

THREE DAYS IN MAY

THE DSK THRILLER

By Edward Jay Epstein

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ISBN 9781617040863

Parts of this book appeared in The New York Review Of Books

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<i>Preface</i>	<i>A Time Stamped Inquiry</i>

There was a time not long ago, indeed up until the first decade of the 21<sup>st</sup> century, when surveillance often required a physical presence. Images of members of a surveillance team breaking into a home to plant a microphone, sitting in a parked van with earphones and cameras, climbing a telephone pole to install a tap, and following a man to a meeting place were burnished in the popular imagination by movies such as *The Conversation*, *Tinker, Tailor, Soldier, Spy*, and *The Lives of Others*, all of which had a basis in reality. Now, however, with the proliferation of smart phones, credit cards, EZ passes, GPS trackers, emails, text messages, and CCTV cameras, such surveillance can be done from a remote location. When individuals use these ubiquitous devices, or are exposed to them, to make a call, go on the Internet, drive their cars through a toll bridge, pay an electronic bill, visit a social network, tweet, or share a photo, they leave a digital trail that can be reconstructed. Camera-equipped phones that locate the user via a rapid GPS signal, which were a rarity at the time of the attack on the World Trade Center in 2001, are now used by a large part of the population to phone, text, email, store voice mail, conduct Internet searches, pay bills, and organize their calendar of appointments. This data are routed through cyber space by a ganglia of Internet Service Providers, or ISPs, through global telecommunications companies. Once a security service acquires the ability to hack into the ganglia, it only needs to determine the phone number of a target to follow his every move, past and present, in cyber space. Nor is it an insurmountable challenge for even a second-rate intelligence service, if it is well funded, to obtain this capacity. After Moammar Gadhafi's regime fell in 2011, documents found in Libyan intelligence by the *Wall Street Journal* revealed that AmiSys, a subsidiary of the French company Bull SA, had supplied Libyan Intelligence with its Eagle Interception System, which allowed Libyan intelligence to gain access through ISPs to the smart phones of a vast number of suspected dissidents and then, through special filtering software, intercept their emails, online chats and Facebook messages in what the company called "massive interception." If such off-the-shelf commercial products are readily available, it is not difficult to imagine what a first-class intelligence service can achieve in terms of remote surveillance.

A former top executive of the National Security Agency said to me in 2011, "If just twenty years ago a book described a world in which every citizen voluntarily carried around his own bug so Big Brother could listen to his conversation, it would be deemed science fiction, but now it is no longer fiction." He explained that since the smart phone contains all the elements necessary for surveillance, including a power supply, a microphone, GPS, and a continuous transmitter, "any security service can send it software codes that will turn it into a bug that monitors conversation even when the user believes it is turned off." A sophisticated target can of course take counter-measures, such as removing the phone's battery when having a sensitive conversation. Even such a move in this game can be defeated by planting a hidden capacitor in his phone, which will act as a spare battery, although that requires physical control of the phone itself.

Similarly, if a computer is connected to a network, a security services can remotely embed a program that will allow it to monitor all the key strokes a target makes on it. And with facial-recognition program, a security service can follow a person's movements on networked CCTV cameras, which are already ubiquitous in some cities, such as London. As a result, much of what a person does, whether he realizes it or not, is time-stamped by a digital camera or cell phone.

When Dominique Strauss-Kahn, better known by his initials DSK, had his now-infamous encounter with a maid at the Sofitel, much of what occurred before and after was captured by

elements of this new surveillance regime, including CCTV cameras, cell phone ISPs, credit card charges, radio police logs. and the hotel's electronic key swipe records. After DSK was arrested on charges of sexual assault, the Manhattan District Attorney's office subpoenaed that material. In August, however, the District Attorney came to the conclusion that the only witness in the case, the maid, could not be believed beyond a reasonable doubt, and moved on August 22, 2011 to drop the case. After the charges were dismissed, I obtained a significant part of this evidence from sources that prefer to remain anonymous for an article I was writing for the *New York Review of Books*. After the article, "What Really Happened to Strauss-Kahn," was published in November 2011, a great deal more of the court-protected documents became available to me. This time-stamped material, much of which is included in this book, allowed me to reconstruct the reality behind the mystery in a way that I could not have been done otherwise.

FRIDAY MAY 13

Chapter I

From The W to the Sofitel

At 5 pm on Friday May 13<sup>th</sup> 2011, Dominique Strauss-Khan, better known in France by his initials "DSK," boarded US Airways Flight 2180 at Reagan National Airport. The 62-year old French-born economist had a busy schedule. He planned to be in New York only overnight to see his daughter. He would fly back to Paris on Sunday to see his American-born wife, Anne Sinclair, and then go that night to Berlin, where he had scheduled a meeting with Angela Merkel, the German Prime Minister. Since September 2007, he had been head of one of the world's most powerful financial institutions, the International Monetary Fund, an organization of sovereign states with the job of providing loans to any nation in financial trouble. For the past 6 months, he had to deal with a crisis of unprecedented proportions. Greece, one of the weakest economies in the European Union, was running out of money. It now had to refinance its massive debt but lacked the credit to borrow money at rates it could afford. If it did not get the money in the next few months, it would have to default on its bonds. Such a bankruptcy would threaten the largest banks in France and Germany setting off a cascade of falling dominoes that could not only destroy the Euro but plunge Europe and America into financial chaos. Since the IMF was the largest holder of Greek debt, and could draw upon the resources of the 187 nation-states that constituted its membership, DSK expected to play a major role in preventing this impending disaster. DSK had qualification in this regard. After obtaining a law degree and PhD in economics at the Universit  Paris at Nanterre in 1977, he was appointed to head the finance department of the Plan Commission in 1982, Minister of Industry and Foreign Trade from 1991 to 1993, and Minister of Economy, Finance and Industry from 1997-1999. He had also played a major role in the French Socialist Party (PSI), having first been elected to the Chamber of Deputies in 1986, and was now in line to be its Presidential candidate. Even though French President Nicolas Sarkozy had backed his appointment at the IMF four years earlier, he was now emerging as his leading rival for the presidency, and now he was well ahead of Sarkozy in all the national polls. If elected, he would be France's first Jewish president.

DSK had come to Washington DC from Paris just three days earlier for a meeting of the IMF board. But IMF business, as crucial as it was, had occupied only part of his time that week. The night before he also had went to a libertine event at a suite in the W Hotel. The other guests,

included four young women, had all flown to Washington D.C. from Paris to attend the party. As it turned out, this party on May 12<sup>th</sup> was the last in a series of libertine parties, many of which had the same guests. The first party had been in late 2009 in Paris. Then the group met in other cities, including Lille in the north of France, Brussels and once before in Washington DC, when DSK had taken one of the female guest for a visit to his IMF office. One participant was the politically-connected police Commissioner for the Lille region, Jean Christophe Lagarde. He was in an unusually good position to find attractive women for these parties because he was also providing protection for a prostitution ring that imported women from Belgium, where prostitution was legal, to France and operated out of the Carlton Hotel in Lille. Lagarde had also become, as had many other Socialist politicians, a supporter of DSK for his planned challenge to Sarkozy. The expenses for these small gatherings were mainly paid by two wealthy guests, David Roquet, an executive of the French construction group Eiffage, and Fabrice Pazskowski, a long-time friend of DSK, who owned a medical supply company. For the party on May 12<sup>th</sup>, Lagarde brought two women from France, called "Florence" and "Helene." They were introduced to DSK, according to Lagarde's subsequent testimony, as secretaries at Eiffage, but there in fact prostitutes. The other two women were friends of Pazskowski' and DSK (who were not paid.) The party had gone onto the wee hours of May 13<sup>th</sup>.

Before DSK had left the W hotel, he had a private conversation with Lagarde in his room. Lagarde warned that now that DSK had decided to run for President, these sex parties could be a serious political risk. His main concern was that DSK's risque activities could be exposed in the intense scrutiny that would come with a political campaign.

Lagarde's warning in Washington may have been more prophetic than he realized. In December 2011, a French journalist learned from authorities investigating the prostitution ring that there existed a word-for-word transcript of the conversation between DSK and Lagarde in the W hotel in Washington DC on May 12<sup>th</sup>. If true, it would suggest that DSK's activities had been monitored *before* he arrived in New York. According to what this journalist was told, this interception had resulted from a freak coincidence in which DSK's speaker phone was accidentally left on and it somehow connected to a French phone number that was under legal surveillance. As the journalist was unable to obtain the putative recording, or match it to DSK and Lagarde's voices, it remains unconfirmed.

