

U.S. justice: ‘Punish first, figure out what happened later’?

NEW YORK

BY AL BAKER

A hotel housekeeper whose account of being sexually attacked was so compelling it brought tears to the eyes of seasoned investigators. Preliminary forensic and electronic evidence, as well as interviews with witnesses, that poked no immediate holes in her story. And an accused man, Dominique Strauss-Kahn, with a ticket for a flight to France, sitting on the plane at Kennedy International Airport.

These were among the circumstances that confronted detectives of the Special Victims Squad of the New York Police Department who were summoned into action on May 14.

In recent days, prosecutors have disclosed inconsistencies in the housekeeper's account of what happened immediately after the alleged attack at the Sofitel Hotel here, uncovered associations she had with people suspected of crimes and revealed that elements of her life story had been fabricated. Those developments eroded the accuser's credibility and altered law enforcement officials' view of her. But none of those things were known to the police the day

of the arrest of Mr. Strauss-Kahn, whose next scheduled court appearance is July 18. All they knew was that they had to act quickly.

“I guess, in a perfect world, they would not have had to arrest him right away,” said a law enforcement official with knowledge of the case, who insisted on anonymity because the case is continuing. “They could have checked the evidence and everything. But I guess they figured they had to get him off the plane. It changed the circumstances quite a bit.”

Even before the criminal case against Mr. Strauss-Kahn started to fall apart, there were questions about how the investigation was being handled. With his release from house arrest, those concerns have only intensified.

Kenneth P. Thompson, a lawyer for the 32-year-old housekeeper, asked why Mr. Strauss-Kahn had remained in police custody for several hours before anyone asked him directly about what had happened in his hotel suite. Others questioned why prosecutors had sought to hold him. They noted that had Mr. Strauss-Kahn been released on bail, prosecutors would have had weeks to investigate the complaint and secure an indictment.

The case exposes the “punish first, figure out what happened later” state of American justice that is usually visited upon “ordinary schnooks,” said Eugene J. O’Donnell, a professor of police studies at the John Jay College of Criminal Justice here.

But in this case, Mr. Strauss-Kahn’s celebrity and his high-powered legal team helped show potential liabilities associated with detectives’ duty to advocate for a victim.

“I think that any high-profile case exposes routine police work, and when you get into the guts of routine police work it is often not a pretty picture,” Mr. O’Donnell said. “Not all the ends tie up neatly, and when you are racing that clock, that is even more possible.”

Still, he added, “Maybe at the time steps were taken, there was no choice but to take them.”

Mr. Strauss-Kahn, 62, was handed off to detectives by officers from the Port Authority of New York and New Jersey, who had removed him from his flight to Paris. He was taken to the offices of the Manhattan Special Victims Squad and kept there for hours before detectives asked him about the episode.

According to court papers filed by the office of the Manhattan district attor-

ney, Cyrus R. Vance Jr., it was shortly before 11 p.m. when Detective Steven Lane of the Special Victims Squad asked Mr. Strauss-Kahn if he wanted to talk about “the incident.” Mr. Strauss-Kahn replied: “My attorney has told me not to talk. I was ready to talk.”

Mr. Thompson, the accuser’s lawyer, said Friday that he had asked Mr. Vance to explain why the police waited so long to ask Mr. Strauss-Kahn if he had attacked the woman — characterizing

“Not all the ends tie up neatly.”

that as a “Policing 101” oversight. He said Mr. Vance gave no answer.

“One of the first things you do is you try to get them to make a statement,” Mr. Thompson said. “They didn’t do that. Instead, for five hours he sat there and nobody had the guts to go up to him and ask if he had committed these acts.”

Paul J. Browne, the Police Department’s chief spokesman, declined to discuss the matter. “I’m referring all D.S.K. inquiries to the D.A.,” he wrote in an e-mail.

A former New York prosecutor defended the police, saying that no de-

fective likes to ask a potential defendant to answer questions if the detective himself does not know what the answers are. In this case, the detectives were still most likely gathering the housekeeper’s statements and other evidence in the hours immediately after Mr. Strauss-Kahn was taken into custody, and were probably formulating the best way to get at the truth.

“Before you talk to him, you have to have your ducks in a row,” said the former prosecutor, who asked not to be identified for fear of offending Mr. Vance. “They are trying like crazy to corroborate what they can. Four hours is not a long time.”

As for Mr. Strauss-Kahn’s claims of a willingness to speak, the former prosecutor expressed doubt, saying, “This kind of guy is going to lawyer up within seconds.” He added: “As far as I am concerned, the Police Department did everything right.”

