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## Classification of Murders in 18<sup>th</sup> Century London Based on Old Bailey Proceedings

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### SUMMARY

This article deals with the crime and punishment system in the mid-18<sup>th</sup> century. The author focused in particular on murders, as they pose a diverse category that perfectly reflect the functioning of English criminal law during the given period. Simultaneously, the article will show a general overview of the criminal life of London in the modern era based on detailed testimony of witnesses facing the Old Bailey court.

**KEYWORDS:** Old Bailey Proceedings, Crime, Murder, 18<sup>th</sup> Century London, English Criminal Trial, English Criminal Law System, English Law, Old Bailey Criminal Court.

### STRESZCZENIE

#### Klasyfikacja morderstw w XVIII-wiecznym Londynie na przykładzie zapisków z Old Bailey Proceedings

Niniejszy artykuł dotyczy przestępczości i systemu kar w połowie XVIII w. Autorka w szczególności skupiła się na morderstwach, ponieważ stanowią one same w sobie różnorodną kategorię doskonale odzwierciedlającą funkcjonowanie angielskiego prawa karnego w podanym okresie. Na marginesie przedstawionych badań pojawi się także obraz kryminalnego życia Londynu epoki nowożytnej, który wynika ze szczegółowych zeznań świadków stających przed sądem Old Bailey.

**SŁOWA KLUCZOWE:** Old Bailey Proceedings, przestępczość, morderstwa, XVIII-wieczny Londyn, angielski proces karny, system kar w angielskim prawie karnym, prawo angielskie, kryminalny Sąd Old Bailey.

This article is a study of crime and punishment system in London in the mid-18<sup>th</sup> century. The subject matter is based upon the instances of murders since they constitute a diverse category and perfectly reflect the functioning of Eng-

lish criminal law in the given period. The major source is Old Bailey Proceedings, which are testimonies from the sessions of the Central Criminal Court of England and Wales (also known as Old Bailey) published in 1674–1913. It is worth mentioning that this monumental source includes more than one hundred thousand criminal cases, which were documented on 60 thousand pages<sup>1</sup>. In the following part of the paper, a general classification of murders will be presented, with the specification of punishments that were decreed. An additional aspect of this article will also be the indication of research possibilities of the nuances of everyday life in modern-era London, which result from detailed witnesses' testimonies as well as circumstances connected with the cases processed in front of the court (instances of such cases will include, i.a., duels, violence, the problem of alcoholism or infanticide). The aim of the article is to show the potential of the source as well as drafting the characteristic features of the English criminal law and its correlations with everyday life of Londoners in the modern era. The cases discussed below occurred in 1750–1770, in which 169 sessions of Old Bailey court took place. It is a particularly interesting period to be researched since the years 1729–1778 are considered as the greatest commercial success of Proceedings. Thus, the analysis of twenty years at the twilight, but not at the very end of this “golden” period seemed to best reflect the full potential of the source. A great popularity of the source may be testified by the fact that in 1720, Proceedings cost 4 pennies, while ten years later this price increased with 2 pennies and was maintained until 1770. The price for this periodical was then 2 times higher than a price for a regular daily or weekly newspaper. One should take into account that 3 pennies constituted an average worker's wage for a few-hours labour as well as the fact that he could spend this sum on some loaves of bread for his family or a few quarters of beer. It shows that the price for 1 volume of Proceedings might not have been too steep, but compared with the low wages of working class could have been connected with some self-denial on the part of its readers<sup>2</sup>.

William Blackstone, one of the most prominent 18<sup>th</sup>-century lawyers wrote in his *Commentaries on the Laws of England* that:

the murder or killing of a human being is divided into three types: justified, excusable and flagitious. The first one does not include a sense of guilt at all, the second one does

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<sup>1</sup> R.B. Shoemaker, *The Old Bailey Proceedings and the Representation of Crime and Criminal Justice in Eighteenth-Century London*, “Journal of British Studies” 2008, vol. 47, no. 3, p. 23.

<sup>2</sup> *Ibidem*, pp. 565–566.

include a little guilty feeling while the third is the greatest crime against the natural laws that a human being is capable of committing<sup>3</sup>.

Unfortunately, such an unofficial classification does not reflect the reality completely; therefore, they ought to be divided into smaller sub-groups. Source literature most often discuss a very general classification of killings mentioned in Old Bailey Proceedings. One will find murder as classified on the first place. According to the definition, it is the act of killing committed with malice prepense. In the researched period, such cases were abundant because out of 259 people judged for someone's death, as many as 118 of them were accused of murder, killing with malice, or non-negligent manslaughter. In the cases in which the defendant was found guilty of these crimes, they got one of the gravest punishments in English law – death penalty. Additionally, within this sub-group one should also classify poisonings, duels, and the murders resulting from assault and robbery.

In the period of 1750–1770, in the source there are only 4 cases of poisoning, which were investigated by Old Bailey court. The first one referred to the death of John Davison, who was poisoned during breakfast on 20<sup>th</sup> March 1752. According to the witnesses' testimonies, he was served white arsenic mixed with milk, which resulted in his death three days later. The victim was a prisoner staying in Ludgate. Davison claimed that the culprits were his 2 co-prisoners, Henry Pastell and Joseph Johnson<sup>4</sup>. Thanks to the testimony given by 2 doctors who conducted the post-mortem examination, both of the defendants were cleared from blame<sup>5</sup>.

The second case considered at the same session of Old Bailey court (on 14<sup>th</sup> May 1752) concerned the death of William Hill<sup>6</sup>. It is an extremely interesting case since the defendant – a fifteen-year-old Mary Carpenter – was cleared of charges despite the fact that she really served the victim with the toxic substance.

