Rape in Chicago: Race, Myth, and the Courts. By Dawn Rae Flood (book review)

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The deceptively simple title of Dawn Rae Flood’s monograph belies its analytical complexity. Her close reading of appellate court transcripts in mid-twentieth century Chicago demonstrates the intricate interplay between collectively held beliefs about rape and the formal requirements of the criminal justice system, revealing the “ways in which language and the seemingly neutral rules of the court engendered profound power relations.” (p.13) Flood also looks at challenges to the system launched by accusers, defendants, legal officials, civil rights activists, and second-wave feminists, and the significant changes they provoked. The criminal prosecution of rape evolved very slowly, from its common law roots protecting men’s rights to women’s virtue into a means for adjudicating equal claims to justice by the accuser and the accused. This interesting study will interest scholars and students across a broad range of disciplines.

In 1937 Chicago established a new “sex bureau” in the state’s attorney’s office as well as a special “sex-homicide” division within the city’s police department. Both offices were created in response to pressures from a public anxious about escalating sexual violence in the city. Women were becoming an ever-larger proportion of the labor force, and as they entered the public arena they “displayed an expectation of the protections accorded American citizens,” reporting incidents of rape to authorities, who took such reports seriously; investigations and arrests for rape grew much faster than did Chicago’s population in this period. (pp. 25-26) Rape prosecutions were difficult ordeals for the accuser. Convictions required persuading a court of two things, that the victim’s vagina had been penetrated by the perpetrator’s penis and that she had actively resisted the act. She faced medical examinations alone and was required to pay for the procedures herself. Her testimony had to establish both her credibility as a “virtuous” woman who would not have welcomed the sexual act and that she had done her best to resist her attacker. Such testimony, therefore, must correspond to collective cultural myths about rape and also satisfy the requirements of the law. Despite these significant hurdles, women did come forward. Flood observes that accusers “occupied various socioeconomic positions, held diverse religious faiths, were both black and white, and were married, divorced, single, childless, or mothers.” (p.46)

Data from Chicago demonstrate that most rapes involved perpetrators and victims of the same race. Police arrested black and white men in similar numbers despite the fact that African Americans represented only 11 percent of the city’s population, suggesting a distinctly racialized element in Chicago’s policing of sexual violence. Although defense attorneys regularly impeached the character of black women who brought charges of rape, Flood notes that African American women “successfully helped the State prosecute rape in approximately 40 percent of the convictions appealed during this period.” (p.51) In highly segregated Chicago, prosecutors often argued that merely being seen in a white neighborhood implied a black defendants’ guilt. When convicted of rape, black men received significantly harsher sentences than did white defendants. Glaring racial disparities in the criminal justice system came under intense scrutiny nationwide with the emergence of the civil rights movement in the 1950s, and much of the attention
justifiably focused on Chicago. In the 1960s the Warren Court’s expansive interpretations of the rights of the accused changed the conduct of rape prosecutions. As a result, Flood argues, defense attorneys employed more aggressive tactics, using accusers’ sexual histories to attack their credibility in court. Paternalistic protections for female victims were largely a thing of the past, but women’s rights to justice as equal citizens were not yet fully respected. In the 1970s, however, such harsh treatment provoked a public backlash, energized and publicized by second-wave feminists that ultimately transformed the system of laws, procedures, and policies involved in the investigation and prosecution of rape in order to establish a new balance that respected the rights of women seeking justice in the courts. Despite significant progress, however, the collective myth of rape still exerts influence, some ramifications of which Flood examines in a conclusion focusing on several recent cases.

*Rape in Chicago* is embedded in, but not fully integrated with, a broader history of the city. Similarly, Flood draws upon national developments to explain changes in the Chicago story without consistently drawing clear connections between the two narratives. These are minor points, however, which I offer to suggest promising avenues for further research rather than serious flaws in this meticulously researched and well written study.