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“Is he a licentious lewd Sort of a Person?” Constructing the child rapist in early modern England

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When the judge asked a witness, who was in court at the Old Bailey in April 1747 to testify to the character and reputation of John Hunter who was standing trial for the rape of Grace Pitts, aged 10, “Is he a licentious lewd Sort of a Person?” he clearly had in mind that a particular kind of man was likely to be guilty of the rape of a child.¹ Such a man would have demonstrated through his behaviour that he was not chaste and was likely to behave in a sexually immoral and immodest fashion – but he would not necessarily direct his sexual attentions primarily towards children. Unlike the modern paedophile who is understood to have a primary, if not exclusive, sexual interest in children that he is likely to conceal given modern society’s depth of antipathy towards those who are revealed to act on their desires, the early modern child rapist was a man whose immorality and lack of chastity would be clearly visible to those who knew him because he would be known as someone who frequented “lewd women” or who acted in an “unseemly” fashion with other women. This article investigates how early modern people may have understood and thought about the behaviour of those who engaged in sexual activities with children below the age of consent, and especially, whether there was any suggestion that they were regarded as having a particular, and abnormal, sexual desire for children. It examines how such people were characterized and represented in prosecutions of sexual crime involving children in late seventeenth- and eighteenth-century London, and to what extent such characterizations and representations conformed to later sexological categorisations. It argues that, as suggested by the quote above, such men were thought to be a particular “Sort of a Person”, but not the sort of person whose identity was defined by who he had sex with. He was, rather, a man who was characterized as immoral, lewd, lustful and loose-living, notable for his debauchery and lack of control over both appetites and behaviour, and therefore inevitably coming to a very bad, and untimely, end.

Categories of sexual deviation – or perversion – emerged with the development of psychiatry and sexology in the late nineteenth century, particularly from Krafft-Ebing’s exhaustive cataloguing of such behaviours in his *Psychopathia Sexualis*, first published in German in 1886.² Krafft-Ebing did not, in his brief discussion of those who engaged in sexual activities with children, employ the term “paedophiles” to describe such individuals but rather referred to the “Violation of Individuals Under the Age of Fourteen”.³ The term “paedophilia”, defined by the Oxford English Dictionary as “sexual desire directed towards children”, appears to have first been used to categorise such sexual desire as an abnormality by Havelock Ellis in his *Studies in the Psychology of Sex* in 1906.⁴ It is now defined in the Compact Oxford Dictionary as “an abnormal love for or inclination towards” children, and specifically carries connotations of child sexual molestation or abuse. The American

Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders first used the term in 1980 "to describe a specific subset of child molesters who displayed particular characteristics".⁵ By 1987 the DSM definition had been revised to define paedophilia as characterized by "recurrent intense sexual urges and sexually arousing fantasies involving sexual activity with a prepubescent child or children".⁶ It is one of the major narratives in the history of sexuality, since Foucault, that there was a shift in understandings of sexual behaviours, particularly homosexual behaviours, in the early modern period and earlier as acts that were subject to religious and legal regulation and which anyone might commit, that later became understood as integral to identities. The rise of sexology and the categorisation of sexual behaviours, defined primarily by sexual object choice, gave birth to "the homosexual" as well as to other sexual "types" such as "the paedophile". Sexual identity was thus understood as characterized by the object of one's desire, and the categories of sexual behaviour that were developed by medicine and sexology revolved around identification of the object of a person's desire. The category of "paedophilia" was thus defined as (abnormal) sexual desire for a child, usually a pre-pubescent child.⁷

The early modern period obviously pre-dates these formulations and terminology by some considerable time, so it would be anachronistic to use this term as a label for those who can be identified as having engaged in sexual activities with children at this time. It would be not only anachronistic but also next to impossible to apply the DSM criteria to those who it is possible to identify as having had sexual contact with children in early modern England: there are very few diaries, letters or autobiographies recording early modern people's sexual thoughts or fantasies, or their actual sexual behaviour, including with those who today would be under the age of consent. Sir Simonds D'Ewes and Samuel Jeake both recorded marriages to girls of 13, and that these marriages were consummated, but these were legally contracted at a time when the age of consent to marriage for girls was twelve, so there would clearly not have been any contemporary sense that such men harboured "abnormal" desires for their legitimately espoused sexual partners. Even though there was some contemporary concern about the health and well-being of girls giving birth at such a young age, a desire to consummate such a marriage would have been regarded as neither inappropriate nor perverse if the bride was known to be sexually mature having undergone the physical changes of pubertal development including, especially, the onset of regular menstruation so that she was "ripe" for reproduction.⁸ And there is some evidence that those who did marry at a young age, usually the children of upper-class families to cement family alliances for political or economic advantage, were kept apart until they were sexually mature.⁹

Julie Peakman has likewise argued that later nineteenth-century and early twentieth-century formulations of perverse or "abnormal" sexual behaviour should not be applied retrospectively to early modern behaviours. Peakman argues that there were, however, sexual behaviours that might be referred to as "unnatural" or "deviant" as they transgressed contemporary notions of what was morally acceptable because they took place outside of marriage, or were thought to be "against nature" because they were against God's will and "deviated from procreative sex between man and wife."¹⁰ Although such terms do not seem to have been not used by any person appearing in the reports of trials for rape and sexual assault of children held at the Old Bailey, rape of a child was clearly understood as morally repugnant and as ruining the child. If the child was pre-pubescent it was also clearly non-

procreative sex. Although ecclesiastical sexual discipline was removed in 1641 and subsequent legislation varied in the severity with which it prosecuted adultery and fornication, and had almost ceased to be enforced by the 1730s, sex was still expected to take place within marriage. As Faramerz Dabhoiwala has recently pointed out, “The idea of carnal licence was incessantly deplored and attacked, and most men and women continued to respect the ideals of sexual discipline.”¹¹ The discovery of a child’s loss of virginity or other injury from sexual contact, especially venereal infection, was thus regarded as a serious matter, both for the girl herself, and for her family, having a potentially negative impact upon her sexual reputation, and by association, upon the family’s good name.¹²

Since Philippe Ariès’ groundbreaking study L’Enfant et la vie familiale sous l’Ancien Régime, originally published in 1960 then in English translation in 1962 as Centuries of Childhood, the history of children and childhood has been a thriving field of study. The history of sexuality has similarly emerged from anthropological studies and the history of morals and the family as a highly productive area of scholarly exploration. But it is only in more recent years that scholars have turned their attention to histories of childhood sexuality and children’s sexual experiences, and particularly to the questions of the nature and extent of child sexual abuse, bringing Lloyd de Mause’s assertion in the 1970s of the more widespread sexual abuse of children in the past under closer scrutiny.¹³ Discussion of children and sex in the early modern period has mostly been in the context of rape and the law and the difficulties surrounding its prosecution, particularly in the absence of corroborating witness evidence and the reliability of children as witnesses.¹⁴ William Naphy has brought the prosecution of “Under-age” sex in Reformation Geneva and the particular issues that concerned the authorities to our attention in a chapter in his Sex Crimes From Renaissance to Enlightenment and in a chapter in George Rousseau’s collection Children and Sexuality from the Greeks to the Great War. Naphy’s studies indicate the complexities of prosecuting sex with minors and adolescents “in a period of development in which innocence and culpability overlapped” and which “highlight how difficult it was to decide when a relationship had moved from friendship to love to the physical to abuse.”¹⁵ While Naphy’s work is illuminating of the kinds of sexual involvement with children that were prosecuted in Geneva, and the contexts in which they took place, he has less to say about the men (and occasional woman) who were prosecuted, noting only that it was “for no other reason than the fulfilment of ‘base and beastly appetite ... [a] sinful appetite’.”¹⁶ Scholars have thus so far tended to pay most attention to the female victims of sexual crime, their vicissitudes in the courtroom and the discourses of power that made them both vulnerable to male predation and to male-dominated, patriarchal social and legal institutions that failed to deliver adequate protection and redress. One exception is Martin Ingram in his essay on “Child sexual abuse in early modern England” who tells us rather more about the kinds of men who were prosecuted, the nature of their occupations, social status and ages, and what may have motivated such acts, which “may have arisen from fatally misguided attempts at sexual experimentation; others were opportunistic, some occurring in drink.”¹⁷ Ingram does also go on to note that “there is no clear indication that any of them had an exclusive interest in little girls” and to provide examples of those few cases where there was some evidence of how these “abusers” presented their behaviour, but does not examine these issues in any great depth, nor suggest how such men may have been understood, or thought of, in early

modern society more broadly. The question of whether sex with a virgin as a cure for venereal disease had any currency, for example, is dismissed as “there is no hint of this in the sample studied here, though it may have been a hidden motive.”¹⁸ There is, however, some evidence relating to this belief in the Old Bailey trials examined here that will be discussed later on in this article, together with further conclusions about how the perpetrators of sexual crimes against female children were understood, characterized and represented in the seventeenth and eighteenth centuries.

There were no specific laws in England against child abuse or incest until the nineteenth and twentieth centuries: all the legislation that was specific to the protection of children as a category of person immature in both mind and body, and therefore in need of the state’s special care and protection, came much later.¹⁹ In the seventeenth and eighteenth centuries, when discovered and a perpetrator apprehended, children’s sexual contact with adults was prosecuted as rape and assault with intent to rape, in the case of girls, and sodomy and assault with sodomitical intent, where boys were involved. This discussion will be confined to prosecutions for rape and assault with intent to rape as there are both far fewer prosecutions for sodomy with young boys under the age of consent (fourteen for boys) from which to draw any firm broader, generalized, conclusions, and such a discussion would raise a range of different issues to do with the prosecution of, and attitudes towards, sodomy.²⁰ Through court records and descriptions of the person prosecuted we can gain a sense of what witnesses and the court may have thought about the person prosecuted for rape or sexual assault of a child, and also whether or not this person appeared to have been a serial offender – to have engaged in sexual acts with young girls on more than one occasion (whether with the same girl or a number of different children), thus, perhaps, suggesting recurring sexual desire for a child.

The discussion in this article has been developed from a study of 306 trials for rape and for sexual assault with intent to rape held at the Old Bailey between 1674 and 1800. The trial proceedings that took place in eight sessions a year were published after each sessions, surviving from 1674, and are referred to collectively as the Old Bailey Sessions Papers.²¹ They provide an exceptional record of what was said in court, albeit never a fully complete one. It is, of course, impossible to establish the full extent of the incidence of adult sexual interaction with children in England (or anywhere else) at this time, not only due to the nature of the source material, where records are incomplete for most jurisdictions,²² but also because not all incidents would have been reported or prosecuted – some prosecutions did not proceed because the accused man absconded, as did William Gower who ran away to France when he was accused of attempting to rape 4-year-old Mary Dodge in 1737.²³ Martin Ingram has quite rightly observed that “To try to gauge the incidence of abuse in the distant past poses such insuperable problems as to be fruitless.”²⁴ Any estimates about either the incidence of rape generally, and of the rape of children more specifically should be treated with a great deal of caution as any conclusions drawn about trends over time cannot be relied upon to be accurate.²⁵

Some trials were reported in much greater detail than others, with reports increasing in length and detail into the eighteenth century, particularly if deemed to be more interesting to readers, controversial or titillating.²⁶ In the latter half of the century this included

questioning of witnesses by both prosecution and defence counsel.²⁷ Few of the pre-trial depositions that record the information provided by complainants and witnesses, and their examinations by the Justices of the Peace to whom the original complaints were brought, survive for these trials, and so any further information about either people or events is very limited.²⁸ A substantial number of the original manuscript indictments are extant, but they are highly formulaic and provide little further information beyond confirming a defendant's parish of residence and social status, and sometimes the exact age of a child, which may have been reported in the Sessions Papers simply as "under ten".²⁹ The Sessions Papers, however, often provide more detail about a defendant and his occupation than the indictments reveal: a man recorded as "Labourer" on the indictment might be revealed as a young man who helped out around the yard of a tanner and did odd jobs, or as a waiter in a tavern; a "Yeoman" could be a soldier or a journeyman collar-maker.³⁰ The narratives that were recorded in both the depositions and the reports published in the Sessions Papers are also not entirely the original words of those who made complaints, provided witness statements and gave evidence in court. Their stories were filtered through those who wrote down the details when a complaint was made and a suspect brought before a Justice, the clerks who recorded the words spoken during the course of the trials, and those who compiled the trial reports for publication in the Sessions Papers.³¹ Consequently, there are omissions, paraphrasing, summaries of evidence and interpolation of formulaic phrases that would clearly not have been used by witnesses. For example, Deborah Covell was recorded in 1698 as saying, in language clearly not likely to be her own, that Deborah Wise, aged 9, "told this Informant the said Pheasant was the Person that did lye with Her as aforesaid".³² Although contemporary newspapers also reported the London and Middlesex trials and convictions, their coverage was very restricted so that they did not compete with the Sessions Papers.³³ Further information about defendants can be gleaned from the accounts of prisoners' lives written by the Ordinary of Newgate gaol (the prison chaplain), though these also need to be interpreted with caution as they have an overtly reforming purpose, drawing moral lessons from the tales of lives lived in wickedness and debauchery brought to an untimely end.³⁴ Nevertheless, the Sessions Papers together with the Ordinary of Newgate's Accounts do reveal something about the nature of at least some sexual interactions with children in this period (those that were prosecuted) and the men who initiated them, even if they cannot reveal a full picture of either the extent or the nature of all sexual activity involving children.

