Gender and Petty Violence in London, 1680-1720

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Although the female victims of rape often met with more sympathy outside the courts than within them, as the previous chapter has shown, other female assault victims had more success in both spheres. Pregnant women and battered wives who prosecuted assault by binding over their attackers made use of cultural and medical ideas of the appropriate conduct due wives and expectant mothers. Pregnant women were far better able to elicit sympathy and gain satisfaction before the courts than assault plaintiffs with other physical vulnerabilities. Similarly, battered wives had more success than many previous histories of domestic violence have allowed.

Early-eighteenth-century medical opinion still had great difficulty in diagnosing pregnancy with certainty. In the first trimester, doctors and midwives relied almost entirely upon the word of the woman herself as to whether or not she was pregnant. The first section will show that women benefited from this medical uncertainty, along with the scientific view that pregnant women’s cravings and fears must be taken seriously in order to avoid injury to the developing fetus.

As we shall see, battered wives also took advantage of extralegal attitudes condemning almost all husbandly violence as inappropriate. These female prosecutors even went to Justices of the Peace with tales of their husbands’ adultery, and a recognizance was issued even though adultery was not a crime under the common law. Acknowledging that recognizances are a mediated source, constructed through a complex and varied process of communication
between the prosecuting victim and the JP, this chapter illustrates that recognizances are a prism through which we can see their contemporary society.

Generally, historians have seen the state's involvement in defining motherhood and wifehood in a very negative light. This chapter will alter this negative picture somewhat by showing that wives and mothers were sometimes able to benefit from their status in their interactions with the state. The latter, personified by the Westminster JPs, gave them sympathy as assault victims and granted their complaints legitimacy by binding over their attackers. We will see that, as assault victims, battered wives and pregnant women were empowered.

From 1685 to 1720 the Westminster JPs took eighty-seven recognizances for assault where the victim's pregnancy was specifically noted. These recognizances were fairly evenly spaced throughout the period and were taken by many different justices. As a percentage of the total Westminster recognizances for assaults upon women in this period—more than three thousand—those mentioning pregnancy are minimal. There were probably far more women of childbearing years assaulted in this group, and probably more than eighty-seven were pregnant at the time of the assault. However, almost no other recognizances list any aggravating circumstances in an assault. Only nine other cases mention victims having some sort of condition that increased the severity of the attack. All nine specify the victim's youth or old age, describing them as “infant,” “child,” “minor,” “old,” or even, in one case, “auncient”; and unlike those for expectant mothers, these recognizances do not go on specifically to relate this unique quality in the victim to the damage sustained by the assault. Gabriel Thomas, for example, was bound to appear “for violently assaulting and bruising Eliz Foster an auncient woman,” while Timothy Corker’s recognizance for assaulting Elizabeth Smith reads “she being great with child whereby she is dangerously ill.” Clearly, a victim’s pregnancy was given more attention by the Westminster court, and perhaps by society in general, than age or infirmity.

As assault prosecutors, these women were empowered; by stressing their identity as mothers, they strengthened the case against their assailant. Again, we can see these prosecutors as participants in the self-fashioning perceived by English literary scholars for the early modern period. By fashioning themselves as wronged mothers, these women could take advantage of a widespread cultural awareness of childbearing. Pronatalism was a key part of empire building in England. Assault prosecutors knew that they were acting...
at a time when a large population was one of the central criteria for determining the health of a nation. These pregnant assault victims knew that they had special value in society, and this reinforced their claims of victimhood.

This type of assault was designated a special crime in several JPs’ handbooks, but the JPs’ opinions diverged as to its severity. Giles Jacob stated, “If a Man happen to beat a Woman big with Child, and the Child when born hath Signs and Bruises in his Body, receiv’d by the Battery, and afterwards the Child dies; this is Murder in him that beat the Woman.” Richard Burn’s *Justice of the Peace and Parish Officer*—a classic magistrates’ manual, variations of which were used in the eighteenth and nineteenth centuries—digressed from this view. In a section on bastardy Burn wrote that “if a woman be quick or great with child . . . [and] if a man strike her, whereby the child within her is killed, tho’ it be a great crime, yet it is not murder nor manslaughter by the law of England.”

Joseph Keble instructed JPs that “to hurt a Woman great with-child, whereby the Child either dieth within her body, or shortly after that she is delivered of it . . . will not wrap a man within the danger of” being charged with “Man-slaughter.” Thus, although an assault on a pregnant woman was not always a felony, it was a significant crime, and many Westminster JPs took note of a victim’s pregnancy.