DSK was surprised, as he later recalled, that his arriving taxi was greeted by a uniformed Sofitel doorman from the hotel on the street before it had even reached the hotel. Other than booking his room at the Sofitel for the afternoon of May 14<sup>th</sup>, he did not advise the hotel as to his time of arrival. As it turned out he caught a later flight than he expected in Washington DC and it arrived at JFK in New York at 6:21 PM that Friday night. He had only carry-on baggage, and caught a yellow taxi from the queue. By 7:08 PM, the taxi arrived at the 44<sup>th</sup> Street entrance of the Sofitel. The doorman unloaded his bag and brief case while he paid. He then carried his own baggage to the hotel, pulling the small wheeled bag behind him. In the entrance way, he was met by a female clerk, who accompanied him through the lobby to the reception area, which is on the 45<sup>th</sup> side of the building. After he had signed in, he went directly to the presidential suite on the 28<sup>th</sup> floor.

What he did not see when the taxi pulled up was that his arrival may have been anticipated. (See CCTV Tape A ). Ninety seconds before DSK's taxi pulled up at the 44<sup>th</sup> street entrance, a tall, well dressed man came out of the hotel, a cell phone pressed to his ear. He walked out in the street and handed the phone to the doorman. They both looked down 44<sup>th</sup> street. The well-

dressed man then returned to the sidewalk and continued speaking and gesturing to the doorman, who then walked down 44<sup>th</sup> street (out of the range of the CCTV camera) then ran back with DSK's cab. Perhaps a coincidence, but just 4 seconds after DSK entered the hotel at 7:10:23 PM, the well-dressed man appeared from the entrance way, where he had been standing, and followed DSK's path to the lobby lounge, where he stopped at a doorway looking towards the reception desk. At 7:11 PM, while DSK provided his passport to the reception clerk, the well-dressed man can be seen framed in the lounge doorway looking towards him. When at 7:12:16 PM, DSK, accompanied by the reception clerk, walked to the elevator lobby. Three seconds later, the well-dressed man came out of the doorway, walked past the reception desk, again following DSK's route, and, as he passed the elevator lobby, he turned his head to the right towards where DSK would be waiting for the elevator.

The well-dressed man is Brian Yearwood, the head of engineering at the Sofitel. (According to the Internet site LinkedIn is the hotel's "Director of Engineering Design.") He is a large, muscular former prison guard, who had been employed by the Sofitel since 2005. Before that he had worked as a corrections officer at the Mid Orange Correction Center in Warwick, New York for 17 years. According to Sofitel records, he was supposed to be off that weekend, but his schedule had apparently been changed since his car can be seen on 45<sup>th</sup> street all night on the CCTV camera. On the film, shortly before DSK goes anywhere, Yearwood seems to appear, and as soon as DSK leaves, he seems to follow the same route. These near encounters with DSK, which would continue the next day, may have been pure coincidence. Or he may have been assigned by the hotel the task of making sure that DSK's arrival—and his departure the next day—went smoothly. Such a task could be a perfectly proper precaution since DSK, a possible future president of France, was one of the hotel's most important clients. But if he was assigned that role, how did he, or the person on the telephone, know DSK's cab was arriving? (I requested an interview with Yearwood, but he, like all other Sofitel employees I approached, declined to speak to me.) DSK does not recall ever noticing Yearwood.

Later that evening DSK went out for dinner, and did not return to the hotel until 1:53 AM, according to the key records. He had a guest with him, a blond female. She is shown exiting the elevator on the ground floor at 3:56 AM, ending a long day for the 62 year old managing director of the IMF.

SATURDAY MAY 14

## Chapter II The Encounter

May 14, 2011, was a horrendous day for Dominique Strauss-Kahn. Waking up in the presidential suite of the Sofitel New York hotel that morning, he could not have known that by late afternoon he would, instead of flying to Paris, be imprisoned in New York on a charge of sexual assault. He would then be indicted by a grand jury on seven criminal counts, including attempted rape, sexual assault, and unlawful imprisonment, spend two nights in the Rikers Island jail, placed under house arrest for over a month, and, two weeks before all the charges were dismissed by the prosecutor on August 23, 2011, sued for sexual abuse by the alleged victim.

The day began normal enough. The room service waiter knocked on the door of the four room suite shortly after 9:30 AM and brought the breakfast he had ordered to the dining room on

the far side of the living. He went through his messages and discovered he had a potentially serious problem with one of his BlackBerry cell phones—which he called his IMF BlackBerry. This was the phone he used to send and receive texts and e-mails—including for both personal and IMF business. According to sources who are close to DSK, he had received a text message that morning from Paris from a friend. She warned DSK that at least one private e-mail he had recently sent from his BlackBerry to his wife, Anne Sinclair, had been read by his political foes. It is unclear how his foes might have received this e-mail, but if it had come from his IMF BlackBerry, he had reason to suspect he might be under electronic surveillance in New York.

Since he had taken measures to protect his phone a month earlier, the warning that his BlackBerry might have been hacked was all the more alarming. At 10:07 AM he called his wife in Paris on his IMF BlackBerry, and in a conversation that lasted about six minutes told her he had a big problem. He asked her to contact a friend, Stéphane Fouks, who could come to his home on the Place des Vosges and who could arrange to have both his BlackBerry and iPad examined by one or more expert in such matters.

He had no time to do anything about it that morning. He had scheduled an early lunch with his twenty-six-year-old daughter Camille, who wanted to introduce him to her new boyfriend. After that, he had to get to JFK Airport in time to catch his 4:40 PM Air France flight to Paris.

He had finished packing his suitcase at around noon, according to his own account, and then took a shower in the bathroom, which is connected to the bedroom in the suite by an interior corridor. Just minutes later there were multiple entries his suite.

The first entry was at 12:05, according to the hotel's electronic key swipe records (which are accurate only to the nearest minute.) The key belonged to Syad Haque, a room service waiter. According to his police statement, he had come to the suite to remove DSK's breakfast dishes. If so, he turned left on entering the suite and proceeded through the living room to the dining room, where he would collect the breakfast dishes on his cart. (See Diagram below.) It is not clear how long he spent in the suite or when he left since the electronic key system only records entries, not exits.

The second entry came only about a minute later at 12:06 PM. This key belonged to a hotel maid, Nafissatou Diallo. She was a thirty-two-year-old immigrant from Guinea. Ordinarily, cleaning personnel do not enter a room to clean when a guest is still in it. The presidential suite, however, is a large 4 room apartment so she may not have known he was in the suite when she entered. If her purpose was to clean the suite, she would need the cleaning equipment on her cart. But, according to her own testimony, her cart was locked in room 2820. According to hotel records the guest had checked out at 11:36 AM. She then left the suite and the door locked behind her. The third entry was also by Diallo. It was recorded at 12:06 PM, so she had spent very little time in the hall. We do not know why she returned but when she did she still lacked her cleaning equipment. At this time, depending on whether or not the room service waiter had yet exited, there was either one or two staff in the presidential suite.

Shortly after her second entry she encountered DSK. What followed, and where it happened, is a matter of dispute but there is no doubt about the sexual nature of the encounter. The DNA evidence found just a few feet outside the bathroom door showed a combination of her saliva mixed with his semen. Nor did he deny a sexual contact had taken place. The prosecutors determined that this engagement, whether forced or not, was "hurried" because DSK's phone records show that by 12:13 PM he was speaking to his daughter on his IMF BlackBerry—a call lasting for thirty-six seconds. Since it was not a call that Diallo witnessed, according to her own

account, she must have already left the room. If so, the sexual encounter had lasted no more than seven minutes.

What took place between DSK and the maid in those intervening minutes is the subject of a civil lawsuit. In the maid's account, she encountered DSK in the entrance area when he emerged naked from the bedroom. He then dragged her first to the bedroom and then to the end of the interior corridor across from the bathroom, and there, after molesting her, he forced her to perform oral sex on him.

In DSK's version, the maid was already standing just outside the bathroom door when he opened it. If so, she had crossed through the bedroom before he had encountered her. The sex act took place and, according to him, was consensual.

After she left at 12:13 PM, it is not clear where she spent the time before she encountered another maid at 12:30 PM or shortly afterwards. There are no CCTV cameras on the 28<sup>th</sup> floor and she did not use her electronic key again until 12:26 PM, where she re-entered both room 2820 and the Presidential suite.

What is known from phone records is that DSK completed his call before 12:14 PM. He then dressed, put on his light black topcoat, and left the suite with bag and briefcase (which contained his iPad and several spare cell phones). As he recalls, he left no gratuity for his one night stay in the \$5,000 a night presidential suite. He left at about 12:26 PM. At 12:27:08, he was recorded by the ground floor CCTV cameras arriving in the lobby.