But had Mr. Strauss-Kahn been asked about the encounter and flatly denied it, it would have been more difficult for his lawyers to present a defense that a sexual act had been consensual.

The former prosecutor said that once a suspect is indicted, it is primarily the job of the district attorney’s office to

carry out a comprehensive vetting of the complainant’s background, even if that included assigning detectives to do some of that work.

Linda A. Fairstein, who spent a quarter-century as Manhattan’s chief sex crimes prosecutor, credited Mr. Vance’s office for disclosing how the housekeeper’s own statements, as well as other factors, had caused her to be viewed as a deeply flawed witness. The case rests entirely on the accuser’s credibility, and “she is the single person responsible for compromising that credibility,” Ms. Fairstein said.

Ms. Fairstein added that the fabrications in the housekeeper’s past were an issue, but that she made things worse by clinging to them for so long. Perhaps most damaging, Ms. Fairstein said, was the housekeeper’s changing her account of what occurred in the moments after her encounter with Mr. Strauss-Kahn.

“I am told she is the most convincing reporter that most people have ever interviewed,” Ms. Fairstein said. “I am told that experienced, senior people cried when she told her life story, in each of the agencies.”

Colin Moynihan contributed reporting.

In France, another complaint of sex assault

STRAUSS-KAHN, FROM PAGE 1

possibility that he might be able to return in time to run for the presidency after all. But the revelations about his conduct — even if he is cleared of all criminal charges — have hurt him with voters. Various quickie polls here indicate that about half of French voters would prefer him not to run for the presidency, and it is more likely that he would play a supportive role for another candidate, probably Martine Aubry, the party leader.

A new criminal procedure in France, if it takes place, is likely to make an unlikely candidacy hard to imagine.

The Banon complaint would bring the appointment of an investigative judge to look into the allegations, but the process leading to a decision about whether or not to prosecute could be lengthy.

Monday was the first time that Mr. Koubbi has publicly given a date for bringing the complaint, which he did in an interview with the weekly magazine L’Express, which is published on Tuesday. The magazine says the issue will include an interview with Ms. Banon.

She has said publicly that Mr. Strauss-Kahn tried to rape her when she interviewed him in 2003. She gave her account on a reality television show in 2007, saying that a politician, whom she later identified as Mr. Strauss-Kahn, had tried to rape her in a sparsely furnished apartment in Paris.

“He wanted to grab my hand while answering my questions, and then my arm,” she said. “We ended up fighting, since I said clearly, ‘No, no!’ We fought on the floor, I kicked him, he undid my bra, he tried to remove my jeans.” She called him a “chimpanzee in rut.”

In an interview with The New York Times last week, Mr. Koubbi said Ms. Banon “had watered down her version of the story” on television, and that “what happened is much worse.” He did not give details. He told L’Express: “These events were combined with a violence that was absolutely striking for these kinds of situations.”

Mr. Strauss-Kahn denied her charges in an interview in March for what was to be a campaign biography. “The scene she recounts is imaginary,” he told the author, Michel Taubmann, two months before being arrested in New York. “Do you see me throwing a woman on the floor and being violent, as she claims?”

Mr. Koubbi has refused to cooperate with the New York prosecution of Mr. Strauss-Kahn, a choice that now appears to have been prescient. Under French law, a complaint of attempted rape can be made within 10 years of the event.

In an interview on Monday on i-TELE, a cable channel, Mr. Koubbi said: “We know that in this type of case the woman’s word doesn’t weigh much compared to the man’s. But we will do everything we can to make justice triumph in this case.”

Asked about the chance of Mr. Strauss-Kahn running in the Socialist presidential primary, Benoit Hamon, the Socialist Party spokesman, said on Monday that “in today’s world in which we live, the fact is that I think that this hypothesis is the weakest.”

Given events, he said, it was not clear that Mr. Strauss-Kahn “wants to be a presidential candidate.” Mr. Hamon added: “Let us give him space to breathe.”

Nominations for the Socialist primary close on July 13, five days before Mr. Strauss-Kahn’s next scheduled court date in New York, where he still faces seven felony charges. While he has been released from house arrest and his bail returned, he is not allowed to leave the United States.

Alan Cowell and Maïa de la Baume contributed reporting.

