



DIGNITY
DANISH
INSTITUTE
AGAINST TORTURE



Pretrial Detention Procedures' Manual

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Intrudction

Liberty is a natural human's right and it is the most sacred and precious right he/she has, which equals in importance his/her right to life and thus it is defended with all his/her strength, because it constitutes the basis of the human's life and existence. Due to the people's recognition of the importance of such right, they worked towards the drafting of a universal declaration that confirms the human's rights and liberties and its protection, which was followed by a number of international covenants related to such noble and lofty end, where personal liberty became a constitutional principle that can only be violated by the competent authority and in accordance with legal safeguards surrounding such right.

Due to the necessities of life and security requirements, individual liberty cannot be absolute and without any limitations, so it does not contradict others' liberties and rights, which might result in conflicts and chaos. It was of a great importance to establish the needed controls which govern the individuals' exercise of their rights and freedoms in a way that would not violate the rights of others and would guarantee the society's stability and security.

Such controls have to be established through a legal framework, which impose certain limitations on the individual's freedom for the benefit of the society and its security and stability. The law is the tool, which ensures the balance and reconciliation between the individual's interest, by protecting his/her rights and freedoms, and the society's interest by protecting its security and stability. This reconciliation might, in some instances, lead to compromising some individual's personal rights and freedoms. This compromise might take place in the form of arresting or detaining such individual or subjecting him/her to personal search or the search of his/her place of residence. Such actions constitute an interference in the related individual's liberty and thus he/she becomes in need for protection. The legislature's duty in this regard is to establish the needed guarantees to ensure that such interference is carried out to the minimum extent possible, especially when it involves detention, which has to be done according to the stipulated legal conditions and reasons.

If the law lays down the legal safeguards in order prevent the infringement upon personal freedoms, such protection by itself is not sufficient to achieve such goal even if the safeguards and conditions under which a person can be detained, are well articulated and defined in the law. Another form of protection has to be present, that is the judicial protection, this is required due to the fact that the legislative protection regardless of its accuracy and good drafting and its compatibility with related principles and covenants, it remains a theoretical protection without the judicial interference by monitoring its implementation. The judiciary due to its impartiality, independence, immunity and discretion is the only institution that can guarantee the appropriate implementation of such provisions and make sure it is clearly interpreted and fill in the gaps if such gaps do exist.

This Manual serves as a practical tool designed to assist its users in the correct implementation of the legal provisions related to detention procedures, in a way that minimizes the use of such measure, which will lead by itself to the reduction of torture and other sorts of inhumane and ill-treatment during detention. It will also assist in solving the overcrowding problem in correction and rehabilitation centers and the police station's holding cells. All this makes this Manual a preventive remedial tool for all legal violations which can be listed under the interference with the human's right to liberty.

Detention in Both National and International Laws

The Jordanian Constitution is very keen in protecting the individual's personal freedom, where this freedom has a constitutional protection through article (7) of the constitution, which states:

1. "Personal freedom shall be guaranteed,
2. Any infringement of the Jordanian's rights and public liberties or their right to privacy shall be deemed as a crime punishable by law."

In addition to the above article (8) states :

1. "No person may be detained or imprisoned except in accordance with the provisions of the law,
2. Any person who is arrested or detained or imprisoned or his/her freedom is subjected to restriction ,shall be treated in any way that preserve his/her human dignity. Such person shall not be tortured in any way or be subjected to bodily or mental harm , and shall only be detained in the places stipulated by the law . Any statement produced under torture or threat or harm shall not be accounted for".

The Jordanian legislature regulated the detention related provisions in article (114) of the Criminal Procedures Law and article (6) of the Juvenile Law according to what will be illustrated in this Manual. In addition, article (15) of the Conciliation Courts Law gives the conciliation judge the full authority in relation to the detention and release of defendants in all cases which falls under his/her jurisdiction.

These legal provisions are in agreement with the related international covenants and conventions which upholds the person's right to freedom and liberty and prohibits the violation of such right and stressed that interference with such right may only be done in accordance with the legal provisions, which stipulates many limitations on such interference. This is evident in the prohibition of arresting any person or detaining him/her unless it is done by the competent public officials who are entrusted with carrying out such measure and who shall not abuse their authority, in addition to the presence of a supervising body to supervise the legality of the detention procedures. The international standards also require the states' parties to develop and include in its local laws the needed rules in order to define the public officials who have the power to deprive individuals from their liberty and the conditions under which this power can be exercised. The following are some of the international efforts in this regard:

- a) The Universal Declaration of Human Rights of 1948.
- b) The International Covenant on Civil and Political Rights of 1966,
- c) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984,
- d) UN Standard Minimum Rules on the Treatment of Prisoners (Manila Rules of 2015),
- e) Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment of 1988,
- f) Guiding Principles related to the Role of Public Prosecution Members of 1990

- g) Main Principles related to the Role of Lawyers of 1990,
- h) Istanbul Protocol of 1999, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
- i) The European Covenant on Human Rights of 1950,
- j) The Arab Charter on Human Rights of 2004,
- k) The African Charter on Human Rights of 1981.

First: Detention's Nature

a. Detention's Definition:

Legislations varies in selecting the expressions, which define the procedure applied in order to restrict the person's liberty before a final judgment is issued by the competent court. While the French legislature calls such action "imprisonment or precautionary detention", the Moroccan Criminal Procedures Law uses the term "precautionary arrest" and the Egyptian Criminal Procedures Law uses "precautionary detention" the same as the Libyan, Kuwait, Algerian and UAE related laws. The Jordanian legislature uses the term "detention" in the Criminal Procedures Law, which is the same term used by the Syrian, Lebanese and Iraqi legislatures.

Detention can be defined by "depriving the suspect from his/her liberty by the competent authority through putting him/her in one of the detention places for all or part of the legally defined period, when there are sufficient evidences against such suspect and the measure is justified according to the provisions stated in the applicable law".

b. Distinguishing Detention from other Procedures:

1) Detention and Arrest:

Arrest is "seizing the person for a period of time in order to prevent him/her from escaping, in order to hear his/her statements with the knowledge of the competent authority". According to the Criminal Procedures law the arrest is part of the investigation procedures carried out by the judicial police in certain instances, which include both flagrant and non-flagrant crimes, in addition to the instances provided for by article (99) of the Criminal Procedures Law.

- When any Public Official has the Authority to Order the Arrest of the Suspect:

This can be done in the following instances, provided the suspect is present and there is sufficient evidence to accuse him/her of committing the crime:

- In felonies
 - In cases of *in flagrante delicto* misdemeanors if it is punishable by imprisonment for a period of more than six months.
 - If the crime is a misdemeanor punishable by imprisonment and the suspect was under police supervision and he/she has no fixed and known place of residence in the Kingdom.
 - In the following misdemeanors: theft, robbery, severe assault and resisting public authority officials by force or violence, the crime of pimping or violating public morals.
- Is it allowed to seek the assistance of a lawyer at the arrest and preliminary investigation stage?**

Article (32) of the Bar Association Law states: “the lawyer and the lawyer at training delegated by the principle lawyer shall have the right follow up on all procedures before all the judicial and administrative bodies and they shall have the right to attend jointly or separately the investigations done by the police and the public prosecution”.

