



TAPES & TRANSCRIPTS

Transcript

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WHAT JENNIFER SAW

JENNIFER THOMPSON: I remember feeling frightened. I remember feeling sick. But I also remember feeling just an overwhelming sense of just guilt.

NARRATOR: More than 12 years ago, as a 22-year-old college student, Jennifer Thompson became the victim of a brutal attack.

JENNIFER THOMPSON: I had determined in my mind, "Okay, I'm going to survive this. And when I do, I want this person to pay." I didn't want to look at him. I didn't want to see him, but I had to see him.

NARRATOR: What Jennifer Thompson could not foresee was the tortuous journey through the American justice system that lay ahead for her and the man she saw that night.

JENNIFER THOMPSON: His bars were made of metal. My bars are emotional. My bars_ I don't_ I can't ever_ I can't ever break them free. No one's going to ever hail me as_ as someone who has survived 11 years of imprisonment. The table's turned.

NARRATOR: It all began to unfold on a hot July night back in 1984 at the Brookwood Garden apartments in Burlington, North Carolina.

JENNIFER THOMPSON: About 3:00 o'clock in the morning I heard a noise and I woke up. And when I asked who was there, the person jumped on me. And I was on my back, so he grabbed my arms and pinned them to the side of my head and put a knife to my throat. And I had screamed and he told me that if I didn't shut up, he would kill me.

And I was trying to see the face, thinking that maybe this was someone I knew, that this had to have been a joke someone was playing on me. And when I realized that it wasn't, I thought maybe this was someone who had broken into my home to rob me and I told him that he could take anything he wanted. He could have my money. He could have my credit card. And he told me he didn't want my money.

And when I asked what he wanted, he proceeded to take off my underwear and he went down and started performing oral sex on me. At that point, I realized that I was going to be raped and I didn't know if this was going to be the end, if he was going to kill me, if he was going to hurt me and I decided that what I needed to do was to outsmart him.

Throughout the evening, I would turn on lights, even if it was just for a second, and he would tell me, "Turn that light off." And at one point, he bent down and turned on my stereo and a blue light came off of the stereo and it shone right up to his face and_ and I was able to look at that. When I went into the bathroom, I shut the light on and he immediately told me to shut it off, but it was just long enough for me to think, "Okay, his nose looks this way" or "His shirt is navy blue, not black," little, brief pieces of light that I could piece together as much as I could piece together.

When he came up and he started to try to kiss me, it_ it enraged me and it made me so sick on my stomach that I just turned my head. And he looked at me and he called me "Baby" and I thought this had to be my moment and I looked at him and I said, "You know, if you would put your knife outside of my apartment, then I would feel so much more at ease." And he fell for that and he got off of me, but he didn't go outside of my apartment. He just dropped it outside my door and he came right back in and so I had to rethink, "Well, now what am I going to do?"

So I said, "I'm really thirsty. I need to get something to

drink," which was in my kitchen, at the back door. And when I went into the kitchen, I realized that's where he had come in because the door was open. And I started to run water and throw ice cubes in my sink and open up cabinets and drawers, making as much noise as I could, and getting up enough courage to run. And that's when I opened up the door and I just took off out the door.

So I went to a home that I saw that had a light on in their carport and knocked on the door. I banged on the door and a man came and I told him_ I was screaming. I said, "I've been raped by a black man. He's after me. Please let me in." And the man screamed. He completely lost his composure. And his wife came around the corner and she recognized me. She had been a professor at the college I was attending and although she didn't actually know me, she'd seen me, and she said, "I know her. She's a student at college. Let her in." And they let me in and that's when I lost my composure. I fainted.

NARRATOR: Jennifer Thompson was taken to the hospital, where she met Detective Mike Gauldin, then a six-year veteran with an exemplary record.

Capt. MIKE GAULDIN: The principal concern initially is any medical needs that the victim may have that the physician can render. Then after that, the physician recovers necessary evidence that you hope to acquire that can help you with your sexual assault investigation.

JENNIFER THOMPSON: I had no idea that there's an entire kit they have to perform on you and take all kinds of samples and evidence and that kind of thing off of your body. They had to take, you know, hair combings and vaginal smears and_ it was_ I mean, it was very demeaning.

NARRATOR: The police were already searching the neighborhood, looking for Jennifer's assailant.

Capt. MIKE GAULDIN: The police department received a second call involving a lady who was heard screaming in a nearby neighborhood about maybe seven tenths of a mile away, on Ava Street. And as it turns out, this lady became a second rape victim of the perpetrator in this case.

JENNIFER THOMPSON: Mike Gauldin came in and I heard a woman crying a few stalls down from me and I

remember looking at him and saying, "Did she get raped also?" and he said, "Yes, and we think it was the same person." And that was a horrible feeling, that he had hurt two women in one night. And I can remember just feeling so_ so sorry for her because I knew how much pain I was feeling and I could only assume she was feeling the same amount.

