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TRANSCRIPT

Program Transcript

Read the program transcript from Sally Neighbour's investigation, "Ghost Prisoners".

Reporter: **Sally Neighbour**

Date: **11/06/2007**

SALLY NEIGHBOUR: In the pre-dawn darkness, a Gulfstream jet operated by America's Central Intelligence Agency flies in to land at an airstrip in the Middle East.

The location is Cairo, Egypt; the date November 2001.

Shackled and blindfolded, the jet's single passenger is transferred to a van and driven through the city. Apart from his captors, no-one knows where he is.

It's the start of an unspeakable nightmare.

PROFESSOR JOE MARGULIES: Confined to a small cell, windowless, bare metal cot, 6 by 8 foot cell approximately, one blanket, one dimly lit bulb. Unmitigated violence, beatings were routine, some of them creative, some of them just brutal, just thuggery.

SALLY NEIGHBOUR: The prisoner is Australian Mamdouh Habib. He's one of scores of detainees, incarcerated in hellish prisons around the world, as part of the CIA's secret rendition program.

Some of them were terrorists. Others were completely innocent — victims of mistaken identity, or simply in the wrong place at the wrong time.

Now they're seeking justice.

(On screen text: "Ottawa. Maher Arar speaks for the First time about his detention in Syria")

MAHER ARAR: I am not a terrorist. I am not a member of al-Qaeda and I do not know anyone who belongs to this group.

SALLY NEIGHBOUR: Tonight on 4 Corners — America's ghost prisoners.

Has the United States knowingly violated international law by sending prisoners to be tortured overseas? And has Australia acquiesced in the outsourcing of torture?

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: The Australian Government has a legal and moral obligation to act and if they know that he's being sent there and they fail to act, they have done a bad thing.

SALLY NEIGHBOUR: Do you believe they broke that obligation?

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: Absolutely.

SALLY NEIGHBOUR: Violated the law in fact?

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: Yes. Yes.

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(On screen text: "GHOST PRISONERS Reporter Sally Neighbour)

SALLY NEIGHBOUR: It was three weeks after September 11. Mamdouh Habib was on a bus in Pakistan, when it was boarded by local police, apparently looking for foreigners.

MAMDOUH HABIB: They blindfolded us and take us in a four-wheel drive, hand-cuffed and shackles and take us away.

SALLY NEIGHBOUR: Habib was taken to Islamabad where, he says, an Australian Government official spelled out his fate.

MAMDOUH HABIB: What he tell me, he tell me, "I believe you, your citizen is being cancelled and you're not Australian citizen any more. We're going to send you to Egypt."

SALLY NEIGHBOUR: He said they were going to send you to Egypt?

MAMDOUH HABIB: He told me definitely, he told me they're going to take you away, you're going to go to Egypt.

SALLY NEIGHBOUR: About two weeks later, Habib was taken to the airport and handed over to the Americans.

MAMDOUH HABIB: Everyone step on me and hitting me. Pakistani hit me with a gun in my head. They cover their faces, all of them.

SALLY NEIGHBOUR: So they were wearing masks?

MAMDOUH HABIB: Wearing masks all of them.

SALLY NEIGHBOUR: And what else were they wearing?

MAMDOUH HABIB: Same clothes.

SALLY NEIGHBOUR: Black?

MAMDOUH HABIB: Same T-shirt, black, and grey pants.

SALLY NEIGHBOUR: Habib has re-enacted his version of these events in a home movie he made with his son. Ahmed Habib acts the part of his father, while Habib himself plays the role of jailer.

What happens next in his account is that his clothes are cut off with scissors, an object is forced into his rectum and he is dressed in a nappy.

MAMDOUH HABIB: They give me tracksuit, like grey tracksuit, after I wear the nappies, they give me grey tracksuit and same shoes I have, I think. And they start to make me like a spring roll, from the bottom to the top, all surround with chain.

SALLY NEIGHBOUR: Chains?

MAMDOUH HABIB: After the handcuff and shackle.

SALLY NEIGHBOUR: So your whole body was chained up?

MAMDOUH HABIB: Yes. And they put some stuff in my mouth and they put sticky tape or Band-aid whatever, and they put me like black stuff, like bag, black bag and they put me goggle on the top. And they just roll me to the flight.

SALLY NEIGHBOUR: Habib's account may sound bizarre, but for his American attorney Joe Margulies it's become a familiar story.

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: When Mamdouh first reported it to me we hadn't yet heard many accounts of other people who were rendered. So it was very surprising, I didn't know what to make of it.

But that's exactly how other people who have been rendered described their transport and it's very consistent.

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They cut away the clothes, they put on a diaper, they put you in a tracksuit, usually it's this blue tracksuit, they hood you, sometimes they are given some kind of drug to knock them out if they're going to be travelling, if the flight is a long flight. That's how everybody describes it.

STEPHEN GREY, AUTHOR OF "GHOST PLANE": Mamdouh Habib is talking about the CIA's Rendition Team, the rendition group which comes from Langley, the CIA headquarters. That's where it's based.

It's composed of largely paramilitaries, ex-military officers who form this team and they travel around the world and have picked up people like him and bundled them on these planes and flown them to destinations like Egypt.

