

# **Children, Homicide and Accidents in Early Modern England and Wales, c.1600-1730**



**Submitted by Abby Johns to the University of Exeter  
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**Signature:** .....

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## Abstract

This thesis provides the first in-depth study of the accidental and wilful deaths of children, and caused by children, in early modern England and Wales, c.1600-1730. It establishes that age is a category of analysis that must be taken into consideration when examining early modern crime to form a more holistic understanding of how the law and expectations of childhood operated in practice in England and Wales. Historians of crime and childhood rarely discuss lethal violence by children or homicides against children that were not categorised as murder, such those returning verdicts of manslaughter or misadventure. This topic expands on the vast historiography of neonatal infanticide that is so prevalent in secondary literature about early modern crime, bringing the historiography of crime into closer alignment with the history of childhood, in which historians have already begun to explore agency and children's relationships with other children and adults. This thesis draws on a range of source material from the underexploited pre-trial depositions from the Court of Great Sessions, records from the Northern Circuit that have been overlooked by historians of crime, the *Old Bailey Sessions Papers*, popular crime pamphlets and broadside ballads and newspapers to examine the nature and extent of homicides of and by children in the early modern period.

## Acknowledgements

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The process of completing this project has been an overwhelming and tough experience that has greatly impacted on my mental health and enthusiasm for research. Academia has, at times, been a difficult environment for me to be a part of especially while I struggled with feelings of self-doubt, inadequacy and uncertainty that most PhD students will recognise. Recent research has shown that over 30% of PhD students experience mental health issues. The prevalence of poor mental health among postgraduates does not surprise me and I suspect that there are many more people who are suffering in silence. I know PhD students, from a variety of universities in the UK, who have experienced intimidation by ego-driven and authoritative professors, poor and unsatisfactory supervision, pressure to constantly work, exploitation of unpaid teaching work and even plagiarism. Many of these students have not received adequate support from senior management or academics who have told them they have to 'suck it up', toughen up or move to another institution. This attitude must change if universities want to attract the best and brightest students and nurture their passion for research. The PhD mentoring system in place at the University of Exeter is particularly good at preventing these problems and I hope that other universities introduce and enforce similar schemes.

I could easily have felt isolated during my own period of depression and anxiety if it wasn't for all the wonderful people I have in my life. I would like to thank everyone who supported me through this challenging time and reminded me of the importance of maintaining a healthy work-life balance. I am especially grateful to Jazz, Cat and Anna for their emotional support and friendship, and to Joe for his love, patience and reassurance.

Finally, I would like to thank my family, especially my gran, Margaret, and my uncle, Mark, for always believing in me and for supporting my academic endeavours (and my financial instability). Most of all I wish to thank my grandad, Dave Johns, who worked extremely hard and sacrificed a great deal to care for me while I was growing up. I miss him every day. Without his encouragement from such an early age I would not have dreamed that I could try to, or even should, complete a PhD thesis.

## Abbreviations

NLW GS	National Library of Wales, Aberystwyth, Great Sessions Goal Files
OBSP	<i>Old Bailey Sessions Papers</i>
OA	<i>Ordinaries' Accounts</i>
TNA ASSI	The National Archives, London, Assize court records
HASTINGS	Hastings Museum, Hastings, Coroners' inquest records
TNA KB	The National Archives, London, Court of King's Bench

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### **Prefatory note**

Dates follow old style, but the year is taken to begin on January 1. While I have removed thorns and expanded contractions such as 'examinant' and 'deponent', I have retained all other original spellings in quotations. Where the name of an early modern person or place is spelled differently in a case, I have used the spelling that is used most often in the text.

## Introduction

In September 1660, in the market town of Wrexham, thirteen-year-old William Morris accidentally shot and killed his master's three-year-old infant, Daniel Roberts. Morris testified that his master Edd Roberts, a 'troop', had carelessly left his pistols lying around the house and, being curious, he picked up one of them. Asserting that he did not know it was charged and 'not thinking any harm towards any', he cocked the gun and made it ready to fire. The gun went off in his hand and, unluckily, hit and killed his master's infant son.<sup>1</sup> Following a grand jury trial, the homicide was judged to be 'infortunam', or an unfortunate, accidental killing.<sup>2</sup> This case raises many questions about the nature of children's violence, culpability, agency, relationships, the spaces they occupied, and social and cultural reactions to children's violence and deaths. How did early modern society and the law interpret and react to children's lethal violence? Were children treated differently to adults under homicide law and, if so, were variations consistently applied? How did cultural constructions of childhood impact on both the representations and the experiences of children who committed violence and who were involved in accidents? How did adults and children feel when they killed children?

This thesis provides the first comprehensive investigation of the accidental and wilful deaths of children, and caused by children, in early modern England and Wales between approximately 1600 and 1730. The central argument is that children who killed other people were almost always unquestionably treated as distinct from youths and adults under homicide law, in popular crime narratives and by legal officials and witnesses. Ideas of child innocence, passivity, ignorance, and their inability to employ reason, that were prevalent in descriptions of child victims in didactic and child-murder literature, influenced how early modern people and the law interpreted children who were violent. Children were rarely held accountable for their violence. Early modern beliefs about the identity and characteristics of a 'child', evident in printed texts, legal manuals and depositional evidence, indicated that 'felonious discretion' for a child under the age of eight was 'almost an impossibility in nature' and that it was incredibly rare for a child under the age of fourteen (the age of discretion)

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<sup>1</sup> *National Library of Wales (NLW), Great Sessions (GS), 4/25/2001/25.*

<sup>2</sup> *NLW, GS, 4/25/1/32.*

to understand the difference between right or wrong – a requirement for determining malicious intent under common law.<sup>3</sup> Pamphlets and broadside ballads that described children's violence often attributed such behaviour to divine providence, witchcraft and the overpowering influence of adults who persuaded them to kill another person.<sup>4</sup> Moreover, children's lethal violence rarely fit legal or societal expectations of how violence should be conducted and those who were most likely to be involved in violent acts, situations or altercations. However, as this thesis will argue, ambiguities and nuances about children's culpability for violence did become more apparent when children close to, but under, the age of discretion (fourteen) committed violence and appeared to recognise the difference between right and wrong. As historians of crime have argued, the age of discretion was not rigidly adhered to in child rape cases and, as this thesis will establish, children under fourteen were prosecuted for homicide and gave evidence in pre-trial depositions and trials during this period.<sup>5</sup> As I will contend, early modern society understood that child culpability changed depending on each individual child. Children over the age of discretion could also exhibit child-like behaviours and be treated and characterised as children by witnesses of homicide and social commentators.

At first sight, the history of early modern children and homicide may appear to be limited to narratives of parents who murdered their infants, but this thesis analyses children's involvement in all types of homicide (murder, manslaughter, misadventure, and acquittals) to demonstrate that children were killed by, and themselves killed, many sorts of people in various contexts. Since

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<sup>3</sup> William Blackstone, *Commentaries on the Laws of England, Volume 4* (London, 1765-1769), p. 29; Ralph Houlbrooke, *The English Family, 1450-1700* (London and New York, 1984), p. 141.

<sup>4</sup> For example, see: Anon., *A Warning for all Murderers. A Most Rare, Strange, and Wonderfull Accident Which by God's Just Judgement Was Brought to Pass* (London, 1638?); John Barrow, *A True Relation of the Wonderful Deliverance of Hannah Crump, Daughter of John Crump of Warwick, who was Sore Afflicted by Witchcraft, for the Space of Nine Months; with the Several Means Used, and Way in which She was Relieved* (London, 1664); Anon., *Horrid News from St. Martins, or, Unheard-of Murder and Poyson Being a True Relation how a Girl Not Full Sixteen Years of Age, Murdered Her Own Mother at One Time, and a Servant-Maid at another with Ratsbone* (London, 1677).

<sup>5</sup> Julie Gammon, "'A Denial of Innocence': Female Juvenile Victims of Rape and the English Legal System in the Eighteenth Century", in Stephen Hussey and Anthony Fletcher (eds), *Childhood in Question: Children, Parents and the State* (Manchester, 1999), pp. 74-95; Sarah Toulalan, 'Child Sexual Abuse in Late Seventeenth and Eighteenth-Century London: Rape, Sexual Assault and the Denial of Agency', in Nigel Goose and Katrina Honeyman (eds), *Childhood and Child Labour in Industrial England: Diversity and Agency, 1750-1914* (Farnham, 2013), pp. 23-44; Garthine Walker, 'Rape, Acquittal and Culpability in Popular Crime Reports in England, 1670-1750', *Past & Present* 220:1 (2013), pp.115-142.

the 1970s, historians of crime have been fascinated with parents who murdered their children, especially unmarried women who killed their new-born infants, the most helpless victims of all.<sup>6</sup> This topic still appeals to scholars who have examined early modern perceptions of female violence, constructions of the female murderer in relation to motherhood and parenthood, and the history of emotions.<sup>7</sup> However, the inordinate focus on neonatal infanticide in the historiography of crime has made it seem as though this was the only or, at least, the main context in which children were killed during this period. This thesis argues that infanticide constituted merely one of many circumstances and situations by which children of all ages were deliberately and accidentally killed in England and Wales. Children were killed by many different people including, but not limited to: parents, grandparents, siblings, aunts, uncles, masters, mistresses, friends, neighbours, and strangers. Therefore, this thesis critically assesses the parent-child framework prevalent in the historiography of crime and establishes the merits of investigating wider adult-child and child-child relationships. The removal of the restricting parent-child framework brings the historiography of crime into closer alignment with the history of childhood, in which historians have already begun to explore children's interactions and relationships with other children and adults.

This thesis not only seeks to introduce and familiarise historians of early modern crime and childhood with child killers, but also to explore children's accessibility to violence in relation to age, gender and social status and interpretations of children's lethal and non-lethal violence in early modern society. Historians of crime rarely discuss seventeenth- or early eighteenth-

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<sup>6</sup> For example, see: Keith Wrightson, 'Infanticide in Earlier Seventeenth-Century England', *Local Population Studies* 15 (1975), pp. 10-22; R. W. Malcolmson, 'Infanticide in the Eighteenth Century', in J. S. Cockburn (ed.), *Crime in England, 1500-1800* (Princeton, 1977), pp. 187-209; Laura Gowing, 'Secret Births and Infanticide in Seventeenth-Century England', *Past & Present* 156 (1997), pp. 87-115; Mark Jackson (ed.), *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550-2000* (Aldershot, 2002).

<sup>7</sup> Anne-Marie Kilday, 'Desperate Measures or Cruel Intentions? Infanticide in Britain since 1600', in Anne-Marie Kilday and David Nash (eds), *Histories of Crime: Britain 1600-2000* (London, 2010), pp. 60-79; Marilyn Francus, *Monstrous Motherhood: Eighteenth-Century Culture and the Ideology of Domesticity* (Baltimore, 2012); Garthine Walker, 'Child-Killing and Emotion in Early Modern England and Wales', in Katie Barclay, Kimberly Reynolds, and Ciara Rawnsley (eds), *Death, Emotions and Childhood in Premodern Europe* (London, 2016), pp. 151-71; Katie Barclay and Kimberley Reynolds, 'Introduction: Small Graves: Histories of Childhood, Death and Emotion', in Katie Barclay, Kimberly Reynolds, and Ciara Rawnsley (eds), *Death, Emotions and Childhood in Premodern Europe* (London, 2016), pp. 1-24.

century children who instigated violence.<sup>8</sup> Children's violence was rarely performed in the parent-child framework that scholars of crime often engage with to analyse children's involvement in homicide. As Anne-Marie Kilday and Garthine Walker have noted, parricide was an exceptionally rare crime in early modern Britain because it contravened fundamental expectations of familial hierarchies and social order.<sup>9</sup> This also applied to other adults. Children rarely killed adults – I have found only one case in which a 'young fellow', whose age is not recorded, accidentally killed a man by throwing stones at a crowd – and were more likely to commit extreme violence against other children.<sup>10</sup> There are only three cases – from two newspaper reports and a pamphlet – of parricide in the jurisdictions examined in this thesis.<sup>11</sup> Moreover, children's violence is rarely visible in legal sources and crime narratives about murder that deemed children too young to be culpable for intentional killings. Scholars who have explored children's violence often focus on exceptional circumstances in which children's violent behaviour originated from witchcraft and supernatural forces or parricide.<sup>12</sup> As accounts of accidental homicides demonstrate, children's violence did not have to occur in unusual situations. Children inflicted violence and killed other children in everyday, mundane circumstances: they threw sticks and stones at, and on rare occasions stabbed, one another during arguments, and they accidentally and in jest shot one another when they believed that their guns were not charged.<sup>13</sup> This thesis situates children in the social and cultural history of crime, in which historians have already demonstrated how gender

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<sup>8</sup> There are some notable exceptions: Jessica Warner and Robin Griller, "'My Pappa Is out, and My Mamma Is Asleep.'" Minors, Their Routine Activities, and Interpersonal Violence in an Early Modern Town, 1653-1781', *Journal of Social History* 36:3 (2003), pp. 561-84; Laurence Brockliss, 'Pupil Violence in the French Classroom 1600-1850', in Laurence Brockliss and Heather Montgomery (eds), *Childhood and Violence in Western Tradition* (Oxford, 2010), pp. 220-26.

<sup>9</sup> Anne-Marie Kilday, "'Sugar and Spice and All Things Nice?" Violence against Parents in Scotland, 1700-1850', *Journal of Family History* 41:3 (2016), pp. 318-35; Garthine Walker, 'Imagining the Unimaginable: Parricide in Early Modern England and Wales, c. 1600-c. 1760', *Journal of Family History* 41:3 (2016), pp. 271-93.

<sup>10</sup> TNA, ASSI 4/40/3/11, 15, 16, 17; Warner and Griller, "'My Pappa Is out, and My Mamma Is Asleep'", pp. 561-84.

<sup>11</sup> *London Journal*, 26 October 1723; *London Journal*, 21 July 1722; Anon., *Horrid News from St. Martins, or, Unheard-of Murder and Poison* (London, 1677).

<sup>12</sup> Lyndal Roper, "'Evil Imaginings and Fantasies": Child-Witches and the End of the Witch Craze', *Past & Present* 167 (2000), pp. 107-139; Ralph Frenken, 'Child Witches in Renaissance Germany', *Journal of Psychohistory* 26:4 (1999), pp. 864-867; Robert S. Walinski-Kiehl, 'The Devil's Children: Child Witch-Trials in Early Modern Germany', *Continuity and Change* 11:2 (1996), pp. 171-89; Liv Helene Willumsen 'Children Accused of Witchcraft in 17th-Century Finnmark', *Scandinavian Journal of History* 38:1 (2013), pp. 18-41.

<sup>13</sup> *Old Bailey Sessions Papers (OBSP)*, 2 July 1684, George Burchall, t16840702-11; *The National Archives (TNA)*, ASSI 45/15/3/41; TNA, ASSI44/39.

impacted on instances and constructions of violence.<sup>14</sup> Gendered discourses and expectations of violence that historians have explored in relation to adults and youths affected how children instigated violence and how it was understood by witnesses, legal officials, and social commentators. Boys from the age of ten imitated masculine violence that they had witnessed and experienced to resolve conflicts with other boys. Jessica Warner and Robin Griller have demonstrated that in Portsmouth girls assaulted other girls, but in the jurisdictions examined in this period it appears that boys' violence was more likely to involve weapons and therefore result in death.<sup>15</sup> Boys' interpersonal and gang violence was interpreted differently than adult male violence that was often associated with masculine honour codes and righteous responses to affronts.<sup>16</sup> Boys inflicted violence to negotiate their relationships with other children and to test the boundaries of masculine violence, in which they were not yet expected to participate. Secondary literature on juvenile crime and 'delinquency' almost exclusively focuses on the nineteenth and twentieth centuries, making it seem that children's lethal violence is a uniquely modern phenomenon.<sup>17</sup> While there was not yet a concept of the 'juvenile delinquent' in the early modern period or separate penal policies for young criminals, authors of domestic handbooks differentiated youths as particularly prone to deviance and sin.<sup>18</sup> This thesis establishes that an analysis of children's violence is relevant and pertinent to early modern society.

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<sup>14</sup> Alexandra Shepard, *Meanings of Manhood in Early Modern England* (Oxford, 2003); Garthine Walker, *Crime, Gender, and Social Order in Early Modern England* (Cambridge, 2003); Krista Kesselring, 'Bodies of Evidence: Sex and Murder (or Gender and Homicide) in Early Modern England', *Gender & History* 27:2 (2015), pp. 245-62.

<sup>15</sup> Warner and Griller, "My Pappa Is out, and My Mamma Is Asleep", pp. 561-84.

<sup>16</sup> Robert Shoemaker, 'Male Honour and the Decline of Public Violence in Eighteenth-Century London', *Social History* 26:2 (2001), pp. 190-208, p. 194; Elizabeth Foyster, *Manhood in Early Modern England: Honour, Sex and Marriage* (London, 1999), pp. 28-39.

<sup>17</sup> Peter King, 'The Rise of Juvenile Delinquency in England 1780-1840: Changing Patterns of Perception and Prosecution', *Past & Present* 160 (1998), pp. 116-166; Cat Nilan, 'Hapless Innocence and Precocious Perversity in the Courtroom Melodrama: Representations of the Child Criminal in a Paris Legal Journal, 1830-1848', *Journal of Family History* 22:3 (1997), pp. 251-285; Pamela Cox and Heather Shore (eds), *Becoming Delinquent: British and European Youth, 1650-1950* (Aldershot, 2002), in which the earlier periods covered focuses on youth-perpetrated rather than child-perpetrated violence.

<sup>18</sup> King, 'The Rise of Juvenile Delinquency in England', pp. 116-17; William Martyn, *Youths Instruction* (London, 1612); Robert Russel, *A Little Book for Children, and Youth* (London, 1693-96); Randolph Yearwood, *The Penitent Murderer. Being an Exact Narrative of the Life and Death of Nathaniel Butler; who (through Grace) became a Convert, after he had Most Cruelly Murdered John Knight* (London, 1657).

By examining children who inflicted violence against others, this thesis further supports the growing desire in the history of childhood to establish that children in the past had agency, and that the historiography should not be reduced to a narrative of 'what adults have done to children'.<sup>19</sup> As Colin Heywood has argued, early modern children were subjects with agency who 'had some capacity to select, manipulate, resist' authority figures and the status quo.<sup>20</sup> Children of all ages affected the thoughts, feelings and actions of adults and other children around them. Linda Pollock has contended that parents accommodated their children's needs from infancy and that they were encouraged by authors of domestic handbooks to adapt their parenting methods for individual children.<sup>21</sup> Recovering children's agency and their voices can be a challenging undertaking. Mary Jo Maynes has demonstrated that the problem of the concealment of children in historical sources is analogous to issues gender historians have faced in recognising the agency of women, whose lives and experiences were embedded in everyday, domestic activities and spaces, and were therefore rarely recorded.<sup>22</sup> Nonetheless, as Hannah Newton has shown, examining child agency is not an impossible endeavour. She has analysed sick children's voices and feelings through their parents' descriptions and recollections in diaries and personal correspondence.<sup>23</sup> I adopt a similar approach in my analysis of pre-trial depositions, which contain second-hand accounts of child victims' descriptions of pain and their feelings before they died, as well as examinations of child perpetrators with their own explanations for their violence. This thesis engages with well-established arguments in the historiography of childhood about child agency and applies them to the history of crime to show that children were not only victims of violence but also had access to, and perpetrated, violence against others. It argues that even though early modern commentators, authors of popular crime

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<sup>19</sup> Hugh Cunningham, *The Invention of Childhood* (London, 2006), p. 16; Naomi J. Miller and Naomi Yavneh (eds), *Gender and Early Modern Constructions of Childhood* (Farnham, 2011); Hannah Newton, *The Sick Child in Early Modern England, 1580-1720* (Oxford, 2012); Allison James and Alan Prout, *Constructing and Reconstructing Childhood: Contemporary Issues in the Sociological Study of Childhood* (New York, 1997).

<sup>20</sup> Colin Heywood, *A History of Childhood: Children and Childhood in the West from Medieval to Modern Times* (Cambridge, 2001), p. 171.

<sup>21</sup> Linda Pollock, *Forgotten Children: Parent-Child Relations from 1500 to 1900* (Cambridge, 1983), p. 97.

<sup>22</sup> Mary Jo Maynes, 'Age as a Category of Historical Analysis: History, Agency, and Narratives of Childhood', *The Journal of the History of Childhood and Youth* 1:1 (2008), pp. 114-24, p. 117.

<sup>23</sup> Newton, *The Sick Child*, pp. 161-220.

narratives, legal officials and witnesses rarely attributed agency to children involved in homicides, by reading against the grain and analysing events before a child's homicide, it is clear that, in practice, early modern children – whether they were victims, witnesses or perpetrators – were often agents and, by the age of two or three, had some measure of independence to play outside of the household, to make friends and, sometimes, to engage in violence.

This project further establishes the importance of age in the early modern legal system. Historians examining child rape and witchcraft have already shown the difficulties that child victims and witnesses faced giving evidence in the courtroom and the potential ways in which children could overcome those obstacles. These analyses explored how the age of a victim or perpetrator affected conviction rates and the reliability of child testimony in the courtroom.<sup>24</sup> Similar issues applied to children who were the victims, witnesses and perpetrators of homicide but, as I shall demonstrate, legal handbooks were not as clear about the criteria and rules for children who gave evidence in homicide cases as they were for rape trials. The omission of child perpetrators' testimony is also a critical issue. While pre-trial depositions provide children's accounts of their own violence, records like the *Old Bailey Sessions Papers* often excluded the testimonies and defences of child killers who were evaluated by the judge and the jury to be too young to understand the difference between right and wrong. Their testimonies were no longer relevant or influential to an explanation of the overall verdict in the *Old Bailey Sessions Papers* and were therefore omitted. This thesis contributes nuances and complexities to Holly Brewer's work on how child perpetrators were categorised under homicide law by analysing the minutiae of homicide law and, crucially, demonstrating how it was applied in practice.<sup>25</sup> Children aged seven and under were never held accountable for their violence, as it was considered an impossibility that they could have felonious intention.<sup>26</sup> While legal manuals dictated that children aged

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<sup>24</sup> For example, see: Gammon, "A Denial of Innocence", pp. 74-95; Sarah Toulalan, 'Child Sexual Abuse in Late Seventeenth and Eighteenth-Century London: Rape, Sexual Assault and the Denial of Agency', in Nigel Goose and Katrina Honeyman (eds), *Childhood and Child Labour in Industrial England: Diversity and Agency, 1750-1914* (Farnham, 2013), pp. 23-44; Garthine Walker, 'Rape, Acquittal and Culpability in Popular Crime Reports in England, 1670–1750', *Past & Present* 220:1 (2013), pp.115-142.

<sup>25</sup> Holly Brewer, *By Birth or Consent: Children, Law, and the Anglo-American Revolution in Authority* (Chapel Hill, 2007), pp.181-229.

<sup>26</sup> Matthew Hale, *Historia Placitorum Coronae: The History of the Pleas of the Crown* (London, 1736), pp. 19, 27.



eight and above could technically be found culpable for homicide, it was rare for this to happen in practice. The youngest child prosecuted for a form of culpable homicide was ten-year-old Francis Hawley who was found guilty of manslaughter after he shot and killed a 'lad' named John Hobson.<sup>27</sup>

A child's sudden, unexpected death had a huge emotional toll on families and communities. By claiming that high infant mortality rates meant that early modern parents were indifferent to the deaths of their children, Lawrence Stone and Edward Shorter initiated the so-called 'sentiments debate' about parents' emotional reactions to child death that has pervaded the historiography of the family.<sup>28</sup> Stone and Shorter's arguments established the foundation of the social and cultural history of the early modern family and, therefore, it is unsurprising that historians' rebuttals have primarily been concerned with proving that parents and children had strong emotional bonds. Scholars have examined the expectations and practices of parenthood, how parenting was affected by concepts of gender, class and religion and, more recently, have shown that feelings between parents and children were reciprocal.<sup>29</sup> Emotions have also been central to scholars' research into crime and the family. The history of violent crime has focused on the breakdown of family relationships. It has explored perpetrators' motives in infanticide, filicide, spousal murder and parricide cases and the emotions they were expected to perform in court and on the scaffold after the murder.<sup>30</sup> Historians have applied some emotions, such as shame and fear of poverty, to specific types of killers (infanticidal women) and have examined emotions, such as remorse and guilt, that were expected from all murderers in early modern England and Wales before execution.<sup>31</sup> In comparison to historians of childhood who have overwhelmingly analysed

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<sup>27</sup> TNA, ASSI 45/15/3/41; TNA, ASSI 44/39.

<sup>28</sup> Lawrence Stone, *The Family, Sex and Marriage in England 1500-1800* (London, 1977); Edward Shorter, *The Making of the Modern Family* (London, 1976).

<sup>29</sup> Pollock, *Forgotten Children*, pp. 96-142; Ralph A. Houlbrooke, *The English Family 1450-1700*, pp. 127-165; Joanne Bailey, *Parenting in England 1760-1830: Emotion, Identity, and Generation* (Oxford, 2012); Joanne Bailey, 'Reassessing Parenting in Eighteenth-Century England', in Helen Berry and Elizabeth Foyster (eds), *The Family in Early Modern England* (Cambridge, 2007), pp. 209-32; Newton, *The Sick Child*, pp. 161-89.

<sup>30</sup> J.A. Sharpe, 'Domestic Homicide in Early Modern England', *Historical Journal* 24 (1981), pp. 29-48; Sandra Clark, *Women and Crime in the Street Literature of Early Modern England* (Basingstoke, 2003), pp. 23-4, 56-7, 133, 139; Garthine Walker, 'Imagining the Unimaginable: Parricide in Early Modern England and Wales, c. 1600-c. 1760', *Journal of Family History* 41:3 (2016), pp. 271-93.

<sup>31</sup> Garthine Walker, 'Child-Killing and Emotion in Early Modern England and Wales', in Katie Barclay, Kimberly Reynolds, and Ciara Rawnsley (eds), *Death, Emotions and Childhood in Premodern Europe* (London, 2016), pp. 151-71.

parents' reactions to their children's deaths, historians of crime, especially infanticide, have examined community and neighbours' reactions to the sudden deaths of children.<sup>32</sup> For instance, Katie Barclay and Kimberley Reynolds have demonstrated that witnesses' actions, such as wrapping the corpse of a newborn baby in a cloak upon discovering it, can reveal their dutiful feelings to care for helpless infants who had been murdered by their mothers.<sup>33</sup> The emergence of the history of emotions has encouraged scholars to analyse grieving parents, shocked neighbours and remorseful murderers' emotional expressions within social, cultural and legal frameworks and to consider how they adopted, manipulated and/or rejected such emotional constructions and expectations.<sup>34</sup> This thesis further contributes to the history of crime by exploring the various emotional reactions of perpetrators, witnesses, families, neighbours and communities to the homicides and fatal accidents of children or involving children. It also engages with and implements Hannah Newton's method of analysing the emotions of dying children by examining children's dying words and descriptions of their fears and pains in witnesses' pre-trial depositions.<sup>35</sup>

The history of crime in Wales has grown over the last decade.<sup>36</sup> Although England and Wales have been united under the same administrative and legal system since the Acts of Union in 1536 and 1543,<sup>37</sup> historians of crime – even

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<sup>32</sup> Laura Gowing, 'Secret Births and Infanticide in Seventeenth-Century England', *Past & Present* 156 (1997), pp. 87-115; Joanne McEwan, "'At my Mother's House": Community and Household Spaces in Early Eighteenth-Century Scottish Infanticide Narratives', in Susan Broomhall (ed.), *Spaces for Feeling: Emotions and Sociabilities in Britain, 1650-1850* (Abingdon, 2015), p. 13.

<sup>33</sup> Barclay and Reynolds, 'Introduction: Small Graves', pp. 1-3.

<sup>34</sup> Nicole Eustace, Eugenia Lean, Julie Livingston, Jan Plamper, William Reddy and Barbara Rosenwein, 'AHR Conversation: The Historical Study of Emotions', *American Historical Review* (2012), pp. 1486-1531; Bailey, *Parenting in England*; Katie Barclay, Kimberly Reynolds, and Ciara Rawnsley (eds), *Death, Emotions and Childhood in Premodern Europe* (London, 2016).

<sup>35</sup> Newton, *The Sick Child*, pp. 161-89.

<sup>36</sup> For instance, see: Sharon Howard, *Law and Disorder in Early Modern Wales: Crime and Authority in the Denbighshire Courts, c. 1660-1730* (Cardiff, 2008); Garthine Walker, 'Child-Killing and Emotion in Early Modern England and Wales', in Barclay, Katie, Reynolds, Kimberly and Rawnsley, Ciara (eds), *Death, Emotions and Childhood in Premodern Europe* (London, 2016), pp. 151-71; Garthine Walker, 'Imagining the Unimaginable: Parricide in Early Modern England and Wales, c. 1600-c. 1760', *Journal of Family History* 41:3 (2016), pp. 271-93; Angela Muir, 'Courtship, Sex and Poverty: Illegitimacy in Eighteenth-Century Wales', *Social History* 43:1 (2018), pp. 56-80; Anna Brueton, 'Illegitimacy in South Wales, 1660-1870', DPhil, University of Leicester (2015); Anna Field, "'Intimate Crime" in Early Modern England and Wales, c.1660-1760', DPhil, Cardiff University (2018); Catherine Horler-Underwood, 'Aspects of Female Criminality in Wales, c.1730-1830: Evidence from the Court of Great Sessions', DPhil, Cardiff University (2014).

<sup>37</sup> John Davies, *A History of Wales* (London, 1990); Glanmour Williams, *Renewal and Reformation: Wales, c.1415-1642* (Oxford, 1993). Thomas Glyn Watkin, *The Legal History of Wales* (Cardiff, 2007); Glyn Parry, *A Guide to the Great Sessions in Wales* (Aberystwyth, 1995).

those who have purported to analyse 'England and Wales' or the 'British Isles' – have tended to focus on the legal process and trials in England.<sup>38</sup> I explore both England and Wales in this thesis, paying careful attention to rich Welsh sources from the Great Sessions. Sharon Howard, in her thorough analysis of crime in Denbighshire (the county with the best surviving records from the Great Sessions) between 1660 and 1730, and Catherine Horler-Underwood, in her extensive study of crime in almost all the counties in Wales (excluding Monmouthshire) between c.1730 and 1830, have already adopted quantitative and qualitative approaches to begin to redress the oversight of Welsh crimes in the historiography of crime.<sup>39</sup> While there are some notable differences in how the legal process was performed and recorded in England and Wales (see section on sources and methodologies below), I do not seek to provide a comparative analysis of the differences and similarities between England and Wales, but rather to explore variations within the two associated countries. Regional differences within England and Wales, rather than between the two countries, affected the legal process, circumstances leading to children's homicides and accidents and the ways in which children died. For example, as Chapter Three explains, the nature of homicides and accidents greatly depended on the topography of urban and rural landscapes. This thesis analyses homicides in the industrial and agricultural settlements of Denbighshire, Flintshire and the Northern Circuit (including Cumberland, Durham, Lancashire, Northumberland, Westmorland and Yorkshire) and Sussex. It also examines homicides from London where children were killed in cart-related accidents that were rare in rural and urban communities in Wales and north-east England.

I have selected the beginning and end dates (c.1600-1730) for many reasons. First, didactic news crime reports about child murder in pamphlets and broadside ballads were increasingly produced and circulated from the beginning of the seventeenth century onwards, and became, as Sandra Clark has argued, 'a major print form with the coming of the civil war'.<sup>40</sup> Descriptions of innocent,

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<sup>38</sup> Richard W. Ireland, "'A Second Ireland'? Crime and Popular Culture in Nineteenth-Century Wales', in Richard McMahon (ed.), *Crime, Law and Popular Culture in Europe, 1500-1900* (Devon and Oregon, 2008), pp. 239-61.

<sup>39</sup> Howard, *Law and Disorder in Early Modern Wales*; Horler-Underwood, 'Aspects of Female Criminality in Wales'.

<sup>40</sup> Clark, *Women and Crime*, p. 9.

ignorant and passive infant murder victims and concerns about murderous parents and guardians who transgressed social expectations of love and protection in early seventeenth century popular print became tropes that authors and social commentators drew upon and developed in relation to contemporary issues later in the period. Likewise, many of the domestic handbooks that were written at the very end of the sixteenth and beginning of the seventeenth century, such as John Dod and Robert Cleaver's *A Godlie Forme of Household Government* (1598) and William Gouge's *Of Domesticall Duties* (1622), were reprinted throughout the seventeenth century and constituted and influenced moralistic advice given to parents and guardians during this period.<sup>41</sup> Secondly, I have chosen 1730 as an end date in order to uncover and examine cases that have not yet been catalogued by the National Library of Wales 'Crime and Punishment' database, which records all cases from the goal files for the period 1730 to 1830.<sup>42</sup> Historians of Welsh crime, such as Sharon Howard and Nicholas Woodward among others, have similarly used 1730 as an end and starting date to examine crimes that either have or have not been included in the online database.<sup>43</sup> Like Howard, I have used the Restoration as a starting point to analyse all homicide depositions – and, where possible, corresponding indictments, presentments and recognizances – in the Chester Circuit (Wales) and the Northern Circuit (England) up to 1730. As homicides by children were rare during this period, it has been necessary to explore trials over seventy years and in circuits where sources have the highest survival rates. Thirdly, by including the beginning of the eighteenth century in my analysis, I have been able to examine newspaper reports that contain valuable information about the accidental deaths and homicides of children.

### ***What is a child? Definitions of childhood in the historiographies of childhood and the family***

There was not a conclusive definition of a 'child' or consensus about how 'childhood' should be categorised in seventeenth- and eighteenth-century

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<sup>41</sup> John Dod and Robert Cleaver, *A Godlie Forme of Householde Government for the Ordering of Private Families, According to the Direction of Gods Word* (London, 1598); William Gouge, *Of Domesticall Duties* (London, 1622).

<sup>42</sup> The National Library of Wales' 'Crime and Punishment' database can be located at: [https://www.llgc.org.uk/sesiwn\\_fawr/index\\_s.htm](https://www.llgc.org.uk/sesiwn_fawr/index_s.htm).

<sup>43</sup> Howard, *Law and Disorder*; N. Woodward, 'Infanticide in Wales, 1730-1830', *Welsh History Review* 23 (2007), pp. 94-125.

England and Wales. As there were multiple early modern frameworks of 'childhood' in different contexts, historians of childhood and the family have also conceptualised 'children' and 'childhood' in various, sometimes conflicting, ways. Many historians have amalgamated separate concepts of the 'child' to create imprecise and confusing definitions of 'childhood'. Defining 'childhood' is also made complex as the term 'child' has two meanings: as offspring and in relation to age.<sup>44</sup> Using both meanings, scholars have created three main frameworks to discuss and define early modern 'childhood'. First, historians have defined a 'child' simply in terms of the parent-child relationship, without age constraints. This model has allowed scholars to examine relationships between parents and children throughout their lives and to explore how the deaths of parents emotionally affected adult sons and daughters. Secondly, many historians have conflated the two meanings of a 'child'. In the historiography of the early modern family – which is often integrated with the history of childhood – the term child is almost always associated with the family, the household and the performance of relationships in the domestic sphere. Within this framework, the stages of a young person's life-cycle and development are inextricably linked to parental care. Thirdly, many scholars have provided age boundaries for 'childhood' based on early modern contemporary notions of the mind, the body, the life-cycle, and/or the law. Historians who have used contemporary age-based definitions of 'child' most relevant to the context of their study, rather than identifying all the possible ways in which a 'child' could be defined, have provided the clearest and most convincing frameworks.<sup>45</sup>

As this thesis examines how culpability was or was not assigned to those who committed a homicide over and under the age of discretion (fourteen), I have defined childhood as starting from birth up until the age of fourteen. Common law separated childhood into two stages: infancy (birth to seven) and later childhood (eight to fourteen). A child aged seven or under could not be convicted of a felony, but a child aged between eight and fourteen could be tried

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<sup>44</sup> Anna Davin, 'What is a Child?', in Anthony Fletcher and Stephen Hussey (eds), *Childhood in Question: Children, Parents and the State* (Manchester, 1999), p. 15 argues that the 'child' is a too familiar concept, which makes defining it more difficult; Laurence Brockliss and Heather Montgomery, 'Introduction', in L.W.B. Brockliss and Heather Montgomery (eds), *Childhood and Violence in the Western Tradition* (Oxford, 2010), p. 4; Hugh Cunningham, *The Invention of Childhood* (London, 2006), pp. 13-14.

<sup>45</sup> For example, Newton, *The Sick Child*, p. 8.

and executed for a felony if there was substantial proof that the child who committed the felony could tell the difference between right and wrong. As the distinction between infancy and childhood also impacted on how culpability was ascribed in common law, I use the terms 'infant' and 'child' to distinguish between these stages in the life-cycle. However, this thesis will argue that the definitions of childhood were more changeable than historians have expected and more flexible than the simple age boundary of fourteen might suggest. Children's responsibility for violence was assessed on a case-by-case basis, and this meant that children under the age of fourteen could be held responsible for their violence in the same way as an adult. While no children under the age of fourteen were prosecuted for murder in the jurisdictions examined during this period, children as young as eleven were found guilty of manslaughter and therefore considered aware of the consequences of their violence for which they were punished.<sup>46</sup> Even murderers who were fourteen-, fifteen- and sixteen-years-old did not suddenly or automatically lose characteristics of childhood, such as ignorance or emotional immaturity, when they reached the age of discretion and could be prosecuted under homicide law as an adult.<sup>47</sup> This thesis carefully considers and analyses the nuances and complexities of defining childhood throughout. In Chapter Three I suggest that the 'turning points' of seven and fourteen years were not necessarily applicable in cases of accidental death. Instead, other age boundaries such as two and nine, that dictated children's movement and exploration outside of the household and their entry into service, were more important in relation to accidents.

In *Centuries of Childhood*, Philippe Ariès provided definitions and characteristics of early modern and modern childhood that have influenced historians to the present.<sup>48</sup> Ariès engaged with changing concepts of childhood to show how and why the modern family, which he described as oppressive and intolerant, developed. He retrospectively analysed meanings of childhood in the

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<sup>46</sup> Ten-year-old Francis Hawley is the youngest child I have found who was guilty of culpable homicide: *TNA*, ASSI 45/15/3/41; *TNA*, ASSI44/39.

<sup>47</sup> For example, see: *OBSP*, October 1675, J. D., t16751013-4; Anon., *Horrid News from St. Martins, or, Unheard-of Murder and Poison* (London, 1677).

<sup>48</sup> The connection that Ariès made between 'childhood' and 'dependence' was especially influential. See: Shorter, *The Making of the Modern Family*, pp. 168-204; Stone, *The Family, Sex and Marriage*, pp. 105-114, 405-78; Pollock, *Forgotten Children: Parent-Child Relations from 1500 to 1900* (Cambridge, 1983); Sara Mendelson and Patricia Crawford, *Women in Early Modern England, 1550-1720* (London, 1998), pp. 75-123; Colin Heywood, *A History of Childhood*.

past to determine how his own understanding of twentieth-century childhood – as a period of dependence, schooling and separation from the ‘adult world’ – had been established. Analysing portraiture, language and phrases, clothing, toys and games, and education, Ariès hypothesized that the parameters and meanings of childhood changed in France from the seventeenth century onwards. He argued that, in medieval France and up until the sixteenth century, infancy, childhood, adolescence, and adulthood were not distinct terms. Adopting a linear narrative of change and making modernisation assumptions, Ariès claimed that from the seventeenth century childhood increasingly became an exclusive concept and became a separate stage in the life-cycle that was distinct from and in opposition with adulthood. From the seventeenth to the twentieth century, children also became more central to the family which, according to Ariès, meant that they were separated from the ‘adult world’ for longer and that, consequently, the duration of childhood was extended. This separation and lengthening of childhood did not occur in the same way or at the same time for all children. Ariès asserted that this was a top-down and gendered development that first affected boys from the aristocracy and genteel families who became distinguished from adults by dress and education. Therefore, he recognised that concepts of childhood changed in relation to gender, class and chronology, and that the boundaries of childhood were not the same for every child.<sup>49</sup>

Even though he acknowledged that the experience and duration of childhood was often individual, Ariès’ definition of childhood was one that applied to all children in all periods. He argued that childhood, from the medieval period to the present, was a period of dependence on adult (usually parental) care and protection. He suggested that children were segregated from the ‘adult world’ and adult responsibilities, such as work, until they were deemed capable of regulating their own behaviour and able to enter the workplace. Although he indicated that the connection between childhood and dependence was transhistorical, Ariès demonstrated that the way in which a child achieved independence from adults and entry into adulthood changed over time. He argued that children in the medieval period left the household,

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<sup>49</sup> Philippe Ariès, *Centuries of Childhood* (Harmondsworth, 1962), pp. 395, 397, 399, 24-5, 44-56, 316, 319; Hugh Cunningham, *Children and Childhood in Western Society Since 1500* (London and New York, 1995), pp. 5-8.

entered the 'adult world' of work and wore adult clothes from the age of seven. By the seventeenth century, education became a key means of differentiating between childhood and adulthood as schooling became exclusively for children. This greater emphasis on education in childhood, Ariès asserted, gradually extended the age of childhood. Like the household, Ariès characterised schools, especially those in the nineteenth century, as a place where children were constantly disciplined and controlled by adults in preparation for adult life.<sup>50</sup> Ariès presented a definition of childhood that remained constant, but that manifested itself in different ways over time.

While Ariès engaged with changing concepts of childhood to discover more about the emergence and development of the modern family, historians in the 1970s and 1980s rarely considered children or childhood as central to the progression of the family.<sup>51</sup> Edward Shorter and Lawrence Stone analysed parenting and the parent-child bond to claim that family relationships in the early modern period lacked affection. Unlike Ariès, Shorter did not perceive children as fundamental to the making of the modern family and only referred to young infants to establish that parenting practices had improved from the mid-eighteenth century onwards.<sup>52</sup> Stone, who focused on the parent-child relationship more than Shorter, asserted that early modern parents did not emotionally invest in their children due to high infant mortality rates and expectations that children were likely to die in infancy. He contended that family relationships developed from being cold and unloving in the medieval and early modern periods to affective and individualistic from the seventeenth century onwards. Stone was not concerned with defining childhood. Instead, he prioritised parental attitudes, violence and feelings towards their children, implying that children's lives and characteristics were determined by their parents' behaviour towards them. As a result, his analysis obscured children's actions and agency.<sup>53</sup> Many historians, such as Linda Pollock and Alan

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<sup>50</sup> Ariès, *Centuries of Childhood*, pp. 24, 49, 317.

<sup>51</sup> Lloyd deMause (ed.), *The History of Childhood* (London, 1976); Shorter, *The Making of the Modern Family*; Stone, *The Family, Sex and Marriage in England*, pp. 105-114, 405-78; Pollock, *Forgotten Children*; Alan Macfarlane, *Marriage and Love in England: Modes of Reproduction, 1300-1840* (Oxford, 1986), pp. 1-32; Wrightson, *English Society 1580-1680*, pp. 44-63.

<sup>52</sup> Cunningham, *The Invention of Childhood*, p. 10; Shorter, *The Making of the Modern Family*, pp. 11, 170, 192-6.

<sup>53</sup> Stone, *The Family, Sex and Marriage in England*, especially chapter 9 'Parent-Child Relations', pp. 254-99.



Macfarlane, who challenged Shorter and Stone's claims that early modern families lacked affection, also defined children and childhood in relation to the parent-child bond and the family.<sup>54</sup> Scholars of the early modern family who gave precedence to parental attitudes towards children closely associated the definition of childhood and a child's identity to the parent-child relationship. Historians still relate the mental and physical development of early modern children to parenting.

After the linguistic turn, many historians of the early modern family and of childhood began to question the meanings of 'child' and 'childhood', and acknowledged that these terms had complex, multiple definitions.<sup>55</sup> Historians who produced large-scale overviews of the history of childhood and youth noted that there were numerous definitions of a 'child' in various contexts and stressed the problems of creating simplistic explanations. In *The Invention of Childhood*, Hugh Cunningham argued that there are multiple answers to the question 'what is a child?'.<sup>56</sup> Similarly, Colin Heywood contended that 'childhood' is socially and culturally constructed and therefore cannot simply be defined in biological terms. Concepts of 'childhood' and people who are identified as 'children' was, and is, adaptable and can change in relation to other categories of analysis, such as gender, social status, location, ethnicity, time and context.<sup>57</sup> In her examination of adolescence and youth in early modern England, Ilana Krausman Ben-Amos also stated that 'there was no single event' or universal 'rite of passage' that signified the end of childhood and beginning of adolescence. For instance, she argued that in religious discourses susceptibility to sin might mark the transition from childhood to youth whereas the characteristics of emotional immaturity and the inability to control passions might be more relevant in medical discourses. Ben-Amos pointed to the historically specific meanings of 'childhood', 'adolescence' and 'youth' in early modern England, while also demonstrating that there were various concepts associated with these terms and that they did not have a simple or universal meaning.<sup>58</sup> As there were many different definitions of the 'child' and meanings

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<sup>54</sup> Pollock, *Forgotten Children*, pp. 96-142; Macfarlane, *Marriage and Love in England*.

<sup>55</sup> Davin, 'What is a Child?', pp. 15-36.

<sup>56</sup> Cunningham, *The Invention of Childhood*, p. 13.

<sup>57</sup> Heywood, *A History of Childhood*, p. 9.

<sup>58</sup> Ilana Krausman Ben-Amos, *Adolescence and Youth in Early Modern England* (New Haven, 1994), pp. 39, 11-16.

attributed to the term, Cunningham, Heywood and Ben-Amos warned that historians should be cautious in committing to an exclusive or conclusive definition of a 'child'.

Cunningham and Heywood accepted that there were, potentially, multiple definitions of a 'child', but their investigations were too broad to incorporate the various usages of the term 'child' in the early modern period. Both scholars opted for large timescales: they examined the history of childhood in Europe from the medieval period to the present, and Cunningham included a wide variety of children in welfare systems, schools, and the family in his analysis. Cunningham and Heywood proposed the various categories by which a 'child' *could be* defined without providing a conceptual framework of their own. They neglected how different categories of analysis might have changed the experience, representations and performance of age in practice and how the definition of 'child' changed over time. Even though they did not take a nuanced approach to the construction of 'childhood', their point that the 'child' is not a straightforward or fixed biological concept still stands. Gender, social status, ethnicity and religious affiliation did affect the boundaries and definitions of 'childhood' in early modern England and Wales. Sara Mendelson and Patricia Crawford's study of the female life-cycle benefited from this considered and cautious approach. They limited their focus to consider how these factors affected girls' and women's experiences, representations of the female life-cycle, and definitions of girlhood.<sup>59</sup>

Despite a growing appreciation from historians of the family and childhood about difficulties of defining 'childhood', some historians of children and childhood still ignore the issue of definition and terminology altogether. In his study of the experiences of childhood and children from middling and upper 'sorts' of families in England from 1600 to 1914, Anthony Fletcher does not provide a conceptual framework or an explanation of how he classifies the term 'child' even though it is a central concept in his book. This impacted on his analysis, in which he was not sensitive to how the language and boundaries of childhood changed over time. For example, he uses anachronistic terms, such as 'teenager' (which was not used in print until the 1940s) and appears to have

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<sup>59</sup> Crawford and Mendelson, *Women in Early Modern England*, p. 78.

uncritically based his definition of childhood on biology and pre-pubescence.<sup>60</sup> In using these anachronisms and not providing clear boundaries or definitions, Fletcher presents a transhistorical notion of the child and childhood. Likewise, in his discussion of rural and urban children and work, Colin Heywood does not explain how or why he distinguishes between children and adolescents in employment within and outside the household. While his discussion includes young people up to their mid-teens, which might suggest an age boundary for the end of childhood, Heywood is not explicit about this and leaves it to the reader to infer.<sup>61</sup> Margret L. King's overview of the historiography of childhood also omits how historians have conceptualised the 'child' in favour of exploring histories of children embedded in the historiography of the family.<sup>62</sup> However, the emerging incentive to place children – their experiences, feelings, and actions – at the forefront of analysis in the history of childhood, rather than a peripheral concern, makes setting out clear definitions and boundaries of 'childhood' all the more necessary.<sup>63</sup>

Although few historians of early modern childhood describe children as the offspring of parents without age limitations, historians of emotion and the early modern family have used this definition in their examinations of adult sons and daughters' depictions of grief in diaries following the death of a parent.<sup>64</sup> Anne Laurence and Ralph Houlbrooke have compared how the deaths of family members emotionally affected others within the family unit in diverse ways.<sup>65</sup> Laurence has argued that the death of a spouse was more emotionally distressing than the death of a parent as parents were rarely directly involved in

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<sup>60</sup> Anthony Fletcher, *Growing up in England: The Experience of Childhood 1600-1914* (New Haven and London, 2008), pp. 1-36; Entry for 'teenager', *Oxford English Dictionary* [online at: <http://www.oed.com/view/Entry/198559?redirectedFrom=teenager#eid>].

<sup>61</sup> Colin Heywood, 'Children's Work in Countryside and City', in Paula S. Fass (ed.), *The Routledge History of Childhood in the Western World* (London, 2015), pp. 127-29.

<sup>62</sup> Margaret L. King, 'Concepts of Childhood: What we Know and Where we Might Go', *Renaissance Quarterly* 60:2 (2007), pp. 371-407.

<sup>63</sup> Naomi J. Miller and Naomi Yavneh, 'Introduction: Early Modern Children as Subjects: Gender Matters', in Naomi J. Miller and Naomi Yavneh (eds), *Gender and Early Modern Constructions of Childhood* (Farnham, 2011), p. 7; Cunningham, *The Invention of Childhood*, p. 16; Newton, *The Sick Child* (Oxford, 2012), pp. 161-89.

<sup>64</sup> Elizabeth A. Foyster, 'Parenting was for Life, not just for Childhood: The Role of Parents in the Married Lives of their Children in Early Modern England', *History* 86:283 (2001), pp. 313-27 has also analysed the relationships between parents and their grown-up children. Patricia Crawford, *Blood, Bodies and Families: in Early Modern England* (Harlow, 2004) also discusses relationships between adult siblings, especially after their parents had died.

<sup>65</sup> Anne Laurence, 'Godly Grief: Individual Responses to Death in Seventeenth-Century Britain', in Ralph Houlbrooke (ed.), *Death Ritual and Bereavement* (London, 1989), pp. 62-76; Ralph Houlbrooke, *Death, Religion and the Family in England, 1480-1750* (Oxford, 2000), p. 232.

their children's lives once they had married. Rather than defining a child by age, Laurence focused on how the type of *relationship* between family members might have affected expressions and experiences of grief.<sup>66</sup> In her analysis of cultural and social representations and experiences of parenthood in Georgian England, Joanne Bailey has also analysed the ways in which adult sons and daughters portrayed grief in their diaries and autobiographies. In her book, the term child is not limited by age boundaries. Bailey demonstrated that notions of the life-cycle were grounded in relationships within the family, not necessarily by age. For instance, she argued that many late eighteenth-century diarists and life writers described parental death as an 'emotional landmark' and conceptualised it as the death of childhood. Therefore, the death of a parent signified an important stage in the life-cycle that could occur at any age.<sup>67</sup> The parent-child relationship, especially the reciprocal obligations and duties parents and children had towards each other throughout their lives, was also a significant means by which prescriptive and religious authors discussed children. However, as this thesis aims to critically assess the parent-child framework that is prevalent in scholarly literature on children and crime, I deliberately avoid definitions of childhood as 'offspring' and instead examine how age affected expectations of children and childhood.

Historians of childhood and the family, who conflate the two meanings of child (offspring and age), have explicitly and implicitly engaged with notions of children's dependence and reliance on parental care in their analyses of young people and the life-cycle. As these scholars have used the parent-child framework to define childhood, the stages and supposedly pivotal moments in a child's life and development have been frequently interpreted in the context of the household, the family, parent care and interactions between parents and children, such as swaddling, breastfeeding and education.<sup>68</sup> Philippe Ariès' vague assertions that 'the idea of childhood was bound up with the idea of

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<sup>66</sup> Laurence, 'Godly Grief', p. 72.

<sup>67</sup> Bailey, *Parenting in England*, pp. 125-43.

<sup>68</sup> For example, see: Ariès, *Centuries of Childhood*, pp. 15-133; Ralph A. Houlbrooke, *The English Family*, pp. 127-165; Patricia Crawford, "'The Sucking Child": Adult Attitudes to Child Care in the First Year of Life in Seventeenth-Century England', *Continuity and Change* 1:1 (1986), pp. 23-52; Margaret L. King, 'Concepts of Childhood', pp. 371-407; Julia Grant, 'Parent-Child Relations in Western Europe and North America, 1500 – Present', in Paula S. Fass (ed.) *The Routledge History of Childhood in the Western World* (London, 2015), pp. 103-24; Linda Pollock, *Forgotten Children*, pp.97-101, 212.

dependence' and that 'one could leave childhood only by leaving the state of dependence, or at least lower degrees of dependence' has greatly influenced historians' definitions of childhood.<sup>69</sup> He defined children in opposition to adulthood: while children were dependent, adults were independent. However, Ariès did not clarify what he meant by 'dependence' or 'independence' and instead left these terms ambiguous. His assertion that the ways in which children became independent from parental care changed over time also meant that his definition of childhood and dependence was further complicated and inconsistent: from the medieval period to the end of the sixteenth century, Ariès focused on boys' independence from maternal 'care' as signifying the end of childhood, but from the seventeenth century he emphasises independence from education. The dichotomies of child/adult and dependence/independence that Ariès discussed has been a persistent conceptual framework in the history of childhood to differentiate between children and adults. For instance, Colin Heywood has portrayed children as 'helpless' and therefore reliant on adult protection.<sup>70</sup> Similarly, Linda Pollock has argued that early modern children were 'dependent on adult care and protection' as they were viewed as physically and/or mentally immature.<sup>71</sup> Sara Mendelson and Patricia Crawford, who examine the early modern female life-cycle, have also contended that childhood was 'a period when a girl received care'. As Mendelson and Crawford equate the end of 'childhood' with entry into service and moving out of the parental household, it appears that they consider 'childhood' as a period of dependency on *parental care*.<sup>72</sup>

The dependence/independence dichotomy and the parent-child framework has also impacted on how historians have conceptualised the beginning, middle and end of childhood. Ralph Houlbrooke, who defined childhood in relation to parenthood, has conceptualised early modern 'childhood' as beginning before birth: in his chapter on infancy and childhood, Houlbrooke discussed fertility, pre-conception, pregnancy, and childbirth.<sup>73</sup> Many historians analysing motherhood, fatherhood and parenthood have also examined parental concerns before birth, medical literature on pregnancy and

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<sup>69</sup> Ariès, *Centuries of Childhood*, p. 24.

<sup>70</sup> Heywood, *A History of Childhood*, p. 37.

<sup>71</sup> Linda Pollock, *Forgotten Children*, pp. 97-8.

<sup>72</sup> Mendelson and Crawford, *Women in Early Modern England*, p. 78.

<sup>73</sup> Houlbrooke, *The English Family*, pp. 127-29.

childbirth, and the difficulties of childbirth.<sup>74</sup> For instance, Crawford has examined the diary entries in which pregnant women described their fears that their babies might be born with deformities. She considered contemporary attitudes towards the child's experience of childbirth, referring to both the 'child in her womb' and the born 'child' in her analysis.<sup>75</sup> Other historians – of motherhood, childhood, and/or the life-cycle – have defined childhood as beginning at birth.<sup>76</sup> In their edited collection on maternity, Naomi Miller and Naomi Yavneh recognised that women were intrinsically involved in process of conception and pregnancy. However, they stated that 'the labor [sic] of women attends the beginnings of life, from childbirth to the nursing of newborns', establishing that they considered childhood to begin at birth.<sup>77</sup> This thesis also defines childhood as beginning at birth because it was not a felony to kill an unborn child under homicide law and, therefore, it does not include accidents involving pregnant women or the deaths of unborn children.<sup>78</sup> Under homicide law a person who killed an unborn child was not culpable for their death.

The age of seven (or thereabouts) has been emphasised by historians as an especially pivotal stage in the life-cycle of a child that, for various reasons, shifted relationships between parents and children. Scholars have interpreted the progression from infancy to later childhood as intrinsically linked to their parents and the household. First, it has been indicated that the end of infancy was significant for boys, especially those from elite families, as they moved from the care of their mothers to the supervision and education of their fathers.<sup>79</sup> This

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<sup>74</sup> For example see: Contributions to Naomi Miller and Naomi Yavneh (eds), *Maternal Measures: Figuring Caregiving in the Early Modern Period* (Aldershot, 2000); Ruth Perry, 'Colonizing the Breast: Sexuality and Maternity in Eighteenth-Century England', *Journal of the History of Sexuality* 2:2 (1991), pp. 204-34; Kathryn M Moncrief and Kathryn Read McPherson (eds), *Performing Maternity in Early Modern England* (Aldershot, 2007); Mary E. Wiesner, *Women and Gender in Early Modern Europe* (Cambridge, 2000), pp. 78-89; Mendelson and Crawford, *Women in Early Modern England*, pp. 151-53.

<sup>75</sup> Crawford, "The Sucking Child", pp. 26-28.

<sup>76</sup> Hannah Newton, *The Sick Child*, p. 8; Mendelson and Crawford, *Women in Early Modern England*, p. 77. I have also found that many historians assume that 'childhood' began at birth without explicitly stating it, such as: Miller and Yavneh, 'Introduction', pp. 1-14; Fletcher, *Growing up in England*; Cunningham, *The Invention of Childhood*.

<sup>77</sup> Naomi J. Miller, 'Mothering Others: Caregivers as Spectrum and Spectacle in the Early Modern Period', in Naomi Miller and Naomi Yavneh (eds), *Maternal Measures: Figuring Caregiving in the Early Modern Period* (Aldershot, 2000), p. 8.

<sup>78</sup> Michael Dalton, *The Countrey Justice: Containing the Practice of the Justices of the Peace out of their Sessions* (London, 1619), p. 221.

<sup>79</sup> Ariès, *Centuries of Childhood*, pp. 52-59; Mendelson and Crawford, *Women in Early Modern England*, pp. 78-79; Heywood, *A History of Childhood*, p. 102.

change in parental care and education has also been associated with the 'ceremony of the first pair of breeches' and the assumption that, from the age of seven, there were noticeable gendered distinctions between children. Lawrence Stone described 'breeching' as a 'critically important *rite de passage*', characterising it as a boy's move from an infantilised, feminine realm into the male, adult world.<sup>80</sup> The correlation that Stone made between the change of parental care, breeching and greater gender distinctions has been an enduring argument in the historiography, even influencing very recent scholarship – Anthony Fletcher in 2010 and Julia Grant in 2015 argued that breeching signified a move from infancy to 'boyhood'.<sup>81</sup> However, Naomi Miller and Naomi Yavneh emphasise that infancy and early childhood were not gender-neutral as children under the age of seven were differentiated by gender.<sup>82</sup> Secondly, scholars have depicted the ages of seven and eight as a phase in which children became less dependent on parental care and began to work in the household. In her discussion of parent-child relations, Julia Grant, and Colin Heywood who examines children and work, indicate that, from this age, early modern girls and boys started learning skills and tasks that prepared them for adulthood and that contributed to the household economy.<sup>83</sup> Thirdly, Colin Heywood contends that peer groups and child socialisation emerged around the end of infancy. He states that friendships began to form around the age of seven as relationships that 'came to rival the family as a source of influence' and indicated greater independence from family influence.<sup>84</sup> In these explanations, the move from infancy to 'later childhood' is judged in relation to parents and the family. Changes in parental care and clothes are seen to impact on a child's experience of early modern gendered distinctions, contributing to the household economy is depicted as preparation for adult life, and forming social groups outside of the household indicates greater independence from parental control.<sup>85</sup> This age guideline for infancy was also referred to by many early modern physicians and authors of schemes of the

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<sup>80</sup> Stone, *The Family, Sex and Marriage in England*, p. 409.

<sup>81</sup> Fletcher, *Growing up in England*, p. 15; Anthony Fletcher, *Gender, Sex and Subordination in England, 1500-1800* (New Haven, 1995), p. 297; Grant, 'Parent-Child Relations', p. 109.

<sup>82</sup> Miller and Yavneh, 'Introduction', p. 7; Mendelson and Crawford, *Women in Early Modern England*, p. 78.

<sup>83</sup> Grant, 'Parent-Child Relations', p. 109; Heywood, 'Children's Work in Countryside and City', pp. 125-41.

<sup>84</sup> Heywood, *The History of Childhood*, p. 102.

<sup>85</sup> Laurence Brockliss and Heather Montgomery, 'Introduction', p. 6.

'ages of man' that presented childhood as divided into stages. Childhood was 'both a distinct phase of life, and graduated phenomenon', and many early modern physicians and schemes of the 'ages of man' presented 'childhood' as divided into stages.<sup>86</sup> 'Infancy' was the first stage of childhood, which usually described babies and children up to around the age of seven.<sup>87</sup>

Many historians, using the parent-child relationship and age in their analysis, present a linear progression of 'childhood' in which children became more and more independent from parental and adult control.<sup>88</sup> The end of 'childhood', in this model, is achieved by breaking away from parental control, and then adolescence and youth (moderately dependent) is seen as a period of transition to adulthood (full independence). Ralph Houlbrooke characterises 'childhood' as a stage in which children 'had been under much closer parental supervision than adolescence'. He uses accounts from life writers to contend that adolescence was a time 'when many individuals first began to live an autonomous intellectual and spiritual life and to view their parents with a new clarity and detachment'.<sup>89</sup> The dependence/independence dichotomy encourages historians to conceptualise the end of 'childhood' as the point when a 'child' left the family household.

As most early modern young people left the family household when they entered domestic service or undertook an apprenticeship, entry into service and the workplace is frequently mentioned as indicating the end of 'childhood' by historians. Leaving the family household and entering domestic service and the workplace has been conceived in two separate ways. First, Mendelson and Crawford argue that 'childhood' ended when a child became a domestic servant, regardless of age. Therefore, 'childhood' ended earlier for the parish poor and lower status young people who had to enter domestic service and work before elite girls and boys.<sup>90</sup> Similarly, Hugh Cunningham notes that most rural Tudor and Stuart 'British' children left home at fourteen to become servants in husbandry.<sup>91</sup> For Cunningham, this indicates the end of 'childhood'.

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<sup>86</sup> Shepard, *Meanings of Manhood in Early Modern England*, pp. 54-58.

<sup>87</sup> Newton, *The Sick Child*, p. 8.

<sup>88</sup> Houlbrooke, *The English Family*, pp. 127-201; Mendelson and Crawford, *Women in Early Modern England*, pp. 86, 92; Heywood, *The History of Childhood*, pp. 41-117.

<sup>89</sup> Houlbrooke, *The English Family*, p. 178.

<sup>90</sup> Mendelson and Crawford, *Women in Early Modern England*, pp. 78-79.

<sup>91</sup> Cunningham, *The Invention of Childhood*, p. 81.



However, entry into the workplace or service did not necessarily signify the end of 'childhood'. As Sarah Toulalan demonstrates, 'orphans as young as three might be placed by the parish in another household where they could be expected to earn their keep'. She establishes that entry into the workplace could occur at various ages and points in the life-cycle and did not immediately signify 'youth' or 'adulthood'.<sup>92</sup> Moreover, work was an important and integral part of childhood and young people's lives. It was not something that separated children and adolescents.<sup>93</sup> Secondly, Colin Heywood links entry into service to an increased independence of children and graduated development towards adulthood. Servants are depicted as halfway between dependence and independence, 'partly' children who could not achieve full independence until they left service. Heywood portrays servants as slowly moving away from parental control, and yet still under the authority of a master 'leading to a certain ambiguity in their position'. Heywood presents a straightforward and linear development of 'childhood' in which a 'child' passed through stages of the life-cycle to adolescence and adulthood, gaining greater independence from adult authority along the way.<sup>94</sup> However, entry into service or an apprenticeship did not necessarily encompass greater independence from adult control, but moved 'dependence' onto a master acting *in loco parentis* and providing provision and/or training. The variability of young people's experiences of servanthood, especially the different ages when children and youths might enter service, does not make this a convincing or consistent framework to use to define 'child' in the early modern period.

While ideas of vulnerability, care, and dependence on parental supervision were some of the many ways in which childhood was constructed in early modern prescriptive literature and popular crime pamphlets, these concepts are not distinct enough to define children or childhood. Just as Ariès did not explain what he meant by the term 'dependence', Pollock, Heywood, and Mendelson and Crawford did not question why protection and care was specifically associated with childhood nor that other contexts in which these vague labels can be identified. For example, some historians of the family and

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<sup>92</sup> Sarah Toulalan, "'Unripe" Bodies: Children and Sex in Early Modern England', in Kate Fisher and Sarah Toulalan (eds), *Bodies, Sex and Desire from the Renaissance to the Present* (Basingstoke, 2011), p. 134.

<sup>93</sup> Heywood, 'Children's Work in Countryside and City', pp. 125-41.

<sup>94</sup> Heywood, *The History of Childhood*, pp. 37-38, 102-4.

widowhood have applied the idea of 'dependency' to members of the early modern family and household other than children. In her overview of concepts of childhood, Margaret L. King has identified 'females' and elderly relatives in the family as 'dependent kin'.<sup>95</sup> Historians have also characterised widows in terms of both dependence and independence. Sara Mendelson and Crawford and Mary E. Wiesner have considered widowhood as a stage in which women relied on economic support from relatives.<sup>96</sup> Conversely, Margaret Pelling and Alexandra Shepard have interpreted widowhood as a separate stage in a woman's life-cycle in which she became legally and financially independent for the first time, and was more adaptable to independence than widowers.<sup>97</sup> As the concept of 'dependence' can be used to describe a variety of other early modern relationships and people, it is too vague and broad a concept to employ to define childhood. Moreover, as this thesis will establish, evidence from the Old Bailey and early eighteenth-century newspapers on homicide cases and accidental deaths show that, from the age of two, children began to play and work outside of parental, and adult, supervision.<sup>98</sup> Therefore, dependence on parental care and supervision was not necessarily a defining characteristic of the early modern child.

While many scholars have merged the two meanings of child (offspring and age) together to define early modern childhood, others have argued that notions of age and the body were central to the characterisation of childhood. Historians of children and childhood have frequently maintained that the onset of puberty marked the transition from 'childhood' to 'youth'. Philippe Ariès suggested that 'as soon as the child reached the age of puberty' they were 'practically an adult'.<sup>99</sup> This physical and biological change has been presented as indicating the end of 'childhood' in multiple periods and contexts, not just the early modern period. Biological changes and the development of children's

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<sup>95</sup> King, 'Concepts of Childhood', p. 373.

<sup>96</sup> Mendelson and Crawford, *Women in Early Modern England*, p. 175 explain that widows were stereotyped as 'poor, distressed, and weak'; Wiesner, *Women and Gender*, p. 89. See also contributions to Sandra Cavallo and Lyndan Warner (eds), *Widowhood in Medieval and Early Modern Europe* (Harlow, 1999).

<sup>97</sup> Margaret Pelling, 'Finding Widowers: Men without Women in English Towns before 1700', Cavallo and Warner, *Widowhood in Medieval and Early Modern Europe*, pp. 47-54; Shepard, *Meanings of Manhood*, pp. 239, 241.

<sup>98</sup> For example: *OBSP*, Sept 1684, John Cowley, t16840903-19; *OBSP*, May 1697, Thomas How, t16970519-18; and I have also found newspaper articles from *The Burney Collection* in which children cared for other children or died in accidents away from the household.

<sup>99</sup> Toulalan, "'Unripe" Bodies', pp. 133-34.

bodies did indicate the transition between childhood and adolescence (or youth) in the early modern period. However, historians who have provided general histories of childhood and the life-cycle define the early modern 'child' as pre-pubescent as though it is obvious, natural and universal. For instance, Hugh Cunningham has stated that 'puberty in nearly all societies is one of the markers of the end of childhood' and in his book *Children and Childhood in Western society since 1500*, he defined a 'child' as 'anyone under fifteen', around the age of puberty.<sup>100</sup> In addition, Ralph Houlbrooke has argued that adolescence 'has always been held to begin with puberty'.<sup>101</sup> Laurence Brockliss and Heather Montgomery also acknowledged that, while contributors to their edited collection have investigated various cultures and historical periods, most have used puberty as a mark of the end of childhood.<sup>102</sup> These studies – which are not primarily concerned with children's bodies and the meanings attributed to them – have engaged with notions of puberty as a convenient means to demarcate the differences between 'child', 'youth, and 'adult' without fully considering the historically specific meanings attributed to puberty in the early modern period.

Historians whose primary focus is childhood and children's bodies have provided more nuanced and historically grounded definitions of 'child', based on puberty. Puberty could occur at various times depending on the individual and was a graduated process, not a simple or single phenomenon. Concepts such as the Galenic humoral system, menstruation, sex and fertility, and experiences such as loss of virginity, the growth of sexual organs and hair, and child-bearing, could all mark the physical process of puberty and the attainment of adult maturity.<sup>103</sup> Historians of medicine and of childhood have given the most convincing cases for defining a 'child' as pre-pubescent for the purposes of their studies. For example, in *The Sick Child in Early Modern England, 1580-1720*, Hannah Newton has analysed how medical practitioners perceived children as physiologically, emotionally and mentally different from adult patients. Therefore, she has employed early modern medical authors and physicians'

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<sup>100</sup> Cunningham, *Children and Childhood*, p. 17.

<sup>101</sup> Cunningham, *The Invention of Childhood*, p. 13; Houlbrooke, *The English family*, p. 166.

<sup>102</sup> Laurence Brockliss and Heather Montgomery, 'Introduction', p. 4.

<sup>103</sup> Toulalan, "'Unripe" Bodies', pp. 131-150; Shepard, *Meanings of Manhood*, pp. 23-24; Toulalan, "'Age to Great, or to Little, doeth let Conception": Bodies, Sex and the Life Cycle, 1500-1750', in Sarah Toulalan and Kate Fisher (eds), *The Routledge History of Sex and the Body, 1500 to the Present* (London, 2013), pp. 279-95.

explanations of 'childhood' to define 'child' as 'beginning at birth and ending at the onset of puberty at the age of about fourteen or fifteen'.<sup>104</sup> This is a clear definition, based on the specific context of her study, and, engages contemporaneous meanings of 'childhood'.

Not all historians have accepted that a 'child' is defined as 'pre-pubescent'. In their discussion of the female life-cycle, Mendelson and Crawford have tried to avoid classifying physical 'rites of passage', such as puberty and the menopause, as distinct stages in the life-cycle, as they argue that early modern women did not conceptualise the ageing process using these terms.<sup>105</sup> Some early modern four-part schemes of 'the ages of man' did not demarcate a separate life-cycle stage for puberty and Lemnius' seven-part scheme separated 'puberty', 'adolescence' and 'youth' as distinct stages.<sup>106</sup> While I will acknowledge that children's bodies developed and changed over time, I will not define a 'child' as 'pre-pubescent' in my thesis. As a key theme in my project will be interpersonal violence and violence against children, I will consider if and how early modern people and publications depicted children's bodies as weak, feeble, and if a child's physical development impacted on whether they seen as having the ability to inflict lethal violence.<sup>107</sup> Just as Hannah Newton selected a definition of 'childhood' most suited to the context of her study, I will use definitions of a 'child' as set out by early modern homicide law.

Historians of childhood and of crime have examined early modern laws that set age restrictions separating children and adults to signpost the end of 'childhood'. Many broad studies of the history of childhood, which do not examine crime or criminality, provide legal criteria and age boundaries as potential frameworks of 'childhood' to be used relationally with other definitions of a 'child'. Hugh Cunningham has suggested that the age of criminal responsibility (fourteen) and puberty occurred at roughly the same time and are 'often thought of as a marker of the end of childhood'.<sup>108</sup> Few sections of Cunningham's *The Invention of Childhood* discuss crime (mostly using Hanawalt's work on accidental death), and he did not explore child offenders or

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<sup>104</sup> Newton, *The Sick Child*, p. 8.

<sup>105</sup> Mendelson and Crawford, *Women in Early Modern England*, pp. 76-77.

<sup>106</sup> Shepard, *Meanings of Manhood*, p. 55.