NARRATOR: From the hospital, Jennifer was asked to go to police headquarters and give a statement.

Capt. MIKE GAULDIN: She was so determined during the course of the sexual assault to look at her assailant well, to study him well enough so that, if given an opportunity later, she would be able to identify her assailant.

JENNIFER THOMPSON: There's literally pages of noses and there's pages of eyes and it can get very confusing because, all of a sudden, you've seen 20 noses and you're not really positive how the nostrils were.

Capt. MIKE GAULDIN: I had great confidence in her ability to identify her assailant. A lot of victims are so traumatized, so overcome with fear during the course of the sexual assault itself, that it's unusual to find somebody that's capable of having that presence of mind.

JENNIFER THOMPSON: I was trying to keep my composure, to try to keep my memory straight. At the same time, I just_ I didn't want_ I didn't want to keep my composure. I wanted to lose my mind.

NARRATOR: For now, Mike Gauldin would have to rely on Jennifer's memory of the man who raped her to lead him to a suspect. His strategy was to publicize the composite sketch widely in the hope that someone would recognize the rapist.

1st NEWS REPORTER: Burlington police are looking for a black male in his late teens or early 20s.

2nd NEWS REPORTER: The first attack took place shortly after 4:00 A.M. at the Brookwood Garden apartments_

3rd NEWS REPORTER: _Less than an hour later police responded to screams of another woman_

4th NEWS REPORTER: _Police believe the same person is responsible for both crimes.

5th NEWS REPORTER: _a black male with a light complexion around six feet tall, 170 to 175 pounds_

6th NEWS REPORTER: He has short hair and a pencil-type mustache. Anyone knowing anything about these crimes is encouraged to contact the Burlington police.

NARRATOR: The next day Gauldin got his first break, an anonymous tip that a man named Ronald Cotton, who worked at Somer's Seafood, resembled the sketch.

Capt. MIKE GAULDIN: Of course, Somer's Seafood restaurant is in the same neighborhood of the_ where both rapes occurred. And as a result of receiving that tip, we assigned a detective to do the background on Ronald Cotton.

NARRATOR: Ronald Cotton had a police record. When he was 16 he was convicted for attempting to rape a 14-year-old white girl he knew. He was now out on parole for a second conviction for breaking and entering. The owner at Somer's Seafood said Cotton was in the habit of touching the white waitresses and teasing them about sex and that he owned a blue shirt similar to the one Jennifer saw on the night of the rape.

Capt. MIKE GAULDIN: His name, as well as five other persons, was mentioned to us and, of course, it was from there that we constructed a photo spread involving all six of those individuals.

JENNIFER THOMPSON: The photos were individual type of mug shots. It was on a book that you flipped through. It had volumes. They couldn't look at me and say, "He's in here. He's one of these guys." So, "He may, he may not be in here. Take your time. Think through it." And it didn't take me very long. It took me minutes to come to my conclusion. And then I chose the photo of Ronald Cotton. After I picked it out, they looked at me and they said, "We thought this might be the one," because he had had a prior conviction the same_ it was the same type of circumstances, sort of.

NARRATOR: Rich Rosen, a law professor at the University of North Carolina, has studied this case

extensively.

RICH ROSEN: At first glance, this case seems to fit the mold of the archetypal Southern crime. It's a black man accused of raping two white women in a small Southern town. But the more we looked into it, the more it didn't seem to fit the archetype. The police had a description of a black man. They gave a photograph to the victim in a fair photographic line-up and she picked out Ronald Cotton. And then they went and tried to find evidence to support the identification.

NARRATOR: With Jennifer Thompson's I.D. and a search warrant, Mike Gauldin set out to find Ronald Cotton.

CALVIN COTTON, Brother: I had a knock on my door and when I started toward the door, my door flew open and they come in on me. They reached and grabbed me, spin me around. They threw me in the bed and pulled my hands behind my back and asked me was I Cotton. And I said, "Yeah," and one officer said, "Well, Cotton, you're under arrest." And that's when the other officer reached and pulled my wallet out of my back pocket and opened it up and looked and seen that I was Calvin and he said, "We got the wrong one." He said, "This is Calvin, his brother." And they turned around and they went back out and they went over to my mama's house.

NARRATOR: At his family's home, the police didn't find Ronald, but they did find evidence.

Capt. MIKE GAULDIN: I found under his bed a pair of black shoes like those described by both victims. We had recovered a piece of foam rubber at Jennifer Thompson's crime scene that appeared to have come from the inside of a shoe. In addition to that, I found also under the bed next to the shoes a red flashlight, which was similar to a flashlight described by the second victim in these cases.

