

RE-PRESENTING NARRATIVES OF RAPE: EXAMINING CONSTRUCTIONS OF THE
VICTIM, VOICE AND FEMINISM UNDER RAPE LAW REFORM

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The following faculty members have examined the final copy of this thesis for form and content, and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Arts with a major in English.

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ABSTRACT

The research and critical readings in this study attempt to comment on changing constructions of the victim, voice and consent in popular representations of rape post rape law reform. The study draws on a wealth of research in film, gender studies, literature, the law and sociology pointing to changing representations and mindsets after rape law reform and feminism. The early feminist emphasis on women's stories and the telling of victim's narratives has led to a cultural climate which naturalizes the telling of the victim's story and justifies representations of "real narratives." This study seeks to examine the impact new emphasis has had on cultural representations of rape and the extent to which this emphasis reflects or influences issues of consent post the rape law reform. Chapter 1 examines the "silence" surrounding rape in popular representations before rape law reform and the effect such silence had on narrative structures. Chapter 2 begins with an overview of consent and victim's narratives post rape law reform and continues by completing close readings of two films key to representations of feminism and rape law reform in popular culture: *The Accused* and *Thelma & Louise*. The readings closely analyze the role victims' narration of rape plays in the structure and progression of each film.

It is concluded that rape is both a complicated and saturated concept in popular culture. Also, there is a stark difference between rape narratives inside and outside the law: victims outside the law resist the re-telling of their stories on a number of levels or completely, while narratives inside the law are generally structured to emphasize and naturalize the victim's re-telling while replicating the legal burden on the victim's story. This study also concludes that the majority of rape narratives are rendered apolitical because they generally advocate listening to or identifying with the victim's narrative as the solution to rape within the narrative.

PREFACE

Feminism is no longer an academic arena that can blindly praise its founders. Between charges of racism, heterosexism and classism, many of feminism's early goals and gains have been besmirched because of the movement's essentializing ways; however, I think it is important when doing any "post-" study that the author recognize the benefit of hind site. It is not my goal in this study to downplay the gains of the feminist movement in the 1970s and 1980s, and it is not my goal to discredit the works of Brownmiller or the other authors I discuss. However, we live in a world where rape not only exists but is still a rampant, vastly underreported and vastly unaddressed problem. For the sake of individuals who have been and will be affected by this violation, critics and feminists are forced to ask a broad and difficult question: What went wrong? As a literature and film scholar, I will be examining this question from the side of popular representations of rape and feminism. I have attempted to bring in other schools of research (legal, sociological, etc.) where needed, but the focus of this study is feminism and popular culture.

When I began this study, I had every intention of "leaving feminism out of it." The term itself is so charged that placing it in the middle of a critical study means a confrontation of history, theory and ideology. Especially in the context of a postmodern study that attempts to comment on constructions of "the real," conceptions of feminism quickly become tangled and problematic. As I continued my research, however, I found that talking about rape post rape law reform is simply impossible without involving a feminist discourse. To put it simply, constructions of feminism and rape have become inseparable in popular culture. As studies have pointed out, rape as a filmic and television trope largely works to express anxieties regarding feminism and new constructions of woman post feminism. Seeking to understand the cultural

production of meaning around rape, however, cannot be done without simultaneously recognizing the ways feminist ideologies are constructed via representations of rape or the way representations of rape have been constructed via a feminist discourse. It is only through a recognition and interrogation of this exchange that stereotypes regarding rape and victimization can be understood and broken down and America's ineffective rape laws can be rendered effectual.

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Chapter 1

Introduction

In November 2009, a CBS News investigation of 24 cities and states revealed that twenty-thousand rape kits in the United States were never processed and six thousand from active investigations waited months and even years to be tested. CBS reported that rape kits waited up to six months to be processed in Rhode Island, Alabama and Kentucky; four years in Alaska and eight years in Louisiana. Because of the uproar caused by the report, the statistics eventually climbed; in 2010, half a million rape kits were found to have been unprocessed because of both lack of funding and crime lab backlog. Although Congress had dedicated \$755 million to eliminating the backlog of rape kits in 2003, a firestorm much fiercer than the original Congressional debate followed. Local news stations picked up the story, many following up the research with their own, local, investigative reports. An episode of *Law and Order: Special Victims Unit* echoed the outrage found throughout the American media, and in May 2010, Congress held a hearing over the scandal.ⁱ

A rape survivor from the CBS report testified to her experience at the Congressional hearing: her rape kit was never tested because there was alcohol involved in her assault. Had this hearing been held in the 1970s or 1980s, a well known feminist or legal scholar (Betty Friedan, Susan Estrich, etc.) would have supplemented the woman's narrative with further advocacy. Directly after this 2010 narrative, however, Mariska Hargitay, better known to American television viewers as Detective Olivia Benson from the series *Law and Order: Special Victims Unit*, testified as the hearing's rape victim advocate: she had been so moved by her experiences through the television show and with fans that she had begun her own non-profit for victims of rape, and she now acts as a public, vocal advocate for rape victims.

Pop culture has become such an important platform in American culture that its intersections with what some may consider “more serious topics,” such as rape law reform and the status of rape victims, can be found in headlines across the country. As the example of Mariska Hargitay demonstrates, the line between representations of the “real” in popular culture and what we perceive to be actual reality has disappeared in postmodern culture. Further, in some cases the pop culture representations of feminism and rape law have replaced the “real” concepts: feminism and rape law are only discussed insofar as the media is able to exploit them for sensationalism (Horeck 115) or revise them for theatrical depictions (*Rape on Trial* 86; Kitzinger 74). While this is true of the media in general, the emphasis on the telling of the female rape victim’s story has, under the guise of feminist proponents, been perpetuated in mass by the media and in popular representations of rape narratives.

The feminist movement first harnessed the power of the victim’s story during Speak Out events beginning in the early 1970s, before the first inklings of legislative rape law reform had occurred in the feminist movement.ⁱⁱ This call for a focus on the “woman’s narrative” and the “victim’s story” was echoed throughout feminist texts, from *In A Different Voice* to *Silencing the Self* (Lamb 127-128). This contention was also fed by the feminist movement’s argument that the woman’s experience of sex oppression from rape is universal. Susan Brownmiller argued in her 1975 landmark book *Against Our Will: Men Women and Rape* that rape is a weapon used by “all men against all women” (5) and that men benefit from the psychological effects of “rape culture.” These arguments seem logically sound: in order to counter a patriarchal discourse that values the man’s voice and silences the woman’s experience under oppression, women’s voices must be “un-silenced.” But as many contemporary critics have pointed out, these early feminist arguments played a part in the streamlining, essentializing and depoliticizing of the female

victim's voice. The majority of this problem, however, has often been perpetuated by popular translations of feminism into the media. Brownmiller, for example, did not argue there should be a "single story" nor did feminist discourse build extreme stereotypes for victimization, but, as both the legal and sociological research will show, these conversations have contributed to current issues regarding the narrativity and stereotyping of rape.

The call for women to speak out against their abuses under patriarchy did lead to wider awareness regarding sexual violence and abuse, but it also had an unforeseen effect: it reversed the taboo regarding representations of rape (and other gendered oppression) and instead called for laying bare such issues (Lamb 129; *Rape on Primetime* 17). Overt representations and explicit retellings of rape exploded in television and cinema after the push in the 1970s to recognize the victim's voice. As Sharon Lamb notes in her study of the new victim construct, the idea that these representations of women's stories fight the objectification and stereotyping of women and victims has been denied in popular culture: "Feminism lost its power to suggest interpretations of abuse to the American public as soon as the media seized on the victimization of women and girls as a popular subject" (110). The media has simply normalized and streamlined conceptions of victimization (Bumiller 16-19) and "made the act of disclosing appear 'natural' for women" (Lamb 131). Further, early feminist contentions that rape is a universal experience for women led to the search for an "authentic" voice to replace the rape myths constructed under patriarchy, but this concept of the authentic victim's story or voice has led to further stereotypes and scripts for the victim (Lamb 129; Bumiller 18-19).

The emphasis on the need for narratives to raise awareness and present the truth of the matter also led to the justification for narratives to represent "real stories." Lisa Cuklanz has pointed to the ability for these movies to focus the political issues of the case into an issue-

oriented movie with maximum political impact (*Rape on Trial* 83); however, in the mass representation of these “stories,” individual voices have lost an impact and instead been streamlined into stereotypical narratives (Lamb 129; Bumiller 16-19; Taslitz 10). Further, such “real” accounts are generally recapitulated for maximum shock value (Horeck 91-116), and only those stories involving sensationalistic elements (serial rapists, public rape, violent rape or stranger rape) are generally chosen for such representations (Lamb 131). This has led to a new way of conceptualizing rape that robs the story of political impact by focusing on the rape victim’s or rapist’s pathology rather than the gender politics underlying rape (Lamb 132) and universalizes the experience of rape, in turn constructing new barriers to dissolving the power imbalance between men and women (McElroy 24).

The early feminist emphasis on women’s stories and the telling of victim’s narratives has led to a cultural climate which naturalizes the telling of the victim’s story. While this is not a new contention in feminist or rape literature, this study seeks to examine the impact new emphasis has had on cultural representations of rape and the extent to which this emphasis reflects or influences issues of “consent” post the rape law reforms of the 1970s and 1980s. My examination will detail close readings of key texts before and after rape law reform in order to detail this changing representation. Section 1 will begin with an analysis Shakespeare’s *The Rape of Lucrece* and the silencing of the victim in the classical trope, even when the author arguably attempts to write a “voice” for the victim. This section will also detail depictions of rape in America before rape law reform, paying particular attention to the effect of the Production Codes on the trope of rape in cinema. My concern in this section will specifically be the narrative methods utilized in the silencing of the act and the survivor’s story, but also the effect this silencing has on the ambiguity of the act itself. Section 2 will examine texts at the center of rape

law reform and feminist discourse: *The Accused* and *Thelma & Louise*. Central to this discussion is an understanding of the legal concept of consent and the status of these films in pop culture, and this background will preface the critical readings. Section 2 will also concern the change to the narrativity of the victim's story following rape law reform. Specifically, I will argue that a brand of "feminist utopian" film worked to rewrite the rape script in the mainstream, but in doing so created a film structure that is driven forward through increasingly detailed accounts or acknowledgements of the woman's story. While these types of films have worked as a pat on the back for individuals who agree with their surface representations, because of their target audiences, these films have also actively constructed popular versions of feminism and rape law reform.

This study will add to a wealth of criticism on the subject of representations of rape, but it will differ in its close examination and reading of textual and filmic material. Many other studies have focused specifically on the way popular media portrays rape (Horeck; Cuklanz), while some have completed broad studies of numerous representations of rape covering key time periods (Cuklanz; Projkansy; Read). These surveys have drawn a number of important conclusions regarding feminism (Read), rape law reform (Cuklanz), rape as public spectacle (Horeck) and the naturalization of rape via media representations (Projansky), but few include close readings of film or texts depicting rape. Horeck and Read both give ample space to their examinations of *The Accused* and *Thelma & Louise*, but most of this discussion is based around the film's impact on culture and not the on the films themselves. My goal is to closely examine the structure of the rape trope in a few key texts and track the changes of rape law reform on the perceived voice of the victim. As Hayden White contends, studying shifts in tropes over tumultuous periods can track changes in social perception: in order for the narrative to gain

traction it must have an audience (164-66). Therefore, a change in the rape trope signals a shift in the way the American public thinks about rape.