Russia lays blame for jail death of lawyer

MOSCOW

Lack of medical help was ‘direct cause,’ investigators say

THE ASSOCIATED PRESS

Russian investigators acknowledged Monday that a lawyer imprisoned by Interior Ministry officials after accusing them of stealing \$230 million died because of a lack of medical treatment in jail.

The federal Investigative Committee said for the first time that the lack of medical help was the “direct cause” of the death of the lawyer, Sergei L. Magnitsky, 37.

Mr. Magnitsky, who worked for a large U.S. investment fund, died in prison in November 2009 after the pancreatitis he developed there went untreated. He had been arrested by Interior Ministry officials whom he had accused of defrauding the state.

“The nonperformance of stipulated actions during Magnitsky’s incarceration, and the absence of adequate therapy on Nov. 16, 2009, deprived Magnitsky of the chance of a positive outcome,” the investigative body said in a statement.

It added that Mr. Magnitsky also had cardiomyopathy, a form of heart disease and that it was the combination of this and his other illness that caused his death.

Mr. Magnitsky’s case is being scrutinized by human rights activists and potential Western investors as a gauge of the Kremlin’s commitment to addressing corruption and allowing an independent legal system. Several prison officials were fired but no one has been charged.

The Investigative Committee said in a statement that it had identified those responsible for Mr. Magnitsky’s death but would name them later.

The development comes one day before an independent report by rights activists on Mr. Magnitsky’s death, an investigation that is expected to draw the same conclusions but may go further in identifying those responsible. That report, by President Dmitri A. Medvedev’s human rights council, is expected to be presented to him Tuesday.

Mr. Magnitsky had been charged with tax evasion linked to his defense of Hermitage Capital Management, a fund headed by the American businessman William Browder, who has since been deported from Russia.



Women and children raced to reach a cave entrance as the sound of a Russian-made Antonov plane was heard in the Nuba Mountains region of Sudan.

TYLER HICKS/THE NEW YORK TIMES

Sudanese struggle to survive bombings

SUDAN, FROM PAGE 1

“These caves have saved my children’s lives,” Ms. Ramadan said. A couple of hundred meters below her is the evidence: jagged chunks of shrapnel, gaping bomb craters and a tree trunk with a huge hole blown straight through it. The bombings have shifted west in recent days, away from the Lewere Valley toward what is emerging as the front line in an area called Korchi. But the fear endures like a scar.

“Even the sound of a car sends us running,” Ms. Ramadan said. In another time, perhaps, a hike up this mountain would be a treat. The views from the top are amazing. The undulating Nuba heartland stretches far into the hazy distance, the tawny hillsops are clear save for some scratchy green brush and a few trees stubbornly clinging to the rocks. Down below, thatched-roof huts squat together. A few people swing hoes. A few women plant on their knees, as if they are praying. A tan stripe — the only

road — slices across the valley floor.

“This is all about land,” said Saida Bakhait, who is also hiding in a cave with her children. “Bashir,” she says, referring to the Sudanese president, Omar Hassan al-Bashir, “needs our land, and he wants to finish us off.”

But if war comes, it will not be an easy fight.

“Be tough! Be strong! Protect our land!” shout legions of young men — “freedom fighters,” they call themselves — as they march through the mist-shrouded valleys at dawn to add to the rebels’ numbers. They do not have guns, so they train with sticks.

Land is often code for identity, and the Nuba see this as a fight for their cultural survival. These mountains are an outpost of traditional beliefs and Christianity (though there are Muslim Nuba, too) in the northern part of Sudan. Many people here did not wear clothes until the 1970s, when the government banned nudity. Anthropologists have celebrated

President Omar Hassan al-Bashir “needs our land, and he wants to finish us off.”

the Nuba for their singing, dancing, ferocious wrestling tournaments and dizzying number of languages, with nearly every major set of hills having its own tongue. Their land is among the most fertile in all of Sudan.

Because they had been subjugated by the Arab rulers of Sudan for generations, the Nuba sided with southern rebels during the latter half of Sudan’s north-south civil war, in the 1980s and ‘90s. The government responded by bombing the hillsides, wiping out villages and incarcerating hundreds of thousands of Nuba in so-called peace camps where many were forced to convert to Islam at gunpoint. People fled to caves then, too.

A peace treaty signed in 2004 called for Nuba to have a say in determining how

much autonomy they would get — again, protecting their unique culture was a priority — but autonomy never came. Now, it seems, the government’s sudden interest in Nuba is timed to the south’s independence on Saturday. Khartoum may feel it has to send a signal that even after the south breaks off, the result of decades of struggle for liberation, it will not tolerate other secession movements.

