

# Tasks and Powers of Criminal Justice Officers in the Saudi System: A Comparative Study with Sudanese Law

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## Abstract

*Nearly all legal systems in developed nations concur on enshrining rights and freedoms within their constitutions. These rights and freedoms have further been incorporated into international and regional covenants. Among the most crucial of these are the right to personal liberty, the right to privacy, and the freedom of movement and residence. Both the Basic Law of Governance in the Kingdom of Saudi Arabia and the Constitutional Document in Sudan recognize these rights and provide constitutional protections. However, there is a critical need to balance the rights and interests of the accused with the interests and right of society to security. This requires ensuring that criminals do not escape punishment if due process of apprehension and investigation is not followed, even if such processes infringe on personal liberties. Equally important is the need to investigate criminal evidence promptly, as some evidence cannot be retrieved during the trial and must be collected contemporaneously with the crime. This necessitates some infringement on these rights to prevent the escape of the accused or their tampering with evidence, which could lead to impunity and a failure of justice. Perhaps the first instance of such infringement occurs through the procedures and powers granted to criminal justice officers, which this research will examine. This study comprises two main chapters. The first chapter addresses criminal procedure and investigation, including the definition of criminal justice officers and their powers, the structure of the law enforcement apparatus, and the required qualities of these officers. The second chapter will cover the process of filing a criminal lawsuit and the tasks and powers of law enforcement officers. The research will conclude with a summary of findings and recommendations.*

**Keywords:** *system, law, criminal procedure, investigation, criminal lawsuit, criminal case.*

## Introduction

Crime is a social phenomenon that has existed since the dawn of humanity. No society is entirely free from crime. Therefore, societies have strived to develop strategies to combat and address crime, entrusting this responsibility to specialized institutions, including law enforcement agencies, investigative bodies, courts, and prisons. These institutions work in coordination and collaboration to achieve an effective and impactful strategy for confronting crime within society. Given that law enforcement authorities are among the first responders in combating crime, this research aims to concisely address and compare the powers granted to criminal justice officers in the Saudi and Sudanese legal systems.

**Research Problem:** The research problem can be summarized by posing and answering the following question:

1. How do the powers of criminal justice officers in the Saudi system compare to the powers of general criminal police in Sudanese law?
2. This main question is supported by the following sub-questions:
  - a. Who are the designated individuals responsible for apprehension and investigation in criminal cases?
  - b. What are the limits and scope of the duties and powers of those responsible for apprehension and investigation in criminal cases?

**Research Significance:** The significance of this research lies in understanding the boundaries and extent of the powers held by criminal justice officers, and the degree of adherence to legal regulations in upholding fundamental rights and freedoms.

**Research Objectives:** This research seeks to clarify the limits of the powers granted to criminal justice officers within the Saudi Criminal Procedure Law and Sudanese law. This clarification will be achieved by

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outlining the regulatory framework governing criminal procedure and the safeguards established by both legal systems to ensure the proper exercise of these powers.

**Research Methodology:** Due to the nature of the topic and the research objectives, a comparative approach is deemed the most suitable methodology for exploring this subject and achieving the research goals.

**Research Scope:** This research is limited to the study and analysis of legal texts pertaining to the research topic within the Saudi Criminal Procedure Law of 1435 AH and the Sudanese Criminal Procedure Code of 1991.

**Research Plan:** This research consists of two main chapters:

### **Chapter One: Definition of Criminal Procedure, its Structure, and the Qualities of its Officers.**

- Section One: Definition of criminal procedure and its designated specialists.
- Section Two: Structure of the criminal justice system.
- Section Three: Qualities of criminal justice officers.

### **Chapter Two: Filing a Criminal Case, and the Tasks and Powers of Criminal Justice Officers.**

- Section One: How to file a criminal case.
- Section Two: Tasks and powers of criminal justice officers during the investigation phase.
- Section Three: Tasks and powers of criminal justice officers in cases of *in flagrante delicto* and delegated investigations.

**Conclusion:** Includes research findings and recommendations.

### **Chapter One: Criminal Apprehension and Investigation**

The terms "criminal apprehension," "investigation," and "inquiry" all represent a single concept used legally in criminal proceedings to investigate criminal acts by carrying out duties and powers based on the law. To clarify this, this chapter is divided into three sections:

- **Section One:** Definition of Criminal Procedure and its Specialists
- **Section Two:** The Structure of the Criminal Justice System
- **Section Three:** Qualities of a Criminal Justice Officer

#### **Section One: Definition of Criminal Procedure and its Specialists**

The word (dabt) in Arabic originates from and signifies precision, control, or preservation (Mukhtar, 2008, p. 1346). Legal scholars stipulate that a reference should not deviate from the commonly understood meaning of "dabt," meaning it shouldn't be someone known for excessive forgetfulness that exceeds the customary limit. The term (dabtiyya) is a feminine noun derived from (dabt). The term (al-dabtiyya al-qada'iyya) refers to carrying out legal procedures aimed at uncovering a crime (Mukhtar, 2008). In its general sense, it means the preventative organization of society, where the state or the police, more precisely, address potential threats from individuals that might disrupt public order, working to prevent these threats before they occur and suppress them afterward (Al-Marghilani, 1988, p. 8). This term is used in the legal system of Saudi Arabia as (al-dabt al-jina'i), while in other Arab countries, like Egypt, it's known as (al-dabt al-qada'i). In Sudan, the term (al-taharri) is used, meaning "investigation," deriving from (taharri), which means to investigate or scrutinize. (taharri al-haqiqa) means searching for the truth (Al-Waseet, 2004, p. 169). The Sudanese Criminal Procedure Code of 1991 defines it as encompassing all procedures taken to uncover facts related to a criminal case before trial (Sudanese Criminal Procedure Code, 1991, Art. 3). However, this seems to define the *powers* rather than offering a definition. In Egyptian law, unlike Sudanese

law, (al-taharri) refers to acts of search (investigation), exploration, and surveillance, while the term for gathering evidence is (al-istidlalat) (Al-Shahawi, 1977, p. 407). The second phase is called (al-tahqiq), "investigation," conducted by an investigative judge.