The case started in October 1751. That is when William Hill felt sick for the first time, in spite of his earlier good health. According to the testimony of his niece from his wife's side, he felt a painful tension in the bowels as well as biting pain, which caused difficulties with standing. Then, he received some strong

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<sup>3</sup> W. Blackstone, *Commentaries on the Laws of England. Book the Fourth*, vol. 4, Londyn 1825, p. 177.

<sup>4</sup> Old Bailey Proceedings Online (further: OBP), *Trial of Henry Pestell Joseph Johnson*, May 1752, (referential no.: t17520514-23), pp. 19–25, [www.oldbaileyonline.org](http://www.oldbaileyonline.org) (accessed: 1.07.2022).

<sup>5</sup> Both doctors: John Ruding and Thomas Meadows, testified in the post-mortem examination that the prisoner was not poisoned (due to no visible traces of gangrene in the stomach); *ibidem*.

<sup>6</sup> OBP, *Trial of Mary Carpenter*, May 1752 (t17520514-30), pp. 32–35.

medicine, but the tension in the bowels was not released. It lasted for the whole winter, after which William Hill got considerably thinner, and his complexion got yellowish. In March, Hill found in his gruel a clump of a weird taste. He brought it to a chemist – Mr. Allen, who asserted that it was a toxic compound – ferrous (iron) sulphate, also known as iron vitriol or iron copper water. It was also confirmed by Marmaduke Wetherall, a chemist from Smithfield, to whom Mr. Hill turned on 10<sup>th</sup> March. The following witness, Wetherall's son testified that the defendant bought copper water from him two or three times. Each portion cost one penny, which once constituted one and a half ounce of the compound. After this incident, the finger of suspicion was placed on Mary Carpenter, who, for the second year in a row, was apprenticed to learn the business and household chores at the victim's place. According to the testimony of the first witness, the defendant pleaded guilty, although the motive for the crime was not entirely clear at that moment<sup>7</sup>. However, what was an essential piece of information was the fact that she had instilled around 8 portions of the toxic substance (green and white copper water) since October 1751. Although the weakness of Mr. Hill's organism might have been caused by the defendant's actions, his eventual death, which took place on the first days of May, was not connected with them according to the testimonies of the surgeon and the chemist. Mary Carpenter acquitted of a charge by the final verdict, but at the end of her trial, it was added that she was detained for an attempted poisoning<sup>8</sup>.

The third case of poisoning that was registered in the given period took place on 15<sup>th</sup> September 1756 and concerned the death of Sarah Wheeler. In this case the defendant was James Clowes, who was seen with the victim at night on 2<sup>nd</sup> August, on the corner of Chick-Lane next to the hotel owned by Mrs. Price. Sarah Wheeler, who was under the considerable influence of alcohol, was brought out of a hackney carriage by the said Clowes and James Hambleton – a cabdriver. After the defendant's persuasion, they rented a room in the hotel mentioned above, where they spent a night. The woman did not regain consciousness since the moment, when she entered the carriage with Clowes. The death took place the following day before noon. On her body there were no visible signs of violence,

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<sup>7</sup> The first witness in the case Eleanor Woollen (victim's niece) testified that directly after discovering poison in William Hill's food, she openly asked the defendant if she was guilty and received a positive answer – "I asked her if she had done such a wicked thing? She said, she had done it"; OBP, *Trial of Mary Carpenter*, May 1752 (t17520514-30), p. 32.

<sup>8</sup> "She was detained to be tried for an attempt to poison"; OBP, *Trial of Mary Carpenter*, May 1752 (t17520514-30), p. 35.

which was confirmed by each of the investigated witnesses. Eventually, Clowes was cleared of a charge although he was accused of serving the victim with laudanum along with alcohol<sup>9</sup>. An additional factor that favoured the defendant's release was not calling the doctor as a witness, who could have explained to the jury the pernicious effects of simultaneous mixing up of a great amount of alcohol with opium<sup>10</sup>. It is especially crucial since alcoholism was a serious problem of the London society in the given period, which will be discussed in the following part of the article.

The last instance of poisoning in the discussed period concerned the case of Jane Sibson from 26<sup>th</sup> May 1762. This case is not typical mostly due to the fact that it concerned a charge of a minor treachery. According to the bill of indictment, Sibson mixed a considerable amount of a deadly poison, corrosive sublimate (II), commonly known as sublimate or white mercury, with butter that she served her husband with. In result of the poisoning, he suffered from 23<sup>rd</sup> to 26<sup>th</sup> of April, and then he died. Similarly to the previous cases, here the doctors also asserted that the death did not occur as a result of poison consumption since there were no traces of burn mark on the internal organs. Sibson was cleared of charges<sup>11</sup>.

In comparison, the number of the cases of death because of a duel was approximately two times bigger in the given period<sup>12</sup>. The violence in 18<sup>th</sup> century was ubiquitous and not limited to any particular spots of the city. Oftentimes altercations turned into fisticuffs, and then street fights, which attracted crowds of onlookers. This image was solidified for the foreigners to such an extent that one of them even wrote in his memoir that an inclination towards fighting is an "innate feature of a London personality"<sup>13</sup>. Each of the men fighting on a ring had his own second, whose job was, i.a., to make sure everyone plays by the rules. It

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<sup>9</sup> Laudanum is a general name of opium liqueur. Although the term was applied to many substances of different content, it was Thomas Sydenham who for the first time created the content of laudanum which included: one mutchkin of a Spanish sherry wine, two ounces of opium, one ounce of saffron, and one ounce of powdered cinnamon and clove each – see: H.E. Sigerist, *Laudanum in the Works of Paracelsus*, "Bulletin of the History of Medicine" 1941, vol. 9, p. 530.

