

# Strauss-Kahn prosecutors hemmed in by own choices

By Joseph Ax

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(Reuters) - Those looking to draw lessons from the roller-coaster prosecution of Dominique Strauss-Kahn, which formally ended on Tuesday, may not get much satisfaction from Manhattan District Attorney Cyrus Vance.

Even after the dismissal of all charges against the former International Monetary Fund chief, who was arrested May 14 and charged with sexually assaulting a hotel maid, Vance's office will admit to no errors of judgment or strategy in its handling of the case.



"This case was handled appropriately at every step," said spokeswoman Erin Duggan.

But the world was transfixed for more than three months by every twist and turn in the case, and Vance's post has long been one of the most closely scrutinized in the country, primarily because of the many high-profile cases it brings.

And so nagging questions remain. What could Vance have done differently? And how, if at all, will this change the District Attorney's approach to future cases?

## BAIL OR JAIL

Six days or six months? This decision at the outset of the case may have been the most fateful choice made by prosecutors.

On May 16, two days after Nafissatou Diallo accused the managing director of the International Monetary Fund of sexual assault, Strauss-Kahn sat handcuffed in New York City Criminal Court, and Vance's office had a decision to make.

If prosecutors convinced a judge to hold him without bail, they would be required by law to win a grand jury indictment -- formal charges by a secret panel -- within six days or perhaps let Strauss-Kahn go.

If they agreed to bail, they would have up to six months to make their case. But in that scenario, they risked criticism that Strauss-Kahn was buying his way out of a jail cell, and faced the problem that he might attempt to flee the country. His native [France](#), where he had been seen as a leading presidential contender, lacks an extradition treaty with the United States.

Prosecutors chose to keep him in custody, and with the judge's agreement Strauss-Kahn was sent to the notorious Rikers Island jail until released on house arrest after three days.

With less than a week for the grand jury's decision, prosecutors were forced to rely on Diallo's word before they knew much about her. Experts said this put them in a very difficult position.

"Once you make that decision and you persuade a judge, things move very fast," said Paul Shechtman, a former New York prosecutor. "If you'd made a different bail decision, then you could have investigated."

"I question whether the case should have been indicted in the first place," said Jeremy Saland, a former Manhattan prosecutor.

But former Manhattan sex-crimes prosecutor Matthew Galluzzo said he saw little difference between an investigation taking place under the shadow of an indictment and one occurring while Strauss-Kahn remained in the United States on bail.

"Being indicted is not that much worse of a situation than being arrested," he said. "It seemed like a strong case. He (Vance) got duped (by Diallo)."

## THE LETTER

The next turning point came on June 30, when prosecutors filed a letter acknowledging for the first time that they were losing faith in Diallo's credibility.

Legal analysts praised the move, which was prompted by legal requirements that all potentially exculpatory evidence be disclosed to the defense. But Vance's office still chose to continue the investigation, requesting more than a month of postponements to the next hearing -- a move that appeared to some as an attempt to provide political cover for an ultimate dismissal of the charges against Strauss-Kahn.

The letter also prompted Diallo and her attorney, Kenneth Thompson, to go on the offensive. Their media blitz altered the tenor of the case, as the tension between Diallo and the prosecutors began to draw as much attention as the question of what actually occurred in Strauss-Kahn's hotel suite on May 14.

## THE DISMISSAL

Vance's last decision -- to drop the case -- may well have been predetermined, given what prosecutors said was Diallo's inability to tell the truth. Legal analysts said other prosecutors might have continued to prosecute, on the principle that you need only probable cause and a complaining witness to bring a case to a jury.

An example of the danger in this approach, Paul Shechtman said, was the Duke University lacrosse case, in which a district attorney violated a raft of rules in pressing rape charges against several college students that were eventually revealed as fabricated.

## LESSONS

In the end, the Strauss-Kahn case was so unusual that it would be difficult to speculate how it might affect future decisions by the District Attorney's office.

Benjamin Brafman, who represented Strauss-Kahn and vigorously maintained his innocence, was nonetheless sympathetic toward Vance.

"In fairness to him, there were some facts that suggested to him and the police this was a case that should be pursued and they took a very aggressive position," Brafman told Reuters in an interview.

"It was the right call (to drop charges)," Brafman said. "But it still takes a great [deal](#) of integrity to stand up in court and say that the witness you relied on is no longer reliable based on your own investigation."

But Vance did not receive the same sympathy from Diallo's lawyer, Kenneth Thompson, who accused him of capitulating to a wealthy, powerful defendant.

Standing outside the courthouse Tuesday after the charges had been dismissed, Thompson said, "If Dominique Strauss-Kahn was a bus driver from the South Bronx, do you really think that the district attorney would be running away?"

(Additional reporting by Noeleen Walder; Editing by Jesse Wegman, [Daniel Trotta](#) and [Jackie Frank](#))