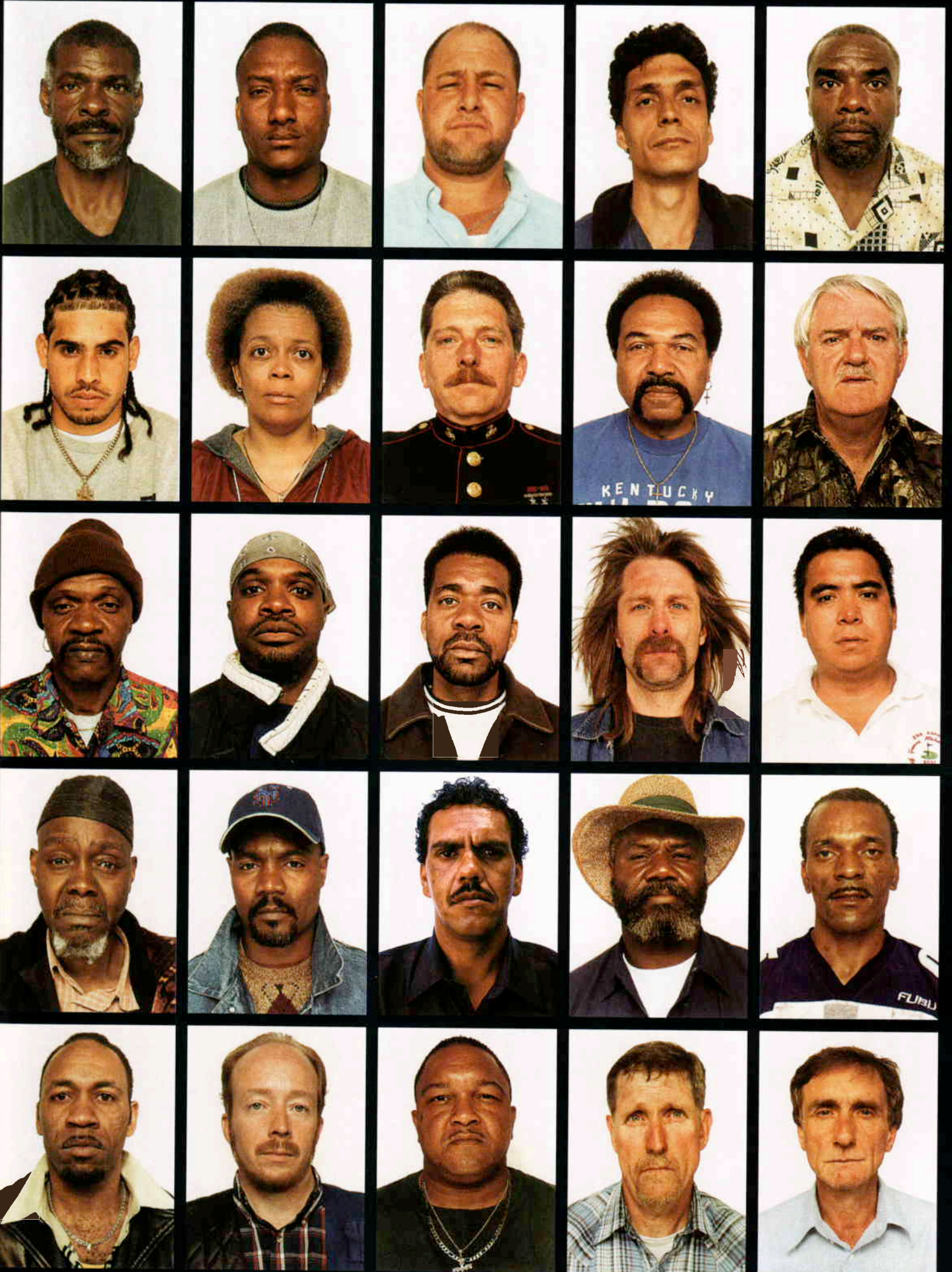
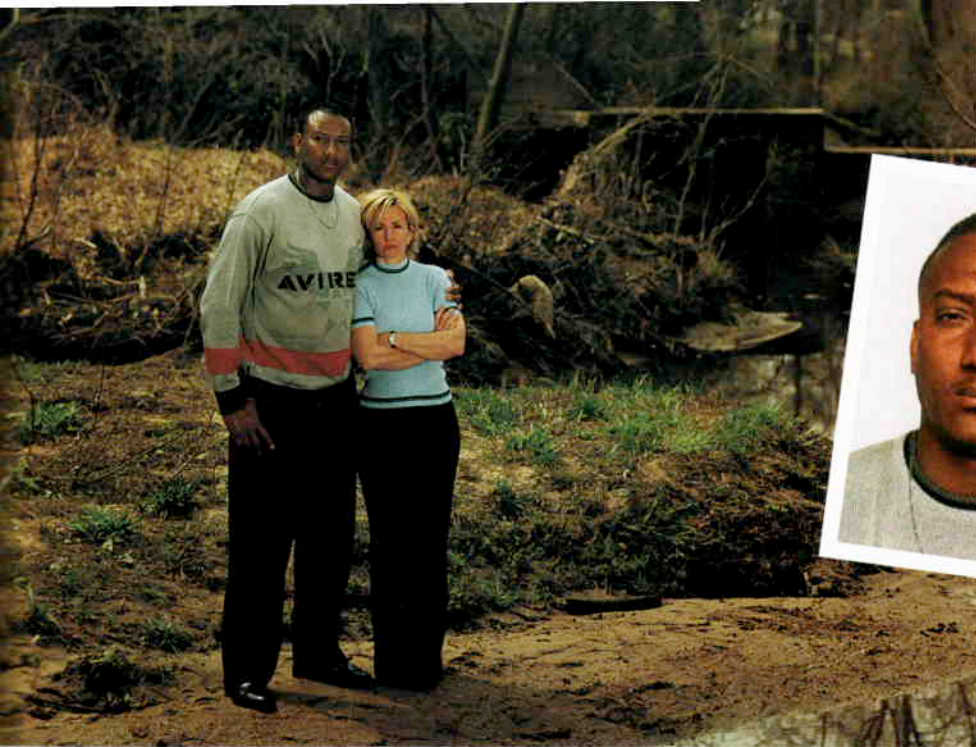