My argument is “post-feminist” in time period only. Critics such as Projansky point to post-feminism as depoliticizing issues previously highlighted by feminism, but this only seems to be true of mainstream representations of post-feminism which tend to downplay gains made by the movement and perpetuate stereotypes. My study is much more concerned with structuralism and the ways in which mainstream films project or construct ideologies and the new idea of the “victim” than it is with locating a correct ideology. Because of this, however, my study becomes a mixture of voices from literature, the law, film, feminism, post-feminism and sociology. The voices I have used to build this cohesive interpretation are discordant at times and because of space I cover some subjects without a full history of concepts (the conversation regarding feminist rape discourse in the 1970s and 1980s, for example, could make a book in and of itself). Some may view my argument as one built on the basics social construction, but I contend that my argument has an even more stable footing because of the evidence from the legal field. In its investigation, prosecution and punishment, rape has been proven to be a particularly unstable concept. Narratives and stereotypes regarding rape and survivors of rape permeate the crime at every level, from the investigation of the crime to its punishment (LaFree 239; Taslitz 10; McMillan 276; Kitzinger 79). Specifically, Andrew Taslitz argues that the legal standards post rape law reform, although made to weigh the story of the victim and accused equally, still place too much weight on the stereotypical narrative elements of the woman’s story. He also contends that juries on rape trials, more so than any other type of jury, are influenced by cultural stories about the crime and its victims (15-43). Taslitz concludes that the legal standards post reform have not succeeded due to the burden on the woman’s narrative within the

courtroom: if the woman cannot show that she fits the stereotypical understanding of a rape victim (not desiring of sex, conservatively dressed and sober) or if she was not involved in a violent rape or a stranger rape, a rape conviction is hard to come by (39-40). Taslitz points out the goal of rape law reform was to place more trust in the woman's story, to eliminate standards of corroboration; however, Taslitz contends, because rape juries are driven by cultural narratives, either 1) legal standards allowing the victim more rights and "voice" in the courtroom are required or 2) productive cultural narratives to help eliminate stereotypes surrounding women and rape are needed (152-5).

This unique stress place on the women's story in cases of rape can also be seen in legal theory studying the narrativity of the law. Peter Brooks from U.C. Davis has pioneered the study of narrativity in the legal realm and the courtroom and he continually uses the example of rape to explain his thesis regarding the legal system. The facts in the case are generally not in dispute: intercourse did occur, but the question is generally one of consent. As Brooks has repeatedly noted, the legal decision in these cases is generally one of story. The facts are the same on both sides but the prosecution tells a story of forcible rape while the defense tells a story of consensual sex. As Brooks notes, a quick glance at the majority and dissenting opinions on a single appellate case prove his point. From reading the diverging decisions and the narrative points in the judges' decisions, one can generally see the different stereotypes and cultural narratives a judge is working from. Brooks works from these assumptions regarding the narrativity of law to help his law students construct believable stories for the courtroom, but helping the rape victim to retell her story in a way that is believable and will fit the social script in such a way that the weight placed on her story does not lose her case or deny her allegations is next to impossible in many cases (Taslitz 154-155).

While Brooks does not note that the narrative cards in the case of rape are generally stacked against the victim, many sociological studies have fully investigated this fact. Many studies have found that police officers are driven by assumed narratives in their questioning and decision to investigate (LaFree 240) and often work on piecing the woman's story together in a cohesive manner when deciding whether to investigate allegations rather than look at the evidence (McMillan 276; Okeefe et. al. 248). These same stereotypes also influence prosecutors when deciding how or if to pursue a particular case (Spohn et. al. 163) and influence juries and judges when deciding the cases (La Free 240; Taslitz 154; Brooks). Most mainstream representations of rape mirror the legal system's burden on the woman's story: those women who remain "inside the law" to pursue justice detail their stories many times in the course of the film or episode. Strangely, however, these representations are then recycled back into the legal system: because of the rape narrative's stress on its mimetic status, these films work to shape the public's perception of the legal system while actively constructing narratives on which claims regarding rape and rape law are then made.ⁱⁱⁱ It is particularly important in post-feminist America that we understand the ways certain constructs within cultural narratives push the law forward or retard it, and that we interrogate how narratives negotiate the gaps between a progressive but popular version of rape and a lagging judicial, conservative definition of rape.

The stakes here, to put it simply, are higher than social construction. Yes, narratives shape the way people see the world, but in the case of rape narratives, stories literally shape many stereotypes decision makers hold regarding rape victims, rapists and rape. My argument in this study is not that victim's stories should not be told but that we should move toward a more productive way of telling and representing such stories. Further, it is important to examine the "feminist" stories from the 1970s, 1980s and 1990s and the effect they have had on the failure of

rape law reform. Contemporary mainstream narratives perpetuate stereotypes about rape survivors, rapists, and rape itself (Sielke 7; Higgins et al 2; Bumiller 32;Kitzinger 87-88). Further, these narratives work to reinforce the myth of the universal rape and the authentic victim established by Brownmiller and they place undo pressure on the woman's story. Critics have argued that rape narratives naturalize rape (Projanksy; Horeck), but I believe that they naturalize the act of sharing the story as well and perpetuate the myth that women must "lay bare their experience" in order to come to terms with their violation. The narratives both reflect and feed the legal system's concept of consent and narrativity in the crime of rape.

Chapter 2

Disruptive Silence

Rape narratives are “almost always framed by a masculine perspective premised on the in men’s fantasies about female sexuality and their fears about false accusations, as well their codified access to women’s bodies” (Higgins et. al. 2). Because of this, traditional or classical rape narratives are forced to deal with the rape survivor various ways to silence her view without creating narrative disruption. To achieve this effect, the narrative must generally force silence on the woman in some way: through shame, murder, suicide, hysteria, sheer silence, lack of language or some other narrative technique, women were disallowed from telling their side of the story. This allows the narrative to use rape as a springboard for other plot turns. In the case of Leda, Rome is built on Zeus’ rape of the young woman. In Chaucer’s “The Tale of the Wife of Bath,” the rape of a nameless maiden occurs at the beginning of the story so the Arthurian knight can learn a lesson regarding female desire, but the violated young woman is not addressed again. In two of Shakespeare’s pieces, *Titus Andronicus* and “The Rape of Lucrece”, rape acts as the platform for the overthrow of monarchy. This location of rape as a justification for the larger plot structure mirrors legal requirements regarding the crime. Oftentimes the traditional legal requirements for the crime focused more on the tarnishing of property so rape became a crime against the man rather than his woman. Narratives feed on this idea by turning the story of rape into the story of the man’s revenge for the woman’s rape. This act of silencing the victim, however, often creates narrative inconsistencies and reveals the contradictions within the rape trope itself.

2.1 Silence in "The Rape of Lucrece"

"The Rape of Lucrece" is central to the rape trope culturally because of its classic form and the sheer status of its author but its seemingly progressive attempt to relay a woman's story also makes it appropriate for this investigation. While the story does end in the grips of revenge and the fall of Rome's monarchy as a result, Shakespeare's attempt to voice the effects of Lucrece's violation in her own words makes his retelling of the myth unique (Kahn 142). However, before the rape Lucrece has very little voice of her own. Within the first half of the poem, she does not speak but is instead an object to be constructed by the verbal skill of her husband and the passive object of Tarquin's gaze. Shakespeare's description of Lucrece from Tarquin's point of view is particularly telling. For almost three hundred lines, Tarquin lusts after Lucrece; during their initial meeting and while he stares at her sleeping, Tarquin is described as the only actor in the passages. Because of Lucrece's extreme passivity, the reader does not expect to hear her voice. Further, the majority of the description focuses on Tarquin's act of looking at Lucrece and describing her chastity and beauty, furthering her objectification.

Much of what makes Lucrece "rapeable" within the poem is her protected position as woman: women in ancient Rome were generally confined to their homes because of the high value the culture placed on chastity (Kahn 62). It is Tarquin's ability to gaze at Lucrece that allows his lust to grow, and the poem does note that she cannot discern the gaze as dangerous. In the first few stanzas, Lucrece's husband brags to Tarquin about his wife's beauty and chastity, and this causes Tarquin to leave the army camp to see the woman. When he meets Lucrece, the description of her appearance is unique; she is beautiful but her chastity both quells and enhances her physical qualities (57-63). Lucrece does nothing to "provoke" the attack on her, if a victim ever could. Instead, it is her ability to be desired and looked upon that is her downfall.

Her husband's ability to praise his wife as a trophy and then Tarquin's ability to see her as an object throughout the poem allows the plot to progress in the manner it does, and Shakespeare is very aware of Lucrece's to-be-looked-at-ness in his construction of her character and word choice. When Tarquin first sees Lucrece, eight stanzas describe his initial impression of her but only the first two are a detailed description. In the third stanza, the topic of the poem becomes the greatness of Lucrece's beauty, Tarquin's act of looking at Lucrece and Collatine's ability or inability to describe and construct the woman Tarquin is viewing. Tarquin is described as having a "traitor eye"(73), "still gazing eyes" (84), "stranger eyes" (99), "parling looks" (100), and "wanton sight" (104). Lucrece's extreme innocence also becomes complicit in this passage. Shakespeare notes that she cannot interpret Tarquin's gaze because she has never encountered a "stranger's gaze" in the past. This creates the double-edged sword of chastity: if a woman is unchaste she invites rape because she is "asking for it", but if she is too chaste she will not understand the danger that men pose.

Tarquin details the reasons for the rape and struggles with the possible consequences of his actions in a solitary state for over three hundred lines before Lucrece again enters the poem. It is only when he has explained his intentions, half way through the poem, she is given a voice within the poem to speak her objections, but her language is objectified before she can speak it. Before Lucrece's dialogue, there are two stanzas that describe the manner in which she speaks them:

Her pity-pleading eyes are sadly fixed
In the remorseless wrinkles of his face;
Her modest eloquence with sighs is mixed,
Which to her oratory adds more grace.

She puts the period often from his place,
And midst the sentence so her accent breaks
That twice she doth begin ere once she speaks. (61-7)

The emphasis on the sound of her voice and the effect of excessive pauses and false starts objectify Lucrece's status as victim to the same extent that her physical description does. Further, this description would make Lucrece's language sound unsure, when the content of her pleading is quite direct and to the point. The language itself does not imply a break without the added punctuation. She begins, "My husband is thy friend— for his sake spare me; / Thyself art mighty— for thine own sake leave me; / Myself a weakling— do not ensnare me..." (582-4). From these opening points she goes on to appeal to his sympathy (586-7), his legacy (603-9), and his sense of honor (617-23). She also, however, challenges him. In one instance she even asks if the man is only an imposter and challenges his identity: "In Tarquin's likeness I did entertain thee; / Hast thou put on his shape to do him shame?" (596-7). She also notes challenges to his authority or ability to rule if he has committed such a crime (524-30). Her speech is anything but broken or ambiguous: she is laconic and blunt. Even though she is afraid, as evidenced by the description of her speech, she is stern enough to rationalize and then express a number of ideas to Tarquin in a grounded and cohesive manner. Shakespeare's description of her language as broken and unsure is simply not reflected in her content: the woman written in these passages is logical and to the point. Unfortunately, Tarquin has already examined most of these consequences while gazing on Lucrece, and he is not moved.

As Coppelia Khan notes, "Being raped does grant Lucrece a voice—the voice of the victim" (152). While Lucrece's words are stern and poignant as she pleads with Tarquin in the first passages where she is given voice in the poem, her speech becomes much more verbose and wandering as she ponders the consequences of her victimization. Kahn argues Shakespeare attempts to construct Lucrece as a character that is "not totally tuned into the key of Roman chastity and patriarchal marriage" (143). Although Kahn contends Shakespeare's goal, to some

degree, was to write his way out of ascribed gender roles, Kahn argues that Shakespeare eventually writes himself back into these power relationships. By constructing Lucrece's laments through universalities and platitudes the poem denies her individual act of violation and, in turn, make excuses for her rapist. The universalities Kahn notes, "But no perfection is absolute / That some impurity doth not pollute" (853-4) and "The sweets we wish to turn to loathed sours / Even in the moment that we call them ours" (867-8) couches the rape in natural terms and does seem to excuse the act. Even more troubling, Lucrece sees herself as complicit in the act because of her "yielding" (1036), but this is simply not what happened according to the poem: she did resist Tarquin's attempts until he threatened to rape her and then kill a slave and place the body with her so that Tarquin would appear innocent and Lucrece tarnished (Kahn 154).