Meanwhile on the 28<sup>th</sup> floor, Diallo, just moments after DSK descended in the elevator, used her electronic key to re-enter the Presidential suite at 12:26 PM. It was her third entry to the presidential suite in just 20 minutes, and she remained there very briefly before encountering the other maid in the hall.

### Chapter III

#### The Reconstruction of Reality

The CCTV camera is increasingly become a part of modern life. Like many hotels built in the 21<sup>st</sup> century, much of what happens at the Sofitel hotel is recorded by CCTV cameras. Outside, they are located at both the main entrance on 44<sup>th</sup> Street and the employees' entrance on 45<sup>th</sup> street. On the ground floor, they are located, among other places, in the concierge area, the main lobby, the lounge, the reception area, the elevator entranceway, the security office corridor, and the loading dock. They are also located in the sub-basement. There are no cameras on the upper floor corridors, elevators, or rooms. The photos from these cameras are digitally-stored and they can be viewed on a state-of-the-art monitor in the security office, located in the corridor between the employee entrance and the lobby.

These cameras showed DSK's departure on 12:28:20 PM on May 14<sup>th</sup>. DSK emerged in the elevator lobby at 12:27:12 PM. Fifty seconds later, at 12:28:03, the head engineer, Yearwood, emerged from another guest elevator. DSK proceeded to the reception desk at 12:28 PM. At 12:28:30 PM, Yearwood also moved toward a vantage point in the lobby from which the reception area was visible. By 12:28:50 DSK had checked out and walked through the lobby exit to 44<sup>th</sup> street. Yearwood was now also in the lobby, where one minute after DSK left, he met a woman in a pink cardigan.

Yearwood then became part of the unfolding drama on the 28<sup>th</sup> floor shortly after DSK departure. At 12:39 PM, the head engineer can be seen on the CCTV tape receiving a phone call

while he was talking to the women in the pink cardigan in front of the hotel. (See CCTV Tape B) The call was from Renata Markozina, the head of housekeeping. At that time, according to key records, she was in the presidential suite, and according to police reports, she was with Nafissatou Diallo, the maid with whom DSK had the encounter about a half hour earlier. She had by now told the head of housekeeping she had been attacked in this suite. At 12:43 PM, the head engineer got into a guest elevator (he was still with the woman in the pink cardigan.) He was joined on the 28<sup>th</sup> floor by Derek May, a security guard (and the hotel's union representative.) May, a large, muscular man with an ear piece, and Yearwood, appear to be working closely together that afternoon, since they are frequently shown together on the CCTV tapes..

At 12:45 pm the head engineer used his electronic key to enter the presidential suite where Markozina was with Diallo. About 15 minutes earlier, Diallo had encountered her another maid near the 28<sup>th</sup> floor linen closet, and asked a hypothetical question about what hotel guest could do to a maid. After that, Diallo then said she had been sexually attacked by a guest, which led the this maid to call the head of housekeeping. It is not known what was said at this meeting but it could not have lasted long. At 12:51:56 PM, Diallo and Markozina, along with the security guard May, got out of the elevator on the ground floor, as recorded by the CCTV camera [See CCTV Tape C]. May stayed with them as far as the main lobby, and the head housekeeper and Diallo continued to the corridor used by employees located at the 45<sup>th</sup> Street entrance. The hotel's security office is there. It had a set of Dutch doors, with the upper half opened. Behind it sat Adrian Branch, the Sofitel's head of security.

Diallo stood next to a solitary bench just across the corridor from this half-opened door. She remained standing or sitting here for the next hour and fifteen minutes.

The head engineer Yearwood did not immediately accompany Diallo downstairs. He remained behind on the 28<sup>th</sup> floor and, according to the electronic key records, he re-entered the presidential suite at 12:51 PM. Whatever his reason for this second visit, it was brief. By 12:53, the CCTV cameras recorded him leaving the elevator on the ground floor. [See CCTV Tape D]. He walked briskly through the lobby to the security area, where he briefly spoke to Diallo, then 30 seconds later, he returned to the reception area, where he rejoined the security guard May in a curtained office right of the reception desk. As there was no CCTV camera in this office, we do not know what they did there for the next 5 minutes. Possibly, they were checking the records to verify Diallo's story. If they had consulted the hotel's computerized guest records, they would have seen that the client in the presidential suite was DSK, and that he had checked out at 12: 28 PM (which Yearwood may have himself witnessed.) If they checked electronic key records, they would have ascertained that only two employees had entered the suite prior to his check out—the room service waiter Haque at 12:05, and Diallo three time—twice at 12:06 and once at 12:26 PM. They would have also seen that both before and after her visit to the Presidential suite she had gone to another room across the hall, room 2820. [See Key record in Appendix A and B.]

By 1 PM, both men had returned to the security area. They would spend a good part of the next hour there, either talking on their cell phones or inside the security booth (which was not covered by the CCTV cameras). At 1:03 PM, a call was made to the cell phone to John M. Sheehan (Sheehan's cell phone calls are a court document.) Sheehan was the director of safety and security at its parent company Accor, which is a part of the French-based Accor Group. He also had a similar position and office at the Sofitel (which is the Accor Group's only hotel in New York.) He was off that day at his home in Washingtonville, New York. Nevertheless, he had

been in frequent touch with the head engineer earlier that day, exchanging no fewer than 13 text messages with him between 10:21AM and 10:35 AM, according to the log of his cell phone.

After receiving the 1:03 PM call, Sheehan headed to the Sofitel, which is about an hour and a half drive from his house. While en route, according to his cell phone records, he called the number [REDACTED] in the United States. When I called the number a man with a heavy French accent answered and asked whom I wanted to speak with at Accor. The man I asked to talk to—and to whom I was not put through—was René-Georges Querry, Sheehan's ultimate superior at Accor and a well connected former chief of the French anti-gang brigades, who was now head of security for the Accor Group. Before joining Accor Group in 2003, he had worked closely in the police with Ange Mancini, who then became coordinator for intelligence for President Sarkozy. Querry, at the time that Sheehan was making his call to the 646 number, was arriving at a soccer match in Paris where he would be seated in the box of President Sarkozy. Querry denies receiving any information about the unfolding drama at the Sofitel at this time or until after DSK was taken into custody about four hours later.

Another person at the Accor Group whom Sheehan (or the operator at Accor) might have alerted was Xavier Graff, the duty officer at the Accor Group in Paris. Graff was responsible that weekend for handling emergencies at Accor Group hotels, including the Sofitel in New York. His name only emerged five weeks later when he sent a bizarre e-mail to his friend Colonel Thierry Bourret, the head of an environment and public health agency, claiming credit for "bringing down" DSK. After the e-mail was leaked to *Le Figaro*, and it reported he said that he said that " nous avons réussi à 'faire tomber' DSK", Graff described it as a joke (it resulted, however, in his suspension as director of emergencies by the Accor Group). Even jokes can have a basis. In this case the joke was made by the person who was directly responsible for passing on information to his superiors, including the head of security at Accor, René-Georges Querry—information that, if acted on by informing the American authorities, could have helped destroy DSK's career. But like Querry, Graff denied receiving any calls or messages from New York until later that evening, telling a French newspaper that the failure to inform him was an incredible blunder.

Whatever communications might have passed between New York and Paris, the victim in the drama received no medical attention. The CCTV tape shows Diallo repeatedly pointing to different parts of her body over and gesturing with a series of hand movements. It appears to be a re-enactment of her story. At one point, she used the head housekeeper Markozina to play the part of her attacker. At 1:07 PM, the room service waiter, who is the only known person who may have witnessed her entry into the presidential suite, and was in the room only a minute before she entered, was brought into the apparent re-enactment. He can be seen in a discussion with the head engineer and Diallo. The CCTV tapes of course contained no sound component, so we do not know what was being said, but, if this was part of the re-enactment, at least two potential witnesses—the room service waiter, who had preceded Diallo in the room, and the head house keeper, who had heard her outcry on the 28<sup>th</sup> floor, had an opportunity to hear Diallo's version of the incident and refresh their memory before the police were called in.

[See CCTV Tape E]

It is not clear who finally made the decision to call the police. At 1:28 pm, the Accor Safety director, Sheehan, who was still on the way to the hotel, called the head engineer who had entered the security office. After that, the Sofitel's security man, Branch, made the 911 call. The 911

operator recorded the time as 1:31 PM, which was just over one hour after Diallo had first reported that she had been assaulted by the client in the presidential suite.