- **What is the content of the arrest record, which has to be organized by the judicial police when arresting the suspect?**

- The name of the public official who issued the arrest order and the one who executed it.
- The name of the suspect and the date he/she was arrested, the place of arrest and the reasons behind it.
- The date and time the suspect was booked at the detention place and the location of such detention or holding place.
- The name of the person who organized the record and who heard the suspect’s statement.
- Signing the record by the persons stated in the above mentioned points (2,3 and 4) and by the suspect, in case of his/her refusal to sign, such refusal shall be documented in the record with the reasons for such refusal.

Article (100) of the Criminal Procedures Law.

- **What is the penalty for violating article (100)?**

The nullification of the taken procedures (the nullification of the arrest record and all the procedures and legal effects resulting from such record).

- **What is the period during which the suspect’s statement shall be heard according to article (100) and when such suspect shall be referred to the public prosecutor?**

The statements of the suspect shall be heard immediately and he/she shall be referred within (24) hours to the competent public prosecutor with the arrest record. The public prosecutor shall document in the record the date and time the suspect appeared before him/her and shall start the investigation process within (24) hours and according to the applicable law.

article (100/1/b) of the Criminal Procedures Law.

- **The differences between detention and arrest:**

| Detention | Arrest |
|--|--|
| 1. The detention period is relatively a long one. According to article (114), it should not exceed (15) days in felonies and (7) days in misdemeanors, taking into consideration the extensions according to the same article. . | The arrest period is relatively short and does not exceed (24) hours. |
| 2. Detention is part of the preliminary investigation procedures, the implementation of which is given to the public prosecutor. | Arrest is part of the initial investigation procedures, the implementation of which is given to the judicial police officer. |
| 3. The legislature surrounded the arrest process with many guarantees especially the procedures related to (interrogation and the detention in the correction and rehabilitation centers). | There are no similar guarantees related to arrest, where it takes place at the police stations' holding cells. |

Bearing in mind that the time spent by the suspect or the accused during the arrest and detention shall be calculated as part of the imposed penalty, article (41) of the Penal Code.

2. Detention and “Stop and Account”:

Stop and Account, is when the judicial police approach someone who puts him/herself in suspicious circumstances in order to ask him/her about his/her identity or direction. Such official is only permitted to temporally restrict the freedom of such person, which shall not exceed stopping the person and direct the needed questions to him/her. Such measure shall not be taken by the judicial police unless there is certain circumstances that justify it, such as when a police patrol spots a person late at night acting suspiciously next to closed stores, where they can stop him/her and ask him/her about the reason he/she is in such place.

- **What are the legal requirements for “Stop and Account”?**

- a. The related person willingly and upon his/her free will puts him/herself under suspicion, which requires the judicial police officer to stop him/her and verify his/her identity.
- b. The “stop and account” process, shall not include any physical restriction on the related person, which might amount to violating his/her personal freedom such as searching him/her and other similar procedures.
- c. The “stop and account” shall not take more than the time needed to stop the person and ask him/her the needed questions and hear his/her answers to such questions. If it took longer than this, then it shall be considered an arrest.

- The Differences between detention and “stop and account”:

| Detention | Stop and Account |
|--|---|
| 1. Detention is part of the preliminary investigation process and is a power which is only given to the public prosecutor. Such power cannot be delegated or given to the judicial police personnel. | “stop and account’ is part of the search and police initial investigation procedures and can be conducted by the judicial police personnel. |
| 2. The detention period might be extended and the detained person may spend months at the detention place. | The “stop and account” period is very limited and shall not exceed the time needed to stop the person and ask him/her the needed question and receive the answer to such questions. The person being stopped shall not be held more than the time needed to complete the procedure. |
| 3. Detention might result in searching the detained person. | It is strictly prohibited to violate the personal freedom of the related person, thus it is prohibited to search him/her and if the search is conducted during the “stop and account’ procedure, then it shall be considered void and null and shall not have any legal effect. |
| 4. In detention there should be sufficient evidences which ties the suspect to the crime he is accused of committing, in addition to the presence of the legal requirements stipulated by the law. | In “stop and account’ it is sufficient to have only suspicions in order to apply the procedures. |

3 Judicial Detention Vs. Administrative Detention

Administrative Detention, is when a non-judicial authority according to a special legislation, orders the deprivation of a person of his/her freedom for a certain period of time. This is done without accusing the said person of committing any defined crime. In Jordan the administrative detention is done by the administrative governors according to the provisions of the Crimes Prevention Law number (7) of 1954.

- What are the instances, where the administrative governors resort to detention?

1. Any person who is found in a private or public place under conditions that convenes the administrative governor, he/she was about to commit a crime or assist in its commission.
2. Any person who used to commit banditry or theft or the possession of stolen property or is used to protect thieves or provide them with shelter or assists in hiding the stolen property or disposing it.
3. Any person, when he/she is free without bail poses a threat to other people.

- **Does the Residency and Foreigners' Affairs Law number (34) of 1973, permits the detention of foreigners?**
- Article (37) of the said law gives the Ministry of Interior through a recommendation by the Head of Public Security, the power to detain foreign nationals in order to deport them (we hope that such detention be limited to a defined period).
- The order issued by the administrative governor to detain a person is an administrative order, which is subject to judicial review by the administrative court.

Second: Detention's Conditions

The Jordanian legislator regulates the detention measure through article (114) of the Criminal Procedures Law, which defines the detention conditions according to the following:

1. After interrogating the defendant the public prosecutor might issue an arrest warrant against him/her for a period not to exceed fifteen days if the charge constitutes a crime punishable by imprisonment for two years or less or by a temporary criminal penalty provided that there is sufficient evidence which can connect the defendant with the crime committed. The public prosecutor can renew the detention period whenever he/she finds that such extension will serve the interest of the investigation provided that such extension does not exceed six months in felonies and two in misdemeanors. The defendant shall be released after he/she spend such periods unless his/her detention has been renewed according to paragraph (4) of this article.
2. Despite of what is stated in paragraph (1) , the public prosecutor might issue an arrest warrant against the defendant in the following instances:
 - a) If the charge directed to the defendant constitutes a battery or an unintentional battery or a theft crime.
 - b) If the defendant does not have a fixed and known place of residence inside the Kingdom. if the charge against him/her constitute a crime punishable by imprisonment for a period not more than two years and he/she provided a guarantor approved by the public prosecutor who shall secure his/her appearance before the public prosecution whenever needed, such defendant shall be released despite the fact that he does not have a fixed and known place of residence in the Kingdom.
3. If the defendant is charged with an act punishable by the death penalty or life with hard labor or life detention and there were sufficient evidence that connects him/her with the act, the public prosecutor and after interrogating the defendant shall issue an arrest warrant against him/her for a period of fifteen days renewable for similar period for investigation purposes.
4. If interest of the investigating requires the continuing detention of the defendant after the end of the periods stated in paragraph (1) of this article, the public prosecutor has to submit the case file to the court component to hear the case. The court after reviewing the public prosecutor's argument and hearing defendant or his/her representative and reviewing the investigation documents, might extend the detention period for a another period not exceeding one month every time provided that the total extended period does not exceed in any instance two months in felony crimes and or it might order the release the detained defendant on bail or without.
5. The public prosecutor might decide during the investigation process in misdemeanor crimes to

retain the detention warrant provided that the defendant shall name a place of residence where he/she can be notified of all the notes related to the investigation or to the judgment's execution.