Although Lucrece is given a voice within the poem, it is the voice of victimization, as Kahn notes, and it does not allow any focus on what happened to Lucrece during the rape. Even when she tries to express her laments, she does so in universalities and cannot name her attacker or her husband. Lucrece is not silenced but Shakespeare's poem works as an example of how charged female language can become within a rape narrative and how a patriarchal view of rape functions in narrative. As Kahn notes, many of the failures in the poem are reflective of patriarchy's failures: Lucrece's voice is not genuine because no genuine voice exists for her under the gender politics of the poem. If Shakespeare had indeed written a genuine voice for Lucrece, it would have challenged the gender power relations of his day in a very political manner.

But Lucrece's story is only the preface to a larger tale: Lucrece's rape becomes the justification for killing Tarquin and the platform for the overthrow of Rome's monarchy. In this way, the reader is allowed solace for the poem's brutal events: at least something good came of

the whole thing. As Sabine Sielke has noted in her examination of rape in American literature and as Horeck has noted, this silencing of the rape by the act of righteous vengeance has allowed rape as a trope to become expressive of a number of troubling power relations over the years, including race, class and nation. In the Antebellum South for example, representations of African American men as rapists and white men as avenging white women's rapes proliferated as a tool of institutional racism (Sielke 33-36). Sielke notes that these mainstream narratives are also used to rewrite the truth of rape and race relations: in reality, it was African American women who were regularly raped by white men both before and after slavery without recourse (3). It may seem like a random chain in some ways to link Shakespeare, American film and nineteenth century southern literature, but the construct of rape and the sexual politics of this construct changed little in the centuries spanning these disparate works.

“Legal and social attitudes about the necessary characteristics of rapists and rape victims, as well as characterizations of the crime itself, were remarkably stable from the mid-seventeenth century until the early 1970s” (*Rape on Trial* 17). As Cuklanz goes on to note, many of the ideas surrounding rape grew out of patriarchal concepts of women as property, and as such many of the narratives involving rape quickly turn to focus on the victim (the property holder) rather than the property. In this way, until what Cuklanz calls the “publication explosion” regarding rape that occurred in 1975, many rape narratives silence the victim to turn the story to a male-centered structure. This idea of rape as a male-centered crime is foreign to contemporary audiences, but this concept was also held close to the heart of the justice system for generations.

Male-centered views of rape can also be attributed to older rape laws and traditional views of the crime: laws were generally written to protect men when accused of rape, not protect women from being raped (McGregor 21). Before rape law reform, many states legally required

jury instructions to warn of rape's seriousness as a charge against the accused and also of the propensity for women to accuse men who were not guilty. As Joan McGregor notes in her study of consent, the stereotype of women falsely accusing men of rape was held close to the heart of the judicial system for centuries. Glanville Williams, a leading twentieth century Welsh jurist who is also highly regarded in the American legal system, wrote in 1963, "There is a sound reason for it [the instructions to the jury], because these cases are particularly subject to the danger of deliberately false charges, resulting from sexual neurosis, phantasy, jealousy, spite, or simply a girl's refusal to admit that she had consented to an act for which she is now ashamed" (qtd. in McGregor 31). The traditional male-centeredness of the crime is apparent from both its narrative depictions and legal requirements before rape law reform.

While rape functions as a contradictory discourse with Shakespeare's poem and causes narrative discontinuity, the trope's simultaneous absence and cultural over-saturation create issues for a number of different narratives. For example, Projansky argues that there are relationships between a woman's vulnerability in films before the 1970s and rape, but these narrative strategies often work in opposite ways. Rape is used at times to punish a woman because she is too independent, thus making her more vulnerable, but at other times rape is used as a narrative strategy to draw attention to the pitfalls of a woman being too passive or vulnerable, such as Lucrece. Her study examines a much larger group of films than most, and her conclusion regarding rape within cinema is quite startling to some degree: rape is not only central to a history of cinema but many films "*depend*" on rape as a narrative device to both drive and justify action. In this way, rape has become a trope that involves intersections of race, gender, class and nation (*Elusive* 82).

2.2 Enforced Silence: The Production Codes

Rape's centrality to film and plot structure would not be so problematic if it had been represented overtly, but as Projansky and others have noted, the contradiction of rape's centrality and simultaneous absence have created unique problems within the trope. Projansky asserts that the Production Codes of the 1930s and 1940s helped to construct many of the rape scripts and metaphors we still rely on today, but these arise from the silence forced on the subject of rape by the codes. Further, Projansky contends that while instances of explicit rape did rise after the formal Production Codes were eliminated, rape has been employed as a narrative device in cinema since its inception. Formally, however, the production codes stated representations of rape and seduction, "should never be more than suggested, only when essential for the plot, and even then never shown by explicit method. They are never the proper subject for comedy.' Thus, rather than eliminating depictions of rape altogether, the code prescribed certain narrational strategies" (*Elusive* 64). This elimination of overt rape from cinema led to its representation through uses of filmic metaphor, but even before the enforcement of the codes, self-regulation of production companies generally led to few direct representations of rape on-screen before the 1970s (*Elusive* 64). Many times the mention of the act itself or the use of the word "rape" was very limited, so the silencing of the woman's story on some level can be understood as a result of this. However, the ways in which filmic representations, production codes and the cultural climate surrounding rape influenced each other were far from singular. The silence that often surrounded the issue as a result of these intersections was at the heart of the feminist movement's call to reform rape laws and the way society views rape. In an attempt to understand the effect of rape reform on popular representations of rape, I will proceed by investigating some of the most glaring silences or language problems encountered in these films.

Often times this silence that surrounds the act is so powerful within the film that the rape itself remains in a state of confusion. Orson Welles' *Touch of Evil* (1958) is an example of the narrative absences created by rape before 1970. The production company removed the only scene implying rape because it was too explicit, but even the restored version available on DVD leaves a glaring gap around the act both linguistically and structurally. When the blonde, feisty, newly wed, Susie (Janet Leigh) is hoisted into the air by a teenage gang from a Mexican border town, the camera shows a close-up on a female gang member commenting she would like to watch. The door on the hotel room then closes, and the next scene shows Susan's husband, the lawyer Mike Vargas (Charlton Heston), searching for her desperately around their hotel. When Mike asks the hotel manager what happened in their room, the man responds, "a brawl." When Mike asks what kind of brawl it was, if there was a fight, the manager responds, "It was some kind of brawl!" and quickly runs off. When the camera again shows Susan, the female gang member from earlier tells her uncle that they blew "smoke" [the narrative implies marijuana smoke] on Susan to make her "think something happened."

After Susan wakes up and runs hysterically, half naked through the border town streets, the next time she is shown Susan is as silent as her experience in the narrative. The feisty blonde that earlier in the movie had gone freely to meet a crime boss threatening her husband and stood up to gang members in her hotel, cowers in the convertible as her new husband speeds off after having avenged her. But avenged what, exactly? The restored hotel scene leaves the viewer assuming rape, but the female gang member's words rewrite this assumption: they wanted to make her think "something" happened. Within the context of this narrative, that "something" becomes deeply confusing. They have also attempted to frame Susan for murder and set her up to look like a druggie that cheats on her husband. Does the murder refer to the "something" she

is supposed to think happened or did both the murder and the rape not occur? When the production company cut the hotel scene that implied rape, Welles wrote a memo to the production company explaining how central that scene and others were to the film, and demanding a re-edit.^{iv} If this is the case, Welles may have thought the audience would not understand the cowering Susan in the convertible unless they understood her as a rape victim.

The other issue that makes this narrative problematic is its overt goal to breakdown racial stereotypes and the counteracting of this goal by the rape's ambiguity. Although Susan is kidnapped by a gang of Mexican youths, the actual mastermind behind most of the heinous events is the white police chief of the town who is racist and works to perpetuate a racist structure within the town. The narrative repeatedly shows how the police force works from racial stereotypes, and the hero, Mike, is working to expose and counteract these deep-seeded issues within the town. However, the narrative's inability to articulate the rape or non-rape leaves a glaring hole in this clear thematic concern within the narrative. The picture of the Mexican gang and Susan are left incomplete and ineffective to some degree, and this sentiment is echoed in reviews.^v This film became one of Welles' least successful films and quickly fell by the wayside in American popular culture. The film's overt silence regarding the rape also shifts the rape narrative from the place of the woman to the place of the man. Rather than Susan telling the story of what happened to her, and, although a major character in the first part of the film, she is silenced and left out of the picture altogether in the last thirty minutes of the film except her silent cameo in the car. In this way, the film becomes the story of Mike avenging his injured wife because Susan is rendered silent or absent by the trope.

The silencing in the rape in *Johnny Belinda* (1948) is less confusing because Belinda is not rendered silent by her rape but is mute throughout the film. Unlike Susan's quick shift from outgoing, independent and outspoken to silent and helpless, Belinda cannot speak throughout the narrative. In some ways Susan's experience points to the dangers of independence, but Belinda's experience points to what happens when a woman is overly vulnerable and cannot take care of herself, much like the example of Lucrece. While these narratives express the contradiction Projansky observes in structures of women's vulnerability and representations of rape, the women's narratives are both silenced. Belinda cannot tell her story because she cannot speak, but the plot of the film details her triumphant struggle for communication. The beginning of the film tracks Belinda's progress from a woman who has little ability to communicate through learning sign language with the new village doctor and into a woman who can communicate with her family and friends and take part in social activities. The rape, however, occurs after Belinda can communicate. The act is symbolized in a traditional manner, with a closeup showing Belinda cowering in fear and then a shadow encroaching on her horrified face. Once her father discovers Belinda is pregnant and wants to speak with her about the rape through sign language, the doctor advises the family to leave the issue alone "for Belinda's sake." But Belinda's inability to speak out about her rape, even when she is on trial for murder, appears extreme when the movie takes such pains to document her education.

Through Belinda's lack of speech, the film seems to have become the story of someone else by default, but in many ways *Johnny Belinda* speaks to the danger of female/male relationships outside of marriage because of the sexual connotations of such relationships. In this case, Dr. Robertson strikes up a relationship with Belinda to teach her sign language, but when she becomes pregnant the town believes Dr. Robertson has taken advantage of her. Even though

Belinda's story will clear his name, Dr. Robertson couches her narrative as dangerous to her psyche, so his denial of her story both makes him a hero and turns the film from a story of a woman's struggle with disability, language and rape into a narrative struggle to clear Dr. Robertson's name without forcing Belinda to relive the horrors of her rape. Read contends in her analysis of the film that Dr. Robertson is Belinda's interpreter and this is why he is able to take over the storyline (85), but this is not entirely true. Dr. Robertson does not interpret Belinda's story but instead silences it so the film can become a story of his heroism for Belinda's "own good."