The Saudi system follows the Egyptian model, although it uses (rijal al-dabt al-jina'i), "criminal justice officers," who operate under the supervision of the Public Prosecution, for those performing judicial control. The Saudi Criminal Procedure Law states: "Criminal justice officers - with regards to their criminal procedure functions stipulated in this law - are subject to the supervision of the Public Prosecution" (Saudi Criminal Procedure Law, 1435H, Art. 25 as amended by Royal Decree No. M/28 dated March 29, 2022). The Public Prosecution is part of the judicial authority, enjoys full independence, is organizationally linked to the King, and is immune from interference (Saudi Bureau of Investigation and Public Prosecution Law, 1409H, Art. 1 as amended by Royal Decree No. M/125 dated September 14, 2020). The Public Prosecution consists of the Attorney General, the Deputy Attorney General, and a sufficient number of members (Saudi Bureau of Investigation and Public Prosecution Law, 1409H, Art. 9).

In both the Saudi and Egyptian systems, the term (al-muhaqqiq), "investigator," refers to the person conducting the investigation. In Sudanese law, this person is called (al-mutaharri), "inquirer." Criminal investigation is a legitimate practice supported by the Quranic verse: "O you who have believed, if there comes to you a disobedient one with information, investigate, lest you harm a people out of ignorance and become, over what you have done, regretful" (Quran 49:6). "Investigate" here implies carefully examining a matter to verify its truth or falsehood. Legal scholars define investigation as a set of procedures and methods stipulated by law that the investigator must follow to uncover the truth, discover the crime, and gather evidence explaining the criminal act and its legal classification, leading to the accused being presented for trial or the investigation concluding that no crime occurred (Yusuf, n.d., p. 140).

The Saudi Criminal Procedure Law defines criminal justice officers as those responsible for searching for perpetrators, gathering information, and collecting the necessary evidence for investigation and directing accusations (Saudi Criminal Procedure Law, 1435H, Art. 24). The term "criminal procedure" became prevalent in Saudi Arabia with the Minister of Interior's Decision No. T/5 on February 15, 1976, which divided police work into administrative and criminal procedure. This term corresponds to "judicial control" or "judicial police" in other countries (Al-Harbi, n.d., p. 469). Criminal procedure is carried out – according to the assigned duties – by members of the Bureau of Investigation and Public Prosecution (Saudi Criminal Procedure Law, 1435H, Art. 25), among others, who are investigators and police officers within their jurisdiction.

In Sudanese law, the individual conducting the investigation is referred to as (al-mutaharri), "inquirer," and is defined as the person responsible for gathering, documenting, and organizing information, and carrying out procedures and directives related to the investigation (Sudanese Criminal Procedure Code, 1991, Art. 3). This includes several entities, starting with the Public Prosecutor's representative, defined by the 2017 amendment to the Sudanese Criminal Procedure Code of 1991 as the prosecutor assigned by the Public Prosecution to exercise the Attorney General's powers and jurisdictions (Sudanese Criminal Procedure Code, 1991, Art. 2 as amended by Interim Decree No. 11 of 2017). This, in the researcher's view, is a description of jurisdictions rather than a definition, and the Sudanese Public Prosecution Act of 2017 does not provide a definition. It also includes the criminal police, a part of the general police force, deriving their investigative powers from Article 25 of the Sudanese Criminal Procedure Code of 1991 and Article 15 of the Sudan Police Act of 2008 (Sudanese Criminal Procedure Code, 1991, Art. 39). It also includes the judge who exercises the powers of the Public Prosecutor's representative in their absence, and administrative officials in specific cases related to death (Sudanese Criminal Procedure Code, 1991, Art. 52), defined by the Sudanese Criminal Procedure Code of 1991 as the person heading any administrative, popular, or local entity responsible for maintaining security and order (Sudanese Criminal Procedure Code, 1991, Art. 3).

## Section Two: The Structure of the Criminal Justice System

According to the Saudi Criminal Procedure Law of 1435 AH, criminal justice officers are tasked with investigating crimes, apprehending offenders, gathering the necessary information and evidence for