The call can be heard in its entirety on a 911 tape [Appendix F]. After giving the address of the hotel, Branch reported only that a “room attendant” had been assaulted in a “sexual manner” by a hotel guest. When the 911 operator asked him if an ambulance should be sent, he replied that it was unnecessary because the victim had “no sustained injuries.” Even though the records were available at the hotel, the security officer provided a time line that was falsely minimized the amount of time that had elapsed before the 911 call was made. He stated that the incident had taken place “30 or 40 minutes ago,” when in fact it had occurred 80 minutes earlier, and that the guest had checked out of the hotel “20 minutes ago,” when in fact DSK, had checked out 64 minutes earlier. In any case, The 911 operator said she would dispatch a “squad car” at about 1:32 PM. So the police were now on their way.

By this time, the head engineer who was on and off his cell phone had received another text message from Sheehan. He briefly went outside then returned just as the 911 call was concluding. At 1:34:40, he walked by May, who then followed him through a door leading to the loading area.

Here Yearwood and May were observed by another CCTV camera [See CCTV Tape F]. Both men speak briefly for a moment. Then they high-fived each other, clapped their hands, and danced so exuberantly that the security guard lifted actually the head engineer off the floor. These gyrations looked like the sort of victory dance seen in a football game after a winning goal is scored. [See CCTV Tape G].

#### Chapter IV The Arrest

While the celebratory dance was taking place at the Sofitel, DSK was lunching 7 blocks away at McCormick & Schmick, a restaurant on 52nd Street between Sixth and Seventh Avenue. When he left the hotel at 12:28 PM, he had caught a taxi which then became delayed by heavy traffic and a street fair on Sixth Avenue. By the time he got there, as the restaurant’s CCTV camera showed, it was 12:54 PM. His daughter Camille and her boyfriend were already there. Because it was to be a short lunch, he deferred to his daughter’s request that he not to use his cell phone. At 2:15 PM, DSK hailed a taxi to go to the airport. Almost immediately, when he sought to make a call, he discovered that his IMF BlackBerry was missing. It was the phone he had arranged just that morning to have examined for bugs when in Paris and it was the phone that contained the earlier text message warning him about the interception of his messages.

At 2:16 PM he called Camille, who had also just left the restaurant, on one of his spare BlackBerry. He had her go back to the restaurant to search for his missing phone. CCTV footage at the restaurant shows her crawling under the table. At 2:28 PM she sent him a text message saying that she could not find the phone. Meanwhile, As DSK continued on to the airport, he still was attempting to locate the missing phone. At 3:01 PM, DSK was by calling it from his spare phone. He received no answer.

What DSK did not know was that his phone had remained at the Sofitel after he left the hotel. As late as 12:51 PM, which was 23 minutes after DSK left the hotel,, the GPS on the phone showed it was still at the Sofitel, according to the records of the BlackBerry company Research In

Motion. The company could determine this time because a Blackberry, as do many other smart phones, continues to send a signal as to its location even when it is turned off. BlackBerry could also electronically determine that the GPS signals on DSK's phone had abruptly stopped at 12:51, indicating either that the battery had run out or that the GPS had been intentionally disabled. (A forensic expert later concluded from the strength of the previous signals that the latter most likely happened). So either his phone was still in the presidential suite or someone at the hotel had taken it from the Sofitel after 12:51 PM (when it was no longer traceable).

At 3:29 PM, evidently still unaware of what was happening at the Sofitel, DSK called the hotel from the taxi, saying, according to the police transcript, "I am Dominique Strauss-Kahn, I was a guest. I left my phone behind." He then said he was in room "2806."

At that time, Diallo had just left the hotel en route to St. Luke's hospital to be examined, but the police were still at the hotel. He was asked to give a phone number, so that he could be called back after someone searched for his phone. He furnished it.

Police and security staff, using a security electronic key at 3:33 PM, then re-entered the presidential suite. The police did not find the phone.

When DSK was called back thirteen minutes later, he spoke to a hotel employee who was in the presence of police detective John Mongiello. The hotel employee falsely told him that his phone had been found-- it has never been found-- and asked where it could be delivered. DSK told him that he was at JFK Airport and that "I have a problem because my flight leaves at 4:26 PM." He was reassured that someone could bring it to the airport in time.

"OK, I am at the Air France Terminal, Gate 4, Flight 23," DSK responded. So the police, who were behind the ruse, rushed to the airport.

At 4:45 PM, the police called DSK off the plane and took him into custody. He was driven back to New York City and held in custody/

SUNDAY MAY 15

## Chapter V The Rush To Judgment

The police arrived on the scene at the Sofitel at 2:05 PM. Two uniformed policemen can be seen on the CCTV tape. They walked through the main lobby to the security area, where they were greeted by the hotel's manager, Florian Shotz, who himself arrived only 10 minutes earlier on his motor scooter. The police then escorted Diallo to a private room. It is not clear when they began questioning her or officially took control of the case. According to the prosecutor's bill of particulars, members of the hotel security staff had remained in contact with Diallo at least for another 25 minutes, since it states that at 2:30 PM "a photograph of the defendant was shown to the witness [i.e., Diallo] by hotel security without police involvement." If so, even after leaving the bench (and video surveillance) and going to a room with the police, she remained available to the Sofitel staff. (I asked both Deputy Commissioner Paul Browne and Deputy Inspector Kim Royster why, according to the bill of particulars, the police were not officially involved at this point, but they declined to comment.) Nor was the presidential suite entered by the police, according to the records, until 2:52 PM, which was 5 minutes after Sheehan, the Accor safety director, arrived at the hotel. It was not until 3:28 PM, when the police took Diallo to St. Luke's Hospital. She was finally medically examined and they then formally interviewed by police

detectives.

The account she provided was of a brutal and sustained sexual attack. She described how her attacker locked the suite door, dragged her into the bedroom, and then dragged her down the inner corridor to a spot close to the bathroom door—a distance of about forty feet—and, after attempting to assault her both anally and vaginally, he also forced her twice to perform fellatio. After that, she said fled the suite and hid in the far end of hallway until he left. She later identified DSK in the lineup as her attacker.

Based on her description, the police Crime Scene unit sealed off two crime scenes: the presidential suite and the far end of hallway, and located 5 areas of the carpet in the interior hallway leading to the bathroom of the presidential suite that potentially had stains of semen or saliva. The next day, May 15<sup>th</sup>, its detectives brought sections of the carpet from the hallway as well as the wall paper to the police forensic biology lab. A preliminary examination showed that one of the five stains in the carpet, located about 6 feet from where Diallo had said she was assaulted, contained a mixture of semen and amylase (an enzyme from saliva) that was consistent with the DNA of DSK and Diallo. This was direct evidence that they had engaged in fellatio, as Diallo had claimed. (Three of the other stains also tested positive for semen, as did the wall paper, and a fourth stain showed a mixture of semen and saliva, but these stains were determined to be from six other individuals, and their sexual activity was assumed to be unrelated to the incident under investigation.)

The next issue was whether force was used. To this end, DSK was examined at St. Luke's hospital for any telltale bruises, traces of her DNA under his fingernails, or other any evidence of a struggle. None was found. Then On Sunday May 15<sup>th</sup>, DSK was formally arrested.

The Manhattan district attorney office, under DA Cyrus Vance Jr., was possibly the best staffed prosecution teams in the United States. Its trial division alone had over 50 Assistant District Attorneys as well as dozens of investigative analysts and paralegals. Its Sex Crimes Unit, which had been assigned the case, had been the subject of a laudatory HBO documentary, So immediately after DSK's arrest, Lisa Friel, who had headed the Sex Crime Unit began examining the case, as did John "Artie" McConnell, the prosecutor assigned to the case, Ann Prunty, his "second" chair, and Joan Illuzzi-Orbon, the assistant DA who headed the newly-created Hate Crimes unit. The first issue facing this formidable team of prosecutors was bail.

Bail is not unusual in the case of first time offenders with no previous criminal background, and employment. DSK was the managing director of the IMF. His lawyers, William W. Taylor III and Benjamin Brafman immediately moved to arrange bail. According to DSK's lawyers' understanding of their conversation with the prosecutors, a deal was arranged at 4 PM on May 15th whereby the prosecution would recommend \$250,000 cash bail and DSK would relinquish his passport. But at 8 PM that Sunday, Lisa Friel, told Brafman on the phone "that things had changed and that there was no more agreement." Instead, the DA would recommend that bail not be granted. (Friel herself left the case shortly afterwards, and resigned from the district attorney's office.)