<sup>10</sup> It was probably caused by the fact that one of the witnesses – the hotel's owner – buried the victim without reporting it to the appropriate authorities. It delayed the whole process and it is probable that the dissection was not possible at this stage: OBP, *Trial of James Clowes*, September 1756, (t17560915-46), pp. 26–28.

<sup>11</sup> OBP, *Trial of Jane Sibson*, May 1762, (t17620526-18), pp. 13–26.

<sup>12</sup> In W 1750–1770 in *Proceedings* there were reported eight cases of death that resulted from duel and one death that followed a fight after a lost and unpaid bet.

<sup>13</sup> P. Ackroyd, *Londyn. Biografia*, tłum. T. Biedroń, Poznań 2011, p. 505.

occurred that the onlookers joined the fight, especially to protect the suffered, in case it was assumed that he was somehow deceived. In Proceedings, out of 9 cases of death in a duel, 8 ones were indeed connected with public fighting. The best example is a trial of Thomas Knight from 7<sup>th</sup> December 1768. He was accused of murdering Robert Ball. The whole situation started on the night of 6<sup>th</sup> to 7<sup>th</sup> September, when both men were drinking together in a club “Three Jolly Butchers”, situated at White Cross Street. That is when they decided to fight the next day due to a bet. The victim laid one guinea, and the defendant laid half of guinea while the winner was supposed to get the whole sum. According to the testimony of a witness – John Roberts, the next day around eleven both men directed towards some “ruinous sort of place” (or “back ruins” as it is stated in the source). There they stripped to the waist and shook hands with each other. The fight lasted for some time among a considerable audience, who also bet on the result of the fight. When Ball, who had already been seriously injured, fell on the ground, a witness asked him whether he would continue fighting, and got a positive answer. Another round was shorter and when Ball fell down after it, he was not able to stand up. The witness and some other observers took him out of the ring. Soon after, the victim died. The trial is concluded with a testimony of the student of doctor Young from St. Bartholomew Hospital, who conducted the general examination of the dead body (coroner asserted that in this case, post-mortem examination would not be necessary). In the doctor’s opinion, the death resulted from the injuries which were abundant on the whole victim’s body. What is interesting, the fight was observed by the victim’s father who, according to the witnesses’ testimonies, encouraged his son to the second round although at first sight it was clearly visible that he was not capable of continuing the fight. Eventually, Thomas Knight was sentenced for involuntary manslaughter. The punishment for this crime was stigmatising and imprisoning in Newgate<sup>14</sup>.

What constituted a slightly different phenomenon were public fights for money. Female boxing is dated from the first years of 18<sup>th</sup> century until the end of this century, when cultural transformations and the formation of new stereotypes contributed to a change of approach towards women. However, it is interesting that in the period discussed, women were not yet perceived as a “weak sex”, as it was typical for the Victorian era. On the contrary, they were considered equals to men. A certain writer, William Hickey in his memoir described his impressions of being a witness of a fight between 2 women:

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<sup>14</sup> OBP, *Trial of Thomas Knight*, December 1768, (t17681207-37), pp. 33–36.

Two she-devils, for they scarce had human appearance, engaged in a scratching and boxing match, their faces entirely covered with blood, bosoms bare, and the clothes nearly torn from their bodies. For several minutes not a creature interfered between them, or seemed to care a straw what mischief they might do each other, and the contest went with unabated fury<sup>15</sup>.

A witness of this event did not hide his shock. Nevertheless, such women's behaviour combined with the problem of drinking, which concerned women equally to men, forms a certain characteristic image of an 18<sup>th</sup>-century female. In 1750–1770 especially one case of Proceedings seems to confirm this theory. It refers to the murder of Ms. Elizabeth Allen. The defendant in this case was a widow of Robert Bell, Mary Bell. According to the testimony of the major witness, initially both women acted friendly towards each other. However, when a man who had been drinking with them in Cart and Horses at Old Street left, Allen, who had already been very drunk, put her head on Mary Bell's arm. The latter threatened to hit her with an elbow and said: "you whore, don't lay your head upon my shoulder", which was answered with: "I am surprized you should call me whore, when you know you are a greater whore than I". After this, infuriated Mary Bell added: "I am a married woman, and if you call me whore again, I'll split your skull", and then, both women started to fight. As a result, Elizabeth Allen was hit on the head with a beer mug and fell unconscious on the ground. The victim was taken care of by a witness – Elizabeth Fawcett, who cleaned her face and wrapped a shawl around her head. After this occurrence, when the victim came round, the mother of Elizabeth Fawcett persuaded her to report the whole incident. On the same day, the victim lost consciousness on the street and was transported to hospital. 1,5-inch wound was dressed by the students of doctor Crane, after which Allen was slowly coming round. Her well-being lasted for the next ten days, and then she got a fever and the victim died. Due to the fact that the testifying doctor asserted that the death was the result of the fever and not of the wound, Mary Bell was cleared of a charge<sup>16</sup>.

At this point, it is worth noting that a Londoner living in the era of enlightenment appreciated good food and drink. Especially higher classes, who could afford a luxurious lifestyle, overused some fancy goods, and while this group consumed mostly wine, the poor drank gin and watered-down beer. The latter did not pose a serious problem since in places where there was epidemic threat due to water contamination, the consumption of beer was even advised. Furthermore,

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<sup>15</sup> Quoted in: M. Smith, *A History of Women's Boxing*, Plymouth 2014, pp. 6–7.