London was not necessarily representative of the whole of England at this time, particularly due to the higher recorded incidence of crime in London than in more rural areas, although the nature of the evidence that was reported in the Sessions Papers does not seem to have been unique to London but is indicative of knowledge, understanding and attitudes held more widely in the population, as well as of the kinds of legal issues that arose elsewhere in cases of rape and when dealing with children as victims and witnesses.³⁵ London was the largest by far of England's growing towns and cities at this time, with a population expanding from around 200,000 in 1600 to over half a million by 1700, and nearly doubling again by the early nineteenth century.³⁶ London's size and population density meant that many more cases of sexual crime were apprehended there than in more sparsely populated rural areas.³⁷ The jurisdiction of the Old Bailey included both the county of Middlesex and

the City of London. Middlesex encompassed a very large geographical area that included not only London north of the Thames, Westminster to the West, and parishes to the east surrounding the City of London, but also large rural areas beyond them. It therefore served both urban and rural populations, as well as a socially diverse mix of rich and poor, from the households of the nobility and gentry to those working in crafts and trades and as servants. The men who appeared as defendants in the cases of rape and sexual assault discussed here are representative of this geographical diversity, coming from areas as far apart as Bishopsgate, Hackney, Staines, and Westminster as well as (in larger numbers) the more central and crowded parishes of the city. They also include men of all ages from early adolescence to old age, ranging in age from a boy as young as 12 to an old man of 83, although the age of the defendant was not usually reported.³⁸ However, they are far less representative of the social diversity of London. Neither the occupations of the girls or their families who brought cases to court or of the men they accused were always reported, but, where they were, it can be seen that they were both generally from the artisanal, servant, shop-keeping and labouring classes, with those from the higher social classes barely making an appearance: only one gentleman was tried (and found not guilty) for the rape of a child, Sir John Murry, Baronet, in February 1719.³⁹ Girls of the lower classes thus seem to have been potentially at risk of sexual assault almost exclusively by men of the same social classes and with whom they mainly came into contact in the daily course of their lives. Perhaps most surprising is the relative absence of incest as research into the incidence of sexual abuse today shows that most is familial.⁴⁰ Only two trials involving girls aged 10 and under were incestuous and both the accused were acquitted.⁴¹ This may be indicative of a very strong contemporary “incest taboo” or that families kept it quiet and did not pursue a prosecution when it involved a relative by blood or marriage as this would have been both shameful and scandalous.⁴²

Of the rape trials examined for this study, it is estimated that half involved child victims, where a child is defined as one who is aged 14 and under.⁴³ The age of 14 coincides both with contemporary definitions of the upper age of childhood and the shift to the next stage of life as well as, rather more loosely, with the ages by which a child might formally enter paid employment and the development of sexual maturity.⁴⁴ However, the age of consent to marriage and thus to sexual relations for a girl was, as we have seen, 12, but for the prosecution of rape had been lowered to the age of 10 by the Westminster rape statute of 1576.⁴⁵ Rape became defined in law as “the unlawfull and carnal knowledge and abuse of any woman above the age of ten years against her will, or of a woman-child under the age of ten years with her will, or against her will”.⁴⁶ Men therefore could, and did, use the defence of consent when the child was over the age of 10 and their acquittal could be secured by presenting sufficient evidence of the child’s acquiescence, even if obtained through threats or bribery, however iniquitous juries may have found this.⁴⁷ John Hunter, for example, was acquitted of the rape of 10-year-old Grace Pitts in 1747, because she apparently willingly went with him into the room and sat upon his lap in exchange for an orange, and there was no evidence that he had used violence to achieve his aim, nor that Grace had offered any resistance.⁴⁸ Jennie Mills has thus argued that “To desire to have sexual intercourse with very young girls was entirely within the boundaries of acceptable sexual behaviour.” The substance of the following analysis therefore focuses primarily upon men who were

prosecuted for the rape and sexual assault of girls up to the age of 10, where it is clear that acting on such desire was not acceptable in law.⁴⁹

Although the word “abuse” in relation to carnal knowledge of a girl under the age of 10 was used in the statute concerning rape, this did not connote an early modern understanding of child sexual abuse as we understand it today, as a destruction of the innocence of childhood.⁵⁰ Attitudes towards children at this time could be ambivalent, associating them simultaneously with both sin and innocence. Puritan ideas about original sin and the need to guide and discipline children to ensure that they learned the right path to follow in life to ensure salvation suggest that children were not yet understood as innocent, although some parents believed that they were to blame for their children’s sins, and were therefore justly punished by God when their children suffered sickness and death.⁵¹ Harsh disciplinary practices to curb the behaviour of children, at least in these lower classes, are still evident through children’s testimonies reported in the Sessions Papers, where they invariably tell the court that they did not tell anyone what had happened to them because they were afraid of being beaten for it. A shift in attitudes about such practices that has been detected by historians can be seen right at the end of the century, at least in the legal profession, when a judge tells a father that his daughter should be better treated in future.⁵² Louise Jackson has argued that the term “sexually abused” did not come into use until the nineteenth century, while Carol-Ann Hooper noted that concerns emerged from the 1870s but were not pursued with any success until the 1970s and after.⁵³ Unlawful and illicit sexual activity was termed “abuse” of the body at this time, but this was not a term that was confined to adult sexual relations with children, nor that was used specifically about them, though some children appearing in these trial records were referred to as having been “shamefully abused”.⁵⁴ Such “abuse” may not have been understood as we think of it today, but the prosecution of sexual contact with girls as rape and sexual assault, and hence against their will outside of the legitimate confines of marriage, was clearly understood as an abuse of a girl’s body that should be apprehended and punished. It was also “abuse” in the sense that it caused injury and damage to a girl’s body that was not yet ready for sexual intercourse because it had not yet undergone the physical changes of puberty that would dilate the previously “streight” or narrow vagina and moisten it (through the regular menstrual flow) to enable penetrative sex. Girls under the age of 10 were understood to have not yet arrived at sexual “ripenesse”: the changes of puberty that brought the growth of breasts and pubic hair, the onset of menstruation and the first stirrings of sexual feelings were thought to usually occur around the age of 14, sometimes at 12 but very rarely (and unusually) before that.⁵⁵ Force and violence would thus be necessary for a man to enter a pre-pubescent girl’s body, causing obvious injuries such as tearing or “laceration” and consequently bleeding.⁵⁶ Sex with a child was thus understood as both physically and morally abusive before explicit ideas about child sexual abuse had been articulated. That such behaviour was regarded as appalling and unacceptable can be seen in comments that were occasionally made about the crime: Edward Coker’s rape of an 11-year-old girl was described as “a brutish act of beastliness”, William Rowlandson’s rape of a 9-year-old girl as “a filthy brutish offence”, Stephen Arrowsmith’s rape of Elizabeth Hopkins, 8, as “so Horrid and Vile an Offence”, John Raven’s rape of Mary Katt, also aged 8, was commented on as “appearing so Odious to the Court”.⁵⁷

As can be seen from the wording of the 1576 statute, rape was encoded as “carnal copulation” and therefore penetration with an object or with a finger rather than with a penis, only partial penetration, or seminal emission outside the body, were not judged as constituting rape and were treated as sexual assault with intent to ravish.⁵⁸ Although this therefore seems to exclude women from prosecution for rape, the aiding and abetting of the commission of a felony was at this time prosecuted as for the felony itself, and so several women also appear as defendants in a number of these Old Bailey trials for rape where they had been apprehended as having participated in commission of the crime.⁵⁹ However, the numbers of women involved were tiny, only 16 women, or 5 per cent. In only 4 of these trials was the victim aged under 14: one was aged 9, two were aged 10 and one was 11 years old at the time of the alleged rape, 12 when it came to court.⁶⁰ Only one of these women, Alice Grey, in April 1707 accused of aiding and abetting the rape of Catherine Masters, aged 10, by John, alias Thomas, Smith, was found guilty and sentenced to death. In this trial Catherine Masters deposed that it was the woman who pulled her back to bed when she endeavoured to get out, held her down, and covered her mouth while Smith “gain’d the perfect knowledge of her Body.”⁶¹ None of the records of these trials provide any evidence that the woman herself had had sexual contact with the child, nor what her possible motive may have been in assisting the man in committing the rape. There is thus no evidence of women themselves having had sexual interaction with a child – male or female – unlike the case William Naphy identified in Geneva in 1565.⁶² There is some very small anecdotal evidence from other textual sources that potentially suggests that it was at this time thought possible that women might seek sexual contact with a male child for their own sexual gratification, as Krafft-Ebing indicated later in the nineteenth-century when he included in his examples of those who violated children “sensual women” who abuse boys “in order to satisfy themselves by means of friction or onanism”.⁶³ This evidence, however, is not factual and therefore clearly not evidence of actual incidence.⁶⁴ The lack of evidence for female perpetrators, although shaped by the nature of the extant sources, does strongly suggest that there is historical continuity in the preponderance of male perpetrators of sexual crimes against children (as for the commission of violent crime more generally), and that female perpetrators are unusual.⁶⁵

Finding evidence of the men about whom it is possible to speculate may have been expressing a preference for a child as an object of sexual attention at this time is not easy: those who were successfully prosecuted for rape (and sodomy) were executed, thus precluding the possibility of re-offending. However, for some of those prosecuted, evidence was given at trial that indicated that the person was only apprehended and prosecuted some considerable time after the first sexual encounter with the child, so that a history of sexual acts with the child emerged during the trial. A number of men were, like James Booty in 1721, accused of raping or attempting to rape either several different girls or the same girl repeatedly on different occasions, perhaps suggesting a particular desire for young girls – although Booty himself offered a different explanation, as we shall see. Adam Martindale recorded in the story of his life the rape of the young daughter (“under six yeares of age”) of a neighbour by an old man, about which his own three-and-a-half-year-old daughter was questioned as a witness. Martindale indicated that the man had raped her “severall times” and had also attempted to rape another child, as well as possibly many others.⁶⁶ Both

Stephen Arrowsmith in 1678 and Thomas Benson in 1684 were accused of having had sexual intercourse more than once with the girls they were convicted of raping (the daughters of the men to whom they were apprenticed). Arrowsmith allegedly had sex with 8-year-old Elizabeth Hopkins every Sunday for six months, “half a year together every Sunday”, while Thomas Benson had done so with Elizabeth Nichols, aged 7 or 8, between 5 and 7 times. Both Thomas Broughton in 1685 and William Webb in 1687 were accused of an unspecified number of repeated incidents which were reported only as “sundry times”.⁶⁷ Deborah Wise, aged 9, deposed that William Pheasant “had to do with her” 3 times before he was discovered in 1699.⁶⁸ The unnamed man in 1719 accused of the rape of Bridget Stevenson, also aged 9, was alleged to have done so “two or three times”.⁶⁹ In 1720 10-year-old Mary Tennet testified of Thomas Beesley “that she was with him twice within 2 or 3 Days of each other, and he served her so both Times”, and Mary Faucet, aged 9, said that John Cannon ‘serv’d me so 3 Days’ in 1733.⁷⁰ Thomas Walgrave, father of 3-year-old Catherine, testified in 1739 that his apprentice, John Adamson, had “owned he had abused her three Times for Satisfaction in his own lustful Way, in the Garret”.⁷¹ In 1766 Phillis Holmes, aged 9, said that after raping her the first time Edward Brophy did it again “two times more”.⁷²

Occasionally it is evident that an accused man had previously been prosecuted and acquitted of a similar crime, suggesting that this might be a possible serial rapist of young girls. Although acquitted, it was alleged at his trial in 1749 that George Tennant had assaulted more girls than the one (Mary Craggs, aged 9) for whose rape he was standing trial. Mary Craggs’s mother alleged that “he serv’d another neighbour’s child in the same manner” and that the Apothecary’s widow from whom she sought treatment for her child’s consequent venereal disorder told her that “this is the third or fourth child he has serv’d so”.⁷³ Another woman, Margaret Goodson, who is not mentioned in the trial report in the Sessions Papers made a sworn statement that her daughter Elizabeth had told her that Tennant had “feloniously forced her body” about 4 years ago.⁷⁴ Tennant was subsequently indicted for the rape of 7-year-old Grace Howel, but the judge considered her too young to give evidence and so he was again acquitted. Tennant denied that he had done anything to the child and was acquitted after 11 witnesses gave evidence of his good character and reputation as an “honest” and “modest” man, including several women and some who had known him for as long as 16 or 17 years.⁷⁵ One character witness alleged that the prosecution had been brought against him out of “malice”. It is possible that these allegations of further assaults on other girls were made in order to support this particular prosecution, to suggest that it was more likely that Tennant had raped Mary Craggs if it could be shown that he had also done it on previous occasions, rather than to indicate that he was a man who had a particular desire for young girls. The subsequent indictment for the rape of another child might, however, suggest that the first prosecution was not malicious, and that he was, in fact, a serial offender who had so far successfully evaded prosecution through the strength of his reputation in the community, and because he targeted girls too young either to be admitted to give sworn testimony against him so that the prosecution would fail, or, if their sworn testimony was allowed, it would not be found sufficiently credible or reliable by a jury to convict him, especially in contrast with his many witnesses, both male and female, called to attest to his good character and reputation.

