

4 The ‘Vanishing’ Female Perpetrator of Common Assault

Jo Turner

Introduction

Selina Shaw and Sarah Perkins, of Espley’s Yard, were charged with fighting and with using bad language in Newport Road on Saturday. Mrs Shaw had called Mrs Perkins some very bad names, and they met and exchanged blows on three occasions during the afternoon. They were each fined 5s and costs or 7 days.¹

Selina Shaw and Sarah Perkins lived next door to one another in a tenement building (called Espley’s Building) in Espley’s Yard, just off Newport Road in Stafford, England. Selina was able to pay the fine imposed by the magistrates for ‘disturbing the peace by fighting’,² but Sarah was not and was consequently sent to Stafford goal for seven days. Both women were familiar with Stafford’s Petty Sessions. Selina was a 33-year-old married woman at the time of this offence, living with her husband David, their four dependent children, her father-in-law and her nephew. This was Selina’s third conviction in Stafford’s Petty Sessions. Her first, just a few years earlier, was for ‘common assault by throwing a bucket of water over her neighbour Caroline Blakeman’.³ For that offence, Selina was fined two shillings and six pence (imperial monetary units) plus costs but was committed to Stafford gaol for seven days hard labour in default of payment. Over the next few years, Selina was further fined (and always paid that fine) for four more offences of ‘making threats’, ‘using insulting words’ and ‘using obscene language’ (twice) – all offences that had a female victim.

This altercation with Selina Shaw quoted above was Sarah’s thirteenth conviction and sixth prison committal. Sarah had married at the age of 25 years, but by 1892, the date of this offence, she was a 46-year-old widow with four dependent children. She was a prolific offender with

¹ *Staffordshire Advertiser*, 24 September 1892.

² Detail taken from the Stafford borough Police Charge Books archived in Stafford Records Office (SRO), catalogue reference C/PC/5/39-44.

³ SRO, C/PC/5/39-44.

a total of thirty convictions acquired in just fifteen years. Apart from this conviction, Sarah had two for theft (of sheets), four for drunkenness, one for issuing threats and two others for using obscene language. Also, after the death of her husband, she was twice brought to court for non-payment of her Poor Rates (both times a distress warrant was issued) and eighteen times for not sending her children to school, for which a fine was always imposed but for which Sarah spent a total of twenty weeks in prison in default of payment of the fine. Selina Shaw and Sarah Perkins were typical of the recidivist female offenders living and offending in Stafford towards the end of the nineteenth century. Their offences were also typical of the type of offences that brought women to the Stafford Borough Petty Sessions at this time.

By discussing female perpetrators of common assault during the late nineteenth century in Stafford, a medium-sized market town in central England, this chapter adds to the debate around the long term disappearance of women from the Quarter Sessions and Assize statistics in England and Wales highlighted by Feeley and Little in 1991.⁴ This chapter argues two particular points. First, the incidence of female violence was higher than the recorded figures would suggest, as some women were regularly in court as defendants charged with common assault. However, many of those cases did not lead to conviction, which meant they did not enter the criminal statistics. Second, although there was still a significant number of women involved in common assault events towards the end of the nineteenth century, the general, consistent decline in the number of women being summoned to court and being convicted of a criminal offence in England and Wales as seen in the Assizes and Quarter Sessions was also apparent in the Petty Sessions (at least in Stafford) towards the end of the nineteenth century, especially where violent offences were concerned. After considering the landscape of research concerning the prosecution of women in Victorian England, this chapter draws on empirical data on female offending, punishment and recidivism between 1880 and 1905 in Stafford to discuss the cases where women were summoned to court for common assault and argues that many had their cases dismissed or were found not guilty, especially if the complainant was another woman.⁵ For those involved in neighbourhood disputes or instances of common assault, Stafford magistrates were simply not interested. In addition, it is demonstrated that although the majority of domestic assault cases in Stafford had a male perpetrator, some women of Stafford at this time were violent towards

⁴ Feeley and Little, 'The Vanishing Female', 719–57.

⁵ Turner, 'Offending Women in Stafford'.

their husbands and, for a small number, this brought them to court. Finally, the chapter discusses a few suggestions of why the decline of women before the magistrates as defendants in common assault cases may have occurred.