<sup>16</sup> OBP, *Trial of Mary Bell*, January 1765 (t17650116-39), pp. 32–34.

in 18<sup>th</sup> century some beer houses served a function of a job centre. That is why today it is presumed that the beer consumption was not such a grave problem as another drink of the poor – gin. Some historians claim that in this period there were as many as 17 thousand gin distilleries in London<sup>17</sup>. Drinking of alcohol was such a dangerous phenomenon that the government attempted to stop this practice. In 1736 the Gin Act was established, which introduced the ban on gin trade. However, it met with a great protest of the inhabitants, who found a way to evade the new law<sup>18</sup>. Some researchers point out that in the period of the highest gin consumption (1740–1742), there were twice as many deaths as births<sup>19</sup>. In literature there even occurs the term of “gin craze” or “gin epidemic”<sup>20</sup>. The sight of drunk people was so prevalent that in most of the trials between 1750–1770, a question was raised whether a victim or a defendant were under the influence of alcohol at the moment of incident. One of the most interesting trials concerning death as a result of an accident under the influence of alcohol was the case of charging Robert Williams of murdering his wife, Elizabeth. According to the witnesses’ testimonies, on 15<sup>th</sup> November 1755 the married couple was sitting in the pub known as Hat and Tun. The woman, who was known in the neighbourhood as the one who indulged in drinking, was under a strong influence of gin. After a fierce quarrel with her husband, who wanted to go home, the man hit her on the jaw. As the witnesses testified, the hit was not deadly; however, the woman had been suffering from epilepsy for ten years. When she was trying to get up after the blow, she suddenly lost consciousness and hit her head on the ground. The cause of death was a skull fracture and the resulting concussion. Robert Williams was cleared of a charge<sup>21</sup>.

The problem of alcoholism concerned both women and men. Oftentimes, when such a problem occurred in families, it was accompanied by violence and even crime. It was the case of James Bannan from 6<sup>th</sup> September 1769 when he was convicted of his wife’s murder<sup>22</sup>. Due to the fact that the preferable drink was gin in case of women, in literature of this period one may encounter references to this liquor as “The Ladies Delight” or „Madam Geneva”<sup>23</sup>. One of the negative

<sup>17</sup> P. Ackroyd, *Londyn*, p.372.

<sup>18</sup> *Ibidem*, p. 373.

<sup>19</sup> M. Ossowska, *Mysł moralna oświecenia*, Warszawa 1966, p. 40.

<sup>20</sup> J. Warner, F. Ivis, *Gin and Gender in Early Eighteenth-Century London*, „Eighteenth-Century Life” 2000, vol. 24, no. 2, p. 85.

<sup>21</sup> OBP, *Trial of Robert Williams*, December 1755, (t17551204-23), pp. 13–14.

<sup>22</sup> OBP, *Trial of James Bannan*, September 1769, (t17690906-52), pp. 29–33.

<sup>23</sup> J. Warner, F. Ivis, *Gin and Gender*, p. 85.



consequences of alcoholism among women was the increase of unwanted pregnancies within unmarried ladies. Although drinking was ubiquitous in every age group, it was most prevalent among unmarried or widowed women<sup>24</sup>. Reckless consumption of alcohol in gender-mixed company often led to accidental sexual intercourses. For a single woman, raising a child meant a number of inconveniences, which in many cases resulted in infanticide<sup>25</sup>, which will be discussed in the following part of this article.

However, getting back to murders which occurred because of practising duels, an especially popular place for solving such a quarrel was Hyde Park<sup>26</sup>. Historians point out that out of all social groups, it was soldiers who were most eager to duel. In spite of clear military prohibition, higher officers tended to ignore such incidents. The duel's winner was rarely charged of his actions since in case of the opponent's death, they usually escaped from the state for some time. That is why Edward Clark's trial from 25<sup>th</sup> April 1750 sparked such a great interest that Proceedings from this case was published separately in an extended version<sup>27</sup>. Captain Clark was accused of murdering captain Thomas Innes on 12<sup>th</sup> March. The whole case started a day earlier, when the defendant arrived at the victim's house at 8 am. The witness – William Newman, a servant of Innes – testified that his employer somehow offended Clark and as a result, was challenged to a duel. Both men met the following day (on Monday) between 6 and 7 am in Hyde Park, together with their servants. It was supposed to be a gun fight from the distance of 4 yards. The occurrence witness claimed that Innes did not have time to shoot his gun since Clark acted too hastily, not giving his opponent any chance to get prepared. The victim got hit with a bullet on the right side of the body, near the false ribs in the distance around 10 centimetres from the stomach, and gored one false rib on the left side, from which it was extracted. The resulting wound was the direct cause of his death<sup>28</sup>. Captain Innes was taken home where he died on the same day around 11 pm. On his death bed, for several times he asserted that

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<sup>24</sup> *Ibidem*, p. 93.

<sup>25</sup> *Ibidem*, p. 95.

<sup>26</sup> P. Napierała, *Światowa metropolia. Życie codzienne w osiemnastowiecznym Londynie*, Gdynia 2010, pp. 39–40

<sup>27</sup> At the end of the trial, there appears an appendix: "As the above trial is obliged to be abridged to make room for the other trials, by permission of the Right Honourable the Lord Mayor of the City of London, this trial will be published at large, with the prisoner's defense, by itself"; OBP, *Trial of Edward Clark*, April 1750, (t17500425-19), p. 8.

<sup>28</sup> In this case a surgeon – Edward Wood – testified, who took care of the victim before death; OBP, *Trial of Edward Clark*, April 1750, (t17500425-19), p. 7.

he forgave his opponent, who was right to challenge him to a duel. Nevertheless, he acted unchivalrously when shooting ahead of time. Captain Edward Clark was convicted of a murder with a death penalty, with the recommendation of power of pardon<sup>29</sup>.