RICH ROSEN, Law Professor, University of North Carolina: I can see a police officer being excited when they find a piece of foam at the scene and then find that Ronald Cotton owns an athletic shoe which is old and beat up and could have lost foam. Even though it is_ the foam could have come from any one of a thousand shoes in Alamance County, North Carolina, even though there's no further connection, to the officer it's one more little piece of proof that the victim was right, that Ronald

Cotton, in fact, is the man who did the crime, and that can help the prosecutor convict the person that the police officer believes is guilty.

NARRATOR: That afternoon Ronald Cotton voluntarily walked into the police station and said he wanted to straighten this whole thing out. Cotton identified the shoes and flashlight as his, but told the police he hadn't done anything wrong. He said he was out with friends on the night in question.

Capt. MIKE GAULDIN: A number of detectives were assigned to follow up on that alibi statement, to contact the people who he said he came in contact with. And frankly, we were not able to confirm his alibi through those interviews. If you take the statement that Ronald Cotton gave us, in conjunction with the evidence that we recovered from under his bed, the fact that Jennifer Thompson had identified him as her assailant, we felt very strongly that Ronald Cotton was the perpetrator of her rape.

PHILLIP MOSELEY, Defense Attorney: Well, I received a telephone call that I had been appointed to represent Ronald Cotton. I went to the jail and met with Mr. Cotton very briefly and went quickly then to the Burlington Police Department. We were brought into a large room and the room was divided with a table in the middle, not unlike this table, and seven young African-American males were placed against the wall over here and held numbers in front of them. And then the victims, one at a time, was brought in to view the line-up. Each person was asked to step forward, say a phrase, do the Miss America turn, and then step back.

JENNIFER THOMPSON: They had to_ to do the steps to the right, to the left, and then turn around. And then they were instructed to do a voice presentation to me. They had to say some of the lines that the rapist had said to me that night so I could hear the voice, because the voice was a very distinct voice.

PHILLIP MOSELEY: At the end of the session, she says, "It's between 4 and 5. I'd like them to do it over again." And so 4 steps out and does it again, 5 steps out. And she says, "It's 5." And 5 was Ronald Cotton.

NARRATOR: When I picked him out in the physical line-up and I walked out of the room, then he looked at

me and he said, "That's the same guy. I mean, that's the one you picked out in the photo." For me that was a huge amount of relief, not that I had picked the photo, but that I was sure when I looked at the photo that was him and when I looked at the physical line-up I was sure it was him. And again, as a credible witness, you had to have the two to go together.

PHILLIP MOSELEY: Jennifer leaves the room and victim number 2 comes in. They do the same thing. She has a slightly different phrase. They say the phrase. They do the turn. She says, "It's number 4." Now, this was the same number 4 with whom Jennifer had trouble, identifying, and then made the comment, "Did I get the right one?"

BAILIFF: All rise. Oh yes, oh yes, oh yes. This honorable criminal superior court for the county of Alamance is now open and setting for the dispatch of business with the honorable_

NARRATOR: In January, 1985, the Cotton case came to trial. The state had decided to prosecute him only for the rape of Jennifer Thompson, fearing that the second victim's failure to identify Cotton could jeopardize their whole case. Despite extensive forensic investigations, there was little physical evidence to introduce: no fingerprints, no hairs, and blood typing of semen samples that proved inconclusive. But the prosecutor felt that Jennifer Thompson alone would be far more convincing than any physical evidence he could offer.

JAMES ROBERSON, Prosecutor: Jennifer had a very good rapport with the jury. When a question was asked, she would turn to the jury and explain to the jury what happened. And as she explained, it was almost as if she was taking the jurors back to when it happened.

JENNIFER THOMPSON: He had gone through my wallet while I was sleeping. And so by the time the_ the rape actually occurred, he knew my name was Jennifer. He had robbed me. He had gone through private articles of mine. He completely violated me. In every way a person can be violated I was violated.

DALLAS FRY, Juror: As I listened to Jennifer's testimony, I thought she was very, very brave. It was_ it had to be terrible for her to have to tell these people all these intimate things. And I think the part that really

infuriated me the most was the fact that he scared her to death. The rape itself was bad enough and everything that he made her do was bad enough, but the fear that he instilled in her is what really made me the maddest.

RICH ROSEN: If the victim is somebody that the jurors can identify with and sympathize with, if the victim is really an innocent victim, then it's probably the most powerful testimony that could be presented in court. I mean, this is somebody who's been hurt, who's been brutalized, who sits there in front of the jury and ritualistically says, "Yes, I can identify the person who did this to me. He is sitting at counsel table. That is the man who hurt me so badly." It is incredibly powerful evidence and jurors want to believe the victim. They identify with the victim. And especially when there is really no motive for the victim to lie, it is very hard evidence to overcome.

NARRATOR: To counter Jennifer's compelling testimony, the defense would argue that she had made a mistake and Ronald Cotton was not even involved. But Phil Moseley knew it wouldn't be easy.

