

**SYSTEM FAILURE**  
THE INTERROGATION OF DAVID VASQUEZ

# At Each Step, Justice Faltered for Va. Man

First of two articles

By Dana Priest  
Washington Post Staff Writer



David Vasquez, pardoned of an Arlington murder, stays close to his mother, Imelda "Mel" Shapiro.

BY FRANK JOHNSTON—THE WASHINGTON POST

**D**avid Vasquez is not at ease in the world. At 42, he clutches his mother's hand as they stroll the Manassas Mall. When a neighbor invites him to a local bar, he sits through happy hour, but his insides churn and he can't wait to leave.

Since January, when Virginia Gov. Gerald L. Baliles pardoned him after he spent five years imprisoned for a murder he did not commit, Vasquez has spent most of his time inside his mother's Manassas town house. In June he got a part-time, nighttime janitorial job, but the only time he's out in public is the van ride to and from work.

"I just sit here or get the vacuum cleaner and vacuum clean, or whatever," Vasquez said. "Five years in there, it's hard. I don't know what the situation out here will be for me . . . I'm afraid maybe somebody might try to accuse me of something else."

Vasquez wants to blame someone, everyone: the Arlington detectives who interrogated him; the prosecutor who took him to court; the judge who ruled that one of his three confessions was admissible; the defense attorneys who suggested he plead guilty; the prison officials who placed him in a hostile cellblock; the Prince William County social worker who said he was ineligible for financial assistance; and Timothy W. Spencer, the four-time convicted murderer whom Arlington police ultimately linked to the murder of lawyer Carolyn Jean Hamm, though they did not charge him.

The system, with all its parts functioning, with all its checks and balances in place, failed David Vasquez.

"I think everyone involved tried to do the right thing," said Arlington Commonwealth's Attorney Helen F. Fahey, who asked Baliles to pardon Vasquez. "I think people should know that; that even when the system didn't work,

See VASQUEZ, A16, Col. 1

# Flustered Suspect Wove In Details Told to Him by Detectives

VASQUEZ, From A1

people were doing their job and worked hard. It just didn't work."

This story starts sometime after 8 p.m. on Jan. 23, 1984, when someone slipped through the basement window of Hamm's two-story white shingle house in south Arlington.

Hamm, 32, a lawyer with the Washington firm of Wilkes, Artis, Hedrick & Lane, had just returned from a game of squash. Two days later, a friend, concerned that she had not heard from Hamm, discovered her nude body in the basement garage.

According to police and the autopsy report, Hamm had been assaulted in her home and raped shortly before or just after she was hanged with a length of rope from a water pipe in the garage.

When police began interviewing neighbors as part of their investigation, they learned of Vasquez from Joan Wells, whose brother lived across from Hamm. Vasquez had lived in the Arlington neighborhood with surrogate families for 17 years, but had moved to Manassas in May 1983 at the request of his mother, Imelda "Mel" Shapiro. She needed help in caring for her third husband, who had had a stroke, and Vasquez agreed to provide it.

About 8 p.m. the day of the murder, Wells testified at a preliminary hearing, she parked her car in front of Hamm's home and saw Vasquez walking along the sidewalk in front of the house. It was a cold, clear evening and the path was illuminated by a street lamp.

When police reopened the case four years later, they questioned Wells again and she restated her conviction that she had seen Vasquez. Wells could not be located for an interview.

Another neighbor, a retired Army colonel, also told police he had seen Vasquez near Hamm's home two days after the murder, on the day police discovered Hamm's body.

Vasquez has maintained that he was at home or with a friend the night of the murder.

Twelve days later, four plainclothes police officers walked into a McDonald's in Manassas, where Vasquez was employed cleaning tables, and asked him to go with them to the Manassas police station. He agreed to do so. It was the last decision he would make outside the custody of the criminal justice system for five years.

## The First Interrogation

Arlington detectives William Shelton and Robert Carrig took Vasquez to a tiny, hot, smoke-filled interview room at the Manassas police station. They did not read Vasquez the Miranda warning, which tells suspects they have the right to remain silent and the right to an attorney, and that anything they say can be used against them.

Henry E. Hudson, now the U.S. attorney for Virginia's Eastern District and then the Arlington commonwealth's attorney who prosecuted Vasquez, argued in court that the warning was unnecessary because, at the time of the interview, Vasquez was considered a potential witness, not a suspect, and was not under arrest.

According to tapes and transcripts of the interrogations obtained by The Washington Post, Shelton and Carrig told Vasquez during this first 90-minute session that they had found his fingerprints at the crime scene. That was not true, according to the detectives' later testimony. They yelled at Vasquez when his answers did not fit the facts of the crime. They told him dozens of details about the crime, then encouraged him to restate them.