**ALL OF THESE
PEOPLE WENT TO
JAIL FOR CRIMES
THEY DID NOT
COMMIT. NOW,
A REVOLUTIONARY
SCHEME HAS SET
THEM FREE**

THANKS TO DNA TESTING AND AN ORGANISATION CALLED THE "INNOCENCE PROJECT", THOUSANDS OF PRISONERS ARE HAVING THEIR CASES RE-EXAMINED – AND MANY ARE FINALLY FINDING THE FREEDOM THEY DESERVE. CLAIRE SCOBIE REPORTS





Ronald Cotton (inset) served 10 and a half years of a life sentence after rape victim Jennifer Thompson wrongly accused him of the crime. The two (pictured left in Winston-Salem, North Carolina) have since become "the closest of friends".

When Jennifer Thompson was sent to identify the man who had brutally raped her, her legs were trembling so much that she could barely stand up. She was summoned to a police station, where she tried to prepare herself for the daunting task of looking at a line-up of men who, she felt instinctively, would include the one who had shattered her faith in the world.

"I instantly recognised him in the line-up," she says now, pain flashing across her face. "I was terrified when I saw him. I thought there would be a mirror between us, but there was nothing but a table. I was certain he was the man who had raped me. I remembered how he had looked at me on that horrible night."

The memories came flooding back. "I was alone, asleep and naked in bed, when I heard the sound of feet walking across the carpet," she remembers. "Then a man jumped on me. He covered my mouth and put a knife to my throat. I screamed and he told me to shut up or he would kill me.

"I offered him my car keys, credit cards, anything, begging him not to hurt me. 'I don't want your fucking money,' he shouted. That's when I realised that he was going to rape me. I wasn't sure if he was going to beat me or kill me. I just knew I had to try to stay calm."

Before the rape, while Thompson was still asleep, her assailant had severed her phone lines and gone through her wallet. Thompson, 22 at the time, was determined to survive. "I wasn't going to lay there and let him kill me," she says with vigour. "I studied his face in the hope of identifying him later.

"Somehow, I persuaded him to drop the knife while I went into the kitchen and turned on a light. He stayed back in the shadows and I ran. He chased me, but I banged on the door of a neighbour, who took me in and called the police. But within 30 minutes, the man had raped another woman."

