

Witness: GIs were not at shooting scene

By [Matt Millham](#), Stars and Stripes
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Staff Sgt. Jess Cunningham and Sgt. Charles Quigley, who have been charged with conspiracy to commit premeditated murder, were not at the scene when four detainees were allegedly killed by three other U.S. soldiers, a witness testified Wednesday.

The two soldiers also tried to assist in the investigation, it was revealed.

Cunningham and Quigley — two of four soldiers charged in the case so far — were about half a football field away from the scene when other soldiers shot either four or five Iraqi detainees on the outskirts of Hamdani Village, near Baghdad, according to Pfc. Jonathan Shaffer, who testified at their Article 32 investigation.

Soon after the shootings — allegedly carried out by 1st Sgt. John Hatley, Sgt. 1st Class Joseph Mayo and Sgt. Michael Leahy, a medic — Hatley advised the troops in the unit not to talk about the incident, according to testimony.

For some nine months, none apparently did.

But in January, Cunningham apparently approached an Army lawyer in Schweinfurt, Germany, to come clean about the incident, according to Criminal Investigation Command special agent Thomas Adkins, who testified via telephone from the States.

According to Adkins, the basis for the entire investigation into the murder of four Iraqi detainees in either late March or early April 2007 stemmed from a statement forwarded by Cunningham's lawyer at the time.

The lawyer, Capt. Richard Newman, contacted Adkins around Jan. 10 to discuss with him a client "who had info about some homicides he had witnessed," Adkins said under questioning by James Culp, Cunningham's civilian attorney.

Cunningham had been in some trouble with the unit, but Newman told Adkins his client wasn't looking for retribution. "He was tired of holding it back" and wanted to do the right thing, Adkins said he was told.

Newman asked Adkins about the possibility of getting immunity from prosecution for his client, but Adkins, as a CID agent, couldn't offer immunity, he testified. He referred Newman to an officer who could possibly help arrange to get immunity for Cunningham. Newman and Adkins agreed to meet at the CID office the next morning with Cunningham and that other officer.

But, according to Adkins, Newman showed up the next day alone. He still hadn't revealed to Adkins the name of his client, and Adkins said he tried to get Newman to agree to push Cunningham to submit to questioning.

Later in the day, Newman named his client.

"I expected Sergeant Cunningham to show up at my office and make a statement," Adkins said. Instead, Newman e-mailed Adkins a statement in his own words, telling the agent that if his client were to speak, this is what he'd say.

The statement apparently named some 14 soldiers who were present during the murders, and named the shooters, according to another CID special agent, Kimani Richardson.

The contents of the statement haven't been made public, and Culp lobbied the hearing's investigating officer to disregard the statement. Because the statement was made presumably with Cunningham's consent and using information he'd given to Newman, Culp argued that considering the statement would amount to having his statements used against him.

With a long list of soldiers who were potential witnesses, Adkins, the special agent in charge of CID's Schweinfurt office at the time, along with his superiors, made the decision not to continue to try for Cunningham's cooperation, according to testimony.

Instead, using the account of the incident Newman provided, CID chose a "middle-of-the-line" noncommissioned officer who didn't appear to have any real involvement in the murders: Quigley.

They brought Quigley into the Schweinfurt CID office on Jan. 11 and questioned him about the incident, according to Richardson. Quigley was the first person interviewed by investigators about the murders, and he was fully cooperative, Richardson said.

From that day until Jan. 30, Quigley agreed to wear a wire to secretly record conversations with members of his unit who were involved in the murders. Richardson said they didn't get anything useful from the tapes.

In his sworn statement from Jan. 11, Quigley admitted that one of the alleged shooters, Mayo, had "inferred that the prisoners were going to be killed."

Even after that statement, though, "We didn't suspect him of conspiracy or anything like that," Richardson said under questioning by Quigley's Army defense attorney, Capt. Samuel Gregory.

There was no further discussion about the basis for the conspiracy charge against Quigley.