SALLY NEIGHBOUR: British journalist Stephen Grey has spent three years investigating the rendition program, and recently released a book, "Ghost Plane", which tracks the CIA's secret transfer of prisoners around the world.

STEPHEN GREY, AUTHOR OF "GHOST PLANE" (to Sally Neighbour): These are my flight logs, this is among thousands of flight records we have of the CIA ...

SALLY NEIGHBOUR: Among the flight logs that Stephen Grey obtained for the CIA's rendition fleet is one that records a flight to Cairo, in November 2001.

STEPHEN GREY, AUTHOR OF "GHOST PLANE" (to Sally Neighbour): So based on the fact that this was the time that Mamdouh Habib was brought from Pakistan to Cairo, I think there's a very high chance this is the flight log related to his transfer to Egypt.

SALLY NEIGHBOUR: Five and a half years after Habib's rendition, the crucial unanswered question is exactly what the Australian Government knew. The Government says it knew nothing.

SALLY NEIGHBOUR (to Bob Baer): Would you expect the Australian Government would have known when the United States was rendering an Australian citizen to Egypt?

BOB BAER, FORMER CIA OFFICER AND AUTHOR "SEE NO EVIL": Oh absolutely. I mean look, Australia is a member of the ANZUS group and that means effectively, and this is another thing the intelligence is we don't spy on Australia, they don't spy on us.

We treat Australian citizens as the equivalent of American citizens. We don't tap their phones and it's an agreement that's 99.9 per cent adhered to, I'm pretty sure, or 100 per cent probably, you know.

So the fact that he was Australian sent to Egypt was equivalent to an American being sent to Egypt.

SALLY NEIGHBOUR: The man who set up the rendition program, Michael Scheuer, agrees. (to Michael Scheuer): In your view would the Australian Government have been informed that he was being sent to Egypt?

MICHAEL SCHEUER, CHIEF/SPECIAL ADVISOR, CIA BIN LADEN UNIT, 1996-04: Oh I would think so. It's very unusual for that serious of an operation to be conducted without the knowledge of the ally who is involved and that's especially the case with Australia, Britain, Canada and, on again off again, New Zealand.

It would seem to me very unlikely given the close relationship between us and the Australians that they would not have been informed.

SALLY NEIGHBOUR: On the day Habib was arrested in Pakistan, officials at the Australian High Commission in Islamabad were informed of his capture. The news came from the FBI.

Jack Cloonan was a senior agent in the FBI's bin Laden squad at the time.

JACK CLOONAN, SENIOR SPECIAL AGENT, FBI'S BIN LADEN UNIT, 1996-02: We share

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things with the Australian Government, intelligence-wise, and so we would tell ASIO as a matter of courtesy, they would have been involved in this, one of their citizens, they're the lead agency.

SALLY NEIGHBOUR: Habib was well known to ASIO. He'd come to their attention in the 90s because he knew some Islamic extremists in the United States.

He was filmed at a rally in New York with two men who were later charged and convicted over the 1993 World Trade Centre bombing.

ASIO eventually found there was nothing sinister in this connection, but at the time it was enough to keep him under surveillance.

ASIO agents were frequent visitors to the coffee shop that Habib ran with his wife Maha in Haldon Street, Lakemba. Habib says they tried to recruit him as an informer.

MAMDOUH HABIB: They tried to employ me, they offer me money to work for them. I want anyone from the ASIO to come in to face me if I lie about it, they offer me jobs, they offer me money to work for them.

SALLY NEIGHBOUR: ASIO's interest caused some of Habib's neighbours in Haldon Street to accuse him of being a spy and relations deteriorated.

MAMDOUH HABIB: I was going to be killed in the middle of Lakemba. In Haldon Street someone hold a gun in my head. I decide to leave Australia for some time until this situation go away. I didn't do any crime, to go for safety.

SALLY NEIGHBOUR: In July 2001, Habib left for Pakistan and Afghanistan, he says to explore business opportunities and to look at moving his family overseas.

SALLY NEIGHBOUR (to Mamdouh Habib): People in Lakemba have said that you talked about going to join bin Laden.

MAMDOUH HABIB: Well people say whatever they want to say. People said when they say he's Osama bin Laden, the same people say I've gone to join bin Laden, the same people say Habib is the CIA.

SALLY NEIGHBOUR: In Afghanistan Habib stayed in the same Kabul guesthouse as David Hicks. He was in Kabul when the September 11 attacks took place. It's still unclear why he was there, but he denies being involved with al-Qaeda.

SALLY NEIGHBOUR (to Mamdouh Habib): Did you go to an al-Qaeda camp?

MAMDOUH HABIB: Never.

SALLY NEIGHBOUR (to Mamdouh Habib): Never?

MAMDOUH HABIB: Never in my life.

SALLY NEIGHBOUR (to Mamdouh Habib): The Government says you trained with al-Qaeda.

MAMDOUH HABIB: Well the Government can say whatever they want to say, it's not true, because they've been saying that for a long time.

SALLY NEIGHBOUR (to Mamdouh Habib): Did you do any training with al-Qaeda?

MAMDOUH HABIB: I never training with al-Qaeda.