Shelton and Carrig were interviewed for these articles in the presence of a superior officer. Although Shelton said that Vasquez's unusual personality made him difficult to interview, neither he nor Carrig would discuss the interrogations and both noted that courts have upheld the use of deception in interrogations.

With 29 years of police work between them at the time, the detectives made a formidable team. Carrig, then 39, is a tall man who sounded demonstrative and gruff during the interrogations. Shelton, then 36 and diminutive in comparison, was often soft-spoken and gentle with Vasquez.

Vasquez is a slim man at 5 foot 8 who walks with a slight hunch and wears awkward-looking thick-rimmed glasses. He talks in short, often half-formed sentences. Friends and acquaintances say he reacts to the world like a young child and that he is easily flustered under pressure. He was described in court as having "borderline retarded/low normal" intelligence.

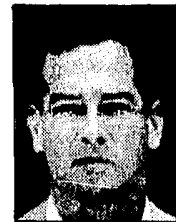
According to Hudson, what made the detectives suspicious in that first interview was that Vasquez denied even being in Arlington the night of the crime. Given what Joan Wells had said, that denial suggested that Vasquez had something to hide.



BY MARGARET THOMAS—THE WASHINGTON POST



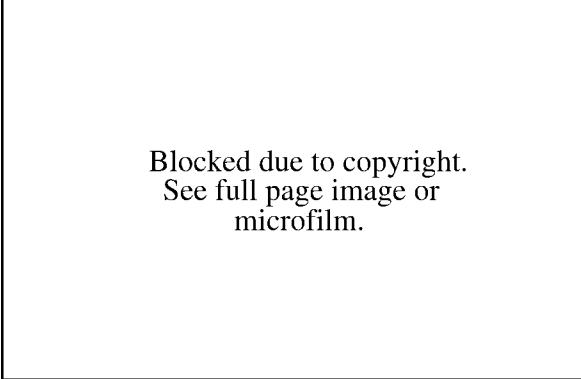
BY JAMES A. PARCELL—THE WASHINGTON POST



David Vasquez's defense lawyers were Richard J. McCue, above left, and Matthew Bangs. Arlington detectives William Shelton, at left, and Robert Carrig investigated the slaying.



David Vasquez, above, wants to blame someone, everyone for his lost years: the Arlington detectives who interrogated him; the prosecutor who took him to court; the judge who ruled that one of his three confessions was admissible; the defense attorneys who suggested he plead guilty; the prison officials who held him in a hostile cellblock; the Prince William County social worker who said he was ineligible for financial assistance; and Timothy W. Spencer, the four-time convicted murderer whom Arlington police ultimately linked to the murder, though they did not charge him.



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Timothy W. Spencer, above center, was a suspect. Henry E. Hudson, at left, prosecuted the case. Arlington Commonwealth's Attorney Helen F. Fahey asked for a pardon for Vasquez.



It took Carrig and Shelton about 30 minutes to get Vasquez to change his story. When the detectives falsely told him they had found his fingerprints in Hamm's house and that someone had seen him through her window, "that's what set him off. He deteriorated after that," according to Richard J. McCue, his former defense attorney. "He couldn't fathom how they could have his fingerprints if he wasn't there. He was too naive to know they were lying to him."

Vasquez became frustrated and distraught, crying and pleading for his mother. "She's the only one that can help me. I know she can," he cried.

"The question is, why were you there, okay?" Shelton asked. "That's the only question to deal with . . ."

Vasquez finally said he might have helped Hamm "move something. I don't remember."

In soliciting answers to their questions, the detectives told Vasquez about many details of the crime scene, including that:

- A rope that had been wrapped around a rug was used to hang Hamm.
- Hamm's hands were tied behind her back with venetian blind cord.
- A dryer vent was attached to the basement window through which the assailant entered.

Vasquez began to incorporate into his responses these and other details Shelton and Carrig had supplied. But the conversational flow was uneven and Vasquez did not always provide answers that corresponded to the facts. For example:

Shelton: Did she tell you to tie her hands behind her back?

Vasquez: Ah, if she did, I did.

Carrig: Whatcha use?

Vasquez: The ropes?

Carrig: No, not the ropes. Whatcha use?

Vasquez: Only my belt.

Carrig: No, not your belt . . . Remember being out in the sun room, the room that sits out to the back of the house? . . . and what did you cut down? To use?

Vasquez: That, uh, clothesline?

Carrig: No, it wasn't a clothesline, it was something like a clothesline. What was it? By the window? . . . Think about the vene-

tian blinds, David. Remember cutting the venetian blind cords?