PHILLIP MOSELEY: There was eyewitness identification in the case, which lawyers know to be sometimes unreliable, but jurors and the general public think it's very reliable. There was a racial component in the case, in that the victims were white and the defendant was African-American. And Ronald Cotton had a prior record, which always colors a trial.

NARRATOR: And then there was the alibi. Cotton now said he'd gotten his dates mixed up and had given police the wrong information. He said he was actually home at his mother's house on the night of the rapes.

PHILLIP MOSELEY: His initial alibi to the police was that he had been with friends on that occasion and named those friends. The law enforcement officers found that that wasn't correct for the time and place that they were asking about. Ronald's alibi to Mr. Monroe and myself initially was that he had been with his girlfriend at a motel on that occasion and left and then went home. Then his alibi from his family was that he was asleep on the sofa in the living room as the family went in and out on that Friday night, Saturday morning. So there were three different alibis, a very uncomfortable situation for the defense.

CALVIN COTTON: My sister, Tootie, she got up there and she told them that_ you know, that it wasn't him, that he didn't do the crime, which my sister, Theresa, told them the same thing and my baby sister, Sheila, she told them the same thing, that he was there that night when it happened. She'd seen him laying in there on the chair.

DALLAS FRY: When Ronald Cotton's family got up to testify, they all said the same thing. You knew what the next one was going to say after about three or four of them had said that he was on the sofa. So that impressed me as_ that they had been rehearsed, like they had been told what to say. Well, to me, that would make one think that somebody is guilty.

NARRATOR: The defense felt its best argument was the second rape. Although Jennifer Thompson had identified Ronald Cotton, the second victim had identified number 4, an innocent stand-in, as the rapist.

PHILLIP MOSELEY: There was so much similarity between the conduct at the two cases, the two crimes, that it was like leaving a fingerprint and therefore, since Ronald Cotton did not do number two, he also did not do number one.

NARRATOR: Even though the police had linked both rapes to the same perpetrator, Cotton was only on trial for Jennifer's rape, so the judge denied Moseley's motion and the jury never learned about the second rape that night.

JAMES ROBERSON: This was just an effort to create a collateral issue to draw the jury's attention away from the real evidence_ that is, an eyewitness identification of Ronald Cotton, in Jennifer's case.

PHILLIP MOSELEY: Jennifer thinks that she made a correct positive eyewitness identification and the jurors, evidently, would believe that unless we could attack that by showing how her memory could be honestly impaired. And that led me to find Dr. Reed Hunt at the University of North Carolina at Greensboro.

REED HUNT: People believe other people when they say they remember something. And if someone says, "I remember," and they say that with great confidence, then that sort of statement is going to have an enormous impact on a jury, for example.

NARRATOR: For Professor Reed Hunt, challenging our confidence in memory has become a staple exercise of first-year psychology classes, where students suddenly become witnesses to a mock crime.

REED HUNT [in class]: What? Hey! Hey!

[to interviewer] If you ask people to give you some information about what they saw_

REED HUNT [in class]: How tall was this person?

1st STUDENT: Five-six.

2nd STUDENT: Six-two.

3rd STUDENT: Five-nine.

REED HUNT: [to interviewer] --a surprising amount of inaccuracy will occur under even those circumstances.

1st STUDENT [in class]: He was a light-toned black male.

2nd STUDENT: I had dark African-American.

3rd STUDENT: I thought he was white.

REED HUNT: She thought he was white!

NARRATOR: The class is then asked to pick the thief out of a photo line-up.

REED HUNT [in class]: How many of you thought number 1? Look at what you wrote. You should have your selection written on your piece of paper.

NARRATOR: Although the class is largely divided between numbers 3 and 5, only later are they told the real perpetrator's photo wasn't even included.

REED HUNT [in class]: This is the criminal, who happens to be named Randy Evans.

[to interviewer] Phil Moseley's interest was very simply that I, as an expert, come and offer testimony that would allow the jury to at least hear of possibilities that confusions in memory do occur_

REED HUNT [in class]: Just exactly how tall are you?

RANDY EVANS: Six feet even.

REED HUNT: Six feet even.

[to interviewer] _and to talk with the jurors about the importance of having these multiple line-ups with Ronald Cotton as the only constant in those line-ups, to point out to them that the situation, indeed, is one that we know will potentially induce confusion.

NARRATOR: But the judge ruled that Hunt had no expertise in this case and that jurors should be guided by their common sense in judging the accuracy of Jennifer's memory.

PHILLIP MOSELEY: So the jury never really understood that the scientists know that human beings can make eyewitness identification not falsely, in the sense that it's a lie, but incorrectly because of unconscious transfer. They saw an event, number one. They've got another event, number two. And they use number two, the photo line-up, instead of the rape scene itself to make their selection in the physical line-up.

NARRATOR: During the eight days of trial, Ronald Cotton never testified. His lawyer feared that would allow prosecutors to introduce his criminal history.