Many historians of rape have pointed out how difficult it was to secure a conviction for rape: Jennie Mills, for example, has noted that between 1700 and 1750, 85% of the rape trials reported in the Sessions Papers ended in acquittal.⁷⁶ A significant obstacle to prosecution was presented when a child's evidence, which was crucial to achieving a prosecution, could not be heard by the court: despite overwhelming physical evidence of a violent assault that was supported by the evidence of those who had examined the child, a man might nevertheless be acquitted if the judge decided that the child was too young to give reliable evidence, or if questioning revealed that the child did not understand the nature of an oath and could not therefore reliably give evidence under oath. The very youngest children, aged between 3 and 8 were not sworn to give evidence as they were usually judged not 'capable of giving evidence'. There is some variation for girls aged 9 and above where some girls were sworn to give evidence while others were not. Winifred Strolger, aged 9, was admitted to give sworn evidence against Robert Warden in 1745, because she satisfied the court that she had sufficient understanding of the importance of telling the truth, but Mary Reynolds, also aged 9, was not admitted to give sworn evidence against Thomas Crosby who was accused of her rape in 1757.⁷⁷ Similarly, in 1723, Susannah Mitchel, aged 10, gave sworn evidence against Edward Fox, but the testimony of Catherine Black, also aged 10, against Gerard Bourn and Jonas Penn was not allowed, because she could not give "a satisfactory Answer" as to the nature of an oath, "And so the Evidence against the Prisoners not coming up to what the Lawer requires, the Prisoners were acquitted."⁷⁸ It is not always made completely clear in the report of the trial that it was the lack of sworn testimony that meant a conviction could not be achieved, but in some trials such as the one just mentioned, it is explicit. This is also the case in the trial of William Nichols for the rape of Dorcas Reeves aged 5 in 1724 where it was noted, 'The Child being too young to swear to the Fact, the Jury acquitted him of the Rape, but found him guilty of the Assault.'⁷⁹ Without the sworn testimony of the child to the fact of rape, a conviction could not be achieved, even when medical evidence was given confirming that penetration had indeed taken place, as happened in the acquittal of Bourn and Penn. Catherine Black's accusation of rape was both "confirm'd by another Evidence", that is, by another witness, and by a surgeon who testified that he "found her abus'd to the utmost degree, the Parts being violently lacerated, contus'd, and inflam'd, and she pox'd in a miserable manner.'⁸⁰ In these cases the accused man would be re-tried for assault.

A further obstacle to a rape conviction, however, was proving penetration. Where this was doubtful (often because the surgeon giving evidence of his examination of the child said that he found no evidence of tearing or "laceration" or it was possible that something else had caused it, such as the man's fingernails in one case) but the evidence indicated sexual contact, frequently because there was a venereal infection, then rape could not be proven.⁸¹ In such cases the court might then order that the accused man be re-tried for the lesser charge of assault with intent to rape. There were 25 trials involving girls aged up to 14, 18 of which involved girls under the age of consent of 10, where a defendant was acquitted of the charge of rape but then re-tried or ordered to be detained for trial on the lesser charge of assault with intent to rape. Of these 18 cases, no details are available for 2, but in the remaining 16 cases there was evidence of venereal infection in 13. This suggests that the court both accepted infection with a venereal disease as evidence confirming sexual contact

and regarded it as evidence of harm done to a child that required punishment. That the court took such harm seriously can be seen in the comments made by the court about a defendant when ordering detention for further trial, and, on one occasion, by the award of an allowance to the child's family so that they could afford to pursue the second prosecution. After the jury found Joseph Fyson not guilty of rape, the judge ordered his detention to be prosecuted for assault to bring him "to that punishment which you deserve" and allowed "the prosecutor five guineas for the expence of this prosecution" as he was a poor man who otherwise could not afford it.⁸²

In order to secure a conviction of sexual assault where penetration could not be proven, but there was evidence of venereal infection, those giving medical evidence had to convince the court not only that both child and defendant had the infection, but also that it was possible to transmit the infection without penetration. The questions that were therefore asked in court were to establish whether contact had taken place, to what extent, with what, and whether or not it was possible to infect a person without either penetration or emission of semen inside the body or onto the private parts. There was overwhelming agreement that it was indeed possible to transmit the infection by touch alone, confirming the theoretical and anecdotal assertions of the authors of venereal treatises.⁸³ The two anecdotal examples of infection by hand presented by John Marten in his Treatise of all the Signs and Symptomes of the Venereal Disease published at the beginning of the eighteenth century are of female (prostitute) to male, rather than of male to female, reflecting the contemporary bias noted by historians that women were predominantly seen as communicators of venereal infections, but nevertheless prove the point.⁸⁴ The surgeon, Henry Tompson, who testified at the trial of Christopher Larkin for the rape of 10-year-old Jane Gallicote in 1751 that he thought she was too young to have been penetrated, gave further evidence that she had a gonorrhoea that could have been transmitted by an 'impure cohesion', that is by genital contact without full penetration.⁸⁵ More explicitly, William Barrel, surgeon, testified at the trial of William Allam for the rape of 8-year-old Elizabeth Hall in 1768 that "the disorder is communicable, if the two parts touch one another".⁸⁶

The question of whether or not infection was possible without penetration was explored in rape trials not only because it was an important means of proving sexual contact and injury to a child, but also to prove the opposite: it could be argued for the defence that the presence of a venereal infection was not necessarily clear evidence of rape; and the presence of a venereal infection in a child does not seem to have meant that a prosecution for rape was more likely to succeed. Only 30 per cent of those prosecuted for rape of a child aged under 10 were found guilty, and of the 39 girls under 10 who were firmly diagnosed as having a venereal infection, only 15 (38 per cent) secured a guilty verdict. In 1753 at the trial of John Birmingham for the rape of Elizabeth Wheeler, aged 9, who was diagnosed at the London Hospital by two surgeons as having "the foul disease", the question "Had she been penetrated?" to which the surgeon, Robert Bristow, replied that he believed she had not, was immediately followed by the question "Could she have that distemper without penetration?"⁸⁷ Similarly, a year later, the same question was asked at the trial of John Grimes for the rape of 9-year-old Elizabeth Salter, to which the surgeon Samuel Clark responded, "I believe if any nastiness should lie upon a child's tender parts, it may be."⁸⁸ This "nastiness", it was agreed, could be transmitted either by genital contact or by hand.

William Kirk was acquitted of the rape of 6-year-old Anne Brown in 1754 because of doubts about his ability to effect penetration, the surgeon, Mr Moffatt, who examined him finding that his penis was at first sight “intirely hid” by “a double rupture” (though it was eventually “produced”). A second witness, who is not named as a surgeon in the trial report but who also participates in the medical examination of Kirk, Mr Stevenson, further testified that Anne Brown told him “Mr Kirk used to set her upon his knee, and used to put his finger into her”. This evidence accounted for Mr Moffatt’s testimony that “She has had her parts torn by means of some forcible entry”. Doubt was thus raised about the possibility of penile penetration while there was evidence from more than one witness that digital penetration had taken place. Kirk was also found to have a venereal infection, as did the child, further indicating that sexual contact had taken place; on his acquittal he was ordered to be detained to be tried for assault with intent to rape the child. While the presence of a venereal infection in a child did not therefore mean that a man was more likely to be found guilty of rape, it did mean that he was more likely to be re-tried on a charge of sexual assault because the court was reluctant to see a man go unpunished. When a defendant could not be convicted on the evidence presented a report might comment that he nevertheless “richly deserved severe Punishment”.⁸⁹

Very few reports of the trials held at the Old Bailey recorded any motive for the alleged rape or assault with intent to rape of a child. It is thus almost impossible to establish from the extant testimony whether or not an accused man was acting on sexual desire specifically directed towards children. It was extremely rare for a man to admit his guilt in court; most denied it. Of 89 trials for rape or sexual assault in which the girl was under the age of consent of 10, there were 27 guilty verdicts⁹⁰, but of these only 4 of the accused admitted their guilt: Thomas Benson in 1684, James Booty in 1722, John Adamson in 1739, and Francis Moulcer in 1744. Two men did not deny it: Thomas Broughton in 1685 and “a young fellow”, named in the indictment as William Rowlandson in 1678.⁹¹ Some of those accused admitted to having had some sexual contact with the child but denied that it was as much as rape. Thomas Gray in September 1735 “admitted he had plaid and been familiar with the Child, and had even taken some indecent Liberties, but never offered to ravish her, or any thing like it.”⁹² Jacob Whitlock in 1696, confessed to having thrown the child on the bed, but said he did nothing more. Whitlock was convicted of rape as there was physical evidence that the child “had been very much abused, and had got a great Clap”, that is, had a venereal infection.⁹³ In 1744 Justice Spurling gave evidence at the trial of Francis Moulcer for the rape of Ann Bishop that when Moulcer was brought before him accused of her rape, he had originally confessed that he had attempted to enter her body, but had not done so, thus attempting to reduce the charge from actual rape to assault with intent to rape. However, at his trial he denied that he had either raped or attempted to rape her, retracting his confession as having been given when drunk: “What I said before the Justice was when I was in Liquor, for I did not offer any such Thing to the Child”.⁹⁴ In another case, Edward Brophy in 1766, witnesses gave evidence that the accused had admitted to having had sexual intercourse with the child, Phillis Holmes, aged 9, though he did not admit to it in court. The child’s nurse testified that he had confessed to her, “O nurse! the devil was in me, and I was devoid of my senses” when she asked him what he had done. There are, as a consequence, very few reports in which a man accounted for his actions.