Vasquez: Ah, it's the same thing as rope.

Carrig: Yeah.

Shelton: That's what you're talking about?

Vasquez: Un.

Moments later, Carrig and Shelton asked Vasquez specifically about the murder for the first time.

Shelton: Okay, now tell us how it went, David . . . tell us how you did it.

Vasquez: . . . she told me to grab the knife and, and, stab her, that's all.

Carrig (raising his voice): David, no, David.

Vasquez: If it did happen, and I did it, and my fingerprints were on it . . .

Carrig (slamming his hand on the table and yelling): You hung her!

Vasquez: What?

Carrig (shouting): You hung her!

Vasquez: Okay, so I hung her.

Before the first interview ended, Vasquez, trying to speak through sobs, said once more that he had not been in Arlington, much less in Hamm's home, but that he "had to say this because you tell me my fingerprints were there."

Carrig yelled at Vasquez about how only he could have known all the details of the crime. Then:

Carrig: You're two people, you're two people, David.

Vasquez (crying): How could I be two people, I can't.

Carrig: Mind, your mind.

Vasquez: No, No.

Carrig: Your mind, David, your mind.

Vasquez: No, I need my mother now.

## 'I Hypnotized Myself, I Think'

Carrig and Shelton asked Vasquez if he wanted to go to the Arlington police station with them. He said no, but they drove him there anyway.

In Arlington, the detectives read Vasquez the Miranda warning, which he signed. They did not arrest him, but asked him to recall their conversation in Manassas.

"Okay, earlier you mentioned to us a rope, do you recall a rope?" Shelton asked at one point.

"I recall the rope," Vasquez responded, "but I don't remember using it."

Later, Shelton and Vasquez sat alone in the interrogation room, without a tape recorder or a stenographer, for an hour and a half. "David and I sat and talked just generally about himself and where he went on the weekend, that sort of thing . . .," Shelton testified.

Toward the end of that conversation, Vasquez inexplicably began to recount "a horrible dream," to use his words, that coincided almost identically with the facts of the case that he and the two detectives had discussed in Manassas.

Shelton found a tape recorder and captured the last eight minutes of the "dream," a rambling monologue in which Vasquez's voice sounds deep and clear, in contrast to the meek, pleading tones of the Manassas statement.

In court, Shelton described Vasquez's state. "I don't know the proper word but he became still, his eyes more or less became fixed on a table in front of him and his voice became lower," he said. "He became totally absorbed in what he was doing and what he was relating to me. There was no distraction."

That scene has perplexed lawyers, detectives and psychiatrists.

"I hypnotized myself, I think," Vasquez said after his release. "I just stared at something outside. There was kind of like a window, and I could see outside and I just kept staring and staring . . . It was a shock to me and I just directed at that, what was in front of me."

Police arrested Vasquez that afternoon and charged him with capital murder, rape, burglary and robbery.

At 8:45 the next morning, Vasquez appeared in Arlington General District Court, where the charges were read. A court-appointed lawyer was named, but not before Carrig and Shelton questioned Vasquez a third time. Again he signed the Miranda statement.

Shelton asked Vasquez to "just kind a get yourself into a state where you can really think about your dreams, ah, you know, that feeling you get when you think about your dreams?"

What followed was a shorter version of Vasquez's previous "dream," but the only version that was admitted as evidence.

"It was just horrible, that's all," Vasquez said, his voice groggy and low.

At times he panted. "I startled her and she startled me . . . We stared at each other for a while . . . Got some knife in the kitchen, went to the back, cut some venetian blinds . . . Tied her with it . . ."

"Too horrible, tied the rope underneath the car and threw it over the beam, and then she said to me, 'Now you can tie it around my neck.' I says, 'Why?' . . ."

Shelton said, "Okay, David. Stop thinking about your dream and relax. Here, have some, take some coffee."

At the request of Arlington Circuit Court Chief Judge William L. Winston, Vasquez was examined by a psychiatrist to determine if he was competent to stand trial. In Virginia, competency means defendants understand right from wrong, are capable of understanding the charges against them and can assist in their defense.

A court-appointed psychiatrist concluded that Vasquez was competent; the judge concurred.

On May 7, the state forensic lab concluded that the blood type in semen stains found at the crime scene and on vaginal swabs from the victim did not match Vasquez's blood type. The results solidified growing police suspicions that Vasquez was only an accomplice in Hamm's murder, Fahey and Hudson said.

They said police investigated every possible lead, which were few, to try to find a second suspect.

## Preparing for Trial

During the year Vasquez waited in jail for trial, both prosecution and defense gathered evidence in preparation for trial.