Women and Crime in Late Nineteenth-Century England

During the nineteenth century, women were a minority of those prosecuted by the courts in England. They made up about 20 to 25 per cent of those prosecuted and were over-represented in certain offence categories.⁶ These included offences such as thefts, offences under the Pawnbroker's Acts and being drunk and disorderly. Although there were fewer women than men charged with violent and alcohol-related offences in the nineteenth century, many women did come before the magistrates in Petty Sessions accused of crimes such as drunkenness and common assault, which collectively accounted for far more female convictions than gender specific offences such as prostitution by the second half of the nineteenth century.⁷ Similarly, in their study, Godfrey et al. found that women made up 32 per cent of the offenders brought to court for assault in the late nineteenth century.⁸ Though women overwhelmingly committed less serious offences, contemporary concerns were related to women committing serious and gendered offences such as baby farming and infanticide.⁹ Alongside those concerns about serious offences made by women, it was women's recidivism that particularly worried contemporaries. In the latter decades of the nineteenth century, women outnumbered men when it came to recidivism; there were more female 'hardened habitual offenders' with more than ten previous convictions than male offenders.¹⁰

Given those contemporary concerns about serious and gendered offending by women, there is now a considerable body of scholarly work on such offending in the past.¹¹ Regarding the less serious but more

⁶ Zedner, *Women, Crime and Custody*.

⁷ Turner, 'Offending Women in Stafford'.

⁸ Godfrey, Farrall and Karstedt, 'Explaining Gendered Sentencing Patterns', 696–720.

⁹ Arnot, 'Infant Death, Childcare and the State', 271–311; Ward, 'The Sad Subject of Infanticide', 163–79; Jackson, *Infanticide*.

¹⁰ Zedner, *Women, Crime and Custody*; Godfrey, Farrall and Karstedt, 'Explaining Gendered Sentencing Patterns', 696–720; Turner, 'Offending Women in Stafford'; Turner, 'Summary Justice for Women', 55–77.

¹¹ See for example: Walkowitz, *Prostitution and Victorian Society*; Arnot, 'Infant Death, Childcare and the State', 271–311; Ward, 'The Sad Subject of Infanticide', 163–79; Jackson, *Infanticide* (amongst others).

frequent offending by women, there is a developing body of exemplary work on female offending in late eighteenth and early nineteenth century, which examines the involvement of women for mundane offences such as theft, interpersonal violence, pick-pocketing and shop-lifting.¹² During this earlier period, many of these offences would probably, of course, have been tried in a higher court rather than the Petty Sessions. However, with the exception of some notable work, there remains only a small body of work on petty, non-gendered female offending in the later nineteenth century. For example, D'Cruze has examined 'everyday' violence committed by women¹³; Morrison has examined drunkenness amongst women in a study of inebriate homes¹⁴; Whitlock has charted the increase of retail crimes, such as shoplifting, which were largely perpetrated by women¹⁵; and Turner has examined the everyday, mundane offending by women in the Borough of Stafford during the closing decades of the nineteenth century.¹⁶ The data on which this chapter draws comes from the latter work.

Women and Crime in Late Nineteenth-Century Stafford

Stafford is a medium-sized market town and the county town of Staffordshire. It is and was an unremarkable, ordinary place – somewhere Charles Dickens described in 1852 as 'as dull and dead a town as anyone could desire not to see'.¹⁷ This ordinariness made Stafford the ideal location to study women's petty offending. Spatially, although female offending occurred throughout Stafford, there were certain 'hot spots'. These included the main streets running through the town and the main street leading from the railway station to the town centre. One particular area stood out as where many incidents occurred that involved a female defendant. The Broad Eye district of Stafford, to the west of the town centre, was an increasingly populous area and contained many of Stafford's slum dwellings during the second half of the nineteenth century. In 1901 Stafford Corporation knocked down many of the tenement buildings in this area and built its first council houses.

¹² MacKay, 'Why They Stole', 623–39; Palk, *Gender, Crime and Judicial Discretion*; Gray, 'The Regulation of Violence in the Metropolis', 75–87; D'Cruze and Jackson, *Women, Crime and Justice*.

¹³ D'Cruze, *Everyday Violence in Britain*.

¹⁴ Morrison, 'Ordering Disorderly Women'.

¹⁵ Whitlock, *Crime, Gender, and Consumer Culture*.

¹⁶ Turner, 'Offending Women in Stafford'.

¹⁷ Greenslade, Johnson and Currie, *The Victoria County History of Staffordshire*, 201.