While many of the women listed in the recognizances were “bigg with child” (visibly pregnant), some women prosecuting assaults would not have had their condition immediately noticed by the justice. In several cases, the agency had to have been the women’s because the information would not have shown up in the recognizance unless they had volunteered it. For example, in 1701 Margaret Steward bound William Smith to appear in court for “assaulting & frightning of her & threatning to throw her downe staires whereby she hath miscarried of a child wherewith she was about two months gone.” At two months, pregnancy was a very personal experience, which most women determined only by two months’ absence of menstruation. At such an early stage even physicians had to rely on the woman’s self-diagnosis. Apart from the cessation of menstruation, early-eighteenth-century doctors could determine a pregnancy only by a woman’s enlarged abdomen and breasts or actual fetal movement, none of which would be apparent in the first two months. In fact, we cannot even be sure that Margaret Steward was indeed pregnant, but her recognizance shows that she had successfully convinced the JP, and her prosecution was strengthened by having this factor included.

It is more difficult to see empowerment in the charge brought by Mrs. Williams against her husband in 1708, yet by prosecuting him at all, she was showing some agency. The recognizance says that he had “many times assaulted, beat and bruised her, whereby she has several times miscarried.”
Williams convinced the JP that her husband had a long history of appalling violence, so at this stage, the record of her many miscarriages could only increase her ability to gain satisfaction for her husband’s abuse. While a large belly may attest to pregnancy without the expectant mother saying a word, women like Steward and Williams had to speak before justices would know of a miscarriage after two months or a past history of miscarriages.

Women could also gain advantage from contemporary medical views of the fragility of childbearing women, even while they themselves internalized them. The good mother took care of her baby long before the birth. She had to control her very thoughts, making sure to be “cheerful; for this doth exhilarate the infant,” and, at all costs, to avoid “anger, troubles of the mind, affrights and terrors.” Pregnant women were subject to bizarre cravings, and this could affect their babies. According to Levinius Lemnius, if an expectant mother “by chance fasten her eyes upon any object, and imprint that in her mind, the child commonly doth represent that in the outward parts.” Nicholas Culpeper echoed this, saying that a child’s harelip “is well known to be [caused by] the mother in the time of her conception being affrighted either with sudden starting of an Hare or Coney, or by losing her longing to eat a piece of such a creature.” The serious effects of prenatal diet were widely accepted in medical circles and in society as a whole. William Gouge advised husbands to “procure for their wives to the utmost of their power and ability, such things as may save their longing” because grave danger would befall “both . . . mother and child” if the former was denied her cravings: “the death sometimes of the one, sometimes of the other, sometimes of both hath followed thereupon.”

Women themselves used these perceptions to their benefit before the courts. In 1726 Mary Howard went before the Surrey Assize officials and claimed to have stolen a shoulder and breast of mutton because “she was big with child and long’d for the meat.” Significantly, she alluded to popular bewilderment about the whims that came with pregnancy by saying that “it would not have done her half so much good if it had been given to her, as if she had stole it.” Regardless of whether Mary Howard’s plea succeeded, the fact that she attempted to garner sympathy by playing upon the conceptions of the importance of the mother’s needs to the developing infant is very interesting. Pregnant women were regarded as both valuable and fragile by eighteenth-century society, and they used that perception to their own ends.

That they did so is visible in the Westminster assault recognizances. Mary Wakemen bound James Johnson to good behavior for “disturbing her and appearing before her house in a white sheet in the night time and frightening hir thereby that she miscarried.” Francis Nevil brought William Swift
before a JP because Swift had made “a disturbance . . . at his house at an undue time of night and threaten[ed] Judith his wife thereby putting her in Bodily Fear she being pregnant with child.”20 Frightening a pregnant woman was supposed to have very dire consequences for her developing fetus.21 As virtuous mothers, Nevvil and Wakemen experienced only mental anguish from those they accused, yet acting within the prescribed cultural and medical norms of the eighteenth century, they sought satisfaction for the physical harm these harrowing experiences may have inflicted upon their babies.