<sup>107</sup> Newton, *The Sick Child*, pp. 31-45 discusses this in relation to medical practitioners and publications.

<sup>108</sup> Cunningham, *The Invention of Childhood*, p.13.

child witnesses, so it makes little sense for him to present the age of discretion as indicating the end of 'childhood'. In his broad analysis of childhood, youth, and the life-cycle, Ralph Houlbrooke has linked the legal age of marriage (twelve for girls and fourteen for boys) to the onset of puberty, implying that legal categories and the physical development of children's bodies were inextricably linked to signify the end of childhood in early modern England.<sup>109</sup> Cunningham and Heywood have prioritised different legal criteria and age boundaries as indicating the end of 'childhood', it seems, to support their interpretation that the age of puberty marked the transition from childhood to youth.

However, employing early modern legal age boundaries is not a straightforward or simple means to define 'child'. Ecclesiastical, common and civic law distinguished between young people and adults in various ways and for different reasons. The ages of sexual consent and of marriage, up until which time Matthew Hale stated children 'are said to be impuberes [minors]', were different for girls (10 and 12 respectively) and boys (14 for both) in common law.<sup>110</sup> Civic law produced different aged-based criteria that separated young people from adults. For instance, 'full age as to matters of contract' was 21 and from the age of 17 early modern people could be a 'procurator' (represent others in law).<sup>111</sup> Therefore, historians must be specific about their justifications for engaging with one type of legal criteria over another.

The most convincing frameworks that use the law to define 'child' are those which choose contemporary legal criteria most relevant to their study. As a central theme of my thesis is interpersonal violence between children and notions of child culpability, I will refer to the definition of a child detailed in common law, as someone who, naturally unable to use reason, could not tell the difference between right or wrong and was therefore not expected to inflict intentional violence against another. The age of discretion for felonious crimes was fourteen, which meant that, from that age, young people suffered

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<sup>109</sup> Houlbrooke, *The English Family*, pp. 166-69.

<sup>110</sup> Hale, *Historia Placitorum Coronae: the History of the Pleas of the Crown* (London, 1736), pp. 17, 25; Garthine Walker, 'Rape, Acquittal and Culpability in Popular Crime Reports in England c. 1670-c.1750', *Past & Present* 220 (2013), pp. 128, 132; 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), pp. 21-52.

<sup>111</sup> Hale, *Historia Placitorum Coronae*, p. 24.

punishment 'as persons of full age'. However, this was not a fixed age boundary as children under this age could testify and/or be prosecuted in felony trials. A child under the age of fourteen could testify in a rape case, for example, if the 'judge was persuaded that they fully understood the nature and obligation of an oath and could distinguish between right and wrong'.<sup>112</sup> A child under the age of fourteen who committed a felony could be punished like someone over the age of discretion if it could be proved they could differentiate between right and wrong, a condition for proving they were capable of forming malicious intent (*doli capax*). The minimum age at which a child was deemed able to distinguish between right and wrong, and therefore liable to be prosecuted for a felony, was eight. As Michael Dalton has stated '[a]n Infant of eight years of age, or aboue, may commit Homicide, and shall be hanged for it, viz. if it may appeare (by hiding of the person slaine, by excusing it, or by any other act) that he had knowledge of good and evill, and of the perill and danger of that offence'.<sup>113</sup> Under the age of eight, a 'felonious discretion is almost an impossibility in nature' as a child was not capable of forming intent or knowing right from wrong.<sup>114</sup>

Finally, this thesis recognises that while children over the age of fourteen were prosecuted as adults, some fourteen-, fifteen- and even sixteen-year-olds were described by witnesses, legal officials and social commentators as having child-like attributes, such as ignorance and emotional immaturity. This further demonstrates that the early modern child defies a simple or straightforward definition. Where possible, I acknowledge the tensions and contradictions between how legal discourses defined childhood and how laypeople categorised individual children to demonstrate that the law was not necessarily indicative of wider, social attitudes towards children. By using the age of discretion as a guide for the end of childhood, I avoid defining children in the context of the parent-child relationship to instead analyse children in their own right.

## **Sources**

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<sup>112</sup> Walker, 'Rape, Acquittal and Culpability', p. 128.

<sup>113</sup> Dalton, *The Countrey Justice*, p. 222; Hale, *Historia Placitorum Coronae*, pp. 19, 27.

<sup>114</sup> Blackstone, *Commentaries on the Laws of England*, p. 23.

This thesis re-examines evidence that historians of crime regularly engage with, such as child-murder pamphlets and Old Bailey trials, and uncovers evidence of child victims and perpetrators in records of children's sudden, unexpected deaths that has been overlooked, to explore the nuanced ways in which children's violence was interpreted by a society that was consistently informed by prescriptive discourses and popular crime narratives that children, especially those under the age of seven, were naturally passive, non-violent, morally pure, and innocent. As this project is concerned with children's involvement in homicides as victims, perpetrators and witnesses and a wide range of homicides and accidental deaths, a wide range of sources has been consulted. The various categories of sources examined in this project depict distinct aspects of childhood and children's experiences. The sources explored in this thesis were culturally constructed and contain only representations of experiences rather than descriptions of real, unmediated experiences, emotions or subjectivities.<sup>115</sup>

As child-perpetrated homicides were rarely prosecuted, pre-trial depositions and examinations from England and Wales that have the highest survival rates have been consulted to uncover as many cases as possible. The Northern Circuit, the longest in England, comprised five counties: Cumberland, Lancashire, Northumberland, Westmorland, and Yorkshire.<sup>116</sup> Qualitative, depositional evidence of felonies is sparse for most seventeenth-century English assize courts. As depositions were informal pieces of evidence created to guide magistrates who conducted pre-trial hearings, it was customary for them to be destroyed and for indictments, that contained the formal charge and verdict, to be kept.<sup>117</sup> The survival rate of records from the Northern Circuit is limited, but from 1650 there is an imperfect run of a 'superb series of depositions' and, in comparison to other English circuit records, depositions

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<sup>115</sup> See: Malcolm Gaskill, 'Reporting Murder: Fiction in the Archives in Early Modern England', *Social History* 23:1 (1998), pp. 1-30; Garthine Walker, 'Rereading Rape and Sexual Violence in Early Modern England', *Gender & History* 10:1 (1998), pp. 1-25; Bailey, *Parenting in England 1760-1830*, esp. 'Introduction', pp. 1-16.

<sup>116</sup> J. S. Cockburn, *A History of English Assizes, 1558-1714* (Cambridge, 1972), p. 19; Mark Jackson, *New-Born Child Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England* (Manchester 1996), p. 21.

<sup>117</sup> Cynthia Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge, 1987), p. 67.

from the eighteenth century are especially abundant.<sup>118</sup> Pre-trial depositions from the Chester circuit – Flintshire, Denbighshire and Montgomeryshire – in Wales have also been selected as they provide the richest collection of quantitative data and qualitative sources, and are the best-preserved records in the Great Sessions (the Welsh equivalent of the English assize courts).<sup>119</sup> The different methods of record keeping at the National Archives and the National Library of Wales has affected the survival and accessibility of indictments that contain verdicts. As the National Library of Wales holds records (pre-trial depositions, indictments and recognizances) of each individual case together, finding the verdict of each homicide in a coroners' inquest and Great Sessions trial is straightforward. However, searching for indictments from the Northern Circuit, that are kept separately from depositions, is extremely challenging and, as such, most of the verdicts for cases in this thesis are unknown.<sup>120</sup>

The creation and purpose of pre-trial depositions could vary depending on whether they were collected for a coroner or a Justice of the Peace, who asked witnesses slightly different questions about homicides. Upon the occurrence of a sudden or suspicious death, it was the responsibility of a village or township to summon a coroner to investigate the cause of death. The coroner assembled a jury to examine witnesses and to determine how the deceased died. If the coroners' jury determined that someone was responsible for the deceased's death, it was customary practice for the jury to indict the suspect with the highest degree of culpability (murder) to allow the biannual assize court to maintain or reduce the sentence as they saw appropriate.<sup>121</sup> The coroners' inquest therefore could bypass the grand jury stage to present indictments at assize court trials. Prosecutions were also initiated privately, usually by the family of the deceased, who informed their local JP of the homicide. The JP examined witnesses and asked them about the following issues: what happened; details about the relationship and grievances between

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<sup>118</sup> J. A. Sharpe, *Crime in Early Modern England 1550-1750* (Abingdon, 2014; 2<sup>nd</sup> edn); Jackson, *Newborn Child Murder*, pp. 21-22.

<sup>119</sup> See: Parry, *A Guide to the Great Sessions in Wales*; Howard, *Law and Disorder*, eps. 'Introduction'.

<sup>120</sup> Except for the case of ten-year-old Francis Hawley who was convicted of manslaughter by a coroners' inquest: TNA, ASSI44/39.

<sup>121</sup> Carol Loar, 'Medical Knowledge and the Early Modern English Coroner's Inquest', *Social History of Medicine* 23:3 (2010), pp. 475-91; R. A. Houston, *The Coroners of Northern Britain c. 1300-1700* (London, 2014).



the deceased and the alleged perpetrator that were pertinent to culpability under the law; the perpetrator's reaction to the killing; who they believed was responsible; and what level of culpability they ascribed to the perpetrator.<sup>122</sup> These legal frameworks determined the answers and the information in the depositions.<sup>123</sup> The JP passed these depositions to the grand jury who decided whether there was enough evidence to indict the defendant to appear at an assize court trial.

To overcome issues of scant depositional evidence and the rarity of homicides by and against children compared with other felonies, I have searched all homicide cases from 1660 to 1730 for those involving children as victims, perpetrators or witnesses.<sup>124</sup> I have located nineteen depositions from the Northern Circuit, of which two were committed by children,<sup>125</sup> and eleven cases from the Chester circuit, of which four were committed by children.<sup>126</sup> These sources may appear limited compared with other studies of early modern crime, most notably infanticide, but these records, particularly those from the Great Sessions, hold incredibly rich qualitative evidence. While many of the accounts from the Northern Circuit are short and formulaic, clerks in the Chester circuit were more flexible in their approach to recording depositions and added information that was omitted from English records, such as children's speech and the emotions of witnesses. For instance, fifteen-year-old Thomas Jones' declaration in 1713 that 'I am kil'd I shall never stand upon my legs agen', after ten-year-old William Owen hit him with a stick, was reiterated in his relative's deposition. The multiplicity of voices and discourses in these sources is an advantage as many testimonies indirectly contain the mediated words of child victims, perpetrators and witnesses. Depositions do not represent the authentic voice or subjectivity of a witness, but rather a summarised account of a testimony that was constructed by clerks as the best means of producing evidence for a magistrate or a coroner. Legal terms and formulaic summaries were included by clerks and were informed by the assessments of culpability

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<sup>122</sup> Walker, 'Rereading Rape', pp. 1-21.

<sup>123</sup> For a concise overview of how depositions were mediated see: McEwan, "At my Mother's House", p. 13.

<sup>124</sup> Other felonies, such as theft and male-male homicides were more frequent than homicides by or against children: Walker, *Crime, Gender and the Social Order*.

<sup>125</sup> TNA ASSI 45/18/5/5-13; TNA ASSI 45/15/3/41.

<sup>126</sup> NLW, GS, 4/25/1/25, 26, 32; NLW, GS, 4/31/4/48, 52; NLW, GS, 4/40/3/11, 15, 16, 17 NLW, GS, 4/997/10/3-8.

that witnesses and defendants provided. The presence of legal discourses is incredibly important, especially in depositions that do not have a corresponding indictment, because they indicate that culpability was rarely assigned in child-perpetrated homicides. Incidental accounts of where children were, what they were doing, who was caring for them – all contribute to a greater understanding of the experiences of early modern childhood.

Depositions in Wales were, perhaps, constructed differently than in England due to linguistic differences. Despite English being the official language of the law and administration in Wales, most inhabitants were monoglot Welsh speakers and so their oral testimonies had to be translated by bilingual clerks to create the final deposition.<sup>127</sup> Sometimes there are traces of this in the depositions – such as the deposition of the girl in the infanticide case – but, for the most part, this was a silent translation. The greater length and detail of the Chester circuit depositions compared with the Northern Circuit ones appear to reflect this process. Other stylistic differences concerning age and culpability are also noticeable in the Great Sessions. When a child witness or perpetrator was examined in a homicide case, the clerk recorded the ages of all witnesses, including adults.<sup>128</sup> This demonstrates that clerical traditions in Flintshire and Denbighshire dictated that depositions should be transparent about ages to make it easier for the magistrate to distinguish between potentially inadmissible and admissible evidence.

The *Old Bailey Sessions Papers* have been consulted because they provide crucial evidence about the legal criteria, the process of prosecution and verdicts of homicides by and against children that is difficult to locate in the Northern Circuit goal files. I have examined 97 cases involving 99 defendants, of which ten were committed by children and thirteen by youths who were just over the age of discretion (fourteen).<sup>129</sup> The *Old Bailey Sessions Papers* were quasi-official printed summaries of trials, written by shorthand hack writers who attended felony trials held at the Middlesex assizes. They were printed eight

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<sup>127</sup> Anna Field, “Intimate Crime” in *Early Modern England and Wales, c.1660-1760*, DPhil, Cardiff University (2018).

<sup>128</sup> For example, see: *NLW, GS, 4/34/1/31-33, 48*; *NLW, GS, 4/997/10/3-8*.

<sup>129</sup> *OBSP, Oct 1675, J. D., t16751013-4*; *OBSP, 14 January 1676, t16760114-8*; *OBSP, June 1676, t16760628-4*; *OBSP, July 1677, t16770711-6*; *OBSP, 15 Oct 1679, t16791015-5*; *OBSP, Dec 1683, John Rastal, t16831212-21*; *OBSP, Aug 1688, John Pitts, t16880831-19*; *OBSP, Dec 1696, John Fathers, t16961209-86*; *OBSP, July 1697, Thomas Purcell, t16970707-8*; *OBSP, Jan 1700, Henry Scot, t17000115-16*.

times a year after each court session from 1674 and ranged from a few pages in the seventeenth century to up to 24 pages in the eighteenth century.<sup>130</sup> The accounts include evidence of the prisoner's name, occupation and sometimes age, the charge, evidence from eye and medical witnesses and, especially if the verdict was guilty, the defendant's defence. The *Sessions Papers* provide important evidence about legal criteria and children's status under the law that contextualises and informs my analysis of pre-trial depositions. Nonetheless, they are highly selective, moralistic accounts of crime that overlook children's voices and violence. The authors of the sources favoured information from the prosecution which meant that defence testimonies were regularly omitted. Acquittals and types of cases that occurred more regularly, such as cart-related accidents in London, were usually much shorter than cases with a guilty verdict. Therefore, the way in which the *Sessions Papers* were constructed impacted on how homicides by and against children, that usually resulted in acquittal, were recorded and the testimonies of children were excluded.

As 'news' pamphlets and broadside ballads were cheaply produced not only to inform and entertain but also to make a profit, it is unsurprising that when they reported homicides of children they were cases of filicide that were unusual. Street literature was designed to reach a large popular audience. It was produced by anonymous authors, in cheap formats, to be sold in markets and at fairs, in towns and in the countryside, and could be read in private or aloud, or, especially if it was a ballad, performed in marketplaces.<sup>131</sup> There is much evidence to suggest that, although most of the literature was produced and consumed in London, crime pamphlets were accessible in towns and villages throughout England and, to some extent, Wales.<sup>132</sup> Like the *Sessions Papers*, popular crime literature was didactic and selective. Pamphlets and broadsides frequently examined murders committed in the household that could be reconstructed to fit the genre's godly framework and narrative arc of sin,

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<sup>130</sup> Robert Shoemaker, 'The Old Bailey Proceedings and the Representation of Crime and Criminal Justice in Eighteenth-Century London', *Journal of British Studies* 47:3 (2008), pp. 559-80; Toulalan, "Is He a Licentious Lewd Sort of a Person?", pp. 21-52.

<sup>131</sup> Sandra Clark, 'Deeds against Nature: Women and Crime in the Street Literature of Early Modern England', *SEDERI* 12 (2002), pp. 9-11.

<sup>132</sup> Adam Fox, *Oral and Literate Culture in England, 1500-1700* (Oxford, 2000), pp. 335-405; Lloyd Bowen, 'Information, Language and Political Culture in Early Modern Wales', *Past & Present* 228 (2015), 127-128.

murder, remorse and redemption.<sup>133</sup> Filicides (by women) and mariticide were especially popular topics as they demonstrated that natural hierarchies, familial obligations and the gendered and social order were overturned, and then restored when the murderer was executed. As Sandra Clark has argued, women who killed ‘constituted a public spectacle of extraordinary interest’ in print and, literally, on the scaffold.<sup>134</sup> Popular crime narratives were informed by real homicide cases. While crime pamphlets and broadsides were far from accurate accounts as many of the details were embellished and sometimes completely fabricated, they engaged with religious and didactic discourses about childhood innocence, the obligations of parent-child relationships and age hierarchies that were embedded in early modern society.<sup>135</sup>

Crime reporting in daily, tri-weekly, weekly and monthly newspapers and periodicals developed from the mid to late seventeenth century, especially from the 1690s onwards, and contained much information about homicides and accidental deaths. The expansion of the newspaper press occurred at an astonishing rate as titles started being published on the same days competed for trade.<sup>136</sup> The increased regularity and speed by which newspapers were produced and consumed influenced how news of crimes were constructed in this printed format. Newspapers and periodicals often dedicated sections of the sheets to news of casualties and accidents not only from the British Isles but also from Europe and America. News from these regions and provinces were circulated to London newspapers by letters of residents and travellers as well as other newspaper accounts.<sup>137</sup> These short accounts often omitted details like the names and ages of victims, especially in daily newspapers that produced news rapidly. Reports focused on various stages of the criminal process, from when a homicide was first reported to accounts of executions that provided

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<sup>133</sup> Peter Lake, ‘Deeds against Nature: Cheap Print, Protestantism and Murder in Early Seventeenth-Century England’ in Kevin Sharpe and Peter Lake (eds), *Culture and Politics in Early Stuart England* (Basingstoke, 1994), pp. 257-84; Garthine Walker, ‘Imagining the Unimaginable: Parricide in Early Modern England and Wales, c. 1600-c. 1760’, *Journal of Family History* 41:3 (2016), pp. 271-93.

<sup>134</sup> Clark, ‘Deeds against Nature’, p. 11.

<sup>135</sup> Alexandra Walsham, *Providence in Early Modern England* (Oxford, 1999), esp. pp. 65-115; Alexandra Walsham, ‘“Out of the Mouths of Babes and Sucklings”: Prophecy, Puritanism, and Childhood in Elizabethan Suffolk’, in Wood, Diana (ed.), *The Church and Childhood* (Oxford, 1994), p. 295; Clark, *Women and Crime*, pp. 145-79; Susan Amussen, *An Ordered Society: Gender and Class in Early Modern England* (New York, 1993), pp. 34-66, 95-133.

<sup>136</sup> Tony Claydon, ‘Daily News and the Construction of Time in Late Stuart England, 1695-1714’, *Journal of British Studies* 52 (2013), p. 59; Walker, ‘Rape, Acquittal and Culpability’, pp. 119-20.

<sup>137</sup> For example, see: *London Journal*, 21 July 1722.

similar or additional information to the *Sessions Papers* and its sister publication the *Ordinaries' Accounts*, that described how prisoners fared in Newgate before their execution.<sup>138</sup> As Tony Clayton has argued, 'News naturally continued to spread orally after 1695, though word of mouth increasingly interacted with printed forms'.<sup>139</sup> Many of the reports of homicides that were produced in London were also repeated, usually verbatim, in provincial newspapers and vice versa, replicating and corroborating news from messengers and by word of mouth. While some newspapers had political sympathies, such as the Whiggish *Flying Post* and the *Post Boy* which was Tory, and therefore selected stories that reflected these views, these had little effect on how accidents and homicides of children were reported.<sup>140</sup>

This thesis examines several types of sources and spans 130 years of history. I argue that the meanings and representations of homicides by and against children, on the whole, changed very little during this period. Popular crime pamphlets and broadside ballads are particularly notable because they engaged with similar notions of childhood – innocence, passivity and vulnerability – throughout this period. The authors of crime literature consistently described children under the age of fourteen, even those who had killed, as unable to assert their agency or authority. As Chapter One shall demonstrate, homicide law was applied consistently in cases involving children as victims and perpetrators throughout this period. The way in which cart-related homicides in London were tried also suggests that even though ideas of criminal negligence were not yet included in legal handbooks, judges and juries used similar criteria in individual trials to prosecute or acquit defendants. As evidence of child-perpetrated homicides is so scant and children who committed lethal violence were considered by judges and juries on a case-by-case basis, it is difficult to tell whether attitudes to children's violence changed during this period. The development of crime writing at the end of the seventeenth century did bring some changes in how accidental deaths and homicides were recorded in print. The expansion of newspapers in the eighteenth century means that accidental deaths and homicides were more frequently reported. As a result, the

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<sup>138</sup> See: Robert Shoemaker, 'Print and the Female Voice: Representations of Women's Crime in London, 1690-1735', *Gender & History* 22:1 (2010), pp. 75-91.

<sup>139</sup> Clayton, 'Daily News', p. 58

<sup>140</sup> Clayton, 'Daily News', p. 59

discussion of accidents in Chapter Three focuses more on the latter part of this period. In this chapter, I posit that in these accounts greater blame is put onto 'negligent' mothers and nurses for leaving children unsupervised because femininity began to become increasingly associated with motherhood. Therefore, by the end of this period, accidents that had previously been considered unfortunate accidents were gradually being understood as deaths that could have been avoided.

### ***Structure and scope***

This thesis is divided into five chapters. Chapter One examines how homicides by and against children were legally defined and interpreted under early modern homicide law. In Chapter Two I analyse children's legal testimony and representations of children in popular crime literature to consider whether child victims, perpetrators and witnesses of homicide were permitted agency. Chapter Three analyses the circumstances in which children were involved in accidents and illustrates the valuable information about children's medical and everyday care and relationships that can be garnered from accounts of accidental death. Chapter Four focuses on categories of lethal and non-lethal violence by and against children. In particular, this chapter demonstrates the ways in which children's violence could be explained as temporary and supernatural, and how children negotiated their friendships and conflicts by trying to imitate and reproduce masculine, hierarchical violence that they witnessed and experienced on a daily basis. Finally, Chapter Five investigates families and communities' emotional reactions to children's deaths, exploring a range of emotions including fear, remorse and grief.

By examining the homicides of and by children that occurred in both familiar and extraordinary circumstances in early modern England and Wales, this thesis seeks to bridge the gap between the history of childhood and the history of crime. It introduces notions of children's violence and deviance to the history of crime. The thesis establishes that children had a separate status under common law, and more specifically homicide law, but that this was far from straightforward as judges and juries interpreted homicides by and of children against adult male standards of violence and behaviour. The thesis also builds on Naomi Tadmor's work on the family and kinship to demonstrate that children were embedded in town, parish and village life, and that they

impacted on how these communities regulated and interpreted violence.<sup>141</sup> Most importantly, the main aim of this thesis is to study children's experiences – their violence, voices and behaviours – and to offer a history *of* children rather than a history *about things that people did to* children.

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<sup>141</sup> Naomi Tadmor, *Family and Friends in Eighteenth-Century England: Household, Kindship and Patronage* (Cambridge, 2001).

## Chapter One

### Legal Categories of Homicides of and by Children

Approximately half of homicide cases against and caused by children were defined as accidental killings in early modern England and Wales: 49 percent of homicide cases from the *Old Bailey Sessions Papers* (1674-1730) and 60 percent from Denbighshire and Flintshire (1660-1730) were classified as or engaged with discourses of accidental death. However, few were legally categorised as misadventure or misfortune (Figure 1). Accidental homicides of and by children were legally separated by different degrees of culpability, returning verdicts of manslaughter, misadventure and, throughout the late seventeenth and early eighteenth centuries, they were routinely acquitted to avoid the forfeiture of goods that was associated with a misadventure verdict.<sup>1</sup> As homicide law was underpinned by male standards of violence and honour, legal manuals provided little guidance for how judges and juries should interpret and classify killings against children, especially those committed by women and children.<sup>2</sup> Therefore, some legal categories such as manslaughter, were sometimes employed differently in cases of homicides by and of children than in incidences that only involved adults. The concept of criminal negligence had not yet permeated early modern legal manuals however, and, in practice, manslaughter verdicts were exercised by juries in homicides of children that established a killer had caused an accident by being wantonly negligent or careless. While some child-perpetrated killings were interpreted as the result of masculine violence (manslaughter), most witnesses and juries exonerated children and so their violence was legally categorised as accidental. This chapter examines the legal boundaries between murder, manslaughter and misadventure to explain how and why homicides by and against children were categorised in cases from the Northern Circuit and the Old Bailey in England and the Great Sessions in Wales. It clarifies how legal criteria was applied and interpreted in homicide cases involving children as victims and as perpetrators and establishes that age had a bearing on how killers were treated by judges and juries.<sup>3</sup> Therefore, age is a category of analysis that must be taken into

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<sup>1</sup> Krista Kesselring, *Mercy and Authority in the Tudor State* (Cambridge, 2003), pp. 97-99.

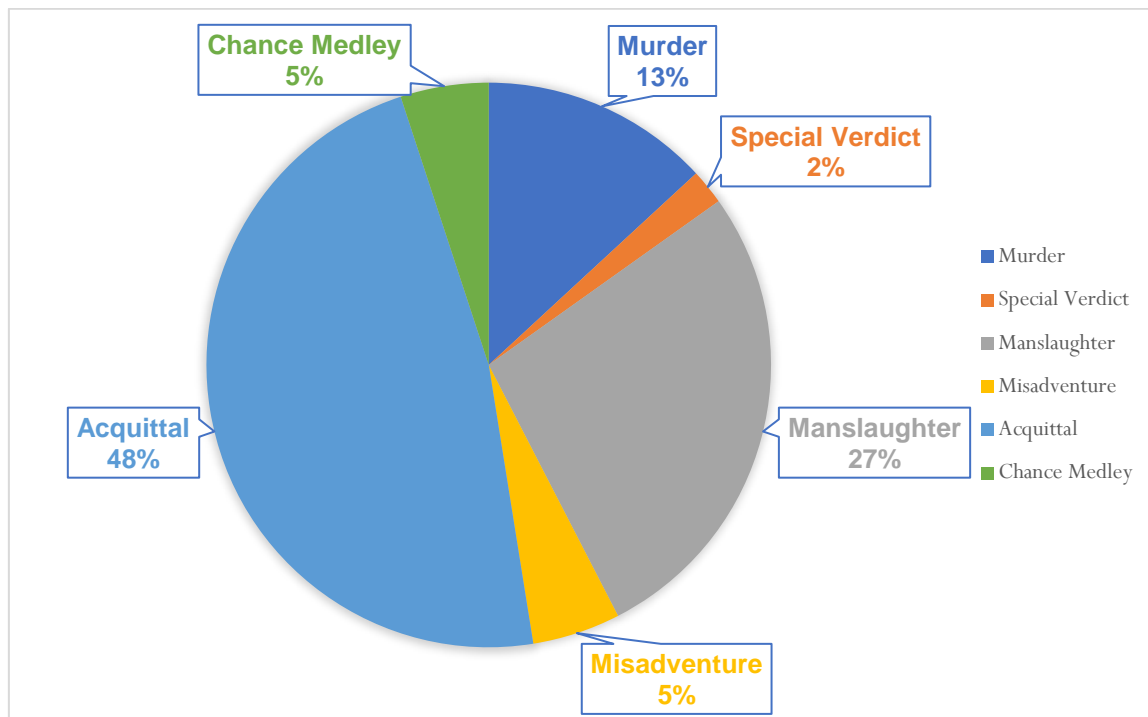
<sup>2</sup> Garthine Walker, *Crime, Gender, and Social Order in Early Modern England* (Cambridge, 2003), pp. 134, 156-58.

<sup>3</sup> J.M. Beattie, *Crime and the Courts in England 1660-1800* (Princeton, 1986), p. 440.



consideration when examining early modern crime to form a more holistic understanding of how the law operated in England and Wales.

**Figure 1.** *Verdicts in cases of homicides by and against children from the Old Bailey, 1674-1730*



The legal category of homicide (the killing of another person) and the ascription of culpability was, as Garthine Walker has shown, distinguished by degrees: 'culpable killing, which was capital, excusable killing, which was pardonable, and justifiable killing, which deserved acquittal.'<sup>4</sup> The legal categories and application of homicide law remained consistent in homicide cases involving children as victims and perpetrators in the regions examined.

<sup>4</sup> The following discussion draws on early modern manuals and historians' explanations of the categories of homicide: Michael Dalton, *The Countrey Justice: Containing the Practice of the Justices of the Peace out of their Sessions* (London, 1619), pp. 217-30; Edward Coke, *The Third Part of the Institutes of the Laws of England Concerning High Treason, and Other Pleas of the Crown, and Criminal Causes* (London, 1644), pp. 47-58; Matthew Hale, *Historia Placitorum Coronae: The History of the Pleas of the Crown* (London, 1736), pp. 40-59; William Blackstone, *Commentaries on the Laws of England* (Oxford, 1768-9); Walker, *Crime, Gender and Social Order*, pp. 114-115; John H. Baker, *An Introduction to English Legal History, 4th edition* (London, 2002), pp. 600-3; Beattie, *Crime and the Courts in England*, pp. 74-106; Sharon Howard, *Law and Disorder in Early Modern Wales: Crime and Authority in the Denbighshire Courts c. 1660-1730* (Cardiff, 2008), pp. 30-95; Krista Kesselring, 'Bodies of Evidence: Sex and Murder (or Gender and Homicide) in Early Modern England', *Gender & History* 27:2 (2015), pp. 245-62; Frank McLynn, *Crime and Punishment in Eighteenth-Century Society* (Oxford, 1991), pp. 36-53.

The two forms of culpable killing were murder and manslaughter. Murder, legally defined as a premeditated, cold-blooded killing with 'malice aforethought' against an innocent, vulnerable victim, held the highest degree of culpability. English judge, Edward Coke, explained that, in the absence of proof of literal premeditation, malice was implied if the judge and jury established that the killer was fully culpable of committing a homicide.<sup>5</sup> Convicted murderers were hanged, and their lands and goods were forfeited to the Crown. Manslaughter, a sudden, unplanned killing, held less culpability than murder. It was often mitigated by the victim's verbal and/or physical provocation which meant that both victim and perpetrator shared responsibility for the victim's death.<sup>6</sup> Male manslayers could plead benefit of clergy, which resulted in the branding 'M' for manslayer on the prisoner's thumb and forfeiture of their goods and lands. Women were not entitled to plead benefit of clergy until 1691 and were instead hanged alongside murderers if convicted of manslaughter.<sup>7</sup> Excusable homicide was also separated into two categories of killings that were 'against the mind of the killer': misadventure (or accidental homicide) and self-defence, which emphasised 'the absolute necessity of the fatal blow to the killer's preservation of his own life'.<sup>8</sup> Misadventure, an involuntary, unintentional killing by someone who had been participating in legal activities at the time, covered a broad spectrum of accidental killings. Defendants found guilty of 'excusable homicide' forfeited their lands and goods but, because the perpetrator had not intended to kill, they received a pardon from the monarch.<sup>9</sup> Justifiable homicides included the 'lawful execution of felons' and 'deaths that ensued in the course of administering royal justice (such as those of felons who resisted arrest)'.<sup>10</sup> As these homicides were justifiable, the perpetrators were automatically acquitted and did not receive a punishment. This chapter explores the categories under which homicides against and by children were classified: murder, manslaughter, misadventure and acquittals.

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<sup>5</sup> Coke, *The Third Part*, pp. 47-58.

<sup>6</sup> Walker, *Crime, Gender and Social Order*, p. 215. See also: Bernard Brown, 'The Demise of Chance Medley and the Recognition of Provocation as a Defence to Murder in English Law', *American Journal of Legal History* 7:4 (1963), pp. 310-18; Matthew Lockwood, 'From Treason to Homicide: Changing Conceptions of the Law of Petty Treason in Early Modern England', *Journal of Legal History* 34:1 (2013), pp. 34.

<sup>7</sup> Lockwood, 'From Treason to Homicide', p. 43.

<sup>8</sup> Walker, *Crime, Gender and Social Order*, p. 116.

<sup>9</sup> Kesselring, *Mercy and Authority*, pp. 97-99.

<sup>10</sup> Walker, *Crime, Gender and Social Order*, p. 116.

Most scholarship on children, homicide and the law has compared the legal criteria for women convicted under the 1624 Concealment Act and married men and women convicted under homicide law. Historians of crime have demonstrated that the perpetrator's marital status and gender determined whether they were convicted under statute law or common law.<sup>11</sup> The Concealment Act, which made it a criminal offence for unmarried women to conceal the deaths of their illegitimate new-born children, has been interpreted by many historians as 'harsh' and 'draconian' legislation that unfairly persecuted poor, unmarried women who killed their babies to avoid poverty and shame.<sup>12</sup> Marilyn Francus has argued that the 1624 statute 'placed the burden of proof squarely on the defence', reversing the presumption of innocence until proven guilty and that 'women were convicted of infanticide based on nothing more than circumstantial evidence'.<sup>13</sup> In contrast, scholars have implied that married women and men were treated more leniently than single women because they were prosecuted under homicide law that required positive proof that they had murdered the infant.<sup>14</sup> Recent research has dismissed the misconception that the 1624 Act reversed the presumption of innocence (which was not yet a condition for any felony) and the assumed severity of the Act in comparison to homicide law.<sup>15</sup> Historians have also shown that the application of the 1624 statute changed during the early eighteenth century and that, by 1715, 'proof of guilt seems to have changed in practice from that laid down by the 1624 statute – the concealment of the death of a bastard child – to the standard of proof

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<sup>11</sup> Mary Clayton, 'Changes in Old Bailey Trials for the Murder of Newborn Babies, 1674-1803', *Continuity and Change* 24:2 (2009), pp. 337-59; Marilyn Francus, 'Monstrous Mothers, Monstrous Societies: Infanticide and the Rule of Law in Restoration and Eighteenth-Century England', *Eighteenth-Century Life* 21:2 (1997), pp. 133-56; Walker, *Crime, Gender and Social Order*, pp. 148-56; R. W. Malcolmson, 'Infanticide in the Eighteenth Century', in J. S. Cockburn (ed.), *Crime in England, 1500-1800* (Princeton, 1977), pp. 187-209; Peter Hoffer and N. E. H. Hull, *Murdering Mothers: Infanticide in England and New England, 1558-1803* (New York, 1981).

<sup>12</sup> Clayton, 'Changes in Old Bailey Trials', p. 338; Francus, 'Monstrous Mothers, Monstrous Societies', p. 133 and Francus also argues that infanticide cases 'began with the presumption of guilt', p. 137; see also: Malcolmson, 'Infanticide in the Eighteenth Century', pp. 187-209; Keith Wrightson, 'Infanticide in Earlier Seventeenth-Century England', *Local Population Studies* 15 (1975), pp. 10-22; Keith Wrightson, 'Infanticide in European History', *Criminal Justice History* 3 (1982), pp. 1-20; Walker, *Crime, Gender and Social Order*, p. 149; contributions to Mark Jackson (ed.), *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550-2000* (Aldershot, 2002); Anne-Marie Kilday, 'Desperate Measures or Cruel Intentions? Infanticide in Britain since 1600', in Anne-Marie Kilday and David Nash (eds), *Histories of Crime: Britain 1600-2000* (London, 2010), pp. 60-79.

<sup>13</sup> Francus, 'Monstrous Mothers, Monstrous Societies', p. 133.

<sup>14</sup> Beattie, *Crime and the Courts*, p. 113.

<sup>15</sup> Walker, *Crime, Gender and Social Order*, p. 151.

required to convict any other person of murder.’<sup>16</sup> As scholars have tended to compare the 1624 statute with homicide law, investigations of homicides of children have mainly focused on the deaths of new-born or infant children by their parents.<sup>17</sup> However, this is only one context in which children were killed in early modern England and Wales: most killings of children prosecuted under homicide law were not committed by parents against their children. As the Concealment Act was statute law and separate from homicide law, this chapter excludes infanticide cases and moves beyond comparisons between infanticide and homicide law to consider how the deaths of children were categorised under homicide law.<sup>18</sup>

Homicides against children that were not committed by parents or legally defined as neonatal infanticide or murder have received much less attention in the historiography of crime. First, scholars have tended to analyse masters and mistresses who killed their servants alongside filicide and other types of ‘domestic homicide’. Despite explicit references in legal handbooks about how it was classified, few historians have explored how corrective violence was legally defined.<sup>19</sup> Secondly, as manslaughter, a legal category based on notions of righteous masculine violence and honour, was rarely a suitable category for lethal violence against children, it has largely been ignored by historians examining homicides of children. Garthine Walker has identified that, in the absence of a legal concept of criminal negligence, manslaughter verdicts were employed when men carelessly, but unintentionally killed one another.<sup>20</sup> As manslaughter verdicts were more common in the Old Bailey than other assize courts, these records provide the best evidence for how manslaughter verdicts were applied differently in homicides that involved adult men and homicides between children. Thirdly, historians who have examined crime and accidents have been inclined to conceptualise accidental death and homicide as separate

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<sup>16</sup> Clayton, ‘Changes in Old Bailey Trials’, pp. 339, 353.

<sup>17</sup> Except for Hoffer and Hull, *Murdering Mothers* who examine the filicides of older children as well as infants.

<sup>18</sup> See Chapter Four for an analysis of violence in crime literature and trials about infanticide and filicide.

<sup>19</sup> J.A. Sharpe, ‘Domestic Homicide in Early Modern England’, *Historical Journal* 24 (1981), pp. 29-48; scholars have also examined non-lethal violence by parents, masters and mistresses: Susan Amussen, “‘Being Stirred to Much Unquietness’: Violence and Domestic in Early Modern England”, *Journal of Women’s History* 6:2 (1994), pp. 70-89.

<sup>20</sup> Walker, *Crime, Gender and Social Order*, pp. 134-35; J. H. Baker (ed.), *The Reports of Sir John Spelman vol 94* (London, 1877-78), p. 314; Kesselring, *Mercy and Authority*, p. 97.

categories.<sup>21</sup> Social and cultural historians have analysed accidental deaths in coroners' inquest records to uncover evidence of 'everyday life' in medieval and early modern England. Due to the high survival rate of coroners' inquest indictments from the fourteenth to the sixteenth centuries and the range of deaths recorded in them, scholars have focused on more frequent 'casual deaths' and 'misadventures', such as children who fell down wells or drowned, rather than accidental homicides.<sup>22</sup> James Sharpe and J. R. Dickinson separated accidental death from homicide when they claimed that coroners' inquests 'on accidental death [are] so often ignored owing to the preoccupation of historians with homicide or suicide'.<sup>23</sup> However, homicide (the killing of another person) and accidental deaths were part of the same legal framework in seventeenth- and early eighteenth-century England and Wales; discourses of accidental death applied in manslaughter, misadventure and acquittal cases.

With the exception of Holly Brewer, few historians of early modern crime have examined how children's lethal violence was legally defined. Brewer, who analysed the changing roles and perceptions of children in the English and American legal systems, has provided some theories about how child-perpetrated homicides were officially categorised. She has asserted that the dearth of legal records documenting child felonies was not, as we might expect, due to an assumption in the law that children could not form intent and were therefore innocent. Instead, she has claimed that as common law 'made little distinction between children and adults, age was irrelevant'. To demonstrate the similar treatment of children and adults in common law, Brewer quoted legal jurist Michael Dalton who stated that children '[e]ight years of age, or above, may commit hom[i]cide, and shall be hanged for it' and discussed an eight-year-old boy, mentioned in Dalton's *The Countrey Justice*, who was convicted of

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<sup>21</sup> See studies on accidents and accidental death: Steve Gunn and Tomasz Gromelski, 'For Whom the Bell Tolls: Accidental Deaths in Tudor England', *Lancet* 308 (2012), pp. 1222-3; Roy Porter, 'Accidents in the Eighteenth Century', in Roger Cooter and Bill Luckin (eds), *Accidents in History: Injuries, Fatalities, and Social Relations* (Amsterdam, 1997), pp. 90-106; James Sharpe and J. R. Dickinson, 'Coroners' Inquests in an English County, 1600-1800: A Preliminary Survey', *Northern History* 48:2 (2011), pp. 253-69; Elizabeth Towner and John Towner, 'Developing the History of Unintentional Injury: the Use of Coroners' Records in Early Modern England', *Injury Prevention* 6 (2000), pp. 102-5.

<sup>22</sup> Carol Loar, 'Medical Knowledge and the Early Modern English Coroner's Inquest', *Social History of Medicine* 23:3 (2010), pp. 477-481; Barbara A. Hanawalt, *The Ties that Bound: Peasant Families in Medieval England* (Oxford, 1986), pp. 171-87; Gunn and Gromelski, 'For Whom the Bell Tolls', pp. 1222-3

<sup>23</sup> Sharpe and Dickinson, 'Coroners' Inquests in an English County', p. 259.

murder and hanged.<sup>24</sup> While children aged eight and over in theory could be found guilty of homicide in early modern England and Wales, Brewer omits a vital aspect of how common law was applied in practice that demonstrates the relevance of age in the treatment of child offenders. Early modern judges made distinctions between the capacity of children aged seven or under, who were not legally responsible for homicide, and children aged between eight and thirteen (the age of discretion was fourteen), who could be found culpable of homicide if the judge and/or the jury determined that the child could tell the difference between right and wrong and understood 'the nature and obligation of an oath', a condition for forming intent.<sup>25</sup> Although seventeenth-century legal handbooks did not make these distinctions, by the eighteenth century Hale's *Historia Placitorum Coronae* suggested that this was an established procedure that judges used to determine a child's culpability on a case-by-case basis.<sup>26</sup> Further, verdicts from coroners' inquests and assize court trials confirm that it was not common practice for children to be found guilty of culpable homicide or hanged, as Brewer has suggested. Most children aged thirteen and under who committed a homicide were found guilty of misadventure and pardoned or acquitted. This was consistent throughout the seventeenth and eighteenth centuries, and a practice that occurred in all the jurisdictions examined. The ages of children were also important in pre-trial depositions, especially those from the Great Sessions, in which almost every pre-trial deposition relating to a child-perpetrated killing specified the ages of witnesses, including children, youths and adults.<sup>27</sup> Age was a significant factor that influenced how judges and juries decided on appropriate verdicts.

This chapter draws on evidence from legal manuals, indictments and pre-trial depositions from the Northern Circuit and the Great Sessions (including coroners' inquest records) and the *Old Bailey Sessions Papers* to explain how

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<sup>24</sup> Holly Brewer, *By Birth or Consent: Children, Law, and the Anglo-American Revolution in Authority* (Chapel Hill, 2005), pp. 184, 181-229 quoting Dalton, *The Countrey Justice*, p. 215.

<sup>25</sup> The age of discretion was fourteen. Children aged fourteen or over were treated the same as adults under homicide law. See: Garthine Walker, 'Rape, Acquittal and Culpability in Popular Crime Reports in England, 1670–1750', *Past & Present* 220:1 (2013), pp.115-142; Hale, *Historia Placitorum Coronae*, pp. 40-59.

<sup>26</sup> Hale, *Historia Placitorum Coronae*, pp. 25-29.

<sup>27</sup> The ages of child-perpetrators and victims are frequently not given in the *Old Bailey Sessions Papers* but reports often use linguistic distinctions such as 'infant', 'child', 'youth' 'boy' and 'girl'. These markers did not necessarily relate to age-specific boundaries but do indicate different ages within 'childhood' and 'youth'.

legal concepts were interpreted in homicide cases. Common law was based on precedent, so legal manuals written by judges and jurists expanded on and updated earlier handbooks by different authors.<sup>28</sup> As homicide law built on notions of masculine honour and violence, handbooks tended to clarify legal criteria with examples and discourses of male/male combat. Some manuals did scrutinise specific legal principles relating to the killing of children, such as disproportionate and reasonable correction and the different degrees of culpability for killing a born and an unborn child, but rarely provide guidance on other common situations in which children might be killed.<sup>29</sup> In the absence of specific guidelines for categorising homicides of children, judges and juries determined which verdict was most appropriate for each incident. Pre-trial depositions, indictments and coroners' inquest records demonstrate how homicide cases were defined and prosecuted at a pre-trial level, and at grand jury and assize court trials. Quantifying seventeenth- and early eighteenth-century homicide indictments is problematic – survival rates of indictments from the Northern Circuit are inconsistent and there are few pre-trial and coroners' inquest records of homicides of and by children from the Great Sessions to systematically measure how many children were killed, different types of homicide, and the ages of children who were killed. I have only found seven indictments relating to homicides against and by children from the Great Sessions and five from the Northern Circuit. In contrast, evidence from the *Old Bailey Sessions Papers*, while not representative of the whole of England and Wales, does lend itself to statistical analysis: except for some early eighteenth-century records, many reports from 1673 to 1730 have survived and they usually include the quantifiable information, like the verdict, that was most pertinent to the case.<sup>30</sup> This chapter engages with quantitative and qualitative evidence from the Old Bailey to demonstrate the prevalence of acquittals and manslaughter verdicts in homicide cases involving children as victims and perpetrators. Moreover, as the *Sessions Papers* were short trial summaries with the aim of presenting judges and juries as effectively enacting justice, they provide concise evidence of how and why verdicts were reached with reference

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<sup>28</sup> For example, Blackstone, *Commentaries on the Laws of England* is based on and borrows many examples from Coke, *The Third Part*.

<sup>29</sup> Dalton, *The Countrey Justice*, pp. 221; Blackstone, *Commentaries on the Laws of England*, p. 197

<sup>30</sup> Although, as Mary Clayton has recognised, less than a third of reports have survived in the first decade of the eighteenth century: Clayton, 'Changes in the Old Bailey', p. 338.

to legal criteria.<sup>31</sup> Finally, the chapter also draws on crime pamphlets and ballads to establish that aspects of homicide law, especially murder, were depicted in popular literature.

### ***Murder***

Despite historians' interest in filicide and child-murder cases, few homicides of children were categorised as murder and even fewer were committed by parents.<sup>32</sup> Only thirteen percent of surviving trial summaries involving children as victims and perpetrators from the Old Bailey between 1674 and 1730 returned murder verdicts (Figure 1), and only two cases involved parents who were convicted of murdering her child compared with four cases in which the perpetrator and victim were strangers (Table 1).<sup>33</sup> J. M. Beattie has implied that proof of malice depended on a pre-existing relationship between the victim and the perpetrator, however this section identifies that strangers, as well as parents, masters and mistresses, were prosecuted for inflicting planned, deliberate violence against children.<sup>34</sup> Children and youths also murdered those who were strangers to them. Rather than prioritising the relationships between victims and their murderers, this section considers evidence required to prove intent, malice, and premeditation in homicide cases. Murder verdicts were returned when judges and juries established that a killer had purposefully used unfair advantage to inflict brutal violence against a defenceless child victim, who had not provoked an attack and was unable to fight back.<sup>35</sup> Other factors such as expectations of 'immoderate' corrective violence, the perpetrator's gender, motive, and age all contributed to constructions of culpability in murder trials. Although popular crime authors produced and circulated accounts of filicide and

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<sup>31</sup> Robert Shoemaker, 'The Old Bailey Proceedings and the Representation of Crime and Criminal Justice in Eighteenth-Century London', *Journal of British Studies* 47:3 (2008), pp. 560, 562, 567, 572.

<sup>32</sup> For example, see: Beattie, *Crime and the Courts*, pp. 113-24; Clayton, 'Changes in Old Bailey Trials', pp. 337-59; Frances E. Dolan, *Dangerous Familiars: Representations of Domestic Crime in England, 1550-1700* (Ithaca, 1994); Francus, 'Monstrous Mothers, Monstrous Societies', pp. 133-56; Kilday, 'Desperate Measures or Cruel Intentions?', pp. 60-79.

<sup>33</sup> 13 defendants out of 82 in surviving *Old Bailey Sessions Papers* from 1674 to 1730 were prosecuted for murder. For the case of the mother who murdered her child see: *OBSP*, Oct 1686, Anne Philmore, t16861013-25. For cases of strangers who killed children, and children and youths who killed strangers: *OBSP*, May 1680, t16800526-6; *OBSP*, Dec 1718, Richard Morgan, t17181205-9; *OBSP*, Oct 1675, J. D., t16751013-4; *OBSP*, Aug 1689, John Harman, Henry Peppermaker, John Degrove, t16890828-20. For cases where the relationship between the victim and the perpetrator is unknown see: *OBSP*, April 1688, Thomas Birch, t16880425-30.

<sup>34</sup> Thank you to Anna Field for pointing this out to me. Beattie, *Crime and the Courts*, p. 94.

<sup>35</sup> Walker, *Crime, Gender and Social Order*, pp. 118.



often exaggerated real events, child-murder pamphlets and broadside ballads demonstrate how authors engaged with legal discourses of murder to explain and justify how and why murder verdicts were reached.

**Table 1.** *Relationship between victims and accused from the Old Bailey Sessions Papers, 1674-1730 (includes all defendants in cases in which more than one person was found guilty of murder).*

<b>Relationship between victim and accused</b>	<b>1674-1730</b>	<b>Percentage</b>
Parent	2	17%
Mistress	2	17%
Stepsister	1	8%
Neighbour	1	8%
Stranger	4	33%
Unknown	2	17%

Legal handbooks advised that disproportionately cruel, unprovoked corrective violence that led to the death of a child or a servant should be categorised as culpable homicide. English jurist and judge, William Blackstone wrote that if a parent or master

exceeds the bounds of moderation, either in the manner, the instrument, or the quantity of punishment, and death ensues, it is manslaughter at least, and in some cases (according to the circumstances) murder; for the act of immoderate correction is unlawful.<sup>36</sup>

Moreover, legal manuals stated that parents and masters who had beaten their children or servants to death in an extraordinarily brutal or merciless way, but had not intended to kill them, could be found culpable of murder. For example, Blackstone argued that if

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<sup>36</sup> Blackstone, *Commentaries on the Laws of England*, p. 182.

one beats another in a cruel and unusual manner, so that he dies, though he did not intend his death, yet he is guilty of murder by express malice; that is, by an express evil design, the genuine sense of [malice].<sup>37</sup>

As the boundaries between acceptable and 'immoderate correction' depended on a variety of circumstances, including the child's age, size, health, and fault, judges and juries determined how cruel and unreasonable violence by masters and mistresses against their servants was on a case-by-case basis.<sup>38</sup> A child's service usually began around the ages of twelve to fourteen thus servants who were murdered tended to be older children and youths.<sup>39</sup> Legal manuals conceptualised corrective violence as performed by men against servants but, in practice, women were more likely to be convicted of the murder of their servants than men.<sup>40</sup> Homicide law was developed with an expectation that men would assert their honour through violence and 'embodied male standards of behaviour' that was symptomatic of their naturally hot constitutions. However, there was no corresponding cultural and legal framework of positive female violence or assertion.<sup>41</sup> As women could rarely convincingly engage with discourses of righteous masculine violence and mitigating notions such as provocation in their defences, their violence was construed by witnesses, judges and juries as abnormal and monstrous, which meant that they were more likely to be found culpable for 'murder' than 'manslaughter'.<sup>42</sup>

In accordance with criteria in legal handbooks, lethal violence against servants that involved unprovoked, sustained 'unusual Cruelty' returned verdicts of murder.<sup>43</sup> Trial summaries of servants' murders described masters and mistresses' 'barbarous usage' to disassociate the murderer's actions from legal and social notions of normal, acceptable correction.<sup>44</sup> For instance, two

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<sup>37</sup> Blackstone, *Commentaries on the Laws of England*, p. 198.

<sup>38</sup> Dalton, *The Countrey Justice*, pp. 224-25.

<sup>39</sup> Hugh Cunningham, *The Invention of Childhood* (London, 2006), p. 81.

<sup>40</sup> Sharpe, 'Domestic Homicide in Early Modern England', p. 38.

<sup>41</sup> Walker, *Crime, Gender and Social Order*, pp. 156-58; Krista Kesselring, 'Bodies of Evidence: Sex and Murder (or Gender and Homicide) in Early Modern England', *Gender & History* 27:2 (2015), pp. 245-62.

<sup>42</sup> Walker, *Crime, Gender and Social Order*, pp. 156-58; Howard, *Law and Disorder*, p. 70.

<sup>43</sup> *OBSP*, Feb 1690, Elizabeth Deacon, t16900226-1; *OBSP*, Jan 1682, Elizabeth Crosman, t16820116a-6; *OBSP*, Jan 1681, Elizabeth Wigenton, t16810117-1.

<sup>44</sup> Amussen, "'Being Stirred to Much Unquietness'", pp. 70-89; Frances E. Dolan, 'Household Chastisements: Gender, Authority and "Domestic Violence"', in Patricia Fumerton and Simon Hunt (eds), *Renaissance Culture and the Everyday* (Philadelphia, 1999), pp. 204-25.

separate 1681 trial reports about seamstress Elizabeth Wigenton and her lodger John Sadler who murdered Wigenton's thirteen-year-old apprentice girl demonstrated that their bloody violence could not be misinterpreted as moderate or accidentally excessive disciplinary violence. The trial summaries explained that Wigenton pretended that the girl had stolen money as an excuse to beat her and that John Sadler, who had already made a cat o' nine tails specifically to whip Wigenton's apprentice, volunteered to help her. He tied the girl's wrists so that she could not escape, stripped her, put a handkerchief in her mouth so that she could not alert the neighbours, and then Sadler and Wigenton whipped her for three to four hours 'so cruelly, that the blood flowed from her in abundance'. The girl died of her wounds three days later.<sup>45</sup> Wigenton and Sadler's violence was deliberate, planned, opportunistic, and disproportionate against a thirteen-year-old girl who had not provoked an attack and had no means of escape or retaliation. As their violence could not be mitigated or mistaken as an unintentional consequence of excessive correction, Wigenton and Sadler were both convicted as murderers and sentenced to hang.

The broadside *The Cryes of the Dead* (1620?), in which a weaver named Richard Price violently beat three of his apprentices to death, similarly depicted the children as passive to show that the unrelenting physical cruelty and systematic abuse Price levied on his apprentices could not, in any way, be confused with appropriate or reasonable correction. The broadside contrasted Price, a 'graceles man' and a 'vilaine' 'with a most cruel heart' and his apprentices, 'Sweete gentle children all', who dutifully served him and were 'of a most willing mind' to learn his craft from him. Once it had portrayed the opposing characteristics of Price and his apprentices, the broadside then provided gory details of how Price tortured his apprentices. He cut one child's ear off, which caused him to languish 'long in woe' before he died, and he whipped another child's 'tender limbs' from 'top to toe, With a coard full of knots, of leather yet to show'.<sup>46</sup> The bloody violence Price inflicted on his apprentices was not reasonable or proportionate in any way. The balladeer stressed

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<sup>45</sup> OBSP, Jan 1681, Elizabeth Wigenton, t16810117-1; OBSP, Feb 1681, John Sadler, t16810228-2.

<sup>46</sup> Anon., *The Cryes of the Dead. Or the Late Murther in South-Warke, Committed by One Richard Price Weaver, Who Most Unhumaynly Tormented to Death a Boy of Thirteene Yeares Old, With Two Others Before, Which He Brought to Untimely Ends, for Which He Lyeth Now Imprissoned in the White-Lyon, Till the Time of His Trial* (London, 1620?).

throughout that Price's apprentices had not transgressed their master's instructions or authority, which meant that his violence towards them was entirely unjustified and was categorised as murder. They withstood many life-threatening, violent acts before they died, yet they did not complain, resist or betray him to their parents or neighbours. This demonstrated how ruthlessly Price had transgressed his duty and role as a master while his apprentices upheld their loyalty to him. The contrasting representations of the innocent child victims and Price, who was an unrepentant murderer who had no conscience and, in the words of Joy Wiltenburg, had 'imperfect control of [his] actions', was intended to establish that Price's violence could not be mitigated; therefore, a murder conviction was entirely justified.<sup>47</sup>

However, not all representations of violence in child-murder pamphlets and broadsides aligned with legal discourses of murder. Crime literature about filicide could depart from legal criteria to prioritise gendered discourses of violence. Narratives described women as murdering their children in a calm, deliberate manner, drawing on discourses of 'cold-blooded' murder, whereas men's violence was often – although not always – represented as an act of violent frenzy in the 'heat of passion' which was legally associated with manslaughter.<sup>48</sup> Prodigal fathers, such as John Jones in *The Disobedient Son and The Cruel Husband* (date unknown) and Walter Caverley in *Two Most Unnatural and Bloodie Murthers* (1605), were both represented as in a hot-headed passion when they murdered their children. Jones was 'in a Fury' when he entered his household to demand more money from his wife and Caverley was 'overwhelmed by the *violence of his passion*, all natural love was forgot in his remembrance' when he stabbed his eldest son.<sup>49</sup> Early modern conduct manuals circulated concepts from Galenic humoral theory to warn that, as

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<sup>47</sup> Joy Wiltenburg, 'Madness and Society in the Street Ballads of Early Modern England', *Journal of Popular Culture* 21:4 (1998), pp. 101-127, p. 109.

<sup>48</sup> With the exception of John Taylor, *The Unnatural Father: or, the Cruell Murther Committed by John Rowse of the Towne of Ewell, Ten Miles from London, in the County of Surry, upon Two of his Owne Children* (London, 1621).

<sup>49</sup> Anon., *The Disobedient Son and Cruel Husband Being a Full and True Account of One Mr John Jones, a Gentlemans Son in Wiltshire, whose Father Left him an Estate of Twelve Hundred Pounds a Year, and Married a Lady of a Great Fortune in the Same Place, but Being Reduced to Poverty and Want with Riotous Living, he Killed his Wife and Children, and Afterwards Hanged his Mother on a Tree in the Orchard* (London, ?); Anon., *Two Most Unnaturall and Bloodie Murthers: The One by Maister Caverley, a Yorkeshire Gentleman, Practised Upon his Wife and Committed Uppon his Two Children, the Three and Twentie of April 1605* (London, 1605), p. 13, my emphasis.

men's bodies were naturally hot and dry they were innately inclined to anger quickly and to sustain passionate outbursts compared with women whose bodies were moist and cold, which made their anger weak and dissipate quickly.<sup>50</sup> While ideas of men's natural propensity towards hot-headed, passionate violence were imbued in early modern homicide law and connected with manslaughter, murder pamphlets and broadside ballads still engaged with these discourses to describe male and female violence differently. Popular crime narratives established that Jones and Caverley's actions could not be mitigated or misconstrued as manslaughter by prolonging their anger and extending detailed descriptions of their violence to murder (and attempt to murder) their wives and two or three of their children. While Jones and Caverley murdered two of their children, women like Elizabeth Barnes, usually only murdered one.

Instances of extreme bloody violence inflicted by male strangers against defenceless children, especially infants, who did not provoke violence, indicated the perpetrator's malicious intent.<sup>51</sup> The act of stabbing or bludgeoning a young child to death demonstrated key aspects of the legal criteria for murder: a killer's deliberately excessive force and unfair advantage. While Michael Dalton delineated unfair advantage and unequal strength in the context of male/male combat and the killing of an unarmed man, similar notions of unequal force and a perpetrator's excessive violence also applied to the murders of innocent, vulnerable children.<sup>52</sup> In London in 1680, a violent and 'brutish' bailiff who hit a girl with a cudgel and killed her, was found guilty of murder. The Old Bailey report stated that the bailiff had beaten and dragged the child's father whilst arresting him and when the child cried out, he turned around and hit her 'so furiously, that a Gentleman that saw it, testified it was enough to have knockt down the stoutest man'.<sup>53</sup> The bailiff's actions appeared to be unplanned, but his violence and use of a weapon was disproportionate and unreasonable against a child who had not provoked such a response. In 1689, Dutchman John Harman was also convicted of murder after he stabbed Elizabeth

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<sup>50</sup> Kesselring, 'Bodies of Evidence', p. 246; Elizabeth Foyster, 'Boys Will Be Boys? Manhood and Aggression, 1660-1800', in Tim Hitchcock and Michele Cohen (eds), *English Masculinities, 1660-1800* (London, 1999), pp. 151-66.

<sup>51</sup> This was also the case in infanticide trials, see: Walker, *Crime, Gender and Social Order*, pp. 152.

<sup>52</sup> Dalton, *The Countrey Justice*, pp. 217-222.

<sup>53</sup> *OBSP*, May 1680, t16800526-6.

Jennaway, an infant, in the chest as she lay asleep in a cradle. Harman, who was drinking in a public house with two other Dutchmen, quarrelled with some men, including Jennaway's father, who accused Harman and his companions of being Catholics. The Dutchmen threatened Jennaway's father and the other men in the public house with knives, swords and pistols. The trial report stated that, either during this skirmish or immediately after, Harman was left alone in the kitchen with Elizabeth Jennaway, who lay asleep in her cradle, and 'with his Sword drawn and upon a sudden the Child was heard to screek out, and immediately after was found dead in the Cradle.'<sup>54</sup> By stabbing Jennaway in the heart, which instantly killed her, Harman demonstrated his malicious intent to murder a vulnerable infant. The trial report explained Harman's cruel actions by profiling him as a barbaric 'alien' Dutchman and a 'brutish' bailiff who behaved 'according to the usual Cruelty and barbarousness of those savage Cattle'.<sup>55</sup> This established that Harman's brutal violence against an innocent child was predictable and reflected the violent nature of both Dutchmen and bailiffs.

The broadside *A Lamentable Ballad of the Tragical End of a Gallant Lord and Virtuous Lady* (1728?), in which a 'blackamoor' servant killed his nobleman master's wife and two infant children, similarly made associations between barbarous, bloody violence against innocent children and ethnicity. The 'egregious filthy rogue' sought revenge on his nobleman master after he had corrected the blackamoor following an insult on a hunting trip. The next day the blackamoor seized his chance to retaliate when his master went on another hunting trip. He pulled up the drawbridge and bolted the gates of the moated castle, locking himself and the nobleman's wife and two children inside. The blackamoor went up to the tower and, after murdering the eldest child by bashing its head against a wall, he turned his attention to the youngest child and

pluckd it from the mothers breast,

Most like a cruel wretch.

Within one hand a knife he brought,

The child within the other,

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<sup>54</sup> OBSP, August 1689, John Harman, Henry Peppermaker and John Degrove, t16890828-20.

<sup>55</sup> OBSP, August 1689, John Harman, Henry Peppermaker and John Degrove, t16890828-20.

And holding it over the wall,  
Saying, Thus die shall thy mother,  
  
With that he cut the throat of it,  
Then to the father he did call,  
To look how he the same did cut:  
Then down the head did fall.<sup>56</sup>

The blackamoor did not feel remorse after murdering the nobleman's eldest son and his act of snatching a suckling child from its mother's breast underlined his 'vile', cruel savageness. The broadside implied that the blackamoor's ethnicity drove his infinite thirst for violence as he was 'turned into a demon, a personification of evil' who did not repent after murdering an innocent, harmless baby.<sup>57</sup> The blackamoor's violence was particularly heinous, and the infant's murder was so tragic because the suckling infant, who was entirely dependent on its mother's nurture and protection, was helpless to resist the blackamoor's attack.<sup>58</sup>

Representations of the bloody and violent murders of children that were very uncommon in practice were reported extensively in crime pamphlets and broadsides precisely because they were so unusual and served to warn of the dire consequences of social and familial disorder. To attract audiences and encourage potential readers (and listeners) to buy their literature, authors of child murder pamphlets frequently wrote about the most barbaric, rare and extraordinary crimes, as they acknowledged at the beginning of their pamphlets.<sup>59</sup> For instance, the author of *Bloody Newes from Dover* (1647) declared that the murder of a seven-week-old infant by its mother, Mary Champion, was unlike any crime that had been reported: 'Amongst the

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<sup>56</sup> Anon., *A Lamentable Ballad of the Tragical End of A Gallant Lord and Virtuous Lady* (London, 1728?).

<sup>57</sup> Anu Korhonen, 'Washing the Ethiopian White: Conceptualising Black Skin in Renaissance England', in T. F. Earle and K. J. P. Lowe (eds), *Black Africans in Renaissance Europe* (Cambridge, 2005), p. 106.

<sup>58</sup> Patricia Crawford, "'The Sucking Child': Adult Attitudes to Child Care in the First Year of Life in Seventeenth-Century England", *Continuity and Change* 1:1 (1986), pp. 23-52; Staub, 'Early Modern Medea', p. 339; Naomi J. Miller and Naomi Yavneh, 'Introduction', in Naomi J. Miller and Naomi Yavneh (eds), *Maternal Measures: Figuring Caregiving in the Early Modern Period* (Aldershot, 2000), p. 5.

<sup>59</sup> Tessa Watts, *Cheap Print and Popular Piety, 1550–1640* (Cambridge, 1991) discusses the relationship between printers and distributors and how controversies were 'sometimes artificially fuelled to sell more print and make a profit', p. 40.

innumerable bloody acts, and desperate Designs which hath bin committed in this sinfull Land, the like hath seldome been seen or heard of, which this ensuing Relation hath here to unfold'.<sup>60</sup> In an increasingly competitive market, authors of crime literature tried to intrigue audiences with unusual tales that were often far removed from their own experiences but also described familiar situations and relationships that demonstrated these unthinkable crimes could occur in their own households and communities. Didactic, moral instruction was a fundamental feature of murder pamphlets and broadsides. As Alexandra Walsham has suggested, cautionary tales in popular crime literature were embellished accounts that included diluted versions of similar warnings in sermons and academic literature.<sup>61</sup> Tales of filicide showed the dangers of committing minor sins that would inevitably lead to greater sins and the necessity of maintaining expected household and gender roles to uphold social order. The murder of a child, especially by a parent who was supposed to love and protect their child, was a microcosm that demonstrated how natural and social order could be violated and the subsequent identification of a murderer and their execution served to reveal how it could be restored.<sup>62</sup> By drawing on familiar relationships and emphasising that sinful behaviour only escalated, child murder pamphlets warned that anyone who sinned risked becoming one of the murderers in their accounts and urged them to live a moral life to avoid such terrible crimes from happening to their own families.

Trial reports demonstrated that murderers' motives were vengeful and calculated. For instance, a 1718 trial summary claimed that the purpose of Mary Price's violence against her three-year-old stepsister, Ann Bickam, was to emotionally hurt other adults, rather than out of malice towards the child. Price confessed that she had strangled Bickam with a leather strap 'out of Revenge [to] the Father of the Child', her stepfather, who had taken 'from her a Tobacco-

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<sup>60</sup> *Bloody Newes from Dover. Being a True Relation of the Great and Bloudy Murder, Committed by Mary Champion (an Anabaptist) who Cut off her Childs Head, being 7. Weekes Old, and Held it to her Husband to Baptize* (London, 1647).

<sup>61</sup> Alexandra Walsham, *Providence in Early Modern England* (Oxford, 1999), pp. 32-51.

<sup>62</sup> Garthine Walker, "'Demons in Female Form": Representations of Women and Gender in Murder Pamphlets of the Late Sixteenth and Early Seventeenth Centuries', in Zunder, William and Trill, Suzanne (eds), *Writing and the English Renaissance* (London, 1996), pp. 123-39; Lake, Peter, 'Deeds against Nature: Cheap Print, Protestantism and Murder in Early Seventeenth-Century England', in Sharpe, Kevin and Lake, Peter (eds), *Culture and Politics in Early Stuart England* (Stanford, 1993), pp. 257-84.



box, which she set a great Value upon.<sup>63</sup> Price cold-bloodedly and maliciously killed an innocent child as part of an unrelated, adult conflict and, while her frank confession and her trivial motive made the judge and the jury question her mental state, they decided that she was mentally capable to commit homicide and she was convicted of murder. John Harman's actions appeared to be in retaliation to Jennaway's father as he decided to kill the sleeping infant after a violent disagreement with Jennaway's father. Moreover, he waited until they were alone to kill her, which barred anyone from hindering his violence, which was a common action and theme in murder pamphlets that demonstrated the killer's resolve to remove any obstacles to his or her murderous will.<sup>64</sup> *Sad News from Ratcliff* (1691) described how two men conspired with an apprentice, Robert Condinge, to steal from his master's house and murder his family. The three men planned to burgle the house when Condinge's master, Giddings, and his wife were away which left Giddings' wife's mother ('an antient Gentlewoman'), his sister's two-year-old child, and a maidservant inside the house. They were not expecting the maidservant to be there as well. To 'better compass their hellish Design' and prevent the maidservant from ruining their plan, the three accomplices persuaded her to leave the house to buy them some tobacco, leaving only the most vulnerable and physically weak members of the family inside the household.<sup>65</sup> This created an unfair advantage for Condinge and his accomplices.<sup>66</sup> When the maid left, the three men immediately murdered the elderly gentlewoman with a hand cleaver and then, because the infant girl who was present cried out and risked revealing the murder and robbery to neighbours, they 'inhumanely' bashed her head until she died. Condinge and his accomplices' bloody violence and preparation against an elderly woman and an infant indicated their cowardice and culpability.

Although legal manuals stated that children aged between eight and thirteen could be found culpable for murder and hanged, the youngest child

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<sup>63</sup> *OBSP*, July 1718, Mary Price, t17180709-36.

<sup>64</sup> *OBSP*, August 1689, John Harman, Henry Peppermaker and John Degrove, t16890828-20.

<sup>65</sup> Anon., *Sad News from Ratcliff*.

<sup>66</sup> Newton, *The Sick Child*, pp. 31-45; Margaret L. King, 'Concepts of Childhood: What We Know and Where We Might Go', *Renaissance Quarterly* 60:2 (2007), p. 373; Sara Mendelson and Patricia Crawford, *Women in Early Modern England, 1550-1720* (London, 1998), p. 175 explain that widows were stereotyped as 'poor, distressed, and weak'; Mary E. Wiesner, *Women and Gender in Early Modern Europe* (Cambridge, 2000), p. 89. See also contributions to Sandra Cavallo and Lyndan Warner (eds), *Widowhood in Medieval and Early Modern Europe* (Harlow, 1999).

found guilty of murder in the Old Bailey, the Northern Circuit and the Great Sessions was fourteen, and therefore over the age of discretion.<sup>67</sup> A 1675 trial summary explained that 'J. D. a little boy about 14 years of age' murdered a silkman.<sup>68</sup> The trial report, which concentrated on J. D.'s emotional state before his execution, is very unusual as it adopted the form of the *Ordinary of Newgate's Accounts* rather than a record of the trial. The account did not detail how or why J. D. had murdered the man and instead focused on J. D.'s fear of death, his confession of previous 'follies' and sins, and commented that he was too young to have properly prepared for his death.<sup>69</sup> The absence of murders committed by children under the age of discretion (and the presence of incidences of child-perpetrated killings in other categories of homicide) demonstrates that the age boundary for the prosecution of murder was not, in practice, as low as legal manuals advised it could be. Children aged thirteen or under who committed homicides were rarely considered by judges and juries to have a superior or unequal advantage, in terms of physical strength or mind (intent), over their victims, especially if their victim was an adult. However, common law stipulated that children aged fourteen and over could form intent and therefore their violence was categorised in a similar way to adult-perpetrated homicides. Other trial accounts of child- and youth-perpetrated murders provided information and context about the murder, but not the exact ages of the killers. For instance, a trial report from the *Old Bailey Sessions Papers* in 1688 employed vague terms to describe Thomas Birch and the two victims he was convicted of murdering during a fight between two rival gangs. It stated that 'the *Boys* of the 2 Parishes of St. Andrews-Holborn and Clarkenwel' met 'upon the bounds of the Parishes, and opposing one another as they use to do with Sticks'. During the fight, Birch brought out a gun and shot two boys who were only carrying sticks to defend themselves.<sup>70</sup> As Birch had brought a more powerful weapon to a fight that was usually conducted with sticks and killed two boys, his actions appeared deliberate and excessive.

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<sup>67</sup> Dalton, *The Countrey Justice*, p. 217.

<sup>68</sup> OBSP, October 1675, J. D., t16751013-4.

<sup>69</sup> See: J.A. Sharpe, "Last Dying Speeches": Religion, Ideology and Public Execution in Seventeenth-Century England', *Past & Present* 107 (1985), pp.144-67.

<sup>70</sup> OBSP, April 1688, Thomas Birch, t16880425-30.