DALLAS FRY: He had no change of emotions for eight days. He never changed his facial expression. This was extremely strange to me and, as time went by, I expected to see him react and I never did. And so he seemed more guilty and guiltier and guiltier as time went by.

NARRATOR: Ronald Cotton was convicted and sentenced to life at North Carolina's maximum-security prison.

RONALD COTTON: I would approximately work out maybe three to four hours on the speed bag to relieve the frustration and tension that was building up in me from being incarcerated. I would be mad sometimes during the day. By going down and beating this bag, it helped me a lot. I prefer to do that than fight the other inmates.

NARRATOR: Cotton spent most of his nights writing

letters to his lawyer and anyone else who might listen to his story.

PHILLIP MOSELEY: [reading] "December 1, 1985: Mr. Moseley, I've been waiting patiently to hear from you before now, but I assume, being an attorney, you've been extremely busy. Well, it's going on a year that I've been incarcerated here at Central Prison" _

RONALD COTTON: [reading] _"and I haven't received any documents concerning my case or much less know how things look on my behalf. Mr. Moseley, it's hell living here."

PHILLIP MOSELEY: [reading] "September 8, 1986: Dear Mr. Moseley_ Sir, I'll agree I have indeed been highly frustrated by the fact of how things have been going concerning my case."

RONALD COTTON: [reading] "It's as though I'm left without anything to look forward to. I'm lost and don't know what's happening, but perhaps you can tell me."

NARRATOR: A year into his sentence, Cotton wrote to say he had found the man who had really raped the two women.

RONALD COTTON: [reading] "September 30, 1986: Mr. Moseley_ There is no doubt in my mind that Bobby Poole did the crime I'm serving time for. I work in the kitchen here with him, as well as sleep in the same dorm with him. Mr. Moseley, as I've said before, Poole is the one. I've enclosed a picture of Poole and me that was taken October the 31st, 1985. Maybe you could use it."

NARRATOR: And Cotton said other inmates were pointing the finger at Bobby Poole.

DENNIS BASS, Former Inmate: Yeah, I knew Bobby Poole in the street, okay, and, like, I went to jail on a charge and we was in the same cell together. And we got to talking and he was telling me about the crimes that they had Ronald Cotton charged with and he said he didn't do them. I'm saying, "Well, how do you know he didn't do him?" And he said, "Because I did." And I'm saying, "Well, why don't you say something?" So I'd say he's the type of guy that he didn't care either-or. He was just waiting for a break.

RONALD COTTON: [reading] "I say the truth will come to the light and the Lord knows I'm an innocent man. Some day, somewhere, the truth is going to come out in my case. Thank you. Ronald Cotton."

NARRATOR: After two years in prison Cotton was granted a new trial on the basis that the jury should have learned about both rapes. But the second victim had changed her mind, saying now that she would identify Cotton as her rapist, too. Still, the defense was confident Cotton would be exonerated of both charges until Bobby Poole got up to testify.

PHILLIP MOSELEY: Bobby Poole testifies under oath, sitting in this chair behind me, that he did not rape these two women and that he did not make those statements to these two informants in prison that they say that he did. Furthermore, now, Jennifer is in the courtroom, 15 feet away from Bobby Poole. Victim number two is in there, 15 feet away, looking at him. They testify, "Bobby Poole didn't rape me. Ronald Cotton did."

JENNIFER THOMPSON: I never remember looking at Bobby Poole, thinking, "Oh, I've got the wrong person!" I mean, "I've made a huge mistake." Now I remember that never_ that never entered my head. It just didn't. Again, I thought, "Oh, this is just a game. This is just a game they're playing."

RICH ROSEN, Law Professor, University of North Carolina: Jennifer Thompson had for years said that Ronald Cotton was the man who raped her. She had taken the witness stand, put her hand on the Bible and swore that she was certain that Ronald Cotton was the man who raped her. By the time she saw Bobby Poole, she was not about to change that. She had staked herself out. She had sworn that it was Ronald Cotton. She was not about to turn around and say, "Oops. I'm sorry. I forgot. That was a mistake. It's that man over there. Sorry, Ronald. That's not you." That doesn't happen because whatever image she had in her mind of the rapist was now Ronald Cotton.

PHILLIP MOSELEY: The judge says that the evidence that Bobby Poole committed these crimes is_ does not meet the test in North Carolina of direct evidence and therefore we may not present his testimony. We may not present any evidence that Bobby Poole committed these crimes.

Judge MARSH McCLELLAN, Alamance County Superior Court: At the end of a trial, I ordinarily ask the defendant who's been convicted if, in addition to what his attorney has said about what the judgment ought to be, that he wishes to make a statement. And I remember Cotton saying that if he might, he'd like to sing a song that he composed.

PHILLIP MOSELEY: Well, it became very quiet in the courtroom because none of us were accustomed to someone singing a song in the courtroom.