Paradoxically, while women were physically weakened by being pregnant, they were strengthened as assault prosecutors if they had had a miscarriage. One French doctor recognized this power and complained that certain women claimed a false pregnancy in order to take advantage of it:

women, who having been ill treated, send for the chirurgeon that he may give them a certificate, the better to be revenged on their adversary; which that they may the easier obtain, they also affirm themselves with child, and having received blows on their belly, feign they feel great pain, and if by chance they have at that time their courses, they endeavour to persuade it is a flooding . . . , wherefore he must be careful not to be deceived.22

In the French context an assault upon a pregnant woman that caused her to miscarry brought the death penalty if the child had been quick, and a fine if the fetus had not developed to that point.23 At least one literary example suggests that English women faked pregnancies and miscarriages as well. John Dunton’s moralizing tale of a woman’s descent into sin recounted her plan to extort money from her lover by pretending to be pregnant:

I thought it now high time to feign myself with child, and therefore I would ever anon pretend I had qualms come over my stomach, and if I did eat anything, I sometimes made a shift to vomit it up again; then I would complain I had lost my taste, and that all sweet things seemed bitter to me, and at length would eat nothing but what was extraordinarily rare and dainty; and when I pretended to Long, which was done now and then, there must be sure it was not for common things. These things made him firmly conclude I was with child, and his belief having been confirmed by . . . a Doctor of Physic whom he consulted for that End. . . . When I thought I had got a sufficiency of both Goods and Money, I caused my Mother . . . to tell him . . . that I had . . . fallen down almost a whole pair of Stairs, and that thereupon I had Miscarried.24
This account strikingly illustrates the way in which a woman could make use of the mysteries surrounding the diagnosis of pregnancy and its bizarre cravings for her own ends. Clearly, early modern women could find empowerment before the courts in the guise of a wounded mother.

Some angered mothers laid their case before the justices by emphasizing their alleged assailant’s knowledge of their pregnancy to compound his or her offense. Elizabeth Jones’s recognizance against Thomas Biby carefully lists his cruelties. She accused him of “assaulting her, in throwing a pint pot of drink upon her, striking her several times, & kicking her in the belly, knowing her to be with child.”25 Jane Johnson said that Joseph Hicks “threatned to make an example of her she being bigg with Child,” and Dorothy Lumby accused Amy McCarty of “threatning to Murther the child she goeth w[i]th all.”26 Elizabeth Jury must have convinced her JP that Timothy Parrish had “swore he would stamp the Bastard out of her Belly.”27 Jury, a married woman, probably told the justice about Parrish’s threat in order to strengthen her assault prosecution. As an assault prosecutor, she could claim that Parrish had hurt her physically and damaged her reputation as well. As prosecutors of assault, early-eighteenth-century women could take advantage of cultural and medical opinions of pregnancy to fashion themselves as very special victims before the court and command its sympathy and protection.

Although few have previously written about the extra sympathy accorded pregnant assault victims, many historians have written about women assaulted by their husbands. These previous histories of domestic violence have made use of the richer depositions in church court records at the expense of recognizances. The binding-over method of prosecution “was almost certainly available only for very serious cases” of domestic assault, they argue.28 As we shall see, however, recognizances were generated for even relatively mundane forms of spousal assault. This may seem surprising, because on the surface recognizances did not appear to offer much in the way of punishment.29

Husbands bound for assault and forced to pay a fee to Quarter Sessions officials would probably have been more, rather than less, hostile to the wives whose prosecution caused this inconvenience. Furthermore, these angry husbands walked the London streets with relative freedom, especially as the recognizance’s stipulation to “keep the peace” or “be of good behaviour” toward the complainant may have been only rarely effectively enforced.30 Yet Westminster wives came out in relatively high numbers to see that their husbands received the “slap on the wrist” constituted by a recognizance. Simply
put, these women must have felt that recognizances would make the violence stop, and by convincing JPs to bind over their husbands, these Westminster wives were empowered.

Over the thirty-five years between 1685 and 1720, the Westminster JPs bound 154 husbands for “assault” on the complaint of their wives, and an additional sixteen for “beating,” two for simply “threatening” violence, and four to “keep the peace unto” their wives. Though perhaps not dramatically greater in volume than the evidence base of previous historians of domestic assault, these recognizances, in sheer numbers of cases, dwarf the research upon which past work has been based. Recognizances were probably the most popular weapon of prosecution among abused wives in this period. It seems reasonable to suppose that none of these 176 women would have approached a JP to bind over their husbands if they felt the abuse would escalate as a result. There may well have been a substantial number of wives who were unable to prosecute for this very reason, whose identities we shall never know, but the significant portion of women who did come forward reveal some instances of spousal violence where remedy was actively sought and possible in the courts.