Murders resulting from assault and robbery are situated in the domain between murders and the proceeding category of killing – involuntary manslaughter. Generally, the class of crimes connected with theft is divided into many sub-categories, such as: pickpocketing, burglary, mail theft (or theft from the post office), animals' theft and, finally, highway robbery. The latter would often be presented in front of Old Bailey court alongside murder charges. From the definition it may be inferred that highway robberies are robberies committed next to royal roads and although most often they occurred in the suburbs of London, any such action within the city was also classified as belonging to this group. Here it is worth noting that in the 19<sup>th</sup> century, due to the extended competence of the police, fewer crimes were committed on the streets. In consequence, the last such case concerning a highway robbery took place in 1897.

Between 1750–1770, 12 people stood trial for the accusation of killing resulting from assault and robbery, while only one of them actually committed burglary and the rest were connected with street assaults. It is about the case of Robert Tilling from 16<sup>th</sup> April 1760. The case is especially interesting since the defendant pleaded guilty. On 18<sup>th</sup> February at 3 am, Tilling burgled into the house of Samuel Lloyd, with the intention of stealing goods and money as well as killing the place's owner. Among the items that were missing after that night there were an iron key, a piece of gold worthy of 36 shillings, "moidore"<sup>30</sup> and 10 guineas. Moreover, the defendant was burdened with 2 other charges concerning highway robbery. For his actions, Robert Tilling was sentenced with death penalty, which was executed on 28<sup>th</sup> April 1760<sup>31</sup>.

Involuntary manslaughter was a considerably vague term, and it was applied in various cases concerning murders. According to the definition, it is unlawful killing someone, without malice prepense. Usually, these included cases of fights, accidents during disciplining a servant or wife, irresponsible driving of a carriage,

<sup>29</sup> "Guilty, Death. But recommended to Mercy"; OBP, *Trial of Edward Clark*, April 1750, (t17500425-19), p. 7.

<sup>30</sup> "Moidore", or "Moeda de Ouro" was a Portuguese coin, which existed in English circulation in 17<sup>th</sup> and 18<sup>th</sup> centuries. Its estimated value in the discussed period was around 27 shillings; R. Chalmers, *A History of Currency in the British Colonies*, Londyn 1893, p. 396.

<sup>31</sup> OBP, *Trial of Robert Tilling*, April 1760 (t17600416-35), pp. 36–37; OBP, *Ordinary of Newgate's Account*, April 1760, (OA17600428), pp. 1–22.

etc. In Proceedings, one may encounter such instances classified as involuntary manslaughter as: chance medley<sup>32</sup>, or, e.g., pushing someone down the stairs<sup>33</sup>. Between 1750 and 1770 only in one case of considering the crime as involuntary manslaughter, there was no punishment noted. It was the case of George Farmer from 8<sup>th</sup> April 1752, and it concerned the death of Thomas Gray<sup>34</sup>. In the given period, there was also one special verdict that concerned Mary Anson, whose trial took place on 6<sup>th</sup> September 1769. She was accused of killing her husband by biting off his little finger, which resulted in the hand necrosis and, finally, the victim's death. Since the doctor asserted that the wound caused by the bite was not the direct cause of Anson's death, she was not charged of involuntary manslaughter<sup>35</sup>.

The most commonly imposed punishment for involuntary manslaughter in the 18<sup>th</sup> century was stigmatising. It was a practice of scorching sign "T" for thieves (theft), "F" for felons or "M" for murderers, for identification and prevention purposes. Stigmatising usually took place in a courtroom in front of the audience. The last punishment of stigmatising in Old Bailey was imposed in 1789<sup>36</sup>. In 1750–1770 39 people were convicted solely with stigmatising. However, this type of punishment was also combined with other kinds, depending on the seriousness of the crime. In the source, there is one case of lash combined with stigmatising. It was the trial of William Hopton which took place on 17<sup>th</sup> January 1750. The defendant along with James Parkinson, John Griffiths, Edmund Jones, Thomas Piercy and John Davis beat Henry Bradley in his own house. Nevertheless, since both doctors who took care of Bradely testified that the direct cause of the victim's death was cold and not beating, the defendant was found guilty of involuntary manslaughter<sup>37</sup>. There were considerably more (as many as fourteen) cases of combining stigmatising with imprisoning in Newgate. That was the punishment imposed on, i.a., Joseph Ward, whose trial took place on 14<sup>th</sup> January 1768. He was convicted of involuntary manslaughter of William Langford, who was stabbed by Ward during a fight<sup>38</sup>. Imprisonment in Newgate as a separate

<sup>32</sup> A case of the foreigner Joseph Baretti from 18<sup>th</sup> October 1769: OBP, *Trial of Joseph Baretti*, October 1769, (t17691018-9), pp. 7–16.

<sup>33</sup> A case of Thomas Daniels from 16<sup>th</sup> September 1761: OBP, *Trial of Thomas Daniels*, September 1761, (t17610916-44), pp. 47–53.

<sup>34</sup> OBP, *Trial of George Farmer. Otherwise, Firmer, Esq; commonly called Lord Lempster*, April 1752, (t17520408-20), pp. 12–15.

<sup>35</sup> OBP, *Trial of Mary Anson*, September 1769, (t17690906-102), pp. 65–67.

<sup>36</sup> J.M. Beattie, *Crime and the Courts in England 1660–1800*, Princeton 1986, pp. 490–491.

<sup>37</sup> OBP, *Trial of William Hopton*, January 1750, (t17500117-18), pp. 7–9.