The above stated article confirms to a large extent with the text of article (9) of the International Covenant on Civil and Political Rights.

The Conditions that Should Be Present in order to Issue the Detention Order:

1. Detention shall be permissible in relation to the committed crime:

- What are the crimes, which permit detention of the accused?

1. If the crime is punishable by imprisonment for a period exceeding two years.

2. If the crime is a felony crime.

3. The following misdemeanors: intentional harm, unintentional harm and theft regardless of the penalty.

- Can the public prosecutor order the suspect detention in crimes which are punishable by imprisonment for a period less than two years?

The public prosecutor can do so, if the suspect has no fixed and known place of residence in the Kingdom, provided that the public prosecutor shall order his release if the said person provided an accepted guarantor who shall guarantee his/her presence whenever he/she is summoned before the public prosecutor. It is worth noting here that the criminal act stays a misdemeanor even if the stated punishment exceeds three years of imprisonment, this is according to article (21) of the Penal Code.

This is evident in what is stated in article (30) of the Water Authority's Law number (18) of 1998, which states "with due regard to any harsher punishment stated in any other law, any person who commits any of the following acts, shall be punished by imprisonment for a period not less than one year and not to exceed five years and with a fine not less than two thousand Jordanian Dinars and not more than seven thousand Jordanian Dinars "

- Can the public prosecutor order the suspect detention in misdemeanors and infractions if it is only punishable by a fine?

He/she is not permitted to order the detention of the accused of committing a misdemeanor or an infraction if the stated penalty is only a fine.

- When it is permissible to order the detention of the defendant who is accused of committing more than one crime? What is the measure to be applied if the public case which requires the detention was dismissed due to a general amnesty or the expiry of the statute of limitation or a decision to ban the trial was issued in relation to such crime?

It is permissible to order the detention of the said accused if such detention was permissible in any of the committed crimes and if the public case was dropped or a decision to ban the trial is issued in such crime and the other crimes do not legally entail the detention of the accused, in such case the public prosecutor shall order the immediate release of the accused.

2. Interrogating the accused:

The Interrogation: is the most important measure taken during the preliminary investigation conducted by the public prosecutor, in order to search for the evidences which, tie the accused to the crime. It is a measure where the public prosecutor contacts the accused him/herself in order to know the truth and obtain a confession that will prove that he/she committed the crime or find the evidence that proves such tie does not exist.

Interrogation has a dual nature, in one hand it is a tool to investigate the suspect used by the public prosecutor, in order to find evidences that would assist him/her in understanding the case and on the other hand it is a defense tool that allows the suspect to prove his/her innocence and deny the charges against him/her if he/she is innocent or to minimize his/her responsibility through explaining the circumstances under which he/she committed the crime. Thus, the interrogation is not only about questioning the suspect about the crime he/she is charged with, it also includes facing him/her with the evidences against him/her and questioning him/her about it and discussing every related detail related to the alleged crime.

While questioning the suspect is a measure, which is limited to just informing the suspect about the acts he/she is accused of and ask for his/her response without going into detailed discussions about the issue. The importance of such differentiation between the two procedures (measures) is that questioning the suspect is a measure which can be applied at any stage of the initial search process, where the judicial police can question the suspect and hear his/her statements, while they are not allowed to interrogate him/her, due to the fact that interrogation is part of the preliminary judicial investigation process. There are certain procedures that the law obliges the public prosecutor to follow during the interrogation of the suspect according to article (63) of the Criminal Procedures Law. These procedures are as follows:

1. When the defendant appears before the public prosecutor, the later has to verify his/her identity and read on him/her the charges and request his/her answer to such charges. The public prosecutor shall warn the defendant that he/she has the right not to answer any question except in the presence of an attorney. Such warning by the public prosecutor has to be documented in the investigation minutes and if the defendant refused to appoint an attorney or if the attorney he/she named refused to attend the proceedings within the next twenty-four hours, the investigation shall be conducted without the presence of an attorney.

2. In cases of urgency and where it is feared that the evidence will be lost and based on a reasoned decision, it is allowable to ask the defendant about the charges against him/her before inviting his/her attorney to attend. If such procedure was followed the defendant's attorney shall have the right to review his/her client's affidavit.

3. If the defendant gives any testimony, it has to be documented (written down) by the clerk, who has to read it to the dependent in order to sign it with his/her signature or finger print. Shall testimony (affidavit) shall be certified by the public prosecutor and the clerk. If the defendant refused to sign such document with his signature or finger print, the clerk has to document his/her refusal in the minutes and state the reasons behind such refusal before signing it by the public prosecutor and the clerk.

4. The public prosecutor failure to adhere to the rules stated in paragraphs (1, 2 and 3) of this article shall result in the nullification of the testimony given by the defendant.

- **What are the legal basis, which the public prosecutor can rely on to keep the suspect for more than (24) hours, in order for the later to hire an attorney?**

The public prosecutor can rely on the provision of article (68/1), in addition to the provision of article (100/b) of the Criminal Procedures Law, which states: “Hearing the defendant’s testimony immediately after arresting him/her and sending him/her within twenty-four hours to the competent public prosecutor along with the report mentioned in subparagraph (a) of this paragraph. The public prosecutor has to document in the report the time the defendant was brought before him/her for the first time and he/she has to start the investigation’s procedures within twenty-four hours.”

Accordingly, the public prosecutor has the authority to interrogate the suspect within (24) hours of him/her being booked by the judicial police personnel and can also give him/her another (24) hours if he/she wishes to hire an attorney.

- **When it is permissible to interrogate the suspect without the presence of his/her attorney?**

In case of urgency due to the fear of losing evidences provided that such interrogation shall be done based on a reasoned decision by the public prosecutor.

In such case, the suspect’s attorney shall have the right to view his/her client’s (the suspect) statement, in accordance with article (63/2) of the Criminal Procedures Law.

- **What is the procedure to be taken in case the suspect refuses to sign his/her statement?**

If the suspect refused to sign his/her statement by his/her signature or finger print, the clerk shall document such refusal in an official record stating the reasons for such refusal. Such record has to be signed by both the public prosecutor and the clerk. Article (63/3).

- **What is the procedure to be followed, in case the suspect refuses to give a statement or he/she stays silent during the interrogation?**

This refusal and /or silence shall be documented in the official record (the minutes), which shall be signed by both the public prosecutor and the clerk.