Similar to pregnant women prosecuting assault, the descriptions that appear on the recognizances for wife beating bear evidence of both the victims’ and the recording officials’ voices. Many of the statements are likely the result of direct questions from JPs, fueled by knowledge of the law and general public attitudes surrounding appropriate husbandly chastisement. As the recorder, the presiding justice (or his clerk) had the most obvious influence over the exact words that found their way into the record. Complainants, nevertheless, had some ability to influence the narrative—in the ways that they answered the questions or the information that they volunteered—bringing their own knowledge of public—and even legal—attitudes to domestic violence into the process. The detail of the recognizance binding a husband for “thrusting his caine into [his wife’s] Belly, then stricking her on the nose with the said caine wch made [it] . . . bleed & also striking on her arme, that she thought it was broke” could have come only from the complainant’s own knowledge of her injuries. We can see similar agency in Jane Watson’s reappearance before the law in 1698 to encourage Justice James Dewy to bind constable William Nichols “for refusing to Execute a warrant signed by three Justices of the peace, for the taking the husband of Jane Watson for barbarously . . . beating” her.

Extreme characterizations of violence or barbarity occur in much higher proportions for assaults by husbands than they do for assault recognizances as a whole over the period. As Hunt, Foyster, and Amussen have argued,
husbands could physically correct their wives in early modern England, but they were constrained within certain widely understood bounds. Thus, Dorothy Williams had her husband bound for swearing he would “murder her,” and her testimony must have convinced the JP to add that the man had “already stab’d at her with a knife against her side, which by reason of her stays did not enter but broke in two pieces.” The extensive history provided by Elizabeth Steel also convinced a JP to bind her husband for “assaulting her . . . with a mopstaff & a pair of Bellows that she is therewith made black & blew & her flesh much bruised wth other barbarous usage she receives of him & in the 15th instant [five days before, he] miserably beat her wth an oaken stick which has put her in fear he will take away her life.”

These descriptions resonate with the law that allowed a wife to prosecute her husband if he “outrageously beat her” or at least gave her “notorious cause to fear it.” Husbands were allowed to prosecute their wives, presumably under any circumstances, but wives—according to the letter of the law—were expected to accept a certain amount of physical correction from their husbands. The above examples show that wives nevertheless assertively deemed some “physical correction” to be unacceptable, and the recognizances prove that the JPs allowed them to prosecute.

Even more significant than the bloody tales that found their way into recognizances for wife assault is the equal number of recognizances where wives do not appear to have been beaten excessively. The law allowed JPs to take seriously the complaint of “the Wife if she be threatened to be killed, or” if she had been “outrageously chastised by her Husband,” even without any evidence of physical violence. Seventy-six recognizances use no evaluative terminology, describing the offense only as “assaulting” or “assaulting, beating and bruising,” similar to the words used for any run-of-the-mill assault recognizance. An obvious assumption might be that these recognizances were written by lazier JPs, who simply recorded every assault recognizance in the briefest way possible and thus, unsurprisingly, failed to distinguish domestic assault from any other. However, of the seventy-six recognizances with no evaluative terminology, sixty (79 percent) were issued by JPs with a history of using both graphic and standard descriptions in recognizances against husbands, so they probably really were more run-of-the-mill assaults.

“Assault,” according to the justicing handbooks, could range from full-on physical attacks to acts as minor as aggressive talk. The assailant did not actually have to come into direct physical contact with the victim, nor did the victim have to be injured in any way. With the potential for relatively mild acts to be labeled assaults, the standard terminology in these spousal assault recognizances becomes interesting. In a section entitled “In what cases assaults...
may be justified,” some JPs’ handbooks (though, interestingly, not all) guaranteed the husband’s right to correct his wife “in a reasonable and proper manner,” but many recognizances binding husbands for assaulting wives bear no description to indicate that the husband had, in fact, gone beyond what was “reasonable and proper.” Indeed, these recognizances look no different from those for regular assaults between individuals where no physical damage needed to be present at all. In half of the complaints brought to Westminster justices by wives against their husbands, neither the wives nor the court appears to have needed the wide range of derogatory terms available to indicate excessive violence.

Many of these cases were similar to that of Thomas Beard, who was bound by his wife for “assaulting and beating of her,” or that of Thomas Pigings, charged to answer his wife simply “for an assault.” In some recognizances extreme violence had not yet occurred but was only threatened or feared as probable in the future. Jane Radford said that her husband had “threaten[ed] her life,” and Thomas Graham had to answer his wife in the next Quarter Sessions for “treatning to cutt off[f] her nose.” In accordance with the legal definition of assault, if a wife even suspected that her husband’s violence might reach unacceptable levels, she could prosecute him. Clearly, some of the women of Augustan London did so, and the violence of which they complained did not always have to be characterized as outrageous. As assault victims, these Westminster wives were more empowered than historians such as Amussen and Hunt have suggested.