<sup>38</sup> OBP, *Trial of Joseph Ward*, January 1768, (t17680114-12), pp. 12–13.

punishment was used in the case of Samuel Portman, whose trial was conducted on 16<sup>th</sup> January 1754. The victim, Elizabeth Norman was standing on the doorstep of her house when she got hit on the head with a rock, which caused concussion. The woman died on 5<sup>th</sup> December the same year. Until her death, she claimed that the cause of her illness was the accident mentioned above<sup>39</sup>. According to Portman's testimony, the incident occurred when his wife arrived at the pub and threatened that unless he immediately left the place, she would break the window with a rock. Then, he took it away from her and threw it back, simultaneously hitting Mrs. Norman<sup>40</sup>. Eventually Samuel Portman was convicted of involuntary manslaughter.

There is one more punishment in the English penitentiary system that is worth enumerating. It was a practice of previously mentioned deporting of the convicts, which had been unofficially conducted since 17<sup>th</sup> century. Officially, it was implemented as late as after 1717<sup>41</sup>. For petty crimes, the convict could have been imposed with seven-year banishment, and for more serious ones, such as murder, the banishment could last for fourteen years. Some historians assess that between 1718 and 1775, 50 thousand convicts were sent to American colonies<sup>42</sup>. In his letter "State of Executions and Transportations from 1749–1771" to Charles Bunbury, Jonas Hanway quotes a report of sir Stephen Theodor Janssen, from which one may infer that between 1749 and 1771, 5199 people were exiled for either seven or fourteen years. To this number, one should also add those whose death penalty was changed for banishment due to a royal recommendation, which sums up to 5600 people lost for the state. Janssen also claimed that if maybe 1 out of 20 exiles would come back to the country, Great Britain lost a little army of people during these twenty-three years<sup>43</sup>. After Great Britain lost its American colonies, a necessity arose to find a new land to form a convict settlement. That is why on 13<sup>th</sup> May 1787, 11 ships were sent from Portsmouth port to Botany Bay, near the

<sup>39</sup> "She often said this wound would be the death of her"; OBP, *Trial of Samuel Portman*, January 1754, (t17540116-11), p. 6.

<sup>40</sup> OBP, *Trial of Samuel Portman*, January 1754, (t17540116-11), pp. 5–7.

<sup>41</sup> N. Ferguson, *Imperium. Jak Wielka Brytania zbudowała nowoczesny świat*, tłum. B. Wilga, Warszawa 2007, p. 106; J.M. Beattie, *Crime and the Courts*, p. 431.

<sup>42</sup> T.P. Dobrowolski, *By Coach to the Scaffold: Theatres of Remose in Eighteenth-Century London*, "Kwartalnik Historyczny" R. 121, 2014, p. 10.

<sup>43</sup> J. Hanway, *Letter III. State of Executions and Transportations from 1749–1771*, in: *Distributive Justice and Mercy: Showing, that a Temporary Real Solitary Imprisonment of Convicts, Supported by Religious Institution, and Well-regulated Labour, Is Essential to Their Well-being, and the Safety, Honour, and Reputation of the People*, London 1781, pp. 12–13.

present port in Sydney<sup>44</sup>. Officially, the exiles were banned in 1857 on the basis of *Penal Servitude Act*.

Another group of murders were infanticides. They referred both to killing newborn and older children<sup>45</sup>. In this case, the key role in the English criminal law since the beginning of 19<sup>th</sup> century was played by a legal document *An Act to Prevent the Destroying and Murthering of Bastard Children* from 1623. It concerned 3 types of crimes involving children: secrecy of pregnancy and labour, suppression of the child's death or its murdering. The latter was considered in the trial from 27<sup>th</sup> February 1760. Charles Cullam – the father of five-month daughter was accused of infanticide since he threw his child out of the window on the level of 3<sup>rd</sup> floor. The case was concluded with clearing the father of a charge because according to the witnesses' testimonies, allegedly it was an unfortunate accident (or a mishap)<sup>46</sup>. A little older child was the victim of James Woodman, whose trial took place on 9<sup>th</sup> September 1767. He was accused of murdering two-and-a-half-year-old Elizabeth Ayres by ramming her with a cart and horses. The man was sentenced to stigmatising for involuntary manslaughter<sup>47</sup>. There was also Elizabeth Grindall, who during the court session on 22<sup>nd</sup> February 1769 was convicted of murdering her one-and-a-half-year-old daughter, Mary Grindall, by throwing her to the New River<sup>48</sup>. The woman was cleared of charges. Although in all those cases the victims were children below three years old, one may also find in *Proceedings* a case from 14<sup>th</sup> July 1762, which concerned 2 women, a widow Sarah Metyard and miss Sarah Morgan Metyard. They were accused of killing Ann Nailor, thirteen years old, by starving her to death. Nailor was kept in confinement between 29<sup>th</sup> September and 4<sup>th</sup> October<sup>49</sup>. Both women were declared guilty and sentenced to death penalty (the verdict was so severe due to the fact that they were burdened with the accusation of killing Mary Nailor, the previous victim's sister, who was eight years old then). A similar one was the case of Jane Collins from 17<sup>th</sup> December 1766. Her victim was ten-year-old Mary Hobbs. Collins was acquitted of a charge although the circumstances of Hobbs's death were not completely explained<sup>50</sup>.

<sup>44</sup> N. Ferguson, *Imperium*, p. 107.

<sup>45</sup> One may also read about infanticide in 19<sup>th</sup> century on the basis of *Old Bailey Proceedings* in: R. Poniak, *Dzieciobójstwo przed londyńskim sądem w początku XIX wieku. Trzy historie*, in: *Granice i pogranicza. Mikrohistorie i historie życia codziennego*, red. P. Guzowski, M. Liedke, M. Ocytko, Kraków 2011, pp. 217–229.