What had reportedly happened in the four hour interim was that Vance had received information bearing on the case from Paris. Although it had been initially reported that this phone call concerned a French woman, Tristane Banon, who had charged that DSK had attacked her, that accusation had not even been officially filed on May 15<sup>th</sup> (and was subsequently dismissed.) Instead, an investigation in the French newspaper *Liberation* by Fabrice Rousselot found that the call came from the phone of a senior official in the French government. The official, according to

Rousselot's investigation, said that DSK was implicated in a prostitution case that involved, among other things, transporting prostitutes to Washington DC. If it turned out to be true that DSK could be involved in a Washington prostitute ring, releasing him on bail could embarrass the DA's office, especially if he fled.

There indeed may have been more than one phone call from Paris. At the bail hearing the next day, according to the court transcript, McConnell requested that Judge Melissa Jackson hold DSK without bail, explaining in an apparent reference to the communications with Paris "we are obtaining additional information on a daily basis regarding his behavior and background." He continued "Some of this information includes reports he has in fact engaged in a conduct similar to the conduct alleged in the complaint." He added that these reports were as yet unverified but he did not specify who was supplying his office with these reports on a "daily basis" less than 2 days after DSK's arrest. But if it concerned DSK's activities the W Hotel in Washington DC earlier that week, it raises the question of how the French government, or whoever was supplying the reports, obtained such up to date intelligence on DSK's private activities in Washington.

For their part, the prosecutors now strongly deny that this information from France was the decisive factor in their opposing bail. Their principal concern, according to a source in the prosecutor's office, was that DSK, if released on bail, might use his connections to flee to France. But whatever shaped the decision, Judge Jackson acquiesced and denied DSK bail.

The prosecutor's opposing bail had two immediate consequences. First, DSK was imprisoned on Rikers Island for 4 days (at which point another judge granted bail.) Second, it triggered a relatively-brief clock for the prosecutors. New York state law required the prosecution to gather evidence and present it to the Grand Jury within 144 hours. This rush resulted in a presentation before all the facts could be assembled. For example, within that period, the prosecutors had not yet obtained electronic key swipe records. When they did the following month, it cast a very different light on the case.

The reasons that the prosecutors may have been willing to risk this rush to judgment is, as the District Attorney publicly stated, it was assumed that there was a solid case against DSK. After all, preliminary DNA evidence established that DSK had a sexual encounter with Diallo. The semen stains, moreover, placed it in the presidential suite in the area she described to the police. DSK nor his lawyers had denied it had occurred. Instead, they said it was not forced. So the only legal issue was whether or not it was consensual. That would be up to a jury to decide. And as is common in sex crime prosecutions, its verdict would depend heavily on the credibility of the prosecution's only real witness. If the jurors believed her beyond a reasonable doubt that force was used, he would be convicted. And, as far as her credit ability went, they believed that they were on strong ground. The initial police investigation had turned up no "red flags" in Diallo's background. She had, for example, never been arrested or accused of a crime. Although she had entered the US under an alias (as do many refugees), she had been granted political asylum by the US Immigration Court. Diallo had worked for the Sofitel for three years without any reported problems and was described by her supervisor as a "model employee." And while she was the only witness to the attack itself, two other hotel employees, the room service waiter and the head housekeeper had given police statements that supported her story (although, as it later turned out, these witnesses had the opportunity to hear Diallo's tell her story in the security area before the police were called in.) When the prosecutors went to court on May 15<sup>th</sup>, and argued against bail, they assumed they had a credible witness.

She also impressed them subsequently with the vivid account she gave of experiencing a

previous rape by soldiers in Guinea. She had been so convincing that she brought tears to the eyes of one of the prosecutors.

After hearing the testimony of Diallo, the Grand Jury indicted DSK on May 18<sup>th</sup>. It charged him with two counts of criminal sexual acts, one count of attempted rape, two counts of sexual abuse, one count of unlawful imprisonment, one count of forcible touching.

For his part, DSK pleaded not guilty to all the charges. He was then granted bail on conditions tantamount to house arrest. The case meanwhile was adjourned to July 18<sup>th</sup>, 2011.

In the interim, the prosecutors continued to subpoena records, including cell phone transmissions, credit card records, and CCTV tapes. However, as they gathered this evidence, the case became, as one person in the prosecutor's office, "curioser and curioser." On June 7<sup>th</sup>, Diallo's lawyer, Ken Thompson, who was a former prosecutor himself, delivered an unexpected bombshell. He told the prosecutors that his client had been untruthful in her interviews with the prosecutors in describing her background and circumstances. Specifically, he said that she had fabricated the story she had told them about her being raped by soldiers in Guinea. While she had not told this story under oath, and it had no bearing on the DSK case, it stunned the prosecutors. Among other things, it meant that she could provide a convincing description of a sexual encounter that she had invented. But why would she have been untruthful about such an embarrassing event? It was initially suggested that she had told this false account to support a similar account she had used in her immigration application. But when prosecutors then examined her immigration records, they found she had told no such story. When re-interviewed on June 8<sup>th</sup>, Diallo admitted the prior rape story was untrue.

Then prosecutors found that she told a far more damaging untruth since it was about the DSK case itself. Diallo testified to the Grand Jury that immediately after she had been assaulted she fled the room and went to the far end of the 28<sup>th</sup> floor hallway. This was the story she had also told to police and prosecutors. When she was asked why she had not used her pass key to go into another room from which she could call for help, she said they all had "Do Not Disturb" signs on the door. But when the prosecutors obtained the electronic key records from the Sofitel hotel for the rooms on the 28<sup>th</sup> floor, which was not until late June, they showed that Diallo had entered another room, 2820. If so, she had been untruthful under oath about her whereabouts before her outcry. The prosecutors could not immediately re-interview her because for more than a week in June she refused to speak further to them, claiming she was ill. Finally, on June 28<sup>th</sup>, Diallo admitted that she had been untruthful about not going into 2820. She now said that she went directly into 2820 after running out of the presidential suite, and she then spent considerable time cleaning and vacuuming the room. This version would explain where she had been between 12:13 PM and 12:30 PM (when she met the other maid). The problem here is that the key records show that she did not use her key to enter room 2820 until 12:26 PM, thirteen minutes after the encounter. When confronted with this discrepancy, one month later she changed her story yet again. On July 27<sup>th</sup>, in what the prosecutors describe as "version 3," she says she waited in the hallway for most of that time. Then, when she saw DSK leave the presidential suite, which was at 12:26 PM, she entered 2820 to pick up her cleaning equipment, which she had left there earlier. And she then went back to the now empty presidential suite.

The prosecutors now had to contend with the fact that not only had she been untruthful under oath to the Grand Jury about this case, but she had concealed her visit to room 2820 from the police which had effectively obstructed the investigation. The prosecutors noted that if she had mentioned her visits to 2820, it would have been declared part of the crime scene and searched for

fingerprints and DNA by the police. But she did not do so and the room instead of being a crime scene was immediately rented out.

When a witness is untruthful under oath, and, in doing so, obstructs the investigation, prosecutors have a serious problem. In addition, they found she had told many other falsehoods. It also developed that soon after DSK had been arrested she discussed with her fiancée DSK's ample financial resources. Since her fiancé was in prison at the time on drug charges, the conversation was recorded. While a victim is entitled to recover financial damages, this conversation might be used by DSK's lawyers in cross-examination to suggest she had a financial motive. She was also vulnerable because she had made possible fraudulent statements elsewhere for financial gain. For example, she admitted that she repeatedly excluded her earnings from the Sofitel from her low cost housing applications so as to be eligible for lower rent. After extensive interviews, the prosecutors noted "In sum, the complainant has been persistently, and at times inexplicably untruthful in describing matters of both great and small significance. In our repeated interviews with her, the complete truth about the charged incident and her background has, for that reason, remained elusive." So she was not a witness whose credit ability they could recommend to a jury.

Nor did the other evidence prove force was used. The DNA samples taken from Diallo's clothing and the carpet of the interior hallway in the presidential suite showed that there had been a sexual encounter between Diallo and DSK, but they in themselves did not show that it was forced. Neither did the medical examinations. Diallo claimed DSK had dragged her around the suite but when both parties were examined at the hospital, and scrapings were taken from under their finger nails, doctors could find no clear signs that force was used by DSK to overpower Diallo. Five weeks later, her lawyers reported that an MRI showed a "SLAP type 2 tear" in her left shoulder, but when the prosecutors' expert orthopedic surgeon examined the MRI, he concluded that the injury had not been sustained during her encounter with DSK, but well afterwards and in his opinion had been self-induced by "repeated overhead use of the upper extremity." So the prosecutor could find no medical evidence, other than an injury its own expert said was caused by Diallo herself after the incident, that proved the encounter was not consensual.

