domain. This thesis has incidentally revealed a pattern of the undermining of midwives by male practice. Their diminishing presence as expert witnesses in court throughout our period coincides with the European trend of male medical professionalisation and the exclusion of female practitioners from regulated practice. They carried on with their work, albeit within less visible structures. This affirms the continued need to integrate women healers – professional and lay – into women's history as well as medical history.<sup>408</sup> Various concepts of analysis, including our verb- or task-oriented method, show great promise of further unearthing the scope of women's healthcare work. However, the imposed limitations on midwives' work have inevitably led to gaps in the records. Due to the higher ratio of male to female practitioners across our sample, most information on medicines and treatment

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<sup>407</sup> Gowing, *Domestic dangers*, 22; LeJacq, 'The sodomitical body', 155.

<sup>408</sup> Fissell, 'Introduction', 15-16.

methods in the *Proceedings* is conveyed to us by the former. We know from other primary sources that midwives did administer medicines.<sup>409</sup> Although midwives were occasionally found to reflect on the adequacy of other practitioners' treatments, this study has only once found a midwife's prescription of a specific remedy – a dose of salts – in Mary Tollin's case.<sup>410</sup> A second if we include surgeon's and apothecary's widow Mears' treatment of Mary Craggs ("some powder").<sup>411</sup>

Various witnesses' observations and prosecutors' stories have enabled the study of corporeal complaints, diagnostics and medical treatments. A diagnosis could indicate whether prescribed treatments were intended to treat rape injuries specifically, but contemporary medical thought does not readily lend itself to this objective. The regular synonymising of venereal symptoms and rape injuries complicated recognising targeted care methods, and survivors could suffer from both. Many women and girls were prescribed salivations or 'mercurial courses' for venereal infections, also preventatively. This study has nonetheless found examples of remedies for rape injuries. These come predominantly from trials involving girls. We learn whether the prescribed medicines were for internal or external application, indicating the severity of symptoms and thus the likelihood of rape. Some survivors received treatment at the hospital, but most were cared for at home and regularly paid return visits.

This analysis has found that ointments and lotions for topical application appear to be common remedies aimed at healing sexual violence injuries. A clay paste, fuller's earth, is also mentioned. It was intended to soothe inflammation and could be applied with a plaster. The remedy of turpentine, a distilled resin or dried powder from coniferous trees, could be ingested in pill form or applied externally. Twice recorded in the *Proceedings* was the practice of washing the private parts with (warm) milk. Other once-mentioned treatments – two doses of manna, and a dose of salts – were intended to have a purging or laxative effect. Remarkably, these remedies were prescribed and applied by professional practitioners as well as lay women, showing that their diagnostical abilities and healing methods were occasionally strikingly similar. Both sought to restore the balance in survivors' bodies by using cooling, soothing or purging methods. Historians have only recently started relinquishing hierarchical distinctions between lay and professional medical work. Our research findings have proven the value of including lay people's bodily observations and

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<sup>409</sup> Harley, 'Provincial midwives', 28-29 and 34; Marland, *The art of midwifery*, 6.

<sup>410</sup> OBP, September 1789, trial of Edward Studsbury (t17890909-96).

<sup>411</sup> OBP, January 1749, trial of George Tennant (t17470113-15).

medical practices. Lay women especially were sufficiently capable of recognising ailments and possessed adequate knowledge for attempts at healing. Broadening research perspectives and applying alternative research methods offer a wider picture of early modern care.

Further research into early modern social and medical care for sexual violence survivors will need to expand the geographical scope beyond London. Which care networks and medical remedies will historians encounter in other urban, or rural, areas? Alternative approaches to various previously explored records for rape and women's work activities such as church court depositions, the Northern Circuit assizes, diary entries and autobiographical writings could prove fruitful.<sup>412</sup> Recipe and remedy books could also offer valuable information. This thesis has not been able to draw on past historical research on treatments for sexual violence injuries because this is non-existent. Despite the invaluable contributions of social-medical historians, the gaps in literature demonstrate the need to increase our understanding of historical instances of rape. There are inherent challenges to this field of study. By delving deeper into much-studied records, however, this thesis has initiated the uncovering of medical care practices and mostly female social support networks, thereby enhancing our perceptions of the historical social and medical treatment of survivors of sexual violence.

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<sup>412</sup> Toulalan, 'Child sexual abuse', 25; Walker, 'Rape, acquittal and culpability', 136-137.



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## Appendix I

Table 3. *Sexual offence search terms and results in the Old Bailey archive, 1674-1800*<sup>413</sup>

	All offences	Sexual offences
Rape	256	189
Ravish	135	97
Ravishing	85	77
Carnal knowledge	59	42
Carnally know	170	172
Carnally knowing	84	81
Assault / Assaulting	2211 / 71	142 / 2029
Abuse	325	35
Abusing	173	22
Consent	629	94

<sup>413</sup> *The Proceedings of the Old Bailey* (www.oldbaileyonline.org, version 9.0, Autumn 2023).



## Appendix II

Table 4. *Poor health, care and healing search terms, 1674-1800*<sup>414</sup>

	All offences	Sexual offences
Disorder	287	55
Search / searched	4464 / 5071	50 / 29
Midwife	279	69
Surgeon / chirurgion	1142 / 49	103 / 4
Doctor	518	36
Apothecary	410	33
Washerwoman	249	4
Linnen / linen	2025 / 6774	28 / 53
Stain / stains / stained	120 / 58 / 84	8 / 5 / 7
Medicine / medicines	119 / 178	3 / 21
Remedies / remedy	95 / 201	1 / 0
Salivation / salivations	31 / 27	4 / 1
Foul disease	95	52
Venereal disease	147	30
Running / discharge	2317 / 583	47 / 27
Gonorrhoea	22	5
Infection / infected	61 / 23	11 / 6
Clap / clapped	215 / 511	23 / 18
Injury	407	44
Bad condition	1444	68
Bruise / bruises / bruised	280 / 277 / 279	2 / 8 / 15
Swelled / swelling	116 / 69	21 / 8
Laceration	36	36
Lain with	373	68
Cried out	2028	82
Penetration	39	35
Private parts	378	78

<sup>414</sup> *The Proceedings of the Old Bailey* (www.oldbaileyonline.org, version 9.0, Autumn 2023).