- **What is the penalty provided for violating the provisions of article (63/1, 2, 3) of the Criminal Procedures Law?**

The nullification of the suspect’s statement, where the public prosecutor has to re interrogate him/her and apply the provisions of article (63).

- **Is it permissible to conduct the interrogation by other than the public prosecutor? is a written delegation of such power to the judicial police permissible?**

The public prosecutor has the right to delegate a member of the judicial police, within his/her jurisdiction, to carry out some of his/her duties or to conduct any investigatory measure, except the interrogation of the suspect. Articles (48 and 92) of the Criminal Procedures Law. This due to the fact, that the interrogation is an absolute authority exclusively given by the legislator to the public prosecutor, who is a judge protected by the needed safeguarded that ensure his/her independence. The interrogation is a power, which cannot be delegated, despite the fact that

certain powers, which the public prosecutor has can be delegated to the judicial police.

- **Is it permissible for the public prosecutor to delegate his/her authority to interrogate the suspect to another public prosecutor?**

It is permissible for the competent public prosecutor to delegate another prosecutor to interrogate the suspect who is present within his/her area of jurisdiction. In such case, the delegated public prosecutor shall have all the powers that the delegating public prosecutor has which are stated in the delegation document. Thus the delegated prosecutor may order the detention of the suspect if the crime he/she is suspected of committing is a crime, which the law gives the public prosecutor the power to order the suspect's detention. It is also allowed for the public prosecutor to delegate any of the conciliation courts judges to conduct the interrogation, in areas where there is no public prosecutor. Article (92) of the Criminal Procedures Law.

- **What is the period during which the law obliges that the suspect- who is ordered to appear before the public prosecutor through a summon warrant or an arrest warrant – be interrogated?**

1. The public prosecutor shall immediately interrogate the suspect in case of a *in flagrant delicto* crime. Article (37) of the Criminal Procedures Law.
2. In case of a *non-flagrant delicto* crime, the public prosecutor shall immediately interrogate the suspect who is wanted to appear before him/her through a summon warrant.
3. The suspect who is ordered to appear before the public prosecutor through an arrest warrant, such suspect shall be interrogated during (24) hours from the time he/she was booked into the holding cell. Article (112/2) of the Criminal Procedures Law.

- **What is the penalty stated for violating the provisions of article (112)?**

The public prosecutor has to – according to article (43) of the Criminal Procedures Law- carry out all the investigation procedures, so the investigation shall be completed without any delays according to articles (112 and 113) of the said law. These procedures are obligatory and failing to apply them by the public prosecutor shall result in the nullification of all the investigation procedures. (Cassation Court's decision number 105/1998, date : 19/3/1998).

- **Is it permissible to issue a detention order before interrogating the suspect? what is the case if the detention order is issued by a conciliation judge?**

The suspect has to be interrogated before issuing the detention order by the public prosecutor and questioning him/her by the conciliation court's judge. Articles (111 and 114) of the Criminal Procedures Law.

3. The detention period shall not exceed the period stipulated in the law

- The detention periods according to article (114) , are as follows:

-

| Crime's Type | Detention Period | Period Extension by the Public Prosecutor | Period Extension by the Court |
|---|------------------|--|--|
| 1. Misdemeanors, where detention is permissible | 7 days | Can be extended for similar periods, provided that the total period does not exceed one month | Can be extended to one month at a time, provided that the total detention period – the detention by the public prosecutor and by the court- shall not exceed in any case four months. |
| 2. Felonies, which are punishable by a temporary felony penalty | 15 days | Can be extended for similar periods, provided that the total period does not exceed three months | Can be extended to three months at a time, provided that the total detention period – the detention by the public prosecutor and by the court- shall not exceed one fourth of the maximum limit of the stated penalty of the related felony. |
| 3. Felonies punishable by life imprisonment | 15 days | Can be extended for similar periods, provided that the total period does not exceed six months | Can be extended for a period of three months at a time. There is no maximum limit for such detention period. |

- The public prosecutor decided after integrating the suspect to detain him/her for one week at the correction and rehabilitation center, where he/she charged the suspect with (the misdemeanor of fraud, the misdemeanor of theft, the misdemeanor of slander, the misdemeanor of human trafficking), then he/she extended the detention period to (28) days. is it permissible for such public prosecutor to extend the detention period more than the above stated one?

1. The public prosecutor shall present the file to the first instance court in its “misdemeanor court” capacity before the end of the period extension authority given to him/her

Then

2. The court after reviewing the following:

- a) The reasons submitted by the public prosecutor supporting the extension
- b) Hearing the accused or his/her representative in relation to why the detention shall not be extended.
- c) Reviewing the investigation file.

The court may decide

- 3. To extend the detention period before the expiration of the original period for one month each time, provided that the total does not exceed four months.**

Or

It may order the release of the accused on bail or without bail

- 1. The public prosecutor shall present the file to the first instance court in its “felonies’ court” capacity before the end of the period extension authority given to him/her**

Then

- 2. The court after reviewing the following:**

- a) The reasons submitted by the public prosecutor supporting the extension**

- b) Hearing the accused or his/her representative in relation to why the detention shall not be extended.**

- c) Reviewing the investigation file.**

The court may decide

- 3. To extend the detention period before the expiration of the original period for three months each time, provided that the total does not exceed one fourth of the sentence stated for the crime.**

Or

It may order the release of the accused on bail or without bail

- **The public prosecutor decided after interrogating the suspect who is suspected of committing (the felony of the theft, the felony of bodily harm, the felony of forgery, the felony of embezzlement, the felony of human trafficking, the felony of money laundering, the felony of slander, the felony of rape, the felony of arson), to detain him/her for the period of (15) days and then he/she extended such period for similar periods , so the total detention time reached three months at the correction and rehabilitation center . is it permissible for such public prosecutor to extend the detention period more than the above stated one?**
- **The Grand Felonies Court’s public prosecutor decided after interrogating the suspect who is charged with the felony of murder – punishable by death penalty or life imprisonment – to detain him/her for 15 days. After the end of the initial detention period (the 15 days), the public prosecutor extended the suspect’s detention for similar periods at the rehabilitation and correction center, which did not exceed the maximum limit of six months. is it permissible for such public prosecutor to extend the detention period more than the above stated one?**

- 1. The public prosecutor shall present the file Grand Felonies Court before the end of the period extension authority given to him/her**

Then

- 2. The court after reviewing the following:**

- a) The reasons submitted by the public prosecutor supporting the extension**

- b) Hearing the accused or his/her representative in relation to why the detention shall not be extended.**

- c) Reviewing the investigation file.**

The court may decide

3. To extend the detention period before the expiration of the original period for three months each time.

Or

It may order the release of the accused on bail or without bail

If the public prosecutor kept the investigation file at his/her office after the end of the detention period given to him/her in the felony of theft according to the provisions of article (417) of the Penal Code, which is one month, for example, and after a week he/she presented the case file to the competent trial court, then the court in such case will reject the request for extending the detention period in basis of irregularity and thus the detention of the suspect will be considered as illegal.