SALLY NEIGHBOUR: Detained for a month in Pakistan, Habib says he was brutally interrogated by Pakistani intelligence. He was interviewed as well by the FBI and CIA.

ASIO was also closely involved. It sent an agent to Islamabad who interviewed Habib three times there in late October 2001. An Australian Federal Police officer was present for two of those sessions.

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Habib says the ASIO agent made it clear that the Americans, who were also present, were running the show.

MAMDOUH HABIB: He say, "Oh don't talk to me, just talk with these people. Try to cooperate Mr Habib. Try to cooperate."

SALLY NEIGHBOUR (to Mamdouh Habib): Did the Australian official say anything about what was going to happen to you if you didn't co-operate?

MAMDOUH HABIB: Well he told me from the beginning, going, you're going to Egypt.

SALLY NEIGHBOUR: The ASIO agent has denied saying this. But a fortnight or so later, Habib was in Cairo.

Still shackled, duct-taped and blindfolded, Habib was driven to his new home, an underground cell in one of Cairo's dozens of state security detention centres.

MAMDOUH HABIB: It's all concrete inside. Cement. Is actually one, exactly two steps to go to the door. You can imagine exactly one foot to just to go out the door, and this area is bed. The bed, you can't be relaxed, you can't be full body straight.

SALLY NEIGHBOUR (to Mamdouh Habib): You can't lie straight?

MAMDOUH HABIB: You have to be half, half way open. When you stand it's not all the way up.

SALLY NEIGHBOUR (to Mamdouh Habib): So the cell wasn't even as tall as you are?

MAMDOUH HABIB: It's not as tall as you are.

SALLY NEIGHBOUR: Not long after his arrival, Habib was shown what happened to prisoners who didn't co-operate.

MAMDOUH HABIB: A big guy, they have handcuff and shackles and he's bent so his hands have to go down and two guards take him inside. They tell me, "We show you how we treat people."

SALLY NEIGHBOUR: Habib says he saw the other prisoner kicked to death.

MAMDOUH HABIB: The guy went on the floor he start, he can't breathe, they come and pick him up and say he's dead.

SALLY NEIGHBOUR: Then it was Habib's turn. He says the torture started from day one.

MAMDOUH HABIB: They have like, you see the American police use, the like a gun, electric guns. That's what they use to go through your body with.

SALLY NEIGHBOUR (to Mamdouh Habib): Like a cattle prod?

MAMDOUH HABIB: That's what they use. They put the handcuff, turn me over and they beat you on your feet.

SALLY NEIGHBOUR (to Mamdouh Habib): On the soles of your feet?

MAMDOUH HABIB: Yeah, until they got swollen that big and when they got too swell, they get cream, they treating you and after treating you get you again.

SALLY NEIGHBOUR: Last month we travelled to Cairo to investigate Mamdouh Habib's story.

Egypt is at the heart of what America calls the global war on terror. Plagued by its own Islamist insurgency, the country has been under emergency rule for 26 years.

Draconian anti-terrorism laws have helped turn Egypt into a police state which is routinely named by the US State Department as a human rights abuser.

BOB BAER, FORMER CIA OFFICER AND AUTHOR "SEE NO EVIL": If you want to get a good

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interrogation you send a prisoner to Jordan, and the prisons are full in Jordan of American prisoners.

If you want somebody tortured to death you send them to Syria.

If you never want to hear from them again, send them to Egypt. That's pretty much the rule.

SALLY NEIGHBOUR: In a crumbling colonial era high-rise in downtown Cairo, lawyer and political activist Mohamed Zarei runs the Human Rights Centre for the Assistance of Prisoners.

He says 5,000 political prisoners are currently being held without charge. Amnesty International says the total detained without charges is 18,000.

Mohamed Zarei says almost all of them are tortured.

MOHAMED ZAREI, HUMAN RIGHTS CENTRE FOR THE ASSISTANCE OF PRISONERS (translated): Torture in Egypt happens automatically. It happens in all political and criminal cases.

There are more than 70 types of torture that citizens are subjected to. Different types of beating — beating with sticks, with bamboo, with a hose, with their hands and legs; electrodes on the hands, on the legs, on the tongue, the genitals. They flood the cell with water. This stops the person from sleeping and he spends all night standing up.

There are many different methods of torture — the devil himself wouldn't speak of it.

SALLY NEIGHBOUR: The treatment handed out to some Egyptian prisoners is graphically illustrated in mobile phone footage posted on the internet site Youtube.

(referring to footage showing a man being sodomised by a broomstick) This man is a bus driver who was arrested last year after intervening to stop an argument between his brother and a policeman.

SALLY NEIGHBOUR (to Bob Baer): When someone's rendered to Egypt, is there any doubt that they're going to be tortured?

BOB BAER, FORMER CIA OFFICER AND AUTHOR "SEE NO EVIL": Oh absolutely no doubt at all. Same with Syria.

SALLY NEIGHBOUR: The rendition program was set up in Washington by Michael Scheuer, the long-time head of the CIA's bin Laden unit.

MICHAEL SCHEUER, CHIEF/SPECIAL ADVISOR, CIA BIN LADEN UNIT, 1996-04: We're pursuing a war. We're pursuing it very badly, and at the moment the rendition program remains the most successful US counter-terrorism program in the history of the country.