investigation, and directing accusations. They are subject to the supervision of the Public Prosecution regarding their criminal procedure functions (Saudi Criminal Procedure Law, 1435H, Art. 24). The individuals responsible for conducting criminal procedure, based on their assigned duties, include members of the Public Prosecution within their respective jurisdictions, police directors and their assistants in cities, provinces, and centers, officers in all military sectors (each according to their assigned duties) for crimes falling within their jurisdiction, provincial governors, heads of centers, captains of Saudi maritime and air vessels for crimes committed onboard, heads of the Committees for the Promotion of Virtue and the Prevention of Vice within their purview, employees and individuals authorized with criminal procedure powers under specific regulations, and entities, committees, and individuals assigned to investigations as stipulated by regulations (Saudi Criminal Procedure Law, 1435H, Art. 26). This also includes the Oversight and Anti-Corruption Authority (Nazaha), established by Royal Decree No. A/65 on March 18, 2011, to enhance transparency and combat corruption in Saudi Arabia. In 2019, a Royal Decree merged Nazaha with the Bureau of Investigation and Administrative Investigations under the new name: Oversight and Anti-Corruption Authority, to ensure more comprehensive monitoring of government performance and guarantee integrity. Royal Decree No. M/25, issued on July 29, 2024, further defined the Authority's role in combating administrative and financial corruption with a new 24-article system. It is important to note that the primary criminal justice officers are defined in Article 24, while some entities mentioned in Article 26 are administrative bodies with other jurisdictions that have been granted criminal procedure authority due to circumstances necessitating the exercise of such power (Al-Ghamdi, n.d.).

In Sudan, as previously indicated, investigations are primarily conducted by the criminal police under the supervision of the Public Prosecutor, or a judge in the prosecutor's absence (Sudanese Criminal Procedure Code, 1991, Art. 24(b) & 25). The criminal police, part of the general Sudanese police system, are formed by a presidential decree as outlined in the Sudan Police Act of 2008 (Sudan Police Act, 2008, Art. 8). Nominations to the criminal police are made by the Minister of the Interior based on the recommendation of the Director General of Police (Sudan Police Act, 2008, Art. 17(d)). The law authorizes the criminal prosecution to directly conduct or complete investigations when necessary, thereby exercising all functions and powers of the investigator (Sudanese Criminal Procedure Code, 1991, Art. 39). The investigative system also includes individuals or committees formed by the Attorney General and granted the function of investigation or inquiry into specific criminal acts (Sudanese Public Prosecution Act, 2017, Art. 29). The role of administrative officials, as mentioned earlier, within the investigation system is exceptional, given their responsibility for maintaining security and order. Any investigation they conduct remains within this framework. The law doesn't specify the impact of their investigations, although they can be considered as evidence within witness testimony (Sudanese Evidence Act, 1993, Art. 23).

### Section Three: Qualities of a Criminal Justice Officer

The services of a criminal justice officer (known as "al-mutaharri" in Sudanese law) are among the most vital a person can render to society. This work carries heavy responsibilities, diverse duties, and significant consequences. It is also a compelling profession; the pride and confidence of earnestly seeking truth compensate for the hardships and instill a sense of mission. The public's fascination with detective stories demonstrates this appeal. Therefore, a criminal justice officer must possess high competence, unwavering resolve, and great resilience, along with vigilance, keen observation, selflessness, integrity, capability, resilience, strong will, open-mindedness, and knowledge. Courage, a proactive nature, a love for adventure and sacrifice, language skills, and the ability to integrate with all levels of society to gain assistance are also highly beneficial. In addition to legal knowledge, professional training, physical fitness, and experience, they must be dedicated, passionate about their work, and committed to continuous learning, even outside of work. A crucial safeguard is ensuring that this role is filled by an individual characterized by impartiality and integrity, carrying out their duties without bias or favoritism. A successful criminal justice officer requires the following key qualities, the most impactful of which on the investigative process are:

- **Belief in their Mission:** A strong belief in one's work, its purpose, and inherent objectives drives dedication in fulfilling duties and achieving desired outcomes. Islamic law mandates justice for criminal justice officers and all those entrusted with judgment, as stated in the Quran: "O you who

have believed, be persistently standing firm for Allah, witnesses in justice, and do not let the hatred of a people prevent you from being just. Be just; that is nearer to righteousness. And fear Allah; indeed, Allah is Acquainted with what you do" (Quran 5:8). This belief in their mission motivates sincerity, unwavering impartiality, and objectivity in all procedures, safeguarding against investigative deviations. The principles of criminal procedure demand that officers detach themselves from any influence by powerful figures or special interests seeking to manipulate the process for personal gain.

- **Strong Observation Skills:** This is the ability to absorb details, however small, remaining alert, vigilant, and aware of all surroundings (Mursifawi, 1996, p. 178). No event or action should pass without careful consideration, reflection, scrutiny, and analysis, as every detail can be significant in uncovering the truth. Strong observation is particularly critical during crime scene examinations, revealing physical evidence and remnants that help ascertain the truth. This ability must be consistently applied by the officer in every procedural step, especially during searches, interrogations, and witness interviews.
- **Decisiveness:** This does not mean reckless haste, which can compromise rights and lead to irreparable errors, but rather diligence and proactiveness in executing procedures effectively and efficiently (Ashour, 1969, p. 117). Key elements of decisiveness include swiftly arriving at the crime scene, as delays afford the perpetrator opportunities to tamper with evidence (Ashour, 1969, p. 117); promptly bringing in and interviewing witnesses to prevent memory decay or external influence; swiftly apprehending and interrogating the suspect (Abdulbaseer, 2004, p. 176) to prevent escape, destruction of evidence, or concealment of weapons or tools used in the crime; and expediting the investigation, since delays weaken the case and hinder justice (Tajuddin, 1425H, p. 104).
- **Accuracy and Thoroughness:** Criminal justice officers must adhere to accuracy and thoroughness in their work. This involves verifying and confirming details, meticulously scrutinizing them, and avoiding superficial judgments (Murad, 1998, p. 103). Accuracy necessitates maintaining order and sequence in investigative procedures, ensuring a cohesive and interconnected process. It also involves examining statements and information to verify their validity and consistency with reality. Accuracy and orderliness contribute to a well-prepared investigation report that is comprehensive and covers all elements.
- **Patience and Calmness:** Officers must possess composure. A successful investigation relies on the officer's ability to maintain self-control when interacting with those involved in the case (Tajuddin, 1425H, p. 104). Whether interrogating a suspect or interviewing a witness, they must avoid impatience and weariness, even during extended sessions, refraining from anger or impulsive reactions. They must exercise patience and persistence in uncovering obscure details, carefully assessing evidence from various angles to ensure its relevance, rather than relying on initial impressions.
- **Objectivity and Impartiality in Evidence Gathering:** Officers must adopt a judge-like impartiality when conducting investigations, pursuing truth wherever it leads, whether it incriminates or exonerates the suspect. They must remain detached from any influence stemming from the incident under investigation, conducting the investigation with an open mind, free from preconceived notions. They should avoid hearing secondhand accounts or allowing media coverage to influence their perception or bias the investigation (Tajuddin, 1425H, p. 98).
- **Good Conduct and Strong Personality:** Officers should demonstrate good conduct, self-respect, and a strong personality to gain the trust of involved parties and reinforce public confidence in the integrity of the investigation. This requires treating all parties equally, regardless of social status or appearance, to avoid any perception of bias or favoritism.



