



Written by [Joe Wolverton, II, J.D.](#) on January 20, 2012

## French Judge Wants to Investigate Claims of Gitmo Torture

According to the report, investigative magistrate Sophie Clement has requested access to the dossiers of the three men in order to examine all documents that may contain information relevant to the accusations made by the three French citizens.

The petition, says the Agence France-Presse (AFP), specifically asks the U.S. government to release the requested documents and to permit interviews with "all persons who had contact with them there."

Investigative magistrates in France function in a manner similar to district attorneys in the United States, investigating alleged crimes for the existence of probable cause that they were committed and should be adjudicated.



The French news agency France 24 [reports](#) that Clement is "known in France for her previous investigation of crimes committed by the late Chilean dictator Augusto Pinochet."

Mourad Benchellali, Nizar Sassi, and Khaled Ben Mustapha are identified as the three Frenchmen who are charging agents of the United States with torturing them after they were transported to Guantanamo. All three were originally arrested in late 2001 on the border between Afghanistan and Pakistan.

They were released at different times between 2004 and 2005 after periods of imprisonment "between 11 and 17 months."

After a 2007 conviction for "criminal association with a terrorist enterprise" was overturned, the Court of Cassation, a higher court, ordered a retrial of the three men. In 2011, a French court sentenced each of the men to one year in prison. Lawyers for the defendants indicate that they will appeal the decision.

[William Bourdon](#), a French human rights lawyer and heir to the Michelin fortune, stated that Clement's petition was "without precedent and should enable us to identify those responsible for this arbitrary detention and torture."

The particular charges leveled by the three Frenchmen against their former American captors were set forth in the AFP article:

Benchellali said that soon after his arrest he was taken to Kandahar in Afghanistan where he says he was beaten and forced to strip, and then made to lie on top of other naked men while US soldiers took photos.



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Ben Mustapha said he was subjected to sexual abuse in Kandahar, which judge Clement said in the legal documents might lead to rape charges.

All three former inmates told of grueling interrogations during which they were beaten. They also said that they were put in cells and subjected to blasting music from several sources to deprive them of sleep.

Ben Mustapha said interrogators would provoke inmates by trampling on the Koran or throwing the Muslim holy book into buckets of prisoners' excrement.

After his release, and following a series of suicides committed by prisoners being held at the Guantanamo facility, an [op-ed written by Benchellali](#) was published in the *New York Times*.

In the piece, Benchellali relates the tale of how he came to be found in an al-Qaeda training camp:

In the early summer of 2001, when I was 19, I made the mistake of listening to my older brother and going to Afghanistan on what I thought was a dream vacation. His friends, he said, were going to look after me. They did — channeling me to what turned out to be an al Qaeda training camp. For two months, I was there, trapped in the middle of the desert by fear and my own stupidity.

He concluded:

I believe that a small number of the detainees at Guantánamo are guilty of criminal acts, but as analysis of the military's documents on the prisoners has shown, there is no evidence that most of the 465 or so men there have committed hostile acts against the United States or its allies. Even so, what I heard so many times resounding from cage to cage, what I said myself so many times in my moments of complete despondency, was not, "Free us, we are innocent!" but "Judge us for whatever we've done!" There is unlimited cruelty in a system that seems to be unable to free the innocent and unable to punish the guilty.

A Department of Defense spokesman working at Guantanamo, Army Lt. Col. Todd Breasseale, indicated that it was unclear whether officials at the base had received Judge Clement's request.

Clement's official appeal for an inquiry is yet another indication of the surge in international interest in shining the bright light of discovery into the infamous prison.

The situation is described aptly in [a Miami Herald article](#):

The request is the third indication in less than a week that international authorities have renewed their interest in the legality of Bush-era policies on the treatment of war-on-terror captives. On Friday, a Spanish judge decided to go forward with torture investigations involving four other former Guantanamo captives now living in Europe, one day after British authorities said they would probe British links to a CIA-organized rendition program that delivered opponents of now dead Libyan leader Moammar Gadhafi to Libya, where they allege they were tortured.

The final story cited in the *Herald* report regarding the cooperation of British and American secret agents in the rendition of Libyan rebels to the secret police of the late Libyan dictator was [reported on this website](#) earlier this week:

Late last week, British prosecutors announced that they were initiating an investigation into allegations that agents of MI6, British intelligence, participated in the capture of two enemies of late Libyan dictator Moammar Gadhafi, and the subsequent delivery of those two rebels into the



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hands of the Gadhafi government where they were tortured.

A *New York Times* story reports that in the statement released by Crown Prosecution Service and Scotland Yard, the scope of the investigation was said to include “two allegations of British involvement in the American-run process of so-called extraordinary rendition of terrorist suspects during the [Gadhafi] era.”

The 10th anniversary of the opening of the Guantanamo Bay Detention Facility was Wednesday.

On January 11, 2002, the first 20 prisoners arrived at the U.S. naval base in Cuba, being ordered detained as suspected “enemy combatants” in the global War on Terror that was initiated by the Congress and the President (without, it must be remembered, a declaration of war as mandated by the Constitution) in the wake of the terrorist attacks of September 11, 2001.

As a candidate for President, Barack Obama promised to shutter the Guantanamo Bay facility. On March 7, 2011, however, President Barack Obama signed an executive order changing the manner in which the cases of prisoners detained at Guantanamo Bay would be handled.

This order and consequent policy shift represented an outright renegeing on his campaign promises. In the order, the President calls for review of several cases, but insists that those imprisoned must remain so because they “in effect, remain at war with the United States.”

Countries across Europe have permitted more than 50 former Guantanamo detainees to settle within their borders. The released inmates are typically citizens or permanent residents of those nations.

Since 2002, nearly 800 detainees have passed through the Guantanamo Bay Detention Facility. As of January 2012, 171 detainees remain imprisoned at Guantanamo Bay, none of which is French.

Photo of Mourad Benchellali: AP Images



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