

CRISIS—Gail Abarbanel, left, director of the Rape Treatment Center at Santa Monica Hospital Medical Center, counsels a rape victim in the emergency examining room.
Photo for The Times by Shelley Gaska

OUTRAGED—Lori Brown holds onto boyfriend Stewart Nelsen, who ran his car into the man he believed raped his girlfriend.
AP Laserphoto

'A FEELING OF RAGE'

Effect of Rape on Mates of the Victims

By JOY HOROWITZ
Times Staff Writer

When Stewart Nelsen's 23-year-old girlfriend, Lori Brown, told him she had been raped, he was shocked and angry. He had no one except her to talk to about his inner rage and utter sense of helplessness. Not only had she been raped six months before, she told him, but the district attorney had decided not to prosecute the case because of the lack of corroborating evidence.

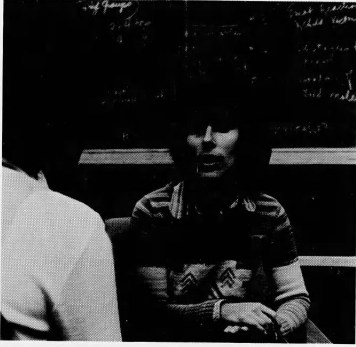
Nelsen was outraged. He tried calling a rape hot line listed in the phone book and got a recorded message. He tried again. This time, he reached a woman who told him she wasn't prepared to discuss the problems a man might confront in dealing with the rape of his mate.

'Root of the Problem'

Three days later, Nelsen, a 27-year-old film editor, decided he had to "get to the root of the problem." Based on a description his girlfriend gave him of the man she says raped her and the location of his small North Hollywood bungalow, Nelsen drove by the home of the alleged assailant, Gary Wayne Brown, 37, a bearded "carpenter-actor," who was once convicted of statutory rape.

When Brown (no relation to Lori) stepped out of his house, Nelsen says in a detached, almost emotionless voice, "I put my foot on the gas and popped him with the front of my car."

According to a doctor's report, Brown received "numerous lacerations . . . su-



SUPPORT—Coordinator of the Rape Prevention Studies Center, Borrie Levy explains family members sometimes react by blaming the victim.
Times photo by Bill Varie

tered" and suffered from a fractured knee. Having pled no contest to charges of hit and run, assault with a deadly weapon and battery, Nelsen was sentenced Nov. 2 by Van Nuys Municipal Court Judge Paul Metzler to three years summary probation and ordered to pay a \$300 penalty to the court and \$2,687 in medical expenses to Brown.

On the surface, the case of Stewart Nelsen stands as a freakish sort of Charles Bronson, "Death Wish" escapade, where the self-appointed vigilante becomes an outlaw-hero in the public eye. But it is much more.

Impulse to Destroy

In fact, Stewart Nelsen's response to his girlfriend's alleged rape typifies the reaction of the majority of men whose mates are victims of sexual assault. The helplessness. The disbelief. The rage. The impulse to destroy the suspected rapist. The guilt associated with not being a better "protector." The desperation of needing to talk about these feelings but not wanting to burden the victim. All are common responses.

The only real difference between Nelsen and others is that he acted on his impulse. Theatrics aside, his case serves to underscore the larger issues associated with the mates of rape victims. What are the effects of rape on them? How does rape change their relationships? How do the husbands or lovers of rape victims become victimized themselves?

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RAPE: Getting Accused Into Court Proves to Be an Ordeal for Victims

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That is higher than the 47% average filing rate for all crimes, he said.
It is that low rate of charges filed that has disturbed some of those concerned for rape victims, including feminist attorney Gloria Allred, who said she plans to request a meeting with Dist. Atty. John Van de Kamp to discuss his policy on filing rape cases.
Allred became involved in the Gary Wayne Brown case when Lori Nelsen sought her help after the district attorney's office declined to file charges against Brown based on Nelsen's report of rape.

Identified Brown as Rapist
Nelsen had reported her rape to police four days after it occurred in September, 1978, and identified Brown as the rapist. She told police she had met him in a Hollywood park and gone with him to his home, where he had threatened her and forced her to have sex.
Police arrested and questioned Brown, then released him after the district attorney's office decided not to charge him.

Allred asked the district attorney to review the case, particularly since Brown had been arrested so many times for rapes which followed a scenario similar to the one reported by Nelsen. But the case was rejected by Deputy Dist. Atty. Myron Jenkins.

