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U.S. National - AP

AP: Administration Freed Terror Suspect



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By *JOHN SOLOMON*, Associated Press Writer

WASHINGTON - Nabil al-Marabh, once imprisoned as the No. 27 man on the FBI ([news](#) - [web sites](#))'s list of must-capture terror suspects, is free again. He's free despite telling a Jordanian informant he planned to die a martyr by driving a gasoline truck into a New York City tunnel, turning it sideways, opening its fuel valves and having an al-Qaida operative shoot a flare to ignite a massive explosion.



[AP Photo](#)

Free despite telling the FBI he had trained on rifles and rocket propelled grenades at militant camps in Afghanistan ([news](#) - [web sites](#)) and after admitting he sent money to a former roommate convicted of trying to blow up a hotel in Jordan.

Free despite efforts by prosecutors in Detroit and Chicago to indict him on charges that could have kept him in prison for years. Those indictments were rejected by the Justice Department ([news](#) - [web sites](#)) in the name of protecting intelligence. Even two judges openly questioned al-Marabh's terror ties.



[AP Photo](#)

The Bush administration in January deported al-Marabh to Syria — his home and a country the U.S. government long has regarded as a sponsor of terrorism.

The quiet end to al-Marabh's case provides a stark contrast to other cases in which the Bush administration has held suspects without lawyers as enemy combatants. It also contrasts with the terms FBI agents used to describe al-Marabh in internal documents obtained by The Associated Press.

Al-Marabh "intended to martyr himself in an attack against the United States," an FBI agent wrote in December 2002. A footnote in al-Marabh's deportation ruling last year added, "The FBI has been unable to rule out the possibility that al-Marabh has engaged in



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terrorist activity or will do so if he is not removed from the United States."

One FBI report summarized a high-level debriefing of a Jordanian informant named Ahmed Y. Ashwas that was conducted personally by the U.S. attorney in Chicago. The informant claimed al-Marabh told him of specific terrorist plans during their time in prison while al-Marabh was serving an eight-month sentence for entering the United States illegally.

Even the federal judge who accepted al-Marabh's plea agreement on minor immigration charges in 2002 balked. "Something about this case just makes me feel uncomfortable," Judge Richard Arcara said in court. The Justice Department assured the judge that al-Marabh did not have terrorist ties.

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A second judge who ultimately ordered al-Marabh's deportation sided with FBI agents, federal prosecutors and Customs Service agents in the field who believed al-Marabh was tied to terrorism.

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"The court finds applicant does present a danger to national security," U.S. Immigration Judge Robert D. Newberry ruled, concluding al-Marabh was "credibly linked to elements of terrorism" and had a "propensity to lie."

Justice spokesman Bryan Sierra said Wednesday the government has concerns about many people with suspected terror ties, including al-Marabh, but cannot effectively try them in court without giving away intelligence sources and methods.

"If the government cannot prosecute terrorism charges, another option is to remove the individual from the United States via deportation. After careful review, this was determined to be the best option available under the law to protect our national security," he said.

A Democratic senator on the Senate Judiciary Committee ([news - web sites](#)) scoffed at that explanation. "It's hard to believe that the best way to deal with the FBI's 27th most wanted terrorist is to send him back to a terrorist-sponsoring country," Sen. Charles Schumer of New York said Wednesday night, claiming the Justice Department could have used a military tribunal or a classified criminal trial.

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Internal FBI and Justice Department documents show prosecutors and FBI agents gathered evidence that linked al-Marabh to:

_Raed Hijazi, the Boston cab driver convicted in Jordan for plotting to blow up an American-frequented hotel in Amman during the 1999 millennium celebrations. Al-Marabh and Hijazi were roommates at the Afghan training camps and later in the United States, and al-Marabh sent money to Hijazi.

_The Detroit apartment where four men were arrested in what became the administration's first major terror prosecution after the Sept. 11, 2001 attacks on the United States. Al-Marabh's name was still on the rental unit when agents raided it. The men were found with false IDs and documents describing alleged terror plots, and two of the four were convicted of being part of a terrorism conspiracy.

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_Several large deposits, withdrawals and overseas wire transfers in 1998 and 2000 that were flagged as suspicious by a Boston bank. The Customs Service first identified al-Marabh in 2001 for possible terrorist ties to Hijazi.

FBI documents said al-Marabh denied being affiliated with al-Qaida. But he acknowledged receiving training in rifles and rocket-propelled grenades in an Afghan camp, sending money to his friend Hijazi, using a fake address to get a truck driving license and buying a phony passport for \$4,000 in Canada to sneak into the United States shortly before Sept. 11.

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Al-Marabh's attorney, Mark Kriger, said Wednesday he had never seen the Jordanian informant report and still doesn't believe his client had anything to do with terrorism. Kriger said he found it unbelievable "that the government, if it believed Ashwas, would have deported Mr. al-Marabh rather than indict him."

He also questioned why authorities talked to an informant who collected information from his client after he already had legal representation. "Certainly it would be improper for the government, knowing someone was represented by counsel, to plant an informant to get information from him," Kriger said.

The Justice Department's criminal division chief, Chris Wray, expressed

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concern to Congress last month that some suspects were being deported to freedom. "It may be more difficult than people would expect" to make a case against a suspect, even when he or she trained at terror camps, he said.

"We may be able to deport the person under the immigration laws," Wray added. "And while that should give us some comfort, the fact is, if we go that route, the person is removed to another country and turned loose there, and we have no ability to make sure that they're not engaged in further terrorist activity."

At one point, U.S. Attorney Patrick Fitzgerald in Chicago drafted an indictment against al-Marabh on multiple counts of making false statements in his interviews with FBI agents. Justice headquarters declined prosecution. Fitzgerald declined through a spokesman to discuss the reasons.

Fitzgerald then tracked down Ashwas, the Jordanian who because of minor immigration problems had spent time with al-Marabh in a federal detention cell in 2002. Fitzgerald had the man flown to Chicago and oversaw his debriefing, documents show.

The FBI summarized Ashwas' allegations:

_Al-Marabh said he aided Hijazi's flight from authorities and sent him money, plotted a martyrdom attack in the United States and took instructions from a mystery figure in Chicago known only as "al Mosul," which means "boss" in Arabic.

_Al Mosul asked al-Marabh to attend a driving school in Detroit with Arabic instructors so he could get a commercial truck driver's license, and arranged for al-Marabh to live in the Detroit apartment later raided by the FBI.

_Al-Marabh said he and Hijazi planned to steal a fuel truck from a rest stop in New York and New Jersey and detonate it in the heavily traveled Lincoln or Holland tunnels, but the plan was foiled when Hijazi was arrested.

_Al-Marabh acknowledged he had distributed as much as \$200,000 a month to various training camps in Afghanistan in the early 1990s.

The FBI and prosecutors confirmed some aspects of Ashwas' account, including that al-Marabh had been at the Detroit apartment, had trained at at least one Afghan camp and had gotten the truck driver's license.

Fitzgerald wasn't alone in his efforts to try to bring a case against al-Marabh

In Detroit, prosecutors developed evidence but weren't allowed to bring a case connecting al-Marabh to the terror cell there.

One of those prosecutors, longtime career Assistant U.S. Attorney Richard Convertino, recently sued Ashcroft, alleging the Justice Department improperly interfered with prosecuting terrorists. Justice says Convertino is under investigation for possibly withholding a piece of evidence from defense lawyers in the Detroit terror case.

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