Finally, legal manuals specified that the killing of any officer, magistrate or minister of Justice, 'in the execution of their office, or in keeping the peace' constituted murder. When

an Officer hath the Kings Writ, or other lawfull Warrant, though it be erroneous, yet in the executing thereof if hee be slaine, this is Murder; For the Officer is not to dispute of the validitie of his Warrant or the authoritie of the Court, or of the Justice of Peace, that sent the Warrant.<sup>71</sup>

As they worked under the orders and authority of Justices of the Peace, courts and the king, officers were not appropriate targets of lethal violence, as demonstrated in a trial summary from 1681 concerning the murder of a bailiff's follower, William Clenchard. A youth named William Buckly killed Clenchard while he and three other bailiffs aided a Marshall Court Officer to arrest Buckly's master, Richard Boil, for his unpaid debts. Boil, who was warned of their arrival, prepared to flee in a coach with Buckly but the bailiffs intercepted and stopped the coach. While the bailiffs tried to arrest Boil, Buckly shot his pistol at the ground and then fired again, this time shooting Clenchard in the stomach. Buckly alleged that he had accidentally shot the bailiff, and evidence demonstrated that he had committed the homicide during a fight, but he was found guilty of murder because Clenchard was 'executing the Kings Writ [...] for which Cases the Law cannot allow it Man-slaughter'.<sup>72</sup> Therefore, the specific legal criteria regarding the killing of bailiffs prohibited Buckly from successfully arguing for mitigating circumstances, such as provocation.

Overall, evidence of unprovoked, extreme and bloody violence against children who were unable to retaliate was more important in demonstrating malicious intent in child murder cases than a pre-existing relationship between the victim and the perpetrator. Moreover, as more murders against and by children involved strangers and masters and servants than parents, analysing child murder only through the lens of parental violence is too limiting and does not represent the variety of ways children were murdered and committed murders during this period. Although crime pamphlets and broadside ballads regularly reinforced and informed readers of the legal boundaries and criteria for

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<sup>71</sup> Dalton, *The Countrey Justice*, p. 218.

<sup>72</sup> OBSP, July 1681, William Buckly, t16810706a-3.

murder compared with other types of homicide, they did not always rigidly adhere to or prioritise legal discourses. This analysis has also shown that, despite guidelines in homicide law that children as young as eight could be found culpable for murder, in the regions examined no children under the age of discretion were convicted or hanged for murder.

### ***Manslaughter***

Twenty-seven percent of defendants in homicide trials involving children as victims and perpetrators from the Old Bailey between 1674 and 1730 were found guilty of manslaughter, including two children under the age of fourteen. Most manslaughter cases involving children as victims and perpetrators were not defined in the same way as manslaughter cases involving adults. As the legal definition of manslaughter – a sudden, unplanned killing – converged with societal notions of righteous masculine violence, manslaughters were most commonly committed in the ‘heat of passion’ during a quarrel between two men of equal strength, in which both the victim and the perpetrator were partially culpable for the killing (otherwise known as chance-medley).<sup>73</sup> While some homicides by and against children homicides were understood in terms of masculine violence and were prosecuted as manslaughter, most manslaughters against children were committed by adult men. Therefore, chance medley was rarely a useful category for homicides against children in which the victim and perpetrator were of unequal age and strength.<sup>74</sup> Instead, most manslaughter verdicts were usually returned in sudden, unplanned homicides in which a child victim had not been the intended target of violence, the child had provoked violence against them and/or in which the killer had been deliberately negligent.

Some child and youth-perpetrated killings corresponded with notions of masculine violence and mirrored ‘typical’ adult male-perpetrated manslaughter cases.<sup>75</sup> In 1676 in Westminster, a fight between ‘two young lads’ who worked in a shoemaker’s shop resulted in homicide when the youngest boy, Daniel,

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<sup>73</sup> Brown, ‘The Demise of Chance Medley’, pp. 310-18.

<sup>74</sup> Walker, *Crime, Gender and Social Order*, p. 133; John H. Baker, *An Introduction to English Legal History, 4th edition* (London, 2002), pp. 601-2; Howard, *Law and Disorder*, pp. 74-81; Beattie, *Crime and the Courts*, pp. 80, 92-99. See also, Lockwood, ‘From Treason to Homicide’, pp. 31-49 who shows that engagement in manslaughter changed over time and that legal category and practice changed over time.

<sup>75</sup> For examples of youths over the age of fourteen see: *OBSP*, 31 May 1693, John Earl, t16930531-50 and *OBSP*, 10 May 1722, Elias Ozier, t17220510-2.

decided to stab the older, unnamed boy. The boys were fighting about cutting their apron strings when thirteen-year-old Daniel 'not knowing how to revenge himself' stabbed the other boy 'who run [sic] out of the Shop with his Bowels in his hands'. As he ran out of the shop, the older, anonymous boy declared that it was Daniel who had stabbed him and then died.<sup>76</sup> The trial summary described Daniel's actions in a similar way to adult masculine violence categorised as manslaughter: it was sudden, unplanned, in the context of a quarrel, and suggested that the other person had provoked an attack.<sup>77</sup> The summary stated that during the fight Daniel abruptly picked up a readily available weapon in the shop and that he had not planned or intended to kill his co-worker. It also suggested that the victim was partly to blame for his own death as he willingly engaged in a fight. Daniel's decision to 'revenge himself' indicates that he was responding to a verbal and/or physical injury which, legally, constituted provocation.<sup>78</sup> Therefore, Daniel and his victim were both but not necessarily equally culpable for the lethal violence that occurred from the quarrel.

Daniel's age was of central importance in the trial summary. The report acknowledged that the judge had asked the jury to consider whether Daniel, who was under the age of discretion, had understood the severity of his actions:

The Lord Chief Baron after he had heard the Evidence, wish'd the Jury to consider whether the boy understood what he had done or not, he being but thirteen years and a month old.<sup>79</sup>

Children aged between eight and thirteen could be found responsible of culpable homicide if the judge and/or the jury determined that the child could tell the difference between right and wrong.<sup>80</sup> In addition, the jury's decision depended on whether they believed that Daniel was old enough to participate in normative masculine violence and receive a punishment for exceeding such violence. In this case, Daniel's age did not mitigate his actions as the jury decided that he was partially culpable for the killing and convicted him of

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<sup>76</sup> OBSP, 14 January 1676, t16760114-8.

<sup>77</sup> Howard, *Law and Disorder*, pp. 74-81; Walker, *Crime, Gender and Social Order*, pp. 115-16, 121-30; Dalton, *The Countrey Justice*, pp. 222-24.

<sup>78</sup> Dalton, *The Countrey Justice*, pp. 222-24; Coke, *The Third Part*, pp. 47-58; Blackstone, *Commentaries on the Laws of England*, p. 191.

<sup>79</sup> OBSP, 14 January 1676, t16760114-8.

<sup>80</sup> Walker, 'Rape, Acquittal and Culpability', pp.115-142; Hale, *Historia Placitorum Coronae*, pp. 40-59; Blackstone, *Commentaries on the Laws of England*, pp. 21-24.

manslaughter. Juries' decisions to convict children between eight and thirteen varied case by case, was contingent on guidance from judges and how individual members of the jury conceptualised the relationship between childhood and culpability.

While all child-perpetrated manslaughters in London and from the Northern Circuit were between boys, not all were defined as exceeding normative masculine violence. Some incidences of child-perpetrated manslaughters are comparable to adult-perpetrated manslaughters against children that were defined as accidental. In 1689, ten-year-old Francis Hawley (the youngest child to be convicted of culpable homicide) from Bradfield shot and disembowelled John Hobson.<sup>81</sup> Francis' brother, Josiah, was repairing a highway with other men in his neighbourhood when he took out a charged gun to give back to another labourer, Rowland Thompson, who owned it. Depositions from the coroners' inquest that investigated the homicide claimed that Francis knelt beside Josiah and pulled the gun's trigger lock while it was still in Josiah's hand. Rowland Thompson

did see the said Josiah Hawley hold a small byrding Gun his right hand & one Francis Hawley aforementioned kneel down upon the ground & lay his hand upon thee lock of the said Gun & Im[m]ediatelie the said Gun discharged and shott the said John Hobson into the bellie soe that his bowels came out.

John Hobson, who witness George Thompson described as a 'Ladd', begged onlookers to help him put his bowels back in his stomach. Thompson and others tried but failed to do as Hobson requested and instead took him to his father's house where he died two hours later.<sup>82</sup> No examination from Francis Hawley survives and the depositions from witnesses reveal very little about Hawley's reason for shooting the gun, whether there was any malice between him and Hobson or whether there was an intended victim at all.<sup>83</sup> The surviving testimonies provide little explanation of how and why a manslaughter verdict

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<sup>81</sup> *The National Archives (TNA)*, ASSI 45/15/3/41; *TNA*, ASSI44/39.

<sup>82</sup> *TNA*, ASSI 45/15/3/41; *TNA*, ASSI44/39.

<sup>83</sup> For how adult depositional evidence was usually constructed, see: Malcolm Gaskill, 'Reporting Murder: Fiction in the Archives in Early Modern England', *Social History* 23:1 (1998), pp. 1-30 and Garthine Walker, 'Rereading Rape and Sexual Violence in Early Modern England', *Gender & History* 10:1 (1998), pp. 1-25.

was reached; it seems that either witnesses did not characterise Hawley's violence in terms of adult masculinity or that the coroner and his jury did not ask questions relating to it.

A closer examination of legal criteria and a similar incident from London in 1676 helps to explain why the coroners' inquest judged that Francis Hawley was a manslayer. Manslaughter verdicts were employed in non-malicious, voluntary killings. Edward Coke explained that 'if a man [...] knowing people passing by in the street, throw a stone over the wall' it was murder, but that 'throwing stones or shooting in the High-way, and death ensuing' was manslaughter. Simply put, murderers deliberately, with malice, killed their victims whereas manslaughterers did not intend to kill and might not even know that they had killed another person. Coke clarified that the difference between manslaughter and misadventure was the voluntary or involuntary nature of the killing: whether it was against the mind of the killer or not.<sup>84</sup> For example, a 'little Boy about Twelve Years of Age' was also convicted of manslaughter after he fired a musket out of a window at random and unknowingly shot a gentleman in the back as he walked down the street. The boy, who had recently become an apprentice in a shop found his master's charged musket and put more powder in the pan. He was called downstairs by his mistress and later returned upstairs to the gun but had forgotten that he had charged and loaded it. Pretending to be a soldier while playing alone, he aimlessly fired the musket out of a window and shot a gentleman as he walked by. The trial report declared that the boy had not known that he had killed someone and evidence from witnesses demonstrated that he was remorseful when he found out. The report of the proceedings outlined the legal criteria, stating that although the killing was an accident:

The Jury could do no less than bring it in Manslaughter; the Court having declared their opinion before, that under these Circumstances it must be more than Chance-medley since he shot off the Gun premeditatedly and voluntarily, though the killing the man was accidental.<sup>85</sup>

While neither Hawley nor the twelve-year-old boy intended to kill someone, they voluntarily pulled the trigger of a gun when they knew it was charged, and so

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<sup>84</sup> Coke, *The Third Part*, pp. 47-58.

<sup>85</sup> *OBSP*, June 1676, t16760628-4.

they were judged responsible for the killing even if it was accidental. The main difference between child-perpetrated and adult-perpetrated shootings that resulted in a manslaughter verdict was that summaries involving adults engaged with notions of provocation.<sup>86</sup> Provocation was implied in an Old Bailey trial report from 1694 about William Walker who shot Lydia Stockwell while she stole apples from his orchard at night. Stockwell's unlawful actions provided Walker with reasonable provocation to fire his gun at a trespasser.<sup>87</sup> Walker claimed that he shot the gun at random in the dark and accidentally hit the girl; his remorse and regret for killing Stockwell appeared convincing and sincere to the writer of the trial summary.

Some manslaughters against children were initially caused by a sudden, violent disagreement between two adults in which the child was an unintended victim of the violence. Like incidences of gun violence, Old Bailey trial reports explained that although the killing of a child during an argument was unintentional, the perpetrator's violence was voluntary and had been provoked by the intended victim. For instance, in a public house in Westminster in 1715, Daniel Jones accidentally stabbed a boy named Edward Shaw following an argument with another woman. Jones fought with a woman he was drinking with

to such a Degree, that Blows past between 'em, and at length the Prisoner [Jones] drew his Sword, and run at the Woman, who slipping out at the Door, the deceas'd (who was a Boy belonging to the House) standing by, unfortunately got the Wound.<sup>88</sup>

Jones stabbed Shaw between his ribs on the right side of his body and claimed that he did not know that Shaw had died five days later. Jones engaged in discourses of provocation, to explain the reason behind his voluntary violence, and accidental killing, to establish that he did not intend to kill Shaw. He drew on legal and cultural expectations of male honour to position his violence as part of a sudden quarrel and asserted that, while his violence was excessive, his female companion's 'violent Tongue' provoked him to draw his sword and respond.<sup>89</sup> His provoked violence, alongside evidence that Shaw was not the

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<sup>86</sup> *OBSP*, August 1694, William Walker, t16940830-33; *OBSP*, June 1714, John Wedon, t17140630-47.

<sup>87</sup> Dalton, *The Countrey Justice*, pp. 222-26.

<sup>88</sup> *OBSP*, July 1715, Daniel Jones, t17150713-21.

<sup>89</sup> *OBSP*, July 1715, Daniel Jones, t17150713-21; Howard, *Law and Disorder*, p. 74.



target of his violence, demonstrated that the homicide was an accident in the context of a more typical adult-perpetrated manslaughter.<sup>90</sup> Manslaughter verdicts were also returned in unplanned killings of children that might not have been lethal if the perpetrator's violence had been inflicted against the intended adult target. In these instances, the perpetrator's violence only became fatal due to the child's small size and age. In another London public house in 1683, Philip Johnson accidentally struck and killed the landlady's child, who she held in her arms, while Johnson and the landlady fought. A few days earlier, Johnson had disputed with his landlady because she would not allow him to rent a private room with his wife. He decided to leave, but before he did he threatened her with revenge. Three days later, Johnson entered the alehouse 'in a very rude manner' and broke her windows 'with other abuses'. With her six-month-old infant in her arms the landlady retaliated by running to strike him to defend her property. The Old Bailey trial report judged that Johnson was within his right to strike at the landlady to defend himself as she had provoked him to attack her.<sup>91</sup> As with Daniel Jones, Johnson's voluntary violence was committed during a fight with an opposing party who was attacking them and so he could mitigate his sudden and unplanned attack using a provocation defence.

Discourses of accidental death also featured in two trial summaries concerning disciplinary violence that was disproportionate and unintentionally fatal. Legal handbooks advised that if 'the manner, the instrument, or the quantity of punishment' by parents and masters against children and servants, 'and death ensues, it is manslaughter at least.'<sup>92</sup> The difference between two categories of culpable killing rested on whether the correction was 'unusually cruel', sustained violence that constituted a murder verdict or whether it was provoked, which was likely to mitigate a murder indictment to a manslaughter indictment. In practice, defendants who were found guilty of manslaughter underplayed their excessive violence by claiming that it had been provoked by the victim and that its extremity and force had been accidental.<sup>93</sup> In 1693, a gentleman, T. A., who beat his servant, Joseph Loftus, to death engaged in a similar discourse to construe his violence as warranted and accidental. The trial

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<sup>90</sup> Walker, *Crime, Gender and Social Order*, pp. 115-116, 121-130; Brown, 'The Demise of Chance Medley', pp. 310-18; Beattie, *Crime and the Courts*, pp. 80, 92-99.

<sup>91</sup> OBSP, April 1683, Philip Johnson, t16830418-7.

<sup>92</sup> Blackstone, *Commentaries on the Laws of England*, p. 182.

<sup>93</sup> OBSP, April 1691, Elizabeth Walton, t16910422-13

summary stated that T. A. initially confronted Loftus because he had not suitably cleaned his mistress' clogs. Loftus gave T. A. 'ill language' that motivated him to correct the boy with 'several blows on the Head' of which he died the next day. Surgeons' evidence verified that Loftus' skull was fractured and that T. A.'s violence had caused his death. In an unusually long description of the prisoner's defence, the author of the *Old Bailey Sessions Papers* report explained that T. A. drew on discourses of manslaughter (provocation) and accidental death to reduce a murder charge to a manslaughter verdict.<sup>94</sup> Loftus' 'ill language' against his superior was sufficient evidence of provocation. As corrective violence by masters against servants was socially and culturally expected and common practice, T. A. could normalize his violence by stating that it 'was a great misfortune' that 'might have befallen any other Gentleman'.<sup>95</sup> To further emphasise the accidental nature of the homicide, T. A. claimed that he had not been violent towards Loftus before, even when he deserved discipline, and that he had a 'serene temper'. This circumstantial evidence, alongside his remorse for Loftus' death is similar to the defences of male manslayers who killed other men in fights.<sup>96</sup>

Sudden, accidental cart-related homicides, that might have been prevented if the driver had driven at a moderate pace and with caution around pedestrians, were similarly categorised as manslaughter in the late seventeenth and early eighteenth centuries.<sup>97</sup> As most deaths involving carts occurred in London, the following discussion only draws upon evidence from the *Old Bailey Sessions Papers*; it is possible that homicides involving carts in other counties might not adhere to the same model as those in London.<sup>98</sup> As cart-related killings were a new problem that were mainly concentrated in the streets of London, legal manuals did not specify how deaths resulting from unruly driving should be categorised. This type of killing was sudden and unplanned, was

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<sup>94</sup> Shoemaker, 'The Old Bailey Proceedings', pp. 569-71 explains why the length of defendants' testimonies were usually so short.

<sup>95</sup> *OBSP*, Dec 1693, T - A -, t16931206-36; Amussen, "Being Stirred to Much Unquietness", pp. 70-89; Dolan, 'Household Chastisements', pp. 204-25.

<sup>96</sup> As Anna Field demonstrates in her unpublished doctoral project: "Intimate Crime" in Early Modern England and Wales, c.1660-1760'.

<sup>97</sup> Beattie, *Crime and the Courts*, p. 80 argues that 'by the eighteenth century manslaughter was also charged occasionally in the case of accidents caused by a failure to take sufficient care', but I have found that this occurred before in the late seventeenth century in London.

<sup>98</sup> I have not found any cart-related killing in the Northern Circuit, Flintshire or Denbighshire. The cases that follow are all from the *Old Bailey Sessions Papers*. See P. E. H. Hair, 'Deaths from Violence in Britain: A Tentative Secular Survey', *Population Studies* 25:1 (1971), pp. 5-24.

caused by careless and negligent driving by men who did not know their victims and who were often unaware that they had killed someone. Manslaughter was the maximum category of homicide under which this type of killing could be classified because premeditation and malice were unsuitable legal criteria to judge careless cart accidents. Cart drivers, who alleged they had not seen a child before running over them and/or had no knowledge that they had killed someone, could not have planned or intended to kill their victim.<sup>99</sup> While such homicides were not deliberate, cart-drivers were nevertheless still partly culpable because they had driven dangerously and some trial summaries specified that judges deliberately punished drivers who were wantonly negligent.

Judges and juries merged manslaughter criteria with notions of negligent accidents to punish cart drivers for their irresponsible driving. In 1684 Hackney coachman Thomas Howell killed John Pantreer, 'a little Child', 'by rashly driving the near Wheels of his Coach over the said Childs Head'; John Cowley ran over three-year-old Edith Isham's head in 1684 whilst driving 'upon his full Trot'; and John Bargeham and Robert Ninn, in two separate carts, 'were driving their Carts in great haste to get a Load' when they crushed seven-year-old Thomas Davis to death in 1718.<sup>100</sup> In all cart-related manslaughter trials at the Old Bailey, writers judged the driver's fast and reckless driving as the main cause of a child's death and that the driver's voluntary disregard for safety meant that he was responsible for the child's death, even if the killing was unintentional. Amid growing concern in London that the streets were too narrow and could not cope with the great number of unauthorised coaches, some Old Bailey reports explicitly stated that manslaughter convictions served as an example to all cart drivers of the serious consequences of driving at full speed on London roads.<sup>101</sup> In 1693, Adam Martyn and Richard Norman, who were driving separate carts trying to beat one another to catch a fare, killed Jane Austin, who was identified

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<sup>99</sup> For example, see: *OBSP*, Sept 1686, Edward Matthews, t16860901-41; *OBSP*, Sept 1684, John Cowley, t16840903-19.

<sup>100</sup> *OBSP*, Feb 1684, Thomas Howell, t16840227-9; *OBSP*, Sept 1684, John Cowley, t16840903-19; *OBSP*, Jan 1718, John Bargeham and Robert Ninn, t17180110-22.

<sup>101</sup> Anon., *Further Reasons against Increasing the Number of Hackney-Coaches* (London, 1690); Anon., *The Right of the City of London, and their Proceedings Touching the Regulation of Hackny-Coaches, Standing in the Said City and Liberties Thereof* (London, 1693) explains that coach drivers have not been sticking to agreed rules and regulations, although does not mention cart drivers causing deaths.

as a child although her age was not given in the trial report or newspaper reports. Martyn's cart drove Norman's cart into the side of the road where Austin was standing and crushed her to death. The judge advised the jury that:

[T]ho the Prisoners were about their lawful Imployment, yet they ought to be careful how they drive their Carts; and altho the Fact could not reach their Lives, yet it might be a warning to others, and they must not think to escape: So they were found guilty of Manslaughter.<sup>102</sup>

Although Martyn and Norman were not breaking the law and claimed that they had accidentally killed Austin, the judge and jury decided that their irresponsible driving was too dangerous to be pardoned or acquitted. They were to serve as an example to other cart drivers that homicides resulting from negligent driving would be punished.

Witnesses considered cart drivers to be deliberately careless and inattentive when they drove dangerously and ignored attempts to alert them to a potential danger to prevent an accident. In 1717, John Berryman crushed six-year-old Sarah Martin against a wall with his dray. Witnesses deposed that, as Berryman rode his dray pulled by two horses, they foresaw that an accident might occur, so 'they called out to him to stop his Horses, otherwise he would kill the Child', but 'the Prisoner took no notice of it'. The dray pushed Sarah Martin's head 'against the Wall and crush'd it in a most barbarous manner, that the Blood spoured out like as out of a pipe' and she 'died in an instant'. Summarising a witness testimony, the trial report stated, 'that by reason of [John Berryman's] Carelesness and hasty turning his Horses, they could only be Spectators of that dismal Sight but could not help the poor Child.'<sup>103</sup> Berryman's wilful ignorance and continuation to drive dangerously meant that witnesses were helpless to prevent Martin's gruesome death. Some trial summaries, especially from the 1720s, explained that children were in, or near, a road when a cart driver ran over them, but this was not enough to mitigate a driver's culpability for dangerous driving and reports did not shift blame onto

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<sup>102</sup> *OBSP*, Sept 1693, Adam Martyn and Richard Norman, t16930906-6.

<sup>103</sup> *OBSP*, June 1717, John Berryman, t17170606-32.

children for their deaths.<sup>104</sup> Courts clearly held drivers responsible for accidents and did not regard it as pedestrians' responsibility to get out of their way, or that they were simply in the wrong place at the wrong time.

Most adult manslaughter cases occurred during a hot-headed quarrel between two men of equal strength; few homicides of children that were categorised as manslaughter followed this pattern. In practice, manslaughter verdicts covered a variety of different types of child killing that were not outlined in legal handbooks, but that demonstrated some or all of the characteristics of the basic requirements for manslaughter rather than murder: fatal violence that was unplanned, sudden, provoked, and voluntary. Moreover, manslaughter verdicts were employed in negligent accidental killings in the absence of a developed legal concept of criminal negligence. At the end of the seventeenth century, courts in London seemed to be developing an assumption that cart drivers were negligent when they accidentally ran over a child unless it could be proven otherwise. Drivers, and not state authorities or the pedestrians who walked on them, were responsible for safety. Therefore, the application of the category of manslaughter in cases of homicides of and by children differed from guidance and examples of male/male combat in legal manuals. As with murder, children were killed by a variety of people, including strangers, masters, maids and other children, in manslaughter cases.

### ***Misadventure and acquittals***

As misadventure verdicts and acquittals defined as accidental death were often used interchangeably and the application of the legal criteria sometimes varied according to region, this section examines these categories together while recognising that they were distinct legal terms. Unlike an acquittal, misadventure resulted in a guilty verdict and forfeiture of goods before the perpetrator was pardoned by the monarch.<sup>105</sup> However, as some accidental killings were acquitted to avoid forfeiture of goods, misadventures and acquittals often occurred in similar situations and discourses of misadventure are present

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<sup>104</sup> It is unclear whether this was a change in defence tactics or whether the OBSP included more examples of these defences in the later period. For cases in which children were in the road or nearby, see: *OBSP*, July 1726, Thomas Baker, t17260711-8; *OBSP*, July 1721, John Amable, t17210712-23; *OBSP*, Aug 1727, Joseph Presley, t17270830-31; *OBSP*, Oct 1715, William Barefoot, t17151012-11.

<sup>105</sup> Kesselring, *Mercy and Authority*, pp. 97-99.

in trials of exonerated defendants. For instance, Charles Collins, who ran his cart over Sarah Smallnick, confessed to ‘the Coroners Inquisition that he did it by Misfortune, so he was acquitted’ in his Old Bailey trial.<sup>106</sup> Homicides defined as misadventure or that were acquitted covered a broad spectrum of accidental killings – including homicides by children, accidental shootings, cart-related killings, death by fire, stabbings, and drownings – that were unintentional and against the mind of the killer.

Children aged seven or under were not legally responsible for homicide. The minimum age at which a child was deemed able to distinguish between right and wrong, and therefore liable to be prosecuted for a felony, was eight.<sup>107</sup> William Blackstone argued that if a child was aged seven or under, their ‘felonious discretion is almost an impossibility in nature’ as they were not yet capable of forming intent to commit such a heinous crime.<sup>108</sup> Infant-perpetrated killings were usually only investigated by a coroner and his jury and the perpetrator was discharged at the inquest. As coroners’ inquest records from this period have a low survival rate, evidence of infants who committed homicide is uncommon. The term ‘infant’ was also used to describe older children in trials and so was not limited to children under the age of seven. This means that the ages of children described as ‘infants’ cannot be inferred or distinguished from mentions of ‘children’, ‘boys’ and ‘girls’ so we cannot guess their ages. For instance, in 1681 in Gwersyllt, Denbighshire an ‘infant’ Edward Jones shot and accidentally killed another ‘infant’ Henry Griffith and was found guilty of misadventure. The coroners’ inquest records do not provide Edward or Henry’s ages, which is unusual for records of child-perpetrated homicide from the Great Sessions, and while the term ‘infant’ was commonly used in early modern England and Wales to describe a child under the age of seven, this term was applied to various ages of children in legal discourses.<sup>109</sup> Although many trial summaries from the Old Bailey did not specify the ages of child

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<sup>106</sup> *OBSP*, Sept 1691, Charles Collins, t16910909-22.

<sup>107</sup> Dalton, *The Countrey Justice*, p. 222; Hale, *Historia Placitorum Coronae*, pp. 19, 27; Blackstone, *Commentaries on the Laws of England*, pp. 22-24.

<sup>108</sup> Blackstone, *Commentaries on the Laws of England*, p. 23.

<sup>109</sup> Hannah Newton, *The Sick Child in Early Modern England, 1580-1720* (Oxford, 2012), p. 8; Philippe Ariès, *Centuries of Childhood* (Harmondsworth, 1962), pp. 52-59; Sara Mendelson and Patricia Crawford, *Women in Early Modern England, 1550-1720* (London, 1998), pp. 78-79; Colin Heywood, *A History of Childhood: Children and Childhood in the West from Medieval to Modern Times* (Cambridge, 2001), p. 102.

perpetrators, they did emphasise that their young age contributed to an acquittal. For instance, Thomas Purcell, Henry Scot, and John Fathers, who all killed other children, were all separately described as 'little Boy'.<sup>110</sup> While this term does not reveal the precise ages of these children, nor if they were under the age of eight, it demonstrates that authors of the *Sessions Papers* distinguished between stages of childhood and perhaps engaged with these terms to suggest a child's innocence.

Most children aged over seven but under fourteen (the age of discretion) who committed a homicide were found guilty of misadventure or were acquitted as their violence was defined as accidental. Children killed both other children and adults with guns, while playing or fighting; many of these situations were not unique to children. Some incidences, like gun violence and play mirrored cases of adult-perpetrated violence that were categorised as misadventure and acquitted and others, like fights, established that the child-perpetrator was not yet deemed capable of engaging in normative masculine violence. Like murder and manslaughter verdicts, all child-perpetrated homicides that were acquitted and categorised as misadventure were committed by boys against boys. In such cases, witnesses, judges and juries agreed that the young age of the perpetrator and the context of the homicide established that the child perpetrator was not capable of forming intent or malice for a murder charge.<sup>111</sup> These cases also show that, while children's lethal violence was gendered and might outwardly mirror adult masculine violence, legal and societal notions of childhood converged to determine that many boys were not old enough to participate in and exceed the norms of adult masculine violence and male honour. For instance, pre-trial depositions from a 1713 case from Ewlo, Flintshire, in which ten-year-old William Owen hit fifteen-year-old Thomas Jones around the head with a staff and killed him, did not discuss why Owen committed the violence and did not frame the violence as a hot-headed quarrel.<sup>112</sup> The notion that children did not participate in adult masculine violence extended to some homicides by fifteen and sixteen-year-old boys who were just over the age of discretion. In 1686, a youth John Redhall was

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<sup>110</sup> *OBSP*, July 1697, Thomas Purcell, t16970707-8; *OBSP*, Jan 1700, Henry Scot, t17000115-16; *OBSP*, Dec 1696, John Fathers, t16961209-86.

<sup>111</sup> For example, see: *OBSP*, Dec 1683, John Rastal, t16831212-21.

<sup>112</sup> *NLW*, GS, 4/997/10/3-8.

acquitted for shooting his fellow apprentice while they were playing with guns; in 1720, sixteen-year-old William Ockendon was acquitted for shooting his friend while hunting; John Rastal 'being [a] Youth' was acquitted for killing Richard Morris in a fight in 1683.<sup>113</sup> Therefore, just as children under the age of discretion could be found culpable for manslaughter, the age of discretion did not automatically change how child-perpetrated and youth-perpetrated violence was legally categorised or socially and culturally defined.

Acquittal and misadventure verdicts were appropriate in cases of gun violence in which the killer (adult or child) did not know that their gun was loaded and unintentionally killed someone. Witnesses in these cases established that there had been no previous disagreement between the victim and the perpetrator and that the perpetrator had involuntarily killed another person. In 1696, John Butterick accidentally shot Mary Horton, a 'Girl' and 'Spinster' which indicated that she was a child or youth, in the head and killed her. An Old Bailey trial report stated that Horton had gone to a butcher's shop with her mother and while the mother 'was talking with the Butcher and holding her Daughter by the Arm, the Prisoner shot off the Pistol, and the Deceased's Brains fell upon her hands'. The reason Butterick shot the pistol is unclear in the report, but it claimed that he 'had no Malice against' the child, he did not aim at her and that he 'could not help it', suggesting that he shot it involuntarily and against his will.<sup>114</sup> Therefore, 'it appearing to be an Accident and meerly done by chance, the Jury considering the matter, found him not Guilty.'<sup>115</sup> Similar discourses of accidental death were present in depositions concerning shootings from the Northern Circuit. In Halifax, in 1725 an 'apprentice boy' accidentally shot and killed Mary Scholefield, who worked in the same household. Elizabeth Scholefield, Mary's mother, testified that, before she died, Mary

told her that one William Morton Apprentice with John Bradley of Hallifax aforesaid Joyner att whose house she was then had said to her in jest as she supposed that he would shoot her by accordingly did discharge a Gun att her which was loaded with

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<sup>113</sup> *OBSP*, Oct 1686, John Redhall, t16861013-9; *OBSP*, Dec 1720, William Ockendon, t17201207-49; *OBSP*, Dec 1683, John Rastal, t16831212-21.

<sup>114</sup> Dalton, *The Countrey Justice*, pp. 225-26.

<sup>115</sup> *OBSP*, Dec 1686, John Butterick, t16961209-26.



hailshott and had shott her into the right Shoulder which had made a mortall wound.<sup>116</sup>

While the verdict is unknown, Mary Scholefield told her mother that she believed Morton had shot her accidentally. Evidence from victims on their deathbeds was particularly influential in attributing culpability in trials and popular crime literature due to cultural expectations that people did not lie when they knew they were about to die in order to ensure their place in heaven.<sup>117</sup> Thomas Nettleton, a doctor, corroborated with Scholefield's claims by stating that after Morton had shot Scholefield, he ran to Nettleton 'and told him he had unluckily Shott a Woman with a Gun which he did not believe was charged'.<sup>118</sup> Acquittals and misadventure verdicts were thus returned when perpetrators either involuntarily shot a gun that they did not know was charged.

Homicides involving carts were classified as misadventure or acquitted when witnesses confirmed that the cart driver had done everything he could to prevent the killing of a child, that he had driven carefully and that it had been an accident. Unlike impulsive, negligent cart drivers who were convicted of manslaughter, men who were acquitted or found guilty of misadventure had driven at a moderate, safe pace, tried to prevent an accident from occurring, reacted to onlookers' warnings, and/or showed remorse.<sup>119</sup> Homicides that were acquitted or categorised as misadventure were evidently 'against the mind of the killer' and unintentional.<sup>120</sup> Some trial summaries explained that children had accidentally fallen under the cart's wheels, that they did not see the child and therefore could not have done anything more to prevent the child's death.<sup>121</sup> As soon as they realised that they had hit someone, some drivers left their carts to try and save the child and demonstrated sincere remorse when they could not revive the victim. For example, when John Fulnum ran over a four- or five-year-old girl in 1681, witnesses claimed that 'he used his utmost endeavours to save the Child, and that he expressed abundance of sorrow upon the sight of that

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<sup>116</sup> TNA, ASSI 45/18/3/20.

<sup>117</sup> See: Sharpe, "Last Dying Speeches", pp. 144-67.

<sup>118</sup> TNA, ASSI 45/18/3/19.

<sup>119</sup> For example, see: *OBSP*, March 1709, Robert Lucas, t17090302-30; *OBSP*, June 1692, Aaron Hush, t16920629-39; *OBSP*, July 1682, John Murrell, t16820712-11; *OBSP*, April 1686, John Finch and John Everidge, t16860414-3; *OBSP*, July 1679, Allen Roberts, t16790716-6.

<sup>120</sup> Dalton, *The Countrey Justice*, pp. 225-26.

<sup>121</sup> *OBSP*, July 1677, t16770711-4; *OBSP*, Sept 1712, Stephen Heath, t17120910-3; *OBSP*, June 1717, William Liecester, t17170606-35.

unlucky accident'.<sup>122</sup> In contrast to manslaughterers who fled from the scene and tried to escape punishment, demonstrations of remorse supported the conclusion that the homicide had been against the killer's mind.<sup>123</sup>

Other types of killing, such as stabbing, drowning, and burning, were also defined as accidental when there was not enough evidence to prove the perpetrator's intent and if the (often very young) child who was killed had not provoked an attack.<sup>124</sup> For example, Edward Spencer, who stabbed his child in the back with a knife 'pleaded that he threw the Knife out of his hand, with intent to throw it on the Cubbarbs head, but throwing short, hit the Child; and there being no proof to the contrary, was cleared.'<sup>125</sup> Catharine Banfield who was indicted for deliberately burning one-year-old John Cornish in a fire, was acquitted when she claimed that the child's clothes had accidentally caught fire when she was out of the room.<sup>126</sup> Like Spencer, in Banfield's trial the jury were inclined to believe Banfield's version of events because there was no positive evidence that she had wanted to kill Cornish. In the absence of a motive or evidence of deliberate violence, these homicides were defined as accidental.

### ***Acquittals***

Accidental killing was not the only reason for acquittal in homicide cases involving children as victims and as perpetrators: the absence of positive proof to prosecute, evidence of malicious prosecution, confirmation from surgeons that the children did not die from the violence inflicted against them, and proof that the perpetrator was insane were all explanations and defences that led to acquittal.<sup>127</sup> These circumstances were not specific to homicides of and by children and many of these defences were the same as those that supported acquittals in cases of spousal homicide and lethal fights between men.<sup>128</sup> This final section explains how and why defendants were exculpated in cases of

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<sup>122</sup> *OBSP*, Oct 1681, John Fulnum, t16811017a-1.

<sup>123</sup> *OBSP*, Oct 1719, James Tucker, t17191014-33; *OBSP*, Sept 1684, John Cowley, t16840903-19.

<sup>124</sup> *OBSP*, July 1679, Edward Spencer, t16790716-16; *OBSP*, July 1727, Catharine Banfield, t17270705-52; *NLW, GS*, 4/41/7/9-10.

<sup>125</sup> *OBSP*, July 1679, Edward Spencer, t16790716-16.

<sup>126</sup> *OBSP*, July 1727, Catharine Banfield, t17270705-52.

<sup>127</sup> For example, see: *OBSP*, Oct 1692, Thomas Rogers, t16921012-6; *OBSP*, Sept 1690, Arthur Langford, t16900903-16; *OBSP*, Dec 1691, John Alsop, t16911209-10.

<sup>128</sup> Sharpe, 'Domestic Homicide', pp. 29-48.

disciplinary violence and when the perpetrator was declared 'non compos mentis'.

Although legal manuals advised that 'reasonable' correction resulting in the death of a child or a servant should be classified as misadventure, those brought to trial for a child's death as a consequence of discipline were routinely acquitted instead. William Blackstone stated that

where a parent is moderately correcting his child, a master his servant or scholar, or an officer punishing a criminal, and happens to occasion his death, it is only misadventure; for the act of correction was lawful.<sup>129</sup>

It was generally only in trials in which a verdict of manslaughter was returned that defendants seem to have engaged with the conditions for an accidental death. Most parents, masters, and mistresses who were acquitted demonstrated that their violence was intentional, and witnesses judged that it was excessive, but that the child died either of circumstances outside of the killer's control, such as sickness, or that their violence was not the actual cause of death. Those parents, masters and mistresses who were accused of excessively brutal corrective violence against children and servants were acquitted if judges and juries were uncertain that it was the violence that had caused a child's death. Despite witnesses who claimed that defendants had unreasonably beaten the child before he/she died, other circumstances, such as the child's ill health and susceptibility to fits, were considered by judges and juries as contributing to the child's death so calling the defendant's responsibility into question. A 1692 Old Bailey trial report described how Edward and Judith Bailey regularly and cruelly beat their apprentice Richard Tate, 'a poor parish Boy', before he died. Edward frequently whipped Tate's shoulders, loins and buttocks, burned him with a hot iron spindle, and tied a heavy stone around his neck. After Tate had endured this 'unparell'd cruelty', Judith Bayly burned him with a hot iron 'on the Saturday in the Afternoon, he went to bed, and there continued till Sunday Night, Speechless, and then died'.<sup>130</sup> Edward's abusive

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<sup>129</sup> Blackstone, *Commentaries on the Laws of England*, p. 182; Dalton, *The Countrey Justice*, pp. 224-26.

<sup>130</sup> Note here similar discourses of cruelty and brutality in trial summaries of murder cases above.

treatment towards Tate contributed to his wife's acquittal. Edward's brutality had made Tate 'so Low and Weak, that he was not able to subsist any longer', which meant that he was too physically weak to withstand Judith's violence. While the trial report concluded that Judith's violence was reprehensible and was 'Resented by the Court, as very Unreasonable, Illegal, Inhumane, and most brutish Correction', Edward's previous violence towards Tate meant that the judge and jury were unable to confirm that she was responsible for his death. Judith and other witnesses maintained that Tate was 'a sickly distempered boy, troubled with Ulcers, and Runing Sores in his Legs, and elsewhere, about his Body' to further blame the child's ill health for his death.<sup>131</sup> Evidence from surgeons also persuaded judges and juries that a defendant's excessive disciplinary violence had not caused a child's death.<sup>132</sup> For example, Edward Sea was indicted in 1686 for beating his apprentice to death with a horse whip. However, surgeons determined that the boy had died from a fit and not from the violence inflicted by Sea.<sup>133</sup> The surgeons' evidence as well as testimonies from 'Twenty credible Witnesses to attest that he was no ways given to passion, or that he ever beat any servant unlawfully' led to Sea's acquittal. In these cases, the defendants did not claim that the deaths were accidental because their violence was deliberately inflicted but not clearly proven to be the cause of death.

Some men who killed children and servants were found not legally culpable for committing a homicide because they were 'non compos mentis'. The legal category 'non compos mentis' incorporated three types of mental disorder: idiocy, which was mental incapacity since birth; lunacy, which was long-term 'madness'; and temporary insanity, which included the temporary loss of memory, understanding and wits when angry or in a melancholy mood.<sup>134</sup> There was not yet any standardised method of judging perpetrators as 'non compos mentis' and idiocy, lunacy or temporary insanity could be identified at the grand jury stage, and the defendant discharged, or detected during an

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<sup>131</sup> *OBSP*, Jan 1692, Judith Bayly, t16920115-7.

<sup>132</sup> See: *OBSP*, May 1686, Ann Hollis, t16860520-2; *OBSP*, July 1686, Elizabeth Battison, t16860707-12; *OBSP*, July 1681, William Leaner, t16810706-3.

<sup>133</sup> *OBSP*, May 1686, Edward Sea, t16860520-22.

<sup>134</sup> See John Brydall, *Non Compos Mentis, or, The Law Relating to Natural Fools, Mad-folks, and Lunatick Persons Inquisited and Explained for Common Benefit* (London, 1700) for more on these categories. Beattie, *Crime and the Courts*, pp. 84-86; *OBSP*, July 1730, Peter Bluck, t17300704-41.

assize court trial leading to an acquittal.<sup>135</sup> Verdicts of ‘non compos mentis’ were very rare in cases of homicides against children and were usually committed by ‘lunatics’ who had been diagnosed as such before they committed a homicide. Thomas Waltam, ‘a Madman’ and a ‘Lunatick’, killed his daughter, Mary, while he was in a bridewell. Mary’s mother took her to the bridewell to visit Waltam. He sang to Mary for a while ‘and then rose up, and dasht its head against the Post’. She died two or three days later. As his lunacy had been previously confirmed and he was in a bridewell when it happened, he was judged not culpable for his violence. Some acquittals were not categorised as ‘non compos mentis’, but pre-trial depositions and letters explicitly state that the perpetrator was mentally unwell and therefore not responsible for their violence. In 1665, Charles Jackson beat his servant, James Brown, to death after entering one of his melancholy fits. In his examination, Jackson claimed that he could not remember what day he hit Brown and, being asked about whether he was in a melancholy fit when he killed Brown ‘[t]o that he saith, if he was not in itt, he was entring into itt, or else he wold never have strucke att or hurt Jamye Browne’ who had ‘beene his servant long & that he loved him very well’.<sup>136</sup> Jackson’s mental state during the homicide and his bad memory of the killing contributed to his acquittal.

### **Conclusion**

As the legal criteria for homicide mainly reflected adult male standards of behaviour, advice in early modern legal manuals was not always straightforwardly applied to the various circumstances in which homicides against and by children occurred. Through an examination of the legal criteria and all categories of homicide, this chapter has demonstrated that children were rarely killed by their parents and that, therefore, adopting a parent-child framework to analyse homicides of and by children is limited and unhelpful. It has also shown that, in practice, accidental killings were not simply categorised as ‘misadventure’ as legal manuals advised but were categorised as manslaughter and were acquitted as well. Most manslaughter cases involving

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<sup>135</sup> Garthine Walker, ‘Imagining the Unimaginable: Parricide in Early Modern England and Wales, c.1600-c.1760’, *Journal of Family History* 41:3 (2016), p. 274; Richard Moran, ‘The Origin of Insanity as a Special Verdict: The Trial for Treason of James Hadfield (1800),’ *Law & Society Review* 19:3 (1985), pp. 31–42; Richard Moran, *Knowing Right from Wrong: The Insanity Defense of Daniel McNaughtan* (New York, 1981).

<sup>136</sup> TNA, ASSI 45/7/2/69-70.

children were distinct from more frequent uses of manslaughter verdicts in 'hot-headed' male conflicts, in which both the victim and the perpetrator shared responsibility. Instead, homicides of and by children were categorised as manslaughter when they occurred accidentally and often as the result of negligence. There were no guidelines in legal manuals about how judges and juries should classify negligence. Nonetheless, they consistently applied manslaughter verdicts in these cases in a way that suggested that this was a common practice. Moreover, the chapter has dismissed some misconceptions about how children's lethal violence was legally categorised: children were treated differently than adults under homicide law and in practice by judges and juries who assessed a child's culpability on a case-by-case basis. Despite legal guidance that children over the age of eight could be culpable of murder and hanged, no children under the age of fourteen were found guilty of murder and most children who committed lethal violence were either found guilty of misadventure or exonerated. The next chapter explores children's testimonial evidence, and its absence, in homicide trials, pamphlets, broadside ballads and newspapers to examine children's roles in ascribing culpability and if we can recover the agency of child witnesses and perpetrators of homicide.

## Chapter Two

### Children's Voices and Agency

Pre-trial depositions and examinations, popular crime literature, and *Old Bailey Sessions Papers* all contain constructions of children's voices and actions as victims, witnesses and perpetrators in homicide cases. While authors of child-murder pamphlets and broadside ballads typically portrayed children as passive victims of violence, rather than as active subjects with agency, they did occasionally imagine child victims' verbal and physical expressions. Portrayals of children's behaviour, such as their cries, pleas and laughter, could demonstrate several different aspects of agency and culpability: they might indicate their murderer's agency; or, in contrast, that the child murderer did not have agency because the Devil had manipulated them to commit a murder; that a child was unequivocally innocent; or, the feelings of pathos authors encouraged their audience to experience when reading and hearing these narratives. The voices of child victims before they died were only included in witness depositions if they were associated with the killer's culpability, such as when a child named their killer, or when a (usually adult) perpetrator claimed that a child's verbal affront had caused them to inflict violence against the child to mitigate their accountability to legal officials. In pre-trial depositions and examinations witnesses often interpreted children's violence as accidental. The standard assumption made by witnesses, JPs and coroners that most child perpetrators were innocent and too young to provide a sworn testimony means that children's voices are largely absent from legal records. This means that there are few accounts by children in which they explained their own motives or reasons for violence and only one account of a child-perpetrated homicide in popular crime literature. Child perpetrators were also denied agency in popular crime narratives in which they were controlled by God to enact divine retribution. Children also witnessed crimes. The age of discretion (fourteen) and each individual child's understanding of the significance of making an oath affected whether judges and juries accepted children's testimonies as admissible evidence. Like child perpetrators, children who witnessed homicides were frequently silenced by official channels and their evidence was not heard or directly considered by juries. Nonetheless, there is indirect evidence of children's voices and actions in adults' depositions and examinations that

establish that children had a varied role as witnesses and regulators of violence in their communities.

In this chapter, I use the term 'agency' to mean that a child could act independently from an adult and make their own choices. If a child had agency they had authority and control over a situation in which they were able to run away from a threat of violence, persuade someone not to kill them, or could be held accountable for their violence. This chapter considers the different ways in which children attempted to assert their authority, through their voices and their bodies. The frequent denial of children's agency in popular crime narratives and legal settings mirrored expectations in prescriptive and medical discourses that children, especially infants, were vulnerable, dependent on adults for protection and care, passive and oblivious to dangerous situations.<sup>1</sup> In early modern models of age, social and familial hierarchies, and in practice, children were expected to be subordinate and unable to exert power over adults.<sup>2</sup> Popular crime narratives, that related cases in which the innocence of the victim and the culpability of the perpetrator was unquestionable, established that parents and adults who were obliged to care and protect children abused their power to murder them. In these plots, children's characteristics further emphasised the natural bonds and obligations to children that parents and guardians had transgressed.<sup>3</sup> Crime literature presented a construction of childhood in which child victims and perpetrators were, by their very nature, unable to achieve agency. Evidence from pre-trial depositions and the *Old Bailey Sessions Papers* provide glimpses of children's vocal agency before a homicide occurred and after in sworn testimonies. Children's sworn testimony was included in homicide cases when legal officials believed that it held similar weight and authority as an adult's. Children's culpability for a crime under common law impacted on interpretations of children's violence in these records as only those who were close to or over the age of discretion were thought to be old enough to be held

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<sup>1</sup> For example, see: Anon., *The Office of Christian Parents*; Daniel Burgess, *Advice to Parents and Children the Sum of a Few Sermons Contracted and Published at the Request of Many Pious Hearers* (London, 1690); John Bunyan, *Meditations on the Several Ages of Man's Life: Representing, the Vanity of it, from his Cradle to his Grave* (London, 1701); Daniel Cawdrey, *Family Reformation* (London, 1656).

<sup>2</sup> Susan Amussen, *An Ordered Society: Gender and Class in Early Modern England* (New York, 1993).

<sup>3</sup> Joanne Bailey, *Parenting in England 1760-1830: Emotion, Identity, and Generation* (Oxford, 2012), pp. 48-70; Frances E. Dolan, *Dangerous Familiars: Representations of Domestic Crime in England, 1550-1700* (Ithaca, 1994).



accountable for their actions. Therefore, even if a child outwardly appeared to be exercising physical agency through violence, they were not necessarily expected to have the mental capability or reason to be considered culpable for their violence under common law.<sup>4</sup> The genre conventions of pre-trial depositions examinations, the *Old Bailey Sessions Papers*, crime pamphlets and broadside ballads affected descriptions of children's behaviour, the types of agency children could have and the authority of children's voices.

Most historians and literary critics who have examined child-murder pamphlets and broadside ballads have only analysed children in popular crime narratives when they informed representations of filicidal parents' actions, agency, and subjectivity. Scholars have, in particular, identified representations of children's identities as extensions of their mothers, as the 'other' in opposition to mothers, and as pawns in wider household conflicts.<sup>5</sup> For instance, Susan Staub has asserted that mothers who murdered their children exerted too much power over their children's lives and took their duty of motherhood to a dangerous extreme. Staub's interpretation that mothers had excessive control over their children suggests that, conversely, children had little agency or control over their fate in crime narratives.<sup>6</sup> Scholars who adopt a similar argument have also commented on the absence of child victims' agency and subjectivities compared with the more complex subject positions of murderers. Frances Dolan has remarked on children's physical passivity when they were murdered by their parents, demonstrating that they did not provoke parents' attacks against them or resist violence.<sup>7</sup> Her emphasis on child passivity and the overpowering control of mothers means that she has framed the parent-child relationship in child-murder pamphlets as one-way. Although Dolan has demonstrated that some parents asserted their attachment to their children

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<sup>4</sup> Matthew Hale, *Historia Placitorum Coronae: The History of the Pleas of the Crown* (London, 1736), pp. 19, 27.

<sup>5</sup> For example, see: Sandra Clark, 'Deeds against Nature: Women and Crime in Street Literature of Early Modern England', *Sederi* 12 (2002), pp. 9-30; Frances Dolan, *Dangerous Familiars: Representations of Domestic Crime in England, 1550-1700* (Ithaca, 1994), pp. 121-70; Susan Staub, 'Early Modern Medea: Representations of Child Murder in the Street Literature of Seventeenth-Century England', in Naomi J. Miller and Naomi Yavneh (eds), *Maternal Measures: Figuring Caregiving in the Early Modern Period* (Aldershot, 2000), pp. 333-47; Wiltenburg, *Disorderly Women and Female Power*, pp. 215-34, 214. Wiltenburg argues that, compared with English pamphlets, children in German pamphlets had greater agency and a more active role in emphasising their parents' culpability.

<sup>6</sup> Staub, 'Early Modern Medea', pp. 333-47.

<sup>7</sup> Dolan, *Dangerous Familiars*, pp. 121-51.

before murdering them, she has not examined the numerous descriptions of children's reactions to, or feelings towards, their parents in crime literature.<sup>8</sup>

While research in the 1990s and early 2000s indicated children's passivity in popular crime narratives, recent scholarship has briefly discussed the uses of child victims' voices and the active role of child witnesses in this literature. Sandra Clark has shown that, despite the focus on actions and violence against children in child-murder pamphlets, some narratives included descriptions of children's speech and behaviour. Clark has argued that, in *Blood for Blood* (1670) Mary Cook's two-year-old infant, Betty, had 'typical infant speech and gestures', but did not explain what 'typical' child behaviour was, what it signified in early modern society or the feelings it might have evoked from those who read and heard this narrative.<sup>9</sup> Malcolm Gaskill has also explained that crime literature as a genre circulated depictions of non-violent, passive children, who were 'innocent creatures' manipulated by God to reveal crimes as part of godly rhetoric. This rhetoric presented justice as always prevailing as there was a higher godly order and retribution that would bring murderers' actions to light so that they would be duly punished.<sup>10</sup> He has hinted that child victims and witnesses such as the 'girl without a tongue [who] spoke to reveal her brother's murder' in *The Horrible Murther of a Young Boy*, a pamphlet from 1606, were important in driving the plots of crime narratives forward within a providential, didactic framework.<sup>11</sup> Historians' examinations of portrayals of children's voices, actions and agency in the genre's framework of child innocence and victimhood have, thus far, been limited.

Historians of crime have emphasised the obstacles child victims of rape faced in providing sworn testimony.<sup>12</sup> These studies have explored how the age

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<sup>8</sup> Sandra Clark, *Women and Crime in the Street Literature of Early Modern England* (Basingstoke, 2003), p. 164; Dolan, *Dangerous Familiars*, pp. 122-51.

<sup>9</sup> Clark, *Women and Crime*, p. 168; N. Partridge and J. Sharp, *Blood for Blood, or; Justice Executed for Innocent Blood-Shed. Being a True Narrative of that Late Horrid Murder, Committed by Mary Cook, upon her Own and Only Beloved Child* (London, 1670), p. 15.

<sup>10</sup> Malcolm Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge, 2000), p. 245.

<sup>11</sup> Gaskill, *Crime and Mentalities*, pp. 215-16; Anon., *The Horrible Murther of a Young Boy of Three Yeres of Age, Whose Sister Had Her Tongue Cut Out and How it Pleased God to Reueale the Offendors, by Giuing Speech to the Tongueles Childe* (London, 1606), pp. 1-10.

<sup>12</sup> For example, see: Julie Gammon, 'A Denial of Innocence': Female Juvenile Victims of Rape and the English Legal System in the Eighteenth Century', in Stephen Hussey and Anthony Fletcher (eds), *Childhood in Question: Children, Parents and the State* (Manchester, 1999), pp. 74-95; Martin Ingram, 'Child Sexual Abuse in Early Modern England' in Michael J. Braddick and John Walter (eds), *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland* (Cambridge, 2001), pp. 63-84; Sarah Toulalan, 'Child

of a rape victim affected conviction rates of rapists and early modern legal arguments about the reliability of child testimony in the courtroom. As jurists and judges deliberated the boundaries and conditions of child witness testimony in rape trials, the history of rape has been an appropriate space for scholars to discuss children's access to the criminal justice process.<sup>13</sup> Most recently, Garthine Walker has shown that the most common reason for acquittal in child rape cases was not due to expectations of child sexuality as historians have previously argued, but because they were unable to swear an oath required to provide sworn testimony that could convict a rapist. She has also stressed that witnesses and judges did not automatically assume that a man indicted for rape was innocent if a child was too young to meet legal requirements to offer sworn evidence.<sup>14</sup> Therefore, verdicts in trials do not necessarily reveal social or cultural perceptions of child rape cases or early modern people's attitudes about the reliability of children's evidence. Sarah Toulalan has examined reports of child rape in the *Old Bailey Sessions Papers* to demonstrate how and why children were denied agency after they were raped. She has argued that children were silenced by their rapist's physical and emotional abuse and by fears that their parents would punish them if they found out. As Toulalan has established, 'the successful prosecution of those who enacted such "abuse" then necessitated proof of lack of agency: that she was unable to consent because under the age of consent, or, when over ten years, because violently forced against her will'.<sup>15</sup>

Examinations of children's voices and agency in pre-trial homicide depositions and the *Old Bailey Sessions Papers* have received considerably less attention in the historiography of crime. Historians of crime tend to consider crimes against children and the difficulties that victims of crime faced in gaining justice from the early modern legal system, but clearly deceased child victims of homicide could not testify in courts. It is therefore only possible to examine how children participated in the legal system by recognising that they could also be

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Sexual Abuse in Late Seventeenth and Eighteenth-Century London: Rape, Sexual Assault and the Denial of Agency', in Nigel Goose and Katrina Honeyman (eds), *Childhood and Child Labour in Industrial England: Diversity and Agency, 1750-1914* (Farnham, 2013), pp. 23-44; Garthine Walker, 'Rape, Acquittal and Culpability in Popular Crime Reports in England, c.1670–c.1750', *Past & Present* 220:1 (2013), pp. 115-42.

<sup>13</sup> Toulalan, 'Child Sexual Abuse', p. 36.

<sup>14</sup> Walker, 'Rape, Acquittal and Culpability', pp. 133, 128.

<sup>15</sup> Toulalan, 'Child Sexual Abuse', p. 44.

witnesses and perpetrators of crime. In 1678, Matthew Hale was the first early modern jurist to discuss age restrictions of witnesses in relation to all felony trials, not just those involving rape. Commenting on contemporary practice and precedent, he stated that 'The Examination of an Infant of Thirteen, nay of Nine, [was] allowed in some cases'.<sup>16</sup> It was only after 1730 that Matthew Hale and William Blackstone discussed the reliability of child witness testimony in felony trials more explicitly. Holly Brewer is one of the few historians to analyse children's evidence as witnesses and perpetrators in early modern homicide cases. She has argued that judges and juries became increasingly sceptical of the credibility of children's witness testimony from the beginning of the seventeenth century onwards.<sup>17</sup> However, evidence from seventeenth-century jurists, such as Michael Dalton, Edward Coke and the anonymous author of the 1697 pamphlet *The Infants Lawyer*, does not support this assertion. While these jurists affirmed that the age of discretion was fourteen, they did not delineate any guidelines specifically about child testimony in homicide trials in their handbooks.<sup>18</sup> Moreover, and most importantly, very few depositions or examinations by children survive and so it is difficult to confidently determine whether legal positions on the reliability of children's testimony radically changed over time.

Pre-trial depositions and examinations, trial reports and crime literature reveal the difficulties child witnesses and perpetrators faced in providing sworn testimony and how their voices were silenced or interpreted by courts and witnesses.<sup>19</sup> Coroners' inquest records contain children's voices, showing that they were involved in witnessing crimes, attributing culpability to others, alerting neighbours about extreme violence, and attempting to prevent violence. As Carol Loar has contended, 'anyone with relevant information could and did participate in' coroners' inquests 'even if [...] their roles as formal witnesses

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<sup>16</sup> Matthew Hale, *Pleas of the Crown, or, a Brief but Full Account of Whatsoever can be Found Relating to that Subject by Sir Matthew Hale* (London, 1678), p. 263.

<sup>17</sup> See Holly Brewer, *By Birth or Consent: Children, Law, and the Anglo-American Revolution in Authority* (Chapel Hill, 2007), pp. 152-80.

<sup>18</sup> Edward Coke, *The Third Part of the Institutes of the Laws of England Concerning High Treason, and Other Pleas of the Crown, and Criminall Causes* (London, 1644), p. 57; Michael Dalton, *The Countrey Justice: Containing the Practice of the Justices of the Peace out of their Sessions* (London, 1619), pp. 215, 261; Anon., *The Infant's Lawyer, or, The Law (both Ancient and Modern) Relating to Infants* (London, 1697), pp. 15, 30.

<sup>19</sup> Bernard Capp, *When Gossips Meet: Women, Family, and Neighbourhood in Early Modern England* (Oxford, 2003), pp. 1-3.

were seriously circumscribed'.<sup>20</sup> The evidence in legal records and popular crime narratives also challenges Holly Brewer's suggestion that child testimony was readily believed by legal officials at the beginning of the seventeenth century and steadily became less credible over the following two centuries.<sup>21</sup> These sources demonstrate that child testimony was not accepted without scrutiny or that there was a simple shift in attitudes as Holly Brewer has asserted, but instead establishes that jurists and judges understood that the importance and ability of a child to provide reliable and sworn evidence varied from case to case.

This chapter draws on various sources and genres, each with different conventions and types of authorship that influenced depictions of child victims, perpetrators and witnesses. Pre-trial depositions and examinations were constructed by a deponent whose voice was mediated through the legal process and the questions that they were asked by Justices of the Peace or coroners. Pre-trial depositions and examinations from assize courts and coroners' inquests provide fragments of children's official and unofficial roles in the criminal justice system.<sup>22</sup> It is impossible to recover children's authentic voices from depositions and examinations as '[a]ccounts of subjective, personal experiences are produced and made sense of within available collective, cultural meanings' and children's testimonies were shaped by the questions JPs, coroners and witnesses asked them.<sup>23</sup> The *Old Bailey Sessions Papers* contained multiple voices that had been mediated through the legal process and then by hack writers who condensed each trial into a report for a public audience. As many reports before 1730 were concise and rarely included verbatim testimony, they have left few traces of children's explanations of their own violence or the reliability of witness testimony.<sup>24</sup> While different source materials provide glimpses of expressions of children's voices and actions, the

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<sup>20</sup> Carol Loar, 'Medical Knowledge and the Early Modern English Coroner's Inquest', *Social History of Medicine* 23:3 (2010), pp. 487.

<sup>21</sup> Brewer, *By Birth or Consent*, pp. 152-80.

<sup>22</sup> For a concise overview of how depositions were mediated see: Joanne McEwan, "'At my Mother's House": Community and Household Spaces in Early Eighteenth-Century Scottish Infanticide Narratives', in Susan Broomhall (ed.), *Spaces for Feeling: Emotions and Sociabilities in Britain, 1650-1850* (Abingdon, 2015), p. 13.

<sup>23</sup> Garthine Walker, 'Rereading Rape and Sexual Violence in Early Modern England', *Gender & History* 10:1 (1998), p. 3.

<sup>24</sup> Robert Shoemaker, 'The Old Bailey Proceedings and the Representation of Crime and Criminal Justice in Eighteenth-Century London', *Journal of British Studies* 47:3 (2008), pp. 559-80.

dominant expectation in all sources is that children – whether they were victims, perpetrators or witnesses – did not, and in many cases could not, have agency.

Crime pamphlets and broadside ballads which, as Garthine Walker has argued, tell us more ‘about the conceptualizations of assaults upon the model of social order which underpinned religious and political hierarchy and control’ than societal attitudes, commonly moulded real cases of child murder into a didactic godly framework and narrative structure of sin, followed by murder, divine intervention, remorse and finally redemption.<sup>25</sup> Within this framework, authors of popular crime narratives interpreted expectations of children’s behaviour through religious and legal assumptions that children were innocent, non-violent, passive victims.<sup>26</sup> As this chapter will establish, these descriptions of child victim’s innocent behaviour and childish speech before they died continued throughout the period examined and were only embellished upon or overlooked at each author’s discretion. Most pamphlets and broadsides were written by anonymous authors about whom little is known. Henry Goodcole, one of the few named authors from the period, was the Ordinary of Newgate who published pamphlets to spread a message of conversion and the destructive consequences of leading a sinful life by recounting confessions of criminals in Newgate prison.<sup>27</sup> When children were presented as witnesses and perpetrators in crime literature – roles that would usually afford them more agency and authority than victims in plots – their violence and assertion of power was often associated with divine providence or retribution. As Alexandra Walsham has argued, these narratives established that God was ‘an assiduous, energetic deity who constantly intervened in human affairs [...] He regularly stepped in to discipline sinners and bestow blessings upon the righteous and good’.<sup>28</sup> As children were ‘thought to be especially beloved by God’ and ‘capable of

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<sup>25</sup> Garthine Walker, “‘Demons in Female Form’: Representations of Women and Gender in Murder Pamphlets of the Late Sixteenth and Early Seventeenth Centuries”, in William Zunder and Suzanne Trill (eds), *Writing and the English Renaissance* (London, 1996), pp. 123-39.

<sup>26</sup> Anon., *The Office of Christian Parents Shewing How Children Are to be Governed Throughout All Ages and Times of Their Life* (Cambridge, 1616), pp. 65-6; John Locke, ‘Some Thoughts Concerning Education’, in Peter Gay (ed.), *John Locke on Education* (New York, 1964), p. 27 ; John Bunyan, *Meditations on the Several Ages of Man’s Life: Representing, the Vanity of it, From His Cradle to His Grave* (London, 1701), p. 16; Alexandra Walsham, “‘Out of the Mouths of Babes and Sucklings’: Prophecy, Puritanism, and Childhood in Elizabethan Suffolk”, in Diana Wood (ed.), *The Church and Childhood* (Oxford, 1994), p. 295.

<sup>27</sup> Randall Martin, ‘Henry Goodcole, Visitor of Newgate: Crime, Conversion, and Patronage’, *The Seventeenth Century* 20:2 (2005), pp. 153-184.

<sup>28</sup> Alexandra Walsham, *Providence in Early Modern England* (Oxford, 1999), p. 2.

“startling divine insight”, they were portrayed as the mouthpieces of God who revealed crimes and attributed culpability to murderers.<sup>29</sup> The presence of divine providence in crime narratives further emphasised children’s passivity and their inability to save themselves or others from murderers.

### ***Victims***

Child victims were rarely depicted as active subjects or agents in popular crime narratives and pre-trial depositions. The roles, speech and agency granted to children in pamphlets and broadsides greatly depended on the age of the victim and the tropes the author engaged with and the relationship between the victim and the perpetrator. Children were often described as physically, psychologically and emotionally controlled by their murderers and those children who tried to assert their verbal and emotional agency usually failed. In practice, child victims’ voices and interpretations of their actions were only present in witnesses’ depositions and trial reports when a child named their killer and in examinations of adult perpetrators when they tried to persuade the judge and the jury that a child’s verbal and physical affronts caused them to use violence against the child, resulting in their death. Descriptions of children’s speech and behaviour before they died was retold by witnesses and perpetrators, and therefore child victims could not influence how their behaviour was interpreted or recorded in legal records. The following analysis first examines representations of children’s ignorance, gestures, speech, bodies and apparitions in popular crime narratives and then, secondly, considers and compares descriptions of child victims in pre-trial depositions and trial summaries.

Children in popular crime narratives were typically ignorant of the complete physical, psychological and emotional control their parents and grandparents, who were represented as murdering their children and grandchildren to protect them from destitution, had over them.<sup>30</sup> The purpose and meanings of the child’s ignorance and the absence of agency, however, varied in each narrative. Henry Goodcole’s *Natures Cruell Step Dames* (1637) told the story of how a mother, who had little control over the occurrence of ill-fated events in her own life, subsumed her child’s identity into her own and

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<sup>29</sup> Walsham, “Out of the Mouths of Babes and Sucklings”, pp. 285-99.

<sup>30</sup> Clark, *Women and Crime*, pp. 165-68; Dolan, *Dangerous Familiars*, pp. 122-51.

warped her profound maternal love into horrific, unmaternal behaviour. Elizabeth Barnes, an impoverished single mother, projected the suicidal desires and fears of poverty that had tormented her for some time onto her eight-year-old daughter, Susan, and treated her as an extension of herself. Unbeknown to Susan, her mother was under the influence of the Devil who persuaded her that she must murder her daughter before she killed herself, to save Susan from a life of financial hardship as an orphan.<sup>31</sup> Barnes' motive thus originated from a perverted kind of maternal love.<sup>32</sup> The pamphlet detailed how Barnes deliberately lured her daughter out of their house for a walk in the woods by flattering her and baiting her with treats.<sup>33</sup> This meant that Barnes could remove her daughter from the safety of the household and the community while, at the same time, ensuring that she did not suspect her motives. Not only did Barnes ensure her daughter's continuing ignorance of her murderous intentions with treats that diverted her attention from the situation, but also her trickery was so successful because, as a child, Susan was by her very nature trusting, incapable of reason and, as John Locke later stated in 1693, distracted by and prone to flattery.<sup>34</sup> After successfully cajoling Susan to walk for four miles, Barnes pretended that she was tired and needed to rest. In a declaration that demonstrated Susan's sincere love for and trust in her mother that was juxtaposed with Barnes' deception, the 'poore childe, as shee said, most lovingly intreated her to [rest], being also glad of such repose'.<sup>35</sup> After a day of pleasing treats and flattery, Susan had no reason to suspect that she was accommodating her mother's plan to murder her and so, in a state of comfort and trust, she fell asleep. While Susan slept, Barnes took out a knife and with it 'barbarously did cut the throat of the child'. Barnes' motives for killing her daughter – love, protection and to rescue her from torment – meant that she found it easier to murder her while she was asleep: '[she] doubtlesse could not have such a hard heart, to kill the child, had it been but awake'.<sup>36</sup> Therefore, Susan's blind passivity – her blind acceptance of her mother's flattery and her

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<sup>31</sup> Henry Goodcole, *Natures Cruell Step-Dames: or, Matchlesse Monsters of the Female Sex; Elizabeth Barnes, and Anne Willis who were Executed the 26 Day of April, 1637 at Tyburne, for the Unnaturall Murthering of their Owne Children* (London, 1637), pp. 2-5.

<sup>32</sup> Clark, *Women and Crime*, p. 58.

<sup>33</sup> Goodcole, *Natures Cruell Step-Dames*, pp. 1-2.

<sup>34</sup> John Locke, *Some Thoughts Concerning Education* (London, 1693), pp. 51-2, 58, 70.

<sup>35</sup> Goodcole, *Natures Cruell Step-Dames*, p. 2.

<sup>36</sup> Goodcole, *Natures Cruell Step-Dames*, pp. 3, 5; Martin, *Women, Murder, and Equity in Early Modern England*, p. 175.



vulnerability as she slept – were staged by Barnes so that she did not feel pain or fear before or during her death. It also indicated the close bond, compassion and mutual affection that mothers were expected to share with their children.

In contrast, Elizabeth Hazard, whose actions and motives in *The Unnatural Grand Mother* (1659) may on the surface appear similar to those of Barnes, was portrayed as an evil, unmaternal grandmother who cruelly exploited her infant grandchild's vulnerability. In this pamphlet, it is not only Hazard's deceitful behaviour that contributed to her grandchild's ignorance, but also that the two-year-old infant was too young to comprehend, let alone influence, what happened. The pamphlet explained that Hazard was concerned about her daughter's debts and the ability of her daughter's husband to provide for his family so, to ease her daughter's financial burden, she resolved to murder her grandchild. One night, Hazard decided to take control of the situation by removing her infant grandchild from its nurse to her own house where she faked her maternal love for the infant with 'many Murthering and dissembling kisses' and then went to bed.<sup>37</sup> With the assistance of the Devil, she planned to murder the child until her conscience intervened and she decided to sleep instead. However, the Devil did not give up so easily and she woke up with renewed confidence that her daughter was too indebted to care for the child and so decided, on her daughter's behalf, that it would be best to kill the child. She held the sleeping infant by its heels and drowned it in a tub of water. The description of the sleeping infant and Hazard's violence had a very different effect and purpose than the portrayal of Susan's murder in *Natures Cruell Step Dames*. Hazard was depicted as '[m]ore like an Infernal Hag, then the mother or grand-mother of children' when 'without any fear or remorse of conscience' she caught 'the poor harmless child as it lay in a sweet slumber, up in her wretchless arms' and killed it.<sup>38</sup> While Barnes waited to murder her daughter when she was asleep to avoid unnecessary suffering, Hazard was cruelly motivated to murder her infant grandchild when it was at its most vulnerable. This act not only denied her infant grandchild agency, but also her daughter. Hazard made serious and unwise judgements about her daughter's

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<sup>37</sup> Anon., *The Unnatural Grand Mother, or, A True Relation of a Most Barbarous Murther Committed by Elizabeth Hazard on Her Grand Childe, of About Two Years Old By Drowning it in a Tub of Water, on Friday the 15 of July, 1659* (London, 1659), pp. 6-7.

<sup>38</sup> Anon., *The Unnatural Grand Mother*, p. 7.

capacity to care for her grandchild and her violence indicated her ferocious desire for control of her daughter's life and to remove her agency, rather than maternal love or affection. The 'battle' between her conscience and the influence of the Devil further demonstrated that Hazard deliberately decided to murder the child.