Charges were not filed against Brown until more than a year after Nelsen's rape, when publicity generated after Nelsen's husband ran over Brown with his auto in retaliation for the rape of a Japanese woman to report to police that Brown had raped her a month earlier in his home after taking her on a date to a North Hollywood bar.

The two reports, coupled with a report by a Granada Hills woman that Brown had attempted to rape her in her apartment, convinced the district attorney to file charges against Brown—two charges of rape, those of oral copulation and one of attempted rape.

\$2 Million Civil Lawsuit
Meanwhile, frustrated by the district attorney's reluctance to charge Brown with the Nelsen rape, Allred had filed a \$2 million civil lawsuit against Brown on Nelsen's behalf—a suit that Nelsen intends to pursue despite Brown's confinement to state prison.

"The civil lawsuit really grew out of Lori's frustration with the way the criminal justice system was working," Allred said. "Almost a year had gone by since she had been raped, and it had become clear to her that the district attorney had no intention of bringing this guy to trial."

Allred said there is a statute of limitations restricting lawsuits alleging "civil wrongs," like rape, to within one year of the alleged act, and many rape victims miss that deadline while waiting for the district attorney to file charges or the case to be resolved in trial.

The retail firm by Allred and the rape victims she charged did little to mitigate her anger over what she saw as the reluctance of the district attorney to treat rape as seriously as other major crimes.

"It should not take three, or six or eight rapes to make a rapist," Allred said. "Individual women should have their cases prosecuted on the merits, whenever there's probable cause to believe the crime was committed."

Issue Called More Complex
Deputy Dist. Atty. John Asari, who tried the Brown case, said he understands Allred's concern, but the realities of most rape cases make the issue much more complex than in many other crimes.

"In deciding whether to file charges, it's a question of whether there is sufficient evidence to make it a reasonable possibility that we'll convince 12 impartial jurors," Asari said. "The D.A. has to believe there is."

Detective Richard Richter, a sex crimes investigator in the Los Angeles Police Department's North Hollywood division, said it is frustrating to police as well as rape victims to have their reports rejected by the district attorney's office, "but I understand they have to draw a line somewhere, and sometimes that line doesn't meet mine."

"A couple of times I had to scream and yell at them (the district attorney's office) when I felt strongly a case should be filed. I felt they should at least go for it, bring the defendant to trial. Maybe he won't be found guilty, but maybe he will."

Richter admitted that it often takes more than one reported victim to get charges filed against a rape suspect. The manner in which Brown raped Nelsen was a "carbon copy" of other rapes reported against Brown in the past, he said.

"When Lori Nelsen's case was rejected, I knew he (Brown) would do it again," Richter said. "I told Lori to stick around or let us know where you'll be. We may need you."

Asari said the Nelsen rape was especially difficult to file on, "not because we didn't believe Lori, but because there was no corroborating evidence, the physical in-

juries. We wanted to file the case but couldn't get the corroborating evidence."
"Our dilemma was, here's Lori standing alone saying she was raped, and Gary Brown saying she was not. There was no evidence to support her."

But Allred said the issue of corroborating evidence surfaces too frequently in rape cases, as compared to other crimes.
"I'm concerned that the D.A.'s office is requiring far too much in the way of corroboration for rapes, more than in other crimes," she said. "When somebody is robbed, they say, 'My wallet has been stolen.' There doesn't have to be another witness that the wallet was stolen."

By not filing charges, Allred said the district attorney is "surrendering the role of the jury. They should let the rape victims have her day in court, let the jury hear the evidence and decide the case."

Asari agreed that "under the ideal system, the jury should hear every case. But that's not possible. We do have limited resources."
"Our policy is that we don't file charges unless we are confident the defendant is guilty, and we feel we have enough evidence to convince a jury of his guilt. We don't waste the taxpayer's money pursuing cases we know we can't win."

But Asari said charges are being filed in a higher percentage of rape cases than ever before, and more convictions are resulting because the public is more sensi-

tive to the issue of rape, and police and deputy district attorneys are receiving more specialized training in rape cases.

"The police department now gets better medical evidence, making our cases stronger, and the D.A. gets special training in workshops to understand the trauma a rape victim goes through and to learn better tactical advice in trying cases," Asari said.