When a reason was offered to account for the rape or sexual assault of a child, either in the record of the trial or afterwards as part of the man's confession before execution, it was never to do with an expression of sexual desire for a child. There are far too few of these from which to generalize, but two explanations that do appear included being drunk and attempting to cure venereal disease.⁹⁵ Edward Brophy's confession to having been "devoid of my senses" might suggest that he was drunk rather than out of his mind as he worked as head waiter at the New Goose and Gridiron in St. Paul's Church-yard. Phillis Holmes said that he had been stirring beer in the cellar before he raped her there. Thomas Benson, convicted of the rape of Elizabeth Nichols "a Child about 7 or 8 Year old" in 1684, "confess'd he had forced her once, but was in Drink when he did it."⁹⁶ At the trial of Thomas Beesley in April 1720 a witness, Edmund James, testified that Beesley had "own'd to him, that he had lain with her when he was drunk" but Beesley himself said "that he knew nothing of the Matter".⁹⁷ Although he did not offer it as a defence in court, in 1750 William Tankling was described as being "much in liquor" when he returned three-year-old Anne Collings to her home bruised and bleeding: "her nose was bruised, her shift, coat and apron were very bloody". It was not immediately realised that Anne had been raped as the source of her injuries was mistaken: "We thought it [the blood] came from the mouth of the child". It was not until her mother "found the child very ill" and she was diagnosed with "the foul distemper" that it was realised that Tankling had raped Anne before bringing her home.⁹⁸ The Constable, Henry Banford, testified that when Kitty Sweetman's father asked Joseph Fyson why he had assaulted her, Fyson replied "I was in liquor, but I hope you will forgive me", but Fyson denied it "intirely" when taken before the justice.⁹⁹

It has been argued that some men raped and assaulted young girls because there was a contemporary belief that sex with a virgin could cure venereal disease. Some books on venereal disease mention the idea as still prevalent, such as John Marten's treatise published in the early eighteenth century, where he relates a case of a young man who plied a young woman with drink before debauching her "for no other Reason, as he alledg'd, but because he had heard it would clear him of the Distemper."¹⁰⁰ Martin Ingram noted that there was no evidence of this belief in the sources that he examined, but there is some evidence in these Old Bailey trials, although not as much as Antony E. Simpson has suggested: just one defendant, Joseph Fyson in June 1788, is reported as making a statement in court in defence of his behaviour that refers to his having "the foul disease", though it is not clear whether he was seeking a cure or revenge, as he said it was the child's mother who had infected him.¹⁰¹ Simpson argued that "the belief was a prevalent one and it is, therefore, not surprising that it was commonly presented as a defence by those accused of attacking little girls and who had been caught dead to rights."¹⁰² In the footnote to this statement, Simpson references 4 trials, 3 from the late eighteenth century, of which 2 took place at the Old Bailey, and 1 from 1826.¹⁰³ However, it is misleading to say that it was a common defence: it was not actually presented as a defence in either of the two Old Bailey trials that Simpson references (*R. v Davenport* February 1796 and *R. v Scott* September 1796). As previously noted, very few men admitted their guilt in the first place, and none of those who did, offered as a defence that they were attempting to cure themselves of "the foul disease". Joseph Fyson, who stated in court that "It is eight weeks ago next Thursday, since this prosecutor's wife gave me the foul disease" but did not say that his intention was to be cured through sex with her young

daughter, was acquitted of her rape, though he was then ordered to be detained to be tried for the attempt.¹⁰⁴ Neither does the court's response to Fyson's statement - "That is no excuse for the crime with which you are now charged" - indicate whether it had been interpreted as Fyson seeking cure or revenge. Both Davenport and Scott denied the charges against them. In both these cases the idea that venereal disease might be cured by sexual intercourse with a girl was raised by neither prosecuting nor defence counsel, nor by the defendant himself, but by the court, that is, by the presiding judge in both cases, Mr Justice Rooke, who appears to have had a personal desire to disabuse the public of any such mistaken notion. In the Davenport case he made this intention quite clear when he raised the issue directly with the surgeon, James Gale, who gave evidence of his physical examinations of the bodies of both 11-year-old Ann Thacker and Thomas Davenport:

Q. Then I will ask you a question for the sake of the public, and enlightening the public mind upon this subject; is it possible for a man, having a venereal taint of this sort, to receive any benefit from connexion with a child? - A. It is an extremely false idea.

Court. This idea cannot be too well understood, because many poor miserable wretches have that notion? - A. I should suppose quite the reverse, because anything that irritates the penis must inflame it and encrease the discharge. Court. That has been the uniform answer of every surgeon that I ever heard.¹⁰⁵

Later in the same year, in September, at the trial of David Scott for the rape of 11-year-old Mary Homewood, Mr Justice Rooke again directly raised the question with the surgeon giving evidence, asking him twice in the same words, "Can it be any relief to any person that has the gonorrhoea to be connected with a young child?". He then also reiterated that "It cannot be too generally known, that it does harm, and not good."¹⁰⁶ These two examples suggest that those presiding over such cases at the Old Bailey may have inferred from the prevalence of venereal infections in the children examined for the purpose of prosecuting rape that the men so accused had done so in order to attempt to cure themselves of the infection, even though a defendant never did so himself. Because it was rare for a man to admit guilt when charged with rape, such a belief could not be offered as a defence and it is therefore generally absent as a defence from the reports of trials for rape and sexual assault of children held at the Old Bailey.

Kevin Siena has argued that this belief may have been prevalent among the plebeian population of London, particularly as a considerable number of the rape trials at the Old Bailey that involved girls under the age of 16 also presented evidence of venereal infection as a consequence of the alleged rape. Siena identified 46 rape trials between 1714 and 1759 that included an accusation of venereal infection and that just under 85 per cent of these involved girls under 16 years, thus indicating that there was "an overwhelming connection between rape cases involving young girls and venereal transmission."¹⁰⁷ However, these figures possibly give an overall impression of more widespread infection of young girls with venereal disease than a longer view than this 45 year period presents. Of the 306 trials reported between 1674 and 1800 examined here, half involved girls aged 14 and under, and of these girls less than half (43 per cent) were diagnosed with a venereal disease identified as either gonorrhoea or the pox. The percentage of those girls aged under 10 (29 per cent of

trials) who were infected was only a fraction higher at 44 per cent.¹⁰⁸ This is still quite a high incidence of infection, but does not seem to be conclusive proof that young girls were specifically targeted for this purpose, as most girls under the age of 14, as also most under 10, who suffered a rape or sexual assault for which a man was brought to trial were not infected, suggesting that other motivations were more prevalent.¹⁰⁹ This rate of infection may be indicative of a generally high incidence of infection in the population more generally – and hence a high likelihood of transmitting that infection to anyone with whom there was sexual contact – rather than of a widespread belief that sex with a virgin would effect a cure; Siena himself has argued that “The pox was absolutely rife among the London poor long before 1690.”¹¹⁰ Linda Merians’s work on the London Lock Hospital has shown that 26,800 men, women and children were treated there for venereal infection between 31 January 1747 and 3 March 1800.¹¹¹ Actual incidence of such infections in the London population was likely to have been much higher than this, as sufferers would have sought treatment from other sources, including other hospitals as well as privately through advertisements for remedies and from surgeons like John Marten who also wrote treatises on the disease. In the 1751 *Account of the Proceedings of the Governors of the Lock Hospital* it was noted that more than 50 children aged between 2 and 12 had been treated in the 4 years since the hospital’s opening, having contracted the disease as a result of sexual attack. Merians argues that this was due to the commonly held belief that sex with a virgin would effect a cure, and that as a result the hospital “mounted a very public campaign” to counter it.¹¹² This number is, however, just over 4 per cent of the total of people treated to March 1751, and does not therefore suggest a very widespread incidence of infected men attempting to cure themselves in this way. The hospital’s campaign, though, may suggest that, while acknowledging the sexual transmission of the disease to children, it did not recognize that there was a problem of male sexual desire for, and hence predation upon, children, but rather that men might seek sexual connection with a child only to effect a cure for a very nasty and debilitating infection for which the medical remedy was as unpleasant as the disease itself.¹¹³

The belief was, however, reported afterwards as a motivation for one rape that was successfully prosecuted in the eighteenth century, that of fifteen-year-old James Booty in 1721 for the rape of five-year-old Ann Milton. Booty finally confessed in Newgate to the Ordinary before his execution that he had been infected by his cousin and that he not only raped Ann Milton but also three or four other girls in the attempt to rid himself of the disease, as an acquaintance had told him “*I have heard say, that a Man may clear himself of that Distemper by lying with a Girl that is sound.*”¹¹⁴ It was further reported that, “he afterwards said, that he enticed the Child to the Top of the House, and on the Leads did abuse her, and gave her the Foul Disease, because he had heard that it would ease his Pains of Body; for he was afraid to discover to any Body his Condition, even to his own Mother.”¹¹⁵ This reason for his actions is reiterated at the end of the Ordinary’s account of his confession as his narrative concludes that Booty “declared to the last, that what he did was for no other end than to ease himself of the Pains he was in, which he had heard might be that Way effected.”¹¹⁶ Whether or not this belief was a widespread motivation for the rapes and assaults of girls in the seventeenth and eighteenth centuries, in at least this one case it appears to have been a factor, even if only as a potentially mitigating factor that the

condemned man thought might plausibly excuse his behaviour and make it seem better in the eyes of the public than a crime of inexcusable brutish violence and lust.

Whether or not an infection had been communicated to a child with the deliberate intention of trying to effect a cure that other remedies either could not be afforded or had failed to deliver, it is quite clear that those presiding over trials at the Old Bailey regarded the infliction of the disease on a child as a very serious matter. Those who discovered a child with the disease described them as having been “ruined”, as did the mother of 2-year-old Ann Radford in 1774.¹¹⁷ If infected with venereal disease, the child’s health and beauty could be permanently blighted. Venereal disease at this time was understood as having a range of symptoms that encompassed different infections, including both the pox and gonorrhoea that we now understand as separate diseases.¹¹⁸ It was usually treated with mercury, which was itself poisonous and had noxious side-effects which could have long-term consequences for health – the cure was often regarded as worse than the disease itself. Mercury, which was also given to children as a cure for the pox in the form of salivations, pills and topical ointments for sores and rashes on the skin, caused, among other problems, nausea, wasting, tremors and fatigue, inflammation and ulceration of the mouth and throat, and loosened teeth.¹¹⁹ Later stages brought different or aggravated symptoms, such as pains in the bones and skin eruptions, or worsening of “buboes” and ulcers. The final stage of pox brought disfigurement to the face as the nose collapsed, the face, head and body might be further ulcerated, and eventually, death. Venereal disease was also regarded as shameful, affecting the private parts of the body and indicating a lack of sexual chastity, especially as it was understood to be spread by prostitutes. When Samuel Pepys thought his brother was ill with the pox he wrote in his diary in March 1664 that “if he lives, he will not be able to show his head – which will be a very gret shame to me.”¹²⁰ A child infected with the disease thus faced an uncertain, potentially painful and difficult future, physically debilitated affecting employment as well as marital prospects, and possibly ending with a premature and unpleasant death. It was no wonder, then, that parents were horrified to discover that a child was “foul” and that those trying a man accused of infecting a child through rape or sexual assault, as we have seen, treated it as a serious matter for which punishment was well deserved.

Francis Moulcer’s case also provides us with evidence of other reasons put forward to explain the actions of men convicted of the rape of children, none of which again suggest that there was any contemporary perception of men particularly directing their sexual desire towards children. In the Ordinary of Newgate’s account of Moulcer’s incarceration and behaviour before his execution, two further issues were raised that may have been thought to have contributed to his actions, though it was not explicitly stated that either were implicated in his crime. Firstly, it was noted that he was disinherited by his father because of his loose-living and promiscuity: “his too early fondness for Vice and Wickedness appeared, and his following lewd Women was so apparently barefac’d, that his Father in his Will left his whole Fortune to his Brother”.¹²¹ The rape of the child can therefore be regarded as the culmination of a predilection for sexually immoral behaviour. Secondly, it was recorded that he had recently married a woman but that the marriage was unconsummated: “HE was married last June to one Martha Gr-y, who was a Servant in Cheapside; but she would never suffer him (whatever might be her Reason for marrying) to Bed with her.”¹²² There was thus

also the implication that he had been deprived of legitimate sexual relations through marriage and had clearly sought relief elsewhere, as he had contracted a venereal disease. His crime was therefore a crime of lust and lack of self-control over his sexual appetites, that had been wrongly directed outside of marriage, rather than specifically wrongly directed towards a child.¹²³ This suggestion is articulated more explicitly in the Ordinary's account of the life and behaviour of Henry or Humphery Symkins, [Simkins or Simpkins] after his sentence of death for the rape of a 10-year-old girl in 1698. The Ordinary's Account includes the comment: "He was a married Person; and therefore the Ordinary told him, that his Crime was the more heinous and abominable, because he had an obligation to have been more Chaste, as having a remedy against such a gross Sin."¹²⁴ This suggests that his crime was judged to be particularly bad because there was no need for him to have committed it as he had a legitimate outlet for his sexual desires – a wife – and therefore should have been able to confine his sexual activity to marriage. The fact that he had raped a child rather than an adult woman does not seem to have been of particular significance in eliciting this condemnation. While Joanne Bailey has argued that "In religious teaching, adultery broke the conjugal vows and therefore male and female adulteries were considered to be offences of equal weight", Alexandra Shepard has noted that some writers of conduct books thought that adultery was worse in men because they were supposed to set an example as having more self-mastery.¹²⁵ The strong disapproval of lack of chastity on the part of a married man expressed in the Ordinary's Account lends some support to David Turner's contention that male sexual conduct might also "discredit him in the wider community" and be a source of shame and dishonour.¹²⁶ Lack of chastity that went as far as rape was more clearly perceived as shameful and dishonourable, resulting in the humiliation of public trial, condemnation and execution, and serving as a warning to others of the consequences of lack of control over one's sexual appetites.¹²⁷ Such men were clearly not defined as particular types of person according to the object of their sexual attentions, the children they raped, but were characterized in these descriptions as having a particular moral identity that was distinguished by lax, immoderate and unrestrained sexual behaviour. The rape of a child was perceived at this time as a crime of immoderate, uncontrolled lust rather than of an abnormal sexual desire or of the assertion of power and dominance over someone weaker and more vulnerable.¹²⁸