By the end of July, she had changed her story on this chronology at least three times leaving it uncertain which, if any, of these versions is true. The prosecutors came to the conclusion that they could not bring this case to trial. In August, the task of preparing a recommendation for dismissal of all the charges was given to assistant district attorneys Joan Illuzzi-Orbon, a well-regarded prosecutor who by June had become "second chair" to McConnell. Her initial analysis of the case was 74 pages in length because Illuzzi-Orbon covered areas in the case that might have been peripheral to the issue of dismissing the charges. As this was to be a public document, some of these areas might have raised additional problems for the district attorney's office. For example, there was DNA and saliva evidence that involved 6 people other than DSK and Diallo. Since it was doubtful that the enzyme marker in the saliva could survive many room cleanings, the implication that other similar sex acts recently had been performed in the same part of the presidential suite could perhaps unfairly damage reputations. According to a source in the district attorney's office, the report was reduced to 25 pages to minimize issues not directly connected to the court case.

On August 22<sup>nd</sup>, the prosecutors submitted a 25-page recommendation for dismissal of all the charges. It was signed by Illuzzi-Orbon and McConnell, who wrote in the submitted motion, "the nature and number of the complainant's falsehoods leave us unable to credit her version of events beyond a reasonable doubt." They said that Diallo "has given irreconcilable accounts of what

happened,” and had told untruths not only to the prosecutors but under oath to the grand jury about her whereabouts after the encounter. It was a startling turn of events for prosecutors to discredit their own star witness. The judge had little choice but to approve the motion. DSK then left the court, an innocent man in the eyes of the law.

## PART FOUR PIECES OF A PUZZLE

### Chapter VI Surveillance

The French Direction Centrale du Renseignement Intérieur, or, as it is called, the DCRI, is highly regarded by CIA officers who liaised with it. A former CIA executive stationed in Paris, in describing its technological competence in remote surveillance, told me how it had once bugged the first class seats on Air France to eavesdrop on conversations of a few targeted individuals. This provided “unexpected intelligence” since the targets would assume that their conversation could not be intercepted 30,000 feet above the Atlantic. The DCRI is equally innovative when it comes to smart phones. It now has a special unit, called r1, dedicated entirely to surreptitiously using targeted individuals’ cell phones to spy on them. If necessary, it can also employ traditional methods, such as “black bag jobs,” to fill gaps in its remote surveillance. One such technique involves in planting devices on target’s phones that both bypass the security encryption and act as spare batteries to supply power if user attempts to temporarily disable his phone by removing the battery. “One should never underestimate how good the French have become at this game,” the ex-CIA official added.

There is little doubt that the French Ministry of the Interior, under whose authority the DCRI operates, had kept data on DSK. According to a December 2011 article in *Le Monde* entitled “What Sarkozy Knew About DSK,” the DSK dossier may have extended back to 2006, when Sarkozy was the Minister of the Interior. It cites an incident in which DSK was stopped by the Paris police on the periphery of the Bois de Boulogne because it was an area notorious for prostitutes. It was also only about 200 meters from DSK’s home, and he was then allowed to proceed without incident. Even though no crime had been alleged and no report was ever officially filed with the police, years later Claude Guéant, the new Minister of the Interior, revealed in an interview such precise details about this Bois de Boulogne incident that it could only have come from a secret report. Guéant denied such a dossier existed in the Ministry. But wherever that information came from, in 2011, after DSK emerged as a possible Socialist candidate preparing to run for the Presidency of France, he was presumably of great interest to the Sarkozy Administration. He had also become in 2011 a “target” of the DCRI, according to the recent book “The President’s Spy.” The authors, Didier Hassoux, Christophe Labbe, and Olivia Recasens, are all investigative journalists with the French weekly *Le Point*, who based their findings heavily on interviews they had with present and former members of the DCRI. They describe in some detail how the director of the DCRI, Bernard Squarcini, had set up “a special group” in collaboration with the Elysees Palace to focus on DSK in March 2011—two months before DSK was arrested in New York. If so, Sarkozy’s staff was likely privy to the intelligence that was being collected by the DCRI. For his part, Squarcini has publically denied that the DCRI spied on ASK.

This special group had began operating, according to this book, at about the time that the

judges Stephanie Ausbart and Mathieu Vigneau in Lille had authorized the use of secret electronic intercepts to gather information about the previously-mentioned prostitution ring in Lille. Their targets included two close associates of DSK's, Jean-Christophe Lagarde, the police commissioner, and the businessman Fabrice Pazskowski, who had supplied DSK with at least one cell phone. (Both of these men would eventually be arrested in what would be known in the media as the Carlton Affair.) DSK, though friends with these men, never attended any of the sex parties at the Carlton du Lille. It is not clear the extent to which this local investigation in the north of France of prostitution ring at the Carlton Du Lille hotel and the DCRI's targeting of DSK are connected. Whatever made DSK a target, the DCRI had capabilities for international remote surveillance that went far beyond those of the local investigation, capabilities indeed which could account for the French authorities obtaining a recording of DSK's intramural conversation at the W Hotel in Washington DC with Jean-Christophe Lagarde on May 12<sup>th</sup>, 2011.

Surveillance, if it is to be comprehensive, is generally not limited to a solitary location. It follows the subject wherever he goes. So if DSK was a target of surveillance in Washington, there is a strong possibility it would be extended to his stop, assuming that the agency had the capabilities to continue its coverage in New York City. Such an extension might help explain why 90 seconds before his taxi pulled up to the Sofitel hotel at 7:08 PM on May 13<sup>th</sup>, its arrival was apparently anticipated.

## Chapter VII

### The Missing Blackberry

DSK had used his IMF Blackberry several times between 10:07 AM and 10:30 AM on May 14<sup>th</sup> to call Paris, according to the records subpoenaed from Blackberry by the District Attorney. According to sources close to DSK, the purpose of these calls was to his arrange to have his Blackberry examined by a team of security experts as soon as he arrived in Paris. He was convinced that his messages were still being intercepted even after he had changed the SIM card in it. But those calls to Paris were made on the IMF BlackBerry, so if it had been bugged, those eavesdropping on the call would know his plan.

The last call DSK made on that phone was at 12:13 PM when he called his daughter to say he was on his way to meet her at the restaurant. That call lasted less than one minute, according to phone records. He then, as he recalled, put the phone in his brief case, brushed his teeth, combed his hair, and finished getting dressed. He left the room about 12 minutes later. At 12:28: 54 PM, as recorded by a CCTV camera at the 44<sup>th</sup> street exit, he was in a taxi. His phone, as he only discovered later, was not in his brief case. Its location pinpointed by signals it continued to send out was in the Sofitel, at least up until 12:51 PM, when these signals abruptly stopped. So, 23 minutes, after DSK departed the hotel, his phone was still there. But the police did not find it there when they searched the presidential suite. Nor was it found in the corridor, elevator, check-out desk, or lobby. The room was locked at 12:51 PM and not re-opened until the police arrived later that afternoon. It is reasonable to conclude that some unknown party had taken the phone between 12:14 pm and 12:51 PM.

Assuming the police search was thorough, and they were specifically looking for the phone, the vanishing of it presents a locked-room mystery. One possibility is that DSK himself left it behind in the rush to meet his daughter (and did not put it in his brief case.) That would account for the continued signals from the Sofitel, but, if that was the case, the phone would have been found in

the room after he had departed at 12:26 PM. We know the door was locked because Diallo swiped her key to re-open the suite at 12:26 PM. Aside from Diallo, the only other employees to use their electronic keys to enter the room was the head housekeeper, who entered the suite at 12:38 PM, along with Diallo, according to her statement, and the head engineer, who entered the suite at 12:45 PM and a second time at 12:51 PM. But none of these employees reported seeing the phone. Nor did the police who then entered the suite.

The other possibility is that the phone was taken before DSK had left the presidential suite. Since it is a large 4 room suite—pantry, dining room, living room, and bedroom— it cannot be ruled out that someone else was in the suite, possibly even before Diallo had entered at 12:06 PM. That person could have taken the phone from his briefcase or elsewhere while he was getting dressed, and had it somewhere in the Sofitel. In that case, the phone would continue out sending GPS signals from the hotel until it was disabled at 12:51 PM.

Whoever took it, the vanished phone has never been found. We don't know who took the phone from the room, when it was taken, or why it stopped sending GPS signals at 12:51 PM..