There were also at least two houses in this area that housed ‘prostitutes’ along with the ‘disorderly’ Three Cups Public House in Duke Street. This area was the scene of many neighbourhood disputes involving women. Nearly a quarter of the persistent female offenders who appeared before Stafford magistrates lived in either Duke Street or Cherry Street, adjoining roads in Broad Eye, and were responsible for half of the incidences in which a persistent female offender was prosecuted for common assault. All of these incidents took place in either Duke or Cherry Street. However, this does not simply imply a direct correlation between overcrowding, deprivation and neighbourhood crime. Rather, it suggests that it was the proximity to one’s neighbours, rather than abject squalor and overcrowding, which was the preamble to quarrels, conflict and violence that simmered and flared intermittently.

There was a vast range of offences for which women in Stafford were charged.¹⁸ In brief, prosecutions for public order offences, which includes all events prosecuted in the battle to maintain order and decorum in the streets of Stafford such as drunkenness, nuisance, prostitution and vagrancy, accounted for more than half of the cases. However, women only ever made up between a fifth and a third of the total number of people prosecuted each year in Stafford for alcohol-related offences according to Stafford licencing sessions. Thus, women in Stafford were not disproportionately arrested for alcohol-related offences. Women were also prosecuted for breaches of the welfare and health legislation, in particular those related to licencing, pets and livestock, employment, vehicles, and children, which were increasing exponentially throughout the second half of the nineteenth century.¹⁹ This type of offence accounted for nearly a fifth of all the cases. Property offences accounted for just over one in ten of all cases and included such offences as theft, ‘receiving stolen goods’, fraud and burglary. However, petty theft was by far the most common.

Women and Violent Crime in Late Nineteenth-Century Stafford

Prosecutions for offences involving violence also only accounted for just over one in ten prosecutions that had a female defendant, but cases of common assault accounted for nearly all those cases. However, cases

¹⁸ See for more comprehensive discussions of female prosecution and conviction: Turner, ‘Summary Justice for Women’, 55–77; Turner, ‘Offending Women in Stafford’. For discussions of punishment of female offenders see: Turner, ‘Summary Justice for Women’, 55–77; Turner, ‘Punishing Women, 1880–1905’, 505–15.

¹⁹ Godfrey, ‘Changing Prosecution Practices’, 171–89.

that appeared in the courts as common assault cases covered a wide range of incidents, and any aggressive move could be deemed an assault if the victim chose to see it as such. A very small number involved other forms of violence including unlawful wounding, grievous bodily harm, throwing vitriol, concealment of birth, manslaughter and murder. Serious crime by women was relatively rare in Stafford. Out of the 2,869 events concerning women as defendants that resulted in court action in the Stafford Borough Petty Sessions between 1880 and 1905 inclusive, only fifty-three cases in which there was a female defendant necessitated committal to a higher court – just eleven of which were for offences that involved violence. In the Quarter Sessions, one domestic servant was found guilty of concealing the birth of her child, two of abandoning their children and one woman was found guilty alongside several others of 'feloniously assaulting Thomas Astley, and stealing from his person the sum of twelve pounds, his monies'.²⁰ In the Assizes, just seven cases involving violence where there was a female defendant were heard, of which only four had a guilty verdict. A case of 'throwing vitriol' did not go ahead as the 'bill was not preferred', and two domestic servants were each found not guilty of murdering their newly born children. However, there were seven cases heard in the Assizes where the female defendant was found guilty: one woman was sentenced to seven years penal servitude along with her husband for the manslaughter of her child, two other women were found guilty of concealing the birth of their newly born child and another two for murdering their newly born male child, and another woman was found guilty of the 'unlawfully supply a certain noxious thing to wit pills with intent to procure a miscarriage of Agnes Willett'.²¹ These few cases though serious represented the few in Stafford out of the 321 cases between 1880 and 1905 where there was a female defendant that were essentially a violent offence. Unfortunately, official figures do not exist that cover Stafford Borough only,²² so no meaningful statistical comparison can be made between male and female offending. However, in light of the so few prosecutions of women, it is highly likely that male offending drastically overshadowed female offending in Stafford Borough as elsewhere in the country.

In the main, whereas the nineteenth-century press sensationalised murders committed by women, particularly those against spouses, lovers or children, most violent crime carried out by women was against other

²⁰ SRO C/PC/5/39-44.

²¹ SRO C/PC/5/39-44; *Staffordshire Advertiser*, 10 December 1904.

²² The centrally collected Judicial Statistics covered both Stafford county and Stafford borough.

adults (often other women) and was non-fatal; thus quite mundane. The women of Stafford prosecuted for common assault were working-class women, living in crowded and poorly provisioned houses that fought over the distribution of resources, over money lent and borrowed, over children and husbands and over perceived slights to social standing. Women fought or assaulted others to prove points or to settle scores. Much like male perpetrators of assault, women used violence to negotiate issues of property, reputation, status and honour. In some cases of assault, weapons were used, although this was as likely to be whatever implements came to hand, usually a household implement, often such 'weapons' as a glass, a fire poker, a brush or a pail of water. More often than not though, women launched violent attacks or fought with nothing more than their fists and feet.²³ So these events were taking place in public, in that they occurred in the open and not in the home, but in the public place that women found themselves confined to – their yards, the street, basically the local neighbourhood to which they were confined.