While some historians have dismissed the Ordinary's Account as of little value as a historical source, even to the extent of being fabricated and sensationalized, others have argued that, on the contrary, they can be a valuable and useful source, "if carefully used".¹²⁹ Although clearly formulaic and aiming both to entertain and reform, the descriptions of the lives of those convicted of child rape and of the kinds of delinquent and sinful behaviours that culminated in the specific crime which sent them to the scaffold, can indicate whether or not these men were conceived of as in any way different to both other rapists and other kinds of criminal.¹³⁰ In these accounts of the men convicted and sentenced to death for the rape of a child, it was usual for the dissolute nature of their lives to be highlighted: a life generally given over to drinking and debauchery was likely only to come to a bad end. There was thus a moralising and reformatory purpose to these narratives.¹³¹ Phillippe Rosenberg has noted that the point of narratives of this kind was also "to sharpen perceptions of the criminal's guilt."¹³² A convicted criminal would have a history that led up to the particular

crime for which he (or she) was to be executed. Convicted perpetrators were thus frequently described as having kept bad company, not heeding the advice of those in whose charge they lived and worked and being disobedient, spending time in idleness or unprofitable pursuits such as drinking and gambling, and not paying attention to religious instruction or observance, often to the extent of not attending Church and blaspheming. George Hutton, convicted in 1690 of the rape of Elizabeth Marriott aged 9 was described as having "... kept bad Company, among whom he would be drunken and often swear."¹³³ Thomas Benson in 1684 confessed that "he was dismissed from that Service (his first apprenticeship) for his refractory Carriage toward his Master".¹³⁴ These were all standard misbehaviours attributed to condemned criminals in the Ordinary's *Account*, and were neither restricted to those convicted of child rape or of rape more generally, but were common to all convicted criminals. William Duell, convicted of the rape of Sarah Griffin in 1740, whose age is not given but who is clearly not a child, is similarly described as unwilling to submit himself to authority and to the discipline of learning a trade: "his Father being a Shoemaker in the Town of Acton, was willing to learn him his own Trade, but being careless and negligent, and not willing to be confined, but went out to ride Horses, and look after them, and sometimes he was employ'd by the Farmers, or at Gentleman's Houses".¹³⁵ These were the vices of men, particularly young men, and of manhood, more generally, against which they were warned as having dire consequences, as Alexandra Shepard has pointed out: "The main vices for which young men were excoriated were related to intemperance and pride. Lust, drunkenness, anger, and idleness were demonized as particular pitfalls stemming from an incapacity for self-control...".¹³⁶ Andrea McKenzie has thus commented that "Such confessions were inevitably shaped by the Ordinary's tendentious questions" and "Frequently, the confessions of criminals resembled something of a checklist", comprising of any or all of these behaviours.¹³⁷

Idleness and disobedience might also be linked to a lack of proper instruction or education so that they might be considered ignorant of the right ways to behave. John Raven, aged 17, convicted in 1686 of the rape of Mary Katt, aged 8, admitted to "having spent his time idly and vainly" and furthermore, "was disobedient to his Mother".¹³⁸ Raven was also found to be very poorly educated, "so little instructed", to the extent that he was unable "to repeat perfectly the Lords Prayer". Similarly, the death of his father when he was very young had left James Booty "to the Care of his Mother, who brought him up without so much Learning as would enable him to read."¹³⁹ Such neglect would have excluded Raven from the guidance, both religious and secular, on "correct male behaviour" offered by the proliferation of printed conduct literature in this period as well as from that contained within the Bible and the guiding authority and example of a father.¹⁴⁰ Lack of instruction, particularly in religious principles, in these accounts of criminal lives was clearly regarded as a root cause of deviation from the right path of a moral and virtuous life and characteristic of many malefactors, not only those who raped children.¹⁴¹ William Duell too "had little Education at School, and what little Reading he had, being an obstinate Boy, he almost forgot it".¹⁴² Likewise, James Whitney, in 1735 implicated in the gang rape of a widow, Margaret Mackullough, was the son "of mean Parents, who gave him little or no Education at School, so that he had not much Knowledge of Religion".¹⁴³ The moral of these narratives was that attention should have been paid to the correct and full religious

instruction of the young so that they were guided in the right way to live and were less likely to give themselves over to “immodesty and Lasciviousness”, or to “be hardened in a course of Wickedness, and come to an untimely End.”¹⁴⁴ The development of both moral virtue and the male virtue of self-control were thus represented as qualities that, as Elizabeth Foyster has noted, “should be taught from childhood in a systematic and organised way.”¹⁴⁵

The rapes of children were seen in the context of general “Lasciviousness” or indulgence of lust and sexual appetite, rather than specifically as a particular sexual desire that was directed towards children. An account of the rape of Elizabeth Hopkins, aged 8, by Stephen Arrowsmith in 1678 describes his conviction as “A fit Warning for all lascivious persons to deter them from the horrid practices of debauching and ruining poor Children of such tender years”.¹⁴⁶ Although this warning seems specifically to identify sexual “practices” aimed at children, it is rather an indication that those who could be identified as “lascivious persons” might, as part of their excessive lustfulness, direct their sexual attentions towards children as well as towards women. Arrowsmith’s crime was thus construed as a crime of lust and debauchery rather than one that sprang from a particular sexual desire for young children. This is further supported by the description of the crime attributed to him on the scaffold, as one “of Brutish Lust” which came from “the violent temptation of Satan”.¹⁴⁷ Thomas Benson, in 1684 convicted of the rape of Elizabeth Nichols, aged 7 or 8, and an apprentice to the child’s father, a vintner, was said to have previously “known two grown Persons Carnally”, indicating his immorality and inability to control his sexual appetite at the same time as suggesting that his sexual desires were not exclusively, or even primarily, directed towards children.¹⁴⁸ Anna Clark has suggested that “libertines, even if a minority, strongly influenced attitudes toward rape. The eighteenth-century hero was often a rake”.¹⁴⁹ However, this was a model of manhood that was more the province of the aristocracy than of the middle classes, as Clark notes, or of the lower classes, men involved in labouring or crafts and trades, as were the men who mainly populate the reports of trials for sexual assault and rape at the Old Bailey. For these men, such excessive (mis)behaviours were unequivocally opposed to desirable male virtues that encompassed reliability, hard-work to support oneself and one’s dependants, obedience to those in authority, religious observance, sobriety and chastity.

The account of Thomas Benson’s life up to the time of his incarceration in prison after conviction and before his execution given in the Ordinary’s Account for October 1684 included all the indications that would be recognized as leading to this end: he had been dismissed from a previous apprenticeship “for his refractory Carriage towards his Master”, suggesting a lack of respect and obedience to those in authority over him; he had been ordered by his master to go to Church, implying that he had been unwilling to go of his own volition or inclination; although he had gone to Church in the morning on “the Lords day”, he had spent the afternoons in company with his own friends “with whom he sat Drinking”, although he had been “only twice Drunk to be quite void of Reason”; he more and more “frequented bad Company, which drew on the prophanning of the Lords day” and disregarded his mother’s admonitions; he did not pray regularly and “in passion would Curse others”.¹⁵⁰ Almost identically, Thomas Broughton, convicted and executed in 1686 for the rape of Catherine Phrasier, aged 7, was reported as indulging in “false speaking, and drinking sometimes to excesse” as well as having “formerly kept company with Lewd

Women” and committing “other secret Sins”, most probably masturbation.¹⁵¹ That Broughton was said to have “kept company with Lewd Women” also implied that his previous sexual experience, like Thomas Benson’s, had not been with children, but with prostitutes or other unchaste women. Both Benson’s and Broughton’s rape of a child were therefore understood in this general context of a life lived in profanity, drinking and debauchery, characterized by a lack of restraint and self-control, rather than as something particularly to do with the nature of his sexual desires or “sexuality”.¹⁵²

Over fifty years later, in the mid-eighteenth century, this understanding that the crime of rape was not to do with a man’s particular sexual tastes or preferences, but with his behaviour and character more generally, including, but not restricted to, his sexual behaviour, can still be seen in the kinds of descriptions of a man’s character that were solicited as evidence of his good name in court.¹⁵³ At the trial of John Hunter for the rape of Grace Pitts, aged 10, in April 1747, the first witness who gave testimony to Hunter’s reputation described him as bearing “a very honest Character”. The court then asked him directly “Is he a licentious lewd Sort of a Person?”¹⁵⁴ Clearly his sexual conduct and moral behaviour more generally were thought to be relevant, but not specifically his behaviour towards young children. The role of drunkenness in immoral and criminal behaviour was perhaps here also recognized as another witness was asked whether he was “a modest sober young Man”, and another two witnesses testified that he had “the Character of a sober Man” and “he behaved soberly”.¹⁵⁵ Soberness was not only about not being drunk, though: it had further connotations of propriety, morally upright behaviour, self-control, and seriousness of demeanour and purpose. Thus a “sober” man was one who behaved properly and with self-control or self-mastery and was therefore unlikely to be someone who would be swayed by the irrational impulse of desire to indulge in immoral and illicit sexual activity. Louise Jackson argues for a similar construction of the child rapist later in the nineteenth century: “the abuser was the vicious, idle slum-dweller who represented the antithesis of the ‘normal’, respectable, breadwinner.”¹⁵⁶ In these accounts, unchaste sexual behaviour was just one of a number of “vices” and “excesses” that contributed to a man’s moral deviance and which culminated in the commission of the sexual crime that landed him in court.

Krafft-Ebing’s later nineteenth-century discussion of those who sexually violated children can be seen both to encapsulate these earlier understandings that such behaviours were the province of those who were characterized by unrestrained lust, brutality, and drunkenness, and at the same time to move towards the modern conceptualisation of these behaviours as indicative of mental aberration and perversion. His discussion shifts forward and back, first identifying such acts as “possible only to a man who is controlled by lust and morally weak”, then concluding that “It is psychologically incomprehensible that an adult of full virility, and mentally sound, should indulge in sexual abuses with children.” Krafft-Ebing brought his discussion to a close by conceding that “Unfortunately it must be admitted that the most revolting of these crimes are done by sane individuals who, by reason of satiety in normal sexual indulgence, lasciviousness, and brutality, and not seldom during intoxication, forget that they are human beings.”¹⁵⁷ He nevertheless then went on to again qualify this statement by saying that “A great number of these cases, however, certainly depend upon pathological states”.¹⁵⁸ These seventeenth- and eighteenth-century reports of Old Bailey trials for rape and sexual assault, however, demonstrate that this later nineteenth-century

shift in ways of thinking about perpetrators of sexual crimes was not yet apparent. There was no suggestion at this time of any idea that there were men who might desire children sexually as a preference, and who might therefore be characterized by this preference and prey upon them. There may have been men who did experience such a preference, but any conception of this as a possibility appears to be absent from the sources available to us, and men who did admit to having raped or sexually assaulted a child presented other motives for their actions. These may have been inspired by a desire to excuse their actions to a potentially hostile jury and public, to deny culpability, elicit sympathy or to ward off public opprobrium. However, the absence of any such contemporary conceptualization of sexual desire at this time is further indicated by the absence of any pervasive sense of “moral panic” about men sexually preying upon “innocent” children, or that there might be a sexual motive behind the abduction of children.¹⁵⁹ The “Sort of a Person” who was likely to rape children was one who was characterized as immoral, lewd, lustful and loose-living, notable for his debauchery and lack of control over both appetites and behaviour.