The prosecution had Vasquez's statements and Wells's testimony that he had been in the neighborhood. It also had hair found on Hamm's robe and on two blankets that exhibited "the same visual and microscopic characteristics" as samples of Vasquez's pubic hair, according to a forensic report.

See VASQUEZ, A17, Col. 4

# In Custody, Vasquez Told Of 'a Horrible Dream'

VASQUEZ, From A16

In Virginia, hair similarities can be used only as corroborative evidence to exclude or include someone as a suspect.

The defense could show that footprints found outside the basement window entered by the assailant did not match the soles of the shoes the police had confiscated from Vasquez. Vasquez did not drive a car, so how did he get from Manassas to Arlington and back? His co-workers would testify that he appeared the same as usual when he showed up for work at 6 a.m. the next day.

The defense would use the forensic blood and semen tests to argue that someone else had committed the crime. But Vasquez's attorneys could not find an alibi and, toughest of all, they did not know how to explain Vasquez's "confessions."

Vasquez's two court-appointed attorneys, McCue, then 34, and Matthew Bangs, then 32, were both well respected among Arlington Court House lawyers, but neither had tried a capital murder charge.

They asked the judge to rule the confessions inadmissible. McCue argued that the first confession was inadmissible because no Miranda warning had been given and that the two subsequent confessions were "tainted" by the illegality of the first because the "three statements are so closely interconnected."

McCue also argued that the confessions were not voluntary, as required by law, because Vasquez was incapable of making a voluntary decision about whether to talk to detectives and what to say to them because of his low intelligence and his state of mind, particularly the trance-like behavior he exhibited during his "dream."

Prosecutor Hudson argued that any taint from the first statement, without the Miranda warning, "had been purged" by the time Vasquez met with detectives the third time.

Hudson also argued that the confessions were voluntary and cited a Virginia Supreme Court case in which the court held that a suspect with an IQ lower than Vasquez's was capable of voluntarily waiving his rights.

"There is no question that detective Shelton was persistent," Hudson told the court, "... but there is no indication that detective Shelton overbore the will of the defendant, that there was anything done contrary to his will, and given the circumstances and the setting, the decision that [Vasquez] made in this case was his own."

To help Judge Winston make his decision, the defense hired two psychiatrists to examine Vasquez and the prosecution hired one. "The psychiatrists ran from one end to the other, which left everybody nowhere," said Arlington Commonwealth's Attorney Fahey.

Winston decided to allow a jury to hear only the third confession. He has declined to elaborate on his decision.

Given the ruling, McCue and Bangs could introduce all three interrogations in hopes of showing that the detectives had put words in Vasquez's mouth, but if they did, Hudson would also have all three interrogations for his case.

Three days before the trial, the defense made a last-ditch attempt to find something that would exonerate Vasquez, who was administered sodium amytal, truth serum, at Mount Vernon Hospital. But Vasquez said he recounted the same "dream" that had become the core of the confession.

Seeing themselves with few options and the death penalty a possible result of failure, McCue and Bangs discussed an "Alford plea" with Vasquez. That plea, which is regarded in the eyes of the law as a guilty plea, nonetheless allows a defendant to maintain his innocence while recognizing that the evidence would probably result in a guilty verdict.

Vasquez said that his attorneys explained the plea, but that he did not understand it. "I think they were putting it just up to me, but I just didn't know what to do at all," Vasquez said. "I think when they said you'll have the chair, that scared me and everything."

"I think there was a lot of stress on David," Bangs said.

Vasquez agreed to the Alford plea. Prosecutor Hudson reduced the capital murder charge to second-degree murder with 20 years and 15 years for burglary, making him eligible for parole after a little more than five years, about the amount of time he served.

Hudson said he agreed to the deal because he believed Vasquez had not acted alone. "What he pleaded to was consistent with him being the lesser of two participants," he said.

After Vasquez pleaded guilty, Shelton frequently visited him in jail, bringing him cigars and magazines and trying to make him remember an accomplice. Vasquez said that he would bang his head on the cell wall in frustration.

On Feb. 4, 1985, Vasquez stood before Judge Winston for the last time.

"Now I would like to ask the defendant this: Do you read English?" the judge said slowly.

"Yeah, but not too good," Vasquez replied.

"Not too good. Did you read this memorandum [the plea agreement]?" Winston asked.

"I had them read it to me," Vasquez responded.

Again and again, Winston asked Vasquez if he understood the plea, if he understood that he waived his right to a jury, to an appeal.

And solemnly, again and again, Vasquez answered yes.

*NEXT: Prison and freedom*