<sup>46</sup> OBP, *Trial of Charles Cullam*, February 1760, (t17600227-32), pp. 26–29.

<sup>47</sup> OBP, *Trial of James Woodman*, September 1767, (t17670909-67), pp. 55–57.

<sup>48</sup> OBP, *Trial of Elizabeth Grindall*, February 1769, (t17690222-44), pp. 28–29.

<sup>49</sup> OBP, *Trial of Sarah Metyard Sarah Morgan Metyard*, July 1762, (t17620714-30), pp. 14–21.

<sup>50</sup> OBP, *Trial of Jane Collins*, December 1766, (t17661217-5), pp. 3–8.

Generally, out of 218 cases of murders from years 1750–1770, 35 concerned infanticides, including 24 murders of new-born babies. In most of such cases the major defendants were unmarried women<sup>51</sup>. The incidents of new-born children gone missing were considered in the context of already mentioned act from 1623, which stated that if the child's death was in some way suppressed, the mother became a suspect automatically. In theory the only possible line of defence was to prove that the child was stillborn. Nevertheless, in the source there are cases in which, despite proving her guilty, a woman got a sentence of acquittal. That was the case of Sarah Hunter, whose trial took place on 28<sup>th</sup> June 1769. Similarly to other cases like this, no one from Ms. Hunter's surrounding knew that she was pregnant. On the day of labour, she complained about the pain and asked to be released from duty. After the labour was over, she came back to work without any problem. Soon, blood-stained body of the baby was found, with 2 long and deep wounds on the neck (the baby's body was almost decapitated, which was noted during the testimony of the witness). Both wounds were inflicted with a knife. At this point, a doctor was consulted to state whether the child was stillborn or born alive. It was usually confirmed by using the so-called experiment with the floating lungs. The latter was a classic test whether the new-born child had an effective respiratory system. During the post-mortem examination, the doctor took the lungs out of the child's body and put them into water. If the organ was floating above the water, it meant that there was air inside; otherwise, the child was probably stillborn<sup>52</sup>. After the examination conducted by an obstetrician it occurred that the child was born alive. In this case, Sarah Hunter was defending herself by claiming that she was not fully aware of her action, and then she was acquitted<sup>53</sup>. It was not an isolated case since most trials concerning infanticides of new-born children in 18<sup>th</sup> century ended up with acquitting the woman. If a woman presented her preparation to the child's being born (e.g., things bought for the baby), it meant that she had no malicious intent towards them. That was the case of Mary Robinson, whose trial took place on 24<sup>th</sup> February 1768. The lady was hiding her pregnancy and tried to suppress her labour pretending to be sick. The doctor testifying in this case was not able to give a clear answer whether the child was stillborn, but it was obvious that the

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<sup>51</sup> Out of all 35 cases concerning infanticides, in only 6 of them the defendants were men, including only 2 of them, who faced the charges of murdering a new-born baby.

<sup>52</sup> T.R. Forbes, *Surgeons at the Bailey. English Forensic Medicine to 1878*, London 1985, pp. 102–106.

<sup>53</sup> OBP, *Trial of Sarah Hunter*, June 1769, (t17690628-27), pp. 26–30.

baby's body had no signs of violence. The whole case was stalled, but eventually the testimony of Anne Bright, who had found a box with things for the baby, cleared Ms. Robinson of a charge<sup>54</sup>.

The last category of murders is constituted by previously mentioned so called petty treason. Blackstone enumerates three forms of committing the latter: murdering the husband by his wife, killing mister or mistress by the servant as well as killing a religious pivot man by a priest<sup>55</sup>. In 1750–1770, one notes 3 instances of accusations of petty treason. These were the cases of Esther Monk from 16<sup>th</sup> January 1760<sup>56</sup>, Robert Greenstreet from 9<sup>th</sup> December 1761, who pleaded guilty<sup>57</sup> as well as preciously mentioned Jane Sibson from 26<sup>th</sup> May 1762<sup>58</sup>.

What should also be considered separately are crimes connected with criminal complicity. Generally, in the criminal law there are distinguished 3 forms of committing the crime: perpetration, co-perpetration (or complicity), and executive perpetration. It will be better visible with an example. In years 1750–1770 in Old Bailey court 250 people were arraigned in connection with the crime of murder, but there were 218 trials. Those numbers are not measurable since in many cases, apart from the perpetrator there were accomplices arraigned, who were most often accused of: “feloniously, wilfully, and of malice aforethought, was present, aiding, helping, abetting, comforting, and maintaining him the said person unknown, to do and commit the said murder”<sup>59</sup>. Here it is also worth mentioning that in the English law, the term “aid” refers to material support, such as, e.g., delivering the tools while “abet” signifies a smaller help like, e.g., keeping nit. In Proceedings, such cases would be labelled under the same trial number, although each of the suspects would have their own reference number. The latter in Old Bailey court was dependent upon the number of people tried during one court session. What is also characteristic is the fact that it was counted in the annual system, from the December session one year until the November session the next year. Thus, at the court session from 4<sup>th</sup> December 1760, the defendant with reference number 1 was Jos Turner from the City district (theft)<sup>60</sup>, while the last person, with reference number 37 was Eliz Parker from Middlesex (also for

<sup>54</sup> OBP, *Trial of Mary Robinson*, February 1768, (t17680224-42), pp. 28–29.

<sup>55</sup> W. Blackstone, *Commentaries on the Laws*, p. 160.

<sup>56</sup> OBP, *Trial of Esther Monk*, January 1760, (t17600116-26), pp. 33–34.

<sup>57</sup> OBP, *Trial of Robert Greenstreet*, December 1761, (t17611209-20), p. 18.