Thus, overwhelmingly, women's offending in Stafford was mundane in nature and reflected their limited opportunities for offending, and, like men, women were largely prosecuted for drunken and anti-social behaviour, breaching increasing regulatory legislation and common assault. A similar amount of court time taken up by alcohol-related prosecutions was collectively occupied by dealing with women accused of violent offences (such as common assault), nuisance offences (such as using obscene language) and theft (such as stealing food or clothing). Although in themselves none of the offences were sex-specific, men equally could have committed anyone of these crimes, the context in which many of these offences took place was essentially gendered. Women fought over limited space in shared yards when putting their washing on the clothesline. Women fought in the street either with neighbours over a misunderstood comment or money owed or with their partner. Women shouted obscenities at their neighbours or spouses either inside or outside their homes. Domestic servants stole clothing from their mistress. Finally, women struggling to provide for their families stole food, household commodities and shoes.

These gendered contexts were reflected in the demographics of the female defendants in Stafford at the end of the nineteenth century. The women were aged on average 40 years, and there was a dearth of juvenile female offenders. Regardless of age the women were largely confined to their domestic space or immediate surrounding neighbourhood,

²³ Williams, 'Violent Women'.

even if employed. Although most were not employed at all, of those who were, the majority did work that could be undertaken within their own domestic environment (such as taking in laundry) or an external domestic environment (such as cleaning or domestic service). A few were actually employed in work outside the domestic environment. Some women ran their own market stall, usually to sell goods or food-stuffs produced or grown by the family, or worked in a shoe factory alongside the rest of the working adults in the home. Fewer still were licensees of public houses, or who ran businesses with their partner, but these women still lived with their families on the business premises.

The behaviour of 'deviant' or criminal women at this time was set ostensibly against the Victorian constructions of femininity and womanhood; women were wives and mothers, they were to be pure, submissive and modest, caring for their families and children and managing the home. Women who broke the law were judged against these values as well as against the law; they were considered 'doubly-deviant'.²⁴ However, in reality, this seems not to have been the case, especially where common assault by women was concerned. Grey has already shown that nearly a quarter of assault cases before the summary courts in London a century earlier between 1780 and 1820 were dismissed as being unworthy of further consideration, and that those between women were not infrequently dismissed as being frivolous.²⁵ Likewise, Godfrey et al. have already argued that magistrates handed down more convictions and harsher penalties to men involved in 'male' contexts of violence than they did to women involved in 'female' contexts indicating that magistrates aimed their efforts of civilizing lower-class communities at what they considered 'dangerous masculinities'.²⁶ This, they argue, demonstrates that magistrates considered assaults committed by women as less important and 'seems to reflect a more "dismissive" and perhaps "contemptuous" attitude toward women'. Similarly, in Stafford, unless the victim of an assault had visible injuries or the complainant was of a higher social standing, magistrates had to decide whom to believe when faced with women of similar social status presenting contradictory evidence: often they chose not to bother with such decisions and either declared the alleged perpetrator not guilty or dismissed the case from court.

The impression conveyed by the press was that neighbourhood disputes were not exceptional, and the messy allegations and counter-claims were a source of irritation to both journalists and magistrates. Evidence

²⁴ Heidensohn, *Women and Crime*; Zedner, *Women, Crime and Custody*.

²⁵ Gray, 'The Regulation of Violence in the Metropolis'.

²⁶ Godfrey, Farrall and Karstedt, 'Explaining Gendered Sentencing Patterns', 717.

was often provided by on-lookers or others involved in the dispute, many of whom (but, obviously, not always) were people with a history of prosecutions or convictions themselves. Sometimes, though, these cases provided amusement in court. For example, in May 1881, Ann Mannion and Ellen Shiels, two women not unfamiliar with Stafford court, found themselves again in court in a case where evidence was provided by three other women, who were themselves also well known to the magistrates and journalists:

Ann Mannion, living in Red Cow Yard, was charged with assaulting Ellen Shiels, wife of Daniel Shiels, on Wednesday, the 25th of May. A cross summons charged Ellen Shiels with a like offence on Mannion. The Irish element preponderated in this case, and great amusement was caused in court by the vocal effervescence of the parties. It appeared by the evidence of Mary Rafferty, Bridget Kearns, Mary McTithe, and others that the quarrel originated in the Red Cow Inn. Mannion then went into her house, and as Shiels passed her window she struck her with a mop and threw some water over her, whereupon the latter attempted to force the door, and struck Mannion a violent blow with her fist. The evidence of the two principals respectively went to show that each was innocent while the other was guilty, Mannion alleging that she simply put the mop through the window for Shiels 'to spake to'. In the result the Bench dismissed the charge against Shiels, and fined the other defendant 10s and costs, in default a month's hard labour. Ellen Shiels was then charged by the police with being drunk on the same occasion, and a fine of 10s and costs was imposed, in default of distress, fourteen days hard labour.²⁷

The data from Stafford also reveals the protracted nature of some disputes. The offending history of Martha Priest is instructive. Martha was born and raised in Birmingham but had moved with her husband and three children to Stafford by 1878, when her husband obtained work in Stafford's thriving shoe and boot industry. After having had two more children together, in 1885 Martha's husband died. Martha was by then aged 38 years and had three dependent children. By 1891, she was living with her three daughters and a lodger next door to Annie Keaton in the Broad Eye area of Stafford. This move into this area notorious for neighbourhood disputes sparked a series of appearances for Martha before Stafford's magistrates. In 1892, Martha's eldest daughter, Emily, prosecuted Annie for assault. Two months later Annie prosecuted Emily for 'annoying a passenger in the street'. Emily cross-prosecuted Annie – both were bound over to keep the peace. In 1893, Stafford magistrates first convicted Martha for assaulting Annie as she

²⁷ *Staffordshire Advertiser*, 4 June 1881. Red Cow yard was also in the Broad eye area of Stafford.

had thrown 'a glass dish at the complainant which hit her head and cut it; it bled profusely'.²⁸ Martha was imprisoned for fourteen days in default of paying her fine. In 1894, Martha was again convicted of assaulting Annie – this time she was able to pay the fine. In 1896, Martha was again convicted of assault, this time on Mary Ann Sumner, another neighbour, again being imprisoned for fourteen days in default of paying her fine. In 1897, Constance Johnson, another neighbour, prosecuted Martha for 'using insulting words', but this time the magistrates dismissed the case. Stafford magistrates also dismissed the case a few months later when Annie prosecuted Martha for assault again – the magistrates were tiring of this neighbourhood feud. However, Martha had one last spell of imprisonment for seven days in 1898 for again assaulting Annie. At this point, Martha was 51 years old and decided to move away from this particular neighbourhood in Stafford, in particular away from Broad Eye, and thus away from Annie Keaton. Martha died in 1907 at the age of 60 in her hometown of Birmingham. That the move away from Stafford coincided for Martha with a desistance from offending is one example of many that a change of circumstances, such as leaving a particular area of Stafford or an unhappy relationship, was more often than not the only way an offending trajectory could be halted. For many women in Stafford, staying with their homes and families often led to persistence in offending, particularly if their offending was a result of unhappy marital circumstances or neighbourhood friction.

There was also evidence that some women could be quite violent. For example, when Bridget Donnolly was arrested in 1881 for 'being drunk and disorderly' and 'refusing to quit the Maid's Head Inn', for which she was imprisoned for one month, 'she is said to have been so violent that it required two constables to lock her up'.²⁹ Her violence continued. Seven years later, Bridget was again imprisoned for one month in 1889 for 'being drunk and disorderly' and 'assaulting Mr Smallman (landlord of Wheatsheaf Inn), and 'she had to be ejected from the inn, and afterwards she broke a window and tore Mr Smallman's coat. In the street she was very noisy'.³⁰ During her offending trajectory, Bridget managed to produce four children and obtain four other convictions as well as those detailed here. The final conviction for assaulting Mr Smallman in 1889 was to be her last (at least in Stafford). By 1891,

²⁸ *Ibid.*, 5 August 1893.

²⁹ *Ibid.*, 24 June 1882.

³⁰ *Ibid.*, 5 October 1889.

Bridget was an inmate of Rainhill Annexe, Lancashire – a ‘lunatic’, where she stayed until her death. Her husband continued to live in Stafford with their children but did not remarry.