RONALD COTTON: [singing] Decisions I could no longer make because my future's so unknown to me / And then I could no longer take / Because during the day I wonder / At night I hurt with fear / Call out your name so much till suddenly tears appear / Until God came in my life, until God came in my life_

JENNIFER THOMPSON: I remember there was an immense amount of anger that I felt towards him, that, "How dare you try to receive sympathy from people in this courtroom when you've done this horrible crime." And then, at the same time, I felt like, "If you had been saved, if Jesus had really entered your life, if you are going to be redeemed, then I hope so for you." But_ but there was such a mixed feeling that it was sickening. It was nauseating. I wanted to just throw up. I wanted to cry. I can remember my face feeling hot, my heart racing. And it was_ that's one of the moments that I lost it.

RONALD COTTON: [singing] Until God come in my life_

NARRATOR: Ronald Cotton was convicted for committing both rapes. He was returned to prison, where he would serve out two life sentences.

RONALD COTTON: By singing in the choir when I was incarcerated, it helped me to be joyful and happy with myself. It just helped me to deal with what I was going through.

NARRATOR: His case remained unchanged for eight more years. Then, in the summer of 1985, by chance, Cotton's case came to the attention of law professor Rich Rosen.

RICH ROSEN: It was pure accident that I was able to look at the case when I did. Most of the time, people ask me to look at their cases, I get calls from lawyers, and I just can't do it. I don't have the time.

What struck me was how little evidence there was, aside from the eyewitness identifications. Of course, one of the eyewitness identifications was very weak. Given the length of time that the person who committed these crimes spent in the houses, given the nature of the assaults, I would have expected a lot more physical evidence implicating Ronald Cotton. It wasn't there and that surprised me.

NARRATOR: By now Rosen had a new weapon to overturn Cotton's previous two convictions. DNA testing on semen samples had become a standard forensic tool in rape cases. But there were risks.

RICH ROSEN: We felt we had a strong legal claim before we asked for DNA testing and that we had at least a decent chance of winning it and getting Ronald a new trial. So there was a risk, if we did DNA testing and it turned out to show that Ronald did the crime, that we would lose that claim. We brought this up to Ronald, told him about this. He was insistent that he wanted the DNA testing done and we talked about it a number of times, fully discussed the risks. He still said he wanted it done. Our feeling, at that point, was that it was_ it was_ it should be done.

NARRATOR: But to do DNA testing would require old evidence from the case, evidence that most likely no longer existed. Police are not required to keep evidence once a case is over and it is routinely destroyed. But to his surprise, Rosen discovered that the medical evidence was still in the police's possession. Detective Mike Gauldin had saved it.

Capt. MIKE GAULDIN: This was a heavily litigated case beginning in 1984. After the conviction in 1987, we knew that it would be reviewed again by the state supreme court. So I just continued to sign off and instruct our evidence custodian to retain it. And I felt like, too, that this was going to be one of those cases that lingered on forever.

NARRATOR: Even with the evidence preserved, new DNA testing would turn on the willingness of prosecutors

to open up an old case. Why would they risk overturning the convictions won years earlier before two separate juries?

ROB JOHNSON, Prosecutor: I lost a lot of sleep over this case. I did not want to be responsible for turning loose on the people of Alamance County a serial rapist. By the same token, since this was my responsibility, I did not want to be responsible for keeping someone in prison who may be innocent.

NARRATOR: Since the last trial in 1987, Jennifer Thompson had had little contact with the authorities.

JENNIFER THOMPSON: It was spring, 1995. I was happy where I was at in my life. And I received a phone call from Mike Gauldin and he told me that they needed to come and see me. And when he and Rob Johnson, the district attorney, came over, they began to tell me about DNA.

ROB JOHNSON: We let her know up front that it raised questions as to whether or not Cotton had been rightfully or wrongfully convicted and we did not know what the ultimate results would be, at that point in time. This was not an easy conversation. It was very awkward. It was very difficult because we were dredging up for her events that she had gone through in 1984, that she had had to live through in the trial in 1985, that she had had to live through again in the retrial of 1987.

RICH ROSEN: When they finally called up and said, yes, they were able to do the tests and, yes, they were able to exclude Ronald as the person who committed one of the rapes, it was a wonderful feeling. I mean, it showed that what we had felt all along was correct.

JUDGE: For the first time in a long time, you're walking out of here today as a free man.

REPORTER: It was very emotional in the Alamance County courtroom yesterday when the judge virtually opened Cotton's locked cell. He says he doesn't carry bitterness about his imprisonment and_

JENNIFER THOMPSON: I was told that he would be on the news and so I made sure I turned it on and watched it. I remember feeling just an overwhelming sense of just guilt that if, indeed, we had made a mistake

and I had contributed to taking away 11 years of this man's life, and if, indeed, we had been wrong, I_ I felt so bad. I felt_ I fell apart.