Richter agreed: "The D.A. is looking at these cases more and more, and on borderline cases they often call us to get more evidence, or they take a chance with it. There's a lot more attention being paid to sex crimes."

The case against Brown was especially difficult to prove, Asari said, because the issue was "essentially one of credibility—who the jury would believe."
"You've got two women who said they were raped, and a good-looking guy who says, 'They were loose women . . . they went for me . . . they came to my home.' In this case, the jury believed the victims."

Asari denied that different standards are used to determine whether to file charges in rape cases, although he said the decision on whether to file is often complicated by the emotionalism surrounding the issue and the difficulty of obtaining evidence to support a victim's claim of rape.

He defended the decision of Jenkins not to file charges against Brown when Nelsen first reported her rape, even though Brown's record was filled with ar-

rests for the same crime, allegedly committed in the same way.

"He (Jenkins) did his homework, researched the law and made an independent judgment," Asari said. "I'm not suggesting whether he was right or wrong, but he was following accepted standards, the same standards I would follow."

Asari said most of Brown's prior arrests were too old to have been used against him in court to they could not be used in building a case against him or be considered in deciding whether to file charges against him.

"There was a legal question of whether we could use Brown's prior arrests," Asari said. "Past cases have shown that you can't use prior offenses to help establish a method of operation unless they are really recent and almost exactly like the offense in question."

Gloria Allred was saying, "Take a chance and file this. Even if you don't have the evidence or you can't use it in the courtroom, you know this guy's a bad guy, so file anyway."

But we said we can't make our judgments based on that. We have to base our decision on an evaluation of whether we can prove the charges we bring."

When the district attorney's office received two more reports the next year accusing Brown of rape, that provided enough corroboration to file charges, Asari said—the charges that resulted in Brown's eventual conviction and prison sentence.

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Getting an Accused Rapist Into Court Proves to Be a Trial in Itself for His Victims

By SANDY BANKS, *Times Staff Writer*

Just as the recent rape conviction of Gary Wayne Brown in Van Nuys Superior Court ended a long struggle by his victims to see justice done, it also symbolized a simmering controversy over the application of justice in rape cases—a controversy that often makes adversaries out of potential partners in the justice system.

And it revived long-standing complaints of women and others that the system still places too heavy a burden of proof on the victim herself.

They were on the same side, yet police, prosecutors and Brown's victims often found themselves at odds as they struggled to bring Brown to trial and convince a jury of his guilt.

"The D.A.'s office is often in an adversary role facing

the police department, even though we're on the same side, because the police want every case filed and we can't file every one," a deputy district attorney said.

"To rape victims, our decision not to file, as in the Brown case, may seem tantamount to telling them, 'We don't believe your story.'"

Brown, 38, a carpenter and part-time actor, was convicted in January of raping two young women—Lori Brown Nielsen and Roberta Cavey—and sentenced last month to 10 years and four months in prison by Judge Robert R. Devich. He could become eligible for parole after serving two-thirds of his sentence, Devich said.

At Brown's sentencing, Devich cited Brown's long criminal history in imposing the prison term, a history that dates to 1962 and includes convictions for narcotics,

forgery, trespassing, bookmaking and a 1970 conviction for unlawful sex with a 15-year-old girl.

Since 1970, Brown had been arrested seven times on rape charges by Los Angeles police, but not until last month was he brought before a jury on a rape charge.

Until he was charged in December, 1979, for the 1978 rape of Nielsen and the 1979 Cavey rape and alleged attempted rape of a Granada Hills woman (of which he was acquitted), the district attorney's office had filed rape charges against Brown only twice, and neither went to trial.

In one instance in 1971, the charges were dismissed at the preliminary hearing when the woman who reported the rape became distraught and broke down on the witness stand. In 1970, Brown pleaded guilty to unlawful

sex with a minor rather than stand trial on a charge of forcible rape.

Brown's case indicates what can happen in many rape cases as victim and accused thread their way through the legal system.

According to the most recent statistics from the state Bureau of Criminal Statistics, 1,028 persons were arrested for rape in 1979 in Los Angeles County. Of those arrested, 273 were released by police; 466, or 45% of those arrested, were charged with felonies by the district attorney, and 276 were convicted of rape.

Excluding those suspects released by police, the district attorney's office filed charges in 62% of the cases presented to them, said Deputy Dist. Atty. Joe Siler.

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