- **Mental Presence and Quick Thinking:** Officers must be quick-witted with a strong memory to connect disparate events and reach the truth. They must ensure that investigative procedures are carried out expeditiously, either in one go or in close succession, without compromising the rights of the involved parties or violating procedural requirements. They should avoid delays in gathering evidence and act decisively when appropriate, ensuring timely actions. Maintaining confidentiality about the investigation is crucial to preserve its integrity, protect the interests of involved parties, and avoid conducting the investigation based on circulating rumors, which could obscure the truth.
- **Respect for Witnesses and the Rights and Dignity of the Accused:** Officers must treat suspects with respect and dignity, avoiding unlawful methods and derogatory language. The use of force or torture to extract confessions is prohibited (Sudanese Police Code of Conduct, 2006, Art. 5(4)). Making promises of leniency or attempting to entrap suspects through ambiguous questions or fabricating false information, such as claiming another suspect's confession or incriminating witness testimony, is unacceptable (Al-Shahawi, 1974, p. 203). When seeking evidence, officers must respect witnesses, treat them well, and avoid any suggestion of disrespect, which could lead to the denial of testimony and obstruct justice. They should not appear skeptical of witness statements through remarks or gestures that might intimidate witnesses and prevent them from providing truthful accounts.
- **Justice in Conducting Investigations:** Officers' relationships with other agencies involved in the investigation should be based on mutual respect and understanding, avoiding personal relationships that could compromise their duties or objectivity. They should not be influenced by biased accounts from colleagues or assistants in their capacity as security personnel, which could jeopardize justice or lead to wrongful accusations. Their role is primarily as a balance in the scales of justice.
- **Cooperation with Expert Bodies:** Officers should be familiar with expert bodies that can assist in their investigations, such as forensic medicine labs and criminal evidence departments, understanding each entity's expertise to guide their procedures effectively. The relationship with these experts should be based on mutual respect, prioritizing direct personal communication over administrative correspondence for more effective results (Abdelkareem, 2010, p. 140).

## Chapter Two: Filing a Criminal Case and the Tasks and Powers of Criminal Justice Officers

The filing of a criminal case is the primary driver of legal proceedings against an accused individual. Preliminary investigations or inquiries (Saudi Criminal Procedure Law, 1435H, Art. 27; Sudanese Criminal Procedure Code, 1991, Art. 44) serve to establish the occurrence of a crime and identify the perpetrator when there is uncertainty. Based on the findings, a formal criminal case is either filed or the matter is dismissed. This chapter examines the stages of filing a criminal case and the associated duties and powers of criminal justice officers across three sections:

- Section One: Filing a Criminal Case
- Section Two: Tasks and Powers of Criminal Justice Officers in the Investigation Stage
- Section Three: Tasks and Powers of Criminal Justice Officers in Cases of *In Flagrante Delicto* and Delegated Investigations

### Section One: Filing a Criminal Case

In the Saudi system, criminal cases are typically initiated by the Public Prosecution, acting as the representative of society. However, for cases involving private rights, the victim, their representative, or heirs can file the case directly with the court. In this instance, the court is obligated to notify the Public Prosecutor to attend and represent the public interest. If the Public Prosecutor does not appear, the court's ruling will address only the private right aspects of the case. The competent authority is also permitted to conduct investigations or file a lawsuit in crimes relating to private rights based on a complaint from the victim, their representative, or heirs. In such cases, the Public Prosecution can also conduct an investigation and file a lawsuit even without a formal complaint if it deems it in the public interest (Saudi Criminal Procedure Law, 1435H, Art. 15-17). Consequently, criminal justice officers themselves do not have the authority to independently file criminal lawsuits.

In Sudanese law, a criminal case is opened based on knowledge acquired by the criminal police or the Public Prosecutor, or based on reports or complaints submitted to either of them (Sudanese Criminal Procedure Code, 1991, Art. 33). The police or the prosecution receive knowledge of a crime either through a report filed by any individual for crimes against the public interest, or through a complaint filed for private right crimes by the victim, someone within their sphere of responsibility, or their representative. If the victim is a minor or mentally incapacitated, their guardian can file the complaint on their behalf (Sudanese Criminal Procedure Code, 1991, Art. 34).