NARRATOR: If Ronald Cotton didn't commit the rapes, who did? Police went back to the DNA lab, this time to look for the real rapist. From the freezer where samples from 20,000 violent offenders are kept, they withdrew a blood-soaked card labeled with the name Bobby Poole. Confronted with the evidence, Poole confessed to both rapes.

LARRY KING: ["Larry King Live"] He spent more than a decade behind bars for a crime he didn't commit. How did new DNA testing_

NARRATOR: Ronald Cotton was only the latest in a string of prisoners released because DNA showed they had been wrongfully convicted.

1st REPORTER: For the first time in the 12 years since Cathy Crowl Webb accused him of raping her, Gary Dotson is_

NARRATOR: In the past four years over three dozen convicted rapists have been freed by DNA.

2nd REPORTER: They've said they didn't do it all along, but it took two new confessions and new DNA evidence to set them free.

FREED MAN: To put it bluntly, it's been pure hell.

JANET RENO, U.S. Attorney General: When you look at the cases of people who've been wrongfully convicted, it's a recognition that mistakes can be made, that we've got to renew our efforts, in the first place, to make sure that innocent people aren't charged in the first place, but that once a prosecution is instituted, it is important that the prosecutors, the detectives, the participants in the criminal justice system keep their eyes and ears open for any sign, any evidence that we may be on the wrong track.

NARRATOR: Many of these cases began with a prisoner's letter sent to The Innocence Project at Cardozo Law School in New York. Law students there sort through and research thousands of pleas that pour in from prisoners hoping to overturn their convictions.

PETER NEUFELD, The Innocence Project: Looking at this body of three dozen or so post-conviction exonerations, one is led, tragically, to the conclusion that they're just the tip of the iceberg, that there are hundreds, if not thousands of people who are factually innocent, who just didn't commit the crime _ they're the wrong guy _ who are rotting in prison or waiting in death row to be executed, and we've got to do something about it.

1st STUDENT: [reading] "I am writing you because I am an innocent man wrongly convicted for a crime for which I did not commit."

2nd STUDENT: [reading] "I need your help and do not think it's fair, after 10 years, to continue serving time for a crime I did not do."

3rd STUDENT: [reading] "I've mailed my case to many places for help, but no response."

NARRATOR: No one knows how many cases there are, but their cause is becoming all too clear.

BARRY SCHECK, The Innocence Project: What these cases are telling us, something that we already knew from other studies, is that mistaken identification is the single greatest cause of the conviction of the innocent. It's true today. It's always been true. DNA testing is showing us, with a great deal of scientific certainty, that it's an even greater problem than we suspected.

NARRATOR: Back in North Carolina, the people who put Ronald Cotton in prison are still struggling to understand what went wrong.

Capt. MIKE GAULDIN, Burlington Police Department: I can recall early on in my career as a young police officer hearing that there were people in prison that ought not be there and thinking that that's probably a bunch of malarkey, that if you do a good investigation, you do the things that you should do, and it goes through the system, through our criminal justice system, and if somebody is found guilty, then they ought to be there. What this case tells me, what the Ronald Cotton case tells me, is that regardless of what your intentions were, how well you did your job, he's somebody that shouldn't have been in prison.

JENNIFER THOMPSON: In my mind, I was sure of what I saw. Thinking back on it, I don't know that I would have done anything different.

ELIZABETH LOFTUS: One of the things that we know about memory is that when you experience something extremely upsetting or traumatic, you don't just record the event, like a videotape machine would work.

NARRATOR: One of America's leading experts on human memory, Elizabeth Loftus has testified in scores of legal cases that hinged on the recollections of an eyewitness.

ELIZABETH LOFTUS: The process is much more complex. And what's happening is you're taking in bits and pieces of the experience. You're storing some information about the experience. But it's not some indelible image that you're going to be able to dig out and replay later on.

NARRATOR: Loftus says eyewitnesses are much more likely to make a mistake when they must identify a perpetrator of a different race.

ELIZABETH LOFTUS: One of the things that we know from many scientific studies is that people do have more trouble identifying the faces of strangers of a different race than strangers of their own race. It doesn't seem to have to do with how much prejudice you might feel for members of a different race. Even people who are relatively free of feelings of prejudice still have the cross-racial identification problem. So it_ it may be that we actually are just scanning those faces differently, processing them differently and, ultimately, this affects our ability to recognize.

Capt. MIKE GAULDIN: I can't tell you the number of hours that I have sat down and gone over the files and repeatedly read them in an effort to see what, if anything, could have been done differently in 1984, in 1987, what we could have done differently, the police, to have prevented this from happening.

NARRATOR: Elizabeth Loftus would tell Mike Gauldin to reexamine that first moment when Jennifer Thompson picked out Ronald Cotton as the suspect.