In the end, Belinda murders her rapist when he attempts to take their child, and the truth of the rape is blurted out by the rapist's wife during the courtroom scene—yet another example of a woman unable to control her story. Rape in *Johnny Belinda* works as a narrative device to express the danger female/male relationships pose outside a heterosexual relationship: in the end, although the doctor's name is cleared, his reputation in the town has been scarred. The solution for Belinda and Dr. Robertson's reputations is the same as they walk out of the courtroom and toward a future together, in marital bliss. Like the silent Susan, Belinda is quickly subsumed into a productive heterosexual relationship and whisked away from danger (in this case the accusing and gossipy town) in the end of the film. However, it is only through Dr. Robertson's silencing of Belinda and his shouldering of her burden that the truth is finally revealed at the film's conclusion, not through his ability as interpreter as Read contends. The issue of narrating rape becomes much more confusing as the Production Codes are lifted and representations of rape become widely governed by directorial and production decisions. As Projansky notes, even after the lifting of the codes, many times rape was not overtly represented or talked about within film because of directorial or production decisions (*Elusive* 28). One of the first films to broach the

subject of rape under the Production Codes was Otto Preminger's *Anatomy of a Murder* (1958). As Jacinda Read notes, this film was a watershed not only because it overtly discussed the topic of rape but because it did not attempt to represent the rape. The film begins with the trial of a young army Lieutenant on trial for the murder of his wife's alleged rapist. Read notes that this film was also groundbreaking in that it challenged the stereotypes of rape survivors as chaste and reserved and it also discussed issues surrounding acquaintance rape (89-90). The film additionally broaches the topic of rape in speech in a number of different ways, especially in the context of the courtroom.

The issue of narrativity in rape becomes much more apparent when the narrative is brought under the scrutiny of the courtroom scene. While the film does gain some comedic value from its courtroom discussions, the critical implications of its "funny little language debates" cannot be denied. When the potential rape is introduced into the murder court, language confusion ensues. After pondering over its admissibility, the judge asks the attorneys in a private conference if there is any other word than "panties" to describe the piece of evidence in question. In a truly obscure fashion, the attorneys and judge discuss their lack of vocabulary for the object and finally conclude that the term "panties" must indeed be used at this point in the courtroom and it will continue to be used throughout the case. Although the "panties" were ripped off the rape survivor during her violent attack, the judge announces to the open court room, full of spectators from the public, that the word "panties" is about to be used and everyone should get their laughs out before it used in a more serious context. The audience is shown laughing over the judge's use of the word and the laughter slowly dies down as he explains the seriousness of the case, but the word causes more giggles and comic relief throughout the film.

While the film does gain comedic value from this discussion, Preminger also broaches an important point in his narrative: there is a definite language discrepancy between popular conceptions of femininity and legal language. Simply put, feminine language is not “serious” enough to be portrayed in a court of law without an initial explanation of its seriousness. The film’s consciousness of its linguistic and narrative problems, and its ability to traverse these gaps in language and social constructs of femininity expresses the problem of the rape trope as the sexuality of women became less taboo in the 1960s. While the experience of rape had often been silenced from the perspective of the woman, the crime was so laden with social meaning and yet an absence of concrete representation that the crime had almost been lost in a romanticizing of the trope. The shift of the story to the woman’s point of view, however, has arguably placed undo stress on her narrative of violation. Films such as *The Accused* attempt to traverse the problem of the undervalued woman’s story, but it is my argument that these narrative structures have been turned against rape survivors because they construct such clean and linear stories in which the survivor must retell her story until every fact is laid bare, or else suffer the narrative consequences of silence, as in the case of *Thelma and Louise*. This becomes particularly problematic because, in many ways, the overt representation of rape is new in our culture, and our recognition of a woman’s importance and narrative are also quite new, relative to other narrative representations. Within the past twenty years, our culture has become steeped in the trope, with rape routinely represented on television and in film. This explosion of overt representations and exponential rise in the attention to the survivor’s story forces a question that we can only explore but one that we must undertake: are these narratives culturally productive or are they moving us backward?

Chapter 3

The Voice of Reform

To obtain the goal of legitimizing the victim's story in court, feminist activists sought to eliminate corroboration, force and resistance requirements.^{vi} Post rape law reform, television and filmic representations of rape began to reflect changing judicial and popular definitions. As Lisa Cuklanz notes in her studies on rape in American television, the trope of rape has become increasingly female centered and less dependent on stereotypes (*Rape On Trial*). However, this call for women's narratives has also led to an explosion of representations of rape in popular culture, and many of these operate under the guise of a progressive ideology because of perceived efforts to tell the story of the victim, but such representations also capitalize from this retelling are labeled feminist because the film centers on the woman's story. In this section I will examine two films released post-rape law reform that attempt to comment on reform efforts and also capitalized from their associations with a feminist ideology: *The Accused* and *Thelma & Louise*.

While much analysis has been done over rape narratives, especially the rape revenge film since rape law reforms, no studies closely analyze the stark distinction drawn between those rape survivors who seek revenge through the law and those who seek revenge on their own, or outside the law. Those women who seek justice within the law are subject to the retelling of their story throughout the film until the legal facts of her case have been justified. For the outlaw survivor, however, the narrative can be resisted on certain levels or completely. The 1970s saw an explosion in sexploitation rape revenge films, but the negotiation of the feminist ideology and rape law reform saw representations of survivor-based, rape narratives both inside and outside the law (Read 6). In her study of mimetic rape representations and courtroom coverage, Lisa

Cuklanz showers praise on those popular films and movies of the week that depict actual crimes of rape; she notes that most of these films manage to “focus” the plot so the controversial issues are examined and a progressive view wins out (*Rape on Trial* 46).

My question in this study is what is the price of this examination? It is true that many women feel the need to talk about their attacks to find closure, but the emphasis the majority of rape narratives inside the law place on the woman’s story does not lack implication. This filmic strategy often places undo pressure on the need to express the woman’s story, repeating or referencing the act countless times until the narrative has been completely reformulated by the end of the film. As Lamb notes, these representations are likely to mirror the talk show formula where women find an authentic voice through which they are freed from self-blame and self-loathing (129). Lamb’s analysis continues by claiming that this type of narrative fails to challenge the status quo or lead to social change because it becomes part of an individual pathology rather than a larger social problem (129-131). This effect has implications for the both the stereotype of “victim” and the reaction of the audience because it causes the plot strategy to subsume the audiences’ reactions into an apolitical state on a smaller scale while functioning to reflect and feed the American justice system on a larger scale.

3.1 Feminism, Rape Reform and Consent

One of the major goals of the rape law reform movement was to strengthen and clarify standards of legal consent, and reformers partially accomplished this goal by eliminating exceptions for relationships that imply a certain level of consent.^{vii} This generally meant that personal relationships, such as marriage, dating or acquaintanceship, did not constitute implied consent; however, an examination of state rape laws reveal that almost half of states have separate statutes pertaining to marriage and many to dating relationships that require more

evidence of force or more corroborating evidence than is needed in stranger rape (Posner 5-6). The burden of proving non-consent is considered an element of the crime in most states (the sole exception being Michigan), so much of the case rests on the survivor's ability to convey both 1) her method of non-consent and 2) the harm she has endured (Caringella 15). Unfortunately, consent is one of the least concrete legal standards in the American judicial system (McGregor 18). While some state statutes attempt to spell out the standard to some degree, standards of consent have been shown to vary between courtrooms or even between different cases in the same courtroom (Carginella 103-105; McGregor 116-118). Because of consent standards, the justice system is a different place for rape survivors than the victims of any other crime.

Rape requires a higher level of narrativity from the victim than any other crime (Taslitz

4). As feminist jurisprudence scholar Pineau notes in her analysis of date rape,

A woman on a casual date with a virtual stranger has almost no chance of bringing a complaint of sexual assault before the courts. One reason for this is the prevailing criterion for consent. According to this criterion, consent is implied unless some emphatic episodic sign of resistance occurred and its occurrence can be established. But if no episodic act occurred, or if it did occur and the defendant claims that it didn't, or if the defendant threatened the plaintiff and won't admit it in court, it is almost impossible to find any evidence that would support the plaintiff's word against the defendant. (4)

As Pineau notes throughout her analysis, the shroud of silence surrounding rape and seduction culturally has complicated the topic legally. Further, these standards have led to undue legal pressure on the women's story during a rape investigation. Whereas gathering the evidence and some details from the testimony would be key while investigating the crime, the officer's concentration on the details and narrative level of the survivor's story are often unneeded and deny justice. Officers have even been shown to often concentrate on piecing together a linear narrative from the victim before pursuing other more concrete evidence (McMillan 276). Studies have also shown that the police force is not immune to accepting rape myths or acting on

stereotypes when deciding whether or not to pursue a case (Berger 17-20; Dellinger; Bohner 37). Studies also conclude that prosecutors will also fail to prosecute if the survivor's testimony does not fit a socially prescribed script for rape (LaFree 240).

Younger women widely accept a more progressive script for rape, including instances where women do not clearly say "no" or where the woman is dating the rapist, according to an interview based study (Chasteen 39). Further, many studies point to the effects cultural narratives have on this new acceptance and also on new stereotypes regarding rape victims (Taslitz 4; Lamb 127; Phillips 166-169). As Lamb notes in her study of victimization, if a woman is unwilling to come forward with her story and capitulate it in terms that verify the truth-value of the victim stereotype, culturally the woman has no access to the label "victim" (129). Lynn Phillips continues this analysis into the personal sphere by concluding that women have a difficult time labeling themselves as "victims" and their rapes as crimes because the accounts represented in social scripts are so extreme. Feminism has, in the end, had little power over the portrayal or message of feminist ideology in the media, and many of its messages have been rewritten in the extreme or even misrepresented (Lamb 125). Phillips notes the dominant representations of both conservative and feminist discourse defines victims as lacking control and autonomy, hence individual women often have a difficult time labeling their own experiences as victimization because they do not see their experiences as making them completely powerless or forever damaged (157-160). This stereotype can also be linked to muddled conceptions of consent. Under traditional rape laws, non-consent meant that a woman physically resisted to the utmost (McGregor 41-45) but the elimination of corroboration requirements redefined the concept. This elimination was needed, but little has been done in the legal arena to clarify these concepts or rewrite stereotypes of resistance^{viii}.

The Accused and *Thelma & Louise* have been considered so groundbreaking in their popular representations of rape because they attempt to rewrite prescribed and widely accepted scripts for rape: both films go to great lengths to dislocate concepts of female desire from legal concepts of consent. McGregor contends that much legal confusion surrounding consent arises from the confusion of desire for consent, but she also notes the importance of putting these ambiguous notions to rest because of consent's ability to remove autonomy. Consent is a unique level of personal approval, higher than acceptance or permission, and allows the person who has been given consent to follow through with whatever the consent pertains to. McGregor uses the concept of medical consent because it allows the doctor to encroach upon the patient's personal autonomy but only to the degree the doctor and patient have decided upon (127). In the same way, a person might consent to a sadomasochistic act even though the actions consented to might generally fall under assault. McGregor notes that because consent requires the relinquishing of personal autonomy, equating consent and desire is a mistake but is also dangerous.

Equating consent and desire mean that a court can interpret a woman's actions as showing a desire for intercourse, even if she says "no." McGregor also notes that legal consent generally rests on two principles: desire and performativity. McGregor argues that performativity is a more reliable form for understanding consent because it contextualizes the sex whereas dialogue, feelings or supposed desires can ignore the context of the encounter (119). However, the level of performativity required to convey non-consent or consent is very rare under the current state of sexual affairs (McGregor 127). Pineau offers an explication of this same issue: the language (verbal or otherwise) of seduction and sex is so ambiguous and sedate in the context of the sexual encounter that the line between seduction and rape is culturally blurred (3). The need to narrate the event, then, becomes a function of both legal and cultural norms.