SALLY NEIGHBOUR: Successful or not, rendition to Egypt would appear to be a flagrant violation of the United Nations Convention Against Torture, which states that no country "shall expel, return or extradite a person to another state, where there are substantial grounds for believing that he would be in danger of being subjected to torture."

(On screen text: "shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.")

SALLY NEIGHBOUR (to Michael Scheuer): What did you expect would happen to people when they were sent to Egypt?

MICHAEL SCHEUER, CHIEF/SPECIAL ADVISOR, CIA BIN LADEN UNIT, 1996-04: Didn't care.

SALLY NEIGHBOUR (to Michael Scheuer): Did you expect that people would be tortured in Egypt?

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MICHAEL SCHEUER, CHIEF/SPECIAL ADVISOR, CIA BIN LADEN UNIT, 1996-04: I can say I wouldn't be surprised. We certainly raised the issues with the White House. Certainly within the CIA it was clear that there was no way we could tell anyone honestly that someone would not be tortured if they were taken to a particular country.

SALLY NEIGHBOUR: The Bush administration claims it always seeks an assurance from the country in question that people sent there will not be tortured.

(Excerpt from speech 5 December 2005):

CONDOLEEZZA RICE, UNITED STATES SECRETARY OF STATE: The United States has not transported anyone, and will not transport anyone, to a country when we believe he will be tortured. Where appropriate, the United States seeks assurances that transferred persons will not be tortured.

(End of excerpt)

SALLY NEIGHBOUR (to Michael Scheuer): What were those assurances worth?

MICHAEL SCHEUER, CHIEF/SPECIAL ADVISOR, CIA BIN LADEN UNIT, 1996-04: Well they were, they salved the conscience of cowardly politicians. They could say, "We did our best to make sure that these people were treated according to some legal regime."

SALLY NEIGHBOUR (to Michael Scheuer): Did you believe those assurances would be honored?

MICHAEL SCHEUER, CHIEF/SPECIAL ADVISOR, CIA BIN LADEN UNIT, 1996-04: No I didn't, why would I believe that?

SALLY NEIGHBOUR: Cairo lawyer Montasser El-Zayyat, who acts for the Muslim Brotherhood and Egyptian Gemaah Islamiyah, has represented a number of rendition prisoners including the very first, who was rendered to Egypt in 1995, then disappeared, believed executed. El-Zayyat has also examined the case of Mamdouh Habib.

MONTASSER EL-ZAYYAT, LAWYER FOR RENDITION PRISONERS (translated): Here in Cairo he was interrogated first by one of the general intelligence agencies and then he was handed over to the State Security Intelligence Service, the internal security organisation, at Nasr City, where he was interrogated and tortured.

SALLY NEIGHBOUR: El-Zayyat and others we spoke to believe that Habib was held in this detention centre, a citadel of Egypt's much-feared State Security Intelligence Service, at Nasr City in Cairo.

MONTASSER EL-ZAYYAT, LAWYER FOR RENDITION PRISONERS (translated): This is the building of the State Security Intelligence Service in Nasr City, the general administration building.

It has special cells for the detention of arrested people or suspects. There are rooms underground, so that no-one knows they are there.

SALLY NEIGHBOUR (to Montasser El-Zayyat): Do you know what happens to people in those cells?

MONTASSER EL-ZAYYAT, LAWYER FOR RENDITION PRISONERS: It's the way that Mamdouh Habib has described it.

MAMDOUH HABIB: They got like monkey bar. They, they've got you, lift you up to a guard and they handcuff you and shackle you and they hang you like a monkey and someone got stick, the way they go, they hit you, the way they come back, they hit you, and you have to be naked in this time. They got dogs.

SALLY NEIGHBOUR (to Mamdouh Habib): What do they do with the dogs?

MAMDOUH HABIB: The dogs, they just bring, they try to mentally to make you worried but they telling people they do sexual with dogs they say.

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SALLY NEIGHBOUR (to Mamdouh Habib): They told you that?

MAMDOUH HABIB: Yeah, this ...

SALLY NEIGHBOUR (to Mamdouh Habib): That the dogs were trained to, what, do sexual acts?

MAMDOUH HABIB: That's what they saying and, they just put you upside down, your face on the floor, they've got your hand up and you, you shackle your legs, your feet, and you have to be naked and they get the dogs through to you and (pause) upset ...

SALLY NEIGHBOUR (to Mamdouh Habib): And at some point you told me they put you in a box?

MAMDOUH HABIB: (pause, upset). Can I rest?

SALLY NEIGHBOUR (to Mamdouh Habib): Yeah sure.

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: He described how he was put in this room, dark, black room, windowless, no light at all, handcuffed, cuffs behind him. Water starts to flow into the room. He can hear the sound of the water, rushing in, he can feel it on his legs, he can't see it. He feels the water rise up past his shins, past his knees, past his thighs. The water rises up past his stomach, to his chest.

He doesn't know whether it's going to stop. He can scream, no-one can hear him.

It comes to his neck, it comes to his chin. All he can do is rise up on his toes and step and then water stops. And so he's left there on his toes, suspended in the water. I can't even conceive of it, and he says he was left there for hours.