ELIZABETH LOFTUS, Professor, University of Washington: When a victim goes to a photo spread, looks at a set of photos, one of the things that would be natural is for that victim to think, "The police must have a suspect or they wouldn't have brought me here." And so if they've got a suspect in mind, if they've got an idea who the perpetrator is and they communicate that idea to the victim, even unwittingly, she may be more sensitive to picking up that communication.

JENNIFER THOMPSON: After I picked it out, they looked at me and they said, "We thought this might be the one."

ELIZABETH LOFTUS: This kind of feedback can artificially increase the confidence level of the victim, make the victim more certain. "If the police believe it, they must have a good reason." And now you've got a victim who's going to be even more persuasive when she goes into the courtroom to testify than perhaps is warranted.

JENNIFER THOMPSON: I felt a lot of pressure because I knew that my eyewitness testimony was going to be a lot of what the jury was going to take in and a lot of their decision would be based on my strength as an eyewitness.

ELIZABETH LOFTUS: We're finding out that, yes, mistakes have been made, yes, mistakes have been made even in cases where people were really close to each other, as in a rape case. But the implications of this result for all the other cases out there_ if this can happen in a rape case, what about assaults? What about muggings? What about car-jackings? What about other kinds of robberies, where two people see each other briefly and later there's some identification? What is it saying about all those cases?

NARRATOR: After his release Ronald Cotton found work at the one place that would never question his innocence, the lab that tested his DNA. He betrays little bitterness, but wonders why he has never heard from Jennifer Thompson.

RONALD COTTON: What would I say to Miss Thompson? Well, I would like to know how she feels right now. What_ what does she have to say in her own words, you know, to me?

JENNIFER THOMPSON: I have to accept the answer that's been given to me and put faith in our system that the DNA tests, the science, tells me we had the wrong guy. I just wish I had some answers. I still see Ronald Cotton. And I'm not saying that to point a finger. I'm just saying that's who I see. And I would love to erase that face out of my mind. I would do anything to erase that face out of my mind, but I can't. It's just_ it's in my head. Sometimes it's more fuzzy than others because my mind now says, "Well, it's Bobby Poole." But it's_ it's still the face I see.

ANNOUNCER: At FRONTLINE's Web site, delve deeper into eyewitness identification. Compare these photos yourself with the composite sketch. Explore the meaning of memory. See how experts, including Barry Scheck, take on the most frequently asked questions about DNA evidence_ at FRONTLINE on-line, at www.pbs.org.

And next time_ the critically acclaimed movie, "Dead Man Walking," told her story, a nun working on death row. Now FRONTLINE tells the rest of the story_ the killers, the victims and the real woman who's rekindled the debate on the death penalty. "Angel on Death Row" next time on FRONTLINE.

Now your letters. A few of you, like Mark Wolf from Las Vegas, found filmmaker Ross McElwee's exploration of truth and T.V. news perplexing.

MARK WOLF: What was the show supposed to be about, anyways?

ANNOUNCER: A more pointed complaint came via e-mail.

CHARLES HAGEN, Portland, OR: Dear FRONTLINE_ What pointless pap and utter banality! For this immature drivel and pseudo-intellectual musing, viewers--

ANNOUNCER: But the rest of you who wrote waxed rhapsodic.

TOM WILSON, Encino, CA: "Six O'Clock News" was magnificent, a drink of cool, real water in a sensationalistic desert. Ross's filmmaking flies in the face

of every corporate attempt to disconnect us from our own lives and for that I'm grateful. Tom Wilson, Encino, California.

MARK LOWENTROUT, Salt Lake City, UT: I told myself, "I'll just watch for 10 minutes. I've got stuff to do," but it was transfixing. His work is a contemplative answer to the mediocrity that dominates the tube. Mark Lowentrou, Salt Lake City.

LISA FREEMAN, West Hills, CA: Dear Frontline_ In a world where life is made more and more into a spectacle every day by the media, it's revitalizing to view such a personal perspective on what is real. Lisa Freeman, West Hills, California.

DONNA MENDONCA, Charlottesville, VA: In the end, McElwee's electronic perspective future illuminates how versatile and tough human will can be, no matter how chaotic life seems to have become all around us. Donna Mendonca, Charlottesville, Virginia.

JIM DICKERSON, Lyon, MS: Since the death of my 2-year-old daughter, I've had many of the thoughts about God that were expressed in your film. It's important to see how we, as human beings, deal with the traumatic side of life, as well as to try to understand it in our own way. Unfortunately, the pain and suffering is so neatly packaged on television, it's all too easy to become desensitized. Jim Dickerson, Lyon, Mississippi.

ANNOUNCER: Let us know what you thought about tonight's program. [fax: (617) 254-0243; e-mail: frontline@pbs.org; U.S. mail: Dear FRONTLINE, 125 Western Ave., Boston, MA 02134]

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