The infant children of homicidal, prodigal fathers were also defined by their vulnerability and ignorance of their father's suspicious behaviour but, as they were conscious when they were murdered, these narratives provide richer descriptions of their emotions and child-like mentality as they failed to even contemplate escaping their father's violence. For example, in *A Disobedient Son*, John Jones' three-year-old infant child was paralysed by fear after witnessing the murders of his mother and sibling. When Jones cut his wife's throat from ear to ear

The other Infant straight aloud did cry,  
To see his Mother there a bleeding lie.  
He straightway went and took her by the Hand,  
While the poor Babe did there a trembling stand.<sup>39</sup>

Jones' infant was visibly shocked and scared by its father's bloody violence, but it did not realise that it was in danger of being murdered. The child instinctively grabbed its dying mother's hand, symbolising the indissoluble emotional connection between mother and child. This representation of the mother's safety and protection is in contrast with Jones' distant, destructive paternal relationship with his children. The pamphlet claimed that Jones' initial motivation to murder his family to save them from suffering the consequences of his own frivolous and reckless behaviour was disingenuous. In this final murder, Jones decided to murder his infant child so that it did not betray him to the authorities and so he transgressed his paternal duty by selfishly putting his own interests before the life of his child.<sup>40</sup>

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<sup>39</sup> Anon., *The Disobedient Son*.

<sup>40</sup> Anon., *The Disobedient Son*; Joanne Bailey, *Parenting in England 1760-1830: Emotion, Identity, and Generation* (Oxford, 2012), pp. 48-70; Newton, *The Sick Child*, pp.101-10, argues that fathers were expected to be affected by their children's illnesses and to care for their sick children; Tim Reinke-Williams, 'Manhood and Masculinity in Early Modern England', *History Compass* 12:9 (2014), pp. 686-88.

As orphaned children in narratives about evil uncles who tried to steal their family's inheritance from infant heirs mainly functioned as a plot device to hinder their uncle's greed, they were not granted any physical or vocal agency in crime pamphlets. In the 1706 broadside *The Barbarous Uncle*, Mr. Solmes planned to steal his deceased brother's estate by murdering his two-year-old niece who was the heir to the inheritance. Throughout the ballad, the girl is simply a passive, legal obstacle to the uncle's objective rather than someone who explicitly defies or undermines his plan. Even the way in which her uncle attempted to kill her underscored her passivity: he carried her into the woods and buried her in a tree so that she would starve to death. She did not try to escape and even when she was saved by a gentleman she could not explain what had happened to her because she was so young. Instead, other characters identified her and pieced everything together.

But as the Lady and her Spouse,  
Did to their Neighbours shew it [the child],  
A Woman came into the House  
That presently did know it;  
And soon discover'd all the Cheat  
The Uncle had intended,  
To get the poor young Child's Estate,  
Who promis'd to defend it.<sup>41</sup>

The uncle's attempted murder was revealed by other characters in the plot. Solmes' two-year-old niece was too young to be anything but a passive hindrance to the inheritance money. Unlike the children in the narratives above, orphaned children did not have maternal or paternal figures that they could turn to or interact with in narratives. While Mr Solmes outwardly swore to protect and love his niece while acting *in loco parentis*, the broadside established that he did not actually have a close emotional relationship with his niece or feel any paternal connection towards her which left her vulnerable to exploitation and death. As other crime literature indicated, a child's emotional bond with their

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<sup>41</sup> Anon., *The Barbarous Uncle, Being a True Relation of One Esq; Solmes of Beverly in Yorkshire, Who Dying, Left an Only Daughter of About Two Years of Age* (London, 1706).

parent was the most important for a child and a relationship that could not be replaced.<sup>42</sup>

However, as pamphlets about mothers who were so overwhelmed by misguided fanatical religious ideas that they were indifferent to their children's gestures and words demonstrate, not all children were completely lifeless or absent in crime literature. The agency and roles granted to children depended on the religio-political context in which each pamphlet was produced and its purpose. *A Pitiless Mother* (1616) related child-killing to Protestant-Catholic conflicts in the early seventeenth century to propagate the anti-Catholic message that conversion to Catholicism attracted the influence of the Devil.<sup>43</sup> Gentlewoman Margaret Vincent, who had converted to Catholicism, murdered her two children to prevent her husband from raising them as Protestants, in what was described as a misguided attempt to save their souls. Before her conversion, her family had been living in good health and were content; she had been a model wife – she was discreet, civil and modest – and a good mother.<sup>44</sup> This all changed when she turned to Catholicism. Vincent was now shown as vulnerable to the encouragement of the Devil, who interfered with her rationality and, most importantly, her natural maternal feelings, so that she became indifferent to her children's feelings and amiable behaviour.<sup>45</sup> While Barnes deliberately murdered her daughter while she was sleeping to avoid being susceptible to her child's behaviour that would prevent her from enacting murder, Vincent was immune to 'the pretty smiles' her youngest two-year-old infant made and was impervious to 'the da[n]dling before the mother's face, nor anything it could do' before she murdered them. Her children were completely unaware of their mother's bloody intentions; even the eldest at five-years-old was 'of that small age it could hardly discern a mother's cruelty' and yet the infant 'seemed to smile upon her as though it begged for pity'.<sup>46</sup> This did not

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<sup>42</sup> Clark, *Women and Crime*, pp. 61-69, 157- 68.

<sup>43</sup> Martin, *Women, Murder and Equity*, pp. 164-67.

<sup>44</sup> Sara Mendelson and Patricia Crawford, *Women in Early Modern England 1550-1720* (Oxford, 1998), pp 126-33; Mary Catherine Wilheit, 'Virtuous Wives and Loving Mothers: Early Modern English Women's Epitaphs', 27:1 *Explorations in Renaissance Culture* (2001), pp. 89-111.

<sup>45</sup> Betty Travitsky, "'A Pitiless Mother'?: Reports of a Seventeenth-Century English Filicide', *Mosaic: A Journal for the Interdisciplinary Study of Literature* 27:4 (1994), pp. 55-79; Clark, *Women and Crime*, p. 162.

<sup>46</sup> Anon., *A Pitiless Mother that Most Unnaturally at One Time, Murthered Two of Her Owne Children at Acton Within Sixe Miles from London Uppon Holy Thursday Last 1616* (London, 1616), no pagination.

indicate that the child's demeanour was intentional, but rather that Vincent, looking at her innocent child, should have felt pity and been immediately dissuaded from her murderous intentions. In this narrative, Vincent's failure to react to her infants' pitiful looks and childish behaviour demonstrated how far the Devil had suppressed her maternal feelings towards her children and her ability to be emotionally moved by her children.

*Bloody Newes from Dover* (1647) engaged with a similar plotline, but linked child murder to fighting between Protestant groups during the Civil War rather than Catholicism.<sup>47</sup> This narrative was an allegory that warned of the dangers of separatism from the orthodox Church. Following an argument with her Presbyterian husband about their child's religious education, Anabaptist Mary Champion decapitated her seven-week-old child. This method of killing is especially significant as decapitation symbolised the division of the Church of England and the separation of families, demonstrating that all parts of the body (the Church of England or the family) belonged together and could not function separately.<sup>48</sup> The pamphlet stated that 'sad effects will suddenly follow' when 'division and controversie' occur, to further emphasise this moral.<sup>49</sup> Unlike *A Pittillesse Mother*, which focused on the close relationship between Catholicism and the Devil, *Bloody Newes* condemned the divisive conflicts that separatism brought and claimed that challenges against orthodoxy ruined the lives of innocent people. Consequently, the pamphlet used the analogy of child murder as a microcosmic analogy to demonstrate how religious dissent and separatism led to the destruction of the patriarchal household and that, if this occurred in all households and all communities, there would be similar social disorder and the toppling of state power. *Bloody Newes* may also have had a political agenda. The content and form are very similar to Royalist propaganda that, as Jennifer Cobley has argued, attacked the Parliamentarians by claiming that they contravened gender order. Royalist pamphleteers portrayed their opponents as 'unmanly' cuckolds who allowed their wives to challenge their authority.<sup>50</sup>

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<sup>47</sup> Martin, *Women, Murder, and Equity*, p. 171.

<sup>48</sup> For example, see: Gary K Waite, *Heresy, Magic and Witchcraft in Early Modern Europe* (Basingstoke, 2003), pp. 72-73.

<sup>49</sup> Anon., *Bloody Newes from Dover*, p. 4.

<sup>50</sup> Jennifer Cobley, 'The Construction and use of Gender in the Pamphlet Literature of the English Civil War, 1642-1646', DPhil, University of Southampton (2010).

As children who were murdered by their melancholic mothers did not perceive that their mother had been manipulated by the Devil, they behaved in normal, typically childish ways that was juxtaposed with the extraordinary situation of which they were unaware. The Devil could invoke strong negative emotions, such as melancholy or anger, that distorted how mothers reacted to and ignored their children's behaviour.<sup>51</sup> In the pamphlet, *Blood for Blood*, melancholic Mary Cook killed her infant child, Betty, while she lay in her cradle before attempting suicide. Sandra Clark has perceptively argued that, 'the writers reinforce the mother's particular attachment to the child by their characterisation of the child, a comparatively rare effect in pamphlets of child-killing, giving it typical infant speech and gestures'.<sup>52</sup> Betty's characterisation also reflected Cook's deceptive motherly demeanour; Cook still enacted her duties as a mother by offering her breakfast while she lay in her cradle, 'unto which the Babe answered, Ey, crying, Aha, aha, as it used to do when it was pleased, and put forth her hand to stroke her Mother'.<sup>53</sup> This speech demonstrated how young and vulnerable Betty was, as she could only reply to her mother with one-syllable words and laughter that would normally engender love and pity from a mother. Moreover, this interaction before the murder was a more explicit representation of Betty's ignorance than in the narrative above in which the children were either silent or crying. It clearly demonstrated that Betty was not only ignorant of Cook's intentions because she was a child, but also because she was in a comfortable, familiar household setting in which she had no reason to suspect that she might be harmed. Betty's happy and good-natured conduct demonstrated how little agency she had to influence her mother because the Devil had completely warped her maternal identity as he had with Barnes and Vincent.<sup>54</sup>

A pre-trial deposition from Denbighshire reveals similarities between homicide cases and portrayals of children's ignorance and innocence in popular crime narratives. In 1682, John Foulke hit his seven-year-old son, Robert, in the

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<sup>51</sup> Linda Pollock, 'Anger and the Negotiation of Relationships in Early Modern England', *Historical Journal* 47:3 (2004), pp. 567-90; Angus Gowland, 'The Problem of Early Modern Melancholy', *Past and Present* 191 (2006), pp. 567-90. See also Anon., *A Disobedient Son*; Anon., *The Unnatural Father*.

<sup>52</sup> Clark, *Women and Crime*, p. 168.

<sup>53</sup> Partridge, *Blood for Blood*, p. 15.

<sup>54</sup> Marilyn Francus, 'Monstrous Mothers, Monstrous Societies: Infanticide and the Rule of Law in Restoration and Eighteenth-Century England', *Eighteenth-Century Life* 21:2 (1997), pp. 133-56.

head with a hatchet cleaver and killed him. Foulke's eighty-year-old mother-in-law, Margaret John, deposed that she was caring for Foulke, who had been in bed with a sickness for a fortnight, while her daughter, Katherine, went to the mill. When Margaret checked if Foulke needed any food, he suddenly pulled out a knife from his pocket and tried to stab her, but the knife was not sharp enough to hurt her. Foulkes then ran to a cradle in the room and slashed his youngest child over the face with the knife and left the room. Margaret ran to help and comfort the child while John went into the house and came out with a hatchet. Seven-year-old Robert, who had been sleeping in an out chamber near the house then

Rose naked & came out upon his Grandmother's out cry who said to the Child goe not to thy father, the Child answered my Father will doe me noe harme, but goeing full towares him the said John with a hatched clever his head, who lived about a day & a night & then dyed.<sup>55</sup>

Margaret's deposition parallels the depictions of children's ignorance in popular crime narratives. Despite his grandmother's warning, Robert was completely oblivious to the life-threatening danger he put himself in when he ran towards his father demonstrating the 'natural' blind trust that a child would have in its parent.

While the pre-trial deposition above demonstrates that, like crime narratives, children in practice were unable to perceive danger or use reason even in life-threatening situations, there are slight distinctions in how children related to their murderous parents and approached the threat of violence. Unlike the children in crime pamphlets and broadsides, Robert did demonstrate his agency. While the trust and security he felt in his normal relationship with his father may have influenced his inability to perceive his father's murderous intent, Robert wilfully decided to disregard his grandmother's warning. This shows that he had a choice between whose advice to take and who he trusted the most; it was extremely unfortunate that he believed his father would not hurt him. The innocently assured way in which Robert approached his father and his inability to comprehend the serious peril he put himself in by running towards

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<sup>55</sup> *NLW, GS, 4/31/6/65.*

his father demonstrates wider concepts of childhood in the early modern period. In medical and religious discourses, children were thought to be guided primarily by their strong, powerful emotions rather than by reason, which was learned, practiced and exercised into adulthood.<sup>56</sup> In crime pamphlets, child victims are usually either completely unaware of their parent's plans to murder them – like Susan and Betty – or, cowered when their parents threatened violence – like the infant in *A Disobedient Son*.<sup>57</sup> Robert Foulke however did the complete opposite. As the deposition indicates, his father had been sick for two weeks and it was this sickness that may have caused him to become violent. Robert's refusal to believe that his father would harm him demonstrates that the relationship he had with his father was normally a mutually loving and happy one, and not a relationship based on terror or violence. As domestic handbooks advised parents, children relied on close familial bonds, they learned from their experiences of care and needed parental guidance as they were not capable of employing reason.<sup>58</sup> As a child, Robert was therefore not in a position to figure out that his father was about to break his paternal duty of care by murdering him. Just like Mary Cook's infant Betty, Robert thought that he was in a familiar, domestic situation, but unlike Betty, there were warning signs that Robert ignored in favour of his bond with his father.

Polemical, political pamphlets that alluded to the dangers of tyrannical leaders engaged with the common microcosmic analogy of the family as the state to represent the people as children who were powerless to assert their agency against their parents (the state). While Frances Dolan has correctly identified that accounts of child murder 'do not represent a violent struggle between parent and child', not all children were entirely docile. Some children attempted to reason with their parents and flee violence.<sup>59</sup> In the polemical

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<sup>56</sup> Helkiah Crooke, *Mikrokosmographia a Description of the Body of Man: Together with the Controversies and Figures Thereto Belonging Collected and Translated out of all the Best Authors of Anatomy, Especially out of Gaspar Bauhinus and Andréas Laurentius* (London, 1651), p. 276; Newton, *The Sick Child*, p. 42; Elizabeth Foyster, *Manhood in Early Modern England: Honour, Sex, and Marriage* (New York, 1999), pp. 1-10.

<sup>57</sup> Goodcole, *Natures Cruell Step-Dames*; Partridge and Sharp, *Blood for Blood*; Anon., *The Disobedient Son*.

<sup>58</sup> For example, see: Anon., *The Office of Christian Parents*; Daniel Burgess, *Advice to Parents and Children the Sum of a Few Sermons Contracted and Published at the Request of Many Pious Hearers* (London, 1690); John Bunyan, *Meditations on the Several Ages of Man's Life: Representing, the Vanity of it, from his Cradle to his Grave* (London, 1701); Daniel Cawdrey, *Family Reformation* (London, 1656).

<sup>59</sup> Dolan, *Dangerous Familiars*, p. 141.



seventeenth-century broadside *The Childrens Cryes* (c.1690-c.1700), a grave maker attempted to murder his two children who begged him not to kill them. The structure and the perspective of this broadside are dissimilar from other crime narratives.<sup>60</sup> Early modern crime literature usually explored the murderer's emotional and moral journey in the narrative structure of sin, murder, remorse and redemption.<sup>61</sup> In contrast, this broadside was constructed from the children's perspective, with no comment on the father's motives or emotions during his attack. When the 'Barbarous & Cruel Father' took his children for a walk, he looked at them strangely 'Which made [them] dread and fear what he would do'. He then suddenly became violent and tried to murder his daughter.

My little Sister he presently flung  
From a bank headlong into the said Pond,  
Though she cry'd father dear,  
And shedded many a tear,  
Yet her cries would not hear,  
but flung her in.<sup>62</sup>

The girl, aware that her father wanted to harm her, begged him not to kill her. Her father's reaction is not described at all; he was not moved by her cries, he ignored his protestations, and her sobbing did not evoke an emotional response from him. As this broadside was an analogy of the destruction a tyrannical leader could inflict on a society and the shock and terror that the people would feel, the children were more perceptive and reactive than the children in standard crime narratives already discussed. The children's responses were intended to elicit sympathy and, by extension, to encourage the audience to be aware that such behaviour by a leader or a ruler was, in turn, unreasonable and transgressed legitimate force that might be used to impose social order. Likewise, her brother pleaded with his father and gave him alternatives to murder to dissuade him. The boy began

to beg and to pray,  
Crying, Oh do not take my Life away;

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<sup>60</sup> Anon., *The Childrens Cryes* (London, 1690-1700?).

<sup>61</sup> Peter Lake, 'Deeds against Nature: Cheap Print, Protestantism and Murder in Early Seventeenth-Century England' in Kevin Sharpe and Peter Lake (eds), *Culture and Politics in Early Stuart England* (Stanford, 1993), pp. 257-84.

<sup>62</sup> Anon., *The Childrens Cryes*.

I'll beg from door to door,  
And not come near you more,  
Yet bitterly he swore he'd drown me too.<sup>63</sup>

It is important to note that while the broadside does not explicitly state why his father became so murderous, the boy interprets his father's violence as an attempt to remove him as a financial and practical burden like the other prodigal father narratives above. Again, his father did not listen to him and attempted to kill him anyway. In contrast to John Jones' three-year-old infant, who passively watched its father murder its family and did not try to escape, the boy reacted to his father's violence and, after witnessing his father throw his sister and another boy into a pond, he was aware that he was in danger of similar treatment. With the household as a microcosm of the state, children who were expected to be inferior and powerless in the household were an appropriate analogy for the people whose protestations and attempts to regulate a tyrannous monarch similarly were likely to be unsuccessful. In *The Last Speech and Dying Words of Thomas Vert* (1730?), a youth named Thomas Vert asserted power over his younger sister, whose age is not mentioned, and negated her agency when he murdered her for reproving his immoral conduct. The broadside stated that the girl, whose temper was 'meek and mild', provided him with moral advice that was beyond the scope of most children's comprehension. She not only showed wisdom beyond her years, but also delivered her criticism to her brother in a more forceful and critical way than her parents.<sup>64</sup> She advised that her brother's prodigality, cursing and 'wicked Courses' were extremely emotionally distressing for their parents and that his behaviour could cause their premature deaths. Despite her vocal moral superiority and authority, Vert stubbornly refused to listen to his infant sister's instruction and instead murdered her. While her moral guidance was perceptive, wise and reproduced prescriptive and religious discourses about the negative effects of sinful behaviour, it did not persuade Vert to change his conduct.<sup>65</sup> Instead, his sinful inclinations spiralled out of control and he decided that to silence her he had to murder her. Even

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<sup>63</sup> Anon., *The Childrens Cryes*.

<sup>64</sup> See: Anon., *A Pretty Ballad of the Lord of Lorn, and the False Steward* (London, 1663-1674).

<sup>65</sup> For example, see: Anon., *The Office of Christian Parents*; Anon., *The Duty of Children to Parents* (London, 1701); John Brydall, *Pietatis in Parentes Disquisitio: Or, The Duty of Children towards Their Parents: Truly Examined and Stated.: In a Letter to a Friend in the City* (London, 1700).

when children asserted their agency, through no fault of their own, they always failed and remained victims. In this account, the girl's low hierarchical status as a child and a younger sister meant that she could not be a persuasive or effective conduit of stern, moral advice to her older brother. It is for this reason that Vert could cast her advice to one side, as he had his parents' guidance, and, because he wrongly interpreted her advice as insulting and contemptuous, he murdered her. It was only when the girl came back as an apparition and her advice came directly from God, that Vert decided to change his behaviour. As Malcolm Gaskill has argued, in cheap print the ghosts of unavenged victims were described as appearing to their murderers. These apparitions were persuasive and stirred their murderers' consciences to force their confessions to a magistrate so that justice could be served.<sup>66</sup>

*The Last Speech and Dying Words of Thomas Vert* showed that children's bodies and voices could be permitted power and agency posthumously.<sup>67</sup> In particular, Vert's sister's corpse became crucial evidence that she had been murdered and when she materialised as an apparition to reprove Vert again, he instantly confesses and exhibited remorse.<sup>68</sup> First, after Vert murdered his sister, her corpse became an agent that revealed to her mother and a neighbour (non-professional), who 'soon' found the deceased girl, and a doctor (professional) that she has been murdered. As very little time had passed since the girl had died, it was evident to all witnesses that the force of a single blow to the head had been enough to kill her instantly and that she could not have hurt herself accidentally.<sup>69</sup> The bruises on her body also indicated that someone was responsible for her murder. Moreover, as nobody had sought help, it appeared that the perpetrator had deliberately killed her and was attempting to escape justice. Secondly, when she transformed into an

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<sup>66</sup> Malcolm Gaskill, 'Reporting Murder: Fiction in the Archives in Early Modern England', *Social History* 23:1 (1998), pp. 14-15.

<sup>67</sup> Anon., *The Last Speech and Dying Words of Thomas Vert, Who Was Execute at Durham the 12th August 1730, for the Murdering of His Own Sister, for Which He Was Try'd, Condemned and Execute* (London, 1730?).

<sup>68</sup> See also: Anon., *The Wonder of this Age* (London, 1677); Gaskill, *Crime and Mentalities*, p. 231-33; Amanda McKeever, 'The Ghost in Early Modern Protestant Culture: Shifting Perceptions of the Afterlife, 1450-1700', DPhil, University of Sussex (2011), p. 7; Alexandra Walsham, *Providence in Early Modern England* (Oxford, 1999), p. 28.

<sup>69</sup> Mark Jackson, *New-Born Child Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England* (Manchester, 1996), pp. 100-3 discusses how neighbours analysed infant corpses; Gaskill, *Crime and Mentalities*, pp. 203-41 also demonstrates how integral neighbours were as witnesses; Anon., *Sad News from Ratcliff* (London, 1691).

apparition, the girl's voice was more authoritative and had a greater effect on Vert than when she was alive. Three nights after murdering his sister, Vert did not feel any remorse for his crime and simply continued to engage in sinful conduct. While drinking in an alehouse with a prostitute, he was visited by his sister's ghost, who appeared in white clothes, 'attended with a heavenly Tribe', music, and blazing light to beg him to confess to his crimes. She now had authority as a messenger from God and as a spirit whose soul had been saved and provided Vert with proof that his soul was in jeopardy.<sup>70</sup> The girl pleaded with her brother to repent and this time

He straightway pray'd, and fell upon his Knee,  
Soon as the Morning Day-light did appear,  
To his distressed Parents did repair,  
And then before them on his Knees did fall,  
And freely did confess the Truth of all.<sup>71</sup>

The girl's posthumous agency and power derived from her status as God's messenger: she had a far greater measure of agency in death than she could in life as a child.

Child victims related to witnesses and relatives the circumstances that led to their fatal injuries before they died, which was crucial evidence that influenced the outcomes of trials. While these children's testimonies were not sworn, there was a cultural and social understanding that victims who named their killer on their deathbeds were telling the truth before they died, as they did not want to die with a lie on their lips.<sup>72</sup> This notion of salvation and importance of the final moments before death originated in Catholic theology and persisted in early modern Protestantism.<sup>73</sup> Malcolm Gaskill has also argued that a victim's 'refusal to forgive signalled a desire for justice'.<sup>74</sup> In 1721, a cart driver named Israel Green was found guilty of manslaughter after he had driven into, and

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<sup>70</sup> Patricia Crawford, 'Women's Dreams in Early Modern England', *History Workshop Journal* 49 (2000), pp. 129-41; Malcolm Gaskill, 'Reporting Murder: Fiction in the Archives in Early Modern England', *Social History* 23:1 (1998), pp. 1-30; William E. Burns, *An Age of Wonders: Prodigies, Politics, and Providence in England, 1657-1727* (Manchester, 2002), pp. 1657-1727.

<sup>71</sup> Anon., *The Last Speech and Dying Words of Thomas Vert*.

<sup>72</sup> J.A. Sharpe, "Last Dying Speeches": Religion, Ideology and Public Execution in Seventeenth-Century England', *Past & Present* 107 (1985), pp.144-67; Ralph Houlbrooke, *Death, Religion, and the Family in England, 1480-1750* (Oxford, 2000), p. 179.

<sup>73</sup> Richard Wunderli and Gerald Broce, 'The Final Moment before Death in Early Modern England', *The Sixteenth Century Journal* 20:2 (1989), pp. 259-75.

<sup>74</sup> Gaskill, *Crime and Mentalities*, p. 236.

killed, thirteen-year-old John Wine. The *Old Bailey Sessions Papers* provided Green's version of events through a condensed version of Wine's mother's sworn testimony.

Mrs. Wine deposed, that she found her Son (the Deceased) who was about 13 Years of Age, with Death in his Face, who told her that he was run over going after the Foot-Ball; that the Carman might have saved him if he would, but he cut his Horses and drove over him.<sup>75</sup>

Another witness 'Doncaster deposed, that he heard the Deceased say an Hour before he died, that the Carman might have saved him if he would'. Despite contradictory evidence from other witnesses who claimed that they did not hear anyone cry out to stop the cart and that Green's back was turned so he could not have killed him deliberately, John Wine's attribution of guilt to Green, alongside other witness testimonies, was persuasive evidence to the court that Green was partially culpable for homicide.<sup>76</sup>

However, children's dying words were less reliable or persuasive if they could not name their killer or if it conflicted with professional advice that held more sway than a child's testimony. In 1691, an Old Bailey trial report claimed that there was not enough evidence to prosecute John Alsop for the murder of eight- or nine-year-old Ralph Treley. Before his death, Treley had told witnesses that a 'Butcher in Clare-Market' had beaten and left him in the street.<sup>77</sup> While Alsop matched this description, Treley had not provided a specific name in his accusation which meant that, in the absence of corroborating evidence, he was acquitted. The reliability of Treley's evidence had little to do with his age. The report was more concerned that his evidence was incomplete and therefore could not be verified or trusted. Medical evidence could also conflict with children's accounts of violence. A 1686 trial summary stated that thirteen-year-old Caleb Giver 'said before his death, the Kick was given him by his Master [John Gabriel], and that if he dyed, that that Kick was the occasion of his death'.<sup>78</sup> However, professional medical evidence indicated that Giver was in a

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<sup>75</sup> OBSP, April 1721, Israel Green, t17210419-62.

<sup>76</sup> OBSP, April 1721, Israel Green, t17210419-62.

<sup>77</sup> OBSP, Dec 1691, John Alsop, t16911209-10.

<sup>78</sup> OBSP, July 1686, John Gabriel, t16860707-16.

violent fever before he died, bringing Gabriel's culpability into question. This medical evidence, which was impartial and verifiable by other witnesses, held more authority in the courtroom than Giver's testimony.<sup>79</sup> Consequently, Gabriel was acquitted.

Trial reports from the *Old Bailey Sessions Papers*, that described children who were killed when they usurped social and household order, establish that child victims could be judged to be partially responsible for their own deaths and therefore capable of agency. The problem of disorderly apprentices was a common trope in early modern social commentaries and a narrative that masters could employ in cases of assault both as victims and as perpetrators.<sup>80</sup> This trope may have impacted on how witnesses and judges interpreted masters and adults who tried to correct children's unruly behaviour. Witnesses and defendants in murder trials sometimes portrayed children as complicit in their own deaths to reduce a murder charge to a manslaughter verdict or, more ideally, an acquittal.<sup>81</sup> Child victims were accused of verbally affronting a defendant, provoking the defendant's seemingly reasonable but excessive violence. For instance, in 1692 in the East Riding of Yorkshire, labourer Jeremy Nelson claimed that he beat thirteen-year-old William Giles to death with a stick because he found Giles sticking pins into the ground and being a nuisance to others. According to Nelson's pre-trial examination, he was in his yard mending his cart when Giles

came & layd himselfe on the ground by him, & begun to drive pins of wood into the ground upon which this Examinant asked the said William why he did soe; he replied it was to cause People to stumble, upon which this Examinant bid him begone out of his yard or he would beat him, the boy replied he would not, & continued driveing the wood pins into the Ground whereupon this

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<sup>79</sup> Mary Clayton, 'Changes in Old Bailey Trials for the Murder of Newborn Babies, 1674-1803', *Continuity and Change* 24:2 (2009), pp. 337-59.

<sup>80</sup> Paul Griffiths, *Youth and Authority: Formative Experiences in England, 1540-1640* (Oxford, 1996), pp. 296-97, 313-19; Steven R. Smith, 'The Ideal and Reality: Apprentice-Master Relationships in Seventeenth-Century London', *History of Education Quarterly* 21:4 (1981), pp. 449-59.

<sup>81</sup> Walker, *Crime, Gender and Social Order*, pp. 148-56.

Examinant took up a small stick & struck him twice over the shoulder & further this Examinant saith not.<sup>82</sup>

This depiction of a child is very distinct from the ‘innocent’ and ‘harmless’ children in crime literature. As a thirteen-year-old, Giles was close to the age of discretion (fourteen), and in this case was judged old enough to know that his actions were wrong and to be complicit in his own death.<sup>83</sup> He had maliciously intended to harm others and openly, audaciously defied Nelson, who reproved him with good intention to prevent his mischievous actions from causing accidents in the community. Giles, a child and a servant, was not expected or allowed to have such rebellious agency that could spread household and social disorder. Therefore, as his superior, Nelson had a social duty to physically correct Giles with good intent and maintain order in the community.<sup>84</sup>

Descriptions of child victims’ voices and actions that did not contribute to identifying who was culpable for a homicide were often absent in pre-trial depositions and the *Sessions Papers*, as they were created to prioritise information that attributed blame. The questions that JPs asked deponents related to culpability and usually only mentioned the victim’s actions in cases where clarification of whether the victim was partially culpable for their death was necessary. There are many reasons why children’s voices were omitted in these sources. First, child victims under the age of fourteen were normally believed to be too young to provoke violence under the law.<sup>85</sup> William Giles’ actions and insolent speech was only included in Jeremy Nelson’s pre-trial examination because Giles was judged to be capable of being complicit in his own death.<sup>86</sup> Secondly, in cases when a child’s corpse was discovered after the killing, witnesses could only describe marks of violence on the child’s body and the perpetrator’s behaviour.<sup>87</sup> Thirdly, *The Old Bailey Sessions Papers* were especially brief summaries of trials that used vague phrases, such as ‘the

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<sup>82</sup> TNA, ASSI 45/16/2/43-45.

<sup>83</sup> Garthine Walker, ‘Rape, Acquittal and Culpability in Popular Crime Reports in England, 1670–1750’, *Past & Present* 220:1 (2013), pp.115-142; Hale, *Historia Placitorum Coronae*, pp. 40-59.

<sup>84</sup> Griffiths, *Youth and Authority*, pp. 290-325; Alan Stewart, ‘Boys’ Buttocks Revisited: James VI and the Myth of the Sovereign Schoolmaster’, in Thomas Betteridge (ed.), *Sodomy in Early Modern Europe* (Manchester, 2002), pp. 131-47.

<sup>85</sup> Hale, *Historia Placitorum Coronae*, pp. 40-59; William Blackstone, *Commentaries on the Laws of England, Volume 4* (London, 1765-1769), p. 29.

<sup>86</sup> TNA, ASSI 45/16/2/43-45.

<sup>87</sup> NLW, GS, 4/991/3/40-41; TNA, ASSI 45/11/2/2-4.

evidence', that potentially concealed children's voices and testimony.<sup>88</sup> Moreover, reports of cart-related and child-perpetrated homicides that often ended in acquittal, were concise and only narrated the basic aspects of the trial that were relevant to the verdict.<sup>89</sup> The exclusion of children's voices and actions does not signify that children were subdued or segregated in the household or in their interactions with others; it simply means that these records only allow for limited, mediated snippets of child victims' voices and agency. As is evident from the homicides of Robert Foulke and William Giles, children who were victims of lethal violence had more complex subjectivities and experiences than the innocent, ignorant children represented in crime literature.

As the above example proves, child victims in practice were not necessarily the innocent or passive victims that were presented in popular literature. They could reject reasonable demands to desist their mischievous behaviour and therefore be held accountable for the violence inflicted against them. Child-murder pamphlets and broadsides described homicide cases in which the culpability of the killer was unambiguous and therefore, in comparison, their child victims could only be presented as innocent victims. Crime literature emphasised that children by their very nature embodied ideas of victimhood. Engaging with ideas that were central to religious and prescriptive discourses, popular crime narratives portrayed children as passive, ignorant, helpless, scared and dependent on parental protection. While historians have frequently overlooked or dismissed depictions of children in this literature, this section has shown that further interrogation of why children's agency is absent is crucial for a holistic understanding of children's roles in this genre. Children's passivity was employed by authors for various effects and purposes but mainly it reflected on the murderers' motives for killing and either their detachment from the murder and, in that moment, their children or desperate reasons for murdering their child. It could signify a murderers' love, rage, deception, tyranny, religious fanaticism or mental disorder. The unfortunate murder of Robert Foulke shows that young children in practice could demonstrate their agency and wilfulness, but still exhibit understandings

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<sup>88</sup> For example, see: *OBSP*, Dec 1691, Thomas Clench and George Clench, t16911209-21.

<sup>89</sup> For example, see: *OBSP*, Sept 1686, Edward Matthews, t16860901-41; *OBSP*, Sept 1684, John Cowley, t16840903-19; *OBSP*, Feb 1684, Thomas Howell, t16840227-9; *OBSP*, Jan 1718, John Bargeham and Robert Ninn, t17180110-22; *OBSP*, Sept 1693, Adam Martyn and Richard Norman, t16930906-6; *OBSP*, June 1717, John Berryman, t17170606-32.



of childhood, such as the inability to perceive a parent's murderous intent, that were fundamental to depictions of children in crime pamphlets and broadsides.

### ***Perpetrators***

Children who committed homicides were also denied agency in crime pamphlets, broadsides and legal records but for distinct reasons. Crime narratives suggested that children, especially infants aged seven and under, could only kill when they were manipulated by God to enact divine retribution, further contributing to legal and popular religious ideas about infants' innocence and inability to commit wilful murder. Children's testimony was often omitted from the *Old Bailey Sessions Papers* when a child-perpetrated homicide resulted in misadventure or an acquittal. As few child perpetrators provided pre-trial testimonies and their voices were rarely included in trial reports, children were frequently excluded from having agency in these records to explain their own actions and motives for violence.

Children, who were perceived to be innately innocent and not yet able to exercise agency, were suitable conduits of violent divine retribution because they were easy to control. An extremely unusual cautionary broadside ballad from c.1638, *A Warning for all Murderers*, established that children were not autonomous and could commit murder without being aware that they were being controlled by God. The broadside described a case from Ruthin in Wales, in which a small infant was manipulated by God to kill his three cousins to avenge his parents' murders. The infant's parents – an elderly gentleman named David Williams and his pregnant wife – were violently murdered by his father's three nephews who had expected a share of his inheritance before he married and his wife became pregnant. They decided to kill Williams, his wife and their unborn child to become the legitimate heirs to his estate. While the wife slowly died she miraculously managed to give birth to her son and, with the last of her energy spent, she died without naming her and her husband's murderers. The broadside then demonstrated how Williams' infant son was commandeered by God to kill his cousins, who no one suspected could be involved in the murders, to avenge the murder of his parents.<sup>90</sup> Discourses of divine providence were explicitly referenced in the broadside to demonstrate

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<sup>90</sup> Anon., *A Warning for all Murderers. A Most Rare, Strange, and Wonderfull Accident, which by Gods Just Judgement was Brought to Passe* (London, 1601-1640?).

that the boy's violence derived from God's power to reveal crimes, rather than the boy's assertion of agency.<sup>91</sup> 'But now behold Gods judgement just' preceded the infant's violence to further explain the cousins' deaths were not only deserved, but that they were righteously enacted by God. In the rest of the narrative, the boy did not actively seek out his cousins to kill them but was by 'chance' in the right place at the right time: when the boy was almost two-years-old, 'The Nurse did chance to bring this child' to play where one of the cousins was sitting; and 'Not full a twelve-month after this, / this child did chance to be, Whereas the second murderer / was drinking merrily:'.<sup>92</sup> This alluded to the fact that divine providence created the circumstances in which the infant could punish his cousins for their crimes. Moreover, the boy's reactions to his violence indicated that he did not understand the seriousness of the situation or the ramifications of his actions: after he killed his cousin with a pin 'he laughing ran his way'.<sup>93</sup> Children's 'innate innocence' and mental incapacity to reason or fight against forceful manipulation made them suitable 'temporal agents' to perform God's will in popular crime narratives.<sup>94</sup> The boy was easy to manipulate because he did not have consciousness that might conflict with divine providence and he was therefore an ideal host through which divine retribution might be enacted.

The influence of divine providence was further demonstrated by the moderate methods the boy used to kill his murderous cousins. The infant boy killed his first cousin when he bit him on the leg: The boy 'bit his Cousin by the legge, / hard at the ankle bone, / Which by no helpe nor Art of man / could ever healed be, / But sweld and rotted in such sort, / that thereof dyed he'.<sup>95</sup> It is important to note that it was the infection and not the boy's initial violence that ultimately killed the man. This description reflected expectations that infants were physically and psychologically unable to commit deliberate or lethal violence and his biting demonstrated that he was playing or perhaps teething and therefore likely to bite anything nearby.<sup>96</sup> He was represented as engaging

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<sup>91</sup> Walsham, "Out of the Mouths of Babes and Sucklings", pp. 285-99.

<sup>92</sup> Anon., *A Warning for all Murderers*.

<sup>93</sup> Anon., *A Warning for all Murderers*.

<sup>94</sup> Malcolm Gaskill, 'Reporting Murder: Fiction in the Archives in Early Modern England', *Social History* 23:1 (1998), p. 6.

<sup>95</sup> Anon., *A Warning for all Murderers*.

<sup>96</sup> Blackstone, *Commentaries on the Laws of England*, p. 29; Ralph Houlbrooke, *The English Family, 1450-1700* (London and New York, 1984), p. 141.

in typical and normal infant behaviour, which further emphasised that he had not intended to hurt his cousin.<sup>97</sup> God's manipulation of the infant as a conduit to enact retribution through death was also emphasised when he stabbed the second cousin with a pin: 'He tooke one of the biggest pinnes / that stuck about his brest, / And thrust it in his Kinsmans thigh, / where then the signe did rest'.<sup>98</sup> The 'signe' signified a demonstration of divine power that used the boy's initial non-lethal violence and made it fatal. This violence is distinct from descriptions of parents' bloody violence in child-murder pamphlets, in which they stabbed and cut their children's throats, and makes it obvious to the audience that the boy's violence was a playful, childish act that had unintentional lethal consequences due to God's intervention.<sup>99</sup>

A fifteen-year-old girl described in *Horrid News from St. Martins* (1677) attempted to persuade legal authorities that she was an innocent child who was forced to murder her mother and maid by an elderly seamstress, but her attempts failed as she was over the age of discretion and therefore legally responsible for her criminal behaviour. The girl's child-like appearance and behaviour contributed to questions about the girl's agency at various points in the narrative. The author of the pamphlet explained that it could hardly be expected 'that an ignorant Girl that has nothing to be read in her face but Characters of Innocence, should be so well skill'd and detestably practised in the mysteries of Poysoning'.<sup>100</sup> When her mother and maid were mysteriously poisoned, the girl, who was at that time thirteen-years-old and therefore under the age of discretion, appeared to be an object of pity and could convincingly imitate an innocent, passive child to evade punishment and continue killing. Two years later, however, after the attempted poisoning of her new guardians was discovered, the fifteen-year-old girl who was now over the age of discretion could no longer deceive authorities into believing that she was innocent and did not have agency with her childlike manner. As soon as her crimes were exposed the girl was arrested. In prison she desperately tried to persuade authorities that she had not wilfully committed the murders by claiming that an unknown woman had forced her to do it, but this time was not successful as the

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<sup>97</sup> Crooke, *Mikrokosmographia*, p. 340.

<sup>98</sup> Anon., *A Warning for all Murderers*.

<sup>99</sup> Anon., *The Disobedient Son*; Anon., *Natures Cruell Step-Dames*.

<sup>100</sup> Anon., *Horrid News from St. Martins, or, Unheard-of Murder and Poison* (London, 1677), p. 3; Martin, *Women, Murder, and Equity*, pp. 153-54.

woman was never found.<sup>101</sup> After confessing to the murders of her mother and her maid, she was committed to prison and judged to be responsible for her actions. The girl's attempts to exhibit the innocent and passive qualities of childhood were uncovered as a disingenuous act to escape punishment but, in prison, it was evident that she still embodied notions of ignorance and emotional immaturity that were associated with childhood. She hoped that her guardians, who she had attempted to murder, would procure her a pardon, 'But these 'tis conceived are vain Childish hopes; and it will be better for her to repent, and prepare for her later End'.<sup>102</sup> Her protestations and behaviour in prison did not exculpate her though and, as this quote demonstrates, she had a choice in how she prepared for her death.

Infants were too young to be held legally responsible for their violence, but they were expected to be corrected by their guardians for their violent behaviour which demonstrates a measure of culpability. As legal and religious discourses stated that infants were unable to form criminal intent or commit a mortal sin, the boy discussed above was an ideal providential tool who could enact divine retribution with only minor punishments rather than facing the prospect of capital punishment.<sup>103</sup> The identity of David Williams and his wife's murderers and the influence that God exerted over the boy in *A Warning to all Murders* were not obvious to his guardians or neighbours, who were perplexed by the infant's hostile behaviour towards his cousins. They believed that he was acting mischievously of his own accord and therefore, as part of a wider issue of household maintenance and the preservation of order, it was necessary to correct the boy to teach him obedience. When he was only three-years-old, the boy was punished for sticking a pin in his cousin's leg that would not heal and eventually killed him.

The child with rods was swingd full sore,  
for this unhappy act,

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<sup>101</sup> Martin, *Women, Murder, and Equity*, p. 153; This was also similar to witchcraft narratives. For example, see: Lyndal Roper, 'Evil Imaginings and Fantasies': Child-Witches and the End of the Witch Craze', *Past & Present* 167 (2000), pp. 107-139.

<sup>102</sup> Anon., *Horrid News from St. Martins*, p. 7.

<sup>103</sup> Dalton, *The Countrey Justice*, p. 222; Hale, *Historia Placitorum Coronae*, pp. 19, 27; Blackstone, *Commentaries on the Laws of England*, pp. 176-205; Walker, 'Rape, Acquittal and Culpability', p. 128.

Yet never would forgiveness ask  
for his committed fact.<sup>104</sup>

This punishment shows that in domestic settings, even young infants could be given physical correction and held responsible for their violence against others. The message of this broadside was that even if divine retribution manipulated someone to act on God's behalf, they were still held responsible in some way for their actions just as murderers were held culpable for their crimes when they claimed that the Devil had persuaded them to do it.<sup>105</sup> In normal circumstances, correction by superiors was supposed to not only teach a child obedience, but also remorse for committing a fault and transgressing household authority.<sup>106</sup> However, his stubborn refusal to ask for forgiveness further demonstrated to the audience that he righteously acted under God's instruction.

Children's voices were often obscured in the *Old Bailey Sessions Papers* and pre-trial depositions because witnesses and legal officials assumed that they were too young to be culpable for their actions and that, therefore, their testimony was not necessary to determine the verdict. Trial reports of adult-perpetrated homicides usually included at least two or three sentences summarising the prisoner's defence,<sup>107</sup> but accounts of child-perpetrated homicides consistently obscured children's voices and agency by excluding the killer's defence entirely.<sup>108</sup> For instance, the trial of Thomas Purcell was summarised in a similar format as a short newspaper report:

Thomas Purcell, a little Boy, of the Parish of St. Andrews  
Holbourn, was indicted for the Murther of Richard Banister, by  
giving him one Mortal Wound with a Brick-batt on the right part of  
the Head, nigh to the right Ear, of which he soon, after died. It

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<sup>104</sup> Anon., *A Warning for all Murderers*.

<sup>105</sup> Garthine Walker, "'Demons in Female Form': Representations of women and Gender in Murder Pamphlets of the Late Sixteenth and Early Seventeenth Centuries", in William Zunder and Suzanne Trill (eds), *Writing and the English Renaissance* (London and New York, 1996), pp. 123-39.

<sup>106</sup> William Gouge, *Of Domesticall Duties* (London, 1622), pp. 157, 462-63.

<sup>107</sup> Prisoners' defences became more substantial as the eighteenth century progressed and trial reports began to include more verbatim testimony.

<sup>108</sup> Robert Shoemaker, 'The Old Bailey Proceedings and the Representation of Crime and Criminal Justice in Eighteenth-Century London', *Journal of British Studies* 47:3 (2008), pp. 559-80.

appeared that it was done by accident, he being very young, the Jury acquitted him.<sup>109</sup>

As the judge and the jury had decided that Purcell's violence had been accidental, the author of the trial report did not need to include his explanation of his actions. The absence of Purcell's testimony suggests that the author expected that the verdict would not need further explanation and that the *Sessions Papers* audience would be in consensus about the outcome of the trial. This is not only evident in records from London, but also in pre-trial depositions from Wales and the Northern Circuit which shows that this was a widespread practice throughout England and Wales. While fifteen-year-old Thomas Jones' declaration that he would certainly die from the head wound ten-year-old William Owen had inflicted on him was mentioned in most witness depositions of a coroners' inquest, Owen's voice and motive for hitting Jones and his reaction to his death was not documented.<sup>110</sup> There is no evidence to suggest that Owen was formally examined by the coroner or his jury and, as the verdict in this case was misadventure, it appears that witnesses and the coroner believed that Owen was too young to be capable of or culpable for homicide.

Children's voices, reactions and attempts to deny culpability were usually only included in child-perpetrated homicide cases in the *Sessions Papers* and the *Ordinaries' Accounts* to show that they were culpable for the violence they had committed despite being under the age of discretion. In the case of a twelve-year-old boy who accidentally shot and killed an elderly gentleman in 1676, 'The Jury could do no less than bring it in Manslaughter' because he had wilfully shot the gun although the elderly man's death was accidental.<sup>111</sup> The author of the trial report engaged with discourses of childhood and play to explain that this homicide was accidental and why manslaughter was a suitable verdict. Statements about the boy's childish behaviour contributed to the overall judgement that he did not intend to kill an elderly gentleman. The author described the boy as 'an object of Pitty', who had been compelled by 'a Childish desire' to play with a gun in his new master's house so that he could pretend to be a soldier. He deliberately charged the gun so that it was ready to fire and

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<sup>109</sup> *OBSP*, July 1697, Thomas Purcell, t16970707-8. See also: *OBSP*, Jan 1700, Henry Scot, t17000115-16; *OBSP*, Dec 1696, John Fathers, t16961209-86.

<sup>110</sup> *NLW*, *GS*, 4/997/10/3-8.

<sup>111</sup> *OBSP*, June 1676, t16760628-4.

later, after completing some tasks for his mistress, he fired it out of the window and unwittingly killed a man. As well as indications that the boy's actions were naïve, his remorseful reaction upon discovering what he had done established that it was an accident. He confessed to constables that

he had shot [the gun] off; but when they told him, he had killed a Man, he struck his hand on his Breast, crying out, Ah! What shall I do, I am undone: testifying that he did not intend or imagine any hurt to any Creature, and expressing much sorrow for the same, as he did now likewise upon his Tryal.<sup>112</sup>

The trial report suggested that the boy's childlike nature and reaction proved that he did not have malicious intent, showing that he should not be found guilty for murder. Nonetheless, the judge and jury deemed that he was old enough to understand that the consequences of charging a gun and voluntarily pulling a trigger were lethal. Therefore, his identity and behaviour as a child did not necessarily mean that he was completely denied agency for his actions.

As child perpetrators' testimony was only included in pre-trial examinations in cases where the coroner and JP had already assessed that a child under the age of fourteen was old enough to be reasonably culpable for their crimes, children's examinations did not include explanations of their violence that referred to age. Children who were judged to understand the difference between right and wrong to provide a sworn testimony could not use age as a mitigating factor for their violence. These records offer a greater insight into the circumstances of child-perpetrated killings and how children aged twelve and thirteen deflected culpability within legal and emotional frameworks, just as adults did.<sup>113</sup> Thirteen-year-old William Morris, who accidentally shot and killed three-year-old Daniel Roberts in Wrexham in 1660, deposed that he 'tooke up one of the said pistols' in his master's house '& not knowing [it] was charged, hee not thinking [...] tooke up the cocke of the said pistol & which went off accidentally & killed Daniel Roberts'.<sup>114</sup> Morris claimed that his violence was accidental by referencing that he unknowingly and unintentionally fired the gun. His examination, which is the only evidence to

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<sup>112</sup> *OBSP*, June 1676, t16760628-4.

<sup>113</sup> Walker, *Crime, Gender and Social Order*.

<sup>114</sup> *NLW*, *GS*, 2/25/21/25-26, 32.

survive from the case, appeared to hold significant weight as it persuaded the coroners' inquest to conclude that the homicide was an accident. Historians who have examined the rapes of children have demonstrated that cases in which child victims testified were not necessarily more likely to achieve prosecution, and that, therefore, testifying in the courtroom could be disadvantageous for girls seeking justice.<sup>115</sup> Similarly, if a child was considered capable of testifying about their involvement in a homicide, it meant that they could be judged culpable for the homicide. The case of ten-year-old Francis Hawley is the only case I have identified that contrasts this practice and may indicate that, in the Northern Circuit or in this individual case, legal officials treated the rare occurrence of a child-perpetrated homicide differently from elsewhere in England and Wales.<sup>116</sup> Most children who were automatically believed to be too young to testify or have agency did not have to explain their actions and were, usually, acquitted.

Child perpetrators inflicted violence and behaved very differently from child victims, but, like child victims, were rarely afforded agency in crime literature or printed trial reports. As *A Warning for all Murderers* shows, children could be just as passive as victims when they were manipulated by divine retribution. While children were rarely legally responsible for homicide, the description of an informal punishment by guardians in the broadside demonstrates that children who were not suitable for capital punishment could still face consequences for their violence. This suggests that children were held responsible for their violence in some way in households and the communities in which they lived. As *Horrid News from St. Martins* implied, as soon as a child was above the age of discretion, they were unable to successfully engage in discourses of childhood innocence and ignorance to mitigate their responsibility. Children over the age of fourteen could still exhibit child-like behaviour, but they

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<sup>115</sup> Julie Gammon, "A Denial of Innocence": Female Juvenile Victims of Rape and the English Legal System in the Eighteenth Century', in Stephen Hussey and Anthony Fletcher (eds), *Childhood in Question: Children, Parents and the State* (Manchester, 1999), pp. 74-95; Sarah Toulalan, 'Child Sexual Abuse in Late Seventeenth and Eighteenth-Century London: Rape, Sexual Assault and the Denial of Agency', in Nigel Goose and Katrina Honeyman (eds), *Childhood and Child Labour in Industrial England: Diversity and Agency, 1750-1914* (Farnham, 2013), pp. 23-44; Garthine Walker, 'Rape, Acquittal and Culpability in Popular Crime Reports in England, 1670-1750', *Past & Present* 220:1 (2013), pp.115-142.

<sup>116</sup> TNA, ASSI 45/15/3/41; TNA, ASSI 44/39. It might also reflect the practice in England of destroying legal records after a trial: Cynthia Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge, 1987), p. 67.



could not use age-related characteristics of childhood as an excuse for their violence. The voices and testimonies of children who killed were frequently omitted from pre-trial depositions and trial reports, and only included when it was likely that a child was old enough to be held culpable for their violence. Unfortunately, this means that most of the evidence about how and why children committed violence is absent in legal records.

### **Witnesses**

Children also witnessed crimes: they discovered corpses, identified culprits to legal officials and informed parents, neighbours and Justices of the Peace about homicides they had seen and heard. Like depictions of child victims and perpetrators, popular crime discourses rarely gave child witnesses agency. Authors of crime literature silenced children by presenting them as manipulated by divine providence to only reveal incriminatory evidence to characters in a narrative when it best suited the plot. Therefore, children's testimony was powerful and could be trusted by the audience because it had been directed by God. Considerations about the reliability of child testimony that were commonly noted in child rape cases were rarely explicitly discussed in homicide cases.<sup>117</sup> Instead, if legal officials and witnesses decided that a child's testimony was not credible or a necessary contribution to an assessment of culpability it was not included in legal documents. Nonetheless, mediated accounts of children's voices in adults' depositions and examinations demonstrate that children did witness homicides and provide important contextual information to adults who then made sworn testimonies. Adults' descriptions of children's information and behaviour establishes that children were involved in the criminal process as witnesses even if they were excised from the official proceedings and sworn evidence.<sup>118</sup>

Crime narratives suppressed children's voices at various points in those narratives and only allowed them to regain their speech to reveal their evidence when it best served the plot. In *The Horrible Murther of a Young Boy* and *The Most Cruell and Bloody Murther*, pamphlets published in 1606, eight-year-old Elizabeth's tongue was cut out by Annis Dell to literally silence her. Without her voice the girl had no agency to reveal that Dell had murdered her parents and

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<sup>117</sup> Toulalan, 'Child Sexual Abuse', pp. 23-44.

<sup>118</sup> Loar, 'Medical Knowledge', p. 487.

brother. It was in this state of vulnerability that God kept the orphaned girl alive 'both to bring so monstrous a murder, and cruell a massacre to light, and also to make manifest his almightie power to many misbeleeving and unbeleeving miscreants'.<sup>119</sup> As Malcolm Gaskill has shown, the providential discourse of God as 'law enforcement' that guided early modern people to incriminate a criminal was a popular discourse in crime literature.<sup>120</sup> The girl's life had been saved 'as is certainly by divine providence of heaven, that by her these villanies should come to light' and she ventured to the town where Dell lived 'by the hand of God'. Children's innate innocence, which was frequently emphasised in this genre, made them a suitable channel for God's truth, word and instruction.<sup>121</sup> Divine intervention was possible precisely because children had little agency and, as Elizabeth was not only a child but also a mute, orphaned beggar, she was not attributed any power to change her own circumstances. When her speech was miraculously restored, and she successfully accused Dell of the murders of her parents and brother, it was a demonstration of God's power rather than of children's agency.<sup>122</sup> Children's disclosure of Mary Compton's crimes in *The Cruel Midwife* (1693) were also determined by divine retribution. The midwife had

followed this barbarous Infant murdering Trade so long, the truth of which is best known to the Omnipresent God [...] who for Reasons best known to his Providence, permits some Persons Sins to go before to Judgment, that is to be punished in this Life, and others to come after, that is, reserved to the Tribunal of the great Day.<sup>123</sup>

It was therefore only when divine providence decided to uncover Compton's systematic and protracted mistreatment and murder of innocent infants that it could be revealed to her neighbours and legal officials. Compton and her maid left a seven-year-old boy, a six-year-old girl and an infant in a cradle in the house all day without food or water. The youngest infant, 'particularly for want of Sustenance', began crying and, by chance, caught the attention of a

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<sup>119</sup> Anon., *The Horrible Murther*, p. 5.

<sup>120</sup> Gaskill, *Crime and Mentalities*, pp. 214-6.

<sup>121</sup> Walsham, "Out of the Mouths of Babes and Sucklings", pp. 285-99; Gaskill, *Crime and Mentalities*, pp. 215-16.

<sup>122</sup> Anon., *The Horrible Murther of a Young Boy*, p. 5.

<sup>123</sup> Anon., *The Cruel Midwife* (London, 1693), p. 4.

neighbour's son who was passing by who informed neighbours and authorities of the poor conditions in which the children lived.<sup>124</sup> As soon as Compton's house was opened to the neighbours' investigation and the children were no longer locked away, the oldest boy exercised agency by informing them where the corpses of infants who had died in her care had been buried. The boy was a crucial witness who helped neighbours uncover vital evidence of Compton's deliberate neglect and role in murdering children that had previously gone unrecognised by the wider community. Like Elizabeth, the boy was only permitted to have vocal agency when divine providence dictated that it was the correct time to speak through them.

Children's evidence was interrogated more thoroughly and often required further corroboration before legal officials and witnesses believed it was accurate. Holly Brewer has asserted that in the pamphlet *The Horrible Murther* demonstrates that '[d]uring the early seventeenth century, young children in both England and America often testified, apparently without even the doubts of their veracity later offered by [William] Blackstone'.<sup>125</sup> While Brewer has suggested that 'judges and jury accepted the memories of an eight-year-old about an event that had happened when she was four' without scrutiny, in fact, the opposite is true as both pamphlets emphasised that Elizabeth's testimony could be firmly corroborated.<sup>126</sup> In *The Horrible Murther*, Elizabeth's mature demeanour, consistent answers, and a tailor's evidence that confirmed her testimony all contributed to her credibility as a witness. A knight had also interrogated her with many questions, 'to all which she did answer, with more reason and sense, then is common to one of her age', indicating that he expected that a child, by definition, would not have agency to respond in such a considered way.<sup>127</sup> In *The Most Cruell and Bloody Murther*, Elizabeth endured several examinations by fourteen knights, gentlemen and Justices of the Peace 'to see if they could finde her alter or trippe in any part of her former discourse'. They employed different tactics to test her veracity and whether she understood

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<sup>124</sup> Anon., *The Cruel Midwife*, p. 5.

<sup>125</sup> Brewer, *By Birth or Consent*, p. 155; Anon., *The Horrible Murther of a Young Boy*, pp. 1-10. Martin, *Women, Murder, and Equity*, p. 169. As Randall Martin has identified, the pamphlet was a 'detailed but probably almost entirely fictional' account and, even if parts of this account were true, the narrative was embellished and exaggerated to include a child's miraculous tongue regrowth.

<sup>126</sup> Brewer, *By Birth or Consent*, p. 156.

<sup>127</sup> Anon., *The Horrible Murther of a Young Boy*, p. 9.

the significance of her accusations against Dell. One man even went as far as to dress up as the Devil to threaten her, but it only strengthened her insistence that divine providence had instructed her to speak.

when the Girle though in common it doth appeare she should have been frighted from her constancie) onely answered thus. Good Gaffer Divell doe not hurt me, I speake nothing but truth, and what the thing within me instructeth me to speake With the wonder of this Miracle (time passing away) & people comming from all places to be eye and eare-witnesse thereof.<sup>128</sup>

As an eight-year-old child, Elizabeth underwent a rigorous process to prove that her testimony was reliable and that, despite assumptions about children's passivity, that she did have agency to assert herself and assign culpability to Dell.

The 1673 pamphlet *The Bloody Lover* also demonstrates that it was necessary for children's witness testimony to be verified with other evidence as they were too young to have their word taken alone. Sarah Butt's dying words confirmed a nine-year-old boy's witness testimony that named William Hall as her murderer. The pamphlet described how William Hall murdered Sarah Butt, a 'poor harmless Maid', after she refused to marry him. Butt's master's son accompanied her as she milked cows in the field close to their household. The boy witnessed Hall, the 'inhumane brut[e]', walk up to Butt and repeatedly slash her skull with a hedging-bill as she fell to her knees and begged Hall to stop. Hall noticed the 'little child standing at some distance, amazed at his Cruelty' and resolved to murder him as well, but she implored the boy to save himself and he managed to escape. 'The Child being got home, first with his Gastly looks, and afterwards with his Tongue, soon as his lost breath and fright would give him leave, declares the bloody news'.<sup>129</sup> He and his family then went to the field to find Butt who, as she was dying, named Hall as her murderer and confirmed the boy's version of events. This was useful to corroborate the boy's testimony and it validated what he had said.

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<sup>128</sup> Anon., *The Most Cruell and Bloody Murther Committed by an Inkeepers Wife, Called Annis Dell, and Her Sonne George Dell, Foure Yeeres Since* (London, 1606), p. 10.

<sup>129</sup> Anon., *The Bloody Lover, or, Barbarous News from Glocester a Full and True Relation How an Inhumane Villain Named William Hall, Did on the 16th of October Last, Most Cruelly Murther a Maid* (London, 1673), p. 7.

The presence of children as witnesses during homicides was noted in the *Old Bailey Sessions Papers*, but as most accounts did not feature summaries of what they said in court it is likely that their evidence was immediately discounted by legal officials because they were too young.<sup>130</sup> Children who were killed by carts on the streets of London were sometimes playing with other children. When John Cowley ran over and killed three-year-old Edith Isham with his cart in 1684, he also hit another child with whom Edith was playing. The trial report stated that the other child ‘was under the Body of the Coach, and escaped’, but was not mentioned in the rest of the account.<sup>131</sup> It is unclear to what extent the child’s knowledge of the homicide contributed to and informed the report and other witnesses’ evidence. The omission of their testimony suggests that they were too young to provide credible sworn evidence. Similarly, when Frances Coats hit six-year-old Thomas Baker with a brick, he was accompanied by two other boys who were playing with him, but their testimony does not form part of the report of the trial.

Daniel Ray deposed, that he being at work in Baldwins Gardens, where there were 3 Boys (the Deceased one of them) at play, the Prisoner look’d out of a Window up two pair of Stairs and told them. If they did not go away, she would throw a Brickbat down and beat their Brains out, that he saw the Prisoner with a piece of Brick wavering in her Hand. and saw it fly off the Head of the Child, and the Blood spin cut three several ways.<sup>132</sup>

Despite suggestions by witnesses that children witnessed the homicide and were perhaps friends with the victim, the trial report only reveals a snippet of their actions before the homicide and overlooks how they reacted. It was not until the 1720s, when reports grew longer, and significant portions of verbatim testimony were being reported, that there was a greater opportunity for children’s voices to be included in the *Old Bailey Sessions Papers*.<sup>133</sup> For example, the evidence of thirteen-year-old Joseph Wait was taken into consideration in a 1725 trial report about the murder of watchman Joseph

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<sup>130</sup> *OBSP*, Oct 1715, William Barefoot, t17151012-11; *OBSP*, Jan 1682, Elizabeth Crosman. t16820116a-6.

<sup>131</sup> *OBSP*, Sept 1684, John Cowley, t16840903-19.

<sup>132</sup> *OBSP*, July 1720, Frances Coats, t17200712-1.

<sup>133</sup> For example, see: *OBSP*, Jan 1725, John Hewlet, t17250115-8.

Candy. He was a key witness who witnessed John Hewlet, another watchman, hit Candy over the head and murder him, which corroborated with other ear and eye witness testimony. The greater length of the trial report meant that Wait's evidence was included, and also his status as the only eye witness and that he was close to the age of discretion meant that his evidence was included.<sup>134</sup> It is likely that, in contrast, the child who played with Edith Isham was also an infant and therefore legally unable to participate in the legal process.<sup>135</sup>

Even if we only hear about it second-hand, through the evidence of others, children could take an active role in bringing someone to justice for a violent offence because they also informed their parents and neighbours about the lethal violence they had witnessed. Consequently, even when children did not provide sworn pre-trial depositions and did not engage in the official legal process, their exclamations during or after a homicide were reiterated in adults' depositions. The 'hearsay rule' rejected the inclusion of accounts of what another person, other than the deponent, said in sworn depositions. However, John H. Langbein has argued that in practice hearsay was mentioned in pre-trial depositions and in the *Old Bailey Sessions Papers* as supplementary evidence that was weaker than but corroborated eye witness testimony.<sup>136</sup> The inclusion of children's voices corroborated and provided additional context to the evidence a deponent presented. Alice Shield's pre-trial deposition taken in 1684 detailed how her son informed her about a fight between William Graime and her husband, Martin. She deposed

that shee coming in from Milking her coves her boy said unto her  
that his father & the man had a sore fight And this deponents  
husband Martin Sheild answered & said the man thought to have  
kild him.<sup>137</sup>

Although Alice's deposition is short and does not detail the exact words of their exchange, it suggests that her son was aware that the violence was remarkable and needed to be regulated by an adult who could help to control the situation.

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<sup>134</sup> Hale, *Historia Placitorum Coronae*, pp. 40-59.

<sup>135</sup> *OBSP*, Sept 1684, John Cowley, t16840903-19.

<sup>136</sup> John H. Langbein, *The Origins of Adversary Criminal Trial* (Oxford, 2005), pp. 179, 239; Barbara J. Shapiro, 'Testimony in Seventeenth-Century English Natural Philosophy: Legal Origins and Early Development', *Studies in History and Philosophy of Science* (2002), pp. 243-263.

<sup>137</sup> *TNA* 45/14/1/55.

It is telling that Shield's son ran home to inform his mother of the fight between his father and Graime, rather than trying to stop the conflict between the two men.<sup>138</sup> Depositions also show that when homicides occurred, adults informally consulted child witnesses about what they had seen. These children's voices are only present because they spoke to other witnesses who provided pre-trial depositional evidence. Similarly, in 1681, two children informed a witness, Roger Roberts, that 'infant' Edward Jones had shot Henry Griffith in Gwersyllt, Denbighshire. Roberts

did endeavor to gett the said Harry to speake to him by sewall motions, but the said Harry did not speake at all to him, & this examinant further sayth that two Children then stan[di]ng by tolde this examinant that the said Harry Came to be wounded by the shooting of a gun accidentally by Edward Jones an infant there alsoe then standing by.<sup>139</sup>

Roberts' deposition implies that the children voluntarily 'tolde' him what had happened and that he did not seek to interrogate them. Neither the children nor Roberts ascribed them a role in the conflict between Jones and Griffiths and so their involvement in the homicide is ambiguous.

Children who witnessed homicides in popular crime narratives also sought to run from murderers and, unlike child victims who were unable to escape, they had enough physical agency to flee and reveal the crime to the wider community. Children were able to flee from murderers because they were not the intended target of the perpetrator's violence. In *The Bloody Lover*, Sarah Butt, a maid, implored her master's nine-year-old son to run away as William Hall murdered her. Hall, whose primary focus was his violence against Butt, hit her on the head twice to make sure that she was dead thus enabling the boy to outrun him when he went home to inform his parents what had happened.<sup>140</sup> In contrast to representations of child victims in child-murder pamphlets and broadsides, the boy was not completely paralysed by fear and neither did Hall have a pre-existing relationship with the boy that meant that he could control

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<sup>138</sup> TNA, ASSI 45/14/1/55-56.

<sup>139</sup> NLW, GS, 4/31/4/48, 52.

<sup>140</sup> Anon., *The Bloody Lover*, pp. 6-7.

him or persuade him to stay.<sup>141</sup> In *Strange and True News from Westmoreland* (c.1672-c.1696) children also witnessed and revealed a murder. The broadside described a drunk man, Gabriel Harding, who went home and murdered his 'virtuous' wife with a single blow to the breast when she tried to help him get to bed. His children

with mournful cries

They run into the open street,

They wept, they wail'd, they wrung their hands

To all good Christians they did meet.

[...]

Our Father hath our Mother kill'd,

The Children they cryed then,

The people then they all made haste,

And laid

their hands upon the man.<sup>142</sup>

As the children were not the targets of Harding's murderous will, they were free to escape the household as they cried aloud. It is perhaps also significant that, as in the Edward Jones case above, there were two children each of whose testimony corroborated the other's and therefore added further weight to their evidence. This, again, contrasts with narratives in child-murder pamphlets in which murderers denied children agency by planning to kill children when they were at their most vulnerable and had no means to escape.

### **Conclusion**

Crime literature rarely afforded children agency regardless of the different roles and behaviours they were presented as having as victims, perpetrators and witnesses. Representations of children in crime pamphlets and broadside

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<sup>141</sup> For example, see: Anon., *The Disobedient Son*; Anon., *Two Most Unnaturall and Bloodie Murthers*.

<sup>142</sup> Anon., *Strange and True News from Westmoreland. Being a True Relation of One Gabriel Harding Who Coming Home Drunk, Struck His Wife a Blow on the Brest, and Killed Her Out-Right, and then Denied the Same* (London, 1672-1696?).



ballads closely engaged with religious and prescriptive discourses about the innocence of childhood and dependency on their parents for care and protection. This literature demonstrated that children, the most innocent victims of all, were the most likely to suffer the unfortunate and fatal consequences of poverty and the unregulated abuse of power in the household. In the recording of legal documents, children's words were routinely silenced because of their age or overlooked because their accounts were not pivotal to the case. However, as sources from the Great Sessions show, such as the case of seven-year-old Robert Foulke, children could exhibit characteristics of innocence and ignorance associated with childhood as well as wilfulness that were more likely to be attributed to older children and youths. Therefore, child victims in practice were not necessarily cowering or fearful victims. Children's evidence only held weight in crime literature and legal records if it could be corroborated by other, more credible witnesses. This chapter has established that the representations of children in crime literature depicted a type of childhood that was appropriate to the genre's conventions and purposes. Through incidental accounts of children's mediated voices in adults' testimonies it is clear that children had more varied experiences of and interactions with crime. They were integrated in communities, occupied and sometimes tried to regulate public and private spaces, and could vehemently make their voices heard when speaking to their parents or neighbours about violence they had experienced or witnessed. These themes will be further explored in the next chapter on accidents.

## Chapter Three

### Accidents: Circumstances, Care, and Relationships

Records of accidental and unexpected deaths of children provide an insight into children's daily experiences and lives in early modern England and Wales.

While evidence of accidental death usually only offers incidental and fragmented accounts of what children were doing and who they spent their time with before their deaths, it often includes information about child care, medical intervention, work, play, and children's relationships with adults and other children. In this chapter, I further challenge an assumption made by historians of childhood that the process of moving from dependence in infancy to independence in youth was a straightforward, linear development.<sup>1</sup> I establish that, although infants (new-born to seven-years-old) were more likely to be supervised than older children (aged eight to fourteen) and youths (aged fourteen and above), infants were left unsupervised in households and wandered from their houses to play alone or with friends. Early modern children were not restricted to the confines of the household nor constantly under their parents' or others' care. The chapter also demonstrates that mothers were not automatically the primary or sole caregivers of children during this period. The term 'child carers' can be defined broadly in early modern sources to incorporate children's relatives, other children, neighbours and strangers who were with, tended to, or found children before, during or after they had an accident, and those who tried to prevent accidents from occurring.<sup>2</sup> First, I explore the circumstances that led to a child's death, including: the types of accidents in which children died; what they were doing before they died; where accidents occurred; and when accidents happened. Secondly, I examine

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<sup>1</sup> For scholars who have argued or implied that childhood was a straightforward development from dependence on to independence from parents, see: Philippe Ariès, *Centuries of Childhood* (Harmondsworth, 1962), pp. 395, 397, 399, 24-5, 44-56, 316, 319; Edward Shorter, *The Making of the Modern Family* (London, 1976); Lawrence Stone, *The Family, Sex and Marriage in England, 1500-1800* (Harmondsworth, 1977), pp. 105-114, 405-78; Linda Pollock, *Forgotten Children: Parent-Child Relations from 1500 to 1900* (Cambridge, 1983); Sara Mendelson and Patricia Crawford, *Women in Early Modern England, 1550-1720* (London, 1998); Colin Heywood, *A History of Childhood: Children and Childhood in the West from Medieval to Modern Times* (Cambridge, 2001). For historians who have demonstrated that this linear narrative was not necessarily the case, see, for example: Elizabeth Foyster, 'Parenting Was for Life, Not Just for Childhood: The Role of Parents in the Married Lives of their Children in Early Modern England', *History* 86:283 (2001), pp. 313-27.

<sup>2</sup> Caregiving is a subjective term that often refers to a web of relationships and types of care, as is argued in Francesca M. Cancian and Stacey J. Oliker, *Caring and Gender* (Oxford, 2000).

medical care and child care respectively. I argue that child care was distributed among a wider variety of people in communities than prescriptive literature advised, and historians have previously recognised. Thirdly, I consider relationships between children to demonstrate that children's lives were not only defined by their bonds with their parents. Early modern children formed and negotiated their own friendships and networks that were independent from their parents and the people who lived in their households.