Not long afterwards, Thompson was sitting, shaking and frightened, in a hospital cubicle when she heard a woman crying. A detective told her it was the other rape victim. "My heart broke," she says. "I knew how she was feeling and I was determined to nail whoever did it. I wanted him to burn in hell."

The next day, a composite picture of the man appeared in the papers. Within days, Thompson had identified Ronald Cotton – first from a selection of photographs, then at the physical line-up. Based on this eyewitness account, Cotton became the prime suspect. In November 1987, Cotton, described by the judge as a "menace to society", was sentenced to life plus 54 years.

But Thompson had made a mistake. Cotton was imprisoned for a crime he did not commit. Adding to his torment, no-one in jail believed his claims of innocence and he was punished further. When he first went to jail as a convicted sex offender, he endured psychological taunts, threats and physical attacks.

WHEN JENNIFER THOMPSON LEARNT THAT COTTON WAS NOT HER RAPIST, "THE GUILT WAS DEBILITATING"

After 10 and a half years in prison, Cotton was finally freed when a DNA test – a test that wasn't readily available at the time of his conviction – exonerated him. DNA testing, which uses biological evidence such as blood, semen or saliva, can reliably be used to exclude a person as a possible culprit. It was only introduced 10 years ago.

Ronald Cotton was one of the lucky ones. Only about half of the US states have passed statutes allowing post-conviction DNA testing – as a result, many wrongfully convicted prisoners are still languishing in jail.

It was the development of DNA testing that prompted civil rights lawyers Barry Scheck and Peter Neufeld to form the "Innocence Project", a scheme that investigates claims

of innocence made by convicted prisoners. Since the project was founded in 1992, it has helped to free 140 Americans, some of them from death row.

In practice, an inmate writes to the project, then their case is screened and – if it is suspected that physical evidence is available that can be DNA tested (such as underpants from a rape victim) – a team is assigned to the case. Tracking down evidence takes years; it involves mountains of paperwork and a tortuous litigation process.

The project was pioneered at New York's Benjamin N. Cardozo School of Law at Yeshiva University. Under the aegis of trained lawyers, who often work pro bono, students investigate these cases as part of their law degree. Now, what began as an academic exercise has spawned an international "innocence network", giving innocent people in jail a means of recourse to appeal. It has inspired over 30 schemes in the US and two in Australia.

Its knock-on effects are now being witnessed in other ways, too. These days, progressive members of the legal fraternity are using the precedent set by the project to help release wrongly convicted clients themselves. DNA testing has provided invaluable scientific proof that there are, without doubt, innocent

people in prison. It has also revealed that up to 70 per cent of wrongful convictions in the US are a consequence of mistaken eyewitness identification. When Thompson took the witness stand, for example, she felt certain that Cotton was the man who had raped her.

For him, the psychological impact of being jailed for someone else's crime was devastating. "I didn't understand why she selected me," says Cotton, a broad-shouldered African American who towers over 180cm. "For the first two years, I was hurting. I wanted to get her for framing me," he admits.

Eventually, however, after much soul-searching, he says, "I found it in my heart to forgive Jennifer. I wanted to be at ease with myself. You suffer enough in there." ►



An emotional Dennis Maher is freed after spending 19 years in jail. His lawyer, Aliza Kaplan (right), says his release was "one of the best days of my life".



Cotton soon heard that another inmate, Bobby Poole, had been bragging that he had raped both Thompson and the second victim. But Cotton had no way of proving this.

His lawyers were in touch with Barry Scheck and, in 1994, they filed for DNA tests. After a nerve-racking week, Cotton received a phone call. "The results showed I couldn't have committed the crime," he says, his voice brightening. "I was overwhelmed." The results, in fact, matched Poole's DNA. When questioned, Poole admitted to both rapes, showing no remorse. He has since died in prison.

On June 30, 1995, as if "in a dream", the judge set Ronald Cotton free. "When he told me I was a free man, everyone in the courtroom – my family, lawyers, the public – was jumping for joy, stamping their feet. I hugged my mum for the first time in 11 years."

"THEY SENT AN INNOCENT MAN TO JAIL – THE GUILTY GUY HAS BEEN OUT THERE THE WHOLE TIME" DENNIS MAHER

When Thompson learnt that Cotton was not the rapist, she confesses, "I started dying as a person. The guilt, the shame, was debilitating. I felt like I had let the whole world down. I felt like a horrible person."