The responsible officer can also open a criminal case if they possess information about a crime that warrants arrest without a warrant, as listed in Schedule Two of the Criminal Procedure Code of 1991. Notably, these crimes are public right offenses listed in the Sudanese Penal Code of 1991 and directly affect the public interest. It is worth observing that some public right offenses outlined in other penal codes, which may pose a more serious threat to society and allow for warrantless arrest, are not included in this schedule. Upon opening a criminal case, the responsible officer is required to record a summary of the case in the criminal case register. They must also document the details of the criminal case and initial investigation in an investigation report, which is then read to and signed by the reporting party or complainant (Sudanese Criminal Procedure Code, 1991, Art. 44). If the responsible officer is not convinced of the existence of a criminal offense or finds that the crime doesn't warrant arrest without a warrant, they must document a summary of their findings in a report and submit it, along with the reporting party or complainant, to the Public Prosecution for further action. The complainant must also be informed of their right to file a complaint directly with the prosecution. If the officer determines that delaying the investigation would severely impede justice, they can open a criminal case and take immediate investigative actions, excluding arrest, and then send a report to the Public Prosecutor within 24 hours, outlining the reasons for these actions (Sudanese Criminal Procedure Code, 1991, Art. 45).

The Public Prosecutor has the jurisdiction to register any criminal case, whether it involves public or private rights. Before registering the case, they can conduct a preliminary investigation to verify the facts or address suspicions. They can also administer an oath to the reporting party or complainant before officially opening the case (Sudanese Criminal Procedure Code, 1991, Art. 47).

## Section Two: Tasks and Powers of Criminal Justice Officers in the Investigation Stage

Criminal procedure is a necessary and impartial function of public authority, aimed at safeguarding public order within the framework of the law (Surur, 1996, p. 84). "Criminal procedure" refers both to the function itself (objectively) and to the personnel entrusted with carrying it out (subjectively). Different terms are used to describe the actions performed by individuals in fulfilling their assigned duties. The Saudi Criminal Procedure Law of 1435H uses (mahamat), "tasks" (Saudi Criminal Procedure Law, 1435H, Art. 38, 25, 26(7)), while the Sudanese Criminal Procedure Code of 1991 uses (wadha'if), "functions" (Sudanese Criminal Procedure Code, 1991, Art. 53). I believe that the term (wajibat), "duties," is more comprehensive linguistically (Mukhtar, 2008, p. 2134). (mahamat) is the plural of (muhimma), meaning a task or assignment given to a person. (maham) or (mahamat) signify responsibilities and jurisdictions, the actions a person is obligated to perform and is accountable for. (wadha'if) is the plural of (wadhifa), meaning a position or assigned service. (wajibat) is the plural of (wajib) and means an obligation or duty. The Saudi legislator has used (wajibat) in some legislation, like the Civil Service Law of 1397H (Saudi Civil Service Law, 1397H, Art.

11). Generally, the Saudi Criminal Procedure Law does not distinguish between "tasks" and "duties" for criminal justice officers, whereas the Sudanese Criminal Procedure Code does (Sudanese Criminal Procedure Code, 1991, Articles 53 & 54; Saudi Criminal Procedure Law, 1435H, Art. 2 of the Implementing Regulations).

The tasks of a criminal justice officer in the Saudi system are categorized into two scenarios: ordinary crimes and crimes *in flagrante delicto*. In ordinary crime investigations, their duties involve receiving reports and complaints (oral, written, or anonymous), examining them, gathering related information, documenting them in a report including a summary, date, time, names of the reporting party and receiving officer, and actions taken, and then forwarding the report to the Public Prosecution (Saudi Criminal Procedure Law, 1435H, Art. 27). They also record a summary of the reports and their dates in a register containing the date, time, and location of the procedure, a clear description of the location and the incident, a list and description of seized items, signatures of those who gave statements, and signatures of the officer in charge and their assistants (Saudi Criminal Procedure Law, 1435H, Art. 28). A brief summary of the incident, time, and location is included before submission to the Public Prosecution. Officers are authorized to interview those with information about the crime and the perpetrators, along with anyone accused, documenting these statements in reports. They can also consult with experts and obtain their opinions either directly or in writing (Saudi Criminal Procedure Law, 1435H, Art. 28). Expert testimony is an evidentiary tool employed when necessary to reveal or strengthen existing evidence (Al-Shwarbi, 1996, p. 552). It is a technical consultation used by judges and criminal justice officers in evidentiary matters to assess technical issues requiring specialized knowledge that experts possess due to their profession and experience. Criminal justice officers often utilize forensic experts in various areas, such as chemical analysis, handwriting analysis, forensic medicine, and others. They should be proactive in consulting with experts who can contribute to the investigation depending on the nature of the crime.