While early studies of accidental death prioritised an analysis of statistical trends and anecdotal descriptions, social historians have since examined accidental deaths to uncover details of social experiences, material circumstances and social and cultural meanings of accidental death in early modern society.<sup>3</sup> In an article from 1971, P. E. H. Hair collected statistical data pertaining to levels of violence – including murder, manslaughter, accidental deaths and suicide – from the medieval to modern periods. Hair was influenced by and contributed to modernisation narratives made in the 1970s about the gradual decline of violence and the inevitability of technological advancement.<sup>4</sup> In the same year, Thomas Forbes adopted a more simplistic approach by transcribing burial register entries and describing accidents rather than critically analysing them.<sup>5</sup> Keith Thomas established a different approach to the study of accidents. Thomas sought to understand how and why early modern people interpreted and reasoned that accidents originated from providence and magic.<sup>6</sup> Like Hair, he employed modernisation assumptions to explain the decline of 'superstitious beliefs' and the rise of rational thought, but he also engaged with elite and popular contemporary explanations of accidents, religion and magic. Thomas' work has been hugely influential in the historiography of witchcraft but,

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<sup>3</sup> The following discussion draws on Craig Spence, *Accidents and Violent Death in Early Modern London* (Suffolk, 2016), pp. 5-11 which provides an excellent summary of the history of accidents.

<sup>4</sup> P. E. H. Hair, 'Deaths from Violence in Britain: A Tentative Secular Survey', *Population Studies* 25:1 (1971), pp. 5-24. For more on the decline of violence debate see: Lawrence Stone, 'Interpersonal Violence in English Society', *Past & Present* 101 (1983), pp. 22-33; J. A. Sharpe, 'The History of Violence in England: Some Observations', *Past & Present* 108 (1985), pp. 206-24; J. S. Cockburn, 'Patterns of Violence in English Society: Homicide in Kent 1560-1985', *Past & Present* 130 (1991), pp. 70-106.

<sup>5</sup> Thomas Forbes, *Chronicle from Aldgate: Life and Death in Shakespeare's London* (New Haven, 1971), pp. 136-73; Thomas Forbes, 'Sextons' Day Books for 1685-1687 and 1694-1703 from the Parish of St Martin in the Fields, London', *Yale Journal of Biology and Medicine* 46 (1973), pp. 142-50.

<sup>6</sup> Keith Thomas, *Religion and the Decline of Magic: Studies in Popular Beliefs in Sixteenth and Seventeenth-Century England* (London, 1973), pp. 90-132.

surprisingly, it has not had a similar impact on the history of early modern accidents. Until the late 1990s, historical research on early modern accidents and death was overlooked in favour of urban and industrial accidents from the nineteenth century onwards and, consequently, there is little secondary literature on early modern accidents and accidental death.<sup>7</sup> More recently, Steve Gunn and Tomasz Gromelski have demonstrated that there is appreciable scope for historians to research coroners' inquest records for information about the social and material circumstances of everyday lives. For instance, they argued that an inquest concerning Dorothy Cawthorn who, in 1559, punched a hole through the wall of the house that she lived in, climbed through, and fell into a pond and drowned holds valuable information about household structures, accommodation for servants, and the experience of death in communities.<sup>8</sup> Recent scholarship by Alexandra Walsham and Craig Spence has also considered the cultural significance and 'formulations of sudden death' as well as the flexible and permeable role providential narratives played in elite religious debates, preaching and print culture, and how this influenced cultural and social interpretations of unfortunate events.<sup>9</sup>

Although the history of accidents only includes sporadic discussions of accidental child death, scholars have indicated that coroners' inquest records are essential sources for understanding everyday aspects of medieval and early modern childhood that are rarely mentioned in other sources written about or by children. There were various documents produced during a coroner's investigation: 'the inquest itself, a precept sent to the local constable to empanel a jury, depositions taken by the coroner at the inquest, and, where appropriate, a schedule of the goods of a suicide or murderer, these being forfeit to the Crown or a local franchise holder'.<sup>10</sup> Inquests contained similar information that was in indictments and, like indictments, they have had higher rates of survival

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<sup>7</sup> Bill Luckin, 'Accidents, Disasters and Cities', *Urban History* 20:2 (1993), pp. 177-90; Roger Cooter and Bill Luckin (eds), *Accidents in History: Injuries, Fatalities and Social Relations* (Amsterdam, 1997); Paul Fyfe, *By Accident or Design: Writing the Victorian Metropolis* (Oxford, 2015); Michael Rosenow, *Death and Dying in the Working Class, 1865-1920* (Illinois, 2015); Spence, *Accidents and Violent Death*, pp. 5-11.

<sup>8</sup> Steve Gunn and Tomasz Gromelski, 'For Whom the Bell Tolls: Accidental Deaths in Tudor England', *The Lancet* 380 (2012), pp. 1222-3; Steve Gunn, 'Archery Practice in Early Modern England', *Past & Present* 209 (2010), pp. 53-81.

<sup>9</sup> Alexandra Walsham, *Providence in Early Modern England* (Oxford, 1999); Spence, *Accidents and Violent Death*, pp. 208-242.

<sup>10</sup> James Sharpe and J. R. Dickinson, 'Coroners' Inquests in an English County, 1600-1800: A Preliminary Survey', *Northern History* 48:2 (2011), pp. 256-57.

than depositions. Barbara Hanawalt has analysed coroners' inquests, alongside other sources, to demonstrate that neighbours and members of medieval communities, not just parents, regulated children's movements and intervened to stop dangerous, potentially lethal, activities in which children were killed.<sup>11</sup> Hanawalt's work has made questioning the use of the parent-child framework – the context that historians of childhood and the family so often rely on to analyse children's everyday lives – even more necessary. Moreover, in their examination of Sussex coroners' inquest records from 1485 to 1688, Elizabeth Towner and John Towner have argued that the household was not a particularly dangerous place for children. They found that, while most child deaths occurred within the parish boundaries, only sixteen percent of unintentional deaths happened in the household. These scholars have indicated that there is considerable scope for learning more about children's daily activities and interactions with relatives and non-family members in coroners' inquests and depositions, and yet few historians of early modern childhood have pursued this endeavour. In this chapter, I further explore why children died away from their households and parents and ascertain how we might engage with this evidence to refute historians' assumptions about early modern childhood.<sup>12</sup>

This chapter draws on a wide range of source material that documented children's unintentional and unexpected deaths in seventeenth- and early eighteenth-century England and Wales. Some evidence, such as coroners' inquest records, is habitually analysed by scholars studying accidental deaths, whereas other sources, such as newspapers, assize court records and the *Old Bailey Sessions Papers*, have been overlooked. Newspaper reports provide short accounts of various accidents, including drowning, fires, falls and homicides, in London and other regions of the British Isles, as well as Europe and colonies in America. Pre-trial depositions from assizes and the trial reports of the *Old Bailey Sessions Papers*, on the other hand, only present accidental homicide cases, in which someone was thought to have caused the death of another. As I have collated an eclectic range of sources that provide incidental glimpses of children's lives and experiences, I adopt a qualitative methodology.

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<sup>11</sup> Barbara A. Hanawalt, *The Ties that Bound: Peasant Families in Medieval England* (Oxford, 1986), pp. 171-87.

<sup>12</sup> Elizabeth Towner and John Towner, 'Developing the History of Unintentional Injury: The Use of Coroners' Records in Early Modern England', *Injury Prevention* 6 (2000), pp. 102-5.

I do not attempt to quantify any evidence as even basic information about children's gender, age and their parentage is omitted in newspaper articles and pre-trial depositions let alone more extensive evidence of children's experiences and relationships; as Mary Dobson argues, fatal accidents 'defy measurement'.<sup>13</sup> The sorts and scale of evidence about children's experiences of accidents also changed from source to source – it often depended on the context of each accident and the purpose of the record. For instance, details about children's whereabouts and pastimes before their deaths were usually only included in pre-trial depositions when legal officials believed it was important to determine culpability for a homicide or the cause of death. Newspaper reports were often very short and so writers only communicated the most essential information about an accidental death or homicide. As newspapers dealt with immediate events and reported on crimes as they progressed through the criminal process, the nature of the information revealed to readers changed over time and there were often multiple reports about the initial incidence of an accident, the coroners' inquest, a grand jury judgement, and an assize court trial.

### ***Circumstances***

Children's unintentional, sudden deaths occurred under various circumstances in early modern England and Wales.<sup>14</sup> As Craig Spence has argued, 'who someone was, where they were going or what they were doing were critical circumstances, although other external factors could also contribute, such as weather, alcohol, age, disability, poor judgement and sometimes just plain bad luck'.<sup>15</sup> This section provides an overview of the types of accidents in which children died, what they were doing before they died, where they died, and how and why the occurrence of accidents was contingent on factors such as age, gender and location. Although the evidence for accidental death in seventeenth- and early eighteenth-century England and Wales is sporadic and sometimes omitted the age and gender of the victim, surviving evidence suggests that some kinds of accidents were more likely to kill infants compared with older

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<sup>13</sup> Mary J. Dobson, *Contours of Death and Disease in Early Modern England* (Cambridge, 1997), p. 4.

<sup>14</sup> Dobson, *Contours of Death and Disease*, esp. chapter 5, pp. 223-86; Linda Pollock (ed.), *A Lasting Relationship: Parents and Children over Three Centuries* (Hanover, 1987), pp. 93-99.

<sup>15</sup> Spence, *Accidents and Violent Death*, p. 26.

children who died in different situations. Accounts of accidental deaths also establish that, from a young age, children were frequently left unsupervised both inside and outside the household. In this section, I challenge the persistent assumption in the history of childhood that infancy was a period of dependence on parental care and supervision.<sup>16</sup> Definitions of childhood that hinge on this assumption and argue that a supposed movement towards independence constituted a departure from childhood do not take account of the specific circumstances of early modern children and childhood. Early modern childhood was graduated by stages and children did, typically, become more mobile as they grew older and their experiences of play and work changed. However, the usual age boundaries and stages in the life-cycle that historians have cited as 'turning points' in the development of childhood, such as seven and fourteen, are not appropriate or visible as distinct stages in records of accidental death.<sup>17</sup>

The vulnerability and powerlessness of young infants aged two and under, most of whom were not yet able to walk or talk, is apparent in accounts of infants who died in public spaces when the person holding them fell and dropped them. The first strollers, that were designed to be pulled by a dog or pony, were not invented until 1733, and so infants in this period were commonly carried by their carers when they out and about in villages and towns.<sup>18</sup> The manner by which carers transported infants around towns could lead to unavoidable and unfortunate accidents for which the person holding the infant was not judged responsible. In September 1729, a wet nurse, who was holding an infant, slipped from a boat as she stepped onto it and fell into the river Thames where the infant drowned. The wet nurse had brought the infant from Wandsworth to the Strand in London to visit its parents and was about to leave when the accident occurred. While the infant's father managed to save the nurse, the infant drowned, and it took 'some Hours' of searching before they found its body.<sup>19</sup> Similar accounts of infants who were dropped by carers presented them as ill-fated, victims of accidents caused by adults who, even

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<sup>16</sup> Shorter, *The Making of the Modern Family*, pp. 168-204; Stone, *The Family, Sex and Marriage*; Pollock, *Forgotten Children: Parent-Child Relations from 1500 to 1900* (Cambridge, 1983); Sara Mendelson and Patricia Crawford, *Women in Early Modern England, 1550-1720* (London, 1998), pp. 75-123; Colin Heywood, *A History of Childhood*.

<sup>17</sup> Hannah Newton, *The Sick Child in Early Modern England, 1580-1720* (Oxford, 2012), p. 8; Alexandra Shepard, *Meanings of Manhood in Early Modern England* (Oxford, 2003), pp. 54-8.

<sup>18</sup> Joseph Amato, *On Foot: A History of Walking* (New York, 2004), p. 311.

<sup>19</sup> *Daily Post*, 16 Sept 1729; *Universal Spectator and Weekly Journal*, 20 Sept 1729.

when they were intoxicated, were not accountable for the infant's death.<sup>20</sup> For example, in May 1727, the *London Journal* reported that 'a poor Woman being drunk with [gin] in Smithfield, let her Child fall from her Breast on the Pavement, and received such a Blow that it died soon after'.<sup>21</sup> Accounts such as this influenced William Hogarth's print *Gin Lane* (1751) which observed that the increasing popularity of gin in London caused mothers to abuse and neglect their infants. James Nicholls has shown that eighteenth-century social commentators understood alcohol consumption as a response to the experience of urbanisation and poverty.<sup>22</sup> In the short newspaper account that portrayed the infant as wholly dependent on the whims of its mother, there is no evidence that this woman, nor other parents who dropped and killed their children while they were drunk, were prosecuted for culpable homicide.<sup>23</sup> These reports demonstrate that when young infants were moved in public spaces they had no choice but to be physically dependent on their carers and that their carers' mistakes could have severe, potentially life-threatening, consequences for them.

Infants aged two and under were most likely to die in accidents in and around the household where they spent most of their time and were left unsupervised. Household fires and suffocation of infants, who were usually swaddled in their cots or learning how to crawl and walk, were the most common causes of deaths among infants aged two and below.<sup>24</sup> In July 1722, the *Weekly Journal or British Gazeteer* reported that Anne Tanner, a lodger at a victualling house in London, left the five-month-old boy she was nursing asleep in a cradle while she went to fetch a pail of water. During this time

some Shavings that were laid in the Chimney Corner took Fire, and fired the Cradle that stood near them, whereby the poor Infant was burnt to Death in a most miserable Manner.<sup>25</sup>

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<sup>20</sup> See Chapter one for the underdevelopment of the concept of criminal negligence.

<sup>21</sup> *London Journal*, 20 May 1727.

<sup>22</sup> James Nicholls, 'Gin Lane Revisited: Intoxication and Society in the Gin Epidemic', *Journal for Cultural Research* 7:2 (2003), pp. 127-28; Peter Clark, 'The "Mother Gin" Controversy in the Early Eighteenth Century', *Transactions of the Royal Historical Society* 38 (1988), pp. 63-84.

<sup>23</sup> See also: *OBSP*, May 1737, Aaron Mills, t17370526-50.

<sup>24</sup> Hanawalt, *Growing up in Medieval London*, pp. 63-65; Alexandra Shepard, *Inaugural Lecture: Who Cared and Why Should We? Historical Perspectives on Gender, Family and Economy*, 19 May 2017, online at: <https://www.youtube.com/watch?v=NALef2PNXag>.

<sup>25</sup> *Weekly Journal or British Gazeteer*, 7 July 1722.



The sleeping, swaddled infant was too young to move or escape from the fire and, as the report suggested, nobody was inside the household who could have prevented the swaddled infant's death. In November 1721, the *Daily Journal* informed readers that a wet-nurse had overlaid, and had perhaps fallen asleep on top of, the four-month-old infant she was looking after, who had suffocated to death.<sup>26</sup> The newspaper article did not explain how the nurse suffocated the infant, but other accounts indicate that nurses sometimes smothered infants while breastfeeding or that they died when their carer left them on a sheet or bed and the infant, becoming trapped under the sheets and unable to untangle itself, was suffocated to death.<sup>27</sup> However, infants were not always victims of fire or suffocation and, from about the age of one, curious infants, who were left unsupervised, unswaddled and did not perceive the danger they were in, crawled into or near fires and died.<sup>28</sup> For example, in November 1722, a one and a half-year-old infant died when he or she was alone in the household while its mother had gone outside to fetch some water. The infant was walking around the house before it fell into the fire and had died before its mother returned.<sup>29</sup> Accidents like this also occurred among older infants who were left in their houses unsupervised by their parents. An article in the *London Journal* from December 1728 stated that when a married couple returned home after they had left their two sons, aged three and six, by themselves in a room with an open fire, they found their eldest son burnt to death. The report stated that it was 'supposed to be occasioned by his going so near the Fire, that it caught hold of his Callicoe Frock'.<sup>30</sup> While some infants were so young that they could only be victims in accidents, many incidents show that, from the age of one, infants were mobile and wandering around the household and might put themselves into danger.<sup>31</sup> Therefore, infants were vulnerable to accidental death if left unsupervised by parents and wet nurses.

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<sup>26</sup> *Daily Journal*, 15 Nov 1721.

<sup>27</sup> *British Journal*, 26 Jan 1723; Valerie Fildes, *Wet Nursing: A History From Antiquity to the Present* (Oxford, 1988), pp. 79-100.

<sup>28</sup> Hanawalt, *Growing up in Medieval London*, pp. 63-65.

<sup>29</sup> *London Journal*, 3 Nov 1722.

<sup>30</sup> *London Journal*, 21 Dec 1728.

<sup>31</sup> For diaries that mention non-fatal accidents, see: Alice Thornton, *The Autobiography of Mrs Alice Thornton*, Charles Jackson (ed.), *Surtees Society* 62 (1875); Ralph Josselin (Alan Macfarlane ed.), *The Diary of Ralph Josselin, 1616-1683* (Oxford, 1976), pp. 69-71.

As early modern commentators often emphasised children's love of play and incapacity to sense danger, it is unsurprising that many infants aged three and above died in accidents when they began to wander from their households and explore their communities, where they usually played alone or with other children within the parish boundaries.<sup>32</sup> In a 1700 edition of *Meditations on the Several Ages of Man's Life* that was published posthumously, religious author John Bunyan claimed that 'before we are well got out of our Mother's Lap, we betake our selves to Play [...] in this Age [we] contend [...] eagerly for Rattles and Hobby-Horses'.<sup>33</sup> Child murder pamphlets, in particular, referred to children's enjoyment of play to demonstrate how distracted and unaware of danger children were before they were murdered.<sup>34</sup> Children were so easily deceived and inattentive because, as author and politician Henry Cuffe argued, they had 'no actuall evident use of their reason'.<sup>35</sup> Gentlewoman Alice Thornton also described in her spiritual diary how physically weak and prone to injuries children were, as 'accidents and casultys incident to that feble and weake estate of infants and childehoods'.<sup>36</sup> Many accidental deaths of early modern children were the result of drowning while children played with others and began to explore areas further away from their households. For instance, in March 1608 three-year-old Alice Bridaye drowned in the River Lavant in Chichester while playing with other children; in March 1624, four-year-old John Allen drowned in a ditch in an orchard belonging to a gentleman in East Preston, Sussex; and in August 1627, three-year-old Mary Lealand was playing on her own near a stream in Bosham, Sussex when she fell into the water and drowned.<sup>37</sup> As infants grew older and more mobile, they routinely moved beyond the confines of the household and domesticity, spent time unsupervised by adults or older children, such as siblings – usually sisters – or maidservants,

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<sup>32</sup> Hanawalt, *The Ties that Bound*, pp. 171-87. Occasionally children did go beyond parish boundaries and away from the people they knew, but this was usually when children were older and had to leave the confines of the parish for work-related things.

<sup>33</sup> John Bunyan, *Meditations on the Several Ages of Man's Life* (London, 1700), p. 17; Newton, *The Sick Child*, p. 44.

<sup>34</sup> Anon., *The Most Lamentable and Deplorable History of the Two Children in the Wood* (London, 1700), p. 20.

<sup>35</sup> Henry Cuffe, *The Differences of the Ages of Mans Life* (London, 1607), p. 127.

<sup>36</sup> Alice Thornton, *The Autobiography of Mrs Alice Thornton*, Charles Jackson (ed.), *Surtees Society* 62 (1875), p. 4; Newton, *The Sick Child*, p. 38

<sup>37</sup> *Court of King's Bench* (TNA, KB) 9/725, m 446; TNA, KB 9/772, m 106; TNA, KB 9/783, m 114.

who were responsible for intermediary care.<sup>38</sup> When children wandered from home it was frequently to play and to explore. The frequency of descriptions of infants dying while playing and the common categorisation of such deaths as accidental deaths in which no party was held accountable for negligence suggests that early modern people believed that it was a normal and natural occurrence for children to curiously wander from households, without any apprehension of danger. Children's ignorance of the dangerous situations they put themselves in was made possible because they were not under the constant supervision of a carer. This practice continued throughout the seventeenth century and early eighteenth century because carers were not legally considered negligent in the event of such a death. Therefore, children's accidents outside of the household, especially non-lethal accidents, were a typical and expected aspect of childhood.

Boys and girls died in similar sorts of accidents during infancy. It was only in later childhood that the circumstances leading to an accidental death become noticeably distinguished by gender in coroners' inquests and newspaper records.<sup>39</sup> Barbara Hanawalt has asserted that, in medieval English communities, infant boys were more adventurous and boisterous than girls. Hanawalt's evidence for this claim was that boys ventured further from the household than girls and were more likely to be found by their fathers, who were working outside of the household, when they had an accident.<sup>40</sup> However, in early modern England and Wales, coroners' inquest records and newspapers show that the connection between infant accidents and gender was not quite so straightforward. As Patricia Crawford and Sara Mendelson have argued, 'girls were as exposed to physical danger in childhood as boys. They suffered as many accidents through unsupervised play, wandering away and getting lost, getting burned in the fire, falling down stairs or out of windows'.<sup>41</sup> For example, in 1605 two-year-old Elizabeth White drowned in a tub in East Ashling while she was playing alone and, likewise, in 1610 five-year-old Edward Clayton was

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<sup>38</sup> Mendelson and Crawford, *Women in Early Modern England*, p. 78-79, 82 argue that this was often the responsibility of older girls and female servants as part of an effort to teach girls the skills to become housewives and mothers.

<sup>39</sup> It is important to note that the actual incidence and experience of accidents might have been gendered from infancy, but that it is not evident in the records available.

<sup>40</sup> Hanawalt, *The Ties that Bound*, pp. 171-87.

<sup>41</sup> Crawford and Mendelson, *Women in Early Modern England*, p. 84.

playing near a pit in Rudgwick when he fell into a pit and died.<sup>42</sup> Children's play and tendency to explore outside of their homes appears to have been a common part of infancy that was not incumbered by expectations of gender. Nonetheless, many reports of accidental deaths in newspapers provided the infant's age but rarely noted their gender, which makes it difficult to systematically analyse the association between infant accidents and gender. It was usually in later childhood, when they entered service, that the gendered division of labour and distinct types of accidents in which children died become more apparent.

It was rare for infants to die in work-related accidents as the types of work they were appointed to contribute to the household economy were usually less dangerous and labour intensive than that of older children, youths and adults. Children's entry into work was gradual. The absence of work-related deaths among infants indicates that children's work was proportionate to their age and physical strength (as well as gender and season).<sup>43</sup> Physically demanding agricultural and skilled tasks were usually withheld from children until they were about ten or twelve.<sup>44</sup> The intensity of children's labour and entry into service also depended on other factors, such as poverty, which was frequently caused by parental death.<sup>45</sup> As Colin Heywood has argued

From around the age of six or seven, children were able to take on little tasks such as minding younger siblings, bird scaring, picking stones from fields, hoeing in the vegetable plots, collecting firewood, fetching water from a well, and minding the family's livestock. [...] At this stage, children might still play as well as

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<sup>42</sup> TNA, KB 9/718, m 124; TNA, KB 9/730, m 627.

<sup>43</sup> Ilana Ben-Amos, *Adolescence and Youth in Early Modern England* (New Haven, 1994); Joanne M. Ferraro, 'Childhood in Medieval and Early Modern Times', in Paula S. Fass (ed.), *The Routledge History of Childhood in the Western World* (London, 2013), pp. 61-77; Colin Heywood, 'Children's Work in Countryside and City', Paula S. Fass (ed.), *The Routledge History of Childhood in the Western World* (London, 2013), pp. 125-141.

<sup>44</sup> Ben-Amos, *Adolescence and Youth*, p. 42.

<sup>45</sup> Ralph Houlbrooke, *The English Family, 1450-1700* (London, 1984), pp. 150-55, 166-78; Sarah Toulalan, 'Child Sexual Abuse in Late Seventeenth and Eighteenth Century London: Rape, Sexual Assault and the Denial of Agency', in Nigel Goose and Katrina Honeyman (eds), *Childhood and Child Labour in Industrial England: Diversity and Agency, 1750-1914* (Aldershot, 2013), pp. 23-44.

work, when out herding with others of their own age in the pastures for example.<sup>46</sup>

Although the assertion that 'minding younger siblings' was a 'little task' will be contested later in this chapter, overall, these jobs were not as physically arduous or hazardous as the work that older children, youths and adults undertook.<sup>47</sup>

Infants were sometimes drawn into the adult world of work and dangerous work spaces that were not suitable for them, where work tools and items used in certain trades could fatally injure them even when they were under close supervision. For example, a *Daily Post* article from 1727 wrote that in Rochester

a lamentable Accident happen'd at Mr. Forsyres Brewhouse in this City, occasion'd by the Inconsiderateness of one of the Servants who was at Play with a little Boy that frequented the said Brewhouse, and being wanted to mash, seated the Child on one Side of the Mashing Tub, who unfortunately fell in, and the Man in endeavouring to save him, fell in likewise; the Boy was scalded to Death, and the unhappy Man scalded in such a Manner that he died this Morning.<sup>48</sup>

The supervision of infants did not prevent death if the person responsible for care was preoccupied with other duties and could not give the child their full attention. As this newspaper extract demonstrates the servant was supposed to be minding the infant but, in an attempt to play with him, put him into the precarious position by the mashing tub and caused his death. Unlike most other newspaper reports of accidental death that do not apportion blame to carers, the newspaper judged him to be 'inconsiderate' as he was directly at fault for not focusing on the child's behaviour.

Children aged between nine and fourteen, who were usually engaged in more skilled and potentially life-threatening work, were more likely to die in

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<sup>46</sup> Heywood, 'Children's Work', p. 127.

<sup>47</sup> Craig Spence, 'Accidentally Killed by a Cart: Workplace, Hazard, and Risk in Late Seventeenth-Century London', *European Review of History* 3:1 (1996), pp. 9-26.

<sup>48</sup> *Daily Post*, 3 Feb 1727. Also reported in *Daily Journal*, 3 Feb 1727; *British Journal*, 4 Feb 1727; *Weekly Journal*, 4 Feb 1727.

work-related accidents than infants. For example, in Hastings in 1616, nine-year-old Thomas Wincheden, servant of John Wincheden and the youngest child to die while working in seventeenth-century Sussex, drove his master's empty wagon from Hastings to Pett and 'suddenly fell out of it onto the ground on his head [...] and broke his neck'.<sup>49</sup> While the coroners' inquest indictment does not state who, if anyone, was with Wincheden, it demonstrates that his work for his master required him to deliver goods away from the household and to drive a wagon, a job that was typically reserved for older children.<sup>50</sup> Many children were trusted to work alone, like Thomas Binstead who watched his master's sheep, and some worked with their masters, like an unfortunate boy who was crushed by a horse after his master was struck by lightning.<sup>51</sup> Therefore, the circumstances in which children accidentally died were determined, to some extent, by age and a child's status in the life-cycle.

However, as the ages of children and youths were often excluded from newspaper and Old Bailey accounts and replaced with phrases such as 'boy', 'girl', 'Apprentice Boy' and 'Waterman's boy', it is difficult to come to firm conclusions about the correlation between age and accidental deaths. The likely explanation for the use of these terms is that details, like ages, were probably lost or unknown when news was communicated by word of mouth by witnesses and messengers before they were reported in newspapers. As the speed by which newspapers delivered news was their greatest selling point, writers did not have time or the impetus to confirm and include the child's age. Moreover, newspapers often reproduced accounts from other, more regularly printed newspapers and so the same narratives, often without mention of the child's age or gender, were disseminated throughout England and Wales.<sup>52</sup> The 1725 *Dublin Journal* described Thomas Binstead and his master as 'a Farmer and his Boy' and the *Universal Spectator and Weekly Journal* also reported in 1730 that an alehouse 'Servant Maid', who was visiting a neighbour to get some pots, was attacked and mauled by three mastiff dogs. Her master and his wife went 'to the poor Girl's Assistance' but it was in vain as the newspaper stated that a surgeon

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<sup>49</sup> *Hastings Museum and Art Gallery (HASTINGS)* 1, f 192v.

<sup>50</sup> It is about 4.5 miles from Hastings to Pett. Ben-Amos, *Adolescence and Youth*, pp. 69-83.

<sup>51</sup> *TNA, KB 9/758*, m 210; *Dublin Journal*, 8 May 1725.

<sup>52</sup> Tony Claydon, 'Daily News and the Construction of Time in Late Stuart England, 1695-1714', *Journal of British Studies* 52 (2013), pp. 55-60.

found 'about 50 Holes in the *Maid's* Body' so "'tis thought she cannot live'.<sup>53</sup> While these terms were useful to make broad distinctions between infants, children and youths, they also make it impossible to use these sources to closely or critically analyse patterns between age and children's work.

The term 'Waterman's boy' concealed the ages of apprentices and boys who worked and died on boats and ships. On Christmas Day in 1719, 'a Passage-Boat going from Leith to Aberdeen was cast away, having on board 12 Passengers; which, with the Master and *Boy*, were drowned'.<sup>54</sup> Similarly, in September 1726 a 'Wherry laden with Timber passing through London-Bridge, was cast away, and the Waterman with his *Boy* that conducted it, unfortunately lost their Lives'.<sup>55</sup> Newspaper articles about accidental deaths establish that children and youths, of unknown ages, worked on boats of various sizes from ships to wherry boats, and with many functions, including catching fish and transporting goods and people. While there is a dearth of contemporary source material about juvenile sailors and from what age they usually began their employment, a Special Court of Assistants of the Waterman's Company in late 1707, noted that it was dangerous and exploitative for watermen to employ unskilled boys under the age of fourteen and 'that no one younger than sixteen should have sole charge of a boat'.<sup>56</sup> This legislation from the early eighteenth century further supports B. R. Burg's analysis of naval records in which children under the age of fourteen and youths were described as the victims of physical and sexual exploitation by naval officers. Burg's work focuses on the challenging and negative experiences children under the age of fourteen could face while working on boats and ships away from their families.<sup>57</sup> Further, as Craig Spence has contended, 'the use of boys to operate vessels was also criticised directly on safety grounds, but probably also because many were not bound as apprentices'.<sup>58</sup> Moreover, a 1728 pre-trial examination of John

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<sup>53</sup> *Dublin Journal*, 8 May 1725; *Universal Spectator and Weekly Journal*, 1 Aug 1730. My emphasis.

<sup>54</sup> *Original Weekly Journal*, 13 Aug 1720.

<sup>55</sup> *Daily Journal*, 6 Sept 1726.

<sup>56</sup> Spence, *Accidents and Violent Death*, pp. 193-94.

<sup>57</sup> B. R. Burg, *Boys at Sea: Sodomy, Indecency, and Courts Martial in Nelson's Navy* (Basingstoke, 2007); Craig Spence, *Accidents and Violent Death in Early Modern London, 1650-1750* (Suffolk, 2016), pp. 193-194; Roland Pietsch, 'Ships' Boys and Youth Culture in Eighteenth-Century Britain: The Navy Recruits of the London Marine Society', *The Northern Mariner* XIV 4 (2004), pp. 11-24.

<sup>58</sup> Spence, *Accidents and Violent Death*, p. 193.

Chandler, who accidentally shot and killed his younger sister, is an individual case confirming that children under the age of fourteen worked on ships.

Chandler deposed

that he is the son of Jane Chandler and that he is now about thirteen years old and that he went to Sea about twelve months with one Thomas Dale of Scarborough and left the said Thomas Dale about three Quarters of a year ago and has since lived with his said Mother and was sometimes employed by one William Oakly a whipmaker.<sup>59</sup>

Boys under the age of fourteen worked on boats as servants and apprentices and, while we cannot confirm the ages of Watermen's boys, it seems likely that some of the boys who drowned while working on boats were children. Although these sources omit basic information that make it difficult to establish patterns about children's work, these incidences do provide a snapshot of individual children's work and a sense of children's presence in public spaces.

The types of accidents in which children died were also contingent on location, including factors such as urbanisation and the geographical terrain. In increasingly urbanised areas, like London and Sussex, children were more likely to be killed by carts than in rural regions of north-east England and north-west Wales, where there is no evidence of cart-related accidents in assize court records or goal files. Drowning was a common cause of death throughout England and Wales, although the causes of drownings differed from region to region depending on the topography. For instance, in London most children drowned in the Thames after they fell off a boat on which they were working, or were hit by one. In contrast, in Sussex many children who were playing in marl pits – a mixture of clay and lime carbonate which was extracted by men and used as fertilizer in agriculture – drowned and suffocated.<sup>60</sup> Children's experiences of accidents, the spaces they occupied and their reasons for occupying such spaces changed depending on where they lived and the terrain in which their houses and communities were situated.

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<sup>59</sup> *TNA*, ASSI 45/18/5/8.

<sup>60</sup> A marl pit is also mentioned in depositions and examinations from north-east England. For example, see: *TNA*, ASSI 45/11/2/2-4.



Other accidental deaths occurred due to external factors, like bad weather and seasonality, that were beyond human control. For example, in January 1620, ten-year-old Thomas Binstead, who had recently become an apprentice to brickmaker John Deanford, froze to death when he fell asleep while he was supposed to be watching his master's sheep.<sup>61</sup> Children and adults were also killed by lightning in unpredictable, freak accidents. A 1679 report in *Domestick Intelligence or News Both from City and Country* wrote that thunder and lightning struck a house in south-east England killing a woman and a ten-year-old girl and injuring another woman in the eye. A two-year-old child, who the deceased woman was holding at the time of her death, miraculously survived.<sup>62</sup> As previously mentioned, a farmer and his boy were killed in 1725 when a flash of lightning killed the man and two horses, one of which fell on the boy 'and very much hurt him'.<sup>63</sup> These uncommon weather-related accidents were noteworthy examples that authors drew upon in pamphlet literature to establish parallels between accidents, freak storms and divine providence.<sup>64</sup> Authors of popular print described weather-related accidents to establish proof of God's existence and His power to impose divine retribution against those who sinned.<sup>65</sup> As Alexandra Walsham has argued, 'providence was part of the mental furniture of the early modern mind, an explanatory tool which contemporaries could employ at will'.<sup>66</sup>

From infancy, both boys and girls explored and occupied public spaces in early modern communities, venturing away from the households and supervision. While many accidents involving children under the age of two emphasize the passivity of young infants especially those who were left swaddled in cots, reports of the accidental deaths of older infants and children demonstrate that as children grew older they were expected to become curious about their surroundings and so to venture out to explore them. The absence of blame in coroners' inquests and newspapers suggests that unsupervised children were regularly visible in communities and became even more so when

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<sup>61</sup> TNA, KB 9/758, m 210.

<sup>62</sup> *Domestick Intelligence or News Both from City and Country*, 8 Aug 1679.

<sup>63</sup> *Dublin Journal*, 8 May 1725.

<sup>64</sup> For example, see: Anon., *The Sad and Dreadfull Accident of the Burning of a Rich Turkey Ship by Lightening, in the road of Gravesend: on Thursday the 23d. of June, 1687* (London, 1687); Anon., *A Strange Wonder, or, the Cities Amazement* (London, 1642).

<sup>65</sup> Dobson, *Contours of Death and Disease*, p. 244.

<sup>66</sup> Walsham, *Providence in Early Modern England*, p. 99.

they entered service. Although the ages of children who died in accidents are sometimes vague, recorded ages and terms like 'infant' or 'child' demonstrate that historians' typically cited pivotal 'turning points' in early modern childhood, such as seven and fourteen, do not apply to accidental deaths. Instead, the age of two, when children began to walk, talk and often finished breastfeeding, and the age of nine, when children entered service and somewhat gendered adult world of work, were the most important periods in the life-cycle that influenced the sorts of accidents in which children were involved.

### ***Medical care***

Just as the array of fatal and non-fatal accidents in which children were involved were diverse, so the range of medical practitioners who treated children varied significantly from surgeons to neighbours and relatives. This section builds on contributions to the history of popular medicine, most notably by Mary Lindemann, Andrew Wear and Carol Loar, who have argued that medical knowledge 'was not the exclusive domain of physicians or surgeons'.<sup>67</sup> Some early modern sources reveal different aspects and stages of medical care than others, especially concerning who provided treatment, when and where it took place, and what the treatment was. Pre-trial depositions include information about who found injured and dying children, their reactions, where they took the child, and who they requested to heal the child. In comparison, the *Old Bailey Sessions Papers*, which were trial summaries mainly concerned with establishing a prisoner's culpability, focused on post-mortem evidence rather than providing an assessment of medical care. Moreover, accounts of non-fatal accidents reveal more about physicians' care and everyday remedies than reports of fatal accidents because they were written while treatments were ongoing, and the outcome of the accident was unknown. Medical treatment was also contingent on location rather than age, as medical care changed depending on whether a child died in an urban area, like London, or rural regions, like north-east England and Wales. Most accounts of accidental death show a general trend: neighbours and witnesses came to a child's aid and moved them to their relative's house (although descriptions of the treatment

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<sup>67</sup> Mary Lindemann, *Medicine and Society in Early Modern Europe* (Cambridge, 2010; 2<sup>nd</sup> edn); Andrew Wear, *Knowledge and Practice in English Medicine, 1550-1680* (Cambridge, 2000); Carol Loar, 'Medical Knowledge and the Early Modern English Coroner's Inquest', *Social History of Medicine* 23:3 (2010), pp. 475-91.

they provided is rarely included) and then, if the child was still alive, they sent for a medical practitioner to examine them.

Hannah Newton has argued that medical practitioners made distinctions between children's and adults' bodies and therefore offered different treatments to sick children and adults. She has established that there was a concept of 'children's physic' in early modern England, which meant that physicians and laypeople tailored treatments to children's particular humoral constitution and tender bodies. Children's treatments usually involved changes to their diet and environment as physicians believed that a child's illness was caused by an imbalance of the humours. According to Newton, non-surgical treatments, such as potions, syrups, fomentations and ointments that were used to draw the harmful humours out of a child, were the preferred methods of most medical practitioners who usually advised against the use of surgical and evacuative medicine in infants or weak children. Evacuative and surgical remedies, such as vomits, purges and bloodletting, were thought to be more harmful and painful to children than non-surgical treatments. Moreover, as Newton has demonstrated, 'children were often uncooperative when faced with evacuative or surgical treatments, and therefore practitioners were left with few options but to use the medicines that their young patients were more willing to take'.<sup>68</sup> While Newton has provided many rich accounts of the different treatments for children by medical practitioners and laypeople, there is little evidence to suggest that children who had accidents received separate or specialised medical treatment. Stephen Bradwell's *Helps for Suddain Accidents* (1633) warned that children had physically weak bodies but did not advise on how to treat children's bodies differently from adults in accidents.<sup>69</sup> There is also no reference in the evidence examined in this thesis to indicate that first finders or surgeons handled children's accidents differently from those involving adults.

Relatives, neighbours and witnesses from rural regions had little choice but to take immediate responsibility for healing a child's wounds.<sup>70</sup> Pre-trial

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<sup>68</sup> Newton, *The Sick Child*, pp. 63-90.

<sup>69</sup> Stephen Bradwell, *Helps for Suddain Accidents Endangering Life By Which Those That Live Farre From Physitions or Chirurigions May Happily Preserve the Life of a Poore Friend or Neighbour, till Such a Man may be had to Perfect the Cure* (London, 1633), p. 10.

<sup>70</sup> This does not mean that injured people in rural Wales and the north-east did not have access to surgeons. See *TNA, ASSI 45/18/3/18-20* for an example of a surgeon checking over a victim of an accident in 1726.

depositions and coroners' inquest records rarely reveal the methods they used to keep children alive, and if or when medical practitioners were summoned to tend to dying children. Depositions from a 1663 case concerning the death of three-year-old Anne Foulke in Denbighshire establish the sequence of events before and directly after she was accidentally killed by her grandfather's apprentice, Peter Parry. Evan Edwards, a labourer, watched as Parry threw a stone towards Foulke and then heard her cry out. Edwards 'thereupon repaired to the Girl & demanded of her what made her cry, shee replied my blood runs soe he tooke her up in his Armes & brought her to her Grandfathers house'.<sup>71</sup> The first thing Edwards recalled was asking Foulke, who at this moment had the most knowledge of her injuries, what was wrong and how she felt. His testimony did not mention how he transported Foulke to her grandfather's house or whether he carried out a physical examination. The likely reason for this absence is that details about culpability rather than medical care were of central concern to the Justice of the Peace who examined Edwards.<sup>72</sup> A gentleman named Edward Jones testified that after Edwards carried Foulke to her grandfather's house 'her head [was] Inspected', but his deposition did not state by whom, what conclusions were made from the examination, or how soon Foulke died after the incident.<sup>73</sup> This case, like many other pre-trial depositions and coroners' inquest records from this period, alludes to medical treatment and physical examination but they are not explicitly discussed. Nonetheless, accounts of children's accidental deaths and homicides do establish that neighbours were willing to help injured children and that they acted quickly to try to save children. For instance, in Yorkshire in 1668, Elizabeth Hall took it upon herself to assist a dying child who had been shot outside her house. It was the evening of Good Friday when Hall heard a pistol discharge and, thinking nothing of it, went outside to feed her pigs. She found her neighbour's child lying on the ground outside of her front door. She 'tooke upp the said Child & carryed itt to the dwelling house of the said Simon which child was wounded in the sore part of the said head but how the Child received the Said wound she cannot depose'.<sup>74</sup> While the depositions do not state whether the child was alive

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<sup>71</sup> *NLW, GS, 4/25/5/3.*

<sup>72</sup> Garthine Walker, 'Re-reading Rape and Sexual Violence in Early Modern England', *Gender & History* 10:1 (1998), pp. 1-25.

<sup>73</sup> *NLW, GS, 4/25/5/3.*

<sup>74</sup> *TNA, ASSI 45/9/1/111.*

or dead when she found him, it does show that Hall knew about his wound and where it was, which suggests that, at the very least, she cursorily examined his body before or after she took him to his father's house.

As there was a high concentration of surgeons, medical practitioners and nearby hospitals in London that could provide medical assistance to children after they had an accident, it is unsurprising that many accounts of accidents in London mentioned that children were seen by or sent to an occupational medical practitioner.<sup>75</sup> Like evidence from rural areas, legal and newspaper records divulge few details about medical treatments children received. As Craig Spence argues, early modern Londoners often visited many different practitioners who had their own distinct specialities for individual ailments and illnesses.<sup>76</sup> Individuals involved in serious accidents were most likely to seek help from barber-surgeons, who performed minor surgical interventions and set bones.<sup>77</sup> While everyday lay medical knowledge might extend to minor surgical procedures, such as lancing boils and treating knife wounds, few ordinary people were capable of major surgery or of attempting to heal serious, life-threatening injuries. Children with life-threatening injuries were often sent to hospital by witnesses and parents who assessed that they needed professional medical treatment. In November 1730, a Butcher's boy, who fell from a cart loaded with hides and entrails and fractured his skull, was 'immediately sent to the Hospital'. The boy's injuries were so severe that a newspaper reported that 'tis thought he cannot live'.<sup>78</sup> Similarly, in 1720 the mother of six-year-old Thomas Baker, who received a fatal head injury from a neighbour, decided that home remedies could not save her son and decided to send him to hospital. Baker went to his mother after the incident who sent him to St. Bartholomew's Hospital to be treated by a surgeon until his death.<sup>79</sup> Parents and guardians also sent for surgeons to examine children in their own homes, especially for injuries like broken bones that were not as severe as head traumas but could not be treated by parents or neighbours.<sup>80</sup>

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<sup>75</sup> Note that this might not have been their main or only occupation.

<sup>76</sup> Craig Spence, *Accidents and Violent Death*, p. 168.

<sup>77</sup> Spence, *Accidents and Violent Death*, p. 170-72; Margaret Pelling, *The Common Lot: Sickness, Medical Occupations and the Urban Poor in Early Modern England* (London, 1998).

<sup>78</sup> *British Journal or The Traveller*, 28 Nov 1730.

<sup>79</sup> *OBSP*, 12 July 1720, Frances Coats, t17200712-1.

<sup>80</sup> *Weekly Journal or British Gazeteer*, 20 July 1723; *Daily Post*, 7 June 1726.

Providing, and sometimes paying for, medical care was also a social and moral obligation for those who witnessed and caused fatal and non-fatal accidents. In some cases, assistance was hands-on and required immediately. For instance, in 1689 witnesses to an accidental homicide had a duty to provide medical assistance when a dying victim asked them for help, despite there being very little they could do. John Hobson begged onlookers to help him after ten-year-old Francis Hawley had shot him in the stomach. George Thompson testified that after he saw Hobson fall to the ground, who desired Thompson 'to help him up with his bowels' and he 'did endeavour to put them up & could not, but helped to carry him home to his Father's house' with two other men and 'left him there alive'.<sup>81</sup> The duty to provide medical assistance also extended to charitable payments for care by aristocrats and high status people who travelled in coaches that accidentally ran over and injured poor children. In July 1723, the *Daily Journal* reported that 'a heedless Coachman, belonging to one of the Barons of the Exchequer' ran over a ten-year-old foundling girl, who broke her thigh, her ribs and bruised her arm.

The worthy Person to whom the Coach belongs, sent immediately, upon Notice of the Accident, to order that all possible Care might be taken; but the Surgeons who set the Thigh were of Opinion that all would prove ineffectual.<sup>82</sup>

The newspaper article suggested that it was not the pressure of onlookers, the coach driver or indeed the child that caused the owner of the coach to charitably help the child, but a genuine concern about the child's well-being.

As children, especially infants, were too young to have the knowledge or experience of how to deal with sudden accidents, those who witnessed and caused accidents did not have a duty to provide medical care. Children were often presented as inactive bystanders and, even if they did give assistance to victims of accidents, their roles as care-givers are absent in surviving records. For instance, John Foulke attested that his three-year-old daughter Anne Foulke was accompanied by two other children when Peter Parry threw a stone at her head in 1663: there 'were two other Girles sitting with her when this mischance happened'. While Evan Edwards' deposition details his medical

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<sup>81</sup> TNA, ASSI 45/15/3/41.

<sup>82</sup> *Daily Journal*, 8 July 1723.

response, his testimony does not mention the girls at all, and another deponent, Edward Jones, only mentions that he heard one of the girls cry out.<sup>83</sup> The girls with three-year-old Foulke were too young to have any practical experience of how to deal with such a serious accident and this was probably their first encounter with a violent death. Therefore, there was no expectation that the girls should or could have helped Foulke in pre-trial accounts from the case.

Evidence of the medical treatment of children involved in accidents is scant in pre-trial depositions, coroners' inquest records and newspapers as these sources were more concerned with the causes of death and, in homicide cases, culpability than accounts of medical care. Relatives and neighbours had little choice but to help and care for children involved in sudden accidents. Many people took children to their houses and families to undertake medical treatment with their parents and other neighbours which, whether deliberately or not, created a diverse pool of medical knowledge and strategies from which to draw. From there, and if the child's injuries were not immediately life-threatening, parents could send for a surgeon and perform minor surgical procedures. In London serious injuries caused by accidents were more likely to be treated by surgeons in hospitals, where there was a higher concentration of medical institutions. There was a social and moral obligation for those who caused accidents to provide care to their victims and this extended to elites who, while they did not directly try to heal children, sometimes paid for their medical treatment as an apology and a gesture of good will. Only children, who were too young to have proper knowledge and experience of treating wounds, were exempt from this responsibility.

### ***Child care and relationships***

As the work of Naomi Tadmor and Naomi Miller and Naomi Yavneh's edited collections have shown, child care and children's relationships with adults and other children were much more complex and nuanced than domestic handbooks, newspapers, and popular print presented.<sup>84</sup> Tadmor, in particular, has demonstrated that family and kin in eighteenth-century England could be

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<sup>83</sup> *NLW, GS, 4/25/5/3.*

<sup>84</sup> Naomi Miller and Naomi Yavneh (ed.), *Gender and Early Modern Constructions of Childhood* (Farnham, 2011); Naomi Miller and Naomi Yavneh (eds), *Maternal Measures: Figuring Caregiving in the Early Modern Period* (Aldershot, 2000); Naomi Tadmor, *Family and Friends in Eighteenth-Century England: Household, Kindship and Patronage* (Cambridge, 2001).

extensive and that wider kin were important in the raising of children.<sup>85</sup> Various people, not just parents, at different stages in a child's life and with varying degrees of responsibility, were involved in looking after children, regulating their behaviour and minding their safety. Joanne Bailey has contended that we should expand 'our chronological and definitional boundaries to include a variety of parenting relationships across life-courses, across generations, and (where servants were concerned) across class'.<sup>86</sup> While historians like Hannah Newton have argued that fathers were closely involved in looking after their sick children, evidence from accidental deaths shows that everyday child care was usually the responsibility of the child's mother or other women.<sup>87</sup> Close relatives, nurses, servants, masters and mistresses, other children, neighbours and strangers all minded and observed children in numerous contexts, from practical day-to-day care to intervening and preventing children's accidents. The desire and obligation to care for and protect children depended on context, an adult's relationship with a child, temporality and space. For instance, factors such as a child's age or the time of day could affect with whom children interacted, where they were, who was responsible for care, and who was able to provide care. I explore how expectations and representations of children's relationships differed depending on who provided care. It is divided into types of care: parenting; everyday subsidiary support to parents by children and servants; and temporary care, including care that depended on a child's stage in the lifecycle and individual situation. As younger children were expected to need more care during infancy than in older childhood, there are many more examples of younger children involved in accidents in this section than older children. Historians have argued that, while child care was often gendered, mothers were not always a child's primary or only carer.

Early modern domestic handbooks promoted the notion that women were responsible for the practical and emotional work involved in raising infants.

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<sup>85</sup> Tadmor, *Family and Friends*, esp. pp. 18-43, 103-166.

<sup>86</sup> Joanne Bailey, 'Reassessing Parenting in Eighteenth-Century England', in Helen Berry and Elizabeth Foyster (eds), *The Family in Early Modern England* (Cambridge, 2007), pp. 232.

<sup>87</sup> Naomi Miller and Naomi Yavneh (eds), *Maternal Measures: Figuring Caregiving in the Early Modern Period* (Aldershot, 2000); Joanne Bailey, *Parenting in England 1760-1830: Emotion, Identity, and Generation* (Oxford, 2012); Newton, *The Sick Child*, pp. 101-10; Shepard, *Inaugural Lecture: Who Cared and Why Should We? Historical Perspectives on Gender, Family and Economy, 19 May 2017*, online at: <https://www.youtube.com/watch?v=NAlef2PNXag>. PAGES; Jennifer Heller, *The Mother's Legacy in Early Modern England* (Abingdon, 2011), p. 58.



They reinforced this agenda with increasing emphasis on maternal duty and sacrifice throughout the seventeenth and eighteenth centuries.<sup>88</sup> For instance, women were strongly advised to breastfeed their own infants, especially in the first years of a child's life, rather than partaking in the common practice of outsourcing care to a wet nurse. Writers argued that nurses had deficient milk that impaired children whereas a mother's breastmilk was beneficial to both an infant and mother's physical and mental wellbeing.<sup>89</sup> To persuade women of the importance of caring for their own infants, the anonymous author of *An Office for Christian Parents* (1616) contended that 'many times the milke of a stranger, bringeth forth in children strange diseases and strange manners'.<sup>90</sup> The handbook went on to state that

The nourse (saith one) can doe very much, both to the framing of the body, and of the manners of the child. The Purblind woman by sight maketh a purblind child, the drunken woman weakeneth the childe, and maketh it intemperate.<sup>91</sup>

The claim that breast milk contained and transferred characteristics from the nurse or the mother to the child was widely shared in prescriptive texts about child care and household maintenance. It was believed to affect and determine a child's physical and mental demeanour for the rest of his or her life.<sup>92</sup> Efforts to persuade women to breastfeed their own children endured in domestic manuals throughout the seventeenth century. However, their methods of persuasion and the discourses they engaged with changed over time, from assertions in 1616 that breastfeeding was a natural and dutiful requirement of a Christian wife to Henry Newcombe's declaration in 1695 that women who nursed their own children were 'considered to be almost sacrificing their health, beauty, and peace of mind for the benefit of their children'.<sup>93</sup> Breastfeeding

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<sup>88</sup> See contributions to Naomi Yavneh and Naomi Miller (eds), *Maternal Measures: Figuring Caregiving in the Early Modern Period* (Aldershot, 2000).

<sup>89</sup> Fildes, *Wet Nursing*, pp. 79-100.

<sup>90</sup> Anon., *The Office of Christian Parents: Shewing how Children are to be Governed Throughout All Ages and Times of Their Life. With a Breife Admonitorie Addition unto Children, to Answer in Dutie to Their Parents Office* (London, 1616), p. 47.

<sup>91</sup> Anon., *The Office of Christian Parents*, p. 48.

<sup>92</sup> Fildes, *Wet Nursing*, pp. 79-100.

<sup>93</sup> Anon., *The Office of Christian Parents*, pp. 48-53 Henry Newcombe, *The Compleat Mother: or, An Earnest Perswasive to all Mothers (especially those of Rank and Quality) to Nurse their own Children* (London, 1695); Fildes, *Wet Nursing*, pp. 79-100.

increasingly became a motherly sacrifice that drained a woman of her vitality and attractiveness as well as a duty.

Authors of prescriptive literature prioritised the mother-child bond by arguing that a child's emotional relationship with its mother should influence a child throughout its life.<sup>94</sup> William Gouge contended that the physical act of breastfeeding stimulated this bond.

Together with the milke passeth some smacke of the affection and disposition of the mother: which maketh mothers to love such children best as they have given sucke unto: yea and oft times such children as have sucked their mothers breasts, love their mothers best.<sup>95</sup>

Gouge claimed that breastfeeding created and reinforced an unbreakable reciprocal relationship between mother and child. This also suggested that a child loved whoever was looking after it at the time, no matter what the circumstances or relationship, and that love grew naturally from providing sustenance and care to a child. Valerie Fildes has found that the few devout Protestant women who chose to breastfeed their children reported a closer relationship and greater love for the children they nursed themselves.<sup>96</sup> Fathers were expected to adopt a supporting, subsidiary role to help their wives raise infants and not to be involved in the day-to-day labour of infant care. Domestic manuals argued that as infancy was the stage at which a child was most dependent on its mother, fathers should help women while they breastfed and with material matters, like money, food, and other provisions for the mother and the child.<sup>97</sup> Fathers were rarely singled out or referred to as primary care-givers of children in prescriptive literature and, as Bernard Capp has argued, beliefs and ideas about gender and child care were rarely challenged in practice.<sup>98</sup>

Reports of accidental deaths establish that the gender disparity in the everyday work related to infant care outlined in domestic manuals was often

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<sup>94</sup> See Chapter Two for discussion about the bonds between mothers and their children in popular crime narratives.

<sup>95</sup> William Gouge, *Of Domesticall Duties* (London, 1622), p. 512.

<sup>96</sup> Fildes, *Wet Nursing*, pp. 79-100.

<sup>97</sup> Anon., *The Office of Christian Parents*.

<sup>98</sup> Bernard Capp, *When Gossips Meet: Women, Family, and Neighbourhood in Early Modern England* (Oxford, 2003), pp. 2, 15.

emulated in practice, and that it was common for women to care for their infants alongside other domestic chores and concerns.<sup>99</sup> As Barbara Hanawalt has identified for English medieval peasant communities, 'babies were most likely to have fatal accidents during the busiest part of their parents' day'.<sup>100</sup> Newspaper reports demonstrated that some infants died because their mothers left them unattended while they worked or carried out domestic tasks outside of the household.<sup>101</sup> The *London Journal* reported in November 1722, that an eighteen-month-old infant died in Hertfordshire while its mother went out to collect water. When she returned she found that her infant, who she had left next to a fire, had fallen into it, had its eyes burnt out and its arms burnt off, and had already died.<sup>102</sup> The description of the infant's terribly burned body suggests that the infant's mother had been too far from the household to hear the infant's cries or see the fire and had probably been gone some time. The newspaper article indicates that the infant's mother was responsible for its care, and that she did not have, or did not want, someone else to supervise the child at that time. Infants were sometimes unintended victims of violence when the person carrying them was involved in a heated argument with their partner or a neighbour.<sup>103</sup> In Northumberland in 1690 Andrew Scott hit Ann Snawden on the head with a stick during an altercation, causing her to fall over with her 'young Childe [also named Ann Snawden] in one arme'. The child hit her head on the ground and died two hours later.<sup>104</sup> Infant care intersected with other activities and concerns of mothers and had to be undertaken alongside women's other tasks, duties and responsibilities.

Fathers were not obliged to partake in infant care on a day-to-day basis, and accounts of accidental child death indicate that they were rarely responsible for the everyday maintenance and care of their children. In contrast to Hannah Newton's contention that elite puritan fathers had an integral role in caring for their sick children, few infants were reported as being involved in fatal accidents

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<sup>99</sup> Amy Louise Erickson, 'Married women's occupations in eighteenth-century London', *Continuity & Change* 23:2 (2008), pp. 267-307; Alexandra Shepard, *Accounting for Oneself* (Oxford, 2015); Jane Whittle, 'Housewives and Servants in Rural England, 1440-1650: Evidence of Women's Work from Probate Documents', *TRHS 6th series*, 15 (2005), pp. 51-74.

<sup>100</sup> Hanawalt, *Growing up in Medieval London*, pp. 176-77.

<sup>101</sup> Hanawalt, *Growing up in Medieval London*, pp. 175-78.

<sup>102</sup> *London Journal*, 3 November 1722.

<sup>103</sup> See: *London Journal*, 22 September 1722; *OBSP*, April 1683, Philip Johnson, t16830418-7.

<sup>104</sup> *TNA*, ASSI 45/15/4/91-92.

while under their father's care. Newton has argued that, in elite puritan families, fathers had close emotional relationships with their children and provided them with crucial medical and emotional care during their illnesses.<sup>105</sup> The absence of fathers in records of children's accidental deaths suggests that men's involvement in child care depended on status and that, while many men might not have been involved in the day-to-day care of children, they did look after them in times of crisis, such as sickness. Instead, fathers usually appeared in records of accidental death when they unintentionally killed their child while arguing with their wives. In September 1722, the *London Journal* reported that Mr. Batchellor, a silver spinner, 'having some Words with his Wife, threw a Tobacco Pipe at her, which unfortunately hit a Child she had in her Arms'. The one-year-old infant died, and his father fled to escape prosecution. In this instance, the infant's primary care-giver was his mother and, unfortunately, the infant was caught in the middle of spousal violence.<sup>106</sup> As accounts of accidental deaths only provide an insight into an isolated moment of a child's life and relationships, it is impossible to know how affectionate Mr. Batchellor was to his infant and whether he was involved in the infant's care. In other examples of spousal violence and child death, it is unclear which parent, if any, had more control over child care or whether it was a shared responsibility. For instance, a 1728 *Daily Journal* article stated that in Portsmouth a man accidentally kicked over a cooking pot full of boiling milk during an argument with his wife, which spilled over and killed his two-year-old infant who was playing by the fire.<sup>107</sup> The report did not mention who was responsible for caring for the infant, and it seems that he was playing by the fire unsupervised while his parents were distracted. Most other incidental mentions of fathers in newspaper articles and coroners' inquests are not concerned with, and perhaps hide, men's roles in tending for and looking after their infant children.

While reports of accidental deaths caused by parents rarely included descriptions of the parent's love or regret for neglecting or hurting a child,

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<sup>105</sup> Newton, *The Sick Child*, pp. 101-10.

<sup>106</sup> For more examples, see: *OBSP*, 16 July 1679, Edward Spencer, t16790716-16; *OBSP*, 16 May 1711, Thomas Aldridge, t17110516-12; Elizabeth Foyster, 'Silent Witnesses? Children and the Breakdown the Domestic and Social Order in Early Modern England', in Anthony Fletcher and Stephen Hussey (eds), *Childhood in Question: Children, Parents and the State* (Manchester, 1999), pp. 57-73.

<sup>107</sup> *Daily Journal*, 18 Nov 1728.

stepparents who killed children defended their actions in criminal trials by stressing their love and close bond with the child to prove that their violence was unintentional. As Lyndan Warner has argued, ‘the “wicked” stepmother occupied a much larger place in the popular imagination, fed by fairy tales and proverbs’, than the stepfather in early modern Europe and influenced social and cultural perceptions of stepmothers.<sup>108</sup> In practice, remarriages could cause conflict and resentment between stepchildren, their biological parents and stepparents, especially during disputes over inheritance.<sup>109</sup> Tim Stretton has also shown that inheritance law ‘had the potential to feed and sustain the negative stereotype of the stepmother’.<sup>110</sup> This meant that when stepparents, especially stepmothers, were tried for killing stepchildren, they had to show that their love and affection for the children was genuine and that there had not been ulterior motives for the killing. Stepparents were more commonplace than authors of domestic handbooks recognised – roughly twenty percent of children in the period were part of a stepfamily.<sup>111</sup> Step relations were joined by marriage that incorporated two separate kinship groups, or families, together. As Naomi Tadmor has argued, many stepparents referred to their stepchildren as ‘son’ or ‘daughter’ and children referred to their stepparents as ‘mother’ and ‘father’.<sup>112</sup> However, there are only a few incidental records of them as primary care-givers in accounts of accidental child death.<sup>113</sup> In 1686, eleven-year-old Elizabeth Kell died after her stepmother, Elizabeth Battison, had physically corrected her.<sup>114</sup> A surgeon claimed that a wound on Kell’s stomach had caused her death, but Battison and other witnesses argued that the girl was sickly and that Battison’s violence did not cause Kell’s death. Battison deposed ‘that though she was Mother in Law to the Deceased Kell, yet she loved her very well, and always

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<sup>108</sup> Lyndan Warner, ‘Stepfamilies in Early Modern Europe: Paths of Historical Inquiry’, *History Compass* 14:10 (2016), pp. 483-84; Heather Dubrow, “‘I Fear There Will a Worse Come in his Place’”: Surrogate Parents and Shakespeare’s Richard III’, in Naomi J. Miller and Naomi Yavneh (eds), *Maternal Measures: Figuring Caregiving in the Early Modern Period* (Aldershot, 2000), pp. 348–62; see also: Marilyn Francus, *Monstrous Motherhood: Eighteenth-Century Culture and the Ideology of Domesticity* (Baltimore, 2012), pp. 123-48.

<sup>109</sup> Roderick Phillips, ‘Stepfamilies from a Historical Perspective’, *Marriage & Family Review* 21 (1997), pp. 12-14.

<sup>110</sup> Tim Stretton, ‘Stepmothers at Law in Early Modern England’, in Lyndan Warner (ed.), *Stepfamilies in Europe, 1400-1800* (Abingdon, 2018), pp. 91-107.

<sup>111</sup> Peter Laslett, ‘Parental Deprivation in the Past: A Note on Orphans and Stepparenthood in English History’, in Peter Laslett (ed.), *Family Life and Illicit Love in Earlier Generations* (Cambridge, 1977), pp. 164, 166-67; Warner, ‘Stepfamilies in Early Modern Europe’, p. 485.

<sup>112</sup> Naomi Tadmor, *Family and Friends*, pp. 136-38.

<sup>113</sup> See: Lyndan Warner (ed.), *Stepfamilies in Europe, 1400-1800* (Abingdon, 2018).

<sup>114</sup> *OBSP*, July 1686, Elizabeth Battison, t16860707-12.

gave her moderate Correction'. In her defence, Battison acknowledged that the judge and jury might assume that a stepmother would and could not love Kell as much as a biological mother and dismissed this cultural stereotype to establish her close bond with Kell.<sup>115</sup> Alongside evidence from another surgeon that Kell had died of a 'natural disease', Battison was acquitted. As Battison constructed the relationship between herself and Kell within available legal and emotional narratives to deflect culpability, it can only provide a limited, skewed insight into their relationship that Kell may have contested when she was alive.<sup>116</sup> Unlike some accounts of male-male homicides and spousal killings in which victims' declarations of forgiveness and love towards their killer before they died contributed to the trial verdict, surviving narratives of children's accidents rarely mention the child's feelings towards their carer.

Children and servants provided unskilled, subsidiary care to children to support their parents and to contribute to the running of the household. Domestic handbooks rarely discussed the obligations of siblings under the age of fourteen or of children's duties to care for other children.<sup>117</sup> Historians of the family have overlooked sibling relationships and care in childhood, focusing instead on relationships and conflicts between siblings in adulthood.<sup>118</sup> Records of children's accidental deaths, in coroners' inquests and newspapers, show that children, particularly girls, were part of a familial network of care. The gendered division of labour and female responsibility to look after children was effective from a young age. While Colin Heywood has asserted that 'minding younger siblings' or other children was a 'little task', caring for a younger sibling or child was a serious responsibility for a child to accept and one that sometimes ended in death.<sup>119</sup> The *London Journal* reported in 1729 that an infant, who was being nursed by a poor woman, drowned while under her daughter's care. The nurse decided to leave her daughter, 'a Girl of about 12 or 13 Years old', to look after the infant for about fifteen minutes, so she could

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<sup>115</sup> Warner, 'Stepfamilies in Early Modern Europe', pp. 483-84.

<sup>116</sup> Joanne McEwan, "'At my Mother's House": Community and Household Spaces in Early Eighteenth-Century Scottish Infanticide Narratives', in Susan Broomhall (ed.), *Spaces for Feeling: Emotions and Sociabilities in Britain, 1650-1850* (Abingdon, 2015), pp. 12-34.

<sup>117</sup> Although adults were mentioned as potential guardians for their younger siblings. Gouge, *Of Domesticall Duties*, pp. 583-84.

<sup>118</sup> Naomi Miller and Naomi Yavneh (eds), *Sibling Relations and Gender in the Early Modern World: Sisters, Brothers and Others* (Aldershot, 2006); Patricia Crawford, *Blood, Bodies and Families in Early Modern England* (Harlow, 2004).

<sup>119</sup> Heywood, 'Children's Work in Countryside and City', pp. 125-41.

leave the house to do some errands. The girl looked after and played with the infant 'according to the best of her Skill' beside a river that ran alongside their house. The account suggested that the girl had little experience of caring for an infant and was unaware of the dangers of bringing an infant so close to a river. Whether the newspaper report intended to criticise the nurse for using her daughter to care for the children she was responsible for is unclear in this account. As descriptions of wet nurses in other newspaper accounts, as discussed below, suggest, they were commonly condemned for neglecting infants they were paid to look after. The girl

thinking that shewing the Child the Water would please and divert it, and at last dropt it in. The poor Infant sunk immediately; and tho' the Girl cry'd out, and Help came presently, it could not be found for some Hours, the Stream having carried it down some Distance from the Place, so that it was irrecoverably lost.<sup>120</sup>

This account shows that children could informally support their mothers to care for their siblings or infants their mother was employed to nurse, as and when they were needed, to help them undertake other household chores.<sup>121</sup>

Moreover, tending and playing were not necessarily separate things; child care could be both work and contribute to the forming of a relationship between children. Incidental accounts of accidents demonstrate that girls learned to provide care to infants from a young age and partook in unofficial, unpaid labour that is often difficult to find in other primary sources.

Newspapers also reported that children died while they were responsible for looking after infants and alleged that the older child had sacrificed their life to save the younger child. Children were involved in accidents when they carried infants on or near roads. For instance, an article from the *Daily Journal* published in 1729 stated that a twelve-year-old girl was carrying a young child in her arms when she was run over by a dray.

perceiving the Danger she was in, [she] threw the Infant out of her Arms towards the Houses: The Wheel of the Dray ran over her

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<sup>120</sup> *London Journal*, 27 September 1729.

<sup>121</sup> Shepard, Inaugural Lecture: *Who Cared and Why Should We? Historical Perspectives on Gender, Family and Economy*, 19 May 2017, online at: <https://www.youtube.com/watch?v=NALef2PNXag>.

Thigh, and the Rim of her Belly; she is not yet dead, tho' there seem to be no Hopes of Recovery.<sup>122</sup>

Although the report did not indicate what the relationship between the two children was, it constructed the girl's response within a framework of nurture and care, and implied that the girl's care-giving role went far beyond a job. Like many short newspaper narratives, it is unclear who provided an interpretation of the girl's actions: the girl was still alive immediately after the accident, so she may have indicated her intentions; witnesses may have also contributed to this narrative; or, perhaps the authors of the newspaper article inferred the girl's purpose.

Despite assertions in didactic literature that women should only employ temporary carers such as nurses as a last resort, infant care and the labour associated with it was commonly outsourced to wet nurses throughout the early modern period. Valerie Fildes has contended that the contempt for nurses in domestic manuals did not reflect how most nurses cared for children in practice. Women employed as wet nurses relied on the wages from infant care to support themselves and their own children.<sup>123</sup> Parents who ignored advice in domestic handbooks, such as about breastfeeding, did not do so because they disregarded their infants' wellbeing, but because, in their experiences, outsourcing care to nurses was common, safe, and practical as it meant that women could continue to contribute to the household.<sup>124</sup> It was only in the early eighteenth century that the criticism of wet nurses increased in didactic literature and in popular print, such as newspapers, and began to influence child care practices among women and families.<sup>125</sup> The emphasis on the maternal and moral duties of new mothers became more pronounced in handbooks at the end of the seventeenth century, when motherhood became increasingly related to femininity, and warnings about the cruelty and risks of allowing nurses

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<sup>122</sup> *Daily Journal*, 27 September 1729.

<sup>123</sup> Fildes, *Wet Nursing*, pp. 79-100.

<sup>124</sup> Fildes, *Wet Nursing*, pp. 79-100; Shepard, *Inaugural Lecture: Who Cared and Why Should We? Historical Perspectives on Gender, Family and Economy*, 19 May 2017, online at: <https://www.youtube.com/watch?v=NALef2PNXag>.

<sup>125</sup> Fildes, *Wet Nursing*, pp. 79-100; Shepard, *Inaugural Lecture: Who Cared and Why Should We? Historical Perspectives on Gender, Family and Economy*, 19 May 2017, online at: <https://www.youtube.com/watch?v=NALef2PNXag>.



to breastfeed infants were regularly published.<sup>126</sup> While prescriptive literature, popular print and, in practice, infant care appears to have shifted the responsibility from nurses to mothers, throughout the seventeenth and eighteenth centuries there was a fundamental continuity: infant care was still predominantly the responsibility and labour of women.<sup>127</sup>

Newspaper reports coincided with, and may have been a result of, the growing discourse in the late seventeenth and early eighteenth centuries that nurses were negligent and cruel to children. Accounts of infants' accidental deaths in the household anticipated that nurses and mothers oversaw care and sometimes blamed them when infants suffocated or died in household fires.<sup>128</sup> Like mothers, nurses cared for infants alongside other domestic jobs and responsibilities. In December 1721, the *London Journal* reported that two children were left unsupervised in a house near Drury Lane when one of them fell into a hearth fire and died because the other child was 'too Young to lend it any Assistance'. The newspaper concluded that 'there have been no less than three Instances of this kind very lately; which it is hoped will prove a sufficient Memento to all *Mothers* and *Nurses*, how they leave young Children alone'.<sup>129</sup> The inclusion of such derogatory condemnations of women's negligence regarding child care suggests that there was a significant change in rhetoric about children's accidental deaths during the 1720s. As the above quote establishes, newspaper reports were blaming women for causing children's unnecessary deaths rather than interpreting them as unfortunate accidents. Alysa Levene has argued that it was not until the mid to late eighteenth century that a common system of parish nursing was implemented in London, although the quality of its implementation varied in each parish.<sup>130</sup> Newspaper reports disapproved of the common practice of leaving children unattended or under the supervision of an older child and warned women reading or hearing this news not to make similar mistakes. Some articles only cautioned child carers who

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<sup>126</sup> Ruth Perry, 'Colonizing the Breast: Sexuality and Maternity in Eighteenth-Century England', *Journal of the History of Sexuality* 2:2 (1991), pp. 204-234; Marilyn Francus, *Monstrous Motherhood: Eighteenth-Century Culture and the Ideology of Domesticity* (Baltimore, 2012).

<sup>127</sup> Mendelson and Crawford, *Women in Early Modern England*, pp. 148-64.

<sup>128</sup> Jeremy Taylor, *The Rule and Exercises of Holy Dying* (London, 1651), p.2 who describes careless nurses who drown or overlay children.

<sup>129</sup> *London Journal*, 16 December 1721. My emphasis.

<sup>130</sup> Alysa Levene, *The Childhood of the Poor: Welfare in Eighteenth-Century London* (Basingstoke, 2012), pp. 45-72.

were paid to look after children, such as maids and nurses, who were perhaps judged to be more negligent than mothers. In July 1722, the *London Journal* described how a six-year-old child died in a household fire when he or she was left alone in a room with a candle. The article stated that 'it is amazing that *Maids and Nurses* should be so negligent, when there are so many melancholy Instances of this kind'.<sup>131</sup> The case demonstrated and reinforced the stereotype of nurses and maids who carelessly supervised children and had little regard for children's lives.