References

1. Hunter, John. Old Bailey Proceedings Online. Apr.1747 :t17470428–28. www.oldbaileyonline.org. Almost all references are to the online Proceedings but with some to other published reports of the trials that do not appear online. I am very grateful to the British Academy for funding the initial research on which this article is based through a small research grant, and to the Leverhulme Trust for the Major Research Fellowship which has allowed me to complete it, and time to write. My thanks also to the very helpful comments and suggestions from audiences who first heard versions of this article as a paper at conferences in Ghent and Exeter, and to Elizabeth Foyster, Simon Barton and Tim Rees in particular for reading and commenting upon revisions.
2. For an illuminating and effective discussion of the emergence of categories of perversion see Davidson, Arnold I. *The Emergence of Sexuality: Historical Epistemology and the Formation of Concepts*. Harvard University Press; Cambridge, Mass. and London: 2001. on the development of the field see, for example, Oosterhuis, Harry. *Medical Science and the modernisation of sexuality*. In: Elder, Franz X.; Hall, Lesley A.; Hekma, Gert, editors. *Sexual Cultures in Europe: National histories*. Manchester University Press; Manchester and New York: 1999. p. 221-241.
3. von Krafft-Ebing, R. *Psychopathia Sexualis, With Especial Reference to Contrary Sexual Instinct: A Medico-Legal Study*. The F.A. Davis Co.; Philadelphia and London: 1892. p. 4021886 translated from the 7th enlarged and revised German edition by Charles Gilbert Chaddock
4. paedophilia | pedophilia. third edition. Oxford English Dictionary; Mar. 2005 online version November 2010 <http://www.oed.com:80/Entry/135968> [accessed 16 March 2011] An entry for this word was first included in *A Supplement to the OED*. 1982; III Ellis, Havelock. *Studies in the Psychology of Sex*. Vol. V. The Echo Library; Teddington: 2007. p. 161906
5. Hereafter DSM. Marshall, WL. *Pedophilia Psychopathology and Theory*. In: Richard Laws, D.; O'Donohue, William, editors. *Sexual Deviance: Theory, Assessment, and Treatment*. The Guilford Press; New York and London: 1997. p. 152
6. DSM-II and DSM-III-R. American Psychiatric Association; 1987. p. 285 cited in Marshall, “Pedophilia”, 152 There are clearly problems with applying this definition to those who engage in sexual activity with children – not least that it potentially excludes those who act but don't fantasise, and includes those who don't act but do fantasise.
7. There is now a large literature on child sexual abuse and paedophilia. For an overview of modern definitions of types of paedophile in the literature see for example, Holmes, Ronald M. *Sex Crimes*. Sage Publications; Newbury Park, London and New Delhi: 1991. p. 35-41. Finkelhor, David. *Child Sexual Abuse: New Theory and Research*. The Free Press; New York and London: 1984. chapter 4 “Perpetrators” Howitt, Dennis. *Paedophiles and Sexual Offences Against Children*. John Wiley & Sons Ltd.; Chichester: 1995. chapters 1 and 2

8. Michael Hunter and Annabel Gregory in their introduction to their edition of the diary of Samuel Jeake, a merchant from Rye in Sussex, assert that it was extremely unusual for such marriages to consummated, and that Jeake's immediate cohabitation with Elizabeth Hartshorne, aged 13, to whom he was married in 1680, was an exception. Hunter and Gregory state, with reference to Lawrence Stone, that contemporary opinion held that childbirth before the age of sixteen was dangerous, hence that it was unusual to consummate a marriage before that age. See Hunter, Michael; Gregory, Annabel, editors. *An Astrological Diary of the Seventeenth Century: Samuel Jeake of Rye 1652-1699*. Clarendon Press; Oxford: 1988. p. 37. Other examples indicate that Jeake was not unique: see D'Ewes, Simonds. *The Autobiography and Correspondence of Sir Simonds D'Ewes, Bart during the reigns of James I and Charles I*. Halliwell, JO., editor. Vol. 1. London: 1845. p. 319. October 1626. Croker, T. Crofton, editor. *Autobiography of Mary Countess of Warwick*. Percy Society; London: 1848. For further discussion of the issue see Broomhall, Susan. 'Women's Little Secrets': Defining the Boundaries of Reproductive Knowledge in Sixteenth-century France. *Social History of Medicine*. 2002; 15(1):1-15. [PubMed: 12619665] Toulalan, Sarah. 'Unripe' bodies: children and sex in early modern England. In: Fisher, Kate; Toulalan, Sarah, editors. *Bodies, Sex and Desire from the Renaissance to the Present*. Palgrave Macmillan; Basingstoke: 2011.
9. Toulalan. 'Unripe' bodies. p. 138-9. Boys too, until around the age of 18 were not thought to be "fully ripe, are unfruitfull and not able to get any children, for that they lacke manly strength, a[nd] theyre seede to cold and thinnne." Lemnius, Levinus. *The Touchstone of Complexions*. Newton, Thomas, translator. Thomas Marsh; London: 1576. p. 43. first publ. in Latin, Antwerp, 1561.
10. Peakman, Julie. *Sexual Perversion in History: An Introduction*. In: Peakman, editor. *Sexual Perversions, 1670-1890*. Palgrave Macmillan; Basingstoke: 2009. p. 1-49. p. 13.
11. Dabhoiwala, Faramerz. *The Origins of Sex: A History of the First Sexual Revolution*. Allen Lane; London: 2012. p. 117.
12. Some girls themselves used this language when revealing rape: 12-year-old Sarah Pearse "aid her Master had ruined her" and a witness testified that Anne Albina Barnard, also aged 12, had said to her that Stephen Hope "had ruined her" Graff, Christopher. *OBP*. Dec. 1721 p. t17211206-67. Hope, Stephen. Feb. 1754 p. t17540227-56.
13. de Mause, Lloyd. *The Evolution of Childhood*. In: de Mause, Lloyd, editor. *The History of Childhood*. Souvenir Press; London: 1976. p. 119. 1974. On childhood sexuality see Fishman, Sterling. *The History of Childhood Sexuality*. *Journal of Contemporary History*. 1982; 17:269-83. [PubMed: 11614721] Rousseau, George, editor. *Children and Sexuality From the Greeks to the Great War*. Palgrave Macmillan; Basingstoke: 2007. on child sexual abuse see Ingram, Martin. *Child sexual abuse in early modern England*. In: Braddick, Michael J.; Walter, John, editors. *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland*. Cambridge University Press; Cambridge: 2001. p. 63-84. Jackson, Louise A. *Child Sexual Abuse in Victorian England*. Routledge; London and New York: 2000. Naphy, William G. "'Under-Age' Sexual Activity in Reformation Geneva" in Rousseau. *Children and Sexuality*. : 108-127. Naphy, William. *Sex Crimes: From Renaissance to Enlightenment*. Tempus; Stroud: 2002.
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15. Naphy. *Sex Crimes*. :120.
16. Naphy. 'Under-Age' Sexual Activity. :110.
17. Ingram. *Child sexual abuse*. :77.
18. Ingram. *Child sexual abuse*. :78.

19. The age of consent was not raised to our current age of 16 until 1885; incest was criminalized in 1908. For a summary of the early legislation see Jackson. *Child Sexual Abuse*. :12–14.
20. Apprehended sexual contact with boys was, as it is today, a much smaller proportion of cases: of 365 cases tried at the Old Bailey between 1674 and 1800 for rape, sodomy, and for assaults with intent to rape or sodomise, those involving boys under the age of fourteen comprise just 2% of the total (the majority – 306 – are rape/sexual assault). For a review of research see Finkelhor, David. *Current Information on the Scope and Nature of Child Sexual Abuse. The Future of Children*. 1994; 4:2. *Sexual Abuse of Children*. :31–53.
21. Hereafter abbreviated to Sessions Papers.
22. Beattie, JM. *Policing and Punishment in London, 1660-1750: Urban Crime and the Limits of Terror*. Oxford University Press; Oxford: 2001. esp. chapter 6. Langbein, John H. *The Criminal Trial before the Lawyers*. *The University of Chicago Law Review*. 1978; 45(2):263–316. 271. “Most of what was said at an Old Bailey sessions must have been omitted.”
23. Burgess-Jackson. *A Most Detestable Crime*. Rudolph. *Rape and Resistance*. Tomaselli, Sylvana; Porter, Roy, editors. *Rape: an Historical and Cultural Enquiry*. Basil Blackwell; Oxford: 1989. pbk. edn.; [1986] Walker, Garthine. *Rereading Rape and Sexual Violence in Early Modern England*. *Gender & History*. 1998; 10(1):1–25. See also Howitt. *Paedophiles*. :28–31.
24. Ingram, Martin. *Child sexual abuse in early modern England*. In: Braddick, Michael J.; Walter, John, editors. *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland*. Cambridge University Press; Cambridge: 2001. p. 63-84. p. 64
25. For example, the apparent marked increase in the incidence of rape after 1720 (almost a doubling of the numbers), that a simple counting of numbers of reported trials per decade reveals, can be accounted for by an incomplete run of Sessions Papers up to this time. Thompson, Daniel. *London Metropolitan Archives* (hereafter LMA). *Deposition of MJ/SP/1737/09/045* Deposition available online: *City of London Sessions: Sessions Papers – Justices’ Working Documents*. *London Lives 1690 to 1800*. Sep. 1737 LMSMPSS03250047 www.londonlives.org, 8 November 2011
26. Wagner, Peter. *The Pornographer in the Courtroom: Trial Reports about Cases of Sexual Crimes and Delinquencies as a Genre of Eighteenth-Century Erotica*. In: Boucé, PG., editor. *Sexuality in Eighteenth-Century Britain*. Manchester University Press; Manchester: 1982. p. 120-140.
27. Lemmings, David. *Professors of the Law: Barristers and English Legal Culture in the Eighteenth Century*. Oxford University Press; Oxford: 2000. chapter 6
28. The records are held at the London Metropolitan Archives (LMA) and include indictments (many of which also note the trial outcome), calendars of prisoners and gaol delivery, and some depositions.
29. On using trial records see Shoemaker RB. *Using Quarter Sessions Records as Evidence for the Study of Crime and Criminal Justice*. *Archives*. 1993; 20:145–157.
30. William Allam was a labourer in the yard of a tanner, Edward Brophy a head waiter; Charles Earle was a soldier and Francis Moulcer a journeyman collar-maker.
31. On the proceedings and their problems see Langbein. *The Criminal Trial before the Lawyers*. Shoemaker, Robert B. *The Old Bailey Proceedings and the Representation of Crime and Criminal Justice in Eighteenth-Century London*. *Journal of British Studies*. 2008; 47:559–580.
32. “The Information of Deborah Covell Singlewoman on Oath taken the 19th: December 1698”, *City of London Sessions: Sessions Papers – Justices’ Working Documents*, 6/7th February 1696 – 25th February 1699, *London Lives 1690 to 1800*, LMSLPS150090107, 19th December 1698 (www.londonlives.org, 7 November 2011), LMA 00520. The details of the actual rape itself may be subsumed under generalized descriptions such as that used here, “lye with” or “had carnal knowledge of” or “carnally know and abuse”. Walker, Garthine. gives an excellent account of the elisions and silences presented in rape narratives in the seventeenth century in “*Rereading Rape and Sexual Violence in Early Modern England*”. *Gender & History*. 1998; 10(1):1–25.
33. Reports were very brief and did not always include details of either the defendant or the complainant. There were some exceptions where a trial aroused public interest and was reported in considerably more detail, such as the trial of Francis Charteris for the rape of his servant Ann Bond in 1730 and that of Benjamin Russen for the rape of several girls attending his school in 1777. See Harris, Michael. *Trials and Criminal Biographies: a Case Study in Distribution*. In:

- Myers, Robin; Harris, Michael, editors. *Sale and Distribution of Books from 1700*. Oxford Polytechnic Press; Oxford: 1982. p. 1-36.
34. On the Ordinary's Accounts see Linebaugh, P. *The Ordinary of Newgate and His Account*. In: Cockburn, JS., editor. *Crime in England 1550-1800*. Methuen; London: 1977. p. 246-269. McKenzie, Andrea. *Tyburn's Martyrs: Execution in England, 1675-1775*. Hambledon Continuum; London and New York: 2007. chapter 5 McKenzie, Andrea. *From True Confessions to True Reporting? The Decline and Fall of the Ordinary's Account*. *London Journal*. 2005; 30(1): 55-70.
 35. Langbein argues that the Old Bailey trials are indicative of English, not London, law, and no different from practice in the rest of the country: Langbein, John H. *Shaping the Eighteenth-Century Criminal Trial: A View from the Ryder Sources*. *The University of Chicago Law Review*. 1983; 50:1, 1-136, 36. See also Ingram. *Child sexual abuse*. Walker. *Rereading Rape*.
 36. Griffiths, P.; Jenner, MSR., editors. *Londinopolis: Essays in the Cultural and Social History of Early Modern London*. Manchester University Press; Manchester and New York: 2000. p. 2. See also Harding V. *The Population of London, 1550-1700: A Review of the Published Evidence*. *London Journal*. 1990; 15:111-128. Corfield, P. *Urban Development in England and Wales in the Sixteenth and Seventeenth Centuries*. In: Barry, Jonathan, editor. *The Tudor and Stuart Town 1530-1688: A Reader in English Urban History*. Longman; Harlow: 1990. p. 35-62. p. 39 Corfield, PJ. *The Impact of English Towns 1700-1800*. Oxford University Press; Oxford: 1982. p. 66-81.
 37. The Northern Circuit which encompassed the counties of Yorkshire, Northumberland, Cumberland, and Westmorland, and the county boroughs of York and Newcastle has, over a slightly longer time period, less than half the number of cases tried at the Old Bailey: 130 extant cases between 1646 and 1798. For further comparison see Herrup, CB. *The Common Peace: Participation and the criminal law in seventeenth-century England*. Cambridge University Press; Cambridge: 1987. p. 26-7. Sharpe, JA. *Crime in seventeenth-century England: A county study*. Cambridge University Press; Cambridge: 1983. p. 63. Herrup records only three rapes in nearly fifty years out of a sample of 1631 offences reported in eastern Sussex, 1592-1640.
 38. Edward Crother, aged 12, was acquitted of the rape of Ann Fletcher, aged 4, in September 1774; Thomas Merrick, aged 83 was also acquitted of the rape of Charity Land, aged 11, in July 1720. Newspapers tended to report the age of the defendant if he was particularly young or old, but rarely otherwise.
 39. Murry, John. OBP. Feb. 1719 :t17190225-43. On social class and occupations see Schwarz, LD. *London in the age of industrialisation: Entrepreneurs, labour force and living conditions, 1700-1850*. Cambridge University Press; Cambridge: 1992.
 40. See Finkelhor. *Child Sexual Abuse*. Howitt. *Paedophiles*.
 41. William Webb in May 1687 for the rape of his 8-year-old ward, Mary Sidercomb and Philip Sherwin in January 1779 for the rape of his 10-year-old daughter, Mary. There were a further 2 trials where a father was prosecuted: Adam White acquitted of the rape of his daughter Mary, aged 11, in 1726 and John Marsland convicted of the rape of his 13-year-old daughter, Mary in 1739. Henry Johnson, an uncle by marriage, was acquitted of the rape of Elizabeth Watson, aged 12, in 1768.
 42. See discussion of the trial in September 1796 of David Scott for the rape of Mary Homewood, aged 11, in Toulalan, Sarah. *Child sexual abuse in late seventeenth and eighteenth century London: rape, sexual assault and the denial of agency*. In: Goose, Nigel; Honeyman, Katrina, editors. *Children and Childhood in Industrial England: Diversity and Agency, 1650-1900*. Ashgate; Aldershot: forthcoming. For the negative impact on a family's reputation and honour see Cynthia Herrup's excellent discussion of the Castlehaven case in Herrup, Cynthia B. *A House in Gross Disorder: Sex, Law, and the 2nd Earl of Castlehaven*. New York and Oxford: 1999. On incest, see for example, Bell, Vikki. *Interrogating incest: feminism, Foucault, and the law*. Routledge; London: 1993.
 43. Of the 306 trials for rape and sexual assault with intent to rape examined, 155 (51%) involved girls aged 14 and under; not all reports included the age of the victim.
 44. Vaughan, William. *Approved Directions for Health, both Naturall and Artificiall: Derived from the Best Physicians as well Moderne as Auncient*. 4th edn. T.S. for Roger Jackson; London: 1612. p. 112-3. Giovanopoulos, Anna-Christina. *The Legal Status of Children in Eighteenth-Century*

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45. Burgess-Jackson, Keith. *A History of Rape Law*. In: Burgess-Jackson, Keith, editor. *A Most Detestable Crime: New Philosophical Essays on Rape*. Oxford University Press; Oxford and New York: 1999. p. 18. See Coke, Edward. *The Third Part of the Institutes of the Laws of England*. 4th Edn.. London: 1669. p. 60. Anon.. *The Infants Lawyer: Or, The Law (Both Ancient and Modern) Relating to Infants*. London: 1697. p. 253. Hawkins, William. *A Treatise of the Pleas of the Crown*. London: 1716. p. 108-9.
 46. 18 Eliz. C. 6. 3 Inst. 60; *The Infants Lawyer*. :253. Coke. *The Third Part of the Institutes of the Laws of England*. :60.
 47. There is some evidence from the trial of John Hunter in April 1747 that the jury found this difficult to accept and that the court had to remind them that the law set 10 as the age of consent: Hunter, John. OBP. Apr. 1747 :t17470429–28.
 48. Hunter, John. OBP. Apr. 1747 :t17470428–28.
 49. This constitutes 29% of the total rapes prosecuted; 33% of the prosecutions where the girl was under ten resulted in a conviction. Mills, Jennie. “Rape in Early Eighteenth-Century London: A Perversion ‘so very perplex’d’”. In: Peakman, editor. *Sexual Perversions*. p. 141
 50. Meyer, Anneke. *The Moral Rhetoric of Childhood*. *Childhood*. 2007; 14(1):85–104. Colin Heywood has also noted that children in the West are now associated with ‘innocence, vulnerability and asexuality’: Heywood, Colin. *A History of Childhood: Children and Childhood in the West from Medieval to Modern Times*. Polity Press; Cambridge: 2001. p. 42. 2003 rpt.
 51. Stannard, David E. *Death and the Puritan Child*. *American Quarterly*. 1974; 26(5):456–476. See also his *The Puritan Way of Death: A Study in Religion, Culture, and Social Change*. Oxford University Press; Oxford: 1979. Woods, Diana, editor. *The Church and Childhood*. Ecclesiastical History Society; London: 1994. The Countess of Bridgewater, Elizabeth Egerton, decided that the illness of her daughter was “for the sinnes of her parents” rather than those of the child herself, as baptism had taken away her sin. British Library, London, Egerton MS 607, fols. 131-4. I am very grateful to Hannah Newton for this reference.
 52. Davenport, Thomas. OBP. Feb. 1796 :t17960217–37. See Beattie, John M. *Violence and Society in Early-modern England*. In: Doob, Anthony N.; Greenspan, Edward L., editors. *Perspectives in Criminal Law: Essays in Honour of John L. J. Edwards*. Canada Law Book; Aurora, Ontario: 1985. p. 36-50. King, Peter. *Punishing Assault: The Transformation of Attitudes in the English Courts*. *Journal of Interdisciplinary History*. 1996; 27(1):43–74.
 53. Jackson. *Child Sexual Abuse*. :2. Hooper, Carol-Ann. *Regulating womanhood: Historical essays on marriage, motherhood and sexuality*. Routledge; London and New York: 1992. *Child sexual abuse and the regulation of women: Variations on a theme*; p. 53-77. p. 53
 54. For examples of just two of many such references, see Arrowsmith, Stephen. OBP. Dec. 1678 :t16781211e–2. and in the mid-eighteenth-century Hunter, John. OBP. Apr. 1747 :t17470428–28. For languages of sex, particularly illicit sex, see Manzione, Carol Kazmierczak. *Sex in Tudor London: Abusing Their Bodies with Each Other*. In: Murray, Jacqueline; Eisenbichler, Konrad, editors. *Desire and Discipline: Sex and Sexuality in the Premodern West*. University of Toronto Press; Toronto, Buffalo and London: 1996. p. 87-100. Gowing, Laura. *Gender and the Language of Insult*. *History Workshop Journal*. 1993; 35:1–21.
 55. Toulalan. ‘Unripe’ Bodies. :135–8.
 56. Toulalan. ‘Unripe’ Bodies. :140–1.
 57. Coker, Edward. OBP. Jan. 1675 :t16750115–3. Anon.. *A Narrative of the Proceedings at the Session for London and Middlesex, holden at the Old Bailey, on the Third and Fourth days of July, 1678*. London: 1678. p. 1. Reported only as “a young fellow” Rowlandson is named in the indictment,

- LMA CLA-0267 Arrowsmith, Stephen. OBP. Dec.1678 :t16781211e-2. Raven, John. Sep. 1686 :t16860901-21.
58. 18 Eliz. C. 6. 3 Inst. 60, 1576; Coke. The Third Part of the Institutes of the Laws of England. : 60. The Infants Lawyer. :253. Hawkins. A Treatise of the Pleas of the Crown. :108-9. For rapes retried as assault where there was penetration with a finger, see the trials of Kirk, William. May. 1754 :t17540530-36. Free love, Richard. Jul.1774 :t17740706-57. Fyson, Joseph. Jun. 1788 :t17880625-93.
59. Baker, JH. An Introduction to English Legal History. Butterworths; London: 2002. esp. chapters 29 and 30, and 525-6 on felony accessories. Anna Clark identifies 5 women aiding and abetting rapes between 1770 and 1780 in the north-east, by luring them to a man's home and taking money for doing so: Clark, Anna. Women's Silence, Men's Violence: Sexual Assault in England, 1770-1845. Pandora; London: 1987. p. 31-2. Peter King, in his survey of gender and crime seems to ignore these women when he states that "Only a man could be indicted for rape or sodomy ...". King, Peter. Gender, crime and justice in late eighteenth- and early nineteenth-century England. In: Arnot, Margaret L.; Osborne, Cornelia, editors. Gender and Crime in Modern Europe. UCL Press; London: 1999. p. 44-74. p. 55
60. In the other 8 trials, 2 girls were aged 14, another 2 were aged 15, 1 girl was 16 and no age was recorded for the other 3 complainants.
61. Gray, Alice. OBP. Apr.1707 :t17070423-26.
62. A woman was arrested for abusing an eight year old boy who she confessed to having violently fondled. Naphy. Sex Crimes. :111.
63. Krafft-Ebing. Psychopathia Sexualis. :404.
64. The two anecdotal cases are in Fenton, E. Certain Secret Wonders of Nature. Henry Bynnenman; London: 1569. p. 12. Marten, John. A Treatise Of all the Degrees and Symptoms Of The Venereal Disease, In both Sexes. 6th edn. London: p. 37n.d., but dated 1708 in British Library catalogue; first edn dated in the preface as 1704
65. See Finkelhor. Child Sexual Abuse. :11-13. Beattie JM. The Criminality of Women in Eighteenth-Century England. Journal of Social History. 1975; 8(4):80-116. 89fn. 37 for one instance of a woman aiding and abetting a rape; Shoemaker, Robert B. Reforming Male Manners: Public Insult and the Decline of Violence in London, 1660-1740. In: Hitchcock; Cohen, editors. English Masculinities. p. 133-166. King. Gender, crime and justice.
66. The Life of Adam Martindale. :206-7.
67. The Proceedings On The King's Commissions Of the Peace, And Oyer and Terminer, and Goal Delivery of Newgate, Held for the City of London and County of Middlesex, at Justice-Hall in the Oldy-Bayly, The 15th and 16th. Of January, 1685. R.L.S. for D. Mallet; London: 1685. p. 3. Webb, William. OBP. May.1687 :t16870512-34.
68. "The Information of Deborah Wise", 19 December 1698, City of London Sessions: Sessions Papers - Justices" Working Documents, 6/7th February 1696 - 25th February 1699, London Lives 1690 to 1800. Nov 7. 2011 LMSLPS150090108, 19th December 1698 www.londonlives.org LMA 00521 Pheasant, William. OBP. Jan.1699 :t16990113-1.
69. OBP. Feb.1719 :t17190225-48. unnamed man.
70. Cannon, John. OBP. Sep.1733 :t17330912-55.
71. Beesley, Thomas. OBP. Apr.1720 :t17200427-38. Adamson, John. Jan.1739 :t17390117-11.
72. Brophy, Edward. OBP. Sep.1766 :t17660903-38.
73. Tennant, George. OBP. Jan.1749 :t17490113-15. This allegation is not mentioned in Hannah Craig's sworn information, LMA MJ/SP/1749/01/51.
74. "The Information of Margaret Goodson", 32 December 1748, LMA MJ/SP/1749/01/51.
75. Tennant, George. OBP. Jan.1749 :t17490113-15.
76. Mills. Rape in Early Eighteenth-Century London. :151.
77. Warden, Robert. OBP. Jul.1745 :t17450710-15. Crosby, Thomas. Dec.1757 :t17571207-14.
78. Fox, Edward. OBP. Jan.1723 :t17230116-39. Bourn, Gerard; Penn, Jonas. Oct.1723 :t17231016-52.
79. Nichols, William. OBP. Feb.1724 :t17240226-73.