- **What the court shall decide in case of rejecting the request based on irregularity? Should the court send the case file back to the public prosecutor without taking any further action or can the court order the release of the suspect?**

In light of the absence of any explicit provision that govern such issue, the practice by the courts which have the authority to review the detention extension periods- in case it rejects the public prosecutor's extension request- is to order the release of the suspect.

- **In case before the Grand Felonies' Court public prosecutor, one of the suspects was only charged with the misdemeanor of bodily harm in conjunction with the rest of the suspects and the detention period given to the public prosecutor according to the law ended, to whom shall the extension request be submitted?**

The request shall be submitted to the Grand Felonies' Court, because it is the court with the jurisdiction to hear the case.

- **In case the Grand Felonies' Court public prosecutor decided to leave the suspect free without detaining him/her, which is the competent body to object such decision to?**

the Grand Felonies' Court, because it is the court with the jurisdiction to hear the case, (Cassation Court decision number 1263/2010, date: 18/8/2010, General Panel)

4. Evidences that ties the suspect with the crime he/she is charged with:

Detaining the suspect shall be based on the existence of evidences that ties the suspect to the crime he/she is charged with.

- **A person submitted a complaint against his/her maid, after she ran away from his home, accusing her of theft. There were no evidences that she stole anything from the said home – seeing her doing the act, her confession to the crime or finding any stolen items with her-. Is it permissible to detain her?**
- **After a house caught fire and the technical report showed that it was an arson, the owner submitted a claim against a number of persons alleging that they are the ones who put his house on fire due to an existing animosity with them. When such persons were interrogated by the public prosecutor they denied all charges. What is the legality of ordering their detention by the public prosecutor?**

There is no basis for ordering their detention in both stated instances, due to the fact that there are no evidences that can tie the maid to the theft crime or tie the said persons to the arson crime. Thus the public prosecutor shall order the ban of their trial according to article (13/a) of the Criminal Procedures Law, due to the absence of the legal evidence.

5. The issuance of the detention order by a competent judicial authority

The detention order shall be issued by:

1. The competent public prosecutor.
2. The competent court, in the instances allowed by the law, such as ordering the detention in false testimony cases and the orders of re detaining the suspect and the detention orders issued by the cancellation judge, provided that the detention order shall have the name and signature of the person who issued it.

6. Reasoning: it is when the prosecutor states in the detention order the reasons he/she based his/her detention order on and the legal conditions governing such order, which are:

- 1) The crime the suspect is charged with.
- 2) The applicable legal provision/s (article/s).
- 3) The evidences which tie the suspect to the crime.
- 4) The justification for his/her detention.

- **The public prosecutor's order included "for the benefit of the investigation, I order the detention of the suspect for seven days"?**

This a loose phrase and thus the public prosecutor has to explicitly and clearly reason his/her detention order without any ambiguity in the phrases he/she based his/her order on.

Detention Warrant's Information:

1. The suspect's full name composed of four sections, his/her nickname and national number.
2. The suspects distinctive features as much as possible.
3. Suspect's age.
4. Suspect's profession.
5. The suspect's mother's name if possible.
6. The type of crime he/she is suspected of committing and the applicable incriminating legal provision according to what is being stated in the charging decision.
7. The period of detention.
8. Date of detention.
9. Name and signature of the public prosecutor and the stamp of the prosecution directorate which issued the warrant

Third: Detention Justification

As we stated before, the detention constitutes a limitation on the individual's personal freedom and thus it is an exceptional measure and negates the presumption of innocence principle, where the suspect is innocent until proven guilty by a final judicial judgment which exhausted the appeal and objection process. Thus the public prosecutor shall keep the application of such measure to the minimum extent possible. This confirms with the provision of article (9) of the International Covenant on Civil and Political Rights, which asserts that, everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. The presence of the detention conditions shall not exclude its justification, both requirements shall be present at the same time.

The detention justifications can be summarized as follows:

1. **Not to violate public security, article 123/2 of the Criminal Procedures Law.**
2. **Fearing the loss of evidence or the effects of the crime.**
3. **For the interest of the investigation and the reveal of the truth.**
4. **To ensure that the accused attendance of the trial and serving the sentence in addition to prevent him/her from fleeing .**

Fourth: Detention of Juveniles

The juvenile, is the person who completed the age of seven and did not reach the age of eighteen yet. The Jordanian legislator classified the juveniles according to their age group and gave each group a special definition and provided certain penalties and measures that take into consideration the level of maturity the juvenile reached. These groups are:

- The Boy: the person who reached the age of seven and did not reach the age of twelve yet.
- The Adolescent: the person who reached the age of twelve and did not reach the age of fifteen yet.
- The Teenager: the person who reached the age of fifteen and did not reach the age of eighteen yet.

Article (4/b) of the Juveniles Law number (32) of 2014 states the following: “despite of what is stated in any other legislation, no one who did not reach the age of twelve shall be held criminally liable”.

As to the detention of juveniles (adolescents and teenagers), it is permissible to order their detention according to the general rules which govern detention stated in the Criminal Procedures Law, taking into consideration the special provisions related to detention, which are stated in the Juvenile Law, where article (9) states:

- a) “if the juvenile is ordered to be detained on misdemeanor charges, he/she shall be released provided that a financial or personal bail or a cash deposit is posted for his/her release in order to ensure his/her presence during the investigation or trial, unless his/her interest requires otherwise.
- b) The public prosecutor or the court shall have the power to release the detained juvenile, if the case or the juvenile’s circumstances requires such release provided that a financial or personal bail or a cash deposit is posted for his/her release in order to ensure his/her presence during the investigation or trial.
- c) The public prosecutor shall have the power to renew the detention of the juvenile for only one time, where he/she shall notify the juveniles’ care home of such renewal in writing and if the investigation requires that the juvenile stays under detention, then the public prosecutor shall request the court to extend the detention for a period that does not exceed ten days each time.
- d) The juvenile who is accused of committing a misdemeanor or a felony, shall be detained in the juveniles’ care home for a period that shall not exceed ten days, taking into consideration the interest of the juvenile.

- **In case the juvenile reached adulthood, while he/she is under detention, is it permissible to transfer him/her from the juvenile care home?**

It is permissible to transfer him/her. (Article (30) of the Juvenile Law).

- **If the suspected juvenile was not arrested, is it permissible for the attorney general to issue an arrest warrant for his/her arrest?**

There is nothing that prevents the attorney general from issuing an arrest warrant against the fugitive juvenile.

Fifth: The limitations on the public prosecution's detention and prosecuting powers

Fifth: the limitations on the public prosecution's detention and prosecution powers

Article (2) of the Criminal Procedures Law gives the public prosecution -in its capacity as the representative of the society- the authority to initiate and prosecute criminal cases. This authority is not an unlimited or absolute one, there are certain restrictions on such authority, which are stipulated by the law. These restrictions prohibit the public prosecution from initiating any legal actions as long as they are present and only when such restrictions stop to exist the public prosecution can practice its authority in relation to investigating and prosecuting crimes.