<sup>58</sup> OBP, *Trial of Jane Sibson*, May 1762, (t17620526-18), pp. 13–26.

<sup>59</sup> OBP, *Trial of Samuel Gillam*, July 1768, (t17680706-58), p. 52.

<sup>60</sup> OBP, *Trial of Jos Turner*, December 1760 (t17601204-1), p. 3.

theft)<sup>61</sup>. The next court session, from 16<sup>th</sup> January 1761, began with the trial of John Beverstock, whose number was 38<sup>62</sup>. This way, by checking the last reference number of the defendant in *Proceedings* from the December session, one will obtain the information, how many people were arraigned in Old Bailey court in the given year. Between 4<sup>th</sup> December 1760 and 9<sup>th</sup> December 1761, there were altogether 321 people<sup>63</sup>.

The best example of a trial that concerned more than 1 defendant is the one connected with the murder of John Beattie, on 6<sup>th</sup> July 1768. During this trial, apart from the main defendant – James Murphy, there were 8 different men arraigned. It was a complex trial concerning a fight between sailors and workers, who were loading the coal. Taking into account the fact that in the general chaos, a man died, on the basis of preliminary assumptions the main accusation was levelled at Murphy, while the rest was accused of co-perpetration. After investigating all the witnesses, who in many cases contradicted one another, eventually it was previously mentioned James Murphy and James Dogam who were sentenced to death penalty with the obligation to donate the bodies to the anatomists. The remaining 7 defendants, Thomas Carnan, otherwise Carne, John Castillo, Thomas Davis, James Hammond, Hugh Henley, Michael Doyle and Thomas Farmer, otherwise Terrible, were found innocent<sup>64</sup>. In the source there are also cases, in which the main defendant was not caught or remained unknown while the one up before the bench was the other defendant, who was charged of co-perpetration. Such a situation concerned sergeant Samuel Gilliam. He was accused with „a certain person to the jurors unknown” of co-perpetration in a murder of William Redburn at the trial on 6<sup>th</sup> July 1768. The victim was shot from a musket on the back side of the thigh, and got a deadly wound half-inch wide and one-inch long, which caused death, on 13<sup>th</sup> May this year<sup>65</sup>. What is interesting, in this case the defendant was honourably cleared of charge, which meant that one could not draw consequences for being committed for trial, which is especially significant

<sup>61</sup> OBP, *Trial of Jos Turner*, December 1760 (t17601204-1), p. 40.

<sup>62</sup> OBP, *Trial of John Beverstock*, January 1761 (t17610116-1), pp. 2–3.

<sup>63</sup> The last trial concerned 2 women, Mary Kitching and Elizabeth Alexander, who were accused of assault and theft; OBP, *Trial of Mary Kitching Elizabeth Alexander*, October 1761 (t17611021-38), pp. 83–84.

<sup>64</sup> OBP, *Trial of James Murphy James Dogan Thomas Carnan, Otherwise Carne John Castillo Thomas Davis James Hammond Hugh Henley Michael Doyle Thomas Farmer, Otherwise Terrible*, July 1768, (t17680706-57), pp. 40–52.

<sup>65</sup> OBP, *Trial of Samuel Gilliam*, July 1768, (t17680706-58), pp. 52–61.



for someone with a military career since otherwise he could have been dismissed from duty<sup>66</sup>.

It is also worth mentioning one case in Proceedings when it was the very intention of murder tried, and not the actual crime. It is connected with the division into 3 stages of a crime in English criminal law, mainly: preparation, attempt, and the commission of a criminal offence. The case concerns Lydia, the wife of Oliver Mac Allister, also known as Lydia Roach, which took place on 6<sup>th</sup> September 1753. According to the indictment act, Lydia carried out the assassination with a loaded gun and shot with her right hand towards Elizabeth James, a widow, with the intention of murder. According to the victim's testimony, Lydia was shooting from her bedroom's window, but she missed; what is more, the bullet from the gun was not found. The present got cautioned by the court that the act must be proven in order for the sentence to be passed, and in this case, there were no premises. The defendant was cleared of a charge and got a copy of the documents as a proof of innocence<sup>67</sup>.

To sum up the discussion above, I would like to note that this article was aimed at presenting a general description of crimes and murders in 18<sup>th</sup>-century London. Due to a specific structure of the English criminal law, thanks to a rich repertoire of witnesses' testimonies it is possible to research every aspect of everyday life of London society in the modern era. In case of this paper, what emerges on a side is the portrayal of a society which undermines stereotypical image of Englishmen, who, as i.a. Maria Ossowska writes, are stolid, untalkative, tall and slim, not showing emotions, dignified, and such an image is so-called "product of the Victorian era"<sup>68</sup>. The analysis of court trials included in Proceedings may not only considerably familiarize one with the functioning of English criminal law, but also be a source of research on social life of Londoners. The portrayal that emerges from this paper shows a society, which struggles i.a. with violence, alcoholism, gambling, and poverty. Although this article addresses only some of the aspects of everyday 18<sup>th</sup>-century life of Londoners, in the future it will be worthy to expand the topic by further aspects as well as additional comparative reference material.

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<sup>66</sup> At the end of the trial, a formula was added: "Without going into his defense, or calling a witness, he was honorably acquitted, and had a copy of his indictment granted him"; OBP, *Trial of Samuel Gillam*, July 1768, (t17680706-58), p. 61.

<sup>67</sup> OBP, *Trial of Lydia, Wife to Oliver Mac Allister, Otherwise Lydia Roach*, September 1753, (t17530906-39), p. 16.

<sup>68</sup> M. Ossowska, *Mysł moralna*, p. 13.

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