Both the pregnant woman and the battered wife who were prosecuting assault were particularly empowered by the court’s obligation to protect them. Good husbands, according to the early modern conduct literature, were expected to “be a tower of defence to protect” their wives and children from outside harm. When a husband failed in that duty by correcting his wife too harshly, or when someone else committed a crime against his wife and unborn baby, the courts had to step in and assume the role of the protective patriarch. Courtroom decoration, such as that in the Thetford Guildhall, reminded the presiding officials to “plead the cause of the poor and needy”—those, such as assault victims of “the weaker sex,” who required a champion. In a society where men were cast as women’s protectors, female assault victims had special, unwritten rights in the eyes of the male Justice of the Peace, which enabled them to convince him to issue a recognizance against their attacker.
Pregnant women prosecuting assaults could take advantage of the English legal tradition that granted special protections to unborn children. Unlike any other crime, those accused of infanticide were presumed guilty until proven innocent, as an attempt to deter people from taking babies’ lives. Pregnant women who had been convicted of a capital offense were granted a reprieve until the birth of their baby, and reports abounded of women getting pregnant to try to evade an execution sentence. Misson’s travel guide alluded to “a set of wags [in the prison] that . . . are diligent to inform [condemned women] the very moment they come in, that if they are not with child already, they must go to work immediately to be so . . . and so perhaps save their lives.” In the French context, historian Stephanie Brown has even argued that condemned women who used the déclarations de grossesse (declarations of pregnancy) were empowered because they could then at least “construct the circumstances of their own death and its remembrance.” The courts went to great ends to protect fetuses, and pregnancy sometimes granted women special advantages within the English legal system.

Unlike the investigations of pleas of the belly or infanticide, the pregnant women in the Westminster recognizances were victims rather than offenders. Coming to the court as a needy victim seeking retribution instead of a transgressor desiring mercy, the assault prosecutor “bigg with child” was even more powerful. The dozens of pregnant women who prosecuted assault left records of the danger that such attacks posed to both their own health and the health of their babies. Miscarriages were known to be caused by “any blow received on the Belly,” and medical opinion held that women who were forced to miscarry could become barren as a result. This special group of assault victims drew upon these extra vulnerabilities to gain the courts’ sympathy. In one example outside the eighty-seven in our study, Katherine Winter’s recognizance for assault added that the offense had occurred “after fourteen Days lying in by which she reced much damage.” Her baby had been born and was presumably healthy, and the only person of concern to the courts here was Winter herself. We should not, of course, lose sight of the fact that pregnancy really was traumatic and weakening for women’s bodies and that the tales of pain and suffering that these women brought to Westminster JPs were probably very real. What makes their cases empowering is that no other group of assault victims with equally real vulnerabilities (such as the very old or very young, the sick or the infirm) received such consideration from JPs for their special circumstances. The English legal system had a very specific concern for the reproductive health of women, which could work to the latter’s advantage.

The same is true for battered wives. Although servants were in a similar position of vulnerability to “correction” from the master of the household,
wives received more sympathy than servants from Westminster JPs. Of fifty-one recognizances brought by servants and apprentices against their masters for assault between 1685 and 1720, 61 percent used run-of-the-mill language to characterize the violence. This might seem to suggest that servants enjoyed even more judicial sympathy, because they did not have to show that the physical correction had been “extreme.” However, unlike wives, the majority of servants prosecuting relatively minor forms of assault also had to stress their employers’ simultaneous violation of contractual obligations. In other words, servants’ claims of abuse probably did not receive as much judicial attention as their claims of loss of wages or training. While public and legal condemnation of wife beating arguably increased with the approach of the industrial age, a recent study of the law of master and servant by Douglas Hay revealed a growing tendency to favor the employer through the eighteenth and into the nineteenth century. As prosecutors of relatively commonplace forms of assault, women beaten by their husbands had more power than servants beaten by their employers. Clearly, these women benefited from JPs’ desire to protect battered wives and expectant mothers more than any other group of assault victims.

Although they represented themselves as weak yet valued females, these women were simultaneously able to argue that other women could be powerful and menacing antagonists. Twenty-seven pregnant women accused female, rather than male, assailants. This is not as high as the proportion of women assaulting other women in regular assaults, but it suggests that pregnancy did not always unite women. The cultural ideals of appropriate motherhood, though gendered, were held by both men and women and were used by women against one another as well as against men. When pregnant women were successful in persuading a JP to bind another woman over for assaulting them, they were defining themselves as wronged and their maternity as legitimate. In this way, pregnancy could be empowering for women.