However, cases of nurses who left infants who died in accidents unattended were rarely indicted at a grand jury or heard at assize courts. In one of the rare cases that did make it to an assize trial, the defendant was acquitted because the judge and jury concluded that she was unlikely to murder an infant who she depended on as a source of income. In 1686, Mary Jones was indicted for choking and strangling John Parker, an infant she was nursing, by lying on him and pressing him with her body. Jones had informed Parker's parents that he had died but told one that he had died in his cradle and informed the other that it had happened in the bed. Parker's parents were unsure which version to believe so questioned her about what had happened and whether she had deliberately killed their son. The evidence proved that Parker had been overlaid, and so the verdict was misfortune.<sup>132</sup> While parents were sometimes sceptical of a nurse's narrative, courts tended to believe that a woman who was employed to care for a child, on which her income depended, was unlikely to murder that child. For example, in 1727, Catharine Banfield was acquitted of the murder of six-month-old John Cornish, who died in a fire. A trial report claimed that not only was there little evidence to prove she had wilfully killed him, but also the court refused to believe that a woman would kill an infant who was an essential financial resource. The Old Bailey trial summary stated that

It seem'd a Contradiction, That a Woman should in such a Manner contribute, or be any Ways assistant towards the Death of the Child, when at the same Time she took it but for weekly Wages,

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<sup>131</sup> *London Journal*, 21 July 1722. My emphasis.

<sup>132</sup> *OBSP*, 24 Feb 1686, Mary Jones, t16860224-25.

and by Consequence proposed some Advantage to herself from the Child's Life, but could propose none from its Death.<sup>133</sup>

The account prioritised the practical concerns of regular wages, rather than the relationship or emotional bond between the nurse and the child, as a motivation for Banfield to offer good care to Cornish. Societal and legal notions of culpability meant that these women were not considered to be responsible for such deaths and suggests that leaving infants unattended was normal practice rather than an intentional or criminal act that should be privately prosecuted.<sup>134</sup>

Neighbours and people in communities adopted unofficial, temporary roles as care-givers and guardians when they tried to prevent and rescue children who had been involved in accidents. Between nine and ten o'clock in the morning on 16 July 1607, three-year-old Luke Woolcombe left his widowed mother's house 'without her knowledge' – which implies that she would not normally let him leave the house unsupervised – 'to play about the water of the Bourne outside the town walls, accidentally fell into the water and was drowned by misadventure before anyone discovered him'.<sup>135</sup> It was only discovered when 'a small boy' named Henry Tyers found him and informed his mother who, with another woman, went to find Woolcombe, tried to revive him, but failed.<sup>136</sup> Woolcome had ventured so far from his house that his mother, who was unaware that he had left the house to play, had no idea that he was in danger or needed help, but he was not far from other children who were exploring beyond the boundaries of the town walls. Many witnesses to accidents were also compelled to shout out to warn children of a potential life-threatening danger they foresaw, but were either helpless to intervene or, like Henry Tyers' mother, were too late to save the already deceased child.<sup>137</sup> When a boy fell off his 'skittish Horse' and was thrown to the ground in Lincoln's Inn Fields in June 1728, witnesses tried to help but this only frightened the horse more and caused the boy's death: 'The Boy's Foot hanging in the Stirrup, People to save

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<sup>133</sup> *OBSP*, 5 July 1727, Catharine Banfield, t17270705-52.

<sup>134</sup> See Chapter One for ideas of criminal negligence.

<sup>135</sup> *HASTINGS* 1, f 123.

<sup>136</sup> *HASTINGS* 1, f 123.

<sup>137</sup> For example, see: *OBSP*, 6 June 1717, John Berryman, t17170606-32; *OBSP*, 11 July 1726, Thomas Baker, t17260711-8; *OBSP*, 21 May 1724, Mary Smith, t17240521-11.

the Lad ran to stop the Horse, which frightened him in such a manner, that starting forward dash'd out his Brains'.<sup>138</sup>

The vigilance of neighbours and strangers could also save children from death and newspaper reports underlined that members of communities should act to protect one another and help to regulate children's behaviour.<sup>139</sup> In May 1728, the *Daily Journal* reported that a man had saved a four-year-old boy when his parents, who were walking in front of him, did not realise that he had fallen into a ditch. The boy

Fell into a deep Ditch that was grown over with Weeds, where he had been suffocated in the Mud, if a Person at some Distance, who saw the Child fall, had not run and took him out, to the great Joy of his Parents, who were much surprized at the Accident.<sup>140</sup>

The *London Journal*, which also reported on this event, stated, the boy's parents 'had perceived nothing of the Accident' as they were not keeping him under close supervision and suggested that if it was not for the male stranger the boy might have died.<sup>141</sup> Crowds also congregated outside of burning houses to help victims who tried to escape. The *London Evening Post* disclosed in July 1728 that when a fire broke out at a gunsmith's shop on Castle Street between two and three o'clock in the morning, people gathered outside to catch a six-month-old infant who was thrown from a window by its parents.<sup>142</sup>

Women and girls were primarily responsible for child care. Children were more likely to die while their mothers were busy completing domestic activities and when other children and servants who were minding them were distracted or unaware of the dangers infants might be in when they looked after them. While stepmothers had to prove their affection for the children they accidentally killed, nurses and maids were expected to maintain children's wellbeing for their own economic gain. There are few mentions of child care and whose responsibility it was in records of accidental deaths of children aged between seven and fourteen. The absence of information on the care of older children is

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<sup>138</sup> *Weekly Journal or British Gazeteer*, 1 June 1728

<sup>139</sup> Malcolm Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge, 2000), pp. 243, 251-55.

<sup>140</sup> *Daily Journal*, 21 May 1728.

<sup>141</sup> *London Journal*, 25 May 1728.

<sup>142</sup> *London Evening Post*, 13-16 July 1728.

partly because, as coroners' inquest reports and newspapers that noted the ages of victims demonstrate, infants were more likely to die in accidents than children aged seven or above.

### ***Conclusion***

Records of children's accidental deaths provide a mediated insight into children's everyday lives and experiences. This chapter has demonstrated that the ages of seven and fourteen were not the only important ages or 'turning points' in a child's life-cycle. Children under the age of two had little agency and usually died in accidents in the household and when they were being carried in public spaces by their carers in situations that they could not avoid or control. Children aged two and above regularly spent their time unsupervised, exploring the boundaries of the household and wandering and playing around their villages and towns. Children's accidental deaths demonstrate that they had the agency and freedom to enter public spaces and dangerous work places, especially when their mothers or carers were distracted with other household chores or concerns. Many children died because they could not perceive the dangers around them and some infants died when the children minding them were inexperienced carers. The nature of children's deaths also changed when they entered service, from the age of nine, when they were expected to use craft and trade tools and legitimately ventured far from the household for work. Medical and social care for children involved in accidents was frequently provided by witnesses and those who were nearby at the time, and their relationship with the child depended on how far they had wandered from their household and community. Responses to serious accidents varied in urban and rural areas. There was greater access to hospitals in London than in other parts of England and Wales where surgeons were sent for and witnesses examined victims. While accidents and injuries were an expected and normal aspect of childhood in early modern England and Wales, it did not make it any easier for parents and witnesses to deal with a child's accidental death, as I explore in Chapter Five.

## Chapter Four

### Lethal and Non-Lethal Violence

Early modern English and Welsh children were regularly subjected to violence. Despite some historians' assumptions that parents and masters routinely and cruelly abused children, there is much evidence to suggest that most corrective violence was, in fact, measured, reasonable and rarely resulted in serious or fatal injuries.<sup>1</sup> Physical correction was a fundamental aspect of childhood that reinforced age and social hierarchies and taught children about the boundaries of legitimate corrective violence. While the use of violence against children was rarely contested, its extremity was. The boundaries of what constituted extreme violence were flexible and depended on who committed it and why. As Chapter Two has already established, it was much more common for lethal violence against children to be legally and socially defined as accidental. The violent and malicious abuse and killings of children however were not normal or tolerated practice in early modern society. Children were not only subjected to violence but also physically harmed other children and youths and, in rare instances, killed them. The patterns and descriptions of violence in child-perpetrated homicide cases are comparable with representations and practices that historians of crime and gender have identified in violent crimes between adults.<sup>2</sup> Just as most lethal and non-lethal violence was committed by men against men, boys were more likely to commit violence against other boys and, like men, boys engaged in fights that arose from verbal and physical affronts. However, boys' violence was usually imbued with different meanings as they were rarely understood to be culpable for their violence or old enough to participate in legitimate violence that followed a challenge to male honour. Girls were much less likely to commit violence and were only violent in extraordinary circumstances, such as when they killed their parents or grandparents or were bewitched.

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<sup>1</sup> Lawrence Stone, *The Family, Sex and Marriage in England 1500-1800* (London, 1977), pp. 433-39; Peter C. Hoffer and N. E. H. Hull, *Murdering Mothers: Infanticide in England and New England, 1558-1803* (New York, 1981).

<sup>2</sup> Walker, *Crime, Gender and Social Order*, pp. 121-30; Robert Shoemaker, 'Male Honour and the Decline of Public Violence in Eighteenth-Century London', *Social History* 26:2 (2001), pp. 190-208.

It is impossible to quantify or measure levels of violence against children accurately as moderate and extreme violent words and acts were positioned on a scale of violence in early modern England and Wales. Scholars rarely explicitly engage with the 'decline of violence' debate or homicide statistics to examine levels of early modern violence, but problematic modernisation assumptions about the violent, barbaric nature of early modern society continue to be adopted by historians of early modern and modern crime.<sup>3</sup> Moderate correction, which was the most common form of verbal and physical violence against children, was legitimate. It was only when violence resulted in abuse or death that it exceeded acceptable standards but, as historians have shown, this type of violence was unusual.<sup>4</sup> Although it was only the most serious cases of lethal or near fatal violence that were prosecuted and documented in legal records, these cases still reveal how non-lethal violence by and against children was interpreted in early modern society. As Garthine Walker has established, defendants in assault trials engaged with similar explanations of culpability and violence as those in homicide trials.<sup>5</sup> The portrayals and evaluation of violence in assault and homicide trials engaged with a masculine honour code in which physical violence was a suitable response to verbal or physical affronts.<sup>6</sup> Moreover, victims of male-male assaults claimed that their assailant had unfairly and unexpectedly attacked them without provocation, invoking ideas of wrongful, unequal violence that contributed to murder verdicts.<sup>7</sup> Notions of lethal and non-lethal violence were symbiotic and were situated on a continuum. While this chapter focuses on fatal, extreme types of violence, it also explores the boundaries of acceptable violence to demonstrate how and why homicides

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<sup>3</sup> For an example of the decline of violence debate see: Lawrence Stone, 'Interpersonal Violence in English Society 1300-1980', *Past and Present* 101 (1983), pp. 22-33; J. A. Sharpe, 'The History of Violence in England: Some Observations', *Past and Present* 108 (1985), pp. 206-215; J. S. Cockburn, 'Patterns of Violence in English Society: Homicide in Kent 1560-1985', *Past and Present* 130 (1991), pp. 70-106. For more recent studies engaging with modernisation assumptions, see: Pieter Spierenburg, *A History of Murder: Personal Violence in Europe from the Middle Ages to the Present* (Cambridge, 2008); Gregory Hanlon, 'The Decline of Violence in the West: From Cultural to Post-Cultural History', *English Historical Review* 128 (2013), pp. 367-400.

<sup>4</sup> Alys Levene, 'Honesty, sobriety and diligence': master-apprentice relations in eighteenth- and nineteenth-century England, *Social History* 33:2(2008), pp. 183-200.

<sup>5</sup> Walker, *Crime, Gender and Social Order*, pp. 37-9.

<sup>6</sup> Shoemaker, 'Male Honour and the Decline of Public Violence', p. 194; Elizabeth Foyster, *Manhood in Early Modern England: Honour, Sex and Marriage* (London, 1999), pp. 28-39.

<sup>7</sup> Walker, *Crime, Gender and Social Order*, pp. 113-21.

by and against children were legally, socially and culturally categorised within a broad understanding of violence.

As gender historians have argued, men had access to legitimate violence to correct others and defend their honour whereas women had few positive discourses to employ to explain their violence. Men could, and were often expected to, use violence to attain and reaffirm their masculine honour and to rebalance social order and familial hierarchies.<sup>8</sup> Masculine 'righteous' violence not only constituted a man's responsibility to uphold household order, but also a man's natural propensity to commit violence.<sup>9</sup> As Alexandra Shepard has contended, men's access to violence was unstable and, if interpreted as an excessive abuse of power, it could serve to damage both a man's masculinity and social order. Violence was 'both a tool for enforcing the patriarchal imperatives of household and social order and one of the primary means of undermining them, either by lending weight to counter-codes of manhood, or, more commonly, featuring in assertions of manhood claimed independently of a patriarchal agenda'.<sup>10</sup> Nonetheless, even when men's violence against other men, women and children exceeded societal expectations of an acceptable retaliation to an affront or, for example, a child's fault, men could engage with a discursive framework of masculine honour or their natural propensity to commit violence to explain their actions in court.<sup>11</sup> As previously discussed in Chapter Two, homicide law was created and developed upon standards of masculine violence. Women could use legitimate corrective violence against children and servants and, as Garthine Walker has shown, some women successfully claimed that they inflicted non-lethal violence to uphold gendered and social stability. However, there were few positive cultural discourses for women to adopt in homicide trials when they had to explain how and why their violence had been immoderate and resulted in death.<sup>12</sup> It is especially evident in filicide and infanticide trials and pamphlets that women's potential for bloody violence

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<sup>8</sup> Shoemaker, 'Male Honour and the Decline of Public Violence', pp. 198, 205.

<sup>9</sup> Krista Kesselring, 'Bodies of Evidence: Sex and Murder (or Gender and Homicide) in Early Modern England, c. 1500-1680', *Gender & History* 27:2 (2015), pp. 245-62.

<sup>10</sup> Shepard, *Meanings of Manhood*, p. 16; Elizabeth Foyster, *Marital Violence: An English Family History, 1660-1857* (Cambridge, 2005); Laura Gowing, *Common Bodies: Women, Touch and Power in Seventeenth-Century England* (New Haven, 2003); Foyster, *Manhood in Early Modern England*, pp. 28-54.

<sup>11</sup> Walker, *Crime, Gender and Social Order*, pp. 156-58.

<sup>12</sup> Walker, *Crime, Gender and Social Order*, pp. 86-88.



was condemned as comparable to women's actual bloody violence against their children.

Children's subordinate position in the household and wider society meant that they did not have the power to inflict violence legitimately against others. Susan Amussen has argued that concepts of punishment, discipline and justice underpinned understandings of lethal and non-lethal violence in early modern England.<sup>13</sup> Therefore, whether it was effective or not, violence was usually employed as a means for the perpetrator to gain or reaffirm their power. Children could not be reasonably violent to their parents, to whom they were naturally subordinate, or to their superior masters and mistresses, whom they were expected to obey.<sup>14</sup> It is for this reason, Anne-Marie Kilday has explained, that parricide cases were so rare in the early modern period. Kilday, who found only nine cases of parricide committed by adults in Scotland between 1700 and 1850, has argued that children rarely murdered their parents because religious beliefs about family and social hierarchies were fundamental to intrafamilial bonds and therefore made parricide a particularly heinous and unthinkable crime.<sup>15</sup> Scholars have been inclined to believe that children non-lethally assaulted their parents more regularly than the limited number of recorded cases would suggest. Raisa Maria Toivo has argued it is probable that parents, who would rather protect their children from legal prosecution, informally addressed and punished children's violence against them in the household.<sup>16</sup> This chapter further demonstrates that children were rarely recorded as being violent towards their parents. When children did kill their parents or grandparents they were held culpable for their violence which overturned

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<sup>13</sup> Susan Amussen, 'Punishment, Discipline, and Power: The Social Meanings of Violence in Early Modern England', *Journal of British Studies* 34:1 (1995), pp. 1-34.

<sup>14</sup> Paul Griffiths, *Youth and Authority: Formative Experiences in England, 1540-1640* (Oxford, 1996), pp. 290-325; Alan Stewart, 'Boys' Buttocks Revisited: James VI and the Myth of the Sovereign Schoolmaster', in Thomas Betteridge (ed.), *Sodomy in Early Modern Europe* (Manchester, 2002); Laurence Brockliss, 'Pupil Violence in the French Classroom 1600-1850', in Laurence Brockliss and Heather Montgomery (eds), *Childhood and Violence in Western Tradition* (Oxford, 2010), pp. 220-26; Jessica Warner and Robin Griller, "'My Pappa Is out, and My Mamma Is Asleep.'" Minors, Their Routine Activities, and Interpersonal Violence in an Early Modern Town, 1653-1781', *Journal of Social History* 36:3 (2003), pp. 561-84.

<sup>15</sup> Anne-Marie Kilday, "'Sugar and Spice and All Things Nice?" Violence against Parents in Scotland, 1700-1850', *Journal of Family History* 41:3 (2016), pp. 318-35.

<sup>16</sup> Warner and Griller, "'My Pappa is Out, and My Mamma is Asleep.'" pp. 561-584; Raisa Maria Toivo, 'Violence between Parents and Children: Courts of Law in Early Modern Finland', *The History of the Family* 18:3 (2013), pp. 331-48. Toivo, 'Violence between Parents and Children', pp. 341-43.

children's obligations of natural obedience and was presented as an unreasonable, often petty, response to legitimate parental discipline and power.

Prescriptive and medical literature also engaged with ancient and well-established depictions of children as naturally passive, morally pure and physically weak, suggesting that children were unlikely perpetrators of violence. Most domestic manuals argued that, despite the inheritance of original sin, children were 'untainted by the experience of the corrupt and wicked world' and were 'not capable of great vices'.<sup>17</sup> Children's bodies were presented as unsuitable to inflict violence or substantially harm others. Hannah Newton has established that under Galenic humoral theory, which 'underpinned all medical ideas about children', medical practitioners conceptualised children's bodies as 'soft' and 'tender' because they contained high levels of blood that created heat.<sup>18</sup> The notion that children's bodies were 'feeble' was not a new concept in the seventeenth century nor was it specific to England and Wales. In his 'Confessions' (397-400), St. Augustine suggested that children were harmless because they were physically too weak to hurt adults and would rise against their parents if they were not controlled.<sup>19</sup> In 1678, the poet Anne Bradstreet drew upon similar ideas of fragility to show that children were too feeble to inflict serious violence against other children or adults. In a poem about the life-cycle, she mimicked a child and declared that 'My strokes did cause no blood no wounds or skars'.<sup>20</sup> As childhood was a graduated process of development, early modern religious and medical discourses asserted that infants were especially tender and physically fragile compared with older children whose delicate bodies had strengthened and developed over time.<sup>21</sup>

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<sup>17</sup> John Locke, 'Some Thoughts Concerning Education', in Peter Gay (ed.), *John Locke on Education* (New York, 1964), p. 27 ; Bunyan, *Meditations*, p. 16; Alexandra Walsham, "'Out of the Mouths of Babes and Sucklings": Prophecy, Puritanism, and Childhood in Elizabethan Suffolk', in Diana Wood (ed.), *The Church and Childhood* (Oxford, 1994), p. 295; Hannah Newton, *The Sick Child in Early Modern England, 1580-1720* (Oxford, 2012), p. 19.

<sup>18</sup> Newton, *The Sick Child*, pp. 35, 31-62.

<sup>19</sup> Margaret Ezell, 'John Locke's Images of Childhood: Early Eighteenth Century Response to Some Thoughts Concerning Education', *Eighteenth-Century Studies* 17:2 (1983-83), pp. 152-53.

<sup>20</sup> Anne Bradstreet, *Several Poems Compiled With Great Variety of Wit and Learning, Full of Delight Wherein Especially is Contained a Compleat Discourse, and Description of the Four Elements, Constitutions, Ages of Man, Seasons of the Year, Together with an Exact Epitome of the Three by a Gentlewoman in New-England* (Boston, 1678), p. 47.

<sup>21</sup> Bunyan, *Meditations*, p. 13; Thomas Tryon, *A New Method of Educating Children, or, Rules and Directions for the Well Ordering and Governing them During their Younger Years Shewing that they are Capable* (London, 1695), pp. 44-5.

However, as Jessica Warner and Robin Griller have shown, there is evidence to establish that, in practice, children were more likely to be violent towards other children and that ‘when little people hit little people, they hit little people who looked very much like themselves’. In their analysis of violence in early modern Portsmouth, Warner and Griller established that twelve out of 114 assault cases involved violence between children that was generally segregated by gender and age.<sup>22</sup> Cases of homicides by and between children also demonstrate that violence was gendered and that interpersonal violence between children was usually inflicted by and against boys. In this chapter, I argue that ideas of gender and violence influenced how children negotiated their relationships with other children. Boys were more likely to commit violence and cause fatalities because, like youths, they began to test the boundaries of legitimate masculine violence to which they were regularly subjected and witnessed.<sup>23</sup> Some boys, who were under but close to the age of discretion (fourteen), were believed to be old enough to engage in male violence that resulted from affronts and to have exceeded the normal boundaries of such violence. In contrast, there is little evidence that girls were involved in fights with other children. This suggests that during childhood, and not just in youth, as many historians have indicated,<sup>24</sup> children internalised and perpetuated social and cultural norms about who might engage in violent acts and the rules by which it should be governed.

### ***Discipline***

Disciplinary violence was an important aspect of early modern childhood that taught children about age and social hierarchies and informed them of the meanings of legitimate corrective violence. It was a normal and permissible part of children’s everyday lives and, when used moderately and appropriately by adults, it was an acceptable tool for reproofing and instructing children.<sup>25</sup> Early work on the history of the family claimed that unreasonable disciplinary violence and abuse against children was normal in early modern society. Scholars like Lawrence Stone and Edward Shorter argued that brutal, excessive violence

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<sup>22</sup> Warner and Griller, “My Pappa is Out, and My Mamma is Asleep.”, pp. 575, 561-84.

<sup>23</sup> Foyster, *Manhood in Early Modern England*, pp. 39-40.

<sup>24</sup> Alexandra Shepard, ‘Student Violence in Early Modern Cambridge’, in Laurence Brockliss and Helen Montgomery (eds), *Childhood and Violence in the Western Tradition* (Oxford, 2010), pp. 233-241; Griffiths, *Youth and Authority*, pp. 290-325.

<sup>25</sup> Shepard, *Meanings of Manhood*, pp. 127-39.

was commonplace and indicated that early modern family relationships were cold and unloving.<sup>26</sup> There has been much work since to demonstrate that parent-child and master-servant relationships rarely involved extreme violence and were, in fact, typically loving and amicable.<sup>27</sup> In the exceptional homicide cases against children caused by correction, discourses of normal and acceptable disciplinary violence, such as provocation and moderation, informed perpetrators' defences to mitigate and explain their valid, but extreme, use of violence. By engaging with notions of standard violence parents, masters and mistresses and neighbours could claim that their violence had been a fair retaliation to an affront and that other material circumstances, like a child's illness, had caused a fatality rather than the violence they had inflicted on the child. Crime pamphlets did not present the same ambiguities that depositions and court trial records did. Instead they explored homicide cases that were brutally bloody to portray the destructive effects of unregulated masculine violence in the household without challenging household or social order. It is precisely because disciplinary violence was accepted in early modern society that only the most cruel and bloody murders resulting from inappropriate correction could be presented in this literature.

Authors of prescriptive literature, who provided parents and guardians with codes of conduct that advised them how to discipline their children, insisted that physical punishments should only be used as a last resort. Verbal reproofs, especially the first few times that a child misbehaved, could be just as effective and instructive to children as violent chastisements. William Gouge declared that physical correction was 'the *last remedy* which a parent can use: a remedy which *may doe good when nothing else can*' and, similarly, Daniel Cawdrey wrote that a central duty of parenthood was 'Correction; both in words of reproofe [...] and in stripes *if needful*'.<sup>28</sup> Gouge and Cawdrey urged parents and masters to employ reasoned judgement to decide if or when physical violence was necessary and appropriate. Verbal reproofs could also be combined with

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<sup>26</sup> Lawrence Stone, *The Family, Sex and Marriage in England, 1500-1800* (London, 1977), pp. 66-81, 105-114; Edward Shorter, *The Making of the Modern Family* (New York, 1977), pp. 169-74; Amussen, "Being Stirred to much Unquietness", pp. 70-89.

<sup>27</sup> For example, see: Bailey, 'Reassessing Parenting in Eighteenth-Century England', pp. 209-32; Elizabeth Foyster, *Marital Violence: An English Family History, 1660-1857* (Cambridge, 2005); Shepard, *Meanings of Manhood*, pp. 127-39; Levene, 'Honesty, Sobriety and Diligence', pp. 183-200.

<sup>28</sup> Daniel Cawdrey, *Family Reformation* (London, 1656), p. 74.

violence. Conduct book writers encouraged parents to explain to children the reason for chastisement so that they could better understand their fault and learn from the punishment. As the purpose of physical correction was to instruct rather than to tyrannise children, Gouge argued that it 'must be given in love' and 'in a milde moode'.<sup>29</sup> Parents and masters' brutal, immoderate violence was especially dangerous against children, especially infants, because they were believed to be tender and impressionable and likely to imitate the disorderly violence they experienced.<sup>30</sup> A parent's unjustified, excessive or passionate correction inflicted in rage, authors warned, might invoke a child's wrath, affect their character or direct them to rebel. Verbal and physical rebukes were therefore central to parenting and maintaining orderly master-servant relationships, as they ensured that children and servants understood and applied their duties and obligations to their superiors in a mutually beneficial way.

Other rules of conduct that were stipulated in prescriptive literature, especially those concerning tailored physical punishments that were appropriate to a child's fault, influenced legal definitions of what constituted immoderate correction. Household manuals dictated that violent correction was appropriate and 'reasonable' when it was proportionate to a child's age, size, nature, and transgression. Conduct book writers advised that punishments should be modified for each child and that reproofs and violence that suited one child might not be suitable for another child's discipline.<sup>31</sup> John Dod and Robert Cleaver stated that

Due respect must be had to the partie corrected: if he be young and tender, the lighter correction must be used. Solomon oft mentioneth a rod, as meetest for a childe; for that is the lightest correction. So if the childe be of a flexible and ingenuous disposition, soone sneapt, the correction must accordingly be

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<sup>29</sup> William Gouge, *Of Domesticall Duties* (London, 1622), p. 556

<sup>30</sup> Anon., *The Office of Christian Parents Shewing How Children Are to be Governed Throughout All Ages and Times of Their Life* (Cambridge, 1616).

<sup>31</sup> Gouge, *Of Domesticall Duties*, pp. 555-56; Cawdrey, *Family Reformation*, p. 88.

moderated. If he be well growne, and withall be stout [proud], and stubborne, the correction may be more severe.<sup>32</sup>

As this quote demonstrates, domestic handbooks portrayed children as individuals rather than a homogenous mass that could or should face identical punishments. William Gouge argued that especially 'good natured' children who had committed a fault that was out of character might only require verbal reproofs.<sup>33</sup> Similar notions of the perpetrator's intent when conducting correctional violence and a child's fault or provocation were applied in homicide law. William Blackstone wrote that if a parent or master

exceeds the bounds of moderation, either in the manner, the instrument, or the quantity of punishment, and death ensues, it is manslaughter at least, and in some cases (according to the circumstances) murder; for the act of immoderate correction is unlawful.<sup>34</sup>

It was up to witnesses, juries and judges to determine what the boundaries of moderation were and whether a parent or master who killed a child or servant had intentionally and cruelly inflicted unprovoked, disproportionate violence.

Defendants in homicide cases drew upon similar concepts of reasonable provocation for corrective violence against children that was outlined in prescriptive literature to mitigate their sentences to manslaughter and, in some cases, acquittal. Dod and Cleaver explained that, 'If parents do note and perceive any vice in their little ones, as swearing, lying, choler, envie, filching, covetousness, contempt of parents, readinesse to strike, and other like corruptions' then they should subdue it with verbal and physical reproofs. It was a parent's 'duty, diligently, and in time to reprove and correct them, as men use to pluck up weeds while they be yet yong, lest growing up among the good seeds, they should hinder their growth, and choke them up'.<sup>35</sup> As evidence from depositions and trial summaries establishes, defendants claimed that they had disciplined the children they killed because the child's behaviour was so

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<sup>32</sup> John Dod and Robert Cleaver, *A Godlie Forme of Householde Government for the Ordering of Private Families, According to the Direction of Gods Word* (London, 1598), pp. 556-57.

<sup>33</sup> Gouge, *Of Domesticall Duties*, p. 551.

<sup>34</sup> William Blackstone, *Commentaries on the Laws of England: Volume IV Of Public Wrongs* (London 1769), p. 182.

<sup>35</sup> Dod and Cleaver, *A Godly Forme of Household Government*, pp. 252-53.

disorderly that they were compelled to reprove them. They accused children of deliberately causing harm to others, engaging in illegal activity, verbally or physically affronting a superior, and adopting poor, sinful conduct such as swearing or retaliating to previous corrections.<sup>36</sup> Ann Hollis, who was indicted for whipping her fourteen-year-old apprentice Elizabeth Preswick to death, stated ‘that she only Whipp’d her for several Faults, as Lying, and Slurishness, and the like, and she gave her but moderate Correction’.<sup>37</sup> Hollis placed significant liability on Preswick for her poor conduct and contravention of basic expectations of an apprentice to willingly and honestly assist and learn from her mistress in a civil manner.<sup>38</sup> She established that Preswick deserved to be punished for her misdeeds. As there was medical evidence to prove that her violence had not caused Preswick’s death, Hollis was acquitted.<sup>39</sup>

Minor provocation was never a legitimate reason for a master or mistress to inflict cruel or sustained violence against a servant, especially if it resulted in their death. Seamstress Elizabeth Wigenton and her lodger, John Sadler, were both prosecuted for the murder of Wigenton’s thirteen-year-old apprentice in 1681 because they killed her for not completing her work ‘so well as [Wigenton] required’. They tied the girl up and relentlessly whipped her for hours after which the girl died three days later. This attack was not only disproportionate and unreasonable, it was an incredibly ‘cruel’ and ‘unmerciful’ response to a young apprentice who was learning how to become a seamstress and probably did not yet have sufficient dressmaking skills.<sup>40</sup> In an attempt to mitigate his culpability, Sadler claimed that Wigenton had lied about the reason for the girl’s punishment and that, to his knowledge, the initial reason for the correction was legitimate. The *Old Bailey Sessions Papers* report stated that Wigenton had tricked Sadler into believing that her apprentice had ‘wronged her of some trivial Summ of Moneys, and being her Apprentice, with whom not long before she

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<sup>36</sup> TNA, ASSI 45/18/7/1-4; TNA, ASSI 45/16/2/43-45; OBSP, May 1686, Ann Hollis, t16860520-2; OBSP, Dec 1691, John Alsop, t16911209-10; OBSP, July 1720, Frances Coats, t17200712-1.

<sup>37</sup> OBSP, May 1686, Ann Hollis, t16860520-2.

<sup>38</sup> Ilana Krausman Ben-Amos, *Adolescence and Youth in Early Modern England* (New Haven and London, 1994), pp. 69-83, 109-32; Richard Lucas, *The Duty of Servants Containing First, their Preparation for, and Choice of a Service, Secondly, their Duty in Service* (London, 1685).

<sup>39</sup> OBSP, May 1686, Ann Hollis, t16860520-2.

<sup>40</sup> OBSP, Jan 1681, Elizabeth Wigenton, t16810117-1; OBSP, Feb 1681, John Sadler, t16810228-2.

had 5 pounds'.<sup>41</sup> Ultimately this was an unsuccessful defence because, even if the girl had stolen money from her mistress, Sadler and Wigenton's persistent beating in which 'the blood ran down like rain' was still not an appropriate response to stealing.<sup>42</sup> A broadside from 1620(?) entitled *The Cryes of the Dead* also demonstrates the trivial excuses a master made to brutally murder his kind and dutiful apprentices. Richard Price, a 'graceles man' whose 'minde [was] bent to blood', beat his servant 'Onely because that hee / could not worke in the cold / Nor performe such a taske / as he by custome should'. As William Gouge advised, masters were expected to make sure that their servants could do the work that they required before accepting them and to accommodate their servants if they were sickly or unable to perform certain tasks.<sup>43</sup> Price's bloody treatment of his apprentice was barbaric and illegitimate in relation to the boy's fault. He whipped the boy 'from top to toe, / With a coard full of knotts' so severely that the boy, who languished for days, died. His neighbours examined his 'poore mangled corpes' which was 'bruzed and beaten sore, / with many a deadly wound'.<sup>44</sup> The portrayal of the boy's body, whose brains had 'broken forth', neck was in pieces, and abdomen was 'spurned in peeces', further established that Price's violence had exceeded the boundaries of correction and had become murderous abuse.

Crime pamphlets and broadsides also explored extreme, unprovoked correction to demonstrate the dangers of unchecked abusive masculine violence. *Strange and Lamentable News from Dullig-Wells*, a pamphlet from 1678 about a man who beat his twelve-year-old son to death, warned that when a man 'abandons the Conduct of Reason, and is destitute of Grace' he 'is more savage and brutish than the wildest Beasts that ho[w]l in the Wi[l]derness of Africk'.<sup>45</sup> The pamphlet established that unless male violence was governed by reason and regulated by codes of conduct, it undermined manhood and social order.<sup>46</sup> The father 'was naturally of a cruel dogged Temper', but this was not

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<sup>41</sup> *OBSP*, Jan 1681, Elizabeth Wigenton, t16810117-1; *OBSP*, Feb 1681, John Sadler, t16810228-2.

<sup>42</sup> *OBSP*, Jan 1681, Elizabeth Wigenton, t16810117-1; *OBSP*, Feb 1681, John Sadler, t16810228-2.

<sup>43</sup> Gouge, *Of Domesticall Duties*, pp. 648-83.

<sup>44</sup> Anon., *The Cryes of the Dead* (London, 1620?).

<sup>45</sup> Anon., *Strange and Lamentable News from Dullig-Wells, or, The Cruel and Barbarous Father a True Relation* (London, 1678), p. 2.

<sup>46</sup> Shepard, *Meanings of Manhood*, pp. 127-51; Foyster, *Manhood in Early Modern England*, pp. 125-30, 177-80.



presented as an excuse for his violence. He had sent his son on an errand and when he did not return he 'got up in a rage' to find him. When he found the boy, he beat him with a stick and stamped on him 'so cruelly and excessively that within an hour or two after it dyed'.<sup>47</sup> Men were thought to be naturally inclined to anger but, as Elizabeth Foyster has shown, they were expected to practice reason to suppress extreme violence associated with rage.<sup>48</sup> While passionate rages and 'hot-headedness' were excessive behaviours that arose from men's natural dispositions, such ruthless violence towards innocent children was inexcusable and only served to undermine patriarchal power.<sup>49</sup> The pamphlet also indicated that the father's extreme violence had remained unchallenged for a long time as he was 'always immoderately severe to this Child'. When the boy's mother heard that her child had been beaten to death she immediately blamed her husband. She 'cried out to her Husband, *What have you done, have you killed my childe?* To which he onely answered in a sullen manner, *I have given him sleep enough*'.<sup>50</sup> While the boy's mother knew that her son was routinely abused by her husband, the pamphlet did not suggest that she was to blame for her son's death. Men were expected to employ reason to regulate their own violence and, as the pamphlet showed, such violent, unequal abuse of children would likely end in their murder.

Prescriptive literature about discipline treated children as individuals who required punishments that were tailor-made and specific to their age, gender, nature, and fault. However, the ways in which most parents and masters disciplined their children and servants on an everyday basis, and the moderate individual punishments they inflicted, are rarely discussed in the historiographies of crime, violence, and disciplinary violence. As the example of Ann Hollis demonstrates, homicide cases that resulted from disciplinary violence can reveal an aspect of childhood that is rarely represented in crime narratives or prescriptive literature. Hollis contended that Preswick had lied, stolen from her and had deserved the moderate correction that she had administered. This case also shows that in a homicide trial this type of defence could be successful when it corroborated evidence of reasonable correction on

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<sup>47</sup> Anon., *Strange and Lamentable News*, pp. 5-6.

<sup>48</sup> Foyster, "Boys will be Boys?", pp. 151-66; Kesselring, 'Bodies of Evidence', pp. 253-54.

<sup>49</sup> Shepard, *Meanings of Manhood*, pp. 127-39.

<sup>50</sup> Anon., *Strange and Lamentable News*, p. 6.

a victim's corpse.<sup>51</sup> In contrast, crime literature focused on the most extreme cases of correction that was unprovoked and involved sustained lethal violence against an innocent child to establish that the child's killer was fully culpable for their murder.

### ***Infanticide***

Violence – its use and, more commonly, its absence – was a central issue in neonatal infanticide cases and popular crime narratives about parents who murdered their new-born infants. The 1624 Concealment Act condemned unmarried women who secretly buried or otherwise concealed the deaths of their new-born infants and, if discovered, had asserted that the child was stillborn to avoid prosecution.<sup>52</sup> The Act addressed legal concerns that evidence of murder could appear similar to that of a stillbirth by stating that, unless an accused woman could provide at least one witness to testify that her infant was born dead, she would face execution.<sup>53</sup> The presence of bloody violence on an infant's corpse was not a precondition for a guilty verdict under the Concealment Act, but it provided judges and juries with substantial evidence that a woman had murdered her child and had therefore secretly concealed its death and corpse to hide her guilt. Many historians have argued that the Statute and its application were harsh because few infanticide cases involved violence and that women were therefore unfairly executed for only concealing their infant's death, which they may have brought about accidentally when giving birth alone and unaided, or deliberately from fear of poverty. However, in practice, proofs of murder such as premeditation, malice and unfair advantage, as well as bloody violence, were applied in infanticide cases throughout England and Wales from the end of the seventeenth century.<sup>54</sup> The conflation between murder and infanticide in cases is evident in descriptions of infanticide in the *Old Bailey Sessions Papers*. According to a trial report from 1674, two women who concealed the deaths of their infants were 'Guilty of the like Horrid sin of Murther'.<sup>55</sup> Other women accused of infanticide were described as

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<sup>51</sup> See discussion in Chapter One.

<sup>52</sup> 21 Jac. I c. 27, 'An Act to Prevent the Destroying and Murthing of Bastard Children' (1624).

<sup>53</sup> Walker, *Crime, Gender and Social Order*, pp. 148-51.

<sup>54</sup> Walker, *Crime, Gender and Social Order*, p. 151-55; Mary Clayton, 'Changes in Old Bailey Trials for the Murder of Newborn Babies, 1674-1803', *Continuity and Change* 24:2 (2009), pp. 337-59.

<sup>55</sup> *OBSP*, 9 Sept 1674, t16740909-2.

'indicted for the Murther of her Male Bastard Infant', and one woman, who privately delivered her new-born infant and claimed that it fell on the floor during labour was condemned as 'a wilful Murtheress'.<sup>56</sup> Few women were convicted on grounds of concealment alone without evidence of violence on a child's corpse or intent to kill. Discourses of violence and force were also included in trial reports of non-violent infanticides that resulted in a guilty verdict to suggest that women's potential for secret and undetected violence was as much of a threat as their actual violence.

The common historiographical assumption that unmarried women felt compelled to kill their new-born infants to avoid the shame, financial hardship and social isolation associated with bearing an illegitimate child has been interrogated and revised by historians of crime.<sup>57</sup> Demographic studies by Peter Laslett and Richard Adair have shown that illegitimacy was a common occurrence that increased during the eighteenth century. They have established that approximately 1.7 percent of all children were born outside of wedlock rising to approximately 3 percent of births by 1750.<sup>58</sup> There is little doubt that women, especially poor women, faced challenges, financial hardship, and possible dishonour in bearing an illegitimate child, but the effects and fears related to sex outside of marriage have been overstated by historians of infanticide. As Walker has contended, 'women's options, though narrow, were less restricted in practice than the common characterisation of infanticidal mothers suggests'.<sup>59</sup> Although young, poor women who bore illegitimate children were more likely to face physical punishments, such as whipping, than men, they successfully engaged with discourses of honour and credit in criminal proceedings to establish that they were not necessarily the party – or only party

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<sup>56</sup> *OBSP*, 25 April 1677, t16770425-3; *OBSP*, 21 May 1729, Martha Rickets, t17290521-43.

<sup>57</sup> This assumption runs deep throughout the historiography. For examples, see: R. W. Malcolmson, 'Infanticide in the Eighteenth Century', in J. S. Cockburn (ed.), *Crime in England, 1550–1800* (Princeton, 1977), pp. 187–209; J. M. Beattie, *Crime and the Courts in England, 1660–1800* (Princeton, 1986), pp. 113–24; P.C. Hoffer and N.E. Hull, *Murdering Mothers: Infanticide in England and New England 1558–1803* (New York, 1981); J. A. Sharpe, *Crime in Seventeenth-Century England: A County Study* (Cambridge, 1983); Keith Wrightson, 'Infanticide in European History', *Criminal Justice History* 3 (1982), pp. 1–20; Laura Gowing, 'Secret Births and Infanticide in Seventeenth-Century England', *Past & Present* 156 (1997), pp. 87–115.

<sup>58</sup> Peter Laslett, *Family Life and Illicit Love in Earlier Generations: Essays in Historical Sociology* (Cambridge, 1977); Peter Laslett, Karla Oosterveen and Richard M. Smith (eds), *Bastardy and its Comparative History* (London, 1980); Richard Adair, *Courtship, Illegitimacy and Marriage in Early Modern England* (Manchester, 1996).

<sup>59</sup> Walker, *Crime, Gender and Social Order*, p. 150.

– to blame for the birth of an illegitimate child.<sup>60</sup> Historians of Welsh crime have also argued that strict social and cultural attitudes towards illegitimacy were not an essential precondition for a woman to commit neonatal infanticide. Sharon Howard has shown that women’s explanations of their motives, fears of poverty and shame in Welsh infanticide cases were analogous to English women’s defences, even though sex outside of marriage and rates of illegitimacy tended to be higher in Wales than in England.<sup>61</sup> Angela Muir has also argued that ‘patterns of illegitimacy across Wales were governed by a combination of cultural and economic factors surprisingly similar to those found in eighteenth-century London’ as most births out of wedlock occurred due to failed courtship.<sup>62</sup> Moreover, Martin Ingram’s study of church courts and attitudes towards sex and marriage suggests that English authorities and communities were more tolerant of women who gave birth to illegitimate children than historians of infanticide have implied. Ingram has argued that authorities’ efforts to police sexual behaviour and illegitimate pregnancies in England were inconsistent, often very complex and did not necessarily reflect ordinary people’s customs or attitudes towards fornication outside of marriage.<sup>63</sup> Despite possible punishments and women’s fears of poverty and isolation, very few women resorted to killing their new-born infants.<sup>64</sup> Infanticide was certainly not the only, nor even a typical, decision made by unmarried women who gave birth out of wedlock in early modern England and Wales.

The presence of bloody violence, especially wounds inflicted by weapons, on an infant’s corpse increased the likelihood of a guilty verdict as it showed conclusive evidence that a woman had deliberately concealed the

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<sup>60</sup> Walker, *Crime, Gender and Social Order*, pp. 227-37.

<sup>61</sup> Sharon Howard, *Law and Disorder in Early Modern Wales: Crime and Authority in the Denbighshire Courts, c. 1660-1730* (Cardiff, 2008), p. 85; N. Woodward, ‘Infanticide in Wales, 1730-1830’, *Welsh History Review* 23:3 (2007), pp. 94-125.

<sup>62</sup> Angela Muir, ‘Courtship, Sex and Poverty: Illegitimacy in Eighteenth-Century Wales’, *Social History* 43:1 (2018), pp. 56-80; See also: Anna Brueton, ‘Illegitimacy in South Wales, 1660-1870’, DPhil, University of Leicester (2015).

<sup>63</sup> Martin Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge, 1990), pp. 219-37; Martin Ingram, *Carnal Knowledge: Regulating Sex in England, 1470-1600* (Cambridge, 2017), pp. 390-426; Sandra Clark, *Women and Crime in the Street Literature of Early Modern England* (Basingstoke, 2003), p. 44.

<sup>64</sup> Garthine Walker, ‘Child-Killing and Emotion in Early Modern England and Wales’, in Katie Barclay, Kimberley Reynolds and Ciara Rawnsley (eds), *Death, Emotion and Childhood in Premodern Europe* (London, 2017), p. 154

murder of her infant.<sup>65</sup> Evidence of deliberate violence was incredibly rare in infanticide cases: only fifteen out of 116 cases from the *Old Bailey Sessions Papers* between 1674 and 1730 involved serious violence such as stabbing, cut throats, broken jaws and necks, and strangulation.<sup>66</sup> Ten out of these fifteen trials resulted in guilty verdicts.<sup>67</sup> For instance, Anne Stephens was found guilty in January 1691 when her infant was found in a toilet, ‘the Child’s Jawbone was broke, and the Face of it was cut with a Pair of scissers, on the corner of the Mouth 2 Inches Deep and one in length’.<sup>68</sup> In February 1724, Mary Morgan was convicted of stabbing her infant twice and then burying it in the garden to conceal the murder.<sup>69</sup> Bloody violence not only demonstrated a woman’s deliberate effort to conceal the death of her infant because she had murdered the child, but also contravened social expectations that mothers should love, protect and care for their helpless new-born infants.<sup>70</sup> A trial report from 1673 vilified neonatal infanticide by summarising legal and cultural attitudes to violence against vulnerable infants. It wrote that it ‘is very strange, but to lay violent hands on our own Off-spring, and cause the death of a helpless innocent that from us derived its life cannot but be monstrous and abominable’.<sup>71</sup> Both Stephens and Morgan were indicted and prosecuted for murder, and while crucial factors concerning concealment of death such as private delivery are mentioned in both accounts, proof of extreme, shocking violence on their

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<sup>65</sup> Jackson, *New-born Child Murder*, pp. 84-103; Clayton, ‘Changes in Old Bailey Trials’, pp. 339-42; Walker, *Crime, Gender and Social Order*, pp. 152-53; Marilyn Francus, ‘Monstrous Mothers, Monstrous Societies: Infanticide and the Rule of Law in Restoration and Eighteenth-Century England’, *Eighteenth-Century Life* 21:2 (1997), pp. 133-56; Marilyn Francus, *Monstrous Motherhood: Eighteenth-Century Culture and the Ideology of Domesticity* (Baltimore, 2012).

<sup>66</sup> *OBSP*, 17 Jan 1677, t16770117-2; *OBSP*, 26 Feb 1679, t16790226-1; *OBSP*, 17 Jan 1683, Elizabeth Neal, t16830117-2; *OBSP*, 16 Jan 1685, Jane Langworth, t16850116-5; *OBSP*, 16 Jan 1685, Elizabeth Stoaks, t16850116-6; *OBSP*, 15 Jan 1691, Anne Stephens, t16910115-15; *OBSP*, 9 December 1691, B- G-, Anne Richardson, Jane Bromley, t16911209-3; *OBSP*, 11 July 1694, Mary Maye, t16940711-23; *OBSP*, 13 Oct 1708, Aggitha Ashbrook, t17081013-20; *OBSP*, 6 Sept 1710, Mary Forest, t17100906-10; *OBSP*, 9 July 1718, Jane Plintoff, t17180709-5; *OBSP*, 30 August 1721, Pleasant Roberts, t17210830-17; *OBSP*, 16 Jan 1723, Mary Radford, t17230116-38; *OBSP*, 26 Feb 1724, Mary Morgan, t17240226-72; *OBSP*, 17 January 1728, Sarah Dickenson, t17280117-43.

<sup>67</sup> *OBSP*, 17 Jan 1677, t16770117-2; *OBSP*, 26 Feb 1679, t16790226-1; *OBSP*, 17 Jan 1683, Elizabeth Neal, t16830117-2; *OBSP*, 16 Jan 1685, Jane Langworth, t16850116-5; *OBSP*, 16 Jan 1685, Elizabeth Stoaks, t16850116-6; *OBSP*, 15 Jan 1691, Anne Stephens, t16910115-15; *OBSP*, 13 Oct 1708, Aggitha Ashbrook, t17081013-20; *OBSP*, 6 Sept 1710, Mary Forest, t17100906-10; *OBSP*, 16 Jan 1723, Mary Radford, t17230116-38; *OBSP*, 26 Feb 1724, Mary Morgan, t17240226-72.

<sup>68</sup> *OBSP*, 15 Jan 1691, Anne Stephens, t16910115-15.

<sup>69</sup> *OBSP*, 26 Feb 1724, Mary Morgan, t17240226-72.

<sup>70</sup> Francus, *Monstrous Motherhood*, pp. 99-122.

<sup>71</sup> *OBSP*, 5 Sept 1673, p. 6; Francus, ‘Monstrous Mothers, Monstrous Societies’, p. 136; See also *The Last Speech and Confession of Jannet Riddle*.

infants' corpses is presented as the most important evidence that led to conviction. The *Old Bailey Sessions Papers* rarely referenced the Concealment Act when a woman was convicted of a violent infanticide and instead interpreted it as a murder.<sup>72</sup>

Women's potential for violence was presented as just as dangerous and cruel as their actual bloody violence in infanticide crime pamphlets and trials. Crime literature about infanticide described women who smothered their children as committing bloody violence against them. For instance, *The Bloudy Mother*, a pamphlet from 1610 and therefore before the Concealment Act, characterised Jane Hattersley, who smothered her new-born infant to hide her adulterous relationship with her master Adam Adamson, as a violent murderer. Despite the absence of violence, the author of the pamphlet described the murders as a 'bloody and heauey subject' and Hattersley as a 'bloudy' murderer.<sup>73</sup> Four years later, vivid descriptions of blood and violence also featured in the pamphlet *Deeds Against Nature*, in which Martha Scambler, 'a laciuous young damsell', threw her new-born infant into 'a lo[a]thsome privy house'.<sup>74</sup> It declared that 'the perwasions of the Divill, put her in mind violently' to murder the infant. The pamphlet also contained a poem that was written from Scambler's point of view, stating 'I wist it smothered up in blood'.<sup>75</sup> By equating non-violent means of infanticide with violence and blood, these pamphlets further emphasised that these women had transgressed expectations of femininity and motherhood. They demonstrated that women could cruelly and wrongly exert unprovoked and unjust power over innocent infants and indicated that women did not have to use violence to secretly dispose of their unwanted new-born infants.<sup>76</sup> Similarly, reports from the *Old Bailey Sessions Papers* engaged with discourses of violence in many non-violent infanticide cases that resulted in a guilty verdict. The effect of discourses of violence in these

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<sup>72</sup> There is, however, one exception to this statement: *OBSP*, 16 Jan 1723, Mary Radford, t17230116-38.

<sup>73</sup> T. B., *The Bloudy Mother, or the Most Inhumane Murthers, Committed by Jane Hattersley upon Divers Infants, the Issue of her Owne Bodie & the Private Burying of them in an Orchard with her Araignment and Execution* (London, 1610); Randall Martin, *Women, Murder, and Equity in Early Modern England* (London, 2008), pp. 158-60.

<sup>74</sup> Anon., *Deeds against Nature, and Monsters by Kinde Tried at the Goale Deliverie of Newgate, at the Sessions in the Old Bayly* (London, 1614).

<sup>75</sup> Anon., *Deeds against Nature*; Martin, *Women, Murder and Equity*, pp. 160-64.

<sup>76</sup> Frances E. Dolan, *Dangerous Familiars: Representations of Domestic Crime in England, 1550-1700* (Ithaca and London, 1994), p. 140; Walker, *Crime, Gender and Social Order*, p. 156.

accounts was to establish that a woman had intended to murder her child. The most common type of violence referred to women who 'threw' their infants into water or privy houses: in 1676, a woman 'threw [her new-born infant] into a Pond, in regard the Ground was so hard that she could not digg a hole to bury it in'; Ann Trabern was 'delivered of a Child which she had cast in the Bog-house' in 1687; and, in 1689, Elizabeth Moulton claimed that she 'threw' her new-born infant 'into a house of office in St. James's Market'.<sup>77</sup> By being represented as throwing their new-born infants with such disregard and into unpleasant places filled with excrement, the women not only showed that they had intended to murder the child but also that they had little care for how their infants suffered before they died.<sup>78</sup>

In contrast to women who violently murdered their new-born infants who were portrayed as dangerous women who brazenly rejected normative ideas of motherhood, women indicted for passive, non-violent infanticides effectively engaged with discourses of provision, care and maternity to show their intention to keep and care for their infant.<sup>79</sup> Just as positive evidence of violence increased the likelihood of a guilty verdict, its absence often led to the defendant's acquittal. As judges and juries frequently applied normal standards of proof of murder, women who presented evidence of childbed linen and preparation for their child's birth demonstrated that the child's death was not an intentional or a premeditated killing.<sup>80</sup> The so-called 'childbed linen defence' was first mentioned in the *Old Bailey Sessions Papers* at the end of the seventeenth century and was regularly used as a defence throughout the eighteenth century.<sup>81</sup> For example, Ann Halden, who 'had made provision', was acquitted in 1698 after 'no Marks of Violence [were] found upon the Child' that had died; a report of Francis Bolanson's 1718 trial stated that Bolanson had a stillbirth during an illness 'and also that she had made Provision for the Child'; and, in a long and detailed account of the trial of Elizabeth Smith from 1730, a

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<sup>77</sup> *OBSP*, April 1676, t16760405-8; *OBSP*, April 1687, Ann Trabern, t16870406-37; *OBSP*, July 1689, Elizabeth Moulton, t16890703-19.

<sup>78</sup> See: Garthine Walker, 'Just Stories: Telling Tales of Infant Death in Early Modern England', in Margaret Mikesell and Adele Seefe (eds), *Attending to Early Modern Women: Culture and Change* (London, 2003), pp. 98-115.

<sup>79</sup> Clayton, 'Changes in Old Bailey Trials', pp. 341, 344, 352.

<sup>80</sup> Walker, *Crime, Gender and Social Order*, p. 153.

<sup>81</sup> The first mention of 'good Privison' made for an infant is: *OBSP*, 11 Dec 1689, Mary Campion, t16891211-26.

witness explained that 'She found one Child's Cap in [Smith's] Box, and had heard that there was more in another Place'.<sup>82</sup> Evidence of provision was usually only mentioned in the *Old Bailey Sessions Papers* alongside other mitigating factors such as the absence of violence, witnesses to a woman's good character, and a convincing account of a sudden or unexpected delivery, which put the mother's culpability into question and indicated that a woman had not intended to conceal the child's birth and, by extension, its death.<sup>83</sup> However, the 'childbed linen defence' was not effective if a defendant could not provide corroborating evidence to prove she had not deliberately concealed her infant's death. For instance, the absence of violence on her new-born infant's corpse and evidence of provision did not help to exonerate Mary Baker. She had been found in her mistress's kitchen with her dead infant. 'The Prisoner said for her self, that the Child was dead born, and that she made provision of Clouts, &c. but she could prove nothing' so she was convicted of concealing the death of her new-born infant and was executed in 1693.<sup>84</sup> As most infanticides in early modern England and Wales were non-violent this was a common defence that women used to call into question their intent to kill their new-born infant.

While cases from the *Old Bailey Sessions Papers* show that only women indicted for hiding the death of a child that had not involved violence could draw on discourses of care and provision, in popular crime pamphlets similar discourses were attributed to married women who violently murdered their children. Popular crime literature suggested that violent child murder and maternal love were not necessarily mutually exclusive. *Blood for Blood*, a pamphlet from 1670, described a suicidal mother who was motivated to murder her infant daughter out of a perverted kind of love and a desire to protect her.<sup>85</sup> Mary Cook, who had suffered with melancholy and periods of madness in which she appeared like a 'distracted woman', had been prevented from committing suicide by her husband, family and neighbours on many occasions. While in one of her melancholy moods

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<sup>82</sup> *OBSP*, 14 Jan 1698, Ann Halden, t16980114-12; *OBSP*, 15 Oct 1718, Francis Bolanson, t17181015-16; *OBSP*, 28 Aug 1730, Elizabeth Smith, t17300828-28.

<sup>83</sup> Clayton, 'Changes in Old Bailey Trials', pp. 337–59.

<sup>84</sup> *OBSP*, 12 Oct 1693, Mary Baker, t16931012-32.

<sup>85</sup> See also: Anon., *Natures Cruell Step-Dames: or, Matchlesse Monsters of the Female Sex; Elizabeth Barnes, and Anne Willis Who were Executed the 26. Day of April, 1637 at Tyburne, for the Unnaturall Murthering of their Owne Children* (London, 1637).



the Devil puts her upon a fresh consultation what should become of that child, which she so dearly loved, after she was dead; upon this she concludes, she had better rid that of life first, and then all her fears and cares for it would be at an end, and so she should put an end unto her own miserable life, which was so burdensome unto her.<sup>86</sup>

The Devil preyed on Cook's melancholic disposition and bond with her two-year-old infant, Betty, and persuaded her to destroy the only affectionate and positive relationship in her life. As authors N. Partridge and J. Sharp clarified, Cook's depraved yet protective motive did not exonerate her for the monstrous, cruel and unmotherly violence she inflicted against her daughter. She lay 'aside all Motherly Bowels, took the Babe out of the cradle' and 'cut her throat at one stroke, in a gastly manner to behold, then threw it from her upon the hearth'.<sup>87</sup> As Marilyn Francus has argued, domestic manuals assumed that as soon as women gave birth to a child they were naturally emotionally and psychologically ready for motherhood. 'Consequently, the inability to complete the maternal parenting narrative "naturally" led to mental instability, if not madness' that we might now associate with postnatal depression.<sup>88</sup> Cook's desire to kill herself and the infant that she loved showed that, despite early modern discourses that described motherhood as natural, it could be an incredibly difficult experience that could lead to the destruction of the family.<sup>89</sup>

Infanticide was not a common occurrence in early modern England and Wales – on average three women were indicted for infanticide a year in London between 1674 and 1699.<sup>90</sup> The Concealment Act was inconsistently applied in infanticide trials in London and, in practice, standard proofs of murder were regularly employed throughout the seventeenth and eighteenth centuries. Women who inflicted extreme bloody violence against new-born infants and those whose actions were interpreted as deliberate and violent despite no marks of violence on the infant's corpse, were more likely to be convicted of

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<sup>86</sup> N. Partridge and J. Sharp, *Blood for Blood, or, Justice Executed for Innocent Blood-Shed being a True Narrative of that Late Horrid Murder Committed by Mary Cook upon her Own and Only Beloved Child* (London, 1670), p. 15.

<sup>87</sup> Anon., *Blood for Blood*, p. 15; Clark, *Women and Crime in the Street Literature*, p. 65.

<sup>88</sup> Francus, *Monstrous Motherhood*, p. 79.

<sup>89</sup> Francus, *Monstrous Motherhood*, pp. 109, 105-9.

<sup>90</sup> I have calculated this from the *Old Bailey Sessions Papers* database [<https://www.oldbaileyonline.org/>].

infanticide than women indicted for passive infanticides who provided evidence of provision and intent to keep and care for their infant. However, violent child murder and maternal love were not necessarily mutually exclusive as popular crime narratives demonstrated the turmoil and trauma that new mothers might have faced when trying to care for their own needs and to protect their infant.

### ***Parricide***

The murder of a parent or a grandparent was so heinous in early modern England and Wales that even children, who were represented as petty, immature and ignorant, were not exonerated for their violence. Parricidal children were described in similar ways to adult children who were commonly described as selfishly killing 'a parent who stood between him or her and something they desired' without compassion.<sup>91</sup> The *London Journal* reported a particularly violent parricide from Genoa, Italy in 1723 that followed this model. The newspaper stated that when a physician hit his thirteen- or fourteen-year-old son because he had made unreasonable demands for pocket money, the boy fell into a passion and murdered him.<sup>92</sup> The short narrative characterised the boy's impulsive violence in a similar way to cases of parricidal adults who murdered their parents for their inheritance. Not only was he motivated by greed for money that he wrongly believed he deserved, but also attacked his father without reasonable provocation. As the newspaper suggested, the boy's father was simply performing his duty as a father by correcting his son for his insolent demands. It stated that 'it can't be expected so notorious a Parricide should go unpunish'd even in a Child'.<sup>93</sup> Although the newspaper categorised the boy as a child, the unthinkable and unnatural violence he inflicted against his father was far removed from any notions of childhood innocence or passivity. While children were legally responsible for murdering their parents and grandparents, sometimes newspapers judged that children had diminished responsibility for their actions. For instance, in July 1722, *The London Journal* reported that the case of a thirteen-year-old girl from Worcester who had, with the help of an old woman, murdered her grandfather with arsenic 'is much pitied, but the old Woman is like to die unlamented'. The newspaper claimed that the

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<sup>91</sup> Garthine Walker, 'Imagining the Unimaginable: Parricide in Early Modern England and Wales, c. 1600-c. 1760', *Journal of Family History* 41:3 (2016), p. 276.

<sup>92</sup> *London Journal*, 26 October 1723.

<sup>93</sup> *London Journal*, 26 October 1723.

impressionable girl was persuaded to murder her grandfather at the 'instigation of an old Woman, who afterwards robbed his House'.<sup>94</sup> Although both received the death sentence and were legally culpable for the murder, the newspaper implied that the girl was weak-willed and ignorant, and therefore only partially culpable for the murder of which the old woman was the principal architect. While the original source of the idea that the girl was led astray is not clear in the newspaper account which was informed by a letter, it does demonstrate an awareness that early modern people might not agree with legal verdicts.<sup>95</sup>

The different methods girls and boys employed to murder their parents and grandparents reinforced early modern legal and cultural stereotypes of 'natural' types of male and female violence and their different homicidal behaviours. Girls who murdered their parents and grandparents used poison as their preferred method of killing, an intentionally secretive and cowardly means of killing that hid the perpetrator's violent intent and wrongdoing.<sup>96</sup> Portrayals of girls who poisoned their parents and grandparents propagated an assumption that girls were not naturally inclined to commit bloody violence and lacked the physical strength. They could only murder when their victim was oblivious and unable to counter it.<sup>97</sup> As poisoning was a deceptive crime, popular crime narratives such as *Horrid News from St. Martins* (1677) related it to ideas of disguise and false character. The pamphlet described a girl who had poisoned her mother and her maid when she was only thirteen. The author of pamphlet wrote that it was almost unimaginable 'that an ignorant Girl that has nothing to be read in her face but Characters of Innocence, should be so well skill'd and detestably practised in the mysteries of Poysoning'. As an orphan she was 'consequently seeming an Object of Pity and Charity' so that the widow and gentlewoman who let her into their home were 'very kinde and indulgent to

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<sup>94</sup> *London Journal*, 21 July 1722.

<sup>95</sup> Garthine Walker, 'Rape, Acquittal and Culpability in Popular Crime Reports in England, 1670-1750', *Past & Present* 220:1 (2013), pp. 126-28.

<sup>96</sup> Walker, *Crime, Gender and Social Order*, pp. 144-47.

<sup>97</sup> This is similar to descriptions of filicidal women: Henry Goodcole, *Natures Cruell Step-Dames: or, Matchlesse Monsters of the Female Sex; Elizabeth Barnes, and Anne Willis who were Executed the 26 Day of April, 1637 at Tyburne, for the Unnaturall Murthering of their Owne Children* (London, 1637); Anon., *A Pittillesse Mother that Most Unnaturally at One Time, Murthered Two of Her Owne Children at Acton Within Sixe Miles from London Uppon Holy Thursday Last 1616* (London, 1616).

her'.<sup>98</sup> At fifteen years old, she was expected to behave as an innocent child, and her status as an orphan made her appear as though she was someone who needed protection and care. The girl did not have the typical appearance of a murderer and outwardly she adhered to expectations in legal and medical discourses that children – especially girls – were not naturally violent or aggressive.<sup>99</sup> In contrast, the boy who murdered his physician father used brutal, bloody violence to kill him. *The London Journal* newspaper report claimed that 'The Boy's Passion was so raised, that he snatch'd up a Knife and struck it so deep in his Father's Belly, that he fell down dead'.<sup>100</sup> At thirteen years old, the boy's violence was associated with men's natural, yet excessive, greater tendency to exhibit hot-blooded, passionate rage that was unbridled by reason.<sup>101</sup> Therefore, on the rare occasions that popular crime narratives and newspapers described children's deliberate, lethal violence, it was presented as adhering to broad gendered stereotypes.

### ***Violence by and between boys***

Jessica Warner and Robin Griller have demonstrated that in Portsmouth girls assaulted other girls, but in the jurisdictions examined in this period it appears that children's lethal and non-lethal violence was overwhelmingly committed by and against boys.<sup>102</sup> The evidence from the Great Sessions, the Northern Circuit and the *Old Bailey Sessions Papers* shows that boys were more likely to commit violence than girls and, when they did, their victims were more likely to be other boys.<sup>103</sup> As already discussed in Chapter One, children's lethal violence was normally understood to be accidental in legal and social contexts and distinct from constructions of adult masculine violence. While children's violence was interpreted as dissimilar from male violence and honour, the methods by which boys fought and resolved conflicts demonstrated that they were testing the boundaries of legitimate violence and had perhaps begun to

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<sup>98</sup> Anon., *Horrid News from St. Martins, or, Unheard-of Murder and Poyson being a True Relation how a Girl not Full Sixteen Years of Age, Murdered her own Mother at One Time, and Servant-Maid at Another with Ratsbane* (London, 1677), p. 4.

<sup>99</sup> Newton, *The Sick Child*, pp. 42-3.

<sup>100</sup> *London Journal*, 26 October 1723.

<sup>101</sup> Foyster, "Boys will be Boys?", pp. 151-66; Kesselring, 'Bodies of Evidence', pp. 253-54.

<sup>102</sup> Warner and Griller, "My Pappa is Out, and My Mamma is Asleep.", pp. 566. 574-75.

<sup>103</sup> There are some exceptions to this: *TNA, ASSI 45/18/5-13; NLW, GS, 4/25/5/3; NLW, GS, 4/34/1/31-33, 48; OBSP, July 1677, t16770711-6.*

internalise gendered notions of violence and power.<sup>104</sup> Interpersonal violence between boys usually arose from a fight in which one of the children used a domestic object or an item found outside of the household, like a stick or stone, to hit and unintentionally kill another. Groups of boys also fought alongside one another to impose traditions on unsuspecting adults and to uphold rivalries against other children and youths in different parish communities.

As household manuals expected that unsupervised children were easily seduced by 'bad company' and that they imitated sinful behaviour that they witnessed, parents and guardians were advised to choose their children's friends and 'playfellows' carefully and to monitor their play.<sup>105</sup> Prescriptive literature argued that children, whose minds were impressionable and irrational, found it difficult to distinguish between good and evil and were thus likely to be 'bewitched' by their peers' mischief.<sup>106</sup> 'Naughty' and 'rude and wanton' 'School-fellows' and 'playfellows' could teach their friends to 'learne to sweare, and to speake filthy words', to persuade them that spending time playing and in idleness was more worthwhile than learning scriptures and could inspire defiance towards parents.<sup>107</sup> Much of this focused on sins such as swearing and rebellion against parents with very little mention of violence. The direction of parents and guardians was essential to mould children's 'pliable' minds towards piety whereas children's bad company could reverse good parenting and affect a child's character into youth and adulthood. As *The Office of Christian Parents* (1616) asserted, parents should be cautious that their children 'get no corruption by their evill play-fellowes; for he that handleth pitch will bee defiled with it'.<sup>108</sup> Domestic conduct manuals also addressed children, advising them how to recognise and reject bad company. In *A Little Book for Children and*

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<sup>104</sup> Foyster, *Manhood in Early Modern England*, pp. 28-54, 177-80; Shepard, *Meanings of Manhood*, pp. 127-39.

<sup>105</sup> Ideas about bad company are usually associated with youths and adults in academic writing but concerns about the influence of bad company also applied to advice for and about children. For example, see: Phil Withington, 'Company and Sociability in Early Modern England', *Social History* 32:3 (2007), pp. 291-307; Shepard, *Meanings of Manhood*. Also see conduct literature aimed at youths that discussed 'bad company': Martyn, *Youths Instruction*, pp. 44-46, 49; James I, *The Fathers Blessing; or, Second Councell to his Sonne. Appropriated to the Generall, from that Perticular Example of Learning, and Pietie His Majestie Composed for the Prince His Sonne* (London, 1616).

<sup>106</sup> Tryon, *A New Method of Educating Children*, p. 26; W.C., *A Schoole of Nurture for Children* (London, 1656).

<sup>107</sup> Janeway, *A Token for Children*, no pagination; Russel, *A Little Book for Children*, no pagination; Anon., *The Office of Christian Parents*, p. 57.

<sup>108</sup> Anon., *The Office of Christian Parents*, pp. 65-6.

*Youth* (c.1693-c.1696), Robert Russel stated that children should rebuke other children who blasphemed and that if a child's 'School-fellows' were wicked they should not play with them. Instead, they should search for 'such Children as are good and civil'.<sup>109</sup> Children were portrayed as impressionable, but they were also given a degree of responsibility and autonomy to distinguish between good and bad company the older they became. This placed some responsibility on children not to engage in bad behaviour with peers.

In many cases of homicides by and between children, boys resorted to violence to resolve, and ultimately escalate, their conflicts with other boys. Fights between boys appeared to imitate adult male violence, but such violence was interpreted differently in legal discourses and often occurred in the context of an uneven fight that the victim was not prepared for and thus unable to retaliate.<sup>110</sup> For example, depositions from a homicide case in Flintshire in 1713 suggested that ten-year-old William Owen's attack against fifteen-year-old Thomas Jones was sudden and that Jones was unable to defend himself. Witnesses testified that Owen hit Jones over the head with a staff inflicting a fatal wound above his right ear, near or on his temple. Although surviving pre-trial depositions do not explain why Owen initiated the violence, a deponent, David Williams believed that he had intended to hit Jones: 'David Williams did see the abovementioned William Owens, take up a stick, in order to strike (as hee supposes) the above mentioned Thomas Jones'. Another witness, John Price, yelled at Owens to prevent him from striking at Jones, but he either ignored Price or did not hear him.<sup>111</sup> In contrast to trials and depositions about homicides by and between men in which witnesses and defendants explain the victim and perpetrator's relationship and the context of the fight, Owen's reasons for committing violence were not officially recorded as he was under the age of discretion.<sup>112</sup> Accounts of lethal violence between children were often between children from different households and, occasionally between servants. As James Sharpe has argued, children, who were put into service between the ages of ten and fourteen, were unlikely to kill their siblings who

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<sup>109</sup> Russel, *A Little Book for Children*, p. 12.

<sup>110</sup> Walker, *Crime, Gender and Social Order*, pp. 38-40.

<sup>111</sup> *NLW, GS, 4/997/10/3-8*.

<sup>112</sup> For more on this, see Chapter One.

lived away from their family and with whom they therefore rarely socialised.<sup>113</sup> It appears that fights occurred when children, who were attempting to negotiate their friendships and rivalries, were testing – and perhaps had misconstrued – the boundaries of masculine violence that they had undoubtedly witnessed and experienced as a resolution to conflict and dishonour in the household and in public spaces.<sup>114</sup>

The weapons and methods that most children used to hit and beat one another, often in public spaces, suggests that their violent interpersonal conflicts were not planned or intended to cause death. For instance, in December 1696 John Fathers, a 'little boy', hit 'another little Boy', Nicholas Wadsworth, with a wooden sword, an object that was designed both for play and to safely teach boys how to use a sword.<sup>115</sup> This shows that, from a young age, boys were encouraged to pretend to perform ideas of masculine violence and honour during play.<sup>116</sup> Children also selected objects outside of the household, such as sticks and stones, that were not conventional weapons used to kill another person. Following an argument in London in July 1684, George Burchall, 'a good lusty Youth', accidentally killed his friend William Pool with 'a hard Clot of Earth'.<sup>117</sup> Burchall and Pool were outside playing with their dogs when Pool 'threw Stones, or Clods of Earth, at Burchal's Dog, which caused them to quarrel. 'In conclusion' and to prevent Pool from attacking his dog, Burchal retaliated in kind by throwing some mud and stones at Pool which, unfortunately, hit him on the side of his head under his ear and killed him. To further establish that he did not intend to kill Pool, he claimed that they had previously been good friends and that Pool had provoked him to retaliate.<sup>118</sup> In many cases, it was not the type of weapon that children used to commit violence that caused their victim's death, but that many children accidentally hit their victims on the head with one fatal blow. In July 1697, 'a little Boy' Thomas Purcell struck Richard Banister 'by giving him one Mortal Wound with a Brick-

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<sup>113</sup> J. A. Sharpe, 'Domestic Homicide in Early Modern England', *The Historical Journal* 24:1 (1981), p. 37.

