

## ***Iraqis Detained on Flawed Data, Lawyers Say***

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**Byline:** Vernon Loeb, Washington Post Staff Writer

### **Body**

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Declassified U.S. government evidence used to charge and **detain** six Iraqi opposition members is so **flawed** and inconsistent that national security charges lodged against them by the Immigration and Naturalization Service (INS) should be dismissed, attorneys representing the **Iraqis said** last week.

The six men were ordered deported in March by the INS on the basis of what other Iraqi opposition members who were part of a 1996 U.S. airlift from northern Iraq told the FBI in secret interviews -- interviews that should have remained largely unclassified, the Justice Department conceded 10 days ago.

"It's a bunch of raw **data**, unanalyzed, that was used to condemn our clients to death, if this [deportation] order is carried out," **said** Niels W. Frenzen, the **Iraqis'** lead attorney in Los Angeles. "Someone in the Justice Department needs to recognize that a terrible wrong has been done, a lot of money has been wasted and these guys have been deprived of their liberty and separated from their families on the basis of some silly accusations."

Frenzen and other members of the **Iraqis'** defense team, including former CIA director R. James Woolsey, began publicly releasing hundreds of pages of formerly classified material this week to bolster their contention that their clients have been unjustly charged and **detained** for the past year and a half.

The six **Iraqis** were among hundreds of opposition members and their families spirited from the country after their participation in two failed CIA plans to topple Iraqi President Saddam Hussein.

Their case has attracted media coverage and interest from Senate Republicans since Woolsey agreed to join their defense team, pro bono, earlier this year, calling their prosecution on the basis of secret government evidence a "stain" on America's honor.

Russell A. Bergeron Jr., an INS spokesman, **said** the case remains in the immigration courts, "and that's where the matter will be decided. We stand firm in our position that we've brought before the court, which has been upheld by the court, after [weighing] the exact same evidence that these attorneys now **say** is useless."

Frenzen does not dispute that accusations leveled against his clients during the FBI interviews, taken at face value, are serious. Four of the six, he **said**, are alleged to have ties to Iraqi, Iranian, Syrian or Turkish intelligence agencies.

But the FBI agents who interviewed Iraqi opposition members arriving via airlift in Guam, Frenzen **said**, have testified in court that they were not conducting any type of investigation. And no one in the government, he **said**, has ever reviewed the validity of what those agents wrote in their interview notes.

"There is no evidence," **said** Warren Marik, a retired CIA case officer who oversaw covert aid to the Iraqi National Congress (INC) in Northern Iraq.

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The FBI interview notes, for example, say that one of the six Iraqis, Safa Al-Batat, a member of the Iraqi National Congress who claims to have been poisoned with thallium by Saddam Hussein's agents, either may have faked the episode or used thallium for "recreational" purposes.

But Al-Batat is known to have been treated for a severe case of thallium poisoning in Britain, Frenzen said. And the FBI's assertion that Al-Batat would use thallium, a deadly heavy metal, for recreational purposes is ludicrous, Frenzen said.

"They may have confused thallium with Valium," said Ahmed Chalabi, leader of the Iraqi National Congress. "Thallium is a poison that doesn't show any effect for several days. Why would anybody take it for recreational purposes -- unless you want to die painfully, with no joy."

Chalabi, speaking in a telephone interview from London, also noted that the FBI report faults Al-Batat for associating with an individual supposedly linked to Syrian intelligence -- but never mentions that the individual has already been granted asylum in the United States.

Frenzen said another one of the Iraqis, Ali Jahjoh Saleh, an INC member and former Iraqi military officer who helped guard a Scud missile site during the Persian Gulf War, was flagged by the FBI as a potential national security threat simply for denying that he'd ever seen an actual Scud launch.

And two other Iraqis, Frenzen said, were singled out as possible security threats partly on grounds that they and their wives -- both of whom have already been granted asylum in the U.S. -- gave conflicting stories about their passage to northern Iraq for the airlift.

"The allegations that are contained in the reports fall into one of two categories," said Bruce C. Swartz, a Washington lawyer and former Justice Department counsel also representing the six. "Either they're internally inconsistent -- the Iraqis being named [simultaneously] as agents of different countries with different interests. Or they fall into the category of trivial, if not almost nonsensical, allegations -- the failure to have seen a launch of a Scud missile."

Both Swartz and Frenzen said they would soon decide whether they would seek a new hearing before an immigration judge in Los Angeles, or simply use the newly released information as part of the Iraqis' pending appeal.

The case remains complicated by the fact that some evidence against the Iraqis remains classified and off-limits even to Woolsey, whose top secret security clearance remains in effect.

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