80. Bourn, Gerard; Penn, Jonas. OBP. Oct.1723 :t17231016–52.
81. See, for example, the trial of Richard Freelove for the rape of two-year-old Ann Radford. The surgeon testified that the child was lacerated and that her discharge was not venereal but came from this, and that Freelove “had long nails, which might have scratched and wounded the parts”. He also examined Freelove for infection and found none.
82. Joseph, Fyson. OBP. Jun.1788 :t17880625–93. It is perhaps also an indicator that infection with venereal disease was regarded as a kind of criminal damage as it was sometimes also mentioned in a charge or on an indictment. See, for example, the indictment of George Manning for the rape of 2-year-old Eleanor Clay, LMA MJ/SR/2695; George, Manning. OBP. Apr.1738 :t17380412–56. He was, however, acquitted.
83. Sintelaer, J. The Scourge of Venus and Mercury. London: 1709. p. 12-13. Marten. Treatise. :33–9. Both Sintelaer (24) and Marten (68-9) note the possibility of contracting disease by the practices of sodomy and oral sex, condemning both practices.
84. Marten. Treatise. :34. See, for example, essays by Diane, Cady; McGough, Laura J.; Kevin, Siena, editors. Sins of the Flesh: Responding to Sexual Disease in Early Modern Europe. Centre for Reformation and Renaissance Studies; Toronto: 2005.
85. Christopher, Larkin. OBP. Jul.1751 :t17510703–21.
86. William, Allam. OBP. Sep.1768 :t17680907–40.
87. John, Birmingham. OBP. May.1753 :t17530502–35.
88. John, Grimes. OBP. May.1754 :t17540530–1.
89. See the trial of Matthew Cave for the rape of Martha Flanders, aged 12, for example: Matthew, Cave. Oct.1747 :t17471014–15.
90. A further 5 men were reported as subsequently found guilty of assault, and another 1 as guilty of trespass.
91. Anon. A Narrative of the Proceedings. :1. William Rowlandson, indicted for the rape of Margt. Bush, aged 9, 12 June 1678. LMA CLA-0267.
92. Thomas, Gray. OBP. Sep.1735 :t17350911–53.
93. Jacob, Whitlock. OBP. Oct.1696 :t16961014–10.
94. Select Trials for Murder, Sodomy, etc. ... From 1741 to the present Year, 1764, inclusive. Vol. I. London: 1764. Francis Moulcer, for a Rape, October, 1744; p. 131
95. Studies of child sexual abuse indicate that alcohol is often reported as implicated in what may be characterized as “circumstantial” abuse to deny paedophilia. See Howitt. Paedophiles. :101.
96. Thomas, Benson. OBP. Oct.1684 :t16841008–12. and OBP. Oct.1684 Ordinary’s Account OA16841017.
97. Thomas, Beesley. OBP. Apr.1720 :t17200427–38.
98. William, Tankling. OBP. Jul.1750 :t17500711–25.
99. Joseph, Fyson. OBP. Jun.1788 :t17880625–93.
100. Marten. Treatise. :24–5. On the possible origins of the idea and its subsequent discussion in medical literature see Winfried, Schleiner. Infection and cure through women: Renaissance constructions of syphilis”. Journal of Medieval and Renaissance Studies. 1994; 24(3):499–517. 506 on.
101. Ingram. Child sexual abuse. :78. Joseph, Fyson. OBP. Jun.1788 :t17880625–93.
102. Simpson. Vulnerability and the age of female consent. :193.
103. The third eighteenth-century trial is referenced as from a report in the London Evening Post, 8-10 August 1780; Simpson. Vulnerability and the age of female consent. :203. footnote 48.
104. OBP. Joseph, Fyson. Jun.1788 :t17880625–93.
105. Thomas, Davenport. OBP. Feb.1796 :t17960217–37.
106. David, Scott. OBP. Sep.1796 :t17960914–12.
107. Siena, Kevin P. Venereal Disease, Hospitals and the Urban Poor: London’s “Foul Wards”, 1600-1800. University of Rochester Press; Rochester, NY: 2004. p. 193
108. A further 7 per cent (8 per cent of those under 10) were of uncertain or inconclusive diagnosis, including 1 diagnosis of “fluor albus” and 2 children with a “running” for which other causes

than sexual transmission were thought to have been possible. For dispute as to whether the nature of the “running” was venereal, see the trials of William, Robbins. Jan.1720 :t17210113–28. and James, Penoroy. Apr.1749 :t17490411–22. For the diagnosis of “fluor albus” see the trial of Charles, Earle. Dec.1770 :t17701205–39.

109. Martin Ingram has brought to my attention a case from the very early seventeenth century that does seem to confirm that seeking a cure was a motivation for a man to have sex with a child. An apprentice was presented for taking one of his master’s children to bed “and spoyled her” after going to a “whore and being by her tainted”. Bridewell Court Book 6, fo 43r, 9 May 1618; online at www.bethlehemheritage.org.uk/archive/web/BCB.htm, image 87. I am very grateful to Martin and to Eleanor Fox for sharing this reference with me.
110. Siena. Venereal Disease. :4.
111. Merians, Linda E. The London Lock Hospital and the Lock Asylum for Women. In: Merians, Linda E., editor. *The Secret Malady: Venereal Disease in Eighteenth-Century Britain and France*. Vol. 128. The University Press of Kentucky; Lexington: 1996. p. 128-145.
112. Merians. The London Lock Hospital. :134.
113. Anselment, Raymond A. Seventeenth-Century Pox: The Medical and Literary Realities of Venereal Disease. *The Seventeenth Century*. 1989; IV(2):189–211. Boehrer, Bruce Thomas. Early Modern Syphilis. *Journal of the History of Sexuality*. 1990; 1(2):197–214. [PubMed: 11622762]
114. Select Trials, for Murders, Sodomy, Robberies, Coining, Rapes, Frauds, And Other Offences. At the Sessions-House in the Old-Bailey. Vol. I. London: 1742. p. 201
115. OBP. May.1722 Ordinary’s Account OA17220521.
116. Select Trials. :201.
117. Richard, Freelove. OBP. Jul.1774 :t17740706–57.
118. Kevin Siena, “Introduction” in Siena. *Sins of the Flesh*. :12.
119. 9-year-old Mary Faucet, for example, was treated with a salivation for her infection in 1733; see John, Cannon. OBP. Sep.1733 :t17330912–55.
120. Robert, Latham; William, Matthews, editors. *The Diary of Samuel Pepys*. Mar. 1970 p. 1664
121. OBP. Nov.1744 Ordinary’s Account OA17441107.
122. OBP. Nov.1744 Ordinary’s Account OA17441107.
123. See Howitt. *Paedophiles*. and Finkelhor. *Child Sexual Abuse*.
124. OBP. Jan.1698 Ordinary’s Account OA16980126.
125. Joanne, Bailey. *Unquiet Lives: Marriage and Marriage Breakdown in England, 1660-1800*. Cambridge University Press; Cambridge: 2003. p. 143 Alexandra, Shepard. *Meanings of Manhood in Early Modern England*. Oxford University Press; Oxford: 2003. p. 81 See also Foyster, Elizabeth A. *Manhood in Early Modern England: Honour, Sex and Marriage*. Longman; London and New York: 1999. p. 79 and Reeser, Todd W. *Moderating Masculinity in Early Modern Culture*. University of North Carolina Press; Chapel Hill: 2006. p. 270-1.
126. David, Turner. “‘Nothing is so secret but shall be revealed’: The Scandalous Life of Robert Foulkes” in Hitchcock and Cohen. *English Masculinities*. :169–192. 174–5.
127. Turner, David M. *Fashioning Adultery: Gender, Sex and Civility in England, 1660-1740*. Cambridge University Press; Cambridge: 2002. chapter 4
128. Finkelhor has noted that some have denied the sexual component in child sexual abuse (and rape), but he argues that this is mistaken as the abuse clearly has a sexual element whatever its primary motivation. Finkelhor. *Child Sexual Abuse*. :33–5.
129. Linebaugh. *The Ordinary of Newgate*. :247.
130. Linebaugh has noted that not all those convicted accepted these characterisations of their lives; Linebaugh. *The Ordinary of Newgate*. :258.
131. See McKenzie. *Tyburn’s Martyrs*. and McKenzie. *From True Confessions to True Reporting?*. : 57–61.
132. Phillippe, Rosenberg. *Sanctifying the Robe: Punitive Violence and the English Press, 1650-1700*. In: Simon, Devereaux; Paul, Griffiths, editors. *Penal Practice and Culture, 1500-1900: Punishing the English*. Vol. 171. Palgrave Macmillan; Basingstoke: 2004. p. 157-182.

133. OBP. Dec.1690 Ordinary's Account OA16901222. On manliness and independence from the influence of others, and self-restraint in conversation, see Philip, Carter. "James Boswell's Manliness" in Hitchcock and Cohen. *English Masculinities*. :111–130. 119–24.
134. OBP. Oct.1684 Ordinary's Account OA16841017.
135. William, Duell. OBP. Oct.1740 :t17401015–53.OBP. Nov.1740 Ordinary's Account OA17401124.
136. Shepard. *Meanings of Manhood*. :26.
137. McKenzie. *Tyburn's Martyrs*. :148–149.
138. OBP. Sep.1686 Ordinary's Account OA16860917.
139. *Select Trials*. :200.
140. Jeremy, Gregory. "Homo Religiosus: Masculinity and Religion in the Long Eighteenth Century" in Hitchcock and Cohen. *English Masculinities*. :85–110. 87–8. Shepard. *Meanings of Manhood*. chapter 3. Joanne, Bailey. 'A Very Sensible Man': Imagining Fatherhood in England c. 1750-1830. *History*. 2010; 95(319):267–292.
141. McKenzie. *From True Confessions to True Reporting?*. :62.
142. OBP. Nov.1740 Ordinary's Account (OA17401124).
143. OBP. Sep.1735 Ordinary's Account (OA17350922). On the importance of instruction see also Bailey. *A Very Sensible Man*. :285–7.
144. OBP. Sep.1686 Ordinary's Account (OA16860917).
145. Elizabeth, Foyster. "Boys will be Boys? Manhood and Aggression, 1660-1800" in Hitchcock and Cohen. *English Masculinities*. :151–166. 161. Shepard. *Meanings of Manhood*. :73.
146. Anon. *The Confession and Execution of the Two Prisoners that suffered at Tyburn on Munday the 16th of Decemb. 1678*. Printed for R.G.; London: 1678. p. 4
147. *The Confession and Execution of the Two Prisoners*. :8.
148. OBP. Oct.1684 Ordinary's Account (OA16841017).
149. Clark. *Women's Silence, Men's Violence*. :23. See also Anna, Bryson. *From Courtesy to Civility: Changing Codes of Conduct in Early Modern England*. Clarendon Press; Oxford: 1998. chapter 7
150. Thomas, Benson. OBP. Oct.1684 :t16841008–12. and OBP. Oct.1684 Ordinary's Account (OA16841017).
151. OBP. Jan.1686 Ordinary's Account (OA16860120).
152. Philip, Carter. *Men and the Emergence of Polite Society, Britain 1660-1800*. Longman; Harlow: 2001. p. 194-5.
153. Jackson. *Child Sexual Abuse*. :108.
154. John, Hunter. OBP. Apr.1747 :t17470429–28.
155. John, Hunter. OBP. Apr.1747 :t17470429–28.
156. See also Louise Jackson's discussion of masculine virtues in the nineteenth century in *Child Sexual Abuse*, chapter 6.
157. Krafft-Ebing. *Psychopathia Sexualis*. :402.
158. Krafft-Ebing. *Psychopathia Sexualis*. :404.
159. Elizabeth A. Foyster, "The "new world of children" reconsidered: child abduction in late eighteenth- and early nineteenth-century England" (forthcoming). I am very grateful to Elizabeth for allowing me to read this article before publication. For a discussion of "social panic" and "moral outrage" see Judith, Rowbotham; Kim, Stevenson, editors. *Behaving badly: social panic and moral outrage – Victorian and modern parallels*. Ashgate; Aldershot: 2003. p. 6-9. and chapter 2