Violence of men towards women during this period has been well researched by historians.³¹ Less well researched is the violence of women towards men. Cases of men prosecuting their wives for assault were uncommon during the period, owing to the ignominy of publicly admitting their inability to control their wives. Some women of Stafford were able, or driven, to vie with their partners and were not reticent to use physical force when needed. For example, Eliza Carless, when prosecuted for ‘unlawfully wounding her husband with a knife’, claimed he had ‘got no more than he asked for’, after she had ‘had a few words with him’.³² Alice Fellows too was a woman violent towards her husband. She had twelve convictions in seventeen years. Her marital relationship was volatile. In 1892, when Alice was imprisoned for twenty-one days for being drunk and disorderly and for common assault on her husband, ‘the evidence disclosed a shocking state of domestic unhappiness’.³³ Even though Alice and her husband had seven children, all living with them, it was not the first, or last, time Alice had been prosecuted for assaulting her husband. In 1892, she had been bound over for assaulting him, and in 1894, when she was (again) fined for being drunk and disorderly, the police testified that ‘she was very violent, assaulted her husband and threw the furniture into the street’.³⁴ Alice’s husband never appeared in the court or police records for assaulting Alice.

Prosecutions for assault in a domestic setting strongly indicated that there was enmity in a relationship. More subtle are the incidences of joint prosecutions for disturbing the peace by shouting or fighting in the street, husbands testifying against their wives in court and references to an unhappy home life made in other cases. In prosecutions for disturbing the peace, rather than a neighbourhood row or a woman causing a nuisance, in several cases it was spousal conflict.³⁵ When Harriet Faulkner and her husband assaulted Mary Roberts, it was because she had ‘intervened to make the peace’ during the course of the Faulkner’s ‘quarrel’ out in the street where they all lived.³⁶ Since their marriage,

³¹ D’Cruze, *Crimes of Outrage*; D’Cruze, *Everyday Violence in Britain*; Hammerton, *Cruelty and Companionship*.

³² *Staffordshire Advertiser*, 22 September 1900.

³³ *Ibid.*, 27 February 1892.

³⁴ *Ibid.*, 28 July 1894.

³⁵ Turner, ‘Offending Women in Stafford’.

³⁶ *Staffordshire Advertiser*, 12 November 1887.

Mary Pearson and Joseph Cooper 'led a cat and dog life' and when both were arrested for fighting, Sergeant Hackney testified that he saw 'the woman throwing paving stones at her husband in Gaol Square, and pulling him by the hair'.³⁷ Prior to marrying though, Mary had thrown vitriol over Joseph when she found him talking to another woman in the Lichfield Arms.³⁸

The women of Stafford then were prosecuted for a range of offences. Those prosecutions though were generally declining, except for the ones where women were breaching the increasing health, welfare and regulatory legislation being introduced towards the end of the nineteenth century and into the twentieth. The data from Stafford also shows the small but significant level of prosecutions for common assault allegedly perpetrated by women, many of which were most probably an action of last resort rather than first. Many victims would have decided not to take their disputes before the magistrates for a range of personal, financial and social reasons. So those that did appear in the court are the disputes individuals could not (or would not) resolve amicably.

The 'Vanishing' Female Perpetrator of Common Assault

There is a general consensus that female crime was declining over the longer term, particularly indictable crime.³⁹ In their seminal paper, Feeley and Little argued that the jurisdictional changes during the nineteenth century, which removed offences that disproportionately involved women from the Old Bailey and into the lower courts, contributed substantially to the fall in the number of women as a proportion of all defendants at the Old Bailey, particularly between the years 1835 and 1900. This reduction, they argue, occurred despite substantial increases in the population within the Old Bailey's jurisdiction. Scholars have since found some of those 'vanishing women' in the minor courts.⁴⁰ Significantly though, the data from Stafford *also* shows a clear overall decline in the prosecution of women in Stafford's Petty Sessions at the end of the nineteenth century in all but one category of offence. Statistically, prosecutions for property, violent and public order offences where there was a female

³⁷ *Ibid.*, 2 April 1881.

³⁸ *Ibid.*, 24 July 1880.

³⁹ Feeley and Little, 'The Vanishing Female', 719–57.