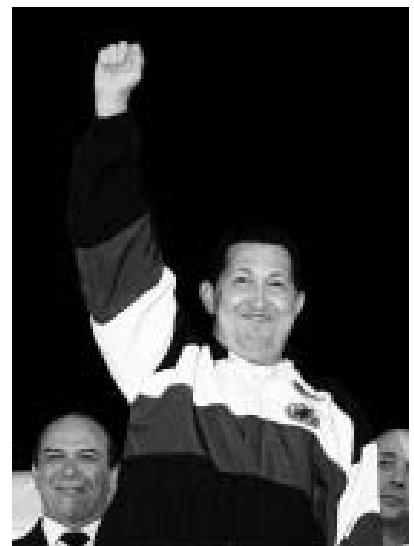
“They lost southern Sudan with bitterness, and now they are projecting that bitterness onto us,” said a Nuba man named Kuku.

In one place near Lewere, hundreds are camped in caves. At least that is what some soldiers were saying. According to them, an entire village has uprooted itself to a mountaintop.

“But we can’t let you see it,” said a local elder at the foot of the mountain. He is sympathetic but firm.

“It’s the only place that hasn’t been bombed yet,” he said. “The last thing we want is for al-Bashir to know about it.”

Chávez makes a carefully staged return to Venezuela after surgery



President Hugo Chávez seemed ebullient in arriving back in Caracas on Monday.

CARACAS, VENEZUELA

BY SIMON ROMERO

President Hugo Chávez made an unexpected, but well-choreographed, return to Venezuela on Monday after nearly a month away during which he underwent cancer surgery in Cuba.

“I’m very happy to be home again,” said Mr. Chávez, embracing his brother, Adán Chávez, and Vice President Elias Jaua, after stepping onto the tarmac at the Maiquetía airport near Caracas.

The president, in marked contrast to his somber address to the nation last week announcing his battle with cancer, seemed ebullient on Monday. He broke into song, regaled viewers with a tale of a mission to Guatemala as a young army officer and recited some lines of politically inspired verse from memory.

The pre-dawn return of Mr. Chávez, 56, was classic political theater from a lead-

er who has vexed his critics here time and again during his 12 years in power. Mystery still shrouds the sensitive subject of Mr. Chávez’s health; he did not announce the type of cancer he was struggling with or from what part of his body a cancerous tumor was removed in Cuba.

On Friday, Mr. Jaua, the vice president, even held out the possibility that Mr. Chávez could continue managing affairs as head of state from abroad for as long as six months if necessary, emboldening opponents who saw a prolonged absence as an opportunity to weaken Mr. Chávez’s grip on the nation.

But even as the disclosure of Mr. Chávez’s vulnerability obsessed the nation in recent days, here he was on Venezuelan soil again, gingerly descending the stairway of his Airbus, dressed athletically in a track suit, taking the reins of the political debate. He had time to log onto Twitter, too.

“Good morning, my dear

Venezuela!” Mr. Chávez wrote in a Twitter message sent Monday to almost 1.7 million followers. “Thank you, my God! It is the start of the Return!”

Mr. Chávez’s return on Monday holds symbolic importance because Venezuelan Independence Day celebrations were scheduled for Tuesday and Mr. Chávez has emphasized a state ideology that blends nationalism, socialist-inspired welfare projects and reverence for his commanding personality.

“Chávez’s return is the best gift that could have been received by Venezuela on its 200th anniversary of its independence,” said Gloria Torres, 50, who had organized a Roman Catholic Mass over the weekend in support of the president.

Others in this polarized nation, however, were not so happy on Monday. “I’ll be buying some antidepressants,” said José Manuel, 52, a businessman who declined to give his last name. Fernando Ochoa Antich, a former de-

fense minister, said that Mr. Chávez’s return for the independence celebrations involved the “magic” image required of the caudillo, or Latin American strongman. The president’s political personality, Mr. Ochoa Antich said, “is fundamentally based on him being a type of magic being.”

“The caudillo needs to appear invincible, which gives him the fundamental popular force that has helped Chávez preserve power all these years,” Mr. Ochoa Antich said.

Some Venezuelans pondered the strategic reasoning behind the return.

“I think this was a completely predictable event,” said Luis Vicente León, a political analyst and pollster. “He needed to immediately eliminate pessimism among his followers and avoid internal power struggles.”

María Eugenia Díaz and Girish Gupta contributed reporting.