Thelma & Louise and *The Accused* work to rewrite constructions of rape and consent on the surface of their narratives, but they also capitalize on the link between rape law reform and feminism, and they consciously work to write a popular form of feminist ideology in response to their target audiences. *Thelma & Louise* was hotly debated because critics could not decide if its brand of feminism was acceptable, but as Projansky notes in her discussion of the film's reviews, popular reviewers quickly accepted the film as feminist (*Watching* 141). The brand of "feminism" sold in the female buddy film, however, depicts a feminist stereotype politicized by the far right: a violent, male-hating, anarchistic, masculine outlaw (Read 115-118). Further, *The Accused* critically functioned to mirror a popular debate among schools of feminism because of its inclusion of an extended and realistic rape scene. The film's publicists worked to emphasize and capitalize from this link between itself and the hot debate over feminism in the early 1990s (Read 115-117). The critical debate that ensued drew on the feminist debate surrounding pornography and rape, but, as Read notes, the language and arguments of reviewers generally depoliticized the feminist content (104-111).

Even without an examination of popular reviews, the involvement of the films' structures in popularized feminist issues is obvious. The female lawyer in *The Accused*, for example, is shown meeting her male boss and colleague at a hockey game to discuss the rape case. One shot shows a hockey player being thrown up against the glass, and then quickly cuts to the female lawyer shrinking back as she is startled and the male lawyers jumping up to yell with the other spectators. This scene does work to further the rape narrative in the film by exposing the culture of spectatorship and violence that fueled the crime, but it also points out an issue politicized by second wave feminists: the inability of women to enter higher level, executive positions because they could not participate in the traditionally masculine social activities that were required of

such positions or led to promotion in the first place. The attorney, Kathryn, eventually overcomes this power structure when she challenges the male power structure, represented by her boss, to share Sarah's story in court.

Thelma & Louise works in a similar way. Not only have both women survived rape but Thelma's husband Daryl is verbally abusive and Thelma remarks throughout the film that he does not like her to leave the house. The film plays on the everyday power imbalance apparent in the household as Thelma becomes an outlaw, at one point even observing that she has a "knack" for the outlaw life. Further, Thelma is a housewife and Louise is a server, so their positions before outlawry also display the woman's unrest in the domestic sphere and entry-level positions. The films actively include these feminist issues, but the power of the woman's story also works to free the characters from patriarchal confines. As the lawyer struggles against her boss to represent Sarah's story in court, she works against the male hierarchy that does not want her to try the case; but winning the case via the relay of the narrative also ensures that she cannot be fired for disobeying her boss, so the power of narrative is portrayed as releasing both Sarah and Kathryn from the confines of patriarchy. The same is true for Thelma. She is transformed from an obedient housewife to a feisty, sexually free outlaw as she slowly retells her narrative and urges Louise to share her rape narrative.

In the end, the role that feminism plays in these films is hard to pin down, but when explored from a thematic end, one thing becomes terribly apparent: these films appeal to a feminist audience or an audience who pegs themselves as progressive on gender issues. Projansky insists that this type of feminist utopian film plays on the same type of depoliticized personal relationships that other representations capitulated as post feminist draw on (*Watching* 147). In this way, many films that assess feminism or appeal to feminists can depoliticize earlier

feminist issues by tying up the narrative in a neat manner. Further, both films had a target audience of educated, middle class, white women (Read 117; Horeck 114) so the films do not function to raise awareness regarding the issues they highlight. Rather, the films are preaching to the already converted and only work to appeal to audiences that would already agree with their controversial ideologies.

The portrayal of a “feminist utopia” has two large and divergent impacts on these films: it causes the progressive audiences for the films to point to the surface messages of the films as “gains” that have been made through reform (Wanzo 115-117), and it allows a popular platform for audiences outside the feminist movement to understand what the film perceives to be the feminist or reform minded view of rape (Read 117-118). These films also relay an unrepresentative example of the “too progressive” effects of feminism or the dangers of the mindset that were then used as a springboard for conservative critics to rail against perceived feminist ideologies (Read 117-119). These films also have an effect on the cultural understanding of rape. First, because of their popularity and vast syndication, these films have been more widely consumed than almost any other rape narrative post rape law reform (Read 114; *Watching* 144). Therefore, the role that these films play in constructing popular views of the law, feminism and rape becomes key to an understanding of the workings between popular representations and the law. Second, the key role that the woman’s narrative plays to the progress and narrative action of the film becomes essential in understanding the changing role of the woman’s narrative after rape law reform.

3.2 The Accused and "Real" Rape

The occurrence of rape is apparent in *The Accused* from its first scene, even though it includes little detailed explanation. The scene opens on a long shot of a bar and the rural setting

surrounding it: larger trucks parked in a seemingly unorganized parking lot, trees and mountains. The action begins with Jodie Foster, barely recognizable in the long shot and smeared makeup, running out of the bar, screaming, clutching her torn top with hair in a state of disarray. As she flags down a passing car, a young man is seen speaking into a payphone near the bar: “There's a girl in trouble. ... There's a rape. There's three or four guys. I don't know. There's a whole crowd. A whole crowd!” Frustrated with the questions of the 9-1-1 operator, he hangs up.

Even to an unobservant viewer, there is little question a rape occurred based on the first scene. The woman is clearly hysterical and hurt and there is a witness obviously shocked and making accusations over the bar scene. The story, however, is far from over. Although the viewer can infer rape (or at the very least assault) from the first scene, the film goes through great lengths to reconstruct the survivor's story, piece by piece, until her narrative comes to a climax in the full retelling of her gang rape by a witness. When the evidence reaches the point of filling in all the narrative gaps for the rape, the rape is then reproduced via flashback.

Not only does the film climax via the retelling of the rape scene but the entire film is structured to end in the narrative retelling. After Sarah is raped, the story turns to her process of recovery and her search for justice. The movie, however, values the telling of Sarah's narrative throughout. She is initially shown in the hospital undergoing a rape kit. She does tell her story to the rape counselor at this point, but this scene is left out of the film. Rather, shots of Sarah's body are shown as she is photographed in the hospital. Her injuries again point to inferences from the beginning of the film, but this is still not enough to hear the entire narrative: the audience must be convinced that she was raped without having to be shown the rape scene.

The film continues to hint at Sarah's story, but it is still not told in its horrific entirety. As she sits in the car with her attorney (Kathryn) after having identified some of her attackers who

were still drinking at the bar where she was raped, she nervously moves from trying to list the rapists and witnesses to talking about college and then astrology. And the audience doesn't blame Sarah for not opening up (even though they want her to): the female lawyer is so cold to Sarah's situation that it is surprising Sarah is able to be as personal with Kathryn as she does. Finally, Sarah sputters, "Can I ask you a question?" "Yea," says the lawyer. "Does my face look okay? ... He [Sarah's boyfriend] likes to touch my face." Sarah's need to open up about the rape slowly grows throughout the film, but the film quickly debunks all of Sarah's possible outlets.

Within the first few scenes after her return from the hospital, Sarah is shown speaking to her boyfriend and her mother. Her boyfriend says, "I wish I knew what to say," only to realize that Sarah was wearing earphones. He then removes an earphone and speaks into her ear: "I wish I knew what to say." The repetition of this seemingly sensitive line works to perfect effect: the insincerity of his desire is revealed and Sarah's need to say something and not listen to what he "wishes he could say" remains. The film further works to reinforce this point when Sarah calls her mother but doesn't end up telling her about the horrific incident. Every time Sarah looks as though she might open up, her mother enters with a negative remark and Sarah backs down. At this point, the narrative has gone through great lengths to show that Sarah has no one to speak to: her lawyer, her boyfriend and her mother have blocked conversations in different ways.

It is only when Sarah's rapists are found guilty of "reckless endangerment" that her need to tell her story becomes urgent. When the news reports the plea deal, the reporter notes that the prosecution did not think the victim in the case would make a good witness in court. Sarah shows up to Kathryn's home and screams at her in front of a house full of dinner guests:

'Who the hell are you to tell me that I can't be a witness? You don't understand how I feel. I'm standing there with my pants down and my crotch hung out for the world to see and three guys are sticking it to me and a bunch of other guys are yelling and clapping and you're standing there and telling me that is the best you can do....'

Through her use of language, Sarah not only indicts the “insensitive” lawyer for not allowing her to relay her story, but she also includes the lawyer’s plea deal as part of the rape. Through her use of listing, Sarah actually places the lawyer squarely in the center of the rape. Her sentence begins by describing the spectacle of her rape, but through Sarah’s use of “and,” the lawyer’s complicity is tacked onto the sentence describing the rape: “and you’re telling me that’s the best you can do.” In this way, what Sarah sees as the lawyer “selling her out” is also complicit in the act of denying her narrative and its telling.

This emphasis on Sarah’s storytelling might not be so key within the film if it were not for the issue of consent. It is clear that Sarah was injured from the injuries displayed on her body within the first ten minutes of the film, but without her narration, the other patrons of the bar paint it as a “sex show.” According to Heinzlman, this need to narrate comes out of the distrust of the woman’s story. Heinzlman contends that the court sees the woman’s body as the first site for the rape narrative, and her words are only important insofar as they spell out a social script of rape that interprets her injuries in a seamless manner (5-16). As Kathryn’s co-counsel notes in the plea bargain, “Keep in mind that under the law we do not need corroboration to prove rape. And we do have medical evidence. No doubt about penetration. And physical evidence. No doubt about force.” The only question in the story, then, is the truthfulness and character of the complaining witness. Coupled with Sarah’s injuries, this question of truthfulness explains her rage and Kathryn’s eventual transformation: the issue of consent in the case implies that Sarah consented to public, violent sex with a number of different men. Kathryn seems to discount the significance of her concession that Sarah might have “wanted” what happened to her. When Kathryn offers the plea bargain, it is not because she doesn’t believe Sarah but because, from an

objective legal view, Sarah's rape is simply not believable enough to take to trial.

The film notes throughout that Sarah was intoxicated and under the influence of drugs while she was at the bar, but also importantly Sarah was acting flirtatious and dancing with one of her rapists before the attack. In this way, Sarah's rape fails to fit an ascribed social script that would generally need to present to prosecute the crime (Kitzinger 791). The social scripts for heterosexual sex and non-consensual rape are not entirely separate, and this makes the subject hard to broach, especially in a court of law. *The Accused* does take steps to rewrite the social script for rape insofar as Sarah does act provocatively and is intoxicated, but her rapists and the spectators are found guilty. However, the emphasis that films such as *The Accused* place on horrific, violent acts such as the one in the film is probably misplaced. While rape is the most underreported crime in the world, statistics show that acquaintance rape that involves little physical violence make up the vast majority of such crimes^{ix}. As Sharon Lamb and Lynn Phillips have noted, such violent representations also skew the perception of "victims" to mean a person who has undergone an experience of unique violence rather than a "normal person" (Lamb 134; Phillips 157), and Projansky argues that such representations are only valued insofar as they are able to broach taboos or shock the audience (*Watching* 116-118).

Kathryn and Sarah both undergo transformations during the film and both mirror those generally seen in mainstream rape films. Sarah's change after the rape moves her to a more masculine state: she cuts her hair, throws out her boyfriend, and begins to dress in a more masculine manner. Kathryn, however, must undergo an alteration in her way of thinking. Projansky has pointed to this form in many legal narratives concerning rape (*Watching* 110-112): oftentimes the police officer or attorney begins as an "objective viewer" or someone with a more traditional view, but through their experience of the rape investigation (usually involving an

identification with the survivor and her story) they undergo a shift into a “feminist” ideology. Through this acceptance the legal actor is then able to help the survivor achieve her justice. Kathryn’s transformation relies on picking apart the intertwined concepts of desire and consent. Even though Sarah might have acted interested in sex before the rape, this desire did not mean Sarah consented to a gang rape. Kathryn’s negotiation of these concepts and eventual acceptance and presentation of Sarah’s narrative refocuses the film to concentrate on the benefits of progressive law when “placed in the right hands.”