Despite the fact that such restrictions apply on the initiation of the criminal legal actions (the criminal case), it also applies on any actions or procedures that might be applied or taken in the case. One of such measures or procedures that can only be taken after such restrictions cease to exist is the detention of suspects as it is one of the investigation process procedures. These restrictions are imposed by the legislator in order to deal with certain special conditions such as the protection of certain persons or to protect professional privacy of such persons. The following are some examples of such restrictions:

| Legislation | Article | Restriction |
|--------------------------------------|----------------|---|
| 1. Constitution | (86) | It is prohibited to initiate a criminal case or detain a member of the Parliament, unless the house he/she belongs to permits it. This restriction is only applicable during the parliament sessions and is stipulated in the constitution in order to protect the Parliament member from being detained. |
| 2. Independence of the Judiciary Law | (28) | A judge is immune from arrest or detention (except in cases of flagrant delicto crimes), unless the Judicial Council permits his/her detention. |
| 3. Anti-Corruption Commission Law | (20) | No member of the Anti-Corruption Commission can be tried or detained, unless it is permitted by the Judicial Council. |
| 4. Customs Law number (20) of 1998 | (211,192 ,179) | Customs evasion crimes, can only be prosecuted if there is a request to do so, submitted by the Director of Customs. This request is a restriction on the public prosecution's power. In general perpetrators of smuggling crimes can only be detained in special instances. |

| | | | |
|----|---|------|--|
| 5. | Press and Publication Law number (8) of 1998 and its amendments | (42) | The restriction here applies on the detention of those who commit crimes related to publication and media work, despite the fact that initiating legal criminal actions against the perpetrators of such crimes is not restricted. |
|----|---|------|--|

- **What if one of the crimes stated above is an *in flagrante delicto* one, is it permissible to immediately initiate the criminal actions and detain the perpetrator? And if such restrictions do only apply to the initiation of the criminal legal action?**

It is permissible to order the detention of the perpetrator in such case, except in publication crimes, in addition a judge can only be detained if he/she committed a felony crime and it was in flagrante delicto, otherwise a permission for his/her detention has to be given by Judicial Council.

- **Is it permissible to order the detention of the perpetrator who commits a crime, the initiation of the criminal legal actions in it requires a request or a civil claim by the victim?**

It is permissible to order the detention in such cases after the legal criminal actions is initiated, provided that all the requirements for ordering the detention are present, unless the detention is restricted by obtaining a permission from the competent authority.

Sixth: The Release of the Accused

a) The nature of the release measure:

The detained person might be released, if there are certain circumstances, which lead to the abolishment of the detention's reasons. The release can take place at any stage of the criminal process, whether during the investigation phase or the trial phase. The release of the person doesn't give the suspect a judicial right, thus it is permissible to revoke the release order and re detain the person, if the investigation or the trial process requires taking such measure. Article (127) of the Criminal Procedures Law.

The release of the detained person is defined by "releasing the person detained during the investigation on bail or without". According to the provisions of the Criminal Procedures Law, the detained person shall remain in custody until the end of the ordered detention period or until such order is canceled by the competent authority.

b) Release from custody types:

- Obligatory
- Optional
- Recalling the detention order.

1) Obligatory release:

It means the release of the suspect under certain conditions stipulated in the law. This release is done without the need to submit a request for release by the suspect or the need to get the recommendation of the public prosecution. This is done during the preliminary investigation or during trial. The obligatory release shall take place in the following instances:

- **The expiry of the detention period stated in article (114/1) without extending the detention warrant, then the accused shall be released immediately and the release here is an obligatory one.**
- **The detention shall be ended by the court if the defendant was found innocent or not criminally responsible for the act, in such case he/she shall be immediately released from custody.**

- **What is the penalty provided for refraining from applying the obligatory release measure?**

Refraining from applying such measure is considered a crime against person's freedoms according to articles (178 and 179) of the Penal Code.

- **What if:**

The public prosecutor decided to ban the trial of the suspect or to dismiss the case according to the provision of article (130/a), of the Criminal Procedures Law and the investigation file was submitted to the attorney general who found that the public prosecutor's decision is correct.

A decision to release the suspect shall be issued immediately.

- If the competent public prosecutor ordered the detention of a person for committing the misdemeanor of fraud (according to article 417) of the Penal Code and after he/she completed the investigation it was clear that the act committed does not constitute a crime and it is a civil dispute and thus a decision to ban the trial of the suspect was taken, in accordance with article

- **What if:**

The public prosecutor decided to ban the trial of the accused or to dismiss the case according to article (130/a) of the Criminal Procedures Law and the investigation file was submitted to the attorney general, who found that the public prosecutor's decision is a right one and in accordance with the law.

In such case a release order has to be issued immediately.

If the competent public prosecutor decided to detain a person for being accused of committing a misdemeanor according to article (417) of the Penal Code and after collecting the evidences he/she found that the act does not constitute a crime and it is only a civil dispute and thus he/she decided to ban the trial of the accused according to article (130) of the Criminal Procedures Law and submitted the investigation file to the attorney general. If the attorney general approves the public prosecutor's decision to ban the trial, in such case he/she shall issue a release order immediately.

The attorney general decided to vacate the decision of the public prosecutor and found that the act does not constitute a crime or there is no evidence that the accused committed the act or the crime was dismissed due to a general amnesty or the expiry of the statute of limitation.

In such case he/she shall vacate the decision of the public prosecutor and order the release of the accused if he/she is under detention, unless he/she is detained for another reason according to the provision of article (133/4) of the Criminal Procedures Law.

If a complaint is submitted against a person accusing him/her of committing the crime of theft according to article (404) of the Penal Code, where the criminal act took place on 1/6/2011. The public prosecutor ordered the detention of the accused and charged him/her with the felony of theft and submitted the papers to the attorney general. The attorney general found that the act is included in the General Amnesty Law number 15 of 2011, which is based on dismissing the personal right of the victim. The attorney general has to vacate the decision of the public prosecutor and order the release of the accused unless he/she is detained for other reasons.

1. Discretionary release from custody:

It is the release which is done according to the dictionary power of the related authority, which the law gives it such power according to the interest of the investigation.