Two years passed after Cotton's release, during which he married Robbin, a work colleague (his first job after being released was at the DNA lab where his tests had been carried out). But still he had not heard from Thompson. He couldn't understand why she hadn't apologised, while Thompson feared that he would seek revenge. "I still had nightmares and saw his face as the rapist," she says. "And I realised that the only way to stop that was to meet him."

In 1997, in a church a stone's throw from where the rape occurred, a meeting finally took place. Thompson arrived early, nervously praying that she would know what to

say. Cotton had difficulty persuading his wife that the meeting would be a step forward. "But I needed to get it out of the way," he says.

When Cotton appeared in the doorway, Thompson could only sit sobbing. Finally, they looked at each other. Minutes passed. Then, through tears, Thompson said, "If I apologise and say I'm sorry for every second of every hour of every day for the rest of my life, it wouldn't come close to how I feel."

With tears in his eyes, Cotton replied, "I'm not angry at you. I forgive you." He took Thompson's hand and said gently, "I don't want you to go through life looking over your shoulder, thinking I will harm you. I want you to have a happy life. People make mistakes." Then they hugged each other.

For Thompson, it was a life-changing moment. "After 13 years, that was the first

time my heart and soul began to heal," she says. "The man who I once hated had taught me how to love and how to forgive."

They have since forged a lasting bond. He wants to put the past behind him and "live freely, happily". According to the law in his home state of North Carolina, Cotton would have been paid a mere \$US5000 in compensation, but Thompson lobbied for the law to be changed and he received \$US110,000 – enough for him to rebuild his life slowly.

"He is truly a wonderful man," she says. "We have become the closest of friends." They both now speak publicly about wrongful convictions and the Innocence Project.

Cotton and Thompson have joined "the family of innocents, lawyers, staff and students", says Aliza Kaplan, deputy director of the project. "We have a tremendous relationship with our clients. We don't do this for the

money, but because we believe in it." Each year, 20 students work with 12 staff and three full-time lawyers on 200 cases (and a backlog of more than 3000). It requires dogged perseverance, particularly when two-thirds of the cases are rejected because no DNA evidence exists and, of those remaining, three-quarters are ultimately closed because the evidence has been lost or destroyed.

But the project is achieving its goal: to prevent innocent people from being sent to jail in the first place. Many police forces are now videotaping interrogations, reducing the likelihood of false confessions, and preservation laws are being drafted to ensure that evidence is correctly stored in the future.

The day Dennis Maher was released in April last year "was one of the best days of my life", says Kaplan, who represented Maher when he was exonerated after 19 years in jail on a multiple rape conviction. Maher, 42, had given up on freedom. "I get angry because I see all the things I missed out on – getting married, having kids – when they took my life from me," he says.

When Maher pulled on his red, hooded sweatshirt on November 17, 1983, he had no idea that he was about to become embroiled in an ordeal that would change his life. On that fateful night, he was walking in his home town of Lowell, Massachusetts, when "from 100 feet away, in the dark, the police identified me as the attacker in two assaults. They said I fitted the artist's description," he recalls. When he was arrested, Maher felt utter disbelief. "It was as if I was guilty until proven innocent," he says. At both the trials Maher underwent, the victims convicted him on less than convincing identifications. ▶

Frank Button (inset and, right, with his sister) made history as the first prisoner in Australia to be exonerated through DNA testing.

A heavy-set man who took his frustrations out in prison by lifting “a lot of weights”, Maher was a sergeant in the US army with a promising career ahead of him when he was charged with two rapes and an attempted rape. In April 1984, he was sent to one of the worst prisons in Massachusetts, where he suffered severely. He was repeatedly threatened. Once, he had his face slashed and needed stitches on both his face and neck. “I expected to die in prison, but I wasn’t going to admit to the crimes,” he says.

In 1993, the Innocence Project took up Maher’s case. But it wasn’t until eight years later that “a law student had a hunch that there was some evidence in the basement of the courthouse where Maher was convicted”, explains Kaplan. “After no response to our letters, the student went there in person. A friendly court official found two boxes of evidence with some clothing belonging to one of the rape victims.”

“It was a miracle,” says Maher.

Then biological evidence from the other rape case “showed up”, after having been “lost” by the prosecutors for 10 years. It was only found after Kaplan started to file a huge case against the State.