While Kathryn feels obvious pity for Sarah after the rape and after Sarah voices her opinion at Kathryn’s home, Kathryn does not seem to identify with Sarah in any way or find her story moving until Sarah injures herself and one of the spectators from the rape in an intentional car crash. When Kathryn visits Sarah at the hospital, Sarah opens up, “He thinks I’m a piece of shit. Everybody figures I’m a piece of shit. Why not? You told them that. I never got to tell nobody nothing. You did all my talking for me. I don’t get it. I thought you were on my side. You told me you were on my side. Why did you do that?” Before this scene, Kathryn does not fully understand her complicity in the situation. She views herself as an objective observer who serves the law, not women or even rape survivors. The message in Sarah’s point is clear: when it comes to rape, there is no room for objective persons who will not intervene to balance the scales. In “doing Sarah’s talking for her” Kathryn denies Sarah’s voice at the beginning of the film, but in recognizing the power of Sarah’s voice she becomes a more effective lawyer and is able to overcome her own professional pitfalls.

Critics have pointed to the fruition of the rape flashback as troubling because the flashback is not interpreted via Sarah’s testimony (*Watching* 116-118). Rather, Sarah has already testified and the young man who was pictured speaking in the first scene is brought to the stand

to testify to what he saw at the bar. It is only through his voice that the rape is shown in its entirety, oftentimes from Sarah's own point of view. In some ways, the realizing of the complete narrative that will convict Sarah's rapists through the eyes of a witness is one of the few, real representations of rape law reform in the film. The realization of the flashback via the witness' testimony points to the need for corroborating evidence to prove a lack of consent, even in the most violent and extreme cases. In some ways, seeing the story through Sarah's testimony would be unrealistic because statistically, the chance of the legal system (especially jurors) believing Sarah's story without a third party testimony is very low.

The inclusion of the rape scene itself has troubled critics because of its extended duration, brutality and spectacle. As the filmmakers have pointed out, much of the scene is shot from Sarah's point of view, so the hope is that viewers will identify with Sarah and learn to see the woman's voice as authentic. However, as Projanksy and Read have observed, the target audience and the majority of the people who saw the film in theatres were women. The film was actually marketed toward people who already recognized these problems socially, so it was preaching to the converted in a way. Further, in the twenty-five years since the film's release, the bar scene has become almost more famous than the film. A Google search for "The Accused movie" will suggest a list of other popular searches for the terms. Depending on the day, "The Accused bar scene" will rank somewhere in the top five or ten suggested popular searches, and free downloads of the extended rape scene with descriptive words such as "hot" and "sexy" will appear in the top hits for the search terms as well. Because of its content, the scene is not available for viewing on youtube, but numerous free download sites tout free downloads of the borderline pornographic scene.

This debate over the bar scene and the court room testimony also becomes particularly

important when considering the movie's claim to have been "inspired by a true story." The rape scene in the film is shot very realistically, and the filmmakers emphasized the film's "realness" by publicizing stories such as Jodie Foster's own emotional and physical reactions to shooting the scene (Read 107-108). The movie garnered press out of the fact that Foster passed out during the rape scene's taping, emphasizing the "realness" of the film and that particular scene. While the scene is powerful, the fact that the movie capitalizes on displaying a "real rape" is disturbing. Further, the discrepancies between the film and the "real story" of gang rape that it claims to represent also function to critique our simultaneous misrepresentation and spectatorship of the woman's "voice."

In the rape case the film claims to represent, the bar room scene was quite different from the one described in the film. The bar was a small, one room establishment with a pool table in the middle. While the bar did stay open and serve drinks during the rape and the patrons did see the rape and remain complicit in the actions of the rapists, the extreme bouts of cheering and chanting portrayed at the movie's "sex show" rape scene is not based in any testimony from the bar, including the rape victim's (Horeck 70-72). This alteration of the men from ambivalent, spectating, bar goers into a hollering crowd is significant in the context of a film: in making the spectators actively support and encourage the act, it removes the link between the criminals and the audience, even though the actions the audience takes in watching the bar scene mirrors but does not replicate the actions of the real men. I do not mean to excuse the men who spectated the real rape in any way, but I cannot help but notice the conscious changes in the story to separate the audience from the men they are supposed to view as criminal by the end of the film. While this type of link may have been productive in some ways (the categories of "average person" and "aberrant criminal" are often one in the same) and helped the audience to realize the harm in

spectatorship and spectacle, the revision of the narrative displaces the criminals so that they too become spectacles and are ripe for judgment.

In the end of *The Accused*, the men who cheered Sarah's rape are found guilty and this revises the attorney's plea deal: her recognition of Sarah's voice has not only won her the case and power within her job but she is allowed to right her previous insensitivities toward the victim. Sarah also appears freer upon leaving the courtroom. However, in real life the narrative was not so nice and neat. In the film, every man deemed responsible for the rape is held accountable to the law through the recognition of Sarah's story. This misrepresents the law's ability to protect women to some degree: the two spectators that were actually tried in the Big Dan's rape case were found not guilty, and the prosecution could not prosecute the other men at the bar (Horeck 89). Further, the victim in the Big Dan's case was not allowed to access any power that might have been available through her voice: her story was quickly coopted by the media and feminist protestors, and a racially charged uprising followed in the working class community where the rape occurred^x.

While the film portrays Sarah as happily fighting to gain justice and working to make her story heard, the feminist protestors who flocked to the small town made the actual cries for "justice" after the incident. The impact of this cry was intense and undeniable: the national media fell on the small town and the Big Dan's rape case became the first trial ever aired in its entirety on national television (Horeck 84-90). The result of this "justice" for the woman was much more disastrous. The community descended on her as the center of the scandal and she was threatened to the point that she could no longer take the harassment. She moved across the country to Florida, and died in a car crash two years after the verdict. As a friend noted, she had a difficult time driving after the case without "staring in her rearview mirror" for fear someone

was after her (Horeck 91-93). Movies that describe themselves as “inspired by a true story” have no obligation to represent all events objectively, but the rewritings in *The Accused* are systematic: the changes in the narrative appeal to an audience that would define themselves as “feminist” or “progressive” because the spectator is able to align themselves with Sarah via her retelling and see themselves as part of the solution.

Since the success of *The Accused* and the interest the Big Dan’s Bar Case generated, the representation of rape via a legal, victim centered narrative employed in such a way that the narrative is aligned with the real has become a cultural phenomena. Horeck points to *The Accused* as beginning the blurring of this line between representation and the real in cases of rape (84-93), but the success of *The Lifetime Movie Network* and *Law and Order: SVU* also speak to the profitability of this formula: the shows promise the spectator the laying bare of the story either through personal narrative or investigation while transforming the place of the spectator into the therapeutic place of “listener.” As Cuklanz and Moorti note in their investigation of *SVU*, this popular show capitalizes on its perceived ability to represent real events and a progressive ideology (301-304). This show has become so popular since its inception in 1999 that it is now one of the most played shows on television, with episodes running on a number of networks and the whole series legally available through internet services such as Hulu and Netflix. *Lifetime* has capitalized on its ability to tell “true” stories of victimized women and children, and, interestingly, the network has come full circle into the “real political” much like Mariska Hargitay: *Lifetime* pushed for more funding for rape case processing to Congress in 2005 (Teinowitz). Unlike the caring narrative Mariska Hartgitay offered to justify her support, *Lifetime* as a company had profits on its mind with its political act: “71% of its viewers cite the channel's commitment to women's issues as important to their viewing of the channel”

(Teinowitz). These representations make gains through their audiences' perception that they are political representations, and the publicized intervention of Hargitay and *Lifetime* in "real" rape politics only works to reinforce this point.

While the telling of a story is not always exploitative or unproductive, the structural emphasis on the details of the woman's story and the power given to its telling within these narratives is troubling. These forms make the audience feel as though the bearing of the woman's narrative is justified, but this clear linear pattern also feeds into the pattern seen in the criminal justice system; in building such clear narratives around universalizing terms, films deemed "feminist" add to the need to narrate the woman's consent at trial. Further, these representations capitalize on their ability to present the "real" state of rape and rape law, and this status as "real" allows such representations to masquerade as progressive or political under the guise of early feminist argumentation that valued the voicing of such stories.

3.3 *Thelma & Louise* and the New Outlaw

Thelma & Louise is an interesting case because there has been a vast amount of academic work done on the movie and yet there is a near absence of a discussion of the rape in the film (*Watching*¹²²). *Thelma & Louise Live!*, for example, is an academic collection dedicated to criticism on the movie, and even a cursory review of the table of contents reveals that the book is concerned with historical notions of gender and the tradition-challenging aspects of the movie. However, a quick Google Book Index search of the text reveals that the word "rape" is only mentioned fourteen times in the entire book, and those references almost exclusively refer to the rape in a synopsis of the film's events or in the listing of the women's crimes (the rape leads to the murder). Further, the discussion of the film's structure and genre in both this book and film reviews generally point to the influences of the road film, the buddy movie and the outlaw film.

Nowhere in any popular review did I find mention of the influence that rape revenge or even revenge played in the structure of the film.

Although the women's use of "revenge" is silent in the popular reviews and in much of the academic criticism in the film, this aspect of the narrative is glaring and powerful. This initial bout with revenge is essential to the plot: Louise has just saved Thelma from a rapist and the man yells, "Bitch! I should've gone ahead and fucked her." "What did you say?" asks Louise. "I said suck my dick," he retorts. At this point Thelma is a safe distance away from the man and he is backing away, but Louise shoots the man point-blank in the chest. This initial crime begins the film's action and plot, and through the film's narrative the act is eventually understood as revenge for Thelma's rape, Louise's past rape by another man, and the cultural climate contributing to sexual violence. This cultural climate is expressed again in the film when Thelma has an affair with a younger man and again when the two women blow-up a trucker's haul: Thelma's affair is revenge for her misogynistic marriage (also reinforced later through the husband's rage as he attempts to attack his wife's lover), and the harassing of the trucker is clearly revenge for his earlier sexual harassment of the women. While the revenge structures and cycles may not be the most "key" element to understanding this film, like the rape, the silencing of this theme in the film's reviews and criticism decreases its political impact and message—women are capable of and have plenty of cause for revenge too. The film does have its faults, but it also re-appropriates the survivor's narrative and its legal meaning in an interesting and valuable manner, and it speaks to the power of the rape revenge structure in conveying a productive narrative regarding the cultural treatment of rape.

The road movie, the buddy film and the outlaw film structures all fit *Thelma & Louise* to some degree, but examinations of these structures fail to pay heed to the cultural significance of

the film's structure (except to note that these structures are not generally female-centered), and many seem to overlook the influence of 1970s rape revenge films. While *Thelma & Louise* does not share the campy aesthetics or exploitation of this older genre, the structural similarities are obvious. Jacinda Read applies her analysis of the rape revenge structure to the film and her conclusions are fruitful. She asserts that, like many other rape revenge structures from the 1980s and 1990s, *Thelma and Louise* attempt to bridge the disconnect between traditional ideas of "femininity" and the popular view of the woman under feminism (22-58). The discounting of revenge and rape in the film's consideration essentially robs the film of much of its potential impact. The film is a "fun film," but the lack of consideration given to the women's vengeance is simply astounding. Yes, the women are exploring a newfound mobility and rediscovering themselves personally and sexually, but much of this change is also dependent upon the rape at the beginning of the film: without a full assessment of the rape and its impact on the characters, much of the message surrounding rape in the film is simply lost.