- The differences between obligatory and discretionary release from custody:

| Discretionary Release | Obligatory Release |
|---|---|
| 1. It is only done according to a request submitted by the detained person or his/her representative to the competent authority which reviews it. | The decision is taken without the need for a request to be submitted by the detained to the competent authority. |
| 2. The authority to which the release request is submitted, shall take into consideration the related crime circumstances, its gravity, severity of the punishment and the sufficiency of the provided evidences. | The competent authority takes into consecration the period of detention, if it ended or should it be extended. |
| 3. The competent authority enjoys a discretionary power; it may accept the release request or reject it or it may reconsider its decision in this regard as the case might be. (article 126/1) of the Criminal Procedures Law). | The competent authority does not enjoy a discretionary power in ordering the obligatory release the moment the conditions for such release materialize. |

3. Recalling the detention warrant:

- **Can the public prosecutor recall the detention warrant? when he/she can do so and under what conditions?**

The public prosecutor may recall the detention warrant he/she issued, provided that the following conditions are fulfilled:

1. The detention period or the extension of such period is still running and recall of the detention warrant shall take place during the investigation phase.
2. The detention warrant is issued in relation to a misdemeanor crime and in felony crimes which are punishable with temporary imprisonment.
3. The accused has a known and fixed place of residence in the kingdom in order to notify him/her with all notifications related to the investigation and the execution of the judgment.
4. If there is no reason for detaining the accused due to the fact that the crime is of the type that does not allow the detention of the accused or the evidences collected during the investigation do not support the detention.

- **Can the public prosecutor recall the detention warrant after a request for release was submitted to the competent court and denied and the case file was returned to the public prosecutor in order to complete the investigation procedures?**

According to the general principles stipulated in the Criminal Procedures Law, there is nothing that prohibits the public prosecutor from doing so, especially when there are no reasons to keep the related person in detention, due to the presence of new evidences that

c) The body authorized with ordering the release from detention:

- Articles (122 and 123) of the Criminal Procedures Law State the competent authority to order the release from detention:

| Crime Type | Authorized Body |
|-----------------------|---|
| 1. Misdemeanor | <ol style="list-style-type: none">1. The public prosecutor if the investigation is still ongoing.2. The court trying the accused if case is reverved to the court.3. The court which issued the judgment or the related court of appeals to |

| | | |
|-----------|----------------|---|
| 2. | Fellony | <ol style="list-style-type: none"> 1. The court before which the accused will stand trial if he/she was not referred yet to such court. 2. The court before which the accused will stand trial if the case is referred to such court. 3. The court that issued the judgment or the related court before which the judgment was appealed. |
|-----------|----------------|---|

- **Does the public prosecutor or the judge has the power to order the release of the detained person, if they no longer deal with the case?**

They don't have the right to do this according to article (122) of the Criminal Procedures Law.

d) Appealing the Release Decision

| <i>The Issuing Authority</i> | | <i>Appealed to</i> |
|------------------------------|--|---|
| 1. | The public prosecutor or the conciliation judge | The first instance court in its appellate capacity |
| 2. | The first instance court | The court of appeals |
| 3. | The grand felonies court | The cassation court |

- **What decision can be appealed:**
 - The release decision.
 - The decision to leave the accused free.
 - The decision to reject the release request.

- **What is the appeal's timeframe:?**

Article (124) of the Criminal Procedures Law

| The issuing authority | | The appeals' timeframe | |
|-----------------------|---|--|--------------------------------------|
| | | The Attorney General | Detention Period |
| 1. | Public prosecutor or conciliation court | Three days from the day the file reaches the attorney general's office | Three days from the notification day |
| 2. | First instance court | | |
| 3. | Grand felonies court | | |

If the guarantor requested the court or the public prosecutor or the conciliation judge , to nullify the bail . Article (128) of the Criminal Procedures Law.

- **Is it allowed to appeal the decision to refuse the release of the detainee when issued by the first instance court in its appellate capacity?**

It is a final decision that cannot be appealed.

- **Is it allowed to appeal the public prosecutor's decision to recall the detention warrant?**

According to article (124) of the Criminal Procedures Law, the decision to recall the deletion warrant cannot be appealed

If there is reasons to reconsider the release decision, such decision could be nullified or replaced, whether by increasing the bail amount or by representing other guarantors. In such case an arrest warrant has to be issued and he/she shall be detained if the public prosecutor decided to nullify the release order or the related person failed to abide by the amended release order. Article (127) of the Criminal Procedures Law.

e) Re detaining the released person:

- Is it allowed to order the detention of the person who has been released from detention? and when such measure can be taken?

It is permissible to do so according to the following:

- What are the conditions governing the nullification of the bail?

- 1) Submitting a request by the guarantor
- 2) The accused has to appear before the court or the public prosecutor
- 3) Presenting a new guarantor or depositing a cash amount equals the bail value.

Articles (128,129 and 138)

- Can the re detention period be calculated as part of the imposed penalty?

Yes, it shall be calculated as part of the imposed penalty, article (41) of the Penal Code.

- Can the bail be replaced by another one?

Yes, after the approval of the authority which issued the decision.

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Seventh : Illegal Detention and Legal Problems

a) The instances of illegal detention:

- **Detaining a person charged with a crime that does not require such detention:**

If the public prosecutor orders the detention of the accused, suspected of committing the crime of carrying a sharp object according to articles (155 and 156) of the Penal Code, in such case the detention is illegal. The same is true if he/she ordered the accused detention for committing the crime of fabricating crimes according to article (360) of the Penal Code. Detaining the accused of being intoxicated and rioting is also illegal. This is true for all the crimes that does not provide for the detention of the accused.

- **Detaining the accused before interrogating him/her:**

If the public prosecutor orders the detention of the accused, suspected of committing the felony of theft according to article (404) of Penal Code or with of committing the felony of human trafficking according to article (9) of the Anti-Human Trafficking Law or the felony of fraud in administrating public funds according to article (175) of the Penal Code. Ordering the detention of the accused in the before stated felonies without interrogating the accused (ordering the detention before the arrest), this will render the detention as illegal and has no basis in the law.

- **Detaining the accused in the absence of sufficient evidence tying him/her to the crime:**

If the public prosecutor orders the detention of the person accused of committing the felony of theft based on the complaint or the statement of the complainant without the presence of any other evidences, then such detention shall be held as illegal.

- **The detention exceeds the legally stated period:**

If the accused appeared before the public prosecutor, where he/she interrogated him/her for committing the misdemeanor of fraud and ordered his/her detention for 15 days, then such detention is illegal because the period stated in the law for such crime is 7 days only.

- **Extending the detention period in a way that contradicts the related legal provisions:**

If the public prosecutor orders the extension of the one-month detention period of the accused, suspected of committing the felony of theft according to article (404) of Penal Code or with of committing the felony of human trafficking according to article (9) of the Anti-Human Trafficking Law, for one week without submitting the case file to the competent court, such detention shall be held as illegal and has no basis in the law.

b) Legal problems associated with the detention of persons:

- Not renewing the detention warrant after the end of the detention period.