SALLY NEIGHBOUR: The torture methods Habib describes have been corroborated by other prisoners and human rights groups. Another one was the box.

MAMDOUH HABIB: The box is that size I believe, have a small hole. You've got very small light that come through. They put you inside this box and you don't know for how long.

SALLY NEIGHBOUR (to Mamdouh Habib): So it's like a coffin?

MAMDOUH HABIB: Smaller than a coffin.

SALLY NEIGHBOUR (to Mamdouh Habib): Smaller than a coffin?

MAMDOUH HABIB: In a coffin maybe you can relax but this one is not relax.

SALLY NEIGHBOUR (to Mamdouh Habib): How long were you in the box?

MAMDOUH HABIB: No idea.

SALLY NEIGHBOUR: In between torture sessions, Habib was interrogated, over and over again.

(On screen text: "home video re-enactment")

He says an Australian officer was present for at least one of these sessions. The Australian Government denies this.

Habib believes from the questions he was asked that the interrogators had information taken during an ASIO raid on his Sydney home, including telephone simcards.

MAMDOUH HABIB: And they tell me you have to tell us every single person and this number, who's he? How you know him? How, where he live? Who's his family? What's your connect with him? Every single person.

SALLY NEIGHBOUR (to Mamdouh Habib): And who were these people?

MAMDOUH HABIB: My family, mechanic, plumber.

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SALLY NEIGHBOUR (to Mamdouh Habib): Everyone you know, everyone whose phone number you have in Sydney?

MAMDOUH HABIB: Everyone, the people who use to work with me, my next door neighbour, just everybody.

SALLY NEIGHBOUR (to Mamdouh Habib): Did they say anything about where they'd got this material?

MAMDOUH HABIB: They say from my home.

SALLY NEIGHBOUR (to Mamdouh Habib): But how had the Egyptians got hold of it?

MAMDOUH HABIB: How the Egyptian – they said Australian give it to him.

SALLY NEIGHBOUR (to Mamdouh Habib): They said this?

MAMDOUH HABIB: Yes.

(Excerpt from Senate Estimates, 14 February 2005):

SENATOR BOLKUS: Were we advised that he was going to be taken to another jurisdiction when he was taken?

ROBERT CORNALL, SECRETARY, ATTORNEY-GENERAL'S DEPARTMENT: No, we weren't.

SENATOR BOLKUS: We were not?

ROBERT CORNALL, SECRETARY OF THE ATTORNEY-GENERAL'S DEPARTMENT: No, we weren't.

SENATOR BOLKUS: When did we first find out?

ROBERT CORNALL, SECRETARY OF THE ATTORNEY-GENERAL'S DEPARTMENT: Some time after he had been transferred.

SENATOR BOLKUS: And how did we find out?

ROBERT CORNALL, SECRETARY OF THE ATTORNEY-GENERAL'S DEPARTMENT: ASIO was the source of information that he had been transferred.

(End of excerpt)

SALLY NEIGHBOUR: For the entire six months of Habib's detention in Egypt, and ever since then, the Australian Government has disavowed any knowledge of his rendition and claimed his presence there was never confirmed by the Egyptian authorities.

But a paper trail of Government cables and other documents, many of them marked "secret" but released under Freedom of Information, shows that within days of his transfer, the Government was "aware that Habib was in Egypt", and "in the custody of an Egyptian agency".

(On screen text: "the Australian Government is aware that Mr Habib is in Egypt, and is in the custody of an Egyptian Agency.")

This unequivocal statement stands in stark contrast to the years of duplicity and dissembling that followed.

(Excerpt from "Sunday" program, 13 February 2005):

ALEXANDER DOWNER, FOREIGN MINISTER: The Egyptians have at no time acknowledged that they did actually detain Habib, though we for a long time believe that they did, did detain him to the extent that when he was, we believe, in Egypt, and we know from what Habib said that he was in Egypt, our Ambassador raised his welfare and the fact that we thought the Egyptians had him with the Egyptian Prime Minister and other ministers and officials.

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LAURIE OAKES, INTERVIEWER: Did we raise it with the US who took him there? In effect abducted him from Pakistan to send him there?

ALEXANDER DOWNER, FOREIGN MINISTER: Well, I don't have all - I don't have all the details of that. I don't have any evidence that the Americans took him there. To the best of my knowledge the Pakistan ...

LAURIE OAKES, INTERVIEWER: Well, he didn't walk.

ALEXANDER DOWNER, FOREIGN MINISTER: Well, he went from Pakistan to Egypt. There are a lot of different ways you can get from Pakistan to Egypt.

(End of excerpt)

SALLY NEIGHBOUR: Some in the Government even sought to cast doubt on whether Habib had been in Egypt at all.

(Excerpt from Senate Estimates, 24 May 2004):

ROBERT CORNALL, SECRETARY, ATTORNEY-GENERAL'S DEPARTMENT: CORNALL AT SENATE ESTIMATES: My understanding is we have a great deal of difficulty knowing what if anything occurred in relation to Mr Habib in Egypt because the Egyptians have never acknowledged that he was in their custody.

(End of excerpt)

(Excerpt from Senate Estimates, 15 February 2005):

MICK KEELTY, COMMISSIONER, AUSTRALIAN FEDERAL POLICE: He was not certain himself whether he had been to Egypt but it was that period of time when he was held captive that he's alleged that he was tortured.