Further, the capitulation of these characters as "outlaws" is key to understanding the role they play both narratively and culturally, but it is also important to understanding the role rape plays in the film. An outlaw woman was a hard thing to find in American popular culture until very recently. Almost universally, however, this outlaw woman must either be avenging her own rape or the rape or death of her children in order to pass into the realm of outlawry. In Graham Seal's book *Outlaw Legend*, he discusses the ramifications of the "hero outlaw" figure on the folklore of three countries: Australia, England and The U.S. The hero outlaw figure differs from the vigilante in that the protagonist is fighting to avenge more than just herself (7). She generally perceives herself to be avenging many other women, often times other rape victims, as she continues on her path outside the law. Seal also struggles with the seeming contradiction of the

“hero outlaw,” noting that such characters are not always what one might think of as traditional heroes. The defining motif of this character is that he or she generally robs from the rich to give to the poor, but, as Seal explains, this is more accurately explained when thinking of the hero outlaw as someone who rises against the law in a time of oppression (15). As Seal notes, a perception of deprivation or oppression is key to the building of the outlaw hero tale. This conception of the outlaw becomes essential to understanding *Thelma and Louise* as characters because they do perceive themselves, to some degree, to be avenging gender issues on a larger scale. While the women never actually verbalize this fact, their hunting down of a sexually harassing trucker and blowing up his truck show that these women are out for a kind of “wider” revenge. Further, as cultural symbols, *Thelma and Louise* have become feminist hero outlaws (Cook 7-10): their fictional story of outlawry has been valorized into a popular narrative that helps to uphold feminism.

Seal also explains that masculinity and manliness are deeply tied to this image. After defining the ten motifs most inherent in such characters, including being a friend of the poor, an oppressed person, a trickster and a brave person, he notes that these motifs are also “synonyms for manliness, boldness bravery and defiance” (16). Seal hits on an important point here, because masculinity is a seeming prerequisite for existing as an outlaw: such characters are almost exclusively male in folklore. However, Seal also goes on to note that mass media has played a large role in the construction of such a character through film, television and news coverage (18). With pop culture changing ideas regarding stock characters and gender requirements, the examination of changing tropes can become a cultural marker of the changes in gender constructions and constraints. This poses questions for the narrative of *Thelma & Louise* because generally a woman must be raped *before* her descent into outlawry, so rape would seem to rob a

woman of enough femininity for her to qualify as an outlaw figure, and, simultaneously, this lack of femininity grants her the amount of subjecthood needed for outlaw status.

Masculinity is widely considered a characteristic of the outlaw, and this signals a dependency on the subject/object binary for the stabilization of the outlaw character. While acting as an agent of the law requires a certain amount of subjecthood to achieve the needed action, functioning as an active character outside and against the law requires even a higher level of subjecthood. Most of these characters, such as Jesse James and Robin Hood, not only act against the law but do so in an intelligent manner, always outsmarting the law man and staying one step ahead. Further, it could be argued that the outlaw hero figure requires even a more extreme amount of subjecthood, acting not only outside the law but for the betterment of others. This also requires that the person who is in the place of the impoverished or oppressed is not capable of acting on their own or knowing what is best for them, causing this character position to become an object in the overall scheme of the narrative. As Seal notes, in folklore the place of the oppressed victim is almost exclusively reserved for the poor and women. Hero outlaws are oftentimes portrayed as chivalrous and aiding poor mothers and widows to overcome hardships imposed by landlords or tax collectors. The shift of the woman into the outlaw hero form, however, is not as simple as a shift from object to subject.

In the shift from victim to outlaw, the woman generally undergoes a change within the rape revenge structure. Traditionally, and at least within the campy 1970s sexploitation rape revenge that came before *Thelma & Louise*, this change was conveyed to the audience very quickly through a few short scenes or a montage. At the end of this change, however, almost all survivors undergo a noticeable, physical change. This change is representative of the perceived relationship between the woman's previous status and the rape: she essentially changes the

character aspects that made her rapeable, but these changes are generally expressed through appearance (Read 22-58). In the case of women who are sexually provocative before the rape, they almost always take on a more masculine appearance and often become muscular or visibly hostile to express their newfound need for revenge. Women who follow the mode of Lucrece or Belinda and were “too chaste” or naïve before the rape generally turn their appearance on their attackers: these women begin to dress to emphasize their bodies and become sexual, often acting to lure their rapists to an untimely end through seduction.

Thelma and Louise both undergo a change from their traditionally feminine aesthetic to a masculine, desexualized look by the end of the film. As many critics have noted, the women are visually transformed by the film’s end: their characters move from made-up faces, well placed hair and feminine clothes at the film’s beginning to dirt smeared faces, bandana tied hair, trucker caps and gender neutral clothes. Their clothes are also much baggier and made for comfort rather than form. However, the communication skills between the two women have also grown throughout the film, and, in many ways, the narrative action seems dependent on the women’s ability to “share” their stories.

Thelma & Louise participates in a narrative based structure that drives forward into the idea of the woman’s story in the legal arena; however, the disparate changes that the women undergo and their differing abilities to confront the narratives of their rapes plays a large role in this transformation. Thelma’s rape is shown on screen twenty minutes into the film, and her ability to tell the story of her rape becomes more and more apt as she undergoes the transformation from feminine to feminist^{xi}. Her first narration of the events is in dialogue with Louise after the rape is hysterical and naïve. In her mind, the story centers on the fact that she was raped, but Louise quickly revises the narrative for her:

Thelma: “Shouldn’t we uh, go to the cops? I mean, I think we oughta tell the police.”

Louise: “Tell ‘em what, Thelma. Just what do want to tell them?”

Thelma: “Just tell ‘em what happened...”

Louise: “Which part?”

Thelma: “All of it. That, that, that he was raping me.”

Louise: “Just about a hundred goddamn people saw you dancing cheek to cheek with him all night! Who’s gonna believe that? We don’t live in that kind of world, Thelma!”

Thelma expresses the need to tell her story, but Louise quickly retells the story from the law’s point of view. Technically, Thelma’s “dancing cheek to cheek” could be interpreted as consent.

The movie continues to make Thelma’s voicing of the narrative a central aspect in her transformation and eventually it becomes a key to the relationship between the friends. After Thelma’s initial act of outlawry, she again broaches the topic with Louise. The women are transformed at this point: they have dirty faces, tied back yet wind-blown hair, and they have just finished “freshening up” at an outdoor sink and an outhouse. At this point in the film, the women’s masculine “feminist” behaviors critique their former selves. A brief scene shows Louise trading her jewelry to an impoverished, elderly man for his straw hat—the final relinquishment of her femininity. A discussion of their serious situation and limited choices follows: “We can’t even say it was self defense? ... I’ll say he raped me and you had to shoot him. That’s almost the truth,” says Thelma. Louise responds, “It won’t work. ... There’s no physical evidence. We can’t prove he did it. We can’t even prove by now that he touched you.” “The law is some tricky shit, isn’t it?” concludes Thelma.

As their transformation becomes more complete and the relationship between the friends grows, the film begins to put pressure on the rehashing of the rape narrative and it becomes an important characteristic of the women’s relationship. These scenes of re-narrativity are strategically placed: the first occurs after Louise shoots Harlan, the second is after Thelma’s initial bout of outlawry, and the last two scenes occur after extended representations of “personal

discovery” through the road. The third instance takes place after a music-laden scene of the women cutting through the open road, extended shots of Southwest scenery and close-ups on the women’s faces as they drive and stand in the desolate scenery which is briefly followed by the initial run-in with a sexually harassing trucker. After this scene, almost exactly three-quarters of the way into the film, Thelma begins to laugh and appears almost hysterical. When Louise questions Thelma about her laughter, Thelma responds, “Thinkin’ about Harlan.” The scene then quickly shifts to a quick and exaggerated description of the events by Thelma. She laughs, thinking of the surprised look on Harlan’s face and then caricatures Louise shooting him with a fake gun. During this re-enactment, Thelma continues to laugh but Louise becomes more and more upset until she blows up on Thelma and yells, “It’s not funny!” “I know,” Thelma concedes, but her spectacle has taken the narrative to an unexpected place. Thelma is able to use her “joke” of the women’s shared experience to approach Louise’s reservations and anxiety through the film:

Thelma: “It happened to you, didn’t it?”

Louise: “What? What are you talking about?”

Thelma: “In Texas? That’s what happened to you, isn’t it? You was raped.”

Louise: [yelling in Thelma’s face] “Hey now look, I’m warning you. Just drop it. We’re not gonna talk about that. You understand? I’m not talking about it? You understand?”

Thelma: “Yea. It’s okay” [pats Louise’s arm].

After this incident, Louise does not speak about her rape again. Her refusal to narrate the events of her violation may seem like a character failure to some degree: the detective on the case (Harvey Keitel) has read the women’s story in the evidence and he urges them to turn themselves in, promising that he wants to hear their story. Keitel’s voice is echoed in the desire of the audience. In some ways, the audience also thinks that they can personally accept the women’s story and root for the women to survive. But Louise resists. Many critics and reviewers

have commented on the film's incoherent structure, the manner in which characters wander in and out of the film and the unexpected, seemingly unjustified, ending (Cook 1-4). Much of this unpredictability, including the ending, has been tied to the women's need for mobility. They have had a taste of the open road and they will not give it up. I think, however, that the end of the film is also justified in Louise's refusal to relay her rape narrative, and, when tracking the women's attempts to share their narratives as a plot progression, the actions in the last half of the movie become logical and structurally sound.

Thelma is able to voice her rape, but she refuses to narrate the events completely. She simply states "he raped me," a handful of times throughout the film, but the only attempt to narrate the events into a linear story comes in the form of the hysterical joke. Thelma's last retelling occurs shortly before the women meet their untimely end, and this time her narrative is couched to justify the women's revenge. Louise begins to tell Thelma that she's sorry for their situation, but Thelma stops her. She reminds Louise why the women have done what they have done:

'Nobody'd believe us. We'd still get in trouble. We'd still have our lives ruined. ... That guy was hurtin' me. If you hadn't come out when you did, he would've hurt me a lot worse. And probably nothin' would have happened to him, cause everybody'd seen me dancing with him all night. They'd've made out like I asked for it. My life would have been ruined a lot more than it is now because a now I'm having fun. And I'm not sorry that son of a bitch is dead. Im just sorry it was you who did it and not me.'

Thelma's recognition of the "rightness" in their vengeance finishes her transition. After Louise gets off the phone with the police, Thelma says that she cannot go back, noting, "Something has crossed over in me. I can't go back. I just couldn't live."

Projansky insists in her analysis of the film that *Thelma & Louise* is not a productive representation because "the film offers at least four potential responses to sexual assault, each

linked to woman's self preservation in a context of gendered and sexualized oppression: run from it, ignore it, defend oneself from it, and get revenge for it, and learn from and about it," and ends on an ambivalent and ambiguous note (*Watching* 122). However, Projansky fails to realize the role of the narrative retelling in the film's "ambiguous" ending: Louise and Thelma resist a full narration of their rapes. It is true that the women take revenge for their rapes, but they also know this is the only way they can achieve vengeance. They recognize that Thelma's rape does not fit the ascribed social script for "rape"; rather, they realize how unproductive it would be to recapitulate the narrative into the terms of the courtroom—Thelma's dancing may have constituted some legal degree of consent. Further, the movie itself resists a conversation between the women that would re-detail the events. It is left in ambiguous yet truthful terms: Thelma was raped. In this case I think Projansky may be accusing Louise of "ignoring" the sexual violence that has befallen her when Louise simply does not want to retell the story of her rape. Ignoring and not re-telling are two very different concepts, and to equate the retelling with the recognition of the rape draws far too many conclusions regarding Louise's mindset.