<sup>114</sup> Foyster, *Manhood in Early Modern England*, pp. 39-40.

<sup>115</sup> *OBSP*, 9 Dec 1696, John Fathers, t16961209-86.

<sup>116</sup> Foyster, *Meanings of Manhood*, pp. 39-40; also see: Alan S. Ross, *Daum's Boys: Schools and the Republic of Letters in Early Modern Germany* (Manchester, 2015).

<sup>117</sup> *OBSP*, 2 July 1684, George Burchall, t16840702-11.

<sup>118</sup> *OBSP*, 2 July 1684, George Burchall, t16840702-11; Walker, *Crime, Gender and Social Order*, pp. 115-16, 121-30.

batt on the right part of the Head, nigh to the right Ear, of which he soon, after died'.<sup>119</sup> Therefore, when children had unplanned fights with other children, and accidentally committed fatal violence, they often used weapons that they found at random. Violence between children usually became lethal when perpetrators unfortunately hit their victim in the head on or near vulnerable places such as the child's temple or ear.

However, children's violence was not always portrayed as reciprocal. A report from the *Weekly Journal or British Gazetteer* in February 1726 claimed that 'a young Lad', Richard Prinching, was detained at Newgate for the murder of another lad, William Fenwick, with whom he had been boxing. The report complained that boxing was 'a barbarous Practice, but daily encourag'd by the Mob in our Streets with Impunity; especially in setting poor Children to fight it out, when they perceive them at any Variance about their Play'.<sup>120</sup> This description of a city controlled by gangs in which poor, vulnerable children were the targets of violent mobs probably reflected concerns about boxing and male violence in London, that Robert Shoemaker has examined, rather than a frequent occurrence in London.<sup>121</sup> Some children and youths were part of gangs such as the 'butchers boys' and the 'Bridewell boys' who violently attacked constables and authorities in London. Shoemaker has also analysed young adult gentlemen, like the 'Mohocks' who terrorised London streets by damaging goods and attacking innocent people with swords and penknives in the early eighteenth century. It was uncontrolled violence such as this that impacted on attempts in the eighteenth century to 'reform male manners' and regulate male violence.<sup>122</sup>

Children and youths also engaged in group violence that was associated with traditions and rivalries against people who challenged their collective identity and who they considered to be intruders in their space. For instance, in 1679, 'several very young Gentlemen Schollars of Westminster-School' incited a riot and murdered a bailiff, who had been near the school to attend an

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<sup>119</sup> *OBSP*, 7 July 1697, Thomas Purcell, t16970707-8.

<sup>120</sup> *Weekly Journal or British Gazetteer*, February 1726.

<sup>121</sup> Robert Shoemaker, 'Male Honour and the Decline of Public Violence in Eighteenth-Century London', *Social History* 26:2 (2001), pp. 190-208.

<sup>122</sup> Shoemaker, 'Male Honour', pp. 199-200; Paul Seaver, 'Apprentice Riots in Early Modern London', in Joseph P. Ward (ed.), *Violence, Politics, and Gender in Early Modern England* (New York, 2008), pp. 17-39; Anna Bryson, *From Courtesy to Civility: Changing Codes of Conduct in Early Modern England* (Oxford, 1998), pp. 269-74.



execution, because he was on a site 'where common Fame and Rumour has long taked that there was apprivledge that no Baily should enter'. The boys had previously 'endeavoured to keep out or Expel any such Officers, but this was rather by might than right'.<sup>123</sup> The boys had been performing and enforcing their own customs and rules – based on their collective socio-economic identities, their mutual attachment and allegiance to the school and their desire to police the boundaries of their school – that had originated from local gossip.<sup>124</sup> While the boys of Westminster school had caused a riot and had murdered an innocent bailiff because of customs they had fashioned from rumours, 'in regard of their Youth' and their 'Quality' they were granted pardons.<sup>125</sup> An Old Bailey trial report from 1722 establishes that there was also ritual violence between groups of boys and youths in London that occurred annually, but on one occasion resulted in a 21-year-old youth's death. On a Saturday evening in March, 'the Boys of St. Giles's Parish, and those of St. Ann's, met' in the streets of Westminster 'to fight, as was usual a Week or two before the Holidays'.<sup>126</sup> Deponents suggested that the violence between the two groups arose due to a sort of tribal rivalry in which boys and youths had strong relationships with the others in their parish and sought to prove the superiority of their parish over the other. The use of ordinary household items as weapons by boys and youths suggests that these annual fights between the two parishes did not usually involve deaths. Twenty-one-year-old Thomas Bromly, who was killed by sixteen-year-old Elias Ozier by 'an unfortunate blow' to the head, used a broomstick as a weapon to defend himself.<sup>127</sup> Away from the influence or control of adults and the law, children and youths engaged in group violence that reinforced their collective identities and the spaces that they believed were significant to them.

Evidence of lethal violence by and between boys suggests that during childhood boys began resorting to violence to resolve conflicts with other children and to negotiate the boundaries of the spaces that they believed

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<sup>123</sup> *OBSP*, 15 Oct 1679, t16791015-5.

<sup>124</sup> For children who tormented their schoolmasters, see: Laurence Brockliss, 'Pupil violence in the French classroom 1600-1850', in Laurence Brockliss and Heather Montgomery (eds), *Childhood and violence in Western tradition* (Oxford, 2010), pp. 220-26; Shoemaker, 'Male Honour', pp. 199-200.

<sup>125</sup> *OBSP*, 15 Oct 1679, t16791015-5.

<sup>126</sup> *OBSP*, 10 May 1722, Elias Ozier, t17220510-2.

<sup>127</sup> *OBSP*, 10 May 1722, Elias Ozier, t17220510-2.

belonged to them. Fights by and against gangs of boys demonstrate that children created relationships, notions of community and honour codes that were based on their local identities as well as age, perhaps preparing them for the sorts of work and household identities that they would have as adult men. However, legal records rarely documented children's descriptions of their own violence so their reasons for committing violence and perceptions of their own violence are unknown.

### ***Supernatural violence***

Children who experienced violent fits, pains and visions caused by supernatural possession were ubiquitous in early modern witchcraft trials and pamphlets. Scholars have sought to explain why children were the targets of witchcraft and possession, engaging with themes of fertility, female jealousy and children's fantasies.<sup>128</sup> However, few historians have analysed discourses of violence and the effects of *maleficia* on children's bodies and demeanours in witchcraft cases. As Hannah Newton has established, notions of violence were commonly associated with children's 'normal' illnesses as convulsions appeared violent to parents, and children likened their feelings of pain and suffering to torture.<sup>129</sup> In witchcraft pamphlets, parents and witnesses suspected that a sick child was possessed when they judged that the symptoms the child exhibited were the most severe and unnatural that witnesses had ever seen. Children's descriptions of the pain and visions they experienced also influenced how parents, witnesses and legal officials interpreted their illness and behaviour as produced by deliberate, malicious witchcraft. While some historians have argued that children, who were playful and imaginative, lied about possession to gain their parents' attention and cultivate their own authority, there is little

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<sup>128</sup> J. A. Sharpe, 'Witchcraft and Women in Seventeenth-Century England: some Northern Evidence', *Continuity and Change* 6:2 (1991), pp. 179-99; Diane Purkiss, 'Women's Stories of Witchcraft in Early Modern England: the House, the Body, the Child', *Representations of the Self in Early Modern Britain* 7 (1995), pp. 408-32; ; Sharpe, 'Disruption in the Well-Ordered Household', pp. 187-212; Lyndal Roper, *Witch Craze: Women and Evil in Baroque Germany* (2004); Sally Alexander, 'The Witch and the Child: Women's Historical Writing and the Unconscious', *Women: A Cultural Review* 18:3 (2007), pp. 327-344; Krista Kesselring, 'Bodies of Evidence: Sex and Murder (or Gender and Homicide) in Early Modern England, c.1500-1680', *Gender and History* 27:2 (2015), pp. 245-62.

<sup>129</sup> Hannah Newton, "'Very Sore Nights and Days": The Child's Experience of Illness in Early Modern England, c. 1580-1720', *Medical History* 55:2 (2011), pp. 153-182.

evidence that children invented or faked their symptoms.<sup>130</sup> As pamphlets about child possession affirmed, witnesses, authorities and authors of pamphlets did not blindly trust children who claimed to be bewitched. Witnesses examined other evidence that indicated supernatural malevolence to judge whether a child's assertions that their violent illness was caused by witchcraft could be verified.<sup>131</sup> For instance, possession could temporarily alter a child's demeanour, characteristics and emotions to make them behave violently and maliciously towards themselves and against others. Children were, on rare occasions, described as witches and perpetrators of violence. In contrast to child witches in Germany who, as Lyndal Roper has argued, attacked their parents and stepparents, witchcraft in England was conceptualised as generational.<sup>132</sup> Child witches rarely performed magic, but they did assist their parents who bewitched neighbours, behaved mischievously, and escalated conflicts between their parents and neighbours.

The unusually violent nature of a child's illness and its impact on a child's body were important factors that parents, witnesses and authorities considered when assessing whether a child was possessed. While witchcraft and diabolical possession often only differed from 'normal' illness in its supernatural causation and malevolent intent to harm the recipient, many pamphlets also emphasised that children's illnesses suspected to be caused by witchcraft were the most violent, shocking and abnormal ailments that witnesses had ever seen.<sup>133</sup> For instance, a pamphlet from 1652, *The Witch of Wapping*, stated that Joan Peterson, who had openly used magic on multiple occasions for healing purposes, had bewitched her neighbour's infant who 'was very strangely tormented, having such strange fits that the like was never known'.<sup>134</sup> Two

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<sup>130</sup> Sharpe, 'Disruption in the Well-Ordered Household', pp. 187–212; Alexandra Walsham, "'Out of the Mouths of Babes and Sucklings": Prophecy, Puritanism, and Childhood in Elizabethan Suffolk', in Diana Wood (ed.), *The Church and Childhood* (Oxford, 1994), pp. 285-99.

<sup>131</sup> Helen Parish (ed.), *Superstition and Magic in Early Modern Europe: A Reader* (Bloomsbury, 2015), p. 227. For more on the reliability of children's voices and legal testimony in homicide cases to see how (and when) children's testimonies were questioned and challenged.

<sup>132</sup> Lyndal Roper, "'Evil Imaginings and Fantasies": Child-Witches and the End of the Witch Craze', *Past & Present* 167 (2000), pp. 107-39. For more European examples, see: Robert S. Walinski-Kiehl, 'The Devil's Children: Child Witch-Trials in Early Modern Germany', *Continuity and Change* 11:2 (1996), pp. 171-89; Liv Helene Willumsen 'Children Accused of Witchcraft in 17th-Century Finnmark', *Scandinavian Journal of History* 38:1 (2013), pp. 18-41. There are not any examples of child witches in Wales.

<sup>133</sup> Newton, "'Very Sore Nights'", p. 160; Walsham, "'Out of the Mouths of Babes and Sucklings'", pp. 285-299.

<sup>134</sup> Anon., *The Witch of Wapping, Or An Exact and Perfect Relation, of the Life and Devilish Practises of Joan Peterson, that Dwelt in Spruce Island, near Wapping; who was Condemned*

years earlier, eleven-year-old Margaret Muschamp was 'suddainely striken with a great deale of torment' and had 'such strong cruell [fits] that cannot be exprest'. Muschamp's fits, like those of many other children who were bewitched, were violent, unpredictable and persisted for many months.<sup>135</sup> Her mother Mary Moore, who wrote the pamphlet about Muschamp's possession to encourage authorities to pursue and prosecute Dorothy Swinow for witchcraft, also depicted the detrimental emotional effects on those who witnessed her suffering, as 'many with weping eyes beh[e]ld it' and 'no eyes could looke on her without compassion'.<sup>136</sup> Some children's convulsions were so violent and contorted that they had supernatural strength. Fifteen-year-old John Tonken's fits were so powerful 'that two Men could scarce hold him', which alongside other evidence of pins that he vomited and threatening apparitions he saw suggested to witnesses that his illness could not be attributed to normal or natural causes.<sup>137</sup> When children had 'strange fits', especially when they were very young or insensible during their fits, it was often parents and other witnesses who interpreted their convulsions as bewitchment. However, violent convulsions alone were not enough evidence for parents and witnesses to surmise that a child's illness was instigated by witchcraft. Evidence of outward symptoms such as a child's clenched jaw or vomiting of household objects; testimony from a witness or a child that familiars had harmed or threatened to harm a child; former or ongoing disputes with neighbours; a recollection that a neighbour touched, threatened or looked at a child in a menacing way immediately before their illness; and previous accusations against neighbours of

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for Practising Witch-Craft, and Sentenced to be Hanged at Tyburn, on Munday the 11th. of April, 1652 (London, 1652), p. 5.

<sup>135</sup> Diane Purkiss, 'Invasions: Female Prophecy and Female Bewitchment in the Case of Margaret Muschamp', *Tulsa Studies in Women's Literature* 17 (1998), pp. 235-53; Philip C. Almond, *Demonic Possession and Exorcism in Early Modern England* (Cambridge, 2004), pp. 358-62.

<sup>136</sup> Mary Moore, *Wonderfull Newes from the North. Or, A True Relation of the Sad and Grievous Torments, Inflicted upon the Bodies of Three Children of Mr. George Muschamp, Late of the County of Northumberland, by Witch-Craft: and how Miraculously it Pleas'd God to Strengthen them, and to Deliver them* (London, 1650), pp. 3, 2; Almond, *Demonic Possession and Exorcism*, pp. 358-62.

<sup>137</sup> Anon., *A True Account of a Strange and Wonderful Relation of John Tonken, of Pensans in Cornwall Said to be Bewitched by Some Women, Two of which on Suspition are Committed to Prison, he Vomiting up Several Pins, Pieces of Walnut-Shels, an Ear of Rye with a Straw to it Half a Yard Long and Rushes of the Same Length, which are Kept to be Shown at the Next Assizes for the Said County* (London, 1686), pp. 2-3.

witchcraft further contributed to and strengthened suspicions that a child's violent illness was caused by witchcraft.<sup>138</sup>

Older children's descriptions of the violent pains and visions they experienced also convinced parents, witnesses and legal officials that a child's illness was caused by witchcraft. Familiars – spirits who assisted the witch and were usually in animal form – were often cited by children as perpetrators of violence.<sup>139</sup> In one of many depositions accusing Anne Ellis, a beggar woman from Flintshire, of witchcraft in 1657, a child thought to have been bewitched by her announced that she had been attacked by a familiar. The daughter of Margaret Barnatt was suffering from a swelling in her head and, as Barnatt deposed, she began to pitifully shriek for roughly fifteen minutes. When she came back to her senses she exclaimed 'Dady the Catt was upon my backe and hath made me bleede'.<sup>140</sup> Barnatt's neighbours, who already suspected Anne Ellis of witchcraft, instructed her to persuade Ellis to bless the child to reverse the witchcraft. Ellis accepted and blessed Barnatt's daughter several times, but, perhaps because she was scared or believed that Ellis was responsible, when Ellis tried to touch the girl she 'turned away & would not Let her'.<sup>141</sup> Children claimed that apparitions made threats of violence against them and their families. John Tonken alleged that his tormentor – an old woman wearing a blue jerkin and red petticoat, who also appeared as a cat – sometimes materialised as an apparition next to his bed and stabbed his heels with pins. When she appeared 'the Boy would shriek [...] and would say with a loud voice, she is putting things into my Mouth, she will Choak me, she will Poyson me'.<sup>142</sup> As Tonken had already vomited pins and brambles, this was a reasonable fear for him to express. Although not exclusively associated with or committed by women, poisoning was, as Walker has argued, 'attributed with

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<sup>138</sup> John Swan, *A True and Breife Report, of Mary Glovers Vexation and of her Deliverance by the Meanes of Fasting and Prayer* (London, 1603); Anon., *A True Account of a Strange and Wonderful Relation of John Tonken*; Almond, *Demonic Possession and Exorcism*, pp. 1-42; Malcolm Gaskill, 'Witchcraft Trials in England', in Brian P. Levack (ed.) *The Oxford Handbook of Witchcraft in Early Modern Europe and Colonial America* (Oxford, 2013), pp. 283-98.

<sup>139</sup> There are also incidences of adults claiming that they saw familiars over children's beds. Anon., *The Witch of Wapping*, pp. 5-6

<sup>140</sup> *NLW, GS, 4/985/5.*

<sup>141</sup> *NLW, GS, 4/985/5.* This further demonstrates that although witchcraft was often prosecuted differently than in England (as slander), Welsh customary beliefs in witchcraft were similar to those in England: Sally Parkin, 'Witchcraft, Women's Honour and Customary Law in Early Modern Wales', *Social History* 31:3 (2006), pp. 295-318.

<sup>142</sup> Anon., *A True Account of a Strange and Wonderful Relation of John Tonken*, p. 3.

negative feminine characteristics – weak, foolish, wicked, cunning’.<sup>143</sup> It emphasised the witch’s cruel and cowardly means of torturing the boy, and her deliberate attempt to cause a child harm while remaining undetected by witnesses. Margaret Muschamp was so terrified that the apparitions she saw were going to cut her brother’s throat that she kept watch next to his bed while he slept. She claimed that she heard menacing noises at night ‘as it were knives sharpening on the staires’.<sup>144</sup> Sick children had an integral role in shaping how their illness was interpreted and conveying to their parents and neighbours when the threat of a witch’s *maleficia* escalated.

Possession could considerably alter a child’s temperament and emotions to the extent that they were violent towards themselves and against others. Possessed children temporarily acted in the most ungodly ways and behaved very differently from the depiction of ideal devout, innocent children in pious biographies.<sup>145</sup> As Hannah Newton has argued, ‘such behaviour was an important symptom of possession and a sign of the Devil’s presence’.<sup>146</sup> In the most extreme cases, bewitchment dramatically changed a child’s demeanour and mental state. For example, when John Crump took his sick daughter Hannah Crump to a hospital in Southwark in the early 1660s, her fits were so severe that she was mistaken for a lunatic.

Officers came to receive her, she was taken with one of her fits in such a manner that they would not; but said she was fitter for Bedlam than to come into an Hospital among sick People.<sup>147</sup>

Like possession, lunacy was understood to be a temporary state of mind that could, to varying degrees, cause someone to be distracted, confused, and insensible.<sup>148</sup> Crump was so ‘distressed’ and in such a ‘distracted condition’ that she tried to ‘bite her own flesh’, a pain to which she was insensitive, and performed other acts of violence against herself. Her unpredictable and

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<sup>143</sup> Walker, *Crime, Gender and Social Order*, p. 144.

<sup>144</sup> Moore, *Wonderfull Newes from the North*, p. 16.

<sup>145</sup> For examples of pious children see: James Janeway, *A Token for Children Being an Exact Account of the Conversion, Holy and Exemplary Lives and Joyful Deaths of Several Young Children* (London, 1676).

<sup>146</sup> Newton, “‘Very Sore Nights’”, p. 160.

<sup>147</sup> John Barrow, *A True Relation of the Wonderful Deliverance of Hannah Crump, Daughter of John Crump of Warwick, who was Sore Afflicted by Witchcraft, for the Space of Nine Months; with the Several Means Used, and Way in which She was Relieved* (London, 1664).

<sup>148</sup> Michael MacDonald, *Mystical Bedlam: Madness, Anxiety and Healing in Seventeenth-Century England* (Cambridge, 1983), pp. 112-72.

vehement violence, that often involved tearing down the hangings around her bed and breaking the furniture and windows in her room, was also directed at her father and sister who tried to calm her during her fits. After having a fit and then sleeping for a while, Crump 'struck her father and sister, took up fire from the hearth, clapped it to her sisters arm, burnt it the breadth of a shilling that the skin shriveled off presently'.<sup>149</sup> She enacted this violence and taunted her father and sister while in 'an extream rage'. Nicholas Coeffeteau argued that rage was most associated with great violence and a passion that was, in legal discourses, related to sudden masculine violence.<sup>150</sup> Crump was not held culpable for the violence she committed; instead, her actions were depicted as a symptom of the Devil's possession and his manipulation of her body and her will, and certainly not the actions of a child who belonged to a pious family. In contrast to Margaret Muschamp, whose violent behaviour was directed at apparitions and was construed (mainly by Muschamp) as a legitimate means to fight her tormentor, the 1664 pamphlet about Crump demonstrated that the Devil could manipulate children to transgress expectations of how a child could biologically, or should socially and culturally, behave.

Depictions of children's violence and rage during their convulsions were juxtaposed with portrayals of their calm dispositions while they were sleeping and spoke normally to their parents who recognised that their possession was temporary and that their identities as innocent, pious children remained intact. Hannah Crump's father wrote that 'The Maid being laid on a bed, lay a pretty while undisturbed', where her real inner character and peaceful disposition was visible, 'but at last she rose and was in a very great rage'.<sup>151</sup> Mary Moore described her daughter Margaret Muschamp as expressing her rage and violence in a childlike and innocent way. As she ran around the household with a staff in her hand exclaiming that 'she would kill the Rogue', she expressed her rage in the 'likenesse of a Dove, and a Partridge, and begun and sung, *Judgo and revenge my cause O Lord: Next, How long wilt thou forget me Lord; shall I never be remembred?*'.<sup>152</sup> During her two-year illness, Muschamp explained to her mother that she fought her evil apparitions. She positioned herself as a

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<sup>149</sup> Barrow, *A True Relation of the Wonderful Deliverance of Hannah Crump*.

<sup>150</sup> Nicolas Coeffeteau, *A Table of Humane Passions. With their Causes and Effects* (London, 1621), pp. 547-48.

<sup>151</sup> Barrow, *A True Relation of the Wonderful Deliverance of Hannah Crump*.

<sup>152</sup> Moore, *Wonderfull Newes from the North*, p. 6.

model of piety and asserted that she violently and righteously retaliated against the evil spirits that plagued her.

Sometimes he would fight with her in the shape of a Dragon, of a Bear, a Horse, or Cow: Many fancies she did expresse; and good things, she sayd, fought for her, and still got the better of him: The enemies Weapons were a Club, a Staffe, a Sword, and Dagger; her good things got them all, as she thought, and after the wretch, she thought, got the Dagger againe.<sup>153</sup>

Muschamp's rage and expressions of violence demonstrated that, despite being a young girl, she was wilfully dedicated to battling the evil that tormented her. She (and her mother) cast herself as a brave, morally pure warrior who would not succumb to bewitchment, but instead fought the malicious force that tried to take over her mind and body.<sup>154</sup> Portrayals of childhood innocence and vivacity demonstrated that children were not permanently corrupted by the Devil and that, while their demeanour and personalities were changeable, they were not permanently altered.

Discourses of violence were significant in portrayals of child bewitchment in pamphlets and children's descriptions of the pains and visions they experienced. Children's illnesses thought to be caused by witchcraft were often unusually violent and, in extreme cases, could change their temperament to make them inflict vicious violence against themselves and their families. Possession was conceived as a temporary illness. Children were not believed to be permanently corrupted by the Devil, as descriptions of childhood innocence and children's calm and peaceful dispositions demonstrated. Sick children had an integral role in shaping how their illness was interpreted and in conveying to their parents and neighbours when the threat of a witch's *maleficia* escalated. Moreover, children's descriptions of violence by familiars demonstrates that children had knowledge of and internalised popular witchcraft beliefs. In most cases, illnesses caused by witchcraft were intended to emotionally hurt the parents of the children, who believed that the witch was

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<sup>153</sup> Moore, *Wonderfull Newes from the North*, p. 5.

<sup>154</sup> See also: Anon., *Witches Apprehended, Examined and Executed, for Notable Villanies by them Committed both by Land and Water with a Strange and Most True Triall how to Know whether a Woman be a Witch or Not* (London, 1613), in which Mother Sutton sends familiars to strike at her neighbour Master Engers' infant child.



avenging some wrong she perceived they had done to her. Children who acted as their parents' assistants, like Henry Sutton, were not witches but were nevertheless held accountable for inflicting injuries on others.

In witchcraft pamphlets, child possession, especially of infants, was frequently construed as an unfair attempt to punish the child's parents who had disputed with the accused witch. In many cases, bewitched children were targets for a witch's aggression and their deaths revealed the secretive, cowardly means by which she disproportionately chastised her neighbours for the abuses she (wrongly) perceived they had committed. Socio-economic issues, such as disagreements about work and pay, motivated witches to seek vengeance from their neighbours and previous masters.<sup>155</sup> For instance, in 1616 Joan Flower and her daughters Margaret and Philippa bewitched their former master Francis, the Earl of Rutland, and his family when they were dismissed from their jobs and residence due to complaints about their cursing and strange behaviour. In a sustained attack the Flower women, 'not caring whether it lighted upon innocents or no', extended their vengeance against the earl to his whole family, using witchcraft to murder his children. The pamphlet indicated that witches used magic as a 'malicious disposition against their betters, or others thriving by them' to fracture social and economic hierarchies and order.<sup>156</sup> If a child's mysterious illness followed a disagreement between a mother and a neighbour about child care, the mother might also presume that their child was bewitched. In the pamphlet *A Tryal of Witches* from 1682, Dorothy Durent accused Amy Duny, an elderly woman who had been looking after her infant son William, of bewitching him following an argument about the way Duny had cared for him. Durent testified that despite clear instructions that Duny should not breastfeed William, when she returned Duny admitted that she had gone against Duny's wishes. That evening, William 'fell into strange fits of swoounding [fainting], and was held in such [a] terrible manner, that [Durent] was much affrighted therewith, and so continued for divers weeks'.<sup>157</sup> Durent's ten-year-old daughter Elizabeth also fell ill and when she had fits she complained

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<sup>155</sup> See also: Anon., *The Witch of Wapping*.

<sup>156</sup> Anon., *The Wonderful Discoverie of the Witchcrafts of Margaret and Phillip Flower, daughters of Joan Flower neere Bever Castle, Executed at Lincolne, March 11, 1616* (London, 1619).

<sup>157</sup> Rose Cullender, *A Tryal of Witches at the Assizes Held at Bury St. Edmonds for the Count of Suffolk on the Tenth Day of March, 1664 [i.e. 1665] before Sir Matthew Hale, Kt., then Lord Chief Baron of His Majesties Court of Exchequer* (London, 1682), p. 5.

that Amy Duny appeared to her and hurt her. In these accounts, children were initially removed from the adult conflict and were not involved in the quarrels between the witch and their family, but then suffered because of it.<sup>158</sup>

Pamphlets portrayed children as the unfortunate recipients of cruelty by witches who hoped to torment their neighbours and punish them for the wrongs she perceived they had committed. Like child victims referenced in Chapter One, who were killed during adult conflicts, and those discussed in Chapter Two, who were vulnerable to violent attacks from parents, witchcraft pamphlets depicted children as devoid of agency.

Children were not only victims of witchcraft, but they were also taught how to exercise supernatural powers to inflict pain and sufferings on others. In contrast to Lyndal Roper's assertion that child witches in Germany attacked their parents and step-parents, child witches in England inherited magic and a malicious disposition from their parents but did not direct their violence against them.<sup>159</sup> Arthur Bill, who was convicted of witchcraft in 1612 in Northamptonshire, was 'begotten and borne of parents that were both Witches, and he (like a gracious Child) would not degenerate, nor suffer himselfe to stray from his fathers wicked Counsels'.<sup>160</sup> The pamphlet condemned Bill for not rejecting his father's beliefs and, although he had inherited witchcraft from his parents, he was just as guilty for his crimes as someone who had been attracted to it in their adult life. The author of the pamphlet depicted Bill as an agent, even as a child, who should have determined that witchcraft was immoral and depraved. Pamphlets likewise portrayed the children of witches as violent degenerates who created disorder within communities, suggesting that even if children did not use magic themselves their association, especially blood relation, with a witch meant that they were also condemned in the community. For example, Henry Sutton, Mary Sutton's illegitimate son, was violent towards other children and then lied about an incident between himself and a neighbour's elderly servant. Sutton, 'comming to play himselfe about the Mill damme, fell to throwing in of stones, dirt, and filth, with other such

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<sup>158</sup> Cullender, *A Tryal of Witches*, pp. 1-59.

<sup>159</sup> N.B. I have not found any examples of child witches in Wales. Lyndal Roper, "'Evil Imaginings and Fantasies": Child-Witches and the End of the Witch Craze', *Past & Present* 167 (2000), pp. 107-39.

<sup>160</sup> Anon., *The Witches of Northampton-Shire Agnes Browne, Joane Vaughan, Arthur Bill, Hellen Jenkenson, Mary Barber. Witches Who were all Executed at Northampton the 22 of July last 1612* (London, 1612).

unhappiness incident to children'. An elderly servant of Master Engers – Engers had been quarrelling with Mary Sutton and had been victim to many strange, seemingly supernatural misfortunes – corrected Henry for his misbehaviour, who then told his mother that the servant had unfairly beaten him without provocation. Mary Sutton was further incensed and sought vengeance against Engers by bewitching his infant child to death.<sup>161</sup> Although Henry Sutton did not use witchcraft, he encouraged his mother to inflict retributive violence on an innocent child. As Alison Rowlands has shown, 'witchcraft was imagined as being passed down from generation to generation'.<sup>162</sup> Sutton's demeanour, violence and dishonest character showed that he had inherited his mother's cruel and malicious nature.

### **Conclusion**

Most of the violence discussed in this chapter was extraordinary and did not reflect children's normal experiences of violence or interactions with adults. Although many scholars have claimed that infanticide regularly occurred under the radar of authorities, there is more evidence to suggest that illegitimacy was a familiar experience in early modern England and Wales and that unmarried women very rarely resorted to the murder of their new-born infants. It is precisely the infrequency of deliberate violence against helpless new-born infants that made infanticide such a shocking and terrifying crime during this period. While the diabolical possession of children was unusual, especially when it caused children to temporarily behave in violent ways, descriptions of children's violence as an assertion of the Devil's agency rather than children's agency reinforced common ideas about children's passivity and vulnerability. Witchcraft and possession narratives claimed that children could not control when they had violent fits, expressed their rage or hurt others. However, children, like Margaret Muschamp, did have the authority to explain the pains and visions they experienced and to confirm the identity of their tormentor to their parents and legal officials. The frequency of disciplinary violence against children meant that when describing lethal correction, pamphlets and broadsides had to focus on the most extreme cases of unprovoked, sustained

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<sup>161</sup> Anon., *Witches Apprehended, Examined and Executed*.

<sup>162</sup> Alison Rowlands, 'Witchcraft and Gender in Early Modern Europe', in Brian P. Levack (ed.), *The Oxford Handbook of Witchcraft in Early Modern Europe and Colonial America* (Oxford, 2013), p. 459.

violence by parents and masters to distinguish it from legitimate discipline. While boys' lethal violence was not common, boys did tend to test the boundaries of masculine violence and negotiate their friendships through violence in everyday and familiar settings. In contrast, girls resorted to secretive and covert means of killing and were not described as inflicting bloody violence against others. This demonstrates that even during childhood, boys and girls expected that the ability to perform violence in public spaces was limited and regulated by concepts of gendered order.

## Chapter Five

### Emotional Reactions to Child Death

This chapter explores the emotional responses of perpetrators and witnesses of child homicide, and considers how the families, friends and neighbours of deceased children were affected by their sudden, unexpected deaths. While many historians have prioritised grief and sorrow in their analyses of child sickness and death, recent scholarship on the history of emotions has established that families expressed a wide range of emotions upon the death of a child.<sup>1</sup> The various emotions people felt and expressed when a child was killed is especially evident in crime literature and legal records, in which emotions such as fear, terror, disgust, and remorse featured more prominently than grief or melancholy. Parental and community grief in the aftermath of a child's homicide was rarely recorded in legal records or crime literature (where most information about child homicide can be found) as these sources focused on the emotions of witnesses and perpetrators during and immediately after a homicide, at the trial, in prison, and at execution. Diaries and newspapers occasionally offer a glimpse of how families coped, or did not cope, with the accidental death of a child and their grieving process. In this chapter, I will demonstrate that the context of a homicide – who committed and witnessed it, why, how suddenly or violently it occurred, and the legal verdict – determined the type and scale of emotional reaction that was acceptable and expected from perpetrators, witnesses, and the audiences of popular print. Reactions to child death in legal records, crime literature, newspapers and diaries were mediated accounts that were constructed in a specific cultural context. Nonetheless, these sources are a fascinating insight into how early modern people described their feelings, how they contextualised and explained their responses, how they were expected to react to the homicides of children, and how (and what happened to) those who adhered to or rejected these expectations.

Academic literature about reactions to child death has been shaped by scholars, such as Philippe Ariès and Lawrence Stone, who claimed that parents

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<sup>1</sup> For scholarship that considers a range of emotions see: Hannah Newton, *The Sick Child in Early Modern England, 1580-1720* (Oxford, 2012); contributions to Katie Barclay, Kimberly Reynolds, and Ciara Rawnsley (eds), *Death, Emotions and Childhood in Premodern Europe* (London, 2016).

did not grieve the deaths of their children until the eighteenth century, when people began to develop 'modern' feelings of compassion.<sup>2</sup> Lawrence Stone, who characterised early modern family relationships as distant and brutally violent, argued that parents had become indifferent towards their children and their deaths due to the high infant mortality rates.<sup>3</sup> He contended that early modern people were so apathetic towards their children that they did not even attend their funerals or pay for mourning to commemorate them.<sup>4</sup> Stone's hypothesis has been vehemently refuted by historians of medieval and early modern childhood. Scholars have critiqued the sources that Stone analysed: Alan Macfarlane questioned why Stone had omitted sections of Ralph Josselin's diary that detailed his paternal love and grief upon the deaths of his children in his analysis. Macfarlane suggested that Stone had carefully selected his source material to align with his central argument that family relationships in early modern England were not affectionate.<sup>5</sup> Historians have also examined alternative evidence, such as funeral commemorations, personal correspondence, and prescriptive literature, to establish that parents throughout history have loved and grieved for their children.<sup>6</sup> In her research on childrearing practices as recorded in seventeenth-, eighteenth- and nineteenth-century journals, Linda Pollock concluded that most parents felt and expressed 'searing grief', anxiety and distress when their children died of sickness.<sup>7</sup> There is now widespread acceptance among historians that parents loved their

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<sup>2</sup> Philippe Ariès, *Centuries of Childhood: A Social History of Family Life* (New York, 1962); Edward Shorter, *The Making of the Modern Family* (London, 1976); Lawrence Stone, *The Family, Sex and Marriage in England 1500-1800* (London, 1977).

<sup>3</sup> Stone, *The Family, Sex and Marriage*, especially his chapters on 'Death', pp. 66-84, and 'Affective Relationships' between parents and children, pp. 105-14.

<sup>4</sup> Stone, *The Family, Sex and Marriage*, p. 106.

<sup>5</sup> Alan Macfarlane, 'Review of Stone, *Family, Sex and Marriage in England*', *History and Theory* 18 (1979), pp. 103-26; Alan Macfarlane, *Marriage and Love in England: Modes of Reproduction, 1300-1840* (Oxford, 1986); Linda Pollock, *Forgotten Children: Parent-Child Relations from 1500 to 1900* (Cambridge, 1983), p. 137.

<sup>6</sup> Pollock, *Forgotten Children*; Claire Gittings, *Death, Burial and the Individual in Early Modern England* (London, 1984); Alan Macfarlane, *Marriage and Love in England*; Barbara Hanawlt, *The Ties That Bind: Peasant Families in Medieval England* (Oxford 1986); Ralph Houlbrooke (ed.), *Death, Ritual and Bereavement* (London, 1989); Patricia Phillippy, "'I Might Again have been the Sepulcher': Paternal and Maternal Mourning in Early Modern England", in Jennifer C. Vaught and Lynne Dickinson Bruckner (eds), *Grief and Gender: 700-1700* (London, 2004), pp. 194-214; Elizabeth Clarke, "'A Heart Terrifying Sorrow": the Deaths of Children in Seventeenth-Century Women's Manuscript Journals', in Gillian Avery and Kimberly Reynolds (eds), *Representations of Childhood Death* (Basingstoke, 2000), pp. 65-86; Helen Berry and Elizabeth Foyster, (eds), *The Family in Early Modern England* (Cambridge, 2007); Joanne Bailey, *Parenting in England 1760-1830: Emotion, Identity, and Generation* (Oxford, 2012); Newton, *The Sick Child*; Barclay and Reynolds, 'Introduction: Small Graves', pp. 1-24.

<sup>7</sup> Pollock, *Forgotten Children*, pp. 124-42.

children and intensely grieved when they died.<sup>8</sup> While there is agreement that Stone's characterisation of early modern family relationships was, at best, misguided, many historians still tend to engage with evidence of grief to establish that parents loved their children, as scholars who directly challenged Stone did. For instance, Hannah Newton argues that parents' emotional responses to their children's sickness and deaths 'testify to the intensity of parental love', thereby adding weight to Anthony Fletcher's assertion that "parental...affection was constant, powerful, and virtually invariable' across the early modern period and beyond".<sup>9</sup> Joanne Bailey also examines the deaths of children to demonstrate that, in Georgian England, 'the emotion that fatherhood [was] predominantly associated with [was] love'.<sup>10</sup> Although historians no longer contest the notion that early modern parents loved their children, the association between reactions to child death, especially grief, and parental love remains an important area of investigation for historians of childhood and the family.

Since the emergence of the history of emotions, scholars have focused on analysing the meanings of grief and love in early modern society and how these emotions were socially and culturally constructed. Preliminary examinations of family grief published in the 1980s and 1990s asserted that grief was a natural, biological response to death and judged that the deaths of some relatives were more emotionally devastating than others.<sup>11</sup> For instance, Ralph Houlbrooke argued that widowed men and women experienced the 'most immediately and deeply disruptive' type of grief, followed by bereaved parents, and then, thirdly, children who had lost one or both parents.<sup>12</sup> More recently, historians of emotion have rejected essentialist beliefs that the emotions are constant, biological, and fixed to contend that: expressions, representations and experiences of emotion were (and are) culturally constructed; emotions were shaped by available language, concepts, gestures, and symbolism; and, finally,

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<sup>8</sup> See footnote 6 for examples.

<sup>9</sup> Newton, *The Sick Child*, p. 122; Anthony Fletcher, *Growing up in England: The Experience of Childhood, 1600-1914* (New Haven & London, 2008), p. 81.

<sup>10</sup> Joanne Bailey, "A Very Sensible Man": Imagining Fatherhood in England c. 1750-1830', *History* 95 (2010), p. 274.

<sup>11</sup> Anne Laurence, 'Godly Grief: Individual Responses to Death in Seventeenth-Century Britain, in Ralph Houlbrooke (ed.), *Death, Ritual and Bereavement* (London, 1989), pp. 62-76; Ralph Houlbrooke, *Death, Religion and the Family in England, 1480-1750* (Oxford, 1998), pp. 220-54.

<sup>12</sup> Houlbrooke, *Death, Religion and the Family*, p. 232.

that the power to communicate emotions depended on the gender, age, status, ethnicity, and religious beliefs of the individual expressing them.<sup>13</sup> As Joanne Bailey has argued, parents and children in Georgian England were expected to grieve in different ways which, in turn, influenced how they depicted their emotions in their diaries. She asserted that Georgian middle-class parental grief encompassed ‘sorrow, distraction, and the fragmentation of mind and body’, and was linked to notions of ‘love’, ‘despair’, and ‘distress’. It was also ‘expressed through the twin discourses of Christianity and sensibility’.<sup>14</sup> In comparison, Bailey identified that family identity provided an important context for descriptions of grief in diaries by bereaved children. Men and women retrospectively conceptualised parental death as the death of childhood, a crisis point in their identity, and therefore as an ‘emotional landmark’ in their life-cycle. As Bailey demonstrated, the meanings and constructions of grief changed in relation to the emotional expectations and language available for grieving parents and sons and daughters.<sup>15</sup> Historians, most notably Hannah Newton, have also considered how fear and joy related to grief and early modern parents and children’s experiences of death.<sup>16</sup> In this chapter, I also explore the cultural meanings and significance of individual emotions and how they interrelated in medical, religious and prescriptive literature. I demonstrate how early modern people explained and recognised their own feelings within these discursive frameworks and explore the occasions on which they rejected cultural expectations to behave in what contemporaries believed were unusual and unnatural ways.

Although the historiography has undergone a significant shift in its methodological approaches, historians of childhood have continued to concentrate on the overarching theme of *parents’* reactions to their children’s

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<sup>13</sup> For the overall aims and objectives of the history of emotions see: Nicole Eustace, Eugenia Lean, Julie Livingston, Jan Plamper, William Reddy and Barbara Rosenwein, ‘AHR Conversation: The Historical Study of Emotions’, *American Historical Review* (2012), pp. 1486-1531; Bailey, *Parenting in England*, especially ‘Introduction’ pp. 1-15; Hannah Newton, ‘“Very Sore Nights and Days”: The Child’s Experience of Illness in Early Modern England, c.1580-1720’, *Medical History* 55:2 (2011), pp. 153-82; Barclay, Reynolds and Rawnsley, *Death, Emotions and Childhood*, pp. 5-10.

<sup>14</sup> Bailey, *Parenting in England*, p. 22.

<sup>15</sup> Bailey, *Parenting in England*, pp. 1-15, 40-3, 139-43.

<sup>16</sup> Newton, *The Sick Child*; Hannah Newton, ‘“Rapt Up with Joy”: Children’s Emotional Responses to Death in Early Modern’, in in Katie Barclay, Kimberly Reynolds, and Ciara Rawnsley (eds), *Death, Emotions and Childhood in Premodern Europe* (London, 2016), pp. 87-107; Barclay and Reynolds, ‘Introduction: Small Graves’, pp. 1-24; Bailey, *Parenting in England*, pp. 22-47.



deaths. The evidence, especially from diaries and personal correspondence, that scholars have engaged with to challenge Ariès and Stone provided rich accounts of parents' care, concerns, and reactions to their children's sickness, deaths, and, sometimes, their recoveries.<sup>17</sup> For parents, especially those who recorded their feelings in journals, a child's death was usually a significant, traumatic event in their own personal narrative, an important stage of their own spiritual reflection, and often, a period in which their faith was tested.<sup>18</sup> As spiritual and autobiographical diaries were mainly written by elite puritans, the historiography has predominantly focused on their attitudes to their children's deaths.<sup>19</sup> Historians have also analysed letters written between spouses, who were travelling or temporarily away from one another, that included information about the development of their child's illness, parents' hopes and fears, and how they consoled and supported one another when their children died.<sup>20</sup> However, it was not just parents who were affected by a child's fatal injury or illness and subsequent death. As Hannah Newton has also shown, the mediated voices of children – their feelings about their pain and their inevitable deaths – are also present in their parents' diaries and personal correspondence.<sup>21</sup> Newton's work demonstrates that there is considerable scope for discovering multiple voices, feelings and subjectivities in diaries (and in other sources) that are not limited to the author's own voice.

Community reactions to child death have been only cursorily discussed in the historiography of infanticide, but such references to friends and neighbours have been influenced by historians' characterisations of infanticidal women. The emotional motivations and reactions of women indicted for infanticide have been subject to considerable analysis in the historiography of neonatal infanticide and has impacted on how scholars have interpreted the responses of those who discovered a new-born child's corpse or suspected a

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<sup>17</sup> See Linda Pollock (ed.), *A Lasting Relationship: Parents and Children over Three Centuries* (Hanover, 1987), pp. 11-15, 93-123; Fletcher, *Growing up in England*, pp. 81-93; Newton, *The Sick Child*, pp. 161-89.

<sup>18</sup> Bailey, *Parenting in England*, pp. 141-43; Marjo Kaartinen, "'Nature has Form'd thee Fairest of They Kind": Grieving Dead Children in Sweden circa 1650-1810', in Claudia Jarzebowski and Thomas Max Safley (eds), *Childhood and Emotion across Cultures, 1450-1800* (London, 2014), p. 159.

<sup>19</sup> Newton, *The Sick Child*, p. 9; Michelle Dowd and Julie Eckerle (eds), *Genre and Women's Life Writing in Early Modern England* (Farnham, 2007); Mark S. Dawson, 'Histories and Texts: Refiguring the Diary of Samuel Pepys', *The Historical Journal*, 43:2 (2000), pp. 407-31.

<sup>20</sup> Fletcher, *Growing up in England*, pp. 81-93.

<sup>21</sup> Newton, *The Sick Child*, pp. 161-89; Newton, "'Rapt Up with Joy"', pp. 87-107.

woman of killing her new-born infant. Unmarried women who committed infanticide have been described by historians as isolated, unfortunate victims of circumstance who, out of fear, shame and entrapment, concealed the deaths of their illegitimate new-born babies.<sup>22</sup> Consequently, in this interpretation, neighbours and legal officials who identified and prosecuted women were 'hostile' and provided a 'harsh assessment of suspects'.<sup>23</sup> As Laura Gowing has argued, 'for single women in labour, other women featured not as support, but as threats'.<sup>24</sup> This persistent narrative in the history of infanticide has depicted neighbours and authorities as victimising innocent, vulnerable women with unjustified contempt and disgust.

Few historians have interpreted responses to infanticide as responses to the deaths of children. As Katie Barclay and Kimberley Reynolds have argued, 'the evidence such cases provide for a society's care for its children has aroused little comment' and, to rectify this historiographical oversight, they have indicated how neighbours and witnesses might have reacted to infanticide in early modern Scotland.<sup>25</sup> Barclay and Reynolds have suggested that witnesses' actions, such as wrapping the corpse of a new-born baby in a cloak upon discovering it, might reveal their feelings towards infanticide and the responsibility of care they felt towards vulnerable infants who had been murdered by their mothers.<sup>26</sup> The analysis of depositional evidence can be speculative as these sources rarely provide information about witnesses' feelings or motivations and, when they do, the accounts were mediated and constructed in legal discourses. Nonetheless, it is important to consider that such crimes could be shocking and traumatising for early modern people who witnessed and heard about them. Many neighbours and communities might have desired to discover who had committed an infanticide because they were

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<sup>22</sup> For example, Peter Hoffer and N. E. Hull, *Murdering Mothers: Infanticide in England and New England, 1558-1803* (New York and London, 1984); Mark Jackson, *New-Born Child Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England* (Manchester 1996); Laura Gowing, 'Secret Births and Infanticide in Seventeenth-Century England', *Past & Present* 156 (1997), pp. 87-115; J. R. Dickinson and J. A. Sharpe, 'Infanticide in Early Modern England: the Court of the Great Sessions at Chester, 1650-1800', in Mark Jackson (ed.), *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550-2000* (Aldershot, 2002), pp. 35-51; Anne-Marie Kilday, 'Desperate Measures or Cruel Intentions? Infanticide in Britain since 1600', in Anne-Marie Kilday and David Nash (eds), *Histories of Crime: Britain 1600-2000* (London, 2010), pp. 60-79.

<sup>23</sup> Jackson, *New-Born Child Murder*, pp. 110, 112.

<sup>24</sup> Gowing, 'Secret Births and Infanticide', p. 103.

<sup>25</sup> Barclay and Reynolds, 'Introduction: Small Graves', p. 2.

<sup>26</sup> Barclay and Reynolds, 'Introduction: Small Graves', pp. 1-3.

horrified and scared that a vulnerable new-born infant had died at the hands of its own mother; they might also have been concerned about the mother's welfare and health after giving birth unassisted. This chapter offers an analysis of *deaths of children* in homicide cases and accidental deaths, rather than an examination of how early modern people responded to adult-perpetrated child homicides or how neighbours were aggressors. I also consider what these cases can tell us about social and cultural attitudes towards children and childhood in early modern England and Wales.

### ***Death and the passions***

Before examining reactions to child homicide, it is helpful to explore early modern religious and medical discourses about emotions and the boundaries between suitable and unacceptable responses to death. Religious, philosophical and medical texts conceptualised the passions, or emotions, as a 'natural', 'overbearing', and 'inescapable' aspect of human nature that affected both the mind and the body.<sup>27</sup> In 1640, Edward Reynolds, bishop of Norwich, contended in a treatise that 'passions are nothing else, but those naturall, perfective, and unrestrained motions of the Creatures'. Reynolds portrayed the passions as instinctive and animalistic and, as they were rarely subject to reason, they could physically overwhelm the mind and the body.<sup>28</sup> Preachers and ministers who wrote consolatory texts and elegies about reactions to death also referred to the passions as 'natural affections'.<sup>29</sup> In *Immoderate Mourning for the Dead*, a manual written in 1680 for grieving parents, John Owen stated that 'a compassionate grief is both natural and reasonable' for 'sorrows [...] naturally arise upon the loss of our nearest and dearest Relations', especially children.<sup>30</sup> Authors of prescriptive literature also adopted medical discourses to explain that the death of a relative altered the mind and the body.<sup>31</sup> As Stephen

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<sup>27</sup> Susan James, *Passion and Action: The Emotions in Seventeenth-Century Philosophy* (Oxford, 1999); David Cressy, *Birth, Marriage, and Death: Ritual, Religion, and the Life-Cycle in Tudor and Stuart England* (Oxford, 1997), p. 393; Thomas Dixon, 'Emotion: The History of a Key Word in Crisis', *Emotion Review* 4:4 (2012), pp. 339-40.

<sup>28</sup> Edward Reynolds, *A Treatise of the Passions and Faculties of the Soule of Man* (London, 1640), p. 31.

<sup>29</sup> Simon Patrick, *A Consolatory Discourse Perswading to a Chearfull Trust in God in these Times of Trouble and Danger* (London, 1665), p. 232.

<sup>30</sup> John Owen, *Immoderate Mourning for the Dead, Prov'd Unreasonable and Unchristian. Or, Some Considerations of General Use to Allay our Sorrow for Deceased Friends and Relations but more Especially Intended for Comfort to Parents upon the Death of their Children* (London, 1680), p. 4.

<sup>31</sup> Houlbrooke, *Death, Religion and the Family*, p. 226.

Pender has argued, many early modern physicians believed that grief “besieged” the mind, weakened reason, hampered discourse, and impugned the will’.<sup>32</sup> Galenic humoral theory also linked the passions to bodily processes. The heart was the site in which the passions and blood were heated and cooled, and so the humours and physical wellbeing were tightly connected to notions of mental affliction.<sup>33</sup> As a result, physicians often treated both the mind and the body through religious instruction.<sup>34</sup> John Owen engaged with similar discourses to portray grief as an ‘inward’ and external affliction that could be overcome by consolatory arguments, prayer and willpower.<sup>35</sup> Church of Ireland bishop Jeremy Taylor depicted those who immoderately grieved ‘trembling with a palsie, or scorched with feavers’ and that their bodies were affected by ‘immoderate heats’ and sleeplessness.<sup>36</sup> Therefore, medical discourses about what a passion was and how it was mentally and physically expressed informed religious discourses and vice versa.

Prescriptive literature established who, how, when, where, and in what contexts early modern people were expected to express their emotions, but authors often disagreed about how far, when, and sometimes if, emotions should be moderated. For instance, preachers and ministers expected that a person’s gender determined the effects of the passions on the mind and the body. They associated masculinity with the mind and reason and femininity with the body and chaotic excess. John Owen warned against ‘effeminate weepings and lamentations’ upon the death of a child as ‘it will not allow us the sense and feeling of men’. He claimed that women, who were ‘the weaker Vessels’ and had a ‘natural tenderness’, were more likely to be overcome by sorrow than men who were inclined towards ‘Masculine patience’ and rationality.<sup>37</sup> The idea that women were more inclined to cry and wallow in sorrow was also supported

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<sup>32</sup> Stephen Pender, ‘Rhetoric, Grief, and the Imagination in Early Modern England’, *Philosophy & Rhetoric* 43:1 (2010), p. 54.

<sup>33</sup> Fay Bound Alberti, *Matters of the Heart: History, Medicine, and Emotion* (New York, 2010), pp. 20-2; Nicolas Coeffeteau, *A Table of Humane Passions* (London, 1621), pp. 13-27.

<sup>34</sup> Owen, *Immoderate Mourning*, pp. 14, 43, 114; Pender, ‘Rhetoric, Grief, and the Imagination’, pp. 54-8.

<sup>35</sup> Owen, *Immoderate Mourning*, p. 26.

<sup>36</sup> Jeremy Taylor, *The Rule and Exercises of Holy Dying* (London, 1651), p. 325

<sup>37</sup> Owen, *Immoderate Mourning*, pp. 116-17, 6.

by Galenic humoral theory, in which women were expected to be more melancholic than men due to their cold, wet bodies.<sup>38</sup>

While it was anticipated in prescriptive literature that men and women naturally expressed their emotions differently, men were certainly not expected to be stoic when their relatives died. As Bernard Capp argues, male tears were usually only acceptable in socially and culturally specific situations depending on a man's social status and religion. However, there was an 'almost universal acceptance' in domestic manuals that men should 'turn to tears of grief over the loss of a wife, child or intimate friend'.<sup>39</sup> *A Handkercher for Parents Wet Eyes* (1630), a pamphlet written as a consolatory letter to a friend, declared that even the most rational men could be distressed by the deaths of their children: 'I know, losse of Children, Men of best Blood and Minds, take most to heart: and by the helpe of their sharpe conceit, increase and sharpen their affliction'.<sup>40</sup> A parent's affection for their deceased or dying children was supposed to move 'their bowels to pity and bewail them when they [were] in misery and distress', especially if they witnessed their child's pain and death.<sup>41</sup> Nonetheless, contemporary commentators frequently disagreed about the duration and scale of male grief. They provided different boundaries and circumstances for when men's 'appropriate grief' and Christian compassion 'degenerate[d] into effeminate or vulgar excess'.<sup>42</sup> Some authors engaged with biblical narratives to advise readers of the necessity of limiting the intensity and duration of paternal grief, and to depict the appropriate feelings grieving fathers should express. Didactic literature most commonly referred to David, the second king of the United Kingdom of Israel and Judah, in the Old Testament (2 Samuel 12) and his reaction to the death of his illegitimate child. It was 'very just and reasonable upon another account, as being an expression of humanity, and the result of a natural affection' for a father to grieve and cry as their child was tormented by

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<sup>38</sup> Krista Kesselring, 'Bodies of Evidence: Sex and Murder (or Gender and Homicide) in Early Modern England', *Gender & History* 27:2 (2015), pp. 245-62; Robert Burton, *The Anatomy of Melancholy What it is. With all the Kindes, Causes, Symptomes, Prognostickes, and Several Cures of it* (London, 1621).

<sup>39</sup> Bernard Capp, "'Jesus Wept" But Did the Englishman? Masculinity and Emotion in Early Modern England', *Past & Present* 224:1 (2014), p. 88; Newton, *The Sick Child*, pp. 121-58.

<sup>40</sup> Anon., *A Handkercher for Parents Wet Eyes upon the Death of Children. A Consolatory Letter to a Friend* (London, 1630), p. 37.

<sup>41</sup> Owen, *Immoderate Mourning*, p. 40; Ralph Josselin (edited by Alan Macfarlane), *The Diary of Ralph Josselin, 1616-1683* (London, 1976).

<sup>42</sup> Capp, "'Jesus Wept'", p. 88.

sickness or disease, just as David did. However, as John Owen argued, once a child died, fathers were expected to employ their natural reason to engage with consolatory arguments and literature on dying well, that declared there was little point in prolonged grief as death was inevitable and universal, to prevent their grief from continuing after the death of a child.<sup>43</sup>

Like women, children were differentiated in religious and medical literature by their emotional immaturity and inability to control their dominant emotions.<sup>44</sup> Seventeenth-century philosopher Thomas Hobbes stated that 'those that weep the greatest amount and more frequently are those, such as women and children, who have the least hope in themselves and the most friends'.<sup>45</sup> Court physician Helkiah Crooke claimed that 'anger is a disease of a weake mind which cannot moderate it selfe but is easily inflamed, such are women, children, and weake and cowardly men'.<sup>46</sup> Children were expected to have particularly forceful emotions that defied reason and, as Hannah Newton has demonstrated, medical authors and laypeople 'sometimes implied that children's emotions were more powerful than those of adults'.<sup>47</sup> Although prescriptive literature portrayed children as naturally driven by their emotions, childrearing and parenting manuals also argued that children's minds were malleable and that therefore childhood, especially infancy, was an opportune time to teach reason and religious conduct.<sup>48</sup> *The Office of Christian Parents* (1616) stated that children were 'as pliable to learne any good thing' and became more obstinate as they aged, implying that the older a child was, the more difficult it became to teach and persuade them to modify their behaviour and emotional temperament.<sup>49</sup> The biographies of pious, dying children demonstrated that children could, in exceptional circumstances, exhibit 'adult' emotions and masculine reason. The most notable example in James

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<sup>43</sup> Owen, *Immoderate Mourning*, pp. 25-6.

<sup>44</sup> Henry Cuffe, *The Differences of the Ages of Mans Life* (London, 1607), p. 127; Newton, *The Sick Child*, p. 41.

<sup>45</sup> Thomas Hobbes (eds. and trans. Charles T. Wood, Bernard Gert, and T. S. K. Scott-Craig), *Man and Citizen: de Homine and de Cive* (Indianapolis, 1991), p. 59.

<sup>46</sup> Helkiah Crooke, *Mikrokosmographia a Description of the Body of Man* (London, 1615), p. 276.

<sup>47</sup> Newton, *The Sick Child*, p. 42.

<sup>48</sup> For example, see: John Bunyan, *Meditations on the Several Ages of Man's Life: Representing, the Vanity of it, from his Cradle to his Grave* (London, 1701), p. 18; John Locke, 'Some Thoughts Concerning Education', in Peter Gay (ed.), *John Locke on Education* (New York, 1964), pp. 60-3.

<sup>49</sup> Anon., *The Office of Christian Parents Shewing How Children Are to be Governed Throughout All Ages and Times of Their Life* (Cambridge, 1616), pp. 59, 71, 96.

Janeway's *A Token for Children* (1676), a pamphlet about the conversions and holy lives of infants and children, was about 'a notorious wicked child' who was rescued from a life begging on the streets, converted, and died a godly, penitent death. The nine-year-old boy was a thief, a blasphemer and, as Janeway declared 'one shall scarce hear of one so like the Devil in his infancy', but through his master's repetitive religious instruction the boy began to grow 'exceedingly in knowledg[e], experiences, patience, humility, and self-abhorrence'.<sup>50</sup> This demonstrated an ideal, and an extreme example of the malleability of children's minds and their ability to employ reason to their conduct and emotions.

Finally, the specific circumstances by which a person died affected how early modern people were expected to respond to their death. Prescriptive literature rarely distinguished between responses to different types of death and usually assumed that families who grieved did so for relatives who had died of a sickness or disease. However, *A Handkercher for Parents Wet Eyes* argued that the unexpected death of a relative was more likely to cause emotional pain and suffering for families than a natural death: 'Perishing by misfortune is a greater Cut, then leaving the world by Gods Visitation'.<sup>51</sup> This acknowledgement that some types of death could affect bereaved relatives' emotions more intensely than others is an area that will be explored further in this chapter. The age of the deceased could also impact on how early modern people reacted to death. The idea that children who died before baptism might not enter heaven could, as Garthine Walker contends, 'make newborn child murder seem especially heartless, as could contemporary medical theories that newborn babies were incredibly sensitive to pain and should be handled gently'.<sup>52</sup> Moreover, the relationship between the perpetrator and the victim, and the perpetrator's motive (or lack of) influenced expected responses to child death. For instance, witnesses in pamphlets and legal records and the Ordinary of Newgate (prison chaplain), in his accounts of the confessions of those to be executed, declared that it was especially deplorable if a parent murdered their

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<sup>50</sup> James Janeway, *A Token for Children Being an Exact Account of the Conversion, Holy and Exemplary Lives and Joyful Deaths of Several Young Children* (London, 1676), pp. 56-72.

<sup>51</sup> Anon., *A Handkercher for Parents Wet Eyes*, p. 14.

<sup>52</sup> Garthine Walker, 'Child-Killing and Emotion in Early Modern England and Wales', in Katie Barclay, Kimberly Reynolds, and Ciara Rawnsley (eds), *Death, Emotions and Childhood in Premodern Europe* (London, 2016), p. 155.

own child, who they were supposed to love and protect. As this chapter will demonstrate, the circumstances of a child's death determined how pamphlet writers described it and how early modern people were expected to react.

Popular print explored various reactions and prescribed emotional responses to the homicides, especially the murders, of children. The accounts of witnesses and perpetrators' emotions was often obtained through examinations and assize proceedings, by rumour or hearsay, via other printed narratives, or, in the case of ordinaries, acquired by interviewing the perpetrator first-hand before execution. Some descriptions included elaborations for narrative effect and the author's creative license.<sup>53</sup> An individual's response to child death depended on their role within the narrative: perpetrator (guilt, remorse, repentance); the child victim (terror); parents (temporary insanity, grief); neighbours who discovered corpses (fear, disgust); authorities, such as Justices of the Peace, coroners and the Ordinary of Newgate, who questioned perpetrators about their motives (disbelief, frustration, and compassion). The authors of popular print also used formulaic phrases to indicate how an audience should feel when they read or heard about child murder narratives. For instance, the author of *Bloody Newes from Dover* (1647) wrote that it was 'a most sad and much-lamented story' which emotionally prepared the audience for the narrative to come, set a precedent for how the narrative had been received already and, in turn, signalled how the audience should respond to it.<sup>54</sup> In contrast to prescriptive literature and personal correspondence which was concerned with discourses of consolation and remembrance, printed accounts of murders and trials were often more concerned with condemning a murderer's actions, framed in the narrative of sin, murder, remorse and redemption.<sup>55</sup> For example, an *Ordinary's Account* from February 1728 described how the ordinary of Newgate let Joseph Barret, who was convicted of the murder of his son, 'see the great evil of this the greatest of all Sins, in the Case of Cain the first Murderer of good King David, and from several other Instances'. The ordinary 'exhorted him to Repent of all his Sins, and particularly, that unnatural

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<sup>53</sup> Randall Martin, *Women, Murder and Equity in Early Modern England* (New York, 2008), p. 3.

<sup>54</sup> Anon., *Bloody Newes from Dover. Being a True Relation of the Great and Bloudy Murder, Committed by Mary Champion (an Anabaptist) who Cut off her Childs Head, being 7. Weekes Old, and Held it to her Husband to Baptize* (London, 1647).

<sup>55</sup> Clark, *Women and Crime*, p. 38.



and brutish Sin of killing his own Child'.<sup>56</sup> Popular print typically focused on the criminal process and reactions to the homicides of children up to the trial verdict and, in murder cases, execution. It was very rare for newspapers or the authors of pamphlets and broadsides to write about how parents, families and communities coped after the homicide of a child.

This chapter will demonstrate that religious and medical definitions of the passions permeated cultural and social perceptions of emotions in popular print and depositions. It will also explore how early modern society represented individuals who did not show the expected, or 'natural', responses to child death. I will argue that not all men, women, or children adhered to or restricted their behaviour within the confines of cultural expectations. Further, I establish that child murder pamphlets and ballads often accepted that men's emotions might initially appear immoderate, and hence in another context be construed as effeminate, but excused them due to the unusual and devastating circumstances of child murder.

### ***Fear***

Portrayals of the fear witnesses and perpetrators felt before, during and after a homicide pervaded the typical formulaic language in depositions and strengthened harrowing accounts of child murder in pamphlets and broadside ballads. While historians have analysed adult and children's fears of death, hell, and violence in many contexts, this section focuses on the fearful reactions of witnesses and perpetrators of child homicide.<sup>57</sup> It examines the reasons why people might have expressed their fear and panic in depositions, such as deflecting culpability, and how descriptions of fear depended on the genre of each source.

In religious and prescriptive discourses, fear was indistinguishable from apprehension or foreboding which were early modern phrases to explain anxiety. Joanna Bourke argues that while we might superficially separate fear (a

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<sup>56</sup> OA, 12 Feb 1728, OA17280212.

<sup>57</sup> For example, see: Joanna Bourke, *Fear: A Cultural History* (London, 2005), pp. 189-92; Newton, *The Sick Child*, pp. pp. 137-41, 152; Dianne Hall, 'Fear, Gender, and Violence in Early Modern Ireland', in Michael Champion and Andrew Lynch (eds), *Understanding Emotions in Early Europe* (Turnhout, 2015), pp. 215-32; Robert Shoemaker, 'Fear of Crime in Eighteenth-Century London', in Champion and Lynch (eds), *Understanding Emotions in Early Europe* ,, pp. 233-49.

response to an immediate threat) from anxiety (an anticipated threat) in modern society, the two emotions might feel very similar. Moreover, fear for one person might be better described as anxiety for another.<sup>58</sup> Depictions of fear and panic in depositions and popular print encompassed anxiety, apprehension and foreshadowing. As the French theologian Nicolas Coeffeteau explained

feare [...] is no other thing, but A grieffe and distresse of the soule, troubled by the imagination of some approaching Evill, wherewith man is threatned, without any appearence to be able to avoyd it easily, although it tend to the destruction of his being, or cause him some strange calamity in the course of his life'.<sup>59</sup>

Coeffeteau clarified that the causes of fear could be real, imagined or anticipated, and that fear could greatly affect the body. It 'mollifie[d] the heart with grieffe', drawing heat from the body and blood to the heart which caused it to beat quickly. Those who were 'affrighted' became pale and their bodies trembled as the blood flowed to the heart. A person experiencing fear might also experience confusion and memory loss.<sup>60</sup>

In pre-trial depositions, witnesses explained that the fear and apprehension they felt when they suspected a terrible accident had occurred immobilised their bodies and implied that their memories might have been affected by the terror of encountering the scene of a violent homicide. In Denbighshire in 1689, Joan Crew – who heard her father's maid, Anne Jones, accidentally shoot Crew's infant cousin, Elizabeth, in the stomach – testified that when she heard a pistol fire in her father's house she could not move to investigate because she was too scared. When she heard a gunshot Joan 'Im[m]ediately was running upstairs, but could not, *being so possessed with feare*'.<sup>61</sup> In a separate, but very similar deposition to the coroner, she stated that she was 'in her fathers house [when she] heard the report of a pistoll in the house upon which shee was immediately running upstairs *but could not for feare*'.<sup>62</sup> Joan then heard her father's maid, Anne Jones, reproach her infant

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<sup>58</sup> Bourke, *Fear: A Cultural History*, pp. 189-92.

<sup>59</sup> Coeffeteau, *A Table of Humane Passions*, pp. 430-31.

<sup>60</sup> Coeffeteau, *A Table of Humane Passions*, pp. 450, 462, 470.

<sup>61</sup> *NLW, GS, 4/34/1/31*; 32. My emphasis.

<sup>62</sup> *NLW, GS, 4/34/1/33*. My emphasis.

cousin, Elizabeth, for 'alwayes doeing Mischiefe'.<sup>63</sup> Other deponents and Anne Jones described the gunshot wound and how the gun had been left lying around in the house. However, as Joan did not provide a visual account of the crime scene or her cousin's injuries in her deposition it appears she was so struck by fear that she did not go into the room to witness the aftermath of the accident or to help. While it is rare to find such explicit descriptions of fear in depositions, there was an understanding in religious discourses of how fear could be heightened in terrifying situations of which the outcome was unknown. As Nicholas Coeffeteau argued, 'Feare increaseth when we are surprized' and so Joan's terror may not have been deemed inappropriate, nor even unexpected, by legal officials or her relatives in this instance.<sup>64</sup> Edward Jones also described his fear upon discovering that his mother, Jane Rondle, had killed his three-year-old sister, Anne Griffith in Flintshire. On a Sunday morning in 1682, Jane Rondle had decided to stay at home with her daughter, claiming that she was ill, while her family went to church. When Edward returned to the house later that morning, he could not find them and so he searched in the fields near the house. Unlike Joan who was unable to coax herself to the crime scene, Edward persevered until he found his mother and Anne in a field. This was when fear took hold of him. He saw Anne lying on the ground near his mother, bloodied and dead, and found his mother also bloody around the neck, but still alive. He claimed that 'being sore frighted thereat, to the best of his remembrance he then asked her, who had done that horrible acte or to that effecte' and she confessed that she had done it.<sup>65</sup> The connection he made between his fear and his ability to recall his interaction with his mother suggests that he was mindful of the association of fear and memory loss.<sup>66</sup> Like Joan, he did not hide his fear and its inclusion in the written depositions suggests that legal officials believed this was a justified and normal feeling to experience upon finding such a horrific scene.

To enhance the tragedy of the narrative, child murder pamphlets captured the feelings of fear and apprehension witnesses felt when they were about to discover a homicide that the audience knew had happened. *The*

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<sup>63</sup> *NLW, GS, 4/34/1/32.*

<sup>64</sup> Coeffeteau, *A Table of Humane Passions*, p. 449.

<sup>65</sup> *NLW, GS, 4/991/3/40-41.*

<sup>66</sup> Coeffeteau, *A Table of Humane Passions*, pp. 450, 462, 470.

*Unnatural Father* (1621) reported that John Rowse's wife, who was in London when he murdered their two infant children, felt uneasy the whole day, as though she knew something terrible was going to happen to her children. After a description of Rowse drowning his daughters and then waiting in the house for his wife's return, the narrative revisited her emotions. She did not know that her husband had murdered her infant daughters, and yet 'Shee said that her heart throbbd all day, as fore-boading some heavy mischance to come'.<sup>67</sup> This physical premonition engaged with prescriptive and medical discourses of fear as it caused people to 'have their hearts agitated and they beate in them, as if they were destitute of heate'.<sup>68</sup> In this instance, the mother's prophetic physical anguish suggested that she had a special, emotional connection with her infants, so much so that she could sense when they were in danger.<sup>69</sup> Moreover, the position of this description in the narrative increased the empathy and horror the audience were supposed to feel for the mother when she returned from London and her intuitive feelings were confirmed.<sup>70</sup> Popular crime narratives also portrayed neighbours as fearful when they suspected and then discovered that infants had been murdered. In *The Disobedient Son* (date unknown), a broadside about the prodigal father John Jones who murdered his wife, two infant children and his mother, neighbours discovered Jones's mother hanging from a tree and went to his house to inform him. However, the house was locked and no one answered their calls, 'which put their Hearts in further fear and Dread' before they entered and found the bloodied bodies of Jones's wife and infants.<sup>71</sup> Similarly, neighbours who searched Mary Compton's cellar 'found two Children dead with the Maggots crawling about them, to the great Terror and Amazement of all that beheld so dreadful a sight'.<sup>72</sup> Child murder

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<sup>67</sup> John Taylor, *The Unnatural Father, or, The Cruell Murther Committed by [one] John Rowse of the Towne of Ewell, Ten M[iles] from London, in the County of Surry, upon Two of his Owne Children with his Prayer and Repentance in Prison, his Arrai[gn]ment and Judgement at the Sessions, and his Execution for the Said Fact at Croydon, on Munday the Second of July, 1621* (London, 1621).

<sup>68</sup> Coeffeteau, *A Table of Humane Passions*, pp. 463-64.

<sup>69</sup> Sandra Clark, *Women and Crime in the Street Literature of Early Modern England* (Basingstoke, 2003), p. 65; Dianne Purkiss, 'Producing the Voice, Consuming the Body: Women Prophets of the Seventeenth Century', in Isobel Grundy and Susan Wiseman (eds), *Women, Writing, History: 1640-1740* (Batsford, 1991), pp. 139-58.

<sup>70</sup> Joy Wiltenburg, 'True Crime: The Origins of Modern Sensationalism', *The American Historical Review* 109: 5 (2004), pp. 1396-7.

<sup>71</sup> Anon., *The Disobedient Son and Cruel Husband being a Full and True Account of one Mr John Jones, a Gentlemans Son in Wiltshire* (London, ?).

<sup>72</sup> Anon., *A Particular and Exact Account of the Trial of Mary Compton, the Bloody and Most Cruel Midwife of Poplar: as also of her Maid, Mary Compton the Younger; who were both*

narratives demonstrated that the deliberate killing of a child could, and should, provoke intense fear and surprise for those who discovered it. It also demonstrated that parents' fears and intuition concerning the safety of their children was not necessarily misguided.