⁴⁰ Gatrell, 'The Decline of Theft and Violence', 238–370; Conley, *The Unwritten Law*; Emsley, *Crime and Society*; Taylor, *Crime, Policing and Punishment*; Godfrey et al., 'Gendered Sentencing Patterns', 696–720; Turner, 'Offending Women in Stafford'; Turner, 'Summary Justice for Women', 55–77.

defendant declined. The one exception is in the regulatory category – there was a slight but consistent and noticeable rise in regulatory offences where there was a female defendant. This occurred even though the male head of household continued to be held accountable for such responsibilities as payment of rent, rates, sending children to school and maintaining the house in good repair. Godfrey et al. argue that this increase arises because the increase in health and welfare legislation at the time.⁴¹

Criminologists and historians are well versed in the debates surrounding the unreliability of criminal statistics,⁴² which means that they cannot necessarily be taken as reflecting real levels of crime but rather as indicators of a combination of socio-economic conditions, public anxieties, police practices and governmental police.⁴³ Thus, the declining rate of female prosecutions could be viewed within the broader context of social changes, including an improvement in living standards for a majority of the working class, better schooling and education as a result of the 1870 Education Act, the deterrent effects of police control and a general decline of drunkenness, which arguably was linked to widening patterns of working-class leisure. However, the precise interplay of these variables is difficult to assess. For example, Morrison has argued that the fall in prosecutions of women for drunkenness towards the end of the nineteenth century reflected a shift in attitudes towards drunkenness, in general, rather than a decline in drunkenness amongst women *per se*.⁴⁴ Offenders, male and female, were seen less as criminals who operated through free will and in need of punishment, but more as victims of disease who needed treatment, although it was drunken women who found themselves in inebriate homes rather than prison.⁴⁵

Similarly, the impact of mass leisure opportunities on the working-class remains open to debate. Cunningham has remarked ‘expenditure on leisure, apart from alcohol, was scarcely possible at all for one third of the working class, that about half were able to participate fairly fully, and the remainder intermittently and on no more than a daily basis’.⁴⁶ Davies has argued that in Manchester and Salford in the period 1900–1939, ‘the most basic form of communal leisure consisted of simply “sitting out” in the street’.⁴⁷ Quantifying the impact of widening

⁴¹ Godfrey, ‘Changing Prosecution Practices’, 171–89.

⁴² Maguire, ‘Crime Statistics, Patterns, and Trends’, 19–68.

⁴³ Godfrey, ‘Counting and Accounting for the Decline in Non-Lethal Violence’.

⁴⁴ Morrison, ‘Ordering Disorderly Women’.

⁴⁵ Morrison, ‘Controlling the ‘Hopeless’, 135–57.

⁴⁶ Cunningham, ‘Leisure’, 137.

⁴⁷ Davies, ‘These Viragoes are no Less Cruel than the Lads’, 122.

education and its effect on working-class culture is a particularly slippery task, yet towards the end the nineteenth century, approximately 95 per cent of the population was 'functionally literate'.⁴⁸ Several commentators have insisted that the impact of schooling and increasing levels of education resulted in widespread social benefits around the turn of the century.⁴⁹ Significantly, the evidence for Stafford suggests that, in general, contemporaries were much more relaxed about female crime at this time. The anxieties about prostitution, for example, which surfaced nationally in the wake of the Contagious Diseases Acts of the 1860s, seem to have abated, and the ease in societal concerns about drunkenness had a clear, unambiguous impact on levels of prosecutions of women for public order offences.

Although Godfrey has demonstrated through oral histories that actual levels of violence did not at this time necessarily fall as much as recorded levels indicate, statistically female prosecutions for violent offences in Stafford dropped significantly between 1880 and 1900.⁵⁰ This was a period that the police were taking over the prosecution process from civilians, but prosecutions for common assault where there was a female perpetrator were rarely brought by the police.⁵¹ In Stafford between 1880 and 1900, nine out of ten of the prosecutions for violent offences in which there was a female defendant, the complainant and the person who issued the summons was the victim of the assault.⁵² Often there was a cross-summons, which arose when women accused each other of assault during a fight. Of all the prosecutions on which Stafford magistrates adjudicated between 1880 and 1900 where there was a female defendant, these cases that also had a female complainant and involved violence were the least successful in securing a guilty verdict – 37 per cent were found not guilty. In many cases, there was often a mass of conflicting and low-quality evidence, competing parties with a cross-prosecution taking place and a lack of 'independent' evidence from the police. Although those prosecutions are not in themselves usual, they do have some noteworthy characteristics. Common assault by women was being perpetrated largely by middle-aged fiery, feisty working-class women, who used the courts to defend their reputation and families, and these same women were in turn using the court to settle disputes and to

⁴⁸ Royle, *Modern Britain*, 347.

⁴⁹ Woods, 'Community Violence', 197.

⁵⁰ Godfrey, 'Counting and Accounting for the Decline in Non-Lethal Violence'.

⁵¹ Godfrey, 'Changing Prosecution Practices', 171–89.