(End of excerpt)

(Image of Department of Foreign Affairs and Trade cable, marked "SECRET. CONSULAR: ARREST: HABIB, MAMDOUH AHMED Printed by Keith Gardner - 12:11 PM Monday 19 November 2001")

SALLY NEIGHBOUR: This cable was sent from the Foreign Affairs Department in Canberra on November 19, 2001, a matter of days after Habib's rendition, stating for a fact that Habib had "been transferred to Egypt".

(On screen text: "has been transferred to Egypt")

Yet here's what the secretary of DFAT told the Senate, three years later.

(Excerpt from Senate Estimates, 14 February 2005):

ROBERT CORNALL, SECRETARY, ATTORNEY-GENERAL'S DEPARTMENT: CORNALL AT SENATE ESTIMATES: We don't know how he got to Egypt if that's in fact where he was.

SENATOR BOLKUS: And you still can't confirm that he went to Egypt?

ROBERT CORNALL, SECRETARY, ATTORNEY-GENERAL'S DEPARTMENT: CORNALL AT SENATE ESTIMATES: Senator, that's a matter really that, my briefing is that we have never received any confirmation from the Egyptian Government that he was in their custody.

(End of excerpt)

SALLY NEIGHBOUR: This document sent by the Federal Police liaison officer in Islamabad to his head office, also on November 19, 2001, states that Habib had been "removed to the country of his birth."

(On screen text: "removed to the country of his birth")

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Yet publicly, Federal Police Commissioner Mick Keelty said this:

(Excerpt from Senate Estimates 15 February 2005)

SENATOR LYN ALLISON: You say there is very little evidence that Mr Habib was in Egypt. Would you expect to see something on his passport? What sort of evidence would you expect to find?

MICK KEELTY, COMMISSIONER, AUSTRALIAN FEDERAL POLICE: I didn't say that Mr Habib was in Egypt. The AFP is not in a position to confirm whether Mr Habib was in Egypt. Mr Habib's own words himself were, wherever he was, wherever he had been taken to, the people spoke Egyptian.

(End of excerpt)

SALLY NEIGHBOUR: In February 2002, three months after Habib's rendition, two ASIO agents travelled to Egypt and discussed Habib's presence there with Egyptian intelligence.

Afterwards, on the strength of this discussion, DFAT wrote to Habib's wife Maha saying it had obtained "credible advice" that Habib was "well and being treated well".

(On screen text: "credible advice", "well and being treated well")

Yet even after this, the Government continued to insist it didn't know that he was there.

(Excerpt from "Dateline", 9 March 2005):

PHILIP RUDDOCK, FEDERAL ATTORNEY GENERAL: We were seeking access to him, if he was there. It was never obtained, and I think that's the end of the matter. We have no knowledge of him being there.

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: Wait, they never confirmed he was there but they said he was well?

SALLY NEIGHBOUR (to Joe Margulies): Yeah, that's right.

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: I see. He's not there, but if he's there he's being treated well.

SALLY NEIGHBOUR (to Joe Margulies): Yeah.

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: OK. Yeah, no I don't believe it.

SALLY NEIGHBOUR (to Joe Margulies): You don't believe it?

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: I don't. The suggestion that they would not know and the absurd suggestion that they would not know but they hear he's doing well and that we should accept that is offensive.

(Onscreen text: "home video re-enactment")

MAMDOUH HABIB'S SON: This is the way they remove his nails. This is the way they break and damaged his fingers.

(End of excerpt)

SALLY NEIGHBOUR: The so-called "credible advice" that Habib was "well and being treated well" was a long way from the truth.

SALLY NEIGHBOUR (to Mamdouh Habib): What short of shape were you in, in February 2002?

MAMDOUH HABIB: I have no nails and all my body was like a cigarette burn.

SALLY NEIGHBOUR (to Mamdouh Habib): Cigarette burns?

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MAMDOUH HABIB: Yeah ...

SALLY NEIGHBOUR (to Mamdouh Habib): And why did you have no nails?

MAMDOUH HABIB: They take it off.

SALLY NEIGHBOUR (to Mamdouh Habib): They pulled them out?

MAMDOUH HABIB: All of them, they pulled them out. And all, most of my fingers was broken, especially these two. I couldn't walk on my left, I used to urinate blood. I can't stand for long, straight away if I stay straight I fall down.

****SALLY NEIGHBOUR:** Attorney-General Philip Ruddock declined to be interviewed for this program. Here's what he told us about Habib in 2004.

(Excerpt from 2004 interview):

PHILIP RUDDOCK, ATTORNEY GENERAL: My understanding is that having been born in Egypt that there may well be a proper basis upon which Egyptian authorities would have some interest in him and his wellbeing.

SALLY NEIGHBOUR: Who sent him to Egypt? The Pakistanis or the Americans?

PHILIP RUDDOCK, ATTORNEY GENERAL: I don't know.

SALLY NEIGHBOUR: You don't know?

PHILIP RUDDOCK, ATTORNEY GENERAL: I don't know.

SALLY NEIGHBOUR: Who do you believe sent him?