## Chapter VIII

### Key Mysteries

The Sofitel hotel, like many modern hotels, has high-tech electronic locks on its guest rooms. Electronic cards are issued to both employees and guests. To open a locked room, a guest or employee swipes this key card in the lock. It then records the time the time of entry to the nearest minute and the card's registration number. The time of entry is then stored in the hotel's computer along with, if it's an employee, his or her name and department. The computer printout, which is available to the hotel's managerial and security staff, would therefore reveal the times (within a minute) that anyone entered with a key the presidential suite and the rooms across from it, including room 2820, on May 13<sup>th</sup> and May 14<sup>th</sup> 2011.

This key records provide a temporal map of the activities in the presidential suite. DSK had arrived at 7:13 PM on May 13<sup>th</sup>. Afterwards, only 5 people entered the suite. One was DSK, who had gone out for dinner, and re-entered the suite at 1:53 AM. As the lobby CCTV cameras showed, he was with a blond woman, who left two hours later. The four other people who entered on May 14<sup>th</sup>, were the room service waiter Haque, who used his key at 12:05 PM, the maid Diallo, who used her key three times between 12:06 PM and 12:16 PM, the head housekeeper Markozina, who used her key at 12:38 PM, and the head engineer Yearwood, who used his key twice, once at 12:45 PM, and once at 12:51 PM.

The key records for room 2820 across the hall show that on May 14<sup>th</sup>, aside from the guest, only Diallo used her key to enter the room prior to the arrival of the police, and she did so 4 times.

If these tell-tale records had been available to the prosecutors when they first questioned Diallo, the case might have taken a different direction. But the prosecutors did not obtain them until more than a month later for reasons that remain unclear. When analyzed, they produce three intriguing mysteries.

#### *The Unidentified Visitors*

DSK arrived at the Sofitel on the evening of May 13<sup>th</sup>. At 7:13 PM, after checking in, he used his newly-issued electronic key to enter the presidential suite on the 28<sup>th</sup> floor. The suite had been prepared for him earlier in the afternoon and the maid on duty O.Y. Fong, had turned down the bed at 5:47 PM. Then, at 6:13 PM, just as DSK's plane was landing at the airport, a person entered the suite using the electronic key belonging to a Sofitel employee named A.C. Chowdhury. The hotel's personnel records, however, show that Chowdhury was not working that evening. If so, an unknown person had used an employee's ID to gain entry. At 6:54 PM, there was another unidentified entry by a person using the generic "HK1" key, kept in the house keeping department. This key does not identify the individual.

### *The Mystery of the Double Entry*

A maid cannot clean a hotel room without the cleaning equipment on her cart. For that reason, a maid normally takes a cart to the room she is about to clean, and leaves it parked outside the door of the room while she is cleaning it. On May 14<sup>th</sup>, however, Diallo did not have her cart when she went to the Presidential suite after noon. It will be recalled that she had left it in the room on the other side of the elevator bank, room 2820, where it remained to 12:26 PM. Yet the key records show that Diallo had entered the presidential suite not once but twice within a minute at 12:06 PM. She entered the first time, according to her account, because a room service waiter told her it was empty. Since the electronic key records do not record seconds, we do not know how much time she spent on her first visit or how much time she spent in the hall afterwards.

The room service waiter, Sayed Haque, who had entered it only a minute or less before her first entry, may possibly have still been in the suite. He told prosecutors he had entered the suite to remove the breakfast dishes. These dishes were in the dining room at the far end of the suite.. (See Diagram A). Wherever Haque was at 12:06 PM, Diallo did not remain long on that first entry. It is also possible that she met someone else outside the suite between her first and second visit.

If she still intended to clean the room, she needed her cart of cleaning equipment. But she did not get that equipment. Instead, she returned to the presidential suite without it again. Whatever reason she had for returning to the room, she did so without the means to clean it.

### *The Mystery of Room 2820*

If the prosecutors had been given the key records on May 14<sup>th</sup>, Room 2820 might have been less of a mystery. It would then have been made part of the crime scene. As such, it would have been processed for fingerprints, DNA, and other possible evidence, and an effort would have been made to identify who was in it. The reason it was not so processed, as the prosecutors state in a footnote to their report, was that Diallo initially was untruthful to the police, as well as the prosecutors and Grand Jury, about her presence in room 2820. It was not until late June that the prosecutors found out that Diallo had gone into 2820, and, by that time, the room had been rented out many times, and it was too late to find evidence. Prosecutors found her concealment of her presence "inexplicable." In doing so, she prevented the police from searching 2820. It was not only Diallo who did not provide the authorities with this information about room 2820. The hotel staff could have ascertained from the computerized records that Diallo had used her key to enter 2820 four times that day, including once after her encounter with DSK.

Then prosecutors learned that Diallo had gone to 2820 after the encounter. On June 28th, 2011, when prosecutors then re-questioned her about it, as they noted in their motion for dismissal, she “admitted for the first time that she had been untruthful about this key point.” She then provided them with a detailed version of her entry into room 2820. Diallo now said that after the alleged assault in the presidential suite she ran out the door and had “gone directly” into room 2820. As the prosecutors established that the alleged assault had ended at about 12:13 PM, and it takes just a few seconds to cross the hallway, this meant that if this version was true she had entered 2820 just after, 12:13 PM. She then said that vacuumed and cleaned that room. While that would account for her whereabouts, there was no electronic key swipe record of her entering in at 12:13 PM. Of course, the door could have been opened from the inside, but the occupant had checked out at 11:37 am. So if someone opened the door for her, it could not have been him. (The hotel would not identify the registered guest other than to say he was a “French businessman.”). There is no key entry between 11:37 AM and 12:26 PM so, if Diallo was telling the truth to the prosecutors in June that she ran directly to room 2820 after leaving the presidential suite, an unknown person in room 2820 may have opened the door for her at 12:13 PM.

The issue became even murkier after Diallo, confronted with the data from the key records, again changed her story. On July 27<sup>th</sup> 2011, in what prosecutors called “Version 3,” Diallo said that after the incident she had waited in the hall until after she saw DSK leave the floor, which was at 12:26 PM. Only then did she momentarily go into room 2820 to retrieve her cleaning supplies. Her previous entry key swipe was at 11:33 AM. So, according to this version, she had that locked her cart with all the equipment she needed to clean the presidential suite in room 2820, even though the occupant had not yet checked out, before going to the presidential suite. But given Diallo’s conflicting accounts, all that we really know for certain is what the electronic key records disclose: Diallo entered the room 2820 three times before the registered guest left and once afterwards at 12:26 PM. We don’t know if anyone else was in the room when she was there, why she left her gear there before the guest had checked out, or whether, if her June version is true, how the door was opened at 12:13 AM without leaving a swipe record.

### *The Unexplained Time Lapse*

There was a gap of well over one hour between the time Diallo had her encounter with DSK and the time that it was reported to the police. She had run out of the presidential suite at, or before, DSK called his daughter at 12:13. The 911 call by the Sofitel security chief was received at 1:32 PM, according to the 911 report. So there is a 79 minute delay. Part of this gap was due to Diallo herself not immediately reporting the incident to anyone.. First, at 12:26 PM, as the key card records show, she briefly went back into the presidential suite, but did not stay to clean it. Then, approximately four minutes later, she asked a hypothetical question to another maid, and only when questioned about whether the hypothetical situation had happened to her, did she state that she had been attacked by the guest in the presidential suite. This allegation was at 12:30 PM. But even after her outcry, there was a one-hour delay before the hotel staff reported it to police or attempted to get her medical attention. As a result, Diallo did not arrive at St. Luke’s Hospital until 3:57 PM, nearly four hours after the alleged attack.

We know from CCTV tapes, phone records, and police reports that members of the hotel staff, including the hotel’s head engineer, a security guard, and the head of housekeeping, were heading up to the 28<sup>th</sup> floor within 10 minutes of her outcry. By 12:37 pm, according to key records, the

head housekeeper and Diallo had re-entered the presidential suite. They were joined at 12:45 PM by the head engineer and the security guard and they remained there for approximate 5 minutes. If Diallo told then the same story she later told police, they knew only that she had been violently attacked by a naked man who came out of the bedroom of the presidential suite at about noon. Since Diallo had not previously seen DSK— she had not been on duty when DSK arrived the previous evening— she could not have known that he, and not an intruder, was the attacker. The hotel staff, according to prosecutors' documents, did not show her a photograph of DSK by the hotel staff until 2:30 PM. So, when they heard her initial story, they could not rule out the possibility that an intruder had gotten into the suite after DSK had left it, and attacked her. If so, it was possible that a criminal was still lurking in the hotel and could be a danger to others. That was reason enough to call the police immediately. In addition, they had to consider the well-being of their fellow employee. Diallo said she was dragged across a room and molested. Even if there were no visible injuries, she might require immediate medical attention or trauma counseling. The suite had a phone. Yet, instead of calling for police and medical help, they took Diallo downstairs, through the main lobby, and to a bench in the employees' entranceway across from the security office. Here, without any privacy or comfort, she waited for 50 minutes before the call was finally made.