But more importantly, as a pop culture icon, Louise's refusal to narrate her rape works as a refusal to allow the audience to spectate the retelling and then question her side of the story. "We don't wanna end up on the *Heraldo* show," Louise notes toward the end of the film. The court of popular opinion works similarly to the court of legal opinion, with which Louise seems to have had experience. She does not trust the detective or the court with the interpretation of her story, and the movie intentionally does not trust the audience with this story. This resistance to narrate the story means that she cannot exist within the confines of her ascribed social characteristics any longer, and Louise has essentially signed her own death warrant within the narrative. When Thelma recognizes just a few moments later that she does not regret the

vengeance they have sought, the fate of both women is sealed. In the end, Thelma and Louise are capable of retaining their story: it is not besmirched by popular opinion or the forced narrativity and scripting of the courtroom or the laying bare of the woman's narrative. In this way, understanding the progression of the rape narrative in the film and the way it cycles with the women's vengeance and self discovery on the road leads to a larger understanding of the film's structural workings, the characters and the concept of rape in the film.

The way popular reviews have absorbed the issue of rape in *Thelma & Louise* is also important to interpretations of this film, because it would seem that the negotiation itself is rewritten in these popular texts. Beyond the negotiations of feminism within reviews of the film, one issue continually troubled me while reading through the articles: they overwhelmingly refer to the violation at the beginning of the film as "attempted rape" in the plot synopsis.^{xii} The rape scene itself is ambiguous: Harlan has pinned Thelma to a car in the parking lot, there are a few closeups that reveal pelvic movements on his part that would imply penetration, but there is no explicit portrayal of an extended rape as in *The Accused*. Rather, Louise puts the gun to Harlan's head, and as he backs away it is again apparent that his pants were down. While this act cannot be described as positively representing rape instead of attempted rape, Thelma is less ambiguous in her description of the act.

During Thelma's narration of the rape and other conversations within the film, Thelma explicitly notes at least three times that Harlan raped or was raping her during the incident in the parking lot. This is troubling because the issue is so explicit in the film: nowhere in the dialogue or narrative do Thelma or Louise note that Harlan "tried" or "attempted" to rape her. The fact that reviewers interpreted this representation as "attempted rape" has deep implications for the film. The legal requirement for rape in most states notes two actions that define rape from

heterosexual sex: force and lack of consent. Penetration is, of course, a requirement, but putting aside that ambiguity for a moment, Thelma says “no” quite a few times and Harlan eventually hits her and throws her on a car. This is a clear case of both non-consent and force. Further, Projansky contends that the rape is premeditated. Harlan is shown spinning Thelma wildly on the dance floor, and this could easily be a tactic to make Thelma feel more intoxicated or become sick (*Watching* 122). When Thelma is so intoxicated she is sick, Harlan accompanies her outside.

If the force and non-consent are clear on the film’s surface and premeditation is implied, the only reason reviewers might have for this is the ambiguity of penetration in the scene versus the words of Thelma regarding the event. In this case, the reviewers have actually sided with an “attempted rape” that is never defined as such in the film. Looking at the reviewer’s reactions, one has a much harder time blaming Thelma, Louise, or any woman for not wanting to narrate the events of her rape: even with the evidence is astounding, the person viewed the act and the survivor has clearly said the act was “rape,” spectators and possible jurors seem to have a difficult time seeing an act between two acquaintances, one of them a flirtatious woman, as rape.

Chapter 4

Conclusion

Rape as a trope has exploded in American culture since the rape law reforms of the 1970s and 1980s. As Projasnky notes, however, many films before 1970 represented rape; this trope is so prevalent in cinema that she describes the trope as central to cinema itself. Although rape was not absent from early cinema or literature, the male framing of these narratives and the anxiety over the expression of the female's experience has led to unique problems for the trope. Because of its initial silence rape has become a trope that expresses a number of power relations, but this also steeps the trope in culturally or historically ascribed meaning that utilizing it within any type of narrative becomes complicated. Post-1970, overt representations of rape began to saturate American popular culture, many of them participating in what feminists and couched as a need to express the survivor's story. This emphasis on the woman's narrative has had unforeseen consequences: 1) it has worked to reinforce ideas of universality regarding rape, 2) it has helped to inscribe new social scripts regarding the spectacle and violence of rape as well as the construct of victim and, 3) it has established the stereotype that women want to tell the full story of their rape and that a story of rape is an easy, linear, clear narrative to tell.

This explosion of rape narratives has also solidified the distinction between rape narratives that take place inside the law and those that take place outside of it. A number of television series and movies now display rape victims searching for justice, but most of these narratives fall into a trap similar to *The Accused*. While the academy award winning film does go through greater lengths than most popular representations to rewrite the script of rape, in the end it replicates and even exacerbates the legal burden placed on the woman's narrative and then this script is reflected back into popular opinion and the legal system, creating popular ideas about

rape law reform and constructing ideologies, stereotypes and social scripts that will be recycled back into the legal system through jurors, police, lawyers and judges (LaFree 239; Kitzinger 79; Bohner 37).

These representations also render the victim's narrative as apolitical within the film. As Rebecca Wanzo notes in her study of sentimental narratives in the context of female African American characters, these texts promote "therapeutic intimacy as a solution to the law's failures" (116). Wanzo contends that in the context of racism, rape and storytelling, such narratives generally promote the building of relationships with a "privileged sympathizer representing the state" and, in doing so, side steps and political power or progressive message the narrative may hold (117). This argument, although not as charged in the context of the white rape victim, still holds true with the narratives of *The Accused* and *Thelma & Louise*.

In each of the films I have analyzed, the ability of the victim to build a relationship with an agent of the state (an assistant district attorney and a police investigator) is an important part of the film and does, in the end, undercut the importance of political action in the film. The actuality of the Big Dan's bar rape is rewritten through Sarah's relationship with Kathryn and her ability to retell her story. In this way, these narrative elements work to rewrite the politicized elements of the story. Further, the audience is able to identify with Kathryn's process of understanding Sarah's narrative: they too undergo the process of fully understanding and believing the victim's story. This process of displaying the "power of voice" allowed by the criminal justice system and the women's bonds effectively subsumes the audience's power to demand political change after viewing the film. Clearly, all the audience must do to be "progressive" is to accept the woman's story. Any further political action is denied by the case's guilty verdict to the spectators.

Although *Thelma & Louise* resists a narrative retelling of the rape, the film's end still clearly holds hope for the power of the victim's narrative. Even though the women are driving to their demise, the end scene shows Hal the detective (Harvey Keitel) breaking from the law enforcement team confronting the women and running after their car as they drive to their demise. The women do not feel the need to tell their story, but Hal as a character works to promise progress via the telling of the narrative. Throughout the film he urges the women to "tell their story," and his clear attachment and care for the women makes his cameo in the final scene particularly meaningful. Hal works as a promise for the progress made under rape law reform.

Thelma & Louise also attempts to tell a victim-centered story of revenge, but popular culture has subsumed the film's narrative regarding rape. The film is now more often read as a buddy or road film, and the narrative's stark resistance to narrate the rapes that it displays and refers to has sunk into the background. Rape revenge is again on the rise as a genre (*Kill Bill*, *Monster*, *The Girl With A Dragon Tattoo*) and many of these films are able to resist narrative retellings to different degrees and to different effect, and it is within these narratives that exist outside the law that stereotypes regarding the victim appear to be actively rewritten, although most of these films are still relegated to "indie" or "cult" status.

While it is easy to point to the troubling examples in mainstream popular culture, it should be noted that there have been some bright spots on both network television and film since rape law reform but most of these have come in the form of "independent entertainment." David Lynch's 1990 film series *Twin Peaks* attempts to tell the story of a raped and murdered prom queen, Laura Palmer, but as the series continues, Laura's story and character are constantly revised until Laura becomes an enigma and a counterpoint to many female stereotypes that surround traditional rape narratives. While Lynch is not generally a mainstream director, the

series did air on CBS and received a fairly wide fan base for such an avant-garde program. Many feminist studies have focused on the poor representations of rape victims in popular culture, but it is also important that critical studies focus on those representations that address such loaded issues in a more productive manner.

Rape law reform failed for a number of reasons which intertwine in complex ways.^{xiii} Because of this issue's complexity and troubling pervasiveness, more inter-textual studies are needed to produce a wider understanding of the changing trope and its relative cultural weight. This study has shown that the structural inter-tanglings of legal and popular conceptions of rape are multi-faceted and problematic. The problem with rape lies with the inherent power imbalance in heterosexual relations, and yet popular representations widely address these issues as an individual pathology on the part of the victim and perpetrator and work to build universalizing stereotypes that define the crime simultaneously; rarely, however, do they question the cultural root of rape or link rape to "normal" heterosexual relationships. Narratives matter, and it is quite possible that rape narratives carry more weight in the cultural production of meaning than the average narrative because rape exists as a relative taboo outside of such representations. The study of intersections between feminism, narrative and the legal world are needed to further assess gains and failures in the field of gender studies. The law regulates many concepts that define individuals and yet the influence that culture has on the law or the role the law plays in shaping culture is often overlooked because of the closed nature of legal studies. In order to continue the destabilization of gender norms, these intersections must be explored to expose contradictions in concepts such as rape and to express contradictions in conceptions of "the real." In doing so, the apolitical nature of many narratives couching themselves in a "progressive"

agenda to appeal to a key demographic is revealed, and American culture can reach for narratives that more effectively and meaningfully construct legal, cultural and personal notions of rape.

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NOTES

NOTES

ⁱ These news reports and coverage of the controversy can still be reviewed on CBS.com.

ⁱⁱ A discussion of what McElroy terms the “practical” steps taken by the feminist movement toward rape prevention before politicized and academic content began to explode in 1975 can be found in her first chapter. These steps include efforts at self defense as well as speaking out about violence against women.

ⁱⁱⁱ Lynn M. Phillips’ work is particularly instructive in understanding this point. Her study finds that the influence of feminist discourse and rape reform ideas over media women have consumed causes great disparities between stereotypes regarding rape, rape victims and rapists in different age groups and especially between generations. This study also speaks to the active role the media takes in constructing rape.

^{iv} See Rollins for a discussion of Welles' memo

^v See Rollins for an in-depth analysis of the film's reviews

^{vi} For a full discussion of feminist efforts to increase the weight of the victim’s story in the courtroom, see McGregor Chapter 3 and Lamb 12-133.

^{vii} For a more detailed account of feminist efforts to reform standards of consent and legal requirements for rape, see McGregor Chapter 3 and Taslitz pages 6 through 9.

^{viii} See McGregor Chapters 4 through 7 for a full discussion of changing conceptions of "force," "resistance," and "consent."

^{ix} See Susan Estrich’s *Real Rape* for a discussion of date rape’s seeming “normalcy” and lack of physical violence.

^x See Horeck's Chapter 3 for a complete discussion of the national media frenzy over the Big Dan's Bar Case, including its status as the first full court case to be aired on national television.

^{xi} For an in depth discussion of the rape victim's transformation from "feminine" to "feminist" in the rape revenge structure, see Read Chapter 1.

^{xii} Janet Matlin of *The New York Times* calls Harlan a "would-be rapist," while the *Variety* Staff and Marjorie Baumgarten of *The Austin Chronicle* refer to Harlan's actions as "trying" to rape Thelma. Owen Gleiberman of *Entertainment Weekly* and Roger Ebert of *The Chicago SunTimes* recount the scene as Harlan "attempting" to rape Thelma.

^{xiii} Many studies discuss this failure at length, but Caringella Chapter 1, McGregor Chapter 1 and Taslitz Chapter 1 are all particularly instructive on this point.