Parents who were suspected of murdering their children depicted themselves, and were portrayed in popular print, as being seized by fear and terror immediately after the child died. For instance, Henry Hick, who was suspected of murdering his seven-month-old infant Ann in 1719, testified that she died in his arms in a lane while he was travelling to Barnsley where he buried her. The cause of Ann's death was not mentioned in the short record of his testimony, but it did include a reason for why he buried her corpse: '[Th]e said Henry Hick being very much affrighted at the Death of the said Child, laid it in a Ditch-Bottom near to the said Road where [the] said Child died, and went his way'.<sup>73</sup> In this case, Hick explained the burial by claiming that he was bereft of his senses and scared, in response to questions the Justice of the Peace asked him about why he buried his child and whether it was to hide evidence of his involvement in her death. As no evidence remains of the outcome of this case, of witness testimonies, or if it was even heard at an assize court, it is difficult to tell if this was a successful or persuasive reason for his behaviour. The type of fear described in popular print was frenzied 'terror' and directly related to the guilt of the murderer, who realised the terrible nature of what they had done. After slitting her infant daughter's throat 'in a gastly manner to behold', Mary Cook looked down at her bloody hands. The melancholy and conviction she had felt moments before vanished and 'she could not indure the sight of' her hands, for 'The terror of this fatal stroke made such a seizure upon her conscience, with the reflection of that doleful sight'.<sup>74</sup> As Coeffeteau argued, 'those things are most feareful, when as if wee commit a fault, it is no more in our power to reparaire the error'.<sup>75</sup> Within the narrative of the plot, this was the

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*Araigned in one Indictment for Felony and Murder, in Destroying, Starving to Death, and Famishing Several Poor Infant Babes* (London, 1693).

<sup>73</sup> ASSI 45/18/1/41.

<sup>74</sup> N. Partridge and J. Sharp, *Blood for Blood, or, Justice Executed for Innocent Blood-Shed being a True Narrative of that Late Horrid Murder Committed by Mary Cook upon her Own and Only Beloved Child, with Several Remarkable Passages Preceding the Fact, as also what was Most Worthy Observation During her Imprisonment, and at her Execution* (London, 1670), p. 16.

<sup>75</sup> Coeffeteau, *A Table of Humane Passions*, p. 449.

moment when Cook began to feel guilt and regret at what she had done; this paved the way for her remorse and repentance later in the pamphlet.

Fear and surprise were natural and expected reactions for those discovering, or about to discover, the homicide of a child in early modern England and Wales. Fear could influence a person's physical demeanour so much so that it could prevent witnesses from investigating suspicious noises and from helping victims even if they desired to provide assistance. Suspected perpetrators, such as Henry Hick, also engaged with discourses of fear to deflect culpability and to explain their unorthodox behaviour when a child died. In Henry Hick's examination, his explanation of his emotional state was especially important because there were no other witnesses to corroborate his evidence. Authors of crime literature depicted fear to heighten tension and, perhaps, to evoke emotions from the audience. Moreover, descriptions of fear in crime pamphlets and broadsides, which were often didactic, demonstrated that feelings of fear and terror were normal, expected responses of witnesses to child homicide.

### ***Disgust***

Popular crime narratives about midwives who murdered many infants included witnesses' vivid descriptions of their disgust and nausea upon discovering infants' decaying corpses. This emphasised the scale and duration of the midwife's crimes. Like parents of sick children who, as Hannah Newton has shown, were repulsed and distressed by the marks and symptoms of illness on their children's bodies and behaviour, neighbours overcame their disgust at the sight and the smell of infants' corpses.<sup>76</sup> In contrast to the parents of sick children who claimed in their diaries that they conquered their revulsion because of their love and affection for their children, crime pamphlets and broadsides gave neighbours different motives. For instance, in *The Murderous Midwife* (1673), neighbours were given the strength to uncover the corpses by divine providence. The pamphlet stated:

Though they might well, through amazement at such a deplorable spectacle, and the stench that proceeded from the Office, have remitted a stricted enquiry to another time; yet Providence so

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<sup>76</sup> Newton, *The Sick Child*, p. 128.

supernaturally strengthened them as they continued till they had brought out the Sixty second Infant; which astonishment and pity, together with their smell, would not let them much pass over with their eyes.<sup>77</sup>

Divine providence persuaded neighbours that the task of uncovering all the corpses was imperative and could not be put off until another time. Instead, God gave them the strength and the urgency to remove the infants' bodies from the cellar and to bring the midwife to justice.<sup>78</sup> In a similar narrative, entitled *A Particular and Exact Account of Mary Compton* (1693), individual neighbours described how they were affected by the infants' corpses. Daniel Parnel testified that the children 'were so rotten, which he said was a most dreadful sight to behold'. George Hust claimed that the smell was so disgusting that he was 'scarce able to go into the Cellar' and that finding the infants' black corpses covered in vermin 'made him so sick, that he was forced to get some Drink'.<sup>79</sup> These descriptions demonstrate the severity of the midwife's crimes and they might have resonated with an audience that also felt sick when reading and hearing these accounts.<sup>80</sup>

### ***Remorse and repentance***

Remorse and repentance involved the practice of self-examination, in which individuals explored their former sinful behaviour and expressed their sincere regret and abhorrence for sin, with the intention of improving their conduct and devotion to God.<sup>81</sup> While English schoolmaster John Brinsley argued that Christians who wanted to live an ideal, devout life should regularly reflect on and reprimand themselves for their poor conduct, this exercise was only adopted by zealous Protestants.<sup>82</sup> Early modern people most commonly

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<sup>77</sup> Anon., *The Murderous Midwife, with her Roasted Punishment being a True and Full Relation of a Midwife that was put into an Iron Cage with Sixteen Wil-Cats, and so Roasted to Death, by Hanging over a Fire, for Having Found in her House-of-Office no Less than Sixty Two Children, at Paris in France* (London, 1673), pp. 1-6.

<sup>78</sup> Malcolm Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge, 2000), pp. 214-15.

<sup>79</sup> Anon., *A Particular and Exact Account of the Trial of Mary Compton, the Bloody and Most Cruel Midwife of Poplar: as also of her Maid, Mary Compton the Younger; who were both Aaigned in one Indictment for Felony and Murder* (London, 1693).

<sup>80</sup> Wiltenburg, 'True Crime', pp. 1396-7.

<sup>81</sup> Alec Ryrie, *Being Protestant in Reformation Britain* (Oxford, 2013), p. 55.

<sup>82</sup> John Brinsley, *The True Watch and Rule of Life* (London, 1608); Margo Todd, 'Puritan Self-Fashioning: The Diary of Samuel Ward', *Journal of British Studies*, 31 (1992), pp. 236-64.

expressed remorse and repentance when they recognised, or believed, that they were responsible for a specific act of wrongdoing, a crime, or their own or another person's suffering. For instance, historians of crime have examined the expected emotional performances of prisoners who awaited execution in prison and on the scaffold.<sup>83</sup> Hannah Newton has also analysed penitent parents who believed that God had given their children a terminal illness as a punishment for their sins, and prayed to Him to forgive them and to relieve their child's pain.<sup>84</sup> Scottish minister Robert Bruce claimed that God could forgive those who sinned and were genuinely sorry for their actions, which meant that 'mercy [was] not denied the worst of sinners' and that even those facing execution could, if they were truly penitent, achieve redemption and be forgiven by God.<sup>85</sup> In this section, I argue that legal officials asked witnesses about a perpetrator's emotional state and behaviour after they had committed a homicide because evidence of emotions contributed to the overall assessment and verdict of legal culpability. This section also explores the discourses and emotions that child murderers were encouraged to engage with in prison, and why some children above the age of discretion who were prosecuted for murder were not considered mature enough by an Ordinary to demonstrate or feel the remorse expected of them to have a chance for salvation.

Witnesses noted the presence of child killers' initial remorse in depositions and the *Old Bailey Sessions Papers*, which suggests that Justices of the Peace and judges questioned them about the emotional states of perpetrators. Accounts of a perpetrator's immediate reaction to hurting or killing a child could establish whether their violence was deliberate or unintentional (see Chapter One). In Denbighshire in 1663, after apprentice Peter Parry threw a stone at his master's three-year-old granddaughter, Anne Foulke, and fatally injured her, he begged his master and mistress for their forgiveness. According to a witness testimony, Parry visited Anne's grandmother 'to beg her pardon for

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<sup>83</sup> For example, see: James Sharpe, "'Last Dying Speeches': Religion, Ideology and Public Execution in Seventeenth-Century England', *Past & Present* 107 (1985), pp. 144-67; Peter Lake and Michael Questier, 'Agency, Appropriation and Rhetoric under the Gallows: Puritans, Romanists and the State in Early Modern England', *Past & Present* 153 (1996), pp. 64-107; Andrea McKenzie, *Tyburn's Martyrs: Execution in England, 1675-1775* (London, 2007).

<sup>84</sup> Newton, *The Sick Child*, pp. 131-34.

<sup>85</sup> Robert Bruce, *Sermons Preached in the Kirk of Edinburgh, be M. Robert Bruce, Minister of Christs Evangel There: as they were Received from His Mouth* (Edinburgh, 1591); Ryrie, *Being Protestant*, p. 60; OBSP, 13 Oct 1675, J. D., R. O, W. N., t16751013-3.



hurting the Girle & that he was sorry for desiring he might be admitted to her house again'.<sup>86</sup> Another witness claimed that, immediately after the accident, Anne was taken to her grandfather's house where her wound was inspected while 'Peter hid himselfe under a bed in the said house'.<sup>87</sup> This suggests that Parry sought his mistress to apologise to her as soon as the accident occurred and that she admitted him into the house. Therefore, he expressed remorse while Anne was still alive (she died three days later) and when the outcome of the accident was unknown. While we can only speculate as to the reasons for his apology and his behaviour, the inclusion of his remorse in witness depositions demonstrates that, for legal officials and for witnesses, his emotional state after the accident was an important factor that contributed to determining his culpability. As an Old Bailey trial from 1681 shows, witnesses believed that perpetrators who exhibited remorse and anguish upon hurting a child were innocent and that their violence was accidental. When London coachman John Fulnum ran over infant Sarah Richardson 'witnesses [spoke] very favourably on the Prisoners side', claiming that 'he used his utmost endeavours to save the Child, and that he expressed abundance of sorrow upon the sight of that unlucky accident'.<sup>88</sup> Fulnum's testimony demonstrated that, in accordance with legal requirements for accidental death, that he had involuntarily, and through no fault of his own, killed Sarah, without intent or malice.<sup>89</sup> Witnesses interpreted Fulnum's regret and efforts to save the infant as sincere and going above and beyond the actions expected of a cart driver who injured an unknown child. The notion that emotions were natural, and therefore difficult to conceal or fake, appears to have been adopted by witnesses who assessed Fulnum's culpability. They determined that, alongside significant evidence that Fulnam did not act maliciously or with intent, his emotional reaction to killing Sarah Richardson should contribute to his exoneration.

The *Ordinaries' Accounts* and pamphlets established the emotional expectations of criminals in prison and at the gallows and, most importantly, communicated to a broad, popular audience that there was hope of salvation and penitence for all, even the most deplorable criminals. They included

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<sup>86</sup> *NLW, GS, 4/25/3.*

<sup>87</sup> *NLW, GS, 4/25/3.*

<sup>88</sup> *OBSP, 17 Oct 1681, John Fulnum, t16811017a-1.*

<sup>89</sup> Walker, *Crime Gender and Social Order*, esp. pp. 113-58.

instructional sermons, biographies of prisoners that explained the other sins and difficulties that led them to murder a child, and narratives of their time in prison by the Ordinary.<sup>90</sup> The *Ordinaries' Accounts* and pamphlets proposed the ideal process and requirements for the truly penitent sinner to make his or her salvation possible and reproved those who failed to meet those expectations. Narratives focused on the prisoner's preparation for death, discussed how their previous sins facilitated their crimes and, sometimes, described their execution. Prisoners had to accept and be willing to face death right up to the moment they died, and some criminals even eagerly jumped to their deaths on the scaffold to show their belief in their own salvation.<sup>91</sup> While this literature, which was intended not only to inform but also to instruct readers, followed a formulaic narrative of a murderer's remorse, it also stressed that the murder of innocent children, especially infants, was a particularly heinous crime that required tremendous remorse and repentance from the perpetrator. For instance, in 1728, the Ordinary of Newgate stated that he helped Joseph Barret, who was convicted of murdering his son James, 'see the great evil of this the greatest of all Sins' and 'exhort[ed] him to Repent and believe the Gospel, it being the only way to be free'd from the guilt of innocent Blood, to be wash'd in the Blood of that immaculate Lamb of God'.<sup>92</sup>

Remorse was only possible if a prisoner confessed to their crime and acknowledged that their own sinful behaviour had led to their corruption and to commit the crime(s) they did. In most child murder pamphlets, perpetrators confessed their guilt to spouses, neighbours and legal officials before the trial, which initiated the process of remorse that was expected to continue in prison. For instance, John Rowse 'confest all the whole circumstances of the matter freely' when examined by Justices of the Peace for murdering his two daughters in 1621.<sup>93</sup> As the process of remorse and penitence was an arduous task, child murderers were obliged to continue to confess to the crime and their former sins

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<sup>90</sup> Robert Shoemaker, 'Print and the Female Voice: Representations of Women's Crime in London, 1690–1735', *Gender & History* 22:1 (2010), p. 81.

<sup>91</sup> McKenzie, *Tyburn's Martyrs*.

<sup>92</sup> OA, 12 Feb 1728, OA17280212.

<sup>93</sup> Anon., *A True and Perfect Relation of a Most Horrid and Bloody Murther Committed by one Philmore's Wife in Blew-Boar-Court in Field-Lane, London, upon the Body of her own Child Together with the Heads of her Confession in Prison* (London, 1686); Anon., *A Pitiless Mother that Most Unnaturally at one Time, Murthered Two of her owne Children at Action within Sixe Miles from London upon Holy Thursday Last 1616* (London, 1616).

in prison and at their execution. Weeping was understood sometimes to be a cathartic, healing experience and, as Protestant preacher Henry Greenwood claimed, as tears were often considered a sign of true repentance, criminals who wept for their sin were understood to be demonstrating genuine remorse for what they had done.<sup>94</sup> The 'wonderfull, penitent prisoner' Rowse 'would fetch a deep sigh, and weepe desiring every one to pray for him' when anyone mentioned his children.<sup>95</sup> Henry Goodcole, the Ordinary of Newgate, reported that Elizabeth Barnes had 'teares fast trickling downe her cheekes' as she asked Goodcole and the other prisoners to pray to God 'to take mercy on her poore sinfull soule, to save that from hell'.<sup>96</sup> While Ordinaries understood tears as 'an important sign of Contrition' and frequently assessed prisoners' countenances to determine how penitent they were, they also required that prisoners underwent a full spiritual conversion.<sup>97</sup> To do this, prisoners had to show that they were willing to accept the atrocity of their sins, repent for them, and receive the knowledge and wisdom of the religious teachings and scripture that the Ordinaries taught them.<sup>98</sup> A prisoner's prior ignorance was often highlighted as an explanation for why they had degenerated into sin in the first place and so needed lots of guidance to understand religious concepts and to achieve penitence. In the most successful cases of prisoner conversion, the newly converted criminal enthusiastically read the Bible and shared the teachings and scripture that they had learned from the Ordinary with other prisoners who they, in turn, informed and converted.<sup>99</sup> For instance, Elizabeth Caldwell, who accidentally poisoned a child when she attempted to murder her husband, was fully converted in prison and reprovved anybody who 'carelesly abused Gods holy ordinaunces' in front of her.<sup>100</sup>

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<sup>94</sup> Henry Greenwood, *A Treatise of the Great of Generall Daye of Judgement Necessarie for Everie Christian that Wisheth Good Successse to his Soule, at that Great and Terrible Day* (London, 1606).

<sup>95</sup> Taylor, *The Unnatural Father*.

<sup>96</sup> Henry Goodcole, *Natures Cruell Step-Dames: or, Matchlesse Monsters of the Female Sex* (London, 1637), p. 5.

<sup>97</sup> McKenzie, *Tyburn's Martyrs*.

<sup>98</sup> Randolph Yearwood, *The Penitent Murderer. Being an Exact Narrative of the Life and Death of Nathaniel Butler; who (through Grace) became a Convert, after he had Most Cruelly Murdered John Knight* (London, 1657).

<sup>99</sup> Frances Dolan, "'Gentlemen I Have One Thing More to Say": Women on Scaffolds in England, 1563-1680', *Modern Philology* 92:2 (1994), pp 157-78.

<sup>100</sup> Gilbert Dugdale, *A True Discourse of the Practises of Elizabeth Caldwell, Ma[ster]: Jeffrey Bownd, Isabell Hall widow, and George Fernely, on the P[e]rson of Ma[ster]: Thomas Caldwell...to have Murdered and Poysoned Him* (London, 1604).

However, not all child murderers embraced conversion in prison, and some took a while to be persuaded by the Ordinary's assertions that they must repent for their sins to avoid damnation. As ordinaries argued that prisoners' resistance to instruction was usually due to their ignorance, this behaviour rarely signified a deliberate rebellion against the state or the church (except for Catholic prisoners).<sup>101</sup> Prison chaplains persistently communicated scripture to prisoners to chip away at their obstinate ignorance, with the belief that they could change their feelings and behaviour. Mary Price, who murdered her five-year-old stepsister Ann Bickam in 1718, confessed to the murder before the trial but she did not embrace the ordinary's instruction. The *Ordinary's Account* stated that although the twenty-one-year-old woman realised 'that she deserv'd (and therefore said she was willing) to die for' the murder, she was 'very ignorant' and 'understood little of Religion'. Before her death she only 'seem'd somewhat affected' by his warnings that her stubborn refusal to convert could cause her to spend an eternity in hell.<sup>102</sup> According to the *Ordinaries' Accounts* from February 1728, Joseph Barret also struggled to convert, and it was only just before his execution that this 'very Ignorant, illeterate Fellow' claimed that he was penitent.<sup>103</sup> Unlike Price who willingly confessed, Barret contested the circumstances of his son's death and most of the description of his time in prison indicates that he appeared to be preoccupied with the false evidence that witnesses gave at the trial and even blamed his son for his immoral behaviour, trying to pass himself off as a caring father – his violence had only been to help the child. These reports show the conflicting emotions prisoners might have felt when they killed a child, and that they did not always meet the expectations of ordinaries.

Ordinaries were concerned that the few children and youths who were just above the age of discretion and prosecuted for murder were not emotionally mature enough to express remorse or spiritually prepare for their deaths.<sup>104</sup> While children aged fourteen and above could be legally culpable for homicide, some were still considered to have child-like qualities that hindered their capacity to learn from and be directed by an Ordinary. An Old Bailey trial report

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<sup>101</sup> McKenzie, *Tyburn's Martyrs*.

<sup>102</sup> *OBSP*, 9 July 1718, Mary Price, t17180709-36.

<sup>103</sup> *OA*, 12 Feb 1728, Joseph Barret, OA17280212.

<sup>104</sup> Newton, *The Sick Child*, pp. 41-2.

from 1675 explained that 'J. D.', a fourteen-year-old boy who was convicted of murdering an anonymous silkman, could not properly repent for his sins 'which could not be expected from his years'. J. D. was dominated by his emotions and was incapable of taking the ordinary's instruction or employing reason to prepare himself for death; if anything, his tears intensified when anyone tried to convert him: 'this youth had not many words to express himself, but he supply'd that defect with his tears, weeping continually, especially when his friends or the Minister came to prepare him for another Life, to whom he wept bitterly'.<sup>105</sup> As these tears were performed in replacement of remorseful words, rather than alongside them, the Ordinary did not interpret this as a sign of true repentance. Although J. D. was reported to have behaved in a childlike manner in prison, the trial report produced in the *Old Bailey Sessions Papers* included moralistic judgements which maintained that J. D. was 'Young in years but old in wickedness'.<sup>106</sup> J. D. confessed to some of his 'small Follies', which was very different from John Rowse or Elizabeth Caldwell's confessions to their sinful nature that was expected of penitent sinners in prison.<sup>107</sup> He was also preoccupied with fears of death which meant that he could not willingly face death as was expected of a convicted felon.<sup>108</sup> Ordinaries warned that remorse was disingenuous if it derived from a fear of death or hopes of a pardon, and that such feelings were obstacles to true penitence. *Horrid News from St. Martins* (1677) explained that a fifteen-year-old girl wished that her mistress, whom she had attempted to murder after previously murdering her own mother, would obtain a pardon for her release from prison. The pamphlet stated that 'tis conceived [these] are vain Childish hopes; and it will be better for her to repent, and prepare for her later End'.<sup>109</sup> As these examples demonstrate, the age of discretion was a set boundary, but childlike qualities were not expected to suddenly disappear at the age of fourteen. The ability to form intent (*mens rea*) and be tried as an adult did not necessarily mean that a child could exhibit adult

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<sup>105</sup> OBSP, 13 Oct 1675, J. D., t16751013-4.

<sup>106</sup> OBSP, 13 Oct 1675, J. D., t16751013-4.

<sup>107</sup> For example, see: Taylor, *The Unnatural Father*; Dugdale, *A True Discourse of the Practises of Elizabeth Caldwell*.

<sup>108</sup> OBSP, 13 Oct 1675, J. D., t16751013-4.

<sup>109</sup> Anon., *Horrid News from St. Martins, or, Unheard-of Murder and Poyson Being a True Relation how a Girl Not Full Sixteen Years of Age, Murdered Her Own Mother at One Time, and a Servant-Maid at another with Ratsbone* (London, 1677), p. 7.

emotional behaviour. Each individual child and youth's ability to engage in expected emotional performances and practices varied.

The ability of each individual child and youth to express remorse is further demonstrated in Old Bailey trial reports about youths, who were just above the age of discretion when they accidentally killed their friends, who articulated their remorse in a similar way to adult men in manslaughter trials. A common defence by men who were convicted of manslaughter at the Old Bailey was that the prisoner and the deceased were 'very merry and civil' or that they were 'very good friends' before they fought.<sup>110</sup> Men employed these defences to establish that a long-term quarrel did not exist between the defendant and the victim that might indicate an intent to exact revenge that was required for a murder or manslaughter verdict.<sup>111</sup> Trial reports also included an apology by the prisoner: James Levingston was 'heartily sorry for so great a misfortune' after he killed Charles Howard<sup>112</sup>; William Cannock was 'very sorry' for killing Thomas China;<sup>113</sup> and when James Scott killed John Barnes he 'said he was heartily sorry for what he had done'.<sup>114</sup> The discourses of friendship and of remorse by adult male manslayers, and its inclusion in trial reports, demonstrated that the violence was in response to an immediate slight to the perpetrator's honour and that there was no pre-existing quarrel that might have indicated intent and malice.<sup>115</sup> Therefore, these emotional expressions and declarations of intimacy and friendship served to further establish to a judge and jury, and to the audience of the *Old Bailey Sessions Papers*, that the perpetrator should be either convicted of manslaughter or acquitted because the death was accidental. While the circumstances of the violence and the verdict was different, fifteen-year-old John Redhall also engaged with discourses of friendship when he declared his remorse, at his trial in 1686, for killing his fellow apprentice, fifteen-year-old Benjamin Bridges. Redhall accidentally shot Bridges while they were playing with guns in the shop in which they worked and, to establish that it was unintentional, he stated that 'he was sorry for it, and always

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<sup>110</sup> *OBSP*, 20 Feb 1695, William Cannock, t16950220-31; *OBSP*, 6 Dec 1693, James Levingston, t16931206-22.

<sup>111</sup> Walker, *Crime, Gender and Social Order*, pp. 114-16.

<sup>112</sup> *OBSP*, 6 Dec 1693, James Levingston, t16931206-22.

<sup>113</sup> *OBSP*, 20 Feb 1695, William Cannock, t16950220-31.

<sup>114</sup> *OBSP*, 28 Aug 1695, James Scott, t16950828-44; *OBSP*, 2 March 1709, William Walker, t17090302-13.

<sup>115</sup> Walker, *Crime, Gender and Social Order*, pp. 114-16.

loved the deceased' and did not know that the gun was charged. The friendship Redhall depicted was based on play and leisure time spent together. This was a longer lasting and different type of friendship than that testified to by adult men who made declarations of friendship and civility in the days and moments before a fight.<sup>116</sup> Sixteen-year-old William Ockendon was also described as an 'intimate Friend' of John Haley, who he was accused of accidentally shooting while they were hunting. Evidence proved that Haley had, in fact, accidentally shot himself, but when Ockendon thought he had caused his death 'he said he was very sorry for it and had rather it had been himself'.<sup>117</sup> Some youths could exhibit emotional behaviour and remorse that appeared similar to adult expressions; it depended on the individual child or youth.

Overall, the voices and feelings of those who conformed (or at least attempted to conform) to prescribed ideas of remorse and penitence took precedence in the *Ordinaries' Accounts* and popular crime literature. Evidence from the *Ordinaries' Accounts*, the *Old Bailey Sessions Papers* and pre-trial depositions suggests that killing a child, no matter what the circumstances were, caused most perpetrators to feel remorse that was intensely emotionally painful. As I shall demonstrate in the following sections on grief and insanity, child killers who had a strong, personal relationship with the victim, and who did not face execution, felt tormented by guilt, remorse and grief after the trial.

### ***Grief and Sorrow***

In contrast to grieving parents' rich diary accounts about their children who died of sickness and disease, there are few records of how families and communities dealt, or were expected to cope, with grief and sorrow after a child was killed by another person. As children were more likely to die of sickness and diseases than homicide, it is unsurprising that the types of sources, such as personal correspondence, that historians have analysed to trace depictions of parental grief, rarely contain accounts of child homicide. Moreover, the source material that typically discussed homicides of children (coroners' inquest records, pre-trial depositions, the *Old Bailey Sessions Papers* and the *Ordinaries' Accounts*) were chiefly concerned with determining the cause of death or culpability and, as I have shown, the main emotions expected of perpetrators were remorse and

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<sup>116</sup> *OBSP*, 13 Oct 1686, John Redhall, t16861013-9.

<sup>117</sup> *OBSP*, 7 Dec 1720, William Ockendon, t17201207-49.

penitence. Child murder pamphlets also usually concluded with the murderer's execution and did not discuss how families and communities coped with the aftermath of a child's murder. Although these sources were not spaces in which authors reflected on the emotions of families and communities after a trial, they can provide some insight into the grief and sorrow perpetrators and witnesses felt immediately after a homicide had occurred and at the trial. Incidental accounts in newspapers and diaries demonstrate how grief and melancholy affected those who accidentally killed their children and how a child's accidental death could underline fragmented relationships in families.

Grief was a complex, multifaceted emotion that could encompass 'melancholy', 'anger', and 'love' and 'applied to any acute mental or physical pain'.<sup>118</sup> While grief was not exclusively associated with bereavement in the early modern period, the death of a child was a significant event that caused families and communities to experience mental and physical suffering. As Robert Burton explained in *The Anatomy of Melancholy* (1621), the 'fury of this passion [was] so violent' it could take 'away all appetite, desire of life, and extinguisheth all delights'.<sup>119</sup> Late seventeenth-century prescriptive literature also described the detrimental effects of grief on the mind: Simon Patrick, bishop of Ely, related grief to misery by depicting bereaved people as having 'miserable [...] mind[s]'; and chaplain John Owen advised that people should try to 'ease the inward griefs of our mind' to recover from sorrow.<sup>120</sup> Treatments for grief and melancholy involved the diversion and distraction of the mind through religious instruction to prevent the bereaved from dwelling on the loss of a child or a loved one.<sup>121</sup> Grief also visibly tormented the body. Mourning caused 'deep sighes and groanes, tears, exclamations, howling, roaring, and many bitter pangs' and, sometimes, visions.<sup>122</sup> The 'sad and mournful posture' it could impose on an individual was detailed in *A Handkercher for Parents Wet Eyes* to demonstrate the negative side effects of allowing oneself to be overcome by

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<sup>118</sup> Newton, *The Sick Child*, p. 125; Michael Schoenfeldt, 'Aesthetic and Anesthetics: the Art of Pain Management in Early Modern England', in Jan Frans van Dijkhuizen, and Karl A. E. Enekel, (eds), *The Sense of Suffering: Constructions of Physical Pain in Early Modern Culture, Yearbook for Early Modern Studies*, vol. 12 (Leiden and Boston, 2008), pp. 19-38.

<sup>119</sup> Burton, *The Anatomy of Melancholy*, p. 212.

<sup>120</sup> Patrick, *A Consolatory Discourse*, pp. 93, 114; Owen, *Immoderate Mourning*, p. 43.

<sup>121</sup> Pender, 'Rhetoric, Grief, and the Imagination', pp. 56-61; James Hart, *Klinike, or The Diet of the Diseased* (London, 1633), p. 222.

<sup>122</sup> Burton, *The Anatomy of Melancholy*, p. 211.



grief: 'to sit day by day with folded armes, and dropping eyes , & a heart heavy as lead, for the Losse cannot possibly be regayned; as it is unprofitable to the bemoaned'.<sup>123</sup> In the most severe cases of continued, unregulated grief, the suffering could lead to serious sickness. For instance, Jeremy Taylor portrayed those who immoderately grieved as 'trembling with a palsie, or scorched with feavers' and that their bodies were affected by 'immoderate heats' and sleeplessness.<sup>124</sup> This vivid, dramatic representation of immoderate grief demonstrated that it was vital to regulate grief and to help those who could not moderate it themselves.

Prescriptive literature provided consolatory arguments to bereaved parents to moderate the dangerous consequences of grief on the mind and the body, and to encourage people to use reason to overpower the passions. Some of the advice explored could be found in various didactic manuals about dying well and applied to all forms of grief and relationships.<sup>125</sup> For instance, writers argued that death was an inevitable, universal experience and that, in many cases, it was positive as it removed the deceased from the suffering and corruption of the physical world. Grief was a normal response to death as Christians were supposed to feel compassion, but many authors warned that it was irreligious to vainly lament a death for too long as it suggested they did not believe in God's mercy or heaven.<sup>126</sup> A common consolatory argument specific to child death was that parents should be thankful that their child died while it was innocent and was too young to be familiar with sin. In particular, baptism 'assured by thee of remission of Sin' and could comfort parents that their child had left the miseries of the physical world and were received in paradise. As John Kettlewell's instructive prayer in *Death Made Comfortable* (1695) declared 'And as it Dyed young, O! Lord, Soe I have the Comfort to think and hope, that therefore it Dyed innocent'.<sup>127</sup> The confidence in consolatory prescriptive literature on grief that children went to heaven was based on assumptions that

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<sup>123</sup> Owen, *Immoderate Mourning*, p. 14; Anon., *A Handkercher for Parents Wet Eyes*, p. 17.

<sup>124</sup> Jeremy Taylor, *The Rule and Exercises of Holy Dying* (London, 1651), p. 325.

<sup>125</sup> For more on the literature on 'dying well' see: Lucinda Becker, *Death and the Early Modern Englishwoman* (Abingdon, 2003); Houlbrooke, *Death, Religion and the Family*.

<sup>126</sup> Patrick, *A Consolatory Discourse*; Owen, *Immoderate Mourning*; Taylor, *The Rule and Exercises of Holy Dying*; Anon., *A Handkercher for Parents Wet Eyes*.

<sup>127</sup> John Kettlewell, *Death Made Comfortable, or, The Way to Dye Well Consisting of Directions for an Holy and an Happy Death: Together With an Office for the Sick and for Certain Kinds of Bodily Illness, and for Dying Persons, and Proper Prayers upon the Death of Friends* (London, 1695).

children, especially infants, were incapable of committing a mortal sin.<sup>128</sup> It also demonstrates that while the representation of the sinful, rebellious child who was tainted by original sin might have been appropriate in radical sermons and pamphlets by puritans, it was not suitable or compassionate to include such depictions in consolatory discourses.

As child murderers who were apprehended were expected to feel remorse and practice penitence before their execution, the grief and sorrow child murderers might have felt after the fact was only commented on in the few pamphlets about murderers who had eluded justice and had time to contemplate their actions. *Concealed Murther Reveild* (1699) detailed the torment and melancholy Mary Anderson felt in the years after she concealed the murder of the six-week-old infant she was nursing. When Anderson drowned infant Hannah Jones in 1699, her mother decided to conceal the murder and to inform Jones's mother that she had been killed in a house fire. However, a few years later, Anderson's mother, who was on her deathbed, confessed to her role in hiding the murder to her friends and neighbours. Anderson's sister, who was interrogated by officials about why they concealed the crime, claimed that Anderson's guilt tortured her so much that she was 'at some certain times very Malencholy [sic] and Dejected, ever since she Committed this Fat[al] and Tragical Action'.<sup>129</sup> While the pamphlet indicated that Anderson felt melancholic and that neighbours inquired about her mental state, its depiction of grief focuses on her guilt and reveals very little about her relationship with the infant Hannah Jones. As Anderson's emotions were described by her sister in the pamphlet, it is unclear whether her melancholy was related to the guilt of what she had done, her fear that the murder was going to be discovered, or grief at Hannah's death, or a combination of all these factors. Anderson's guilt and melancholy appeared to be a mitigating emotion that demonstrated that she was suffering for her actions, but the author of the pamphlet did not exonerate her, and she still had to undertake the prescribed

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<sup>128</sup> Ralph Houlbrooke, *The English Family, 1450-1700* (London, 1984), p. 141; Anon., *A Handkercher for Parents Wet Eyes*, pp. 49-53.

<sup>129</sup> Anon., *Concealed Murder Reveild. Being a Strange Discovery of a Most Horrid and Barbarous Murther, that was Committed in St. Catherins-Lane near Tower-Hill, by Mary Anderson, Alias Farrel, on the Body of Hannah Jones an Infant of 8 Weeks Old* (London 1699).

path of remorse and execution, as outlined in the previous section, to show she was truly penitent.

Popular crime narratives usually attributed grief to parents who had discovered that their child had been murdered. These accounts rarely detailed the exact behaviours of grieving or sorrowful people and encouraged the audience to imagine how people reacted to child murder. For instance, *The Unnatural Father* stated, 'But in what a lamentable perplexity of mind the poore woman was' when John Rowse's wife found her children's corpses and 'shee perceived how and which way they lost their lives, any Christian that hath an heart of flesh may imagine'.<sup>130</sup> The author assumed that anyone who heard this narrative would naturally feel empathetic towards Rowse's wife, it was impossible not to. Some pamphlets implied that the audience might understand what extreme sorrow would feel and look like. *Sad News from Ratcliff* (1691) let the audience imagine the grief Captain Giddings and his wife might have felt upon finding their apprentice had murdered their infant daughter, maid and mother: 'What Lamentation and Cries there were in this unhappy House when the unwelcome News arrived to the Ears of Captain Giddings and his Wife, I leave the Reader to judge'.<sup>131</sup> However, some pamphlets did engage with prescriptive discourses of grief to demonstrate the behaviours expected from shocked, bereaved parents whose children had been murdered. *Blood for Blood* detailed Mary Cook's husband's reaction to the murder of his child which, at times, demonstrated conduct that was associated with femininity and immoderate grief in prescriptive literature. Neighbours who entered Cook's house after she had murdered her infant saw

the bleeding Babe but newly dead, the Father wringing his hands, and shedding multitude of tears, like a man so amazed, as half distracted (God forbid but we should give him his due) his behaviour to appearance did express, that with a lamentable resentment he received this sad news.<sup>132</sup>

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<sup>130</sup> Taylor, *The Unnatural Father*.

<sup>131</sup> Anon., *Sad News from Ratcliff Being a Full and True Relation of a Horrid and Bloody Murther Committed Upon the Bodies of an Antient Gentlewoman (Captain Giddings Wifes Mother), and His Sisters Child, Who Was a Girl of Two Years and a Half Old, and a Maidservant in the House* (London, 1691).

<sup>132</sup> Partridge and Sharp, *Blood for Blood*, p. 17.

The wringing of one's hands in grief was often linked to women who were temporarily overwhelmed by emotion. *A Handkercher for Parents Wet Eyes* described the grief of 'the simplest Country-Mother, the weakest Nurse of a Village, that wrings her hands, and teares her haire, & laves the Ground (on which she wallows) with eye-water' as being erased by time. The author assumed that these people were not usually inclined to employ reason, but even these 'ignorant', weak-willed women could overcome their devastation.<sup>133</sup> Moreover, in John Owen's description of parental grief, he attributes hand wringing and breast beating, actions that sought to self-harm, to women, and lamentations to men.<sup>134</sup> The inclusion of this harrowing account in *Blood for Blood* demonstrated the gravity of the awful situation and the man's loss. It also shows that excessive grief, and even temporary madness, were understandable and excusable reactions to the murder of a child. The author of the pamphlet overlooked the usual connotations of effeminacy of the man's behaviour because it was such an unusual and terrible situation for him to experience.<sup>135</sup>

### ***Insanity and distracted minds***

As this chapter has established, child homicides were expected to, and did, cause emotional suffering for those who witnessed and committed them and for families and communities. Parents, who were expected to be the most emotionally affected by the deaths of their children, could experience temporary insanity or a 'distracted' mind after they had murdered their children. This caused confusion and often resulted in memory loss which made them forget the incident. Men and women whose children were murdered by their spouses or by strangers also experienced 'distraction' when the initial shock and terror overwhelmed them, exacerbating their grief. While this was an acceptable and reasonable initial response from a parent, the duration and intensity of temporary madness and distraction was subject to gendered expectations as well as the specific circumstances of each individual homicide. There were occasional references to perpetrators and witnesses in the *Old Bailey Sessions Papers*, who were not parents and were extremely 'troubled' by what they had

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<sup>133</sup> Anon., *A Handkercher for Parents Wet Eyes*, p. 18

<sup>134</sup> John Owen, *Immoderate Mourning*, p. 27.

<sup>135</sup> Capp, "Jesus Wept", pp. 75-108.

done or had seen but, unlike depictions of parents, their mental states and specific behaviours were not recorded.

Lunacy was understood to be a temporary state that hampered reason to varying degrees depending on each individual case. The concept of madness was complex and, as Michael MacDonald has argued, terms associated with lunacy – such as ‘Lunatick’, ‘troubled in mind’, ‘disturbed’ and ‘distracted’ – changed meaning depending on their context.<sup>136</sup> The causes of lunacy were numerous, ranging from divine intervention to humoral imbalances, but a common cause that pervaded seventeenth- and eighteenth-century discourses on madness was bereavement, especially the loss of a child. While medical records, in particular Richard Napier’s casebooks, and diaries establish that parents felt temporary insanity, melancholy, and distraction after losing a child to illness or an accident, pamphlet literature and newspapers only related madness – of perpetrators and of parents – as a reaction to particularly violent and distressing murders.<sup>137</sup> Therefore, madness and insanity as a reaction to child homicide was only discussed in the most extremely disturbing murders of children, and usually focused on the reactions of parents, who were expected, in popular crime narratives and prescriptive literature, to be most troubled by the death of a child. While madness, memory loss and distraction were considered understandable initial responses to the shock of discovering that one’s child had been violently murdered, it was only considered a reasonable reaction if it was brief. Moreover, the temporary insanity and memory loss that parents claimed to experience after murdering their child did not exculpate them but rather implied that this was a result of the murder, rather than a pre-existing condition or a reason for the child’s murder.

Some women who murdered their children were extremely emotionally and psychologically affected by what they had done and were described in pamphlets and newspapers as behaving like a lunatic or someone with a ‘distracted mind’. In some instances, and in contrast to the historiography of crime which has focused on how women employed insanity pleas to exculpate themselves from murder verdicts, the female perpetrator (usually the child’s

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<sup>136</sup> Michael MacDonald, *Mystical Bedlam: Madness, Anxiety and Healing in Seventeenth-Century England* (Cambridge, 1983), pp. 112-72.

<sup>137</sup> MacDonald, *Mystical Bedlam*, p. 82-83.

mother) was described as losing her senses only after the murder.<sup>138</sup> *Bloody Newes from Dover* explained that Mary Champion, who had decapitated her infant child in a calculated attempt to defy her husband, experienced visions in prison as ‘her Conscience [was] much troubled’. While the behaviour she exhibited was not explicitly associated with madness, it corresponded with representations of ‘distraction’ and temporary madness in prescriptive literature. She made ‘many wofull expressions’ and ‘being very penitent for her unhappy Crime [...] her eyes sad and distracted, by beholding such strange Visions’ of her child’s decapitated corpse that constantly reminded her of what she had done.<sup>139</sup> Robert Burton argued that those who were ‘mad and distracted’ might experience distressing visions that caused sleeplessness.<sup>140</sup> The murder of one’s own child was considered to be an unnatural transgression of the expectations of motherhood – of love, care and protection. It is unsurprising, then, that the authors of crime pamphlets presented the process of remorse for child murder as an experience that was likely to turn women to madness.

### **Joy**

Hannah Newton has analysed personal correspondence and biographies of pious children to argue that dying children – and sometimes parents – expressed joy and happiness when they accepted their inevitable death. After sick children overcame their fears of death and hell, many were described as positively welcoming their futures in heaven.<sup>141</sup> Newton has examined many examples including eleven-year-old Martha Hatfield who, when she was convinced that she was ‘now going to Heaven’, became ‘exceedingly rapt up with joy ... laughing, and spreading her arms’, and crying out, ‘I have found my Christ, O, I have found my Christ, how sweet he is to me!’<sup>142</sup> Newton has been cautious to warn that accounts of children’s joyful responses to death may have been idealised or exaggerated. Children’s expressions of joy were of particular comfort to parents and families as joy was considered to be ‘a special spiritual

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<sup>138</sup> Dana Rabin ‘Bodies of Evidence, States of Mind: Infanticide, Emotion, and Sensibility’, in Mark Jackson (ed.), *Infanticide: Historical Perspectives, 1550-2000* (Farnham, 2002), pp. 73-92; Dana Rabin, *Identity, Crime, and Legal Responsibility in Eighteenth-Century England* (New York, 2004).

<sup>139</sup> Anon., *Bloody Newes from Dover*.

<sup>140</sup> Burton, *The Anatomy of Melancholy*, pp. 266, 18, 272.

<sup>141</sup> Newton, *The Sick Child*, pp. 210-15.

<sup>142</sup> Newton, “‘Rapt Up with Joy’”, p. 97, quoting John Fisher, *The Wise Virgin, or, A Wonderful Narration of the Various Dispensations Towards a Childe of Eleven Years of Age...Martha Hatfield* (London, 1653), p. 6.

emotion sparked by the presence of the Holy Spirit in the soul and indicative of election to heaven'.<sup>143</sup> Therefore, emphasis on children's joy in these accounts also served to console the bereaved, who could imagine deceased children in heaven, as much as it represented what a child had said on their deathbed.<sup>144</sup>

In records about homicides and accidental deaths, families, friends and neighbours of children rarely described their sudden, unexpected, and often violent deaths as a joyful experience. Instead, discourses of joy were employed in printed accounts that described cases in which a child's death was miraculously averted.<sup>145</sup> Descriptions of accidental deaths that had been avoided focused on the initial joy and relief that parents felt when they realised that their child had nearly been killed. In May 1728, a four-year-old boy who fell into a deep, muddy ditch while he was walking behind his parents was saved by a passer-by. The *London Journal* stated that the anonymous witness ran to remove the boy from the ditch where he was suffocating in the mud, 'to the great Surprize and Joy of his Parents who had perceived nothing of the Accident'.<sup>146</sup> There is no evidence, however, to suggest that children who died in accidents or were killed had time to come to terms with their inevitable death, let alone express the fervent joy and happiness that some sick puritan children demonstrated when they faced death.<sup>147</sup>

### **Conclusion**

Perpetrators, witnesses, families and communities felt, and were expected to feel, various emotions after the homicide of a child throughout the early modern period. As the sudden, unexpected, and sometimes intentional, killing of a child was so abhorrent in early modern England and Wales, reactions to child homicide could, in turn, exceed the boundaries of acceptable and unacceptable responses to death as outlined in prescriptive literature. While popular crime narratives often prioritised the emotions of remorseful or lamenting, 'half-distracted' parents, legal records demonstrate that other relatives, neighbours and friends of children were also emotionally affected by the deaths of children. This further establishes that, as children had relationships with others as well as

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<sup>143</sup> Newton, "Rapt Up with Joy", p. 98.

<sup>144</sup> Newton, *The Sick Child*, p. 217.

<sup>145</sup> Hart, *Klinike*, p. 397.

<sup>146</sup> *London Journal*, 25 May 1728. See also: *Daily Journal*, 21 May 1728.

<sup>147</sup> For example, see: Janeway, *A Token for Children*.

their parents, their deaths had an emotional impact on those both within and outside the household. The extent to which the homicides of children affected families and communities in the weeks, months and years after a child's death is unclear because it does not feature in popular crime narratives and legal records which are concerned only with the immediate incident and its resolution.



## Conclusion

The initial inspiration for this study was the absence of work on homicides by children in the historiography of early modern crime, especially in contrast to the burgeoning secondary literature about child or juvenile criminals in the modern period.<sup>1</sup> This thesis has established that there is considerable scope for and value in a holistic analysis of homicides by and against children in early modern England and Wales. It has explored how fundamental and long-established religious, legal and medical concepts of childhood as a period of innocence, ignorance, emotional immaturity and dependency impacted on a number of issues, including: children's capacity to access the legal process; descriptions of children in popular crime narratives; their ability to assert agency in various circumstances in both reality and in literary representations; children's actual use of lethal and non-lethal violence; and, finally, how families and communities coped with their homicides and accidental deaths. By exploring various experiences of childhood, I have sought to demonstrate the ways in which practices and discourses of childhood were both interrelated and discrete. Notions of childhood innocence impacted on children's culpability under homicide law and how children were represented in crime literature but, as legal records and newspaper reports show, children's experiences and characteristics were not limited to expectations of their submissive, passive, innocent or amiable behaviour. This analysis of children's involvement in homicides has indicated that children could also be curious, aggressive, impulsive, brash, and spiteful. Children's experiences were not only defined by their relationships with their parents, but also associations with their wider kinship, neighbours and other children, with whom they created and maintained their own networks, friendships and rivalries.<sup>2</sup> Most importantly, in the preceding

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<sup>1</sup> For example, see: Pamela Cox and Heather Shore (eds), *Becoming Delinquent: British and European Youth, 1650-1950* (Aldershot, 2002); John Muncie, *Youth and Crime*, 4<sup>th</sup> edition (London, 2015); Barry Godfrey and Paul Lawrence, *Crime and Justice 1750-1950* (Cullompton, 2005); Peter King, 'The Rise of Juvenile Delinquency in England 1780-1840: Changing Patterns of Perception and Prosecution', *Past & Present* 160 (1998), pp. 116-66; Pamela Cox, *Bad Girls in Britain, 1900-1950: Gender, Justice and Welfare* (Basingstoke, 2003).

<sup>2</sup> Naomi Tadmor, *Family and Friends in Eighteenth-Century England: Household, Kindship and Patronage* (Cambridge, 2001); Naomi J. Miller and Naomi Yavneh (eds), *Gender and Early Modern Constructions of Childhood* (Farnham, 2011).

chapters, I have endeavoured to, where possible, analyse children in their own right rather than producing an account of 'what adults have done to children'.<sup>3</sup>

While the definitions of infancy and childhood that historians have proposed, and sometimes uncritically adopted, are useful guidelines for describing the stage of childhood in general terms, in practice the boundaries of childhood shifted depending on individual children's experiences and characteristics. At the beginning of this thesis, I defined childhood in relation to early modern common law, which separated childhood into two stages: infancy (birth to seven) and later childhood (eight to fourteen).<sup>4</sup> I have been cautious throughout the thesis to demonstrate that these age boundaries, especially the age of discretion (fourteen), were malleable and not stringently observed in early modern England and Wales.

As I argued in Chapter One, the age of discretion was not rigidly adhered to as children aged between eight and fourteen could be found culpable for a homicide. Early modern legal handbooks explained that if a judge believed that a child under the age of fourteen but over seven understood the difference between right and wrong then he or she could be prosecuted under homicide law.<sup>5</sup> The legal criteria impacted on how individual children were prosecuted in practice. As examples of child-perpetrated homicides prove, judges and juries carefully considered whether children who had committed homicides could be culpable for their violence and did so on a case-by-case basis. The case of thirteen-year-old Daniel, who stabbed and killed an older boy who he worked with in a shoemaker's shop in 1676, illustrates the deliberations that judges faced during the trials of children under the age of discretion. The report from the *Old Bailey Sessions Papers* claimed that 'The Lord Chief Baron after he had heard the Evidence, wish'd the Jury to consider whether the boy understood

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<sup>3</sup> Hugh Cunningham, *The Invention of Childhood* (London, 2006), p. 16; Miller and Yavneh, *Gender and Early Modern Constructions of Childhood*; Hannah Newton, *The Sick Child in Early Modern England, 1580-1720* (Oxford, 2012); Allison James and Alan Prout, *Constructing and Reconstructing Childhood: Contemporary Issues in the Sociological Study of Childhood* (New York, 1997).

<sup>4</sup> Michael Dalton, *The Countrey Justice: Containing the Practice of the Justices of the Peace out of their Sessions* (London, 1619), p. 222; Matthew Hale, *Historia Placitorum Coronae: The History of the Pleas of the Crown* (London, 1736), pp. 19, 27; William Blackstone, *Commentaries on the Laws of England, Volume 4* (London, 1765-1769), pp. 22-24.

<sup>5</sup> Garthine Walker, 'Rape, Acquittal and Culpability in Popular Crime Reports in England, 1670-1750', *Past & Present* 220:1 (2013), pp.115-142.

what he had done or not, he being but thirteen years and a month old'.<sup>6</sup> The jury decided that he was old enough to understand the consequences of his violence and found him guilty of manslaughter. Evidence and verdicts from other child-perpetrated homicide cases in the jurisdictions examined shows that children as young as ten were judged to be culpable for their violence.<sup>7</sup> Common law and judges and juries in their application of the law recognised that individual children had different capacities to comprehend the obligation of an oath and differentiate between right and wrong, and that children's reason developed at different stages and speeds. When children did act in ways that demonstrated their capability of forming malicious intent, their age no longer protected them under the law.

The rarity of child-perpetrated homicides in the regions examined means that it is extremely difficult to chart long-term patterns of childhood and change over time. It is especially challenging as children's propensity to form intent was considered on a case-by-case basis and therefore age was not the only factor that determined whether a child was culpable for a homicide. Legal records that survive suggest that homicide law was applied consistently throughout England and Wales, and that there was a consensus among judges and juries about how culpability was assessed. In Chapter One, I compared two similar homicide cases from London and Bradfield, in 1676 and 1689 respectively, and posited that both cases resulted in manslaughter verdicts because those accused had voluntarily pulled the trigger of a gun while knowing that it was charged and were therefore judged to be responsible for their actions.<sup>8</sup> In both of these cases, children under the age of discretion were tried as agents who were old enough to have been aware that firing a gun could fatally injure someone. A comprehensive investigation of legal records from all counties in England and Wales was far beyond the scope of this thesis, but more county studies would offer further insight as to whether the law was applied in child-perpetrated homicides in the same way throughout the period.

Murderers who were just above the age of discretion and held responsible for their violence did not suddenly cease being or behaving like

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<sup>6</sup> *OBSP*, 14 January 1676, t16760114-8.

<sup>7</sup> *TNA*, ASSI 45/15/3/41; *TNA*, ASSI 44/39.

<sup>8</sup> *OBSP*, June 1676, t16760628-4; *TNA*, ASSI 45/15/3/41; *TNA*, ASSI 44/39.

children. This further complicates any straightforward definitions of early modern childhood. As I argued in Chapters Two and Four, children's outward innocent appearance could hide their malicious inner characters. *Horrid News from St. Martins* (1677) declared that a fifteen-year-old girl who had murdered her mother and maid appeared to be 'an ignorant Girl that has nothing to be read in her face but Characters of Innocence', which disguised her malevolence and made it easier for her to commit murder without being detected.<sup>9</sup> The author of the pamphlet was surprised that a girl of her age could have committed murder and believed that children who had innocent demeanours would, in normal circumstances, be as naïve as they seemed. As Randall Martin has argued, the girl's child-like appearance contributed to doubts about the girl's agency at various points in the narrative.<sup>10</sup> The reasons for children's lethal violence was sometimes presented as petty, immature responses to their parents' legitimate and appropriate correction. The girl in *Horrid News from St Martins* was so determined to murder her mother that 'nothing could satisfie her Revenge upon the least imaginary Affront, but the lives of all that displeas'd her'.<sup>11</sup> Similarly, as discussed in Chapter Four, a thirteen- or fourteen-year-old boy murdered his father who had corrected him for demanding pocket money. The newspaper article from 1723 that reported the parricide argued that the boy's age could not exculpate him for the murder: 'it can't be expected so notorious a Parricide should go unpunish'd even in a Child'.<sup>12</sup> Children's violence against their parents was represented as an impulsive, unprovoked response to a trivial concern that contravened social order. Chapter Five analysed descriptions of fourteen- and fifteen-year-olds awaiting execution who were described as exhibiting immoderate, uncontrollable emotions that demonstrated they were too young to properly prepare for their deaths and have a chance of salvation.<sup>13</sup> Aspects of childhood and immature behaviour persisted over the age of discretion and were apparent in descriptions of children who had committed even the most unimaginable crimes that they were

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<sup>9</sup> Anon., *Horrid News from St. Martins, or, Unheard-of Murder and Poyson Being a True Relation how a Girl Not Full Sixteen Years of Age, Murdered Her Own Mother at One Time, and a Servant-Maid at another with Ratsbone* (London, 1677), p. 3.

<sup>10</sup> Randall Martin, *Women, Murder, and Equity in Early Modern England* (London, 2008), pp. 153-54.

<sup>11</sup> Anon., *Horrid News from St Martins*, p. 3.

<sup>12</sup> *London Journal*, 26 October 1723.

<sup>13</sup> OBSP, 13 Oct 1675, J. D., t16751013-4.

culpable for under common law. Therefore, there were distinctions between legal definitions of childhood and how childhood was defined in early modern English and Welsh society; understandings of childhood were not inevitably determined by how they were prosecuted under common law. Throughout this thesis I have challenged the notion that historians can define early modern childhood within simple age boundaries by showing that even though children aged fourteen and above were responsible for their crimes, they were not expected to suddenly adopt youthful or adult roles and characteristics that meant they could inflict violence or repent for their crimes appropriately.

Chapter Three, an in-depth study of children's accidents, has also demonstrated that important, pivotal stages of an early modern child's life did not necessarily conform to the age boundaries that historians have previously established.<sup>14</sup> Infants under the age of two who were routinely swaddled were especially vulnerable to accidental deaths when asleep in cots or dropped by their carer. From the ages of two and three children began to move around and outside the household, as is evident from the different types of accidents in which they were involved, where they played alone or with other children in dangerous places. Three-year-old Edith Isham was playing on the road with another child when she was run over and killed in 1684.<sup>15</sup> Accounts of children's accidents reveal that infants were easily distracted by play, formulating friendships with other children and interacting with the environments and spaces around their households.<sup>16</sup> During infancy (from birth to seven), the practices of parenting and child care changed as infants' minds and bodies developed. Infants went from being swaddled in cots to roaming around rivers and roads to helping their parents with domestic chores.<sup>17</sup> It was around the age

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<sup>14</sup> Hugh Cunningham, *The Invention of Childhood* (London, 2006), p. 13; Colin Heywood, *A History of Childhood: Children and Childhood in the West from Medieval to Modern Times* (Cambridge, 2001), p. 9; Lawrence Stone, *The Family, Sex and Marriage in England 1500-1800* (London, 1977), p. 409; Anthony Fletcher, *Growing up in England: The Experience of Childhood 1600-1914* (New Haven and London, 2008), p. 15; Julia Grant, 'Parent-child relations in Western Europe and North America, 1500-present', in Paula S. Fass (ed.) *The Routledge history of childhood in the Western world* (London, 2015), p. 109; Colin Heywood, 'Children's Work in Countryside and City', Paula S. Fass (ed.), *The Routledge History of Childhood in the Western World* (London, 2013), pp. 125-41.

<sup>15</sup> *OBSP*, Sept 1684, John Cowley, t16840903-19.

<sup>16</sup> Henry Cuffe, *The Differences of the Ages of Mans Life* (London, 1607), p. 127; John Bunyan, *Meditations on the Several Ages of Man's Life* (London, 1700), p. 17; Hannah Newton, *The Sick Child in Early Modern England, 1580-1720* (Oxford, 2012), p. 44.

<sup>17</sup> Barbara Hanawalt, *Growing Up in Medieval London: The Experience of Childhood in History* (Oxford, 1993), pp. 63-65.

of nine or ten that children in service began to be responsible for jobs for their masters and mistresses that involved using craft and trade tools and travelling on their own. Although children performed hazardous tasks that involved delivering goods on carts and tending to animals, by this age they usually had enough experience to assume these chores without the risk of injury or death.<sup>18</sup> Consequently, there were far fewer older children who were involved in life-threatening accidents, which suggests that infancy, especially from birth to four or five, was the most dangerous period for children regarding accidents. Through my analysis of the everyday and practical experiences of early modern children as well as representations of childhood in more idealised accounts, I have argued that legal, medical and religious definitions, while significant, were not the only models that determined the important stages in children's lives.

The development of crime news and writing in this period also impacted on how children and concepts of childhood were represented in popular print. The descriptions of children in pamphlets and broadsides as passive, meek and innocent victims of murder persisted throughout the period. Despite being published 84 years apart, both *A Pitiless Mother* (1616) and *The Most Lamentable and Deplorable History of the Two Children in the Wood* (1700) demonstrated that infants' sweet and innocent behaviour should have, but could not, prevented adults from murdering them. *A Pitiless Mother* declared that Margaret Vincent 'took the youngest of the two, having a countenance so sweet that might have begged mercy at a tyrant's hand, but she regarding neither the pretty smiles it made nor the da[n]dling before the mother's face', strangled the infant to death.<sup>19</sup> After she had finished, "She came unto the elder child of that small age that it could hardly discern a mother's cruelty nor understand the fatal destiny fallen upon the other before'. A similar account of children's ignorance, innocence and child-like behaviour featured in *The Most Lamentable and Deplorable History*, a pamphlet about an uncle, Mr. Solmes, who conspired to murder his infant nephew and niece to gain his brother's inheritance. When two 'Ruffians', employed by Solmes, took the children away to murder them, 'the little prating Travellers' entertained 'their Murtherers with such pritty innocent

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<sup>18</sup> Colin Heywood, 'Children's Work in Countryside and City', Paula S. Fass (ed.), *The Routledge History of Childhood in the Western World* (London, 2013), p. 127.

<sup>19</sup> Anon., *A Pitiless Mother that Most Unnaturally at One Time, Murthered Two of Her Owne Children at Acton Within Sixe Miles from London Uppon Holy Thursday Last 1616* (London, 1616).

Discourses, as would even have mollified a Heart of Stone, and softened the Breasts of Tygres, but these were far more hard and savage'.<sup>20</sup> While representations of children and childhood were continuous in this genre, as Chapter Two argued, child passivity and their lack of agency was employed differently in each narrative depending on the aspects of the murderers' motive and subjectivity the author sought to illustrate. The expansion of newspapers in the late seventeenth and early eighteenth centuries impacted on the frequency and types of homicides reported in print. Newspapers were short and offered less information about expectations and concepts of childhood, but they provided information about a variety of accidental deaths and killings that had largely been excluded from pamphlets and broadsides. The arguments in Chapter Three relied on evidence from newspapers as they gave an insight into the wider patterns of children's accidents and ideas of who, if anyone, was considered responsible for accidents that did not make it to trial. The shorter and more basic accounts of homicides in newspapers reflected the growing competition between dailies for trade and, as narratives in pamphlets and broadsides suggest, did not indicate a change in how childhood was conceptualised.<sup>21</sup>

A central aim of this thesis was to expand on the parent-child relationship that is so often used as a framework to analyse the deaths and homicides of children. In the preceding chapters, I have argued that children's lives and experiences were shaped by the many different people they interacted with and the spaces in which they lived. Chapter Three engaged with recent work in the historiography of the family that has demonstrated the important influence of wider family kinship ties on child care.<sup>22</sup> As Naomi Miller has argued, mothering, maternity and caregiving were roles adopted by many different types of women in the early modern period: 'mothers and stepmothers, midwives and wet

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<sup>20</sup> Anon., *The Most Lamentable and Deplorable History of the Two Children in the Wood: Containing the Unhappy Loves and Lives of their Parents, the Treachery and Barbarous Villany of their Uncle, the Duel between the Murdering Ruffians, and the Unhappy and Deplorable Death of the Two Innocent Children* (London, 1700).

<sup>21</sup> Tony Claydon, 'Daily News and the Construction of Time in Late Stuart England, 1695-1714', *Journal of British Studies* 52 (2013), p. 59; Garthine Walker, 'Rape, Acquittal and Culpability in Popular Crime Reports in England, 1670-1750', *Past & Present* 220:1 (2013), pp. 119-20.

<sup>22</sup> Tadmor, *Family and Friends in Eighteenth-Century England*, pp. 103-166; Naomi J. Miller and Naomi Yavneh (eds), *Maternal Measures: Figuring Caregiving in the Early Modern Period* (Aldershot, 2000); Joanne Bailey, 'Reassessing Parenting in Eighteenth-Century England', in Helen Berry and Elizabeth Foyster (eds), *The Family in Early Modern England* (Cambridge, 2007), pp. 232.

nurses, wise women and witches, saints and amazons, murderers and nurturers'.<sup>23</sup> Naomi Tadmor has also shown that household-families were supported, and children sometimes looked after, by a wide kinship network, friends and neighbours.<sup>24</sup> Chapter Three revealed that when women did not have support networks of people to care for their children, they could leave them unsupervised in the household where they died in unfortunate accidents.<sup>25</sup> As examples of neighbours who tried to revive children after they were involved in an accident and instances of adults who saved children from accidents suggest, neighbours and people in towns, villages and parish communities were alert to the dangers children were in when they wandered from their households or their caregivers and tried to keep them safe.<sup>26</sup> However, as Chapter One established, adults did not always impact on children's lives in a positive way, especially in London, where many children were killed by men driving carts and by strangers and neighbours who disagreed with their unruly behaviour.<sup>27</sup> The vast population size and closer proximity of households in London compared to the towns and villages in Wales and within the purview of the Northern Circuit meant that children in London were more likely to interact with and be killed by strangers. Finally, in Chapter Four, I posited that gang violence between and by boys was, in some cases, influenced by their attempts to protect their collective identities that were based on parish boundaries and rivalries as well as customs that were associated with local spaces.<sup>28</sup> Boys and youths presented themselves as having authority to inflict violence on others in spaces over which they had no ownership or right to assert their ownership.

Children also shaped the communities in which they lived. In Chapter Two I explained that children who witnessed homicides informed their parents and adult witnesses about the violence they had seen. Second-hand evidence from children, which was considered as hearsay under common law and therefore did not hold as much weight as eye-witness testimony, was

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<sup>23</sup> Naomi Miller, 'Mothering Others: Caregiving as Spectrum and Spectacle in the Early Modern Period', in Naomi J. Miller and Naomi Yavneh (eds), *Maternal Measures: Figuring Caregiving in the Early Modern Period* (Aldershot, 2000), p. 1.

<sup>24</sup> Tadmor, *Family and Friends*, pp. 103-66.

<sup>25</sup> *Weekly Journal or British Gazetteer*, 7 July 1722.

<sup>26</sup> *Daily Journal*, 21 May 1728.

<sup>27</sup> *OBSP*, Sept 1686, Edward Matthews, t16860901-41; *OBSP*, Sept 1684, John Cowley, t16840903-19; *TNA*, ASSI 45/16/2/43-45.

<sup>28</sup> *OBSP*, 15 Oct 1679, t16791015-5; *OBSP*, 10 May 1722, Elias Ozier, t17220510-2.



sometimes included in adults' witness testimonies. Evidence of children's mediated voices demonstrates that children pieced together evidence for adults who had not seen a homicide or who needed additional contextual information to make sense of what they had witnessed.<sup>29</sup> Even though children were often restricted from providing sworn testimonies because of their age, their evidence was valuable and accepted by their families and neighbours. Chapter Five also explored the ways in which families and neighbours reacted to the deaths and homicides of children and how the audiences of crime literature were expected to feel when they heard about the murders of children. Children were an integral part of parish and village community life and so when they were killed, deliberately or accidentally, their neighbours and people who heard the news were affected, as were families and parents.

Gender has emerged as a significant theme throughout most of the chapters. Most importantly, gender was a key component that influenced the incidence of children's violence. In Chapter Four I further developed work by Elizabeth Foyster and Robert Shoemaker who have argued that boys began to test the boundaries of legitimate masculine violence and the assertions of authority that they witnessed and experienced in their daily lives.<sup>30</sup> Boys under the age of discretion began to negotiate their friendships and conflicts with violence just as their fathers, older brothers, uncles, or neighbours might have retaliated to an affront from another man.<sup>31</sup> However, unlike these men, many boys who killed other boys as the result of a fight were considered too young to be able to engage in masculine honour codes and violence. The absence of information about boys' relationships with their victims, their intent and their defences that explained their violence in pre-trial depositions and the *Old Bailey Sessions Papers* demonstrates that while their violence might appear to

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<sup>29</sup> TNA 45/14/1/55; John H. Langbein, *The Origins of Adversary Criminal Trial* (Oxford, 2005), pp. 179, 239; Barbara J. Shapiro, 'Testimony in Seventeenth-Century English Natural Philosophy: Legal Origins and Early Development', *Studies in History and Philosophy of Science* (2002), pp. 243-263.

Elizabeth Foyster, 'Boys Will Be Boys? Manhood and Aggression, 1660-1800', in Tim Hitchcock and Michele Cohen (eds), *English Masculinities, 1660-1800* (London, 1999), pp. 151-66; Elizabeth Foyster, *Manhood in Early Modern England: Honour, Sex and Marriage* (London, 1999), pp. 39-40; Robert Shoemaker, 'Male Honour and the Decline of Public Violence in Eighteenth-Century London', *Social History* 26:2 (2001), pp. 190-208.

<sup>31</sup> Elizabeth Foyster, 'Silent Witnesses? Children and the Breakdown the Domestic and Social Order in Early Modern England', in Anthony Fletcher and Stephen Hussey (eds), *Childhood in Question: Children, Parents and the State* (Manchester, 1999), pp. 57-73.

outwardly imitate adult male violence, boys were not yet expected to have any authority or honour to assert against their peers.

In the regions examined in this thesis, there is not a single case of a girl killing another girl.<sup>32</sup> This does not mean that girls were not violent towards one another. As Jessica Warner and Robin Griller have shown, girls in early modern Portsmouth were involved in assault cases both as victims and as perpetrators, such as an infant named Elizabeth Sparrow who was alleged to have ‘come out from behind her mother’s skirt to join in punching Elizabeth Boyes’ in 1724.<sup>33</sup> However, it seems that boys were more likely to believe that they could and should negotiate their conflicts with their friends and peers with weapons that were more likely to cause fatalities than hitting or punching. As an Old Bailey report from 1696 about John Fathers who killed another boy with a wooden sword suggests, boys were encouraged to use violence during their play and education.<sup>34</sup> In contrast, as Chapter Three demonstrated, during later childhood, girls began to learn maternal and domestic roles by helping their mothers care for young infants. On the rarer occasions that girls did kill, they tended to direct their violence towards their parents and grandparents. Parricide was such an abhorrent crime that perpetrators, even children under the age of discretion, were unlikely to be acquitted. It contravened natural and social order as children had a duty to honour and obey their parents no matter how poorly they treated them.<sup>35</sup> As crime literature and newspaper reports declared, parricide could not go unpunished, even if the perpetrator was a child.

While descriptions of children’s voices and behaviour in crime pamphlets and broadsides are more diverse and integral to plots than scholars have previously acknowledged, as Chapter Two has shown, children always failed in their attempts to assert agency. In this genre of crime writing, which drew on

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<sup>32</sup> There is one case from the Great Sessions about a servant maid who killed her master’s infant daughter. However, her age is not recorded. As the clerks usually noted the ages of children – and the ages of adults in cases involving children as perpetrators or witnesses – it seems unlikely that she was a child. *NLW, GS, 4/34/1/31-33*.

<sup>33</sup> Jessica Warner and Robin Griller, “My Pappa Is out, and My Mamma Is Asleep.” Minors, Their Routine Activities, and Interpersonal Violence in an Early Modern Town, 1653-1781’, *Journal of Social History* 36:3 (2003), pp. 567, 574.

<sup>34</sup> *OBSP*, Dec 1696, John Fathers, t16961209-86.

<sup>35</sup> Anne-Marie Kilday, “Sugar and Spice and All Things Nice?” Violence against Parents in Scotland, 1700-1850’, *Journal of Family History* 41:3 (2016), pp. 318-35; Garthine Walker, ‘Imagining the Unimaginable: Parricide in Early Modern England and Wales, c. 1600-c. 1760’, *Journal of Family History* 41:3 (2016), pp. 271-93.

religious and prescriptive understandings of childhood, to be a child was by its very nature to be without agency. It was this inability to assert agency or employ reason that made children such suitable conduits for divine providence as well as vulnerable victims of diabolical possession, which compelled children to behave in violent and emotionally turbulent ways that they could not control. Descriptions of divine providence and diabolical possession in crime pamphlets and narratives further deprived children of their agency unless, like Margaret Muschamp, the child sought to fight against possession and position themselves as a figure of divine authority.<sup>36</sup>

The absence and silencing of children's testimonies, voices and actions during the legal process has made placing children at the centre of analysis a challenging task. At the beginning of the thesis, I argued that the history of childhood must include narratives of and by children and should not be reduced to narratives of events that happened to children. By adopting Hannah Newton's analytical technique of locating children's voices in adults' testimonies, I have been able to establish that children had an integral role in detecting and regulating the homicides they witnessed.<sup>37</sup> Where possible, I have prioritised the, albeit mediated, voices and actions of children and their active roles in negotiating and maintaining their relationships and friendships.

Finally, the salient contribution of this thesis to the history of childhood and history of crime is that it has uncovered the various subjectivities and characteristics of children who were involved in homicides and accidents in early modern England and Wales. Children had their own ideas about the meanings and boundaries of their relationships with their parents and their guardians that blinded children to the danger they were in.<sup>38</sup> For instance, Robert Foulke's declaration that 'my Father will doe me no harme' before he murdered him with a hatchet demonstrates that Robert was convinced that he was safe in his father's presence.<sup>39</sup> They jested and played with other servants

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<sup>36</sup> Diane Purkiss, 'Invasions: Female Prophecy and Female Bewitchment in the Case of Margaret Muschamp', *Tulsa Studies in Women's Literature* 17 (1998), pp. 235-53; Philip C. Almond, *Demonic Possession and Exorcism in Early Modern England* (Cambridge, 2004), pp. 358-62; Mary Moore, *Wonderfull Newes from the North. Or, A True Relation of the Sad and Grievous Torments, Inflicted upon the Bodies of Three Children of Mr. George Muschamp, Late of the County of Northumberland, by Witch-Craft: and how Miraculously it Pleas'd God to Strengthen them, and to Deliver them* (London, 1650).

<sup>37</sup> Newton, *The Sick Child*, pp. 161-89.

<sup>38</sup> OBSP, June 1714, John Wedon, t17140630-47.

<sup>39</sup> NLW, GS, 4/31/6/65.

in incidents that sometimes had dire consequences, like an eleven-year-old boy who accidentally shot and killed a servant maid only 'thinking to frighten' her.<sup>40</sup> They could behave in spiteful and stubborn ways, like thirteen-year-old William Giles who disrespectfully told Jeremy Nelson that he was sticking pins into his yard 'to cause People to stumble, upon which this Examinant bid him begone out of his yard or he would beat him, the boy replied he would not, & continued driveing the wood pins into the Ground'.<sup>41</sup> Some children, such as fourteen-year-old J. D. who was described as 'young in years but old in wickedness' in the *Old Bailey Sessions Papers*, were even represented as malicious and as deserving execution.<sup>42</sup> Others, like thirteen-year-old Daniel who stabbed and killed an apprentice he worked with, were impulsively violent.<sup>43</sup> What has emerged throughout this thesis is an enhanced understanding of the various representations and experiences of early modern children who were understood to be individuals in cases of homicide and accidental death.

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<sup>40</sup> *OBSP*, July 1677, t16770711-6.

<sup>41</sup> *TNA*, ASS/45/16/2/45.

<sup>42</sup> *OBSP*, Oct 1675, J. D., t16751013-4.

<sup>43</sup> *OBSP*, July 1715, Daniel Jones, t17150713-21.

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