⁵² Turner, 'Offending Women in Stafford'; Turner, 'Summary Justice for Women', 55–77.

exact revenge on people (usually other women) deemed to have insulted them. These prosecutions were being brought privately in a period that the police were taking over the prosecution process⁵³ – the police were not unduly bothered by women assault or women who insulted one another.⁵⁴ So women themselves were being left to seek justice for themselves. However, these prosecutions, and this justice being sought, were often to no avail – a significant proportion of the prosecutions were either dismissed or the defendant was found not guilty. Also, magistrates like the police were not unduly concerned about female ‘uncivilised’ behaviour. Sometimes this did not matter, as those female complainants had at least had the satisfaction of showing their nemeses that they would not take such slights, insults or assaults without fighting back. They had obtained public apologies or compensation for attacks on their characters as well as their bodies.

Thus, it can be argued that, similar to how the courts were used in the preceding century,⁵⁵ and as Davis has already shown, summary courts continued to be an essential element in community relations in the late nineteenth and early twentieth century and a site of arbitration and compensation rather than a criminal process.⁵⁶ It seems as if in cases of common assault some compensation or humiliation was what was sought. Many women even if found guilty were only ordered to pay costs or maybe a small fine. Occasionally they may have found themselves in prison for a few days. Ordinary people then, particularly women, were still accessing the courts at this time even though they may not have been successful. In the public forum of the Petty Sessions, in which grievances could be settled and wrongs righted, and where non-lethal incidences of violence perpetrated by women could be resolved, women were allowed some agency and ownership of their behaviour. They were not disproportionately prosecuted by male criminal justice agents but were being brought to court by other women – those they did not see eye to eye with.

Late Victorian English women’s marital, child-bearing and educational experiences, together with the limited range of employment opportunities open to them, channelled the majority of them into

⁵³ Godfrey, ‘Changing Prosecution Practices’, 171–89.

⁵⁴ Godfrey, Farrall and Karstedt, ‘Explaining Gendered Sentencing Patterns’, 696–720; Turner, ‘Summary Justice for Women’, 55–77.

⁵⁵ King, *Crime, Justice and Discretion in England*; Gray, ‘The Regulation of Violence in the Metropolis’.

⁵⁶ Davis, ‘A Poor Man’s System of Justice’, 309–35; Davis, ‘Prosecutions and their Context’, 397–426.

substantially different life courses than those of men. However, those restrictions did not prevent some women from offending. Female offenders in Stafford had a late entry into and (generally) shallow profile in criminality, but many had already formed significant relationships and were mothers before the onset of their offending. Many women were rowdy, raucous, drunk, swore and were sometimes violent. For the women of Stafford, childbearing and domestic ties did not preclude alcohol use and other types of offending. Conversely, neither did behaviour outside the law and alcohol use preclude engagement with conventional female roles like domestic chores and childcare. So some of the women of Stafford then were not strangers to Stafford's criminal justice system, and a few were very familiar with it. But, as mentioned earlier, the number of women who were defendants was decreasing, and this included those women who were in court for their part in, as defendant or as prosecutrix, neighbourhood disputes, whether those events resulted in a conviction or not. That the incidence of women involved in neighbourhood disputes as either defendant or prosecutrix did reduce around the turn of the twentieth century is certain, but what caused them to reduce is less clear. It is unlikely that circumstances remained the same, but women simply started to get along more amicably. What is more likely is that something changed or a few things changed that collectively reduced their incidence. One factor that may have had an influence is that, by the end of the nineteenth century, England had a publically funded police force across the country that was beginning to be more (but not totally) accepted and drawn on for help by the populace.⁵⁷ For example, it might have been that women (or men) called the local policeman to resolve a dispute before it turned violent, rather than either allow the dispute to turn violent or get involved in the dispute themselves in an attempt to dissolve it. Finally, it may well have been simply that as Stafford Corporation built new social housing, known colloquially as 'council housing', in the Broad Eye area of Stafford in 1901, old tenement buildings were knocked down and replaced by new, spacious houses with gardens. In being re-housed, old neighbours no longer lived next door to each other, washing lines did not have to be shared, each house would have its own water closet (toilet), albeit still one in a shed at the bottom of the garden – generally communal living was replaced with separate housing that no longer brought women into conflict with

⁵⁷ Tennant, 'New Police'.

each other. Old enmities may have continued but having one's own house to return to meant that sharing of space and face-to-face conflict was replaced by women turning inwards and, instead of fighting or calling each other names, simply closing the door. Prosaic reasons, therefore, may have been why some females 'vanished' from the criminal statistics at the turn of the twentieth century.

Part II

Prosecution and Punishment