PHILIP RUDDOCK, ATTORNEY GENERAL: Well I don't know.

SALLY NEIGHBOUR: Have you not sought to find out?

PHILIP RUDDOCK, ATTORNEY GENERAL: Well I haven't been advised, and I don't know that I'm in a position to find out, but I've not been advised.

(End of excerpt)

JACK CLOONAN, SENIOR SPECIAL AGENT, FBI'S BIN LADEN UNIT, 1996-02: It's impossible for me to believe that the Australian Government did not know that the Pakistani Government, maybe at the urging of the United States and others, didn't know that one of their citizens was being rendered to a third country.

It's impossible. I don't, I can't imagine under what circumstances the ASIO representative in Islamabad or whoever came over from Canberra didn't know what was going on.

SALLY NEIGHBOUR: After months of torment, Mamdouh Habib finally confessed to whatever his Egyptian interrogators wanted to hear.

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: Oh, he admitted to the most diabolical things. He admitted to extremely severe, serious allegations. Let's see, he said he was originally going to be one of the 9/11 hijackers; he said that he had advance knowledge that 9/11 was going to take place; he said that he trained the 9/11 hijackers in martial arts.

MAMDOUH HABIB: I admit whatever they wanted me to admit and so I still say it and I've said it before, I told him just put electric shock in my ear or put it in my groin or give me injection, I tell you whatever you want.

SALLY NEIGHBOUR: In April 2002, Habib was transferred to Afghanistan and his capture was announced publicly for the first time.

He was still well according to the Government.

DARYL WILLIAMS, FEDERAL ATTORNEY GENERAL 1996-03 (Excerpt from media

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interview): The Department of Foreign Affairs and Trade have been advised that he is in good health.

SALLY NEIGHBOUR: The following month, Habib was transferred to Guantanamo Bay, where he was medically examined and diagnosed with "post traumatic stress disorder", attributed to his "torture".

(On screen text: "post traumatic stress disorder", "torture")

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: Intrusive recollections, nightmares, disruption in sleep patterns, and that's what other prisoners reported of Mamdouh. They said he was in catastrophic shape. He couldn't hold himself up, he would scream in the middle of the night, he believed, he used to see hallucinations of his wife, he believed that his wife had been killed.

SALLY NEIGHBOUR: In 2004, in the hearing room of the Combatant Status Review Tribunal in Guantanamo, the US presented its case against Mamdouh Habib.

(On screen text: "conducted surveillance", "transfer of chemical weapons", "trained several of the September 11 hijackers", "planned to hijack a plane himself")

Based it said on his own admissions, Habib was accused of conducting surveillance on a range of targets; assisting with the transfer of chemical weapons; training several of the September 11 hijackers; and even planning to hijack a plane himself.

Other than Habib's "confessions", there was no evidence.

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: There were things that just were demonstrably false. None of it has ever been shown to be true. There's never been anything that I have seen in the United States that has ever disclosed that suggests any of it is true, but you know the United States is pretty tight-lipped about this.

All you know is that these are wild accusations that he made while he was being tortured in Egypt and Pakistan, that if there were an iota of truth he wouldn't be released.

BOB BAER, FORMER CIA OFFICER AND AUTHOR "SEE NO EVIL": I've seen too much of this stuff out of Egypt and the rest of the Arab countries. It's worthless, and to use it as evidence under torture is a complete violation of American jurisprudence.

SALLY NEIGHBOUR: Habib might still be in Guantanamo Bay, but in November 2004 his attorney Joe Margulies learned that the Egyptian Government was trying to have him returned to Cairo.

Margulies sought a restraining order and swore an affidavit detailing Habib's torture.

When the story appeared in the Washington Post it caused an outcry.

(Excerpt from Alberto Gonzales' Confirmation Hearing In Us Senate, 6 January 2005):

SENATOR DURBIN: And so this morning we read in the paper about rendition, an argument made that we took a prisoner whom we could not, should not torture legally and turned him over to a country that would torture him. That would be illegal as well, would it not?

JUDGE ALBERTO GONZALES: Under my understanding of the law, yes sir, that we have an obligation not to render someone to a country that we believe is going to torture them, that is correct.

(End of excerpt)

SALLY NEIGHBOUR: America's new Attorney-General Alberto Gonzales, being grilled during a Senate confirmation hearing, seemed to confirm that Habib's rendition may well have been illegal. It's a view certainly held by others.

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ALBERTO MORA, GENERAL COUNSEL FOR THE US NAVY, 2001-06: Rendition of prisoners for the purpose of subjecting them to torture in foreign countries is prohibited by international law and constitutes a violation of the Convention against Torture, so if there were American officials engaged in this kind of practice then by all means those officials could be held to account.

SALLY NEIGHBOUR: A US federal court later ruled that the Combatant Status Review Tribunals were unlawful, in part because they relied on evidence gained through torture.

The judge cited the torture and false confession of Mamdouh Habib to support this historic ruling.

STEPHEN GREY, AUTHOR OF "GHOST PLANE": Well Habib has helped to blow open this whole story. Crucially, he showed how the United States was using evidence gained under torture.

SALLY NEIGHBOUR: Suddenly the charges against Habib were dropped and within three weeks he was flown home to Australia.