In certain recognizances, battered wives were also able to define their enemies and co-opt the courts into defining their husbands as passive pawns. In eleven recognizances these wives convinced the justices that their husbands’ new lovers had caused the violence. Justice James Butler had a recognizance drawn up on the complaint of Margaret Gross against her husband which stated that he was “deluded and seduced . . . from his family” by Elizabeth Pickering. Several recognizances that charged a husband with assaulting his wife specifically mention his adultery. Adultery per se was not a common law offense, and thus its inclusion in domestic assault recognizances is another example of the triumph of cultural over purely legal concerns. Wives vehemently pursued their husbands’ lovers and imbued these rival women
with a danger that surpassed that posed by their husbands, often professing themselves to be “in fear” of these women. We might be tempted to think that wives prosecuted rival women only because they had a better chance of being believed. However, the greater number of recognizances against husbands suggests that wives had little trouble convincing the Westminster JPs that their husbands had illegitimately attacked them. Instead, wives made use of the cultural distaste for adultery and brought these tales to JPs when they genuinely believed in these women’s guilt over that of their husbands.

Some of these recognizances used terminology that completely reduced the husband’s power, simultaneously making the rival female appear even more powerful and conniving. Anne Atkins had to answer Dorothy Pressick for “assaulting her . . . & stricking her severall Blowes” but also for “Delewding her Husband to Keep Company with her.” Even when the violence came directly from the husband, he was not always the one prosecuted. Elizabeth Gaudott was bound for “persuading” Ann Heydon’s husband to beat her “in a Barbarous manner,” and Sarah Roach for “causeing” Mary Ross’s husband “to assault beate and bruise her.” Ellinor Kaliff was also said to have been “making a difference between” Dorcas Young and her husband “& causeing him to assault, beat and abuse her” along with “Insulting and abuseing her” herself. These prosecutions present an interesting gender reversal in which the husband was the passive object who was fought for and was perceived by his wife (and her sympathetic JP) to have been manipulated. That so many more recognizances exist against the husbands themselves, however, casts doubt on the assumption that wives, or the courts, or both, bought into the image of fallen women as evil seducers or simply sought to preserve the marriage by deflecting blame from the real culprit, the husband. Indeed, in some of these cases at least, wives genuinely believed that the lovers had caused the abuse, and they made use of the courts’ contempt for adultery to reinforce their prosecution.

To speak of empowerment for women who were victims of assault may seem somewhat perverse. Beneath the vague statements preserved in the recognizances listing the complaints of expectant mothers and wives, there was undoubtedly often excruciating physical pain, emotional agony at the loss of a child, or fear of a husband’s unceasing abuse. Nevertheless, historians are left with only the records of the suits they brought in protest—and these provide evidence of empowerment. These records of female prosecution present an image of femininity not often portrayed by historians. These women went
before the Westminster justices with tales of victimhood, and they were sufficiently believed to generate a record of prosecution. Wives and mothers, together with the JPs, created a record of contemporary judicial and cultural attitudes toward very specific aspects of eighteenth-century femininity.

The latitude in the recognizances indicates that both the Justices of the Peace and the victims who came before them brought extralegal considerations to their suit, revealing the prevalence of social and judicial attitudes that were fairly sympathetic to mothers and wives. Justices recorded victims’ pregnancies in assaults, although legal handbooks were vague on exactly what sort of crime these types of assaults constituted, and wives were able to secure recognizances against their husbands for even minor assaults. In both cases the JPs were taking the role of protective patriarch, but the women used this to their advantage, stressing their fragility as childbearers or their weakness as wives. Their prosecutions were reinforced by contemporary medical views on prenatal care, and by eighteenth-century cultural views on the physical and sexual conduct appropriate for a married man.

These women constitute a unique category of female victims. As we have seen in chapter 3, rape victims were not nearly as empowered. These pregnant women and battered wives themselves served to disempower other women by accusing them of assault. However, when battered women secured a JP’s cooperation in issuing a recognizance against their husband’s lover for beating them, they succeeded in emasculating their husbands, depicting them as mere pawns of their female lovers. Pregnant women and battered wives prosecuting assault were not opposing contemporary attitudes to appropriate feminine behavior, yet by stressing their own special identity as mothers or their vulnerability as wives, they were able to gain a narrow margin of power before the courts.