During this wait, there was no lack of communications. The CCTV tapes show that both the head engineer and security guard frequently used their cell phones. Yet, no one from the hotel's human resources department, which deals with employee welfare, was brought down to talk her. If the hotel staff was waiting for some development, what was it?

One possibility is that Diallo was initially unwilling to file a complaint. Such a theory was suggested by Lanny Davis, the Washington lawyer retained by the Sofitel's owner, the Accor Group, in an interview on NBC's *Today Show* in December 2011. Presumably as the crisis manager for the Sofitel he had access to its employees. In attempting to explain the weird dance between the security guard and head engineer following the call to the police, Davis said it was possible that the two men were celebrating Diallo's finally agreeing at 1:30 PM "to allow the hotel to call 911." The implication is that for an hour she had not agreed to such a call. While such a scenario is possible, the prosecutors specifically cited the promptness of her outcry for help as a factor that made them believe her story. If she had been unwilling to make a complaint for over an hour, it raised the question what or who changed her mind at 1:30 PM.

Another possibility is that the hotel staff was awaiting authorization from a higher level before calling 911. After all, DSK was a possible future President of France, and making the 911 call would likely involve the French-owned hotel in a major scandal. The CCTV tapes depict the head engineer and security guard almost constantly on his cell phone in the three minutes prior to 911 call. (See Appendix F). The cell phone records also show Accor's chief of security in New York, called the head engineer at 1:28 PM, also sent a text to the hotel manager, who then sped to the hotel on a motor scooter (arriving only 7 minutes before the police.) A flurry of cell phone communications preceded the 911 call, and the employees at the hotel could have been influenced by these calls.

### *The Victory Dance*

Ordinarily a scandal is not good news for a first-class hotel. It is particularly onerous if it involves the arrival of uniformed police in the lobby, authorities subpoenaing CCTV tapes, and

the sealing off of VIP rooms with yellow tape as crime scenes. For the security staff, it can also mean many hours of work preparing incident reports and being questioned by police, prosecutors, defense lawyers, and management. Given such consequences, it is not clear why two hotel employees would engage in the sort of victory dance that would be appropriate after a winning touchdown in a football game. Yet, the security guard, and the head engineer at the Sofitel did such a dance following the call to the police. They did not do this dance in the view of others, Instead, they went into a the loading dock area, where no one in the security area could see them.

Neither man has offered an explanation for their dance. According to an Accor Group spokesman, they both said their minds were blank on the subject and they could not recall the dance. So we do not know what made both men suddenly to go to a private area and dance at 1:34 PM. We do know that both these men had been working together throughout that day, as can be seen on the CCTV tapes, and they had many earlier opportunities to high five each other, but didn't. Their were no sports events that ended at 1:34 PM. What did happen at that time was that the 911 dispatcher said she was sending a squad car to the hotel.

## Chapter IX The C Word

The "C" word in American journalism is Conspiracy. It derives from the Latin "to breathe together," and it occurs in law when two or more persons secretly act together to achieve a deceitful or illegal purpose. A conspiratorial explanation is particularly unpopular with journalists if it implies that there is more behind it than has been reported, and many such explanations prove to be unfounded. But conspiracies not only exist but are a staple in the prosecution of federal crimes in the United States. For example, the Center On Law And Security at Fordham University, which tracks all federal terrorism cases, found that between 2001 and 2011, 92 percent of all federal indictment for them contained a conspiracy charge. From the perspective of U.S. prosecutors at least, conspiracies are the norm not the exception.

Conspiracies, to be sure, come in very different forms. Some are before-the-fact conspiracies that create the event itself from whole cloth. For example, many of the allied deception operations surrounding the allied invasion of Europe in 1944 fabricated a mosaic of false data that when pieced to together would deceive the Germans as to the time and place of the attack. Others are after-the-fact conspiracies that manipulate and fake information after an event has occurred to alter the consequences. For example, the Watergate cover-up was designed to conceal the connections between the group of men who did the break-in of the offices of the Democratic National Committee to the Nixon White House.

The encounter between DSK and the maid in the presidential suite did not occur in a vacuum. DSK had been a target of French intelligence, and his private activities in Washington DC the day before appear to have been closely monitored possibly as part of the investigation of the so-called Carlton affair. What had happened began as a strictly local affair in Lille. The manager of a legal brothel in Belgium named Dominique "Dodo" Alderwereld told French police that he had been providing prostitutes to an executive of the luxury Carlton Hotel in Lille, and he had done it under the protection of a French police official. The so-called "Carlton Affair" might have never morphed into a French intelligence operation if the police official, Lagarde, had not been involved in other libertine parties attended by a man planning to run for the French presidency. While in France it is not unlawful to have sex with prostitute, it is unlawful to pay for them with corporate

funds, and transporting prostitutes to Washington DC could violate federal law and, if exposed, generate an international scandal. So surveillance could have a political pay off.

Even if it is highly implausible that DSK's sexual engagement with the maid could have been planned in advance, it remains possible that there was an after-the-fact conspiracy to shape the consequences of it to destroy DSK's political career. If DSK was under surveillance on May 14<sup>th</sup>, this would not be difficult to accomplish. When the maid left the suite at 12:13 PM, the outcome could have turned out very differently. After waiting at a vantage point until she saw DSK leave the 28<sup>th</sup> floor, she immediately used her pass key to re-enter the presidential suite. We do not know why she returned to that room, or what she might have been looking for *after* DSK left, but she then exited it very quickly. Minutes later, she asked another maid on the floor about whether it was permissible at the Sofitel for a client to take liberties with an employee. The hypothetical phrasing of her question could suggest that she had not yet decided on a course of action and, before she did, she wanted to determine how her employer would react if she voiced a complaint against a client important enough to occupy the VIP suite. She might have concern if the authorities were called in to investigate since she had repeatedly falsified her low-cost housing papers and had a large sum of money in her bank account that had been deposited there by a convicted drug dealer. If so, she may have needed assurances that she would be protected before she agreed to filing a complain. Without knowing the content of the cell phone calls and other communications between those involved in the unfolding drama, or being able to lip read what was actually said at the re-enactments seen on the CCTV, we cannot exclude the possibility that some party helped persuade her in the hour or so before the 911 call was finally made.

An intervention that helped shaped her decision would not be easy to effect in the space of one hour. At a minimum, it would have required that the party working to bring about DSK's downfall had both real-time intelligence and a liaison with individuals at the hotel. In addition, since the DA received a phone call the next day from a French official furnishing secret disparaging information, that party would need a contact in the French government. Such requisites may be a tall order but they are not beyond the capabilities of a first-class intelligence service.

There unanswered questions that bear on the event itself include:.

First, we do not know why Diallo twice entered the presidential suite just before the incident without the equipment that she needed to clean the room.

Second, we do not know if there was anyone in room 2820 besides Diallo during and after the encounter with DSK. If she went directly to this room after the encounter, as she stated to the prosecutors in late June, who then was inside to open the door for her (since she did not use her key.)

Third, did anyone influence Diallo to deny to police, prosecutors, and the Grand Jury that she'd gone to room 2820?

Fourth, who took DSK's IMF BlackBerry from the Sofitel, after its GPS signals were disabled at 12:51 PM, and, more importantly, why was it taken?

Fifth, was someone anticipating DSK's arrival at the Sofitel at 7:08 PM on May 13<sup>th</sup>, and, if so, how was such information obtained?

Sixth, who, if anyone, ultimately decided on the call 911 after an hour delay?

Seventh, if there was a victory dance after the police were called in, what were hotel employees celebrating?

There may be innocent explanations as to what went on at the Sofitel in the 22 hours between the time when DSK arrived on May 13<sup>th</sup> and the time when he was arrested at the airport on May 14th, but until these questions are satisfactorily answered the possibility of a conspiracy cannot be ruled out.

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EPILOGUE

Sliding Doors [TK]

Acknowledgments

I am deeply indebted to Robert Silvers, the editor of the *New York Review of Books*, for his invaluable assistance, probing questions, and support. {TK}

### **About The Author**

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