- Not renewing the detention warrant after the case file is sent back by the attorney general to the public prosecutor in order to complete the investigation, provided that the detention period had expired during the time the file was at the attorney general's office. While the case file is at the attorney general's office, the detention warrant shall be valid.
- If the public prosecutor sends the investigation file to the competent court -whether the crime was a misdemeanor, where detention is allowed or a felony- after the end of the period given to him/her according to article (144) of the Criminal Procedures Law, in such case the court shall reject the file and send it back to the public prosecutor.
- The appearance of new evidence proving that the accused did not commit the crime.
- Recalling the detention warrant according to article (144/4) of the Criminal Procedures Law, if the public prosecutor finds out that the crime does not allow the detention of the accused or that the accused at the time of the crime was in prison.
- If the detention was ordered by a public prosecutor who is not authorized to order the detention for lack of jurisdiction and he/she referred the case file to the competent public prosecutor according to article (60) of the Criminal Procedures Law. in such instance the competent public prosecutor has to immediately notify the place of detention of such action and of the new case number in order to document it in their records.
- The detention of foreigners for deportation purposes according to article (27) of the Residency and Foreigners Affairs Law, which gives the Minister of Interior the authority to order the detention of any foreign person for indefinite period of time awaiting his/her deportation.
- The detention warrant has to be renewed by the public prosecutor, who has to notify the detention place of such renewal.

Eighth: Detention Alternatives

The Criminal Procedures Law does not explicitly provide for any detention alternatives. It only deals with request for release on bail, where article (126) of the said law states:

“The court or the public prosecutor or the conciliation judge to whom the request for release on bail is submitted, has the right to accept such request or deny the release or reconsider his/her previous decision in this matter.

1. Any person, whose release on bail request is approved, has to post a bail bond which includes the amount set by the body which accepted the bail or he/she shall sign a promissory note in the amount stated by the same body which accepted the bail request. Both the bail bond and the promissory note require that the defendant shall attend the investigation process in addition to the trial and the execution of the judgment and whenever he/she is requested to be present.
2. The body which issued the release on bail decision might allow the posting of a cash amount instead of the bail bond.
3. Both the bail bond and the promissory note shall be organized before:
 - a) The conciliation judge, if he/she is the person who ordered the release of the defendant on bail provided that the financial competency of the guarantor is verified by an elective body.
 - b) The notary public if the decision was issued by the public prosecutor or the court provided that the notary public shall verify the guarantor financial competency.
4. When a person who has been released on bail is requested to attend a certain procedure, his/her guarantor shall be notified to bring such person and make sure that he/she is present. If such person was released based on the signing of a promissory note, he/she shall be personally notified of importance of his/her attendance. The note sends to the defendant or the guarantor shall be signed in both cases by the public prosecutor or the court's chief judge or the conciliation judge as it might be the case.

Accordingly, the Criminal Procedures Law gives the public prosecutor or the conciliation judge the power to decide the use of the bail or the undertaking without resorting to detention. In addition, some other laws included procedural measures which serve the same purpose as detention such as banning the accused from traveling or attaching his/her property as is the case in the Economic Crimes Law number (11) of 1993 and the Money Laundering and Terrorism Financing Law number (46) of 2007 in addition to the Anti-Corruption Commission Law number (62) of 2006

FORM # 1

Detention Extension Review

Number

Date

.....
.....

Detention Extension Review

H.E President of Criminal First Instant Court of (...)

The Petitioner: Public Prosecutor.

The Defendant: name of the defendant.

Subject: request pertaining the extension of detention in accordance with the provisions of article (114/3) of the Criminal Procedures Law.

The above named defendant had been detained for committing the crime (...) according to article (.....) of the Penal Code, on (date) , where the investigation and evidence gathering is still ongoing and the investigation phase reached (.....) and his/her detention period is about to expire and in accordance with article (114) of the Criminal Procedures Law , I do request that your honorable court to extend the detention of the said defendant , due to the interest of the investigation.

Public Prosecutor

Form # 2
Detection Order

Based on the review, I do find that the crime which the accused is charged of committing, is one of the crimes that requires detention according to article (114) of the Criminal Procedures Law, and due to the fact that there are sufficient evidences that tie the accused to the crime and leaving the accused free would harm the interest of the investigation, I do order the detention of the accused (.....) for a a period of (....) at (....) rehabilitation and correction center at the same time (....) .
Issued on the (.....)

Clerk
.....

Public Prosecutor

Form # 3

Detention Extension Order

Based on the review of the file , and due to the fact that the accused detention period is about to expire , I do decided in accordance with article (114/3) of the Criminal Procedures Law to send the case file to (.....) first instance court in order to extend the detention of accused (.....) , because the investigation and evidence collection process is still ongoing and reached (.....) at the same time confirming the previous decision related to the investigation .On (date) .

Public Prosecutor

Clerk

Form # 4
Detention memo

The Hashemite Kingdom of Jordan
Ministry of Justice
A detention Warrant issued by Public Prosecutor
Personal Information

| | | | | | | |
|------------------------|------------------------|----------------------|----------------------|-----------------------------|--------------------|-----------------------------------|
| Detainee's Name | National Number | Mother's Name | Date of Birth | Profession | Nationality | Current Place of Residence |
| | | | | | | |
| Height | Faith | Hair | Eyes | Distinguishing Marks | | |
| | | | | | | |

Case Details

| | | | | | |
|---------------------------|---|-------------------------|--------------------------------|----------------|-----------------------------|
| Police Case Number | Number of Applicable Legal Article | Detention Period | Detention Starting Date | Charges | Case Type and Number |
| | | | | | |

It has be decided to detain the above mentioned person for a period of () for committing the above stated crime , and thus all armed judicial police officers are obliged to arrest him/her and hand him/her over to (...) Correction and Rehabilitation Center according to this warrant . On ()

Public Prosecutor

Form # 5
Release Order

Hashemite Kingdom of Jordan
Ministry of Justice

Release Order
.... Public Prosecution Department

Number:

Date:
....Correction and Rehabilitation Center Director

| Inmate's Name | Father's Name | Grandfather's Name | Family's Name | National Number |
|---------------|---------------|--------------------|---------------|-----------------|
| | | | | |

I do decide the release of the above mentioned inmate in relation to the stated case and crime unless he/she is detained or sentenced for any other reason.

| Case's Number | Detention's Date | Crime or Charge | Detention Warrant is issued by : | Reason for Release |
|---------------|------------------|-----------------|----------------------------------|--------------------|
| | | | | |

- Copy / Correction and Rehabilitation Center Director / FYI
- The Release Order shall be typed and all information shall be included in case there is any missing information , the order shall be considered as illegal. المدعي العام

Public Prosecutor



السجل: تعذيب قضية أحداث تاريخ الدعوى: ٢٠١٦/٠٢/١٧

قرار النائب العام

قرار المدعى العام

المعلومات الاضافية

التهم و ربط التهم

معلومات الاحداث

اطراف الدعوى

معلومات الدعوى

معلومات الدعوى

اسم المدعى العام: --[اختيار]--

تصنيف الدعوى: --[اختيار]--

مركز الشرطة: --[اختيار]--

مكان الورود: --[اختيار]--

رقم القضية لدى الشرطة:

تاريخ ورود كتاب الشرطة: --[اختيار]--

رقم كتاب الشرطة/الجهة:

خروج

مساعدة

حفظ و إنهاء

حذف

الغاء المدخلات

حفظ و خروج

حفظ