In Sudan, the law outlines the tasks of the general criminal police, which include receiving reports for crimes listed in Schedule Two of the law (crimes allowing for warrantless arrest), conducting criminal investigations under the supervision and guidance of the Public Prosecution or the judiciary, submitting criminal cases to criminal courts as directed by the Public Prosecution, and releasing individuals for crimes listed in Schedule Three (crimes where the officer can release the accused on bail or guarantee) (Sudanese Criminal Procedure Code, 1991, Art. 24). The Sudanese law limits the powers of the general criminal police to investigation, arrest, closure of public roads and places, search, seizure, and securing of items as directed by the Public Prosecution or the judiciary, accepting pledges and guarantees, and requesting assistance from any person to prevent or control a crime, according to specified regulations (Sudanese Criminal Procedure Code, 1991, Art. 25; Sudan Police Act, 2008, Art. 15). The powers specifically stipulated in the Sudanese Criminal Procedure Code of 1991 (Sudanese Criminal Procedure Code, 1991, Art. 54) are:

1. **Requesting the Attendance of Any Person:** This can be done directly by the criminal police or through an order from the Public Prosecutor's representative. The purpose is either for the individual to present themselves for investigation (as a witness, suspect, or accused) or to produce any document or other item necessary for the investigation (Sudanese Criminal Procedure Code, 1991, Art. 61). If the requested individual refuses to comply or fails to appear at the specified time and place, the investigator can request an arrest warrant from the Public Prosecutor's representative to compel their attendance (Sudanese Criminal Procedure Code, 1991, Art. 67(b)).
2. **Taking Statements and Interrogation:** The officer can take statements from the reporting party, complainant, suspect, accused, witnesses, and any other person related to the criminal case, and interrogate them. Witness testimony is a crucial source of evidence and a valid method of proof for all crimes. The investigator hears the witness testimony. If there are multiple witnesses, the investigator can separate them and confront them with each other or with one of the accused, as this is more likely to lead to evidence that proves the incident. The investigator is obligated to document the testimony and have it signed. They must also record complete information about the witnesses, including their names, titles, ages, professions, and occupations. It's essential to avoid any erasure, deletion, insertion, or alteration in the written record. If a witness is ill or otherwise unable to attend, their testimony can be taken at their location. The investigator must document



the witness statements verbatim as much as possible and is not allowed to substitute them with paraphrased meanings. The investigator acts as an impartial recorder of events without interpreting or evaluating them. Interrogating the accused is a crucial investigative procedure due to its dual nature as both accusation and defense. It aims to uncover the truth, not solely to convict. The accused can refute the accusation if innocent or confess if guilty. The investigator should not rely solely on a confession, even if obtained, but must gather supporting evidence, as confessions can be false. Before starting the interrogation, it is crucial to verify the identity of the accused, including their name, age, profession, residence, and relationship with the victim, which facilitates the investigator's task. Determining the accused's age is necessary to establish criminal responsibility and determine the appropriate court (Sudanese Government vs. Awad Al-Haj Mahjoub, 1985; Sudanese Child Act, 2010, Art. 62(1)). The age of the accused is proven by official documentation, and if this documentation conflicts with appearances, the accused is referred for a medical examination to determine their age through medical means.

3. **Arrest, Detention, and Release:** Unlike the Saudi Criminal Procedure Law of 1435H, the Sudanese Criminal Procedure Code of 1991 allows the criminal police to make arrests in two situations. They can arrest without a warrant for certain crimes listed in Schedule Two of the law, while other situations require a warrant from the Public Prosecutor's representative or a judge. They cannot detain a suspect for more than 24 hours without an extension from the Public Prosecutor or the judge. If no extension is granted, the police must release the suspect immediately. Detention is within the authority of the Public Prosecution or the judiciary, and the police's role is limited to its execution (Sudanese Criminal Procedure Code, 1991, Articles 70 & 71). The head of the general criminal police department can release the accused for crimes listed in Schedule Three of the law if the Public Prosecutor's representative and the judge are unavailable and the 24-hour arrest period has expired, provided that the investigation report is presented to the Public Prosecutor or the judge as soon as possible (Sudanese Criminal Procedure Code, 1991, Art. 24(w) & 108(2)). The police must also release the arrested individual if the arrest warrant includes the provision for release upon fulfilling a guarantee of appearance, such as providing a guarantor who pledges to ensure the individual's presence when requested (Sudanese Criminal Procedure Code, 1991, Art. 75(3)).
4. **Referral for Medical Examination and Forensic Procedures:** This includes referring individuals for medical examinations, taking fingerprints and photographs, conducting technical and scientific procedures as required by the investigation, and assigning specialized personnel for these tasks. This power is similar to the tasks of criminal justice officers in the Saudi Criminal Procedure Law of 1435H, as previously mentioned.
5. **Taking Procedural Actions:** The text doesn't specifically define the meaning of "procedural actions." The word (al-dabt), "procedure" or "control," appears in around ten instances within the Sudanese Criminal Procedure Code of 1991, sometimes meaning arrest and detention, other times referring to maintaining order, and sometimes to the seizure of items. It appears that the term is used generally within the context of powers to legitimize the police's authority in exercising all control functions outlined in the law.

### Section Three: Tasks and Powers of Criminal Justice Officers in Cases of *In Flagrante Delicto* and Delegated Investigations

The Saudi system doesn't limit the function of criminal justice officers to the investigation stage preceding the initiation of public prosecution. It grants them specific, limited exceptional powers in cases of *in flagrante delicto* and delegated investigations. The investigating authority can delegate one or more criminal investigation tasks to a member of the criminal justice force (referred to as "delegation". Article 66 of the Saudi Criminal Procedure Law stipulates the permissibility of delegation, outlining its provisions and conditions: "The investigator may delegate, in writing, one of the criminal justice officers to carry out one or more specific investigative procedures, excluding the interrogation of the accused" (Saudi Criminal Procedure Law, 1435H, Art. 66). If the matter falls outside the investigator's jurisdiction, they can delegate