Both pieces of evidence were sent for DNA testing. “When Aliza called me with the

“THERE IS NOTHING MORE REWARDING THAN SEEING AN INNOCENT PERSON WALK FREE” LAWYER ALIZA KAPLAN

DNA results, I started crying,” says Maher. “I had been excluded from both tests.”

When he was released two days later, the district attorney formally apologised on behalf of the criminal justice system. “It was overwhelming,” recalls Maher. “Finally, it was over. I could live again.” The perpetrator has never been found and the case is now closed. “That makes me angry,” he continues. “How do the victims feel? They sent an innocent man to jail for 19 years and the guy who did it has been out there the whole time.”

The release of someone like Maher can be tough for victims and their families – not only are the wounds re-opened, but the knowledge that an innocent person served time often intensifies the trauma. Maher didn’t want the rape victims to be questioned over his DNA testing, but there was no choice.

For 17 years, he had therapy in prison to help him deal with some of his anger. “I’m in better shape than some of the other ‘exonerates’ I know,” he says. Maher has been

helped by the Life After Exoneration Project, a joint scheme run by the Innocence Project and the DNA Identification Technology and Human Rights Center, California.

The Life After Exoneration Project helps former inmates with the mammoth task of rebuilding their lives. It’s a national network that provides services such as individual therapy, job training and housing assistance. Few US states have compensation laws for exonerees, so many start their new life with nothing.

Frunk Button is someone who knows about starting life afresh. He was the first person to be exonerated through DNA testing in Australia, after being wrongly convicted of rape in 1999. Even though he’s now free, the accusations against him have taken their toll, and Button looks older than his 32 years. But his case is hailed as a victory, says Lynne Weathered, director of Australia’s Griffith University Innocence

Project, “because it shows that even with DNA evidence available from the beginning, proper testing was not done and an innocent man was sent to jail”.

Australia’s two Innocence Projects are located at Griffith University, Queensland, and the University of Technology (UTS), Sydney. UTS is currently investigating around 30 cases, while the Griffith University scheme has 100 active cases and one successful exoneration. As in the US, many cases will be closed because evidence has been destroyed – there is no legal requirement to preserve evidence post-appeal.

Button was fortunate that evidence for his case was still available. Brought up in Cherbourg, an Aboriginal community in central Queensland, he says that on February 17, 1999 – the night the rape occurred – he was with the mother of the victim, an intellectually impaired 13-year-old girl. The following day, the girl told friends at her school that she “thought she may be pregnant” as she “may

have been raped”. Later, when the police took her home, they found Button asleep.

Although the girl’s description of the rapist did not match Button, he became a prime suspect. It was only in her second statement, and allegedly while under considerable duress from her aunts, that she named Button as the perpetrator.

“When I was charged and locked up, I cried,” says Button. “It felt like my whole world had been shattered.” He was sent to the Arthur Gorrie Correctional Centre in Brisbane, where, stigmatised as a prisoner accused of sex crimes against children, he was both verbally and physically abused. He was even the victim of a violent sexual attack.

In August 2000, Button was sentenced to seven years in jail. The case rested on the testimony of the young girl who, according to a school guidance officer, had “a mental age of eight or nine”. Attempts to obtain a clear DNA profile from the biological evidence had failed to provide conclusive results. “When I was sent back to the cell, I was vomiting from the tension and fear,” remembers Button.

Ten months later, after testing was done on the bedsheets, which were not presented at the first trial, and on vaginal swabs of the victim, the results clearly showed that it was not Button’s DNA. It actually matched the profile of a prisoner serving time for another rape. Then, says Button, “with my head in a spin from so much emotion, I was released”.

“Button’s case highlights what would have happened if testing hadn’t been done at the appeal stage,” explains Weathered. “We’re using his case to help in our research.” Meanwhile, Button is trying to move on. “I look forward to going out bush again,” he says, lighting a cigarette, “enjoying the freedom to get my own tucker and hunt by the stars.”

Righting the wrongs of an established legal system may seem like an uphill struggle for those involved, but what the Innocence Project is achieving would have been unthinkable 10 years ago. DNA testing is offering an escape route to prisoners who had lost all hope. And, says Aliza Kaplan, “there is nothing more rewarding than seeing an innocent person walk free from jail”.