SALLY NEIGHBOUR (to Joe Margulies): So why do you think he was released?

PROFESSOR JOE MARGULIES, LAWYER FOR GUANTANAMO DETAINEES: Because they didn't want a judge enquiring into the details of that rendition.

So the writing is on the wall particularly after Senator Durbin asks about it and now Attorney-General Gonzales says this is illegal, that there's going to be a bright light that's shining just on Mamdouh's case.

And to avoid that scrutiny, to avoid judicial inquiry into those facts, it's much safer to have that person off the base and at home.

SALLY NEIGHBOUR: Like Habib, rendition victims around the world are emerging publicly to tell their stories and demand justice.

(On screen text: "Ottawa. Maher Arar speaks for the first time about his detention in Syria")

(Excerpt from press conference):

MAHER ARAR: I am a Syrian-born Canadian. I moved here with my parents when I was 17 years old. I went to university and studied hard ...

(End of excerpt)

SALLY NEIGHBOUR: Canadian man Maher Arar was arrested in New York after being seen in a café with a man suspected of being linked to al-Qaeda. He was rendered to Syria, held for a year and tortured. He was later found to have no links to terrorists and received \$10 million in compensation.

German citizen Khalid El Masri, was rendered to Afghanistan for four months, before the CIA admitted it had the wrong man.

Italian resident Abu Omar was snatched off a street in Milan. He's now suing the CIA agents involved, in the first criminal case over rendition.

(Excerpt continued):

MAHER ARAR: I know that the only way to move on in my life and have a future is if I can find out why this happened to me.

(End of excerpt)

SALLY NEIGHBOUR: None of these cases has been acknowledged by the United States. Both Arar and El Masri had their civil suits against the US government dismissed, on the grounds that the secrecy of the rendition program had to be protected to safeguard

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America's national security.

STEPHEN GREY, AUTHOR OF "GHOST PLANE": The key point about the rendition program now is that it is still completely covert.

The CIA knows that as soon as one case is confirmed, they go into detail of establishing a particular case is true, there's going to be a flood of legal actions and a huge compensation because they know, the people involved know that most likely these transfers were illegal and illegal not just under international law but illegal under US domestic law.

SALLY NEIGHBOUR: Like his fellow rendition prisoners, Mamdouh Habib is waiting for his day in court.

Habib has taken action to try to get back his passport which was cancelled in January 2005. The government refuses to give it back, saying Habib remains a threat to national security. Habib is also suing the Commonwealth in the Federal Court, claiming the Government was complicit in his wrongful arrest, kidnap, false imprisonment and torture; and failed to honor its duty of care to protect him as an Australian citizen.

He also claims the Government has defamed him by calling him a terrorist.

MAMDOUH HABIB: I want to clear my name. They have to apologise and clear my name because I haven't done anything wrong. They are wrong. I haven't done anything wrong.

They kidnap me, they torture me, they force me to say false stuff. They still harassing me until now.

SALLY NEIGHBOUR: Habib too faces a battle getting his case heard. The Government has tried to have it struck out, denying any complicity. As for its duty to protect an Australian citizen from the treatment Habib endured, the Government says in its defence that no such duty exists.

It also refuses to release key information in open court on the grounds of protecting national security.

The US Government will no doubt deny any wrongdoing as well.

JOHN RADSAN, ASSISTANT GENERAL COUNSEL TO THE CIA, 2002-04: The fact that he was tortured, and let's accept that he was tortured in Egypt, that's horrible, but that does not mean that the rendition decision which occurred before that was illegal.

If we have evidence that American authorities were telling the Egyptians to do this, that makes it illegal. If we have evidence that they knew that these things were going to occur that clearly makes it illegal.

But I'll repeat, if somebody ends up being tortured in the receiving country that does not by itself prove that there was a violation of the Convention Against Torture standard.

SALLY NEIGHBOUR: Habib's case, if and when it is heard, will be another step in exposing America's secret rendition program to the light of day.

And the Australian Government will have some serious questions to answer about exactly what role it did play in Habib's rendition and torture.

SALLY NEIGHBOUR (to Alberto Mora): What about the Australian Government, if the Australian Government co-operated with that? Would that raise issues about the legal conduct of the Australian Government?

ALBERTO MORA, GENERAL COUNSEL FOR THE US NAVY, 2001-06: I think anybody who inflicted torture or aided and abetted knowingly the infliction of torture, makes himself liable for prosecution for violation of both domestic and international laws.

JACK CLOONAN, SENIOR SPECIAL AGENT, FBI'S BIN LADEN UNIT, 1996-02: This is a willing partner, we're married to each other. So to think that we, the United States, would

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just say don't tell them and we'll tell them afterwards and don't worry about it, we'll clear it up, you know, baloney.

This was done in a co-ordinated way. Now it may not be popular in Australia and there's probably people looking to jump in a hole some place because they don't want to acknowledge this, but believe me, there's an audit trail and somebody is just not telling you the truth if they are denying this.

(End of transcript)

***The report should have noted that Mr Ruddock's office stated legal proceedings by Mr Habib against the Commonwealth as a reason for declining an interview.*

Return to the "Ghost Prisoners" program page, [click here](#).

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