it to the investigator of the relevant jurisdiction or one of the criminal justice officers in that jurisdiction, as appropriate. However, the investigator must personally conduct the procedure if the investigation's interests require it. The delegation order is issued in writing by the investigator responsible for the case. In all cases of delegation, the investigator must specify, in writing, the issues to be investigated and the procedures to be undertaken. The delegated officer can perform any other investigative action and interrogate the accused in cases where there is a risk of losing time, provided it's related to the delegated task and necessary for uncovering the truth (Saudi Criminal Procedure Law, 1435H, Art. 67). Since interrogation is a crucial investigative procedure to obtain a confession, and involves confronting the accused with the evidence and engaging in detailed questioning, often determining the direction of the investigation, it is considered a sensitive procedure. Therefore, the legislator established safeguards for the accused, including the provision that only the investigator can conduct the interrogation. The investigator must personally hear the accused's statements to form their opinion on the case. However, as indicated, a delegated criminal justice officer can exceed the limits of the delegation order and perform other actions, including interrogation, if there's a risk of losing time, such as if the accused is critically ill, and the interrogation is directly related to the delegated task.

In cases of *in flagrante delicto*, the powers of criminal justice officers expand beyond their normal authority. This is crucial due to the immediacy of the situation, allowing for optimal evidence collection and preservation, clear identification of the perpetrator, prevention of evidence tampering, swift apprehension to prevent escape, and deterrence of vigilante justice (Mohammed, 2023, p. 75). *In flagrante delicto* refers to the legal state of apprehending a person during or immediately after committing a crime with clear evidence of their involvement. This can be direct (caught in the act), indirect (apprehended shortly after with strong connecting evidence), resulting from a chase, or incidental (discovered during a lawful search for another reason). The Saudi legislator defines it in Article 30 of the Criminal Procedure Law: "A crime is considered *in flagrante delicto* if it is committed in the act or immediately thereafter. A crime is also considered *in flagrante delicto* if the victim or public pursues the perpetrator with shouts immediately after the crime, or if the perpetrator is found shortly after the crime carrying tools, weapons, luggage, instruments, or other items indicating their involvement, or if traces or signs on them at that time suggest their involvement" (Saudi Criminal Procedure Law, 1435H, Art. 30). In such cases, the criminal justice officer's powers broaden. They can arrest the suspect present at the scene, issue an arrest warrant if the suspect is absent, and search the suspect's residence if evidence suggests that items related to the crime are concealed there. The Saudi law states: "The criminal justice officer – in cases of *in flagrante delicto* – must immediately go to the crime scene, examine and preserve the physical evidence, document the state of the location and the individuals present, and anything that helps reveal the truth, and hear statements from those present or anyone who can provide information about the incident and the perpetrator. The officer must immediately inform the Bureau of Investigation and Public Prosecution of their arrival" (Saudi Criminal Procedure Law, 1435H, Art. 31). They can also prevent those present from leaving the scene until a report is filed, summon anyone who can provide information, and document any non-compliance in the report for referral to the competent court (Saudi Criminal Procedure Law, 1435H, Art. 32). They have the right to arrest the suspect present at the scene if sufficient evidence exists, provided they document this in a report and immediately notify the Public Prosecution. In all cases, the arrested individual cannot be detained for more than 24 hours without a written order from the investigator. If the suspect is not present, the criminal justice officer must issue an arrest warrant, documenting this in the report (Saudi Criminal Procedure Law, 1435H, Art. 33).

The purpose of criminal procedure or investigation is to remove uncertainty surrounding the incident and take measures that facilitate criminal justice. These procedures are varied but largely similar between the Saudi and Sudanese systems. However, the Sudanese law has been amended, eliminating the role of the investigative judge, a position equivalent to the Saudi Bureau of Investigation and Public Prosecution. Consequently, criminal cases in the Saudi system, like the Egyptian system, proceed through three stages: investigation, inquiry, and trial, each with its own defined authorities. The Sudanese system, however, has two stages: investigation (conducted by the criminal police under the supervision of the Public Prosecution, or directly by the Public Prosecution through its representatives or appointed committees), where the police and the prosecution exercise all powers that are divided between criminal justice officers and the Public

Prosecution in the Saudi system; and the trial stage, conducted by the judicial authority. It's important to note that some powers exercised by the Sudanese criminal police, like searching private properties in ordinary cases or conducting general searches, require orders or permission from the Public Prosecution or the judiciary, respectively (Sudanese Criminal Procedure Code, 1991, Art. 86).

### Summary of the Comparison

Comparing law enforcement in Saudi Arabia and Sudan, based on their legal roles and organizational principles, and referencing the different legal frameworks and systems governing each country, we observe the following:

- **Definition and Powers:** In Saudi Arabia, criminal justice officers, as defined in Articles 24-26 of the Criminal Procedure Law, are individuals entrusted by the state to investigate crimes, apprehend suspects, gather evidence, and submit cases to the relevant authorities. These officers belong to various agencies, including the police, Public Security, the Public Prosecution, and certain entities with law enforcement capacity (e.g., customs). Their powers encompass investigation, arrest of suspects, searching premises, and seizing evidence. In Sudan, law enforcement officers, or the Sudanese police, are governed by the Sudan Police Act and the Sudanese Criminal Procedure Code. They are responsible for internal security, crime control, executing court orders, and managing prisons. Their powers include criminal investigation, apprehension of suspects, and protection of public and private property.
- **Organizational Structure:** In Saudi Arabia, criminal justice officers fall under the Ministry of Interior and are supervised by Public Security and the Public Prosecution. The organizational structure is integrated with various bodies, such as the Oversight and Anti-Corruption Authority (Nazaha). In Sudan, the Sudanese police operate under the Ministry of Interior and comprise various branches, including the criminal police, community police, and security police. They also include specialized departments like traffic police, customs police, and prison authorities.
- **Legal Procedures:** The Saudi Criminal Procedure Law clearly defines the steps that criminal justice officers must follow, emphasizing adherence to the legal rights of suspects. Arrests and searches require a warrant from the Public Prosecution, except in cases of *in flagrante delicto*. Criminal investigations are conducted in cooperation with the Public Prosecution (through delegation). The Sudanese Criminal Procedure Code outlines similar steps, but the system is influenced by the political and legal context, affording the police greater flexibility in conducting arrests and searches compared to Saudi Arabia, particularly in areas experiencing conflict or security disturbances.
- **Governing Laws:** The Saudi system is based on Islamic Sharia as the primary source of legislation, with the Criminal Procedure Law as the main reference for criminal justice officers. Sudan has a dual legal system based on Islamic Sharia and positive law, with the Police Act and Criminal Procedure Code serving as the primary legal references.
- **Oversight and Accountability:** In Saudi Arabia, criminal justice officers are subject to the supervision of the Public Prosecution, ensuring adherence to the law. Any transgressions can be subject to judicial or administrative accountability. In Sudan, the Sudanese police are overseen by the Ministry of Interior but can be influenced by political and security considerations. Accountability mechanisms may be limited during states of emergency or in conflict zones.
- **Challenges:** In Saudi Arabia, challenges include focusing on combating cybercrime and financial crimes amidst technological advancements, and expanding professional training and oversight to enhance efficiency and transparency. In Sudan, challenges include weak infrastructure, armed conflicts, political influence on police operations, and the need for legal and administrative reforms to improve police effectiveness.

In conclusion, despite similarities in their general roles, law enforcement officers in Saudi Arabia and Sudan operate in different legal and security environments. The Saudi system is characterized by legal stability and reliance on Sharia, while the Sudanese police operate in a more complex environment due to political conflicts. Ultimately, criminal justice officers must adhere to legal boundaries and uphold individual rights while performing their duties, ensuring justice and respect for the law.

## Conclusion

After this brief overview comparing criminal procedure and investigation in Saudi Arabia and Sudan, it's evident that despite similarities and converging legal texts balancing constitutional rights with the need to maintain a secure society free from crime, Sudanese law combines these powers into a single phase, unlike the two-phase approach in Saudi Arabia, which resembles the Egyptian model. The Sudanese system likely adopted this single-phase approach based on its experience with the 1974 Criminal Procedure Code and its predecessors (International Covenant on Civil and Political Rights, Art. 9(3) & 14(3/c); Arab Charter on Human Rights, Art. 8; African Charter on Human and Peoples' Rights, Art. 7(1/d); European Convention on Human Rights, Art. 5(3/a); Sudanese Interim Constitution 2005, Art. 34(5); Sudanese Constitutional Document 2019, Art. 52(5)). Since the enactment of the 1983 Criminal Procedure Code, it has merged investigation and inquiry functions under one authority within a single procedural framework.

## Results

1. The investigation system under the Saudi Criminal Procedure Law of 1435H is similar to the inquiry system under the Sudanese Criminal Procedure Code of 1991.
2. The Saudi Criminal Procedure Law of 1435H employs multiple stages for investigation and inquiry, unlike the Sudanese Criminal Procedure Code, which uses a single-phase approach.
3. The investigation stage is the initial phase of criminal proceedings where information and data about the crime and suspects are collected. It encompasses the basic tasks and powers of criminal justice officers.
4. *In flagrante delicto* refers to apprehending someone during or immediately after committing a crime. This constitutes an exceptional circumstance granting broader powers to criminal justice officers.

## Recommendations

1. Further comparative studies of both systems are needed to leverage their strengths and address their weaknesses.
2. All information related to the crime, witnesses, and accused individuals should be documented accurately and clearly to ensure the integrity of legal procedures.
3. All physical and circumstantial evidence must be gathered according to legal procedures to prevent challenges in court.
4. Adherence to laws protecting the rights of the accused and witnesses, including the right to legal representation and freedom from torture or coercion, is essential. Improving the skills of criminal justice officers in interrogation, investigation, and report writing techniques, and implementing training programs to promote ethical and professional values in criminal justice work, are also crucial.
5. Continuous cooperation with the Public Prosecution is necessary to ensure that investigation procedures comply with fair trial requirements.

6. In cases of *in flagrante delicto*, immediate action is crucial: acting swiftly to preserve evidence, secure the crime scene, ensure that arrests and searches are conducted according to the relevant laws to avoid invalidating procedures, establishing a clear plan to prevent tampering with or loss of physical evidence, and ensuring its secure and proper transfer.
7. Distinguishing between actual and presumed *in flagrante delicto* is essential to avoid erroneous decisions that could harm the case.
8. Handling cases and complaints with complete impartiality, free from bias or external pressure, is vital.
9. Upholding the highest standards of integrity and transparency is crucial to maintain public trust in the criminal justice system, including providing training programs to strengthen ethical and professional values in criminal justice work.
10. Effective and respectful communication with all parties involved in the case (witnesses, accused individuals, and related parties) is necessary, using a professional and respectful approach.
11. Employing technology to document evidence and manage investigations enhances accuracy and efficiency.
12. Conducting regular performance reviews for criminal justice officers improves performance and identifies areas for development.

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